CGL RESPONSE TO COMMUNITY QUESTIONS FROM NEEDS ASSESSMENT UPDATE

July 12, 2022

We appreciate the thoughtful and thorough feedback on the Berks County Correctional Facility 2022 Needs Assessment Update provided by community members. The entirety of comments received, along with our responses, are included in this response. Our responses to community input center on two common themes, and they are like comments we have received from communities across the country in our four-plus decades of providing justice system consulting.

- *Data collection and comparison between 2018 report and 2022 update*
  Due to different reporting methods and structures over time, certain data from 2018 could not be replicated in the same manner for the 2022 report. The data collection does not impact our recommended projection.

- *Policy decisions on models used to project number of beds*
  We recommend using the middle bound projection to ensure optimal operations, management and flexibility. It is not prudent to use the higher bound, as that could result in over-building; likewise, it is also not prudent to use the lower bound, as under-building may result in overcrowding. Under-building limits the jail's ability to provide proper classification, which can have impacts on overall security and positive outcomes for individuals. It is important to keep in mind criminal justice facilities should be planned for the population, but also for peaks in that population as well as flexibility for differing inmate classifications and needs.

  The recommended model is a total of eight models, with at least one from each of the three subsections selected and averaged. Each model presents a differing snapshot to the future that is beneficial to the final projection. To dampen the limitations of the forecast models, equal weighting and averaging of models is used. The averaging of the models, while not perfect, does reduce some of the flaws of the individual forecasting models and shows patterns of model agreement. Targeting models from each of the three subsections produces a more robust model. Models selected are not as subjected to volatility of historic trends as those not selected.

Providing the "right" number of beds is certainly a primary goal for this project. Alternatives to incarceration, whether deflection from the justice system, diversion from incarceration, changes to bail policy and legislation, and the variety of tools in the hands of all partners in the justice system, has certainly had an impact on the number of people in custody. Data analysis leading to the projected number of beds did include trends related to alternatives to incarceration. Regardless of that, there will continue to be a population for whom they are not applicable, and the number of beds planned for this facility is evidence-based, data-informed, and to the best of our collective ability right-sized.

We appreciate the public interest in this important project, and we will continue to work with community groups across the county as the project progresses to ensure the voices of all citizens are heard.

Questions from Crystal Kowalski, Building Justice in Berks

Hello Stephanie, Steering Committee, Commissioners and CGL,
Thank you for the opportunity to review the draft of the Needs Assessment Update.
I have some basic definition/logistic type questions to start with:

What does PC stand for in Table 3-8?
PC stands for Protective Custody.

In the 2018 report, the terms Part 1(more serious) and Part 2(less serious) offenses were used. How do Felony, Misdemeanor, and Summary fit over these terms?
Offenses are the crimes committed; felony/misdemeanor/summary are the charges filed by the State and/or County against the person who committed the crimes. Part 1 offenses are serious crimes that occur on a regular basis. (Criminal Homicide, Forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny, Motor Vehicle Theft, Arson). Part 2 represents less serious crime classifications (other assaults, forgery and counterfeiting, fraud, embezzlement, stolen property, vandalism, weapons, prostitution, sex offenses, drug abuse violations, gambling, DUI, liquor laws, drunkenness, disorderly conduct, vagrancy, and all other offenses not specifically identified as Part I or Part II offenses).

In the 2022 report, the terms Maximum, Medium, and Minimum are used. How do Felony, Misdemeanor, and Summary fit over these terms?
Maximum, Medium and Minimum are classification levels the jail uses when assigning housing for the temporarily incarcerated. Felony / Misdemeanor / Summary are the charges from the State and/or County.

In the 2022 report- Table 1-8, what is "Item Punishment?" Are these probation or parole violations?
'Iterm Punishment' is shortened for Intermediate Punishment Program, which is a form of sentencing for non-violent offenders available as an alternative to straight prison time. This is a data point for Adult Probation and Parole caseload; however, intermediate punishment is within the discretion of the court.

In Table 1-9, what does "Other" refer to?
This refers to other Parole and Probation cases -- for example, absconders and probation cases that are still active but transferred to another county.

Could you please explain Table 1-18 in the current report? I need help with the classifications and how the four snapshots fit together in the table.
This data was provided by the jail as daily snapshot data of how each inmate is housed by classification. We arrive at each figure through an average of the four snapshot days.

In Table 3-8 of the updated report does "Jail Bed Space Need – Flex" account for the peaking and classification percentage increase?
Jail bed space need – flex relates to the management of inmates and allows for flexible space that is desperately needed in most local jails. The space can be used for different populations as needed. This is related to the peaking and classification percentage.

