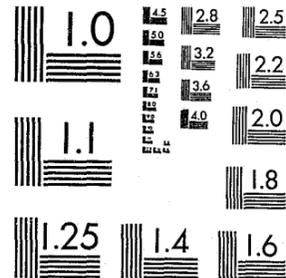


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National Institute of Justice
United States Department of Justice
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8/4/83



THE STATE-LOCAL RELATIONSHIP
IN WISCONSIN CORRECTIONS

STAFF BRIEF 82-1

U.S. Department of Justice
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Wisconsin Legislative Council Staff

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PART I

STATE AND LOCAL CORRECTIONAL FACILITIES

A. SENTENCING AND USE OF CORRECTIONAL FACILITIES

A court is responsible for imposing a sentence on an adult who has been convicted of a crime. The word "crime" is defined in s. 939.12, Stats., as follows:

A crime is conduct which is prohibited by state law and punishable by fine or imprisonment or both. Conduct punishable only by forfeiture is not a crime.

There are two general categories of crimes. A felony is a crime punishable by imprisonment in the Wisconsin state prisons. Every other crime is a misdemeanor [s. 939.60, Stats.].

In sentencing an adult convicted of a crime, the court is given the discretion, depending on the crime, to require incarceration, probation, a fine or some combination of these dispositions. If a statute authorizes imprisonment for a violation of a law, but does not prescribe the place of imprisonment, that place shall be as follows, in accordance with s. 973.02, Stats.:

1. A sentence of less than one year shall be to the county jail;
2. A sentence of more than one year shall be to the Wisconsin state prisons; and
3. A sentence of one year may be to either the Wisconsin state prisons or the county jail.

It should be noted that, in Milwaukee County, a court authorized to sentence a person to the county jail or to a state correctional facility for a term not exceeding two years, may sentence the person to the Milwaukee County House of Correction rather than the jail or correctional facility [s. 56.16 (1), Stats.]. The Milwaukee County House of Correction is discussed in section C of this Part of this Staff Brief.

B. STATE CORRECTIONAL FACILITIES

1. Description of State Facilities

There are three types of state correctional facilities (referred to statutorily as "Wisconsin state prisons") in which a person may be incarcerated. They are: correctional institutions, correctional camps and community correctional centers. All of the state correctional facilities are operated by the State Department of Health and Social Services (DHSS), except that Baker House and Shalom House are operated by persons under contract with DHSS.

Every person sentenced to incarceration in a state facility is sent initially to one of the maximum security institutions for a period of assessment and evaluation. During that time, the person receives a security classification and is assigned to an institution, camp or center to serve his or her sentence. [A thorough discussion of the adult correctional system and the assessment and evaluation process is provided in Legislative Council Staff Research Bulletin 82-1, Wisconsin Prison Programs and Inmate Classification, prepared for the Special Committee on Correctional Services.]

Currently in Wisconsin, there are four maximum security correctional institutions (Waupun, Green Bay, Dodge and Taycheedah), two medium security institutions (Fox Lake and Kettle Moraine) and three minimum security institutions (Waupun Bunk House, Green Bay Oneida Farm and Oakhill). As of May 14, 1982, there were 4,115 adult inmates incarcerated in Wisconsin correctional institutions.

There are seven minimum security correctional camps in Wisconsin (Black River, Gordon, McNaughton, Oregon, Thompson, Winnebago and Flambeau). As of May 14, 1982, there were 361 persons incarcerated in correctional camps in Wisconsin.

There are seven minimum security community correctional centers in the state (Men's Community Correctional Center, Abode, St. Croix, Baker House, St. John's, Shalom and Women's Community Correctional Center). As of May 14, 1982, there were 148 persons incarcerated in community correctional centers in Wisconsin.

A DHSS study regarding the possible funding of 100 additional beds for community correctional centers was mandated in Ch. 20, Laws of 1981 (the 1981-83 Biennial Budget Act). The DHSS has devised a plan to establish three new community correctional centers, a 40-bed facility in Milwaukee and 30-bed facilities in Racine and Kenosha, at a total cost of approximately \$3,637,000. This cost would be partially offset by \$2,950,000 currently authorized for expansion of existing correctional

camps. Under the plan, the new community corrections facilities would not be in operation until fiscal year 1984-85.

The DHSS plan was submitted in early 1982 to the Joint Committee on Finance, the Senate Committee on Human Services and the Assembly Committee on Criminal Justice and Public Safety.

At its January 14, 1982 meeting, the Legislative Council's Special Committee on Community Correctional Programs endorsed the DHSS plan and recommended allowing the DHSS flexibility to use the money for camp expansion in the event that construction of the proposed centers is not approved. No action has been taken on the proposed plan as of May 1982.

The DHSS indicated to the Special Committee on Community Correctional Programs that it may include the plan in its 1983-85 budget request. Budget requests by state agencies must be submitted to the Department of Administration (DOA) by the end of October 1982.

2. Funding of State Facilities

For fiscal year 1982-83, the total general purpose revenue (GPR) portion of the Division of Corrections (DOC) budget is \$104,856,000. Of this figure, approximately 56.4% is allocated for adult correctional facilities. The adult correctional budget also includes a combination of federal funding for education and job assistance, Federal Law Enforcement Assistance Administration (LEAA) money and program revenue (PR) money from correctional industries and the prison farms. The remaining 43.6% of the GPR portion of the DOC budget is allocated to juvenile institutions, administration, probation and parole services, special living arrangements and the Minnesota prison beds contract.

For fiscal year 1982-83, the GPR portion of the total adult correctional budget for the three types of facilities is as follows:

Correctional Institutions -- \$52,801,700

Correctional Camps -- \$3,981,400

Community Correctional Centers -- \$2,345,700

The DOC is, as of the date of this Staff Brief, compiling final figures on funds allocated from all sources for adult correctional institutions, camps and centers for fiscal year 1982-83.

C. LOCAL FACILITIES

1. Description of Local Facilities

State law provides for the establishment of several types of local correctional facilities, including county jails, jail extensions, rehabilitation facilities, lockups and houses of correction. The following is a brief discussion of each type of local correctional facility.

a. County Jails

Each county in Wisconsin is required to provide and maintain a jail in good repair at the county seat [s. 59.68, Stats.]. No county jail may be constructed until its plans and specifications are approved by the DHSS.

