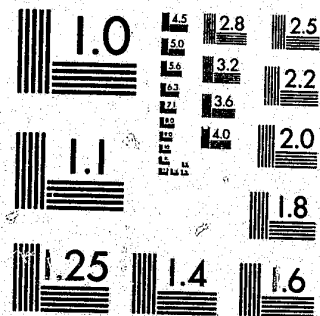


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# NEW JERSEY STATE LEGISLATURE

## STAFF REPORT

### ON

# PRISON OVERCROWDING - WITH ALTERNATIVES

April, 1982

JOINT APPROPRIATIONS COMMITTEE

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PREPARED BY:

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## SUMMARY

Growth in the inmate population of New Jersey's correction facilities has resulted in a severe and continuing shortage of inmate housing space. This growth has been caused by several factors, including higher crime rates and the effects of the new Code of Criminal Justice (Title 2C), and has resulted in substantial prison overcrowding. The potential sociological and financial impacts of prison overcrowding are cause for serious concern.

In terms of the financial impact, the adjusted appropriation (Direct State Services) for the Department of Corrections (DOC) has risen from \$72 million in Fiscal Year (FY) 1978 to an adjusted appropriation for FY 1982 of \$129.6 million and a proposed FY 1983 appropriation of \$154.2 million.

In addition, by Executive Order, the county correction facilities are required to allocate space for inmates sentenced to State Prisons who are awaiting transfer to a State facility. The number of such inmates has increased from 200 in December 1980 to 1,077 in January 1982 and continued to increase to 1,166 during March 1982. The overcrowding in the county correction facilities has resulted in conditions which have been labeled as unconstitutional.<sup>1</sup> The matter is presently under review in the Federal Courts.

As a result, costs for the use of county facilities have risen from \$500,000 in FY 1981 to a FY 1983 cost estimated at over \$19 million by the Office of Legislative Services, Division of Budget and Program Review. If that level of expenditure is reached for this program, the FY 1983 budget request of the DOC could be underestimated by as much as \$5 million.

The DOC has taken action to acquire additional inmate housing space, e.g., the Mid-State Correction Facility (Fort Dix Stockade), and to construct a new prison located in Camden. However, the prison population continues to outgrow available space.

Therefore, additional alternatives must be implemented to relieve prison overcrowding. During December 1981, the Governor's Task Force on Prison Overcrowding made specific recommendations to relieve overcrowding. This paper discusses several of the recommendations of the Task Force, as well as other possible alternatives to the overcrowding problem, including a new Public Bond Issue, a 105 percent cap of prison capacity on the penal population leading to possible early release of inmates who meet the rigid requirements and standards for parole, changes in Parole Board responsibility, community service programs and assistance to juveniles in lieu of incarceration.

<sup>1</sup> Former State Supreme Court Justice Mountain.

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ACQUISITIONS

## BACKGROUND

Prison overcrowding is a serious problem both in New Jersey and the nation, with more than 36 States presently under Federal Court scrutiny for this condition. The overcrowding in New Jersey's correctional institutions is threatening to get out of control. For example, the Department of Correction's (DOC) latest sources of temporary bedspace are a prison chapel in Bordentown, a gymnasium in Jamesburg, and various recreation rooms, classrooms and hallways in other prison facilities.

The State prison population in New Jersey increased from 6,199 on September 30, 1980 to a record high of 8,920 on January 31, 1982. Statistics on the population of the State's correctional facilities are detailed in Attachments B and C.

Correspondingly, the Adjusted New Jersey State Appropriation for Direct State Services for the DOC from Fiscal Year 1978 to Fiscal Year 1981 (as shown below) ranged between an 8 and 10.5 percent increase each year. However, in FY 1982 there is a major increase of \$36.2 million (38.8 percent) from FY 1981. Because of overcrowding conditions, the FY 1982 adjusted appropriation (including the \$20.4 million supplemental appropriation) apparently will not meet all of the DOC's 1982 financial needs.

The Governor's Budget Recommendation (Direct State Services) for the DOC for FY 1983 is \$154.2 million. At this time, it cannot be determined what additional funds may be required to supplement this amount.

