

\$18M?

\$22M?

\$40M?

\$70M?

\$80M?

\$100M?

**THE
SULLIVAN
COUNTY JAIL:
WHAT DOES THE
HISTORY OF THE
STATE'S OLDEST
JAIL SUGGEST FOR
ITS FUTURE ?**

**HUDSON VALLEY
PATTERN FOR PROGRESS**

JANUARY 2012

A Case Study to Accompany:

***A Collaborative Approach to
County Jailing in the Hudson Valley***

**The Center for Research, Regional Education and Outreach
SUNY New Paltz**

Preface

This research was initiated under the leadership of Orange County, with the collaboration of Ulster and Sullivan Counties, and with financial support of the Local Government Efficiency Program of the New York State Department of State, to determine the degree to which counties in the Hudson Valley, by working together, might reduce the costs of their jails.

Research included discussions with the Sullivan County manager and the chairman of the Sullivan County Legislature, the current and former jail administrators, current and former employees, and state organizations such as NYSAC (New York State Association of Counties), supported by a thorough media review and examination of historical documents. FOIL requests to the State Commission of Correction (SCOC) and Sullivan County for additional documents were also utilized.

“The Sullivan County Jail: What does the History of the State’s Oldest Jail Suggest for its Future?” is a Case Study meant to accompany the report “A Collaborative Approach to County Jailing in the Hudson Valley”. That study was prepared by Joshua Simons and Dr. Gerald Benjamin of CRREO (Center for Research, Regional Education and Outreach) at SUNY New Paltz.

Pattern is grateful to the many people who offered their comments and support in an effort to suggest alternatives to resolve this 100-year-plus impasse.

Table of contents

Introduction	Page 4
County Jail Administration in New York – An Overview...	Page 7
A History of Planning ... & Conflict.....	Page 8
1989 Analysis.....	Page 8
1990 Analysis.....	Page 10
1998-2005: Lower Census, Less Pressure to Build	Page 12
2006: Population Surge Results in “Crisis”.....	Page 12
2009 Acquisition of Land for New Jail.....	Page 15
2010 Update.....	Page 17
Current Situation.....	Page 18
Description of Current Facility.....	Page 18
Staffing Issues.....	Page 19
Current Capacity and Demand.....	Page 19
Conclusions.....	Page 22
Findings.....	Page 22
Decisions Facing the County.....	Page 23
A Plan of Action	Page 25
Appendix	Page 26
A: Sullivan County Jail Census 1989-2010	
B: Cost of Comparative Facilities in New York	

Introduction

After several decades of debate with the State Commission of Correction (SCOC), the state regulatory agency for county jails, and the development of many generations of analysis, plans and alternatives, Sullivan County has still been unable to reach consensus on an affordable strategy that can be implemented to improve the condition of its current jail. Meanwhile, the county's fiscal and economic situations continue to worsen. There is little debate that current conditions at its jail are unacceptable. Yet the historical research done for this study indicates that this long stalemate has resulted from a combination of factors: conflict with the state regulators, shifting local priorities, and the lack of fiscal resources to fund an implementable alternative.

Sullivan County contends that it has made progress by purchasing the land for a new jail and agreed on a new scope for its construction. But for the economy, it would proceed. History suggests otherwise.

In reporting history, this study does not aim to assign blame to individuals for this stalemate. After all, the stakeholder list is daunting: there are the prisoners and the jail employees, who deserve humane and safe conditions; the county's residents and businesses, who can ill afford enormous tax increases; state officials who must enforce regulations; and the county's elected officials, who are juggling many priorities in trying to serve all of the above. However, this study does challenge Sullivan's decision makers to move forward with a plan that meets realistic public safety needs while serving in the best interests of taxpayers.

County governments typically don't like to spend badly needed resources on construction of jails. The diffusion of responsibility among numerous elected and appointed officials is an added barrier to action in this area of policy. A built-in tension is often found between a county's leaders with their many priorities, and its independently elected sheriff who must follow state guidelines in administering a county jail and generally wants a state of the art facility.

Moreover, in general, inmates and their families and supporters have little political clout. State regulations are necessary to assure safety and humane treatment. But without a scandal or other embarrassing crisis that has from time to time affected building decisions, the state's demands are received as unpopular and excessive unfunded mandates.

In Sullivan, delay has resulted in increasingly costly projections for jail construction, with no voter constituency to support the expenditure of government resources on this initiative. In fact, today's cost estimates represent the largest potential single expenditure of capital dollars in the county's history, without the creation of one new job, and may indeed result in a *reduction* in employment due to projected increased efficiency in operating a jail of modern design.

Today, Sullivan is considered a poor, rural county. It was not always so. Once a jewel in the Empire State's crown, the county's scenic beauty and proximity to New York City for decades supported the economic success of the Catskills resorts. Fifty years ago there were hundreds of hotels and resorts dotting its landscape; currently there is just one viable hotel and a few dozen B&Bs. Much of Sullivan's sparse population – 77,547 people in a county roughly the geographic size of Rhode Island – is socioeconomically distressed.

Population forecasts caution the county to expect no growth. The most recent Cornell University 30-year projections¹ anticipate insignificant population increases over the next 20 years, and then a contraction over the final 10 years, with the result a .49% population decrease over today's figure. Importantly, from 2010 to 2040, the only age groups forecast to grow are seniors 65+ (58.9%) and 85+ (67.85%). Younger age groups (which are in general responsible for most crime) are forecast to shrink: 15-24 year-olds by 18.35% and 25-44 year-olds by 6.83%. These new projections should be factored into decisions on what to build.

With no cities and few towns of significant size, limited ratables and a high percentage of tax-exempt property, the county is ill equipped to fund new public buildings ... especially as it now faces the most challenging economy in its history.

Yet the Sullivan County Jail, is more than a century old – older than any other county jail in the state - and the NYS Commission of Correction has in effect “mandated” that a new jail be constructed. A spate of suicides² in the jail in 2011 may raise questions on jail conditions once again, increasing pressure to resolve the current dilemma.

Through the last 30 years as Sullivan's economic means diminished, Sullivan County government has commissioned many studies on new construction, repairing and renovating their way through the years as they've out-boarded prisoners during brief periods of overcrowding.

¹ Cornell Program on Applied Demographics: projections updated September 8, 2011 (<http://pad.human.cornell.edu/counties/projections.cfm>)

² “Suicides turn spotlight on Sullivan County jail”, *Times Herald-Record*, October 30, 2011

Today it seems less a question of *whether* to replace the jail, but *how to do so affordably*?

The plan on the table calls for capital costs of \$70 to 80 million in construction; with the cost of financing over 30 years included, total costs would likely reach \$135 million (potential cost overruns not included). Estimated annual debt payments of \$4.5 million could increase property taxes by at least 10%.³ As noted below, a jail might have been built for far less when the matter first began to receive serious attention from the county government, more than 20 years ago.

The current fiscal environment presents both a problem and an opportunity. Severe economic constraints should impel out-of-the-box thinking to meet the public safety needs of the future. Today's higher technology options may provide at least part of the answer, with alternatives to incarceration for those who are non violent felons. Efforts to share services with other counties may help reduce some of the burden. But the county must also contend with continuing state-imposed standards, and a predisposition of regulators to a more traditional approach. If the history of the county's effort to replace its jail has taught us anything, it is that the debate is not over.