A county jail may be used for any of the following purposes, under s. 53.31, Stats.:

1. Detention of persons charged with a crime and committed for trial.
2. Detention of persons committed to secure their attendance as witnesses.
3. Imprisonment of persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law.
4. Detention of persons sentenced to imprisonment in a state correctional institution or the Milwaukee County House of Correction, prior to removal to those institutions.
5. Temporary detention of persons in the custody of the DHSS.
6. Other detentions authorized by law. [This would include detention of a person as a condition of probation under s. 973.09 (4), Stats.]
7. Temporary placement of persons in the custody of the department.

If at the time of sentencing to a county jail there is no suitable facility in that county, the court may sentence the person to another

county jail and the county in which the crime was committed will be responsible for that person's expenses [ss. 53.34 and 973.03 (1), Stats.].

b. Jail Extensions

There are two types of jail extensions mentioned in the statutes. A county may establish an extension of the county jail at a location other than the county seat to serve as a temporary place of confinement for no more than 24 hours [s. 59.68 (7), Stats.]. At this time, there are no such jail extensions of this type in the state. Rehabilitation facilities, discussed in c, below, are also considered to be "jail extensions."

c. Rehabilitation Facilities

The county board may establish a rehabilitation facility as a jail extension or a separate operation, to provide persons sentenced to a county jail with a program of rehabilitation for a portion of the person's sentence [s. 59.07 (76), Stats.]. The Dane County facility at which "Huber Law" inmates are detained is an example of a s. 59.07 (76), Stats., rehabilitation facility.

This type of facility is run by a county under the jurisdiction of a superintendent, and houses persons with Huber release privileges. Under the "Huber Law" [s. 56.08 (1), Stats.], any person sentenced to a county jail for a crime, nonpayment of a fine or forfeiture or contempt of court may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes: seeking employment; working at employment; conducting any self-employed occupation including housekeeping and attending the needs of the person's family; attending an educational institution; and obtaining medical treatment.

Huber release privileges may be granted only by a court. An offender who is gainfully employed under Huber release is liable to the sheriff "...for charges not to exceed the full per capita maintenance and cost of his board in the jail as fixed by the county board after passage of an appropriate county ordinance" [s. 56.08 (4), Stats.].

At its March 15, 1982 meeting, the Special Committee on Community Correctional Programs recommended for introduction by the Legislative Council a bill which would authorize counties to establish, relocate and maintain an unlocked facility for use exclusively by persons with Huber Law privileges and persons confined to a county jail between the hours or periods of employment as a condition of probation. Under the draft, the county sheriff would make the determination whether those persons would be placed initially in a Huber facility or the county jail and would have authority to transfer persons between the two facilities.

The Special Committee on Community Correctional Programs supported the draft for two reasons: (1) there is no provision in current state law for establishment of a facility other than a jail which would house persons with Huber Law privileges and (2) under current DHSS administrative rules, counties are only authorized to operate locked facilities [s. PW-C 50.03, Wis. Adm. Code].

The Legislative Council has not yet scheduled action on the draft.

d. Lockups

A "lockup" facility is a temporary place of detention at a police station which is used exclusively to hold persons under arrest until their initial appearance in court. A lockup is not used to hold persons pending trial who have been in court or who have been committed to imprisonment for nonpayment of fines or forfeitures [s. 53.30, Stats.]. There are approximately 70 lockups in Wisconsin at the present time, located primarily in municipalities without county jails.

e. Houses of Correction

A county board of a county with a population of 500,000 may establish a house of correction for the "reformation and employment of persons sentenced to confinement therein" [s. 56.16 (1), Stats.]. There is a house of correction in Milwaukee which is financed and managed by the Milwaukee County Board of Supervisors.

A court which is authorized to commit a person to the county jail upon conviction of any offense or authorized to sentence a person to imprisonment in the Wisconsin state prisons for a term not exceeding two years may, in lieu of that sentence, commit or sentence the person to an equivalent term in the Milwaukee County House of Correction. A person may also be required to serve a specified number of months in the House of Correction if his or her sentence is withheld and he or she is placed on probation.

Persons with "Huber Law" privileges and persons awaiting probation or parole revocation may also be detained in the Milwaukee County House of Correction.

2. Funding of Local Facilities

The operating expenses for local correctional facilities are generally funded exclusively through county revenues.

A county is financially responsible for maintenance in the county jail of the following persons [s. 53.33, Stats.]:

- a. Persons sentenced and awaiting transportation to a state correctional institution;
- b. Persons in the custody of the DHSS;
- c. Persons accused of crime and committed for trial;
- d. Persons committed for the nonpayment of fines and expenses; and
- e. Persons sentenced to imprisonment in the county jail.

There are a few instances in which the state reimburses a county for expenses incurred by the county in detaining a state prisoner in the county jail. For example, a county may be reimbursed for expenses incurred in detaining escapees from state correctional facilities, inmates being transferred from a correctional camp or community correctional center to a more secure institution as a result of disciplinary infractions and inmates awaiting transfer to a mental health institute for observation or treatment.

A 1975 lawsuit pending between the state and Milwaukee County, regarding the state's obligation to reimburse Milwaukee County for county expenses resulting from detention of state inmates, may clarify the financial relationship between counties and the state in this area.

A provision in Enrolled 1981 Assembly Bill 66 (the Enrolled 1981-83 Biennial Budget Bill) would have required the state to reimburse counties for detaining state prisoners who are in custody pending parole or probation revocation proceedings following a felony conviction. A county would have received \$30 per person per day after the first 60 days in custody. The Legislative Fiscal Bureau estimated that this provision would have cost the state \$1,296,000 per year, with Milwaukee County receiving approximately 45% of that amount. The Governor vetoed the provision, citing budgetary constraints.

3. Halfway Houses

There are 12 adult correctional halfway houses in Wisconsin. These halfway houses serve state parolees and probationers on a contractual basis with the Division of Corrections of DHSS. The DOC provides almost 99% of the funding for correctional halfway houses and has budgeted

approximately \$1,503,744 for halfway houses in fiscal year 1982-83. A few of the houses receive grants from the cities or counties in which they are located. Also, some halfway houses serve certain federal prisoners and may receive funding from the Federal Bureau of Prisons.

