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JAIL CENTER

A Summary of Developmental Issues in Statewide Jail Standards for Louisiana, Georgia, Michigan, California, and Washington

This document was prepared by the National Institute of Corrections Jail Center, Boulder, Colorado. It represents a compilation of oral and written information and materials presented at the NIC Jail Center's "Workshop on Implementing State Jail Standards: Methods & Costs", conducted at the State Capitol in Denver, Colorado. December 19, 1980

Department of Justice • Bureau of Prisons

CONTENTS

STATE JAIL STANDARDS DEVELOPMENTAL SUMMARIES

INTRODUCTION

The need for jail standards in individual states throughout the country has resulted in a variety of approaches characterized by varying degrees of recognition of need, the identities of significant persons and interest groups involved, the methods of implementation and enforcement, actual substantive content of the regulatory document, and ultimate impact upon each state's jail system.

Historically, in every regard, states have directed even the most minimal standards implementation efforts at state penal institutions rather than jails and so called "short-term" institutions. Recent critics and jail reformists have clearly indicated that the impact of poor jail conditions upon those incarcerated may, in fact, be far more serious with regard to long term detrimental effects. Thus a new look has been taken by many states at their individual situations. Additionally, the involvement of prisoner advocacy groups, the legal profession, professional correctional societies and others such as the National Institute of Corrections has enhanced the analysis process.

Very little research in the way of a comprehensive analysis of statewide jail standards developmental issues has been done. One exception is a 1975 document, entitled Statewide Jail Standards Legislation prepared by the American Bar Association as a part of its Jail Standards and Inspection Project in which the developmental aspects of jail standards in four states were reviewed.

In the following discussion, this current document attempts to expand upon the 1975 effort by providing a similar analysis of "the jail standards story" for five additional states. Material for this analysis was gathered in two primary ways. On December 19, 1980, representatives from completed or ongoing standards projects in five different states met in Denver, Colorado with staff persons from the National Institute of Corrections Jail Center in Boulder. Also included in the audience were Colorado Jail Commission Members, key Colorado State policy makers (i.e. legislators, sheriffs, county commissioners, and attorneys).

During the special NIC-sponsored one-day workshop, Implementing State Jail Standards: Methods & Costs, the five selected states including Louisiana, Georgia, Michigan, California and Washington presented a brief outline of implementation strategies for their respective state jail standards. Their presentations were targeted at Colorado's Jail Commission members. Colorado has not yet enacted jail standards, but the writing of the Colorado Proposed Minimum Jail Standards is nearing completion. The Colorado group was particularly interested in learning how other states dealt with the following concerns:

- the issue of advisory versus mandatory standards
- fiscal responsibility for standards implementation
- state agency or commission coordinating responsibility and the necessary staffing for successful implementation and enforcement.

This document is the result of presentations made during the workshop. It will be distributed to those who participated and other states who may find the experiences of others valuable to their own efforts at jail standards implementation. Perhaps efforts like these will assist in the ultimate development of models of implementation in the current challenge to improve conditions in our nation's jails.

CALIFORNIA DEVELOPMENTAL SUMMARY

In 1944 the Governor of California established a Department of Corrections, Department of Youth Authority and two term-setting bodies which make sentencing decisions. In addition an overall coordinating body, the California State Board of Corrections was also created. The Board was comprised of members of the term-setting bodies, the warden of each prison, the Director of the Department of Corrections and the Director of the Youth Authority. The Board's prime function was to coordinate state correctional services (See Attachment A).

Soon after its creation the Board was approached by the California Sheriffs' Association which requested that the Board of Corrections involve itself in the development of jail standards. Apparently the Sheriffs' Association was motivated primarily by the need to have an impartial body formulate guidelines which they could utilize in budgetary negotiations with County Boards of Supervisors. In response to the Sheriffs' Association, the Board did a study of jail conditions in 1945 and developed what has commonly been regarded as this country's first set of jail standards.

Again at the request of the Sheriffs' Association, the Board of Corrections sponsored legislation which mandated that the Board would conduct studies into the needs of facilities at the local level upon the request of local government. In 1945 a second piece of legislation directed the Board to review proposed construction design plans and make recommendations (See Attachment A).

The initial Standards developed by the Board were directed toward the issues of food, clothing, bedding, medical care and facility design. This section of the California Penal Code which related to jails was very small, but nonetheless significant to the State of California.

In 1947, the Sheriffs' Association and the Board of Corrections once again joined forces to establish legislation requiring County Boards of Supervisors to provide sufficient funds for the sheriff to clothe, feed, bed and provide medical care for prisoners in their care (See Attachment B). This occurred during a period in California when a few remaining sheriffs were in transition from a fee system which provided that sheriffs were compensated on a per prisoner-day basis. Obviously, this system was less desirable in that the sheriff's salary was determined by how economically he operated the jail. Often "economic management" translated into poor inmate care. The sheriffs were pleased with the move away from the fee system and were supportive of the concurrent standards development movement.

In 1953 sheriffs backed legislation which established Section 459 of the California Health and Safety Code requiring yearly inspections by the county health officer (See Attachment C). Not until 1971 did further

standards-related legislation occur. In that year, Penal Code 6030 (See Attachment A) mandated expansion of regulations to include health and safety conditions, fire and life safety issues, security, inmate programs, treatment of prisoners and personnel training. This legislation required Board of Corrections inspection of facilities biennially and reporting on the conditions of jails to the legislature. Prior to 1971 several proposed laws with mandatory standards and tacit methods of forcing compliance had been introduced. These proposals all included methods of forced compliance which ranged from immediate closure to more traditional intervention via the court system. Governor Ronald Reagan was not receptive to these bills and in 1970, vetoed a bill providing for closure of non-complying jails. Governor Reagan's rationale, according to some state sources, was that local jurisdictions ought to have more autonomy at the local level and that mandatory standards precluded such autonomy.

Approximately concurrent with the 1971 legislation an additional law developed quite independently of the jail standards was passed by the California Legislature. The legislation specified that the state was financially liable for any increase in the existing level of programs or new mandated services. This legislative development essentially made the jail standards advisory because if they were mandatory, the State would have to provide funds to enable local government to comply.

The inspection situation in California appeared to be somewhat confused prior to 1978. Several agencies had inspection authority. These included not only the Board of Corrections representatives, but the State Department of Health, State Fire Marshall, and grand juries. The overlapping inspections by divergent agencies created problems of coordination. For example, the fire marshall, health inspector or grand jury may not feel comfortable balancing a health or safety issue with a security issue. Naturally the large number of agencies reporting to the Board of Corrections provide a direct benefit in that total information relating to jail conditions and operations is enhanced. Unfortunately varying inspection agencies used somewhat different approaches, interpretations and forms. The Board of Corrections attempted to alleviate this condition by providing materials and technical assistance to the various inspecting entities. It should be noted that with regard to fire safety inspection, it was not until 1979, that the California Health and Safety Code mandated annual fire inspection by the State Fire Marshall unless local inspection authority assured inspection (See Attachment D).

As previously mentioned, the Board of Corrections had originally been constituted of essentially state personnel employed in corrections-related capacities. In 1977, in an effort to increase local participation, the Board of Corrections was reconstituted to incorporate eleven members including local sheriffs and citizen participants.

The actual state jail standards adopted in 1976 and titled "Minimum Standards for Local Detention Facilities" underwent a minor revision in 1978 and a major revision in 1980. In support of the recent revision introduced in April, 1980, the Board of Corrections has undertaken a recent project to produce technical assistance documents relating to the development of jail health programs, facility design procedures and inmate programs such

as work furlough and community release programs. These booklets as a group are titled "Guidelines for Establishment and Operation of Local Detention Facilities". Board of Corrections personnel indicate that these publications are only a portion of their effort to provide technical assistance to jurisdictions who show interest in dealing with compliance problems.

