

# PRISON CRISIS: PLANNING FOR THE FUTURE

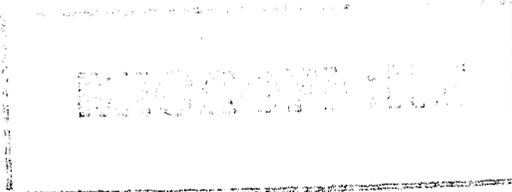


## Summary of Findings And Recommendations



**Ohio Council of Churches**

*East Wilson Bridge Road, Columbus, Ohio 43085*



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**Sponsoring Agencies:  
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- ACLU - Cleveland Chapter
- Criminal Justice Commission - Ohio Council of Churches
- Episcopal Centennial Justice Committee
- Support Correctional Actions Responsibly - SCAR
- United Methodist - East Ohio Conference
- Greater Cleveland Interchurch Council
- Ohio Leadership Conference
- Catholic Conference of Ohio Criminal Justice Task Force

NCJRS

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The development of the findings and recommendations of this document are the sole responsibility of the participants of the Prison Crisis Conference. As such, they are not attributable to any organization or agency.

However, these findings and recommendations are submitted to the citizens, organizations, and agencies of Ohio, for their considerations and subsequent support.

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## INTRODUCTION

The Criminal Justice Commission (CJC) of the Ohio Council of Churches (OCC) is a coalition of people that represent twenty four (24) religious judicatories, together with representation from five (5) secular agencies. The primary function of the Commission is to arrive at a sharp understanding of criminal justice issues and the criminal justice system. Also, of equal importance, the Commission seeks to establish and maintain linkage with religious bodies and allied groups in analyzing and acting upon functions of the police, courts, the correctional system and legislators.

During 1976, one of the principle objectives of the Commission is, "Working towards the development of a sense of corporate responsibility within Ohio communities, for evolving a humane, person oriented system of criminal justice." Also, as a matter of procedure, this objective was approved as an acceptable component within the Plan of Action of the Ohio Council of Churches. The initial procedure, or strategy, elected by the Commission for the implementation of the above stated emphasis is sponsorship of a state wide convocation. Invitations requesting their participation were extended to interdisciplinary and judicatory representation from cooperative denominations, along with others. It is expected that persons in attendance will be actively involved in a functional process designed to stimulate sincere re-thinking of the criminal justice system from a wholesome, more objective, perspective.

On March 9, 1976, as a direct response to the Lehman-Norris Bill, HJR-76, the General Board of the Ohio Council of Churches passed a resolution calling for a moratorium of any additional prison building. Furthermore, the General Board directed its Criminal Justice Commission to be actively involved in exploring and defining a series of recommendations and other criteria in reference to:

- a. Small, community based correctional facilities,
- b. Inmate socialization and reintegration programs,
- c. Alternatives to incarceration.

Several significant factors regarding both the General Board's directive and the previously stated CJC objective, e.g.; program implications, feasibility, element of risk and the critical need for concept approval by an expanded, broadly based constituency, were given serious consideration by the members and staff of the Commission.

Now in retrospect, at least on the surface, it appeared that the OCC understanding and appreciation for the validity and appropriateness of the CJC objective were pretty much understood. Especially, on the basis of the objective's prior acceptance and inclusion within the overall OCC 1976 Plan of Action. Also, as a result of the March 9th action of the General Board, the Commission assumed clear signals of additional authorization and continued support for its program development and implementation. Moreover, at that point, the members of the Commission along with the program staff felt sufficiently empowered to proceed with alacrity in planning and other necessary actions required for the successful implementation of concepts as specifically defined by the General Board and more generally outlined in the 1976 CJC stated objective.

## PROBLEM BACKGROUND

Today the validity of the prison as an institution is being seriously questioned. Though doubtless it was an improvement over what went before, now it, in its turn, seems to have become obsolete. Punishments, despite the popular claims for the so-called no-nonsense, get tough attitude of judges throughout Ohio; the steady decline in the use of probation and shock probation treatment and a corresponding rise in commitments to state penal institutions, no longer deter crimes.

Prisoners do not expiate their crimes and they are not rehabilitated. Thrown together with other criminals, they learn chiefly how to be more intrepid, if not more skillful, criminals. Considerable emphasis is placed on expanding the present prison system, yet with little or no consideration of how to cope with undesired behavior except through pain, punishment, and imprisonment. Expressing the need to rehabilitate existing correctional facilities as a priority, without even mentioning the people incarcerated within those facilities, tends to raise serious values questions.

Is it impossible to imagine how a non-punishing correctional system would work, even though it is understandable that the present punishing system that we now have does not work? Why is it, that the majority among us still cherish the out-dated myth that punishment is operative as behavior modifier? People still break windows in school buildings, not drugstores, as an expression of how they view institutions. New ideas seem strange and threatening. Nevertheless, the promise of a new correctional process that promotes creative rehabilitation with dignity for the keepers, as well as for those that are kept, should be the special priority. The value of persons prepared to function within the limits of societal norms as they return to their respective communities (and eventually they will return) should take precedence over other considerations, including out-dated approaches.

The expansion of our existing correctional system to accommodate additional prisoners, implies that the system expects to correct or to change the people who are entrusted to their care, to help them help themselves. Past experience, however, indicates that total institutions such as the type presently in operation, do not correct, rehabilitate or restore their inmates. Past experience shows that one-third of the people who are subjected to total institutionalization, whether in prison or elsewhere, will return to confinement for new crimes within the first two years after they leave prison, and that another third at least will return later on. In other words, people committed to traditional prison settings are more likely to become confirmed criminals after they are released from a prison experience than before they were committed to prison in the first place. Now if there were no known alternatives to the bankrupt policy of trying to rehabilitate our offenders by locking them up, then the position taken by the Criminal Justice Commission would no doubt be mute.

"The fact is, though, that there is massive evidence pointing to better ways and vastly less expensive ways to correct offenders than to commit them to prison. The National Advisory Commission on Criminal Justice Standards and Goals, headed by former Governor Peterson of Delaware, has just summarized and documented these 'better ways' in its report to the Attorney General; and we are concerned because the consideration of building plans largely ignore and run counter the the correctional goals and standards established by the Commission.

"Here are four short statements suggesting the general outline of 'better ways'; "The U.S. Chamber of Commerce in its booklet titled *Marshalling Citizen Power to Modernize Corrections*, says:

'Experts agree that only 20 to 30% of prison inmates represent a danger to the society and must be securely confined. If the remaining 70% can be rehabilitated in less restrictive local institutions, or under supervision in the community, few facilities will be needed for those considered dangerous and less responsive to correctional treatment.'

"Richard Velde, Associate Director of the law Enforcement Assistance Administration, also says that most prisoners don't belong behind bars:

"The fact is that only between 12 and 25% of those now in jails really belong there,' Mr. Velde says. 'The bulk of those prisoners now in custody, whatever their offense, should be in

properly supervised probation or parole situations."

"Otis L. Brown, then in charge of the State of Virginia's prison system, wrote in May, 1972: 'Forty percent of our inmates should not be in prison. About another forty percent should be handled flexibly if we had sufficient community programs whereby they would be under detention only at certain times. But the remainder (20%) would require incarceration for the protection of society and themselves.

And finally, the investigating reporter, Ben H. Bagdikian, writes in his book called **The Shame of the Prisons:**

"The men who run the prisons seem to agree that most of their inmates shouldn't be there. In visiting prisons, I asked every warden, deputy warden, and director of corrections what percentage of his prisoners he felt needed to be locked behind walls. The highest estimate was 33%, the lowest - 5%; the most were between 10 and 20%."

If the four authorities just quoted are correct — and they all say that only 10 or 20 or 30% of those now in prisons really belong there — then that means that we do not need any of that quarter billion dollars worth of new prisons, and it means that the operating cost of Ohio prisons can be drastically reduced.

It will not take a long time to review the kinds of community correctional programs that are available instead of imprisoning offenders in prisons that do them more harm than good. The most obvious alternative, of course, is parole or probation. It costs only one-sixth to one-tenth as much to keep a person on parole or probation as it costs to keep him in prison. Other alternatives to prison besides probation and parole, all of them less damaging to the offenders and all of them less costly than prisons, are:

- work release and study release programs
- community based institutions, located in the community and using community resources for health, education, and counseling purposes
- non-institutional boarding arrangement, such as small group homes; and semi-institutional or cottage, "open" living arrangements
- forestry, work or outdoor probation camps
- day care programs, outpatient clinics, and non-residential work/group therapy programs

The only two of these alternatives firmly established and in full operation are probation and parole services. The U.S. Bureau of Prisons has experimented with some of the other alternatives, but only on a token scale and in an inconclusive way. We believe that the construction of a quarter billion dollars worth of new prisons will result in committing the Department of of Rehabilitation and the citizens of Ohio indefinitely, to the same bankrupt kind of correctional system that we have experienced in the past — a costly system that is failing; and a major reason for our crime problem today instead of a partial cure. To project present areas of failure into the future is to project greater failures.

