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**PARTNERSHIP AGAINST CRIME:
FOUR POINTS FOR
STATE-COUNTY COOPERATION**

March 1986

Sheriff William Hackel
Macomb County
President, Michigan Sheriffs' Association

MSA JAIL/CORRECTIONS ADVISORY COMMITTEE

Sheriff Henry C. Zavislak, Chairman
Jackson County

Sheriff Thomas Edmonds
Kalamazoo County

Sheriff Gerald Hicks
Hillsdale County

Sheriff Larry Leveille
Mackinac County

Sheriff Ron Scheibil
Washtenaw County

Sheriff Thomas McKeever
Wexford County

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EXECUTIVE SUMMARY

Based on a thorough assessment of the immediate needs of local corrections, the Michigan Sheriffs' Association's Jail/Corrections Advisory Committee established four legislative goals for 1986. These are:

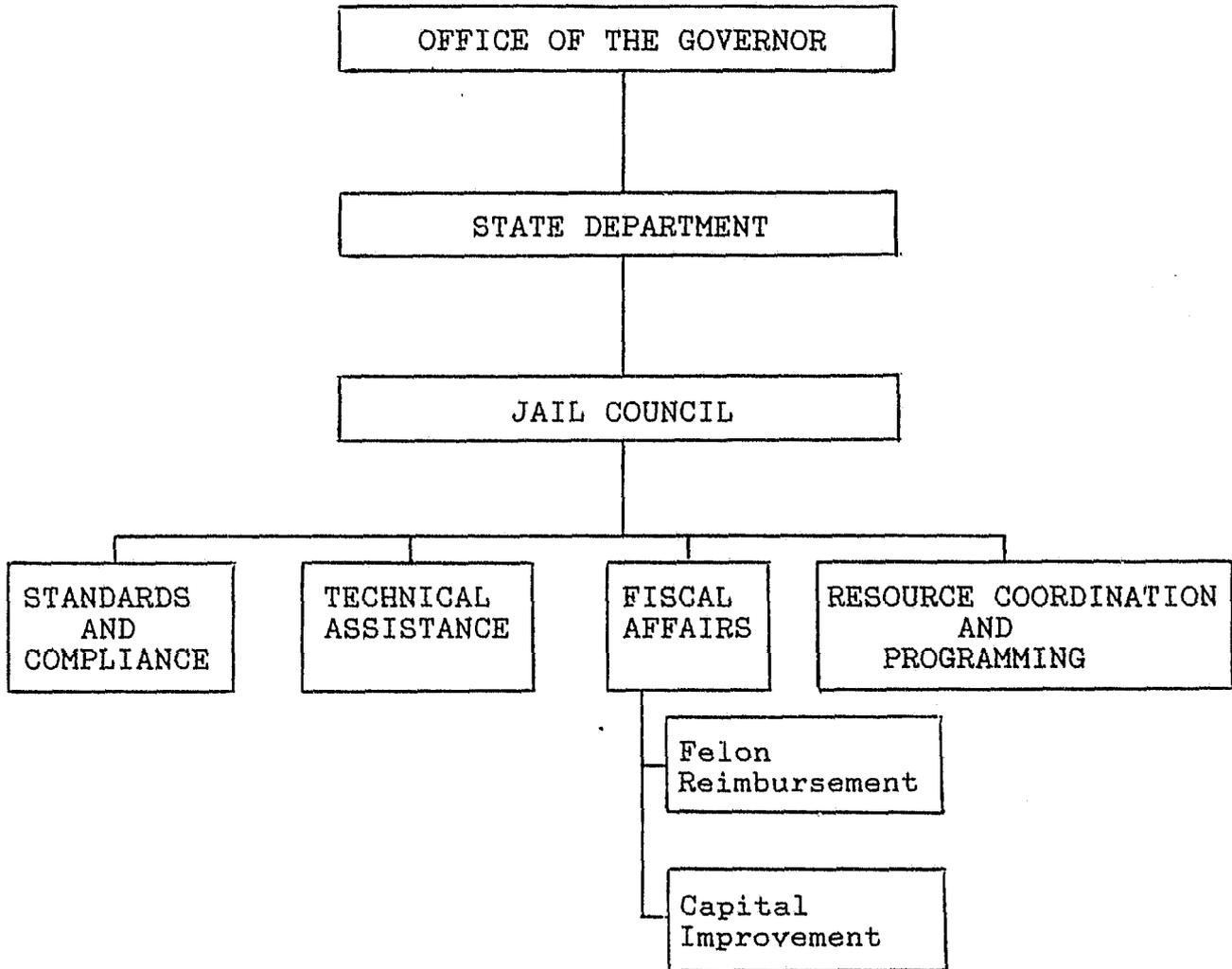
1. Obtain state reimbursement to counties for housing felons.
2. Establish a state-county matching fund to assist counties in obtaining compliance or in initiating programs/construction.
3. Repeal Department of Correction authority over jails.
4. Work toward a two-year jail and community corrections concept.