### SUMMARY OF ADJUSTED APPROPRIATION - DIRECT STATE SERVICES

<u>FY</u>	<u>Amount</u> (\$ million)	<u>Increase</u> (\$ million)	<u>Percent</u>
1982	\$129.6	\$36.2	38.8%
1981	93.4	7.2	8.4
1980	86.2	8.2	10.5
1979	78.0	5.8	8.0
1978	72.2		

## CAUSES OF PRISON OVERCROWDING

Several major reasons for the increased prison population in New Jersey were cited recently by two high level State officials.

Commissioner Fauver, Department of Corrections, cited three primary reasons for the overcrowded situation: 1) the effects of the New Code of Criminal Justice; 2) the effects of the new Parole Act; and 3) the impact of the State Speedy Trial program.

The Commissioner further stated, "The new code (Title 2C) of Criminal Justice ... has resulted in more offenders being committed to State institutions and for longer periods of time. Compared to commitments under Title 2A, the former criminal code, commitments to the State Prison System were up by a staggering 70%. Moreover, the median term imposed by the courts also increased from five to seven years. In addition, the imposition of mandatory minimum parole ineligibility terms will increase an offender's actual length of incarceration, further contributing to the overcrowding situation.

"Similarly, commitments to State Youth Correctional Institutions and County correctional facilities have also increased by 10% and 16% respectively under the new Criminal Code."<sup>1</sup>

A chart for mandatory minimum terms imposed under the new penal code is detailed on Attachment D.

The Chief, Appellate Section, Division of Criminal Justice of the Department of Law and Public Safety, has also stated that "the rising prison population can be attributed to: 1) increased crime rates; 2) greater sensitivity by sentencing judges toward society's hardline attitude toward offenders; and 3) an increase in effective law enforcement methods resulting in more successful prosecution."<sup>2</sup>

Clearly, the present economic situation with higher rates of unemployment may well contribute both to higher crime rates and public indignation to these crimes.

<sup>1</sup>Public Hearing - February 18, 1982 before the New Jersey Senate Health, Institutions and Welfare Committee.

<sup>2</sup>Testimony by Mr. John DeCicco at the Annual Public Meeting of the State Parole Board, June 24, 1981.

#### OPERATING EXPENDITURES

The cost of maintaining State committed inmates is having a serious effect upon the State budget. The FY 1983 Executive Budget Request will exceed \$154.2 million, an increase of 19 percent over the current FY 1982 adjusted appropriation of \$129.6 million. This adjusted appropriation is \$26 million higher than the original FY 1982 appropriation and could increase further prior to the end of FY 1982.

The cost of maintaining inmates (food, clothing, shelter, medical service, transportation, and the like) is clearly illustrated by the Mid-State Correction Facility, formerly known as the Fort Dix Stockade, which is currently leased for three years. The FY 1983 Executive Budget Request is \$9.1 million for 500 inmates for this facility. This amounts to a daily operating cost of \$49.86 per day or \$18,200 per year per inmate, which includes increased security and civilian personnel to maintain the grounds within the facility (as stipulated by the federal government) instead of using inmate labor. These costs do not include \$4 to \$5 million for capital expenditures needed to renovate the facility in order to meet federal requirements, including renovation of the heating system, installation of fences and improved security facilities.

The FY 1982 weighted average cost of maintaining inmates in all State correction facilities is approximately \$38 per day or \$13,870 per year. The FY 1983 daily rate is projected to rise to approximately \$42 per day or \$15,330 per year.

#### COUNTY CORRECTION FACILITIES

An additional matter of concern is the cost of reimbursing county correction agencies for housing State sentenced inmates beyond the fifteen day exclusionary period provided in Title 2C of the N. J. Penal Code. In addition to the cost factor, the prolonged housing of State inmates in turn causes overcrowding in the county penal facilities. Attachment E details the county jail population on a county-by-county basis.

In June 1981, Executive Order No. 106 was issued requiring State and county penal and correctional facilities to allocate State sentenced inmates to those county and municipal facilities having available space in order to alleviate overcrowding. This order was extended twice. However, the county penal facilities rapidly became overcrowded because of the necessity to accommodate the overflow from the State facilities.

