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Clearinghouse Bulletin #6

THE OREGON JAIL STANDARDS STORY

On July 1, 1974, House Bill 2966, providing for state-wide minimum standards for the operation of local jails, will become law in the State of Oregon. The implementation of this forward-looking legislation will make Oregon one of the few states with authority to set and maintain jail operation standards and virtually the only state which has seen fit to incorporate detailed substantive standards in the authorizing legislation itself.

Why was Oregon so concerned about the condition of its jails? Jails are traditionally overlooked by the average citizen and considered an unpopular and risky issue by politicians. The group responsible for the Oregon legislation expressed the following philosophy:

"An inadequate detention facility. . .is difficult to manage and expensive to maintain. If understaffed and without facilities for treatment programs, the inmates have little opportunity to help themselves become law-abiding and productive citizens".¹

Background and Recognition of Need

The need for jail standards and guidelines in Oregon was recognized as early as 1966. At that time, however, the Oregon legislature was unwilling to sponsor a move for change by the Oregon Corrections Division. It was generally felt by the legislators that a large number of Oregon cities and counties would not be receptive to legislatively-imposed jail standards. In addition, sheriffs who learned of the proposal had voiced their opposition to such action.²

¹ "Jail Standards and Guidelines for Operation of Local Correctional Facilities", State of Oregon, Department of Human Resources, (1973), p. 75.

² All of Oregon's County jails are the responsibility of elected sheriffs. These handle most of the sentences for confinement at the local level.

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Approximately five years later, a Feasibility Study Group, which was organized by the newly formed Corrections Division of the Oregon Department of Human Resources and which was heavily supported and funded by the Oregon Law Enforcement Council, clarified the situation. During the two years that this study group worked with local law enforcement agencies and officials for improvement of local jails, it found that almost everyone agreed that jail standards for the State of Oregon were not only desirable, but essential for long-range improvement of jails. Sheriffs and others who would be affected by jail standards wanted to be sure that there would be a sufficient input of their views and practical insights concerning the subject to produce a set of standards that would be workable.

Based on its newly gained appreciation of the problems involved in formulation of a functional set of standards and with a view towards fullest use of the experience and know-how in the field of jail operation, the Feasibility Study staff urged that a fully representative committee be formed. This committee would explore such questions as what the standards should accomplish and whether or not they should be mandatory. Then, hopefully, the committee would decide what the jail standards should be.

Jail Standards Development Committee

The Feasibility Study staff's recommendation was accepted by the Corrections Division and a committee was formed. This first Jail Standards Development Committee was made up of representatives from the Oregon Corrections Division, the Association of Chiefs of Police, the Oregon Sheriff's Association and the Oregon District Court Judges Association. The first meeting was held on April 14, 1972. At that meeting it was decided to include various people on the committee who has demonstrated an interest in jail reform. Additions included the League of Oregon Cities, the Law Enforcement Council Planning Staff, representatives from the League of Women Voters, the Association of Oregon Counties and State Representative Norma Paulus, who would later be instrumental in guiding the committee's finished product through the Oregon legislature.

Subsequent to the committee additions, the approximately 15 members took a first-hand look at ninety percent of the jails in the state (nearly 100 jails and lockups are now being maintained in Oregon). Also during this time, subcommittees³ were formed to review the existing statutes in Oregon and examine the rules and standards supplied to the committee by other states.⁴ Each subcommittee concentrated on a specific area of concern such as "jail administration", "jail construction", "sanitation", etc. The subcommittees also served as forums for discussion with those having a more first-hand

3 These consisted of a Services and Training Subcommittee, Buildings and Facilities Subcommittee, Supervision and Operation Subcommittee, and Juveniles and Women Subcommittee.

