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# LOCAL CORRECTIONS: WHO WILL ANSWER?

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NCJ-013616

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LOCAL CORRECTIONS: WHO WILL ANSWER ?

A Report by

The Ohio Commission On Local Government Services

February, 1974

\* served first year only

\*\* appointed second year

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## INTRODUCTION

This study is concerned with correctional services provided on the local level to the citizens of Ohio. It is one of several service areas selected by the Ohio Commission on Local Government Services for study. This study and the others prepared by the Commission form a part of the work product of the group established by Governor John J. Gilligan in an Executive Order on April 6, 1972.

The Governor gave the Commission the following tasks:

- A. Evaluate the present allocation of responsibility for public service delivery to different levels of local government and consider any changes which might improve the effectiveness of service delivery;
- B. Evaluate constitutional and legislative constraints which presently limit the ability of local government to support and operate services;
- C. Examine and evaluate the structural and financial capabilities of local government to perform service functions and consider changes which would support more effective service delivery;
- D. Study the interrelationships of all levels of government in Ohio, including the state and its administrative districts, and consider means for improving that relationship as it pertains to the delivery of services;

- E. Inform the public and concerned interest groups of the current problems in improving public service delivery.

In response to this challenge, the Commission spent its first year examining structural problems which affect the ability of each level of local government to deliver services. A series of hearings, public meetings and surveys were conducted to get a better focus on the problems. In April, 1973, the Commission began investigating and evaluating specific service areas. This study of local corrections services is one of the Commission reports.

Commission members, who serve without pay, represent all levels of state and local government, citizen groups and private citizens. The Commission's 11-member staff is supported by a two-year \$500,000 budget, raised from The Ford Foundation, The George Gund Foundation, The Cleveland Foundation, The Weatherhead Foundation, The Borden Foundation, The Battelle Memorial Institute, the U.S. Department of Housing and Urban Development, and the Ohio Department of Economic and Community Development.

This report is based upon research conducted during a four month period from October, 1973 through January, 1974. Data were gathered through personal interviews, on-site visits, mail questionnaires and review of numerous documents. The purpose of the report is to examine services provided by local corrections systems. These systems included county jails, city jails, workhouses, and community-based programs. This report discusses existing services and related problem areas in terms of facilities, staff

programs, record-keeping, intergovernmental cooperation, and specified characteristics of persons incarcerated. These data are presented in Chapter II. Chapter III deals with the future directions of local corrections in Ohio. An overall summary and major recommendations are presented in the following chapter.

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CHAPTER I

SUMMARY AND RECOMMENDATIONS

SUMMARY

Everybody "loses" some time in their life. People who are incarcerated tend to be losers most of the time. Jails are houses for losers. Losers have acquired their status through processes of poverty, broken homes, poor education, unemployment and other contributing factors which often lead to jail.

Our corrections system has traditionally treated the loser punitively. The entire correctional process has served to perpetuate the pattern of failure. This report describes corrections systems at the local level and the few services and programs that attempt to break the pattern.

In the past forty years many commissions and organizations have voiced the need for change in correctional practices. The contemporary philosophy of re-integration emphasizes facilitating the re-entry of offenders into the community. To realize this philosophy in correctional practice, programs must address basic human needs and related problem areas. Essentially, this mandates a re-ordering of priorities.

In most cases, Ohio's local correctional system emphasizes custody as opposed to habilitation; provides inadequate social service programming; hesitates to involve citizens; uses diversionary programs begrudgingly; ignores the rights of offenders; inadequately trains staff and basically operates a factory for re-cycling losers.

Chapter II discusses in more detail problems within the local corrections system. The few existing rehabilitative programs are also noted. This study also suggests recommendations for changing local corrections in Chapter III.

It should be noted that most recommendations of this Commission have been recommended by similar commissions at the national and state levels. What is important to understand is that most recommendations being suggested by one commission have at some previous point been recommended by another commission. The pattern appears to resemble a vicious cycle. Basically, the problem is that at a given point on the cycle someone declares corrections as a problem; a group is selected to study the problem; recommendations are made; a report is filed and nothing or very little is done. Then, the process is repeated. It is the hope of this task force that this cycle will be broken. In order to break the cycle, government officials and the citizenry must be willing to take action.

Who will answer? Someone must.

RECOMMENDATIONS

The Task Force on Corrections offers the following recommendations for improving local corrections systems in Ohio:

Recommendation 1. That minimum standards for jail facilities and programs be established and that a system for jail inspection be developed.

Legislative authority is available to prescribe standards for local jails and to provide for state-level inspection. The present laws concerning requirements for local jails and state institutions refer primarily to provisions of minimum care to the resident and the facility. In addition, no enforcement procedure has been established to assure that any requirements are followed.

Standards for local jails should at least include requirements in the following areas:

- health and sanitary conditions
- fire and life safety
- security
- habilitation and treatment programs
- recreation
- personnel training

Recommendation 2. That a corrections system emphasize community-based programs.

As traditional approaches to resocializing offenders and preparing them for

community life have failed, common sense supports an emphasis on community-based programs at all points in the correctional process.

There is no absolute definition for a community-based program. However, a community based program may be generally defined as a program in which an offender receives services from staff of community agencies and organizations or participates in community activities through cooperative arrangements between corrections systems and community agencies.

This report discusses three types of community-based programs.

1. Programs administered by agencies within the local corrections system, such as a jail or workhouse, probation department or bail agency.
2. Programs administered by a related criminal justice agency, such as the Adult Parole Authority and Community Service Office of the Department of Rehabilitation and Correction.
3. Programs administered by a non-criminal justice agency, such as a United Way agency, employment bureau, vocational rehabilitation, Alcoholics Anonymous, detoxification centers, and community mental health centers.

A few local corrections systems in Ohio have community-based programs, however, many more are needed in all corrections systems. Furthermore, community-based programs need to be systematically integrated into the correctional process.

Recommendation 3. That there be a screening and classification process in local corrections systems.

Most people who are in local jails have not been convicted of a crime and/or have been arrested and detained on offenses for which the jail offers no remedy. Screening and classification are directly related to the needs of individuals entering the corrections system. The primary role of the screening process is to channel arrestees into appropriate components of community-based programs.

Additional roles include:

1. providing crisis service to arrestees and their families;
2. collecting information useful for subsequent pre-sentence investigations;
3. provision of diagnostic services related to classification of arrestees selected for detention;
4. immediate referral to other facilities for emergency medical care.

The primary purposes of classification are to place arrestees selected for detention in appropriate security areas of the facility, to provide for different status of confinement, and to facilitate the provision of services appropriate to resident needs. The classification process would identify concerns of residents including drug or alcohol problems, job training, medical and psychological problems which can be approached during the detention period.

Screening and classification should be conducted in an intake center which may be viewed as an extension of county and city jails.

Recommendation 4. That multi-jurisdictional corrections systems be utilized.

The consolidation of services to offenders is, at best, haphazard. Flow of information necessary for classification of jail residents,

community programming of probationers, releasees and bailees, disposition of convictees and the functioning of other correctional components is practically non-existent. Utilization of community-based programs is near stagnation.

Accordingly, two approaches to a coordinated corrections system are recommended: a network and a cluster approach. Both approaches require multi-jurisdictional programming and consolidation of services to facilitate efficient flow of persons through the corrections system and effective delivery of services by system components.

Recommendation 5. That minimum requirements for certification of correctional officers be developed.

Currently, no separate, formal training for local correctional officers exists in Ohio. Jail personnel are frequently characterized as having a limited amount of education and a background that usually includes heavy focus on military and/or law enforcement involvement.

Components of training for correctional officers, whether in the jail or community setting, should include courses in such areas as human relations, group interaction, and the detection of special problems relating to drug abuse, alcoholism, medical needs, etc. Furthermore, correctional training should take place before the person assumes full-time responsibility.

Recommendation 6. That appropriate safeguards regarding confidentiality and security be established for all criminal justice information systems prior to implementation and operation of such systems.

To date, the design and use of computerized information systems have been based on the needs of agencies within the criminal justice system. Little

action has been taken to protect the privacy rights of individuals, to address the issues of confidentiality of data, or to provide for verification and maintenance of up-to-date data in the information system.

The use of existing and future information systems must be scrutinized and regulated appropriately. Indiscriminate access to data must cease. Individuals must be permitted to review and comment upon data in their files and control its distribution to non-criminal justice sources. In addition, data elements should be scrutinized to ensure that only crime related information is computerized. Furthermore, arrest data should not be included for those offenses for which the person was not convicted.

Ohio's Criminal Justice Information System (CJIS) is presently being developed. At this point no legislation exists in regard to the privacy rights of individuals. It is recommended that BEFORE any such system becomes operational, legislation be enacted to restrain any non-criminal justice agency from obtaining information on individuals from the system without the written permission of the individual involved.

The preceding recommendations resulted from the Task Force's assessment of existing conditions in Ohio local corrections systems. These conditions are discussed in the following chapter.

## CHAPTER II

### THE EXISTING SYSTEM AND RELATED PROBLEM AREAS

#### INTRODUCTION

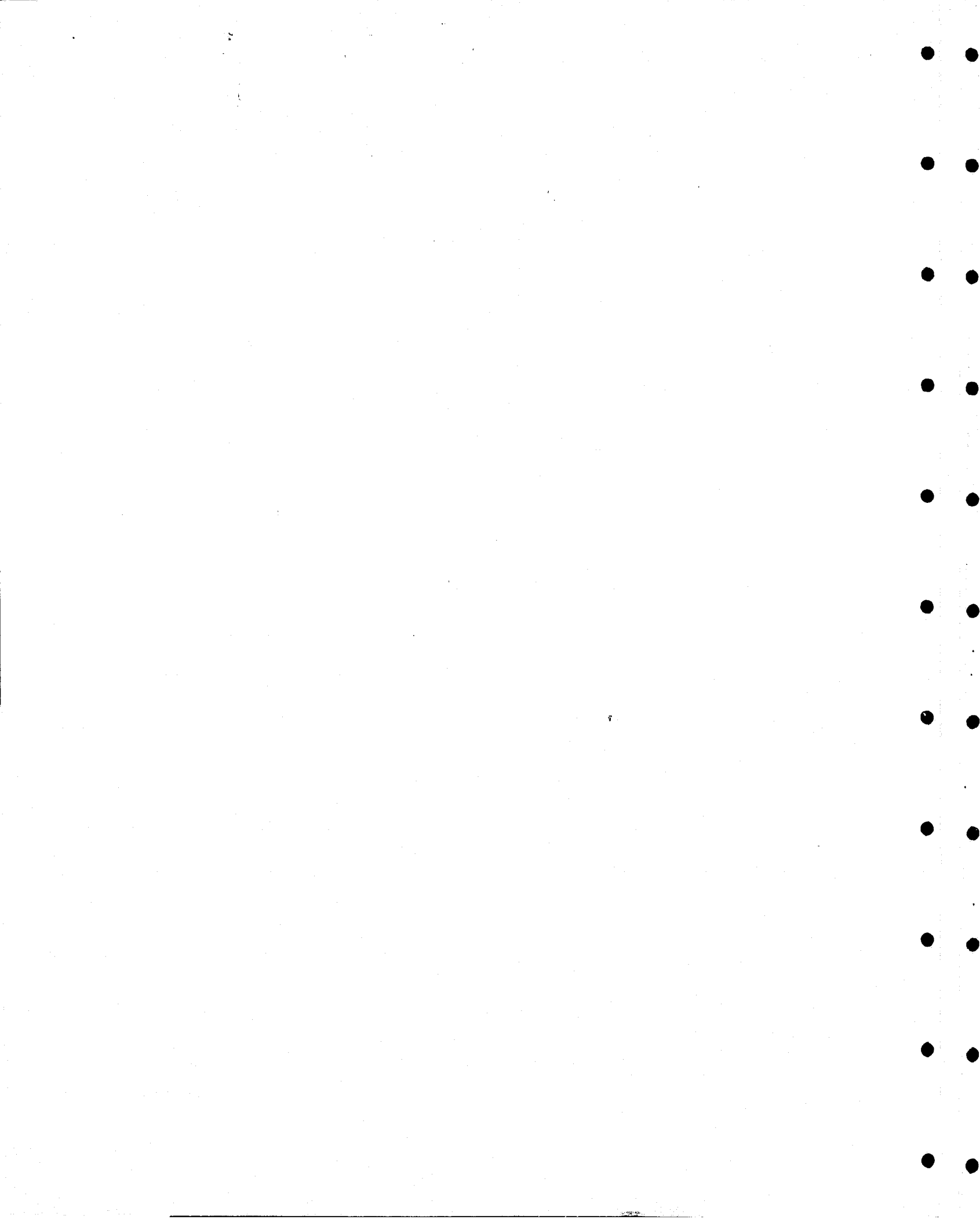
Local "corrections", does it exist or is it unattainable? Is this the wrong word for what one finds on the local level? What best describes what does exist? Some say that local corrections may be best described as a system that detains 1) persons awaiting indictment, trial and/or sentencing and 2) persons convicted and serving time. In other words, local "correctional" facilities are often described as nothing more than holding facilities, certainly not institutions that correct or change behavior. Others say that local jails are not meant to be anything more than local holding facilities.

As this chapter will attempt to document, local jails are neither correctional facilities nor adequate holding facilities. It will also be pointed out that the study of this problem area is not new. Numerous recommendations have been made in recent years but to no avail.

Examples of non-functioning local correctional systems exist across the nation. The Holmesburg, Pennsylvania facility, which is a unit of the city-county jail of Philadelphia, is a 70 year old antiquated structure. "Prisoners are crowded two and three into cells intended for one. Cells have no hot water; many have sky lights which leak when it rains. Roaches and rats are plentiful."<sup>1</sup>

The New Orleans Parish (county) jail has often been referred to as the worst county jail in the nation.





"Anywhere from 700 to 1100 prisoners have been confined there in facilities built for 450 - about half serving sentences, the others awaiting trial."<sup>2</sup>

Judge Henry H. Vollandine has stated that "many of the folks who go to jail here aren't really criminals. But they're put in this ghastly travesty of a jail."<sup>3</sup>

Of the 3,319 jails administered by counties or cities with a population exceeding 25,000, these statistics are available:<sup>4</sup>

- 90 per cent have no recreation facilities
- 25 per cent have no visiting facilities
- 5 per cent are overcrowded
- 50 per cent do not provide medical care
- more than 50 per cent in jails are unconvicted and awaiting trial
- 25 per cent of the cells are more than 50 years old.

The national response to these jail conditions comes in a variety of forms.

Some of the responses have had an effect while others are no more than historically interesting. The more relevant commissions or groups are:

- 1931 - the National Commission on Law Observance & Enforcement (the Wickersham Commission); issued 14 reports including the subject of corrections.
- 1946 - American Correctional Association; first edition of the Manual of Correctional Standards.
- 1967 - Johnson's Commission on Law Enforcement and Administration of Justice issued a report entitled, The Challenge of Crime in a Free Society. One Task Force reported on problems facing the Nation's correctional system.
- 1971 - Advisory Commission on Intergovernmental Relations produced a commission report on State-Local Relations in the Criminal Justice System; proposals were specifically aimed at improving corrections.

1972 - Forty-second American Assembly, with representatives from a variety of fields, discussed the problems of the American Correctional System and produced a number of recommendations.

1973 - National Advisory Commission on Criminal Justice Standards & Goals produced a number of reports; one dealt with corrections.

Recommendations of these national studies were taken into consideration in structuring the Task Force's approach to examining local corrections in Ohio.

This chapter presents a description of local corrections in Ohio in terms of facilities, staff, programs, records, intergovernmental cooperation and types of persons incarcerated. Before this description begins, however, it should be noted that data on local correctional services is extremely limited in Ohio as in most states throughout the country.

Information on Ohio was gleaned primarily from three sources: the Buckeye State Sheriffs' Association (BSSA) Survey, the 1970 National Jail Census, and the study data collected by the Commission staff. A brief description of these sources is given below.

#### Buckeye State Sheriffs' Association Survey

In 1971, the Buckeye State Sheriffs Association conducted a survey of the 88 Ohio county jails with respect to: designed capacity, average jail population, juvenile accommodations, cell block communications, security, building conditions, and adequacy of the facility.

#### National Jail Census

The 1970 National Jail Census was conducted for the Law Enforcement Assistance Administration by the Bureau of the Census. Essentially, it is a state-by-state census on the condition of the nation's county and city jails and their inmate populations. Study data includes the number of jail employees,

operating costs and structural and sanitation aspects of facilities.

All information presented in the census was collected on March 15, 1970.

Criteria for participation in the survey included:

1. jails which were operated locally by the jurisdiction, that is, county, city, or township (no state-operated facilities were included),
2. municipalities which had a 1960 census population of 1,000 or more persons,
3. jails which confined inmates for 48 hours or more.

#### Commission Surveys

Two surveys were conducted through mailed questionnaires by the Commission staff. The questionnaires were sent to 1) the sheriffs of the 88 counties and 2) the administrative staff of 67 city jails and five workhouses.

Questions were related to the following areas: local operations, inter-county activities and relations with state agencies. Thirty-two (36 per cent) of the 88 county sheriffs responded to the survey; and 26 (36 per cent) of the 72 city jails and workhouse personnel responded.

#### LOCAL CORRECTIONS IN OHIO

According to the National Jail Census there were 160 jails in Ohio which were operational when the census data was collected. The breakdown by type of facility is as follows:

88 county jails

5 city workhouses

67 city jails

In some instances state and federal courts have inquired into county and city jail administration. ". . . Within the last year, federal courts have ordered that constitutionally deficient facilities be closed down; required that

inmate populations be reduced to relieve overcrowding; and compelled jail officials to submit plans for the establishment of adequate medical, psychiatric, recreational, basic education and group counseling services (including timetables for implementation of such programs).<sup>5</sup>

Presently, the Lucas County jail is under federal court order to maintain a resident population of no more than 150. Due to the poor conditions existing in the jail the federal court judge of the district intervened and established strict rules and regulations for the operations of the facility.

The inadequacies of jail facilities in Ohio are described below in terms of capacity and conditions.

#### Capacity

Nationally, more than 160,000 men and women are currently confined in the 3,319 county and city jails throughout the country.<sup>6</sup> To date, there is sparse information available as to the number of persons confined at any time in the county and local jails in Ohio. The capacity for county jails in Ohio is 8,721 total persons. From the questionnaires returned by sheriffs to the Commission staff, it is estimated that at least 13,000 persons were confined in county jails in Ohio for the month of October, 1973.

The BSSA survey has indicated that 22 county jails reported overcrowding, while another 22 reported operating at a capacity of 85 per cent or greater. The remaining 44 counties reported under-utilization. Of the larger counties, two-- Franklin and Montgomery-- reported under-utilization.

Oftentimes a sheriff with an over-crowded jail will use an adjacent under-

utilized county jail for his inmate overflow. However, if an adjacent county jail is not large enough to handle the overflow the sheriff must place people with any county that has the space and is willing to accept the inmates.

The housing of juveniles is directly related to the problem of overcrowding. In many cases, the county jails are merely used as a short-term facility for juveniles. Usually they are held until their parents arrive to take them home. However, this is not true of all facilities. Sometimes a young person must sit for days or weeks - isolated and ignored - because there is no proper facility and/or parents want the court to place the child elsewhere.

The BSSA survey reports that 50 jails have facilities for juveniles. Fourteen jails reported holding juveniles in areas which were not separate from adult inmates.

In 1971, the Community Services Division of the Ohio Youth Commission identified 20 detention facilities. The average daily population for all 20 facilities is 495 juveniles. The capacity of these centers is 778 (480 males and 298 females). When detention facilities are not available, private homes or agencies are used or the juvenile is transported to an adjacent county which has facilities.

Most recently, the Ohio Administration of Justice Division (AJD) has awarded grants for either feasibility studies or construction of regional juvenile detention and rehabilitation facilities. The map presented in Figure 1 indicates the areas where either regional studies or construction are occurring.<sup>7</sup>



Jail Conditions

Overcrowding in adult and juvenile facilities is related to the date of construction and conditions of the facility. According to the BSSA survey, at least 57 percent of the county jails in Ohio were constructed over 70 years ago, as shown in Table 1. The BSSA survey described the following:

- 54 county jails have an inadequate wiring or electrical system
- 48 have inadequate plumbing systems
- 53 have inadequate heating and/or ventilation systems
- 41 have inadequate or unsanitary food preparation areas
- 36 have inadequate inmate sleeping quarters

These factors contribute to the poor physical condition of many jails.

Security is also a problem in many county jails as can be seen in these figures from the survey:

- 71 jails lack inter-com systems and/or sound monitoring
- 73 jails are without telephones in the cell block areas
- 78 have no television surveillance
- 80 have no public address system

For the most part, city workhouses also display inadequacies and security problems.

"The Cincinnati Workhouse is over 100 years old. The Toledo and Columbus Workhouses are presently adding additions to their facilities in order to provide space for counseling, treatment, and visitors. Poor security is a constant problem at the Cleveland Workhouse where inmates escape on a regular basis."<sup>8</sup>

Table 1. Date of Construction of Ohio County Jails

Number of Jails	Percent of all jails	Date of Construction	Approximate Number of Years Since Construction
40	45	1889-earlier	85
11	13	1890-1899	75 to 84
7	8	1900-1919	55 to 74
8	9	1920-1939	35 to 54
4	5	1940-1959	15 to 34
18	20	1960-1970 and after	1 to 14
Total 88	100%		

The Jail Census reports that of the 160 jails, only nine provide recreational programs; three provide educational programs; 64 provide medical programs; 80 provide visitation; and 109 provide immediately accessible toilet facilities. In addition, such items as soap, towels, toothbrushes, safety razors, clean bedding, and toilet paper are often in short supply. The conclusion of Hans Mattick regarding jail conditions across the nation is applicable to Ohio:

"Considering that sanitary fixtures are a necessity, yet are often absent, it is not too surprising to find that other facilities for handling and treating prisoners, some of which are not as indispensable, are also lacking. Only the largest jails have such luxuries as classrooms, an adequate infirmary, a laundry, a separate dining area, recreation space, and a chapel."<sup>9</sup>

From the above data it appears that whether a jail be city or county, in most cases its only function is custodial. This conclusion is examined throughout the remainder of this chapter.

PERSONNEL

In Ohio, local correctional manpower is a problem area. "Low salaries, low prestige, and lack of opportunities for training and advancement, have discouraged many people from seeking a career in corrections."<sup>10</sup> Throughout the State approximately 7,794 persons are employed in correctional areas. Of this number 5,300, or 68 percent, were employed at the state level and 2,494 were employed in either counties or municipalities.<sup>11</sup> Expenditures for the entire State in corrections were approximately \$5.1 million. Of this amount \$3.6 million was spent at the state level and \$1.5 million was spent<sup>a</sup> at the local level.

In selected counties in Ohio, employment data for the Criminal Justice System in 1970-71 indicate that the percentage of county personnel in the Criminal Justice System varies from county to county and is not determined by size of the county. In Cuyahoga, only 14.2 percent of the total number of full-time employees were employed in some area of the criminal justice system; and of that number only 18 percent were employed in corrections, whereas in Licking County 34.6 percent of the total number of full-time employees were employed in some area of the criminal justice system and of that number 25.6 percent were employed in corrections. Table 2. illustrates employment information for the criminal justice system for selected counties.

In 95 percent of the county jails, the nature of correctional operations is regarded as custodial only. In addition, 92 percent use the same staff to supervise juveniles and adults and 76 percent of the county jails employees are

Table 2. Employment data for selected counties in Ohio  
for the Criminal Justice System, 1970 - 71\*

<u>County</u>	<u>Total Full-Time Employees</u>	<u>Total Employees in Criminal Justice System</u>	<u>Percent of Full-Time Employees</u>	<u>Total Employees in Corrections</u>	<u>Percent of Total Criminal Justice Employees</u>
Allen	463	125	25.3	20	15.4
Cuyahoga	9433	1394	14.2	289	18.1
Franklin	2919	642	21.9	195	30.5
Lake	1263	222	16.5	46	21.5
Licking	338	118	34.6	30	25.6
Montgomery	2648	616	21.9	229	37.5
Summit	2371	523	21.8	118	21.5
Trumbull	863	180	20.9	18	10.0

\* U.S. Department of Justice, National Criminal Justice Information and Statistics Services, SD-EE No. 3, Expenditure & Employment Data for the Criminal Justice System - 1970-71, p. 138.



recruited for the dual responsibility of corrections and police work.<sup>12</sup>

Commission study data indicates that 50 percent of the 32 responding county sheriffs have no deputies assigned to jail duty only. Of the 26 city jail or workhouse responses, 73 percent have no officers assigned the responsibility of the jail only. In other words, the majority of county and city jails are staffed with personnel who are law enforcement officers who do not have a primary work assignment to the corrections facility. As Hans Mattick has stated, "the law enforcement psychology of a policeman is to arrest offenders and see to it that they get into jail; the rehabilitative psychology of a correctional worker should be to prepare an inmate to get out of jail and take his place in the free community as a law-abiding citizen."<sup>13</sup> Oftentimes, when law enforcement officers are not available to operate the corrections facility, auxiliary officers are used. For example, auxiliary police women are used as substitutes for matrons in the juvenile and women sections of jails during manpower shortages. When neither regular nor auxiliary officers are available, less qualified and low-paid custodians may be used to operate the facility. One exception to the above is the practice in the Akron-Summit County Corrections Center in which jail staff are required to have a college degree. Approximately 20 corrections officers have been utilized in this program for about one year.

#### Training

Most deputies assigned to jail duty have had little formal jail training. (The Ohio Peace Officers Training Council offers only four hours [ out of 240 hours ] on prisoner booking and handling.) Commission data indicates that if any jail management training is offered it is in the form of

1) on-the-job training, 2) classroom training using existing in-house staff, 3) the Federal Bureau of Prisons Course, or 4) any combination of these and other sources, including seminars offered through a regional planning unit of the AJD, or workshops offered through community universities and other organizations. Table 3. illustrates questionnaire responses from the staff of county and city agencies. The total number of respondents to the question on training is 53.