PART II

PAYMENTS TO LOCAL GOVERNMENTS WITH STATE CORRECTIONAL FACILITIES

A. INTRODUCTION

State correctional facilities have a significant economic impact on local units of government. Although a correctional facility creates new employment opportunities and stimulates economic growth, it also increases the demand for local government services. This Part of the Staff Brief presents a description of payments made to local units of government by the state to offset additional costs that result from the presence of state correctional facilities.

B. PROPERTY TAXES

Under s. 70.11 (1), Stats., state property is exempt from local property taxes. This includes state correctional facilities and results in their removal from the local property tax rolls.

However, s. 70.117, Stats., overrides a portion of this exemption and requires the DHSS to pay the school tax portion of property taxes on state-owned agricultural land used for correctional facilities. This applies to several state correctional facilities where the inmates are engaged in farming.

The DHSS paid a total of \$72,477 for the school tax portion of 1981 property taxes for correctional facilities with farming operations. Table 1 shows the payments made for each of these correctional facilities.

TABLE 1

1981 SCHOOL TAXES PAID BY STATE CORRECTIONAL FACILITIES

<u>Prison</u>	<u>Amount</u>
Waupun	\$11,631
Green Bay (Oneida Farm)	19,302
Fox Lake	17,976
Oregon Camp	10,605
*Union Grove Camp	3,346
Winnebago Camp	<u>9,617</u>
TOTAL	72,477

*Not in operation as a correctional camp as of the date of this Staff Brief.

SOURCE: Department of Health and Social Services.

C. PAYMENTS FOR MUNICIPAL SERVICES

Under s. 70.119 (1), Stats., the state pays user fees charged by municipalities for services provided directly to state facilities, including correctional facilities. This covers services billed at an established rate and could include such things as water, sewer, electrical and solid waste disposal services.

When a municipality does not have an established user fee for a service provided to a state facility, payment may be made through the Payments for Municipal Services Program (PMS). [See s. 70.119 (2) through (8), Stats.] The PMS payments cover police and fire protection and could cover solid waste disposal, if no user fee is charged. Payments for other services for which no user fee is charged must be specifically authorized by the Legislature's Joint Committee on Finance.

The Department of Administration uses guidelines approved by the Joint Committee on Finance, for determining amounts to be paid municipalities under PMS. Payments are made annually (usually in January or February) and must be approved by the Joint Committee on Finance. A copy of the PMS guidelines is included as Appendix A to this Staff Brief.

The guidelines contain a formula for determining the amount of each payment. The formula is designed to reimburse a municipality for only that portion of the cost of providing services to state facilities which is paid out of local property taxes. Under the formula, any federal, state (other than PMS) and user subsidy is deducted from the total cost of providing the service. Payment is made for the proportion of the unsubsidized cost of providing the service which corresponds to the proportion represented by the state facility of the value of all buildings in the municipality.

Where special circumstances exist, the amount of payment determined through use of the formula may be adjusted through negotiations between DOA and the municipality.

In addition, adjustments are made for provision of police services to reflect the extent to which a facility has its own security personnel. For minimum and medium security state correctional facilities, police service payments are reduced by 80%. For maximum security state correctional facilities, police service payments are reduced by 90%.

Payments for police services provided by a county to a facility in a rural area are made only if the service results from a specific request or from an agreement with state officials. As a result, there have been no PMS payments to counties within the past three years for services to state adult correctional facilities.

If the appropriation for PMS payments is insufficient to pay the full amount approved by the Joint Committee on Finance, payments are prorated. The appropriation has been sufficient to cover all payments since 1977. The appropriation for calendar year 1982 PMS payments for all state facilities (including noncorrectional facilities) is \$8.1 million.

Calendar year 1981 PMS payments made to cities, villages and towns for services to state correctional facilities under s. 70.119 (2) through (8), Stats., are set forth in Table 2.

TABLE 2
1981 PAYMENTS FOR MUNICIPAL SERVICES
TO CORRECTIONAL FACILITIES

Municipality	Correctional Facility	Payment
Town of Allouez	Green Bay	\$13,693
Town of Oneida	Green Bay	214
Town of Chester	Waupun and Dodge	108
City of Waupun	Waupun and Dodge	23,710
Town of Waupun	Waupun	0
Town of Fox Lake	Fox Lake	2,523
Town of Trenton	Fox Lake	0
Town of Greenbush	Kettle Moraine	132
City of Fond du Lac	Taycheedah	10,836
Town of Taycheedah	Taycheedah	136
Town of Fitchburg	Oregon Camp and Oakhill	12,974
Town of Komensky	Black River Camp	0
Town of Gordon	Gordon Camp	248
Town of Wascott	Gordon Camp	291
Town of Hawkins	Flambeau Camp	651
Town of Winter	Flambeau Camp	0
Town of Lake Tomahawk	McNaughton Camp	403
Town of Deerfield	Thompson Camp	284
Town of Christiana	Thompson Camp	0
Town of Oshkosh	Winnebago Camp	0
City of Milwaukee	Comm. Corr. Centers	3,624
Town of Star Prairie	St. Croix Comm. Corr. Center	0
TOTAL		\$69,827

SOURCE: Department of Administration.

D. COUNTY EXPENSES INCURRED IN CONNECTION WITH INMATES

Under s. 16.51 (7), Stats., the state reimburses counties for expenses incurred by the county as a result of court actions or proceedings other than those relating to appeal of a conviction involving inmates. The county clerk must submit a claim to the DHSS for reimbursement.

County expenses covered by this provision include those arising from investigation of criminal offenses that occur within a correctional facility; apprehension of escapees; detention in the county jail of escapees or inmates of correctional camps or community correctional centers awaiting transfer to a higher security institution; and clerk of court, witness and transcript fees and costs in court actions.

The DHSS has a contract with Dodge County under which the County Sheriff's Department is reimbursed for the cost of one detective for investigation of matters involving prisoners in the Wisconsin Correctional Institution at Waupun, Fox Lake Correctional Institution and Dodge Correctional Institution. Total 1981 expenses covered by the contract were \$34,035, including fringe benefits, secretarial support, supplies and vehicle costs.

