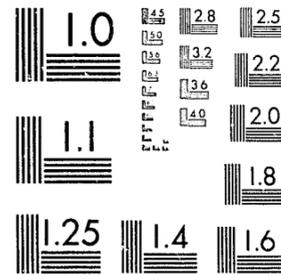


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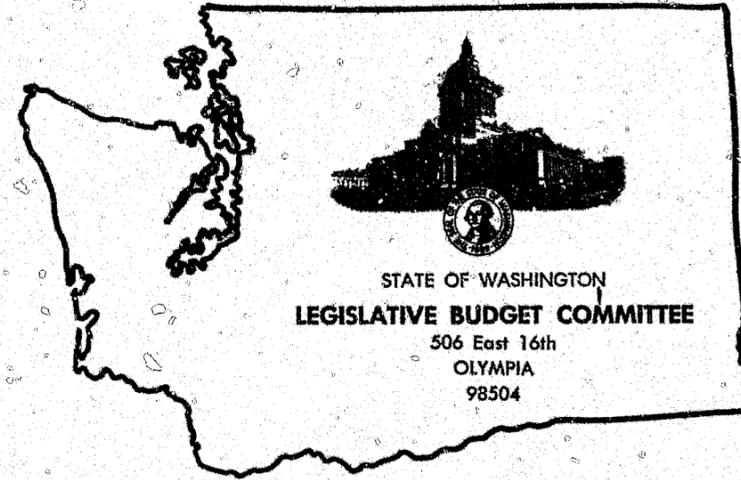
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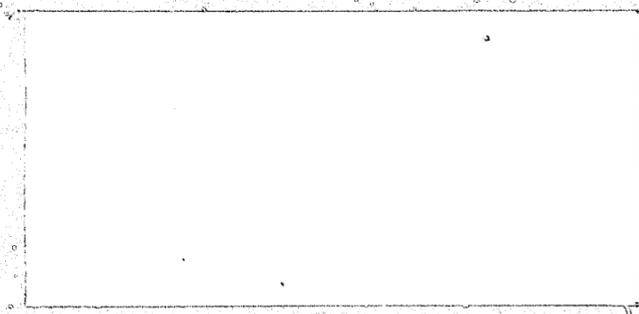
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STATE OF WASHINGTON
LEGISLATIVE BUDGET COMMITTEE
506 East 16th
OLYMPIA
98504

PERFORMANCE AUDIT

91797



A Report to the
WASHINGTON STATE LEGISLATURE

U.S. Department of Justice
National Institute of Justice

91797

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SPECIAL STUDY

OF

NEW PRISON CONSTRUCTION ISSUES

DECEMBER 17, 1982

REPORT NO. 82-26

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FOREWORD

This report to the Legislature on New Prison Construction Issues was prepared in response to a legislative mandate in Chapter 23, Laws of 1982 (Substitute House Bill No. 808).

The primary purpose of this report is to provide legislators, policy-makers and planners, at the State and local levels, with information which could be useful in formulating and implementing, pragmatic approaches to serving the current and future incarceration requirements in our State's prison system.

In conducting this audit the staff worked with the Department of Corrections and other major elements of the criminal justice system. A field trip to Arizona, Nevada, North Carolina and Illinois also provided data for our review.

The report was prepared by four members of the Legislative Budget Committee staff: Fred Tilker, Frank Hensley (team leaders) assisted by Ronald Perry and Robert Krell.

DONALD F. PETERSEN
Legislative Auditor

Approved for distribution by
the Legislative Budget Committee
on December 17, 1982

REPRESENTATIVE OTTO AMEN
Chairman

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EXECUTIVE SUMMARY

I. INTRODUCTION

This report to the Legislature was prepared in response to a legislative mandate in Chapter 23, Laws of 1982 (Substitute House Bill No. 808).

During the past few years the problems associated with an increase in the crime rate has demanded the attention of our Federal, State and local government authorities, who must deal not only with ways to prevent crime, but must determine the extent to which individuals convicted of committing crimes should be punished and/or rehabilitated.

The primary purpose of this report is to provide legislators with information which could be useful in formulating and implementing, pragmatic approaches to serving the current and future incarceration requirements in our State's prison system.

Today in our State we find that our penal institutions, like most of those throughout the country, suffer from overcrowding, less than desirable living and working conditions, threats of riots and/or Federal court interventions. The Legislative Budget Committee (LBC) staff concluded that the State is in a situation that deserves immediate legislative attention.

II. GENERAL POLICIES AND PROCEDURES

Correctional systems throughout the country may be one of the most difficult areas of public administration, due in part, to the lack of public consensus as to what our correctional system should accomplish with what levels of resources. Felons are perceived by many members of the public as the least deserving and the most to be feared members of our society. The public's need to be protected from this population often results in legislative actions which prevent correctional administrators from making optimum use of a variety of techniques which could achieve more cost effective results with that population. Inconsistent sentencing, community resistance to the location of correctional facilities, and restrictions on the employment of offenders, are additional realities that present major constraints to correctional administrators and the overall system.

The State also is in a situation where existing correctional facilities and their supporting services are severely overcrowded. With a rising crime rate and the public pressure to incarcerate more felons for longer period of time, the existing bad situation on prison overcrowding can only get worse.

Many different approaches to coping with prison crowding are currently being tried around the country. The LBC Prisons Report (LBC Report No. 82-26) contains a matrix on pages 4 through 8, developed for the National Governors Association by the National Association of Corrections showing a number of mechanisms available for tackling the crowding problem.

It is organized around changes that can be made in three different areas to affect prison crowding:

- o changes aimed at affecting the number of people who enter prisons;
- o changes aimed at affecting the length of time people spend in prisons; including release mechanisms; and
- o changes aimed at altering system capacity.

In addition, the matrix reflects that a variety of persons and institutions have the ability to put such options into effect depending on the mechanism in question: legislators, prosecutors, the defense bar, the judiciary, private agencies, probation and parole agencies, governors, and departments of corrections are the principals.

III. NEEDS ASSESSMENT

In addition to other data the report contains information regarding:

- A. Inmate Classification System in Washington State
- B. Current Inventory of Physical Facilities by Classification Types
- C. Inmate Rehabilitation and Education Needs
- D. Health Services
- E. Program for Mentally Ill Offenders
- F. Relevant Court Decisions
- G. Prison Population Forecasting in Washington
- H. Impact of the Sentencing Reform Act of 1981 (HB 440)
- I. Community Based Correction Programs

General Observations:

Classification

In general, the draft classification process is an attempt to improve the methods by which the security and custody level of prisoners is determined. The draft manual is very specific and assigns staff responsibility for each action taken.

The classification process will be further enhanced by the development of an initial classification model intended for use at the Shelton Reception Center. The new comprehensive diagnostic

model will assist in determining security decisions and care needs.

A potential problem with the proposed classification process is that it could classify inmates at a level that is higher than necessary. There are two reasons for this. One is the constraints imposed by overcrowding. The placement of inmates could be based more on space availability than on actual security/custody needs. Another reason is the apparent assumption that medium custody inmates will or should constitute 50 percent of the population.

The impact of Washington's classification system and projected custody profile is this: both significantly influence estimates of future bedspace needs at various custody levels. Adjustments in the percentage of prison population at the several custody levels can significantly alter anticipated future needs estimates and the capital dollars required to meet those needs.

For example, in the future the Department of Corrections projects 70 percent of the offenders will be held at minimum and/or medium security. If one held that percentage constant, but changed the ratio of minimum and medium custody inmates more heavily toward minimum custody, the result would be that cheaper, less secure bedspace would be needed.

The projected custody profile depends in part on the projected increase in crime, in particular, violent crime. Although projections show the proportion of violent crime increasing only three percent between 1981 and 1991, the proportion of inmates classified in medium custody increases about ten percent. While the proportionate number of maximum and close custody offenders declines, so does the percentage in minimum security.

The apparent direction of the classification system is centrifugal. The medium custody/security classification will seemingly grow by drawing from both higher and lower levels of classification. The capital planning of the Department reflects this direction.

It is difficult to determine the extent to which the draft classification process, in itself, may contribute to the higher placement of inmates. This concern could be addressed in a subsequent review by the LBC staff that has been approved by the Legislative Budget Committee.

Education Needs

The Department's efforts for providing inmate programs fall into four major priority categories. The first priority is to provide programs that will meet basic literacy and survival skill requirements. The second priority is to provide General Educational Development and high school completion programs. The third major priority category is the certificate and Associate Degree level programs. The fourth, and by far the smallest, program category is represented by those few inmates who are qualified and would benefit from a Baccalaureate Degree program.

Of the \$141.5 million originally allocated for the total operation of the correctional institutions during the 1981-83 biennium, \$7.9 (5.58%) was for academic and vocational training programs. (Following the actions of the 1982 Legislature and the Governor, \$653,314 was cut from the original \$7.9 million - a reduction of 8.27%.)

To address the educational and vocational training needs of the inmates, the DOC has contracted with eight local community colleges and Bates Vocational School in Tacoma, to provide educational programs in the institutions.

The Department did an excellent job of stating their educational policies and of recognizing existing problems in a report to the Legislature dated October 12, 1981, dealing with academic and vocational training in the institutions. After passage of a year, the Department should advise the Legislature as to the current status of the resolution of those known problems.

It was also noted during our review that the Department is following legislative direction and has eliminated all 100 level and above college academic courses. While the Department is not spending State funds for these programs, some outside funds might be available. Some vocational programs, like welding or drafting, require some community college level credits to complete the program.

Health Services and Mental Health

The Department of Corrections attempts to provide offenders with complete health services (medical, mental, and dental).

In the past, the Department and DSHS did not keep complete records on the types of health services provided, nor on the utilization of the services by the inmate population. The Department is attempting to gather useful and complete information from each

institution about the level and use of such services. It has developed two quarterly reports: one on dental services and one on medical and mental health services.

The dental services quarterly report form requests information in 12 areas. It is intended to provide data on the number of dental visits, diagnoses, services or procedures performed (in specific detail by type), facilities, and personnel.

There are a few drug and/or alcohol abuse treatment programs in the prisons. The only programs available are so called "local" programs such as local chapters of Alcoholics Anonymous. There are no systemwide or Department developed programs for control or elimination of drug and/or alcohol abuse by inmates.

The Department of Corrections does not know the extent of drug and alcohol problems in the prisons. A study by the Office of Research in DSHS (An Analysis of Program Needs of Prison Inmates in Washington State, April 1980) reconfirmed the findings of an earlier 1977 study of drug/alcohol abuse among offenders. Those data showed that most offenders were frequently intoxicated during the year prior to their last arrest and that alcohol was involved in the crime for which they were incarcerated. Data on drug use show that drugs were not involved in most of the crimes for which offenders were incarcerated.

No studies on the subject of drug/alcohol abuse among offenders or the need for drug/alcohol abuse programs have been conducted since the 1980 DSHS study.

The Department of Corrections health services quarterly report form does not provide for the identification/treatment of drug/alcohol abuse by specific title. One would have to use the category "other" to report drug/alcohol problems and/or needs.

A comprehensive health services needs assessment process is the key to knowing what services must be provided, where, and at what level. It would provide information on which to base subsequent decisions. The new quarterly reports begin to supply some data. It would make sense to implement the available, but unused, assessment methodology for new admissions (initial health data base). This information, and the quarterly report data would help to define problems and needs. At present, it is difficult to determine what needs exist, because the data is lacking, particularly in the area of drug and/or alcohol abuse. The Department of Corrections should be encouraged to emphasize its data collection effort,

and to obtain specific information on drug/alcohol abuse treatment needs in the prison. A reliable data base which can accurately be used to assess inmate needs is a prerequisite to the funding of programs.

There are several persons in State penal institutions who need mental health services. The 855 people identified in the report represent about fifteen percent of the prison population (not including work releases).

Not having verified staffing levels nor services for mental health at the institutions, the auditors cannot comment on the adequacy of the mental health services now available in the prison system. However, it is recommended that this subject be studied further.

RELEVANT COURT DECISIONS

Persons familiar with Washington's correctional system generally agree that the system is presently in a state of crisis. A major increase in the crime rate, more convictions and longer prison terms along with the inability of the State to rapidly increase the available cell capacity, has all contributed to an overcrowded condition within the prison system. The time lag between prison population growth and the ability to increase prison capacity represents a major problem.

While the State has implemented some emergency capacity revisions, classification changes and a prerelease program, these efforts have not reduced the prison population to the point where court suits can be avoided. This situation is not limited to the State of Washington, but is nationwide.

The report highlights six major cases which affect Washington State's prison system. Other major Eighth Amendment cases (cruel and unusual punishment) are also discussed.

The staff investigation of questions regarding prison conditions and overcrowding and the impact of major court interventions, did not provide clear, concise answers to all the problems. Despite the amount of formal litigation, involving all areas of the country, there has not yet emerged a clear, bright line for determining absolutely that a given institution at a specific time conforms to constitutional standards.

Realistic answers to the problem of overcrowding exist in three major areas:

- a. Changes aimed at affecting the number of people who enter prisons;
- b. Changes aimed at affecting the length of time inmates spend in prisons; (including release mechanisms); and
- c. Changes aimed at altering prison capacity.

The auditor concluded there is an immediate overcrowding problem which requires immediate action; and a long range problem for which we can, and should, take the time to fully analyze detailed plans and options, as the solution to the problem will be expensive.

IV. NEW PRISON CONSTRUCTION PLANS AND COSTS

This section reports upon a related but separate study dealing specifically with the two medium security correction centers identified in Sections 1(1) and 1(2) of Chapter 23, Laws of 1982, 1st ex. session. The primary purpose is to objectively analyze the projected costs relating to these projects.

A second objective is to review, analyze and assess the architect selection process of the Department of General Administration, with particular emphasis upon the recent selection of an architect for the prison projects.

A third objective is to review the design procedures regarding prison capital expenditures, with emphasis upon determining if proper and reasonable consideration is given to construction costs in the design process.

Section 1, Chapter 23, Washington Laws of 1982, call for the "total cost" of the two medium security corrections centers to be "... verified by the legislative budget committee with assistance from the department of general administration..."

The Legislative Budget Committee staff found that the construction costs estimates of the architect and the independent subcontractor have been prepared by qualified and experienced personnel using appropriate methods and technology. This report has identified most, if not all, of the many costs associated with a capital project such as a prison. Many of the elements comprising "total cost" are not provided in the construction cost estimates. This report identifies the most significant of these. It further identifies costs not included in the capital budget request, and certain possibly unanticipated and unforeseen costs.

The Legislative Budget Committee report found that there are many uncertainties in the construction of a major project such as a prison and that costs cannot be entirely foreseen. It notes a substantial contingency is included in the capital budget request for these prisons. It finds that the total cost estimates appear reasonable and logical, but there is no guarantee that actual costs will not exceed the estimates.

The research found no indications that the estimated cost of Clallam Bay is excessive, or any simple ways that it could be substantially reduced. It was concluded that the following nine major factors account for differing prison construction costs between states:

- 1) Effect of inflation between construction times of different prisons.
- 2) Regional construction cost differences for labor.
- 3) Climatic conditions effecting design.
- 4) Availability and/or distance to utilities and existing roads.
- 5) Differences in levels of security. ("Medium Security" varies greatly between states.)
- 6) The in-house programs to be accommodated.
- 7) Single cell occupancy or multiple occupancy.
- 8) Effect on taxes and statutes on costs.
- 9) Whether the facility is a complete prison or a simple modification or addition.

In 1982, the Legislature was very concerned that the proposed prisons might represent "Cadillacs instead of Chevrolets". The auditor found no evidence that the basic standards cited previously are substantially exceeded. In the critical matter of cell size for general housing, the design complies only with the 60 square feet minimum of the American Correctional Association and does not meet the 80 square feet U.S. Department of Justice standard. Standards for day rooms and the gymnasium are not met.

The auditor has previously explained that not all the referenced standards lend themselves to comparison with the design documents. However, with respect to those significant standards where comparison is possible, one must conclude that the current design is an "economy model".

The auditor wishes to make it very clear that he considers the Clallam Bay and Grandview prisons to have very limited flexibility as to inmate capacity and programming, and security/custody levels. They will not be able to expand and contract to meet widely varying inmate populations and needs without costly additions.

The basic structure of a prison designed to hold medium and close custody inmates is not readily modified. Clearly, the requirements to prevent escape and in-prison violence are matters of high priority which require rigid structural features and fixtures. In particular, the cell structure and probable inability to double-bunk inmates in a cell tends to limit capacity.

Educational and industrial opportunities tend to be limited by isolated locations--particularly at Clallam Bay.

The above comments are not intended as criticism, but as a realistic assessment of what can be expected from these facilities. High security and flexibility tend to be mutually exclusive goals in prison design.

The coin toss climax to a lengthy and meticulous architect selection process leaves a regrettable impression of casualness, frivolity or irresponsibility on the part of those making the selection and upon the process itself. This is a most unfortunate result and clearly incorrect. Controversy is heightened when, as in the instant case, the loser has clearly received a majority of first-place votes and higher point scores than the winner.

In short, the LBC staff concludes that the tie-breaking process outlined in Department of General Administration procedure and providing for a coin toss based upon rank order, however well intended, is not conducive to either public confidence in the selection process or satisfaction and confidence on the part of competing firms. It should be replaced by a tie breaking mechanism which employs either raw score totals or first-rank votes as the deciding factor.

V. RECOMMENDATIONS

The audit contains several informal suggestions and seven formal recommendations:

RECOMMENDATION 1

That the Department of Corrections provide the appropriate standing committees of the Legislature and the Legislative Budget Committee with the current problem resolution status of the problems noted in the Report to the Legislature, Academic and Vocational Training, October 12, 1981.

RECOMMENDATION 2

That the college level academic program be reinstated as an integral part of the inmate education program, provided, that the priorities for educational programs contained in the Report to the Legislature, Academic and Vocational Training, October 12, 1981 are maintained.

RECOMMENDATION 3

It is recommended that the Department of Corrections, using its health services quarterly reports and the initial health data base, collect specific data on the incidence of drug and/or alcohol abuse by prison inmates and also specific data on treatment provided for drug and/or alcohol problems among prisoners.

RECOMMENDATION 4

It is recommended that further study be made of the extent of mental health services and treatment provided to offenders under the jurisdiction of the Division of Prisons, the Division of Community Services, and the local jails. Such a study should also determine whether that mental health care is adequate.

RECOMMENDATION 5

That the Department of General Administration revise its procedures for selecting architects and engineers to provide that either raw score totals or integrated rank orders between tied firms only, be the deciding factor in the event of a tie between competing firms.

RECOMMENDATION 6

That the standing committees consider the advisability of specifically exempting prison projects from the provisions of Chapter 19.27 RCW which require compliance with amendments to the State building code made by local jurisdictions, and local administration and enforcement of the building code.

RECOMMENDATION 7

That the standing committees consider whether the expenditure of 1/2 of 1% of the construction cost for art is appropriate for prison projects, and whether these projects should be specifically exempted from this requirement.

The implementation of recommendations 6 and 7 would have a positive fiscal impact to reduce present costs and to effect a general fund "savings". The Legislative Budget Committee is submitting request legislation to implement these recommendations and to effect the savings.

The potential savings from exempting the prison projects from local building code jurisdiction could amount to millions of dollars. The precise amount is dependent upon numerous variables. However, for illustrative purposes, if project occupancy were deferred when the project was virtually completed (and costs virtually all paid) and an interest rate of 10% is assumed, a cost of \$350,000 per month in extra interest alone would result. The cost of contract change orders, legal actions, administrative costs, delays in prisoner transfers, etc., would be in addition thereto.

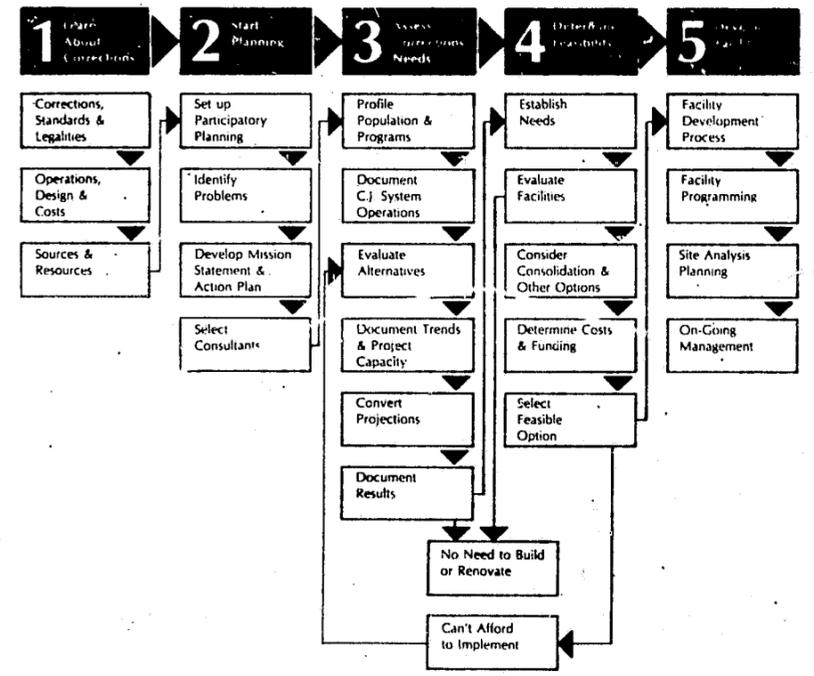
The exemption of the Clallam Bay project from the requirement to spend 1/2 of 1% of the construction cost for art would be a cash savings of \$138,132. Over the 25 year life of the 9% construction bonds issued for these facilities, the general fund saving will approximate \$351,575 (effected by reducing the amount of general fund revenues diverted to debt service purposes).

I. INTRODUCTION

This report to the Legislature was prepared in response to a legislative request mandated by Chapter 23, Laws of 1982 (Substitute House Bill No. 808).

During the past few years the problems associated with a large increase in the crime rate has demanded the attention of our Federal, State and local government authorities, who must deal not only with ways to prevent crime, but must determine the extent to which individuals convicted of committing crimes should be punished and/or rehabilitated.

The primary purpose of this report is to provide legislators, policymakers and planners, at the State and local levels, with information which could be useful in formulating and implementing, pragmatic approaches to serving the current and future incarceration requirements in our State's prison system. The simplistic approach used by the State of California in determining their future prison needs represents the five basic steps which should be used in the State of Washington.

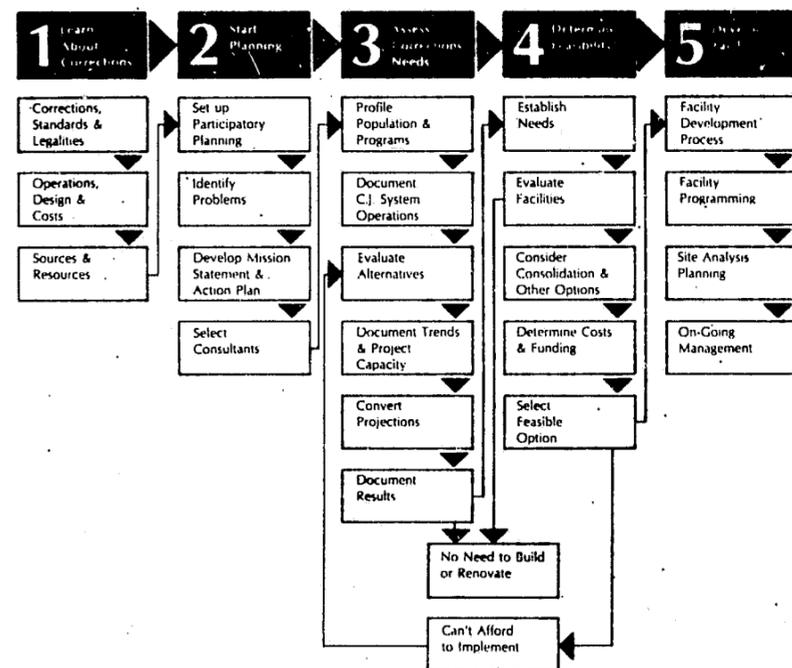


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II. GENERAL POLICIES AND PROCEDURES

Correctional systems throughout the country may be one of the most difficult areas of public administration, due in part, to the lack of public consensus as to what our correctional system should accomplish with what levels of resources. Convicted felons are perceived by many members of the public as the least deserving and the most to be feared members of our society. The public's need to be protected from this population often results in legislative actions which prevent correctional administrators from making optimum use of a variety of techniques which could achieve more cost effective results with that population. Inconsistent sentencing, community resistance to the location of correctional facilities, and restrictions on the employment of offenders, are additional realities that present major constraints to correctional administrators and the overall system.

We are also currently in an environment where our existing correctional facilities and their supporting services are severely overcrowded. With a rising crime rate and the public pressure to incarcerate more felons for longer periods of time, the existing bad situation can only get worse.

Many different approaches to coping with prison crowding are currently being tried around the United States. The matrix which follows was prepared by the National Institute of Corrections for the National Governors' Association and is suggestive of the number and range of mechanisms available for tackling the crowding problem. It is organized around changes that can be made in three different areas to affect prison population and capacity:

- o changes aimed at affecting the number of people who enter prisons;
- o changes aimed at affecting the length of time people spend in prisons; including release mechanisms; and
- o changes aimed at altering system capacity

In addition, the matrix reflects that a variety of persons and institutions have the ability to put such options into effect depending on the mechanism in question: legislators, prosecutors, the defense bar, the judiciary, private agencies, probation and parole agencies, governors, and departments of corrections are the principals.

The matrix, which follows as Exhibit 1, and its options, are explained in more detail in Appendix I starting on page 103.

Exhibit 1

Prison Overcrowding Relief Options

Source
Prepared by The National Institute of
Corrections for The National
Governors Association

Principal Responsibility	Options that Affect Who Goes to Prison	Options that Affect Length of Stay in Prison	Options that Affect System Capacity
A. <u>LEGISLATURE</u>	<ol style="list-style-type: none"> 1. <u>Decriminalize.</u> <ol style="list-style-type: none"> a. Pure decriminalization. b. Reclassification/downgrading to decrease imprisonable offenses. c. Substitution of non-criminal responses for certain offenses. 2. <u>Revise penal/sentencing codes.</u> <ol style="list-style-type: none"> a. Provide alternatives to custodial sentencing. <ol style="list-style-type: none"> 1. Special probation conditions. 2. Restitution. 3. Community service orders. 4. Financial options. 5. Intensive supervision. 6. Direct sentence to community-based facilities. 7. Intermittent confinement. b. Adopt presumption for least drastic means. c. Create Sentencing Commission to set guidelines. 3. <u>Restructure state/local responsibility for offenders.</u> <ol style="list-style-type: none"> a. Provide incentives for communities to retain offenders. b. Redefine local responsibility for lesser offenders. c. Adopt comprehensive community corrections law. 4. <u>Authorize placing women with small children in community.</u> 	<ol style="list-style-type: none"> 1. <u>Revise penal/sentencing codes.</u> <ol style="list-style-type: none"> a. Reduce sentence lengths. b. Create Sentencing Commission to set guidelines. 2. <u>Revise "good time" credits.</u> 3. <u>Adopt presumptive parole on first eligibility.</u> 4. <u>Authorize placement of pregnant offenders in community.</u> 5. <u>Repeal mandatory sentences.</u> 	<ol style="list-style-type: none"> 1. <u>Establish standards and capacity limits for facilities.</u> 2. <u>Expand placement options for Department of Corrections.</u> <ol style="list-style-type: none"> a. Immediate screening for community placement. b. Extend work release options. c. Expand temporary absence provisions. d. Authorize contracts with local government, other agencies for placement of offenders. 3. <u>Appropriate/issue bonds for construction, renovation or acquisition of facilities.</u> 4. <u>Adopt emergency overcrowding measures.</u> 5. <u>Demand accurate short- and long-term cost information.</u>

Principal Responsibility	Options that Affect Who Goes to Prison	Options that Affect Length of Stay in Prison	Options that Affect System Capacity
B. PROSECUTOR	<ol style="list-style-type: none"> 1. <u>Adopt policies on sentencing recommendations.</u> <ol style="list-style-type: none"> a. Emphasize serious offenders going to prisons; alternative penalties for non-serious offenders. b. Emphasize victim needs. c. Increase use of financial penalties. 2. <u>Expand knowledge of non-custodial options.</u> 	<ol style="list-style-type: none"> 1. <u>Adopt policies on sentencing recommendations.</u> <ol style="list-style-type: none"> a. Emphasize scaling sentence length according to offense seriousness. b. Emphasize victim needs. 2. <u>Endorse combination penalties to decrease custodial stays.</u> 	
C. DEFENSE BAR	<ol style="list-style-type: none"> 1. <u>Defendant-oriented pre-sentence reports.</u> 2. <u>Retain private agencies to prepare assessments and recommendations for non-custodial penalties.</u> 3. <u>Appeal custodial sentences.</u> 4. <u>Expand knowledge of non-custodial options.</u> 	<ol style="list-style-type: none"> 1. <u>Defendant-oriented pre-sentence reports.</u> 2. <u>Retain private agencies to prepare assessments and recommendations for alternatives.</u> 3. <u>Appeal long sentences.</u> 4. <u>Expand knowledge of non-custodial options.</u> 5. <u>Monitor contracts affecting time served.</u> 6. <u>Represent offenders in revocation and parole proceedings.</u> 	<ol style="list-style-type: none"> 1. <u>Sue crowded/substandard facilities.</u> 2. <u>Appeal sentences to inappropriate facilities.</u> 3. <u>Seek lower custody placements.</u>

Principal Responsibility	Options that Affect Who Goes to Prison	Options that Affect Length of Stay in Prison	Options that Affect System Capacity
D. <u>JUDICIARY</u>	<ol style="list-style-type: none"><u>Expand use of non-custodial sentences</u><ol style="list-style-type: none">Pursuant to existing authority.Pursuant to revised statutory schemes.<u>Require that pre-sentence reports explore non-custodial sanctions.</u><u>Increase use of specialized assessments/diagnosis.</u><u>Use sentencing guidelines.</u><u>Appellate review of sentences.</u><u>Employ sanctions short of revocation for probation/parole violations.</u>	<ol style="list-style-type: none"><u>Issue shorter sentences.</u><u>Appellate review of sentences.</u><u>Use intermittent or "shock" confinement.</u>	<ol style="list-style-type: none"><u>Refuse to sentence to Substandard facilities.</u><u>Defer commencement of sentences for less serious offenders depending on availability of capacity.</u>
E. <u>PUBLIC NON-CRIMINAL JUSTICE and PRIVATE AGENCIES</u>	<ol style="list-style-type: none"><u>Provide programs, services, contracts for</u><ol style="list-style-type: none">Offenders with special needs (e.g., mentally ill, retarded, addicted, or alcoholic offenders).Community pre-sentence investigations and reports.Community supervision.Advocacy at hearings.Community-based facilities.	<ol style="list-style-type: none"><u>Provide programs, services, contracts for</u><ol style="list-style-type: none">Offenders with special needs.Re-entry.Advocacy at hearings.Offender supervision.	<ol style="list-style-type: none"><u>Provide programs, services, contracts for</u><ol style="list-style-type: none">Offenders with special needs.Community-based facilities.Offender supervision.

Principal Responsibility	Options that Affect Who Goes to Prison	Options that Affect Length of Stay in Prison	Options that Affect System Capacity
F. <u>PROBATION and PAROLE AGENCIES</u>	<ol style="list-style-type: none"> 1. <u>Expansion of presentence report function.</u> <ol style="list-style-type: none"> a. Greater emphasis on non-custodial options. b. Broader use. 2. <u>Reorganize to provide non-traditional supervision and compliance monitoring.</u> 3. <u>Revise revocation policies--</u> <ol style="list-style-type: none"> a. To favor non-custodial back-up sanctions. b. To reduce violations for non-serious behavior. 4. <u>Adopt differential supervision levels.</u> 5. <u>Decrease the length of probation and parole supervision.</u> 6. <u>Use contract probation.</u> 	<ol style="list-style-type: none"> 1. <u>Adopt contract parole.</u> 2. <u>Adopt parole guidelines.</u> <ol style="list-style-type: none"> a. Favoring release at first eligibility. b. Based on clear standards. c. Designed to reduce time served. 3. <u>Provide special screening for early release.</u> 4. <u>Use "mini parole."</u> 5. <u>Speed parole hearing process.</u> 6. <u>Revise revocation policies.</u> 	<ol style="list-style-type: none"> 1. <u>Provide special screening for early release.</u>
G. <u>GOVERNOR</u>	<ol style="list-style-type: none"> 1. <u>Assume a leadership role in examining corrections policy and practice.</u> <ol style="list-style-type: none"> a. Appoint special study commissions. b. Convene interagency task forces. c. Require full impact statements on prison proposals. 	<ol style="list-style-type: none"> 1. <u>Assume a leadership role in examining corrections policy and practice.</u> 2. <u>Increase use of clemency.</u> <ol style="list-style-type: none"> a. Holiday commutations. b. Across the board term reductions. c. Special reviews for candidates for pardon or commutation. 	<ol style="list-style-type: none"> 1. <u>Assume a leadership role in examining corrections policy and practice.</u>

Principal
Responsibility

Options that Affect
Who Goes to Prison

Options that Affect
Length of Stay in Prison

Options that Affect
System Capacity

- d. Promote active public education efforts.
- e. Use criminal justice planning agency staff, or other staff, for policy analysis and guidance.