Some sheriffs have used ingenuity in their training programs. For example, the Marion County Sheriff actively seeks new programs for jail management not only for himself but also for his deputies. In addition to the above sources, he is investigating programs offered through the FBI, U.S. Army Reserves, and local educational courses especially in the juvenile and alcohol areas. In addition, the Sheriff of Cuyahoga County believes that officers should have training in crisis intervention and has suggested that an officer be available to interact with people when they first enter the system to assist in handling personal problems of arrestees.

Regarding other local jail facilities, the Ohio 1973 Comprehensive Criminal Justice Plan states:

"Formal training for the correctional employees of municipal workhouses is even less substantial than that accorded sheriffs' deputies assigned to jail-keeping responsibilities. Of the 4 workhouse superintendents providing information . . . , two indicated that their institutions provided no formal training of any type. And the other two indicated that only irregularly scheduled in-service training was provided."<sup>14</sup>

It is important to note that when training for correctional personnel is being considered, time and place of training should be appropriately

Table 3. Jail Management Training in County and Other Local Jails

Question # 10 Have the deputies assigned to jail duty received any jail management training?	
<u>Number of Responses</u>	<u>Type of Response</u>
27	"no", jail management training
<u>26</u>	"yes", jail management training
TOTAL 53	
.....	
<u>Number of "Yes" Responses*</u>	<u>Types of Training Used</u>
20	On-the-job training
10	Federal Bureau of Prison Correspondence Course
9	Formal classroom training using in-house staff
9	Formal classroom training through college or vocational training courses
5	Other types:
	State Department of Corrections classroom training
	Seminar by Federal Jail Inspector
	BSSA Jail Management
	BSSA School in Cleveland
	National Sheriff sponsored management schools

\* does not equal 26 due to multiple responses

planned. Oftentimes, training for correctional officers is scheduled during prime working hours. When no personnel are available to replace those in training, administrators tend to eliminate the training program.

In the area of probation services, state probation officers are required to receive 200 classroom hours of training plus one month of on-the-job training. Interviews with various county and city criminal justice personnel seem to suggest that formal training is lacking for most municipal and county probation officers.

#### Employment Factors

Additional manpower problems include low pay and job security. Most sheriffs' departments have austere budgets which barely support minimum law enforcement and corrections duties. The salaries are very low (in some counties, less than \$6,000 per year) and it's not unusual to find that deputies move to more populated counties for better pay.

Another factor contributing to job turnover is job security. Sheriffs in Ohio are elected for four year terms. In most instances deputies are appointed by the sheriff without civil service protection. For the individual this means that employment is based upon the discretion of the sheriff.

In most municipalities, chiefs of police are chosen under municipal civil service systems from within the ranks of the department. Personnel

employed in the departments receive initial appointment to the department and then rise through the ranks under a civil service system. This personnel promotion system, which exists in the majority of Ohio city agencies, leads to continuation of practices which have existed in the past.

Several sheriff's departments in the State have instituted experiments with a civil service system in the hopes of eliminating their turn-over problem. As this Commission's Law Enforcement Report indicated, the question of lateral transfers and use of personnel clearly needs further study if the criminal justice system, and particularly the correctional part of it, is to work most effectively in regards to personnel.

#### Use of Minority Groups

A final problem area on the local level as well as in state prison facilities is the use of various ethnic groups, women and ex-offenders, as sources of manpower.

The Joint Commission on Correctional Manpower and Training indicated that of the total number of correctional employees in 1969 (111,000) only 8 percent were blacks, 4 percent Chicanos, and less than 1 percent American Indians, Puerto Ricans or Orientals. In addition, the Joint Commission reported that only 12 percent of the correctional work force was female.

The Commission also reported that:

"In light of the increasing emphasis being placed on service roles in American society, it is imperative that governmental agencies in general and correctional organizations in particular reassess their policies, practices and attitudes toward hiring of offenders and ex-offenders."15

It is interesting to note that half of all correctional personnel interviewed by the Joint Commission objected to hiring ex-offenders as full-time correctional workers. This attitude appears to be contradictory to actual practice since many local and state correctional facilities strongly depend upon the use of trustees to assist in jail and prison maintenance. Ex-offenders represent a valuable manpower resource because of their direct experiences in corrections and their ability to relate to the offender population.

CHARACTERISTICS OF JAIL POPULATION

The 1970 National Jail Census reported that in Ohio on March 15, 1970, there were 5,920 persons detained in local jails. Most jail residents were adult male, (approximately 91 percent). Of the total number of residents, approximately 23 percent (1,416 persons) were being held for other authorities or were awaiting arraignment; 28 percent (1,646 persons) had been arraigned and were awaiting trial; 7 percent (384 persons) were convicted persons awaiting further legal action; 36 percent (2,126 persons) were serving sentences of one year or less; and 6 percent (348 persons) were serving sentences of more than one year. The number of residents in Ohio jails are presented in Table 4 by type of detention, sex and age (adult or juvenile). It should be emphasized that approximately 51 percent of all jail residents had not been convicted of a crime.

Commission study data representing jail populations for the month of October, 1973 are presented in Tables 5 and 6, and summarized below. As only two workhouses responded, data on workhouses is not included in the discussion below unless otherwise indicated.

The mean number of residents for county jails is 141.7 residents and 92.8 residents for city jails and workhouses. The mean number in county and city jails combined is 119.4 residents.

Table 4. Number of Residents in Ohio Jails by Type of Detention, Sex, and Age on March 15, 1970

Type of Detention	Total Number	Adult		Juvenile
		Male	Female	
Persons held for other authorities or awaiting arraignment	1,416	1,222	60	134
Persons arraigned and awaiting trial	1,646	1,537	76	33
Convicted Persons awaiting Further Legal Actions	384	355	14	15
Persons Serving Sentences of one year or less	2,126	1,992	113	21
Persons Serving Sentences of more than one year	348	317	31	—
<b>TOTAL</b>	<b>5,920</b>	<b>5,423</b>	<b>294</b>	<b>203</b>

Table 5. Summary of Task Force Questionnaire Data on  
Persons Held In County Jails

County	Total Number of Persons	Persons awaiting Trial		Number of Adults	Classification (by percentage)		Number of Juveniles
		Number	Percent		Misd.	Felcr	
Ashland	93	25	27	89	89	11	4
Ashtabula	135	9	8	120	90	10	15
Auglaize	62	15	24	46	38	24	16
Butler	289	119	41	289	15	85	0
Champaign	57	3	5	42	99	1	15
Clermont	243	102	42	229	80	20	14
Clinton	64	7	11	53	41]	59	11
Darke	66	5	8	50	40	60	16
Fairfield	---	---	---	---	60	40	---
Hamilton	430	367	85	423	6	96	7
Hancock	77	17	22	63	71	29	14
Harrison	32	2	6	32	85	15	0
Hocking	51	20	39	45	31	16	6
Holmes	23	1	4	21	---	---	2
Huron	42	11	27	39	94	6	3
Knox	82	43	52	81	---	---	1
Licking	176	83	47	129	70	30	47
Lucas	160	91	57	160	59	41	0
Mahoning	330	132	40	328	35	65	2
Mercer	28	14	50	22	78	22	6
Morrow	120	---	---	95	93	7	25
Noble	55	0	0	44	90	10	11
Perry	16	2	12	16	73	27	0
Portage	335	---	---	239	68	32	96
Putnam	38	21	55	35	---	---	3
Richland	346	15	33	281	---	---	65
Sandusky	86	13	15	86	45	55	0
Scioto	217	124	57	162	54	46	55
Stark	453	71	16	428	75	25	25
Tuscarawas	99	4	4	99	68	32	0
Wayne	141	89	67	133	85	15	8
Williams	46	15	33	44	20	80	2

The median number of residents in the county jails was 86 residents and 33.5 residents for city jails.

#### Classification

Approximately one-half of the responding sheriffs indicated that the percentage of residents (prisoners) charged with a felony was 25 percent or less. More than two-thirds of the respondents indicated that the percentage of residents charged with a misdemeanor was 50 percent or more.

Approximately 85 percent of the respondents for city jails and workhouses indicated that the percentage of residents charged with a felony was 25 percent or less. Most respondents (85 percent) for city jails indicated that 76-100 percent of all residents were charged with a misdemeanor offense. All but three respondents indicated that felons were also held in their jail. These data are shown in Table 7. The Commission questionnaire also included items on type of charge related to the type of offense: felony or misdemeanor. For county jail residents the most frequently indicated felony charges were robbery, burglary, and assault, and the most frequently indicated misdemeanor charges were driving while under the influence and public intoxication. Similarly the most frequently indicated misdemeanor charges for residents in city jails were for driving while under the influence and public intoxication.

The modal range for number of county jail residents was 51 to 100 residents (11 of 31 respondents). The modal range for city jails was 1 to 50 residents (16 of 24 jail respondents).

Table 6. Summary of Task Force Questionnaire Data on Persons Held in City Jails

City Jails	Total Number of Persons	Persons Awaiting Trial		Number of Adults	Classification (by percentage)		Number of Juveniles
		Number	Percent		Misd.	Felons	
Ashtabula City	85	60	71	77	24	76	8
Newton Falls	22	22	100	22	5	95	8
Oregon City	25	18	72	25	85	15	0
Wellsville City	9	9	100	8	0	100	-1
Brooklyn	9	0	0	9	NR	NR	0
Parma Heights	43	0	0	39	9	91	4
E. Cleveland	307	73	24	271	14	86	36
Bedford Heights	29	0	0	29	3	97	0
Port Clinton	9	0	0	9	NR	NR	0
Willard	9	3	34	7	0	100	2
Middleport	21	NR	--	21	NR	NR	0
Marion City	50	0	0	50	6	94	0
Marietta	38	5	13	38	10	90	0
Ashland County	78	17	22	74	17	83	4
Athens City	46	0	0	46	NR	NR	0
Ironton	217	172	79	205	NR	NR	12
Urbana	19	0	0	19	10	90	0
Sebring	9	0	0	9	NR	NR	0
Louisville	2	0	0	2	0	100	0
Twinsburg	16	11	69	16	30	70	0
Defiance City	107	12	11	96	16	84	11
Mansfield	211	0	0	211	6	94	0
Youngstown	430	415	97	NR	44	56	NR
Toledo Women's*	187	165	88	187	5	95	0
Toledo	170	0	0	170	10	90	0
Human Rehab. Center	265	NR	--	265	0	100	NR
<b>Total</b>	<b>2,413</b>	<b>817</b>		<b>2,317</b>			<b>86</b>

\* City Workhouse  
NR = No Response

County jails appear to hold more juveniles than do city jails. In city jails, approximately 96 percent of all residents were adults and four percent were juveniles. In county jails, approximately 89 percent of all residents were adults and 11 percent were juveniles.

At least 41 percent of all residents in city jails were awaiting trial, and approximately 35 percent of all residents in county jails were awaiting trial. The percentage of residents awaiting trial for city and county jails combined was approximately 37 percent. Table 8 presents the distribution of percentages of residents awaiting trial in county and city jails. Approximately 43 percent of the responding sheriffs indicated that the percentage of residents who were awaiting trial was 25 percent or less. An additional 39.3 percent of responding sheriffs indicated that approximately 26 to 50 percent of their residents were awaiting trial. Thus, approximately 82 percent of all responding sheriffs indicated that the percent of persons awaiting trial in the county jail was less than 50 percent. Likewise, approximately 62.5 percent of the respondents for city jails indicated that the percentage of residents awaiting trial is 25 percent or less. However, approximately one-fifth of city jail respondents indicated that the percentage of persons awaiting trial was 75 to 100 percent of the total population.

#### Maximum Sentence

Local jails handle a number of people for varying lengths of time. However, the primary person to be held for any length of time in a local jail should be the convicted misdemeanant who is serving a sentence designated by the court.

Table 7. Distribution of Persons Detained for Felony and Misdemeanant Offenses in County and City Jails

Percent of Residents	County Jail				City Jail <sup>2</sup>			
	Misd. Number	Percent	Felons Number	Percent	Misd. Number	Percent	Felons Number	Percent
25% or less	3	10.7	14	50.0	1	5.0	17	85.0
26-50%	6	21.4	8	28.6	0	0.0	2	10.0
51-75%	9	32.2	3	10.7	2	10.0	0	0.0
76-100%	10	35.7	3	10.7	17	85.0	1	5.0
Total	28	100	14	100	20	100	20	100

<sup>1</sup>Four counties did not respond.

<sup>2</sup>Six cities did not respond.



Table 8. Percentages of Residents in County and City Jails  
Who Are Awaiting Trial

Percentage Range	Percentage of Total Resident Population		Percentage of Total Resident Population	
	County <sup>1</sup>		City <sup>2</sup>	
	Number	Percent	Number	Percent
25% or less	12	42.8	15	62.5
26-50%	11	39.3	1	4.1
51-75%	4	14.3	3	12.6
76-100%	1	3.6	5	20.8
Total	28	100.0	24	100.0

<sup>1</sup>Four no responses

<sup>2</sup>Two no responses

The Ohio Criminal Code, under Section 2929.21, Penalties for Misdemeanor, indicates that the terms of imprisonment for misdemeanor shall be imposed as follows:

- For a misdemeanor of the first degree, not more than six months;
- For a misdemeanor of the second degree, not more than ninety days;
- For a misdemeanor of the third degree, not more than sixty days;
- For a misdemeanor of the fourth degree, not more than thirty days.

As noted, this section describes the maximum penalty for a misdemeanor of the first degree to be six months. Section 2929.41 (divisions D and E), Multiple Sentences, describes a longer penalty relating to consecutive terms.

Divisions D. and E. indicate that:

- (D) Subject to the maximum provided in division (E) of this section, when consecutive sentences of imprisonment are imposed for misdemeanor, the term to be served is the aggregate of the consecutive terms imposed.
- (E) Consecutive terms of imprisonment imposed shall not exceed . . . an aggregate terms of eighteen months, when the consecutive terms imposed are for misdemeanors. When consecutive terms aggregating more than one year are imposed for misdemeanors under the Revised Code, and at least one such consecutive term is for a misdemeanor of the first degree, the trial court may order the aggregate term imposed to be served in a state penal or reformatory institution.

Regarding maximum possible sentences in workhouses, the Ohio Revised Code, Section 753.07, Habitual Offender, states that:

Every person who, after having been three times convicted, sentenced, and imprisoned in any workhouse for offenses committed in this state, whether in violation of an ordinance of a municipal corporation or a law of this state, is convicted of a fourth misdemeanor, whether committed in violation of such an ordinance or law, punishable by such imprisonment shall, upon conviction of such offense, be deemed to be an habitual offender and shall be imprisoned in the workhouse for a period not less than one year nor more than three years.

Of the 160 jails surveyed in the National Jail Census, 130 responded to the question concerning maximum sentence possible by law. The Census reports

that 61 percent of the jails indicated one year as the maximum sentence that can be served in their institution. Thirty-four percent indicated less than one year. However, 4 percent indicated 2 years and 1 percent indicated 3 years as the maximum sentence.

The 5 facilities which indicated 2 years are:

Clark County Jail  
Cincinnati City Workhouse  
Lucas County Jail  
Stark County Jail  
Washington County Jail

Two facilities indicated 3 years as maximum sentence possible by law.

These facilities are:

Cleveland City House of Corrections  
Columbus Workhouse and Women's Correctional Institute

Comprehensive data were not available for profiling residents in terms of their maximum sentences except for the categories of the Task Force questionnaires on misdemeanor and felony offenses and the Jail Census data on type of retention.

It is noted that up-to-date comprehensive data on the other components of a local corrections system were unobtainable given study constraints. Presently, there is no source of program data on a convenient, reliable and comprehensive basis. With these constraints in mind, a description of correctional program areas on a local level is presented below.

### PROGRAMS

Correctional programs on the local level pivot around the jail. In some communities the jail, whether it be the county or city lock-up, is the only component of a corrections system. In other communities there are residential centers, workhouses, detoxication centers, probation, bail, volunteer programs, family crisis intervention, and other programs of a correctional system.

No local community in Ohio has a comprehensive integrated and coordinated corrections system as described in the concept paper in Appendix 1. Such a system necessitates inter-agency cooperation, a multi-programatic approach to the individual, involvement of the citizenry, well-trained staff in program components of the system, and an emphasis on the re-integration of the individual rather than routine indiscriminate incarceration.

Correctional programs may be classified into five broad categorical areas and several components. The broad categorical program areas are: 1) Diversionary, 2) Alternatives to Detention, 3) Detention, 4) Early Release, and 5) Related Community Programs. These program areas and associated components are discussed below in terms of their function in local adult correctional systems in Ohio from the perspective of the individual during the sequential steps in the correctional process. The discussion is based on the following classification of persons handled by the corrections system:

1. Arrestee: a person apprehended in a criminal act and/or charged with a criminal act. This label may be used from the point of arrest through indictment to conviction and sentencing processes.
2. Convictee: a person who is judged guilty, pleads nolo contendere, or confesses to a criminal act and who is awaiting sentencing by a judge.
3. Probationer: a person who after sentencing is immediately placed in the community under supervision or a person who has served a period of time in jail and then is placed on probation.
4. Resident: a person who is held in detention in a jail or workhouse while awaiting trial, or is serving a sentence as a judicial disposition. Also included are persons residing in a halfway house, reintegration center or other community center and convictees awaiting further legal action.
5. Pre-releasee: a person who is nearing his release time and 1) is still in jail or 2) is participating in a community program while still officially serving his sentence.
6. Furlougee: a person who is permitted to be in the community for a brief period during the time period of his detention.
7. Parolee: a person who is released from prison or jail prior to serving his full sentence but is under supervision for the remainder of the sentence period.

The above classification is similar for both juveniles and adults except that juveniles are rarely handled in criminal court. Although a juvenile is handled in a similar manner as adults, a juvenile would never be labelled as an arrestee, convictee, pre-releasee, furlougee, or parolee. However,

a juvenile may be labelled a probationer, resident, or a juvenile as in most cases.

#### Category 1. Diversion Program Area

Law enforcement agencies are key components of local corrections systems in Ohio, because the number of entries into the local corrections system is controlled to a great extent by the responsible law enforcement agency. The point of entry is usually the jail.

A diversionary program is a program in which the arrestee spends little, or preferably no time in jail. Types of components include but are not limited to: 1) release on recognizance (ROR), 2) bail, and 3) detoxication centers for persons under the influence of alcohol, narcotics, or other drugs. The use of diversionary programs is based largely on a) practices of law enforcement agencies, e.g. detoxification component and use of citations rather than arrest, b) policies of the court of jurisdiction, e.g. release on recognizance, and c) the availability of community resources, e.g. funding, caseload or bed space of detoxification, and d) enabling legislation giving the law enforcement agency the legal prerogative to divert the arrestee from jail.

#### Release on Recognizance

Release on Recognizance (ROR) is the release of an arrestee based on his word that he will appear for his preliminary hearing. A person on ROR is not under supervision and pays no bail or bonding fee.

#### Bail

Bail is the practice of charging an arrestee a fee to permit him to

remain in the community rather than in jail pending his arraignment. For some cases in which the arrestee has little funds or the fee is excessively high, an arrestee may use the services of a bonding agent. The arrestee pays the agent ten percent of the bail fee and the bonding agent guarantees payment to the court if the arrestee fails to appear for arraignment.

If an arrestee fails to appear, he must pay the agent the full amount of the bail fee. The arrestee is not reimbursed his ten percent even when he completes the terms of the bond and appears in court.

The amounts that may be set for bail are determined at the discretion of the judge. The judge usually bases the amount on the seriousness of the crime and the arrestee's ability to pay. The decisions are largely arbitrary and in some cases discriminatory. There are no standardized criteria for determining whether a person can be released on recognizance or released under bail. Furthermore, studies have shown that there is a difference in type of disposition for arrestees released to the community as compared to arrestees who are kept in jail. Those detained in jail were more frequently given jail or prison sentences.<sup>16</sup> Also, the amount of the bail fee is related to disposition. Arrestees with high bail were more likely to be given jail or prison sentences than arrestees with lower bail.

The Washington, D.C. Bail Agency is considered one of the most effective projects on bail. In calendar year 1972, the Bail Agency processed 27,595 cases to determine eligibility of the arrestee for release on recognizance and bail - both supervised and unsupervised. Of this number, 11, 286 cases qualified for release. Thirty-five percent of

these had financial conditions associated with bail and 65 percent were released on recognizance or under supervision of the agency with no financial conditions. The latter type of release, release under supervision, is not used in Ohio. Of the 9,539 arrestees supervised by the D.C. agency, only 6.7 percent failed to appear for arraignment. It is interesting to note that nearly 40 percent of the arrestees who failed to appear were persons whom the Bail Bond Agency had not recommended for release.<sup>18</sup> Such an agency on the local corrections level to alleviate present problems in determining eligibility for pre-trial release of arrestees is not presently used in Ohio. However, due to the addition of the "initial appearance" in the new Rules of Criminal Procedure effective July 1, 1973, an opportunity to establish a bail agency is provided. An initial appearance is the first appearance before a judge. As such, it offers the potential to use diversionary programs in preventing unreasonable pre-trial detention. The new Rules also provide for a variation of the Washington, D.C. supervised release program in that a court may place an arrestee in the custody of a "Third Party". For felony offenses, a judge decides whether an arrestee is eligible for the above diversions. For misdemeanor offenses, a clerk of courts administers bail programs.

It remains to be seen how Ohio courts will utilize these provisions in diverting adult offenders from local corrections systems.

Diversions programs for juveniles are more prevalent. While bail is not an option for a juvenile, release in the custody of adults or under

the supervision of parents is a familiar practice in juvenile court. Furthermore, law enforcement officers in using their legal discretions in handling juveniles, also use diversionary programs, i.e. referral to social service agencies, admonishment and return to parents, and other actions. However, more diversionary alternatives are needed throughout Ohio for juveniles and adults.

#### Detoxification

National sources report that one half of all arrests involve alcohol.<sup>19</sup> Recent data in selected Ohio metropolitan areas report arrests involving alcohol ranging from 11 percent in Warren, Ohio to 62 percent in Mansfield.<sup>20</sup> Furthermore, those persons arrested for excessive use of alcohol and detained in jail are usually the indigent<sup>21</sup>, who were 1) drinking in open spaces and 2) unable to pay the bail fee.<sup>22</sup>

Persons interviewed in sheriffs' and municipal police departments estimated that anywhere from 10 to 60 percent of the jail population is attributed to alcohol-related offenses, including public inebriation, vagrancy, disorderly conduct and operating a motor vehicle while under the influence of alcohol.

Until 1973, few detoxification programs were available in Ohio for persons arrested while under the influence of alcohol or other drugs. The usual modus operandi of law enforcement agencies was to put an intoxicated person in a "drunk tank until he slept it off." In some cases, emergency rooms of general hospitals were used when medical problems were evident.

It is noted that several states no longer consider public inebriation a criminal offense necessitating an arrest. Police may detect and transport an intoxicated person to either his home or a detox center, but may not charge the person unless another criminal act is involved, i.e. breaking and entering. Ohio has not acted as progressively. While the Norris Act (H.B. 240) encouraged the diversion of alcoholic persons from jail, it did not decriminalize alcohol-related offenses. It is noted that as of January 1, 1974, a person who is arrested for intoxication will be charged with disorderly conduct rather than public intoxication. But, he will still be processed as an offender through the corrections system in those local communities without detoxification and other alcoholism programming.

Attention must be directed toward handling these types of offenders in other ways such as the Crossroads Center of Erie, Pennsylvania<sup>23</sup>, the decriminalization of alcohol offenses, and extensive use of regional alcoholism centers which provide both detoxification and rehabilitation services.

The 1974 Plan of the AJD includes 12 projects in the areas of alcohol and alcoholism. Nine projects are diversionary offering a range of services from halfway house referral in Erie and Clark Counties through comprehensive care including detoxification and rehabilitation in Franklin County. The Franklin County Center has two phases: a 3-5 day detox period and a 20-30 day rehabilitation program with referral to other communities' agencies. It will also serve a five county area.

Several additional detoxification projects will also serve multi-county areas. Projects are coordinated with county or regional alcoholism councils and the Office of Alcoholism Programming of the Ohio Department of Health.

Some consideration has also been given to alternative handling of drug arrestees including 1) a detox program for drug abusers, 2) option to arrestees of participation in treatment programs as an alternative to incarceration such as the Daytop Village Program in New York.<sup>24</sup>

The 1974 Plan of the AJD includes projects related to the drug offender. Four projects involve treatment and rehabilitation services in Clark, Trumbull, Summit and Butler counties. Two projects provide probation officers to handle specialized caseloads of offenders with drug related problems in Stark and Lucas counties. All drug projects are coordinated with local boards of mental health and the Ohio Bureau of Drug Abuse.

#### Category 2. Alternatives to Detention Program Area

Programs in this category include those in which 1) an arrestee is not held in detention and 2) a convictee is not sentenced to jail, but participates in an alternative correctional program. Components include probation, referral to a residential center, restitution to the victim, and referral to other community programs.

#### Probation

Probation is under the jurisdiction of local courts and may be used as 1) an alternative to incarceration or 2) in combination with a period of incarceration, as in split sentencing.

Split sentencing involves incarcerating the offender for part of his sentence, suspending the remaining time, and placing him on probation or parole.

Probation is based upon 1) a credible pre-sentence report usually prepared by a probation officer for use by a judge in disposition of a convictee, and

2) careful supervision of persons on suspended sentences.<sup>25</sup>

Shock Probation. Shock probation is a form of split sentencing and is administered by the Ohio Department of Corrections and Rehabilitation. Under the Ohio Revised Code, Section 2947.06.1, a felon is eligible for early release from a state institution if he did not commit a non-probationable act under the O.R.C., and if he petitions the court to suspend the remainder of the sentence. The petition must be filed between thirty to sixty days after the original sentence date.

Of the 1,674 residents released on shock probation between 1966 and 1970, less than 10 per cent have been reinstitutionalized.<sup>26</sup>

In Ohio, the first formal probation program was the Ohio Adult Probation Law enacted by the legislature in 1908. This law placed probationers under the supervision of the Ohio Penitentiary or Reformatory.