Payments to counties under s. 16.51 (7), Stats., made during fiscal years 1979-80 and 1980-81 are shown in Table 3. During the two years, an annual average of \$81,710 was paid to counties as a reimbursement for expenses in connection with prisoners.

TABLE 3
PAYMENTS TO COUNTIES FOR EXPENSES IN CONNECTION
WITH INMATES: JULY 1979 - JUNE 1981

*County	Correctional Facilities	Payments
Dodge	Waupun, Fox Lake and Dodge (Includes Sheriff's Department Investigator)	\$ 90,460
Dane	Oregon and Thompson Camps and Oakhill	43,438
Brown	Green Bay	9,356
Fond du Lac	Taycheedah	333
**Winnebago	Winnebago Camp	9,071
Oneida	McNaughton Camp	865
Jackson	Black River Camp	5,027
Douglas	Gordon Camp	2,811
St. Croix	St. Croix Comm. Corr. Ctr.	340
Milwaukee	Comm. Corr. Ctrs.	1,719
TWO YEAR TOTAL		\$163,420

*Counties with correctional facilities to which no payments were made are not included.
**Includes \$4,096 in payments for 1977 and 1978 which were claimed during 1979.
SOURCE: Department of Health and Social Services.

E. EXTRAORDINARY POLICE SERVICES

Under s. 16.008, Stats., any city, village, town or county which provides extraordinary police services to a state facility, including a state prison, in response to a request from a state officer, may be reimbursed for its costs. The police services must be "required because of an assemblage or activity which is or threatens to become a riot, civil disturbance or other similar circumstance, or in which mob violence occurs or is threatened." [Emphasis added; s. 16.008, Stats.]

The claim for reimbursement must be submitted to, and approved by, the State Claims Board. The Board may order payment of claims of not more than \$1,000 on its own with a unanimous vote. If the claim is for more than \$1,000 or, if the vote on a claim involving \$1,000 or less is not unanimous, the Board submits its recommendation to the Legislature, and payment can only be made upon passage of a bill in the Legislature.

In 1976 and 1977, there were four incidents involving state prisons for which extraordinary police services payments have been made. They are set forth in Table 4. It should be noted that no incidents have occurred since 1977.

TABLE 4
EXTRAORDINARY POLICE SERVICES AT STATE
CORRECTIONAL FACILITIES: 1977 - 1981 PAYMENTS

*Disturbance at Waupun: 7/21/76	Dane County Dodge County Milwaukee County City of Beaver Dam City of Waupun	\$ 8,492 1,207 5,034 104 471
Sexual Assault at Kettle Moraine: 5/18/77	Sheboygan County	2,252
Disturbance at Fox Lake: 6/13/77	Dodge County	18,018
State Employee's Strike: 7/3-17/77	City of Waupun Town of Fitchburg Sheboygan County Dodge County	18,751 1,782 11,349 19,182
TOTAL		\$86,642

*Paid during 1977.
SOURCE: State Claims Board.

F. SHARED REVENUE PAYMENTS

The presence of a state correctional facility affects the amount of state shared revenue payments received by the city, village or town and county where the facility is located. Through the shared revenue program, the state distributes state tax revenues to local governments to be used at their discretion for providing local services.

Inmates are included in the population figures used to compute shared revenue payments. This affects the payments in two regards:

1. Each city, village and town receives a per capita payment. In 1982, this payment will equal \$30 times its population;

2. Each city, village, town and county receives an aidable revenue payment which is related to its taxable property per person. The lower the community's property value per person, the higher its aidable revenue payment is, and vice versa. Because correctional facilities are exempt from local property taxation and inmates are included in population, a correctional facility lowers a community's taxable property value per person and increases its aidable revenue payment, if it is not at the maximum payment level.

The impact of the presence of a correctional facility on shared revenue payments is shown in Table 5. Minimum shared revenue guaranteed payments and maximum payment limits were not considered in developing Table 5 because they would distort the long-run effect on shared revenues due to their temporary status.

TABLE 5
IMPACT OF SELECTED CORRECTIONAL FACILITIES ON 1982 SHARED REVENUE PAYMENTS*

Prison	Municipality	Prison Population	Current 1982 Shared Revenue	1982 Shared Revenue w/o Prison	Difference	% Change
Oakhill	Town of Fitchburg	302	\$ 983,497	\$ 954,035	-29,461	-3.0%
	Dane County	302	4,782,346	4,773,560	-8,785	-0.2
Oregon	Town of Fitchburg	54	983,497	978,299	-5,197	-0.5
	Dane County	54	4,782,346	4,780,776	-1,569	-0.03
Green Bay	Town of Allouez	761	1,312,413	1,227,222	-85,190	-6.5
	Brown County	761	4,296,369	4,270,923	-25,445	-0.6
Waupun	City of Waupun	1,213	724,995	616,689	-108,305	-14.9
	Dodge County	1,213	1,307,508	1,264,307	-43,198	-3.3
Dodge	City of Waupun	146	724,995	713,677	-11,317	-1.6
	Dodge County	146	1,307,508	1,302,381	-5,126	-0.4
Fox Lake	Town of Fox Lake	636	59,665	33,180	-26,485	-44.4
	Dodge County	636	1,307,509	1,285,031	-22,476	-1.7
Kettle Moraine	Town of Greenbush	439	74,390	53,046	-21,343	-28.7
	Sheboygan County	439	2,240,618	2,227,264	-13,353	-0.6
Taycheedah	Town of Taycheedah	153	122,907	114,604	-8,302	-6.8
	Fond du Lac County	153	1,626,952	1,622,800	-4,151	-0.3
Gordon Camp	Town of Gordon	65	26,322	20,790	-5,531	-21.0
	Douglas County	65	1,064,220	1,062,929	-1,290	-0.1
Oneida Farm	Town of Oneida	35	206,178	204,079	-2,098	-1.0
	Outagamie County	35	2,865,255	2,864,260	-944	-0.03
Men's Comm. Corr. Ctr.	City of Milwaukee	27	128,069,270	128,065,190	-4,080	-0.003
	Milwaukee County	27	32,930,414	32,929,256	-1,157	-0.004

*Impact on shared revenue payment is calculated without regard to changes in minimum guarantee and maximum limit adjustments.