In reviewing California's standards implementation efforts, Board personnel offered the following observations and recommendations. With regard to the issue of mandatory versus advisory standards California personnel appear to feel that advisory standards provide the following positive benefits:

1. Lessens fear on part of local government
2. Eases establishment of stringent regulations
3. Removes adversary quality of inspections
4. Lessens procedural entanglements and allows participants to focus on goals and philosophy
5. Creates a sense of "ownership" on the part of jail managers

California personnel further recommend that the state bear fiscal responsibility of funding construction and remodeling to meet design regulations and that funds be conditional on a finding of non-compliance after a detailed state financed needs assessment study.

As to the identity of the administering agency, it is recommended that a corrections board or commission including representatives of state and local corrections systems, service agencies, board officers and public citizens be given the authority to:

1. Establish regulations through committee for adoption by board or commission
2. Set broad policy, define governmental agency interrelationship, hear appeals and award variances, and establish a support (technical assistance) program
3. Establish inspection/certification process and set broad policy on funding compliance.

In view of the advisory nature of California Standards, Board personnel expressed the view that certain key elements are necessary to the effective delivery of standards:

1. Credible staff
2. Balanced perspectives
3. Attitude of service
4. Support to jail managers through (a) training, (b) technical assistance, (c) regular group meeting, (d) education of public and government, and (e) information clearinghouse services.

§ 6024. Existence

There is in the state government a Board of Corrections.

(Added by Stats.1963, c. 1866, § 2. Amended by Stats.1969, c. 138, § 186.)

§ 6025. Membership; chairman; term of office; vice chairman; quorum; charges against members; removal

(a) The Board of Corrections shall be composed of 11 members, one of whom shall be the Secretary of the Health and Welfare Agency who shall be designated as the chairman, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and eight of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Health and Welfare Agency, and with the advice and consent of the Senate. There shall be one representative from each of the following categories:

(1) A member of a statewide parole board of this state.

(2) A county sheriff.

(3) A county supervisor or county administrative officer.

(4) A chief probation officer.

(5) An employee of a state correctional facility who is involved in either custody or care and treatment.

(6) An administrator of a local community-based corrections' program.

(7) Two public members.

(b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each such member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. The terms of the two persons last appointed as qualified persons, by the Governor with the advice and consent of the Senate, under the provisions of this section as it read prior to January 1, 1977, shall expire on that date.

(c) The board shall select a vice chairman from among its members. Six members of the board shall constitute a quorum.

(d) When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

(Added by Stats.1944, 3rd Ex.Sess., c. 2, § 1. Amended by Stats.1945, c. 822, § 5; Stats.1949, c. 520, § 3; Stats.1953, c. 1666, § 30; Stats.1957, c. 874, § 1; Stats.1961, c. 2037, § 27; Stats.1965, c. 238, § 1; Stats.1965, c. 1152, § 1; Stats.1969, c. 138, § 187; Stats.1976, c. 1237, § 1.)

Cross References

Vacancies in office, see Government Code § 1770 et seq.

§ 6025.1. Compensation; travel expenses

Members of the board shall receive no compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his state or local governmental employment.

(Added by Stats.1949, c. 520, § 4. Amended by Stats.1976, c. 1237, § 2.)

Cross References

Youth Authority Act, see Welfare and Institutions Code § 1700 et seq.

§ 6025.2. Repealed by Stats.1976, c. 1237, § 2.5

See, now, § 6025.

§§ 6025.3, 6025.4. Blank

§ 6025.5. Filing of rules, regulations, and manuals

The Director of Corrections, Board of Prison Terms, the Youthful Offender Parole Board, and the Director of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

(Added by Stats.1953, c. 1666, § 31. Amended by Stats.1955, c. 255, § 15; Stats.1979, c. 255, § 58; Stats.1979, c. 860, § 4.)

§ 6026. Correlation of adult and youth programs

The Board of Corrections shall be the means whereby the Department of Corrections and the Department of the Youth Authority may correlate their individual programs for the adults and youths under the jurisdiction of each.

(Added by Stats.1944, 3rd Ex.Sess., c. 2, § 1. Amended by Stats.1953, c. 1666, § 32.)

§ 6027. Studies in criminology and penology; reports; recommendations

It shall be the duty of the Board of Corrections to make a study of the entire subject of crime, with

particular reference to conditions in the State of California, including causes of crime, possible methods of prevention of crime, methods of detection of crime and apprehension of criminals, methods of prosecution of persons accused of crime, and the entire subject of penology, including standards and training for correctional personnel, and to report its findings, its conclusions and recommendations to the Governor and the Legislature at such times as they may require.

(Added by Stats.1944, 3rd Ex.Sess., c. 2, § 1. Amended by Stats.1976, c. 1237, § 3.)

Cross References

Executive sessions of board of corrections, see Government Code § 11126.

§ 6028. Studies in criminology; special commissions; appointment and compensation of members

Upon request of the Board of Corrections or upon its own initiative, the Governor from time to time may create by executive order one or more special commissions to assist the Board of Corrections in the study of crime pursuant to Section 6027. Each such special commission shall consist of not less than three nor more than five members, who shall be appointed by the Governor. The members of any such special commission shall serve without compensation, except that they shall receive their actual and necessary expenses incurred in the discharge of their duties.

The executive order creating each special commission shall specify the subjects and scope of the study to be made by the commission, and shall fix a time within which the commission shall make its final report. Each commission shall cease to exist when it makes its final report.

(Added by Stats.1947, c. 1181, § 2.)

Former § 6028 was repealed by Stats.1947, c. 1181, § 1.

§ 6028.1. Studies in criminology; special commissions; scope of investigations; conditions and limitations

Each such special commission may investigate any and all matters relating to the subjects specified in the order creating it. In the exercise of its powers the commission shall be subject to the following conditions and limitations:

(a) A witness at any hearing shall have the right to have present at such hearing counsel of his own choice, for the purpose of advising him concerning his constitutional rights.

(b) No hearing shall be televised or broadcast by radio, nor shall any mechanical, photographic or electronic record of the proceedings at any hearing be televised or broadcast by radio.

(Added by Stats.1947, c. 1181, § 3. Amended by Stats.1951, c. 902, § 1.)

Cross References

Investigations and hearings of state agencies, see Government Code § 11180 et seq.

§ 6028.11. Expired

§ 6028.2. Studies in criminology; special commissions; facilities, supplies, and personnel

The Secretary of the Human Relations Agency may furnish for the use of any such commission such facilities, supplies, and personnel as may be available therefor.

(Added by Stats.1947, c. 1181, § 4. Amended by Stats.1963, c. 1366, § 3; Stats.1969, c. 138, § 128.)

§ 6028.3. Studies in criminology; special commissions; reports and recommendations

All such special commissions shall make all their reports and recommendations to the Board of Corrections. The Board of Corrections shall consider such reports and recommendations, and shall transmit them to the Governor and the Legislature, together with its own comments and recommendations on the subject matter thereof, within the first 30 days of the next succeeding general or budget session of the Legislature. The Board of Corrections shall also file copies of such reports with the Attorney General, the State Library and such other state departments as may appear to have an official interest in the subject matter of the report or reports in question.

(Added by Stats.1947, c. 1181, § 5.)

§ 6028.4. Appointive members; governor's report

The Governor shall report to each regular session of the Legislature the names of any persons appointed under Section 6028 together with a statement of expenses incurred.

(Added by Stats.1947, c. 1181, § 6.)

§ 6029. Plans and specifications of jails, prisons, etc.; examination and recommendations; study and recommendations for municipal or county programs; restriction on authority of other state agencies

The plans and specifications of every jail, prison, or other place of detention of persons charged with or

§ 4015. Receipt of persons committed; food, clothing and bedding; standards; expense

The sheriff must receive all persons committed to jail by competent authority. The board of supervisors shall provide the sheriff with necessary food, clothing, and bedding, for such prisoners, which shall be of a quality and quantity at least equal to the minimum standards and requirements prescribed by the Board of Corrections for the feeding, clothing, and care of prisoners in all county, city and other local jails and detention facilities. Except as provided in the next section, the expenses thereof shall be paid out of the county treasury.

