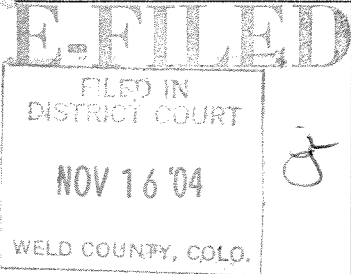


DISTRICT COURT, WELD COUNTY, STATE OF COLORADO
Court Address: 901 9th Avenue, Greeley, Colorado
Mailing Address: P.O. Box 2038, Greeley CO 80632-2038



ADMINISTRATIVE ORDER 04-05

▲ COURT USE ONLY ▲

Case No. 04 CV 01

Division: 1

**ORDER APPROVING WELD COUNTY JAIL CROWDING CONTINGENCY PLAN OF
THE WELD COUNTY SHERIFF'S OFFICE**

The Weld County Sheriff's Office having presented a plan approved by the Weld County Criminal Justice Council on September 28, 2004 for dealing with jail crowding to the judicial officers of Weld County at an en banc meeting on November 2, 2004, and the judicial officers having approved the same,

It is hereby ordered that the Weld County District and County Court Judges hereby approve the attached Weld County Jail Crowding Contingency Plan at a November 2, 2004 as it applies to offenders serving sentences imposed by the District and County Courts of Weld County.

Dated: November 16, 2004

Roger A. Klein
Chief Judge, 19th Judicial District

**Weld County Jail
Crowding Contingency Plan
Weld County Sheriff's Office
Greeley, Colorado**

September 28, 2004

Principles

- ❑ Jail crowding is a community problem and not just the Sheriff's problem
- ❑ Effective strategies should represent collaboration by all system components
- ❑ Mitigation is most effective before a crisis occurs
- ❑ Mitigation responses are specifically targeted to housing needs and can be implemented quickly
- ❑ Mitigation strategies must keep violent offenders in custody

Implementation Strategy

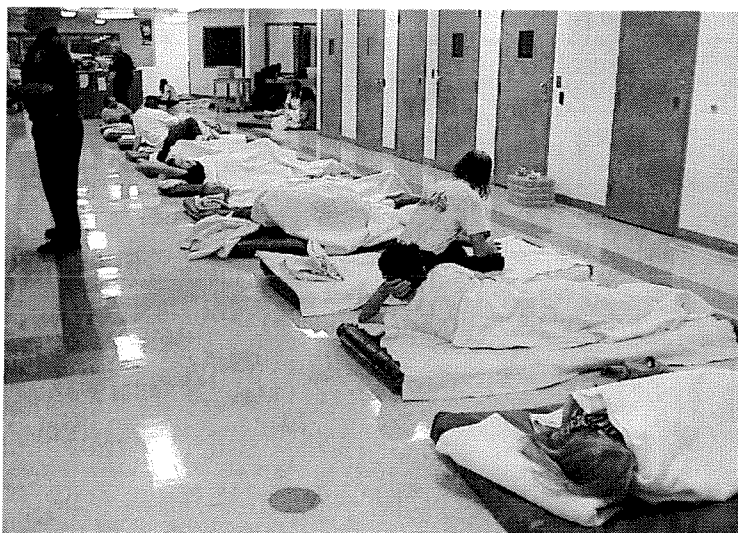
The Jail Crowding Contingency Plan is modeled after the Alternative Sentencing Management Plan adopted earlier by administrative order of the Chief Judge. The Jail Crowding Contingency Plan is similarly adopted by administrative order and authorized when "Administrative Order 04-02 Authorized" is included on the court sentencing order.

Plan Implementation Points

There are two types of crowding in the admission/booking area and the type of crowding determines what mitigation contingencies are employed. The Sheriff's staff is responsible to carefully assess crowding in the admission booking area and accurately determine the cause.

Acute Crowding

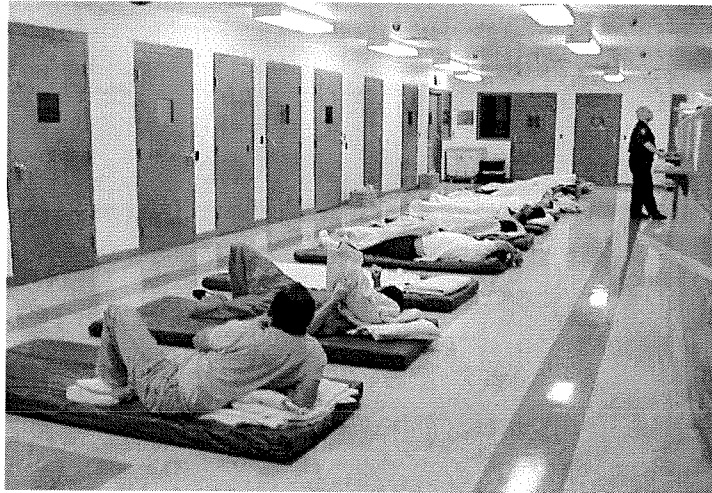
Definition: More than 48 total prisoners held in the admission/booking area longer than two consecutive hours primarily because offenders admitted during the prior 24 hours have not posted bail bond, been processed for release or have not been classified to the general jail population.