4 Oregon Corrections officials actually made field visits to review existing jail standards systems in other states as part of this undertaking.

knowledge of jail operation voicing their concerns. One of the problems raised by the sheriffs, for instance, was that understaffing often resulted in a lack of adequate supervision of prisoners. Chief of Police Robert Prinslow (now working with the Jail Inspections and Misdemeanant Services Section of the Oregon Corrections Division) felt that prisoners should be viewed "face-to-face" by staff every hour. He had undergone the personal experience of having a prisoner die during the night in his small jail. Other sheriffs voiced concern over the fire hazards of older jails built mainly of wood.

The subcommittees, after much work and ironing out of differences, each wrote a recommendation and submitted it to the full committee. Two law students were engaged to help with the legal drafting and to carry out the committee's intentions. The preliminary draft which emerged took the form of a set of mandatory Jail Standards with an enforcement procedure and a much more comprehensive, recommended set of Guidelines for Operation of Local Correctional Facilities.

The work of the Jail Standards Development Committee then confronted its toughest test. The standards and guidelines were presented to the Association of Oregon Counties and the League of Oregon Cities. There was some concern among members of these two groups that the mandatory Jail Standards would demand too much, too fast, of smaller city and county jails. It was felt that some jails would not have adequate staff or funds to implement the changes called for. However, compromise prevailed. On the basis of testimony given by Oregon sheriffs and other members of the Committee which presented the standards and guidelines to the League and the Association, and after the addition of four amendments to the standards⁵, the city and county representatives pledged support.

Introduction of Legislation

Carrying the full support of the Jail Standards Development Committee, the organizations which were represented on the committee, Mr. Amos E. Reed (Administrator of the Oregon Corrections Division), and the full Corrections Division, the jail standards and guidelines were now ready for the Oregon legislature. The Jail Standards Development Committee, after a full year of continuous effort, entrusted its legislative work to Representative Norma Paulus and the standards and guidelines became House Bill 2966. They were now subject to the give-and-take of the legislative committee system.

The bill's first delay on the route to incorporation in Oregon's statutes was an erroneous assignment to the Education Committee. Fortunately, the co-sponsor Representative Paulus had enlisted for the bill, Representative Peg Dereli, was on this committee and was able to shepherd the bill out. From there, the bill went to the Ways and

⁵ These related to certain clarifying points in the 10 standards (e.g., using electronic monitoring equipment to meet the 24-hour supervision requirement giving local administrators emergency weapons authority, providing for one year's lead time in effective date, and correcting an unintended error).

Means Committee where heated debate was anticipated. Representative Paulus argued that the bill did not belong in Ways and Means since the legislature was not being asked for funding. The legislative session was drawing to a close and it seemed likely that the legislature would recess before voting on the bill if it was not presented soon. The Ways and Means Committee would not relinquish its hold on House Bill 2966, but on the last day of the legislative session, July 5, 1973, the bill appeared on the floor for a vote. Surprisingly, the Ways and Means Committee had approved it. Representative Paulus attributed the unexpected approval by the Ways and Means Committee to a marked change in attitude toward jail and prison reform on the part of Oregon legislators. She remarked that some of the more recently elected members of Oregon's legislature are younger and more socially concerned. In addition, the continued leadership and strong support of the state corrections department in this matter (Corrections Division, Department of Human Resources) provided assurance of executive accountability and coordination for this important reform measure.

The final full-house vote illustrated the wisdom of constituting the Development Committee from representatives of groups interested in and affected by the proposed legislation. There was no debate in opposition and the bill passed handily. In the House of Representatives, there were 41 ayes, 17 nays, one excused and one absence. In the Senate, there were 24 ayes, two nays, four excused and one absence.

Why Mandatory Standards

The Oregon Corrections Division has always stood ready to advise and provide technical assistance to local jails. The problem that Oregon sheriffs have been unable to overcome, however, was lack of funds to implement changes they knew were needed. There was a feeling on the part of the sheriffs that mandatory standards would assist in their efforts to obtain funds from their communities. The sheriffs' predictions have proved to be correct. With the legislature, the many groups that participated in formulating the standards and guidelines, and the exhaustive research of the Jail Standards Development Committee behind them, the sheriffs feel that they are in a much better position to marshal funds for jail improvement. The minimum standards and recommended guidelines have given them tools to work with. Just as a result of publicity attendant upon the passage of the not yet effective legislation, communities which were formerly unresponsive to their sheriffs' warnings and requests have become very interested in the quality of their jails.