H. DEPARTMENT OF
CORRECTIONS

- 1. Reclassify offenders.
- 2. Use contract release.
- 3. Screen for immediate community placement.
- 4. Develop phased re-entry.
 - a. Pre-release.
 - b. Work and study release.
 - c. Temporary absence.
 - d. Halfway houses.
- 5. Increase opportunities for work credits.
- 6. Expand services to increase offender skills and performance.
- 7. Adopt standards for disciplinary infractions.
- 8. Increase administrative "good time."
- 9. Reduce delays and bureaucratic obstacles to processing and movement of offenders through the system.

- 1. Establish standards and capacity limits.
- 2. Contract with private, governmental, or specialized programs for offender house supervision, and services.
- 3. Develop and operate more placement options.
- 4. Acquire, renovate, and construct facilities.

III. NEEDS ASSESSMENT

A. CLASSIFICATION OF INMATES

1. Definition and Background

The classification of inmates (or the classification system) is the method by which the security level and the custody level of prison inmates is determined. Security level relates to the type of physical constraints used, and custody level to the degree of staff supervision provided.

The National Institute of Corrections (NIC) (Department of Justice) has developed a model systems approach for prison classification. The NIC definitions and model were derived from a survey of several jurisdictions and corrections experts, American Correctional Association (ACA) and American Bar Association (ABA) standards, and relevant court decisions.

The NIC survey of state classification systems led to four conclusions:

- A. Some states have no operative custody or security definitions at all;
- B. Other states do not have system-wide custody and security criteria but rather a different set of definitions for each separate facility;
- C. Many states base their definitions on factors that have no demonstrated validity (e.g., a state will arbitrarily assign inmates to certain custody and security levels based solely on length of sentence); and
- D. Supervision is frequently based solely on facility placement. That is, prisoners are deemed to require maximum custody supervision because they are in a maximum security institution. (Often they are in a maximum security institution because that institution is the only one with bed space available.) Hence, the terms security and custody are synonymous in many states.

The NIC model contains five classifications: maximum, close, medium, minimum, and community. Often different areas of a single institution can provide levels of custody and security. The following two exhibits show the specifications of the NIC security designations and custody designations.

Exhibit 2

Custody Designations (NIC)

	<u>MAXIMUM</u>	<u>CLOSE</u>	<u>MEDIUM</u>	<u>MINIMUM</u>	<u>COMMUNITY</u>
<u>DAY MOVEMENT</u>	Escorted Only	All normal movement unescorted but observed by staff.	Unrestricted	Unrestricted	Unrestricted
<u>NIGHT MOVEMENT</u>	Only on order of Watch Commander and on escorted basis.	Escorted or check-out/check-in basis	Under staff observation	Unrestricted	Unrestricted
<u>SUPERVISION</u>	Always escorted	Always observed and supervised.	Frequent and direct observation by staff.	Supervised in groups by an unarmed officer or checked every hour.	Periodic as appropriate to circumstances of work or activities.
<u>LEAVE THE INSTITUTION</u>	Armed one-on-one escort, and in full restraints. Not eligible for furloughs.	Armed one-on-one escort, and in handcuffs. Not eligible for furloughs.	Under close and/or armed supervision. Eligible for escorted furloughs.	Under supervision. Eligible for unescorted furloughs.	Daily and unescorted. Eligible for unescorted furloughs.
<u>ACCESS TO PROGRAMS</u>	Selected cell activity only.	Selected programs and activities inside the perimeter.	All inside the perimeter.	All inside the perimeter and selected community based programs and activities.	Unrestricted, including all community based programs/activities.
<u>ACCESS TO JOBS</u>	None	Only day jobs inside the perimeter.	All inside the perimeter.	All inside, and supervised jobs outside the perimeter.	All, both inside and outside the perimeter.
<u>MEAL MOVEMENT</u>	Fed in cell or on the cellblock	Controlled and supervised	Under staff observation	Unrestricted	Unrestricted

CONTROLLED MOVEMENT: Performed under constant staff observation and direction, usually on a check-out/check-in basis.

Exhibit 3
Security Designations (NIC)

	<u>MAXIMUM</u>	<u>CLOSE</u>	<u>MEDIUM</u>	<u>MINIMUM</u>	<u>COMMUNITY</u>
<u>PERIMETER</u>	Secure	Secure	Secure	Clearly designated by single fence or unarmed "posts."	None
<u>TOWERS</u>	Manned 24 hours	Manned 24 hours	Manned 24 hours	Optional (manned less than 24 hours)	None
<u>EXTERNAL PATROL</u>	Yes	Yes	Yes	Intermittent	None
<u>DETECTION DEVICES</u>	Yes	Yes	Yes	None	None
<u>HOUSING</u>	Single inside cell corridor grills.	Single outside or inside cells.	Single cells or rooms and/or dormitories.	Single rooms and/or multiple rooms and/or multiple dormitories.	Single rooms and/or multiple rooms.

The NIC recommends three guidelines for classification:

- a. Custody and security designations must strive to place the inmate in the least restrictive environment suitable to guarantee adequate custody supervision consistent with his/her behavior;
- b. Custody designations are not to be imposed as a form of punishment;
- c. As much as possible, custody supervision assignments should have an objective, behavior-oriented foundation.

2. Classification Systems in Other States

The auditors did not make an attempt to study the classification systems of other states. However, they did examine the experience of two states that revised their classification systems - California and Alabama. In both cases, the revisions resulted in the placement of many inmates in lower levels. The changes also had important implications regarding future bedspace needs at the various custody/security levels.

a. California

California developed a new classification system, with some partial funding from the National Institute of Corrections, and implemented it in 1980. The new system used a classification score sheet to determine the security custody level of inmates previously housed in one of four levels: minimum, medium, close, and maximum. The new levels were labeled I, II, III, and IV, going from lowest to highest custody level.

After reclassifying most of the male inmates, major changes occurred. Forty-three percent of the males became eligible for a lower custody level facility, and 14 percent were classified at a higher level. Under the old system, 29 percent were in the minimum level. The new Level I, covers 42% of the inmates. The percentage in medium custody was 59%, in Level II was 19.5%. The percentage of population in Level III and Level IV was higher than in the previous close and maximum levels.

An independent consultant has reviewed the California classification system changes and recommended some revisions in the assignment of custody levels. These suggestions resulted in a lower figure for the projected demand for male prison beds in FY 1990. The consultant's estimate was 550 beds lower than the California Department of Corrections' estimate. The consultant

also determined that more beds would be needed at Levels I and II and fewer at Levels III and IV than projected.

The difference of the two bedspace estimates (based on different classification standards), expressed in terms of capital construction costs through 1990, is as much as \$237,000,000.

b. Alabama

A federal court ordered the State of Alabama to reduce its prison population to the design capacity at each institution. The impact of this order was a prison population reduction of over 40 percent.

The Alabama State Board of Corrections used an outside review team from the University of Alabama to reclassify the population in 1976. Whereas the Board had 34% of its prisoners in maximum security confinement, the University review team found only 3% should be at maximum level. The Board had only 9% in "community" custody; the review panel assigned 32% to the same level. Under the revised classifications, the number of prisoners in minimum and community custody rose from 49% to 75%.

Based on the State's classification assignments, at least 1,500 new beds would have been needed for maximum security inmates. But, using the revised system, the need for new beds in maximum security dropped to only 100. (The Sourcebook on Alternatives to Prison in California, Report by the National Council on Crime and Delinquency to the California Legislature Joint Rules Committee.)

3. Inmate Classification System in Washington State

The Department of Corrections is in the process of revising its Inmate Classification Manual. The Department has developed a draft of the new manual and has recently revised the draft. The second draft was not provided to LBC staff, so all comments hereafter pertain to the first draft.

The stated purpose of the manual is to "provide a framework describing criteria and minimum standards for classification for the Department of Corrections".

The draft manual defines classification as a decision-making process whose "primary purpose is to balance the security requirements associated with the nature of the crime and the length of sentence with the program opportunities available to assist the inmate in his/her demonstration of responsible behavior as a prerequisite to return to the community".

Classification is further described as a systematic, structured, ongoing evaluation of each individual inmate. This process has several components which include, among others, the development of current needs for the individual and the identification of resources available to assist inmate needs.

The draft manual states eleven objectives of the classification system:

- A. To provide for a continuous communication process with the offender regarding correctional goals.
- B. To allow continuous programming of inmates during their incarceration to reinforce the need to demonstrate stable institutional adjustment to advance to work/training programs and community release.
- C. To ensure the placement of inmates in security levels appropriate for public protection.
- D. To ensure structured programming from the most restrictive environment initially required to a less restrictive environment.
- E. To provide a structure whereby inmates with assaultive patterns or those presenting an extreme escape potential are screened at the highest level possible by a committee process prior to placement in less restrictive settings.
- F. To establish a timetable for movement through the system, readily understood by staff and inmates.
- G. To assist in work/training release supervisors in planning their program needs.
- H. To clarify, identify and apply inmate selection criteria utilizing a wide range of behavioral and program factors.
- I. To provide inmates an opportunity to jointly plan programs, establish goals, earn Public Safety Score, and demonstrate their ability to assume increasing responsibility by program participation.
- J. To structure inmate transition from institution to the community through a series of clearly defined security levels and programs.
- K. To provide headquarters level review of difficult to manage inmates in determining custody level and program changes.

New inmates, readmissions, and reprogrammed cases undergo a diagnostic study by a correctional team skilled in such areas as psychology, psychiatry, medical care, and vocational and educational testing. The draft classification system provides for the development of individual inmate programs and for regular, 6-month program reviews of each inmates progress and needs.

The draft manual specifies procedures for (1) establishing and operating classification committees at the institutions, (2) review committees, (3) inmate participation, and (4) other subcommittees.

The Department of Corrections maintains four custody classifications: maximum, close, medium, and minimum. As a general rule, the manual declares, inmates are managed in as secure condition or status as their risk dictates, based on the nature of the crime, criminal history, length of sentence, institution adjustment, and proximity to an established release date. The following are the principal custody classifications:

Maximum Custody: Most secure
24-hour armed personnel managing a walled perimeter
Single cells in an "inside" cell block configuration
24-hour armed supervision
Not allowed outside security area except for emergent need for medical care, and then only when supervised by at least 2 staff
Housed at Washington State Penitentiary (WSP), the Washington State Reformatory (WSR), the Special Offender Center (SOC), or the maximum custody unit at Purdy Treatment Center for Women

Close Custody: Secure within a walled perimeter supervised 24 hours a day by armed personnel
Single or multiple cells or rooms, usually in an "inside" cell block
Frequent 24-hour supervision
Housed at WSP, WSR, SOC, and the Reception Unit at the Washington Corrections Center (WCC)

Medium Custody: Single cells or rooms or small group cells, "inside" or "outside" cell block
Periodic 24-hour supervision
Lower levels of internal supervision within a perimeter wall or fence supervised 24 hours a day by armed staff
House at WSP, McNeil Island Corrections Center, Purdy, and WCC

Minimum Custody: Single rooms or dormitory, with less restrictive supervision
Or, a separate building outside of a secured area,
Or, a farm, a camp, or community-based housing facility
Less restrictive, periodic supervision
Housed at WSP Minimum Security Unit, WSR honor farm, other minimum security facilities and forestry camps.

Intensive Management Unit: Specific housing units or sections within designated institutions identified to handle difficult to handle inmates
May include inmates of any custody level.

The draft classification manual of DOC states several inmate characteristics and the custody review process for each level of classification. The following is a very brief selection of the inmate characteristics for each level:

Maximum Custody: Extremely serious risk to community by virtue of crime committed and length of sentence.
Serious offense/behavior patterns
Not allowed outside security area except for medical care or serious illness/death in family

Close Custody: Security risk
Needs time to demonstrate ability to learn and accept responsibility
Frequently needs external control, e.g., armed perimeter supervision
Has history of disruptive behavior
Not allowed outside security area except for medical care or serious illness/death in family

Medium Custody: Has some demonstrated ability to accept responsibility; increased program opportunities in work, training, or education
Less immediate supervision within an armed perimeter
Time structure and/or offense(s) preclude being given minimum custody
Usually includes offenders against the person with more than two years left before the expected date of release, or, property offenders with more than four years to serve before the expected release date

Restricted Minimum: Increased ability to accept responsibility
Usually includes people arriving at minimum custody facilities, honor farms, and selected inmates at higher custody institutions
Ineligible for furlough and work/training release
Those who have excessive time for full minimum custody but whose stable adjustment justify this classification
May be so classified, in response to overcrowding situation, prior to establishment of a minimum term

Minimum Custody: Substantial demonstration of ability to accept responsibility
Least need for custodial supervision
Eligible for furlough and work/training release
Not housed at a higher level unless extenuating circumstances exist

Purdy Treatment Center: General population housed no higher than medium security

The final sections of the classification manual deal with such subjects as furloughs, work/training release, transfers, recommendations to the Parole Board, due process appeal and administrative review, and miscellaneous items. The transfer procedure may be excepted when there is a certified medical/psychological emergency in which use of the accepted procedure would cause a delay that would apparently endanger the life or mental health or impair the recovery of an inmate.

4. Current Inventory of Physical Facilities by Classification Types

In December of 1981 the Department of Corrections published its 10 year Facility Plan as directed by the Legislature during the 1981 Regular Session (SSB 3843).

The following data and Exhibit 4 was obtained from the Executive Summary of the 10 year plan:

All of the state's correctional facilities were analyzed using ACA Standards as a basis of comparison. An indepth report of each institution can be found in Book One - Institutions and Appendix A of the Ten year Facility Plan. This analysis produced capacities by institution by custody level which appear in the chart on the following pages. These figures were arrived at through a careful methodology whereby existing cells were compared to ACA Standards of 60 square feet (80 square feet for certain situations) and dormitory areas were similarly compared to standards allowing for inmate space, access and support.

Cells were not reduced to 1-person rooms, so a 120 s.f. cell is counted as having a capacity of two persons. In existing facilities, this agrees with ACA Standards, although in new facilities, single celling is recommended. Custody levels are based on (a) type of door and locking mechanism, (b) type of window, (c) type of room fixtures, including light, lavatory, furniture, etc., (d) construction materials, and (e) observation and control potential. Note that segregation cells are counted separately, and are not part of our overall total for the mainline institution beds.

In summary, the results are the following:

SURVEY RESULTS (BEDS)

Maximum Custody (Segregation)	471 beds (+219 beds)
Close Custody	1,669
Medium Custody	1,302
Minimum Custody	943
	<u>4,385 beds</u>
	(4,604 with segregation)

NOTE: The data in the right hand column of Exhibit 4, "Current Capacity" was added by the LBC staff.

Exhibit 4

**AVAILABLE HOUSING BY INSTITUTION
BED COUNT CLASSIFICATION**

INSTITUTION	HOUSING										AMB	COND.	YIELD CAPACITY	POTENTIAL W/SEL.	Current Capacity
	SEG.	MAXIMUM	CLOSE	MEDIUM	MINIMUM	Other	Other	Other	Other	Other					
WASHINGTON CORRECTIONS CENTER		240	120	480	54								894	894	874 1074*
WASHINGTON STATE PENITENTIARY	102		(1)843	294	112								1249	1351	1309 1690*
McNEIL ISLAND CORRECTIONAL CENTER	30	66		422	122								610	640	600 700*
WASHINGTON STATE REFORMATORY	60		(4)688		(2)78								766	826	656 656*
SPECIAL OFFENDER CENTER		144											144	144	144 144*
PURDY TREATMENT CENTER FOR WOMEN	5	21	18	106	(3)22								167	172	148 202*
INDIAN RIDGE TREATMENT CENTER	6				56								56	62	83 110*
FIRLAND CORRECTIONAL CENTER					56								56	56	49 49*
CLEARWATER CORRECTIONAL CENTER	3				76								76	79	100 125*
OLYMPIC CORRECTIONAL CENTER	8				100								100	108	100 125*
LARCH CORRECTIONS CENTER					90								90	90	100 130*
PINE LODGE CORRECTIONAL CENTER					100								100	100	80 80*
CEDAR CREEK CORRECTIONS CENTER	5				77								77	82	90 90*
TOTAL	219	471	1669	1302	943								4385	4604	4646 5420*
H.D.R. BED COUNT															
*Emergency Capacity															

(1) CURRENT COURT ORDER LIMITS THIS NUMBER TO 850
(2) 20 WORK RELEASE NOT INCLUDED: INCLUDES 28 IN TRAILERS
(3) WORK RELEASE NOT INCLUDED IN HDR COUNT
(4) SSB 235 WILL LIMIT THIS NUMBER TO 656

AVAILABLE HOUSING BY INSTITUTION BED COUNT

WORK RELEASE FACILITIES AND FACILITIES AVAILABLE FOR ACQUISITION

INSTITUTION	HOUSING											AGE	CONDITION	YIELD CAPACITY	POTENTIAL					
	REG.		CLOSE		MEDIUM		MINIMUM													
	Single Cells	Basic Cells	Single Cells	Multiple Occupancy	Single Cells	Multiple Occupancy	Other	Single Cells	Multiple Occupancy	Other										
MOSES LAKE (1)																		66	66	66
SADDLE MOUNTAIN (1)																		132	132	132
TACOMA WORK / TRAINING RELEASE																		140	140	140
CASCADIA (1)																		268	268	268
GEGER COMMUNITY PRE-RELEASE CENTER	2																	86		
TOTAL	2																	268	424	692 694

(1) These Facilities do not currently belong to D.O.C. -20-

Date November 10, 1982

Institution	Rated Capacity	Emergency Capacity	In Residence (Count)	Furlough	Escorted Leave	Court Order	Special * Detention	Total Population	2 Rated Capacity
McNEIL ISLAND CORRECTION CENTER	600	700	791	2		5		798	133
WASHINGTON STATE PENITENTIARY	922	1300	1391***			23	27	1441	156
WASHINGTON STATE PENITENTIARY MEDIUM SECURITY BUILDING	284	284	280			1		281	99
WASHINGTON STATE PENITENTIARY MINIMUM SECURITY UNIT	106	106	102			1		103	97
WASHINGTON STATE REFORMATORY	656	850	846		1	12		859	131
WASHINGTON STATE REFORMATORY HONOR FARM	80	80	76	1				77	96
SPECIAL OFFENDER CENTER	144	144	133					133	92
WASHINGTON CORRECTIONS CENTER R UNITS	220	360	335			11		346	157
WASHINGTON CORRECTIONS CENTER TRAINING	654	714	721			4		725	111
PURDY TREATMENT CENTER	148	202**	209			2	2	213	144
LARCH CORRECTION CENTER	100	130	145				4	149	149
INDIAN RIDGE TREATMENT CENTER	83	110 **	109				2	111	134
FIRLAND CORRECTIONS CENTER	49	49	46					46	94
CLEARWATER CORRECTIONS CENTER	100	125 **	119	1			1	121	121
CLALLAM COUNTY UNIT	30	30	23					23	77
OLYMPIC CORRECTIONS CENTER	100	125 **	125					125	125
PINE LODGE CORRECTIONS CENTER	80	80	77				11	88	110
CEDAR CREEK CORRECTIONS CENTER	90	90	88	1				89	99
TOTAL	4446	5420 **	5616***	5	1	59	47	5728	129

Department of Corrections Daily Population Report

*Inmates housed in county jails or out-of-state facilities who remain our responsibility.

** Adjustment to emergency capacity as approved by Secretary 9/30/82, 10/27/82.

** Includes Death Row Count: 2

Exhibit 5 is the Department of Corrections Daily Population Report from November 10, 1982. This report displays both the rated and emergency capacities along with the actual number of inmates currently incarcerated at each institution.

Exhibit 5

The number of people on work release is shown in the following exhibit, which is the weekly population count for the week ending November 8, 1982.

Exhibit 6
Weekly Population Count
Community Residential Programs

Date: November 8, 1982

WORK/TRAINING RELEASE FACILITY	CAPACITY		INMATE		PROBATION		PAROLE		TOTAL	WAIT LIST
	M	F	M	F	M	F	M	F		
REGION 1										
Kitsap	25	5	3	1	21	1	1	0	27	1
Lincoln Park	25	5	13	1	3	1	4	0	22	0
Longview	20	5	12	2	2	0	2	0	18	0
Olympia	18	7	14	5	1	0	0	0	20	4
Port Angeles	15	0	10	0	6	0	2	0	18	0
Progress House	40	10	19	3	16	0	7	0	45	0
Rap House	15	5	5	0	6	0	4	0	15	0
Tacoma	126	14	87	14	4	0	1	0	106	0
SUBTOTAL (Percentage 81 %)	284	51	163	26	59	2	21	0	271	5
REGION 2										
Bellingham	21	4	11	1	4	0	1	1	18	3
Bishop Lewis House	24	0	14	0	16**	0	0	0	30	0
Everett	17	3	11	1	3	0	2	0	17	2
Madison Inn	28	0	16	0	0	0	2	0	18	0
Pioneer House	54	6	30	5	5	0	7	0	47	0
Reynolds	88	12	78	6	2	0	1	1	88	0
SUBTOTAL (Percentage 85 %)	232	25	160	13	30	0	13	2	218	5
REGION 3										
Ahtanum View	18	2	9	1	0	1	5	0	16	0
Geiger	188	12	95	0	61	2	2	0	160	0
Tri-Cities	13	2	9	0	1	0	0	0	10	0
Yakima	20	0	0	0	18	0	0	0	18	0
SUBTOTAL (Percentage 80 %)	239	16	113	1	80	3	7	0	204	0
TOTAL	755	92	436	40	169	5	41	2	693	10
GRAND TOTAL	847		476		174		43		693	10

IN-HOUSE PERCENTAGE 82 %

*Entire Waiting List in Seattle Area

**Includes 12 from King County exchange.

One year ago (November 6, 1981), the custody profile for institution-based inmates was:

Custody Level	Count (November 1981)	Percentage
Maximum (including segregation)	464	10.1%
Close	1,191	25.8
Total Maximum and Close	1,655	35.9
Medium	1,845	40.1
Minimum	1,105	24.0
TOTAL.....	4,605	100.0

The custody profile projected for future institution-based inmates was the following. It does not reflect the impact of House Bill No. 440.

Custody Level (Projected)	Percentage of Total
Maximum	10%
Close	20%
Total Maximum and Close	30%
Medium	50%
Minimum	20%
TOTAL.....	100%

The custody profile for the present (i.e., one year later) shows how current practice reconciles with the projected profile:

Custody Level	Count (November 1982)	Percentage
Maximum	390	7%
Close	1,227	22%
Total Maximum and Close	1,617	29%
Medium	2,845	50%
Minimum	1,158	21%
TOTAL.....	5,620	100%

The same data by institution is shown in Exhibit 7 below:

Exhibit 7

ACTUAL IN RESIDENCE COUNT BY CUSTODY CLASS ON NOVEMBER 8, 1982							
Institution	Rated Capacity	Maximum	Close	Medium	Restricted Minimum	Minimum	Total
Washington State Penitentiary	922	84	1084	147	44	8	1367
Medium Security Building	284			247	34	5	286
Minimum Security Unit	106				58	44	102
McNeil Island Corrections Center	400			663	100	35	798
Washington State Reformatory	656		18	814	9	2	843
Honor Farm	80				57	20	77
Washington Corrections Center/ Reception Center	220	282		80			362
Washington Corrections Center/ Training Center	654			712	7		719
Purdy Treatment Center	148	24	18	144	11	11	208
Special Offender Center	144		107	16	6	7	136
Clallam County Unit	30			22	1		23
Larch Corrections Center	100				125	21	146
Indian Ridge Treatment Center	83				92	13	104
Firland Corrections Center	49				11	27	38
Clearwater Corrections Center	100				56	63	119
Olympic Corrections Center	100				96	21	127
Pine Ledge Corrections Center	80				58	18	76
Cedar Creek Corrections Center	90				52	34	87
TOTAL	4444	390	1227	2843	819	339	5620

The ten year plan applies the custody model to the prison population forecasts in order to estimate the number of inmates per custody level in future years. Four examples are quoted here:

	Total Population	Reception/Diagnostic and Other Maximum (5%)	Close (20%)	Medium (50%)	Minimum (20%)
FY 1983	5,296	530	1,059	2,648	1,059
FY 1985	5,866	586	1,173	2,934	1,173
FY 1990	7,099	710	1,420	3,549	1,420
FY 1995	7,789	778	1,558	3,895	1,558

(NOTE: Work-release offenders not included in above data.)

5. Analysis and Conclusions

The process by which prison inmates are classified is still in a state of change. The Department of Corrections is currently working on revising and refining its draft classification manual.

It should be understood that the comments in this section of the report pertain to a draft plan and that the draft could change.*

In general, the draft classification process is an attempt to improve the methods by which the security and custody level of prisoners is determined. To its credit, the draft manual is very specific and assigns responsibility for each action taken.

The classification process will further be enhanced by the development of an initial classification model intended for use at the Reception Center. The new comprehensive diagnostic model will assist in determining security, decisions and care needs (funded by a National Institute of Corrections grant).

A potential problem with the draft classification process is that it could classify inmates at a level that is higher than necessary. There are two reasons for this. One is the constraints imposed by overcrowding. The placement of inmates could be based more on space availability than on actual security/custody. Another reason is the apparent assumption that medium custody will or should constitute 50 percent of the population.

Also, one of the states used to justify the projected population profile at the medium custody level was California. Yet that state held only 20 percent of its offenders at the equivalent custody level when the assumptions for Washington's ten year plan were made. It is interesting to note that before California changed its classification system, 59.4 percent of its offenders were classified as medium custody. The new system caused a downward shift to the 20 percent figure. Furthermore, an independent consultant recommended that California's Department of Corrections classify a higher percentage of offenders at the lower levels of custody.

The impact of Washington's classification system and projected custody profile is this: both significantly influence the estimates for future bed space at the various custody levels. Adjustments in the percentage of prison population at the custody levels can significantly alter anticipated future needs and the amount of capital dollars tied to those needs.

For example, in the future the Department of Corrections projects 70 percent of the offenders will be held at minimum and/or medium security. If one held that percentage total constant, but changed the ratio of minimum and medium custody inmates more heavily toward minimum custody, the result would be that cheaper, less secure bed-space would be needed.

* The approved classification manual is under review by LBC staff.

The projected custody profile depends in part on the projected increase in crime, in particular, violent crime. Although projections show the proportion of violent crime increasing only three percent between 1981 and 1991, the proportion of inmates classified in medium custody increases about ten percent. While the proportionate number of maximum and close custody offenders declines, so does the percentage in minimum security.

The apparent direction of the classification system is centrifugal. The medium custody/security classification will seemingly grow by drawing from both the higher and lower levels of classification. The capital planning of the Department reflects this direction.

It is difficult to determine the extent to which the draft classification process, in itself, may contribute to the higher placement of inmates. This concern could be addressed in a subsequent review that has been approved by the Legislative Budget Committee.

One thing is certain, the number of inmates continues to rise.

Many legislators have expressed concern over various sets of data which attempted to show the number of people in prison in relation to the total population of Washington. It is not always clear whether these data included juvenile offenders and/or work release inmates.

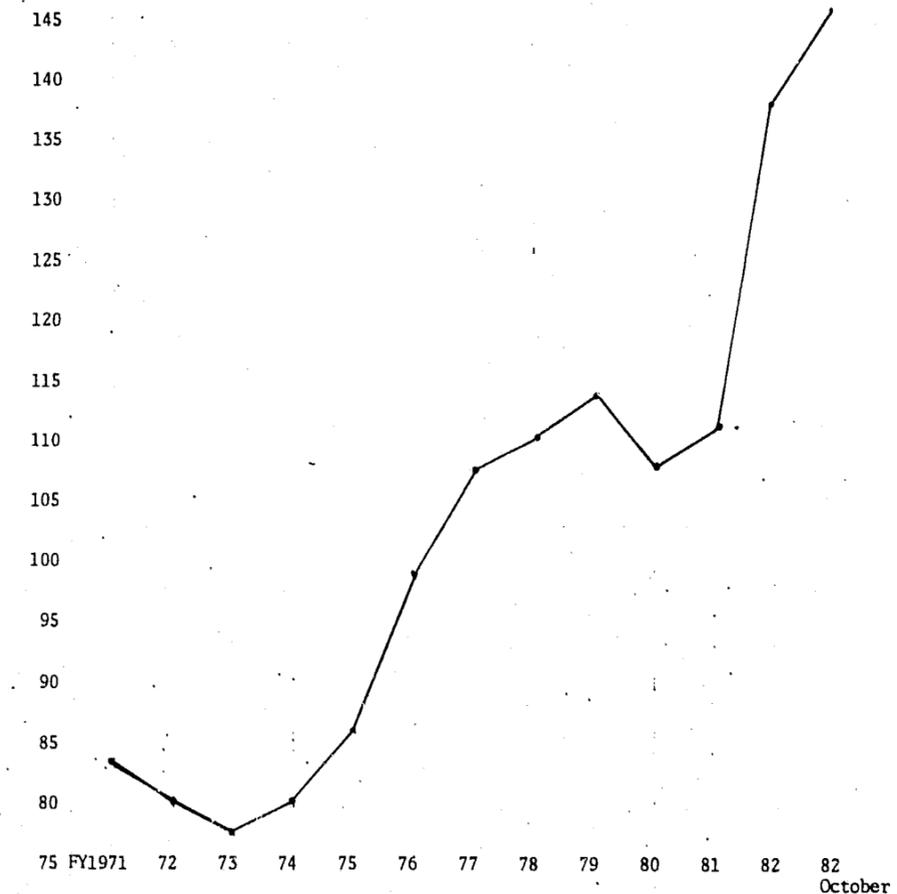
In an attempt to clarify the problem, the following exhibit is provided. It shows the relationship between the number of adults in Washington's prisons (including work release) per 100,000 of total State population. The data begin with fiscal year 1971 and progress through the end of October 1982. Particularly dramatic is the rise in Fiscal Year 1982 in the number of prisoners per 100,000. The increases are similarly reflected in the growth of the total number of adult prison inmates. (See Exhibit 8.)

Exhibit 8

WASHINGTON ADULT PRISON POPULATION*

PER 100,000 STATE POPULATION

* includes work release



If the trend here illustrated continues, the bedspace problem will too. However, the mix of custody levels within that need is a vital issue because it ultimately affects the demand for both capital and operating dollars.

B. INMATE REHABILITATION AND EDUCATION NEEDS

Introduction

One of the most important functions of a state's correctional program, with benefits to both the inmate population and the general public, are the rehabilitation and education programs. Most inmates will at some time be returning to local communities. How the State addresses this problem could greatly influence the rate of recidivism and hopefully return inmates to society prepared to meet the difficult challenges they face.

1. Education

In a report to the Legislature, dated October 12, 1981, the Department of Corrections stated that:

"Currently only 37.5 percent of the newly admitted inmates held a high school diploma or a GED certificate, and only 19 percent of the newly admitted men tested by the California Achievement Test score at the 11th grade or above."

The Department has developed and published a series of 24 Policy Directives in the following general areas covering inmate educational programs:

Offender Programs
Educational and Vocational Training

<u>Policy Directive Number</u>	<u>Subject</u>
500.001	Philosophy and Goals of Correctional Education
500.002	Authority, Responsibility, Accountability
500.003	Education and Vocational Training Programs
500.005	Needs Assessment
500.011	Accreditation
500.020	Annual Evaluation
500.025	Curriculum
500.026	Adult Basic Education
500.027	General Educational Development Certificate Programs
500.028	High School Education
500.029	Associate Degree Education
500.030	Restricted Baccalaureate Degree Program
500.031	Survival and Social Skills
500.032	Special Education
500.033	Vocational Training Program

Policy Directive Number

Subject

500.034	Training in Conjunction with Institutional Industries Production Shops
500.035	Educational Programs for Inmates in Protective Custody
500.040	Scheduling
500.041	Open Entry/Open Exit
500.042	Other Institutional Services
500.045	Educational and Vocational Training Records
500.046	Certificates, Degrees, Occupational Licensing
500.060	Education as Part of Classification

The Department's efforts for providing inmate programs fall into four major categories: 1) The first priority is to provide programs that will meet basic literacy and survival skill requirements. 2) The second priority is to provide General Educational Development and high school completion programs. 3) The third major priority category is the certificate and Associate Degree level programs. 4) The fourth, and by far the smallest, program category is represented by those few inmates who are qualified and would benefit from a Baccalaureate Degree program.