In Table 3-8 of the update, the projected bed space need in 2035 is 931 beds. CGL is advising to build for 960 beds. Is this because of a pod/unit having a given or set number of beds(for example 40 beds/pod)?

For space planning purposes, the 2035 bed space need for the Berks County Correctional Facility is rounded to 960 beds. This is based on the number of bed spaces needed using architecturally sound typical bed unit configuration for housing (48 to 64 beds).

In comparing the 2018 report and the 2022 updated needs assessment I have some comments and questions:

I did not find counterparts in the 2022 update to the following tables from the 2018 report:1-16, 1-17, 1-18(Pretrial Services), 1-22(Inmates by time in jail), 1-23 (Comparison to other counties), 2-1(Detox Trends), Figure 1-20(Monthly ADM and ADM with Bail)

Due to different reporting methods and structures, certain data from 2018 could not be replicated in the same manner for the 2022 report. The data collection does not impact our recommended projection.

In the 2018 report there was a very useful table that appeared twice, once as ES-1 and once as Table 3-10. The table in the update that has a very similar title is Table 3-8. Is this meant to be the counterpart?

Table ES-1 of the 2018 report included snapshot release data from the jail that gave inmate length of stay and categorized them by Pretrial Felons; Pretrial Misdemeanants; Pretrial Ordinance; DOC-TPV; and Sentenced. Due to different reporting methods and structures, certain data from 2018 could not be replicated in the same manner for the 2022 report. The data collection does not impact our recommended projection. The bed space delineation in the current report (reference table 3-8) is a better delineation of the beds for jail planning purposes.

Table 3-5 in the 2018 report uses a recommended peaking percentage* of 5.3% within a confidence range of 2.9%(lower bound) – 10.3%(upper bound). This recommendation is 2.4 points from the lower bound and 5 points from the upper bound. Table 3-4 in the Update uses a recommended peaking percentage of 6.2% within a confidence range of 1.8%(lower bound) – 8.6%(upper bound). This current recommendation is 4.4 points from the lower bound and 2.4 points from the upper bound. Why was the decision made to recommend closer to the upper bound in the current projection?

> **CGL's explanation of a peaking percentage: "The peaking value of the system is calculated using monthly jail population data from January 2007 to December 2021. The percentage difference from the highest month was compared to the annual ADP for each year to determine the peaking factor of 6.2 percent for the BCJS."*

The number of beds included in this project is grounded firmly in data analysis and accounts for potential fluctuations in the size of the population as well as anticipated further diversion of people through alternatives to incarceration. It would be truly beneficial to all our communities if fewer people are incarcerated. For those who are incarcerated, however, it is also very important that they are housed as humanely as possible in a facility that is not overcrowded and is planned with enough space to provide programming aimed at supporting the people in custody.

Peaking percentages consider seasonal variations in the inmate population and are determined using monthly jail population data; therefore, they are not a static number and have changed since our 2018 report. The peaking percentage we use is the average of the peak annual percentages from 2007 to 2021. The recommended peaking percentage is independent of the upper-bound and lower-bound recommendations.

In CGL's four-plus decades of providing consulting services to jurisdictions planning for new justice facilities, we have consistently recommended an average of the upper bound and lower bound data to ensure optimal operations, management and flexibility of the facility. It is not prudent to use the higher bound, as that could result in over-building; likewise, it is also not prudent to use the lower bound, as under-building may result in overcrowding. Under-building limits the jail's ability to provide proper classification, which can have impacts on overall security and positive outcomes for individuals. It is important to keep in mind criminal justice facilities should be planned for the population, but also for peaks in that population as well as flexibility for differing inmate classifications and needs.

If we look back at the 2018 bed space need projections with the benefit of hindsight, we see that the lower bound projections were the closest to being accurate, although much higher than actual. The current lower bound projection still provides for peaking and classification needs. Knowing this, wouldn't it be wise to use the lower bound projection?
The reason the current population is closer to the lower bound projection in the 2018 report is due to the drop in inmate population during the pandemic, which is a trend we saw nationwide. To take a broader look beyond the pandemic dip, we reviewed historic data from 2011 to 2021. Peaking and classification have been applied to all projections, including our recommended projection as well as the lower bound and upper bound projections. Our recommendation remains the model presented, with a bed space number of 960 beds.

Comments and Requests:

I would like to see an update of Table ES-1 from the 2018 report without altering the items listed. I request that an update be included in the final version of the Needs Assessment Update.
Table ES-1 of the 2018 report included snapshot release data from the jail that gave inmate length of stay and categorized them by Pretrial Felons; Pretrial Misdemeanants; Pretrial Ordinance; DOC-TPV; and Sentenced. Due to different reporting methods and structures, certain data from 2018 could not be replicated in the same manner for the 2022 report. The data collection does not impact our recommended projection. The bed space delineation in the current report (reference table 3-8) is a better delineation of the beds for jail planning purposes.