Since the Legislation

The Oregon Jail Standards legislation will have little impact on the larger, more recently built jails which, because of their resources, tend to approximate the requirements of the guidelines. Jails in need of improvement, however, are not waiting until House Bill 2966 goes into effect. They have already begun the process of evaluating

their present facilities in order to determine what steps will need to be taken so that the standards can be met by the time they go into effect. Some of the smaller jails will close down entirely, but mostly, the legislation has started many communities moving in the direction of upgrading their jails. Jail Inspections and Misdemeanant Services Consultant, Robert Prinslow, reports that communities seem to want not only to meet the mandatory standards, but the recommended guidelines as well. His division has received as many requests for jail inspections as it can handle. Mr. Lester E. Belleque, Chief of Jail Inspections and Misdemeanant Services, reports that five cities are giving up rather ancient facilities while eight counties are considering reconstruction of their jails.

The Future

The Jail Standards Development Committee did not regard its task as completed upon legislative endorsement of its work. House Bill 2966 made provision for the Administrator of the Corrections Division to appoint a new Jail Standards Committee to assist in the development of a manual of guidelines for jail operation. The new Committee consists of members recommended by participating associations, including six re-appointments. Among the new members are representatives of the Oregon Council on Crime and Delinquency and the Association of Local Health Officers. According to committee chairman, Sheriff John T. Truett of Douglas County, the new committee with the aid of a Law Enforcement Assistance Administration grant to the Oregon Corrections Division, will explore the preliminary impact of the Jail Standards and Guidelines and other jail system issues. Subcommittees of the new committee will be ready with recommendations for the 1975 legislative session by Summer or Fall of 1974. Among the questions the subcommittees are exploring are the advisability of making the recommended guidelines mandatory, of having more regional facilities, more frequent release on recognizance and a correctional specialist for each county.

A recent suit filed by the American Civil Liberties Union against Washington County alleging sub-standard facilities in the local jail has pointed up what became clear to the Jail Standards Development Committee during the exploration phase of its work, i.e., as with most states in this nation, improvement of jail facilities in Oregon was long overdue and a great amount remains to be done.

Alternatives

The Jail Standards Development Committee, organized through the efforts of the Oregon Corrections Division, did not have the benefit of statutorily granted authority to draft jail standards for Oregon. There was no guarantee given to the committee that what it presented to the Oregon legislature would be accepted. Other states may choose to have their legislatures give rule-making powers to a group or committee initially, before any work is done, or to mandate development of standards

after an authorizing statute is passed. In Arkansas, for instance, the legislature gave an eight member board authority to employ agents to develop minimum standards to insure compliance with the standards through regular jail inspections. A court remedy was provided in case of non-compliance.⁶ In Illinois and North Carolina, the power to establish minimum standards is vested by statutory authority in the state's department of corrections.⁷

Legislatures are not always willing to bestow broad standard-setting powers on an ad hoc committee, however. The Oregon story demonstrates that lack of a prior mandate does not preclude subsequent legislative endorsement of proposed jail standards if they are carefully worked out with representatives of all interested parties involved in the effort. What Oregon, in effect, achieved compared to other states with strong jail standards legislation is (a) a set of mandatory standards right in the legislation but of somewhat limited scope; (b) authority to prescribe and revise a comprehensive set of advisory standards (guidelines) but without significant enforcement authority behind them; and (c) rather heavy sharing of implementation responsibility with local authorities (i.e. county commissioners, county boards of health) built right into the statute. Other strong states (e.g. Illinois, New York, South Carolina) have not achieved a statutory specification of substantive standards but their broad delegated powers to promulgate minimum standards, inspect compliance, and bring enforcement actions may provide a broader arena for action and assertion of state authority over the quality of local jails. Although it might be claimed that the current Oregon plan does not have the flexibility provided by an ongoing, rule-making body, it can be argued that the benefits of flexibility are outweighed by the confidence gained from having a reliable set of specific rules which will remain in effect until further legislative action. The non-mandatory guidelines provide further confidence by defining goals and providing direction for achieving a more desirable system without imposing the immediate threat of forced change. As solid experience has been achieved with these, the opportunity to expand the scope of the initial mandatory standards always remains (and, as indicated, is being studied even at this early date in the life of the new law).