Of the \$141.5 million originally allocated for the total operation of the correctional institutions during the 1981-83 biennium, \$7.9 million (5.58%) was for academic and vocational training programs. (Following the actions of the 1983 Legislature and the Governor, \$653,314 was cut from the original \$7.9 million - a reduction of 8.27%.)

To address the educational and vocational training needs of the inmates, the DOC has contracted with eight local community colleges and Bates Vocational School in Tacoma, to provide educational programs in the institutions, as shown in Exhibit 9.

Exhibit 9

1981-82 Educational Program

Institution	Contractor	Contract Cost	Teacher/Supv Cost	State Employee FTE	Total
Washington Corrections Center	Centralia CC District 12	\$ 880,720	\$		\$ 880,720
Washington State Penitentiary	Walla Walla Comm College	1,373,034	21,966	1.1	1,395,000
Washington State Reformatory	Edmonds Comm College	763,755	343,461	11.0	1,107,216
Special Offender Center	Edmonds Comm College	98,450			98,450
Firland Correctional Center	Edmonds Comm College	35,678	31,717	1.0	67,395
Indian Ridge Trmt Center	Edmonds Comm College	42,617			42,617
Purdy Treatment Center	Tacoma Comm College	191,973	31,032	1.0*	
	Bates Voc School	22,278			245,283
Clearwater/Olympic Corr Center	Peninsula Comm College	10,200			10,200
Larch Corrections Center	Clark Comm College	43,457			43,457
Pine Lodge Corr Center	Spokane CC District #17	50,971			50,971
Geiger Pre-Release Center	Spokane CC District #17	62,350			62,350
Cedar Creek Corr Center	Ft. Steilacoom Comm College	60,396			60,396
McNeil Island Corr Center	Ft. Steilacoom Comm College	33,460	12,108	.5*	45,568
		\$3,669,339	\$440,284	14.6	\$4,109,623

*Educational Supervisors

Outlined below in Exhibit 10 are the average enrollments, full time equivalencies, total class hours, credits and total graduates by institution in FY 1982.

Exhibit 10

Department of Corrections
Average Education Summary for July 1, 1981 - June 30, 1982

AVERAGE IN RESIDENCE POPULATION *	664	1,322	853	320	162	135	165	47	86	99	74	87	78	4,292
AVERAGE ENROLLMENT FULL-TIME EQUIVALENT														
	WCC	WSP	WSR	MICC (1)	FTC	SOC (2)	CCC/OCC (3)	FCC (4)	IRTC	LCC (5)	PLCC	CCCC	GPR	TOTAL
ABE/GED/HIGH SCHOOL VOCATIONAL	164.7	49.4	35	33.7	17.9	40.2	2.3	6.4	10.8	14.1	6.7	18.0	.5	399.7
COLLEGE (ACADEMIC)	132.3	210.0	221.1	0	59.5	0	0	12.6	0	0	8.9	0	1.6	646
COLLEGE, UPPER DIV.	69.1	108.3	22	0	13.7	16.5	0	0	6.2	0	(6) 6.5	0	0	242.3
TOTAL	366.1	383.9	278.1	33.7	91.1	56.7	2.3	19.0	17.0	14.1	22.1	18.0	2.1	1,304.2
% OF PARTICIPATION	55%	29%	33%	6%	56%	42%	1%	40%	20%	14%	30%	23%	2%	30%
AVERAGE ENROLLMENT HEAD COUNT														
	WCC	WSP	WSR	MICC	FTC	SOC	CCC/OCC	FCC	IRTC	LCC	PLCC	CCCC	GPR	TOTAL
ABE/GED/HIGH SCHOOL VOCATIONAL	146	69	108	51	32	87	14	19	27	19	15	34	20	641
COLLEGE (ACADEMIC)	151	236	194	0	81	0	0	20	0	0	19	0	20	721
COLLEGE, UPPER DIV.	87	153	76	0	25	40	0	0	15	0	13	0	0	409
TOTAL **	384	488	378	51	138	127	14	39	42	19	47	34	40	1,801
% OF PARTICIPATION	58%	37%	44%	10%	85%	94%	9%	83%	49%	19%	63%	39%	54%	42%
TOTAL CLASS HOURS ATTENDED FROM 2/1/82 - 6/30/82														
	WCC	WSP	WSR	MICC	FTC	SOC	CCC/OCC	FCC	IRTC	LCC	PLCC	CCCC	GPR	TOTAL
ABE/GED/HIGH SCHOOL VOCATIONAL	32,264	6,468	7,242	16,695	2,736	3,761	471	1,868	4,448	1,819	3,702	11,041	5,730	98,245
COLLEGE (ACADEMIC)	46,270	96,162	65,233	0	14,396	0	0	10,311	0	0	5,034	0	10,187	247,593
COLLEGE, UPPER DIV.	16,825	20,540	2,860	0	3,159	1,216	0	0	1,423	0	0	0	0	46,023
TOTAL ***	95,359	123,170	75,335	16,695	20,291	4,977	471	12,179	5,871	1,819	8,736	11,041	15,917	391,861 (7)

***Class hours attended do not include excused and unexcused absences.

**Students may be counted in more than one program.

Total Credits Awarded From 2/1/82 - 6/30/82

	WCC	WSP	WSR	MICC	FTC	SOC	CCC/OCC	FCC	IRTC	LCC	PLCC	CCCC	GPR	TOTAL
ABE/GED/HIGH SCHOOL VOCATIONAL	461	2,013	201	300	200	267	0	76	217	0	0	384	49	4,171
COLLEGE (ACADEMIC)	1,174	6,855	3,725	0	992	0	0	105	0	0	0	0	13	12,864
COLLEGE, UPPER DIV.	1,291	4,644	318	0	187	98	0	0	45	0	0	0	0	6,583
TOTAL	2,926	13,512	4,244	300	1,379	365	0	181	262	0	3	384	62	23,618

Total Graduates To Date

	MCC	WSP	WSR	MICC	PTC	SOC	CCC/OCC	FCC	IRTC	LCC	PLCC	CCCC	GPR	TOTAL
ABE/GED/HIGH SCHOOL	60	75	39	49	24	19	5	38	27	38	46	74	35	527
ASSOC. DEGREE-VOCATIONAL	10	36	2	0	1	0	0	0	0	0	0	0	0	49
VOCATIONAL CERTIFICATE	107	147	24	0	89	0	0	0	0	0	41	0	101	509
ASSOCIATE DEGREE-ACADEMIC	8	33	0	0	1	0	0	0	0	0	0	0	0	42
BACHELOR'S DEGREE	0	5	0	0	0	0	0	0	0	0	0	0	0	5
TOTAL	185	296	65	49	115	19	5	38	27	38	87	74	134	1,132

Average Number of Residents in Education Program Under 21 Years of Age

MCC	WSP	WSR	MICC	PTC	SOC	CCC/OCC	FCC	IRTC	LCC	PLCC	CCCC	GPR	TOTAL
128	6	29	20	10	3	5	19	10	4	8	6	17	265

*Average In Residence
Population Not Included
In Above Count. Educational
Programs Not Available In
These Units

Total 544

*Washington Corrections Center/Reception Unit and Spruce Hall
*Fine Lodge Correctional Center/Lakeview Apartments
*Washington State Reformatory/Honor Farm

MCC - Washington Corrections Center
WSP - Washington State Penitentiary
WSR - Washington State Reformatory
MICC - McNeil Island Corrections Center
PTC - Purdy Treatment Center For Women
SOC - Special Offender Center
CCC/OCC - Clearwater/Olympic Corrections Center
FCC - Firland Corrections Center
IRTC - Indian Ridge Treatment Center
LCC - Larch Corrections Center
PLCC - Pine Lodge Corrections Center
CCCC - Cedar Creek Corrections Center
GPR - Geiger Community Pre-Release Center

Notes:

- (1) MICC - Date for Education Program 11/81 - 6/82
- (2) SOC - Date for Full Education Program 2/82 - 6/82
- (3) CCC/OCC - Date for Education Program 11/81 - 6/82
- (4) FCC - Date for ABE/GED/High School Education Program 7/81 - 5/82
Date for Vocational Education Program 8/81 - 6/82
- (5) LCC - Date for Education Program 9/81 - 6/82
- (6) PLCC - College academic program was offered 1 month only 8/81
- (7) Class hours attended and credits awarded have been recorded for five months only
- (8) Due to budget reductions, upper division college level courses were discontinued January 1982

In Chapter VII of their report, the Department noted 13 major problems of the educational programs. They also stated the goals and objectives to resolve the problems which are included as Appendix II starting on page 122.

The problems stated were:

1. Currently the Department of Corrections does not have a satisfactory procedure for monitoring and documenting educational programs.
2. The 1981-82 educational program contracts were developed and based on limited background experience.
3. The appropriate program placement of inmates during the classification process has been difficult because of increased numbers and limited facilities.

4. Currently, there is not enough work for all inmates in the institutions to keep them fully employed for eight hours each day.
5. Historically, there has been little coordination between the vocational training programs and Institutional Industries.
6. Frequently, inmates will not be able to complete educational courses because they are transferred to another institution.
7. Currently, inmate educational records are often incomplete and lag far behind the inmate when the inmate transfers to another institution.
8. The assessment of inmate educational program needs has not been conducted with the same level of skill at all institutions.
9. Currently, there are limited opportunities for teachers employed by the educational contractors and DOC in the correctional institution to receive in-service training designed to help them work more effectively with inmates.
10. The Washington State Library has been providing excellent public library services to inmates with limited resources; however, educational program libraries and the expanding law libraries in the institutions have brought about the need to examine further the effective management of library resources in the institutions.
11. Currently, there is very little postrelease information gathered that may be used to evaluate whether the vocational programs have adequately trained an inmate for employment in a competitive market.
12. Inmate eligibility for educational benefits and recovery of such benefits may not be receiving adequate attention by the institutions.
13. There may be the opportunity to lower the cost of certain educational programs by offering those programs only at selected institutions and assigning inmates who would benefit from those programs to that particular institution.

Evaluation and Conclusions

In their report to the Legislature dated October 12, 1981, dealing with academic and vocational training in the institutions, the auditor believes that the Department has done an excellent job in stating their educational policies and in recognizing the existing problems. The auditor believes, however, that after the passage of a year, the Department should advise the Legislature as to the current status of the resolution of those known problems.

It was also noted during our review that the Department is following legislative direction and has eliminated all 100 level and above college academic courses. While the Department is not spending State funds for these programs, some outside funds might be available. Some vocational programs, like welding or drafting, require some community college level credits to complete the program.

RECOMMENDATION 1

That the Department of Corrections provide the appropriate standing Committees of the Legislature and the Legislative Budget Committee with the current problem resolution status of the problems noted in the Report to the Legislature, Academic and Vocational Training, October 12, 1981.

RECOMMENDATION 2

That the college level academic program be reinstated as an integral part of the inmate education program, provided, that the priorities for educational programs contained in the Report to the Legislature, Academic and Vocational Training, October 12, 1981 are maintained.

2. Health Services

The Department of Corrections attempts to provide offenders with complete health services (medical, mental health, and dental).

In the past, the Department and DSHS did not keep complete records on the types of health services provided, nor the utilization of the services by the inmate population. The Department is attempting to gather useful and complete information from each institution about the level and use of services. It has developed two different quarterly reports: one on dental services and one on health services (medical and mental health).

The dental services quarterly report form requests information in 12 areas. It is intended to provide data on the number of dental visits, diagnoses, services or procedures performed (in specific detail by type), facilities, and personnel.

The health services quarterly report is even more extensive. It indicates the number of inmates served, how each was served, and which type of facility and personnel performed the services. There are 21 parts to the report, including a section on female medical statistics.

The data collection involved in the quarterly reports is still in the process of being refined and improved. The Department currently has data only on the third quarter of 1982, and that data are incomplete. Personnel in DOC have given assurances that reliable and complete data from the last quarter of 1982 will be available by the middle of January, 1983.

The auditors asked the Department for a list of medical personnel at each institution. The following data in Exhibit 11 were provided. If one subtracts the number of psychiatric, custodial officers and other health care professionals at the Special Offenders Center from the total number of DOC staff, the remaining total is considerably smaller.

Exhibit 11

Total Health Services Staff*
By Institution

	WSP	WSR	MICC	FCC	IRTC	LCC	WCC	PTC	SOC	C/OCC	PLCC	CCCC	CATE- GORY TOTAL	% OF CATE- GORY TOTAL
ADP	1793	942	791	46	103	139	1048	198	138	228	86	91	5603	100
DOC Staff	66	27	15				30	12	65			1	208	82
Onsite Contract	15	6	5				4	7	7				44	18
Category Total	81	33	20				34	19	72			1	259	100
% Category Total	30	13	7	0	0	0	13	7	28				100	
% DOC ADP	31	17	14	1	2	2	19	4	2	4	2	2	100	
% DOC Staff	30	13	7				14	6	30					

*Includes 35 Administrative and Support Staff and 30 Psychiatric Security Attendants.
Figures taken by phone survey; not verified by Personnel.

a. Drug and Alcohol (Abuse) Programs

There are a few drug and/or alcohol abuse treatment programs in the prisons. The only programs available are so-called "local" programs such as local chapters of Alcoholics Anonymous. There are no systemwide or Department developed programs for drug and/or alcohol abuse.

The Department of Corrections does not know the extent of drug and alcohol problems in the prisons. A study by the Office of Research in DSHS (An Analysis of Program Needs of Prison Inmates in Washington State, April 1980) reconfirmed the findings of an earlier 1977 study of drug/alcohol abuse

among offenders. Those data showed that most offenders were frequently intoxicated during the year prior to their last arrest and that alcohol was involved in the crime for which they were incarcerated. Data on drug use show that drugs were not involved in most of the crimes for which offenders were incarcerated.

No studies on the subject of drug/alcohol abuse among offenders or the need for drug/alcohol abuse programs have been conducted by DOC since the DSHS study.

The Department of Corrections' health services quarterly report form does not provide for the identification/treatment of drug/alcohol abuse by specific title. One would have to use the category "other" to report drug/alcohol problems and/or needs.

b) Needs Assessment(s)

Department of Corrections personnel are hopeful that the quarterly reports on dental services and health services will provide data for assessing inmate health needs. Department staff have also developed an initial health data base questionnaire to be used for every admission at the Reception Center in Shelton. The questionnaire surveys medical, dental and psychiatric data. By using this instrument, DOC can make a comprehensive assessment of needs for newly admitted inmates. At last report, this new assessment methodology has not been implemented for lack of resources.

c) Analysis and Conclusions

The auditor believes that a comprehensive health service need assessment process is the key to knowing what services must be provided, where, and at what level. It would provide information on which to base subsequent decisions. The new quarterly reports begin to supply some data. It would make sense to implement the available, but unused, assessment methodology for new admissions (initial health data base). This information, and the quarterly report data would help to define problems and needs. At present, it is difficult to determine what needs exist, because the data is lacking, particularly in the area of drug and/or alcohol abuse. The Department of Corrections should be encouraged to emphasize its data collection effort, and to obtain specific information on drug/alcohol abuse treatment needs in the prison. A reliable data base which can accurately be used to assess inmate needs is a prerequisite to the funding of programs.

d) Recommendation

RECOMMENDATION 3

It is recommended that the Department of Corrections, using its health services quarterly reports and the initial health data base, collect specific data on the incidence of drug and/or alcohol abuse by prison inmates and also specific data on treatment provided for drug and/or alcohol problems among prisoners.

3. Programs for the Mentally Ill offender

Mental illness screening begins at the Reception Center at the Washington Corrections Center (Shelton). Each entering offender has a brief interview with a psychologist. Further involvement with psychological and/or psychiatric staff may occur. At the institutions, referrals may come from staff, other inmates, or the individual inmate.

The following mental health staffing is available at the institutions:

Special Offenders Center - Three psychologists, one therapy supervisor, and three psychiatrists who share 16 hours per week consulting time. The diagnostic unit has a psychiatric social worker IV, six psychiatric security attendants, four therapy supervisor I's, two therapy supervisor II's, and a psychiatric social worker II. The other three units have: three therapy supervisor III's, six therapy supervisor II's, 12 therapy supervisor I's and 16 psychiatric security attendants.

Washington Corrections Center - Three psychologists, two psychiatric social workers, one occupational therapist, and contractual psychiatric services at 16 hours per week. One full time psychologist at the Reception Center, one at the Special Needs Unit, and one at the Training Center. Social work staff and the occupational therapist are assigned to the Training Center. A psychiatric consultant is available to the entire institution.

Washington State Penitentiary - Three psychologists, two psychiatric social workers, three psychiatric registered nurses, three psychiatric security nurses, eight psychiatric security attendants, two psychiatrists under contract for 15 hours per week and one psychologist under contract for 5 hours per week.

McNeil Island - One psychologist, one psychiatric social worker, and psychiatric consultation at 8 hours per week.

Purdy Treatment Center - One psychologist, two psychiatric social workers, one psychiatrist under contract for 8 hours per week. Six psychiatric security attendants, one psychiatric nurse, and one classification counselor III with a mental health background.

Washington State Reformatory - Two psychiatric social workers, two psychologists, one nurse practitioner (40% time mental health), and a psychiatrist under contract for 16 hours per week.

The Department of Corrections reports that during FY 1982, 1,327 inmates received mental health services within the Division of Prisons. At the various institutions, 154 inpatient beds are available, 135 of them at the Special Offenders Center, 2 at Purdy, 14 at the Penitentiary, 3 at the Washington Corrections Center, and none at McNeil Island.

The auditors asked the Division of Prisons, the Division of Community Services, and the State Jail Commission to answer the following questions:

- 1.) Using the statutory definition of mental illness in the Involuntary Treatment Act (RCW 71.05.020 (1), (2), and (3)), how many offenders in your jurisdiction are gravely disabled or possess a likelihood of serious harm?
- 2.) Using the statutory definitions of mental illness in the Community Mental Health Services Act (Chapter 204, Laws of 1982), how many offenders currently under your supervision are "chronically mentally ill" (per Section 3, Subsection 4 of the Act), or are "seriously disturbed" persons (per Section 3, Subsection 11, except for Subsection "e" of the Act)?

The Division of Community Services and the State Jail Commission did not respond in time for this report. The Division of Prisons provided the following data in Exhibit 12.

Exhibit 12

Mentally Ill Offenders In Prisons

	SOC	WCC	WSP	WSR	PURDY	MCNEIL	TOTAL
Gravely Disabled	8	4	12	4	8	1	37
Likelihood of Serious Harm	36	36	35	30	25	25	187
Chronically Mentally Ill	50	84	192	84	2	20	432
Seriously Disturbed	39	24	56	50	5	25	199

The total number under the ITA definitions is 224, and the total under the Community Mental Health Act is 631. The combined total is 855.

a. Analysis and Conclusions

The data provided in the previous section is incomplete in that it does not include figures for the Community Services Division (i.e., work-release, probation and parole) and the local jails. Without complete data, the auditors simply cannot provide a complete analysis. Once the missing data is given to the auditors an attempt to review it will be made.

Regarding the available data, one can see that there are several persons in just the institutions who need mental health services. The 855 people identified in the previous section represent about fifteen percent of the prison population (not including work release).

Not having verified staffing levels nor services for mental health at the institutions, the auditors cannot comment on the adequacy of the mental health services now available in the prison system. However, it is concluded that this subject should be studied further, after the additional (missing) data has been received.

b. Recommendation

RECOMMENDATION 4

It is recommended that further study be made of the extent of mental health services and treatment provided to offenders under the jurisdiction of the Division of Prisons, the Division of Community Services, and the local jails. Such a study should also determine whether that mental health care is adequate.

c. RELEVANT COURT DECISIONS

1. Background

No one familiar with Washington's correctional system could disagree with the contention that the system is presently in a state of crisis. A major increase in the crime rate, more convictions and longer length of stays along with the inability of the state to realistically increase the available cell capacity, has all contributed to an overcrowded condition within the prison system. The time lag between the driving indicators of population growth and the ability to increase capacity represents a major time gap.

While the state has implemented some emergency capacity revisions, classification changes and a prerelease program, the results have not reduced the prison population to the point where court suits could be avoided. This situation is not limited to the State of Washington, but is nationwide.

2. Findings

The following information was obtained, in part, from the state Attorney Generals' Office. While many cases have been filed throughout the country the six noted in this report concern the major issues faced in Washington State's penal institutions.

- Rhodes v. Chapman, 101 S.Ct. 2392 (1981) -- Double-celling (putting two inmates in a cell otherwise designed for one) was held not unconstitutional when the issue arose out of a relatively new, generally well run institution which was overcrowded. The case leaves a very large question as to whether the same result would be obtained in a case dealing with an old institution, with a variety of operational and management problems, which was also overcrowded. The case tends to demonstrate that the courts should be less concerned with crowding per se as they should be concerned with the results of overcrowding, i.e., is the institution able to adequately provide for the basic human needs of the inmates (food, clothing, shelter, sanitation, medical care and personal safety).

- Hoptowit v. Ray, 682 F.2d 1237 (9th Cir. 1982) -- This is the Washington State Penitentiary case. The Court of Appeals reversed the District Court's order regarding population reduction, indicating that it was impossible for the court to determine what the effects of overcrowding were at the Penitentiary. The opinion indicated that considering overcrowding, the court must consider the effect of the alleged overcrowding in areas that are constitutionally protected and in this regard the court emphasizes the point made by the Supreme Court in Rhodes v. Chapman. The case has been remanded to the District Court for additional proceedings which have not yet begun so the question of what is a proper population level for the Penitentiary still remains open.
- Collins v. Thompson, 679 F.2d 168 (9th Cir. 1982) -- The issue before the court in this case was whether the state was bound by the terms of a consent decree which it had tentatively agreed to but arguably had rejected prior to the decree becoming valid. The Court of Appeals decided that the consent decree had been entered into by the state was valid, and the state was not able to withdraw from the decree. The issues in the case were primarily ones of contract law. The consent decree, which is now binding on the state, includes a population reduction schedule for the Reformatory which would lead to a population of 656 inmates at the institution on July 1, 1983. There are now presently approximately 850 inmates at the institution. The consent decree contains a mechanism for amending the population reduction schedule and the Department has requested the court to amend the schedule. This request is still pending. Because the request is pending and because the entire population reduction schedule was stayed pending the appeal of the case, there is both a question as to what population the Reformatory will have to be reduced to and what time schedule must be followed for that reduction. Unless modified, the decree by its present terms would require the population to be reduced by approximately 200 inmates over approximately six months.
- Ruiz v. Estelle, ___ F.2d ___ (5th Cir. 1982) -- This decision involves the Texas case in which the plaintiffs challenged conditions and crowding levels and patterns of management throughout the entire Texas prison system. The Texas system is the largest in the country and the case also is without a doubt the largest conditions/crowding case yet to come to court. The Fifth Circuit Court of Appeals tightly adhered to a "totality of conditions" approach to evaluating Eighth Amendment claims and in doing so, divorced itself from the Ninth Circuit's approach to such claims. In Hoptowit, the Ninth Circuit indicated that a totality approach was generally not appropriate, but rather a court

should focus on particular areas of constitutional significance and consider those areas, more or less separately from the totality of conditions in an institution.

The court in Ruiz upheld findings that the Texas Department of Corrections was severely overcrowded and severely understaffed and that these two factors led to a "constant threat to the inmates' personal safety." The square foot cells (in part because of the huge price tag attached to ending double-celling in Texas). The court also reversed a requirement of 60 square feet per inmate in dormitories. In both of these areas, the court felt that the size of the living area was less important than the safety provided the inmate and that there were other means of providing adequate levels of safety and security than reducing the population. In this regard, the opinion is generally consistent with Hoptowit and Rhodes in that the court is focusing more on the products of overcrowding than on population levels per se.

- Newman v. Alabama, 31 Cr.L. 246], ___ F.2d ___ (11th Cir. 1982) -- This case involves the Alabama prison system and has been bouncing back and forth between the District Court and the Court of Appeals for the better part of ten years. The latest Court of Appeals decision arose following Alabama's inability to comply with the provisions of a consent decree which they had entered into in 1980 in which Alabama officials agreed to periodically reduce the number of state prisoners held in county jails. It should be noted that the Alabama consent decree was entered into after the overall conditions of the Alabama system had been litigated extensively and there was no question but that the system was subject to a continuing finding of unconstitutionality.

The Alabama officials were not able to comply with the population reduction aspects of the consent decree and as a result, the District Court ordered the release and/or accelerated parole eligibility of several hundred specifically named inmates. Alabama appealed and the Circuit Court reversed the District Court's order. The appellate court held that the District Court's order was overreaching and was an inappropriate intrusion of the court into release decisions, which are properly the responsibility of the State of Alabama, its department of corrections, and its parole board. The Circuit Court indicated that the District Court should have relied instead on the traditional equitable remedy that is taken against a party who fails to comply with a court order, i.e., contempt of court. The court specifically indicated that

sanctions of incarceration of state officials for non-compliance with the order and/or fines directed to the same officials were available sanctions.

The Newman decision suggests that it may be inappropriate for the courts to directly order the release of certain inmates from unconstitutionally overcrowded systems. However, the alternative remedy suggested by the Court of Appeals is not necessarily an attractive one. I would doubt that a district court, after finding state officials in contempt for failure to comply with a population reduction order, would jail state officials (although this is legally possible). However, one can readily see a court, after the Newman decision, deciding to impose a continuing fine on a state or state officials. The fine probably would take the form of a certain amount of money per day per inmate and could mount up extremely rapidly, even if the per inmate sum were relatively small. For instance, a fine of \$10 per day per inmate, assuming 500 inmates over a court-ordered population level, amounts to \$5,000 a day, or \$150,000 a month.

- Hendrix v. Faulkner, 525 F.Supp. 435 (N.D. Ind. 1981) -- This is a District Court decision regarding conditions of confinement at the Indiana state prison. The court held that confining prisoners in cells of approximately 38 square feet for up to 22 to 23 hours a day without proper physical exercise and recreation violated the Eighth Amendment. In reaching this conclusion, the court distinguished the case before it from Rhodes v. Chapman (the Supreme Court double-celling case) on the facts. The court found the most serious problem at the institution to be simple overcrowding which it felt was pervasive and cut across all other issues. The court ordered defendants to begin a reduction of population. The population was ordered to be reduced from approximately 1,950 to 1,615 over a period of slightly more than two years.

We have also enclosed as Appendix III on Page 130, a series of case outlines of other Eighth Amendment cases, prepared for the National Association of Attorneys General.

3. Conclusions

As we investigated questions regarding prison conditions and overcrowding with the reactions of major court interventions, it is obvious that we do not yet have clear, concise answers to the questions. Despite the amount of formal litigation in all

areas of the country, there has not yet merged a clear, bright line for determining absolutely that a given institution is or is not constitutional. Until such a definition is provided, realistic answers to the problem of overcrowding exist in three major areas:

- a. Changes aimed at affecting the number of people who enter prisons;
- b. Changes aimed at affecting the length of time inmates spend in prisons; (including release mechanisms); and
- c. Changes aimed at altering prison capacity.

D. PRISON POPULATION FORECASTING IN WASHINGTON

1. Background: Origin and Methodology

Prison population forecasts are prepared by the Office of Financial Management (OFM), Division of Forecasting and Estimation. A new forecasting model, developed in 1981, was prepared by OFM for the Governor's Interagency Criminal Justice Work Group. That body was formed by Executive Order to accomplish five tasks, one being the development of a coordinated interagency system for prison population forecasting and projection. The members of the group are:

- Amos Reed, Secretary, Department of Corrections (Chairman)
- Joe Taller, Director, Office of Financial Management
- Alan Gibbs, Secretary, Department of Social and Health Services
- William Henry, Chairman, Board of Prison Terms and Paroles
- Charles Robinson, Chairman, Jail Commission
- Norman Maleng, Prosecutor, King County
- Mike Redman, Executive Secretary, Washington Association of Prosecuting Attorneys

The work group sought a forecasting methodology which employed the latest techniques and ideas, which was flexible and accurate, and which fairly portrayed the operations of the criminal justice system. A twelve-year history of prison determinates such as conviction rates, the judicial decision to incarcerate (JDI), and changing demographic factors went into the analysis.

The newly developed forecasting model is unique (and is still being revised). It incorporates data from several different variables to make a 15-year projection. The interagency work group employed six working assumptions. Two key assumptions were:

- a) The future impact of the Sentencing Guideline Commission recommendations would not be considered in the forecast; and
- b) Current length of stay patterns generated by the Parole Board were used for the forecast.

The forecasting formula is a simple one:

$$\begin{array}{rclclcl} \text{Future} & & \text{Present} & & \text{New} & & & & \\ \text{Prison} & = & \text{Prison} & + & \text{Prison} & + & \text{Parole} & - & \text{Prison} \\ \text{Population} & & \text{Population} & & \text{Admissions} & & \text{Failures} & & \text{Releases} \end{array}$$

Actually the formula is not as simple as it seems because there are several variables which affect each part of the formula. For example, New Admissions are determined by multiplying the size of a

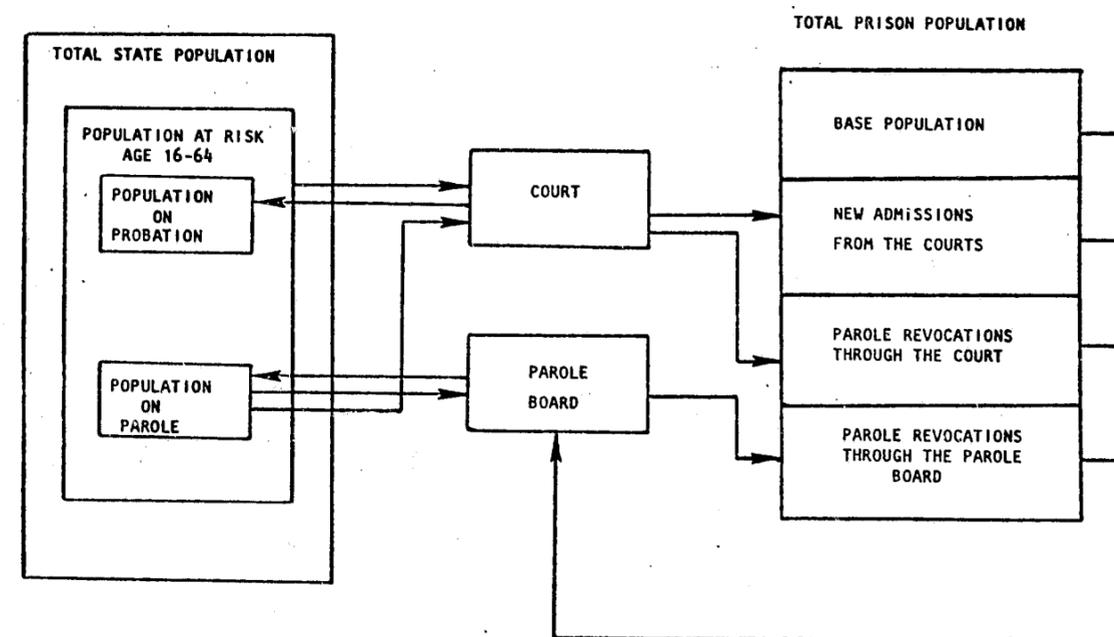
specific at-risk group times the age and sex specific conviction rate times the age and sex specific JDI percentage. The number of subgroups used in this part of the forecast is 32, providing for two sex categories, nine crime categories and various combinations of age categories within the crime categories.

Another component of the model is called Parole Failures. It includes people who are released from prison and returned within five years. This is the rate of recidivism, and it has been about 30 to 35 percent in recent years. Most prisoners who recidivate do so within the first two years of their release. Those who return after a five-year period are treated as new admissions.

Another way of looking at the forecasting model is a visual explanation developed by OFM (Exhibit 13, which follows). It shows the flow of people in and out of the prisons.

Exhibit 13

The Conceptual Structure of the Prison Population Forecast Model



2. Content of the Forecast

The Office of Financial Management forecast covers the years FY 1982 to FY 1995. It contains three sections: Annual Forecast; Monthly Forecast; and Prison Population Composition.