(Added by Stats.1941, c. 106, § 15. Amended by Stats.1947, c. 1030, § 1.)

§ 4016.5. Parolee detention; reimbursement of county

When an alleged parole violator is detained in a county jail pursuant to an order of the Community Release Board under the authority granted by Section 3060 of the Penal Code, or pursuant to an order of the Governor under the authority granted by Section 3062, or pursuant to a valid exercise of a state parole officer's peace officer powers as specified in Section 830.5 of the Penal Code when such detention relates to violation of the conditions of parole and not a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of Corrections. Such reimbursement shall be expended for maintenance, upkeep, and improvement of jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 only if the county is failing to make reasonable efforts to correct differences, with consideration given to the resources available for such purposes.

"Costs of such detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

§ 6030. Local detention facilities; establishment of standards

(a) The Board of Corrections shall establish minimum standards for local detention facilities by July 1, 1972. The Board of Corrections shall review such standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training.

(c) Such standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) In establishing minimum standards, the Board of Corrections shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in local detention facilities:

The Department of Corrections, the Department of the Youth Authority, local juvenile justice commissions, local correction officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections, the Department of the Youth Authority, local correctional officials, and other interested persons.

(Added by Stats.1957, c. 2025, § 1. Amended by Stats.1971, c. 1789, § 1; Stats.1973, c. 142, § 55; Stats.1978, c. 1018, § 2.)

Cross References

Rules and regulations for administrative agencies, see Government Code § 11371 et seq.

§ 6031. Inspection of local detention facilities

The Board of Corrections shall inspect each local detention facility in the state by January 1, 1974, and shall inspect each such facility biennially thereafter. (Added by Stats.1971, c. 1789, § 2.)

§ 6031.1. Biennial inspections; scope

Inspections of local detention facilities shall be made biennially. Inspections shall include, but not be limited to, the following:

(a) Health and safety inspections conducted pursuant to Section 459 of the Health and Safety Code.

(b) Fire suppression preplanning inspections by the local fire department.

(c) Security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training by the staff of the Board of Corrections.

Reports of each facility's biennial inspection shall be furnished to the official in charge of the local detention facility, the local governing body, the grand jury, and the presiding or sole judge of the superior court in the county where the detention facility is located. Such reports shall set forth the areas wherein the local detention facility has complied and has failed to comply with the minimum standards established pursuant to Section 6030. (Added by Stats.1971, c. 1789, § 8. Amended by Stats.1972, c. 1012, § 8.)

§ 459. Investigation of health and sanitary conditions in jails; reports

The county health officer shall investigate health and sanitary conditions in every county jail and other detention facility of the county at least annually. He may make such additional investigations of any county jail or other detention facility of the county as he may determine are necessary. He shall submit his report to the Board of Corrections, the sheriff or other person in charge of such jail or detention facility, and to the board of supervisors. In any city having a health officer, such health officer shall investigate health and sanitary conditions in every city jail and other detention facility at least annually. He may make such additional investigations of any city jail or detention facility as he may determine are necessary. He shall submit his report to the Board of Corrections, the person in charge of such jail or detention facility, and to the governing body of the city.

Whenever so requested by the sheriff, the chief of police, local legislative body, or the Board of Corrections, but not oftener than twice annually, the county health officer or, in cities having a city health officer, the city health officer, shall investigate health and sanitary conditions in any of the jails and detention facilities described in this section, and submit his report to each of the officers and agencies authorized in this section to request such investigation and to the Board of Corrections.

The investigating officer shall determine if the food, clothing, and bedding is of sufficient quantity and quality which at least shall equal minimum standards and requirements prescribed by the Board of Corrections for the feeding, clothing and care of prisoners in all county, city and other local jails and detention facilities, and if the sanitation requirements required by Article 2 (commencing with Section 28540), Chapter 11, Division 22 of this code for restaurants have been maintained.

(Added by Stats.1953, c. 1847, p. 3662, § 1. Amended by Stats.1961, c. 168, p. 1171, § 1; Stats.1968, c. 323, p. 700, § 1; Stats.1978, c. 1135, § 2.)

§ 13146.1. Inspection of jails or places of detention; exceptions; reports

(a) Notwithstanding the provisions of Section 13146, the State Fire Marshal, or the State Fire Marshal's authorized representative, shall inspect every jail or place of detention for persons charged with or convicted of a crime, unless the chief of any city or county fire department or fire protection district, or such chief's authorized representative, annually indicates in writing to the State Fire Marshal that inspections of such jails or places of detention, therein, shall be conducted by the chief, or such person's authorized representative.

(b) Such inspections shall be made at least annually for the purpose of enforcing the regulations adopted by the State Fire Marshal, pursuant to Section 13143, and the minimum standards pertaining to fire and life safety adopted by the Board of Corrections, pursuant to Section 6030 of the Penal Code.

(c) Reports of such inspections shall be submitted to the official in charge of the facility, the local governing body, the State Fire Marshal, and the Board of Corrections.

(Added by Stats.1978, c. 1018, p. —, § 1.)

Library References
Prisons ⇐4(1).
C.J.S. Prisons § 5.

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(Added by Stats.1971, c. 1789, § 2.)

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Inspections of local detention facilities shall be made biennially. Inspections shall include, but not be limited to, the following:

(a) Health and safety inspections conducted pursuant to Section 459 of the Health and Safety Code.

(b) Fire suppression preplanning inspections by the local fire department.

(c) Security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training by the staff of the Board of Corrections.

Reports of each facility's biennial inspection shall be furnished to the official in charge of the local detention facility, the local governing body, the grand jury, and the presiding or sole judge of the superior court in the county where the detention facility is located. Such reports shall set forth the areas wherein the local detention facility has complied and has failed to comply with the minimum standards established pursuant to Section 6030.
(Added by Stats.1971, c. 1789, § 8. Amended by Stats.1972, c. 1016, § 8.)

GEORGIA DEVELOPMENTAL SUMMARY

Georgia's county correctional system is one of the largest in the nation in terms of the actual number of individual facilities. The state has 294 local jails including 148 county and 146 city facilities. The average daily population of this group of jails is slightly less than five. According to the Georgia Department of Community Affairs, the annual operating budget of these facilities averages about $25,000. Additionally, Georgia ranks in the top three states in regard to the number of incarcerated persons per capita. Georgia inmates also tend to serve longer sentences in local facilities than is the case in the majority of other states.

Many local county and municipal facilities have been forced to cease operation due to increasing financial burdens. The State of Georgia has no statutory provision for funding local operations with the exception that a small per diem for housing state prisoners is permitted. It has been estimated that the average daily cost per inmate in Georgia is somewhere between $13.00 - $19.00 per day. Obviously, the allowable $5.00 per diem for the state inmates is inadequate.

The State Government's role in local jails is extremely limited. Government intervention currently exists in three principle areas:

1. provision of technical assistance
2. removal of sentenced inmates from local jails
3. enforcement of mandatory jail standards.

The enforcement of the mandatory portion of Georgia's Standards is apportioned among three different agencies:

1. the State Fire Marshall is responsible for fire related standard inspection and enforcement,
2. the Department of Community Affairs is mandated to deliver technical assistance, and
3. the Department of Offender Rehabilitation can remove state inmates from local facilities.

The "Standards Story" in Georgia actually dates back to 1973 when mandatory jail standards were authorized by the Georgia Legislature. These legislated standards dealt with issues of an important, but nonetheless rather limited scope. Legislated standards covered:

1. the necessity of providing 24-hour supervision,
2. dietary requirements,
3. facility certification by the Fire Marshalls Office, and
4. basic health and sanitation requirements.