A number of National organizations recommended a moratorium on the building of more prisons for the next few years. The U.S. Chamber of Commerce, the National Council on Crime and Delinquency, and most recently, the National Advisory Commission on Criminal Justice Standards and Goals, have endorsed this moratorium concept. Instead of giving priority to more prisons, their common belief is that funds should be made available to organize and to put into operation all the alternatives that are available to us to create a correctional system that truly corrects.

## CIRCUMSTANCES WHICH PERPETUATE THE PROBLEM

To project present areas of failure into the future is to project greater failures.

1. Modern societal changes are so rapid that adaption of present correctional methods will not suffice to control or deter new social crimes arising out of new conditions and technology.
2. Citizen pressure must continue to urge the abolishment of all forms of second-class citizenship within our justice system.
3. The professional and volunteer staffs that perform allied social services and run diversionary or "helping" programs must push for more services for reform.
4. Counter forces to progressive change continue to emerge from a fearful public and politicians who use that fear to gain power.
5. Fear of violent crime accelerates as medias exploit news of violence.
6. Some politicians have gone as far as to suggest citizen posse groups.
7. Constitutional safeguards need updating.
8. Police have become superstars at crime prevention and detection.
  - a. The public is subjected to police surveillance and invasion of privacy.
  - b. Stop-and-frisk laws and wire-tapping.
  - c. Electronic tracking devices.
  - d. Television surveillance.
  - e. Instant information communication systems.
9. The continuing trend of collective crimes.
10. Plea-bargaining rather than trials create new demands. It remains a secret procedure that presumes guilt rather than innocence.
11. Pressures for great social control by the police as opposed to great social control of the police continues to create tension and conflict.
12. An elite police force increases the level of danger of tyranny.
13. Traditional function of criminal courts have become relatively insignificant.
14. Court overloads, crowded jails have put pressures for change on the conservative institution of the criminal court.
15. Minorities, ex-prisoners, political reformers are systemically excluded from the policy making process.

## PROPOSED SOLUTION — OBJECTIVES

The development of an all-Ohio conference community, consisting of approximately 150 participants. Involving legislators, religious leaders, a cross section of local community persons, offender advocacy program representation, judicial and law enforcement personnel, Department of Corrections representatives, public elected officials and the media. Inner-acting together in a functional process, designed to stimulate creative rethinking of the criminal justice system from a wholesome, justice-oriented perspective. There is a justice that we read about. But there is another kind of justice, which we live. If the Constitution is to have meaning for United States citizens, if our democracy is to flourish, if people are to regain their confidence in our system of government, we are all obligated to do our part, including whatever sacrifices deemed necessary. It requires personal awareness and courage to act and to speak with conscience and conviction, too often, and for too long, too many of us have been silent in the face of reprehensible attitudes and actions. We must also understand that there may be a price to pay. We must be prepared to meet the challenge of opposition as well as be willing to assume the risk of ostracism by being too progressive, too humanistic, and too far ahead of our time to suit contemporary norms.

The true reformer, as opposed to the official reformer, must subordinate their professional success to their primary mission — doing what ought to be done for the benefit of their fellow persons.

Ohio's criminal justice system is facing **staggering challenges** today due to **increasing crime rates, public pressure, rapid social change, urban blight, and other external conditions** over which **law enforcement** has **little, if any, control**.

Real change is brought about by those who have both the vision and the power to effect it — hence, the most effective reformer is the person within the power structure. Integrity is not a marketable commodity, and the true reformer must accept each challenge with the **understanding** that ultimately he or she may be consumed in the process.

The cynics, the faithless, the fearful (Jive Turkeys) all pose the question: "Is it worth it?" And by their answer, each person not only determines their destiny, but they also declare their view of humanity.

Unprecedented events occur on all sides of us, causing us to re-examine and modify our view of **persons, institutions, and systems**. Therefore, the way things have customarily been done will have no compelling hold on us; similarly, neither will the novel, nor the different be embraced as meritorious for the sake of difference. The "Prison Crisis: Planning For The Future" Conference design, calls for a commitment to **openness, flexibility, and freedom; freedom to reject** the way seen in retrospect to have been erroneous; **freedom to pursue** a way which may subject us to stress; freedom to try the untried. Indeed, this latter freedom — described our intent to style.

It is impossible for us to contemplate uniformity or conformity as characteristics of the conference participant. Nevertheless, we **commit ourselves** to follow the **discipline of goal development, strategic planning, appropriate actions, and built-in methodology for systemic evaluations**, in the establishment of a **five (5) year progressive criminal justice program concept** including recommendations of **procedural changes** at the **pre-confinement, confinement, and post-confinement** levels.