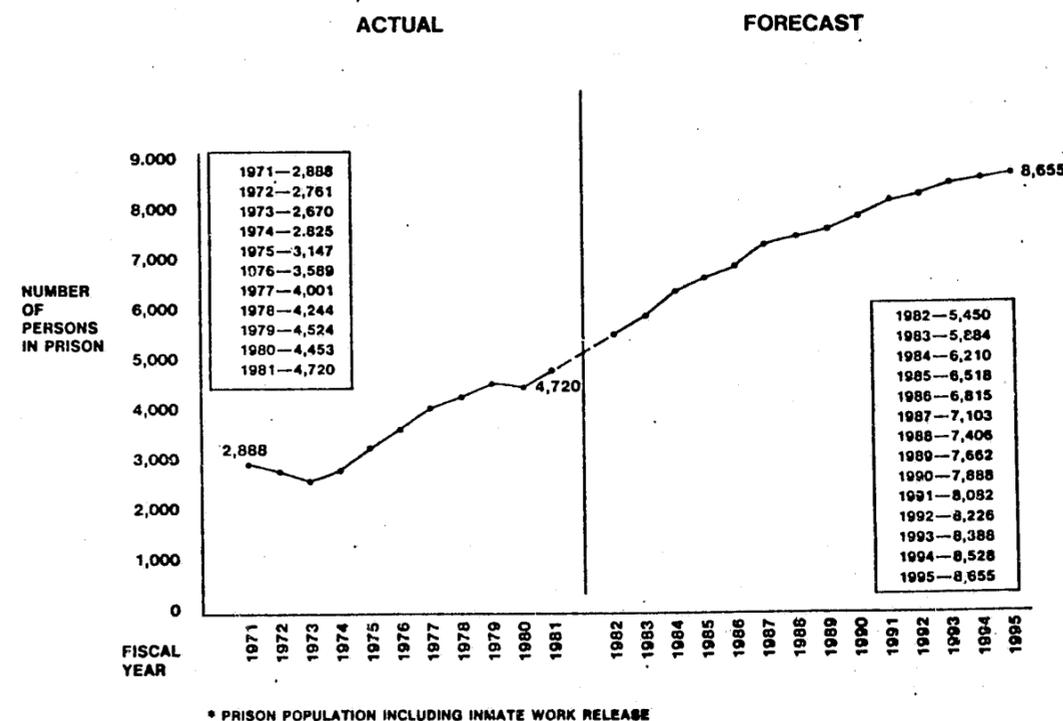
One statement in the forecast is very significant:

The major finding of this forecast is that the prison population may nearly double by 1995 because admissions will exceed releases throughout the forecast. (Emphasis supplied.)

The numerical data in the forecast and the plotting of that data are depicted in the following chart, Exhibit 14. (Note that the years given are fiscal years.) For an update of these data, see Exhibit 17.

Exhibit 14

Total Prison Population*: 1971 to 1995



The percentage increases in each fiscal year of the forecast are the following:

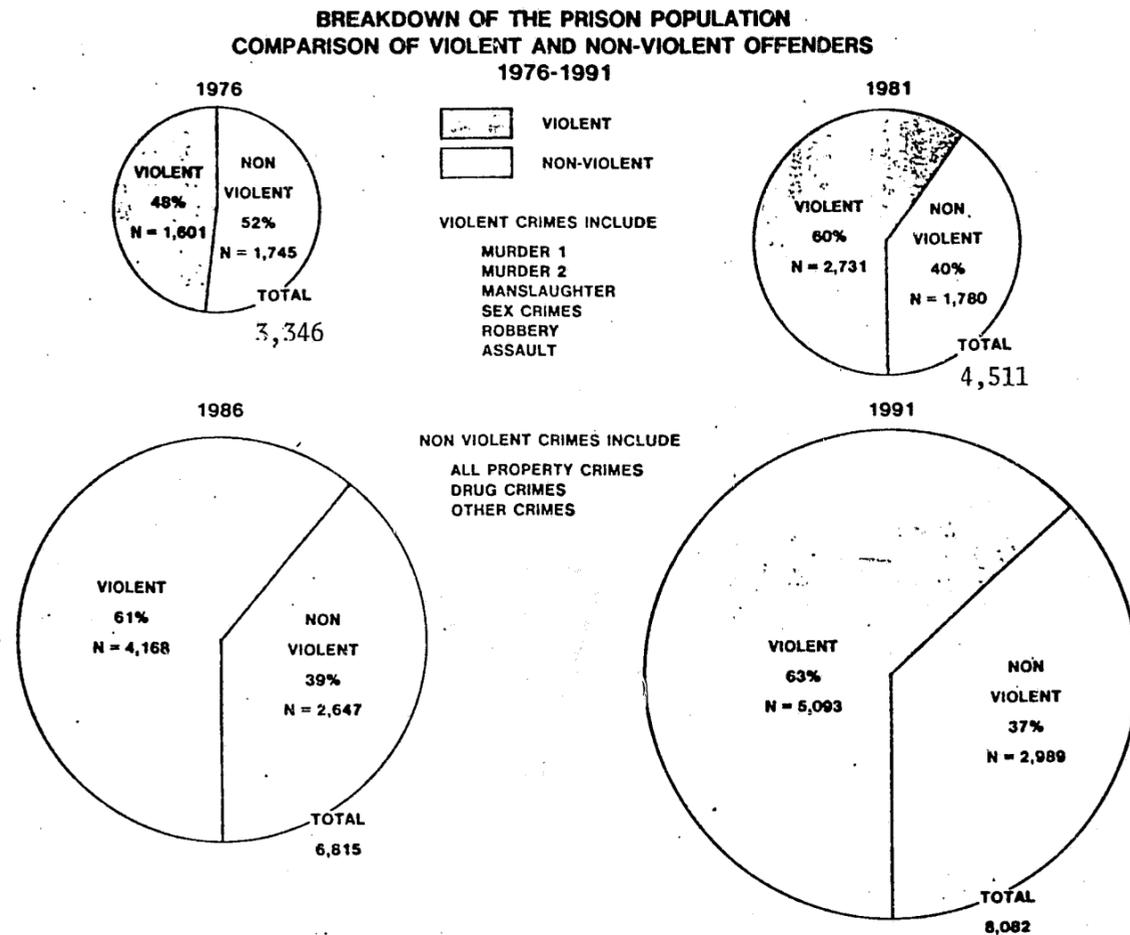
<u>Fiscal Year</u>	<u>Percent Change from Previous Fiscal Year</u>
1982	15.47
1983	7.96
1984	5.54
1985	4.96
1986	4.56
1987	4.23
1988	4.27
1989	3.46
1990	2.95
1991	2.46
1992	1.78
1992	1.97
1994	1.67
1995	1.49

The explanations for the expected increases in prison population are several:

- a) The at-risk population is expected to grow;
- b) The at-risk population is expected to age during the forecast; hence the number of older persons in the at-risk population will be greater;
- c) The conviction rate for violent offenders will increase gradually through FY 1987 or FY 1988; and
- d) The conviction rates and judicial decisions to incarcerate for drug offenders are expected to increase until 1988.

The Office of Financial Management forecast also states that as the number of offenders increases through the forecast period, the proportion of violent offenders grows. This is illustrated in Exhibit 15, which shows the growth of the ratio of violent offenders from 48% in 1976 to a projected 63% by 1991.

Exhibit 15

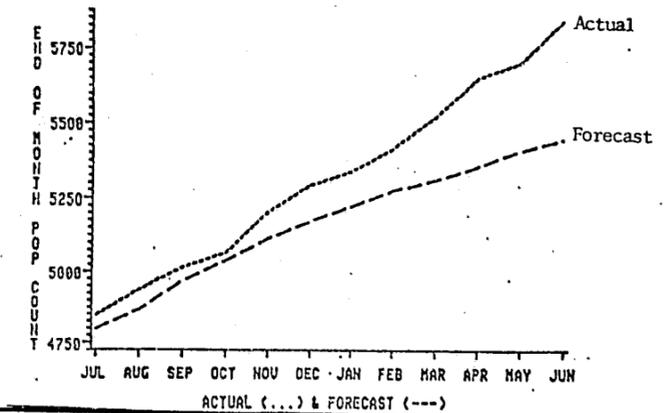


3. Differences Between Forecast and Actual Populations

The actual prison population has risen at a rate far greater than what was anticipated in the forecast. As a result, the prison population forecast has lagged behind actual numbers, and the gap between actual and forecast has widened severely. The comparison between actual and forecast data for FY 1982 is shown in Exhibit 16, prepared by OFM.

Exhibit 16

WASHINGTON PRISON POPULATION *
1981-1982, Actual vs. Forecast



	1981 July	Aug	Sep	Oct	Nov	Dec	1982 Jan	Feb	Mar	Apr	May	1982 June
Actual:	4,848	4,939	5,018	5,068	5,306	5,294	5,342	5,418	5,525	5,654	5,706	5,845
Forecast	4,797	4,868	4,970	5,041	5,117	5,175	5,226	5,278	5,313	5,358	5,411	5,450
Difference												
F-A:	-51	-71	-48	-27	-89	-119	-116	-140	-212	-296	-295	-395

- o THE PRISON POPULATION FORECAST UNDERESTIMATED THE ACTUAL PRISON POPULATION. THE UNDERESTIMATION BECAME SIGNIFICANT DURING THE LAST FOUR MONTHS OF THE FISCAL YEAR.
- o THE STRONG UPSWING OF ADMISSIONS TO PRISON IS LARGELY EXPLAINED BY AN INCREASE OF ADMISSIONS FOR SEX CRIMES, ROBBERY, AND OTHER CRIMES.

*End of month population includes institutions and work release.

As the exhibit shows, the difference between the forecast and actual numbers grew to 395 by the end of FY 1982. And, as of the end of October 1982, the difference was even greater. The forecast population (including work release) was 5,627, and the actual count was 6,146, a difference of 519.

The Office of Financial Management realizes these differences and has sought to make adjustments in the forecast. A new set of prison population projections has been prepared by OFM and are shown in the table below. Also, OFM has sought to analyze the reasons why the forecast underestimated the prison population. The answer is that some of the principal variables behaved in a manner far different than anticipated. For example, in FY 1982 actual new admissions were 8% higher, return admissions were 14% higher, and releases were 8% lower. These changes resulted from increases in the rate of conviction and the judicial decision to imprison. Also, recidivism rates exceeded 35% in some cases.

The following numbers in Exhibit 17 show the old and the new forecasts of prison population.

Exhibit 17

Comparison of Original and Revised Forecasts

<u>Fiscal Year</u>	<u>Revised Forecast 1983-1996</u>	<u>Original Forecast 1982-1995</u>
1983	6,427	5,884
1984	6,714	6,210
1985	7,007	6,518
1986	7,313	6,815
1987	7,576	7,103
1988	7,819	7,406
1989	8,083	7,662
1990	8,333	7,888
1991	8,540	8,082
1992	8,713	8,226
1993	8,862	8,388
1994	9,025	8,528
1995	9,171	8,655
1996	9,337	

The new forecast for the year 1995 is about 6% higher than the original forecast for that date.

4. Analysis and Conclusions

The prison population forecast model developed by OFM for the Interagency Work Group is unique, complex and sophisticated. It is also apparently an attempt to develop a workable state-of-the-art methodology for such forecasting.

Unfortunately, the results for fiscal and calendar year 1982 are disappointing. The gap between actual and forecasted population has widened. The Office of Financial Management is attempting to correct the imbalance by adjusting its assumptions, and it is hoped that the new forecast numbers will more accurately predict population patterns.

It appears that the criminal justice system is behaving in a manner which historical data has not been able to predict. Thus, past patterns usually do not allow for the abrupt changes which have occurred. The primary variables of the model seem to be based mostly on historical data and therefore cannot anticipate such changes which may be affected by external influences (Other independent variables) such as societal attitudes and economic conditions. Perhaps an example will illustrate the problem. The judicial decision to imprison and the rate of conviction (which both affect new admissions) have increased sharply in recent months. The reasons for this are external to the forecast model. Perhaps the courts and the prosecutors are reacting to societal pressure to be "tough on crime." Another example is the possible effect of a weak economy on readmissions.

If there is a weakness in the forecast model, it is that the model depends too heavily on historical data for its projections. Variables such as the conviction rate, the judicial decision to imprison, and the recidivism rate appear to have been treated too independently. More consideration might be given to the importance or impact of other independent variables that might affect indicators in the model such as the judicial decision to imprison. One suggestion is to attempt to correlate economic changes and conditions to some of the independent variables in the formula.

Otherwise, it is feared that the projected prison population will continue to be an inaccurate guide for decision making. As it is now, the model cannot react to significant changes until the changes themselves become historical, i.e., a matter of the past. Adjustments and revisions of the inputs will result in a more reliable forecast only if future patterns follow the trends articulated by the new data. Reverses in trends, such as reductions in the conviction rate or increased releases from prison, could cause the revised projections to become higher than what will actually occur.

Finally, it should be emphasized that the forecast model does not yet reflect the impact of the Sentencing Guidelines Commission. Once the recommended determinate sentences are implemented, however, the model will have to be revised to accommodate the changes. At this point in time, it is hard to say what the impact of determinate sentencing will have on the accuracy of the forecast.

E. IMPACT OF THE SENTENCING REFORM ACT OF 1981 (House Bill No. 440, Chapter 137, Laws of 1981)

1. Background

In 1981, the Legislature passed House Bill No. 440 (Chapter 137, Laws of 1981) - the Sentencing Reform Act of 1981. This Act, which takes effect July 1, 1984, provides for a new method of sentencing felony offenders within the State. Additionally, it makes provisions for responding to, or dealing with emergency situations resulting from institutional overcrowding. In order to better understand the changes which will result from the implementation of this act, the current system of sentencing felony offenders is briefly described below.

Currently, upon a plea or finding of guilt for a felony level offense, a superior court judge has a number of options regarding sentencing. First, the sentence may be deferred, or its imposition suspended. Second, the offender may be sentenced to probation (as over 80% of convicted felony offenders were in FY 1981). If probation is imposed, certain conditions may be set; including incarceration in a local jail for up to one year, completion of a rehabilitative treatment program, community service, etc. Finally, the judge may sentence the offender to prison. However, if this occurs, the judge sets the maximum term only, which in the vast majority of cases must be the same as that provided for by law. Typically, the maximum terms bear little resemblance to the amount of time actually served by the offender. The amount of time actually served corresponds much more closely to the offender's "minimum term" which is set by the Board of Prison Terms and Paroles.

2. Findings

Under House Bill No. 440 (Chapter 137, Laws of 1981), the Parole Board's authority to set minimum terms is abolished. So too is the power to suspend or defer a sentence. An offender's actual sentence will be set by the sentencing judge. However, the Act imposes certain constraints or limitations on the type of sentence which can be imposed by the judge. First, the sentence must be a "determinate" sentence; that is one which states with exactitude the hours, days, months, years or monetary "amount" of the sentence. Perhaps even more important, however, a judge must impose a determinate sentence that is within a pre-established sentence range that is based both on the seriousness of the crime as well as the offender's past criminal history. There are three exceptions to this provision: for offenders convicted of murder, assault or rape in the first degree; for the first time felony offender convicted of a non-violent crime, or for cases where the court finds (in writing) that imposition of such a sentence would result either in excessive punishment for the offender or in an unacceptable threat to the community.

Responsibility for developing the standard sentence ranges lies initially with the Sentencing Guidelines Commission which was created by the Act. In developing their recommendations, the law instructs the Commission to

"emphasize confinement for the violent offender and alternatives to total confinement for the non-violent offender." Further, the Act specifies that each of the Commission's recommended standard ranges must include one or more of five sanctions that the Act provides for. In addition to "fines", these sanctions are:

Total Confinement: meaning "confinement inside the physical boundaries of a facility or institution ... for twenty-four hours a day ...". Those facilities which would qualify as total confinement include the State's prisons, work camps and honor farms as well as local jails. Certain residential treatment programs may also qualify as total confinement.

Partial Confinement: meaning "confinement for no more than one year in a facility or institution ... for a substantial portion of each day with the balance of the day spent in the community." State and county work release programs would qualify as partial confinement as possibly would portions of time spent in residential drug or alcohol treatment programs.

Community Supervision: meaning "a period of time during which a convicted offender is subject to crime related prohibitions and other sentence conditions imposed ... by a court". (A "crime related prohibition" means "an order of a court prohibiting conduct which directly relates to the circumstances of the crime for which the offender has been convicted" (for example, ordering an offender to abstain from alcohol if the crime was committed while under the influence). However, the law expressly provides that a crime related prohibition "shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs ...". Community supervision could be carried out by probation/parole officers and would range from intensive supervision to periodic reporting. Community supervision could be the only sanction imposed or it could be imposed for a period following an offenders release from confinement.

Community Service: meaning "compulsory service, without compensation, performed for the benefit of the community ...". Currently, the available resources for administering such sentences vary greatly from county to county.

Initially, the Act required that the Commission submit its recommendations to the Legislature by September 1, 1982. However, that date was extended until January 1, 1983 by House Bill No. 874 (Chapter 192, Laws of 1982). As of this writing - December 1982 - the Commission is still in the process of formulating its recommendations. Although the recommendations are not yet finalized, it might be beneficial to briefly explain the format the Commission will probably use in presenting the new sentence ranges to the Legislature.

Currently, the Commission's intention is to utilize a grid system that would resemble a mileage chart used to measure distances between two points. Offenses would be divided into a number (probably fourteen) of severity levels on the grid's vertical axis and the offender's criminal history score would be measured on the horizontal axis. The sentence range would then be determined by reading left to right across the severity level to the appropriate offender score column. Exhibit 18 on the following page is an example of this type of grid. (It must be stressed that the grid in Exhibit 18 is an example only. The numbers contained in its individual cells are very subject to change.)

The Commission has not yet determined how to address its directive of incorporating the various types of sanctions listed above into its recommended sentence ranges. One possibility which is under consideration is to establish the presumptive sentence only as total confinement, and then establish "equivalencies" for the other sanctions. For example, one month of total confinement might be established as being equivalent to two months of partial confinement or three months of community supervision.

One integral feature of the Sentencing Reform Act is that the Commission must conduct a study to determine the capacity of "correctional facilities which are or will be available." While it need not consider capacity in arriving at its recommendations, it must project whether their implementation would exceed the capacity. If such a result is found to be likely, the Commission must prepare an additional set of recommendations which are consistent with capacity for eventual submission to the Legislature. The wording of the Act is somewhat unclear as to whether "capacity" refers to the capacity of State correctional facilities and programs, or to all correctional facilities and programs; including local jails. While the Commission is intending to examine the impact of its recommendations on local jails, it is unclear as to whether or not it would (or would have to) submit an additional set of recommendations that were consistent with local jail capacity if the original recommendations were projected to exceed that capacity. Because the Commission's recommendations have not yet been formally developed, it has not been possible to begin analyzing their impact on the capacity of correctional facilities.

Final approval of the standard sentencing ranges appears to rest with the Legislature. RCW 9.94A.070(1) states that "*At its regular session convening in 1983, the legislature shall enact laws approving or modifying either the standards recommended by the commission, or the additional list of standard sentence ranges consistent with prison capacity in the event an additional list has been submitted....*" However, the legislation makes no provision as to what would or should happen if the Legislature fails to take any action.

In addition to formulating recommendations for standard sentence ranges, the Commission is also directed by the Act to devise recommended prosecuting standards in respect to charging of offenses and plea

Exhibit 18

Sentencing Grid

(EXAMPLE ONLY)

11/19/82

SERIOUSNESS
SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XIV	Life Sentence/Death Penalty									
XIII	23y 4m	24y 4m	25y 4m	26y 4m	27y 4m	28y 4m	29y 4m	30y 10m	32y	33y
	240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	302 - 402	317 - 422	329 - 438	339 - 452
XII	12y	13y	14y	15y	16y	17y	18y	19y 6m	21y	22y 6m
	123 - 164	134 - 178	144 - 192	154 - 205	165 - 219	175 - 233	185 - 246	201 - 267	216 - 288	231 - 308
XI	6y	6y 9m	7y 6m	8y 3m	9y	9y 9m	10y 6m	12y	13y 6m	15y
	62 - 82	69 - 92	77 - 102	85 - 113	93 - 123	100 - 133	108 - 144	123 - 164	139 - 185	154 - 205
X	5y	5y 6m	6y	6y 6m	7y	7y 6m	8y	9y	10y	11y
	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	82 - 109	93 - 123	103 - 137	113 - 150
IX	3y	3y 6m	4y	4y 6m	5y	5y 6m	6y	7y	8y	9y
	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	62 - 82	72 - 96	82 - 109	93 - 123
VIII	2y	2y 6m	3y	3y 6m	4y	4y 6m	5y	6y	7y	8y
	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	62 - 82	72 - 96	82 - 109
VII	18m	2y	2y 6m	3y	3y 6m	4y	4y 6m	5y 6m	6y 6m	7y 6m
	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	57 - 75	67 - 89	77 - 102
VI	12m	18m	2y	2y 6m	3y	3y 6m	4y	5y	6y	7y
	11 - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	51 - 68	62 - 82	72 - 96
V	9m	12m	15m	18m	21m	2y	2y 3m	4y	4y 6m	5y
	6 - 12	11 - 14	13 - 17	15 - 20	18 - 24	21 - 27	23 - 30	41 - 54	46 - 61	51 - 69
IV	6m	9m	12m	15m	18m	21m	2y	3y 6m	4y	4y 6m
	1 - 9	6 - 12	11 - 14	13 - 17	15 - 20	18 - 24	21 - 27	36 - 48	41 - 54	46 - 61
III	2m	5m	8m	11m	14m	17m	20m	3y	3y 6m	4y
	1 - 3	3 - 8	4 - 12	10 - 13	12 - 16	15 - 19	17 - 22	31 - 41	36 - 48	41 - 54
II	0 - 90 Days	4m	6m	8m	10m	12m	14m	2y	2y 6m	3y
	0 - 60	0 - 90	3m	4m	5m	6m	7m	10m	14m	18m
I	0 - 60 Days	0 - 90 Days	2 - 5	2 - 6	3 - 8	3 - 9	4 - 11	8 - 12	12 - 16	15 - 20

NOTE: Numbers represent presumptive sentence ranges in months. Midpoints are in bold type (y = years, m = months).

Additional sentence for weapon usage:

24 months (Rape 1, Robbery 1, Kidnapping 1)

18 months (Burglary 1)

12 months (Assault 2, Escape 1, Kidnapping 2, Commercial Burglary 2)

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Sentencing Guidelines Commission

bargaining, and to devise standards governing whether sentences are to be served consecutively or concurrently. The wording of the law, however, appears to be unclear with respect to two essential points. The first is whether or not these standards are to be approved by the Legislature. The second is whether these standards are to have the force of law, or are to be advisory only.

The final essential feature of the Act is the provisions it makes for responding to emergency situations resulting from prison overcrowding. In RCW 9.94A.160, it is stated that "if the governor finds that an emergency exists in that the population of a state residential correctional facility exceeds its reasonable, maximum capacity, then the governor may do any one or more ..." of three things. The first option available to the Governor is to call the Commission into emergency meeting for the purpose of evaluating and/or modifying its standards in a manner it feels appropriate to deal with the emergency situation. In this event, the Commission may, but need not, obtain the Legislature's approval of the modifications so enacted. The second option available to the Governor, if the emergency occurs before July 1, 1988, is to call the Parole Board into an emergency meeting for the purpose of evaluating its guidelines and procedures for release of prisoners. Finally, the Governor may call the Clemency and Pardons Board (which is created by the Act, effective July 1, 1984) into an emergency meeting for the purpose of recommending whether the Governor's commutation or pardon power should be exercised to meet the present emergency.

In an April 20, 1982, memorandum, the Executive Officer of the Sentencing Guidelines Commission summarized research findings pertaining to the effects of determinate sentencing on prison population in six states which have implemented such systems. Generally, no definite pattern emerges. For example, while the rate of incarceration has increased in Illinois, it has decreased in Minnesota. While the average length of stay has increased in Minnesota, it has decreased in California. This memorandum is reprinted in Appendix IV.

3. Evaluation and Conclusions

It is apparent that in passing the Sentencing Reform Act, the Legislature was quite cognizant of the effect it could have on prison populations. A somewhat unique feature of the the Act is that it provides a mechanism through which the new sentencing process and prison population can be "tied together" in such a way as to avoid exacerbating the problems of institutional overcrowding. However, it is essential to note that this mechanism is only provided for as an option; it is not mandated. While the Sentencing Guidelines Commission is required to at least develop and submit to the Legislature a list of sentence ranges which is projected to be consistent with available prison capacity, neither the Legislature nor the Commission itself is required to endorse or approve that list. The Legislature's apparent concern over the potential impact of House Bill No. 440 was illustrated further when it directed the LBC to independently assess the extent of the impact as a part of its study on prison issues.

Unfortunately, nearly every question which must be answered in order to assess that impact is, at this time, still unanswered. Indeed, the most basic elements which will comprise the new system are yet to be formulated. Foremost among these is the "make-up" of the sentence ranges which will establish the length of an offender's sentence. In addition to the self-evident impact of this variable, it may well also determine whether the brunt of the new sentencing system will fall on the State's prisons or on the local jails and correctional facilities. This is so since, as is the case currently, sentences of confinement for more than a year must be served in a State facility while those of less than a year must be served in a local facility.

As noted previously, the likely impact of sentence length or capacity must be projected by the Commission once the recommendations have been formulated. While these projections will provide some answers, the answers received will depend on the method or figures used by the Commission in developing its projections. Currently, the Commission intends on basing their projections on the assumption that the vast majority (75%) of sentences will be set at the lowest point in the sentence range (as opposed to the "mid-point" or highest point in the range). While this may be a totally valid or appropriate assumption, it also leaves open the possibility of significantly underestimating the Act's ultimate impact.

The second essential variable which could profoundly influence the Act's ultimate impact is how the differing sanctions will be incorporated into the sentence ranges (total confinement, partial confinement, community supervision, community service, fines and restitution). The manner in which this is done, as well as the manner in which judges respond to these options, may well determine what proportion of offenders will be incarcerated. Many people have assumed that there will be a drastic increase in the proportion of offenders who serve "at least some time" under the new Act. However, given the provision for these alternative sanctions, this does not have to be the case.

In regards to the types of sentences which may be imposed, it is important to note that despite the Act's mandate to "emphasize ... alternatives to total confinement for the non-violent offender ...", one sentencing option which it appears to significantly limit is rehabilitative treatment. For example, under a sentence of Community Supervision, the Act makes very clear that while certain conditions can be imposed, "... orders directing an offender affirmatively to participate in rehabilitative programs ..." are prohibited. The only exception to this is the first time, non-violent felony offenders. Some residential drug or alcohol treatment programs may qualify under the Act as total or partial confinement. However, the difficulty here is that under the Act, a determinate sentence must be imposed (i.e., one which states with "exactitude"). While this might not present much of a problem, it will differ significantly from the way most "treatment sentences are currently imposed." Now, most offenders who are sentenced to treatment are required to enroll in and complete a program of treatment; regardless of the amount of time it takes. Given the requirement of determinacy, this type of sentence would appear to be prohibited.

Even if it were known exactly what the sentence ranges would be, and how the various sanctions would be incorporated into those ranges, there is one additional factor which would make an assessment of its impact difficult. That factor is the response of the Superior Court judges to the guidelines. It must be remembered that the sentence ranges are not absolute. Discretion is provided the court to impose sentence outside the guidelines if it finds, in writing, that a sentence inside the range would result in either excessive punishment for the offender or an unacceptable threat to the community. While the assumption is that sentences outside the established range would only be imposed for truly exceptional cases, the validity of that assumption has yet to be tested.

In addition to the above, the staff believes that there are a number of ambiguities in the Act itself, which complicate the issue even further. These are addressed briefly below.

The first ambiguity centers around who has primary responsibility for the establishment of the all-important sentence ranges. Once the Sentencing Guidelines Commission has formulated its sentence recommendations, it must submit them to the Legislature pursuant to RCW 9.94A.040. RCW 9.94A.070 provides that the Legislature will enact laws either approving or modifying those recommendations during the 1983 session. Yet no provision is made for what would happen in the event the Legislature failed to act. Further, in RCW 9.94A.160 which deals with responses to overcrowding - it is stated that "*the Commission may adopt any revision or amendment to its standard ranges*" (emphasis added). The statute goes on to state that these amendments or revisions can be implemented without legislative approval unless the Commission itself chooses to provide for legislative adoption.

In a written response to questions posed by the staff (dated October 26, 1982), Assistant Attorney General James K. Pharris, noted these facts and went on to state that, "... although the Legislature clearly retained the authority to adopt sentencing standards prepared by the Commission, including the authority to adopt them in modified form, the current legislation at the same time indicates that the Commission and not the Legislature has the primary responsibility for developing the standards."

In the most extreme example, it would therefore appear that the following could transpire:

- o The Commission submits its recommended sentence ranges to the Legislature. Finding that the recommended ranges are too "lenient", the Legislature amends them by raising every range by 20%. The Legislature then adjourns. Because an emergency condition exists with respect to overcrowding, the Governor immediately calls the Commission into emergency meeting. The Commission then amends the legislatively enacted standards to conform with its original recommendation.

Admittedly, such a situation is not likely to occur. However, it does portray the seeming awkwardness of the Act's organizational framework.

Essentially the same question applies to the other standards the Commission is required to develop recommendations on: prosecuting standards in respect to the charging of offenses and to plea bargaining, and standards governing whether sentences are to be served consecutively or concurrently. However, the situation here is perhaps even more ambiguous. RCW 9.94A.040(7) specifically directs the Commission to submit to the Legislature its "... standard sentences ranges and standards ..." (Emphasis added). However, RCW 9.94A.070 which provides for legislative adoption or amendment of the Commission's recommendations, appears to refer only to the recommendations on sentence ranges, and not to the other standards. Thus, it is not clear if the intent is for the Legislature to approve or modify these other standards.

Another issue which appears to be unclear is whether these other standards are to have the force of law, or are merely to be advisory in nature. Most people whom the auditor has questioned regarding this issue assume the latter. However, traditional usage of the term "standards" as used in this context, might imply the former. In addition, language contained in RCW 9.94A.160(1) also appears to indicate that these standards are to have the force of law. There it is stated that in responding to an emergency situation of overcrowding, the Commission may revise or amend "... its standard ranges or other standards ..." (emphasis added). Seemingly, if these other standards did not have the force of law, it is unlikely that their revision could be expected to have any immediate impact on overcrowding. The ramifications of this issue are far ranging. If these standards - particularly the prosecutorial standards - are advisory only, prosecutors are left with a tremendous amount of discretion; so much so, that they would likely become the most important "actor" in the sentencing process. On the other hand, if the standards are to have the force of law, and depending on how they are formulated, prosecutors could be hindered to the point where their effectiveness becomes diminished.

Finally, there are three issues related to the Act's provisions for responding to overcrowding which should be pointed out. The first sentence of RCW 9.94A.160 states that: "*If the governor finds that an emergency exists in that the population of a state residential correctional facility exceeds its reasonable, maximum capacity, then the governor may do any one or more of the following ...*" (emphasis added). First, this language appears quite explicit in establishing that an overcrowding emergency need only exist in one facility in order to trigger the provisions for responding to the emergency. The overcrowding emergency need not be system wide. Second, a question arises as to what is meant by "reasonable, maximum capacity." For example, does this refer to the institutions official rated capacity, its "emergency capacity" or

perhaps, its current capacity (which as of December 28, 1982, was 132% of rated capacity). Finally, the wording of the last phrase of the above quoted sentence can be interpreted two ways. First it can be interpreted in such a way as to say the Governor "may do one of the following ... but he need not; i.e., he may do nothing". The second way of interpreting this phrase would be the same as substituting the word "shall" or "must" for "may"; i.e., "the governor may do one of three things ... but he must do at least one of them".

The Sentencing Reform Act represents a radical change in the method of sentencing felony offenders within the State. As such, it can be expected that its implementation will have a significant impact on the State's prison population. Unfortunately, at this stage of its development, it is too early to project what that impact will be. Additionally, there appear to be a number of questions regarding various provisions of the Act itself. In order to alleviate potential problems, and to project more accurately the Sentencing Reform Act's ultimate impact on prison population, the auditor believes that clarification is necessary.

F. COMMUNITY CORRECTIONS PROGRAMS

1. Background

Within its analysis of various prison issues, the Legislative Budget Committee was directed by HB 808 to "...review and [address the] possible expanded use of community corrections programs including the treatment alternatives to street crime diversion program and the Monroe House Program...". The very term, "community corrections", is somewhat difficult to define precisely. However, it is perhaps most frequently used to label or categorize various programs which serve in some capacity as an alternative to incarceration. Examples of these types of programs include probation and parole, work/training release, rehabilitation treatment programs, community service, etc.