SOURCE: Legislative Fiscal Bureau.

G. INDIRECT PAYMENTS

Salary payments, supply purchases and service purchases of a correctional facility also impact upon the local community. They may increase money flowing to local businesses and banks and stimulate economic growth.

The final Environmental Impact Statement on the proposed correctional facility at Portage estimates that the \$4.5 million payroll of the proposed institution would produce \$6.55 million in economic activity in the Portage area. This is a result of the multiplier effect of salary money spent by employees being reused by local banks and merchants for additional purchases.

The indirect effect of salary, supply and service payments of state correctional facilities and the increase in demand for local services as a result of the facility are difficult to measure. Nonetheless, they produce a real economic effect in the community.

PART III

OPTIONS FOR ENCOURAGING ACCEPTANCE OF STATE CORRECTIONAL FACILITIES
AND DEVELOPMENT OF LOCAL CORRECTIONAL FACILITIES

A. INTRODUCTION

This Part of the Staff Brief provides an overview of possible options available to the state to encourage localities to both accept state correctional facilities and develop local facilities. The material presented is not intended to be an exhaustive list of possible options, but rather is intended merely to provide a basis of discussion for the Special Committee on Correctional Services.

B. POSSIBLE STATE INCENTIVES TO LOCALITIES TO ACCEPT STATE CORRECTIONAL FACILITIES

1. Financial Incentives

As discussed at length in Part II of this Staff Brief, the establishment of a correctional facility increases the demand for local governmental services which results in additional costs to the locality. The state currently makes payments to localities to offset these costs and this may remove one disincentive which localities may have to accept state correctional facilities. A possible added financial incentive would be to increase the amount of money paid to localities so that they are not only reimbursed for expenses incurred, but actually rewarded financially for accepting state correctional facilities.

Another possible financial incentive would be to require certain inmates of state correctional facilities to perform community service work for localities which contain state correctional facilities, at no cost to the localities. A 1980 survey by the National Institute of Corrections (NIC) indicates that 33 states have community service work programs which utilize inmate work crews for public projects. These programs provide inmate labor to state and local units of government in areas such as: maintenance of parks; recreation areas and buildings; forestry work; firefighting; and roadwork. The inmates have minimum security classifications and most are housed at correctional camps or community correctional centers.

2. Nonfinancial Incentives

There are a number of requirements with which the state must comply in order to construct a correctional facility at a particular site. For

example, there must be a draft and a final Environmental Impact Statement which considers the environmental, economic and social impacts of the proposed project. In some cases, an agricultural impact statement may be required. Also, the state must generally comply with all local zoning ordinances, which may require obtaining variances from, or changes in, the ordinances.

Some localities may view the requirements of the siting process as insurmountable burdens and may be unwilling to participate in the lengthy and difficult process of gaining approval for a correctional facility. Requirements which are excessively burdensome to a locality wishing to obtain approval as a site for a correctional facility could be eliminated. This would also make it easier for the state to place correctional facilities, by removing requirements that have been used to block construction of those facilities.

C. POSSIBLE STATE INCENTIVES FOR DEVELOPMENT OF LOCAL CORRECTIONAL FACILITIES

1. Community Corrections Act

Several states (including Minnesota, Oregon, Iowa, Kansas and California) have adopted community corrections acts. The Wisconsin Community Youth and Family Aids Program, the state's current system for handling juvenile offenders, is essentially a community corrections act for juveniles.

Under a community corrections act, responsibility for dealing with less serious offenders is placed at the local level. State funding is provided to local units of government (often counties) for programs and facilities provided by the localities to these offenders. Local units of government are then charged for services provided by the state to either some or all offenders.

The Legislative Council's Special Committee on Community Correctional Programs studied development of a community corrections act for adult offenders in Wisconsin. A subcommittee of that Special Committee developed a draft of such an act, but the Special Committee did not recommend introduction of the draft. [See Research Bulletin 82-1, Wisconsin Prison Programs and Inmate Classification, Legislative Council Staff, dated May 5, 1981, for a discussion of recommendations of the Special Committee on Community Correctional Programs.]

2. State Grants

State funding for development of local corrections programs and facilities could be provided without transferring fiscal responsibility for less serious offenders to the local level. Grants to localities could be combined with minimum standards to provide some state control over use of the money.

Virginia has adopted a Community Diversion Incentive Act through which the state provides grants to cities and counties. In the 1982-84 Biennium, \$2.6 million was appropriated for the program. The grants can be used to establish, operate or purchase corrections programs and services for nonviolent offenders who do not require imprisonment, but need more than probation supervision.

Grant recipients in Virginia must comply with minimum standards prescribed by the State Board of Corrections. Recipients must also establish a community corrections resources board, with locally appointed membership, to plan for use of grant funds and coordinate local programs for offenders.

3. Joint State-Local Facilities

Correctional facilities could be developed for joint state-local use. As an incentive for a community to accept a state prison, part of the facility could be set aside for local use. Similarly, the state could underwrite a portion of the cost of a local correctional facility in exchange for the right to use it for state inmates from the area. For example, a local facility used to house inmates on Huber release for work or study could also be used for state minimum security inmates on work or study release.

Some state inmates on work or study release at correctional camps are currently transferred to, and housed at, county jails under agreements with individual counties. In addition, the 1981-83 Biennial Budget Act [SEC. 2020 (7), Ch. 20, Laws of 1981] contained a provision directing the Secretary of the DHSS to consider using local facilities for temporary placement of state inmates.

The DHSS has negotiated with Washington County over use of 12 cells in the county jail. An agreement has not yet been reached.

4. State Jails

In six states (Alaska, Connecticut, Delaware, Hawaii, Rhode Island and Vermont), local jails are operated by the state. The state

corrections agency has responsibility for the jails, as well as for state correctional facilities.

The National Advisory Commission on Criminal Justice Standards recommended in 1973 that local jails and corrections facilities be incorporated within the state corrections system.

5. Regional Jails

One possible alternative which need not involve state funding is development of regional jails. There are currently at least nine multicounty jails operating in the United States. States where they are located include North Carolina, Minnesota, Virginia and Kansas.