In 1925, adult probation was placed under judicial control within a county probation department or with a person appointed by the Court. Since that time, adult probation services have been provided

1) informally by untrained bailiffs, court constables, law enforcement officers, and other persons not usually trained as probation officers, 2) not at all, 3) formally through probation departments as in metropolitan areas, or 4) through the Probation Development and Supervision Section within the Ohio Adult Parole Authority.

In 1965, the status of adult probation was as follows:

- 1) Only 25 Ohio counties had one or more full-time parole officers.
- 2) Over half of Ohio counties were understaffed.
- 3) At least 10 counties had no probation services.

- 4) In many counties, the probation officer spent more time as a court bailiff, divorce investigator, law librarian, than as a probation officer.
- 5) Ohio was imprisoning approximately 1,300 persons per year who could be safely supervised on probation, because of lack of probation services.

That same year, the Ohio statute creating a Probation Development Section was enacted. The primary duty of the state administered Section is to assist the counties in developing their own probation services on either a single-county or multiple-county basis.

As of June 30, 1973, 78 state probation officers were serving 48 counties. The probation officers conducted 2,850 pre-sentence investigations and supervised 2,288 probationers. This number represents 28.6 percent of the total number of probationers in the 88 counties. Of the 2,288 probationers supervised by state probation officers, only 3.4 percent (128 probationers) were resentenced to an institution as probation violators.<sup>28</sup> Comparative data on effectiveness of county probation officers were not available.

Probation for Juveniles. Supervision of juvenile probationers still remains solely under the jurisdiction of county judicial systems. Juvenile probation may be administered by different court levels depending on county judicial structures, e.g. Juvenile Court in Cuyahoga and Montgomery Counties, Probate Court in Muskingum County and Domestic Relations Court in Franklin County. The juvenile probation officers perform services similar to adult probation officers.

In 1970, there were 306 full-time and 44 part-time probation officers for juveniles. These probation officers supervised 10,904 juveniles. There is a subsidy program from juvenile probation under the Ohio

Youth Commission (OYC). In Fiscal Year 1972, 53 counties participated in the probation subsidy program of the Ohio Youth Commission. The program provides counties with financial support in employing a juvenile probation officer.

#### Community Residential Center

A Community Residential Center is a facility to which persons may be referred by a court, corrections department, the person himself, or other persons and agencies within the community. In Ohio, there are 3 basic types of Community Residential Centers: 1) group homes for juveniles referred by a) a judge in lieu of detention and b) the OYC as part of aftercare following institutionalization, 2) adult halfway houses which are usually privately owned and operated but accept referrals from courts and the Adult Parole Authority to provide a probationer, parolee, or furlougher room and board in the community, and 3) reintegration centers which are operated by the APA and serve parolees who have technically violated the provisions of parole and would otherwise be returned to prison.

Group Homes. As of 1972, the Ohio Youth Commission subsidized 24 group homes for juveniles throughout Ohio. Of this number, eight homes are for females only (33 percent), two homes are for both female and male (8 percent), and 14 homes are for male juveniles only (59 percent).

In addition, juvenile judges also utilize these homes and additional homes supported by the court or other local agency. Whenever possible, a juvenile is not removed from his home. The private homes of relatives are also preferred for juvenile placement. A Group Home for juveniles may

be used on a regional level as well as the county level.

Adult Halfway Houses. There are 16 halfway houses for adults which are subsidized by the Adult Parole Authority for placement of parolees, furloughees and prereleasees who are in the community for training or educational purposes. Only one house is for women. The 16 halfway houses have a bed capacity of 350 persons and provided services to 941 residents in fiscal year 1973. The Ohio Department of Health's Alcoholism Programming Office reports that there are 25 halfway houses for alcoholic persons in Ohio of which three are for women only. While the exact number is not available, there are other halfway houses in Ohio. For example, there is the Goodwill-Urban League Community Treatment Center in Canton, Ohio which services residents referred by the Court of Common Pleas. Unlike most halfway houses in Ohio, the Canton Center appears to have rapport with the official law enforcement and judicial agencies and a comprehensive program for residents.

Reintegration Centers. The three community reintegration centers in Ohio are located in Cleveland, Columbus, and Cincinnati. The centers represent an alternative to reincarcerating a parolee who has violated conditions of his parole, i.e. absconding, disobeying moral codes, or committing minor misdemeanors. The centers have been in operation less than one year and have served 63 parole violators.

Other possible uses of community residential houses include:

- 1) referral to a residential center such as Booth House in Fort Wayne, Indiana<sup>29</sup> instead of sending adult felons to prison<sup>30</sup>, 2) referral to a center such as the Baton Rouge Community Correctional and Research

Center for youthful offenders ages 17-22 in lieu of a state institution<sup>31</sup>, and 3) sentencing of local convictees to a residential facility such as the Ft. Des Moines Men's Residential Facility in Iowa as an alternative facility to the county jail.<sup>32</sup> In the latter case, the county jail or a regional jail is still required for residents requiring a more secure facility.

### Category 3. Detention Program Area

Detention programs involve services which are provided to persons confined in a local detention facility. There are two types of detention residents:

- 1) pre-conviction residents including those awaiting:
  - a) preliminary hearing for misdemeanants and felon arrestees,
  - b) arraignment for reading of the indictment for felon arrestees,
  - c) the outcome of the common pleas court trial for felon arrestees, and occasionally
  - d) transfer of arrestees to other venues;
- 2) post-conviction residents including those sentenced to the county jail or city workhouse to serve up to one year in most jurisdictions and convictees awaiting transfer to a state institution for longer sentences.

Detention programs need to serve both types of residents through the following program components: Work release, study release, furlough, special problem area programs, alcohol or drugs, employment counseling, family crisis intervention, religious, recreational, legal aid, prerelease planning, family group counseling, medical care and privacy factors. Selected components are discussed below.



Work Release

Work release is a program which permits selected residents to leave a jail, workhouse, institution or residential center for employment in the community with the requirement that they return to confinement during non-working hours. The concept originated from Ireland's "intermediate plan" in the mid-1800's. Under this plan, persons spent one year in confinement, a period working in the community by day and returning to prison at night and then on parole for the remainder of the sentence. Work release was experimented with in the U.S. by a New Hampshire sheriff in 1912, legislated in Wisconsin in 1913 as the Huber Law. The Huber Law authorized residents charged with misdemeanor offenses to retain their jobs while serving a jail sentence.<sup>33</sup> The first state to use work release for felons was North Carolina in 1959. In 1965, the U.S. Prisoner Rehabilitation Act of 1965 extended work release to federal prisoners. The federal act also created the use of 1) emergency furloughs for residents to return home unescorted for visits to a dying relative or funerals and 2) employment furloughs for a resident to visit his home community to contact potential employers or for other legitimate reasons.

On January 1, 1970, a work release statute was enacted in Ohio. Under the program, residents at the Cincinnati Workhouse are permitted to work in the community and return to the Workhouse during non-working hours. Salaries of the residents are used for the support of their families and themselves. During the two year period from November 19, 1971 to November 19, 1973, 254 of 289, i.e. 88 percent, residents successfully participated in work release. There were only 14 walk-aways and 21 rule-violators. Their

recidivism rate to jail was 12 percent compared to the overall workhouse rate of 65 percent.

The Department of Rehabilitation and Corrections also has a form of work release. The furlough program enables selected residents of state institutions to be placed in a residential setting in selected communities for vocational training. The state furlough program also provides for study releases. All furlougees are technically still serving their sentence, and rules and regulations are stricter for them than for parolees.

Study Release

In this program residents are placed in a community for purposes of academic study. Study release is a state correctional program. Ohio's emergence into study release was facilitated by available funds from the Federal Bureau of Prison's, Project Newgate, a program specifically for study release. Only two local corrections systems in Ohio use study release.

Special Problem Areas

Special problem areas include alcoholism, problem drinking, narcotic addiction and other drugs of abuse. Most existing educational and counseling services in these areas are provided by a chaplain or Alcoholics Anonymous. Few rural jails provide these services. Services related to drug problems are seriously lacking.

Other Detention Programs

Likewise, services related to other detention program components are lacking in local detention centers. In 1972, only 29 county jails had any form of counseling services. Only 11 counties had professional counselors and the remaining 18 jails used the services of local clergy

or church lay members.<sup>34</sup>

The 1974 Plan of the AJD includes several corrections projects with some counseling services. For example, the Franklin County Corrections Center presently has a Law Enforcement Assistance Administration funded project in which two counselors work with residents in family intervention and individual counseling. Few county and city jails have programs focusing on the problem areas which caused the resident to be in the corrections system. Whether counselors are jail staff, volunteers, or staff of community agencies, they are necessary catalysts in a comprehensive detention program.

#### Category 4. Early Release Program

Early release programs include 1) probation used in combination with detention as in split sentencing, 2) parole supervision, and 3) referral to residential centers in combination with detention. Presently, probation is used as a form of split sentencing as discussed earlier, but referral to residential centers is not used in combination with detention as a formal program on a local level. This is due largely to a lack of use of residential centers for this purpose.

Parole is used in the state correctional system and not on the local level as an early release program. This is unfortunate because parole offers one opportunity to reward residents for their good behavior and participation in detention programs. Parole for misdemeanants is utilized in Kentucky's court system to lessen overcrowded conditions in county jails.<sup>35</sup> Perhaps in Ohio a form of shock parole as used on the state level could be utilized in local correctional systems. While additional staff may be required as a

parole board, the benefits of returning selected residents to the community should be justification for a parole system on the local level.

#### Category 5. Related Community Programs

Related community programs include programs administered by agencies and organizations which interact with formal correctional programs. Examples include such private programs as Salvation Army and Volunteers of America, drug centers, United Way agencies, youth service bureaus, YMCA's, Junior League, Jaycees, related church projects, and other volunteer programs. Also included are public agencies such as welfare, health, education departments, employment bureaus, and vocational rehabilitation bureaus. Presently this program area is exceedingly underdeveloped in local correctional systems. One component that is utilized somewhat is that of volunteerism.

#### Volunteer Programs

Citizens offer a valuable resource in corrections programs. They may provide direct supportive relationships to clients<sup>36</sup>, serve as an advocate of client and system needs among the community, and facilitate utilization of community resources including inter-agency cooperation.<sup>37</sup> Dr. Ivan Scheier of the National Information Center on Volunteerism has identified over 200 roles that a volunteer can play within courts and corrections.<sup>38</sup>

In Ohio, there are approximately 100 volunteer programs associated with local corrections services. Approximately 35 percent serve adult offenders and 65 percent work with juveniles. All volunteer programs are not formally coordinated on the state level. An Ohio Association of Volunteers in

Criminal Justice is in the formative stages and should be organized early in 1974. However, the Ohio Department of Corrections and Rehabilitation has a coordinator for volunteer programs linked to state institutions. Similarly, the Ohio Youth Commission has a coordinator for juveniles. The two agencies operate in isolation from each other with little sharing of resources or experiences in the Management of Volunteer programs. On the local level, volunteer programs are often ostracized and even sabotaged by professional probation, court and parole staff who do not realize the rehabilitation benefits and cost savings of using volunteers.

The benefit of using volunteers in local corrections is attested to by Sheriff Ken Preadmore of the Ingham County Jail in Mason, Michigan. Realizing the need to provide basic counseling to residents and faced with extreme limitations in staff for these purposes, Sheriff Preadmore turned to volunteer professional assistance from other community agencies. He also formed a Sheriff's Advisory Committee of 40 representatives from area churches, news media, health and other community service organizations and departments throughout the county.<sup>39</sup>

#### RECORDS AND REPORTS

Under Section 341.02 of the Ohio Revised Code, all county sheriffs are required to keep a jail register. Information provided in this register must include:

- 1) name of prisoner
- 2) date and cause of prisoner's commitment
- 3) date and manner of discharge
- 4) sickness which prevailed in the jail during the year and the cause thereof
- 5) labor performed by prisoner and value thereof
- 6) the time and season of cleaning and painting the occupied cells
- 7) the habits of prisoners as to personal cleanliness, diet, and order
- 8) the operations of the rules prescribed by the court of common pleas
- 9) the means of literary, moral, and religious instruction (and the means of labor furnished prisoners).

In addition, Section 311.16 requires each sheriff to submit an annual report to the county commissioners. The content of the report includes all fines and costs collected in criminal prosecutions. Also, Section 341.03 states that an annual report from the jail register shall be filed with the clerk of common pleas court, the county auditor, and Secretary of State. Apparently this section is not enforced as less than a dozen agencies send reports to the Secretary of State.

Jail data is a potential resource to other components of the local criminal justice system. Criminal history data and selected personal information could facilitate 1) initial screening for diversion from detention; 2) completion

of the presentence report; 3) classification for placement in detention facilities; and 4) identification of appropriate habilitation programs and 5) transfer of information on offenders from one jurisdiction to another. Unfortunately, jail data is not suitable or readily accessible for these purposes. Reasons for this are that most jail data is out of date, incomplete, excludes disposition of previous charges, and is usually filed unsystematically. In addition, there is no separate department for corrections on the local level to compile information. A few counties have developed computerized information systems. Selected examples are CLEAR and CIRCLE. CLEAR (County Law Enforcement Applied Regionally) is a system used by 41 agencies in Hamilton County. "The CLEAR system stores a variety of information, including stolen goods, wanted persons, vehicle registration, FBI data, and county and state judicial data."<sup>40</sup> CIRCLE (Concept for Information Retrieval for Crime and Law Enforcement) is another local sub-system which is presently operational. Located in Montgomery County it is described as "a regional information center concept that includes information on crime, criminals, justice operations, and justice planning."<sup>41</sup>

The information systems that do exist in Ohio deal mainly with law enforcement or related areas. The implementation of a comprehensive information system including courts and corrections as well as law enforcement data is critically needed. The use of data for evaluation and accountability could result in dynamic changes in every component area. Presently, a statewide comprehensive information system is in developmental stages.

The discussion below describes the Criminal Justice Information System being developed, and its five major sub-systems.

### Ohio's Criminal Justice Information System

The scope of the Criminal Justice Information System (CJIS) encompasses the criminal justice process at all levels of government. The objective of the program is "to reduce delay in criminal identification and apprehension and to provide offender data to police, courts and corrections agencies so that crime can be effectively dealt with by all components of the system."<sup>42</sup> It is expected that CJIS will be operational in 1976. The five modules are described below.

LEADS is the Law Enforcement Automated Data System maintained by the Ohio State Highway Patrol. It is a sub-system which stores records from the Bureau of Motor Vehicles and maintains such information as warrants and wanted files, accident and highway data and auto alert data. LEADS serves approximately 300 law enforcement agencies in Ohio.

TRS is the Traffic Records System maintained by the Bureau of Motor Vehicles. It contains information such as vehicle registration and operator/driver records (including traffic convictions). Law Enforcement agencies are the primary users, however, when these systems are expanded other agencies such as courts could use the information to evaluate driver records before sentencing.

OBTS is the Offender Based Transaction System. It is designed to provide for tracking of individuals through each component of criminal justice systems from arrest through disposition. Examples of information include temporary detention, preliminary hearing, grand jury action, court trial, probation or incarceration, and parole data.

OCH is the Ohio Criminal Histories module which will contain identifying information on individual offenders. Data will include arrest charges, court

convictions, confinement and parole. OCH is based on the Automated Criminal Records System of the Bureau of Criminal Identification and Investigation.

UCR is the Uniform Crime Reporting program developed by the International Association of Chiefs of Police as a tool for the FBI to gather statistical data on crime. It provides an overview of crime in the U.S. based on voluntary submission of complaint and arrest data by local law enforcement agencies.

CJIS will interface with local and regional information systems, i.e., in Hamilton (CLEAR), Cuyahoga, Franklin, Lucas, and Montgomery (CIRCLE) counties. It is also being designed for participation in the National Crime Information Center's criminal history system. Important aspects of CJIS are 1) who is controlling the data at the local, state and national levels; and 2) who has access to the data and by what means. These factors are considered in Chapter III.

#### INTERGOVERNMENTAL COOPERATION

##### State-Local

Local corrections administrators relate to many state agencies for a variety of reasons. Cooperation with the Ohio Department of Rehabilitation and Correction includes the following areas:

- training offered for correction and probation officers
- transferring of convicted persons to state institutions
- facilitating the use of volunteer programs
- notifying parole officers when parolees are arrested
- referring of parolees and furloughes to community residential centers
- providing probation officers to selected counties
- assisting in the development and improvement of probation departments.

localities also cooperate with the Ohio Youth Commission which provides for: technical assistance in setting up volunteer programs; community specialists to assist communities in developing delinquency prevention programs; subsidy for probation services of juvenile courts; and subsidy for group homes for juveniles.

The Administration on Justice Division also relates to local corrections systems by stimulating the development and funding of innovative projects in all aspects of corrections including -- diversion, alternatives to detention, regional detention centers, work release, halfway houses, probation, and other related components.

Other relationships occasionally involve such state departments as:

- the Health Department (example, Alcoholism Programming Office projects)
- the Mental Health Department (example, Bureau of Drug Abuse projects)
- the Department of Transportation (examples, Automobile Safety and Alcoholism Program projects)
- the Vocational Rehabilitation Department

Although many types of assistance are available to localities in areas relating to the jail, Commission study data revealed that state assistance to counties, as reported by counties, is primarily in the areas of training and information about prisoners. Counties responded that additional assistance relating to the jail is needed in the following areas:

- planning and programming for facility
- funding for jail maintenance
- legislation including appropriations to establish ratios of number of deputies to population size of counties

- development of regional holding centers
- distribution of information on modern techniques in corrections.

Some respondents indicated that the best way the state could assist localities is to improve the parole system and to expand assistance to local county and city jails in developing probation systems. Suggestions for improvements of parole and probation centered on the need to 1) standardize procedures and exchange of information; 2) reduce caseloads in both systems and 3) utilize local manpower resources for supervision of offenders. An important area of state-local cooperation which needs development is the sharing of information when convictees are transferred to state institutions. Local officials have stated that many times they are unaware of immediate personal, emotional and/or medical problems of convictees. However, the only information which is forwarded to state administrators of institutions is the court disposition and the sentence. Both local and state correctional administrators have stated that duplication of effort in collecting background information on prisoners results from this lack of proper communication.

#### County-County

Most sheriffs feel that inter-county cooperation is needed due to the mobility of criminals. One sheriff states that "cooperation between neighboring sheriffs and other law enforcement agencies is the only efficient way to control crime." Some sheriffs stress the importance of working with neighboring counties because of manpower shortages. Cooperation includes assistance in detection and pursuit of offenders and exchange of general information. Rural counties often exchange information on prisoners' records, new programs for jails, training and possible funding sources. Williams County is one example of inter-county cooperation through participation in monthly meetings with officials of three other counties.

An important type of cooperation between counties and other jurisdictions is the formal or informal agreements to accept inmates. The commission study data indicated that most jail facilities (especially county jails) accept inmates from one or more jurisdictions. Most arrangements are not contractual, however, fees are charged per prisoner per day ranging from \$.75 to \$25.00. Questionnaire respondents indicated that most of the money received for holding prisoners is accredited to the county budget for general purposes and not directed into their budgets.

This chapter has described existing conditions in the local corrections system. Along the way, several need areas have been identified. To address the problems of local corrections, several recommendations are discussed in the following chapter.

## CHAPTER III

### FUTURE DIRECTIONS

The preceding discussion presented a number of need areas of local corrections systems. This chapter discusses recommendations related to the following need areas:

- minimum jail standards
- community-based corrections
- screening and classification of prisoners
- certification of correctional officers
- criminal justice information system.

#### Minimum Jail Standards

The Ohio Revised Code, Section 341.06 provides a limited number of requirements for jails. The Court of Common Pleas prescribes rules for regulating and governing county jails. These rules are based upon the following areas:

- A. The cleanliness of the prison and prisoners;
- B. The classification of prisoners as to sex, age, crime, idiocy, lunacy, and insanity;
- C. Bed and clothing;
- D. Heating, lighting, and ventilating the prison;
- E. The employment of medical or surgical aid, when necessary;
- F. The employment, temperance, and instruction of the prisoners;
- G. The supplying of each prisoner with a copy of the Bible;
- H. The intercourse between prisoners and their counsel, and other prisoners;
- I. The punishment of prisoners for violation of the rules of the prison;
- J. Other rules necessary to promote the welfare of the prisoners.

These standards, however, only relate to provisions for facilities; there is no provision in the code for standards relating to programs. The Ohio legislature has the authority to prescribe additional standards for local jails and to provide for state-level inspection. However, there are no established procedures for enforcement of standard requirements.

The Statewide Jail Standards and Inspection Systems Project, administered through the American Bar Association, has taken a leadership position in encouraging the establishment of strong inspection and standards systems. Some states have recognized the need for such a system. The California State Board of Corrections Minimum Jail Standards deal with administration, construction of physical plant, and the jail programs. The standards include at least the following areas: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training.

The California action further provides that those involved in establishing such standards should include:

- physicians, local public health officials, and the State Department of Public Health;
- State Fire Marshal, local fire officials, and other interested persons;
- The Department of Corrections, the Department of Youth Authority, local juvenile justice commissions, local correctional officials, experts in criminology, penology, and psychiatry,
- the Commission on Peace Officer Standards and Training.

Illinois has also legislated standards and inspection for jails. In addition to the areas referred to in the California standards, Illinois provides standards relating to the legal rights of the accused while in custody, segregation and prisoner rights.

Within the past two years New York, South Carolina and Arkansas have also taken action and legislated standards for jails.

The most complete set of standards for corrections was developed by the National Advisory Commission on Criminal Justice Standards and Goals. Its report on corrections is presented in four parts:

1. Setting for Corrections - rights of offenders, pretrial release and detention, sentencing, and classification of offenders;
2. Correctional Programs - corrections and the community, local adult institutions, juvenile intake and detention, probation and parole;
3. Cross-section of Corrections - manpower for corrections, organization and administration, research and development, information and statistics;
4. Directions for Change - priorities and implementation strategies.<sup>43</sup>

The Administration of Justice Division is working toward implementing these standards and goals in Ohio. In June, 1973, a workshop was held to analyze the standards reports and to determine the direction Ohio can take to combat crime through the use of these standards.

AJD has also contracted with The Ohio State University through the Program for the Study of Crime and Delinquency to review all standards and goals of the National Advisory Commission. The effort encompasses identification of positions taken by other associations and organizations regarding the adequacy and appropriateness of these national standards. A second emphasis is placed on describing the status of Ohio's criminal justice system in relationship to the national standards.



### Community-Based Corrections

A corrections system is a coordinated process consisting of activities primarily directed toward reintegration of the offender into the community. The reintegration process involves the 99 percent of arrested persons who will return to community life.<sup>44</sup>

As traditional approaches to resocializing offenders and preparing them for community life have failed, common sense supports an emphasis on community-based programs at all points in the correctional process. It is not necessary to reiterate the lengthy list of national commissions and professional experts who have propogandized the use of community resources and the planning of community programs to serve persons within the correctional process including staff related criminal justice agencies and correctional staff. It is necessary, however, to note the failure of leaders within local corrections systems to take action in developing and utilizing community-based programs in Ohio.

The status quo may be attributed to a number of factors including inadequate funding, poorly trained staff, lack of objectives for corrections systems and a hesistancy to involve citizens in the correctional process. Perhaps the most serious factor is the lack of a clear definition of community-based programs and an understanding of their utility in present and future corrections systems.

The concept of community-based programs as discussed in this report involves three types of community-based programs:

1. Programs administered by agencies within the local corrections system, such as, a jail or workhouse, probation department, or bail agency.
2. Programs administered by a related criminal justice agency, such as the Adult Parole Authority and Community Services Office of ODRC.
3. Programs administered by a non-criminal justice agency, such as a United Way agency, employment bureau, vocational rehabilitation, Alcoholics Anonymous, detoxification centers, and community health centers.

Community-based programs may be administered by private or public agencies and organizations. They may operate under Ohio Statutes, municipal ordinances, formal contract or informal agreement among selected agencies.

Services of a community-based program may be provided to persons at any point within the correctional system from the point of entry through the detention period to the point of release from the jurisdiction of a correctional agency.

A few local corrections systems in Ohio have a community-based program as discussed in Chapter II. Many more programs are needed in all corrections systems. Furthermore, community-based programs need to be systematically integrated into the correctional process.

One highly regarded project on a coordinated approach to community-based programs is the community corrections program in Des Moines, Iowa.<sup>45</sup> Originating on a county level, the Des Moines program consists of a pre-trial release program (release on recognizance, ROR), a supervised pre-trial release program, a county probation and pre-sentence investigation unit, a men's residential facility and a women's residential facility.

Initially, the project was administered within one county's department of court services. Presently, the program is on a multi-county level.

The pre-trial components, ROR and supervised release, were primarily developed by a group of concerned citizens including defense and prosecuting attorneys, judges, journalists, and other interested citizens. Neither ROR or supervised release requires a cash bond as in bail programs in most Ohio jurisdictions. A point system is used to determine eligibility for these release programs.

It should be noted that the only services provided to releasees are one-to-one counseling, referral and some job placement. All other services are provided by community agencies through referral. These services include: vocational rehabilitation, medical, psychiatric, specialized counseling on family, financial and other problems, and job placement.

The success of the two programs of pre-trial release has demonstrated that the ability to pay cash bond or the use of bail to encourage court appearances are not valid criteria for pre-trial release of arrested persons. This finding is substantiated by the Bail Agency Project of Washington, D.C.<sup>46</sup> and the forerunner of an ROR program, the Vera-Manhattan Bail Reform Project of New York.<sup>47</sup>

An added advantage of the supervised release programs is the assistance provided to participants whereby special problem areas which would impede probation of convicted persons are often resolved. The main advantage of the pre-trial release programs is that arrestees may remain in the community as an alternative to incarceration.

Probation supervision services are provided in sixteen counties in the Des Moines Program area (Fifth Judicial District). Probation is used as one disposition for indictable misdemeanors and convictions. The probation unit also conducts the pre-sentence investigations for disposition of convictees.