According to a report prepared by the National Council on Crime and Delinquency for submission to the California legislature,* while these programs have existed in various forms for some time, greater emphasis has been placed on them since the late 1960's and early 1970's. In large part, this has occurred as a response to institutional overcrowding and as a method for reducing the high costs associated with incarceration. The apparent "forerunner" of the shift towards emphasizing community corrections was California, which enacted its Probation Subsidy Program in 1966. This program was designed to reduce commitments to state institutions by offering county probation departments a per diem subsidy for offenders kept at the local level.** Seven years later, in 1973, the Minnesota legislature passed the first statewide Community Corrections Act. This Act consisted of four key elements:

- a financial incentive to counties to develop local correctional programs;
- a financial disincentive against committing non-violent adults or juveniles to state institutions;
- a local decision making structure to insure better coordination of the various components of the criminal justice system; and
- a local planning process that results in a comprehensive plan for the delivery of correctional services.

Since that time, a number of other states have passed their own Community Corrections Acts, including Oregon, Kansas and Ohio. A formalized, or statewide program of community corrections has not been implemented in Washington.

*The Sourcebook on Alternatives to Prison in California (Report to Joint Rules Committee, California Legislature.) National Council on Crime and Delinquency, San Francisco, CA., May, 1980.

**A similar program was enacted in this State in 1973 (Chapter 9.95A RCW) However, according to DOC officials, the program never achieved the full participation of the State's counties. Pursuant to the Sentencing Reform Act, the provisions of this program will not apply to felonies committed after July 1, 1984.

2. Findings

Within this state, community corrections programs for adult felony offenders are basically limited at present to probation and parole, work and work training release, various treatment programs and community service programs which vary both in location and method of operation. Exhibit 19 beginning on page 63 summarizes these resources in the context of how they would be applied under the various sanctions prescribed for in the Sentencing Reform Act. Also indicated on the table is the capacity of these programs as well as the locations in which they are available.

The Sentencing Reform Act includes various provisions which will have a definite impact on how these programs or resources can or will be applied. Most notable are the changes regarding parole and probation. Traditional parole is essentially eliminated by the Act. In its place, the Act provides for a "voluntary" system of counseling and assistance for the offender upon release from custody. Traditional probation is replaced by "community supervision".

The Act defines community supervision as "...a period of time during which a convicted offender is subject to crime related prohibitions and other sentence conditions...". Assumably (for it is not specified in the Act), this "supervision" will be carried out by probation and parole officers under the jurisdiction of the Department of Corrections. If so, community supervision will probably function similarly to traditional probation. However, there will be two important exceptions. First, community supervision may not include orders directing an offender to attend treatment programs (unless the individual is a first time offender). Second, violations of the conditions of community supervision can only be punished by the imposition of a "new" sentence of not more than sixty days per violation.

Work or work/training release is the most likely community corrections program that will satisfy the Act's definition of "partial confinement" (essentially a facility where an offender is required to spend a substantial proportion of the day with the balance being spent in the community). At present, there are eighteen state operated work release facilities. For budgetary reasons, some sites, including the Monroe House program, have been closed during the last year. The present capacity of these facilities is 847 residents and as of November 8, 1982, they were operating at 82% of capacity. In the Sentencing Reform Act as originally passed by the Legislature, at least three months of "partial confinement" was required if an offender's total sentence was at least eighteen months of confinement. However, this provision was amended by HB 874 (Chapter 192, Laws of 1982) in such a way as to delete the requisite nature of partial confinement.

The Act also includes community service as a sanction which can be imposed on a convicted offender. It is defined as "compulsory service, without compensation, performed for the benefit of the community by the offender". Such sentences are frequently given out under the current system. However,

Exhibit 19
Alternatives to Imprisonment
 (Prepared by the Sentencing Guidelines Commission)

Type of Sanction	Current Capacity	Location	Typical Sentence Length
TOTAL CONFINEMENT			
• Sex Offender Program	198	Western State Hospital	24-30 months
• Sex Offender Program	43	Eastern State Hospital	20-36 months
• Residential Drug Treatment Programs	350	6 counties; 50% of beds in King County	Total confinement usually 30-90 days
• Pioneer Center North	55	Sedro Woolley	Involuntary commitments (30 days, 90 days)
PARTIAL CONFINEMENT			
• State Work Release	847	Primarily urban areas	4.2 months
• County Work Release	521*	**	Varies ***
• Residential Drug Treatment Programs	350	6 counties; 50% of beds in King County	6-18 months
• Residential Alcohol Treatment Programs	1,186	Majority in Western Washington	20-28 days
COMMUNITY SUPERVISION			
• Supervision by state probation and parole officer	230 officers	Every county	Varies
COMMUNITY SERVICE			
• Can be arranged with supervision by court, probation and parole officer, or community program	Unlimited	Every county	Varies
FINES			
• Can be imposed as part of any sentence	Unlimited	Every county	Varies
RESTITUTION			
• Can be imposed as part of any sentence	Unlimited	Every county	Varies

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*Does not include projected capacity increase due to jail construction projects.

**Facilities are located in the following counties: Benton, Clallam, Clark, Cowlitz, Franklin, Grays Harbor, Jefferson, King, Kitsap, Kittitas, Lewis, Okanogan, Pend Oreille, Pierce, Skamania, Snohomish, Thurston, Whitman, Yakima and Spokane. Facilities are also located in Auburn and Richland.

***For Thurston County average LOS is 6 months; King County average LOS is 3 months; Spokane County average LOS is 1 1/2 - 2 months.

CONTINUED

1 OF 3

community service is usually now imposed as an "additional" sanction, rather than as the sole sanction. In addition, it is usually imposed for relatively minor crimes and appears to be more common at the District or Municipal Court level than at the Superior Court level. As mentioned previously, the resources for administering such a program vary from county to county. The Department of Corrections is currently in the process of conducting a survey of all counties to determine existing procedures and resources for responding to community service orders. This is in response to a provision of the Corrections Reform Act of 1981 (Chapter 136, Laws of 1981). Here, the Legislature defined four new areas of responsibility for DOC's Division of Institutional Industries; one of which was Community Service Programs.

Treatment programs have long been considered a form of community corrections. As indicated in Exhibit 19, these programs constitute a substantial proportion of the community corrections resources available within the State. However, the Sentencing Reform Act appears to definitely limit, or at least make problematic, imposition of a treatment oriented sentence for non-first time offenders.

At present, treatment programs are frequently required as a condition of probation or parole - community supervision under the new Act. However, the Act is very explicit in stating that the terms of community supervision shall be "crime related prohibitions", which are expressly defined as not including "... orders directing an offender affirmatively to participate in rehabilitative programs" The only exception to this provision is for first time felony offenders convicted of a non-violent crime.

It does appear that treatment may be ordered under the sanctions of total or partial confinement. Various residential drug treatment programs, and at least one residential alcohol program, appear to meet the Act's criteria for constituting total confinement. The "catch" here, however, is that currently most sentences to treatment programs have been "open-ended" timewise; that is, an offender is required to enroll in and complete a program of treatment, regardless of the amount of time it takes. Under the new Act, however, sentences must be imposed which state "with exactitude" the amount of time which is to be "served." As a result, if an offender were sentenced to a treatment program, the duration of the sentence could expire before treatment had been completed. The reverse is also possible, i.e., treatment could be completed prior to expiration of the sentence. Yet the offender would still be required to remain "in custody."

The information above has been primarily directed towards the resources or programs which currently exist within the State. While Washington does not have a comprehensive program of community corrections, most of the major program "types" usually considered to fall under the umbrella heading of community corrections are represented. Certainly, however, there are numerous variations of these programs which have been implemented elsewhere. Some brief examples of the programs are presented below.

Probation is perhaps the most common alternative to incarceration. However, in some areas, under the concept of community supervision, a convicted person is released to a neighborhood group. This group may then help the offender secure employment, education or vocational training, or assist them in obtaining housing, medical care or counseling. A related form of community supervision involves third-party custody. Here, an individual or organization volunteers to assume responsibility for supervising and/or assisting an offender assigned to their custody.

There also exist variations of work release. For example, in 1977, the South Carolina legislature authorized its Department of Corrections to implement an "extended work release program." This program allows certain work releasees to live with their families while being gainfully employed. Although offenders are assigned to a local work release facility, they live in the community in private residences. Also in South Carolina, the 1978 Litter Control Act authorized the Department of Corrections to grant "earned work credit" to inmates for productive work performed outside of the institution. The range of credit which can be earned ranges from a minimum of one day for each seven days worked, to a maximum of one day credit for every two days worked.

In addressing itself to alternatives to incarceration, the Sentencing Guidelines Commission noted that under the sanction of partial confinement, facilities could be developed which are unlike any existing resources. For example, offenders could be required to report to a facility during the day and yet be allowed to return to their homes during the night. Such a facility would need not be secure or extensively supervised. Punishment would occur because the offender's liberty would be restricted for a portion of each day.

3. Evaluation and Conclusions

The Sentencing Reform Act definitely includes provisions for the utilization of community corrections programs; its seeming limitations notwithstanding. However, as noted in a preceding section of this report, it is still unknown at this time how those provisions will be organizationally formulated. It is also unknown how the courts will respond to those provisions once they have been formulated.

Historically, community corrections programs have been directed primarily either to offenders convicted of relatively minor crimes or those who do not have a significant criminal history. Research which the Sentencing Guidelines Commission staff is currently conducting should indicate what proportion of the State's felony population falls into those categories. This will better enable decision makers to know what potential impact the increased use of community corrections programs could have.

Historically, community corrections programs appear to have been emphasized for two reasons. First, such programs can provide an effective and sometimes more appropriate, response to crime in the community. Perhaps

more frequently, however, such programs have been implemented to ward off the high cost associated with more traditional forms of punishment. The National Council on Crime and Delinquency (N.C.C.D.) notes that implementation of a comprehensive system of community corrections frequently does not save money directly. This is because most such programs have been used to stop the projected increase in population as opposed to decreasing the existing level of incarceration. To do so, funds must be allocated to support new programs while continuing to fund existing facilities. However, the N.C.C.D. goes on to state that significant savings can be realized if the only alternative is the construction of new prisons.

The staff believes it is essential to note, however, that "non-prison" options will neither reduce the cost of incarceration, nor preclude the need for new construction (if such need has been established) unless such options are implemented with populations which actually would have been incarcerated otherwise. Thus, for actual cost savings to be realized, some offenders who now go to prison would have to receive less severe sanctions. Obviously, this cannot occur without increasing, at least to some degree, the risk posed to the community. This is a central policy issue which must be considered by the Legislature if it decides to take any action with respect to increasing either the availability or utilization of community corrections programs.

IV: NEW PRISON CONSTRUCTION PLANS AND COSTS

A. INTRODUCTION

1. Scope and Objectives

This section reports upon a related but separate study effort dealing specifically with the two medium security correction centers identified in Sections 1(1) and 1(2) of Chapter 23, Laws of 1982, 1st ex. session. It does not purport to deal with philosophy. In other words, its purpose is neither to justify nor critique these current projections within the framework of any particular philosophy or needs assessment. Rather, the primary purpose is to objectively analyze the projected costs relating to those projects.

A second objective is to review, analyze and assess the architect selection process of the Department of General Administration, with particular emphasis upon the recent selection of an architect for the prison projects.

A third objective is to review the design procedures regarding prison capital expenditures, with emphasis upon determining if proper and reasonable consideration is given to construction costs in the design process.

2. Major Activities

The following major activities were included in this study:

- (1) Attending and participating in the schematic and design development meetings between the Department of Corrections, Department of General Administration, and the Architect.
- (2) Researching various cost estimating and cost comparison methods.
- (3) Collecting data on out-of-state prison costs and design.
- (4) Travelling to four other states to compare costs, design and programs, and to collect useful ideas and techniques.
- (5) Reviewing the architect and independent cost estimator's cost estimates for the two prisons.
- (6) Computing and comparing cost differences.
- (7) Reviewing architect selection procedures.
- (8) Inspecting the Clallam Bay Site.

- (9) Observance of the final hearing of the draft Environmental Impact Statement (Clallam Bay).
- (10) Discussions with community leaders (Clallam Bay).
- (11) Review of design contract award procedures and file, interview with related personnel and observance of another "coin-flip" award.

B. ARCHITECT SELECTION PROCESS

1. Background

Chapter 23, Laws of 1982 called for an analysis of the Department of Corrections' prison design selection process by the Legislative Budget Committee. It is believed that this provision resulted from publicity and controversy arising from the award of the design contract for the Clallam Bay and Grandview prisons as a result of a coin toss.

2. Findings

a. Design Selection Process

Appendix V on page 143 is the Department of General Administration's internal procedure for the selection of architects and engineers. The procedure specifies slightly different methods for selection, depending upon the size or monetary value of the contract. This paper will concentrate upon Section V of the procedure (agreements involving a fee of \$25,000 or more) which applied to the prison designer selection process.

A five-member panel, consisting of two Department of Corrections members, two Department of General Administration members, and a private practice representative, conducted Phase I and II of the selection process. Phase I consists of preliminary written submittals by all interested firms and the selection of finalists. Phase II consists of oral presentations by the finalists and the ranking thereof, from which a first-ranked firm (winner) will presumably be selected for price negotiation and a contract. Predetermined weighted criteria are used in Phase II and are made known to all finalists. Each panelist's raw score for each criteria factor is multiplied by the weighting factor for that criteria to establish a panelist's score for each criteria and a total point score for each firm. The competing firms are then ranked by each panelist according to their total point score. At this point in the procedure, the point scores of each firm are used as determinants of the rank order (first, second, third, etc.). The inverse total of rank orders by the five panelists establish the rankings. In the event of a tie for first rank, the procedure calls

for a deciding coin toss. Interestingly, the tie-breaker feature was changed less than a year ago with the objective of optimizing the fairness of the selection process. Specifically, the coin toss was installed to replace a "jury process" - discussion and vote by the panel. It was felt that, since supervisors and their subordinates often serve on the selection panels, the votes of the subordinates were unduly influenced.

Alternative tie-breaking procedures considered before and/or since the change include:

- Use of raw score totals
- Ranking of tied entrants by raw score
- Re-vote with panel chairman participating
- Have chairman decide tie
- Decide upon basis of which firm has most first-rank votes
- Repeat oral interviews with tied firms
- Let some outside arbiter break tie

b. The Prison Designer Selection

The procedure was scrupulously followed by the prison design selection panel. At the end of Phase I, two firms were tied for third place, so the panel allowed the top four firms to enter Phase II, rather than the customary three. This was clearly within their authority, but was a factor without which the subsequent controversy would not have arisen.

The independent (private industry) panel member was highly reputable and qualified. But an analysis of the individual scores and rankings by panel members clearly shows that his judgment differed sharply from the judgment of the State government employees on the panel, and led directly to the tie and coin toss. Specifically, he ranked fourth (last) the firm ranked first by three panelists and second by the fourth panelist. (Had there been only three competing firms instead of four, a clear winner would have emerged - other than the subsequent coin toss winner.)

The coin toss between the two firms tied by rank order was won by a firm that received only one first-place ranking (as opposed to three first-place rankings) by the loser. The winner also had fewer weighted criteria score points than the loser.

c. Resulting Court Case

A legal action challenging the coin toss action was subsequently brought by the coin toss loser on the grounds that: 1) the coin toss procedure did not select the "most highly qualified firm" as required by RCW 39.80.040; and that 2) the Department of General Administration's internal procedure should have been formally adopted under the State Administrative Procedures Act.

A summary judgment in favor of the Department of General Administration resulted, essentially establishing that: 1) a formal rule was not legally required; and 2) a coin toss was a fair and legal method of breaking ties.

d. Comments of Key Personnel

The auditor reviewed the notes prepared shortly after the prison design selection by the panel members at the direction of the Director of the Department of General Administration. The author also interviewed two panel members and the coin toss loser. He participated in a second coin toss selection procedure and interviewed the winner and loser thereof. Finally, he requested verbal commentary from the Washington Council, American Institute of Architects, and the Consulting Engineering Council of Washington. In general, the consensus opinion was that the Department of General Administration had every intention to be fair and reasonable, but the coin toss for tie-breaking was an unfortunate method for making final decisions.

e. Joint Administrative Rules Review Committee Involvement

At this writing (December 1982) the Joint Administrative Rules Committee is reviewing Department of General Administration's posture regarding compliance or non-compliance with Chapter 39.80 RCW on selection procedures. Argument appears to center about: 1) whether the Department of General Administration's internal procedure is actually a rule that has not been formally and properly adopted; and 2) does the internal procedure fully comply with Chapter 39.80 RCW in this regard. To date, no decision has been reached and no Committee action taken.

3. Analysis and Recommendations

At no time did the author find any suggestion of immoral intent by anyone involved in the selection process. On the contrary, it appears that the Department of General Administration's dedication to fairness, i.e., the introduction of the objective coin toss as a tie-breaker and the inclusion of an outside panel member, resulted in the controversy.

It is interesting to note that the outside, independent selection panel member - placed upon the panel for the express purpose of insuring fair selection procedures through public participation - was the dissenting vote that caused the tie and triggered the coin toss process.

To its credit, the Department of General Administration, through its non-voting panel chairman, followed the pre-announced and published procedure to its conclusion.

The coin toss climax to a lengthy and meticulous selection process leaves a regrettable impression of casualness, frivolity or irresponsibility on the part of those making the selection and upon the process itself. This is a most unfortunate result and clearly incorrect. Controversy is heightened when, as in the instant case, the loser has clearly received a majority of first-place votes and higher point scores than the winner.

In short, the author concludes that the tie-breaking process outlined in Department of General Administration procedure and providing for a coin toss to decide ties is not conducive to either public confidence in the selection process or satisfaction and confidence on the part of competing firms. It should be replaced by a tie breaking mechanism which employs either raw score totals or rank order placements between the tied firms only.

RECOMMENDATION 5

That the Department of General Administration revise its procedures for selecting architects and engineers to provide that either raw score totals or integrated rank orders between tied firms only be the deciding factor in the event of a tie between competing firms.

Auditor's Note:

This report makes no further comment as to whether the Department of General Administration's internal procedure should be formally incorporated in the Washington Administrative Code, in deference to the work of the Joint Administrative Rules Committee.

C. DEFINITIONS AND TYPES OF COST

The many different types of costs associated with a capital construction project can lead to confusion unless they are most carefully defined. In his research and comparisons the author repeatedly encountered this problem. "The Cost of A New Prison", "Total Cost", and "Construction Cost" are all very loose terms which must be carefully defined for budget and comparison purposes.

Exhibit 20 is a partial list of costs related to new construction. It is shown here simply to illustrate the wide array of potential (and sometimes unpredictable) expenses which can be encountered, with the recommendation that the legislature carefully specify its intentions in any appropriation for prisons. Some of the costs shown are not included in the capital budget request, but will appear in the operating budget for 1983-85. Examples include Movable Equipment Costs.

Additionally, the term "life cycle cost" is yet another significant cost term, and will be discussed under the section of this chapter dealing with design.

Exhibit 20
Capital Project Cost Elements

A. LAND COSTS

- | | |
|---|------------------------------------|
| 1. Title or Lease Costs (One-time payments) | 4. Conditions on Purchase of Lease |
| 2. Right of Way Costs | a. Building Removal |
| a. Ingress and Egress | b. Debris Removal and Cleaning |
| b. Power and Telephone | c. Fill and Drainings |
| c. Water and Sewer | |

B. DESIGN COSTS

- | | |
|-------------------------------------|---|
| 1. Prime Architect/Engineer Fees | g. Life Cycle Cost |
| 2. Costs Incidental to Construction | h. Environmental Impact Statement Preparation |
| a. Special Consultants | i. Document Reproduction |
| b. Extra A & E Services | j. Local Building Permits |
| c. Site Survey | k. Construction Representative |
| d. Soil Investigation | l. Topographic Mapping |
| e. Testing Laboratory | m. Hydrologic Investigation |
| f. Plan Checking Fee | n. Advertising for Bidders |

C. BUILDING COSTS (Construction Contracts)

- | | |
|--|-----------------------------|
| 1. Site Work (Not covered in Land Cost) | 2. Buildings and Structures |
| a. Clearing and Disposal | 3. Off-site Improvements |
| b. Demolition | a. Access roads |
| c. Landscaping | b. Utilities |
| d. Earthwork and Grading | c. Fencing |
| e. Borrow Fill | 4. Other Contracts |
| f. Drainage | a. System Balancing |
| g. Water and Sewers | 5. Contingency |
| h. Paving, Walks and Parking | |
| i. Power, Lighting and Telephone | |
| j. Contingency for concealed underground conditions. | |
| k. Soil stabilization/Erosion Control | |

D. EQUIPMENT COSTS

- | | |
|--|---|
| 1. Movable | 2. Fixed (State Purchasing) |
| a. Partitions, Shelving, Furniture, Office Equipment, etc. | a. Carpets, Blinds, and Drapes |
| | b. Shop, Gym, Food Service, Medical, Security, Etc. |

E. MISCELLANEOUS COSTS

- | | |
|---|--|
| 1. Art Work per RCW 43.17.200 | 4. Community Impact Mitigation Costs (One-time Payments) |
| 2. Project Management by Department of General Administration | 5. Relocation and Moving Costs |
| 3. Bond Sale Costs | |

F. INDIRECT UNANTICIPATED AND INTANGIBLE COSTS OFTEN OVERLOOKED OR UNFORESEEN

- | | |
|--|--|
| ° Staff training related to new equipment or facility | ° Costs of Delay and Inflation |
| ° Debt Service Costs | ° Legal and Court Costs |
| ° Internal Departmental Costs (Project Management, Planning, Administration) | ° Cost of Leased land, building, or equipment (Recurring costs charged to operating budgets) |

D. COST ESTIMATES OF ARCHITECT AND ESTIMATOR

a. Contractor Construction Cost Estimates

1) Introduction and Summary

In accordance with the design contract, both the architect and an "Independent Estimator" subcontractor are required to deliver construction cost estimates at four specific points in the design process. The second pair of estimates was received November 1, 1982 upon the completion of the design development phase. Exhibits 21 and 22 are summaries thereof. The design contract specifies that the Maximum Allowable Construction Cost (MACC) should not exceed \$65 million. Although not specified by contract, target costs of \$35 million for Clallam Bay and \$30 million for Grandview are generally accepted as the proper division of the total.

The contractor and independent estimator construction cost estimates shown on Exhibits 21 and 22 are substantially over the maximum allowable construction cost for each project. Clallam Bay estimates are \$37.5 million and \$38.6 million as opposed to a \$35 million MACC. Grandview estimates are \$31.2 million and \$30.0 million. Detailed review by the contractor confirmed the Clallam Bay estimate and suggested it might be as much as \$39 million.

At this writing, efforts are underway to modify the design, consider cheaper construction methods, and explore the potential for certain costs to be borne by other funding (county payment for the access road and a Department of Energy grant towards a wood-fired boiler system).

Costs are not irretrievably beyond budget at this writing. Alternatives and modifications to stay within budget (MACC) are being explored.

2) Contractor Cost Incentive

The design contract stipulates that if the lowest construction bids exceed the MACC, project revision (including drawing revision) to bring the cost within the MACC will be accomplished at the architect's expense. The architect therefore has some incentive to produce accurate cost estimates for the purpose of avoiding out-of-pocket revision costs.

3) Contractor and Subcontractor Qualifications

By interviews with key personnel of both the contractor and subcontractor, and verification by the Department of General Administration, the author was satisfied that both firms and their key personnel were highly experienced and totally qualified to prepare these cost estimates. He was further assured that the independence of the subcontractor's estimate would not be compromised by his subcontractor status.

4) Contractor Methodology

Both the contractor and subcontractor utilize the William R. Orr computerized construction cost estimating system. However, both "load" this system with their own cost data, material quantities extracted from the design documents, and judgmental modifications for such matters as labor productivity, climate and transportation. Painstaking manual review is an inherent part of the process. The Department of General Administration assured the author that this was a widely-used and professionally accepted methodology.

Exhibit 21

COST ESTIMATE - SITE A (CLALLAM BAY)
Made By TRA/WMFL

1. Phase 1 - Site Preparation	\$ 1,152,000
2. Phase 2 - Heat Generation Plant	2,383,000
3. Phase 3 - Housing	14,994,000
4. Phase 4 - Support Buildings, Utilities & Site Work	<u>16,845,000</u>
5. Total Construction Cost	\$35,374,000
6. Contingency	<u>2,122,000</u>
7. Total	\$37,496,000

The following additive alternates are listed for consideration:

1. Construction of Guard Tower No. 5	\$ 150,000
2. Inverted Roof System	70,000
3. Landscaping, Irrigation, Athletic Field	468,000
4. Stainless Steel Security Toilet	110,000
5. Hinged Type Access Doors	196,000
6. Staff Housing	<u>900,000</u>
Total	\$ 1,894,000

Exhibit 21, Continued

COST ESTIMATE - SITE A (CLALLAM BAY)
Made By CONSTRUCTIONEERING INC.

1. Phase 1 - Site Preparation	\$ 1,794,000
2. Phase 2 - Heat Generation Plant	2,643,000
3. Phase 3 - Housing	12,887,000
4. Phase 4 - Support Buildings, Utilities & Site Work	<u>18,455,000</u>
5. Total Construction Cost	\$35,779,000
6. Contingency	<u>2,862,000</u>
7. Total	\$38,641,000

The following additives are listed for consideration:

1. Construction of Guard Tower No. 5	\$ 152,000
2. Inverted Roof System	80,000
3. Landscaping, Irrigation, Athletic Field	475,000
4. Stainless Steel Security Toilet	115,000
5. Hinged Type Access Doors	225,000
6. Staff housing	<u>918,000</u>
Total	\$ 1,965,000

Exhibit 22

COST ESTIMATE - SITE B (GRANDVIEW)
Made By TRA/WMFL

COST ESTIMATE - SITE B (GRANDVIEW)
TRA/WMFL

1. Phase 1 - Site Preparation	\$ 1,142,000
2. Phase 2 - Heat Generation Plant	567,000
3. Phase 3 - Housing	13,549,000
4. Phase 4 - Support Buildings, Utilities & Site Work	<u>14,592,000</u>
5. Total Construction Cost	\$29,859,000
6. Contingency	<u>1,792,000</u>
7. Total	\$31,651,000

The following additives are listed for consideration:

1. Construction of Guard Tower No. 5	\$ 170,000
2. Inverted Roof System	70,000
3. Landscaping, Irrigation, Athletic Field	413,000
4. Stainless Steel Security Toilet	100,000
5. Hinged Type Access Doors	<u>196,000</u>
Total	\$ 949,000

Exhibit 22, Continued

COST ESTIMATE - SITE B (GRANDVIEW)
Made By CONSTRUCTIONEERING INC.

COST ESTIMATE - SITE B (GRANDVIEW)
CONSTRUCTIONEERING

1. Phase 1 - Site Preparation	\$ 1,518,000
2. Phase 2 - Heat Generation Plant	552,000
3. Phase 3 - Housing	11,641,000
4. Phase 4 - Support Buildings, Utilities & Site Work	<u>14,107,000</u>
5. Total Construction Cost	\$27,818,000
6. Contingency	<u>2,225,000</u>
7. Total	\$30,043,000

The following additive alternates are listed for consideration:

1. Construction of Guard Tower No. 5	\$ 127,000
2. Inverted Roof System	75,000
3. Landscaping, Irrigation, Athletic Field	425,000
4. Stainless Steel Security Toilet	120,000
5. Hinged Type Access Doors	<u>210,000</u>
Total	\$ 957,000

b. Non-Construction Cost Estimates

Exhibits 23 and 24 are the DOC Capital Project Technical Summaries (Form C3) including budget requests for Clallam Bay and Grandview respectively. They represent the total project budget estimates for each project, whereas Exhibits 21 and 22 correspond only to cost element C of this total budget request - "Building Costs."

Cost element A (Land) appears reasonable based upon an 80 acre site valued at \$3,000 per acre, plus potential right-of-way costs. However, these costs have not been finalized and will be subject to negotiation with the Department of Natural Resources (Clallam Bay) and City of Grandview. Cost element B (Design Costs) are consistent with existing contracts and appear reasonably firm.

Cost element D (Equipment) includes only certain owner-furnished material which will be manufactured by Institutional Industries. It consists largely of sheet-metal-fabricated items including cell furnishings (shelves, beds) and dining area furniture. It is based upon estimates furnished by Institutional Industries and is considered accurate. However, the subject of equipment in capital budgeting is further addressed in the following section.

Cost element E (Miscellaneous) is considered reasonably accurate. The 1/2% for artwork is required by law. The project management fee is in accordance with the ongoing contract for professional services between the departments of Corrections and General Administration, although the amount charged to each project is adjustable by DOC. Community Impact Mitigation funds may well be an added cost under this element. No amount has been negotiated with local authorities. A maximum of \$50,000 in one-time costs reasonably applicable to a construction budget is anticipated by DOC representatives.

One questionable item in the C2 forms is the sales tax computation at 6.5%. The Department of Revenue has advised that the proper rate is 5.9% at this writing, but could be adjusted by a local option sales tax change. If not changed, the difference in sales tax computation would reduce necessary funding by \$184,500 at Clallam Bay.

A second questionable item is the inflation rates utilized to extend costs. Some evidence suggests that rates will be less than the OFM-suggested rates of 9.2% for FY 1983 and 1984, and 8% thereafter. The reader is referred to Exhibit 25 which sets forth various recent rates. The architect used a 6% inflation rate in his construction cost estimate (Exhibits 12 and 13).

Exhibit 23

Form C3		STATE OF WASHINGTON		83-85/1	
(Rev. 7/81)		CAPITAL PROJECT TECHNICAL SUMMARY		CLALLAM BAY	
PROJECT TITLE (1)	CODE (2)	PRIORITY (3)	AGENCY (4)	CODE (5)	
500-Bed Facility	6	83-1	DOC	310	
BUDGET ESTIMATE (6)			AGENCY COMMENTS (7)		
ELEMENT	BASE COST	INFLATION ALLOWANCE	ADJUSTED COST		
A. Land	\$ 292,631	116.7 %	\$ 341,500		
B. Design					
Arch/Engr Fees	\$ 1,813,196				
Costs Incidental to Constr.	\$ 338,368				
TOTAL	\$ 2,151,564	116.7 %	\$ 2,510,876		
C. Building					
Site Work	\$ 2,365,039				
Buildings	\$ 27,626,392				
Other Contracts	\$				
TOTAL (C1+C2+C3)	\$ 29,991,431	116.7 %	\$ 35,000,000		
Contingency 10 % of C4	\$ 1,499,572				
.065% Sales Tax of C4	\$ 1,859,469				
TOTAL (C5+C6)	\$ 3,359,041	116.7 %	\$ 3,920,008		
D. Equipment					
Equipment	\$ 750,000				
.065% Sales Tax	\$ 46,500				
TOTAL	\$ 796,500	116.7 %	\$ 929,516		
E. Miscellaneous					
Artwork (1/2 of 1% of C2)	\$ 138,132				
Project Management	\$ 115,000				
Other (Explain under Agency Comments)	\$ 0				
TOTAL	\$ 253,132	116.7 %	\$ 295,405		
GRAND TOTAL	\$36,844,299	116.7 %	\$42,997,305		
UNIT COST	\$ 107.68		\$ 125.67		
PROJECT STATISTICS (8)			PROJECT SCHEDULE (9)		
Enclosed Gross Area	256,544	Sq. Ft.	Land Acquisition	Start	Complete
Net Assignable Area	185,090	Sq. Ft.	A/E Selection	N/A	N/A
Efficiency	0.72	%	Preliminary Design	07- -82	09- -82
Non-Assignable Area	71,454	Sq. Ft.	Design Development	09- -82	11- -82
TOTAL Adjusted Area	256,544	Sq. Ft.	Working Drawings	11- -82	03- -83
			Bidding	03- -83	04- -83
			Construction	04- -83	04- -85
CASH DISBURSEMENTS (10)					
FUND TITLE	FY 84	FY 85	FY	FY	FY
075 - DSHS Construction Acct	4,654,623	28,592,682			

Form C3 STATE OF WASHINGTON
(Rev. 7/81 CAPITAL PROJECT TECHNICAL SUMMARY) -- GRANDVIEW

PROJECT TITLE (1)	CODE (2)	PRIORITY (3)	AGENCY (4)	CODE (5)
500 - Man Corrections Center	6	83-2	DOC	310
BUDGET ESTIMATE (6)				AGENCY COMMENTS (7)
ELEMENT	BASE COST	INFLATION ALLOWANCE	ADJUSTED COST	
A. Land	\$ 286,493	119.2 %	\$ 341,500	
B. Design				
Arch/Engr Fees	\$ 796,141			
Costs Incidental to Constr.	\$ 148,762			
TOTAL	\$ 944,903	119.2 %	\$ 1,126,324	
C. Building				
Site Work	\$ 515,940			
Buildings	\$24,651,845			
Other Contracts	\$ 0			
TOTAL (C1+C2+C3)	\$25,167,785	119.2 %	\$30,000,000	
Contingency 10 % of C4	\$ 1,232,592			
.065% Sales Tax of C4	\$ 1,560,403			
TOTAL (C5+C6)	\$ 2,792,995	119.2 %	\$ 3,329,250	
D. Equipment				
Equipment	\$ 750,000			
.065% Sales Tax	\$ 46,500			
TOTAL	\$ 796,500	119.2 %	\$ 949,428	
E. Miscellaneous				
Artwork (1/2 of 1% of C2)	\$ 123,259			
Project Management	\$ 115,000			
Other (Explain under Agency Comments)	\$ 0			
TOTAL	\$ 238,259	119.2 %	\$ 284,005	
GRAND TOTAL	\$30,226,935	119.2 %	\$36,030,507	
UNIT COST	\$ 96.09	119.2 %	\$ 114.54	

PROJECT STATISTICS (8)			PROJECT SCHEDULE (9)		
Enclosed Gross Area	256,544	Sq. Ft.	Land Acquisition	Start	Complete
Net Assignable Area	185,090	Sq. Ft.	A/E Selection	N/A	N/A
Efficiency	0.72	%	Preliminary Design	07- -82	09- -82
Non-Assignable Area	71,454	Sq. Ft.	Design Development	09- -82	11- -82
TOTAL Adjusted Area	256,544	Sq. Ft.	Working Drawings	11- -82	07- -83
			Bidding	07- -83	08- -83
			Construction	08- -83	08- -83

CASH DISBURSEMENTS (10)					
FUND TITLE	FY 84	FY 85	FY	FY	FY
075 - DSHS Construction Acct	4,627,071	28,423,436			

c. Costs Not Included in Estimates

1) Movable Equipment

The cost of much movable equipment such as furniture, shelves, office equipment, etc., is not included in the capital cost estimates. There are varying arguments as to whether such costs should be so included and/or considered appropriate for funds. These cost amount to \$1,274,481 for the Monroe prison, and appear in the 1983-85 operating budget report. Costs for movable equipment presumably would be of similar magnitude for Clallam Bay and Grandview.

