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Fail The Jail

by Philip Cherner and Christine Donner

On May 3, 2005, Denver voters will be asked to approve Measure 1A, the proposed $378 million ($600 million after interest and inflation) "Justice Center" project. A project of this scope and cost should be clearly needed and tightly budgeted. Measure 1A fails both tests. The planning was done without adequate criminal justice policy analysis or court management assessment, both of which might have detailed how many jail beds Denver needs. Instead, the city has proceeded on the *assumption* that it needs to nearly double jail capacity.

Measure Based on Inadequate Analysis

Having decided to build a new jail/justice center, Mayor Hickenlooper created a Justice Center Task Force to review details. Its Finance Committee focused on determining the maximum bond amount the City and County of Denver ("City") could finance at the current property tax rate ($600 million) and offered several financing scenarios. At current property tax rates, the City would be able to fund $450 million in future construction projects over the next twenty years. The Finance Committee didn't evaluate what future construction needs might be (for example, schools, infrastructure, roads, and parks), so this project was not

considered in context. It also failed to consider the increase in operating costs triggered by a larger facility.

Experience has shown that the cost of building a new prison, amortized over thirty years, is only 5 percent of the total cost of operating the building. It is customary for large bond initiatives to have a mill levy increase put before voters to fund operation expensesâ€"but not with Measure 1A. Portland, Oregon, recently built a $58 million jail that sits empty because there is no revenue to operate it.

The Task Force also failed to properly consider the need for a new facility. Coloradoâ€™s Department of Corrections ("DOC") provides an example of the inability to build enough cells to meet the "need." Since 1987, the state has spent approximately $800 million building prisons and more than $5 billion to operate them. The annual operating budget for the DOC has increased from $78 million in 1987 to more than $500 million today (a fourfold increase after inflation).

Current projections indicate Colorado still is short hundreds of beds. The state didnâ€™t raise taxes to fund the increase in prison operations, but instead cut other programs. Colorado is 46th in the nation in funding K-12 education, 49th in funding substance abuse and mental health services, and the state universities are on the road to complete privatization. The City should learn from this experience by asking, first, how many beds do we really need, and only thereafter planning the facility. Unfortunately, Measure 1A instead lets *perceived* bed needs drive policy.

Only after it was determined that a 1,500-bed downtown facility would be built were attempts made to conduct this analysis. The Task Forceâ€™s Alternatives Subcommittee was instructed to make recommendations for ways to slow the growth in the jail population. The City provided little statistical or policy data, and it wasnâ€™t until December 2004 that the City contracted with the National Institute of Corrections to conduct a mini-evaluation. The final report still has not been completed. Thus, even after the Alternatives Subcommittee came up with a number of recommendations that would relieve overcrowding, City officials did not reevaluate the size of the proposed downtown jail.

Actual Needs of the Prison Population

Proponents have failed to differentiate between the need for a larger jail and the need for an upgraded jail. Clearly, both the county and city jails are overcrowded. The solution offered by Measure 1A simply is to expand current facilities and build a new jail. However, readers need to recall that the jail population comprises largely pretrial (that is, unconvicted) detainees and sentenced misdemeanants. Convicted felons are housed at the county jail only for a few days after sentencing and then are moved to a state facility.

> â€¢ As of October 13, 2004, 66 percent of those in the county jail were pretrial detainees who could not afford to make bond, and 19 percent were those convicted of a misdemeanor who were serving a sentence of ten days or less, for a total of 85 percent of the current county jail population.

> â€¢ Over the past ten years, the average annual growth rate of the county jail population has been 1.5 percent, which translates into an increase in the average daily population of twenty-seven people per year.

Alternative Solutions for Less Money

Several strategies could be implemented immediately that would significantly

reduce overcrowding at the jails. The Alternatives Subcommittee has made several recommendations that already have been approved by criminal justice stakeholders:

> 1) bring back the pretrial supervision program for eligible drug offenders that was eliminated with the dismantling of drug court, diverting from 1,000 to 1,200 pretrial detainees from jail each year and saving nearly $2.5 million in jail operating costs;

> 2) increase utilization of the Electronic Monitoring Program for another 200 pretrial detainees;

> 3) increase utilization of the Sheriffâ€™s Home Detention Program to capacity (740 people per year);

> 4) after serving 75 percent of their sentence, transition those sentenced to a misdemeanor to home detention with electronic monitoring; and

> 5) expand the Crisis Intervention Team to divert 250 additional offenders with mental illness into treatment, rather than jail.

None of these recommendations has been implemented. The Denver Police Department also is considering circumstances under which police officers can issue a summons instead of arresting someone. This would reduce the overcrowding at the city jail and is done in almost every other Colorado county.

In addition to the jail expansion, Measure 1A would construct a new courthouse that would expand the number of and relocate all of the adult and juvenile criminal courts. The City and County Building would continue to house the other courtrooms and city-related offices. Alternative strategies include:

> â€¢ Immediately implement the recommendations of the Alternatives Subcommittee.

> â€¢ Stop housing prisoners from other jurisdictions.

> â€¢ Conduct a thorough criminal justice analysis and court management assessment to comprehensively determine additional efficiencies and projected jail bed needs for the next five to ten years.

> â€¢ Spend $25 million to fix the county jail.

> â€¢ Convert the City and County Building for exclusive use as a courthouse and consider moving city offices to space in the virtually empty Courthouse Annex, vacant permits center, and unused space in the new Webb building.

Vote "No" on Measure 1Aâ€"Denver Can Do Better

The strategies described in this article would address all of the concerns raised by proponents of Measure 1A. The overcrowding at the county jail would be immediately addressed (instead of waiting four years for the downtown jail be completed) and the older, objectionable units at the county jail would be replaced.