The residential facilities of the Des Moines Program for men and women are non-secure. Residents include offenders convicted of offenses ranging from murder to marijuana possession. The residential facilities also provide temporary shelter for homeless probationers and supervised pre-trial releases. As in the other program components, most services of the residential facilities are provided through community resources and agencies. While county jails are still administered by sheriff departments, the facilities are administered by the Polk County Department of Social Services. This authority was created by state statute and provided that county officials could designate any facility as a county jail and could determine the administering agency.

The Des Moines Program represents one constellation of community-based programs coordinated with selected components of a local corrections system. An appropriate design for local systems in Ohio should also include other program components as discussed in Chapter II.

#### Screening and Classification of Prisoners

When an arrestee is presented for booking in a local jail, the intake procedures should include screening and classification of the arrestee. The primary role of the screening process is to channel arrestees into appropriate components of community-based programs. Additional roles include: 1) providing crisis service to arrestees and their families; 2) collecting information useful for subsequent pre-sentence investigations; 3) provision of diagnostic services

services related to classification of arrestees selected for detention; and 4) immediate referral to other facilities for emergency medical care.

The primary purposes of classification are to place arrestees selected for detention in appropriate secure areas of the facility, to provide for different statuses of confinement, and to facilitate the provision of services appropriate to resident needs. Appropriate placement of arrestees is related to 1) statutory requirements including separation of juveniles and adults, and males and females; and 2) security aspects of the facility including movement of residents, and access to residents by community-based program staff. Providing for different status also relates to both placement and community-based programs. The types of resident status include those 1) awaiting a preliminary hearing, indictment and sentencing, or extradition to other jurisdictions; 2) preparing for release and 3) participating in community-based programs.

Access to residents by community service agents is essential to community-based programs in which the resident enters the community for service or in which a community agent enters the corrections facility. Both types of interaction are related to providing services appropriate to resident needs.

The classification process would identify need areas of residents including drug or alcohol problems, job training, medical and psychological problems, and other need areas which can be approached during the detention period.

Reliance on community-based programs should be emphasized when approaching and meeting needs of residents.

Screening and classification should be conducted in an intake center which may be viewed as an extension of county and city jails.<sup>48</sup> In large urban areas, one center could serve both the county and city jails or a combined county-city corrections facility such as exists in Akron, Ohio. In rural areas, an intake center may serve more than one county depending on numbers of arrestees and availability of funds.

Several local jurisdictions across the U.S. have some form of screening and classification process. In the Bucks County Prison of Pennsylvania, Warden John Case stresses an intake interview procedure which is used within 24 hours of residency. Sheriff Ken Preadmore of the Ingham County Jail in Michigan also uses an intake interview for purposes of referral to community-based programs. The Washington, D.C. Department of Corrections uses counseling for crisis problem solving. These programs were discussed in more detail in Chapter II.

Likewise, there are a few multi-county corrections systems in which a screening and classification process is stressed at intake. The Des Moines, Iowa program was discussed earlier as an exemplary program. A second model is the Community Corrections and Research Center in Baton Rouge, La.<sup>49</sup> It serves a 12-county (parish) area and also emphasizes community-based programs. The Baton Rouge intake center, utilizes both community and corrections resources in evaluating each arrestee for possible referral to a community-based program.

### Multi-Jurisdictional Systems

Presently, attempts by local leadership to operate a corrections system may best be described as a shotgun approach to corrections. While some law enforcement agencies are consolidating selected services with similar agencies, little coordination exists among and within jurisdictions in corrections systems. This status contributes to duplication of effort and when combined with funding constraints, limits availability of adequate habilitation programs.

Present ordering of services to offenders is haphazard. Flow of information necessary for classification of jail residents, community programming of probationers, releasees, and bailees, disposition of convictees and the functioning of other correctional components is practically nonexistent and utilization of community-based programs is near stagnation.

A shotgun approach is not sufficient. Accordingly, two approaches to a coordinated corrections system are recommended: a network and a cluster approach. Both approaches require multi-jurisdictional programming for consolidation of services to facilitate efficient flow of persons through the corrections system and effective delivery of services by system components.

The cluster approach involves centralization of the components of a corrections system. In the cluster approach, most services are coordinated by a team of core staff at one or more separate locations. Functionally, the core staff coordinate the handling of arrestees from booking through release. This includes initial screening for diversion programs, classification for detention programs, and utilization of community-based programs. The cluster approach is most appropriate for a county-wide corrections system in which

city and county jurisdictions have consolidated their corrections service delivery systems, such as, the San Joaquin County Model Community Correctional Program.

Ohio has begun to move in this direction in several counties. Feasibility studies to determine regional correctional needs include projects in Clermont, Lucas, Wood, Franklin, Cuyahoga and Geauga counties; a five-county area of Erie, Huron, Ottawa, Seneca and Sandusky; and a three-county area of Wayne, Holmes and Medina.

However, it is noted that we are slow to abandon the shotgun approach. Emphasis is still placed on detention facilities rather than community services or on segments of a corrections system rather than total systems planning and coordination.

The network approach is the preferred direction for future consolidation of services. Like the cluster approach, the objective is to improve the efficiency and effectiveness of local corrections systems through coordination of and cooperation among jurisdictions.

The network approach differs from the cluster approach in that 1) several counties are involved in selected service delivery components, 2) more than one group of core staff affect the flow of offenders through selected components, 3) short-term holding facilities of the corrections systems are dispersed throughout the multi-county area, and 4) a long-term holding facility serves the entire area.

The Des Moines, Iowa community corrections program as discussed earlier, is an example of a network approach to a corrections system. Variations of the

network approach exist in North and South Carolina in which one facility has replaced several county jails. Ohio is moving toward the network approach.

The 1974 Plan of AJD includes a project to study the feasibility of a multi-county corrections system in Southeastern Ohio involving 10 counties. Three Northeastern counties are considering consolidating delivery of selected services to offenders, that is, psychological services, work release and other components.

The AJD also provides funding incentives to encourage units of local government to coordinate and combine services and facilities by 1) giving priority to multi-jurisdictional projects, 2) requiring specific program components in 1974 projects, and 3) requiring coordination with other local and State programs, that is, AJD alcohol projects coordinate with the Ohio Department of Health.

For example, projects requesting funds for planning and constructing correctional facilities must provide that the new facility will serve a populated area of at least 150,000 persons.

AJD's 1974 Plan included nine projects in the category of consolidation of services. These projects represent a total of \$2,764,463 including the federal, state and local matches involving at least 12 counties. The 1974 projects are indicative of the trend toward multi-jurisdictional corrections systems. A model multi-jurisdictional corrections system is presented in Appendix 1 for further reference on this discussion.

#### Certification of Correctional Officers

At present no separate, formal training for local correctional officers exists in Ohio. The training provided for those controlling the jails is through the

Ohio Peace Officers Training Council which emphasizes law enforcement training with a limited number of hours devoted to related correctional study. This emphasis creates a confusion for the officers responsible for jails. There is no clearly defined role for the officers - are they to punish, oversee or rehabilitate? The decision is left to the individual and his supervisor.

Jail personnel are frequently characterized as having a limited amount of education and a background that usually includes a heavy focus on military and/or law enforcement involvement. Exceptions to this situation occur mostly in large urban areas where financial support for staff development is available. With the new shift in direction to community-based programs it is expected that the requirements and characteristics of those supervising inmates or residents will change.

Regardless of the trend toward community-based corrections, the need for jail supervision will continue. Some of the components of training for correctional officers, whether in the jail or community setting, should include courses in such areas as human relations, group interaction, and the detection of special problems relating to drug abuse, alcoholism, medical needs, etc. Furthermore, correctional training should take place before the person assumes full-time responsibility. Scheduling is important when developing a training program for those already employed. If a person must be removed from duty with no replacement available, the training opportunity will probably not be utilized.

If training and educational standards are improved then salary for corrections officers must also improve. At present, state correctional officers have the

lowest starting salaries as compared to highway patrolmen and police patrolmen. Table 9. illustrates this comparison.

Table 9. Starting Annual Salaries of Ohio Highway Patrolmen, Policemen and Correctional Officers<sup>51</sup>

Profession	Year	Starting Salary
Highway Patrolman	7/1/73	\$10,650
Police Patrolman	7/1/73	8,466*
Correctional Officer	7/1/73	6,802

\* Columbus Police Department figure which is fairly representative of the State.

Although this table relates to state salaries it is commensurate with salaries paid at the local level to those directly or indirectly related to correctional services, such as, probation and parole officers, sheriffs deputies, and wardens. Commission interview data indicates that annual starting salaries for local correctional staff ranges from \$6000 to \$9000. The correctional training program used most often by local officials is the U.S. Bureau of Prisons, "Jail Training Course." Developed in 1971, it is "a flexible package designed to meet the basic training needs of both jail officers and jail administrators."<sup>52</sup> The course consists of a series of 12 paperback books, six dealing with the basic jailer training course and six directed to training for jail administrators.

Although this program has been used and praised by many it is one of a few of its kind. Techniques for correctional training are either not being readily developed or are not being adequately shared among counties or states. It should be noted that the Hamilton County Sheriff Department uses a video tape system for training purposes. The indication is that not only is correc-

tional training needed but also the development of more correctional training programs which are flexible enough to be adapted and utilized by local officials.

Ohio AJD has proposed a goal of providing 80 hours of pre-service training and 20 hours of in-service training to all correctional personnel on an annual basis by 1976. The 1974 budget has provided for the establishment of a state university operated in-service training program for 500 local probation and parole personnel. Continued support will be provided for in-service training of staff in large city workhouses and for correctional staff in Administrative Planning District IV (APD IV).

Funding for regional criminal justice training projects include:

- the Dayton-Montgomery County project which will offer training to over 50 separate criminal justice agencies; these agencies employ over 1,200 full-time personnel, of which 300 are correctional personnel.
- the Toledo-Lucas County project will offer police, courts and corrections staff in-service training and will review new developments in each field.
- The North Star COG area training program will service a five-county project; funding will be provided for equipment and seminar training for approximately 75-100 criminal justice personnel.

#### Criminal Justice Information System

These are the days of the computer. Technology and human genius have produced many beneficial applications of electronic data processing (EDP) capabilities in space exploration, educational learning, national defense, multi-phasic health diagnoses, accounting systems and many more areas. In recent years, the computer has come to play a major role in law enforcement. LEADA, CLEAR, TRS, ACRS, ALECS, and LETS are acronyms for computerized systems utilized by Ohio law enforcement agencies. These systems have made police work more efficient in preserving the peace and protecting the community.

Many jurisdictions have cooperated in developing, maintaining and operating computerized law enforcement information systems.

Noting the apparent utility of electronic data processing in carrying out police functions, correctional and judicial leaders have also initiated activities to use the computer to maximize operation of their records system and scheduling processes.

To date, the design and use of computerized information systems have been based on the needs of agencies within the criminal justice system. Little action has been taken to protect the privacy rights of individuals, to address the issues of confidentiality of data, or to provide for verification and maintenance of up-to-date data in the information system.

The Corrections Task Force recognized the utility of computerized information systems in combating crime and rehabilitating offenders. However, the Task Force emphasized the necessity of appropriate safeguards regarding confidentiality and security of all criminal justice information systems.

Accordingly, the use of existing and future information systems must be scrutinized and regulated appropriately. Indiscriminate access to data must cease. Furthermore, individuals must be allowed to review and comment upon data in their files and control its distribution to non-criminal justice sources. Other safeguards for privacy should also be considered by planners and operators of criminal justice information systems.

Both the Senate and House of Representatives of the 93rd Congress are considering possible regulations for computerized criminal history information systems.<sup>53</sup> This Congressional action was prompted by the controversial use



of information of the National Crime Information Center, NCIC, presently operated by the Federal Bureau of Investigation.<sup>54</sup> The NCIC has over 4.2 million records on wanted persons (felonies and serious misdemeanants), stolen vehicles, and other data. The concept of NCIC is one of a national index and centralized data bank for use by law enforcement agencies throughout the country. Currently, six states have state information systems that interface with NCIC. The computerized criminal history (CCH) data of NCIC is designed to be instantly available to any qualified agency in the criminal justice system in any state. This capability is intended to address mobility and recidivism of criminal offenders.

It is anticipated that the NCIC data bank will be expanded to include offender disposition data due to the 1973 amendments to the Omnibus Crime Control and Safe Streets Act.<sup>55</sup> Thus, the NCIC has the propensity of becoming a master data bank. This may provide the opportunity for improved law enforcement functions, the development of crime indicators, and assessment of the criminal justice systems. However, great opportunities may also arise to prostitute the NCIC concept and abuse individual rights to privacy and confidentiality of personal information.

The State of Massachusetts has taken bold steps to control access to its criminal history data banks. It limits access to law enforcement and other criminal justice agencies and permits little access to other agencies. That is, information requests are cautiously screened to assure appropriate use.

Massachusetts' action caused adverse reactions from the FBI, which grants access to NCIC files to such federal agencies as the Post Office, Defense Department, Small Businessman's Bureau and other agencies. While the FBI controls distribution of data to federal agencies, it has had no control over the subsequent

distribution or use of the information by the federal agencies. This appears to be an insecure practice.

The above issues and other related concerns are part of the review being made by Senator Ervin's and Representative Edwards' Committees. Ohio should make a similar study of the use of information systems on both the state and local level.

Special attention must be given to CJIS, Ohio's criminal justice information system presently being developed. CJIS is designed to provide a data base to all police, courts, and corrections agencies within Ohio. CJIS will probably be part of the NCIC criminal history system and will also interface with local and regional information systems, that is, in Hamilton, Cuyahoga, Franklin, Lucas, and Montgomery counties.

A 14 member Steering Committee guiding the development of CJIS consists of representatives of the following:

1. Department of Economic and Community Development
2. Attorney General
3. Department of Highway Safety
4. Department of Finance
5. Department of Rehabilitation and Correction
6. Supreme Court
7. Buckeye State Sheriffs Association
8. Ohio Association of Chiefs of Police, Inc.
- 9-14. Regional Planning Units

In summary, information systems may be significant aids in realizing 1) equity and justice to arrestees, 2) efficient functioning of law enforcement, courts and corrections systems, 3) effective delivery of services to persons served by the criminal system, 4) comprehensive planning of crime prevention and offender habilitation, and 5) judicious management of criminal justice systems.

However, the scope and content of criminal history information systems are threatening to the average citizen's perception of privacy and represent a serious potential for loss of confidentiality and abuse by users. Accordingly, the "Crime Control Act of 1973" places the responsibility on the Law Enforcement Assistance Administration to provide "for the security and privacy of all criminal history information and that it shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction."<sup>56</sup>

It remains to be seen how Ohio will safeguard the confidentiality and security of its criminal justice information system.

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## APPENDIX A

## A MODEL FOR A MULTI-JURISDICTIONAL CORRECTIONS SYSTEM

by

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to

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A local corrections system may be viewed in terms of four broad objectives as follows:

1. To detain persons judged harmful to themselves or their community
2. To detain persons who might abscond pending trial
3. To punish persons for a criminal offense
4. To habilitate persons as a form of crime control and prevention

Traditionally the responsibility for accomplishing these objectives has been placed upon county sheriffs and local police chiefs. They in turn have delegated the operational routines of a corrections system to their subordinates. The facility selected as a focus of staff in carrying out the activities of a corrections system has been the jail. While the jail has been an historical site for jailer activities related to objectives 1, 2, and 3, it is usually inappropriate for objective 4. Numerous research studies and professional literature sources have shown the ineffectiveness of jails as habilitative loci. Furthermore, recent national commissions and corrections experts have questioned the utility of punishment in jails (objective 3) and the indiscriminate practices related to detention in jails (objectives 1 and 2).<sup>1,2</sup>

Close scrutiny of local practices usually shows that a jail and local correctional activities do not constitute a corrections system. Many jail programs suffer from archaic physical structures; untrained or poorly trained staff; lack of unity in purpose of jail operations; insufficient funding; inadequate communication of jailers with judges, probation officers, prosecuting attorneys, families of offenders and other law enforcement agencies; as well as other constraints to efficient operation and effective programs. In fact, most jail systems are not corrections systems, but rather disjointed segments of punitive procedures and dehumanizing detention practices.

A corrections system should be a coordinated process consisting of activities primarily directed toward habilitation and reintegration of the offender into the community. This process involves the 99 percent of arrested persons who will return to community life.<sup>3</sup> Present attempts by local leadership to operate a corrections system can best be described as a shotgun approach to corrections. While some law enforcement agencies are consolidating selected services among similar agencies, little coordination exists among and within jurisdictions in corrections systems. This status contributes to duplication of effort and when combined with funding constraints, limits availability of adequate habilitation programs.

Present ordering of services to offenders is haphazard in most local corrections systems. Flow of information necessary for classification of jail residents, community programming for probationers, releasees, and bailees, disposition

of convictees and the functioning of other correctional components is practically nonexistent and utilization of community-based programs is near stagnation. A shotgun approach is not sufficient. Accordingly, this paper presents a model for a multi-jurisdictional corrections system as a means of changing the status of corrections on the local level.

### THE CONCEPT

A multi-jurisdictional corrections system, MJCS, is a corrections system designed to serve citizens of more than one jurisdiction. A model MJCS is a system with an orderly collection of interrelated components with activities structured through shared objectives. This systems approach to a MJCS represents a logical way of thinking about all the social, legal, educational, health and other community components of a MJCS. Each component is viewed as being interrelated with all other components. The components interact in either a functional or dysfunctional manner with respect to the MJCS objectives.

The MJCS concept is based on a social justice system philosophy which focuses on the needs and rights of individuals, segments of society, and society itself. A social justice system deals with the questions of individual rights versus societal order; discriminatory justice versus blind justice; minority group needs versus the larger societal preferences; human needs versus organizational survival, humane treatment versus social retaliation, and enlightened change versus system inertia.

A social justice system is also a system in which individual needs and rights are consciously and consistently coordinated and synthesized with organizational goals and practices. Thus, there is a systematic ordering of organizational functions and activities to provide for the welfare of individuals served by the system. As such it may be viewed as a welfare system in that it is organized activity for the promotion of social well-being through helping people to meet basic human needs. An individual's needs include food, clothing and shelter. In addition to these universal needs, there are also individual needs for (1) intellectual growth as related to one's analytical reasoning and creativity, (2) effective relationships of love, and (3) self-realization of one's potential as a human being.

#### Why have a Social Justice System Philosophy for a MJCS?

Marxians use the term social justice in terms of equal distribution of economic income. City planners and geographers use it to refer to equitable distribution of space in an urban area.<sup>4</sup> This author uses the term social justice in a systemic sense to describe the interrelationships of the components of the criminal justice system -- law enforcement, courts, corrections, and related components of other social welfare areas -- involved in the prevention, detection, and control of crime as well as the diversion, treatment, and habilitation of individuals

who come in contact with the criminal justice system. Hence, the perspective of justice is based on a criminal justice system orientation and the perspective of social system is based on a social welfare orientation. A social justice system for offenders, then, is a group of organized activities and services focused on the common purpose of meeting needs of troubled persons within the criminal justice systems.

The social justice system concept also takes into consideration the right of individuals. These rights include the right of legal counsel, speedy hearing process, determinate sentence and other rights as recommended by the American Civil Liberties Union, landmark Supreme Court decisions, and the reports of the National Advisory Commission on Criminal Justice Standards and Goals.

How is an MJCS organized to meet individual needs? This question will be addressed later in the paper. For present purposes, it is defined as a set of activities and components organized around a unifying purpose to meet individual needs. Thus, individuals are served by a MJCS. Service may be remote or immediate. For example, remote or indirect service may be protection of society by correctional organizations which isolate a dangerous offender from the community: indirect service is provided to the community. At the same time, the correctional organization provides immediate or direct service to the offender through daily operations. Other examples could be drawn from educational, economic, health, public assistance and other areas. Obviously, service systems may emphasize one form of service more than the other. Which form is emphasized more varies with such factors as public priorities, organizational goals, service commodities, staff and leadership orientations, economic constraints, legislative interpretations, and technological developments.

Perhaps the underlying philosophy of the MJCS concept will best be understood if we continue to view a MJCS from a systems approach.

#### A SYSTEMS APPROACH TO A MJCS

As noted earlier, a systems approach to an MJCS is a logical way of thinking about all the components of the MJCS in which each component is viewed as being interrelated with all other components. Because the nature of interaction among the MJCS components is not precisely controlled and the cause-effect relationship of components upon agency staff and individuals has not been empirically demonstrated, a MJCS is an open system. An open-system description of a MJCS accounts for the interaction among police, judges, and probation officers of the criminal justice system, private organizations' counselors and staff of other community agencies.

A MJCS viewed as an open system has three main functions: input (the referral mechanisms), process (the handling of arrestees) and output (the phasing out of individuals from the criminal justice system). As an open system, it is in constant interaction with its environment, taking in staff, funds, and other resources, people energy, and information.

It transforms these resources into products and services which are exported within the community environment. Thus, a MJCS may be conceived of as a system with multiple functions which involve multiple interactions between the system's components and the environment or community.

It should be noted from the above discussion that a MJCS requires an emphasis on community resources. Let's examine the role of community-based programs within a corrections system.

#### Community-Based Programs

There is no absolute definition of a community-based program. However, a community-based program may be generally defined as a program in which an offender receives services from staff of community agencies and organizations or participates in community activities through cooperative arrangements between corrections systems and community agencies.

A MJCS involves three types of community-based programs.

1. Programs administered by agencies within the local corrections system, that is, a jail or workhouse, probation department or bail agency.
2. Programs administered by a related criminal justice agency, that is, the Adult Parole Authority and Community Services Office of the State Department of Rehabilitation and Correction.
3. Programs administered by a non-criminal justice agency, that is, a United Way agency, employment bureau, vocational rehabilitation, Alcoholics Anonymous, detoxification centers, and community mental health centers.

Access to jail residents by community service agents is essential to community-based programs in which the resident enters the community for service or in which a community agent enters the corrections facility to provide service. Both types of interaction are related to providing services appropriate to resident needs. Thus, community-based programs need to be systematically integrated into the correctional process. Services of a community-based program may be provided to persons at any point within a corrections system from the point of entry through the detention period to the point of release from the jurisdiction of a correctional agency. This propensity is noted throughout the following discussion on the structure of a MJCS.

#### SYSTEM STRUCTURE

There are two approaches to a coordinated corrections system: a network and a cluster approach. Both approaches require multi-jurisdictional programming for consolidation of services to facilitate efficient flow of persons through the corrections system and effective delivery of

services by system components.

#### Cluster Approach

The cluster approach involves centralization of the components of a corrections system. In the cluster approach, most services are coordinated by a team of core staff through one central location. Functionally, the core staff coordinate the handling of arrestees from booking through release activities. This includes initial screening for referral to diversion programs, classification for detention programs, and utilization of community-based programs. The cluster approach is most appropriate for a county-wide corrections system in which city and county jurisdictions have consolidated their corrections service delivery system, such as, the San Joaquin County Model Community Correctional Program in California.<sup>5</sup>

#### Network Approach

The network approach is the preferred direction for future consolidation of services. Like the cluster approach, the objective is to improve the efficiency and effectiveness of local corrections systems through coordination of and cooperation among jurisdictions.

The network approach differs from the cluster approach in that 1) several counties are involved in selected service delivery components, 2) more than one group of core staff affect the flow of offenders through selected components, 3) short-term holding facilities of the corrections systems are dispersed throughout the multi-county area, and 4) a long-term holding facility serves the entire area.

The Des Moines, Iowa Community Corrections Program is an example of a network approach to a corrections system.<sup>6</sup> Originating within one county's department of court services, the Des Moines program consists of a pre-trial release program (release on recognizance, ROR), a supervised pre-trial release program, a county probation and pre-sentence investigation unit, a men's residential facility and a women's residential facility. The program covers a 16 county area of the Fifth Judicial District of Iowa.

The pre-trial components, ROR and supervised release, were primarily developed by a group of concerned citizens including defense and prosecuting attorneys, judges, journalists, and other interested citizens. Neither ROR or supervised release requires a cash bond. A point system is used to determine eligibility for these release programs.

It should be noted that the only services provided by staff to supervised releasees are one-to-one counseling, referral and some job placement. All other services are provided by community agencies through referral. These services include: vocational rehabilitation, medical, psychiatric, specialized counseling on family, financial, and job placement and other problems. An added advantage of the supervised release programs is the assistance provided to participants whereby special problem areas which would impede probation of convicted persons are often resolved. The

main advantage of the pre-trial release programs is arrestees may remain in the community as an alternative to incarceration.

Probation supervision is used as one alternative disposition for convicted misdemeanors and felons. The probation unit also conducts the pre-sentence investigations for disposition of convictees.

The residential facilities of the Des Moines Program for men and women are non-secure. Residents include offenders convicted of offenses ranging from murder to marijuana possession. The residential facilities also provide temporary shelter for homeless probationers and supervised pre-trial release. As in the other program components, most services of the residential facilities are provided through community resources and agencies. While county jails are still administered by sheriff departments, the residential facilities are administered by the Polk County Department of Social Services. This authority was created by state statute and provided that county officials could designate any facility as a county jail and could determine the administering agency.

The Des Moines Program represents one network constellation of a community-based program coordinated with selected components of a local corrections system. A second example of a MJCS is the Community Corrections and Research Center in Baton Rouge, Louisiana. It serves a 12-county (parish) area and also emphasizes community-based programs. The Baton Rouge intake center utilizes both community and corrections resources in evaluating each arrestee for possible referral to a community-based program. Other examples of multi-county corrections systems may be found in North Carolina<sup>8</sup>, South Carolina<sup>9</sup>, and Hawaii<sup>10</sup>.

#### A SUGGESTED MJCS STRUCTURE FOR OHIO

Both the cluster and network approaches may be adopted for use in Ohio. The cluster approach is appropriate for metropolitan areas and the network approach is more relevant for rural areas. A combined approach may be preferred for use by semi-urban counties adjacent to a metropolitan area.

Irrespective of the approach selected, a MJCS should have the following structural elements:

1. Intake Center for screening and classification purposes;
2. Program components;
3. Detention facilities for both short-term and long-term detention periods.