The 2022 Update uses the terms – Pretrial, Felony, Misdemeanor, and Summary much less frequently than the 2018 report. Using alternate terms is making it difficult to understand the update. I request that the terms – Pretrial, Felony, Misdemeanor, and Summary- and the updated data associated with them be included in the final version of the Needs Assessment Update. The terms - Pretrial, Felony, Misdemeanor, and Summary are categorical. You either fit in the category or not. The terms - Minimum, Medium, and Maximum feel like a scale-somewhat subjective.
Due to different reporting methods and structures, certain data from 2018 could not be replicated in the same manner for the 2022 report. For the 2022 report, we used data, including but not limited to the Berks County Jail, Berks Connections Pretrial Services, The Unified Judicial System of PA, and Adult Probation and Parole. The terms used in the report are consistent with the sourced data provided. The data collection does not impact our recommended projection.

Regarding terminology, offenses are the crimes committed; felony/misdemeanor/summary are the charges filed by the State and/or County against the person who committed the crimes. A detainee can have multiple charges; the jail classifies into one of three classifications: minimum, medium or maximum.

I would like to see the proactive guidance that was included in the 2018 report included in the Update.

> *Excerpt from 2018 Report - "From the data presented in Table 1-22, Berks County could potentially reduce the jail ADP by over 44 percent with the timely disposition of pretrial misdemeanants, felons, ordinance violators and technical probation violators. The numbers of pretrial misdemeanants and ordinance violators that have been in the Berks County Jail more than 90 days suggests further investigation on why these level of offenders are in custody."*

If we have solved these problems, it would be helpful to see a table indicating and acknowledging that.
Due to different reporting methods and structures, certain data from 2018 could not be replicated in the same manner for the 2022 report. The update does provide snapshot data of pretrial inmate bond amounts and identified on page 1-40: "Of the 213 "true pretrial" with bonds, 119 had bonds of $50,000 or less. While not everyone with a bond will be able to post the bond for a multitude of reasons, concentrating on lowering the number of inmates with the lower bonds could open jail beds. If 15 percent of those with bonds of less than $50,000 were able to be released, 18 beds on average could be saved in the Berks County Correctional Facility.

In Table ES-1 of the 2018 report, the jail population is projected to decrease as it moves into the future. In Table 3-4 of the 2022 Update, it is projected to increase. Page 94 of the Update ties this increase largely to Stakeholders opinions/projections. There are 4 stakeholders making these projections of an increase.
- **Jail Staff, the President Judge, an MDJ, and CBPD Chief**
- **There are 2 that mention increase in crime, but don't expressly say it will raise the jail population.**
- **There are two police chiefs that say it is largely dependent on attitude about treatment and what the courts do.**
- **RPD Chief Tornielli believes the jail population will stay consistent.**
- **Every commissioner expressed the desire that it should not increase to previous levels.**
- **The DA says the jail population is stable and that minor crimes are not making it to case.**

At the Visioning Session, a sentiment that was expressed by many of the attending stakeholders was: We have to be willing to change. We can't fall back to the way we always did things.

I request that the bed projections be based on data using the lower bound projection, and not heavily influenced by the past experiences of a few stakeholders.
This jail bed need increase is from increasing demographics county wide and projected increases in admissions from the historic lows during the pandemic.

We have made our evidence-based recommendations with more than 25 stakeholders from across the county and used our database that extends to 2011 to develop our conclusions. These stakeholder interviews helped us to understand some of the reasons behind the data trends, but that is not the only information we use to arrive at our recommendation. We also factor historic data, industry norms and nationwide trends to drive our projection models and our jail bed space need recommendations. Our outreach with community groups across the county will continue as the project progresses to ensure the varied voices of all citizens in the County of Berks are heard.

Questions from Retired Judge Art Grim

I have had an opportunity to review the Berks County corrections facility needs assessment update final draft of June 2022 and find it interesting and informative. Having served a term as president Judge in Berks County as well as a 30 year career on the bench I have a degree of familiarity with serious issues, concerns, and opportunities presented in the building and operation of a new corrections facility. From a long term historic perspective there has clearly been a waxing and waning of criminal offenses within our county and throughout the country. It is easy to suggest that because the trend over the past five years has generally been downward that this will continue but that is only part of the picture. Research and data show unequivocally that once jurisdictions such as a Berks County implement research-based outcome measured programs with fidelity that these variations are minimized. As a result of a lot of research hard work and implementation of alternative to incarceration programs in Berks County, as well as a commitment on the part of stakeholders to continue a rigorous ongoing review of options and a willingness to make appropriate change, we are well situated programmatically now and for the future. Please do not over build based on conjecture and what if's. Ensure the new corrections facility is right sized!