An acute crowding mitigation strategy is not considered within this plan but should be addressed within the Sheriff's emergency procedures for mass arrest or other unusual circumstances resulting in a large number of admissions over a short time period. Acute crowding has not historically caused jail crowding and is unlikely if chronic crowding is effectively managed.

Chronic Crowding

Definition: *Offender(s) remain(s) in the admission/booking area more than 48 hours after admission and classification because no beds available in the appropriate custody housing. Chronic crowding is unrelated to the total number of offenders in the admission/booking area.*



Chronic Crowding Mitigation Plan

The chronic crowding strategy is to open general population beds so offenders of the appropriate classification may be moved from the admission/booking area. The plan specifically targets sentenced offenders housed in the same general population custody level of classified offenders who cannot be moved from the admission/booking area. For example, offenders classified as minimum custody that cannot be moved to general population beds within 48 hours of admission cause the transition of sentenced minimum custody offenders to community supervision to open beds.

The chronic crowding contingency plan does not apply to maximum or high medium custody housing units for public safety reasons. Crowding in these general population custody levels will be addressed by alternative housing arrangements when possible. When chronic crowding occurs, the on-duty commander implements each response plan level 1-6 in ascending order until the chronic crowding condition resolves.

Offenders moved to electronic home monitoring will be assigned a return priority before leaving secure custody. Jail occupancy is reviewed weekly. Offenders moved to electronic monitoring will be returned to secure custody as appropriate housing becomes available according to the offender's return priority (RTN1 offenders returned first, RTN2 next and so on).

- Level 1: Release municipal offenders at target custody level(s)
- Level 2: Identify offenders with civil sentences (contempt) at target custody level(s)
 - Step 2A: Adjust earned time computation up to maximum of .4
 - Step 2B: Release in highest percent of time served order
 - Step 2C: Move remaining offenders, if any, to electronic home monitoring
 - Step 2D: Flag offenders **RTN5**
 - Step 2E: If chronic crowding remains, go to LEVEL 3
- Level 3: Identify all offenders at targeted custody level(s) sentenced for TRAFFIC offenses (Title 42) by COUNTY court
 - Step 3A: Exclude offenders with open LOCAL charges

Step 3B: Adjust earned time computation up to maximum of .4

Step 3C: Release in highest percent of time served order

Step 3D: Move remaining offenders, if any, to electronic home monitoring

Step 3E: Flag offenders **RTN4**

Step 3F: If chronic crowding remains, go to LEVEL 4

Level 4: Identify all offenders at targeted custody level(s) sentenced for OFFENSES OTHER THAN A CRIMES AGAINST PERSONS (Titles 12, 18) by COUNTY court

Step 4A: Exclude offenders with open LOCAL charges

Step 4B: Adjust earned time computation up to maximum of .4

Step 4C: Release in highest percent of time served order

Step 4D: Move remaining offenders, if any, to electronic home monitoring

Step 4E: Flag offenders **RTN3**

Step 4F: If chronic crowding remains, go to LEVEL 5

Level 5: Identify all other remaining COUNTY sentenced offenders at targeted custody level(s)

Step 5A: Exclude offenders with open LOCAL charges

Step 5B: Adjust earned time computation up to maximum of .4

Step 5C: Release in highest percent of time served order

Step 5D: Move remaining offenders, if any, to electronic home monitoring

Step 5E: Flag offenders **RTN2**

Step 5D: If chronic crowding remains, go to LEVEL 6

Level 6: Identify all offenders at targeted custody level(s) sentenced for TRAFFIC offenses (Title 18) by DISTRICT court

Step 6A: Exclude offenders with open LOCAL charges

Step 6B: Adjust earned time computation up to maximum of .4

Step 6C: Release in highest percent of time served order

Step 6D: Move remaining offenders, if any, to electronic home monitoring

Step 6E: Flag offenders **RTN1**

Supporting Detail

Physical Plant

The admission/booking unit at the Weld County Jail is composed of three distinct areas. The first area, adjacent to an enclosed parking garage, is designed to accommodate the transition of prisoner custody from the transporting officer to jail staff. Arresting and transporting officers remain in this area and have access to fully equipped offices with telephones. Jail staff search the prisoner and review custody documents. When accepted for admission, the prisoner is escorted through a secure door into the actual booking area.