#### Intake Center

The intake center is the heart of a MJCS. An intake center may be viewed as an extension of county and city jail facilities, as an expansion of jail booking activities, and as an exchange of community services linkages. In large urban areas, one center could serve both the county and city jails or a combined county-city corrections facility such as exists in Akron, Ohio,<sup>11</sup> Miami, Florida,<sup>12</sup> and other areas. In rural areas, an intake center may serve more than one county depending on numbers of arrestees and availability

of funds. When an arrestee is presented for booking, intake procedures should include screening and classification.

The primary role of the screening process is to channel arrestees into appropriate components of community-based programs. Additional roles include: 1) providing crisis service to arrestees and their families; 2) collecting information useful for subsequent pre-sentence investigation; 3) provision of diagnostic services related to classification of arrestees selected for detention; and 4) immediate referral to other facilities for emergency medical or psychiatric care.

The primary purposes of classification are to place arrestees selected for detention in appropriate secure areas of the facility, to provide for different statuses of confinement, and to facilitate the provision of services appropriate to resident needs. Appropriate placement of arrestees is related to 1) statutory requirements including separation of juveniles and adults, and males and females; and 2) security aspects of the facility including movement of residents and access to residents by community-based program staff.

The intake process would also identify need areas of residents including drug or alcohol problems, job training, medical and psychological problems, and other need areas which can be dealt with during the detention period or within community-based programs.

Several local jurisdictions across the U.S. have some form of screening and classification process. In the Bucks County Prison of Pennsylvania, Warden John Case stresses an intake interview procedure which is used within 24 hours of residency.<sup>13</sup> Sheriff Ken Preadmore of the Ingham County Jail in Michigan also uses an intake interview for purposes of referral to community-based programs.<sup>14</sup>

#### Program Components Of A MJCS

Correctional programs may be classified into five broad categorical areas. The broad categorical areas are: 1) Diversion, 2) Alternatives to Detention, 3) Detention, 4) Early Release, and 5) Related Community Programs. These five program areas are discussed below in terms of their function in local adult correctional systems in Ohio from the perspective of the individual during the sequential steps in the correctional process. The discussion is based on the following classification of persons handled by a corrections system:

1. Arrestee: a person apprehended in a criminal act and/or charged with a criminal act. This label may be used from the point of arrest through indictment to conviction and sentencing processes.
2. Convictee: a person who is judged guilty, pleads nolo contendere, or confesses to a criminal act and who is awaiting sentencing by a judge.

3. Probationer: a person placed in the community under supervision or a person who has served a period of time in jail and then is placed on probation.
4. Resident: a person who is held in detention in a jail or workhouse while awaiting trial, or is serving a sentence as a judicial disposition. Also included are persons residing in a halfway house, reintegration center or other community center, and convictees awaiting further legal action.
5. Pre-releasee: a person who is nearing his release time and a) is still in jail or b) is participating in a community program while still officially serving his sentence.
6. Furlougee: a person who is permitted to be in the community for a brief period during the time of his detention. (The Ohio Department of Correction and Rehabilitation uses the term furlougee to refer to persons placed in the community for vocational training or academic study.)
7. Parolee: a person who is released from prison or jail prior to serving his full sentence but is under supervision in the community for a specified time period.

#### Category 1. Diversion Programs

A diversion program is a program in which the arrestee spends little, or preferably no time in jail. Types of components include but are not limited to: 1) release on recognizance (ROR), 2) bail, and 3) detoxification centers for persons under the influence of alcohol, narcotics, or other drugs.

Release on recognizance (ROR) is the release of an arrestee based on his word that he will appear for his preliminary hearing. A person on ROR is not under supervision and pays no bail or bonding fee. Bail is the practice of charging an arrestee a fee to permit him to remain in the community rather than in jail pending his arraignment. Detoxification is the alternative involving referral of intoxicated persons to a facility designed specifically for short-term care of such persons. Until the 1970's, few detoxification programs were available for persons arrested while under the influence of alcohol or other drugs. The usual modus operandi of law enforcement agencies was to put an intoxicated person in the "drunk tank". In some cases, emergency rooms of general hospitals were used when medical problems were evident. It is noted that several states no longer consider public inebriation a criminal offense necessitating an arrest. Police may detect and transport an intoxicated person to either his home or a detox center, but they may not charge the person unless another criminal act is involved, i.e., breaking and entering. Examples of exemplary detoxification programs include the Crossroads Center of Erie, Pennsylvania,<sup>15</sup> Comprehensive Alcoholism Program of Dade County, Florida,<sup>16</sup> and the Donwood Institute of Toronto, Canada.<sup>17</sup>

Diversion alternatives for the handling of drug arrestees may include 1) a detox program for drug abusers and 2) option to arrestees of

participation in treatment programs as an alternative to incarceration such as the Daytop Village Program in New York.

The use of diversion programs are based largely on a) practices of law enforcement agencies, e.g., referral to detoxification centers and use of summons and citations rather than arrest, b) policies of the court of jurisdiction, e.g., release on recognizance, and c) the availability of community resources, e.g., funding, caseload or bed space of detoxification, and d) enabling legislation giving the law enforcement agency the legal prerogative to divert the arrestee from jail.

#### Category 2. Alternatives to Detention Programs

Programs in this category include those in which 1) an arrestee is not held in detention for an extended time period and 2) a convictee is not sentenced to jail, but participates in an alternative correctional program. Components include probation, referral to a residential center, restitution to the victim, and referral to other community programs.

Probation is based upon 1) a credible pre-sentence report usually prepared by a probation officer for use by a judge in disposition of a convictee, and 2) careful supervision of persons on suspended sentences.<sup>18</sup> Probation is under the jurisdiction of local courts and may be used as 1) an alternative to incarceration or 2) in combination with a period of incarceration, as in split sentencing. Split sentencing involves incarcerating the offender for part of his sentence, suspending the remaining time, and placing him on probation or parole.

Shock probation is a form of split sentencing and is used in Ohio. Under the Ohio Revised Code, Section 2947.06.1, a felon is eligible for early release from a state institution if he did not commit a non-probationable act under the O.R.C., and if he petitions the court to suspend the remainder of the sentence. The petition must be filed between thirty and sixty days after the original sentence.

A community residential center is a facility in which persons may be referred by a court, corrections department, the person himself, and other persons and agencies within the community. In Ohio, there are three basic types of Community Residential Centers: 1) group homes for juveniles referred by a judge in lieu of detention or b) the Ohio Youth Commission as part of aftercare following institutionalization; 2) adult halfway houses which are usually privately owned and operated, but accept referrals from courts and the Adult Parole Authority, to provide a probationer, parolee, or furlougee room and board in the community; and 3) reintegration centers which are operated by the APA and serve the parolee who has technically violated the provisions of his parole and would otherwise be returned to prison.

Other possible uses of community residential houses include: 1) referral to a residential center such as Booth House in Fort Wayne, Indiana,<sup>19</sup> instead of sending adult felons to prison, 2) referral to a center such as

the Baton Rouge Community Correctional and Research Center for youthful offenders ages 17-22 in lieu of a state institution,<sup>20</sup> and 3) sentencing of local convictees to a residential facility such as the Fort Des Moines Men's Residential Facility in Iowa as an alternative facility to the county jail.<sup>21</sup> In the latter case, the county jail or a regional jail is still used for residents requiring a more secure facility.

#### Category 3. Detention Programs

Detention programs involve services which are provided to persons confined in a local detention facility. There are two types of detention residents:

- 1) pre-conviction residents including those awaiting:
  - a) preliminary hearing,
  - b) arraignment for reading of the indictment for felon arrestees,
  - c) the outcome of the common pleas court trial for felon arrestees, and, occasionally,
  - d) transfer of arrestees to other venues;
- 2) post-conviction residents including those sentenced to the county jail or city workhouse to serve up to one year (in most jurisdictions) and convictees awaiting transfer to a state institution for longer sentences.

Detention programs need to serve both types of residents through the following program components: community release programs including workrelease, study release, and furloughs; special problem areas including alcohol or drugs, employment counseling, family crisis intervention; and other program areas including religious, recreational, and legal aid, family group counseling, medical care, and prerelease planning. Programs of county and city jails need to emphasize the resident's problem areas which caused him to be in the corrections system rather than only the crises that arise as a result of being confined. Detention staff need to deal with the resident as a total person rather than an object for punishment. Whether detention counselors are jail staff, volunteers, or staff of community agencies, they represent catalytic agents in a comprehensive detention program. It is the staff who make the difference between habilitation and habitation.

#### Category 4. Early Release Program

Early release programs include 1) probation used in combination with detention, 2) parole supervision, and 3) referral to residential centers in combination with detention. Presently, probation is used as a form of split sentencing as discussed earlier, but referral to residential centers is not used in combination with detention as a formal program on a local level. This is due largely to a lack of use of residential centers for this purpose.

Parole is used in the state correctional system and not on the local level as an early release program. This is unfortunate because parole offers one opportunity to reward residents with good behavior and participation in detention programs. Parole for misdemeanants is utilized in<sup>22</sup> Kentucky's court system to lessen overcrowded conditions in county jails.



### Category 5. Related Community Programs

Related community programs include programs administered by agencies and organizations which interact with formal correctional programs. Examples include such private programs as the Salvation Army and Volunteers of America, drug crisis centers, United Way agencies, youth service bureaus, YMCA's, Junior League, Jaycees, related church projects, and other private programs. Also included are public agencies such as welfare, health, education departments, employment bureaus, and vocational rehabilitation bureaus. Presently, this program area is exceedingly underdeveloped in local correctional systems. One component that is utilized somewhat is that of volunteerism.

Volunteer Programs. Citizens offer a valuable resource in corrections programs. They may provide direct supportive relationships to clients,<sup>23</sup> serve as an advocate of client and system needs among the community, and facilitate utilization of community resources including inter-agency cooperation.<sup>24</sup> Dr. Ivan Scheier of the National Information Center on Volunteerism has identified over 200 roles that a volunteer can play within courts and corrections.<sup>25</sup>

The benefit of using volunteers in local corrections is attested to by Sheriff Ken Preadmore of the Ingham County Jail in Mason, Michigan.<sup>26</sup> Realizing the need to provide basic counseling to residents and faced with extreme limitations in staff for these purposes, Sheriff Preadmore turned to volunteer professional assistance from other community agencies. He also formed a Sheriff's Advisory Committee of 40 representatives from area churches, news media, health and other community service organizations and departments throughout the county.

### Detention Facilities

Because there are two basic types of detention residents -- pre-convictees and post-convictees, two types of facilities are required in a MJCS. Short-term facilities would confine pre-convictees and a long-term facility would confine post-convictees from the geographic area served by the MJCS. In both types of facilities, residents should be placed in areas appropriate to their classification status, i.e., misdemeanor versus felony offender, first versus repeat offender, homosexual offender, drug offender, and so on. Careful study should be given before designating which existing facilities will be short or long term detention facilities. The construction of new facilities should be avoided if possible.

### OPERATIONAL FLOW OF CLIENTS

The preceding discussions have described the premises, components and structure of a MJCS. The systems flow chart presented in Figure 1 shows how a MJCS will handle persons charged with a criminal offense from the point of entry in the MJCS through return to the community.

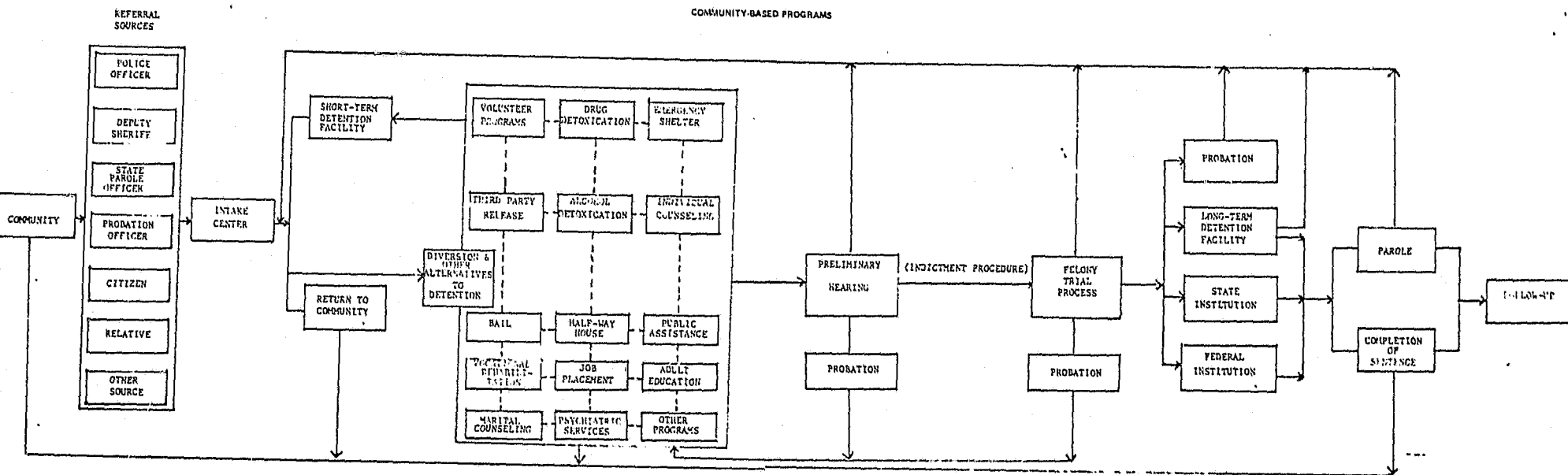


FIGURE 1. OPERATIONAL FLOW OF CLIENTS THROUGH MULTI-JURISDICTIONAL CORRECTIONS SYSTEM.



In the beginning, persons are in the community. An individual enters the MJCS primarily through "referrals" by law enforcement officers who make arrests upon warrants or through on-view arrests in which a crime is committed in their presence. Citizens may also make a citizen's arrest or file a complaint. Likewise, relatives may file complaints especially in domestic situations. Other sources of referral may include a parole officer or a probation officer.

Hopefully, individuals will be diverted from the MJCS through issuances of summons and citations rather than arrest. However, upon arrest, the arrestee will be presented to the intake center for screening and classification processes. Individuals will be referred to community-based programs, diverted from detention or held in a short-term facility pending the preliminary hearing. During the detention period, every possible effort will be made to involve the resident in community-based programs.

It is hoped that the intake center will also be utilized for persons not under arrest, but who agree to utilize the services of the intake center, i.e., to obtain counseling on legal matters, drinking/drug problems, family problems, and other problems. In this way, the intake center functions are more in line with the concept of the social justice philosophy discussed earlier.

Throughout the processes of the criminal justice system, the options will be available to judges, correctional officers of the detention facilities and other MJCS staff to use community resources and alternatives to detention in handling individuals.

#### REALIZING A MJCS

The key factors of successful implementation and operation of a MJCS are communication, commitment and staffing.

#### Communication

The key to an efficient MJCS is communication. Information must flow within the program components and among the administrator, staff, juveniles, and community service agencies. Information must also flow between the MJCS and the general public. Good public relations are essential to continued or increased funding for MJCS programs. In addition, information must also flow among the MJCS's (from one community to other communities) for data at time of referral of clients from one venue to another and for exchange of information about programs and services.

Within each MJCS intake data is a potential resource to other components of the local criminal justice system. Criminal history data and selected personal information could facilitate: 1) initial screening for diversion from detention; 2) completion of the presentencing report; 3) classification for placement in detention facilities; 4) identification of appropriate habilitation programs and 5) transfer of information on offenders from one jurisdiction to another.

The information systems that presently exist on the local level usually deal with law enforcement data. The implementation of a comprehensive information system including courts and corrections as well as law enforcement data is critically needed. The use of data for evaluation and accountability of service delivery could result in dynamic changes in every component area. Unfortunately, jail data presently is not suitable or readily accessible for these purposes. This is because most jail data are out of date, incomplete, excludes disposition of previous charges, and are usually filed unsystematically.

A few localities have developed computerized information systems. CLEAR (County Law Enforcement Applied Regionally) is a system used by 41 agencies in Hamilton County, Ohio. "The CLEAR system stores a variety of information, including stolen goods, wanted persons, vehicle registration, FBI data, and county and state judicial data."<sup>27</sup>

An important area of communication which needs development is the sharing of information, i.e., when convictees are transferred from a MJCS to state institutions. Local officials note that many times they are aware of immediate personal, emotional and/or medical problems of convictees. However, the only information which is usually forwarded to administrators of state institutions is the court disposition and the sentence. Duplication of effort in collecting background information on prisoners results from this lack of proper communication.

#### Commitment

The administrators and staff must focus on the concepts of habilitation rather than retribution; careful diagnosis rather than indiscriminate labeling, treatment programs rather than custodial punishment, directed activity rather than random movement of offenders and staff, and alternatives to incarceration rather than detention.

#### Staffing

Competent persons must be recruited, screened and trained in appropriate subject areas. Obviously, staff of all community agencies interacting with the MJCS core staff cannot be directly impacted by staffing standards. However, indirect affects may result from MJCS core staff interaction with other agency staff, and exchange of information among MJCS components and community agencies. In training staff, the premises, programs and activities of the MJCS need to be presented as a unified service system in which the client is viewed from an habilitation perspective. Staff need to be educated about the referral criteria and processes of social service agencies and other community resources and the advantages of using volunteer manpower from the community. They also need encouragement and subsidization to attend academic classes, workshops, and other staff development resources. Staff need to perceive evaluation studies of program impact upon clients as necessary means to quality programs rather than administrative

tactics which threaten job security. Finally, staff need to feel they are part of a service team rather than autonomous martyrs.

#### HOW IS A MJCS PLANNED AND IMPLEMENTED?

How can the components be effectively and efficiently unified into a consistent, systematic pattern of interaction? Here, a systems approach to planning is useful. The elements of a systems approach to planning are:

Define the problem and the planning task. This includes preliminary research to describe target populations and their needs, and identifying those individuals who will assist in the planning.

Formulate policies on the basis of value analysis of alternative solutions (deciding what ought to be).

Assess operational resources and constraints, including the source of clientele, funding, legislative factors, and community preferences.

Consider priorities, including the extent of funding necessary, and identify what services have to be established to meet program objectives.

Develop a program structure that includes such activities as administration, manpower assignment, budgeting, and feedback for policy review.

Establish specific projects with long and short range objectives.

Design an evaluation system including a reporting schedule to provide formal feedback to planners and administrators.<sup>28</sup>

Figure 2 shows how a systems approach to planning for a MJCS might work. The "problem" (How to realize a MJCS?) is defined and policies formulated in accordance with federal, state, and local governmental guidelines regarding such matters as classification, arrestees, assessment of service needs, inventorying of available community resources, setting program objectives and evaluation - all aimed at provision of quality services.

Planning for a MJCS would normally begin with the setting up of a committee which may consist of county commissioners, mayors, police chiefs, sheriffs, community leaders, ex-offenders, and other citizens. Eventually, this committee may be responsible for administration of funds, coordination of component administrators, organization of community treatment/habilitation resources, and overall control of the MJCS. Its initial task in the systems approach, is program planning.

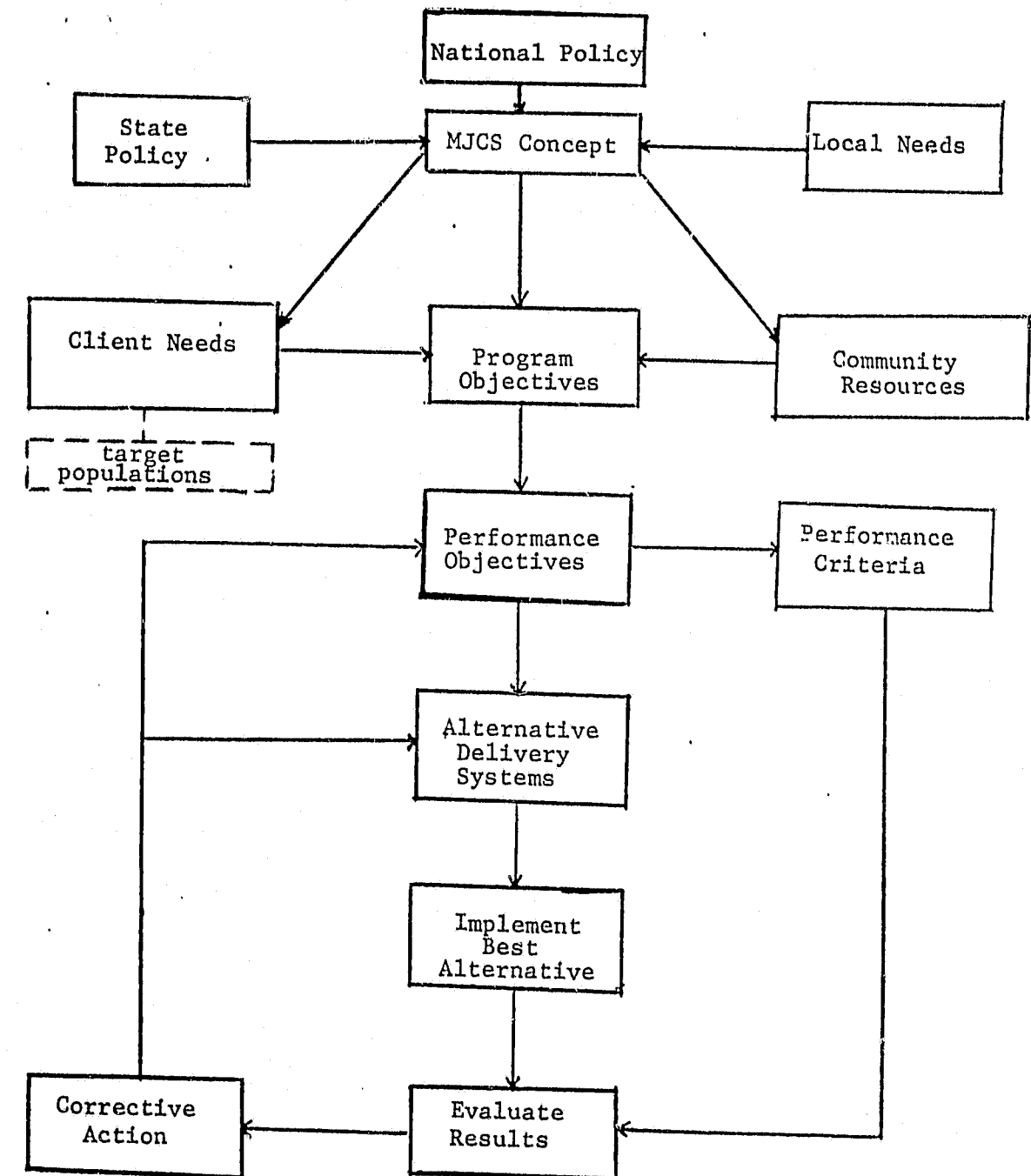


FIGURE 2. SYSTEMS APPROACH TO PROGRAM PLANNING OF A MJCS

The crux of systems program planning lies in judicious development of program objectives. Furthermore, the objectives must have specificity, directionality and measurability to facilitate the evaluation effort and related feedback process of the systems approach.

This includes a judgment as to what levels of achievement are desired. Data relating to client needs, the extent of the problem, and available community resources should be considered. It is emphasized that input from offenders and citizens as consumers of service should be obtained in specifying program objectives.

Program objectives are broadly stated desired outcomes defined by those responsible for policy and/or implementation of the service delivery systems of the MJCS. Program objectives may be long range or short range objectives. For the purposes of this discussion, long range objectives are planned for achievement over a long period of time, in most instances, of more than a year. Short range objectives are planned for achievement over a shorter period and usually reflect more specific accomplishments. Program objectives can be classified into four levels, primary, functional, basic, and activity objectives. These levels are briefly described below.

A primary objective is the purpose or overall philosophy of a program. It is a composite of the values and beliefs upon which a program is based. It should embrace the major areas for which the program assumes responsibility.

The next level reflects the critical factors required for achieving the purpose and are referred to as functional objectives. Functional objectives are broad in scope and directed toward establishing operational guidelines and/or constraints. While they are more specific than the primary objective, they are often not quantifiably measurable.

Basic objectives, on the other hand, are specific and measurable. These lower level objectives contribute to achievement of objectives above them and provide a basis for determining the degree of success involved in the accomplishment of the functional objectives.

Activity objectives are related to specific services to be provided and behaviors or attitudes to be acquired by individuals within the MJCS and/or significant others associated with the individuals.

Examples of program objectives on the primary, functional, basic, and activity levels are as follows:

- Primary Objective: To facilitate reintegration of individuals into community while preserving safety of community.
- Functional Objective: To provide individualized programming to alter behavior of offenders.
- Basic Objective: To assist with special problem areas of the individual.

Activity Objective: The resident will receive 10 hours of one-to-one counseling on work absenteeism after referral within the MJCS.

The development and accomplishment of MJCS program objectives on all levels, especially on the basic and activity levels, will require cooperation of administrators of MJCS components.

A continuous evaluation effort will serve to provide feedback data for continued program planning, administration, program coordination and objectives revision. It is noted that a community corrections agency may appear to be inefficient or ineffective due to inappropriately stated goals and objectives. This possibility should be considered during the design of the evaluation system and the decision making process of revising MJCS program services and objectives. Furthermore, services provided in one MJCS component may be related to more than one program objective. Data collected for all components sharing a particular objective would be combined to measure accomplishment of higher level objectives as well as that particular objective.

While an analytic research design for evaluation of a MJCS overall effectiveness will require extensive study, there are other approaches which may be taken in the interim. For example, because a MJCS is multiprogrammatic, a profile technique could be utilized for quantitative objectives. In this case, a profile would be described as Basic Objective 1: 85 percent achievement of the intended outcome level, Basic Objective 2: 70 percent achievement, and so on. Each level of objectives could be profiled in a similar manner. Furthermore, in the event that all objectives do not have quantitative measures, another approach would be to apply an appropriate quasi-experimental design to test achievement of selected objectives which have definitive outcome measures.