Some options and opportunities may arise from the experience of Sullivan's neighbors in the region, or through collaborative action with them. This history of Sullivan County's decades-long jail issues accompanies and supports and is informed by a larger examination of county jailing in the Hudson Valley region. Building upon earlier research,⁴ The Center for Research, Regional Education and Outreach (CRREO) accompanying study on "A Collaborative Approach to County Jailing in the Hudson Valley", aims to help eight county governments minimize further construction of new facilities or additions, and reduce jail operating costs while continuing to assure public safety, through collaborative efforts within and across county lines.

This is the backdrop against which this case study relates the history of the state's oldest jail. We contend that to maintain the status quo is no longer acceptable. Through the combination of challenges, a unique opportunity exists for a bold solution. Barring the infusion of significant benefits to the local economy, resources and conditions are not likely to change for the better.

³ "New Sullivan County jail could increase property taxes", *Times Herald-Record*, May 9, 2010

⁴ Gerald Benjamin and Joshua Simons. *A Collaborative, Regional Approach to Jailing in the Hudson Valley* (CRREO Discussion Brief #2, Spring 2009)

County Jails Administration in New York – An Overview⁵

New York State law⁶ requires that “each county shall continue to maintain a county jail as prescribed by law”. Typically these jails house individuals awaiting trial as well as offenders who are sentenced to one year or less. New York’s 57 county jails, which are generally under the purview of an elected sheriff, are overseen by the State Commission of Correction (SCOC), which was established pursuant to Article XVII of the NYS Constitution. After the Attica riots of 1971, the head of the Department of Correction was removed as the chair of the SCOC and it was made an independent agency.

By the 1990s the SCOC began aggressively addressing overcrowded conditions, pressuring counties to expand existing facilities or construct new ones. From 2000 to 2010, 2,649 beds were added, or built as part of new facilities, in 15 county jails, according to an SCOC document obtained from NYSAC (New York State Association of Counties).

The number of beds the county must build is based upon the SCOC’s prediction of future inmate population, which is in turn based on a Federal formula. Some counties believe their needed capacity was overstated by SCOC while others deliberately built larger in an effort to have extra capacity, aiming to generate revenues by boarding in inmates from other jurisdictions. However, SCOC’s current leadership has made it clear that the practice of transferring inmates, in large numbers or over the long term, is not a desirable strategy.

If a county jail becomes unfit or unsafe for some or all of the inmates, SCOC must designate another facility within the county or a jail of another county for the confinement of some or all of the inmates. As described in the accompanying CRREO study, this is generally done on a case by case basis, for a limited time. While a county may seek a variance from a violation of an SCOC standard, the SCOC has often used denials (or withdrawals of previously granted variances) to induce counties to comply with its wishes.

⁵ More detail is available in the CRREO Discussion Brief previously cited, *A Collaborative, Regional Approach to Jailing in the Hudson Valley*.

⁶ NYS Commission on Local Government Efficiency and Effectiveness, Briefing Paper on Jails, 2008; County Law Section 217

A History of Planning... and Conflict

Sullivan County Sheriff Michael Schiff told the media in 2008, “The commission is telling us we need a new jail – it’s not optional. We’re making do and morale is high. We’re getting the job done under very adverse conditions, but we need a new jail.”⁷

This statement sums up how difficult it has been for those trying to “do the right thing” on behalf of the many stakeholders in the analysis and decision-making process.

A key theme in the interaction between the SCOC and the county over the years has been the sheer magnitude of the state’s recommended jail size, based upon the methodology mentioned earlier. Forecasting a need for 400-450 beds⁸ during a period of time that has proven to demand half of that has served to create a stubborn resistance at the county level⁹.

1989 Analysis

In early 1989, SCOC inspected the jail and reported 98 violations of state standards.¹⁰ Subsequent media coverage highlighted issues related to overcrowding, unsatisfactory medical procedures, unsanitary conditions, lax supervision, and prisoner security and safety.¹¹

Sullivan County Sheriff Joseph Wasser, a former SCOC commissioner whose political reach and influence extended well beyond Sullivan County, sent SCOC a 50-page memorandum in response to the report, maintaining the charges were “overly harsh”, that issues were related to the age of the facility, and he did not have enough support from County government to fix them. He said he’d asked the County to build a new jail. His statement was countered by both County Administrator Paul Rouis Jr. and Highland Supervisor Andrew Boyar, head of the county’s Public Safety Committee which oversees jail operations, saying the Sheriff had resisted their help. (This is confirmed by other research in which the Sheriff expressed

⁷ “New jail could cost \$105 mil?”, *Sullivan County Democrat*, January 22, 2008

⁸ “Counties join together to study regionalizing jails”, *Sullivan County Democrat*, January 22, 2010

⁹ The County’s current plan calls for construction of 256 beds. Yet latest projections suggest lower population growth than originally anticipated, once again requiring the projected bed count to be re-examined. These fluctuations support the CRREO recommendation regarding a regional facility to accommodate periods of overcrowding. (See Conclusions.)

¹⁰ FOIL requests produced copies of the SCOC’s “noncompliance summary”, as well as a detailed evaluation of the Sheriff’s response.

¹¹ “Sheriff blasts detractors”, Theresa Bonner, *Times Herald-Record*, April 14, 1989

the point of view that the county did not need a new jail and the taxpayers could not afford it.)

On April 10, 1989 the County Board of Supervisors postponed preparing a contract for a study that was to include consideration of: the design of a new jail; possible sites for a new facility; and “stop gap improvements” to the current facility. It was reported that though the Democrats on the Board favored a new jail, they did not have enough votes to get it approved¹². The Republicans reportedly said more study was needed and other options required investigation. Andrew Boyar cast the only vote against the delay, asserting that it would increase future construction costs.

The article also referred to an earlier consultant’s report showing that the cost of renovating and expanding the jail building was virtually the same as financed costs of building a new jail – \$4.4 million a year – because a new jail would require less staff and therefore cost less to operate. Building a new facility would also have allowed the existing jail to be renovated for additional sheriff’s offices.

An April 24 proposal for a preliminary jail design from the MRB Group of Rochester to Harvey Smith, Sullivan County’s director of general services, called for the construction of a 300- 350 bed facility. The assumed capital cost for construction was \$17.5 -18.5 million (about \$31 million in 2010 dollars), with an estimated range of design and consulting services of \$1.1 - 1.4 million and a construction management option of \$480,000-540,000.

The proposal was discussed at a June 6 Public Safety Committee meeting called by its chairman, Andrew Boyar. Discussion points included:

- Whether the existing jail could be used to meet state requirements. Smith stated that if the board elected to build a new jail, the state would waive a number of inadequacies in the existing facility, but if the county decided to continue to use the existing space, the state would mandate that the program space and other conditions meet current standards. For example, Smith said the electrical system would require \$600,000 in repairs. (The State’s opinion favoring new construction was quite clear here, as was their attempted effort to influence the decision on what to build.)