During the period from 1973 - 1979 the Department of Human Resources inspected jails on the basis of Health Department Standards. The Fire Marshall's Office utilized state legislation dealing with fire codes, but enforcement involved a rather protracted process. The Fire Marshall was mandated to perform jail inspections as a part of the 1973 legislation. A 24 month limitiation was set on the issuance of a fire occupancy certificate by the marshall's office. As of late 1980, only 60 percent of Gerogia's local jails had been issued a fire occupancy certificate; however, no jail in Georgia had been closed pursuant to this legislation. During the latter months of 1980, some changes developed in that the Georgia State Attorney General's Office directed the Fire Marshall to re-inspect all facilities and set time limitation requirements for compliance. Non-compliance will trigger further action by the Attorney General.

During the period from 1973 - 1979 the Inspection Unit of the Department of Human Resources experienced administrative problems which were compounded in 1979 by the withdrawal of operating funds. Thus, the Unit was disbanded and to date has no enforcement capability.

During the years from 1973 when the mandatory/advisory standards were in effect five improvements occurred in the Georgia jail system. Problems continued to grow as did the volume of civil actions. In 1980 alone over thirty new court suits were filed against jails and many others were in other stages of litigation.

Georgia Sheriffs and other concerned individuals and groups reacted to growing problems within Georgia's jails. In response, Governor Busbee and the Georgia Legislature supported the empaneling of a "blue ribbon" commission to develop voluntary state jail standards to serve as guidelines for local governments. This panel known as the Georgia Jail Standard's Study Commission was mandated to survey the existing system of jails in the state and to design a set of minimum standards for the operation of local detention facilities. To accomplish this task a fifteen-member study commission, composed of a balanced group of representatives from various interest groups, met very actively during 1979.

Through a process of research, debate, and revision the commission produced a set of standards. To ensure that the standards achieved balance and thoroughness, court cases, statutory law and existing jail conditions were examined and numerous jail practitioners, sheriffs and corrections professionals were consulted. Standards developed by a number of professional organizations such as the American Medical Association were also reviewed.

During the course of the standards development project, the Study Commission found that jails in Georgia housed two major categories of inmates. One group is composed of short-term, unsentenced inmates who are detained for short periods up to 24 hours. The second category includes both sentenced and unsentenced inmates who are housed more than 24 hours. The final Study Commission report, which serves as Georgia's actual jail standards document, identifies these categories as Class I (up to 24 hours) and Class II (over 24 hours). Many standards designed for Class II inmates do not apply to

Class I and are intended to enable small facilities, usually municipal jails, to more easily comply with standards.

Over eighty percent of the Georgia standards deal with operational procedures, while the remainder deal with structural concerns. The orientation toward addressing operational rather than structural issues reflected a twofold concern: (1) it was an attempt to avoid a tremendous funding request from local jurisdictions in order to meet structural standards; and, (2) most court cases stemmed from operational problems.

In review, Georgia standards are a combination of both mandatory and advisory rules and guidelines. Mandatory rules deal with issues relating to basic health and fire safety and are addressed by Georgia's Department of Human Resources and the State Fire Marshallb Office. Violations in these areas must be address by these two agencies. The advisory guidelines are contained in the more pervasive voluntary jail standards adopted by the Study Commission.

Officials of the Georgia Department of Community Affairs which administer the voluntary standards recognize the limitations of advisory standards and have attempted to address this issue through delivery of training and technical assistance. As of early 1981 considerable efforts had been undertaken to coordinate state training and technical assistance resources. Georgia officials working in this area believe that an active ACLU, legal aid society, and federal court have had a tremendous impact at the local level on the degree of standards acceptance and compliance of these standards.

Several new developments and possible trends are emerging in Georgia as a result of the production of advisory standards:

1. the awareness of jail operators, sheriffs and city and county officials has been expanded,
2. the standards are being used by local governments while in the planning stage of new construction or renovation,
3. jail operators are beginning to recognize the need for additional training, staffing, and operational modifications, and
4. development of a model policy and procedure manual created to address Georgia standard requirements.

LOUISIANA DEVELOPMENTAL SUMMARY

On September 24, 1980, state-wide minimum jail standards for the operation and construction of parish jails were entered into the Administrative Code of the State of Louisiana. Although the standards are only guidelines for the majority of the state's 64 parishes, 10 parishes are mandated by law to meet the provisions of the new standards as part of the state "Jail Standards and Assistance Act". The background leading up to the creation of the standards, which was one end product of a comprehensive corrections planning effort is the subject of this developmental summary.

The need for jail standards and guidelines in Louisiana had its roots in the corrections dilemma facing the state as far back as 1975. Louisiana's state prison population had risen by over 50 percent within a four-year period ending in 1975. In that same year, the federal district court in Louisiana issued an order restricting the state inmate population growth to prevent further facility overcrowding in the state institutions. The result of this action was an immediate "backing up" of sentenced state offenders into already overcrowded and overtaxed parish jails. At times over the last five years, there have been upwards of 1500 inmates in parish jail awaiting transfer to state institutions.

Shortly after the federal court order on the state system was enforced, an increasing number of parish jails that were never designed to hold lont-term offenders likewise came under federal court order. Class action suites filed by jail inmates based on issues of overcrowded conditions and unconstitutional conditions of confinement proliferated with the assistance of the A.C.L.U. and the Southern Prisoner's Rights Defense Association. More than one-third of the state's parishes are currently under court order and many more suits are either in or pending litigation.

In response to this growing dilemma, the Louisiana Prison Study Commission was created in 1976 through a joint resolution by the Louisiana State Legislature. The purpose of the Commission was to examine a range of alternative strategies that would control the growing cost of corrections, provide effective and constitutional policies for dealing with offenders, while maintaining cost-effective, low-risk protection for the public.

Recognizing the need for specialized expertise to carry out their mandate, the Commission contracted with a criminal justice planning and architectural firm in 1977. Under the auspices of an LEAA grant, Phase I of what was to be a three-year study effort concentrated on an examination of state facilities and on the development of policy strategies to relieve the overcrowded situation. One of the most viable strategies proposed by the planning organization during this Phase was that local parish jails could assume some of the burden of the state by expanding their facilities and accepting some of the shorter term sentenced population, in return for state funding of capital and operating expenses.

In 1978 - 79, Phase II of the study concentrated on an examination of the Louisiana Prison System at the parish level. Sixteen parishes with 21 facilities representing 80 percent of the state's jail inmate population, were selected as a representative sample of local corrections. A survey questionnaire was developed including 225 items covering statistical, operational and physical information, and was administered in person to the sample parishes.

Findings from the survey supported an initial hypothesis that a coordinated state and parish correctional system would be beneficial to both. An analysis of state and local capital and operating expenditures indicated that it would cost less to house short-term offenders at the parish level than at the state level. Parishes under court order needed financial aid from the state to bring their facilities up to constitutional standards, and to increase their capacity for holding short-term state offenders. By diverting offenders from the more costly state system, the parishes could soon pay back the state by virtue of savings for the capital outlay used to improve the parish jails.

In cooperation with the Commission, the Governor, and members of the State Legislature, legislative response to this principle was developed and entitled The Community Corrections Act (See Attachment A). This Act consisted of specific recommendations and procedures that provided a comprehensive state/local correctional system that addressed needs at both levels of government. The legislation represented a larger, nationwide movement towards community corrections as a major component of the criminal justice system. The flow chart following summarizes the analytical process that led up to the recommended legislative program.

A major requirement of the Community Corrections Act was the creation of comprehensive jail standards. Learning from the experiences of other states where jail standards were difficult to implement and where even successful efforts created resentment and financial hardships for sheriffs and county commissioners, The Community Corrections Act took a "carrot and stick approach: compliance with state imposed standards would be funded mostly with state revenues. Within this context, the legislature reallocated the correctional dollar from the state to the parishes in return for the parishes assuming a larger share of the correctional burden through the establishment of a comprehensive corrections system. A Corrections Review Board within the Department of Corrections was to be created to advise, review and approve all community corrections programs, including establishing "minimum requirements for parish correctional services", i.e. jail standards.