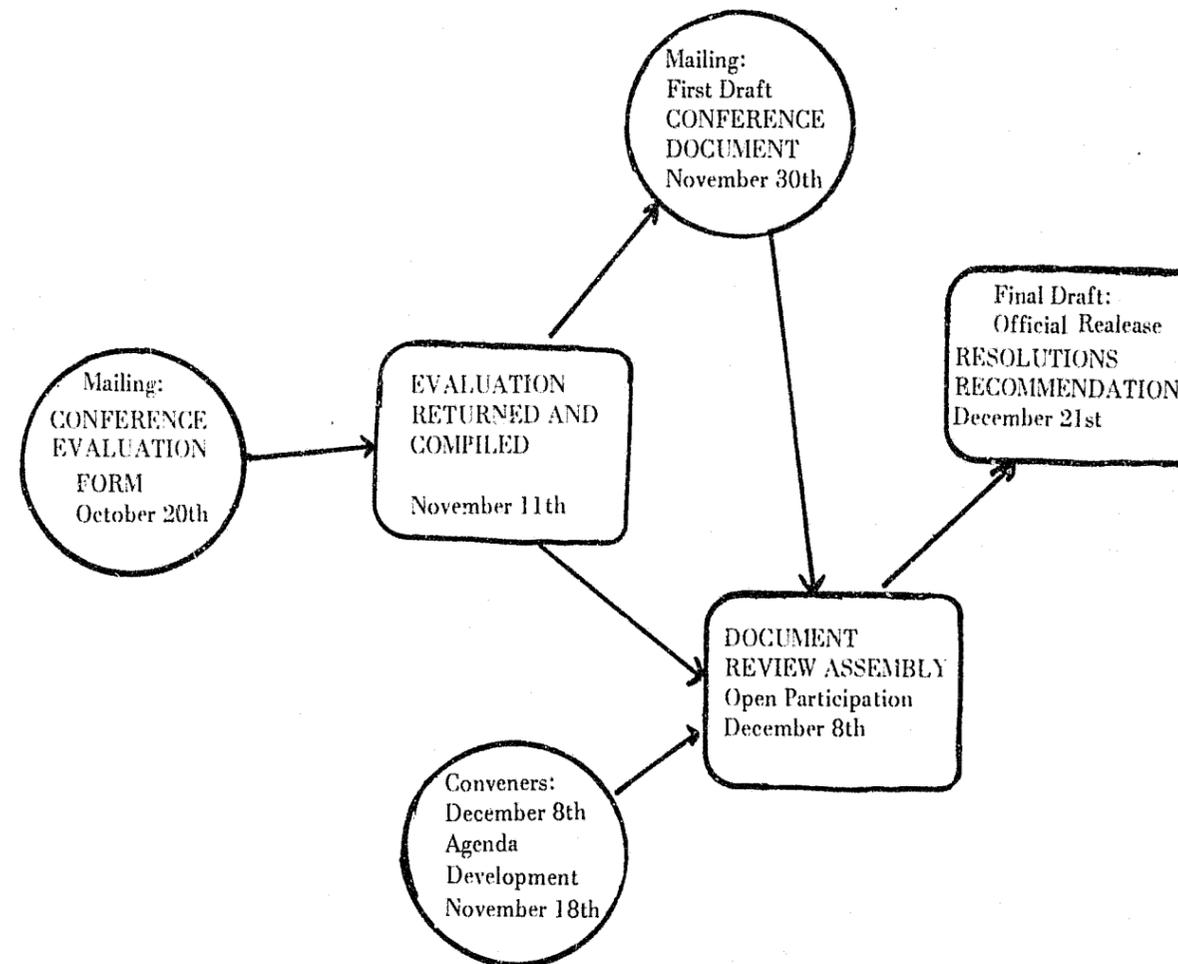
**Specific Areas of Exploration:**

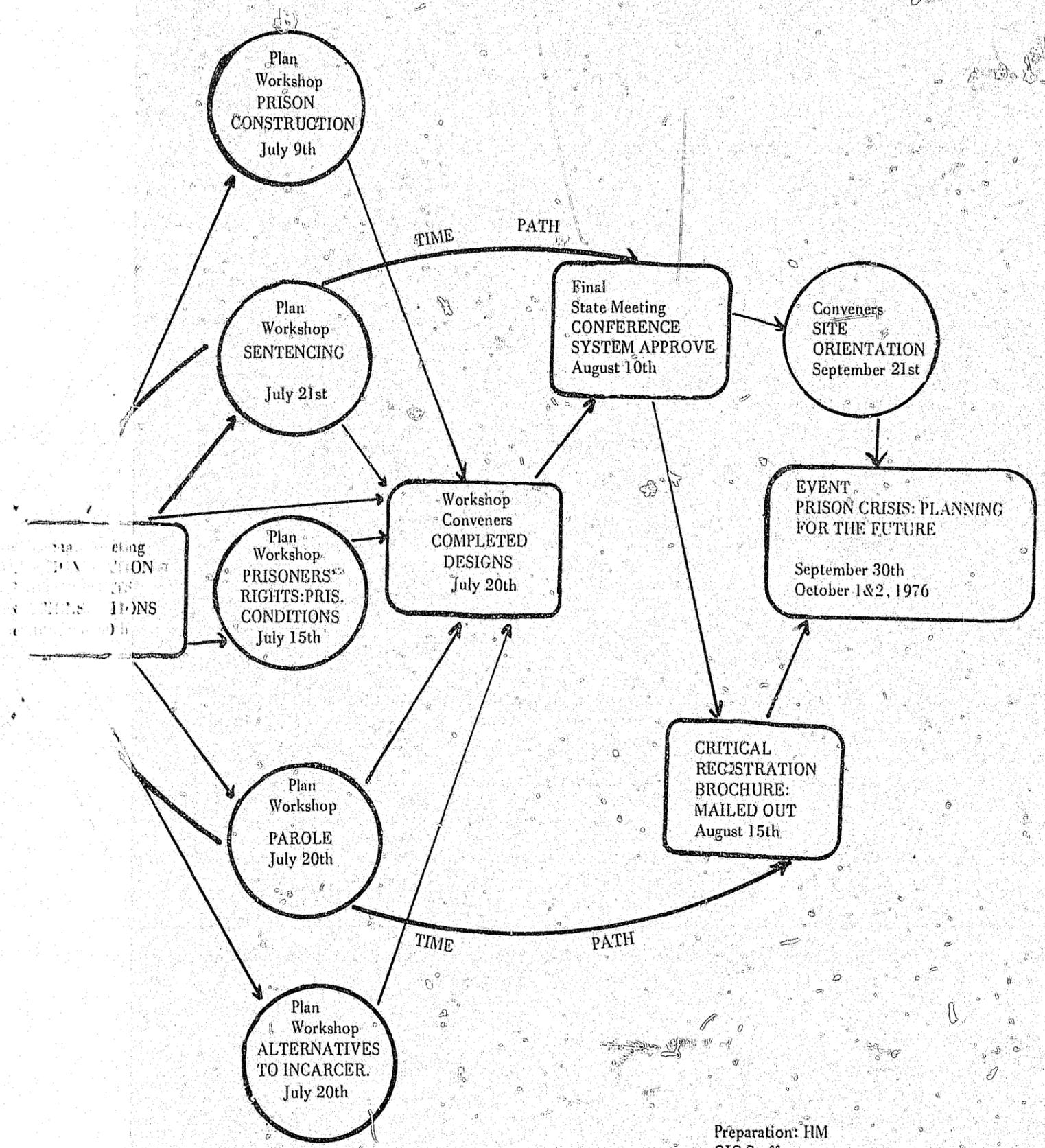
1. Prison Construction - Effects on society, individual, politically, family life, etc.
2. Prison Conditions and Prisoners' Rights - Idleness, overcrowding, mail delays, visiting problems, disciplinary procedures, protection, isolation, grievance mechanism, medical treatment, race and class discrimination.
3. Parole - Board make-up, shock parole, supervision, re-integration centers, etc.
4. Sentencing - Analysis of HB 1476, compare out of state legislation, suggest changes to Ohio Penal Code, definite sentencing, indeterminate sentencing, etc.
5. Alternatives to Incarceration - court level, corrections level, community level, success rate, failure rate, etc.

The overall prime concern of the "Prison Crisis: Planning for The Future" Conference is to structure a functional process that will provide the best possibilities for the following:

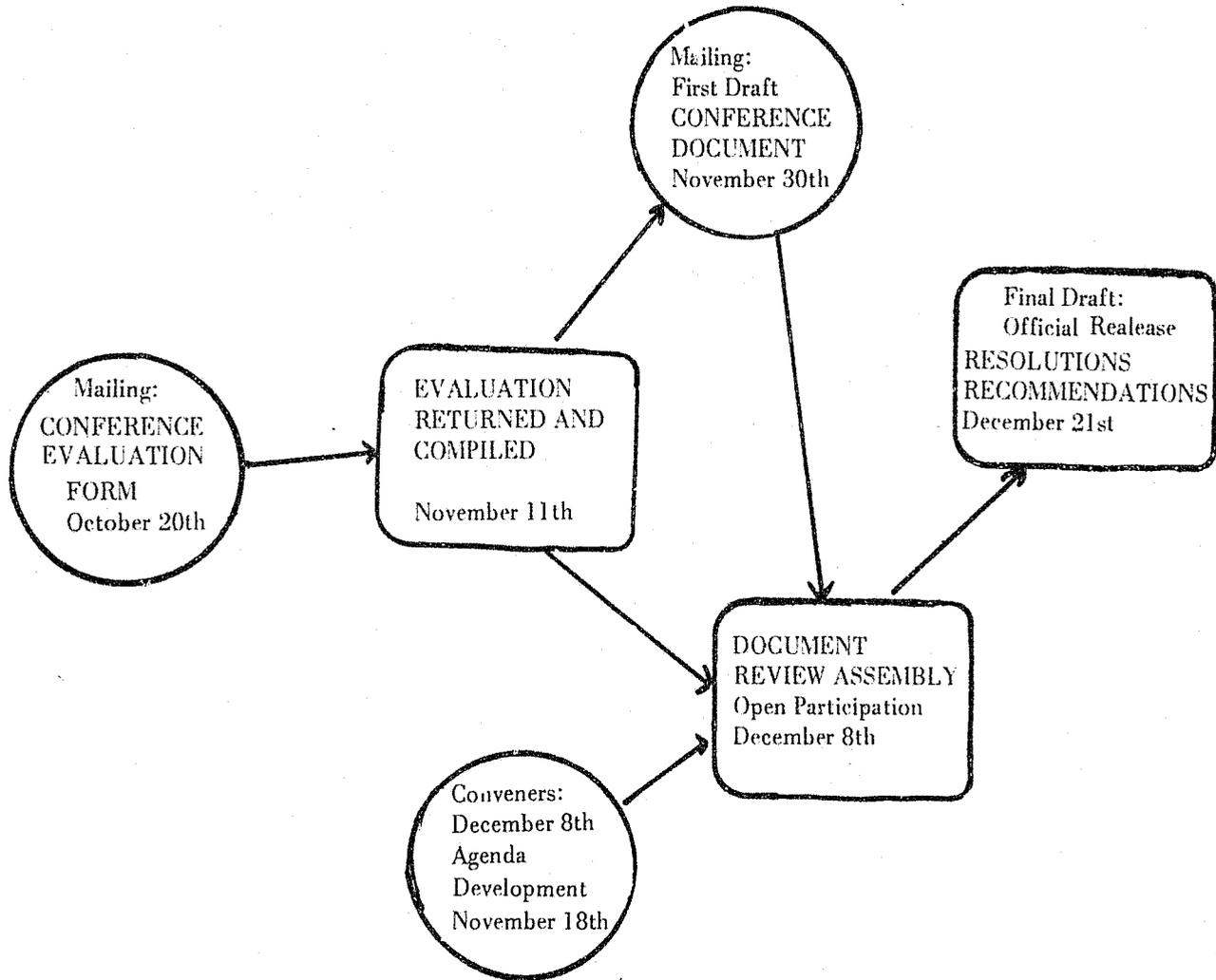
- A. Diversion of up to fifty (50) percent of persons presently affected by incidents of crime and the resulting, subsequent involvements.
- B. Increase feasibility for personal socialization and rehabilitation of persons present/future held in custody by the Department of Corrections.
- C. Substantial reduction to the present recidivism rate.
- D. Easing of tensions and qualitative improvements of relationships between the Keepers and those being Kept.