¹² “Supervisors put off vote on new jail”, Douglas Cunningham, *Times Herald-Record*, April 11, 1989

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- Modular additions. The state permitted modular buildings only on a temporary basis; for longer-term use, facilities had to be built made of concrete¹³.
 - Connection of jail renovations with courthouse modifications that were also needed. (These were not clear in the minutes.)
 - Capacity. Mr. Smith believed that he could increase capacity to 230-250 beds through an approach involving renovations and the acquisition of land in order to build new sections.
 - Privatization. When one supervisor brought up this subject, Sheriff Wasser related that Clinton County was just found in violation for having engaged in privatization.

In the end, Smith recommended building a new facility at a cost of \$22 million (\$38 million in 2010 dollars), with an annual operations budget of \$4 million. Otherwise, he said, the county would spend millions of dollars on renovations and be in the same position with the Commission on Correction in five years. He also forecast savings in staffing with a new facility, alluding to a pending request for 50 new positions that would bring jail staff up to 100, and said a new facility could eliminate the need for 30 such positions. There was no mention of union concerns.

At this committee meeting, MRB was authorized to proceed with final contract documents, including a construction management fee not to exceed four percent of the total estimated construction cost or \$540,000. This suggested that members anticipated that the legislature would agree to proceed with the project.

1990 Analysis

From 1990 to 1992, other SCOC inspections found violations and issues in the jail, as negotiations continued on the design and construction of a new jail.

In June, 1990 a memorandum from MRB group to Harvey Smith offered two options for revisions of the 1989 design:

- The first was for a modular addition to the current facility to bring the beds to a total of 236, to be built at a cost of \$14.75 million. 200 beds were specified for traditional use, while 36

¹³ Harvey Smith noted that the modular addition was constructed of concrete, but that the larger issue was the difficulty in making construction decisions such as the type and quality of materials with limited information as to its expected life.

would be assigned to a “community detention facility” with minimum security status.

- An alternative was new construction to cost no more than \$12 million which would bring total capacity to 178, including 142 beds in the jail and 36 for a community detention facility. (However, it was not certain that this would satisfy SCOC.)

In October, 1990, Public Works Commissioner Roger Wehr conducted meetings with several elected and appointed officials to address concerns of the Commission of Corrections and determine long term strategy. The decision was to develop an alternative plan to “minimize initial capital investment, defer any real expansion of beds and address immediate concerns of state officials concerning health and welfare of humans”.

This plan called for:

- (1) housing legal aid and the district attorney’s offices in a new off-site office building (18,000SF, at a cost of approximately \$2 million), in immediate proximity to the courthouse and jail;
- (2) petitioning Monticello for the right to close Bushnell Avenue to through traffic: and
- (3) constructing a two-story addition at the front of the jail to house visitation, medical and administrative functions at a cost of about \$2.5 million.

In addition to these objectives, this solution was said to also help address court-related space needs and parking issues by “spreading out the facilities”. The consultant, MRB, was to be paid \$28,000.

County officials acknowledged that this option would neither minimize long-term construction costs nor improve the prisoner-to-labor ratio, and thus diminish operating costs. Looking ahead, Wehr said: “We can rely on future staged construction to increase the number of beds and further modernize the facility. After completion of the first phase of construction, the need for future expansion may be delayed by five to ten years depending on the ability to control prisoner population through alternatives to incarceration and reducing the time of detention from arrest to sentencing.”^{14 15}

¹⁴ “Jail/court house long range planning”, memorandum from Roger Wehr to Andrew Boyar, October 4, 1990, confirmed by October 8 memo from the MRB group to Harvey Smith, Office of General Services.

¹⁵ This approach might be considered a hybrid of the County’s current position and the CRREO study’s recommendation.

However, in a memo dated December 26, Wehr wrote to County Administrator Paul Rouis, “I feel the jail and courthouse programs are suffering from the lack of focus for the following reasons:

1. Lack of participation from members of the Sullivan County Board of Supervisors.
2. Lack of clearly defined purpose and goals
3. Poorly distributed, piecemeal reports from MRB.
4. Unclear line of authority which results in insufficient leadership and committee support.

Wehr continued, “I would like to suggest there be a reaffirmation of those assigned to work on this task and the group report monthly to a committee of the Sullivan County Board of Supervisors.”

Again, it appeared that diffusion of responsibility and County leadership’s inability to focus prevented the project from moving forward.

1998-2005: Lower Census, Less Pressure to Build

By 1998, the county inmate population was sufficiently low that new Sheriff Daniel Hogue took advantage of a state program to house other prisoners and thereby receive state revenue for the County. (During the height of the drug wars in NYC, the state engaged in a policy to board the burgeoning number of state prisoners in county facilities.)

In general the period that encompassed the mid-1990’s to the mid-2000’s produced a Sullivan County Jail census that did not challenge capacity, and in turn was not challenged by SCOC. There were periodic efforts to update cost estimates, but no further progress toward the construction of a new facility.

In an interview with former long-term Sullivan County District Attorney Steve Lungen, this moment in time was the County’s best to solve its jail needs. The demand for space underscored the growing impact of the crack epidemic, along with the presence of the County’s hotels and their low-wage employees who often committed crimes. The County had the resources but not the political will to commit to a new facility.

Former District Attorney Lungen explained that the waning of the crack epidemic, the closure of so many of the County’s hotels, the increase in the use of alternatives to incarceration, and the policy of

“Truth in Sentencing” all contributed to a local reduction of jail inmates. This eliminated the pressure throughout this period to replace the jail, yet its problems, due to age, continued to increase.

2006: Population Surge Results in “Crisis”

By late 2005, the media reported on “jam-packed conditions”¹⁶, saying “for two years the jail has been flirting with the state mandated maximum of 206 prisoners.” In fact, the jail census for November 2005 topped 200 prisoners for the first time since 1989. The solution was to pay other Counties to board their prisoners, because it was too small to hold and properly separate prisoners based on age, gender, offenses and other factors. There were 15 convicted and sentenced inmates who had been out-boarded – five to Delaware County and ten to Orange – at a cost of \$150 day per inmate or \$67,500 a month. (Some amount of out-boarding remained necessary until July 2011, according to current Sullivan County Sheriff Mike Schiff.)

Sheriff Dan Hogue said that 166, or 80% of the 206 inmates had not been sentenced; they had been charged but their cases were pending in various courts. District Attorney Steve Lungen reported they were moving cases as quickly as possible, and ATI programs were being used when appropriate, but felt that because many detainees were not local, judges were setting bail higher to ensure return of prisoners.

Indictments were up 10% over the same time the previous year. Hogue observed that Sullivan County had seen an increase in serious crimes over the previous eight years, and projected it was likely to continue “as more people move here”, particularly with drug issues heaviest in the southeastern part of the county: Thompson, Fallsburg and Liberty. (In fact, this has not yet materialized, as shown by inmate population reductions in subsequent years.)

The article noted that the county had taken bids on a new facility and was “in the process of choosing a consulting company to oversee the land acquisition, planning and construction”. In 2005 the County chose LaBella Associates and executed a multi-million dollar contract.

In August 2006, LaBella (with Carter Goble Associates) submitted a jail needs assessment and programming study to the county.