Following an intensive political effort on the part of several key State Senators, the Governor and a unanimous acceptance by the State Senate, The Community Corrections Act was defeated in committee in the State House of Representatives. However, in recognition of the severe duress of the 23 parishes then under court order, Act 231 was enacted in lieu of the Community Corrections Act. This new legislation, to be administered by the Office of the Secretary of the Department of Corrections, called for nine parishes to receive $24.3 million in state funds "For planning, acquisition, construction, and renovation of the parish jails under court order, provided the parishes meet such standards as set forth by the Department of Corrections.

PROBLEM DEFINITION

FIRST YEAR OF STUDY

- Rapid rise in state inmate population
- Rapid growth in DOC capital and operations budgets
- No comprehensive plan to effectively manage future growth
- Meeting standards imposed by judicial action

SECOND YEAR OF STUDY

- Limited resources for improving & expanding correctional services (facilities and operations)
- Overcrowding of existing facilities
- Meeting standards imposed by judicial action
- Limited use of alternative strategies for reducing parish commitments

OBJECTIVES

MANAGE INMATE POP. GROWTH

- Stabilize state population by:
  - Committing state offenders to parish corrections by standards to be established
  - Emphasizing alternatives to incarceration for those sentenced to the state, e.g. probation
- Stabilize parish populations by:
  - Emphasizing alternatives to incarceration for those sentenced to parish, e.g. probation
  - Emphasizing pre-trial diversionary programs for the unsentenced parish jail population, e.g. ROR

MANAGE FISCAL GROWTH

- Stabilize state increases in expenditures by:
  - Reducing need for new major facilities
  - Emphasizing more cost-effective methods for handling population growth without increasing the risk to the public, e.g. probation
- Increase effectiveness of parish expenditures for corrections by:
  - Maximizing the use of state and local resources
  - Emphasizing more cost-effective methods for handling population growth without increasing the risk to the public, e.g. ROR

ESTABLISH STANDARDS, PERFORMANCE & EVALUATION GUIDELINES

- Establish minimum standards for state and parish correctional services by:
  - Assessment of existing conditions
  - Assessing feasible range of improvements
- Establish performance guidelines for state and parish correctional services by:
  - Clearly delineated system objectives
  - Matching resources with objectives
- Establish evaluation procedures at state and parish level by:
  - Matching minimum standards to performance guidelines
  - Instituting formal periodic assessments

RESPONSE

LEGISLATIVE PACKAGE

- Purposes
  - More integrated state and parish correctional system
  - System that more effectively protects society
  - System that promotes efficiency and economy in the delivery of correctional services
  - To improve and expand correctional services at the parish level of government
  - To reduce commitments to State DOC institutions for those persons who may be eligible for parish correctional services
  - To raise minimum standards for facilities and operations involved with parish correctional services
  - To retain local autonomy of those correctional services that can be performed at the parish level
  - To control costs that result from the expansion of correctional services in the state
  - To provide better delivery of correctional services to:
    1. Pre-trial adult offenders
    2. Adult offenders sentenced to state and parish correctional facilities
    3. Adult offenders sentenced to probation
    4. Ex-offenders on parole
    5. Juvenile offenders (status and non-status)

Funding allocations were based on an analysis of the cost of rigorous compliance with national standards and 5th Circuit consent decrees. For the state's 64 parishes, the estimated cost of capital needs for the year 1990 was $200 million in 1979 dollars; the estimated cost of operations for the year 1990 was $11.3 million in 1979 dollars.

To be eligible for state funds, a parish would have to provide 30 percent in matching local funds. Because the Department of Corrections had no direct supervisory authority over parish jails, the Governor's Prison Study Commission was given the responsibility by Executive Order for implementing Act 231 and developing jail standards.

Phase III of the long-term corrections planning project focused on implementation of Act 231. The work effort took two separate but related tracks:

1. Under a grant award from the National Institute of Corrections jail standards were to be developed where none existed
2. A process was to be established to channel state funds and technical assistance to the nine parishes earmarked for state funds.

Louisiana did not develop standards and guidelines for local correctional services by working or thinking in a vacuum. The movement to develop and implement standards in systems throughout the country was reviewed and acknowledged. The work of the Prison System Study Commission, the Department of Corrections, the Louisiana Commission on Law Enforcement (LCLE), Sheriff's Association, Police Jury Association, and other concerned stakeholders were incorporated into the standards development process.

The goals of the standards project were to create standards and guidelines that were:

- Appropriate to the needs of the state
- Able to take into account the unique resources and objectives of the parish correctional system
- Responsive to the demands being placed on correctional services by the courts and legislative bodies.

In approaching the development of the standards themselves, a distinction was drawn between the constitutional minima as defined by the federal courts, existing state and local codes and statutes, and good operating and design practices. The rule of law always translated into a standard. Good practices generally became guidelines, not standards, and were incorporated into a section of the standards referred to as "Resource Models". The unique organization and content aspects of the standards were instrumental in their eventual unanimous endorsement by all interested and affected parties.

At the outset of the standards project in the fall of 1979, there was no intention for the standards to be mandated into law or to be placed under the auspices of a state regulatory agency with enforcement and inspection powers, as is the case in numerous other states with jail standards.

Rather, the standards were seen primarily as uniform jail guidelines

with the exception of the nine parishes participating in Act 231. For those parishes, the standards were mandatory. It was the hope of the Commission that with time, the standards would become mandatory through a de jure process of adoption by 5th Circuit Federal Courts.

As the standards project evolved, this view changed. As part of the Phase III Study, the Commission was charged with providing technical assistance to the nine parishes slated to receive state funds.

It soon became apparent that providing technical assistance and field testing the standards could be combined with one endeavor. Thus the standards themselves became a structured means of providing technical assistance. Louisiana was free to innovate by creating alternative methods for implementing the standards that were unique to each of the parishes serviced. Because this combination of a structured set of standards coupled with their creative interpretation received such a good response, a decision was made to create a permanent Jail Commission within the Department of Corrections. The Jail Commission would continue to provide the type of technical assistance described above, administer state subsidies to parish government, perform jail inspections, report on jail conditions for the courts and continue to update the jail standards. The main enforcement power would continue to be the courts, not the Jail Commission.

The standards themselves were to be entered into the administrative code of the State of Louisiana through the state Rule of Law procedure. Simply stated, this procedure calls for a "Notice of Intent" to be published in the state register, stating that standards are to be promulgated. A period of approximately six weeks is allowed for comments in writing or by special request at a public hearing. If no comments or major objections are received before the stipulated cup-off date, the standards are promulgated and become law.

The Jail Commission legislation was submitted at the opening of the legislative session in April. At the same time, there was much discussion in Washington, D.C. concerning the demise of LEAA. The Louisiana Commission on Law Enforcement, which received most of its funding from LEAA and was threatened with closing, was successful in assuming the duties of the Jail Commission. A copy of the "Jail Standards and Assistance Act" is attached (Attachment B). The new Act was signed into law in early July by Governor Treen.

Although responsibilities for the standards had been transferred to the Louisiana Commission on Law Enforcement (LCLE), the Governor's Prison Study Commission continued to act in a advisory capacity and pursue the promulgation process. In August a "Notice of Intent" was published in the state register (See Attachment C). On September 24, 1980, the standards were officially promulgated.

The standards themselves continued to evolve through a series of modifications and informal reviews by various stakeholders in the criminal justice system, before their final adoption. They were unanimously endorsed by the Louisiana Sheriff's Association in July of 1980.

The current status following the passage of this "Jail Standards and Assistance Act" the Legislature in extraordinary session re-authorized Act 231, changing four of the parishes slated to receive funds, and adding one new parish. Ten parishes are slated to receive $34.96 million this fiscal year (See Attachment D).