After researching the problems and the range of solutions, the Jail/Lockup Resource Center drafted a comprehensive legislative proposal that addresses the four goals. The proposal is detailed in the following pages. The proposals are:

1. Creation of an independent Jail Council (see Figure 1, next page) charged with the responsibility of assisting local government units in improving corrections programs. The Jail Council will:
 - a. Be composed of representation from all areas of the criminal justice system.
 - b. Be responsible for setting and enforcing jail standards.
 - c. Assist counties in reaching compliance with standards by providing technical assistance and funds.
2. Creation of a financial program monitored by the Jail Council to assist local governments in obtaining or maintaining compliance to jails standards and in implementing or improving community corrections. The Council will have two funds:
 - a. A \$25 million reimbursement fund for housing of felons. A requirement for reimbursement will be compliance to jail standards.
 - b. A \$30 million fund to be granted to counties for renovation, construction, or creation of jail related programs. The approval authority for granting of funds will be the independent body responsible for jails.

FIGURE 1

JAIL COUNCIL ORGANIZATIONAL CHART



OVERVIEW OF LEGISLATIVE PROPOSAL

Inspite of general agreement concerning the obvious interrelationship between jail overcrowding, prison overcrowding, and the state's criminal justice system, Michigan has continued moving down the same separate, unimaginative, inadequate paths.

It is time for all elements of the state's criminal justice system to respond together with a bold innovative initiative which will move Michigan corrections, prisons and jails, into the 21st century.

To that end, the Michigan Sheriffs' Association proposes a new partnership between state and county government and between state and county corrections.

ORGANIZATIONAL ASPECTS

Organization and membership. This partnership would begin with the establishment of an independent Jail Council. This body should be placed as a Type I transfer by the Governor in an appropriate state department. Members would be appointed by the Governor with confirmation by the Senate. Membership could be broad-based within the criminal justice system, but at a minimum consist of local and state representation, Sheriffs, and other professionals and community members.

Function and responsibilities. This council would be responsible through staff to:

1. Promulgate rules for local jails to insure the humane treatment of prisoners within the context of local needs and concerns.

2. Insure compliance with those standards through an inspection program/accreditation effort.
3. Provide active technical assistance to local correctional facilities. This technical assistance could include help with day-to-day issues, development of a compliance action plan, and assistance in formulating a community corrections option and/or diversion programs.
4. Coordinate and administer state fiscal programs involving jails.
5. Serve as liaison with the state Department of Corrections to insure maximum utilization of local correctional resources and provide the impetus for the establishment of two-year jails by counties.

FISCAL ASPECTS

A critical element of proposed legislation is the establishment of a state-county financial partnership for local corrections. This partnership should take two basic forms:

State reimbursement for felons. Historically, the housing of sentenced felons has been a state responsibility. In the last ten years, a subtle shift has occurred with more felons being remanded to the county jail. It is proposed that the state reimburse counties on a per diem basis for sentenced felons housed in the county jail.

The rate would be the minimum security per diem which exists in the state prison system. The annual cost is projected to be \$25 million annually.

This funding should be designated specifically for corrections improvements in physical plant and programming alternatives at the county level and could be tied to a plan to bring jails into compliance with standards or moving to a two-year mode. It could not be used to offset existing local operating revenues.

Capital improvement fund. A \$30 million fund would be established to assist counties in improving or expanding jails and local correction programs. This fund could utilize a variety of distribution models including a dollar match by counties for dollars granted; revolving fund where dollars are borrowed and repaid at a favorable rate; or some combination of the above. A commitment of the two-year jail concept may be tied to this option.

The cost of this partnership is significant. Yet it should be pointed out that more than \$420 million has been appropriated for capital outlay in the state system for a two year period.

BENEFITS

State and county. Benefits of the partnership would be realized by the state and the counties. For example:

1. The state would benefit by achieving additional secure bed space in a more cost effective and timely fashion.
2. A state-local correctional partnership would be achieved.
3. Community corrections and alternatives to incarceration would become a reality.