“The history of a jail system is the best tool we have to determine its future capacity,” said the report. “Through the collection of data from various resources we are able to analyze and make jail bed projections utilizing the county’s population trends, crime patterns,

¹⁶ “Jail is jampacked”, Heather Yakin, *Times Herald-Record*, November 14, 2005

arrests and historical jail numbers which assist us in predicting the future needs of the jail system. The gathering of this information allows us to project future needs.”¹⁷

Charts were used to show the increase in the county’s population from 72, 379 in 1995 to 76,539 in 2005, and a projection to 79,522 in 2010.¹⁸ Another chart showed a projected decline in the county’s crime rate from 1995 to 2004 that suggests a lesser decline than the actual index crime rate, which dropped by almost 50%.¹⁹

The trend that has resulted – no population growth and a declining crime rate – would not seem to indicate the need to construct a jail with more space. However, the study used a formula (Incarceration rate = the ratio of the jail’s average daily population or ADP to total county population, with the IR expressed as a rate per 1000 persons) that seems to indicate a higher percentage increase than the real rate of increase shown in Appendix A: Sullivan County Jail Census 1989-2010.

Based upon seven models used to calculate the ADP for 2010, the study projected a range from a high of 241 to a low of 217, with an average of 235. Based upon the same projection method the average ADP was expected to climb to 267 by 2010, 274 by 2015, 314 by 2020 and 397 by 2025. The actual numbers for 2010 showed a high of 180 and a low of 150, with an average of 165. In fact, Appendix A shows for the period of 2006 to 2010 following this study, ADP remained fairly level from 2006 to 2008, and has declined significantly since that time despite modest population growth and a devastating economy.

In general, the comparison of today’s data with those 2006 projections demonstrates the magnitude of risk inherent in the reliance on formulas used by consultants to predict the future. (These methods were developed and legitimized by the federal government, and used by SCOC.)

A December 2007 article reported that the County was seeking a meeting with the SCOC in early 2008 to try to persuade them that they did not need to more than double their bed count from 207 to 454 at a cost of \$100 million²⁰. Local lawmakers said the SCOC demand was based upon the prospect of casinos, an issue that has been imbedded in the debate for decades. Instead Sullivan wanted to

¹⁷ Jail study by LaBella Associates and Carter Goble Associates, August 18, 2006

¹⁸ The actual 2010 census figure was 77,547, bringing the absolute increase over 15 years to only a little more than 5,000. And now the latest projections (Cornell Program on Applied Demographics updated September 8, 2011) show a long-term future reduction in overall population, a dip that, as noted, is deepest among those younger than 44.

¹⁹ Part of the explanation is the comparison between reported crimes and arrests. But even for arrests, the violent crime index declined by 14% for the decade, and the property crimes index declined by 12%.

²⁰ “Sullivan wants OK to build smaller jail”, *Times Herald-Record*, December 26, 2007

ask to build between 280 and 300 beds²¹, with the flexibility to add more beds (through the use of pods), reducing the cost to \$80 million²² which would translate to a 10% increase in the local property tax. But even that figure did not include the total cost to the county, including retirement costs of employees and other infrastructure improvements.

In a change in policy, the SCOC indicated that they were willing to talk to county officials and were not wed to a specific number. It is important to understand that though Sullivan was unusual in the duration of its delays on the jail construction issue, it was not alone. New York State Association of Counties spokesperson Mark LaVigne, said in 2007 that 17 counties were being pushed to build new jails at a cost of over \$1 billion, many of them having fought with SCOC over issues like size and funding. “The commission has control over the whole process,” LaVigne said, “but there’s no state funding, no accountability. They’re flexible to a point, but on the size of the jail there is not usually flexibility, based on what our members say.”

2009 Acquisition of Land for New Jail

In 2009, the *Sullivan County Democrat* interviewed Sheriff Mike Schiff regarding potential new jail sites. A location on Old Route 17 near Monticello was under consideration. Schiff said that he initially preferred a site near the county landfill on the other side of Monticello, but the Commission of Correction nixed the idea, citing an unacceptable potential of lawsuits from inmates claiming contamination from the dump²³. Sites were also looked at near the community college and the airport but were rejected. Schiff said he liked the Old Route 17 site because it was close to the hub of court activities in Monticello, cutting down on transportation costs. He also liked its proximity to Route 17.

An April 28 news account²⁴ summarized a contentious legislative session in which Chair Jonathan Rouis said “We’re at a point where we need to start spending significant amounts of money to move forward.” Legislator Elwin Wood feared the “unknown” would cost more than \$80 million, and Legislator Leni Binder added “We really have no choice.” County Manager David Fanslau was thereafter

²¹ Note: Subsequent actual census counts proved even this lower number to be excessive.

²² According to Sullivan County Treasurer Ira Cohen, “Legislators demanded that LaBella redesign the project to lower the cost to approximately \$50 million, but LaBella reported that it could not build even the smallest possible facility (256 beds) for less than \$80 million.”

²³ Ira Cohen says this assertion was later recanted, and county officials admitted that the SCOC merely recommended against the location adjacent to the landfill, but did not and could not “nix it”.

²⁴ “Jail is a go reluctantly”, *Sullivan County Democrat*, April 28, 2009

authorized to finalize negotiations on the acquisition of a 50-acre site near Route 17's exit 104 in Monticello.

The Project Fact Sheet from the July 2009 Design Development Report noted the following detail:

Mission statement and project objectives: Provide a new county jail, with provisions for future expansion, including two additional housing units and facilities for the sheriff's administration and patrol. The jail's primary mission: Provide a safe and efficient detention environment for the pretrial and sentenced inmates per SCOC mandates.

Personnel: The project architect and engineer was to be LaBella (the firm that had done most of the project's costing). The construction manager was to be BBL Construction Services of Albany. Other consultants would include civil engineers, geotechnical services, food service equipment consultants etc.

Housing description: Seven primary housing units were to be designed, classified as female, special needs/ classification, maximum security/ special management, male general housing and male dormitory, and subdivided by secure barriers to allow different inmate classifications to co-exist within the same housing unit, maximizing staff –to-inmate supervision ratios and operational efficiency.

Specifications (LaBella):

Jail:

Total net area = 92,792SF

Total gross area = 130,547SF

Plus 12% allotment = 146, 213SF

Total cells = 256

Total beds = 352 (304 single beds, 48 double beds

Core area design for 2 additional housing pods (60 plus 60)

= expansion total of 472 beds

Combined estimate for Jail and Sheriff's Office:

Total area = 222,208SF

Construction cost = \$37,247,080

Plus 10% contingency = \$ 40,971,788

In October 2009 the Sullivan County Legislature approved the \$1.07 million acquisition of a Monticello property on which to build a jail. Several months later an arbitration process resulted in the total price increasing to \$1.97 million, despite the County's argument that it

would have to spend another \$1.8 million to connect sewer and water lines to the Village of Monticello's system.²⁵

At that time, in the same year as the LaBella report, the cost to construct a 250 cell jail on that site was estimated at roughly \$70 million (Note: The difference with the LaBella estimate suggested that it was both older and did not take into account other contingencies). Annual carrying costs for a \$70 million project over 30 years were estimated at \$4.5 million/year, which would push property taxes up an estimated 10 percent annually.²⁶ Total costs (including financing over 30 years) would be a minimum of \$135 million.