The future of the standards looks promising. Since their promulgation in September, 10 federal district courts have attached the jail standards to two pending court suits, mandating their compliance as part of the court orders. It is anticipated that LCLE will sponsor a standards review conference in early 1981 to consider any revisions or modifications that may be warranted, since the standards are now being put into practice in a growing number of Louisiana parish jails.

In summary, there were several important currents and circumstances which set the stage for the promulgation and adoption of the Louisiana Jail Standards: the pressure of conditions of confinement litigation on a comprehensive basis throughout the state; the availability of substantial funds for three parishes that built new or renovated facilities in compliance with the standards; the voluntary nature of the parish's involvement in the funding/standards process; the cooperation of the Louisiana Sheriff's Association and the Department of Corrections; the availability of expert technical assistance in jail operations and architecture to help the parish define its needs; and the political/moral support of the parent legislative commission.

MICHIGAN DEVELOPMENTAL SUMMARY

The overall history in rules, regulations and inspections regarding jails goes back to 1846. In that year, the Revised Statutes of Michigan empowered the Board of Charities with the responsibility for planning review. In 1937 the first jail inspector began doing jail inspection types of activities although his exact role and powers were not terribly well defined.

In 1951 the Michigan Department of Corrections was given the rule making authority and enforcement responsibilities. The first set of jail standards was produced in 1965 and altered in 1970 and again in 1972.

During the developmental stages, the Department of Corrections's role was changed and a restructuring process occurred. The Inspections Division became responsible for both training and inspection responsibilities. The Department anticipated that when the standard revision process began in 1972, that completion would be accomplished during departmental reorganization. However, it was not until three and one-half years later that standards were actually developed. Thus, the Deaprtment operated for approximately two years utilizing 1970 guidelines.

In 1975 Michigan formulated and adopted its existing statutes and regulations. In 1978 a massive Federal Court suit in one Michigan county initiated a rule revision process. Those rule revisions have been two years in the process and 1981 should see the completion of the rule revision process.

The agency responsibility for directing the jail standards and enforcement project lies within the Office of Facilities Services which is under the Michigan Department of Corrections.

The Michigan Department of Corrections has five bureaus:

- Administrative Services (business, management, etc.)
- Prison Industries
- Programs, Research & Development
- Field Services (probation/parole)
- Bureau of Correctional Facilities

The Michigan Office of Facility Services is located within the Department's Bureau of Correctional Facilities. The state operates correctional services with the assistance of a five member commission which serves as a policy making body. Board members are appointed by the governor with the consent of the senate.

The Office of Facility Services is comprised of three basic sections:

- Facility Operations and Inspection
- Architectural Planning
- Food Nutrition

Prior to April, 1981 the office also had training responsibilities. However, this has changed due to an administrative shift of duties to the Department of Corrections Training Division.

Enabling legislation which established the power of the Michigan Office of Facility Services to promulgate and enforce standards was passed in 1975. As stated previously, rule revisions are underway and the anticipated completion date is sometime in 1981.

The enabling legislation established that jail standards would be promulgated by the Department of Corrections Office of Facility Services (791.262 of the Michigan Compiled Laws). In order to actually establish standards or any rule making authority under this law, agencies in Michigan must comply with the requirements of the Michigan Administrative Procedures Act. The process is somewhat involved and proceeds as follows:

- Agency drafts rules (standards)
- Schedules and holds public hearings
- Draft is submitted to the Legislative Service Bureau for format and numbering for review
- Attorney General reviews for legal issues and sufficience
- Proceeds to the Joint Legislative Committee on Administrative Rules
- Reviewed by the Office of the Governor
- Formal filing with Secretary of State
- Inclusion as part of Michigan Administrative Code with the force of law.

While the Office of Facility Services clearly has the force of law behind its enforcement efforts, every attempt is made to resolve matters of non-compliance or requests by jurisdictions for a variance or waiver of certain rules at the lowest possible level of authority.

Following inspection of a facility by the Office of Facility Services representative, the administrator and the governing entity must prepare a written response to the inspection findings which addresses each rule cited as being in non-compliance.

Where applicable, the response must include all of the following and any additional information which the administrator or governing entity may wish to provide (all within 60 days):

- Clarify items where there is a lack of agreement
- File a notice of intent to appeal
- Document action toward compliance
- Identify variances requested
- Request an extension on response time
- Request consultation and advisory services

Rule 508 of the Administrative Code mandates compliance unless variances are awarded. If variances are not awarded, compliance is required. An appeals mechanism with proper due process precedures allows for appeal to the Corrections Commission. The Commission may issue any reasonable orders as a result of that hearing.

In the event that a jurisdiction makes an effort to comply with commission directives, the Department of Corrections may file a writ of mandamus or petition for injunctive relief as provided in Section 62 of Act No. 232 of the Public Acts of 1953, as amended bying 791.262 of the Michigan Compiled Laws. The mandamus or injunction proceedings will be filed in the circuit court of the county where the facility is located.

Michigans efforts to enforce more or less mandatory standards are enhanced through the provision of a great deal of technical assistance to local jurisdictions. The Office of Facility services employs a variety of specialists, among them a jail architectural specialist. Michigan authorities stress the importance of sustained quality technical assistance.

WASHINGTON DEVELOPMENTAL SUMMARY

The following discussion and supporting documents have been prepared to describe the experience of Washington State in an attempt to substantially upgrade not only jail physical plants within the state but also implement and enforce minimum custodial care standards within local jails. The principal focus of these remarks is a summary of those aspects of Washington State's program which are considered worth review and possible replication in other states and of some lessons which have been learned and which might suggest different procedures or approaches to the same work.

The history of the Washington State effort is summarized in the enclosed outline of the Commission's history and activities (See Attachment A). The legislative direction under which the Washington State Jail Commission has operated since its creation in 1977 is also included in this package. The salient features of that history in a capsule include:

Physical Plant Funding Program

The State Jail Commission was empowered to propose and, after legislative approval, adopt minimum physical plant standards which were to be the basis of a state program to fund the minimum cost of necessary jail renovation and/or new construction to meet such standards.

No funding was appropriated at the time of the original legislation but $106 million was appropriated in 1979 along with some specific direction to the Commission to encourage consolidation, require review of alternatives to incarceration by all applicants, and to base determinations of necessary funding upon an established fundable capacity to be computed on the basis of a study of past incarceration statistics and general population projections, adjusted for a peaking factor legislatively established at 1.29.

It was recognized that the money appropriated in 1979 would not be adequate to fund all necessary work, and, accordingly, the Commission was given the duty to set priorities for all projects submitted for purposes of allocating available funds.

Standards Setting An Enforcement Process

The Commission was to propose and, after legislative approval, adopt mandatory custodial care standards "required" by statutory or constitutional case law, was to cite such supporting authority in adopting any such standard, and was to enforce such standards using orders of full, partial, conditional or noncompliance.

The Commission was to continue to maintain a program of annual inspections of jails which in fact had been carried on by the state since 1961, and to issue annual inspection reports on all jails.

An extremely important underlying direction in the city and county jails after 1977 which established the Commission was the direction that only "detention" or "correctional" facilities would be considered for the physical plant funding but a standard setting an enforcement process was not so limited and thus includes a third category of jails defined as "holding facilities". The definitions for these facilities are contained in the statute (Chapter 70.48 Revised Code of Washington) and is based upon a length of time held, i.e., 90-days or 1 year, and 72 hours with potential exception to 30 days respectively. The use of these specific time limits reflects statutory limitations upon sentence lengths for misdemeanors and gross misdemeanors, even though detention and correctional facilities in Washington State hold a variety of persons who have been convicted of felonies, including persons delayed from being transported to the appropriate state facility, parole or work release state prisoners who are held in the jail for a revocation and disciplinary hearing, and contract prisoners from either the state or federal governments.

General Review of Commission Programs

It should be noted that the program within Washington State appears to be unique nationally in terms of combining actual physical plant funding and a process of enforcing minimum standards on a state-wide and consistent basis. The comments are divided between the renovation/remodeling funding program and the standards enforcement process.