4. Counties would be able to move toward improving and/or expanding facilities.

5. The two-year jail could substantially relieve the increasing prison felon intake rate.

General public. In the final analysis the big winners are the citizens of Michigan because the state-county partnership represents a systematic, comprehensive response to the continuing problem of jail and prison overcrowding that is tough on crime, cost effective, and still maintains a humane approach to corrections.

As concluded in a recent report by the Advisory Commission on Intergovernmental Relations, "Jails: Intergovernmental Dimensions of a Local Problem":

". . . the locality--the traditional superintendent of the jail--is not the only level of government whose executive, legislative, and judicial decisions determine the jail's fate. States, after all, authorize the very existence of jails, determine the bulk of what constitute criminal offenses, create sentencing structures, mandate a variety of standards, and occasionally assist jails through financial or technical means. The federal government, too, affects the local jail. Through contracts to house its own prisoners, through various modes of aid, and, most important, through judicial court orders, Washington may shape the local correctional agenda in some subtle and not so subtle ways.

Hence, jail policy is continually played out in a series of complicated inter-systemic, inter-programmatic, and intergovernmental arenas. These arenas often contribute to the problems that beset jails. They may also be the key to their solutions."

BACKGROUND OF PROBLEM LEADING TO THE PROPOSAL

The corrections system in this state is composed of two separate but equally important components -- the state prison system and the county jail system. To date most of the attention by state policy-makers has been focused at the state prisons leaving counties to their own devices to deal with jail problems. And these problems are substantial. In fact, the situation confronting Michigan jails is in many respects similar to the situation faced by state prisons these past few years. Among the more significant are:

Overcrowding. The role of the jail is changing. In the last ten years county jails have recorded a 129% increase in the number of felons sentenced to county jails. Historically many of these prisoners would have been committed to state facilities. In terms of real numbers this accounted for a five thousand prisoner increase for the jail system.

Deteriorating infrastructure. Nearly 60% of all Michigan jail space was constructed over 20 years ago. Much of it is rapidly reaching a point where it will be unusable. During this same period local dollars have been directed to repair and retrofit in an effort to "catch up" with state jail standards, laws and decisions of the Federal Court.

Financing. Many of the dollars previously earmarked by counties for major capital projects have been diverted to maintain and operate vital public services including jails. With revenues such as General Revenue Sharing and others disappearing the problem is compounded and, in fact, will reach crisis

proportions. Construction costs are rising at a time when government units will be least able to provide the financial support to deal with the problem.

Lack of coordination. At the present time the state and county corrections component have developed separately with little or no communication or coordination. This has resulted in an adversarial relationship in many instances between counties and the Department of Corrections. Local units view the state as being responsible, in large part, for jail problems through overcrowding at the state level and directly promulgating jail rules. This must change. The nature of the mutual problems demands it and taxpayers deserve it. A partnership is essential.

Lack of local options. Unlike the state, a county has few options to deal with a prisoner sentenced. A jail sentence invariably means secure custody. Greater flexibility to use community-based diversion and community work programs are important. A community corrections program whereby prisoners could be sentenced to local custody for up to two years needs to be explored. Forty-one percent of the Department of Corrections current felony intake consists of prisoners sentenced to two years or less.

Conclusions and action. These chronic problems suggest the corrections component of the Michigan criminal justice system is in need of change. Because jails and the Office of Sheriff play such important roles in the state's criminal justice system, the Michigan Sheriffs' Association's Jail/Corrections Advisory

Committee addressed the problems from a systematic perspective. Based on their analysis, they set four goals for 1986. These are:

1. Obtain state reimbursement to counties for housing felons.
2. Establish a state-county matching fund to assist counties in obtaining compliance or to initiate programs/construction.
3. Repeal Department of Correction authority over jails.
4. Work toward a two-year jail and community corrections concept.

In preparing this legislative proposal, the Jail/Lockup Resource Center approached these four goals as a whole. It took the advice of representatives of all elements of the criminal justice system, sought the counsel of national experts, and researched successful solutions attempted by other states.

The resulting plan is presented here in two parts. It should be noted that the two components are really part of a coherent whole and are designed to complement one another. While modifications in the proposal are certainly possible and, in fact likely, any changes must be made with the inter-relationships in mind.

The proposal is presented in two parts:

1. Part one details the creation of an independent body charged with the responsibility of providing technical assistance and funding to local government.
2. Part two details a financial program to assist local governments in reaching or maintaining compliance to jail standards.

THE JAIL COUNCIL

BACKGROUND

Under current law, the Michigan Department of Corrections (DOC) is responsible for promulgating administrative rules which set forth the minimum standards of security, safety, habitability, health, accommodations, and other necessary matters under which county jails must operate. In order to insure compliance with its standards, the DOC, in conjunction with the Corrections Commission, has the authority to enforce its mandates and has, in fact, exercised this authority in the past.