2010 Update

In January 2010, SCOC Commissioner Thomas Beilein visited Sullivan County to tour the jail and interact with the Legislature and residents in a public meeting at which he took written questions.²⁷ Upon concluding his tour, he said, "Your jail is crumbling." Beilein ordered the closing of the third floor due to unsafe conditions that included exposed pipes that were dangerously hot. "I understand the stress on counties," he said. "But I am responsible for the health, safety and security of the inmates and the corrections officers, and I will not let these conditions persist."

When presented with the idea of a regional solution to Sullivan's jail problem, Beilein told officials the state doesn't think in regions. "New York has regions; they're called counties," he said.²⁸

In a June 2010 meeting of the Legislature's Executive Committee, members agreed on the use of the land purchased in 2009 to build a new facility, and LaBella presented several options to curtail costs in developing a new design.²⁹ Members approved the removal of a 48-bed pod from the 2009 plan - dropping capacity from 304 to 256 single cells - to save an estimated \$5 million, but voted against saving another \$3.7 million to shrink core areas for administrative offices, booking and kitchen because future expansion of those areas could be more expensive.

In that meeting, Legislature Chairman Jonathan Rouis said there would be no decision on borrowing that year, to which Legislator Alan Sorensen replied, "My concern is when the recovery starts ... the cost of borrowing might be substantially more." The comments

²⁵ "Sullivan must pay more for jail site, finding says", *Times Herald-Record*, June 13 2011

²⁶ "New Sullivan County jail could increase property taxes", *Times Herald-Record*, May 9, 2010

²⁷ Sullivan Jail "like a dungeon", *Times Herald-Record*, January 28, 2010

²⁸ Orange County might help house Sullivan inmates, *Times Herald-Record*, February 6, 2010

²⁹ Sullivan legislators decide on jail but not financing, *Times Herald-Record*, June 14, 2010

reflected the ongoing, agonizing debate – build it now, or build it later at a higher cost?

Current Situation

Description of Current Facility

*Ironically, construction of the existing Sullivan County jail more than a century ago was itself delayed a decade and a half by political considerations. In 1893, *The New York Times*³⁰ referred to an earlier escape of “the noted Newburg Bridge bandits” amidst coverage of the latest condemnation of the jail. “The jail was presented in 1884 and has been condemned by the State Board of Charities and Corrections as one from which any prisoner could escape,” said the article, adding, “The Board of Supervisors of the county met twelve years ago intending to authorize the county to build a new jail, but on account of political aspirations, which would have been somewhat dampened, they refused to act. It is thought now that the jail will be thoroughly renovated or a new one built.” The “new jail” was erected in 1908.*

The Sullivan County Jail still occupies that building. Additions were made in 1957 and 1984; it was again modified in 1990 when the visitor’s center was reconstructed and a modular dormitory was added. Since 1990 the jail has only had repairs and minor renovations, rather than significant rehabilitation.

Inmates committed for low level offenses like DWI and petty larceny live and sleep in a 40-bed dormitory on the jail’s fourth floor. On the third floor across from the major felony block, a little used, outdated section holds the old solitary cells. The second floor includes the medical unit. Special housing for inmates needing to be watched by deputies one-on-one for medical, mental health or other reasons, is on the first floor, next to the common room. The basement includes the kitchen.

By modern standards, cells are cramped, and sight lines are poor, contributing to security issues and staffing inefficiencies.

When SCOC Commissioner Thomas Beilein shuttered one wing of the jail after his January 2010 visit, he said the place reminded him of a “dungeon”. “I saw exposed wires...things that cannot be readily repaired or secured,” he said. “It was 85 degrees in there with steam pipes exposed and windows open to try and equalize the temperature.”³¹

Adding to Beilein’s assessment, Commission of Correction spokesperson John Caher said, “Sullivan County has the oldest operating jail in the state. It is in an advanced state of deterioration – which I do not think anyone disputes – and is literally falling to

³⁰ “Sullivan County Jail Condemned”, *The New York Times*, May 25, 1893

³¹ “New County Jail on Hold”, *Sullivan County Democrat*, January 4, 2011

pieces. It is barely habitable and is very close to being unsuitable as a work environment.”

Staffing Issues

Morale issues associated with staffing the Sullivan County Jail were discussed in a March 2010 interview with County Jail Administrator Colonel Harold Smith Jr. and Captain James Ginty. They have difficulty retaining new hires, partly because pay is lower than state prisons. (The county’s entry level pay is \$31,000, compared to the State’s \$38,000.) In addition, the facility’s deteriorated condition produces difficult working conditions, including heat in summer and cold in winter.

While salaries are lower than in other counties, these may still be considered “good jobs” in economically depressed Sullivan County. Further, the comparison with state pay may have less relevance as state prisons continue to be closed.

Current Capacity and Demand

Jail capacity was 207 in January 2010 (see Appendix A: Jail Census 1989-2010). When the SCOC ordered part of the jail shut down, capacity was reduced to 189. The commission voted in June 2010 to close another 25 cells for health and safety reasons; in January 2011, however, Colonel Smith reported most of those cells had been rehabilitated and approved for use by the state.

CRREO’s regional analysis in “A Collaborative Approach to County Jailing” stated that crime rates and jail usage do not necessarily correlate. The report indicated that the rise in ADP across the region from 2007 to 2009 resulted primarily from ballooning prisoner populations in Dutchess and Ulster Counties, while jail demand decreased in Columbia and Sullivan in this time frame, though not in direct proportion to drops in crime rates.

The Sullivan County Jail Census (Appendix A) shows that a steep dip in 2009 reduced ADP to a level not seen since 2001. The rebound since 2009 brought ADP to 154-187 through the third quarter of 2010.

Sullivan has begun using ATI (Alternatives to Incarceration) in certain categories, but there is no comparison with their extent of use found in other counties such as Dutchess (see CRREO report) who have been pressed by capacity issues to innovate in this area. Early in 2010, the Sullivan probation department was using electronic monitoring for sex offenders, and was about to extend this program to include use for such non-violent offenses as DWI.

As in all the other county jails in the Hudson Valley, most inmates in the Sullivan County Jail have not yet been sentenced.³² In January 2011, Colonel Smith said only 34 inmates were serving short-term sentences of one year or less; the rest were pretrial detainees: “They are being detained because they are suspected of a crime, not found guilty of a crime,” Smith said. Some of these potentially innocent prisoners had been in jail awaiting trial for longer than a year, he added.³³

Though Smith voiced concern over conditions and believes that there should be a new jail, he acknowledged that the recession makes the cost difficult to bear.

Sullivan County Manager David Fanslau said in January 2011 that he believed construction of a new jail could not move forward until the end of the recession, and “until the county has realized economic growth in non-property tax revenues”.³⁴ He estimated the jail would cost about \$80 million to construct, paid for by the county’s issuance of 30-year bonds. The annual debt service or mortgage would be about \$5.5 million; this would require an 11.32 percent property tax rate increase each year for the next thirty years, one percentage point higher than earlier projections. Sullivan County Treasurer Ira Cohen says it could be as high as 20%.