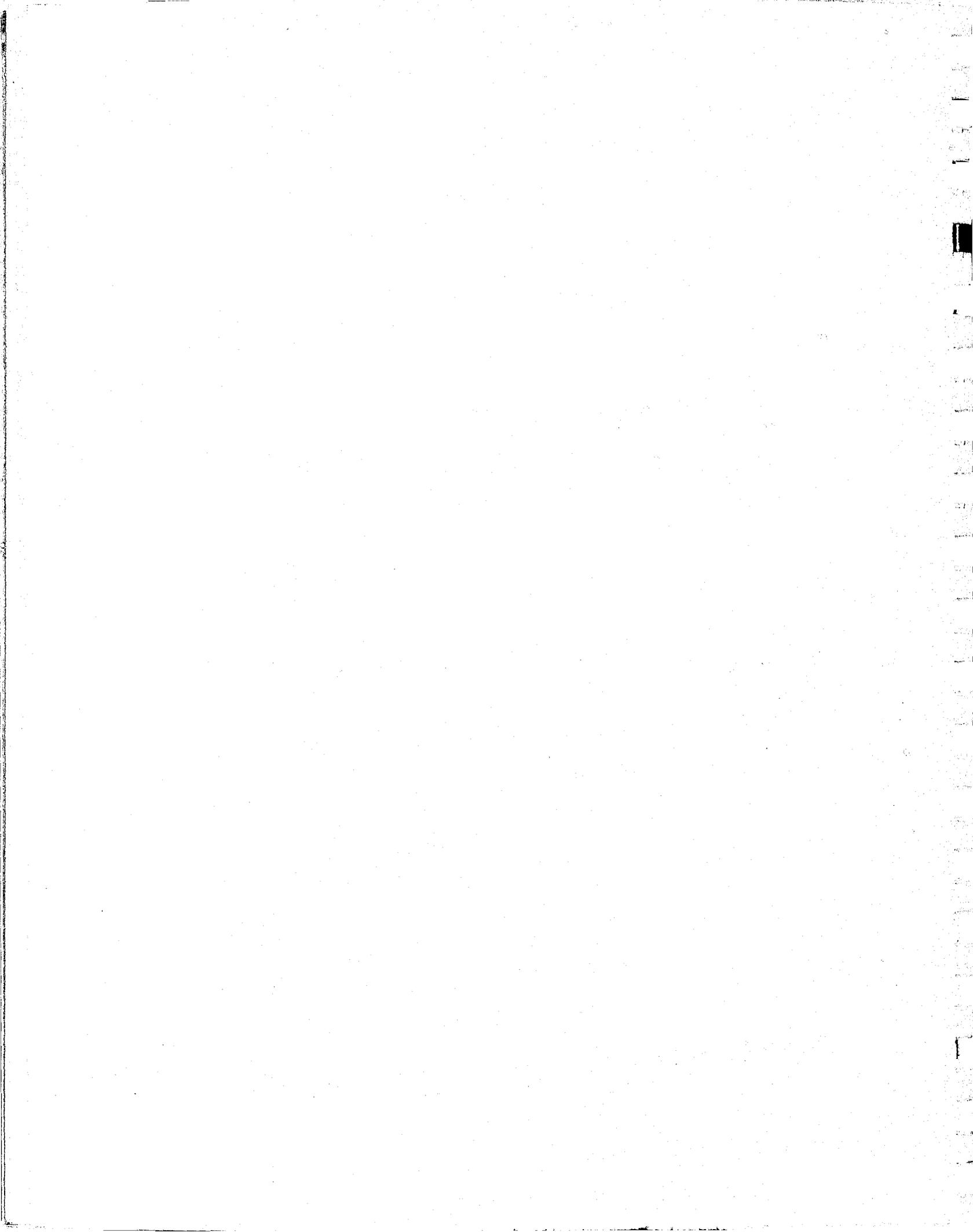
POST-CONFERENCE SCHEDULE  
Process leading up to official release





POST-CONFERENCE SCHEDULE  
Process leading up to official release





**PRE-CONFERENCE MEMO****To: All Participants**

Conference Community (categories of participation)

1. Invited resource persons. (expertise)
2. Facilitators, Conference Planners
3. General Registration

The Conference Planning Committee decided to provide expenses for persons that are invited to share their expertise and experiences with us during the plenary session. This primarily, is the group identified above in the first category.

Persons identifying in categories 2 and 3, as above described, are requested to contribute a nominal registration sum in the amount of \$12.85. The prime objective of the Conference in terms of its fiscal design is to underwrite via grant funds the cost of each participant (\$19.50 meals/\$26.00 lodging) in order to assure representation from the broadest possible cross-section of persons presently involved, or either those persons vitally concerned with criminal justice issues. We hasten to add that there are a few scholarships available upon request.

Finally, the "conference planners" take this opportunity to express their deep appreciation for your understanding and consideration of the registration requirements. We look forward to your participation at the Conference with hopes of establishing linkage in our mutual efforts toward improvements and reform of the criminal justice system in Ohio.

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As a result of excellent sponsor support, full scholarships were made available to 46 persons for their participation during the "Prison Crisis" Conference.

**Pre-Conference Working Paper**

Working toward progressive changes in the Ohio correctional system through the combined efforts of a statewide network and constituency. Real change is brought about by those who have both the vision and the power to effect it — hence, the most effective reformer is the person within the power structure.

Unprecedented events occur on all sides of us, causing us to re-examine and modify our view of persons, institutions, and systems. Therefore, the "Prison Crisis: Planning For the Future" Conference design calls for a commitment to openness, flexibility, and freedom.

The desired expectation of the "Conference" is structuring a functional process that will provide the opportunity for persons participating to gain valuable experience by being in touch (rubbing shoulders) with individuals and systems that can cause change to occur. Without such an experience, no dialogue can take place on how or why to divert the criminal justice system, nor the establishment of a more definite criteria for a broader base community involvement and support.

**Exploration Group 1.0**

There is a constant awareness (by the prisoners) that the deprivations and degradations are being imposed by men with whom they are in close daily contact. It is this sense of personally inflicted punishment that gives the prison the character of "strife" and creates its pervading atmosphere of hatred.

Rehabilitation in prison is at best a myth and at most a fraud. Partly this is because it is an axiom of penology that custody always dominates treatment a truth that is reflected quite clearly in the almost 4 to 1 proportions of the correctional budget for which the two activities account.

Today this normally unstable situation is compounded by the racial and ethnic frictions that agitate the entire American community.

For many of us, prison represents one of those basic facts of life that are a metaphor for other events and institutions. For Black and Latin people, however, prison is more than a metaphor — it is a pervasive element of life. (For example, one of the inmates, prior to being killed in Attica on September 13, 1972, reported that he came from a neighborhood in Rochester where parents talk of the different prisons in which their children are confined in much the same way middle-class whites talk of the colleges their children attend.)

The expansion of our existing correctional system to accommodate additional prisoners, implies that the system expects to correct or to change the people who are entrusted to their care, to help them help themselves. Past experience, however, indicates that total institutions such as the type presently in operation, do not correct, rehabilitate, or restore their inmates. Past experience shows that one-third of the people who are subjected to total institutionalization, whether in prison or elsewhere, will return to confinement for new crimes within the first two years after they leave prison, and in traditional prison settings are more likely to become confirmed criminals after they are released from a prison experience than before they were committed to prison in the first place.

The fact is, there is massive evidence pointing to better ways and vastly less expensive ways to correct offenders than to commit them to prison. The National Advisory Commission on Criminal Justice Standards and Goals headed by former Governor Peterson of Delaware, has just summarized and documented these "better ways" in its report to the Attorney General; and we are concerned because the consideration of building plans largely ignore and run counter to the correctional goals and standards established by the Commission.

### Exploration Group 2.0

#### Prison Conditions and Prisoners' Rights

Easing of tensions and qualitative improvements of relationships between the keepers and those being kept.

The fundamental responsibility of prison management is to secure custody and control of prisoners. And to most prison administrators, as to most bureaucracies, this means keeping matters as close to a fixed and quiet routine as possible. The result is that the administrators' predominant and explicit concern is security, keeping the lid on. Anything that smacks of spontaneity, of getting "out of line," of independence, is to be squelched quickly and emphatically. In short, the ideal is a true totalitarian system extending to the hearts and minds of the prison population.

The total and largely self-contained society that is prison contains all the things that Blacks and other minorities are protesting outside, and under much worse circumstances: poverty, meaningless work, repression, physical abuse, violence, theft and lack of police protection, drugs, Kangaroo courts, worthless education, bad medical care, corruption, correction officer misconduct, racial friction, and, above all, powerlessness. Because prison is one of the most severe sanctions in our society, its subjects include society's most alienated and aggressive members. And since the sense of injustice is obviously most developed where the penalties are greatest, the resentment and bitterness are obviously very deep and pervasive.

The protection of prisoners' rights began only in the last decade and this has become a significant phenomenon only in the last decade and has become a significant legal phenomenon only in the last five years.

For some of the above stated reasons, the protection of prisoners' rights simply cannot be left to administrators. The administrator's prime emphasis must be on security, staff contentment,

union negotiations, public relations in a crime-fearful society and inadequate funding coming from often hostile legislatures that control his budget.

There is an historical parallel to this situation in American history: Slavery. In the slave society and the prison societies, the concept of rights have no place. To many people, both outsiders and prison personnel, the notion that prisoners have rights rather than mere privileges, is incomprehensible.

"Protecting Inmates Rights: Prison Reform or Prison Replacement," reports of the findings and sixteen (16) recommendations by the Ohio Advisory Committee to the United States Commission on Civil Rights, February, 1976, Conference resource material.

Administrative decisions can accomplish almost all of what needs to be done. But the initiative, motivation, and follow-through must come from outside. Many administrators are apprehensive about initiating change on their own, but if they can blame someone else for forcing them into it, they will move with alacrity. But in the enormous effort that is required, concerned citizens have a vital role to play, and unless they accept this role, we really don't know who else will.