During January 1982, the Essex County Jail, built to accommodate 550 inmates, had a population of 714, including 168 inmates sentenced to State prisons.

After a tour of the Essex County Jail in Newark on January 27, 1982, State Senator Richard Cody, Chairman of the Senate Corrections, Health and Human Services Committee, stated, in part, that the severe overcrowding problem "is creating a crisis situation throughout the whole State, ..."

Executive Order #106 and its extensions have been challenged in court by several counties. However, as of March 1, 1982 the courts have ruled in favor of the State.

During December 1979, after implementation of Title 2C of the Criminal Code, the State had 31 inmates awaiting transfer to State penal facilities. In December, 1980, the figure rose to 200 inmates. During September 1981, the figure had risen again to 650 inmates. By February 1982, County facilities housed 1,077 inmates awaiting transfer. By March 1982, this figure had increased to 1,166 inmates.

The cost of maintaining State inmates housed in county penal facilities has risen from \$500 thousand in FY 1981 to more than \$12.2 million in FY 1982. OLS projects that, if this inmate population stays at 1,077, the FY 1983 costs could rise to \$19.7 million.

The FY 1983 DOC Budget Request for this program is \$14.6 million and is based on an average daily population estimate of 800 inmates. This estimate is based on the assumption that the new Mid-State Correction Facility will reduce the county inmate population. However, if current crime and sentencing rates continue into FY 1983, this estimate will be low and the county jails will again be filled to overcapacity. If the OLS projection is correct, and alternative action is not taken, a \$5 million supplemental appropriation will be required for this item.

## ALTERNATIVES TO BE CONSIDERED TO RELIEVE PRISON OVERCROWDING

The Report of the Governor's Task Force on Prison Overcrowding, dated December 3, 1981, makes several recommendations for resolving the prison overcrowding problem and includes a detailed survey of what other States are doing to relieve these problems. These recommendations for legislative action and several alternatives that the Legislature could consider in addressing the overcrowding problem are discussed below.

### SHORT TERM ALTERNATIVES

1. The Governor's Task Force recommends that "the Legislature should consider amending this jurisdiction (Parole Board) to allow parole eligibility for inmates serving less than one year except those incarcerated as a condition of probation."

Consideration should be given to legislation in which inmates housed in a county penal facility serving more than sixty days but less than a year would have their status reviewed by the State Parole Board in the same manner as State inmates.

The N. J. Code of Criminal Justice, Title 2C:43-10C, states that when a person is sentenced to prison for a term of less than one year, the court shall commit that individual to a county penal facility until released in accordance with the law. While the proposed legislation would increase the workload of the State Parole Board, it could safely and more equitably reduce the inmate population in county correctional facilities by approximately 500.<sup>3</sup> It should be noted that the State Parole Board staff was increased to service the State sentenced inmates presently located in the 21 counties during this current emergency problem. This staff could service those inmates serving less than a year.

2. The Governor's Task Force also recommends that the Legislature examine a statute similar to one used in the State of Michigan, which "has the merit of reducing custodial population only in the event of severe overcrowding, and of selecting for release those inmates who would shortly be released on parole anyway."

"The suggested statute ... (1) ... accelerates parole eligibility ... (2) ... identifies for parole eligibility only those meeting existing standards for parole ... (3) ... handles the overcrowding problem ... (4) ... operates equally for most inmates."

<sup>3</sup> State Parole Board estimate.

As a result of our review of the Governor's Task Force report with the State Parole Board, it appears that a version of the program adopted by the State of Michigan could be adopted in New Jersey. This is described in Appendix A.

### LONG TERM ALTERNATIVES

1. As an additional alternative for addressing the prison overcrowding problem, OLS suggests that consideration might be given to appropriating funds which would allow the State Parole Board to formally contract with inmates who meet the rigid requirements and standards for parole and are non-violent offenders, to perform in volunteer community service programs.

At the present time, Title 2C:45-1(13) gives the courts the power to place a sentenced person on probation and as one condition of its order "to require the performance of community related service."

Variations in this proposed program could include, for example, day/night or weekend work, with the parolee living in his own home or a community halfway house.