For the present, it will be difficult for Sullivan County residents and business owners to afford a double digit property tax increase. County Legislator Kathy Labuda said, “We’re definitely going to out board as much as we can. In a year or two, when the economy picks up or we get some more sales taxes in, then we’ll talk about the jail.”³⁵

The Jail Census in Appendix A shows that capacity has only been reached at five peak points from late 2005 to mid-2008. Typically when prisoner counts reach 80% of capacity, or approximately 160, the county starts boarding out prisoners to other counties. This may be due to the classification of prisoners (e.g. women, juveniles, mentally handicapped) which may demand greater space usage for security or logistic purposes.

Given the diminished efficiency in the use of cell space that arises from the need to classify prisoners – the placement of specialty populations such as women, juveniles, and the physically and mentally disabled – concern regarding occasional potential overcrowding is understandable. However, even with the effects of

³² Gerald Benjamin and Joshua Simons. *A Collaborative Approach to County Jailing in the Hudson Valley*, page 18 and Table 3 (CRREO, August 2011)

³³ New County Jail on Hold, *Sullivan County Democrat*, January 4, 2011

³⁴ “New Jail on Hold”, *Sullivan County Democrat*, January 4, 2011

³⁵ “New Sullivan County jail could increase property taxes”, Leonard Sparks, *Times Herald-Record*, May 9, 2010

classification, peak usage of jail space in Sullivan County has been so rarely reached over a 21 year period, it would seem the solution that best served the county would be the periodic boarding out of prisoners. The concern is whether there would always be space available when Sullivan's need arises. Alternatively, a review of census for the last decade supports the proposal posed by the CRREO report, to accommodate the occasional spikes with the creation of a regional surge facility, which can also accommodate special needs populations.

Another approach, as this case study will suggest, is to enter into a long-term agreement with one county to house sentenced inmates.

In the face of economic hardship, the strategy of boarding out has served the county well. It is surprising that SCOC's most recent order occurred during a period of relatively mild jail overcrowding. The ability to shift prisoners to achieve the necessary classification combined with minimum boarding out should have enabled the county to weather recent intermittent peaks of census counts.

In the latest round of negotiations, the state asked the county for a facility that will hold 400-450 inmates. Looking at the Sullivan Jail census for the past 21 years, during which time the numbers have never exceeded 220-230, indicates a need to question the state's projection and demand.

Though the County's resistance to the increased SCOC demand only came after the consultant's cost estimate topped \$105 million, and was "coupled with the tardy realization that the state could only recommend, but could not mandate, the size of the jail"³⁶ it would appear it was an important and correct policy decision. There is little evidence the larger number could ever be reached, especially given the stall in overall population growth that is forecast by the previously referenced Cornell report.

³⁶ Email exchange with Sullivan County Treasurer Ira Cohen, November 22, 2011

Conclusions

Findings

1. The influence of the Sheriff in the late 80s and early 90s was significant enough to deter the construction of the new facility. Even today, the structure of the county government – including County appointed administrative leadership, the elected Legislature and the elected Sheriff - continues to produce a fractured decision-making process.
2. Cost avoidance in the earlier decision years clearly drove up costs now faced for capital construction. The implications of the cost of continued delays are apparent.
3. The county’s century-old facility has unsolvable issues. In addition to undersized cells and the old layout’s security challenges, the age of the facility has led to continued degradation of infrastructure, with repercussions due to failed plumbing, exposed wiring, and non-replaceable parts.
4. The SCOC demand for a doubling of the jail’s 2007 capacity – from 207 to as many as 454 – is not easily justified or explained. The SCOC says it is willing to negotiate, and though NYSAC reports that counties’ experience rarely bears that out, others point to a more reasonable approach since Commissioner Beilein’s tenure. Also, it is possible that the overall approach of a new Governor in dealing with New York’s more urgent budget issues will further support a more pragmatic – and economical – approach that allows for regional solutions.
5. There is uncertainty about the linkage between decisions on capacity and projected capital and operating costs. For example, further analysis should be applied to cost savings discussed in June 2010 when it was agreed a 48-bed pod would be removed from the 2009 plan to save \$5 million, when clearly more could be saved in shrinking more of the common areas supporting the larger population. While it will be argued that preserving the common area will allow for expansion in the future, the question is what can the County afford? Like buying a car, the question becomes which options are within your budget. And on the operating side, if a more efficient operation results in decreased staff, would that not help offset any increase in staffing necessary to transport prisoners over longer distances?
6. Other jails have space to spare, e.g. Orange County. Why has a more sensible collaboration not been possible? In particular, negotiating a

rate for the long-term housing of sentenced inmates might prove to be fiscally sensible.

7. Despite a general agreement that conditions are unacceptable, the current facility has seen minimal closures, and otherwise has passed inspections year after year.

Alternative Decisions Facing the County

We recognize that none of these decisions are easy. We do encourage Sullivan County officials to view this as an opportunity to be leaders in the field of incarceration by taking innovative steps.

1. **Build new, in accord with SCOC recommendations.**

The largest concern is the cost of the facility and the amount of potential debt service necessary to both meet County needs and satisfy SCOC demands. The need for building a long delayed new facility comes at a period when the county can afford it the least. There is also still concern about the state's expectations as to capacity. County Manager David Fanslau stated: "Unless there is economic recovery and economic growth, it's really going to be tough for the county's citizens to take on that kind of debt."³⁷

2. **Request to build to reasonable size, in alignment with historic pretrial detainee population levels.**

The jail census indicates the state's forecast of 400-450 is double the current capacity, and is probably double the demand for the foreseeable future. As demographic trends show little if any growth, the county should plan for an even more conservatively-sized facility, downsize common areas, and look to further reduce bed count by considering collaborations suggested below.

3. **Collaborate with neighboring counties and the state in operations, consistent with regional recommendations in CRREO report.**

A new direction from Governor Cuomo's administration should support a regional approach, one that was rejected as recently as 2010 (see quote from Commissioner Beilein, page 15). A November 2011 *Times Herald-Record* editorial endorsed the attempt to regionalize the solution, saying the Governor has "embraced many new ways of thinking that promise greater efficiency. His administration is devoted to bridging the artificial boundaries

³⁷ Ibid

that too often pitted county against county, city against city, and replacing them with a regional approach.”³⁸

Sullivan County has an opportunity, with the cooperation of SCOC, other state officials and local electeds, to break new ground by building a much smaller new facility and utilizing the following strategies that could result in significant savings to the taxpayer:

- **Reclassification.** The small number that Sullivan sees in special populations, such as women and juveniles, can be incarcerated in specific facilities elsewhere in the region, where higher concentration could lead to improved services. Sullivan needs to test this and gain SCOC and State support.
- **Boarding out in peak times.** One approach from the CRREO report is a regional “surge facility” to accommodate counties’ unusual spikes in populations at reasonable cost. Sullivan’s census count history would lend itself to this approach. (Dutchess is another county that could take advantage of this approach.)
- **ATI.** Sullivan’s experience in electronic monitoring of sex offenders could now be expanded beyond DWI’s to much more of the non-violent offender population. Other technology solutions may also be available and should be explored.

The County should also consider entering into long-term agreements for certain categories of prisoners with neighboring Orange County to reduce its construction burden. Sullivan should investigate whether a guarantee on a number of prisoners for a defined period of time might allow Orange County to reduce their rates. Savings from debt service and a smaller workforce should more than compensate for transportation costs.