Renovation/New Construction Funding. The legislative direction as to how the necessary decisions with regard to consideration of applications for funding and the funding decisions themselves was general and left a great deal of discretion to the Commission. One overall comment about the State's history must necessarily be that it would have served the program well to have had at least one or two years to develop such procedures prior to their being implemented and the applications processed. The Commission, due to certain budgetary considerations, developed its own rules, included in Chapter 289-13 of the Washington Administrative Code.

The application which was developed reflects what would be recommended as a rather complete document in terms of necessary information to make decisions on funding of jail projects. The methodology which is described in the rules and the funding reports and which is based upon the information required in this application, is one rather sound approach to the underlying assumption of needed capacity. It should be noted, however, that the approach used in Washington State involves no review of the appropriateness of current incarceration rates and no attempt to establish any kink of norm or acceptable standard in this regard. This fact reflects the current political reality within this state and a desire to not interfere with the local criminal justice system. Other states may well wish to consider a more aggressive approach with regard to reviewing current incarceration rates before assuming their continuation into the future.

The physical plant standards upon which the funding decisions were to be based in this program to be monitored were clearly insufficient from the beginning. In this regard the Commission would have profited well from the early involvement of architectural consultants with real expertise in jail design and planning.

The Commission has attempted to insure that all funded projects now underway complete a thorough community-based planning process. However, sucy an effort should have really been begun in most cases at least one year before the architectural planning process itself. For this reason, other states would be urged to consider at the time of establishment of the general parameters of the program and prior to funding being set aside, the allocation of funds to reimburse local jurisdictions to undertake such a process and to establish the necessary state planner or planners who could encourage such a process. Such an effort would have enormous dividends in the eventual application, funding, design, and construction effort.

The State of Washington program involves a concept of "full funding". In many instances there has been insufficient data upon which to make firm initial judgment of what funding would be necessary to fully fund the implementation of state standards. The result of this has been to set "maximum level of funding" for all projects. The decisions in this state have been based upon a per bed analysis which is described in the Commission's consultant report, submitted at the Commission's request. The Jail Commission has not considered this to be an altogether inappropriate approach so long as there is sufficient oversight of the planning and construction to insure that only the appropriate items are funded and costs are kept to a minimum. A program involving some local participation might well insure a greater emphasis on cost savings and a lessened need for state oversight, an aspect of this program which has involved considerable criticism thus far.

Standards Setting And Enforcement. The development of state standards in this state is somewhat hindered by the rather rigid language of our statute and it is recommended that other states establish guidelines with some discretion being lodged as to what constitute minimum standards. The inclusion of supporting case law citations with all standards is somewhat cumbersome and has been the basis for substantial resistance to specific proposals as the Commission has looked at revisions in its initial standards.

The mechanism for enforcing standards under the Washington State statute is general and will eventually necessitate clear definition of solutions to noncompliance that fall short of closure of jails. In this regard the concept of "partial closure" will very likely be the major mechanism for Commission enforcement action. Better legislative direction as to what "partial closure" might mean would be of great assistance in this particular statutory parameter.

Washington officials feel that the concept of minimum standards which do not necessarily reflect or incorporate ACA, AMA, American Bar Association or other optimum proposed standards has been an excellent one. It is believed that it will permit Washington to eventually fully enforce minimum standards whereas such other standards would require a level of local budget increases which would simply not be accepted and never implemented.

A mechanism in at least one eastern state merits real attention in approaching the setting of minimum standards is to statutorily require their development and submission within a time set by the affected criminal justice agencies or associations, specifically the State Association of Sheriffs and Police Chiefs, the State Association of Prosecuting Attorneys, and potentially

other involved and interested organizations, including the State Bar Association, legal services corporation, and any other persons. Such a process would require a level of participation and hence commitment at the earliest date. This has not been an aspect of the Washington effort to date. The Commission is finding such involvement in the revision and reconsideration of its current standards to be most beneficial and will support such necessary aggressive enforcement action as the Commission may pursue.

The legislative authority in other states may well wish to consider setting specific time limitations for implementation of standards. The period of 15 to 16 months which Washington State's Jail Commission is allowing local jurisdictions to fully implement state standards is an unavoidable aspect of the effort and deserves statutoy recognition to avoid unnecessary litigation.

Certain questions regarding standards are extremely difficult for resolution through legislative delegation. The State Jail Commission of Washington has found this to be particularly true in the area of overcrowding which continues to be reviewed and has not yet been reflected in the form of a specific standard. The criminal justice system within Washington State gives corrections authorities both at the local and the state levels little if no control over the flow of prisoners into their facilities. This is an issue which potentially defeats the beneficial impact of other specific standards in the health, sanitation and security areas and should be addressed at the legislative level.

Additional Comments

One interesting aspect of the State Jail Commission and its authorities in these two principal areas is the composition of the Commission. It is submitted that the requirement that six of eleven voting members be local elected officials has been extremely beneficial in the development of a "partnership" with regard to these efforts. It is by no means a panacea for local governments resistance to and position of standards but a similar approach would be strongly suggested in other states which use the commission, board or council approach to similar efforts. Review in light of similar coordination or lack of coordination in other states indicates this judgment is appropriate. Another feature of the Commission is the addition in 1979 of four legislative representatives. It is strongly recommended that similar legislative involvement on a non-voting basis be part of other state programs which are pursued under the commission or similar authority.

STATE OF
WASHINGTON

Dixy Lee Ray
Governor

STATE JAIL COMMISSION
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OCTOBER 12, 1979

STATE JAIL COMMISSION -- BRIEF HISTORY AND CURRENT ACTIVITIES

THE WASHINGTON STATE JAIL COMMISSION WAS ESTABLISHED ON A PERMANENT BASIS UNDER THE CITY AND COUNTY JAILS ACT OF 1977 (CHAPTER 70.48 RCW), FOLLOWING A BRIEF EXISTENCE AS A TEMPORARY COMMISSION ESTABLISHED TO STUDY PROBLEMS RELATING TO CITY AND COUNTY JAILS. THE COMMISSION REFLECTS A CONTINUATION OF STATE INTEREST IN THE CONDITIONS OF CONFINEMENT WITHIN SUCH FACILITIES DATING BACK TO 1961 WHEN THE DEPARTMENT OF INSTITUTIONS WAS DIRECTED TO INSPECT ALL JAILS ON AN ANNUAL BASIS, WHICH PROGRAM CONTINUED UNDER THE DEPARTMENT OF SOCIAL & HEALTH SERVICES UP TO THE TIME OF ESTABLISHMENT OF THE COMMISSION.

UNDER THE 1977 ACT, THE JAIL COMMISSION WAS GIVEN THREE PRIMARY TASKS: (1) TO DRAFT PHYSICAL PLANT STANDARDS WHICH WERE TO BE THE BASIS OF A PROGRAM OF STATE FUNDING OF NEW CONSTRUCTION OR REMODELING OF CITY OR COUNTY DETENTION OR CORRECTIONAL FACILITIES, (2) TO DEVELOP CUSTODIAL CARE STANDARDS TO GOVERN THE CONDITIONS OF CONFINEMENT WITHIN CITY AND COUNTY JAILS, DESIGNATING AS MANDATORY THOSE STANDARDS WHICH ARE REQUIRED BY THE CONSTITUTION, STATE OR FEDERAL LAW, OR COURT DECISIONS, AND (3) TO CONTINUE A PROGRAM OF ANNUAL INSPECTIONS OF ALL JAILS, ENFORCING THE MANDATORY CUSTODIAL CARE STANDARDS APPLICABLE TO THOSE FACILITIES. BOTH SETS OF STANDARDS WERE TO BE SUBMITTED TO THE LEGISLATURE FOR ITS APPROVAL PRIOR TO THEIR ADOPTION BY THE COMMISSION. THIS YEAR, UNDER CHAPTER 232, LAWS OF 1979,

1ST EX. SESS, SIGNED BY THE GOVERNOR ON JUNE 21, 1979, THE LEGISLATURE MOVED AHEAD WITH ITS EARLIER COMMITMENT BY APPROVING THE TWO SETS OF STANDARDS REFERRED TO ABOVE, APPROPRIATING ONE HUNDRED AND SIX MILLION DOLLARS IN JAIL BOND MONIES, AND PROVIDING SOME SPECIFIC DIRECTION AS TO HOW THE COMMISSION WAS TO PROCEED TO FUND NEW JAIL CONSTRUCTION AND/OR SUBSTANTIAL REMODELING.