While the DOC has enforcement authority over Michigan jails, neither the DOC nor any other state agency provides significant funding to help jails comply with state standards. It should be noted that the amount necessary for jails to comply with state standards is substantial. A recent report of the Michigan Sheriffs' Association (MSA) points out that the "estimated total cost of bringing Michigan's county jails into compliance with state standards exceeds \$26.5 million." This is likely a very conservative estimate.

The state places other burdens on county jails, too. For instance, it is likely that state prison overcrowding has caused judges to sentence felons to county jails more frequently than in the past and for longer periods of time. MSA notes that Michigan counties have experienced a 129% increase in the number of felons sentenced to their jails in the past ten years.

The great dollar costs of bringing jails into compliance with state standards and of housing felons, when combined with the great likelihood that counties will face reductions in federal revenue sharing funds and the need in many counties for increased capacity, make clear that a crisis exists with respect to the funding of county jails.

Exacerbating the crisis situation is the attitude of the DOC toward the problems of county jails. Many Sheriffs also suggest that DOC policy and philosophy are not well suited for the management of jails. In support of this conclusion, Sheriffs suggest DOC's original goal of providing technical assistance to counties has gradually changed into an adverse role. Some Sheriffs also argue that some of the standards established and enforced by the DOC are unrealistic and not based on sound management of jails.

RECOMMENDATION

It is recommended that DOC's authority over jails be repealed, that a separate, independent Jail Council be statutorily created, and that state funding be established to assist county jails in meeting the standards set forth by the newly created Council.

Duties and responsibilities. The Council would be charged with the responsibility of promulgating suitable standards of security, safety, habitability, health, accommodations, and other necessary matters with which jails would be required to comply. The standards promulgated by the Council would be at least minimal constitutional requirements, but would also consider

input from local criminal justice officials regarding management of their correctional facilities.

In addition to promulgating standards, the Council would be responsible for ensuring that counties comply with the standards, and would ultimately have enforcement authority over county jails. The Council will also be charged with helping to develop a solution to county problems; therefore, it would work hand-in-hand with county officials to provide financial assistance to counties to assist them in coming into compliance.

The Council would also be funded (see next section for details) with approximately \$55 million. That money will be used to help provide assistance to counties in the form of capital outlay and reimbursement for housing of sentenced felons.

Membership and organization. The membership of the Council, like similar councils in other states, would also ensure that a local perspective concerning jails and local corrections would be brought to bear on the issue of state standards. Membership of the Council should include primarily representation from the office of Sheriff and other members of the criminal justice system.

The Council might be housed in a state agency such as the Department of Management and Budget. Careful consideration must be given to the substantive and organizational implications of these alternatives.

The Council members will be part-time, unpaid representatives. The Council will, however, require a full time staff to administer programs. Since the Council would have a

local orientation, it can be expected that this would be reflected in the staff. A frequent criticism of the DOC inspectors is their orientation toward prison rather than jail concerns. The Council could easily resolve this by hiring staff with specific jail experience. The duties of the staff will be to:

1. Provide research on jail standards.
2. Provide inspection of jails.
3. Provide recommendations to the Council on counties' ability to comply with standards and recommendations on funding.
4. Work with county officials on a consulting basis to help them devise plans to bring their facilities into compliance.

FUNDING

The Council will be responsible for approving two types of funding assistance to counties.

REIMBURSEMENT FOR HOUSING FELONS AND TWO-YEAR JAILS

The state will be required to reimburse counties for housing felons. As noted in the preceding section, the disposition of felons to county jail has increased over 100% in the last decade. According to the 1984 survey of Sheriffs by the MSA, approximately 1,400 sentenced felons were housed in county jails at the time of the survey.

In order to provide counties with funds to cover costs of housing short-term felons in county jails, the state should provide a per diem to counties. The Council will be charged with development of a per diem rate and for approving county requests for compensation. As in other states, the approval of the per diem and its use by counties might be tied to the level of compliance with standards.

It is also recommended that Michigan law be changed to allow felons to be sentenced to the jurisdiction of the county jail for two years or less, and that the state provide counties with reimbursement for caring for and housing such prisoners.

Currently, many short-term felons are sentenced to the state prison system instead of county jails. However, due to prison crowding, these offenders are often placed in minimum security facilities, community programs, or on parole much earlier than would be suggested by the original sentence. In

fact, it has been suggested that the key reason for judges sentencing felons to county jails instead of prison is the fact that state prisoners with short sentences seldom serve the time imposed. In 1984, approximately 3,300 felons were sentenced and serving in state prisons with minimum sentences of two years or less. This represents 41 percent of DOC's felony intake. These offenders would typically serve less time in secure confinement than offenders sentenced to, for instance, one year in the county jail.