### Exploration Group 3.0

#### Parole Process

It costs only one-sixth to one-tenth as much to keep a person on parole or probation as it costs to keep him in prison. According to the theory of American criminal justice, the determination of punishment is a judicial function. Today, however, there is little correlation between the judge's pronouncement in the courtroom and the actual sentence served. The real power to determine the length of an individual's prison term is in the hands of the parole board. Along with the prosecutors and the members of prison disciplinary committees, who supply information on the criminals under consideration, the parole board's make-up, in effect, as administrative system for punishment-fixing which has eroded the judiciary's role in meting-out punishment.

The difficulty in this change lies in the nature of the parole boards: they are semi-autonomous agencies that exist within the justice departments of the Federal and State governments, and the members are appointed by the executive departments. They operate pretty much on their own and are not ordinarily subject to public scrutiny as are the courts. If a parole board makes a mistake, if it doesn't always exercise care in its deliberations, if, indeed, it is arbitrary in its decision, who is to know, except the prisoner who has been treated unfairly?

There are some 23,000 sentenced men and women in the Federal prisons and 180,000 in State prisons. About 70 percent of them will be eligible for parole during the next year. If the pattern of the past years continues, between 35 and 40 percent of those eligible will be granted parole, the rest will be given either a "set off" for six months or a year, or permanently refused parole. In the year ending June 30, 1972, the U.S. Board of Parole considered 16,600 eligible Federal prisoners. It granted parole to 6,200; it continued the cases of another 6,200 for further review; and it denied parole completely to 4,200.

The development of the indeterminate sentence itself has been the cause of much of the shift of responsibility for sentencing from courts to parole boards. Ordinarily, a person sentenced to a fixed term of years becomes eligible for parole only after serving one-third of the term and then has parole hearings on an annual basis. If the sentence is indeterminate, however, the prisoner theoretically is eligible for parole immediately, having the first parole hearing thereafter. In practice, then the parole board, and not the judge, decides how long and under what conditions a prisoner will serve time. Generally, parole boards tend to view themselves as a valuable corrective to the mistakes of the courts.

Until recently, the courts deferred to the boards by observing a distinction between judicial sentencing and other sentence-related decisions. Just in 1973, the fifth Circuit Court of Appeals held, in *Scarp's Vs. U.S. Board of Parole*, that "The Board of Parole is given absolute discretion in matters of parole." The result has been to limit procedural rights before parole boards and insulate their operations from the impact of the due process revolution.

Boards of parole themselves have resisted all attempts to include procedural or substantive due process in their proceedings. They claim that the decision of whether or not to grant parole is a very complicated one, and only they possess the expertise and experience to evaluate correctly the different situation of each applicant. They also contend that due process would interfere with their attempts to rehabilitate prisoners.

And of what does their "expertise" consist?

The prisoner's file is simply looked at as presented. This in itself is disturbing, because prison files are not consistent or accurate records. Black men have been listed as white, and Harvard graduates listed with borderline I.Q.'s. Knowing how difficult and time consuming it is to evaluate a man even from an accurate record, it is particularly disturbing to discover that board members set under the premise, that each man's record can be adequately appraised in approximately five minutes. The documents produced in the parole process are incredibly sloppy, often pencil written, with erasures and misspellings. Opinions and justifications are rarely offered in any detail. What is presented is often copricious or even unconstitutional, such as listings under "liabilities" that a man has "not regularly attended Sunday church services." These are official, potentially legal documents, and some of the worst ever seen — which may explain why they are so closely guarded.

Prisoners have not opportunity to correct or rebut the information in these files. Openness alone could have a great affect upon the board's quality of performance. In playing "God" the board is almost immune to criticism by anyone, and this should not be.

#### Parole Boards should:

1. Develop specific, comprehensive standards to guide their decisions.
2. Open all records and material upon which their decisions are based to prisoners or their representatives.
3. Provide an opportunity for prisoners to correct or rebut information in their files.
4. Open their proceedings and records to the public.
5. State the findings in each parole decision, and give the reason for denying or granting parole on the basis of policy determination that may have value as a precedent.
6. Develop and maintain a system of open precedents. (In addition, the courts should review parole denials for errors of law, unfair procedures or abuse of discretion.)

A recent letter from a Federal prisoner at Leavenworth states:

"I did rob a bank, but I never hurt or killed anyone. Unless you have been in a cell 13' x 6' for 12 continuous years, you cannot possibly perceive the wrong of not achieving due process. I have been up before the board six times in six years, and each time they set me off a year without a reason. So I sit in my cell or pitch horseshoes and wonder what I will have to do to make parole next year."

A powerful argument can be made that the net achievement of prisons is to make prisoners worse.

#### Exploration Group 4.0

##### Sentencing

Despite the popular claims for the so-called, no-nonsense, get tough attitude of judges throughout Ohio; the steady decline in the use of probation and shock probation treatment and a corresponding rise in commitments to state penal institutions, no longer deter crimes. If rehabilitation cannot be achieved in prison, then the "rehabilitative" function of the indeterminate sentence is nonsense.

The sentences of Americans who were sentenced to prison (in 1974) were harsh indeed. Twenty-four percent of them were sentenced to serve five years to life. The largest group of these (14 percent) was sentenced to serve 5-6 years in prison; 700 were sentenced to death.

There is no other country in the world that metes out such harsh punishments on its offenders.

On January 1, 1976, the United States had an imprisonment rate of 215 per 100,000 population, the highest in the world and still rising.

Despite our punitive society, only the most vicious criminals should be jailed longer than five years. The burden of proving the need to hold anyone beyond five years should be on the state.

Although all persons are equal in the sight of the law, those defendants who happen to be Black, and those who are poor, appear to be treated more severely. It appears that either of the sentencing reforms presently under consideration, **indeterminate** or **determinate**, which do not account for the class bias of the criminal justice process will achieve no basic changes, but merely reforms which entrench new vested interest. Punishment may be more certain but still be unfairly applied. However, because there is a greater possibility for due process, definite sentencing should be judged in the context of its success in creating a more just, humane, visible and accountable sentencing method.

#### Exploration Group 5.0

##### Alternatives to Incarceration

Far from coddling criminals or being soft on offenders, alternative sentencing provides a less expensive and more effective method of coping with less serious crimes. Instead of clogging the jails at a great cost to the public purse, alternative sentencing lets the offender — instead of the state — shoulder most of the burden of compensating the victim or the community.

Today, the validity of the prison as an institution is being seriously questioned. Though doubtless, it was an improvement over what went before, now it, in its turn, seems to have become obsolete. Punishments, despite the popular claims for the so-called, no-nonsense, get tough attitude of judges throughout Ohio; the steady decline in the use of probation and shock probation treatment and a corresponding rise in commitments to state penal institutions, no longer deter crimes.

Prisoners do not expiate their crimes and they are not rehabilitated. Thrown together with other criminals, they learn chiefly how to be more intrepid, if not more skilled, criminals. Considerable emphasis is placed on expanding the present prison system, yet with little or no consideration of how to cope with undesired behavior except through pain and punishment of imprisonment. When elected officials express the need to rehabilitate the existing correctional facilities (HJR-76) as a priority, with no mention of persons incarcerated within those facilities, tends to raise serious values and comprehension questions.

In recent years there has been widespread and rapidly growing interest in developing community-based alternatives to traditional ways of dealing with criminal offenders. "Community corrections" and "diversion from the justice system" have achieved sudden prominence in the professional literature and in the nomenclature of criminal justice practice. Both community treatment and diversion are but a part of a much broader movement of social and criminal justice reform that has at its core the return to the community of at least some of the responsibility for dealing with its deviant or anti-social members.

Minimizing penetration into the justice system is a pragmatic shift in stance, an attempt to achieve the same, if not better, results at considerably less expense to the taxpayer. It is also a practical response to what has become an unmanageable overload on the criminal courts and correctional system — a choice between greatly expanding the system's resources to deal with the huge volume of offenders or drastically reducing the number subjected to the full criminal process.

In addition to the pragmatic motivation is the relative rational that derives from recognition that crime control efforts — from the definition of crimes to the selection of offenders for criminal processing — are discriminatory. The system works to the distinct disadvantage of the lower classes and the poor. Studies have shown (Toward a New Criminology, "Crime and Delinquency Literature, Vol. 5 No. 4, 1973") that criminal behavior is equally distributed throughout all social classes, yet it is the Black and poor who fills the jails and prisons. Justice, it is argued, required

that the indigent be given equal consideration for alternative dispositions, including referral to non-judicial social service resources.

Isolation and banishment have not worked. It is beginning to be recognized that unless society is willing to keep a large and growing number of offenders in permanent custody, it must begin to accept greater responsibility in the areas of social control and corrections. The evidence obtained from experimental work in community corrections makes it clear that a vast proportion of offenders can be managed in the community, or diverted from the justice system entirely, thereby returning to the community its responsibility for dealing with behavior it defines as anti-social or deviant.