4. Collaborate with the State?

The State continues to downsize its system, presenting the possibility – as the CRREO Report suggests - of using other pre-existing facilities to potentially reduce the size of what Sullivan would need to construct. Both Sullivan and nearby Orange County State facilities continue to be closed.

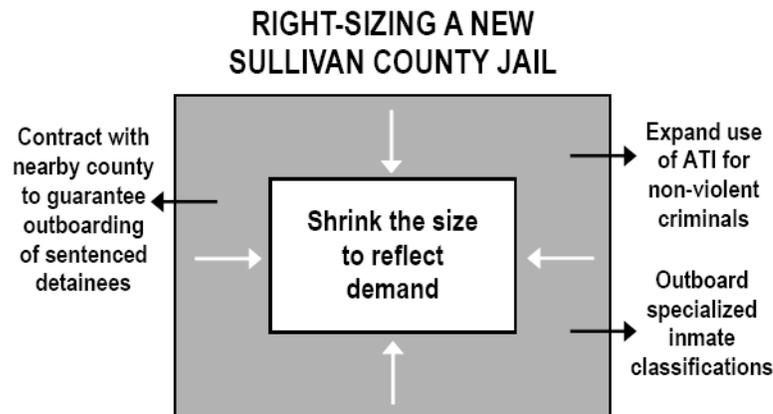
5. Maintain Status Quo: Continue to use existing facilities and pay for maintenance and repairs

We do not see the upside in this. The economic forecast for Sullivan County does not warrant further delay, given the proven track record of continued

³⁸ “Time for another regional jail push”, *Times Herald-Record*, November 10, 2011

increases in construction costs. However, recognizing the impact on local taxpayers, a smaller facility therefore should be envisioned.