The auditor is concerned: (1) that these costs are not visible to the Legislature as an element of total project cost; and (2) that there is an apparent discrepancy between Office of Financial Management capital budget instructions to State agencies and actual practice. The Office of Financial Management's Capital Budget Instructions (Page 32 and the C3 form on page 21) indicate such items should be included in capital budget requests. However, the Department of Corrections budgets these items in the operating budget, and OFM is vague in discussions about how it should be done.

2) Indirect, Unanticipated and Intangible Costs

Exhibit 20 lists several familiar types of costs that are often given no recognition when a project is proposed and funded. The list does not include every possibility. The purpose of this section is simply to insure the reader's awareness of them. Three will be discussed briefly.

Debt Service Costs appear in budget program 010 of the State budget - not in the operating budget of the agency or department concerned. Since they will continue for the life of the bonds, and are of a substantial amount, they should receive appropriate recognition at this time, since they will probably never again be recognized as a cost related to these projects.

Costs of Delay and Inflation refers to escalation of costs that may take place if the projects are undertaken at a later date than currently planned.

Legal and Court Costs refer to that type of costs which may result from legal challenges by any individual or group opposed to a prison project, including those seeking to disrupt or delay progress towards its construction.

d. High and Low Risk Cost Elements

After compilation of the study fieldwork, the auditor is of the opinion that the following factors represent the most significant areas of risk, with the potential for driving costs above any budgeted amount.

Clallam Bay Climatic Conditions - the 100+ inches of rain per year have an adverse effect on productivity. Mud, drainage problems, and decreased labor productivity are obvious possibilities.

Legal Actions - while the communities generally favor the project, there do exist hostile elements opposed to siting a prison at both Clallam Bay and Grandview. The author will not speculate as to the precise nature of potential lawsuits, but one need not look far to find numerous precedents whereby other capital projects with determined opposition have been made subject to lengthy and costly delays by a variety of legal actions.

Grandview Site Pollution - at this writing tests are underway to determine if reported dumping of waste fertilizer products has made the Grandview site unusable from a health standpoint.

Local Code Enforcement - current statutory provisions require State buildings to meet all local government building codes. The various officials involved include building inspectors, health officials, fire department personnel, and others. A single overly zealous official - perhaps opposed to this controversial and emotional project - is thereby provided the tools for causing extensive delay.

The following factors should help to either reduce costs or minimize cost risks:

No "Fast Track" - Current plans call for full completion of plans prior to construction contract bidding (excepting site preparation). This can reasonably be expected to reduce uncertainties, contingency reserves, and expensive change orders.

Prototype Concept - If the single design is utilized as planned, at both Clallam Bay and Grandview, the opportunity will exist to correct problems and avoid errors on the second project, as well as to generally profit from previous experience. A favorable cost impact should result.

e. Verification of Cost Estimates by Legislative Budget Committee

Section 1, Chapter 23, Washington Laws of 1982 call for the "total cost" of the two medium security corrections centers to be "... verified by the legislative budget committee with assistance from the department of general administration ...".

The Legislative Budget Committee finds that the construction cost estimates of the architect and the independent subcontractor have been prepared by qualified and experienced personnel using the best available data, methods and technology. The Committee is concerned that these estimates are currently above the budgeted construction cost (Element C of Exhibits 23 and 24). The Committee finds that non-construction costs shown on Exhibits 23 and 24 appear generally consistent with existing contracts and statutes and appear reasonable.

This report has, by Exhibit 20, attempted to identify most, if not all, of the many costs associated with a capital budget project such as a prison. All the cost elements of Exhibit 20 comprise the total cost of such a project. Some of the elements comprising "total cost" are not included in the cost estimates of Exhibits 21 through 24. This report further identifies certain potential unanticipated and unforeseen costs.

The Legislative Budget Committee finds that there are many uncertainties in the construction of a major project such as a prison and that costs cannot be entirely foreseen. It notes a substantial contingency is included in the capital budget request for these prisons. It finds that the cost estimates represented by Exhibits 21 through 24 appear reasonable and logical, but cannot guarantee that actual costs will not exceed these estimates.

E. COST COMPARISONS TO OTHER STATES

At the last session of the Legislature, various figures were circulated suggesting that other states were building prisons at a substantially lower cost per bed than projected costs for Clallam Bay and Grandview. The Legislature indicated an interest in comparing Washington State's estimated costs to actual and estimated costs of other states. The LBC made comparisons as a part of this study, using three different approaches or methods.

1. Findings

a. Method #1 - Adjustments to Other States' Figures

The author selected seven newly-built or under-construction projects in other states that he considered generally comparable to the Washington planned prison at Clallam Bay. He then determined the "total cost" of that out-of-State prison, ensuring that it included the same cost elements as the Clallam Bay cost estimates. The out-of-State cost was then adjusted as follows:

- 1) For the difference in square feet between it and Clallam Bay.
- 2) For the effect of inflation between times of construction completion and planned completion of Clallam Bay.
- 3) For the regional cost-of-construction indexes.
- 4) For the difference in taxes and artwork.

For inflation through fiscal year 1982, the researcher used the Boekh Building Cost Index for Commercial and Manufacturing Buildings, as computed and published by the American Appraisal Company. The calendar year average was considered to be the rate at the close (June 30) of each fiscal year. The Boekh Index and several well-known indexes are shown as percentage increases on Exhibit 25. Let the author be the first to point out that there are substantial differences between these widely-accepted indexes. The Boekh Index was chosen because it fell in the middle of the spectrum.

For fiscal year 1983 and beyond, the researcher used the OFM-recommended rates as contained in the 1983-85 Capital Budget Instructions (9.2% for FY 1983 and 1984, and 8% thereafter).

<u>SOURCE</u>	<u>FY 1980</u>	<u>FY 1981</u>	<u>FY 1982**</u>	<u>FY 1983</u>	<u>FY 1984</u>	<u>FY 1985</u>
Engineering News-Record Building Cost Index (Change Between Calendar Year Averages)	7.1	7.6	6.5			
*Boeckh Building Cost Index American Appraisal Co. Commercial and Manu- facturing Buildings	9.3	9.9	9.3			
R. S. Means Company Construction Cost Index (Change Between Calendar Year Averages)	9.5	10.6	10.2			
Department of Commerce Composite Cost Index of Construction (Change Between Calendar Year Averages)	11.4	6.6	4.0			
*OFM Estimates from 1983-85 Capital Budget Instructions				9.2	9.2	8.0

* Used by author for Comparable Cost Estimates.
** Estimated and/or extrapolated.

Construction Cost Inflation Rates In Percent

Exhibit 25

For regional cost differentials, the author used data from the 1982 Dodge Manual For Building Construction Pricing and Scheduling, as assembled and published by McGraw-Hill Informations Systems Company. Several cost indexes for cities located nearest the out-of-state prison sites are shown on Exhibit 26 as percentages of Seattle cost, together with the conversion factor by which each must be multiplied to find equivalent Seattle area costs. Here again, there are substantial variations between indexes. The Dodge Manual was chosen as representing the middle of the spectrum.

The adjustment for taxes and art reflects the local and State sales taxes payable in Washington as compared to the other state, and of the one-half percent for artwork required by RCW 43.17.200. A 6.5% taxation rate was utilized in accordance with OFM's directives. However, the current rate applicable to the Clallam Bay site is 5.9% according to the Department of Revenue. Adjustment of the local option sales tax prior to construction is, of course, quite possible.

Exhibit 27 contains comparative data for the seven out-of-state prisons selected for comparison, together with the "Comparable Cost" computation described above. The comparable cost can also be described as "the cost to duplicate the out-of-state prison in Washington State in the same time frame as Clallam Bay construction is planned, if it were the same size (square footage) as Clallam Bay."

b. Method #2 - Computer Comparison

The author, with the assistance of the Department of Social and Health Services, queried the data base of the William R. Orr national estimating system of Dallas, Texas. In summarized terms, the computer was asked to compute construction costs for a low-rise, maximum security, concrete construction, medium quality specifications prison, in terms of July 1982 dollars, for various locations.

The computer utilized as a data base 14 actual recently-constructed prisons, together with the Orr organization's data on construction costs in different locations. Exhibit 28 displays the cost computation results of this methodology. Of the eight out-of-state cities selected, five were lower than Seattle costs and three were higher, not including sales tax. With sales tax considered, only one would have higher costs than the Seattle area.

The cost per cell for Seattle construction would be \$77,177 for construction costs only in July 1982 dollars.

Exhibit 26
Selected Construction Cost Indices
(Expressed as a percentage of Seattle Costs)
And Conversion Factors
(To convert to Seattle Costs)

Cost Indexes - Seattle = 100%	Raleigh	Savannah	Phoenix	Las Vegas	Peoria	New York	Boston
<u>National Cost Estimator</u>							
Wage Modification Factors (Carpenter/Laborer/ Electrician/Plumber) Conversion Factor	54% 1.87	62% 1.62	87% 1.15	101% .99	85% 1.18	100% 1.00	83% 1.20
<u>Robert Snow Means Manual</u>							
City Cost Indexes Conversion Factor	79% 1.27	83% 1.21	95% 1.05	99% 1.01	93% 1.08	100% 1.00	95% 1.06
<u>Dodge Manual</u>							
Combined Labor and Material Indexes Conversion Factor	69% 1.45	74% 1.35	93% 1.07	89% 1.13	89% 1.12	100% 1.00	95% 1.05
<u>Engineering News-Record</u>							
Building Cost Index Conversion Factor	Atlanta 91% 1.10				Chicago 86% 1.16	New York 88% 1.14	Boston 91% 1.10

Exhibit 27
Comparison to Other States

	Carolina	Georgia	Arizona	Nevada	Illinois	New York	Massachusetts	Washington	Washington
Cost (Thousands)	\$18,000k	10,490k	47,000	30,500	31,312	23,200	31,247k	33,862k	43,000k
Beds	480	406	1,200	612	750	495	400	500	500
Location	Greene City	Chester	Perryville	Indian Springs	Hillsboro	Otisville	Bridgewater	Monroe	Clallam
Building Square Feet	193,700	157,727	329,789	270,869	316,212	273,637	241,570	254,540	272,806
Cost Per Bed	37,500	25,837	39,167	49,836	41,769	46,867	75,842	67,724	86,000
Square Feet/Inmate	404	388	275	443	422	553	604	509	517
Completion Date	1/83	3/82	3/81	4/82	7/81	3/81	5/85	12/83	5/85
Inflation Factor*	123%	131%	143%	130%	140%	143%	-0-	112%	112%
Staff Plan (Excludes academic teachers)	269 1/2		586.4		432			313.5	304.6
Staff/Inmate	.56		.49		.58			.63	.61
Taxes	-0-	-0-	5% on 1/3 of Construction Only	5 3/4- Material Only	-0-	-0-	Unknown		
"Comparable Cost"*** (In Thousands)	48,377	34,333	62,660	46,986	45,322	35,391	39,645	40,647	
Comparable Cost/ Beds	100,765	84,564	52,166	76,774	45,322	71,456	99,112	81,294	

COMPARISON TO OTHER STATES

* Inflation between date of completion and Clallam Bay planned completion date.
** Original cost adjusted for regional cost differences, inflation, square footage of Clallam Bay, applicable taxes and 1/2% for art.

Exhibit 28

William Orr Cost Estimation System Computerized
Cost Computation Results

	<u>With Air Conditioning</u>		<u>Without Air Conditioning</u>	
	<u>Cost*</u>	<u>% of Seattle Cost</u>	<u>Cost*</u>	<u>% of Seattle Cost</u>
Seattle	25,732,412	100%	24,696,491	100%
Raleigh	20,006,653	78%	19,075,817	77%
Atlanta	22,176,820	86%	24,051,333	85%
Los Angeles	26,901,836	105%	25,800,009	104%
Phoenix	24,792,816	96%	23,606,182	96%
Las Vegas	28,302,780	110%	26,950,084	109%
Springfield	24,997,297	97%	23,859,980	97%
New York	25,987,373	101%	24,956,428	101%
Boston	23,496,338	91%	22,502,975	91%

* Taxes not included.

For a 320-Bed, Maximum Security Prison, 168,992 square feet, concrete construction, in July 1982 dollars.

c. Method #3 - Visits to Selected States

The author, in company with the Administrator of the Department of Corrections' Office of Capital Programs and the Manager of the Department of General Administration's Division of Engineering and Architecture, traveled to four states that have recently constructed or are constructing new prisons. The general objectives were to collect comparative data and to attempt to identify any cost-saving techniques or methods that would be useful to Washington State.

Appendix VI is a basic list of questions developed before departure. Actual conversations and inspections of structures were much more detailed.

Major findings resulting from the four-state trip are:

- ° The states visited do not prepare Environmental Impact Statements which approach the depth, detail and cost of those required in Washington State.
- ° Labor costs at the North Carolina prison were reported as being between \$5.00 and \$8.00 per hour and an estimated 20% of total construction costs. By contrast, the Washington State Department of Labor and Industries reports that the following key wage rates applied in Clallam Bay under the State's prevailing wage law.

General Laborer	\$18.04
Carpenter	19.72
Cement Finisher	20.41
Plumber	25.07
Electrician	25.14

The Department of General Administration has roughly estimated that labor will comprise 50% of total construction costs at Clallam Bay.

- ° The states visited do not comply with local building codes, or permit local inspections by local officials.
- ° "Medium Security" is a vague and general term with different meanings in different states. What some states call a medium security prison is a substantially lower security level than that designed into the two planned Washington State prisons.

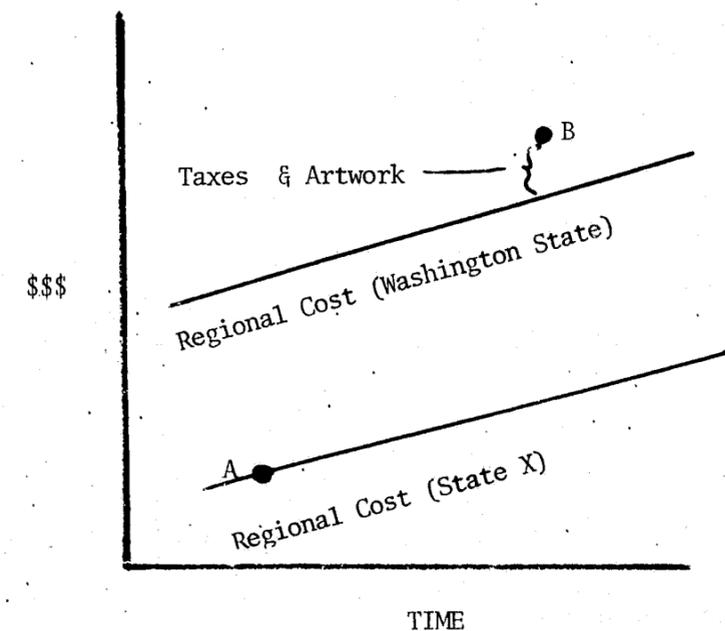
- Many medium security prisoners in other states would apparently never be incarcerated in Washington State or would be at work-release centers or honor camps, or on probation or parole.
- As compared to Washington State's sales tax on both materials and labor, most states pay either nothing or a substantially reduced amount.
- Most states do not expend one-half of 1% for art, as required by current Washington State law.
- Arizona, with its mild climate, has utilized "motel-type" outside cell entrances and outside recreation areas, both of which minimize building costs.
- Some savings can be realized by centralizing fixed services (kitchen, warehouses, medical facilities, perimeter control) for a cluster of institutions at adjacent sites, if an appropriate location can be found for such a complex.
- Recent prison construction projects in other states were particularly low-cost due to economic conditions and would cost substantially more to complete today. A copy of the North Carolina official 1983-1985 biennium budget request for a similar 500-man medium security prison to be completed in late 1986 shows an anticipated cost of \$34.7 million excluding land. This compares to the \$18 million in costs of the current project now nearing completion in Greene County, North Carolina.
- Published or reported costs were generally inaccurate or misleading.

2. Analysis, Conclusions and Recommendations

The general problem in making cost comparisons to other states is illustrated by Exhibit 29. One is basically comparing Point A to Point B. Regional costs are indicated by the two curves, of which Seattle's is generally higher. The lines are constantly rising due to inflation, and this increases the cost difference between facilities built at different times. The added cost of sales tax and artwork in Washington State further raises the cost of local construction. In diagrammatic form, this was the process used in Method #1.

Exhibit 29

Conceptual Comparison Of Cost Of Previously Built Prison In "State X" To Planned Washington State Prison



Method #1 clearly indicates that the cost to construct a prison similar to that of any other state's example chosen, in Washington State, in the same time frame as Clallam Bay is planned, will result in sharply increased costs that are much more in line with the anticipated costs of Clallam Bay. Method #1 findings show a much more tightly grouped set of costs for various locations, clearly indicating the distorting effect of inflation when comparing costs incurred at different times.

Method #2 findings compare costs of an identical building if built in different states but at the same time. By eliminating the distorting effects of inflation between time periods and differing building designs, the results confirm that Washington State is a high construction cost area, particularly after taxes and artwork. Interestingly, the results suggest a cost of \$77,177 per cell for construction costs only, in 1982 dollars, for a maximum security prison. Projected costs for Clallam Bay, in 1984 dollars, are \$70,000 in construction costs only, for a prison that approaches maximum security. In 1984 dollars, the model indicates a cost of \$92,030 per cell. In short, Method #2 suggests that proposed costs for Clallam Bay are at least reasonable, if not actually low.

Method #3 findings from actual discussions with key officials from four other states and actual observation of their new prisons, were reported previously and will not be repeated here.

Conclusions

The researcher found no indications that the estimated cost of Clallam Bay is excessive, or any simple ways that it could be radically reduced. It was concluded that the following nine major factors account for differing prison construction costs between states:

- 1) Effect of inflation between construction times of different prisons.
- 2) Regional construction cost differences for labor.
- 3) Climatic conditions effecting design.
- 4) Availability and/or distance to utilities and existing roads.
- 5) Differences in levels of security. ("Medium Security" varies greatly between states.)
- 6) The in-house programs to be accommodated.
- 7) Single cell occupancy or multiple occupancy.
- 8) Effect of taxes and statutes on costs.
- 9) Whether the facility is a complete prison or a simple modification or addition.

Recommendations

The two areas that stand out as candidates for possible legislative action are the provision of 1/2 of 1% of the construction cost being expended for art, and the requirement of Chapter 19.27 RCW that the State comply with local building code amendments and local administration and enforcement. In short, other states contacted had no such provisions to comply with and an opportunity for reduced expenditures appears available for each of these items.

The art issue is self-evident. It could reduce construction costs at Clallam Bay by approximately \$138,000 and at Grandview by approximately \$123,000.

With respect to the requirement that the State must comply with local building code amendments and administration and enforcement, it would appear to offer unlimited opportunity for costly delays by local officials opposed to the siting of a prison in their community. The highly controversial nature of prison construction is well known, and the Clallam Bay and Grandview sites both have opponents as well as supporters. There are obviously many conflicts between prison security requirements and building regulations--easy-to-open exits in case of fire being a classic example. The Monroe project was successfully delayed by local officials through this legislation. A single local official opposed to a prison project could cause unreasonable delay and excessive cost through the misuse of this provision.

RECOMMENDATION 6

That the standing committees consider the advisability of specifically exempting prison projects from the provisions of Chapter 19.27 RCW which requires compliance with amendments to the State building code made by local jurisdictions, and local administration and enforcement of the building code.

RECOMMENDATION 7

That the standing committees consider whether the expenditure of 1/2 of 1% of the construction cost for art is appropriate for prison projects, and whether these projects should be specifically exempted from this requirement.

F. DESIGN COST CONSIDERATIONS

1. Cost Provisions of Designer Contract

The design contract stipulates that the Maximum Allowable Construction Cost for the two prisons shall be \$65 million. If the lowest construction bids exceed the MACC, the architect is required to make project revisions (at his own expense) to bring the cost within the MACC. This provision represents a commendable effort by the Department of General Administration and Corrections to place a cost ceiling upon the project with some meaningful incentive attached. It is a significant design cost control measure.

2. The Program Document

As a normal first step in the design process, a comprehensive program document was developed by the architect and DOC, covering philosophical, operational and functional concepts, and objectives, policies and procedures of the planned prisons. Such a document is intended as a guide for the architect in developing a design that will meet requirements in a cost-effective manner.

3. Standards Pertaining to Prison Costs and Design

a. Why Observe Standards?

An obvious question to be asked is whether the various prison standards previously discussed - particularly those of the Department of Justice and the American Corrections Association - need to be followed. Obviously, construction costs could be reduced if these standards were ignored. A simple and clear answer is not available.

The primary arguments (other than one's personal philosophy regarding crime, punishment and humanitarianism) for observing the several standards stem from the interest of the Federal courts and the Federal Government in prisoners: rights and prison standards.

The current interest of a Federal judge in the State's prisons and the various restrictions placed upon the operations of these prisons by the court, are matters of which the reader is generally aware. It seems possible if not probable that federal courts will continue to take an interest in this field. Observance of the

standards in new prison design appears to give the State a defensible position from legal challenges which would reduce the operating cost-effectiveness of the prisons, once constructed, or require expensive structural modifications.

Maintaining eligibility for any Federal grant programs applicable to prisons is a closely related general argument. No significant grant programs currently exist, but it would appear logical that if any occur in the future, being in compliance with both ACA and USDJ standards would enhance the State's eligibility and competitive position for any available funds.

b. Quantitative Standards

The 10-year facility plan for the Washington Department of Corrections includes a summary of standards for correctional institutions, including standards published by:

- The American Correctional Association (ACA)
- The American Medical Association (AMA)
- The American Public Health Association (APHA)
- The United States Department of Justice (USDJ)

The author chose from that summary those particular standards with the maximum impact upon costs for review and comparison with the schematic design documents. Commentary on key items follows:

- 1) Single/Multiple Occupancy Cells - Although not absolutely clear, both ACA and USDJ standards appear to prohibit two-man occupancy of cells designed or rated for single occupancy. The ACA requires a minimum of three occupants of a multiple-occupancy room and indicates that multiple occupancy is permitted in minimum security institutions only. The Clallam Bay prototype utilizes single-occupant cells only.

- 2) Size of Single-Occupant Cells

(Less than 10 hours per day in cell)

The USDJ requires 80 square feet. The ACA requires 60. The prototype calls for 60 square feet for general housing cells.

(More than 10 hours per day in cell)

Both ACA and USDJ require 80 square feet. The USDJ requires a minimum of 7 feet in width. The schematic designs call for 80 square feet with 6 feet in width.

- 3) Plumbing - the ACA standard requires 24-hour access without staff assistance to a toilet and wash basin. The USDJ is vague. If cells are locked at night, in-cell plumbing fixtures appear mandatory per the ACA standard. Actual design complies with the ACA standard. (Extensive consideration was given to common toilet rooms and intentional non-compliance with the ACA standard.)
- 4) Cell Furnishings - ACA, USDJ, and the prototype design all call for a bed above floor level, desk, hooks or closet, chair or stool. The prototype complies.
- 5) Day Rooms - ACA standard says 35 square feet per general inmate, APHA says 30 square feet with 35 preferred. Actual plans call for 27.9 square feet per inmate.
- 6) Kitchen (Excluding Storage) - ACA standards require 10 square feet per inmate. APHA standards require 7 to 9 square feet. Actual design approximates 8, including related administrative areas.
- 7) Dining - APHA provides the only quantitative square feet standard which is 9 to 12 square feet per inmate. Actual, including serving area, is 13.3 square feet/inmate or 9.6 square feet without serving area.
- 8) Gymnasium Space - A high ceiling space, 60 x 100 feet, is required by ACA standards. The prototype contains 6,865 square feet in an area 80 x 86 square feet.

c. Non-Quantitative Standards

A variety of non-quantitative standards exist that do not lend themselves to definitive analysis against the design schematics. For example, acoustical standards, heating and ventilating standards, water quality standards, and standards relating to operating procedures.

The auditor has perused those non-quantitative standards appearing in the 10-year facility plan of the DOC and found no obvious instances where the design embodies extra construction costs to exceed minimum requirements.

d. Analysis and Conclusions

The auditor understands that the Legislature in 1982 was very concerned that the proposed prisons might represent "Cadillacs instead of Chevrolets". The author found no evidence that the basic standards cited previously are substantially exceeded. In the critical matter of cell size for general housing, the design complies only with the 60 square feet minimum of the ACA and does not meet the 80 square feet USDJ standard. Also, standards for day rooms and the gymnasium are not met.

The auditor has previously explained that not all the referenced standards lend themselves to comparison with the design documents. However, with respect to those significant standards where comparison is possible, one must conclude that the current design is an "economy model".

4. Design Development Meetings

The auditor has attended most of the meetings between the architect and the Department of Corrections and General Administration at which the prison layout and basic design were formulated. He can testify that there was a cost consciousness throughout this process with respect to both construction and operating costs. Among the specific cost-related decisions were the following:

- A decision to utilize the operationally-preferred sliding cell doors only in the Intensive Management Unit, with lower-cost swinging doors in regular housing areas.
- A decision to utilize fixed (non-opening) windows to minimize costs and operational problems such as the passing of contraband.
- Provision of optimal "sight lines" for observation from security stations throughout the prison but especially in housing areas.
- Consideration of cost trade-offs between toilet and lavatory in each cell versus gang toilet areas.
- An early decision to minimize or eliminate the use of odd architectural shapes, due to their generally high costs.

- Heavy and continual emphasis upon designing multi-purpose space for higher utilization and lower construction costs. Specific spaces considered included the chapel, visiting areas, dining areas, and staff training areas.
- Careful attention to inmate movement patterns and controls with the objective of minimizing operating problems such as the passing of contraband and in-prison violence.

5. Design Comparisons to Other States

Exhibit 26 contains selected comparisons to other prisons on two non-cost items. The staff-to-inmate ratio is slightly higher than comparable institutions in other states for which such data is available. Numerous factors distort such comparisons including contracted services, security levels, and programming. It is suggested that this be very carefully reviewed by both DOC and OFM. The author did note that staff at the Clallam Bay facility is 9 FTE less than at Monroe. The square footage of building per inmate appears within the norm, particularly when the 72 square feet of institutional industries space is considered. (Most prisons with a lower figure did not have industries space.) The low figure for Arizona is due to the local climatic conditions which enable construction without inside passageways and large indoor recreation areas.

6. Flexibility of Capacity, Program and Security Level

The author was informed by standing committee staff that the Legislature had a particular interest in the capability or incapability of the two planned prisons to serve varying numbers and types of inmates. This interest is apparently related to various estimates of major changes in the size and type of prison population. Accordingly, this section attempts to address the flexibility of the planned design as to number of residents, program and security level. These three factors are closely interrelated.

a. Flexibility of Capacity

Additional population could be served by the support facilities of the prototype through intensive utilization of kitchen, dining, visiting, recreation and administrative space. Possibly 1,000 inmates could be served in this manner through careful scheduling. But, additional housing facilities would most probably be required, at substantial expense.

The most obvious manner in which the capacity of the prison could be increased would be to double-bunk the cells. Placement of an upper bunk in each general housing cell would increase the capacity by about 376. Such action would appear to violate a

basic standard of the ACA which calls for single-cell occupancy of cells designed for a single occupant.

Double occupancy of 60 square foot cells is not necessarily unconstitutional. The senior Assistant Attorney General for DOC advises that courts are tending to look at the total conditions of confinement in each case, cell space being only one. Nonetheless, the chances of successfully defending a court challenge of double occupancy in an 80 square foot cell is considered better than a similar challenge to a 60 square foot cell. The auditor concludes that the 60 square foot cell size is not conducive to flexibility of the prisons occupant capacity.

b. Flexibility of Program

"Program" usually refers to educational and industrial activities within a prison, generally consisting of academic education, vocational education and institutional industries.

The greatest potential flexibility probably lies in the realm of industries, where over 34,000 square feet of production and warehousing area is planned. At this writing, there are no firm plans on how to utilize this space. A product utilizing fish by-products has been suggested. Additionally, the manufacture of wood fuel pellets from forest waste has been discussed and this would presumably be an outdoor process.

Only four relatively small academic classrooms are available in the design, each within a different housing unit. This somewhat limits the amount of activity that can be accommodated without additional buildings. Use of video cassette tapes piped into individual cells is a possibility that might enhance the academic educational program.

Vocational education space in the prototype design includes three separate shops of 1,170 square feet each. No final decision has been made on how to utilize these shops. Some correlation between the industrial activities and the vocational training activities is obviously desirable, with the vocational training graduates going on to employment in the industrial program. The amount of space currently designated for vocational education places obvious limits on the variety of programs that can be taught and the number of trainees that can be accommodated. Within those restraints, there is a wide degree of administrative flexibility as to choice and change of skills taught.

c. Flexibility of Security and Custody

As currently planned, the prototype prison design contains two separate major levels of security and custody. The 124-cell Intensive Management Unit is being called "close" security and custody. But as current planned, this category of inmate will be subject to many of the same security and custody features as maximum security/custody inmates. General Housing Units are being called "medium" security/custody but will include many features of "close" custody as currently planned. Attention is invited to Appendix II which includes definitions of custody and security and levels thereof. Simple transfer of an inmate between the Intensive Management Unit and General Housing gives management a significant degree of internal flexibility.

Security and custody levels can easily be adjusted by administrative order or operating procedure changes. In simplistic terms, the prison could be made a minimum or lower security and custody institution by removing guards, opening gates and leaving all doors unlocked. This would, however, be a gross under-utilization of a very expensive facility designed for high custody and security levels.

d. Flexibility Summary

The author wishes to make it very clear that he considers the Clallam Bay and Grandview prisons to have very limited flexibility as to inmate capacity and programming, and security/custody levels. They will not be able to expand and contract to meet widely varying inmate populations and needs, without costly additions.

The basic structure of a prison designed to hold medium and close custody inmates is not readily modified. Clearly, the requirements to prevent escape and in-prison violence are matters of high priority which require rigid structural features and fixtures. In particular, the cell structure and probable inability to double-bunk inmates in a cell tends to limit capacity.

Educational and industrial opportunities tend to be limited by isolated locations--particularly at Clallam Bay.

The above comments are not intended as criticism, but as a realistic assessment of what can be expected from these facilities. High security and flexibility tend to be mutually exclusive goals in prison design.

7. Life Cycle Costs

At this time, State government is only beginning to become aware of the life cycle cost approach to capital projects. This exotic-sounding concept is actually no more complicated than the consumer's question, "Is it better to buy a cheap car that will get low mileage and needs frequent repairs, or a more expensive car that will get better mileage and last longer?" Full life cycle costing looks at capital cost alternatives versus the discounted present value of all operating costs including staffing, maintenance and repairs, and energy costs, in order to make decisions of optimal cost effectiveness.