Funding could then be provided to counties on a per diem basis for felons housed in county jails. However, as suggested in a recent proposal of Corrections Director Robert Brown, the state would reimburse counties for costs of housing all felons in jail, not just those diverted under the two-year jail concept. Funds under such a proposal would be substantial. In 1984, approximately 1,400 sentenced felons were housed in county jails in Michigan. Reimbursement costs for the housing of these inmates, at an average of \$28 per day, for one year, would be \$14.5 million¹. Added to this would be the reimbursement for those felons diverted under the two-year proposal. Assuming 1,000 offenders were diverted to jail for one year, at an average per diem of \$28, reimbursement would be approximately \$10 million. Thus, the total under such a plan could be nearly \$25 million.

1. \$28/day is based on a survey of sheriffs by the Michigan Sheriffs' Association and the Michigan Prison and Jail Overcrowding Project. A 1982 Department of Management and Budget, Office of Criminal Justice formula established a \$39 per diem rate. Any legislation would have to include a revised dollar amount.

As is the case in other states, such reimbursement money could not be used to offset current county budgets for corrections. Rather, such money is seen as a source of funds for improving local facilities and programs.

CAPITAL OUTLAY FUNDS

To give reality to the Council's charge to provide assistance to the counties, a \$30 million fund of state monies would be created for use in providing county jails with financial assistance in meeting state standards. The fund would be administered by the Council.

The Council would develop criteria for providing funding to jails on a matching basis. Funds would be used to help counties solve jail related problems, and could be used for renovation and construction as well as other jail administered programs designed to reduce crowding. The funds could not be used for offsetting current operating costs. The Council, in consultation with affected counties, would determine the amount to be made available to a particular county and for what purpose. The categories and amounts of funding for which each county would be eligible might be tied, as in some other states, to the level of compliance with the standards.

It is understood that many counties would not have sufficient cash to match sizable state funds for construction or renovation. To assist in such situations, the Council will be empowered to develop plans for the counties to pay back their portion of the matching funds by providing services to the state. For example, if funds were made available to a county jail to

increase bedspace through either building or renovation, and if bedspace in excess of the county's needs existed, the county could lease-back the excess space to the state to assist the state in addressing its prison overcrowding problem.

LOCAL PLANNING

In providing financial assistance to counties, the state will expect that its interests are served through the efforts of the Council. Therefore, counties receiving funds from the Council would be required to develop a plan for the use of its funding. The plan would require approval from the Council as a condition of the county receiving state funding.

Initially, a county's Board of Commissioners (or combinations of counties if a multi-county or multi-jurisdictional approach with enhanced funding was desired) would make a decision to apply for the reimbursement funds. Upon such a decision, the Sheriff would develop a written plan for the development, implementation, and operation of county jails and other local corrections programs.

Prior to developing the plan, county officials would be informed by the Council as to the total amount of funds for which the county would be eligible if the plan was approved by the Council. Thus, the Sheriff would be able to develop a comprehensive, realistic plan based upon the potential funding available.

As noted above, the staff of the Jail Council would provide technical assistance to the local sheriff in developing the plan

for the county. Once approved by the county's Board of Commissioners, the plan would be forwarded to the state Jail Council for consideration and approval. The Council would then approve, disapprove, or approve in part the plan and provide funding to the county accordingly.

The plan would include a system for the reaching compliance with standards or for construction of needed capacity as well as other local corrections programs. While the content of the plan would be left to the discretion of the local Sheriff, he or she would be required to consider certain factors in developing the plan. For instance, the Sheriff would be required to conduct and include in the plan an analysis of the use of the county jail, especially as it pertains to the types of offenders and offenses being serviced by the jail, and the security classification level of inmates.

Use of Funds. The actual use of the funds would be determined by the plan submitted by the county as well as the determination made by the Jail Council. Thus, non-jail programs would be eligible for funding if the local plan included such programs and if the Council concurred.

Start up, or "up-front" funding, would be available from the Council. Thus, a county would be able to expect some initial monies for the development, implementation, and operation of county jails and other local corrections programs immediately after the approval of its plan by the Council.

The Council staff would serve as a consulting agency with respect to implementation. Again, given the intent to make the Center a cooperative partner with the local units of government,

the Center would provide technical assistance and otherwise help counties upon request.