A Plan of Action

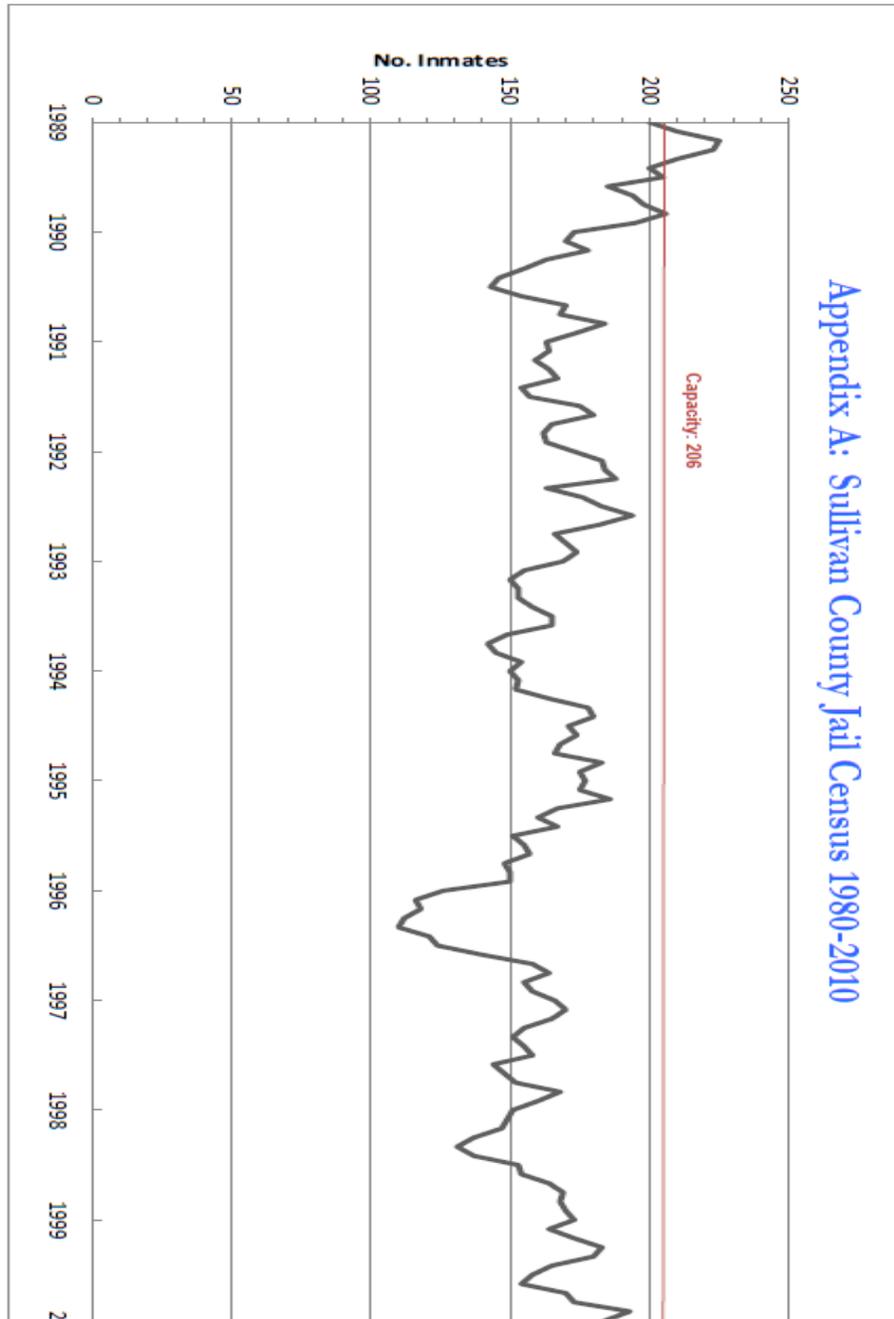


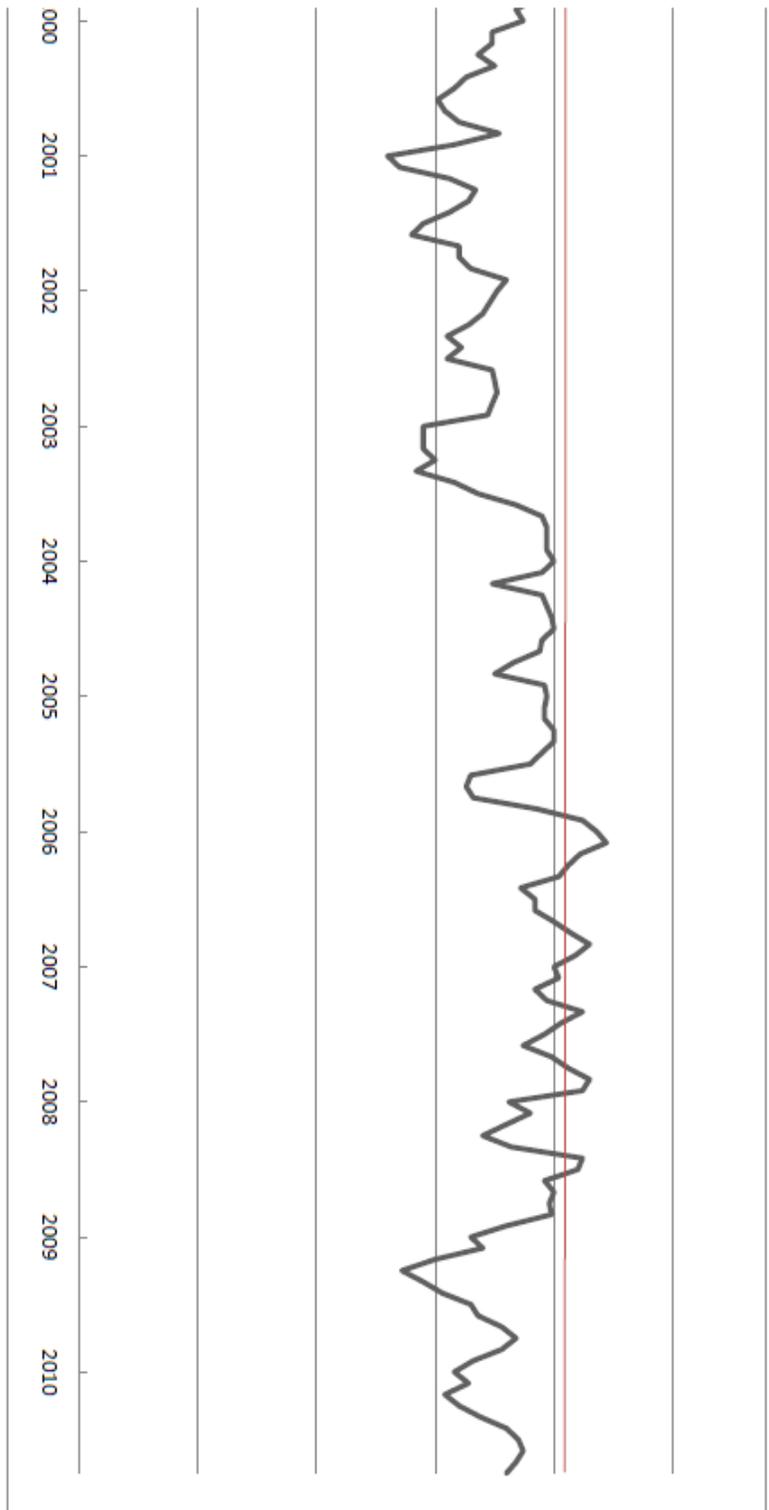
Sullivan County should accelerate plans to construct a new jail, but alter the path, minimizing the necessary investment in light of the stagnant economy and existing jail conditions, in order to serve the County's real needs:

1. The newly-elected County Legislature should appoint a Blue Ribbon panel of outside criminal justice experts to review the extensive array of available records and, within 90 days, provide recommendations as to a course of action. The County could also seek input from the former District Attorney who held that position for 30 years and two former and highly regarded commissioners of the State Department of Corrections who are from Sullivan County – Glenn Goord and Phil Coombe.
2. Simultaneously, county staff should work with the sheriff to perform one more analysis of existing data with a specific directive to minimize the overall capacity of the current design, based on most recent population projections. The decision to delete one pod from the 2009 design to save \$5 million doesn't go far enough; common areas should be downsized as well.
3. Draft a plan to outboard the small number of special populations, and to expand the use of ATI for nonviolent offenders. Then seek the support of state officials to allow this to happen.
4. Negotiate with Orange County to board a guaranteed number of sentenced prisoners on an ongoing basis at a cost representing savings over the current outboarding arrangement.
5. Work with State Legislators and the SCOC to affirm the new, downsized plan, and the use of cross-regional resources, to bring the cost to Sullivan County taxpayers to a realistic level.

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6. Recognize no decision will win everyone's support, but the absence of a decision has further cost implications to the very taxpayers who have been protected by past decisions *not* to build.

Appendix A: Sullivan County Jail Census 1980-2010





Appendix B: Capital Costs of Building Comparative Facilities in NY

Broome County Correctional Facility (1996)

Beds:	496 including 12 medical
Size:	225,000 SF
Operating Personnel:	163
Budget:	\$32M budget in 1992 (bids received)
Cost for Facility:	\$25M
Cost per bed:	\$50,400
Cost per SF:	\$111 (est. \$180-200 in 2004 dollars)
Source:	LaBella
Notes:	<i>Update to LaBella Report: Broome's website says they began double bunking in 1999 "to eliminate the need to board out inmates"; they report having 536 beds today.</i>

Delaware County Jail (2003)

Beds:	100
Project Cost:	\$ 23M (20% was for construction of new public safety building)
Source:	Sullivan County DPW 2003
Notes:	<i>Design employed pre-fab modular construction.</i>

Monroe County Jail Expansion (2002)

Additional beds:	424 (had housed 1500, rated for 900)
Ave. Daily Pop., 2007	1409 (incl. other counties in-boarding)
Expansion Size:	240KSF
Cost for Facility:	\$46M
Cost per SF:	\$191
Source:	R. S. Lynch & Company, 2007

Ontario County Jail (2003)

Beds:	240*
Size:	174,000 SF
Budget:	\$28.5M
Cost for Facility:	\$27.7M (3% under budget)
Cost per bed:	\$115,000
Cost per SF:	\$158
Financing:	> \$17M from tobacco reserves, remaining debt through serial bonds
Sources:	Sullivan County DPW June 30, 2004 R. S. Lynch & Company, 2007
Notes:	<i>Based upon this project, and using mandated prevailing wage rates and a bed count of 400,</i>

in 2004 Sullivan County DPW projected costs for a new jail with a 10% contingency at \$50.6M, plus land acquisition and infrastructure.

** Lynch reported bed count as 276 with double occupancy in 36 cells (vs. SCOC goal of 326 min.); core was built to accommodate 500 via five additional expansion pods*

Tompkins County Jail (unimproved)

Beds: 73 original
SCOC has demanded expansion to 160 beds due to overcrowding. While planning for the expansion, the County began adding \$500K to their annual budgets for ATI programs. Due to the resulting drop in jail population, the County has asked to scale back the expansion to 104 beds with a spine allowing up to 196, but this negotiation is at an impasse. SCOC has withdrawn variances allowing double bunking and has threatened to re-order the jail classification system to further reduce its capacity and increase out-boarding.
Source: LGEC Briefing Paper on Jails, 2008

Warren County Jail (2004)

Beds: 186 (vs. SCOC goal of 210)
Ave. Daily Pop., 2007: 153 (incl. other counties in-boarding)
Corrections Personnel: 75
Cost for Facility: \$ 21.9M (incl. \$17.7 construction, \$2M fees, \$2M misc. expenses)
Financing: General obligation bonds, assisted by NYSERDA grants
Source: R. S. Lynch & Company, 2007
Notes: *Includes office for sheriff and several other divisions; also equipped for future expansion, i.e. addition of future jail cell pod.*

Washington County Correctional Facility (2003)

Bed capacity: 179 (vs. SCOC goal of 140 min.)
Ave. Daily Pop., 2007: 125 (incl. other counties in-boarding)
Size: 64KSF jail, 16KSF sheriff's dept.
Cost for Facility: \$17.6M (incl. \$12.5M construction)
Financing: Built on owned land, \$9.7M financed through tobacco settlements
Source: R. S. Lynch & Company, 2007
Notes: *Used precast cells; built to allow for expansion i.e. addition of jail cell pod.*