The lack of State expertise and experience in this approach can probably be attributed to the relatively few State capital projects in recent years for which the approach is appropriate. Chapter 39.35 RCW requires a "life cycle cost" analysis of major capital projects, but limits the analysis to energy-related matters -- which are actually only one facet of a complete life cycle cost approach. Life cycle costing would look at capital cost alternatives versus the discounted present value of all operating costs including staffing, maintenance, and energy efficiency, associated with such alternatives.

In the absence of any developed life-cycle cost discipline within State government, the LBC staff approached the subject by asking, "How much additional construction cost is prudent if it will eliminate one FTE of staffing?" The question was posed to the LBC economic consultant and the State actuary. (The actuary's response is attached as Appendix VII.) While computations vary depending on the assumptions concerning interest rates and wage raises, the answers range from \$320,000 to \$800,000. This clearly indicates that initial (capital) cost is only one of several important cost factors, and indicates the merit of the life-cycle cost concept. For purposes of current prison planning, the figures clearly indicate that the expenditure of extra capital funds may well be highly advisable if operating (staffing) costs can thereby be reduced.

The increased utilization of this concept in a disciplined manner for State capital funding decisions appears to have considerable potential.

APPENDIX I

OPTIONS FOR REDUCING PRISON CROWDING
For Legislature

Options that Affect Who Goes to Prison:

1. Decriminalize.

a. Pure Decriminalization. This option involves removal of some behaviors now treated as crimes from the realm of the criminal law. Decriminalization of public inebriation is an example undertaken in 34 states and territories.

b. Reclassification/downgrading to decrease imprisonable offenses. This option involves reassessing current criminal codes with an eye to pinpointing offenses which now may be ranked too severely. Most American jurisdictions tend to allow imprisonment for virtually any offense. A decision could be made to restrict incarceration to the more serious classes of crime.

c. Substitution of non-criminal responses for certain offenses. This option represents an alternative to legalization of current offenses and involves substitution of civil regulation, such as was done with casino gambling in New Jersey.

2. Revise penal/sentencing codes.

a. Provide alternatives to custodial sentencing.

(1). Special probation conditions. Probation already is one of the most widely used alternatives to incarceration, but in many states the statutory base for probation is unnecessarily narrow. Some codes now authorize sentencing judges to utilize a variety of conditions as well as standard probation supervision, such as requirements to make financial restitution to victims, perform community service work, or refrain from specified activities.

(2). Restitution. Restitution, which requires the offender to repay the victim for property stolen or damage done, also is being used as a sole sanction in a number of jurisdictions. Statutory authorization of restitution facilitates establishment of specialized programs in which the staff may negotiate the amount of repayment, monitor the payment schedule, and otherwise provide for smooth utilization of this penalty.

(3). Community service orders. Legislatures can revise sentencing codes to allow sentences under which offenders are required to perform unpaid service for private, non-profit or public agencies for specified periods of time. Great Britain has been utilizing this penalty for several years in an effort to reduce prison crowding. Specially designed programs in the United States, like the Bronx Community Service Sentencing Program operated by the Vera Institute of Justice, offer the courts an alternative to relatively short terms of confinement.

(4). Financial options. Fines are a typical penalty for certain kinds of crime but their use could be greatly expanded. The "day fine" is used in many countries as a means of scaling financial penalties to offenders' abilities to pay. A per diem amount is established for each offender according to the individual's financial situation and multiplied by a number of days of penalty which is determined according to the gravity of the crime. More than ninety percent of all offenses are disposed of by fines in Sweden, mostly by day fines.

(5). Intensive supervision. A number of jurisdictions have experimented with programs designed to provide more intensive supervision than is common with probation. The Incarceration Diversion Unit of the Lucas County, Ohio, Adult Probation Department, for example, is credited with a 20% reduction in the county's commitments to state prison and a \$410,000 savings in incarceration costs through its use of intensive supervision.

(6). Direct sentence to community-based facilities. Although assignment to halfway houses or other community residential facilities is perhaps most commonly used as a means of transition between prison and freedom in the community, some states allow direct commitments to such facilities. In Colorado, for example, the legislature authorized judges to sentence non-violent offenders to residential programs in lieu of state prison.

(7). Intermittent confinement. Intermittent confinement, involving weekend, nighttime, or vacation confinement, with probation during the time spent in the community, is authorized by statute in thirty states. This penalty offers a "taste of the bars" without completely disrupting an offender's work, study or family ties. It is similar in some ways to other penalties that combine probation and incarceration, such as split sentences (involving a period of probation to be served after a term in jail), but can be utilized to avoid job loss for the offender.

b. Adopt presumption for least drastic means. In 1979, the American Bar Association adopted new policies designed to enhance and clarify the association's previously espoused support for alternatives to incarceration and directed toward changes being considered in the federal criminal code. The new ABA policy delineated seven sentencing alternatives and recommended that judges be required to consider, in every case, a range of penalties and be charged to impose the first of the options that would satisfy legitimate sentencing purposes, beginning with the least severe penalty. State legislatures could adopt policies along similar lines.

c. Create Sentencing Commission to set guidelines.

The Minnesota legislature established a nine-member sentencing commission to prepare guidelines for use by sentencing judges that were based on "reasonable offense and offender characteristics" and that "take into substantial consideration" current sentencing and releasing practices and correctional resources. The commission developed sentencing standards and policies that were designed to indicate both which offenders should be sent to state prison and how long they should stay. It interpreted the mandate to consider existing resources as a directive to establish guidelines which, if followed, would not result in a prison population larger than existing capacity could accommodate. Pennsylvania also has adopted such a commission.

3. Restructure state/local responsibility for offenders.

a. Provide incentives for communities to retain offenders. A variety of mechanisms have been tried which are designed to alleviate pressures on state prison populations by offering incentives to localities to retain convicted offenders. California, for example, adopted a probation subsidy program in the 1960s which provided money to counties for reducing their commitments to state prison from a base level of commitments. Virginia recently adopted a Community Diversion Incentive Act under which participating localities receive funds for each offender bound for prison who is retained locally instead.

b. Redefine local responsibility for lesser offenders. Jurisdictions vary in how they differentiate between offenders who will be maintained in the localities and those who will be maintained in state custody. Statutes customarily provide that persons sentenced to 90 or 180 days or less than one year will be confined in local jails and those with longer sentences will be sent to state prison. These arrangements can simply be modified by the legislature or, as was done in several states, a per diem can be charged to local units of government for lesser offenders sent to state prison.

c. Adopt comprehensive community corrections law. Some states have adopted comprehensive approaches to restructuring state and local responsibility for offenders. In 1973, Minnesota adopted a Community Corrections Act which incorporated a financial incentive to counties to develop local correctional programs; a financial disincentive to committing nonviolent adults or juveniles to state institutions; a local decision-making structure to insure better coordination within the criminal justice system; a local planning process to develop a comprehensive plan for the delivery of correctional services; and a revised state role in planning, training, evaluation, and standard setting. Since that time, a number of other states, such as Kansas and Oregon, have adopted similar legislation.

4. Authorize placing women with small children in community. California has adopted legislation mandating community placements for women offenders with children under two years of age. Although the statute has not been fully implemented because no appropriation accompanied the legislation and the potential impact on the entire state prison population might not be of major dimensions, such authorization represents one of a number of options that could be adopted to enhance family and community ties as well as reducing state prison populations.

Options that Affect Length of Stay in Prison.

1. Revise penal/sentencing codes.

a. Reduce sentence lengths. American states have some of the longest prison sentences in the world. Reductions in sentence lengths can have a dramatic impact on the size of the prison population. Faced with projections of potential large increases in prison population and soaring correctional expenditures, the North Carolina legislature in 1981 reduced the presumptive sentences established in their recently adopted Fair Sentencing Act by twenty-five percent in a number of offense categories.

b. Create Sentencing Commission to set guidelines. As mentioned in 2. (c). above, sentencing guidelines commissions can be responsible for adjusting sentence lengths as well as influencing which offenders are sent to prison.

2. Revise "good time" credits. Statutory schemes for reducing the amount of time spent in prison as a reward for good behavior exist in most states. How much "good time" is given and whether it is subtracted from the maximum or minimum sentence have significant impact on time served and, therefore, on prison population. Adjustments can be made to increase the amount of time off the sentence that can be earned for avoiding disciplinary infractions, for participating in work or study, or for other good behavior.

3. Adopt presumptive parole on first eligibility. The New Jersey legislature enacted a new parole law that assumes a prisoner will be released at first parole eligibility unless there is an indication by a preponderance of the evidence that there is a substantial likelihood that the prisoner will commit a crime if released. The burden is shifted from the prisoner, who previously had to show why he or she should be released, to the parole board, which now has to show why the prisoner should not be released.

4. Authorize placement of pregnant offenders in community. A "Shared Beginnings" program is operating from the Federal Correctional Institution in Pleasanton, California, through which pregnant women are allowed to leave the prison to reside in a community residential facility during the last several months of their pregnancies and for several months after their babies are born.

5. Repeal mandatory sentences. Projections based on passage of legislation requiring offenders to serve specified terms in prison have been made in several jurisdictions which have recently adopted series of laws of this type. Where such projections indicate that substantial increases in prison populations will occur, legislatures could act to repeal such laws. Other research findings indicating that such mandatory prison terms do not necessarily reduce disparity or increase the certainty of punishment due to unwillingness of prosecutors, judges, or juries to impose such terms on all offenders charged with the crimes in question, may also increase support for repealing such statutes.

Options that Affect System Capacity.

1. Establish standards and capacity limits for facilities. A recent national study of American prisons and jails mandated by the Congress suggested legislative adoption of standards with specific emphasis on defining the minimum living space to be provided for each prisoner, thus establishing de facto the capacity of corrections systems. The report noted that the number of prisoners who can be housed is now equivalent to the number of statutorily defined spaces that are available within existing facilities. Stating that this clearly is an arbitrary number that may bear little relation to the number of offenders who "should" be imprisoned, it has the virtue of specifying the number who can be accommodated within existing constraints and exposing the economics of expansion to continuing debate. The report also found that where policies have explicitly taken capacity limitations into account, it generally has been possible to control the degree of crowding. Although capacity limits to date largely have been set by the judiciary, legislative limits on capacity also may exert useful pressure for a more considered allocation of resources throughout the system by imposing new demands on the available alternatives.

2. Expand placement options for Department of Corrections.

a. Immediate screening for community placement. One safeguard that can be instituted for avoiding prison crowding is to expand the authority of correctional agencies to utilize a variety of assignment options in the community. Sentencing judges may impose sentences for a variety of reasons; correctional officials may find that individuals with prison sentences do not require the level of custody that a traditional prison requires. The Governor of South Carolina has proposed that the Department of Corrections automatically screen all offenders committed to its agency for non-violent offenses with sentences of five years or less for possible placement on work release or supervised furlough. Statutory authority for supervising offenders in settings other than state prisons should be considered.

b. Extend work release options. Release of offenders for participation in work or study can help reduce population pressures if the residential portion of the offender's time is spent someplace other than a state prison, such as a work release center, a local confine-

ment facility, or a halfway house. Work/educational release is perhaps the most widely accepted placement alternative for offenders who have been incarcerated, but states vary widely in the eligibility requirements employed. Some states limit participation to offenders within six months or less of release. Others, like Iowa, allow prisoners to participate up to a year prior to release. In South Carolina, where sixteen percent of the prison population recently was reported to be on work release, the Governor has recommended expanding the availability to work release centers to every region of the state, expanding eligibility for participation by not automatically excluding offenders convicted of crimes of violence and reducing the percentage of a prisoner's term that must be served before being eligible.

c. Expand temporary absence provisions. Forty-seven states and the District of Columbia are authorized to grant furloughs to prisoners to visit families, to attend an event or go to a job interview, yet in a recent survey only thirty-two states reported using furloughs and then usually for 72 hours or less. Some states now use longer furloughs for selected prisoners. Connecticut, for example, authorizes back-to-back fifteen day furloughs for prisoners who are soon to be released to assist them in their transition to community living.

d. Authorize contracts with local government, other public and private agencies for placement of offenders. A recent survey identified 170 community-based prerelease facilities for adults operated by private organizations under contract to state or federal agencies. Such facilities held only a small fraction of sentenced prisoners nationally, despite the fact that many indicated that they had room for additional residents. At least fifteen states contract with local jails to hold sentenced offenders, either until space becomes available in state institutions or as transitional placements for prisoners nearing release dates.

3. Appropriate/issue bonds for construction, renovation, or acquisition of facilities. Despite some evidence that increasing the supply of bedspaces for holding convicted offenders may fail to reduce crowding because the demand for such beds may keep pace or exceed the additional supply, it is impossible to overlook the need to improve much of the nation's existing prison space. No standard-setting body has recommended less than 60 square feet of floor space per prisoner, yet only 61 percent of the cells in federal facilities and 45 percent of state prison cells meet this standard. Thus, in many jurisdictions provision of adequate space will require substantial increases in the budgets allocated to institutional corrections unless fundamental changes in incarceration policies are undertaken. A recent survey identified plans to increase the number of bedspaces in federal and state facilities by 52,843 through construction, renovation, or acquisition between March 31, 1978 and December 31, 1982.

4. Adopt emergency overcrowding measures. The Oklahoma Legislature has adopted a Joint Resolution permitting the Director of Corrections to determine the maximum capacity of correctional facilities and providing mechanisms for responding if correctional facilities reach the capacity limits. The Michigan legislature has passed a Prison Overcrowding Emergency Powers Act along similar lines which calls for early release of prisoners nearing release dates (with certain exceptions) when population has exceeded capacity. The Connecticut legislature has authorized the Commissioner of Corrections to petition the superior court for modification of any inmate's sentence if he determines that the number of sentenced inmates exceeds the maximum number permissible to maintain accordance with acceptable correctional standards.

5. Demand accurate short- and long-term cost information. Provision of accurate cost information may have an impact when legislatures are considering proposals to alter correctional system capacity. Of thirty-one prisons on which construction was started between 1976 and 1980, twenty-six ran over the original appropriation, one by more than \$10 million. Legislatures should be especially interested in the custody requirements of proposed facilities. The cost of one bed in recently constructed facilities has ranged from \$18,300 for minimum security to \$78,250 for "super maximum" security. Facility operation costs also need to be taken into account since they far outstrip construction costs. Colorado, for example, recently opened two new prisons with a total capacity of 720 beds. Since these were intended as replacement beds for the old territorial prison, however, 240 beds were actually lost to the system. Nonetheless, 160 new employees were added to the department and the annual operating budget increased by 28 percent in 1980-81 and by another 16 percent in 1981-82, compared to increases in the two years prior to opening the new facilities of 7 percent and 5 percent.

Cost impact analyses also should be done on bills likely to affect prison space. An analysis of one typical mandatory minimum sentencing bill in Pennsylvania estimated that implementation would result in a 50 percent increase in prison populations and 40 percent greater state prison expenditures than under existing practices.

OPTIONS FOR REDUCING PRISON CROWDING
For Prosecutors

Options that Affect Who Goes to Prison and Length of Stay.

1. Adopt policies on sentencing recommendations. Prosecutors can have an important role in developing rational policy toward use of imprisonment, both in terms of which offenders should be incarcerated and for how long. Increasing recommendations for non-incarcerative sanctions need not imply leniency. Many prosecutors support non-prison sanctions for non-violent or less serious offenses so that resources can be concentrated on the most serious cases. Special emphasis already is being given to criminal penalties that emphasize victim needs, such as requiring that offenders make financial restitution to crime victims, where public safety concerns are not paramount. Increased attention is also being given to making financial penalties have an impact on offenders through increasing fine levels or scaling penalties to the offender's financial situation. Adoption by prosecutors' offices of general policy regarding sentences to be proposed also can serve to reduce disparity and increase the certainty that serious offenders will be dealt with appropriately.
2. Expand knowledge of non-custodial options. In the past decade many prosecutors have been instrumental in efforts to divert offenders from further justice system processing and in efforts to assist the victims of crime, as well as developing new sentencing recommendations. A project on "Prosecutorial Alternatives to Incarceration" was initiated by the National District Attorneys Association to (1) identify existing exemplary alternatives projects and activities that are under the sponsorship or direction of prosecuting attorneys and (2) use these projects or activities as examples for other prosecutors to emulate. In addition, training programs, seminars, and other mechanisms could be employed to increase prosecutors' knowledge of sanctions not involving incarceration.
3. Endorse combination penalties to decrease custodial stays. In addition to focusing increased attention on cases in which incarceration might be avoided altogether, attention also could be given to penalties that involve some incarceration, but not necessarily long incarceration. Thus, a relatively short period of confinement could provide a strong punitive element, while financial restitution or community service could offer elements of value to victims and the general community.

OPTIONS FOR REDUCING PRISON CROWDING
For Defense Bar

Options that Affect Who Goes to Prison and Length of Stay.

1. Defendant-oriented presentence reports. The defense can develop memoranda bringing to the court's attention information that supports and develops a sentencing plan that emphasizes non-incarcerative penalties or, when incarceration appears to be certain, the use of short, instead of long periods of incarceration. In cases of the former kind, arrangements can be made to show the feasibility of restitution or community service requirements, participation in counseling or treatment, and other conditions that may be appropriate. In cases of the latter kind, the defense can lay the groundwork for parole or phased release plans. The National Institute of Justice will be issuing a Program Models packet on the use of social service personnel in public defender offices to increase the quality of legal representation provided to indigent clients through such services.
2. Retain private agencies to prepare assessments and recommendations for non-custodial penalties. The defense can contract with a private consultant or agency to develop presentence memoranda that emphasize the use of non-incarcerative sanctions or reduced confinement terms. The Law and Psychiatry Center in San Diego, California, has been providing these services to private attorneys for nearly ten years. More recently, the National Center on Institutions and Alternatives of Washington, D. C., has offered Client Specific Planning services in cooperation with defense attorneys. To date, alternative sentencing plans developed through such organizations have achieved a high degree of acceptance by sentencing courts.
3. Appeal custodial sentences. Effective representation of criminal defendants does not end at the point of conviction or even at sentencing, especially in cases in which alternative sentences may not have been fully explored or in which a term of incarceration seems unduly long. The appellate process offers one means of developing new policies and practices with respect to the use of incarceration.
4. Expand knowledge of non-custodial options. (Discussed above in Prosecutor's section).
5. Monitor contracts affecting time served. The defense can play a role even after defendants are serving prison sentences. One role involves monitoring compliance with agreements or "contracts" utilized in many jurisdictions by which program participation and phased reentry into the community are agreed upon. The defense attorney should get involved if an offender abides by his obligations under the agreement but the correctional agency fails to provide programs or movement through the system as promised.
6. Represent offenders in revocation and parole proceedings. The defense bar can play an important role in preparing a case for release of offenders who are eligible and for avoiding reincarceration as a result of

revocation proceedings. Even in instances in which probation or parole violations are established, the defense can present a case for penalties short of reincarceration.

Options that Affect System Capacity.

1. Sue crowded/substandard facilities. A case brought by the Legal Aid Society of New York, for example, resulted in the closing of the Manhattan House of Detention because of its inadequacy in providing acceptable conditions.
2. Appeal sentences to inappropriate facilities. Short of bringing a class action suit against an entire facility, defense counsel can appeal sentences of individual defendants to facilities that fail to meet standards, that are inappropriate to the offender's security requirements or special needs, or that unnecessarily restrict access to family or needed services.
3. Seek lower custody placements. Defense counsel can challenge custody decisions made as to their clients or the criteria used in making classification decisions. In some instances in which reclassification has been undertaken, a need for prison beds was reduced by findings that a greater percentage of prisoners could be maintained in community custody status.

OPTIONS FOR REDUCING PRISON CROWDING For Judiciary

Options that Affect Who Goes to Prison.

1. Expand use of non-custodial sanctions. Some examples of penalties not involving incarceration have been discussed above.
2. Require that presentence reports explore non-custodial sanctions. Sentencing judges can establish policies that insure that probation personnel or defense attorneys make presentations at the sentencing hearing exploring various sanctions for the court's consideration.
3. Increase use of specialized assessments/diagnosis. Most jurisdictions allow sentencing judges to order special assessments to be made on individual offenders, but often such studies are undertaken only in extreme cases. Undiagnosed medical problems, drug or alcohol problems, learning disabilities, and the like might lead judges to consider assignments other than traditional institutions if they were known.
4. Use sentencing guidelines. In addition to jurisdictions in which sentencing guidelines have been mandated legislatively, efforts have been undertaken through judicial leadership to establish policies and standards for sentencing within given jurisdictions.
5. Appellate review of sentences. Until recently, appellate review of sentences has largely been limited to extreme cases in which sentences were in excess of legally proscribed limits or otherwise extraordinary. The judiciary has been expanding review to sentences fixed under sentencing guidelines schemes and could engage in broader review of the appropriateness of prison sentences when imposed and of their duration.
6. Employ sanctions short of revocation for probation/parole violations. Judges could make greater use of penalties like increased supervision, assignment to community residential facilities, or imposition of new restrictions for violations of probation or parole conditions, especially for those not of a serious nature.

Options that Affect Length of Stay in Prison.

1. Issue shorter sentences. Sentence lengths in the U.S. are among the longest in industrialized nations, yet research on the impact of sentence length has failed to establish that longer sentences serve to deter crime more effectively than shorter ones. Although theoretically at least long prison terms can serve to reduce crime by preventing those incarcerated from re-engaging in criminal behavior, current population levels would have to be multiplied several times to have any discernible impact on crime overall. There also is some evidence that other factors being equal, those who spend longer terms in prison do less well when released than those who serve shorter sentences.

2. Appellate review of sentences. (discussed above)
3. Use intermittent or "shock" confinement. Judges may decide to employ intermittent confinement, such as weekend or night sentences, or "split sentences," involving a term of confinement followed by a period of probation, at the time of sentencing.

Alternatively, judges can retain jurisdiction for a period of time after a sentence to incarceration has been imposed and resentence an offender to probation following a "taste" of confinement. Both mechanisms are employed in a number of jurisdictions.

Options that Affect System Capacity.

1. Refuse to sentence to substandard facilities. Judges can have an impact on prison capacity either by establishing limits beyond which prisoners cannot be added to specified facilities or by refusing to sentence individual defendants to facilities which do not satisfy legal requirements.
2. Defer commencement of sentences for less serious offenders depending on availability of capacity. In the Netherlands, less serious offenders are in effect given "reservations" for bedspace for a future date when others have served their terms and space has opened for them. This practice is employed irregularly in the U.S., often to allow non-violent offenders to arrange their affairs before reporting for a prison term. This practice could be expanded, especially with respect to offenders who do not pose a threat to public safety and whose terms are of a duration that they will return to the community after a relatively brief period. Judges also have the power to delay pronouncement of sentence for substantial periods, a technique which could serve the same end with offenders free prior to sentencing.

OPTIONS FOR REDUCING PRISON CROWDING For Public and non-Criminal Justice and Private Agencies

Options that Affect Who Goes to Prison, Length of Stay, and Capacity.

1. Provide programs, services, contracts for --
 - a. Offenders with special needs (e.g., mentally ill, retarded, addicted, or alcoholic offenders).
 - b. Community pre-sentence investigations and reports.
 - c. Community supervision.
 - d. Advocacy at hearings.
 - e. Community-based facilities.

A variety of organizations are organized to provide services to offender populations. PACT (Prisoner and Community Together, Inc.), for example, is a regional community based corrections organization that operates programs for offenders and victims in six cities of Indiana and in Chicago, Illinois. PACT programs include supervision of offenders doing community service and restitution; operation of a victim/offender reconciliation program; operation of community residential centers for men on pre-release, work release status from prison or those recently released from prison; and advocacy for the growth and development of community based correctional programs. The Allston Wilkes Society of South Carolina represents another private organization which provides similar services, as well as providing citizen volunteers to assist prisoners in parole hearings. A variety of non-criminal justice public agencies provide services from which offenders could benefit, but increased efforts are needed to interest some of these agencies in working with offenders as clientele. Involvement of private groups and public defender offices in individualized sentencing advocacy was discussed above under Options for Defense Bar.

OPTIONS FOR REDUCING PRISON CROWDING
For Probation and Parole Agencies

Options that Affect Who Goes to Prison.

1. Expansion of presentence report function. Judges frequently complain about the range of sentencing options available to them. Probation agencies could expand emphasis in presentence work to non-custodial options tailored to individual defendants. Some jurisdictions employ presentence reports only for offenders likely to be incarcerated; others leave the matter of preparation of such reports to the discretion of judges on a case-by-case basis. If presentence reports are employed to a greater extent in exploring a variety of sentencing options, their preparation may be valuable in a wider range of cases.

2. Reorganize to provide non-traditional supervision and compliance monitoring. Some jurisdictions have begun to utilize probation and parole personnel to administer a variety of sanctions in the community in addition to traditional supervision and services. Some probation agencies now administer restitution and community service sentencing programs. Other agencies have separated the control/surveillance function from the service/helping/brokerage function as a means of using resources more efficiently.

3. Revise revocation policies. (discussed above under Options for Judiciary)

4. Adopt differential supervision levels. Given limited numbers of probation and parole personnel, some jurisdictions have undertaken programs to group offenders into categories that vary in the amount of supervision required. Less serious offenders receive minimal supervision while offenders with more serious problems are supervised in much smaller caseloads.

5. Decrease the length of probation and parole supervision. For most offenders, there is some evidence that the most critical period for supervision is within the first two years after sentencing. The majority of offenders who will be apprehended for new crimes are rearrested during that period. Thus, some probation agencies try to terminate supervision for the majority of offenders to free personnel to deal with additional offenders or those deemed to require longer periods of supervision.

6. Use contract probation. Specification of conditions under which probation supervision will be terminated if completed by both probationers and probation officers also can facilitate timely completion of probation supervision, as well as increasing the clarity on both sides as to what is expected and required, thereby avoiding vague conditions and durations.

Options that Affect Length of Stay in Prison.

1. Adopt contract parole. Such "contracts" specify release dates for prisoners upon completion of programs and conditions specified in the agreement.

2. Adopt parole guidelines. Adoption of guidelines by paroling authorities can facilitate planning with respect to prison population levels in that expected time to be served can be determined for various categories of prisoners. The Federal Parole Commission, Oregon's paroling authority, and other jurisdictions are now operating under explicit policy of this kind.

3. Provide special screening for early release. In times of severe crowding, paroling authorities can undertake special reviews to determine whether certain offenders could appropriately be paroled. Such a special review was conducted recently in the state of Maryland.

4. Use "mini parole." Mississippi has initiated this form of special parole which combines participation in work programs with parole supervision. Prisoners are considered for involvement in the program after serving one-fourth of their maximum sentences, less up to nine days per month off for good behavior.

5. Speed parole hearing process. In some instances, prisoners who would be released if a parole hearing were held spend extra time incarcerated waiting for hearings. Earlier parole consideration or more regular parole reviews could result in some earlier releases. In North Carolina, the parole commission holds parole hearings every six months, once a prisoner becomes eligible for parole. Mississippi has instituted a special form of parole called "supervised earned release," under which a special review team can approve release of prisoners to intensive supervision after they have served one year on a non-violent offense.

6. Revise revocation policies. (discussed above under Options for Judiciary)

Options that Affect System Capacity.

1. Special screening for early release. (discussed above)

OPTIONS FOR REDUCING PRISON CROWDING
For Governors

Options that Affect Who Goes to Prison.

1. Assume leadership role in examining corrections policy and practice, encourage public education, and foster change in areas listed on these pages.
 - a. Governors can, for example, appoint special blue-ribbon commissions to study the crowding crisis and contributing factors, and recommend approaches toward handling the crisis. In North Carolina, for example, such a commission has been appointed by the Governor to study sentence lengths.
 - b. Both to gain a broader perspective on the full reach of criminal justice problems and practices, and to further cooperation among parts of the system, governors can convene interagency task forces to tackle issues around crowding. In addition to the principal actors listed here, representatives of concerns relating to juvenile justice, the mental and physical health systems, police, jails, and the pre-trial area, among others, could be included.
 - c. Governors can require full impact statements with all proposals affecting prison populations, including, but not limited to, fiscal impact.
 - d. Governors can promote active public education efforts regarding the benefits, costs, and trade-offs involved in corrections decision-making at the state policy level, including briefing the media about issues, concerns, public misperceptions, etc.
 - e. Governors can use existing criminal justice planning agencies or other staff for short- and long-term analyses of policy change implications, and for overall policy guidance relatively independent of the perspective of individual departments or agencies.

Options that Affect Length of Stay in Prison.

1. Increase use of clemency. The authority of Governors to commute sentences or issue pardons could be utilized more extensively. When a sentence is commuted, a prisoner is released earlier than anticipated, usually to parole supervision. The governor of New York recently commuted a number of sentences for prisoners who were serving life terms for fairly minor drug crimes. Commutation can also be appropriate for prisoners who are aged, disabled, retarded, or have serious medical problems. In addition, commutations are often granted to prisoners whose release date is approaching in order for them to be free for major holidays. In a recent survey, ten states reported that commutations or clemency were used regularly as a release mechanism. In 1979 Maryland used this mechanism for the early release of 1,029 prisoners. A pardon, on the other hand, usually indicates that investigation into an offender's case has raised significant doubts as to guilt or has identified strong indicators of reform. Pardons erase both the remainder of the sentence and the conviction.

OPTIONS FOR REDUCING PRISON CROWDING
For Departments of Corrections

Options that Affect Length of Stay in Prison.

1. Reclassify offenders. Reviewing classification standards and procedures and reclassifying offenders can have a profound impact on the distribution of correctional resources. In 1976, an outside review team from the University of Alabama was retained by the State Board of Corrections to reclassify the prison population in the face of a federal court order that in effect called for reducing the prison population by forty percent. Whereas the Board had classified 34 percent of the population as needing maximum security, the team so classified only three percent. The team assigned minimum security risk status to 32 percent of the population, compared to only nine percent by the Board of Corrections. Had new facilities been planned according to these assignments, the review team's work would have indicated the need for 100 maximum security beds; the Board of Corrections' work, 1,500 maximum security beds.
2. Use contract release. As discussed under contract probation and parole, Departments of Corrections can agree to move prisoners out from prisons at specified times if the offender has satisfied specific requirements.
3. Screen for immediate community placement. As discussed above under Options for Legislatures, Departments of Corrections may review prison admissions for possible immediate community assignment. Mississippi's communitybased restitution centers review the cases of offenders sentenced to the state prison and recommend to the sentencing judge that selected offenders -- who must be employable and willing program participants without long criminal records -- have their sentences changed to probation, conditioned upon successful program completion. Assigned to community residential centers, offenders with earnings averaging \$4.65/hour reimburse the state \$35/week for room and board and pay transportation costs, family support, restitution, and other obligations. Following program completion, offenders are assigned to regular probation supervision.
4. Develop phased re-entry. Departments of Corrections can ease offenders' transitions back into the community and pressures on high security beds by moving offenders through the system to settings involving progressively less security and more community contact. In North Carolina, for example, 1616 offenders were assigned to minimum security work release facilities in January 1980. The state grants furloughs for up to 30 days before release so offenders can find jobs. Any prisoner within 13 months of his or her unconditional release date is eligible for participation in any of four prerelease and aftercare programs, including reentry parole, unconditional release assistance, prerelease training, and aftercare. Prerelease training involves four weeks of assistance directed toward improving self-motivation, self-insight, and understanding. Reentry parole involves a maximum of 12 months of supervision upon reentry into the community. Unconditional release assistance is offered to those who do not receive reentry parole but wish assistance in obtaining a job or place to live. Following discharge, aftercare is offered to ex-offenders who still require some adjustment to the community.

Ohio utilizes twenty-six halfway houses with an average of 20 prisoners as transitional residences for parolees. Oklahoma's Department of Corrections operates ten motels as community treatment centers to hold 7,800 prisoners (representing 18 percent of the state's prison population), allowing 34 to 45 percent of offenders to be released through such centers. Sixteen percent of Nebraska's prisoners are released through four prerelease centers. Oregon reports releasing 80 percent of their population through prerelease centers. Earlier placements in such facilities for a higher percentage of prisoners can open many prison beds.

5. Increase opportunities for work credits. The Litter Control Act of 1978 authorized the South Carolina Department of Corrections to grant "earned work credit" to prisoners for productive work performed outside of institutions. The range of credit is from a minimum of one day earned for each seven days worked to a maximum of one day earned for each two days worked, depending on the level of work. Up to 180 days of credit can be granted to a prisoner in a given year and the credit is applied to the prisoner's minimum and maximum terms. In a recent six month period, the Department of Corrections estimated that its population would have been 434 people greater without the earned work credit program.