Summary of the New Law

Oregon's new, mandatory jail standards are set forth in Oregon Laws 1973, Chapter 740, Section 3, with an effective date of July 1, 1974, prescribed in Section 29. Among the ten specific requirements which have been enacted are: that each local correction facility shall "provide rules and regulations of the facility governing correspondence, visiting privileges and disciplinary rules and regulations governing his behavior to each prisoner, that each local correctional facility

⁶ See Clearinghouse Bulletin #4 - "The Arkansas Jail Standards Story", ABA Statewide Jail Standards and Inspection Systems Project, 1705 DeSales Street, N.W., Washington, D.C. 20036, for further details concerning the Arkansas plan.

⁷ See Survey and Handbook on State Standards and Inspection Legislation for Jails and Juvenile Detention Facilities, ABA Statewide Jail Standards and Inspection Systems Project, pp. 17-28, for statutory variations (March, 1973)

shall "keep the facility safe and secure in accordance with the Uniform Building Code of the International Conference of Builders" and that each local correctional facility shall "make a personal inspection of each person confined at least each hour." (See actual text of ten standards at end of bulletin.)

Section 4 of the newly enacted statute gives the Corrections Division the responsibility to inspect facilities to insure compliance with the standards set out in Section 3 and to provide and coordinate state services with respect to local correctional facilities. If the standards are not being met, the Corrections Division has the authority (essentially an advisory authority) to notify the appropriate local government agency (county or city) and make recommendations for compliance. Also:

"If corrective measures are not taken by the local governmental agency to insure compliance with all standards within a reasonable length of time jointly agreed upon by the agency and the Corrections Division, the division may request the Attorney General to initiate appropriate legal action to insure compliance with the standards."

Inspection duties are not vested solely with the Corrections Division. Section II of the Act, ORS 169.040, designating "the county court or board of county commissioners of each county" an "inspector of the local correctional facilities of the county therein," will remain in effect with only slight changes in nomenclature. This section requires the county court or board to visit local correctional facilities at least once in each regular term and to

...examine fully into the local correctional facility, health, cleanliness, and discipline. If it appears to the court or board that any provisions of law have been violated or neglected, it shall forthwith give notice of the violation and neglect to the district attorney of the district."

Part two, giving the County Health Board broader powers is a new addition to section eleven recommended by the Jail Standards Development Committee:

"(2) The county health officer or his representative is authorized to conduct health and sanitation inspections of local correctional facilities on a semiannual basis".

The county health officer is given the authority to recommend the suspension of the operation of a jail to the county board of health. If, after a hearing, the board of health finds that the facility is unsanitary or unhealthy, it may suspend the operation of the facility until it complies with the county health officer's recommendations.⁸

8 This board of health power is, perhaps, the strongest enforcement provision of the Act since the state corrections division has no authority, even for violation of mandatory standards, to suspend operation of a facility, nor is the state attorney general given that explicit power.

Other sections of the Oregon legislation provide for review by the Corrections Division of plans for new construction or renovation of jails and for revision of the manual of guidelines for operation of local correctional facilities. Although these functions remain "advisory" rather than "mandatory" in legal effect, it is anticipated that the Corrections Division will have considerable influence in decisions for new construction and renovation and in county level assessments of the quality, effectiveness, and relative standing of local jail and detention operations.