Prepared by

Hiram Maddox, Director  
Criminal Justice Commission  
Ohio Council of Churches

1976

**Prison Crisis: Planning For The Future**  
**September 30, October 1 & 2, 1976**  
**Agenda For The Event**

Norman Prichard, Chris Conybeare, Chairpersons

**Thursday, September 30**

- 4:00 - 5:45 pm Registration
- 5:00 Dinner  
Table Grace: The Rev. Durwood Busse  
Winston Hills, United Presbyterian Church, Cincinnati
- 7:30 Welcome (Opening Session)  
The Rev. Norman Hassertt, Chairman CJC
- Introduction of Guest: Conybeare/Prichard
- Invocation: The Rev. Carlton N. Weber  
Executive Director, Ohio Council of Churches
- 7:45 **Keynote Address: Matthew L. Myers** Attorney at Law
- Staff Attorney of the National Prison Project of the ACLU Washington office. He is presently involved as litigating attorney: James V. Wallace case before Federal Judge Frank Johnson. This case resulted in overturning the entire Alabama Penal System on Constitutional Grounds - 14th Amd.
- 8:30 Recess
- 8:45 **Attica: Film Presentation**

**Friday, October 1**

- 7:30 - 8:20 am Breakfast  
Table Grace: The Rev. John Frazer  
Metro. Area Church Bd. Columbus
- 8:30 **Conference Orientation — Blue Room**  
Conybeare/Prichard, Chairmen, Planning Committee

9:00

**Exploration Groups: (Workshops)**

- |  |                |
|--|----------------|
| 1. Prison Construction                 | Room 559-561   |
| 2. Prison Condition: Prisoners' Rights | Green Room     |
| 3. Parole Process                      | Blue Room East |
| 4. Sentencing                          | Blue Room West |
| 5. Alternatives to Incarceration       | Yellow Room    |

Friday, October 1 continued

11:00 Capital Punishment Presentation: Blue Room

**Hugo Bedeau**

Author of ACLU pamphlet "The Case Against The Death Penalty." He is a well-known authority on the subject of Capital punishment and the death penalty. Also, he is presently serving on the teaching staff at Tufts University in Medford, Mass., Professor of Philosophy.

12:00 Noon Lunch  
Table Grace: Sister Elaine Wellinger  
Newman Center OSU Columbus

1:30 Workshops in session

2:30 15 minutes recess

2:45 Workshops in session

5:00 Social Period

7:00 Dinner  
Table Grace: The Most Rev. George Fulcher  
Aux. Bishop, Columbus Diocese the Catholic Church

8:30 - 10:30 Interest Group Caucuses

Saturday, October 2

8:00 am Breakfast:  
Table Grace: The Rev. William E. Brown  
United Presbyterian Church, Synod of the Covenant

9:00 Summary of Workshop Reports - Bonapartes Room

11:45 Adjournment

**Prison Crisis: Planning For The Future**

**Conference Plenary Session**

October 2, 1976

Summary of Workshop Reports

- 1.0 The session convened at 8:00 am. Invocation was offered by Rev. William E. Brown. Norm Prichard and Chris Conybeare presided.
- 2.0 **Motion:** Lee Hakel/Hiram Maddox  
That the legislature establish a Prison Oversight Committee, made up of legislators and citizens. The primary function of the Committee is to prevent overcrowded conditions and other abuses that may occur at present or in the future. Furthermore, the Committee should have access to all institutions at all times with authority to review all records and with legal power to assure compliance. Motion carried.
- 3.0 **Motion:** Norm Hassertt/Robert Domer  
To join the National Coalition to abolish Capital Punishment. Motion Carried.
- 4.0 **Prison Construction** Thomas Bailey, ACLU Cleveland  
**Moratorium:**  
We, the participants of the workshop on prison construction propose a moratorium on the construction of any more state prisons in Ohio. We further propose the closing of Mansfield as requested by the Catholic Bishops and given support by the Governor's Task Force on Corrections, the Ohio Advisory Committee to the U.S. Commission on Civil Rights, the Ohio Citizen's Council, the former director of the Ohio Department of Rehabilitation and Correction, the previous four superintendents of the reformatory and the General Board of the Ohio Council of Churches.  
We propose the closing of Marysville and other utilization in the future of the Ohio Penitentiary for the purpose of incarceration.  
We wish to further propose the discontinuation of the penal institutions for non-violent offenders and urge the reclassification and release to the community of those presently incarcerated.  
Funds saved from this moratorium should be reallocated for the development of community based alternatives.  
We recognize the need for dramatic documentation to convince the public of this need, and the suggestion of two effective ways would be:
  - 4.1 Performance audit of Correction Department activities.
  - 4.2 Random state inspection in accordance with H.B. 835
  - 4.3 **Motion:** Valeska Hinton/Dewey Fagerburg  
To adopt the moratorium in principal with stylistic changes as required. Motion carried.
  - 4.4 Suggestions were made that Marysville and Mansfield be closed in favor of community based alternatives. Marysville should be closed along guidelines suggested by the former Superintendent, Martha Wheeler.

**Prison Conditions/Prisoners' Rights**

Lee Hakel, reporting

Resource Material

**Protecting Inmates' Rights: Prison Reform or Prison Replacement**

Report of the Ohio Advisory Committee to the United States Commission on Civil Rights. released: February, 1976

Several of the findings listed in the above stated document have been selected through the Workshop process for further study and review.

**Finding 10: Prisoner Civil Rights Legislation**

Despite a recent reversal in the courts' "hands-off" attitudes toward prisoner rights cases, the legal status of such rights is incompletely defined. As a result, State and Federal courts often deny hearings to legitimate prisoner pleas; decisions may not follow key precedents protecting such rights; prison administrators are still granted excessive discretionary authority; and administrative regulations mandating inmate rights often go unenforced in Ohio and elsewhere. In sum, State and Federal courts stand essentially alone, when they stand at all, on behalf of inmate rights.

**Recommendation:**

The Ohio Advisory Committee recommends:

- (a) to the Ohio General Assembly the enactment of a "Civil and Human Rights Law for Inmates of State Correctional Institutions." In formulating the act, the legislature should use as one guide the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals;
- (b) To the United States Congress, the same action, to cover all correctional institutions, State and Federal;
- (c) that both State and Federal prisoner rights laws seek to codify and carefully define the protected rights of prisoners, the responsibilities of courts to protect those rights, the criminal and civil sanctions appropriately imposed upon violations of such laws, and the changed status of departmental regulations on inmate rights as a result of the passage of such laws;
- (d) to State and Federal legislators that grievance and enforcement machinery be built into such prisoner rights laws in the form of added investigative and enforcement capacities of State and Federal agencies, including offices of attorney general;
- (e) to the U.S. Congress, amendment of the 1968 Safe Streets Act and other Federal laws providing assistance to criminal justice agencies, so as to make enactment of State prisoner rights laws and provision of enforcement machinery prerequisites for State and local receipt of Federal funds for corrections activities;
- (f) to the U.S. Commission on Civil Rights, that it publicly support enactment of strong laws to protect prisoners' rights as detailed in the preceding five points.

**Finding 12: Legal Services for Prisoners**

Legal services to Ohio adult prisoners unable to hire lawyers are virtually nonexistent after the end of an LEAA funded, legal assistance program.

**Recommendation:**

The Ohio Advisory Committee recommends to the Governor and to the Governor's Advisory Panel on Rehabilitation and Correction that a statewide legal assistance service be initiated as soon as possible. Such a service should be funded and directed independently of the Department of Rehabilitation and Correction. Funds for the operation of such a service should not come from sources intended only for limited "pilot" projects. Finally, and most importantly, any legal services program for prisoners instituted by the State should place no administrative restrictions on prisoners' use of that program for the assertion of any legal right.

**Conference recommendations**

Approve Findings 10 and 12 with the following amendments:

**A. Broad Legislative Approach**

1. Recommend that workshop members continue to meet for planning and research of prisoners' rights materials, e.g. Don Goff papers, Protecting Inmate Rights Document, etc.
2. To structure, or if possible, to coordinate with an existing statewide Newsletter, a communication system that will serve the following purposes:
  - a. to list local/state issues and concerns for group awareness and support.
  - b. current appraisal of relevant legislation.
3. To establish and maintain a workable relationship with professional lobbyist.
4. To seek expert assistance in developing appropriate legislation for the promotion of the findings and recommendations that require legislative action.
  - a. to encourage citizen involvement and support of progressive legislation.

**Finding 13: Ombudsman and Grievance Procedures**

Inmates and many outside observers regard present grievance procedures as overly complex, time-consuming, and undependable. The ombudsman, furthermore, is not sufficiently independent of prison administration to provide adequate "backup" when grievance procedures fail. In addition, the new Governor, James A. Rhodes, and the new Director of the Department of Rehabilitation and Correction, George F. Denton, have not staffed the office of ombudsman since the resignation of its most recent incumbent, George Miller, in early 1975.