This alternative will require State funding to provide supervision by community service coordinators as well as for halfway house operating expenses. However, the cost involved in the administration of this program is approximately two-thirds of the cost of maintaining an inmate in a State correction facility.<sup>4</sup>

2. An expanded program to treat juvenile offenders could have a long-term effect on future adult offenders. A U.S. Department of Justice Bulletin dated January 1982 states that "Inmates of State prisons are predominantly poor young adult males with less than a high school education. Prison is not a new experience for them; they have been incarcerated before, many first as juveniles. The offense that brought them to prison was a violent crime or a burglary. ..."

The DOC's Division of Juvenile Services presently operates fourteen Residential Group Centers, including Highfields, Ocean, Warren and Turell. These juvenile treatment centers service juvenile offenders who have been sentenced to State Juvenile Correction facilities, including the Training School at Jamesburg. The results have been impressive in that the juveniles are better prepared to return to their home environment.

The programs consist of non-custodial residential experiences over an approximate six-month period, including guided group interaction sessions five days a week, work experience in State Parks, formal education, residential living experiences and contacts with the family and the community.

<sup>4</sup> Department of Corrections data.

Program costs have averaged \$10,000 per year per juvenile. In comparison, the average annual cost for a juvenile serving a sentence at the Jamesburg Training School is \$17,000, while at the Skillman Training School for Boys, the average annual cost is \$20,000.

Consideration should be given to an expanded program of juvenile non-custodial residential centers. This could have a long-term effect in reducing the number of future adult offenders.

3. The Governor's Task Force discusses the increase in crime and its impact on the public and the length of custodial sentences. The Task Force states, "the Legislature must be prepared and willing to finance construction, at high cost, of a great number of additional medium and maximum security prison cells. This problem must be faced immediately."

In reference to the above, OLS suggests that the general public should share in the decision to construct prison facilities to handle a significant increase in the prison inmate population. This would be in addition to the new medium security prison at Camden (to be completed in 1985), the newly leased facility at Fort Dix, and the new Trenton State Prison.

One method of having the public share in the decision concerning the construction of a new prison complex would be to offer a new bond issue to finance such construction at the next general election.

This new Bond Issue would finance the construction of a correction justice complex of 350 inmates in each unit, utilizing certain common facilities for the units, e.g., power, administration, food and an industrial area. This facility could be constructed on approximately 1,000 acres of State-owned land at the Leesburg State Prison grounds. It would house approximately 1,000 beds and cost \$80 to \$100 million.

#### ACKNOWLEDGEMENTS

The Office of Legislative Services, Division of Budget and Program Review, wishes to acknowledge the assistance of the Commissioner and the staff of the DOC for the preparation of the charts used in this report. We further wish to acknowledge the assistance of the Department of Corrections and the State Parole Board in the development of alternatives for relieving prison overcrowding.

APPENDIX A

ALTERNATIVE FOR AN EARLY RELEASE PROGRAM FOR PRISON INMATES

Consideration should be given to legislation which would cap prison population at 105 percent of capacity. When the cap figure is reached, the DOC Commissioner would have 20 days to exhaust all reasonable methods for reduction of the prison population that were consistent with public safety. If, at any time within the 20 days, the prison population drops below the 105 percent, the process is aborted. If the prison population stays above the 105 percent, the DOC Commissioner certifies the actions he has taken to resolve the overcrowding problem to the Criminal Disposition Commission.

The Commission would then have 20 days to verify what the DOC has done and further explore other alternatives to resolve the overcrowding problem. If, during this second 20 day period, the prison population drops below 105 percent of prison capacity, the process is aborted. If, after 40 days have elapsed and the prison population is still at 105 percent or more of capacity, the Commission certifies to the Governor its verification of the DOC's efforts to relieve the prison overcrowding problem.

The Governor then has 20 days to review the activities of both the DOC and the Criminal Disposition Commission and explore any other available options to reduce prison overcrowding. If, at any time during this 20 day period the prison population drops below 105 percent of capacity, the process is aborted.