A more detailed discussion on the systems approach to planning and implementing and evaluating programs and service systems relevant to a MJCS, are presented in other documents by the author.<sup>29</sup>

#### SUMMARY

A multi-jurisdictional corrections system necessitates inter-agency cooperation, a multi-problematic approach to the individual, involvement of the citizenry, well-trained staff in program components of the system, and an emphasis on the reintegration of the individual through community-based programs.

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DATE \_\_\_\_\_

COUNTY \_\_\_\_\_

INTERVIEW GUIDE - CORRECTIONS

APPENDIX B

I. General Information

Manpower:

Total Number of full time staff \_\_\_\_\_

<u>Position</u>	<u>Number</u>
-----------------	---------------

1) Deputies (ask about fuctions relating to jail, and requirements)	_____
--	-------

2) Cook	_____
---------	-------

3) Detectives	_____
---------------	-------

4) Matrons	_____
------------	-------

5) Jailors	_____
------------	-------

6) Dispatcher (communications)	_____
-----------------------------------	-------

7) Clerks	_____
-----------	-------

8) Other (specials or auxillary, how paid)	_____
---	-------

Facilities:

Age of building \_\_\_\_\_

Maximum capacity of jail \_\_\_\_\_

Average monthly number of prisoners

Adult	_____	male	_____	female	_____
-------	-------	------	-------	--------	-------

Juvenile	_____	male	_____	female	_____
----------	-------	------	-------	--------	-------

Are there separate facilities for juveniles and adults? \_\_\_\_\_  
If no, what alternative is used? \_\_\_\_\_

Type of overnight arrangements available and how many

dorms	_____
single cells	_____
double cells	_____

Latest improvement done on jail

What \_\_\_\_\_

When \_\_\_\_\_

Normal length of stay for prisoners in jail \_\_\_\_\_

How many overnight lockup facilities are used in the county?

\_\_\_\_\_

Funding:

Where does the money to run the jail come from? How much?

County commissioners \_\_\_\_\_

General Revenue \_\_\_\_\_

Contracts with other government agencies \_\_\_\_\_

\_\_\_\_\_

Are monies ear-marked for jail or is the amount allotted decided at the discretion of the county commissioners?

\_\_\_\_\_

II. State and/or Federal Interaction

Assistance in planning for facilities from State or Federal level

Agency and person \_\_\_\_\_

To what extent \_\_\_\_\_

Assistance in funding for facilities and/or programs and projects relating to jail

Agency \_\_\_\_\_

How much \_\_\_\_\_

Use of funds \_\_\_\_\_

Is any technical assistance received from other state agencies? What kind?

\_\_\_\_\_

Other relationships besides planning , funding and technical assistance with other state agencies

Corrections \_\_\_\_\_

Mental Health \_\_\_\_\_

AJD \_\_\_\_\_

Other \_\_\_\_\_

III. Inter Local Cooperative Arrangements

Contracts for service with local governemtnal agencies

TYPE

AGENCY

Other counties

City

Townships

Relationships with non-governmental local agencies

Mental health

Alcoholism treatment center

Drug Abuse agencies

Juvenile agencies

Welfare

Other

IV. Training

Has sheriff ever had any training in jail management?

How many hours \_\_\_\_\_

With what agency \_\_\_\_\_

Have jailors and/or matrons had any training in jail management?

How many hours \_\_\_\_\_

With what agency \_\_\_\_\_

Who paid for the training? \_\_\_\_\_

V. Records

What do records on prisoners include? \_\_\_\_\_

How much information is passed on to other agencies within the county, state and other governmental agencies? Which agencies?

Is anyone specifically in charge of record keeping? \_\_\_\_\_

If no, who keeps records? \_\_\_\_\_

What does sheriff use records for? \_\_\_\_\_

Does sheriff have special forms for recording data? \_\_\_\_\_

If so, get copies

VI. Other duties and working relationships of sheriff within county

Probation \_\_\_\_\_

Parole \_\_\_\_\_

Pre-sentencing \_\_\_\_\_

Shock-probation \_\_\_\_\_

Juvenile \_\_\_\_\_

VII. Prisoners Rules

Visiting hours \_\_\_\_\_

Who is allowed to visit \_\_\_\_\_

How often are visits allowed \_\_\_\_\_

Is mail censored \_\_\_\_\_

Is smoking allowed \_\_\_\_\_  
where \_\_\_\_\_

Is any recreation offered \_\_\_\_\_  
type \_\_\_\_\_

How often are showers, shaving, etc., allowed \_\_\_\_\_

Are uniforms required of prisoners \_\_\_\_\_

What did the last grand jury that toured jail have to say about it?  
\_\_\_\_\_

VIII. Type of problems sheriff has and their priority

Funding \_\_\_\_\_

Communications (with commissioners, other agencies, etc.)  
\_\_\_\_\_

Staff \_\_\_\_\_

Courts \_\_\_\_\_

Recording \_\_\_\_\_

What does the sheriff do with a prisoner who needs physical or psychiatric medical attention? Who sets rules for this?  
\_\_\_\_\_  
\_\_\_\_\_

Other \_\_\_\_\_

IX. Reactions

How does sheriff feel about a Regional Rehab Center to be used to collect information on prisoner after final disposition in court and also to refer prisoners to other facilities?  
\_\_\_\_\_

Reaction to a state prison inspector who would be responsible for assuring that jails are meeting state standards  
\_\_\_\_\_

Reaction to state funding to counties for corrections. Can he suggest different means of using funds?  
\_\_\_\_\_

OHIO COMMISSION ON LOCAL GOVERNMENT SERVICES

Sheriff's Questionnaire

The Ohio Commission on Local Government Services has just completed a report on local law enforcement services and is now beginning to survey another part of the criminal justice system, local corrections. The staff and Commission members need your help in this new project.

From our visits to over twenty county jails, it is obvious that some changes are needed. As one who is responsible for jail operations on a daily basis, we need your help and guidance in the preparation of our recommendations.

Date: \_\_\_\_\_

Name of Person filling out this Questionnaire: \_\_\_\_\_

Position of Person filling out this Questionnaire: \_\_\_\_\_

Name of County: \_\_\_\_\_

LOCAL OPERATIONS

1. Number of deputies assigned to jail duty only (that is, has no other responsibilities). \_\_\_\_\_

2. What was your total number of persons detained for the month of October, 1973? \_\_\_\_\_

a) How many of these persons were awaiting trial? \_\_\_\_\_

b) Please give the total number of adults in your jail for October.  
\_\_\_\_\_

c) Please give the total number of juveniles in your jail for October.  
\_\_\_\_\_

d) Do you send data to the F.B.I. for their Uniform Crime Reports?  
\_\_\_\_ yes \_\_\_\_ no. If yes, please attach your most recent report to them.



3. Would you roughly estimate the percentages of persons in your custody for the following offenses for the month of October, 1973.

Felonies:

- Manslaughter, Murder, Rape
- Robbery and Burglary
- Assault
- Auto Theft
- Other felonies, specify \_\_\_\_\_

Misdemeanors:

- D.W.I.
- Public Intoxication
- Other misdemeanors, specify \_\_\_\_\_

100%

4. How many jurisdictions do you accept inmates from? \_\_\_\_\_

- a) Of these, how many contracts do you have with other counties to accept inmates? \_\_\_\_\_
- b) How many contracts do you have with other municipalities or townships to accept inmates? \_\_\_\_\_
- c) How much do you charge for each prisoner on a daily basis? \_\_\_\_\_

5. If you receive payment for inmates you hold, what happens to these funds? (Please check)

- Money is accredited to your department budget
- Money is accredited to county budget for general purposes.

6. Do you pay other jurisdictions to house some of your inmates?

yes  no

If "yes", please describe the amount paid per day per inmate and to what jurisdictions.

\_\_\_\_\_

7. What kinds of data do you keep on inmates in your jail? (Please check)

- Arrest Record
- Medical Record
- Family Background
- Court Disposition
- Psychological Record
- Probation Information
- Other, please specify \_\_\_\_\_

8. Do you send any of this data with the inmate as he changes jurisdiction (that is, to other local or state facilities)?  yes  no

If "yes", what data do you send and to what agency. \_\_\_\_\_

9. Do you provide any of the following programs for your inmates? (Please check)

- Medical check-up
- Education programs
- Library or book lending services
- Physical exercise
- Counseling
- Psychological testing
- Vocational training
- Work release
- Other, please specify \_\_\_\_\_

10. Have the deputies assigned to jail duty received any jail management training?  yes  no.

If "yes", which of the following:

- Formal classroom training through college or vocational training courses.
- Formal classroom training using your own staff as instructors
- Federal Bureau of Prison Correspondence Course
- On-the-job training
- Other, please specify \_\_\_\_\_

11. How would you rate your day-to-day contact with the county prosecutor? (Check one)

- (Very Good) Work together or cooperate in all cases
- (Good) Work together or cooperate in most cases
- (Fair) Work together or cooperate in some cases
- (Not Good) Not workable or cooperative

12. How would you rate your day-to-day contact with the Common Pleas Court?

- (Very Good) Work together or cooperate in all cases
- (Good) Work together or cooperate in most cases
- (Fair) Work together or cooperate in some cases
- (Not Good) Not workable or cooperative

13. Please describe the alternatives to incarceration which are available in your county (such as, detox centers, drug treatment programs, halfway houses, etc.).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

14. Do any private community or volunteer groups provide services to the inmates or supplement jail programs?  yes  no

If "yes", please describe these services and/or programs.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

INTER-COUNTY ACTIVITIES

Some sheriffs have indicated that they work closely with neighboring county sheriffs. Other sheriffs have indicated that they do not. Based upon your experiences, what do you believe are the favorable and unfavorable (positive or negative) sides of inter-county activities.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1. Does your county receive any type of assistance relating to the jail from other counties?  yes  no

If "yes", please check the type of assistance:

- Training of staff
- Inmate medical examination
- Transportation of inmates
- Communications
- Consultation or planning
- Other, please specify \_\_\_\_\_

2. If you receive assistance in any of the above areas relating to your jail, is there a charge for this assistance?  yes  no

If "yes", please describe. \_\_\_\_\_

\_\_\_\_\_

3. If you don't receive assistance from other counties in any of these areas, would you like to?  yes  no

If "yes", which areas. \_\_\_\_\_

\_\_\_\_\_

4. In Ohio the parole system operates on a multi-county basis. Do you think a probation system could be operated on a similar basis?  yes  no

Please comment. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. The Ohio Revised Code calls for minimum jail standards and a statewide jail inspection system. Who do you think should set minimum jail standards?

\_\_\_\_\_

\_\_\_\_\_

Who do you think should inspect county jails? \_\_\_\_\_

\_\_\_\_\_

RELATIONS WITH STATE AGENCIES

1. Please check the kinds of assistance you currently receive from any state agency:

- Planning
- Programming
- Training
- Funding for staff
- Funding of programs (corrections)
- Proposal writing
- Information about prisoners
- Other, please specify \_\_\_\_\_

2. What kinds of assistance would you like to receive from the state but currently do not?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. From your viewpoint, what would be the best or most important recommendation our Commission could make in regard to local corrections?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For further information contact:

JoAnn George  
Corrections Task Force  
Ohio Commission on Local Government Services  
22 East Gay Street, Room 222  
Columbus, Ohio 43215

(614) 466-8427

OHIO COMMISSION ON LOCAL GOVERNMENT SERVICES

Jail and Lock-up Survey

The Ohio Commission on Local Government Services has just completed a report on local law enforcement services and is now beginning to survey another part of the criminal justice system, local corrections. The staff and Commission members need your help in this new project.

From the condition of some facilities we have visited, it is obvious that some changes are needed. As one who is responsible for jail operations on a daily basis, we need your help and guidance in the preparation of our recommendations.

Date: \_\_\_\_\_

Name of Person filling out this Questionnaire: \_\_\_\_\_

Position of Person filling out this Questionnaire: \_\_\_\_\_

Name of County: \_\_\_\_\_

Name of Jail: \_\_\_\_\_

LOCAL OPERATIONS

1. Number of persons assigned to jail duty only (that is, has no other responsibilities). \_\_\_\_\_
2. What was your total number of persons detained for the month of October, 1973? \_\_\_\_\_
  - a) How many of these persons were awaiting trial? \_\_\_\_\_
  - b) Please give the total number of adults in your jail for October. \_\_\_\_\_
  - c) Please give the total number of juveniles in your jail for October. \_\_\_\_\_
  - d) Do you send data to the F.B.I. for their Uniform Crime Reports? yes no. If yes, please attach your most recent report to them.

3. Would you roughly estimate the percentages of persons in your custody for the following offenses for the month of October, 1973.

Felonies:

\_\_\_\_\_ Manslaughter, Murder, Rape  
 \_\_\_\_\_ Robbery and Burglary  
 \_\_\_\_\_ Assault  
 \_\_\_\_\_ Auto Theft  
 \_\_\_\_\_ Other felonies, specify \_\_\_\_\_

Misdemeanors:

\_\_\_\_\_ D.W.I.  
 \_\_\_\_\_ Public Intoxication  
 \_\_\_\_\_ Other misdemeanors, specify \_\_\_\_\_

100%

4. How many jurisdictions do you accept inmates from? \_\_\_\_\_
- a) Of these, how many contracts do you have with other counties to accept inmates? \_\_\_\_\_
- b) How many contracts do you have with other municipalities or townships to accept inmates? \_\_\_\_\_
- c) How much do you charge for each prisoner on a daily basis?  
 \_\_\_\_\_
5. If you receive payment for inmates you hold, what happens to these funds? (Please check)
- \_\_\_\_\_ Money is accredited to your department budget  
 \_\_\_\_\_ Money is accredited to county budget for general purposes.
6. Do you pay other jurisdictions to house some of your inmates?  
 \_\_\_\_\_ yes \_\_\_\_\_ no
- If "yes", please describe the amount paid per day per inmate and to what jurisdictions.  
 \_\_\_\_\_  
 \_\_\_\_\_
7. What kinds of data do you keep on inmates in your jail? (Please check)
- \_\_\_\_\_ Arrest Record  
 \_\_\_\_\_ Medical Record  
 \_\_\_\_\_ Family Background  
 \_\_\_\_\_ Court Disposition  
 \_\_\_\_\_ Psychological Record  
 \_\_\_\_\_ Probation Information  
 \_\_\_\_\_ Other, please specify \_\_\_\_\_

8. Do you send any of this data with the inmate as he changes jurisdiction (that is, to other local or state facilities)?  
 \_\_\_\_\_ yes \_\_\_\_\_ no

If "yes", what data do you send and to what agency. \_\_\_\_\_  
 \_\_\_\_\_

9. Do you provide any of the following programs for your inmates? (Please check)

\_\_\_\_\_ Medical check-up  
 \_\_\_\_\_ Education programs  
 \_\_\_\_\_ Library or book lending services  
 \_\_\_\_\_ Physical exercise  
 \_\_\_\_\_ Counseling  
 \_\_\_\_\_ Psychological testing  
 \_\_\_\_\_ Vocational training  
 \_\_\_\_\_ Work release  
 \_\_\_\_\_ Other, please specify \_\_\_\_\_

10. Have the persons assigned to jail duty received any jail management training? \_\_\_\_\_ yes \_\_\_\_\_ no.

If "yes", which of the following:

\_\_\_\_\_ Formal classroom training through college or vocational training courses.  
 \_\_\_\_\_ Formal classroom training using your own staff as instructors  
 \_\_\_\_\_ Federal Bureau of Prison Correspondence Course  
 \_\_\_\_\_ On-the-job training  
 \_\_\_\_\_ Other, please specify \_\_\_\_\_

11. How would you rate your day-to-day contact with the local prosecutors? (Check one)

\_\_\_\_\_ (Very Good) Work together or cooperate in all cases  
 \_\_\_\_\_ (Good) Work together or cooperate in most cases  
 \_\_\_\_\_ (Fair) Work together or cooperate in some cases  
 \_\_\_\_\_ (Not Good) Not workable or cooperative

12. How would you rate your day-to-day contact with local courts? (Check one)

\_\_\_\_\_ (Very Good) Work together or cooperate in all cases  
 \_\_\_\_\_ (Good) Work together or cooperate in most cases  
 \_\_\_\_\_ (Fair) Work together or cooperate in some cases  
 \_\_\_\_\_ (Not Good) Not workable or cooperative

13. Please describe the alternatives to incarceration which are available in your county (such as, detox centers, drug treatment programs, halfway houses, etc.).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Do any private community or volunteer groups provide services to the inmates or supplement jail programs? \_\_\_\_ yes \_\_\_\_ no

If "yes", please describe these services and/or programs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INTER-COUNTY ACTIVITIES

1. Does your facility receive any type of assistance relating to the jail from other municipalities or counties? \_\_\_\_ yes \_\_\_\_ no

If "yes", please check the type of assistance:

- \_\_\_\_\_ Training of staff
- \_\_\_\_\_ Inmate medical examination
- \_\_\_\_\_ Transportation of inmates
- \_\_\_\_\_ Communications
- \_\_\_\_\_ Consultation or planning
- \_\_\_\_\_ Other, please specify \_\_\_\_\_

2. If you receive assistance in any of the above areas relating to your jail, is there a charge for this assistance? \_\_\_\_ yes \_\_\_\_ no

If "yes", please describe. \_\_\_\_\_

\_\_\_\_\_

3. If you don't receive assistance from other municipalities or counties in any of these areas, would you like to? \_\_\_\_ yes \_\_\_\_ no

If "yes", which areas. \_\_\_\_\_

\_\_\_\_\_

4. In Ohio the parole system operates on a multi-county basis. Do you think a probation system could be operated on a similar basis? \_\_\_\_ yes \_\_\_\_ no

Please comment. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

5. The Ohio Revised Code calls for minimum jail standards and a statewide jail inspection system. Who do you think should set minimum jail standards?

\_\_\_\_\_  
\_\_\_\_\_

Who do you think should inspect jails? \_\_\_\_\_

\_\_\_\_\_

RELATIONS WITH STATE AGENCIES

1. Please check the kinds of assistance you currently receive from any state agency:

- \_\_\_\_\_ Planning
- \_\_\_\_\_ Programming
- \_\_\_\_\_ Training
- \_\_\_\_\_ Funding for staff
- \_\_\_\_\_ Funding of programs (corrections)
- \_\_\_\_\_ Proposal writing
- \_\_\_\_\_ Information about prisoners
- \_\_\_\_\_ Other, please specify \_\_\_\_\_

2. What kinds of assistance would you like to receive from the state but currently do not?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. From your viewpoint, what would be the best or most important recommendation our Commission could make in regard to local corrections?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For further information contact:

JoAnn George  
Corrections Task Force  
Ohio Commission on Local Government Services  
22 East Gay Street, Room 222  
Columbus, Ohio 43215

(614) 466-8427

APPENDIX C



**An Act**

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Control Act of 1973".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

**"TITLE I—LAW ENFORCEMENT ASSISTANCE**

**"DECLARATION AND PURPOSE**

"Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To reduce and prevent crime and juvenile delinquency, and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government.

"Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement and criminal justice; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.

**"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**

"SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance and two Deputy Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Administrator shall be the head of the agency. One Deputy Administrator shall be designated the Deputy Administrator for Policy Development. The second Deputy Administrator shall be designated the Deputy Administrator for Administration.

**"PART B—PLANNING GRANTS**

"SEC. 201. It is the purpose of this part to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems of law enforcement and criminal justice.

87 STAT. 197

Crime Control Act of 1973.  
82 Stat. 197;  
84 Stat. 1881.  
42 USC 3701.

97 STAT. 196

State planning agencies.

"SEC. 202. The Administration shall make grants to the States for the establishment and operation of State law enforcement and criminal justice planning agencies (hereinafter referred to in this title as 'State planning agencies') for the preparation, development, and revision of the State plan required under section 303 of this title. Any State may make application to the Administration for such grants within six months of the date of enactment of this Act.

"SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime and may include representatives of citizen, professional, and community organizations. The regional planning units within the State shall be comprised of a majority of local elected officials.

Functions.

"(b) The State planning agency shall—

"(1) develop, in accordance with part C, a comprehensive state-wide plan for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice; and

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State.

Funds, availability.

"(c) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

Meetings.

"(d) The State planning agency and any other planning organization for the purposes of the title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is taken at that meeting on (A) the State plan, or (B) any application for funds under this title. The State planning agency and any other planning organization for the purposes of the title shall provide for public access to all records relating to its functions under this Act, except

Records, accessibility.

such records as are required to be kept confidential by any other provisions of local, State, or Federal law.

"Sec. 201. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses incurred by the State and units of general local government under this part, and may be up to 100 per centum of the expenses incurred by regional planning units under this part. The non-Federal funding of such expenses shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this part.

Limitation.

"Sec. 202. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate \$200,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations.

Funds, allocation.

PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

"Sec. 301. (a) It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement and criminal justice.

"(b) The Administration is authorized to make grants to States having comprehensive State plans approved by it under this part, for:

"(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and criminal justice and reduce crime in public and private places.

"(2) The recruiting of law enforcement and criminal justice personnel and the training of personnel in law enforcement and criminal justice.

"(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement and criminal justice agencies.

"(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

"(5) The organization, education, and training of special law enforcement and criminal justice units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

"(6) The organization, education, and training of regular law enforcement and criminal justice officers, special law enforcement and criminal justice units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

"(7) The recruiting, organization, training, and education of community service officers to serve with and assist local and State

citizen

law enforcement and criminal justice agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement and criminal justice agency.

"(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement and criminal justice activities.

"(9) The development and operation of community-based delinquent prevention and correctional programs, emphasizing halfway houses and other community-based rehabilitation centers for initial preconviction or post-conviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

"(10) The establishment of interstate metropolitan regional planning units to prepare and coordinate plans of State and local governments and agencies concerned with regional planning for metropolitan areas.

"(c) The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual units of government, for the purpose of the shared funding of such programs or projects.

Prohibition.

Limitation.

"(d) Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement and criminal justice personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs.



"Sec. 302. Any State desiring to participate in the grant program under this part shall establish a State planning agency as described in part B of this title and shall within six months after approval of a planning grant under part B submit to the Administration through such State planning agency a comprehensive State plan developed pursuant to part B of this title.

"Sec. 303. (a) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title. No state plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive, unless it includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice. Each such plan shall—

"(1) provide for the administration of such grants by the State planning agency;

"(2) provide that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in the aggregate not less than one-half of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

"(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement and criminal justice, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

"(4) provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan;

"(5) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, dealt with in the plan, including descriptions of: (A)

State participation.

Comprehensive State plans, requirements.

general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(6) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

"(7) provide for research and development;

"(8) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

"(9) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;

"(10) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government or combinations of such units;

"(11) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement and criminal justice;

"(12) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this title;

"(13) provide for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 402(c) programs and projects carried out under this title and as the Administration may reasonably require to administer other provisions of this title;

"(14) provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice; and

"(15) provide for procedures that will insure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than ninety days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within ninety days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes

of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date.

Any portion of the per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice and in conformity with the State plan.

"(b) No approval shall be given to any State plan unless and until the Administration finds that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State. No award of funds which are allocated to the States under this title on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.

"(c) No plan shall be approved as comprehensive unless it establishes statewide priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, and considers the relationships of activities carried out under this title to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State.

"Sec. 301. State planning agencies shall receive applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such an application is in accordance with the purposes stated in section 301 and is in conformance with any existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to the applicant.

"Sec. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 306(a).

"Sec. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

Funds, availability.

Funds, reallocation.

Funds, allocation.

"(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 302 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or private nonprofit organization, according to the criteria and on the terms and conditions the Administration determines consistent with this title.

Prohibition.

Any grant made from funds available under paragraph (2) of this subsection may be up to 90 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization. The Administration shall make grants in its discretion under paragraph (2) of this subsection in such a manner as to accord funding incentives to those States or units of general local government that coordinate law enforcement and criminal justice functions and activities with other such States or units of general local government thereof for the purpose of improving law enforcement and criminal justice.

Funds, reallocation.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section.

"Sec. 307. In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.

"Sec. 308. Each State plan submitted to the Administration for approval under section 302 shall be either approved or disapproved, in whole or in part, by the Administration no later than ninety days after the date of submission. If not disapproved (and returned with the reasons for such disapproval) within such ninety days of such application, such plan shall be deemed approved for the purposes of this title. The reasons for disapproval of such plan, in order to be effective for the purposes of this section, shall contain an explanation of which requirements enumerated in section 302(b) such plan fails to comply with, or an explanation of what supporting material is necessary for the Administration to evaluate such plan. For the purposes of this section, the term 'date of submission' means the date on which a State plan which the State has designated as the 'final State plan application' for the appropriate fiscal year is delivered to the Administration.

"Date of submission."

"PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

"Sec. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and criminal justice, and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.

"Sec. 402. (a) There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this part as 'Institute'). The Institute shall be under the general authority of the Administration. The chief administrative officer of the Institute shall be a Director appointed by the Administrator. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to State and local governments, and to assist in the development and support of programs for the training of law enforcement and criminal justice personnel.

National Institute of Law Enforcement and Criminal Justice, establishment.

"(b) The Institute is authorized—

Functions.

"(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

"(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice, including, but not limited to, the effectiveness of projects or programs carried out under this title;

"(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

"(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement and criminal justice;

"(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title;

"(6) to assist in conducting, at the request of a State or a unit of general local government or a combination thereof, local or regional training programs for the training of State and local law enforcement and criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution or defense of those charged with crime, corrections, rehabilitation, probation and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government and shall not duplicate the training activities of the Federal Bureau of Investigation under section 404 of this title. While participating in the training program or traveling in connection with

participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service;

"(7) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

"(8) to establish a research center to carry out the programs described in this section.

"(c) The Institute shall serve as a national and international clearinghouse for the exchange of information with respect to the improvement of law enforcement and criminal justice, including but not limited to police, courts, prosecutors, public defenders, and corrections.

"The Institute shall undertake, where possible, to evaluate the various programs and projects carried out under this title to determine their impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes and policies of this title, and shall disseminate such information to State planning agencies and, upon request, to units of general local government.

Survey.