Comprehensive Manual

The comprehensive 78-page manual of Guidelines for the Operation of Local Correctional Facilities, developed through the efforts of the Jail Standards Development Committee, is divided into six sections: "Administration", "Supervision and Operation", "Services and Privileges", "Sanitation", "Lock-ups", and "Construction; building and facilities". A complete text of both the mandatory jail standards and the advisory guidelines can be obtained by addressing a request for the manual, Jail Standards and Guidelines for Operation of Local Correctional Facilities, to Mr. Amos E. Reed, Administrator, Corrections Division, Department of Human Resources, 2575 Center Street, N.E., Salem, Oregon 97310.

Excerpt from Chapter 740, Oregon Laws 1973

New Jail Standards Legislation

Section 2. The Corrections Division shall provide and coordinate state services to local governments with respect to local correctional facilities. The Administrator of the Corrections Division shall designate staff to provide technical assistance to local governmental agencies in the planning and operation of local correctional facilities and advice on provisions of state law applicable to these facilities. The staff may inspect local correctional facilities to insure compliance with the standards established in section 3 of this 1973 Act.

Section 3. Each local correctional facility shall:

- (1) Maintain 24-hour supervision when persons are confined; such supervision may include the use of electronic monitoring equipment when approved by the Corrections Division and the governing body of the area in which the facility is located.

- (2) Make a personal inspection of each person confined at least each hour.
- (3) Have a female supervisor present when a female prisoner requires a search or at any time during confinement that a female prisoner's cell needs to be entered.
- (4) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the local correctional facility.
- (5) Serve three meals a day to the prisoners at reasonable intervals and within the local correctional facility.
- (6) Not administer any physical punishment to any prisoner at any time.
- (7) Forward, without examination or censorship, each prisoner's written communications with the Governor, jail administrator, Attorney General, judge or his own attorney.
- (8) Provide rules and regulations of the facility governing correspondence, visiting privileges and disciplinary rules and regulations governing his behavior to each prisoner.
- (9) Keep the facility safe and secure in accordance with Uniform Building Code of the International Conference of Builders.
- (10) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies; and policies and regulations for the operation of the facility.

This publication was researched and written by Ellen Geis, second year student at the University of Denver Law School, from information obtained through telephone interviews.

Data on Oregon jails, taken from Local Jails: A Report Presenting Data for Individual County and City Jails from the 1970 National Jail Census, published by the U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, January 1973:

Table 1. Inmate Data, by County, by Local Jail Within County

Name of jail	Does facility receive juveniles (1 = yes; 0 = no)	County and large city jails ¹		Small city jails ¹		Number of inmates on March 15, 1970						
		Estimated average population	Juveniles housed separately (1 = yes; 0 = no)	Range of inmate population March 1970		Age group		Legal status				
				High	Low	Adult	Juvenile	Held for arraignment or transfer to other authorities	Arraigned and awaiting trial	Awaiting further legal action	Serving sentence of 1 year or less	Serving sentence of more than 1 year
Oregon (65 jails).....	53	2,133	29	176	56	1,265	59	237	450	168	437	32

Table 2. Institutional Data, by County, by Local Jail Within County

Name of jail	Institutional characteristics								Most recent renovation from 1965 to 1970	
	Maximum sentence possible by law	Designed capacity of facility	Year construction of facility began	Selected facilities (1 = yes; 0 = no) ¹					Year	Cost (thousands of dollars)
				Recreation	Education	Medical	Visitation	Toilet		
Oregon (65 jails).....		2,518			3	4	23	23	34	189

Table 3. Expenditure and Employment Data, by County, by Local Jail Within County

Name of jail	Planned construction expenditure fiscal year 1970 (thousands of dollars)	Operating cost fiscal year 1969 (thousands of dollars)	Expenditure and employment data			
			Number of employees March 1970		Payroll March 1970	
			Full-time	Part-time	Full-time	Part-time
Oregon (65 jails).....	1,567	2,711	194	114	118,169	14,844

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