If at the end of this process, the prison population is higher than 105 percent of capacity, the Governor declares that an overcrowding emergency exists and, with the exception of sex offenders, all inmates have a 90 or 120 day acceleration for parole eligibility. The 120 day option may be more desirable because it would reduce the likelihood of frequent use of this emergency power.

Even though each inmate (except sex offenders) will have his parole eligibility reduced, only those who meet the rigid requirements and standards for parole will be considered for early release when this 105 percent inmate population cap is exceeded.

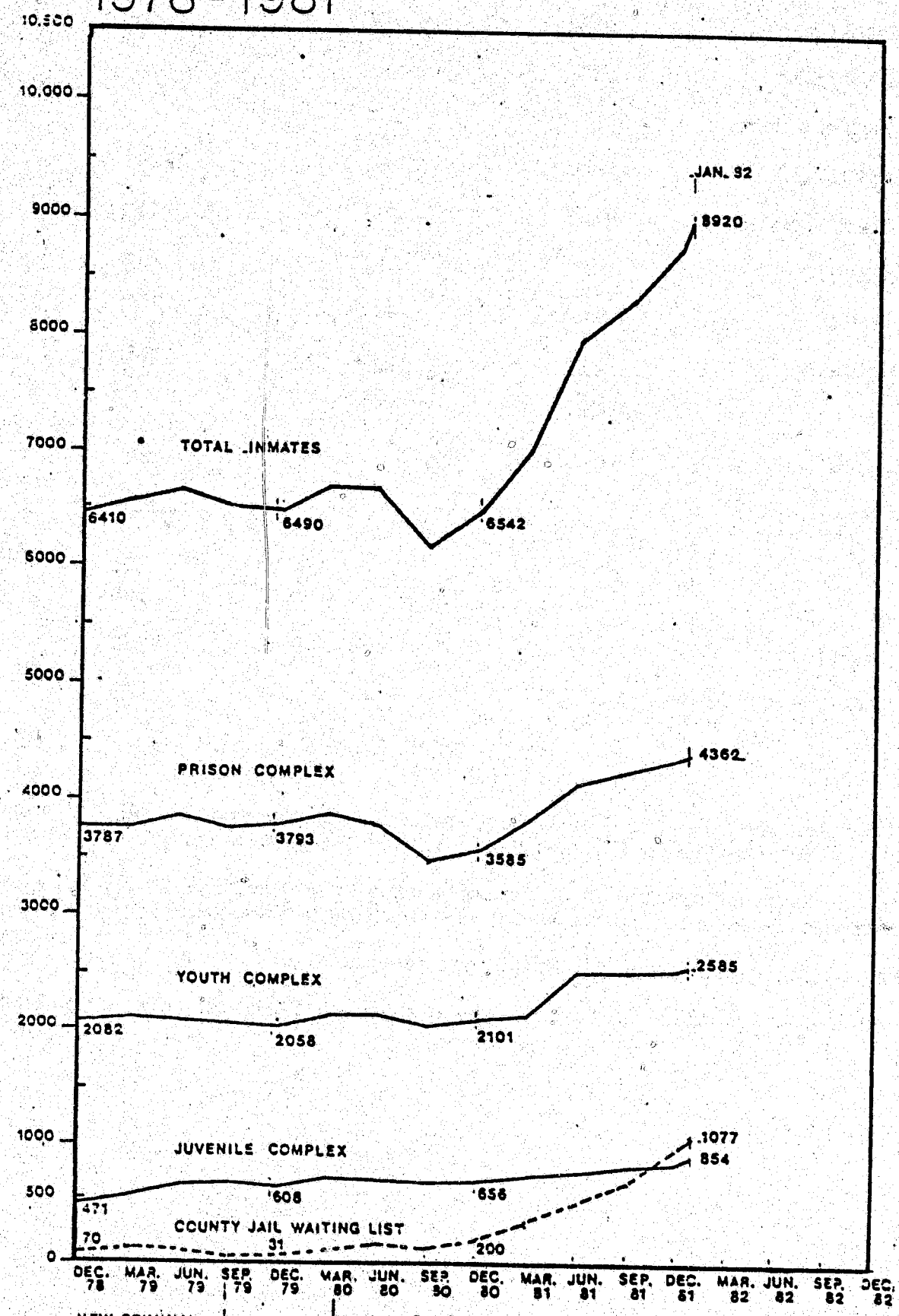
If this proposed legislation is enacted, costs for maintaining State inmates in county jails could be drastically reduced since, by decreasing the inmate population of State prisons, it will not be necessary to use these county facilities.