A regional jail is a facility developed by two or more counties to house offenders from the participating jurisdictions. Some of the current facilities are used for both pretrial detainees and sentenced inmates. Others house only sentenced inmates, with offenders awaiting trial held in smaller jails in each county. Most regional jails are operated by a board whose members are appointed by the participating jurisdictions.

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APPENDIX A

PAYMENTS FOR MUNICIPAL SERVICES PROGRAM GUIDELINES

STATE OF WISCONSIN
PAYMENTS FOR MUNICIPAL SERVICES

Program Guidelines

Revised 1978

Department of Administration

Bureau of Program Management

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STATE PAYMENTS FOR MUNICIPAL SERVICES

Program Operation Guidelines
Revised '78

INTRODUCTION

Section 70.119 Wisconsin Statutes (Laws of 1977), provides two means whereby the state shall make reasonable payments to municipalities for certain services directly rendered to state facilities:

(1) USER FEE PAYMENTS

State payments will be made at established rates for such services as water, sewer, electrical power directly provided to state facilities by a municipality, including garbage and trash collection and disposal, which are financed in whole, or in part, by special charges or user fees. Timely payments for such fees will be made by the state agency responsible for a given facility out of the funds appropriated to that agency or institution.

(2) CALCULATED-NEGOTIATED ANNUAL PAYMENTS

Annual state payments based upon a formula calculation (and negotiation if needed) will be made by the Department of Administration, from specific appropriations provided under s. 20.855(3), for police and fire protection, solid waste handling and other services directly provided to state facilities by a town, village or city which makes no special charge or user fee for such service. [In addition, payments may be made in response to claims for certain services provided by a county. Payments are recommended by the Department of Administration each year, subject to the annual review and approval of the Joint Committee on Finance of the Legislature.

The payments related to user fees (Item 1 above) are handled routinely by the respective state agencies in response to municipal billings for eligible services. (THE CALCULATED-NEGOTIATED ANNUAL PAYMENTS REFERRED TO (ITEM 2) ABOVE FORM THE BASIS FOR THE PAYMENTS FOR MUNICIPAL SERVICES PROGRAM (PMS) AND ARE DETERMINED BY THE DEFINITIONS AND PROCEDURES CONTAINED IN THESE GUIDELINES.)

The primary purpose of the program is to make an equitable annual payment to municipalities, from a specific state appropriation, in recognition of critical services directly provided to state facilities. The intent of the statute and the effect of these guidelines is to aid in the reduction of local real property taxes by making a state contribution toward the cost of certain municipality generated services financed out of local property tax revenue. The amount of an entitlement per municipality is determined largely by formula, and through additional negotiation for special conditions or situations which may arise.

No special application or request on the part of a city, village or town is required for the formula determined entitlements. Program administration will be conducted by a Coordinator of PMS designated by the Department of Administration. Inquiries may be addressed to:

Donald Holl, Coordinator
Payments for Municipal Services
One West Wilson Street, B-110
Madison, Wisconsin 53702
Telephone (608) 266-1067

I. PROGRAM TERMINOLOGY

COORDINATOR. The person or office designated by the Department of Administration to direct the "Payments for Municipal Services" program and to provide the basic program liaison between the DOA and other state agencies, the municipalities and public interest groups.

ENTITLEMENT. An amount of money a municipality appears to be entitled to as determined by approved county claims or by the formula calculation and/or negotiation of cost, tax, revenue and valuation data as related to services per facility.

JOINT COMMITTEE ON FINANCE. The committee of the Legislature composed of members of both the Senate and the Assembly and which is charged with the various duties formerly ascribed to the Board on Government Operations by statute. The Committee's title is abbreviated in these guidelines as JCF.

MUNICIPALITY. Metropolitan sewerage districts with general taxing authority, cities, villages, towns and counties.

MUNICIPAL SERVICES. Police and fire protection, and garbage-trash collection and disposal services for which no special charges or user fees are levied (services not considered under s. 70.119(1)), directly provided to a state facility and, subject to the approval of the Joint Committee on Finance.

PAYMENT. The amount, based on total entitlements for aggregate services rendered, and as may be reduced for self-provided services and proration if necessary, as approved by the Joint Committee on Finance for release to a municipality.

PAYMENT FLOOR. No entitlement will be recommended for a municipality to the Joint Committee by the Department of Administration where the total annual entitlement would be less than one-hundred (\$100) dollars.

PRORATED ENTITLEMENT REDUCTION. In the event the annual state appropriation for PMS is insufficient to meet the state-wide total of all entitlements, the entitlements will be reduced prorata so that the total of all approved payments will not exceed the appropriation available.

SERVICES DIRECTLY PROVIDED. Those services provided by a municipality which are not included in an existing service contract or agreement with a state agency, are necessary to the normal functioning, safety and peace of a state facility and are approved by the Joint Committee on Finance.

STATE FACILITIES. All state owned and operated buildings and structures or institutional groups of buildings and structures, except highway structures, including the branch campuses of the University of Wisconsin Center System, operated by the state for purpose of conducting authorized activities. Leased facilities are not included.

II. GENERAL ADMINISTRATION

- A. The Joint Committee on Finance is the central authority for the review and approval of all program guidelines, approval of recommended annual payment amounts and for the approval of municipal services which may subsequently be included in the guidelines for the PMS.
- B. The PMS coordinator will calculate the amount of annual entitlement, including any special adjustments, on a PMS WORKSHEET (See appendix for examples) for each service provided by the municipality. A worksheet(s) will be sent to the clerk of each of the appropriate municipalities for review by local officials. If officials have any questions or challenge the aptness or accuracy of the data presented on the worksheets, they must notify the coordinator within 20 days of receipt of the worksheets. A challenge should indicate the area of possible error, oversight or change. Information developed on the worksheets will be submitted, along with entitlement/payment recommendations, to JCF by the coordinator.
- C. Amounts of annual entitlement to eligible cities, villages and towns will be determined largely by formula, and in some instances through additional negotiation, by the coordinator of PMS. Annual payment recommendations for each calendar year will be reviewed at the December JCF meeting with approved disbursements to be made promptly following Governor's approval of Committee action.
- D. No payments will be recommended for a municipality which has no property tax levy for municipal purposes or where the calculated entitlement would be less than one-hundred (\$100) dollars.