THE 1979 LEGISLATION DIRECTS THE COMMISSION TO AWARD ONLY THE MINIMUM AMOUNT NEEDED TO MEET THE PHYSICAL PLANT STANDARDS, BASING ITS AWARDS UPON THE NUMBER OF BEDS AND BEING CONSISTENT BETWEEN SIMILAR SIZED FACILITIES WITHIN SIMILAR POPULATION COUNTIES. THE LEGISLATION DOES NOT DEFINE IN DETAIL ALL ASPECTS OF HOW FUNDING WILL BE DETERMINED BUT DOES AUTHORIZE THE COMMISSION TO SET PRIORITIES AMONG PROJECTS BASED ON THE FUNDS CURRENTLY ACTUALLY AVAILABLE.

THE COMMISSION ON SEPTEMBER 12, 1979 ADOPTED A SET OF FUNDING RULES WHICH ARE ENCLOSED AND WHICH SPECIFY THAT A STANDARD APPLICATION FORM WILL BE DISTRIBUTED BY OCTOBER 15 (THE COMMISSION IS ALLOWING 10 DAYS FOR COMMENT ON THIS FORM PRIOR TO SENDING OUT THE FINAL FORM OCTOBER 31); THAT THERE WILL BE AN INITIAL APPLICATION DEADLINE OF JANUARY 31, 1980, WITH A CUT-OFF DEADLINE OF JULY 31; AND THAT ALL APPLICATIONS WILL BE CONSIDERED IN A UNIFORM AND CONSISTENT MANNER, WITH A DECISION IN EACH CASE BEING MADE AS TO: (1) THE CAPACITY FOR WHICH THE PARTICULAR JAIL SHOULD BE PLANNED TO THE YEAR 2000, (2) THE MINIMUM LEVEL OF FUNDING NEEDED BASED UPON THE STANDARDS AND A SET OF ARCHITECTURAL GUIDELINES TO BE DISTRIBUTED WITH THE APPLICATION, AND (3) THE PRIORITY WHICH THE PARTICULAR PROJECT SHOULD ENJOY WITH RESPECT TO STATE FUNDING. THE PRIORITY OF EACH PROJECT WILL BE DETERMINED BY CONSIDERING THE EXISTING PHYSICAL PLANT AND ITS IMPACT UPON THE GOVERNING UNIT'S ABILITY TO IMPLEMENT THE CUSTODIAL CARE STANDARDS NOW IN EFFECT, BUT ALSO CONSIDERING WHETHER OR NOT A PLAN FOR USE OF PRE-AND POST-TRIAL DIVERSION PROGRAMS HAVE

BEEN SUBMITTED WITH THE APPLICATION AND WHETHER OR NOT THERE HAS BEEN AN ADEQUATE REVIEW OF THE POTENTIAL FOR CONSOLIDATION IN THE PARTICULAR AREA.

WITH RESPECT TO THE LAST POINT, THE LEGISLATURE CLEARLY INDICATED IN THE 1979 AMENDMENTS TO CHAPTER 70.48 RCW THAT CONSOLIDATION IS VOLUNTARY. THE COMMISSION HAS CONTINUED TO MAKE THIS POINT AS CLEAR AS POSSIBLE BUT HAS SIMPLY INCORPORATED WITHIN ITS RULES THE REQUIREMENT THAT THERE BE A THOROUGH REVIEW OF THIS POTENTIAL PRIOR TO A GOVERNING UNIT'S DETERMINATION OF THE APPROPRIATE WAY IN WHICH TO PROCEED TO MEET ITS JAIL NEEDS OVER THE NEXT TWENTY YEARS. TO DATE, ALMOST ALL CITIES IN THE STATE WHICH OPERATE DETENTION OR CORRECTIONAL FACILITIES HAVE REACHED INITIAL AGREMENT WITH THEIR COUNTY GOVERNMENT TO CONSOLIDATE. AT LEAST IN PART, DUE TO THE COMMISSION'S EMPHASIS ON SUCH REVIEW, ALMOST ALL COUNTIES WITHIN THE STATE HAVE COMMENCED CONSOLIDATION REVIEWS WITH THEIR NEIGHBORING COUNTIES AND IT IS EXPECTED THAT SOME SIGNIFICANT MULTI-COUNTY JAIL CONSOLIDATIONS MAY RESULT WHERE SUPPORTED BY ALL COSTS AND OTHER CONSIDERATIONS.

PERHAPS THE MAJOR ISSUE NOW BEING FACED BY ALL LARGER CITIES AND ALL COUNTIES THROUGHOUT THE STATE IS THE IMPACT IN TERMS OF OPERATING COSTS OF MEETING THE NEW CUSTODIAL CARE STANDARDS. APPROPRIATELY THE EFFECTIVE DATE OF THE STANDARDS (OCTOBER 1) HAS BROUGHT THIS ISSUE BEFORE COUNTY COMMISSIONERS RIGHT AT BUDGET TIME. MOST SIGNIFICANT IN THIS REGARD IS THE NEED FOR INCREASED STAFF IN JAILS, AN AREA WHICH HAS UNTIL RECENTLY BEEN WOEFULLY NEGLECTED. PRIOR TO OBTAINING STATE FUNDING TO BUILD OR REMODEL ANY JAIL FACILITY THE RESPONSIBLE GOVERNING UNIT WILL BE REQUIRED TO SHOW A WILLINGNESS TO IMPLEMENT THE CUSTODIAL CARE STANDARDS WITHIN ITS EXISTING FACILITY AND WILL NEED TO SHOW THAT IT IS GOING TO OPERATE ANY NEW OR SUBSTANTIALLY REMODELED FACILITY UNDER THE CUSTODIAL CARE STANDARDS. IT IS TO BE EXPECTED THAT MANY JURISDICTIONS WILL REVIEW THOSE COSTS AND DETERMINE

THAT OPERATING A SMALL JAIL FACILITY UP TO STANDARDS IS DISPROPORTIONATELY COSTLY AND CONCLUDE THAT CONSOLIDATING WITH ANOTHER OR SEVERAL OTHER GOVERNING UNITS IS THE BEST WAY IN WHICH TO PROCEED.

ONE FINAL CONCERN REFLECTED IN THE JAIL COMMISSION'S APPROCH TO FUNDING IS THE NEED FOR SOLID AND COORDINATED PLANNING FOR ANY JAIL. FOR THIS REASON THE FUNDING APPLICATION DUE JANUARY 31 DOES NOT REQUIRE A FINAL PLAN OR EVEN SCHEMATIC DRAWING. ONCE THE INITIAL DECISIONS ON CAPACITY, LEVEL OF FUNDING, AND PRIORITY ARE MADE, THE HIGH PRIORITY PROJECTS WILL BE AUTHORIZED TO PROCEED WITH SUCH DETAILED PLANNING. AT THAT TIME THE COMMISSION WILL WORK CLOSELY WITH ALL JURISDICTIONS TO PROVIDE WHATEVER TECHNICAL ASSISTANCE IT CAN TO ENSURE PROPER PLANNING IS DONE SO THAT NEW JAILS WILL REFLECT OPERATIONAL REALITIES AND TAKE ADVANTAGE OF THE LATEST KNOWLEDGE AS TO JAIL DESIGN.