Any paroled inmate who violates his early release and is returned to prison should be required to serve additional prison time equal to twice the early release time. It should be noted that in FY 1981, four percent of the 13,575<sup>5</sup> parolees were returned for new criminal offenses.

<sup>5</sup> State Parole Board records.

Passage of this legislation will require total funding of approximately \$500,000 to increase the staffs and the operations of the Supervising Bureau of Parole, DOC and the State Parole Board. The Bureau of Parole supervises (monitors) the inmates after they are paroled. The Bureau of Parole's present case ratio is 70 to 1, and it does not appear to be advisable to increase this ratio.

DEPARTMENT OF CORRECTIONS  
**TOTAL STATE CORRECTIONAL  
 POPULATION (By Quarters)**  
 1978-1981



Source: Dept. of Corrections



**CORRECTIONAL INSTITUTIONS POPULATION**

**ATTACHMENT C**

Facility	Design Capacity	Medium/Maximum Population as of 1-31-82	Inmate Population as of 2-16-82***
Trenton Prison (Main)	985*	1,017	1,279
St. Francis Hospital	13	11	
Vroom Readjustment Unit	135	135	
Rahway Prison (Main)	900	1,160	1,346
Leesburg Prison - Medium	504	655	1,093
ADTC - Avenel	180	213	217
Yardville (YRCC)	808**	903	1,036
YCI - Bordentown	500	688	643
	4,025	4,782	
YCI - Annandale			617
CIW - Clinton			311
			6,942
Pre-Release			126
Sussex County			32
Mercer County			28
<b>TOTAL INMATES</b>			<b>7,128</b>

Design capacities were developed by Vaughn Associates of Trenton, NJ in 1975 and is the most recent facilities inventory plan within the Department.

\*The design capacity of Trenton State Prison during 1975 was 1,137, however, these figures included deplorable substandard cells which have subsequently been removed.