- E. In the event the annual appropriation for PMS under s. 20.855(3)(a) is insufficient for full payment of annual entitlements, each municipality's entitlement will be adjusted proportionately until the total is equal to the amount of appropriation available and will then be recommended to JCF.
- F. Payments for any approved claims for county services (see Section VII) during the calendar year will be made at the same time, and in addition to payments for formula derived entitlements. However, such county claim payments will also be proportionately reduced because of insufficient appropriation.
- G. Negotiation or discussion of program related issues is not dependent upon completion of the annual financial report; but may be conducted at any time during the year, at the convenience of local officials, provided that sufficient financial documentation is available.
- H. Upon notification of an over-payment, due to incorrect fiscal data or inadvertent oversight, the municipality shall promptly return the amount of over-payment to the Department of Administration for redeposit in the appropriate state fund. Calculation or informational errors related to the current year discovered after the current disbursements are completed will be subject to negotiation and potential fiscal adjustment in the subsequent PMS year.
- I. Entitlement eligibility will usually be determined for the site municipality, i.e., the civil jurisdiction in which the state facility is located. Where the site municipality provides inadequate or no service, eligibility will be determined for the municipality which actually provides an adequate service. The state agency responsible for a facility has the prerogative of selecting the most adequate service source available.
- J. In rural fire service situations where multiple civil jurisdictions may be serviced by a single fire protection unit (department, district, company, etc.), the payment will be made to the site municipality. It is assumed that fire service costs reported by the site municipality will be reflective of support contributions or charge payments made to the fire protection unit by the municipality.
- K. Only the operational and overhead costs of a municipal department or agency which actually is responsible for providing a service will be included in the estimation of a service cost; e.g., motor pool or automotive maintenance costs of police patrol cars can be included under police costs but costs of the city attorney's office cannot be included.
- L. Charges for services financed by special assessments, user charges, surcharges, or metered rates will not be eligible under PMS but shall be the responsibility of the specific state agency administering the facility. Per page 1, (1).

M. State agencies are also responsible for making reasonable payments from their budgets for all sewer services. Where sewer service costs are financed partially or wholly by property taxes, state agencies shall make reasonable payments for that portion of sewer services otherwise paid by property taxes. Municipalities may establish an equitable special charge or user fee pursuant to s. 66.076(5) for that portion of sewer services paid by property taxes. The PMS coordinator shall review the charge to determine that it is fair and equitable, and shall then encourage state agencies to make payment. The municipality shall periodically bill the state agencies for all sewer service costs.

III. FORMULA DETERMINATION OF ENTITLEMENT

- A. For most cities, villages and towns the entitlements for services rendered will be automatically determined by the program formula based mainly on information presented in the most recent (see C below) Financial Report form submitted to the Department of Revenue. The formula calculates, in effect, a special "mini-tax" for police and fire protection service and solid waste handling (where applicable) for each facility.
- B. The sources of data to be used in the PMS entitlement formula include: the full value of state facilities as annually determined by the Bureau of Facilities Management, Department of Administration; the equalized full value of local taxable improvements as determined annually by the Department of Revenue; specific municipal fiscal information (cost of services, services revenues, services aids, relief, federal revenue sharing etc.), as reported annually to and certified by the Department of Revenue; and any other information sources necessary to provide accurate, timely and corroborative data used in the formula.
- C. Entitlements for the current year are calculated on the basis of previous calendar year fiscal information. For example, 1978 payments will be based on municipal services expenditures, property tax revenue, values of buildings, etc., for calendar year 1977.
- D. A PMS entitlement for a city, village or town is calculated for each type of service. An example of how the formula determines the Base Entitlement is shown on the accompanying page. Note that property values are determined for "improvements only"; i.e., land values are not considered. See also worksheets in appendix.
- E. The formula calculation assumes that the service provided to a state facility is performed at a level equal to, or greater than that provided for private enterprises and residences and that the quality of service is sufficient to meet the normal operating standards required by a state facility. Deviations from normal levels and quality of service will require reductions of formula calculated entitlements.

HOW THE PMS FORMULA WORKS
A Local Entitlement is Computed from Basic Public Information*

	<u>Factual Information Used</u>	<u>Computation</u>
STEP I.	<u>SERVICE COSTS AND REVENUES DETERMINED</u>	
A.	Gross service costs (a) Personnel, fringe benefits Equipment Capital development Insurance, etc.	\$2,480,000 (A)
B.	Direct service revenues (a) are subtracted Specific state aid Specific federal aid Subsidies Service fees, etc.	\$(-280,000) (B)
	Base cost:	\$2,200,000 (C)
STEP II.	<u>DETERMINE PORTION OF BASE COST (IC) SUPPORTED BY LOCAL PROPERTY TAX.</u> (Assumes That State Property Tax Relief and Shared Tax Payments and Federal Revenue Sharing Are Used Locally To Help Defray Part of The Base (cost).	
	INDIRECT REVENUES FROM TAXES (b)	
	State tax relief credit to municipality	\$2,200,000 (C) = .14286 (F)
	State shared tax revenue to municipality	\$15,400,000 (E)
	Federal revenue sharing to municipality	
	Subtotal:	\$7,920,000 (D) \$7,920,000 (D)
	Net municipal property tax levy 7,480,000	x .14286 (F)
	Total tax revenues:	\$15,400,000 (E) \$1,131,451 (G)
		\$ 2,200,000 (C)
		\$ -1,131,451 (G)
	Net Cost Supported by Local Prop. Tax.....	\$ 1,068,549 (H)
STEP III.	<u>FULL VALUE OF PROPERTY IMPROVEMENTS</u>	
	State-owned property (c)	\$ 32,900,000 \$ 32.9 = .05069 (I)
	Locally owned property (b)	\$616,200,000 \$649.1
	Total Value:	\$649,100,000
	Net cost amount: \$1,068,549(H) x .05069(I) =	<u>\$54,165 BASE ENTITLEMENT</u>
	*Sources:	
	(a) Municipal Financial Report Form.	
	(b) Department of Revenue	
	(c) Department of Administration, Bureau of Facilities Management	

IV. ENTITLEMENT NEGOTIATION AND ADJUSTMENT

For the majority of municipal service situations the basic program formula will readily calculate equitable base entitlements for each facility. However, it is recognized that certain locally unique conditions may require possible adjustments of the entitlement level indicated by the formula calculation. Where entitlement adjustments are warranted, such adjustments will be determined by state-local negotiation of the facts of the issue. Negotiations, as may be necessary, will be conducted by the PMS Coordinator with appropriate local officials (or their designees).