The booking area is divided into two components. The first component is designed for secure holding of prisoners and includes two single-occupancy cells for combative offenders, six double-occupancy cells and a large holding cell. One of the single-occupancy cells is padded to mitigate the need for soft restraints. New prisoners may be combative because they are intoxicated or impaired by alcohol and/or drugs, may be emotionally agitated from circumstances preceding their arrest or may be mentally ill. It is not uncommon for all of these factors to be present with the same offender. Cells have a maximum capacity of 26 and are the only secure holding available in the booking area. This capacity may be significantly reduced at any point in time by the need to separate gender or the nature of offenders.

The second booking area component is a large, staff secure waiting area separated from booking staff and the secure cells by a half-wall partition. The waiting area can seat up to 20 offenders and is used primarily for cooperative, low-risk offenders while they wait to be fingerprinted, photographed and arrange for bail bonds to be posted during the first few hours after admission. Even though the waiting area is staff secure, it is contained within the secure locked perimeter that surrounds the entire admission/booking unit.

Jail Capacity by Custody Level

New jails are built to accommodate not only the total number of inmates forecast to be in custody at a point in time but also how that number of offenders is likely to be distributed into distinct classification groups. The groups are determined according to each offender's institutional risk factors and differentiate the population so groups can be matched with the level of supervision and security features necessary to maintain effective and efficient control. National data suggests jail facilities should generally expect designed capacity to accommodate about 55% minimum custody, 35% medium custody and 10% maximum.

Differentiating the population by classification allows the most efficient use of public resources. It also significantly limits how offender housing can be used. Minimum custody units are the least expensive to build, maintain and supervise yet afford security proportionate to offender risk. Minimum custody housing units are not built with polycarbonate windows, heavy security locks, reinforced concrete block walls, etc. and are typically equipped with the same type of fixtures and furniture found in public schools. Units of this type typically have large capacities. For example, the largest minimum custody unit at the Weld Jail is authorized to operate at a maximum of 80:1 inmate to staff ratio.

As offender risk increases, there is corresponding, proportionate increase in physical plant security features. There is also a corresponding decrease in the number of inmates supervised by staff. This proportional relationship between offender risk, supervision and physical plant security cause maximum custody housing to be the most expensive to build, maintain and supervise. These factors also explain why minimum custody offenders can not be efficiently supervised in a small, maximum custody unit and why it is not possible to supervise maximum custody offenders in a large minimum custody unit.

There are a total of 244 minimum custody beds available for the general population at the North Jail. When crowding began three years ago, minimum custody housing units were authorized to hold 120% of designed capacity. This was achieved by putting additional temporary beds in housing unit classrooms to form small dormitory rooms. In other areas, temporary beds were put in housing unit day rooms. The current minimum custody housing units are not considered "full" until they reach 120% of designed capacity.

There are 106 higher custody beds and 55 special-use beds at the North Jail. Because of the increased risk these offenders represent to safety and security, none of the higher custody housing units are authorized to exceed designed capacity. The 55 special-use beds must be available to accommodate administrative segregation, inmates with serious mental/medical problems and direct-file juveniles.

Custody Classification

General population housing at the Weld County Jail is separated into four distinct custody levels according to gender: 1) Minimum, 2) Low Medium, 3) High Medium, and, 4) Maximum. A valid, objective classification process assesses an offender's institutional risk and determines the appropriate level of custody within 24 hours of admission. In very simple terms, the classification instrument uses the following criteria:

Custody Level	General Criteria	% Population
Minimum	Non-violent current charge No prior conviction for crime of violence No prior secure facility escape history Less than 3 prior felony convictions No serious institutional behavior problems	54.1%
Low-Medium	Non-violent current charge No prior conviction for crime of violence No prior secure facility escape history 3 or more prior felony convictions No serious institutional behavior problems	19.8%
High-Medium	Current violent charge No prior conviction for crime of violence No prior secure facility escape history No serious institutional behavior problems	15.6%
Maximum	Current violent charge Prior conviction for crime of violence Secure facility escape history Serious institutional behavior problem	10.6%

In order to maintain validity, the objective classification instrument recommendation cannot be overridden in more than 15% of all classifications. Overrides are restricted to no more than one level of custody higher or lower than the custody level recommended by the classification instrument. Overrides should also follow an equal distribution higher and lower of the recommended custody level. A valid classification system is necessary to protect offenders from one another and best manage the risk of civil liability should an offender be victimized by another offender.