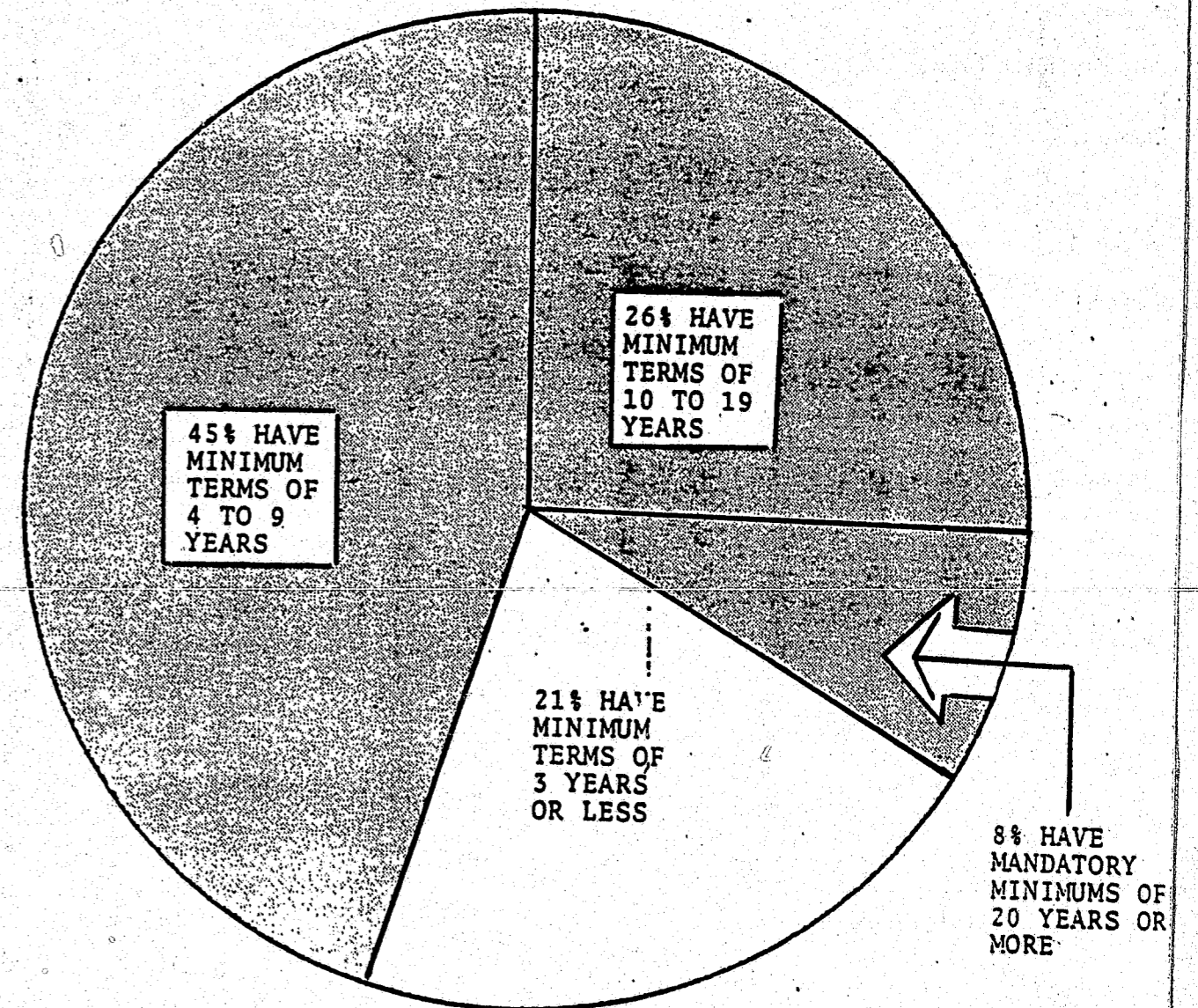
\*\*Includes 200 bedspaces for youth and prison reception.

\*\*\*Includes minimum custody inmates incarcerated in all facilities and satellites.

Source: Dept. of Corrections

**ATTACHMENT D**

**MANDATORY MINIMUM TERMS IMPOSED UNDER THE NEW PENAL CODE:**  
(BASED UPON 806 OR 26% OF NEW PENAL CODE COMMITMENTS)  
N.J. PRISON COMPLEX, SEPTEMBER 1979 THROUGH JANUARY 1982



79% OF THE MANDATORY MINIMUMS IMPOSED UNDER THE NEW PENAL CODE ARE FOR FOUR YEARS OR MORE

Source: Dept. of Corrections

COUNTY JAIL POPULATION

ATTACHMENT E

County	Manageable Population	Population as of 2-9-82	State Prisoners in County Facilities as of 2-8-82	
			Prison	Youth
Atlantic	186	270	72	4
*Bergen	347	406	78	15
Burlington	Jail 117 Minimum Unit 100	169 59	12	3
Camden	272	354	62	5
Cape May	114	97	13	4
Cumberland	126	180	10	5
*Essex	Jail 550 Annex 698	709 698	160	8
Gloucester	Jail 59 Work Release 40	68 31	2	0
Hudson	280	494	49	26
Hunterdon	Jail 33 Work Release 10	53	5	0
Mercer	Detention 196 Correction Ctr. 212	219 189	69	34
*Middlesex	Detention 108 Workhouse 232	111 260	30	1
Monmouth	325	443	85	29
Morris	105	213	28	6
*Ocean	128	176	21	8
Passaic	227	471	104	14
Salem	65	107	25	7
Somerset	65	79	16	5
Sussex	88	84	1	0
Union	238	372	86	6
Warren	32 <u>4,953</u>	36 <u>6,348</u>	0 <u>928</u>	0 <u>180 = 1,108</u>

\*includes bed spaces provided by trailers... Bergen - 48, Essex - 48  
Middlesex - 32, Ocean - 32.

Source: Dept. of Corrections