**Recommendation:**

The Ohio Advisory Committee recommends that the ombudsman position be removed from the payroll of the Department of Rehabilitation and Correction and reestablished with an independently funded staff as Ohio's Independent Penal Ombudsman. The ombudsman should at all times and without exception have access to all institutions and records of the Department of Rehabilitation and Correction. The ombudsman should report directly to the Governor, to the Ohio Criminal Justice Supervisory Commission, and to whatever legislative or executive corrections advisory panel may be established as recommended herein.

Conference recommendation to adopt Ombudsman and Grievance Procedures - as is with emphasis that ombudsperson be responsible to some outside group such as: State Bar Association, League of Women Voters, Ohio Council of Churches, Judges, etc.

**Finding 14: Inmate Advisory Councils**

Adopt with recommendation that inmate Advisory Council should have direct pipeline to ombudsperson.

**Recommendation:**

The Ohio Advisory Committee recommends to the Department of Rehabilitation and Correction the reestablishment of elected inmate councils in all institutions. Such councils should not be limited in their relationships to staff of their respective prisons. Rather, they should also establish regular channels of communication with higher authorities in the department, with whatever advisory panel on rehabilitation and correction, which may be reestablished, and with the Ohio General Assembly. As recommended by the National

Advisory Commission on Criminal Justice Standards and Goals, inmates should be given a greater role in managing the institutions in which they are confined. Effective, elected, inmate councils can be one means to that end.

#### **Finding 11: Prison Disciplinary Procedures**

Adopt as is.

#### **Recommendation:**

The Ohio Advisory Committee recommends to the Department of Rehabilitation and Correction:

- (a) that the central administration assure responsibility for duplicating all regulations affecting inmate behavior and rights in sufficient quantities for distribution to all inmates, their families, and other interested parties;
- (b) that all records of prison disciplinary proceedings, including tapes of Rules Infraction Board hearings, be routinely monitored and analyzed by personnel responsible to an independent penal ombudsman to insure staff compliance with disciplinary regulations;
- (c) that all rules infraction boards and institutional inquiry boards include at least one minority staff person as a prerequisite for meeting to hear cases;
- (d) that analyses of disciplinary proceedings be given on a regular basis to the general public and to a reestablished Governor's Advisory Panel on Rehabilitation and Correction or comparable body created by the general assembly;
- (e) that staff violation of departmental regulations be cause for dismissal and that dismissal be more frequently used as a means of controlling and preventing staff abuse of inmates;
- (f) that prison superintendents be regularly and formally evaluated by top management of the Department of Rehabilitation and Correction, in consultation with lower level staff, inmates, and citizen representatives to insure effective control of line correctional staff by superintendents.

#### **Finding 16: Prison Medical Care**

Principle: Quality medical care — decisions not based on security consideration alone.

Prison medical care is jeopardized by conflicting priorities of security and inmate labor. Prison medical decisions are often made by nonmedical, security personnel, and medical treatment, including drugs and some surgery, is sometimes given for security rather than health reasons.

#### **Recommendation:**

The Ohio Advisory Committee recommends to the Department of Rehabilitation and Correction that responsibility for the planning and supervision of health services be assigned to professionally qualified persons who work with, rather than subordinate to, institutional and central office correctional staff.

The Advisory Committee further recommends that the department's medical advisory committee immediately begin monitoring the prescription of drugs throughout the system to insure the medical necessity of such treatment. Regular reports on the number, type, and purpose of drug prescriptions for inmates should be made to a reestablished executive or legislative advisory panel on rehabilitation and correction and to the general public.

Adopt Finding 16 with the following modifications:

1. Assistant or associate director who is a medical doctor to act as health care administrator for entire system.
2. Licensed pharmacist in each institution to insure drugs' used for proper medical purposes.
3. Correctional Medical Center replaced by hospital of adequate capacity — Joint Commission on Accreditation of Hospitals/Department of Health of Ohio.
4. Drug treatment program.
5. Medical training for guards — basic orientation.
6. Outside monitoring of entire system.  
To support assistant or associate director and plan for needs of department and come through periodically to see if it meets standards.
7. Effective recruitment of qualified medical personnel within EEO guidelines. (recruit people from a wider range of sources.)
8. Issue of experimentation should be studied.

#### **Interim:**

All medical complaints of inmates reported — copy to appropriate organization.

#### **Overcrowded Institutions**

#### **Recommendations:**

We recommend this Conference acknowledge the terrible overcrowded conditions of Ohio's prisons.

We recommend this Conference demand the following actions as a way of reducing prison populations;

1. Reduced time for **non-violent offenses**.
2. Either a change in the law, or an educational effort with Common Pleas judges to make fines and restitution the preferred method of dealing with **non-violent property offenses**.
3. Work furlough for everyone who is within six months of release.
4. Increased use of probation and shock probation for non-violent offenses.

To prevent this overcrowded condition and other abuses in the future, we recommend the legislature establish a **Prison Oversight Committee**, made up of legislators and citizens. They should have access to all institutions at all times, all records, and have some legal authority to assure compliance.

- 5.1 **Motion Shirley Smith/Rev. Durwood Busse**  
To adopt the recommendations as outlined in the Prison Conditions Report. **Motion carried.**

## 6.0 Parole Process

Diane Weeks, reporting

**Recommendations:**

6.1 Each inmate must be seen in the fourth month of incarceration by a member of the parole board at which time general criteria for his release must be written out and signed by both the parole board member and the inmate.

The agreement must give a specific time for a hearing.

If the inmate meets release criteria, he will be released at earliest eligible date (or at a specific time)

Inmate should have copy of criteria.

**Goal Expectation:** To lessen uncertainty of release time.

**Motion:** Diane Weeks/Durwood Busse

6.1.1 **Motion:** Diane Weeks/Durwood Busse

For the adoption of the above recommendation. **Motion carried.**

6.2 The inmate has the right to review his entire packet and all material related to his case for a reasonable time prior to his initial hearing before the Parole Board.

The inmate should have the right to appeal any adverse and/or inaccurate material.

He also should have the right to have an advocate of his own choosing present at his Parole Board hearing.

**Goal Expectation:** To assure the inmate an unbiased hearing before the Parole Board.

**Motion:** Diane Weeks/Jean Puckstein

For the adoption of the above recommendation. **Motion carried.**

6.3 The legislature should expand the membership of the Parole Board sufficient to take care of the case load. Terms of Parole Board members should be six (6) years. The workshop or conference should further study the method of selecting Parole Board members for possible improvement.

6.3.1 **Motion:** Maurice McCrackin/Bill Huff

To add that "Reason for parole denial be made public record so inmate can know reasons. **Motion carried.**

6.3.2 **Motion:** Ysabel Rennie/Maurice McCrackin

To add, "If a man is denied parole, he should be told what to do to achieve parole and the Parole Board (or legislature) should mandate that institutions provide the opportunity for inmate to fulfill his obligations. **Motion carried.**

## 7.0 Sentencing

Delores Rhodes, reporting

**Motion:** Jean Puckstein/Ysabel Rennie

Whereas the present system for the administration of criminal justice results in great disparity in sentencing, we recommend the establishment of a coalition of citizens-at-large and legislators to review present criminal codes and policies with regard to sentencing, and to revise these codes utilizing existing studies. **Motion carried.**

## 8.0 Alternatives to Incarceration:

Jim Roghair, reporting

8.1 **Motion:** Jim Roghair/Harriet Watson

For the adoption of resolution 1,2, and 3.

**Resolution No. 1** Recommend that the Ohio General Assembly repeal sections 2949.18, 2949.19 and any other sections of the Ohio Revised Code that encourage county courts to commit offenders to prison for reasons unrelated to the potential danger of the offender to the community.

**Resolution No. 2** Increase use of probation and community based correction and prevention programs.

**Resolution No. 3** Through passage of appropriate legislation, subsidize probation and other community based alternatives to incarceration including, but not limited to, halfway houses, substances abuse programs, work and study release, out-client diagnostic and treatment, P.R.E.P. and volunteer programs. **Motion carried.**

8.2 **Motion:** Jim Roghair/Janice Davies

For the adoption of resolution 4.

**Resolution No. 4** Revision of Ohio Revised Code to decriminalize victimless crimes. **Motion carried.**

8.3 **Motion:** Jim Roghair/Tom Bailey

For the adoption of resolution 5.

**Resolution No. 5** Repeal constitutional prohibition of prisoners working in private enterprise. **Motion carried.**

8.4 **Motion:** Jim Roghair/Shirley Smith

For the adoption of resolution 6 and the additions thereto.

**Resolution No. 6** Resolved that the Department of Rehabilitation and Correction and the Ohio Youth Commission limit institutionalized populations to rated capacities and dollars so saved be used to support community based alternatives. Resolved - Where incarceration is necessary, use community based incarceration. e.g. weekends, overnights, which provide for contact with and participation in the community.

Resolved - Develop funding mechanisms.