"The Institute shall, before the end of the fiscal year ending June 30, 1976, survey existing and future personnel needs of the Nation in the field of law enforcement and criminal justice and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effectiveness and sufficiency of the training and academic assistance programs carried out under this title and relate such programs to actual manpower and training requirements in the law enforcement and criminal justice field. In carrying out the provisions of this section, the Director of the Institute shall consult with and make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, Federal, State and local criminal justice agencies and other appropriate public and private agencies. The Administration shall thereafter, within a reasonable time develop and issue guidelines, based upon the need priorities established by the survey, pursuant to which project grants for training and academic assistance programs shall be made.

Guidelines.

Report to President, Congress, and non-Federal agencies.

"The Institute shall report annually to the President, the Congress, the State planning agencies, and, upon request, to units of general local government, on the research and development activities undertaken pursuant to paragraphs (1), (2), and (3) of subsection (b), and shall describe in such report the potential benefits of such activities of law enforcement and criminal justice and the results of the evaluations made pursuant to the second paragraph of this subsection. Such report shall also describe the programs of instructional assistance, the special workshops, and the training programs undertaken pursuant to paragraphs (5) and (6) of subsection (b).

Grants, amounts.

"Sec. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration or the Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"Sec. 404. (a) The Director of the Federal Bureau of Investigation is authorized to—

Training programs.

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement and criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice;

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement and criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit; and

"(4) cooperate with the Institute in the exercise of its responsibilities under section 402(b) (6) of this title.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"Sec. 405. (a) Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

18 USC proo. 3001 note.

"(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to the date of enactment of this Act to the extent that such approval provided for continuation.

"(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this title.

"(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

"Sec. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement and criminal justice.

Educational assistance programs.

"(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding \$2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement and criminal justice or suitable for persons employed in law enforcement and criminal justice, with special consideration to police or correctional personnel of States or units of general local government on academic

Contract authority.

leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement and criminal justice agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

Tuition and fees.

"(c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books and fees, not exceeding \$250 per academic quarter or \$400 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement and criminal justice or an area suitable for persons employed in law enforcement and criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a law enforcement and criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

Service agreements.

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement and criminal justice or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

Grants.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement and criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice;

"(2) education and training of faculty members;

"(3) strengthening the law enforcement and criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

Contract authority.

"(f) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding \$65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement and criminal justice agencies for not less than eight weeks during any summer

recess or for any entire quarter or semester on leave from the degree program.

"Sec. 407. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local officers engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

Prosecuting attorneys, training program.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

Travel expenses; per diem allowance.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

80 Stat. 499.

"PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

"Sec. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

"Sec. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

"Sec. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—

Conditions.

"(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

"(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

"(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

"(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

"(5) provides for advanced techniques in the design of institutions and facilities;

"(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

"(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

"(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation;

"(9) provides necessary arrangements for the development and operation of narcotic and alcoholism treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts, drug abusers, alcoholics, or alcohol abusers;

"(10) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (5), (6), (8), (9), (10), (11), (12), (13), (14), and (15) of section 303(a) of this title;

"(11) provides for accurate and complete monitoring of the progress and improvement of the correctional system. Such monitoring shall include rate of prisoner rehabilitation and rates of recidivism in comparison with previous performance of the State or local correctional systems and current performance of other State and local prison systems not included in this program; and

"(12) provides that State and local governments shall submit such annual reports as the Administrator may require.

"Sec. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

Guidelines.

In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned. The Administrator shall coordinate or assure coordination of the development of such guidelines with the Special Action Office For Drug Abuse Prevention.

Funds, allocation.

"Sec. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

"(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to 90 per centum of the cost of the program or project for which such grant is made. The non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government. No funds awarded under this part may be used for land acquisition.

Prohibition.

Funds, availability for reallocation.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.



PART F—ADMINISTRATIVE PROVISIONS

“Sec. 501. The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

“Sec. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

“Sec. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

“Sec. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

“Sec. 505. Section 5314 of title 5, United States Code, is amended by adding at the end thereof—

“(55) Administrator of Law Enforcement Assistance.”

“Sec. 506. Title 5, United States Code, is amended as follows:

“(a) Section 5315 (90) is amended by deleting ‘Associate Administrator of Law Enforcement Assistance (2)’ and inserting in lieu thereof ‘Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration’.

“(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

“(133) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.”

“(c) Section 5108 (e) (10) is amended by deleting the word ‘twenty’ and inserting in lieu thereof the word ‘twenty-two’.

“Sec. 507. Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.

“Sec. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government (not including the Central Intelligence Agency), and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

“Sec. 509. Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with—

“(a) the provisions of this title;  
“(b) regulations promulgated by the Administration under this title; or  
“(c) a plan or application submitted in accordance with the provisions of this title;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

“Sec. 510. (a) In carrying out the functions vested by this title in the Administration, the determinations, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

“(b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this title, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant, the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

“(c) If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.

“Sec. 511. (a) If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this title, or any applicant or grantee is dissatisfied with the Administration's final action under section 509 or section 510, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28, United States Code.

“(b) The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

Notice and hearing.

Request for rehearing.

Review action.

72 Stat. 941; 80 Stat. 1323.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"Sec. 512. Unless otherwise specified in this title, the Administration shall carry out the programs provided for in this title during the fiscal year ending June 30, 1974, and the two succeeding fiscal years.

"Sec. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

"Sec. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

"Sec. 515. The Administration is authorized—

- "(a) to conduct evaluation studies of the programs and activities assisted under this title;
- "(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and
- "(c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.

"Sec. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled 'Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. sec. 551).

"(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.

"Sec. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

"(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise

62 Stat. 920.  
Programs,  
duration.

Federal  
agencies,  
cooperation.

49 Stat. 19.  
Restriction.

Anto, p. 205.  
Experts and  
consultants.  
40 Stat. 416.

5 USC 5332  
note.

5 USC 5332  
note.  
60 Stat. 499;  
83 Stat. 190.

Discrimination  
prohibition.

Noncompliance.

48 Stat. 252.

Report to  
President and  
Congress.

Appropriations.

in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"Sec. 518. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

"(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

"(c) (1) No person in any State shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

"(2) Whenever the Administration determines that a State government or any unit of general local government has failed to comply with subsection (c) (1) or an applicable regulation, it shall notify the chief executive of the State of the noncompliance and shall request the chief executive to secure compliance. If within a reasonable time after such notification the chief executive fails or refuses to secure compliance, the Administration shall exercise the powers and functions provided in section 509 of this title, and is authorized concurrently with such exercise—

- "(A) to institute an appropriate civil action;
- "(B) to exercise the powers and functions pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or
- "(C) to take such other action as may be provided by law.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"Sec. 519. On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

"Sec. 520. There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed \$1,000,000,000 for the fiscal year ending June 30, 1974, \$1,000,000,000 for the fiscal year ending June 30, 1975, and \$1,250,000,000 for the fiscal year ending June 30, 1976. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30,

1972, and in each fiscal year thereafter there shall be allocated for the purposes of part B an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

"Sec. 521. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Administration or any of its duly authorized representatives shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this title.

"(c) The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers and records of recipients of Federal assistance under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(d) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.

"Sec. 522. Section 201(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by inserting 'law enforcement facilities,' immediately after 'transportation facilities.'

"Sec. 523. Any funds made available under parts B, C, and D prior to July 1, 1973, which are not obligated by a State or unit of general local government may be used to provide up to 90 percent of the cost of any program or project. The non-Federal share of the cost of any such program or project shall be of money appropriated in the aggregate by the State or units of general local government.

"Sec. 524. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Administration shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate,

Ante, p. 201.  
Ante, p. 199.  
Recordkeeping requirements.

80 Stat. 1267;  
82 Stat. 208.  
42 USC 3334.

Prohibition.

Penalty.

Surplus property, cooperative agreements.  
75 Stat. 213.  
40 USC 484.

incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

"(c) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed \$10,000, in addition to any other penalty imposed by law.

"Sec. 525. The last two sentences of section 203(n) of the Federal Property and Administrative Services Act of 1919 are amended to read as follows: 'In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Secretary of Health, Education, and Welfare, or the Director, Office of Civil and Defense Mobilization, or the Administrator, Law Enforcement Assistance Administration, surplus property which the Administrator may approve for donation for use in any State for purposes of law enforcement programs, education, public health, or civil defense, or for research for any such purposes, pursuant to subsection (j)(3) or (j)(4), may with the approval of the Administrator be made available to the State agency after a determination by the Secretary or the Director or the Administrator, Law Enforcement Assistance Administration that such property is necessary to, or would facilitate, the effective operation of the State agency in performing its functions in connection with such program. Upon a determination by the Secretary or the Director or Administrator, Law Enforcement Assistance Administration, that such action is necessary to, or would facilitate, the effective use of such surplus property made available under the terms of a cooperative agreement, title thereto may with the approval of the Administrator be vested in the State agency.'

"PART G—DEFINITIONS

"Sec. 601. As used in this title—

"(a) 'Law enforcement and criminal justice' means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

"(b) 'Organized crime' means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

"(c) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(d) 'Unit of general local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title: *Provided, however,* that



such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

D. C. Code prec. 11-101 note.

"(e) 'Combination' as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

"(f) 'Construction' means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

"(g) 'State organized crime prevention council' means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

"(h) 'Metropolitan area' means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

"(i) 'Public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

"(j) 'Institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

79 Stat. 1270; 82 Stat. 1042.

"(k) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part and meeting such other qualifications promulgated in regulations pursuant to section 501 as the Administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act.

"(l) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

"(m) The term 'comprehensive' means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

"(n) The term 'treatment' includes but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict or other user by eliminating his dependence on addicting or other drugs or by controlling his dependence, and his susceptibility to addiction or use.

87 STAT. 217  
87 STAT. 218

"(o) 'Criminal history information' includes records and related data contained in an automated criminal justice informational system, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release.

"PART II—CRIMINAL PENALTIES

"SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, or whoever receives, conceals, or retains such funds, assets, or property with intent to convert such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"SEC. 652. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 653. Any law enforcement and criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18, United States Code.

62 Stat. 749.

62 Stat. 701.

"PART I—ATTORNEY GENERAL'S BIENNIAL REPORT OF FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

"SEC. 670. The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each second fiscal year shall submit to the President and to the Congress a Report of Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act 1968, the Gun Control Act 1968, the Criminal Justice Act of 1934, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance)."

Report to President and Congress.

42 USC 3801 note.  
18 USC 921 note, 3006A note, 841, 2510 note.

Sec. 3. The amendments made by this Act shall take effect on and after July 1, 1973, except that the offices and salaries modified under sections 101, 305, and 306 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act shall be modified prospectively only, effective on and after the date of the enactment of this Act.

Approved August 6, 1973.

#### LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 93-249 (Comm. on the Judiciary) and No. 93-401 (Comm. of Conference).

SENATE REPORT No. 93-349 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 119 (1973):

June 14, 1973, considered and passed House.

June 28, considered and passed Senate, amended, in lieu of S. 1930.

Aug. 2, House and Senate agreed to conference report.

1001-1973-08

## Justice Report/Nixon Administration weighs restrictions on use of criminal history data banks

by Richard E. Cohen

Somewhere in the federal government, there is a file on you—perhaps dozens of them.

In this computer age, it is easy technologically to find out what is in those files. A tape whirs. A printer clatters. And, zap, the computer spews out what it knows about you: whether you have a criminal record, how much money you have in your social security account, or whatever information that happens to be stored in that particular data bank.

The process is so fast and simple that it has become a way of life in the 1970s. Thousands of times daily, federal computers spin out bits and pieces of knowledge about Americans who are looking for jobs, applying for grants or doing any number of other things that trigger an electronic search for skeletons in their closets.

Not everyone has access to those files. But with cold dispassion the computers hand up the information to the many public and private offices that do have entry, such as federal and state agencies, defense contractors and federally insured banks.

Personal data banks have mushroomed so rapidly that no one knows how many there are. A Senate subcommittee recently counted 750 of them in federal agencies alone, and the enumerators regard that number as just the tip of the iceberg.

The proliferation of data banks, the widespread access to their contents and the awareness that their information is not always complete or correct have combined to arouse the concern of Members of Congress, civil libertarians and scholars, among others.

To these persons, criminal history data banks are of particular concern because of their ability, rightly or wrongly, to destroy an individual's career.

As criminal justice data-gathering programs develop, it becomes less likely that a person's brush with the law will escape the computer's attention. The Federal Bureau of Investigation (FBI) estimates that its new automated data center, which now has 4.2 million criminal record entries, will contain 21.7 million within 10 years.

As the principal custodian of such files, the Justice Department is taking steps to clamp significant restrictions on their use, as well as the use of other federal and state data banks containing criminal history information.

The department is circulating tenta-

### Data Banks Series

This is the first part of a two-part series on regulation of criminal justice data banks. A subsequent report will discuss legislation and administrative rules that the Nixon Administration is planning to send to Congress.

live regulations and legislation that if adopted would affect many agencies and private companies that draw on criminal justice data banks.

**Controversy:** The Justice Department's move has touched off a debate within the Nixon Administration that could alter federal policy toward the regulation of all data banks, public and private.

At issue is the extent to which individual privacy is to be limited by a public "need to know" and the extent to which the government can collect and disseminate information about an individual without his consent.

The controversy has been sharpened by revelations of military surveillance of civilians and the various illegal events associated with the Watergate scandals. Several sets of congressional hearings during the past decade also have focused public attention on the issue.

Apart from its long-range effects, the debate within the Administration will provide a test of the Justice Department's ability to exert policy control over the traditionally independent FBI.

Agencies that have had access to FBI data banks in their day-to-day operations have met with Justice De-

partment representatives, and have raised objections to portions of the draft bill.

A further element in the controversy is the role of state and local governments, which are prime suppliers of criminal data, and whether they can be penalized if they refuse to cooperate with federal programs for the exchange and collection of data.

In the absence of congressional action to thwart such episodes, there could be repetitions elsewhere of a recent skirmish in Massachusetts, which resulted in a federal retreat from what Gov. Francis W. Sargent, R, called "threats" by the Defense Department and the Small Business Administration to slash their Massachusetts programs if the state continued restricting their access to its data banks.

In addition, a recent report by an HEW Department citizens' advisory committee, proposing strict limitations on data bank use, has brought the issue to the notice of federal policy makers—partially because the recommendations have received support from HEW Secretary Caspar W. Weinberger and Elliot L. Richardson, who established the committee in 1972 while he was HEW Secretary. Richardson resigned as Attorney General on Oct. 20 and President Nixon named Solicitor General Robert H. Bork as acting Attorney General. (See p. 1621.)

**Background:** The current debate is the second round of the policy discussion of federal use and regulation of data banks.

**Hearings—**During the mid-1960s, congressional hearings gave publicity

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to the then-incipient use of federal computers.

These hearings "successfully squelched the nearly *fait accompli* of a 'national data center,'" said Norman G. Cornish, deputy staff director of the House Government Operations Subcommittee on Foreign Operations and Government Information and former staff director (1964-65) of the Special Subcommittee on the Invasion of Privacy, chaired by Rep. (1959-73) Cornelius E. Gallagher, D-N.J.

The aborted national data center had been proposed by officials of the Budget Bureau (now the Office of Management and Budget). The Gallagher hearings also resulted in the abandonment of psychological testing of federal employees by the Civil Service Commission, Cornish said.

Though these and subsequent investigatory hearings have accomplished short-term results, neither Congress nor the executive branch has established any comprehensive policy for governmentwide use of data banks. Thus, the increased sophistication in the past few years of federal computer technology has taken place on a relatively uncontrolled and uncoordinated basis.

The Senate Judiciary Subcommittee on Constitutional Rights, chaired by Sen. Sam J. Ervin Jr., D-N.C., has conducted a staff survey of the number of federal data banks, in connection with its study of the impact that computerized information systems can have on individuals. Through agency responses to its questionnaire, the subcommittee has identified more than 750 separate federal banks of data on individuals.

Lawrence M. Baskir, chief counsel and staff director of the subcommittee, said that the figure represents "perhaps a third or a half" of the systems in existence. He said that new systems are "growing like weeds, with little statutory justification."

**Credit investigations**—The principal congressional action to regulate data bank use was the 1970 passage of the Fair Credit Reporting Act (84 Stat 114), which forced credit bureaus and other consumer reporting agencies to adopt privacy safeguards in the evaluation of a consumer's credit standing and general reputation.

Sen. William Proxmire, D-Wis., who was a chief engineer of the law's enactment, held hearings this month in his Senate Banking, Housing and

Urban Affairs Subcommittee on Consumer Credit on a bill he introduced to strengthen the 1970 law. The bill (S 2360) would add several provisions, including one giving consumers the right to inspect their credit files and obtain a written copy of the information.

Another provision would require anyone who takes adverse action against a consumer on the basis of the credit report to inform the consumer in writing of the specific reason for the adverse action.

Sheldon Feldman, the Federal Trade Commission's assistant director for special statutes, testified July 24 before the House Banking and Currency Subcommittee on Consumer Affairs in support of several changes in the act, which the FTC administers. Most of Feldman's recommendations are consistent with S 2360.

**Government data banks**—The July, 1973 report of the HEW Secretary's Advisory Committee on Automated Personal Data Systems, *Records Computers and the Rights of Citizens* concluded:

"Even at the federal level there are few statutes that protect personal data in statistical reporting and research files from unintended administrative or investigative uses. The Census Act, the Public Health Service Act and the Social Security Act are notable exceptions. Otherwise, there is little to prevent anyone with enough time, money and perseverance (to say nothing of someone who can issue or obtain a subpoena) from gaining access to a wealth of information about identifiable participants in surveys and experiments. This should not, and need not, be the case."

Baskir of the Ervin subcommittee said that regulation of criminal justice data banks is the "most feasible" effort by Congress in the months ahead because the subject is "narrow enough and we're familiar with the issues."

Acting Attorney General Bork said Oct. 22 that he would carry forward Richardson's programs. Richardson's interest in regulating criminal justice data systems had been pushed along by two events outside his control:

- the enactment of a 1972 Massachusetts statute on privacy, which already has caused a confrontation between Massachusetts authorities and the Justice Department over the use of criminal data;

- a provision in the recently enacted Crime Control Act of 1973 (87 Stat

197) prohibiting federal agencies from using, for purposes other than law enforcement, research or statistical information compiled by agencies funded by the Law Enforcement Assistance Administration (LEAA), except where authorized by statute, and also requiring procedures "reasonably designed to ensure that all information is kept current."

This law is the first clear expression of congressional intent that federally supported criminal justice agencies establish procedures to protect the confidentiality and completeness of their data.

Because these agencies provide most of the raw data for the FBI's National Crime Information Center (NCIC), the proviso also is an indirect invitation to the Justice Department to set restrictions on the FBI's data-collection activities.

#### FBI data

The development by the FBI of a computerized criminal history (CCH) program within the NCIC has become the focal point of the national debate over the data bank, because it may supplant much of the current FBI manual identification system.

The CCH program also may challenge traditional state independence in the collection of criminal history data.

**Concept:** Although the CCH program was created in 1971, and still is only a small element of all criminal information systems on federal and state levels, it has stirred considerable congressional and state reaction because of its potentially broad governmentwide dimensions and the resulting fear of misuse.

**SEARCH**—The genesis for CCH was the July 1969 creation of Project SEARCH, an informal consortium of state governments funded by LEAA. The group's name is an acronym for "System for Electronic Analysis and Retrieval of Criminal Histories"; its goal was to demonstrate and evaluate the technical feasibility and operational utility of an interstate transfer of criminal history data.

While Project SEARCH has continued to provide reports on the use of telecommunications in law enforcement activities, it now plays no operational role in the development of the nationwide criminal data system. A July 1970 report of the Security and Privacy Committee of Project SEARCH, however, has provided one

of the principal working papers in the use of such a system.

A key recommendation of the report was that "participating agencies should be instructed that their rights to direct access encompass only requests reasonably connected with their criminal justice responsibilities."

**FBI**—In late 1970, then Attorney General (1969-72) John N. Mitchell concluded, after a vigorous internal debate between LEAA and the FBI, that the FBI should take control of the SEARCH prototype and operate it as a part of NCIC, which already has been established for purposes such as cataloguing wanted persons, stolen securities and stolen automobiles.

"When it became clear in the fall of 1970 that the system was going to be a reality," said Lawrence Baskir of the constitutional rights subcommittee, "the FBI made a pitch to Mitchell that it ought to run the system. Although former LEAA Administrator (1971-73) Jerris Leonard argued that the states did not want to be part of a system operated by the FBI, given the choice between Leonard and Hoover (J. Edgar Hoover, who was FBI director from 1924 to 1972), Mitchell chose Hoover. The upshot was that the FBI was to run the whole show and the states were reduced to operating cogs."

**Goals**—The original goal of the FBI was to have all 50 states in the CCH system by 1975. To date, only six states (Arizona, California, Florida, Illinois, New York and Pennsylvania) have joined, and "it's doubtful that the 1975 goal is attainable because the development is extremely complex," said Norman F. Stultz, chief of the NCIC section in the FBI's computer systems division.

Each state must satisfy three requirements before it can join the CCH system:

- The state must maintain a centralized fingerprint identification bureau.
- It must have a process for collecting the criminal history data.
- It must have a computer capability.

LEAA provides much of the funding to meet these elements, Stultz said.

**Operations:** Standards for NCIC operation were the subject of considerable discussion during the Senate Judiciary Committee, hearings last March into the ill-fated nomination of L. Patrick Gray III to be director of the FBI.

Sen. Charles McC. Mathias Jr., R-Md., said at the time: "Despite the

NCIC's national importance and the nationwide interest in its potential, there is in fact very little, if any, legislative base for it. We, in Congress, never really have set statutory standards for its development and for its operation, for the philosophy with which its activities are conducted, and the statutory base that does exist is a precomputer concept. . . . All of that is just really a pretty vague and misty area."

**Gray**—In responding to Mathias' concern, Gray referred to a 558-page NCIC operating manual as well as to a policy paper of the NCIC advisory policy board, composed primarily of state and local police chiefs. He said all computers "capable of interfacing directly with the NCIC computer" must be under the management of a criminal justice agency.

Also, Gray said, "Experience to date indicates that the security and confidentiality requirements as contained in the NCIC policy paper governing access to criminal history records are sufficiently stringent. . . ."

However, Gray acknowledged that the FBI "has no further control over the information once it leaves our possession," such as when it is given to another federal agency.

In response to a Mathias question regarding the key issue of whether NCIC safeguards ensure that arrest and disposition records are complete, Gray said:

"The arrest records of the FBI identification division, as well as those of many state and local identification bureaus, are replete with lengthy arrest records of long-time hoodlums and members of organized crime whose arrests never resulted in conviction. Many sex offenders of children are not prosecuted because parents of the victim do not want to subject the child to the traumatic experience of testifying. . . . To prohibit dissemination of such arrest records would be a disservice to the public upon whom they might prey again."

(For background on the FBI's new leadership see Vol. 5, No. 27, p. 988.)

**Stultz**—NCIC chief Stultz said FBI policy, as is the case with its manual system of fingerprint files, is that "information is to be used only for criminal justice purposes except where permitted by federal or state statute or executive order." The conflict arises in determining what is "valid use outside criminal justice purposes," he said.

Currently, the quasi-governmental Postal Service and the following federal agencies have "on-line" access to NCIC:

- four divisions of the Treasury Department, including the Internal Revenue Service, Secret Service, Customs Bureau and the Bureau of Alcohol, Tobacco and Firearms;
- the four military criminal investigating agencies;
- the Justice Department.

In addition, Stultz said, "many agencies" have access to records in the manual division. He was unable to give a precise figure.

Stultz also echoed Gray's testimony that NCIC is a "user's system" in the sense that "the central file is an amplified index of state systems, which the states can modify and update." The information is made available to other states, he said, in accordance with policy set by the NCIC advisory policy board, whose members are appointed by the users.

The board's policy statement says, "The justification for a national index is to efficiently and effectively coordinate 50 state systems for offender criminal history exchange. The need is to identify the interstate mobile offender."

Baskir disputed the FBI's statement that NCIC is a "user's system."

"It's a user's system but the FBI sets the rules," he said. "The demands of uniformity suggest a unified system, and while there is a strong reason to resist centralization, it's difficult to do because there are 51 interests (the FBI and the states), each having its own complex of forces."

**GAO criticism**—In a Jan. 16, 1973, report, the General Accounting Office (GAO) reviewed the history of NCIC and concluded that "the cost to develop and operate the criminal history exchange system has not been determined . . . (and) . . . sound financial management of a project of this magnitude requires at least an estimate of the costs of the project."

The GAO report referred to unidentified LEAA and state officials' statements that a fully operational system could cost at least \$100 million.

FBI and LEAA officials agreed that there is no official estimate of either initial or on-going NCIC costs. The FBI has requested \$7.8 million to operate NCIC this fiscal year.

Stultz said he had "no idea" whether the \$100-million figure was reasonable but stressed that the FBI

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### An HEW Advisory Unit Proposes a Code of Fair Practice . . .

The HEW Department's Advisory Committee on Automated Personal Data Systems showed no fear of biting off more than it could chew.

What began last year as a narrow study of the use of social security numbers—which HEW assigns—ended up recently as a broad blueprint for addressing the social implications of computer technology in the hands of public as well as private users.

The committee's executive director, David B. H. Martin, said that because the membership of the committee was broad based, "we hope we have managed to isolate issues that need to be addressed across the board."

Martin, special assistant to the HEW Secretary, is moving to Justice where he will head an office dealing with government information policy. He has been an aide to Elliot L. Richardson, who resigned Oct. 20 as Attorney General, in several capacities.

**Background:** Richardson established the advisory committee in February 1972, while he was HEW Secretary, after receiving the report of a social security task force headed by former Commissioner (1962-73) Robert M. Ball of the Social Security Administration.

Martin said that the task force, which had studied the use of the social security number as an identifier, concluded that there was a need for consideration of broader issues, including harmful consequences that may result from using automated personal data systems, and safeguards that might protect against potentially broad consequences.