Offenders in the general jail population are routinely reclassified after 60 days, when new charges are filed or when the offender has committed a serious jail rule violation. Reclassification is usually constrained to one custody level higher or lower but may be moved even higher in the event of an escape attempt or new violent charges.

While jail classification is a valid tool for jail management, it is not an appropriate assessment of the offender's risk of violence, recidivism, failure to appear or non-compliance in the community. There are several valid instruments available for community supervision.

Current Crowding Mitigation Strategies

Bail Bond Schedule:

The District and County court issues orders authorizing cash or surety bond to post a pre-determined amount of bail for most offenses. This enables an offender to post bail bond when booked at the jail without remaining in custody to have bail bond set by the court.

First Appearance Magistrate:

A Weld County funded position in collaboration with the local judicial district to make first appearance court available daily including weekends. This expedited review of warrantless arrest affidavits for the determination of probable cause and allowed the setting of bail and conditions of bond within hours of an arrest.

Pre-Trial Supervision Program:

This program was implemented in July 2002. Program staff prepares bail bond recommendations to the court based upon current offense, criminal history, interview and verification of offender information. More complete, reliable information and a recommendation about pre-trial supervision allow the court to better assess bail and bond conditions. The court will reduce bail when appropriate for community supervision by Pre-Trial staff. This removes the offender from secure detention and places them in community supervision.

Municipal Jail Use Agreements:

Colorado Revised Statutes require the consent of the Board of County Commissioners before a municipality may use the county jail to detain municipal offenders. The Board requires an agreement that mandates municipal reimbursement for cost of care and booking services. The Agreement includes provisions authorizing the jail to refuse municipal offenders with serious medical and mental health conditions and to release municipal offenders due to exigent jail crowding.

Jail Sentencing Alternative Programs:

The jail offers a staff-secure residential work release program and an electronic home monitoring program as sentencing alternatives to secure jail detention. Both programs offer more intensive community supervision and are offender fee based. Electronic monitoring has unlimited capacity and the work release residential facility is currently being expanded from 90 beds to 200 beds.

A Sentencing Alternative Plan was developed with the court in 2004 to reduce the significant backlog of offenders sentenced to work release. The plan allowed the court to sentence offenders with a stipulation electronic home monitoring was authorized when allowed by the plan. The need for this additional enhancement may be reduced when additional work release program capacity becomes available in late 2004.

Local Only Use Policy:

No offenders are held pursuant to housing contracts or agreements with other entities outside Weld County. This includes U.S. Marshall's Service, Immigration and Customs Enforcement (Formerly INS) or Colorado Department of Corrections.

Department of Corrections Division of Adult Parole Restriction:

Accepting offenders arrested only for technical violations of parole terms and conditions is at the discretion of the jail affirmed in Dept of Corrections v. Pena. The local Division of Adult Parole was originally notified technical violators would not be accepted beginning December 1 2002. A compromise for Parole to staff each request with the jail administrator was enacted in order to protect the community from offender's who may be violent.

Out of County Housing:

Both Logan and Washington Counties had beds available to be used for Weld County inmates on a cost reimbursement basis in 2003. Weld County has spent \$226,710 for housing inmates outside the county to mitigate local jail crowding.

The Colorado Department of Corrections has forecast their facilities will be at capacity in 2004 with none coming on line. There is a significant concern this may backlog offenders sentenced to the DOC and fill the beds available to mitigate local jail crowding.

Earned Time Computation Rate:

In March 2004, the computation of statutory earned time was changed from two days each month to 6 days. The computation now begins on the first day of a sentence rather than after the first 30 days and is prorated daily.

Internal Classification Review:

Enacted to review custody classifications of offenders unable to be moved to appropriate housing. The review assesses the needs of the offender, determines if a classification override is appropriate and if changes in the level of custody would provide safe housing.

Summary:

A crowding crisis persists despite all of these initiatives. The average daily jail population as increased 9.6% YTD over last year. The statistical reason for this increase is NOT the number of offenders being arrested but how long they remain in custody.

The number of adult bookings has actually decreased each year for the last three years. The length of stay, however, has increased significantly. For each day the average length of stay increases, there is a corresponding average daily jail population increase of 20 inmates. For example, the average length of stay in July 2003 was 16.7 days. There was an average daily population of 407. In 2004, the average length of stay in July was 18.7 and the average daily population was 453.