Resolved - This conference must produce a position paper which can be used back home to generate support. **Motion carried.**

**Notes On Alabama Prison Project**  
**Matthew Myers ACLU Washington, D.C.**

**I. Background**

- A. Until 1967 prisoners had no rights
- B. First cases about prison conditions were heard in 1967
  - 1. It was discovered that wardens had no guidelines, didn't follow due process
  - 2. None of the early rulings focused on the real causes, attorneys were too busy dealing with inhumane conditions
  - 3. Lack of progress is evident today
  - 4. Still many complaints about ignoring the rules

**II. Prisons**

- A. Closed and isolated - far from population centers
- B. Control and security are primary concern of administrators
  - 1. 90% of corrections monies devoted to construction and security
- C. Public scrutiny non-existent
- D. Rehabilitation is a joke
  - 1. Learning is impossible in this setting
  - 2. Prisons discourage independence, creativity (the opposite of what is needed on the outside)
- E. Use of incarceration is rising
  - 1. Trend will increase for at least 10 years
    - a. 1973 - 16% white ages 19-29
    - b. 1973 - 14% black ages 10-19
    - c. 1983 - 20% white ages 19-29
    - d. 1983 - 23% black ages 10-19

**III. Action**

- A. Not more beds and bodies
- B. Failure of criminal justice system is nationwide
- C. Courts must examine the totality of conditions
- D. Alabama District Court
  - 1. Issued restraining order on minimum standards
    - a. Reduced prison population 42%
  - 2. Designate capacity of each institution (60 sq. ft. per man min.)
  - 3. Insisted on:
    - a. Meaningful work
    - b. Prerelease transitional program for each inmate
    - c. Minimum staff for each institution
    - d. Visiting and mail and other "rights" minimum standards
  - 4. Designated Univ. of Alabama oversee reclassification of all prisoners.
  - 5. Judge appointed a 40 person commission to monitor the court order
- E. Other cases
  - 1. 6 states (R.I., Okla., Tenn., etc.) have had cases filed
  - 2. Is not a Southern problem
  - 3. Evidence is overwhelming so that political persuasion of individual judge is not very important
  - 4. Supreme Court has not traditionally dealt with cases involving prison conditions
  - 5. Developing a case takes hard work, time, dedication but it is possible

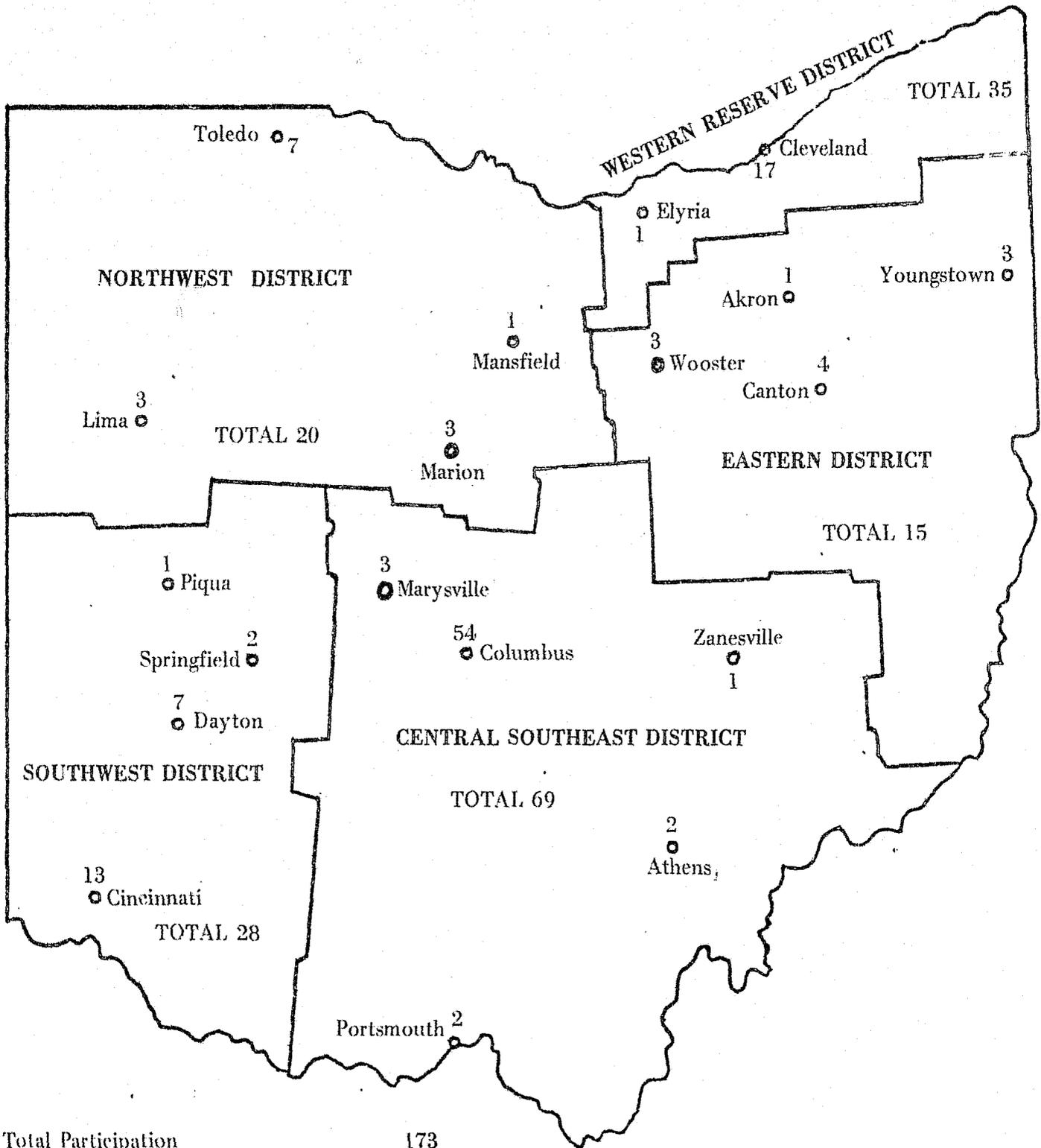
**Special Presentation**  
**Capital Punishment**

Dr. Hugo Bedau

- I. Capital Punishment is now a small part of the total problem of Criminal Justice in U.S.**
  - A. 36 states now authorize capital punishment
  - B. 2 months ago the Supreme Court judged that capital punishment is not unconstitutional
    - 1. Eighth amendment is not a vehicle for finding capital punishment unconstitutional
- II. The U.S. has been without an execution for 9 years**
  - A. For almost 10 years capital punishment has been only a concern of historians
  - B. At this time there is no hope for rapid abolition of capital punishment
  - C. We can no longer rely on Court for relief in this matter
- III. How did we get here?**
  - A. Bad luck
  - B. Nixon-Burger Court decisions of 4 years ago and makeup of present Court
  - C. Failure of public education in this matter
    - 1. Us-those who oppose capital punishment
    - 2. Elected leaders from President on down have not educated public
  - D. Popularity of "law and order" as a slogan (Mitchell, Nixon, Kleindienst)
  - E. Growth of crim rate tempts some to support capital punishment as a familiar method of dealing with criminals
    - 1. 20,000 homicides this year in U.S.
  - F. Anger and fear
- IV. Tools and Strategies**
  - A. Four years ago, Court held
    - 1. 600 were reclassified as a result of that decision
  - B. July, 1976, Court ruled 7-2 that state legislatures do not have right to require death penalty for a broad range of crimes. Individualized punishment is important as the Court sees it. "Guided discretion" is Constitutional.
    - 1. 300 sentenced under guided discretion now in U.S.
    - 2. Mandatory death penalty is now unconstitutional
  - C. Although the concept of guided discretion seems more humane, in reality, many juries are biased against racial minorities, and many do not have any knowledge of the life and death decision they hold in their hands.
    - 1. The evidence of bias in favor of sentencing to death minorities is manifest
  - D. Those of us opposed to capital punishment must work for executive clemency
    - 1. Effect of organized groups on politicians is great
  - E. The bifurcated trial is a new attempt to control use of death penalty
    - 1. There is being developed at the Southern Poverty Law Center
    - 2. There will be two trials - one will be on guilt or innocence of offender, second on the mitigating circumstances of case (if offender is found guilty.) At second trial jury is educated about life and death decision
  - F. Defense attorneys are also working to persuade judges to permit jury education in capital cases
- V. Capital Punishment is the simplest of social practices to eliminate**
  - A. We must discount the Court as a source of remedy at this time
  - B. Governors and legislators and state courts now must deal with the issue
  - C. They no longer can "kick it up to the Court"
  - D. Therefore, we must work at state level at this time

PRISON CRISIS: PLANNING FOR THE FUTURE  
PARTICIPANTS LOCAL AREAS IDENTIFIED BY DISTRICTS

DISTRICT BOUNDARIES



Total Participation

173

Several Smaller Communities Within Districts, not shown

Out of State Participants

6

There is  
a  
justice  
that  
we  
read  
about.  
But  
there  
is  
another  
kind  
of  
justice,  
which  
we live.

Seeds sown on good soil bring forth good fruit. Knowledge of soils is imperative.

**END**