The 25-member committee included computer managers and operators, public and private administrators, legislators and academicians. Its chairman was Willis H. Ware, a computer scientist on the corporate research staff of the Rand Corp. In nine meetings during its year-long existence, the committee heard more than 100 witnesses.

In its report of July 31, 1973, the committee recommended that Congress approve legislation to establish a "Code of Fair Information Practice" for all automated personal data systems. The report discussed cultural ramifications of computer-based record keeping, with particular attention to threats to privacy, and also recommended limitations on use of the social security number.

**Concerns:** J. Taylor DeWeese, a committee member who is an attorney with the Philadelphia firm of Dilworth, Taxson, Kalish, Levy and Coleman, said the report was "very worthwhile" because it brought together persons of broad backgrounds who engaged in "vigorous debate reflecting their constituencies." DeWeese said it was "unfortunate" that the report contains no description of the extent of data banks and how they are used.

"Our hearings include much good description, but it's buried in the transcript of the hearings," he said. "A fantastic amount of data is being collected with very few controls. There is a marked lack of knowledge by managers of the systems of what they include, how they are being used and who has access."

Another committee member, Guy H. Dobbs, vice president for technical development of computer serv-

ices of Xerox Corp. in Santa Monica, Calif., said that the committee's report recommended "as much as is realistically accomplishable in a legislative sense."

He expressed concern that "policy makers do not appreciate the impact of technology on individual lives," in part, because "our culture and contemporary management of technology is oriented toward technical progress making it difficult for policy makers to appreciate the implications of progress."

Dobbs said the implementation of the committee's recommendations would result in a 5- to 10-per cent increase in cost, primarily for administrative expenses. "This is modest in terms of the possible return in protections to the public," he said.

The purpose of the committee, Dobbs said, was two-fold:

- to educate the public and policy makers;
- to recommend approaches to satisfy the legislative interest in establishing safeguards.

**Recommendations:** Executive director Martin said the committee's proposed Code of Fair Information Practice is intended to serve as a "least common denominator" and that several codes are likely to evolve in specialized areas of application. He cited the Fair Credit Reporting Act (84 Stat 114) as a code already in existence.

The basic elements the committee addressed, he said, are secrecy, right of access, opportunity to view and contest the data and a right to contest the use of the data.

**Public notice**—The committee recommended that any organization having an automated personal data system for administrative purposes should give annual public notice of its existence and character.

Before a new system is established or an existing system enlarged, the committee said, the organization should give individuals who may be affected by its operation "a reasonable opportunity to comment." The public notice would include information about the purpose of the system, the categories of persons on whom data are to be maintained, the categories of data to be maintained, the sources of data, the use to be made of the data, procedural safeguards and the name and address of the person immediately responsible for the system.

**Access to system**—Of particular concern to the committee was a uniform policy for the security of data systems and who may use them.

Its report stated:

"If organizations maintaining personal data systems are left to decide for themselves when and to what extent to adhere fully to the safeguard requirements, the aim of establishing by law a basic code of fair information practice will be frustrated."

Among the recommendations to deal with this concern were:

- There shall be no transfer to another organization of individually identifiable personal data that is not maintained in an automated personal data system "without the prior informed consent of the individual to whom the data pertain."
- With respect to data already in an automated system,

### . . . To Deal with the 'Big Brotherism' Problem of Data Banks

there shall be no transfer of data to another system—except where the individual requests such transfer—unless the organization specifies requirements for security of the data, including limitations on access to it, and determines "that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed."

• The organization shall "take affirmative action" to inform affected employees—those "having any responsibility or function" in any aspect of the system or the use of data it contains—about the safeguard requirements and the rules designed to assure compliance with them.

• A complete record of every access and use of any data in the system shall be kept, including the identity of all persons and organizations to which access has been given.

• The data shall be as accurate, complete, timely, and pertinent as is necessary to assure accuracy and fairness in determination of any individual's qualifications and opportunities.

**Rights of data subjects**—The committee recommended giving individuals the right to take affirmative action concerning the accuracy, use and access to information about themselves.

Among the proposed rights are:

• the right to be informed whether the data being requested is required legally and the known consequences of providing or not providing the data;

• the right of full access to data in the system about one's self in a form comprehensible to him;

• the individual's right to be informed about the uses made of data about him, including the identity of all persons and organizations involved, and their relations with the system;

• the maintenance of procedures that allow an individual to contest the accuracy, completeness, pertinence and necessity for retaining data about himself and that permit such data to be corrected or amended when the individual so requests. In the event of a disagreement, "the individual's claim should be noted and included in any subsequent disclosure or dissemination of the disputed data," the committee said.

**Social Security number**—The committee recommended that the social security number (SSN) not be made a universal identifier, and that it be used only "for carrying out requirements imposed by the federal government" through a specific legislative mandate.

In all other instances, the report said an individual should not be coerced into providing his SSN, nor should his SSN be used without his consent. The committee also recommended legislation to prohibit use of the SSN for promotional or commercial purposes.

**Reaction:** Preliminary reaction to the report, which was circulated widely among federal officials, generally has been favorable. Martin said that comments he has received "indicate that people know it's an important problem."

In releasing the advisory committee report, HEW Secretary Caspar W. Weinberger said that "the basic conclusions" that the committee has reached are certainly sound" and that an individual should have the

right "to know what is in the system about him and not to allow it to be disseminated to other systems without his specific permission. . . ."

Former Attorney General Richardson said determining limits on record keeping "cannot be left exclusively to those who design and apply the technology."

" . . . We must make sure," he said, "that the uses made of records about people do not themselves have consequences that are inimical to social values and basic qualities of life that we have long sought to protect."

Sen. Sam J. Ervin Jr., D-N.C., chairman of the Senate Judiciary Subcommittee on Constitutional Rights, which has conducted an extensive study on federal data banks and the Bill of Rights, said the report's principles "provide a sound basis upon which to design safeguards against the misuse of personal data systems." But Ervin expressed concern that the report's "least-common-denominator" approach will result in "the maximum protection actually available to citizens."

Rep. Barry M. Goldwater Jr., R-Calif., saying that "there is not now a satisfactory legal framework to protect our citizens" from indiscriminate use of data, has introduced HR 10042, a bill to establish a Code of Fair Personal Information Practice, which is analagous to the one proposed in the HEW committee's report.

**Outlook:** Lawrence M. Baskir, chief counsel and staff director of Ervin's constitutional rights subcommittee, called the committee's report "a major step" in recognition of the privacy problem because "it not only deals with HEW; but speaks to the entire executive branch."

Executive director Martin said the committee's intention was to "develop a climate" for the evolution of standards on the operation of data bank systems and that, "to the extent other agencies don't react after reading the report in order to make real its recommendations, then it seems to me Congress could undertake to do so."

But Charles C. Joyce Jr., assistant director for government communications of the Office of Telecommunications Policy, said that "because the HEW report did not make a convincing case that we are facing a crisis," it might be better for the Congress to set ground rules on individual records and hold the agencies responsible for enforcement.

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"intends to complement the states, not replace them."

George Hall, acting assistant administrator of LEAA's National Criminal Justice Information and Status Service, said, "We are now trying to shed some light on what will be the total cost of NCIC, but the question of the cost of an automated system is not the proper question to ask because some of the components of the system are already authorized for other purposes."

**State legislation:** Three states—Massachusetts, Alaska and Iowa—have set limits on the use of criminal history records concerning their own citizens. Massachusetts and Alaska adopted statutes based on a model state act developed by Project SEARCH, and the Iowa legislature formulated its own standards. The Alaska and Iowa laws, passed this year, have not yet caused serious federal challenges. But the 1972 Massachusetts law resulted in a confrontation with the Justice Department.

**Massachusetts—**The Massachusetts statute sets procedures for use and access to individual criminal history records, permitting such records to be disseminated only to criminal justice agencies, except where authorized by statute. In the first seven months of 1973, 72 requests from public and private groups for access to the records were turned down by the state's criminal history systems board. Among those turned down were the Defense Department, Coast Guard, Postal Service and Federal Aviation Administration.

Gov. Sargent said at an Aug. 3 press conference that the Small Business Administration (SBA) has threatened to withhold \$30 million in loans and direct aid, and that the Defense Department's Defense Investigative Service has frozen 2,400 jobs in Massachusetts unless the state ties into the NCIC system.

**U.S. suit—**The most direct challenge to the Massachusetts law was the filing of a suit by James N. Gabriel, U.S. attorney in Massachusetts, contesting the state's limiting access to state criminal history information. The suit, which Gabriel filed June 8, was brought on behalf of SBA and the Defense Department.

At the Aug. 3 press conference, Sargent said: "My concern is locally oriented. We are being penalized and bullied to join a system even though

the safeguards are not there."

David P. Heilner, SBA regional director, said:

"We understand what Massachusetts is trying to do, but we're trying to find ways to help people start businesses. We can't help unless we're convinced the man is rehabilitated. Our inability to have access to criminal history files will inhibit us because if Washington asks us to check out a criminal record and we can't get the information, then we can't make the loan."

Soon after he took office, Richardson ordered a review of the Massachusetts suit. The result was that William D. Ruckelshaus, then deputy attorney general, announced Sept. 25 in Boston that he and Gabriel had decided to dismiss the suit, concluding that "it would be more practical, more appropriate and more effective for the affected federal agencies to seek congressional authorization for such access."

Before he left office, Ruckelshaus said the suit was dropped because: "We didn't think we could win in telling a state how to use its information, and the Attorney General has shown a lot of sensitivity to this problem."

Asked why the suit initially was filed, Ruckelshaus said, "There is some question of whether there was an adequate exchange of information between the U.S. attorney's office in Boston and Washington."

#### Controls

In an effort to deal with the many-faceted problems related to the use of criminal justice data banks, Richardson announced Aug. 3 that LEAA

would draft regulations for protection of information in LEAA-funded criminal data systems, and that a Justice Department task force would prepare legislation dealing with security and privacy aspects of all criminal justice information systems.

Martin B. Danziger, an associate deputy attorney general who has been assigned over-all department supervision of the two projects, said that Richardson was reacting to several factors, including recently enacted federal and state legislation, the access issue raised by the "Bible rider" (see box, p. 1605), a petition for the promulgation of NCIC rules initiated by several political figures and "his own personal interest."

Ruckelshaus, who resigned from the Justice Department at the same time as Richardson, said in an interview before he resigned that the department is trying to guard against "misuse of information."

The administrative regulations are being prepared by LEAA in cooperation with the FBI and must be approved by the Attorney General. The department expects to issue a notice of rule making within a month so that it can get reactions from other agencies and the public.

A draft of the legislation was sent at the end of September to the Office of Management and Budget (OMB), which then circulated it to affected agencies.

Following the initial comments, the bill has been redrafted and again circulated. Both Danziger and OMB officials predict that an Administration bill will be sent to the Congress this session.

**Regulations:** The effort to develop regulations is the direct result of an amendment to the 1973 Crime Control Act, which extends LEAA authority.

An amendment to that act, co-sponsored by Sens. Edward M. Kennedy, D-Mass., and John L. McClellan, D-Ark., prohibits the use of LEAA-financed research or statistical information for non-law enforcement purposes, and requires that "criminal history information collected, stored or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein."

Thomas M. Sussman, chief counsel to Kennedy's Judiciary Subcommittee on Administrative Practice and Pro-

cedure, said the amendment's supporters realized that regulating the LEAA-financed state systems was a "back-door" approach to solution of the NCIC problem. But he said the amendment was, in part, an effort to show the Justice Department that there is broad support of NCIC regulation in the Senate Judiciary Committee so that it can see "the handwriting on the wall." (McClellan is chairman of the committee's Subcommittee on Criminal Laws.)

The department also is responding to an Aug. 3 petition from Gov. Sargent; Sens. Edward W. Brooke, R-Mass., and Harold E. Hughes, D-Iowa; Reps. Michael J. Harrington, D-Mass., and Barry M. Goldwater Jr., R-Calif., and several private groups, asking that the Attorney General develop standards for CCH operation.

Sarah C. Carey, who has coordinated the legal action as an attorney for the Lawyers' Committee for Civil Rights Under Law, said, "There are presently no controls or formal regulations, only informal regulations on CCH."

**Joint process—**In a Sept. 10 letter to Kennedy, Richardson said that LEAA and the FBI would issue the regulations jointly within a "few weeks." He added:

"While this cooperative effort takes a bit more time, the end result should be a comprehensive set of regulations governing all aspects of the NCIC system."

Mary C. Lawton, associate deputy attorney general (Office of Legal Counsel), is assisting in the coordination of the LEAA and FBI regulations. She said, "The process has been a whole lot easier than I thought, because the FBI is aware that a bill is being drafted imposing controls on NCIC, and that the regulations must be consistent with the bill."

"The FBI has lost whatever policy fight it was going to make. The new rules will supplant and differ from the old ones. The problem with NCIC is that its only remedy to bring states in line is to kick them out; this is self-defeating."

George Hall, who is the LEAA official most actively involved in the drafting of the regulations, said, "NCIC will continue to be a user's system; setting parameters does not make it less so. Most of the concern in the regulations relates to use of criminal history data outside the criminal justice system."

## The Issue of Access to FBI Arrest Data

The first significant limitations on the distribution of data in FBI files were imposed by Judge Gerhard A. Gesell of the U.S. District Court for the District of Columbia in *Menard v. Mitchell*, His June 15, 1971, ruling set off legislative actions that have diminished somewhat its impact.

As its statutory justification for the collection and exchange of arrest and fingerprint data, the FBI continually has cited 28 USC 534, passed in 1930, which gives the Attorney General power to collect criminal identification records and exchange them "with and for the official use of authorized officials of the federal government, the states, cities and penal and other institutions."

**Decision:** Responding to the challenge to halt dissemination of arrest and fingerprint data in the FBI manual file, Gesell prohibited the circulation of arrest records outside the federal government for employment or licensing checks and said it was "beyond reason" that Congress intended that a local ordinance or statute authorize a prospective public or private employer to receive fingerprint or arrest information.

Noting that "systematic recordation and dissemination of information about individual citizens is a form of surveillance and control which may easily inhibit freedom to speak, to work and to move about in this land," Gesell said the FBI data system is "out of effective control" and that "the bureau needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards."

**Bible rider:** Six months later, Congress inserted a provision in the Supplemental Appropriations Act of 1972 (85 Stat 627) giving the FBI authority until June 30, 1972, to exchange criminal record information with federally chartered or insured banks, and authorized state and local public agencies to check the records for employment or licensing purposes.

Sen. Alan Bible, D-Nev., the sponsor of the amendment, said that the termination of service resulting from the *Menard* decision was "completely unacceptable. The FBI," he said, "is the only agency able to provide centralized criminal records services." Bible's amendment was accepted without Senate debate.

When a similar provision was attached to the fiscal 1973 appropriations bill for the Justice Department, the Senate accepted an amendment to the so-called "Bible rider" offered by Sen. Sam J. Ervin Jr., D-N.C., forbidding dissemination of the FBI records unless the record shows that the person pleaded guilty, *nolo contendere*, or was convicted. Ervin said that the FBI should be required to show a guilty disposition of the offense—if there was one—because "dissemination of information, mere arrest, without any follow-up as to whether there was a conviction, has caused great difficulty to many Americans."

However, the conference committee deleted the Ervin amendment and also added the word "hereafter" to the original Bible rider to give it permanent status. Ervin and Rep. Don Edwards, D-Calif., objected to the action, saying that this was a legislative action that should be considered by the Judiciary Committees of the Senate and House. But they did not move to vote against the conference committee action.

When the 1974 Justice appropriations bill (HR 8916) was considered in the Senate Sept. 17, it included the original Bible rider with the Ervin amendment. The issue will be resolved by a conference committee.

**House—**Jay B. Howe, staff assistant to the House Appropriations Subcommittee on State, Justice, Commerce and the Judiciary, said that the subcommittee did not consider the "Bible rider" issue this year because the word "hereafter" in last year's bill made the amended rider permanent legislation. Howe said that further action on the issue is "something the Judiciary Committees will have to settle."

In an interview, Rep. Edwards said he did not raise the issue when the Justice Department appropriations bill passed the House June 29 because House Parliamentarian Lewis Deschler had informed him that, due to the addition of "hereafter" in last year's bill, any further action would be improper "legislation in an appropriations bill."

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Stultz of the FBI said he expects that the regulations will be "consistent" with the present NCIC policy. He added that the problem with including criminal dispositions in record keeping is that "the courts and correctional institutions don't have computer capability" and that there is a need for mandatory reporting.

**Sample draft**—One of several drafts of the regulations, described by a Senate staff aide, who did not want to be identified, as "similar in intent to what the Kennedy-McClellan supporters" were expecting, mandates the regulation of the collection, dissemination and use of criminal justice information in each state by a central committee and limits access to law enforcement agencies specifically authorized to obtain such access, except where otherwise provided by federal or state statute.

The draft regulations make a distinction between "criminal offender records" and "criminal intelligence." Criminal intelligence generally is not public information and relates to data collected in investigations. In the draft made available to *NJR*, access to criminal intelligence information systems would be more strictly regulated than would access to criminal offender records.

**Legislation:** The preparation of a bill to regulate the exchange of criminal justice information is not a new process for the Justice Department. It is likely, however, that the contents of any bill it sends to Congress this year will be significantly different from its predecessors.

In 1971, Sen. Roman L. Hruska, R-Neb., introduced S 2546, a Justice Department bill that would have given the Attorney General the power to determine which agencies may have access to criminal justice information. A similar proposal was about to be sent to the Congress this spring, with OMB approval, before the April 30 resignation of former Attorney General (1972-73) Richard G. Kleindienst.

**Task force**—Shortly after he took office May 25, Richardson appointed a task force on security and privacy, headed by Jerry Clark, an attorney in the Office of Criminal Justice, which is directed by Danziger. Clark said that "Richardson felt the previous bill needed changes" and that the HEW report (see box, pages 1602-03) was one of the key reference points for the task force.

Ms. Lawton of the Office of Legal

Counsel said the bill will regulate all federal criminal justice data banks, including those not under the direct supervision of the Justice Department, and would affect, for example, agencies such as the Defense Department and Civil Service Commission, which now rely on these data banks for criminal investigations and security clearances.

**OMB**—The Richardson-approved bill was sent during the last days of September to OMB, which then referred the bill to several agencies for comment. William V. Skidmore, a branch chief in OMB's legislative reference division, chaired a meeting Oct. 5 during which the bill was discussed among interested agencies. Following the meeting, Danziger said:

"I am very hopeful that we can resolve the conflicts in terms of getting an Administration bill."

In an earlier interview, Wilfred H. Rommel, OMB assistant director for legislative reference, said:

"A lot of work must be done with the bill because many agencies have something to say about it. There is a lot of pressure from the Hill for the Administration to produce a bill this year, and OMB hopes to have something before Congress adjourns."

**Agencies:** Ms. Lawton predicted in September that when OMB sends the bill to the agencies, "You'll hear the screams."

Although OMB regulations prohibit public comment by agency officials about legislative proposals being drafted, a sampling of opinion lends some credence to her prediction. However, it is apparent that other agency officials recognize an element of in-

evitability to Administration support of the Justice Department bill.

David B. H. Martin, special assistant to the HEW Secretary and executive director of the HEW privacy report, said the Oct. 5 meeting was "long, discursive and productive; there is a spirit of getting a meaningful bill as soon as possible."

A principal issue during the meeting, Martin said, was that some agencies felt the bill "goes too far" in making it necessary for agencies to get special legislation to revive access to criminal offender records for non-criminal justice purposes. "Not everyone is enchanted with that" and "resistance to changing what's been done for years" is a big obstacle, Martin said.

**Treasury**—The Treasury Department earlier this year implemented the Treasury Enforcement Communications System (TECS), a criminal records system used by the Internal Revenue Service, Secret Service, Customs Bureau and the Bureau of Alcohol, Tobacco and Firearms. The Justice Department bill likely would regulate TECS, said Brent Moody, deputy assistant secretary (enforcement) of Treasury.

"Although there has been no abuse of today's data banks, more attention is rightfully being paid to the issues of access," Moody said. "There is a need to implement some protections after due deliberations without restricting the operational capability of the systems. We will be cooperative in that type of effort, taking into account our diverse responsibilities, including the protective responsibility of the Secret Service."

**SBA—J. Gregory Austin**, general counsel of the Small Business Administration, said several agencies, including SBA, need access to good information, for purposes such as determining the grant-worthiness of loan applicants. "The taxpayers would be upset if they felt we were giving grants to an embezzler or member of the Mafia," Austin said.

He said "it is possible under new Justice Department regulations that we would be forced to withhold money" and that some of the positions being advocated within the Administration "may be a bit emotional in terms of 'Big Brotherism.'"

**Civil Service**—A top staff official of the Civil Service Commission, who did not want to be identified, said the proposed legislation "would put some change in our operations, and I am prepared to defend the need of the commission's getting the fullest practical information bearing on a person's ability to do the job.

"If we don't have the information, this might have a bearing on whether a person is employable for certain jobs. For example, a rule prohibiting arrest records without dispositions would inhibit us because there are all sorts of reasons why a case may be dropped prior to conviction that Civil Service wants to know about."

**Defense**—According to participants, David O. Cooke, deputy assistant secretary of Defense for administration, has participated in data bank discussions on behalf of the Pentagon. He was not available for comment.

## Congress

Assuming an Administration bill is sent to the Congress, it likely would be referred to two subcommittees whose chairmen have been among the Members of Congress most outspoken in arguing for the protection of personal privacy and the confidentiality of records. The two are Sen. Ervin, chairman of the constitutional rights subcommittee, and Rep. Don Edwards, D-Calif., chairman of the House Judiciary Subcommittee on Civil Rights and Constitutional Rights.

Other Members, representing all segments of the political spectrum, have developed an interest in regulation of data banks, with the result that more than two dozen bills have been introduced this year concerning the general subject of privacy and data banks.

**Ervin**: Because of his time-consuming responsibilities as chairman of the Senate Select Committee on Presidential Campaign Activities, Ervin has been unable to devote as much time to the activities of the constitutional rights subcommittee as he has in recent years.

However, he discussed the issue of access to criminal justice data banks in a June 28 speech at Miami (Ohio) University when he said that arrest records "should be available only to those criminal justice agencies which can demonstrate that they need such arrest and disposition records in order to carry out their law enforcement duties. Other organizations, businesses and the like should have no access to this kind of information, which can be so damaging to the lives and liberties of innocent citizens."

The subcommittee staff has prepared a bill, still being reviewed, which chief counsel Baskir said will serve as an "outer limit" on the boundaries of privacy to balance what he believes will be the "law enforcement systems approach" of the Administration bill. He said he hopes there will be hearings on the legislation next spring.

**Edwards**: Hearings began Sept. 26 in Edwards' subcommittee on his bill (HR 9783) to regulate the use of federal criminal data banks. In an opening statement, he said:

"We can no longer assume the necessary precautions for the security and privacy of our citizens will be observed without Congress exercising its responsibility to legislate parameters for the operation of these computer data banks."

In an interview, Edwards acknowledged that "we need the support of the Justice Department to pass a bill that means anything." He said the Massachusetts action and HEW study signal some "change in attitude" by parts of the executive branch.

Edwards also said "extraordinary care" should be exercised before any employer is provided information from a criminal justice data system because "many fine people, often minorities, have been treated unfairly."

**Goldwater**: A bill (HR 10042) introduced by Rep. Goldwater would regulate use of and access to all data banks, public and private. The aim of the legislation, he said, is preventive. "All we're going to do is open up computers so that those who have

responsibilities will be aware of the privacy concern; we don't want to impair the growth of technology."

He said there is "little policy difference between regulation of public and business data banks." While it would be preferable, Goldwater said, if the regulation were to be done voluntarily, "I don't see the trend there."

He said his principal concern was to eliminate the citizen's fear of "bigness." Goldwater criticized some Members for supporting privacy legislation because they are "anti-law enforcement and anti-military."

**Koch**: One Member to whom Goldwater specifically referred was Rep. Edward I. Koch, D-N.Y., who has introduced HR 9786, a bill that would establish a Federal Privacy Board to monitor the operation of public and private data banks.

Koch said regulation of data banks is "too big a monster to deal with in a piecemeal fashion." The bill would establish general guidelines that the board would implement on an agency-by-agency basis.

He said that "the time is right" for legislation because people are "fed up with the invasion of privacy by government."

## Outlook

The increasing federal presence in law enforcement activities, fostered in part by the growth of state-operated, LEAA-funded programs, has increased the likelihood of broad federal guidelines on the use of criminal justice data banks. This policy formulation may have an effect in the private sector as well as in government.

Ms. Lawton of the Justice Department said that "we're trying to leave the federal-state balance alone" in preparing new regulations and legislation. But she conceded that a federal statute would change the relationship and give the federal government an opportunity to "reach" farther.

How far that reach will extend and how strong an impact it will have will be determined, in large part, by the position put forth in the bill being prepared by the Administration with the Justice Department's leadership.

Paul L. Woodard, former LEAA general counsel and now a consultant for Project SEARCH, said that because some departments traditionally have opposed similar proposals to regulate the use of data banks "there will be a lot of problems in getting a meaningful bill." □

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### Local Government Services

1. Solid Waste Management in Ohio, October 1973.
2. Local Law Enforcement Services in Ohio, November 1973.
3. You Can't Get There From Here: Ohio's Transportation Decision, December 1973.
4. Wastewater Management in Ohio, December, 1973.
5. Local Corrections: Who Will Answer?, February 1974.

### Local Government Structures

1. State Administrative Districts and Substate Planning Regions, November 1972.
2. State Bond Insurance Program, February 1973.
3. State Information System, February 1973.
4. Recommendation: A New Statutory Form of Government for Counties, December 1973.
5. Neighborhood Governance, February 1974.
6. A State Boundary Commission, March 1974.
7. Township Government Committee Report, March 1974.

### Special Reports

1. Public Officials Survey Report, November 1972.
2. Local Government Services in Ohio: Citizens' Appraisal and Evaluation, November 1972.
3. Local Government Finances in Ohio, March 1974.



**END**