A. SPECIAL CONDITIONS WHICH WARRANT NEGOTIATION OF GENERAL ENTITLEMENTS

1. A service cost not normally incurred by the community under routine municipal responsibility but is attributable primarily to the presence of a state facility.
2. Reporting error or oversight in municipal fiscal information.
3. Municipal annexation of improved areas.
4. Alteration of state facility status, e.g., specific use, closing, sale or lease for non-state purposes, construction.
5. Emergency or other variations not necessarily reflected in current fiscal-operational information.
6. Seasonal variations of need or municipal workload.

B. SPECIAL CONDITIONS FOR POLICE SERVICES

Where the state provides its own self-police services, and where the character of the state institution requires only a reduced level of local police services, appropriate reductions will be made in the PMS base entitlement for police services: (Payments related to ambulance costs will not be subject to this provision even if such costs may be attributed to police activity by the local financial report)

1. Schedule of adjustment for base entitlements related to police services.

- a) Deduct 20% of the base entitlement for facilities with self-provided security personnel or full-time state personnel in attendance. The need for local police service is extremely rare due to the self-security provided or restricted public access. However, local police provide occasional patrol or close cooperation and generally consider the facility within their central responsibility. Facilities in this category include major state office buildings, domiciliary and controlled environment institutions or reasonable public usage. Examples: Central State Colony, or the Capitol Building.

- b) Deduct 40% of the base entitlement for facilities with full-time self-provided security personnel but generally unrestricted public access (except night hours). Local police are needed less than 25% of the time to assist state personnel but do perform varying amounts of on-premise patrol, investigation or other law enforcement functions. Example: University of Wisconsin-Superior
- c) Deduct 50% of the base entitlement for facilities with full-time, self-provided police protection, but generally unrestricted public access (except night hours for certain buildings) and free movement of institutional population. Local police have only cooperative on-premises responsibility but extensive off-premises facility related responsibility. On premise effort by local police less than 25% of the time (annually). Example: University of Wisconsin-Madison.
- d) Deduct 80% of the base entitlement for low and medium security correctional institutions with restricted public access. Local police are needed less than 25% of the time (annually). Local police have minor responsibility for institution protection and safety. Example: Fox Lake Correctional Institution.
- e) Deduct 90% of the base entitlement for maximum security institutions with highly restricted and controlled public access. Local police are needed less than 25% of the time (annually) to assist state personnel with public control. Local police have no responsibility for overall institution protection and safety. Example: Waupun State Prison.
- f) No deduction from the base entitlement for all other state facilities. Example: Armories, small state office buildings, or UW Branch campuses.

2. Supplements to adjusted entitlements, made in recognition of widely varying needs of facilities, local cooperative agreements, quality and quantity of state or local police services, etc.; supplemental amounts above the base schedule may be negotiated. The categories of supplements are:

- a) Add 20% of the adjusted entitlement as a supplement where local police provide direct service for the safety and security of a facility and its occupants, in the form of on-site patrol and enforcement and related investigative or logistic support from 25 to 50% of the time or make more than 33% of the on-premises arrests.

- b) Add 40% of the adjusted entitlement as a supplement where local police provide direct support (as described above) from 50 to 75% of the time, and more than 33% of the arrests.
 - c) Add 60% of the adjusted entitlement as a supplement where local police provide direct support (as described above) more than 75% of the time or more than 50% of the arrests.
3. In no instance will the combination of adjustments and supplements exceed 100% of the original formula entitlement. Nor will the amount of entitlement for police service be reduced by an amount in excess of the amount expended by the state for self-police service at a given facility.

VII. EXTRAORDINARY POLICE SERVICES

The PMS program contains no provision for payments for so-called extraordinary police payments. Local officials and agency staff should contact the State Claims Board for information concerning related claims. Phone (608) 266-2887 or write to Claims Board, Department of Administration, Room 211, 1 West Wilson Street, Madison, Wisconsin 53702. Statutory provisions for extraordinary police service charges are found in s. 16.008, Laws of 1977.

VII. SERVICES PROVIDED BY COUNTY GOVERNMENT

Where state facilities are located in rural areas, police services are largely provided by a county sheriff's department. The wide differences in need, quality, and incidence of service provided practically precludes the use of a payment formula. Instead, payments will be made to counties based on claims submitted to the PMS Coordinator.

The Coordinator will review the claim in consultation with the state agency responsible for the facility served, and recommend an entitlement for the claim to the JCF. Payment of the entitlement is dependent upon JCF approval. Approved entitlements for all claims will be paid annually, concurrently with other municipal payments (See Section II C).

County service claims are subject to the following conditions:

- A. The service must have originated from a specific call for service from a state official responsible for the facility, or in response to a pre-established, formal service agreement between appropriate state and county officials. All such agreements must have prior approval of the Department of Administration.

- B. Services shall be directly provided to the facility, including responses for escapee pursuit, vandalism, disturbances of the peace, thefts, arson and other police action related to the functioning of the facility. Services eligible for payment under s. 16.51(7) of statutes cannot be included under PMS claims. Riot control activity qualifying as "Extraordinary Police Service" (as defined in s. 16.008) is not included. Please refer to guideline section VI.
- C. Claims will include only direct salaries, equipment operation cost, supplies expended, plus equipment damaged or lost, uninsured medical costs or workmen's compensation costs of officers and wages paid during periods of temporary disability.
- D. Claims may be submitted to the PMS Coordinator at any time during the year, but payments will be made annually (Per Section II C).

VII. ADDITIONAL INFORMATION

Call (608) 266-1927 or 266-1067 for information related to the Payments for Municipal Services Program.

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END