Providing the "right" number of beds is certainly a primary goal for this project. Alternatives to incarceration, whether deflection from the justice system, diversion from incarceration, changes to bail policy and legislation, and the many number of tools in the hands of all partners in the justice system, has certainly had an impact on the number of people in custody. The data analysis leading to the projected number of beds for this project did include trends related to alternatives to incarceration. It should be understood that regardless of the growing number of alternatives to incarceration, there will continue to be a population for whom they are not applicable, and the number of beds planned for this facility is evidence-based, data-informed, and to the best of our collective ability right-sized.

Questions from Louise Grim

Thank you for sharing the needs assessment with some of us, who are very interested in the most costly government project to ever be undertaken in our community. I read with interest the document and was impressed with the initial progress, implemented through criminal justice reforms, These reforms, I believe, have begun to get results evidenced by the facts that most stats presented in the report show the incarceration rates trending down pretty significantly, with no apparent negative effects on the safety of the community, which is of course very encouraging and is a credit to all individuals in our county involved in positions of responsibility in regards to this issue.

My concern is that despite the downtrends in most areas, borne by the stats, we are not decreasing the number of beds sufficiently to reflect those stats, ultimately resulting in much greater costs to the taxpayer. While admittedly the numbers can go up and down over time, the trend over the past several years (5) has generally been downward and the cost implications of building a larger facility are enormous, not just regarding the initial costs of building, but also the ongoing costs of personnel and maintenance of the infrastructure over time.

Increasing participation in the new diversionary programs will likely further decrease incarceration rates. Commissioner Leinbach rightly addressed, in his interview comments, that incarceration can have serious implications not only for the inmate but for our community at large not to mention the cost to taxpayers and most would agree that jails should be reserved for people who have committed serious offenses and are a flight risk and or danger to the community.

Considering the downward trends identified throughout the document and the effects of new criminal justice reforms among other things, please insure that these factors are being given adequate consideration in right sizing this new facility, to among other things minimize the cost to the tax payer If some people are concerned about the possible increase in serious crimes , not borne out by recent stats, the possibility of adding to the facility, at a later date, should be seriously considered.

Thank you for the opportunity to comment and I hope all comments submitted will be taken into consideration in the final draft.

The number of beds included in this project is grounded firmly in data analysis and accounts for potential fluctuations in the size of the population as well as anticipated further diversion of people through alternatives to incarceration. It would be truly beneficial to all our communities if fewer people are incarcerated. For those who are incarcerated, however, it is also very important that they are housed as humanely as possible in a facility that is not overcrowded and is planned with enough space to provide programming aimed at supporting the people in custody. While designing a facility for long-term flexibility and adaptability are indeed important goals that must be included in this project, it should be noted that the population that is planned for the new facility is actually not much larger than the current population. It is understood that foresight into phased growth in case it is needed in the future should be a consideration as part of the design, but expansion projects are often costly and imperfect, especially when considered alongside an option to build for an anticipated near-term need in the present.

Questions from Jane Palmer

Thank you, Stephanie, Commissioners and CGL, for such a thorough draft needs assessment. You've analyzed an impressive variety of demographic, crime, court, and jail data and interviewed numerous stakeholders in the Berks County criminal justice system. What's missing are voices from the community at large, including incarcerated and formerly incarcerated people and their families, plus community groups who serve and fight for marginalized people including Building Justice in Berks (BJB), Safe Berks, Make the Road, and The Real Deal610. (BJB was told they would be interviewed but were not.)

This gap in the stakeholder interviews points to another gap, the absence of policy-driven imperatives based on the will of the community. Berks has done a terrific job over the years in reducing the jail population, and we are agreed we want that trend to continue. Policy is values written into code, so what are our community values? If we value keeping folks out of jail because that's better for everyone, let's build small accordingly. If we believe, as Commissioner Leinbach stated in his interview, it is immoral to incarcerate people who are not a threat to themselves or others and not a flight risk, let's build for justice.

The community has been invited to regular public meetings regarding the new correctional facility, and there was a public visioning workshop also open to public participation. Data-driven analysis along with research into Berks County jail diversionary programs has led to the current number of beds planned for the new facility. The County continues to support policies that are moving the justice system in the right direction. The next step is to follow through on project goals established through consensus at the public visioning workshop. Our outreach with community groups across the county will continue as the project progresses to ensure the varied voices of all citizens in the County of Berks are heard.