6. Expand services to increase offender skills and performance. Unfortunately, as budget pressures increase, some Departments of Corrections have been forced to cut down on program and work opportunities for offenders, either because of crowding, staff reductions, or failure to include adequate programs in new facilities. Such reductions not only reduce prisoners' chances of successful reentry into the community, but also are apt to reduce chances for early parole and may increase disciplinary problems. Thus, enhancing institutional programs may have an indirect effect on population levels.

7. Adopt standards for disciplinary infractions. This is another indirect means of affecting population levels. The object is to avoid the withdrawal of "good time" or denial of parole for prisoners involved in minor disciplinary problems or living under vague standards.

8. Increase administrative "good time." Many jurisdictions authorize the Director of the Department of Corrections to grant administrative or meritorious "good time" credits. Generally, such authority has been used to reward exceptional behavior, such as risking injury to help a staff member. Recently, Illinois has expanded use of administrative good time to ease overcrowded prisons. A special review committee was formed which meets monthly to compare population figures with capacity figures. When population exceeds capacity, the committee grants time off sentences for those nearing release of from 30 to 120 days until the population falls back below an acceptable level.

9. Reduce delays and bureaucratic obstacles to processing and movement of offenders through the system. Correctional agencies can review the decision-making processes and steps which facilitate prisoner movement

through the system to try to identify points at which processing could be accelerated. Greater priority could be assigned to tasks, such as preparation of written reports and recommendations, on which movement depends. Second-level screening also can be instituted to make sure that opportunities for prisoner progression are not being overlooked.

Options that Affect System Capacity.

1. Establish standards and capacity limits. (discussed above under Options for Legislatures)

2. Contract with private, governmental, or specialized programs for offender housing, supervision, and services. (discussed above under Options for Legislatures and for Public non-Criminal Justice and Private Agencies)

3. Develop and operate more placement options. (discussed above under "Develop Phased Reentry" and "Options for Legislatures")

4. Acquire, renovate, and construct facilities. (discussed above under Options for Legislatures)

APPENDIX II
EDUCATION PROBLEMS
CHAPTER VII

FUTURE GOALS AND OBJECTIVES

The preceding chapters in this report have attempted to provide the basic information requested by the Legislature. This chapter will list some of the opportunities the Department sees to improve its operation of the academic and vocational training programs. Important improvements have been made during the past few years, primarily through contracts with community colleges, but it is acknowledged that there are areas remaining that need attention. All of the items listed below can be achieved or reconciled with existing resources and represent only a beginning in the Department's effort to provide prudent management of limited resources while investing in effective rehabilitation programs for offenders.

A. Problem: Currently the Department of Corrections does not have a satisfactory procedure for monitoring and documenting educational programs.

Goal: To implement an educational program monitoring and reporting procedure that will ensure programs are meeting inmate and institution needs, are cost effective, and are adequately documented.

Objective: (1) Improve reporting and documentation procedures immediately. (2) Adopt, where possible, the common definitions and methodology used by the Washington State Board for Community College Education. (3) Develop procedures to support all education and vocational training Policy Directives by March 31, 1982. (4) Conduct

annual assessment and evaluations of the educational and vocational training programs. (5) Provide an annual report to the Secretary, detailing educational program activities.

- B. Problem: The 1981-82 educational program contracts were developed and based on limited background experience.

Goal: To improve the quality of the educational program contracts.

Objectives: (1) Develop a schedule for the development of educational program contracts by January 1982. (2) Develop a common contract form and program attachment form by March 1, 1982. (3) Have one Assistant Attorney General representing community colleges review contracts, instead of a number of them rendering conflicting opinions. (4) Review and audit indirect costs related to educational program administrative costs and develop common criteria for items to be included in the indirect costs by the time necessary to develop the 1982-83 educational program contracts.

- C. Problem: The appropriate program placement of inmates during the classification process has been difficult because of increased numbers and limited facilities.

Goal: To ensure inmate education needs are appropriately considered during the classification process, and that adequate and appropriate educational testing be conducted to provide the basic information needed to make assignments.

Objectives: (1) Review current classification procedures as they relate to educational assessment and testing, and the program assignment of inmates by April 1982. (2) Make recommendations to the Secretary by May 1982.

- D. Problem: Currently, there is not enough work for all inmates in the institutions to keep them fully employed for eight hours each day.

Goal: To adjust the educational and vocational training program schedule to accommodate and complement the work schedules and program assignments as more institutional employment opportunities become available.

Objective: (1) Monitor inmate work schedules and adjust educational program times to accommodate those schedules.

- E. Problem: Historically, there has been little coordination between the vocational training programs and Institutional Industries.

Goal: To develop an appropriate level of vocational education in support of Institutional Industries.

Objectives: (1) Study the current industries and their inmate training needs during 1981-82. (2) Recommend new industries that will provide good vocational skill development opportunities for inmates, as well as meaningful and productive work within the institutions and for the inmates upon release. (3) Develop vocational programs that will support the Industries programs and provide inmates with saleable skills.

F. Problem: Frequently, inmates will not be able to complete educational courses because they are transferred to another institution.

Goal: To improve the opportunity for inmates to continue their educational programs as they advance in the correctional system.

Objectives: (1) By April 1982, identify opportunities for inmates to move from one educational program to another at a different institution in the system. (2) By July 1982, develop a plan to increase the opportunities for inmates to continue and complete their educational programs. (3) Explore the cost effectiveness of establishing an educational telephone network to deliver educational programs to inmates in the smaller institutions particularly.

G. Problem: Currently, inmate educational records are often incomplete and lag far behind the inmate when the inmate transfers to another institution.

Goal: To have an inmate educational record system that will contain the basic information required to make program decisions in a timely manner.

Objectives: (1) Identify those elements of information necessary in each inmate education file by December 1981. (2) Develop a procedure for transmitting the file at the time of inmate transfer.

H. Problem: The assessment of inmate educational program needs has not been conducted with the same level of skill at all institutions.

Goal: To assess inmate education needs as part of a comprehensive institutional program assessment and provide appropriate educational programs in proper relationship with other institution programs.

Objectives: (1) Develop and provide an assessment model to be used at all institutions. (2) Provide direction and assistance from the DOC central office during the annual educational assessment and evaluation process.

I. Problem: Currently, there are limited opportunities for teachers employed by the educational contractors and DOC in the correctional institution to receive in-service training designed to help them work more effectively with inmates.

Goal: To provide in-service training for teachers working in correctional institutions.

Objectives: (1) Identify and periodically publish existing opportunities for in-service training. (2) Identify the correctional teachers in-service training needs. (3) In cooperation with existing agencies and organizations, develop appropriate in-service training programs.

J. Problem: The Washington State Library has been providing excellent public library services to inmates with limited resources; however, educational program libraries and the expanding law libraries in the institutions have brought about the need to examine further the effective management of library resources in the institutions.

Goal: To provide a comprehensive and cost-effective library program for inmates in each of the adult corrections institutions.

Objective: (1) By May 1982, submit recommendation to the Washington State Librarian, the State Law Library, and the Secretary of the Department of Corrections for the management and operation of libraries in adult corrections institutions.

- K. Problem: Currently there is very little postrelease information gathered that may be used to evaluate whether the vocational programs have adequately trained an inmate for employment in a competitive market.

Goal: To utilize inmate job placement and performance experience as an additional factor in the evaluation of occupational programs.

Objectives: (1) By September 1982, develop a procedure for work/training release counselors to report the successes or problems inmates are having in finding work together with the primary contributing factors. (2) Develop a method of surveying inmates' work experiences after release from the correctional system.

- L. Problem: Inmate eligibility for educational benefits and recovery of such benefits may not be receiving adequate attention by the institutions.

Goal: To recover all available and appropriate resources that may be used to offset educational costs.

Objectives: (1) Study the current practices of institutions to recover eligible educational benefits. (2) Identify current sources of educational benefits and the methods of assessing those resources. (3) Develop a Policy Directive that will provide guidance to the institutions regarding recovery of eligible educational benefits. (4) Develop the procedures necessary to implement the Policy Directive.

- M. Problem: There may be the opportunity to lower the cost of certain educational programs by offering those programs only at selected institutions and assigning inmates who would benefit from those programs to that particular institution.

Goal: To develop a system of academic and vocational training programs that will provide appropriate inmate education with the least amount of unnecessary program duplication and one that still will be consistent with institutional goals.

Objectives: (1) Continue to analyze educational program options, inmate needs, facilities, and other resources available for the 1982-83 school year. (2) Study the options available to assign inmates to specific institutions. (3) Develop and implement a plan to consolidate educational programs where possible for the 1982-83 school year.

The Department of Corrections has already started to address the areas identified above and will continue to look for opportunities to improve the academic and vocational programs offered in the institutions.

The Department of Corrections will be most pleased to share with the Legislature the progress and accomplishments of our efforts and look forward to that opportunity.

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Correctional Services Special Report

Prepared for the Corrections and Institutional
Confinement Committee

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March 1979

APPENDIX III

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BUDGET COMM.

PRISON CONDITIONS: AN OUTLINE OF CASES

PREFACE

The Eighth Amendment proscribes more than physically barbarous punishments. Its prohibition extends to penal measures which are incompatible with "the evolving standards of decency that mark the progress of a maturing society," Trop v. Dulles, 356 U.S. 86, 101 (1958). Confinement itself, under certain conditions, may violate the Amendment's prohibition of cruel and unusual punishment. In a number of prison cases in recent years, courts have found prevailing conditions to be so adverse in their effects upon the inmates' health and safety that imprisonment under such circumstances is unconstitutional.

The purpose of this outline is to delineate the particular conditions which, separately or in conjunction with others, have been held unconstitutional. In making these holdings, the courts look at a wide range of conditions and consider deficiencies of varying degrees of gravity to determine their cumulative impact on the inmates. The outline illustrates this process with concrete examples by summarizing the courts' findings of fact and conclusions of law with respect to various prison conditions. Its aim is to assist the reader to judge what kind of deficiencies by themselves violate the Eighth Amendment, which ones not in themselves unconstitutional may yet contribute to an overall situation which constitutes cruel and unusual punishment, and which shortcomings will be held to lack constitutional magnitude.

Prisoner class actions raising Eighth Amendment challenges to conditions of confinement typically assert, in addition, that prison practices and procedures violate other constitutional provisions. It may be claimed, for example, that prison disciplinary procedures deny due process or that the First Amendment is violated by regulations affecting inmate visitation and correspondence rights. While these aspects of imprisonment have considerable bearing on the nature of the confinement, the constitutional issues presented are distinct from Eighth Amendment questions and analysis. Thus this outline examines only claims brought under the Eighth Amendment.

The outline includes only cases involving conditions in state prisons. Coverage of the numerous jail conditions cases has been excluded because of time considerations and because special issues are presented in suits involving local jails where many of the inmates are pretrial detainees, whose rights are generally recognized to be greater than those of convicted offenders.

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EIGHTH AMENDMENT STANDARDS

- I. EIGHTH AMENDMENT STANDARDS: CONDITIONS CONSTITUTING CRUEL AND UNUSUAL PUNISHMENT
- A. Gregg v. Georgia, 428 U.S. 153 (1976). The Eighth Amendment proscribes the "unnecessary and wanton infliction of pain," 428 U.S. at 173 (plurality opinion).
- B. Gates v. Collier, 501 F.2d 1291 (5th Cir. 1974). The Eighth Amendment's proscription of cruel and unusual punishment "is not limited to specific acts directed at selected individuals, but is equally pertinent to general conditions of confinement that may prevail at a prison," 501 F.2d at 1300-01.
- C. Holt v. Sarver, 309 F. Supp. 362 (E.D. Ark. 1970), *aff'd*, 442 F.2d 304 (8th Cir. 1971). "Confinement itself within a given institution may amount to a cruel and unusual punishment prohibited by the Constitution where the confinement is characterized by conditions and practices so bad as to be shocking to the conscience of reasonably civilized people ..." 309 F. Supp. at 372-3. "The distinguishing aspects of Arkansas penitentiary life must be considered together ... All of those things exist in combination; each affects the other; and taken together they have a cumulative impact on the inmates regardless of their status," *id.* at 373. It is appropriate, in determining the constitutionality of conditions in their totality, to consider deficiencies which "do not rise to constitutional dignity but which aggravate the more serious prison defects and deficiencies," *id.* at 380.
- D. Pugh v. Locke, 406 F. Supp. 318 (M.D. Ala. 1976), *aff'd in part and rev'd in part, sub nom. Newman v. Alabama*, 559 F.2d 283 (5th Cir. 1977), *cert. denied*, 98 S. Ct. 3144 (1978). Living conditions in Alabama prisons constitute cruel and unusual punishment. "As a whole they create an atmosphere in which inmates are compelled to live in constant fear of violence, in imminent danger to their physical well-being, and without opportunity to seek a more promising future," 406 F. Supp. at 329. Restrictions on inmates which serve no legitimate penal objective (deterrence, rehabilitation, institutional security) cannot stand. "A penal institution cannot be operated in such a manner that it impedes an inmate's ability to attempt rehabilitation, or simply to avoid physical, mental or social deterioration," *id.*
- E. Newman v. Alabama, 559 F.2d 283 (5th Cir. 1977). "If the State furnishes its prisoners with reasonably adequate food, clothing, shelter, sanitation, medical care, and personal safety, so as to avoid the imposition of cruel and unusual punishment, that ends its obligations under Amendment Eight. The Constitution does not require that prisoners, as individuals or as a group, be provided with any and every amenity which some person may think is needed to avoid mental, physical and emotional deterioration," 559 F.2d at 291.

EIGHTH AMENDMENT STANDARDS

- F. Battle v. Anderson, 564 F.2d 388 (10th Cir. 1977). The Eighth Amendment protects prisoners from "an environment where degeneration is probable and self-improvement unlikely because of the conditions existing which inflict needless suffering, whether physical or mental," 564 F.2d at 393.
- G. Williams v. Edwards, 547 F.2d 1206 (5th Cir. 1977). Although a constitutional question does not necessarily arise merely because of failure to comply with state law, lack of compliance with state norms can be significant in making a finding of constitutionality. State fire and sanitation codes reveal the minimum standards of habitability by which the state purposes to govern itself and provide a valuable index of what is minimal for human habitation in the public view. The district judge did not err in requiring the prison to comply with state fire and sanitation codes, 547 F.2d at 1214.
- H. Palmigiano v. Garrahy, 443 F. Supp. 269 (D.R.I. 1977). While the minimum standards set by the relevant professional and government bodies do not constitute constitutional minima, they are factors to be considered in determining whether constitutional requirements have been met, 443 F. Supp. at 979, n.30.
- I. Nelson v. Collins, 455 F. Supp. 727 (D. Md. 1978). "ACA [American Correctional Association] standards for the operation of correctional institutions are instructive and useful guidelines but they are not dispositive on the question of constitutional deprivations. They are postulated as desirable correctional goals and in many instances appear to be aspirational," 455 F. Supp. at 731.
- J. Laaman v. Helgemoe, 437 F. Supp. 269 (D.N.H. 1977). "Even though no single condition of incarceration rises to the level of a constitutional violation, exposure to the cumulative effect of prison conditions may subject inmates to cruel and unusual punishment," 437 F. Supp. at 322-23. "The touchstone is the effect upon the imprisoned. Where the cumulative impact of the conditions of incarceration threatens the physical, mental, and emotional health and well being of the inmates and/or creates a probability of recidivism and future incarceration ... imprisonment under such conditions ... contravenes the Eighth Amendment's proscription against cruel and unusual punishment." Id. at 323.

PHYSICAL CONDITIONS: SPACE/OVERCROWDING

II. PHYSICAL CONDITIONS

A. SPACE/OVERCROWDING

1. Gates v. Collier, 390 F. Supp. 482 (N.D. Miss. 1975), aff'd, 525 F.2d 965 (5th Cir. 1976). [Mississippi State Penitentiary at Parchman.] Generally accepted correctional standards require a minimum of 50 square feet of living area for every inmate, 390 F. Supp. at 486. 50 square feet of living space per inmate is the minimum acceptable under the Constitution, Gates v. Collier, 423 F. Supp. 732, 743 (N.D. Miss. 1976), aff'd, 548 F.2d 241 (5th Cir. 1977).
2. Finney v. Hutto, 410 F. Supp. 251 (E.D. Ark. 1976), aff'd, 548 F.2d 740 (8th Cir. 1976), aff'd, 437 U.S. 678 (1978). [Arkansas state prison system.] "The question of whether a prison is overcrowded to the point of unconstitutionality involves more than determining how many square feet of living space are allocated to individual inmates. Regard must be had to the quality of the living quarters and to the length of time which inmates must spend in their living quarters each day..." 410 F. Supp. at 254. The question of overcrowding involves a determination of not only the total population but also of its distribution. The court imposed maximum population limits on the two prisons in question here and also required that individual unit capacities set forth in a report filed with the court not be exceeded except in emergency situations, id. at 254-258.
3. Pugh v. Locke, 406 F. Supp. 318 (M.D. Ala. 1976), aff'd in part, sub nom. Newman v. Alabama, 559 F.2d 283 (5th Cir. 1977). [Alabama state prison system.] The four principal institutions were found to be seriously overcrowded (more than 150 percent of design capacity). Overcrowding is "primarily responsible for and exacerbates all the other ills of Alabama's penal system," 406 F. Supp. at 322-323. The district court limited the population of each facility to its design capacity and prohibited accepting new prisoners (other than escapees and parole revokees) until this goal is reached. The court also prohibited housing more than one segregated prisoner in a single cell, and required that the area of such a cell be at least 60 square feet, id. at 332.

The court of appeals affirmed these limitations as applying to existing prisons, but reversed and remanded the requirements for new construction: "we do not discern the constitutional basis for the requirement that Alabama state prisoners shall be housed in individual cells, nor can we agree that 'design' standards, without more, amount to a per se constitutional limitation on the number of prisoners which may be housed in a particular prison facility," Newman v. Alabama, 559 F.2d at 288. The minimum living space per prisoner which is constitutionally required should be determined in light of the discussion in Williams v. Edwards, infra, at 1215.

PHYSICAL CONDITIONS: SPACE/OVERCROWING

4. Williams v. Edwards, 547 F.2d 1206 (5th Cir. 1977). [Louisiana State Penitentiary at Angola.] The ruling on unconstitutional overcrowding, which was found to exist by the district court on the basis of a standard of 80 square feet per inmate, was remanded. "The functions and characteristics of each building should be taken into account in arriving at the capacity of each. A simple mathematical calculation of total square feet of space divided by a standard of square feet per man may not necessarily be appropriate or practicable." 547 F.2d at 1214-15.
5. Crowe v. Leeke, 540 F.2d 740 (4th Cir. 1976). [South Carolina Correctional Institution.] Confinement of three protective custody inmates in a 63 square foot cell with two beds for all but a few hours a week does not violate the Eighth Amendment. The number of inmates who may be safely assigned to a cell is within the sound discretion of prison administrators.
6. Hite v. Leeke, 564 F.2d 670 (4th Cir. 1977). [Kirkland Correctional Institute, South Carolina.] Double ceiling in a 65 feet square cell is not per se unconstitutional. Here the two prisoners were confined in their cell only at night between 8 p.m. and 6 a.m. and enjoyed at other times a wide freedom of movement and ample opportunity for exercise and recreation. Nor is overcrowding a part of a larger problem of unsanitary conditions or of a pervasive air of physical danger, 564 F.2d at 673-74.
7. West v. Edwards, 439 F. Supp. 722 (D.S.C. 1977). [Kirkland Correctional Institute, South Carolina.] Placement of three inmates in a 66 square foot cell, where the prisoners have access to day rooms and other areas, does not violate the Eighth Amendment.
8. Battle v. Anderson, 447 F. Supp. 516 (E.D. Okla. 1977), aff'd, 546 F.2d 388 (10th Cir. 1977). [Oklahoma state prison system.] "Minimum space to call one's own is a primary psychological necessity," 447 F. Supp. at 526. The court required 60 square feet of sleeping space for each cell inmate and 75 square feet for each dormitory resident (program and recreation areas and baths are to be excluded from this calculation), id. at 520. The court found that the population of the two main institutions exceeded 200 percent of their designed capacity. There is a direct correlation between overcrowding and violence. Overcrowding increases the incidence of infectious diseases and stress-related illnesses. Overcrowding in Oklahoma prisons is unconstitutional in itself and the effects of overcrowding with respect to health, safety and security are unconstitutional, id. at 520-25.

PHYSICAL CONDITIONS: SPACE/OVERCROWING

- The court ordered population reductions, compliance with minimum space requirements and elimination of most double ceiling, id. at 526. The court subsequently stated that the population maximum is the prison's functional capacity, which is 88 to 92 percent of actual capacity, since vacancies are needed to allow for proper classification, emergencies and special uses (segregation), 457 F. Supp. 719, 723 (E.D. Okla. 1978).
9. Laaman v. Helgemoe, 437 F. Supp. 269 (D.N.H. 1977). [New Hampshire State Prison.] The New Hampshire prison is not overcrowded and, although the cells do not meet minimum space requirements, each man has one to himself, 437 F. Supp. at 306. Cell size is a factor to be weighed in determining recreation and exercise requirements, id. at 310.
 10. Palmigiano v. Garrahy, F. Supp. 956 (D.R.I. 1977). [Rhode Island Adult Correctional Institution.] The court ordered that no more than one prisoner shall be confined in any cell which is less than 60 square feet and every dormitory inmate shall have 75 square feet of living space, id. at 987. Inmates are provided with the generally accepted minimums of 60 square feet of cell space or 75 square feet of dormitory living space per inmate, but the institution suffers from overcrowding of a different sort: there is insufficient space to meet the classification, protection, program or fire safety needs of the population, id. at 976.
 11. Chapman v. Rhodes, 434 F. Supp. 1007 (S.D. Ohio 1977). [Southern Ohio Correctional Facility at Lucasville.] Double ceiling in 63 foot square cells designed for single occupancy was held unconstitutional: the inmates are long term; the prison's overall population is 138 percent of its designed capacity, which necessarily involves excessive limits on general movement as well as physical and mental injury from long exposure; a substantial number of the double celled inmates spend all but 4-6 hours a week in their cells, and all prisoners spend most of their time in their cells; various organizations and courts have concluded that 50 to 75 square feet is the minimally acceptable sleeping space per inmate. Double ceiling in 60-foot cells is undoubtedly permissible as a temporary measure, but not here where the practice began two years ago and the prison population continues to rise, id. at 1020-21.
 12. Anderson v. Redman, 429 F. Supp. 1105 (D. Del. 1977). [Delaware Correctional Center.] At a minimum, single cells must be 60 square feet in size, and dormitories must provide 75 square feet of space per inmate, 429 F. Supp. at 1119. Overcrowding increases tension and aggressiveness; forces use of exercise and recreation areas for housing, resulting in idleness; undermines the classification system by delays, reduction in the quality of data gathered, and the making of

PHYSICAL CONDITIONS: SPACE/OVERCROWDING

housing assignments on the basis of available space; and increases the likelihood of the spread of contagious disease, *id.* at 1112-13. The court ordered the population reduced to "classification capacity" - designed capacity less 8-10 percent which must be unoccupied to permit the flexibility needed for effective classification, *id.* at 1124.

13. M.C.I. Concord Advisory Board v. Hall, 447 F. Supp. 398 (D. Mass. 1978). [Massachusetts Correctional Institution at Concord.] Double celling in one unit where the inmate's stay is temporary and where the prisoners may remain outside their cells six hours a day does not violate the Eighth Amendment. Confinement in other units was found unconstitutional on the basis of the totality of the living conditions there: double celling in rooms designed for single occupancy, lack of adequate fresh air, plumbing, lighting, ventilation, and the dearth of vocational and recreational facilities, 447 F. Supp. at 404-05.
14. Nelson v. Collins, 455 F. Supp. 727 (D. Md. 1978), *aff'd in part and rev'd in part*, No. 78-6417 (4th Cir., December 13, 1978). [Maryland Penitentiary and the Maryland Reception, Diagnostic and Classification Center.] Double celling under the circumstances (44 square foot cells designed for single occupancy) held to violate the Constitution. The cells are much smaller, the facility is much older, and prisoner movement is much more restricted than in Hite v. Leeke, *supra*, 455 F. Supp. at 734.
15. Johnson v. Levine, 450 F. Supp. 648 (D. Md. 1978), *aff'd in part and rev'd in part*, No. 78-6416 (4th Cir., December 13, 1978). [Maryland House of Correction.] At some point the crowding of prisoners in outmoded facilities results in cruel and unusual punishment. The Maryland House of Correction is unconstitutionally overcrowded, with a population of 1700 in a building designed to house 1100, and under the circumstances here, double celling in 40 square foot cells is unconstitutional. Adverse effects of the overcrowding include excessive noise, increased stress and serious incidents of violence, and extensive idleness; considered separately, these deficiencies would not amount to a deprivation of constitutional magnitude, but weighed in their totality they do, 450 F. Supp. at 651, 654-56.

Dormitories which provide approximately 55 square feet of sleeping space per inmate and 80 square feet of living space per inmate (including recreation area) are not unconstitutional, *id.* at 658. Standards adopted by groups of penologists do not constitute constitutional minima. The court declined to find that confinement of a single inmate in a 40 square foot cell is unconstitutional, even though the ACA recommends 60 square feet, *id.* at 661.



JOHN SPELLMAN
Governor

ROXANNE PARK
Executive Officer

STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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MEMORANDUM

April 20, 1982

APPENDIX IV

TO: Warren Netherland, Chair
Research Subcommittee

FROM: Roxanne Park *RP*
Executive Officer

SUBJECT: DETERMINATE SENTENCING AND PRISON POPULATIONS

This memo summarizes the research findings on the effects of determinate sentencing systems on prison populations. The following states are discussed: California, Minnesota, Maine, Illinois, Colorado and Pennsylvania.

CALIFORNIA

The most extensively studied sentencing reform has been the California Uniform Determinate Sentencing Law (DSL) which went into effect on July 1, 1977. Seven major research projects have examined the effects of this new law. The following conclusions can be drawn from these studies¹:

Imprisonment. Although California has a higher incarceration rate than before the DSL, the research reveals that the DSL has not independently caused this increase. The observed increases in prison use in Superior Courts and associated shifts away from probation and jail sentences are interpreted as continuations of pre-existing trends (see Tables 1 and 2). The causes of these trends are viewed as a combination of the following: increased punitiveness; general increases in the seriousness of cases handled at all levels of the criminal justice system; shifts of less serious cases from Superior to Municipal Court; and changes in the age structure of the population. The type of cases which were previously judged as not warranting imprisonment continue to receive alternative sentences, however, fewer of these cases as heard in Superior Court.

Length of Stay. The research on length of stay effects have analyzed two issues: changes in the average severity of prison terms as revealed through mean or median time served, and changes in the variability of time served for similar cases.

¹ These conclusions are largely drawn from a yet unpublished paper by Michael Tonry and Jacqueline Cohen, "Sentencing Reforms and Their Impacts."

The comparisons of average time served before and after DSL generally find decreases in mean or median time served under DSL, particularly when adjustments are made for jail credit and maximum good time discounts (see Table 3). Brewer et. al (1980) relied on Department of Corrections statewide data on receptions and releases, concluding that mean time served for all offenses increases slightly (40.0 to 41.4); when comparing actual sentences, however, the adjusted DSL mean time is only 28.7 months.

Brewer et. al (1980) also examined the relative effects of DSL on sentence lengths for men and women. Women's terms under the indeterminate system were significantly shorter than men's, averaging 55 to 65% of men's terms, even when crime type was controlled. Under DSL, however, women's terms exceeded 80% of the length of men's terms.

The research studies on disparity consequences have also looked at the variation of prison terms for like offenses, and report reductions in the spread of prison terms under DSL when controlling for convicted offense (see Table 3). When the DSL terms with discounts for good time and jail credit are used, these decreases are even more pronounced. Cohen and Tonry, however, urge that these results be regarded cautiously, noting that "any decrease in the mean or median increasingly constrains the possible prison terms below that 'mid-point,' thus limiting the range of potential variation." In addition, the California law provides for various enhancements to the base term, and these enhancements allow considerable variability in sentences for offenders convicted of like offenses.

Prison Population. California's prison population is increasing rapidly--the California Department of Corrections projects an increase from 18,502 adult felons in 1978 to 27,020 in 1988. In the past, the Adult Authority's releasing policies have played an important role in controlling the prison population (see Figure 1). Without this discretionary releasing authority, the 1978 prison population could have reached over 30,000 inmates. This "safety value" was greatly restricted by the DSL. Researchers anticipate that the continuing increase in prison commitments and the fact that length of stay under the DSL is only slightly decreased, mean that rapid growth in California's prison population must be expected. If the legislature succeeds in its attempts to increase the length of stay for certain crimes, the population will be even higher.

MINNESOTA

The Minnesota Sentencing Guidelines Commission has recently released a preliminary evaluation of the effects of their guidelines.² This section will summarize the evaluation results to date.

Imprisonment. A lower rate of offenders are being imprisoned since the guidelines went into effect. Given a comparable population of felons, approximately 18.5% of felons were imprisoned before the guidelines--that figure is now approximately 15%. More person offenders and fewer property offenders are imprisoned under the guidelines. The use of jails and workhouses for sentenced felons has increased from approximately 35% in fiscal year 1978 to approximately 46% in 1980-81.

² Kay Knapp, "Impact of the Minnesota Sentencing Guidelines on Sentencing Practices," 1982.

Length of Stay. The average length of stay for persons released in fiscal year 1978 was 19.9 months. 1981 releases served an average of 24.6 months. Under the guidelines, the average period of imprisonment was 25.6 months (with an average pronounced sentence of 38.3 months assuming one-third reduction for good time). The major differences in duration length before and after the guidelines are that offenders convicted of person offenses with limited criminal history serve shorter sentences and those with longer criminal history serve longer sentences.

The evidence indicates that disparity in sentencing still occurs on the basis of race and gender. The evaluation has revealed that minority offenders receive more severe sanctions than white offenders, even after controlling for the severity level of the offense and the offender's criminal history score. When patterns of sentencing used for males were applied to females, the research indicated that the male patterns would have caused 21% more female commitments and an increase of 7.6 months in average sentence lengths.

Prison Population. During the first 15 months after the guidelines were in place, the prison population was 20-25% less than the previous year (see Figure 2). Since that time, the population has been stabilizing. Commission staff speculate that the Parole Board became more retentive after the guidelines were implemented, thus canceling the decreasing admissions trend.

MAINE

In 1976, Maine became the first state to adopt a determinate sentencing system and abolish parole. One evaluation of Maine's experience has been published and a second is not yet completed. Both of these studies have faced some significant problems. First, the criminal population in the state is not large enough to warrant statistically significant analyses of year-to-year changes. In addition, substantial changes in the state's criminal laws and sentencing system occurred simultaneously with determinate sentencing, making it difficult to isolate the effects of either set of changes.

The first evaluation (Kramer et. al, 1980) concluded that 1976 sentencing changes caused the following:

- a decrease in the use of incarcerative sentences;
- reduced sentence lengths for persons convicted of Class B and C offenses and longer sentences for persons convicted of Class A offenses and;
- an increase in sentence disparities.

However, Cohen and Tonry argue that the major defects in the research design "make the report's conclusions less than persuasive."

The second study, now under contract at the University of Southern Maine, is primarily a content analysis of changes in Maine's substantive criminal law. Therefore, neither of these studies can be relied on to understand the effect of Maine's determinate sentencing law on prison population. The prison population has increased from 610 in 1976 to 829 in 1980.

ILLINOIS

Illinois converted to a determinate sentencing system in 1977. The law created sentencing ranges, abolished parole, established a new category of non-probationable felonies, and required certain offenders to serve extended sentences. Judges were required to sentence within the range and compelled to articulate their reasons for imposing a particular sentence. Sentences were also subjected to appellate review. A Criminal Sentencing Commission was established to evaluate the effects of these changes and recently issued their 1980 report. The following information is taken from this document and the Illinois Department of Corrections 1982 "Population and Capacity Report."

Imprisonment. The imprisonment rate has increased from 66% in 1978 to 81.4% in 1980.

Length of Stay. For some crimes, the length of stay has increased and for others, it has decreased (see Table 4).

Prison Population. Although the population was reduced by 355 in 1978, the population grew by 889 in '79 and 2,271 in 1980. No research has attempted to isolate the effects of the determinate sentencing system on these population changes (see Tables 5 and 6).

COLORADO

In February of 1981, the Colorado legislature passed the "Heim Bill." Under the new law, judges must impose a sentence greater than the maximum sentence in the presumptive range when sentencing certain types of offenders. These include all felons who are convicted:

- a) while on parole for another felony;
- b) while on probation for another felony;
- c) while on escape or in custody for another felony;
- d) while charged with or out on bond for another felony; or
- e) subject to a particular section of the law relating to crimes of violence.

The Colorado Department of Corrections is estimating that the new law will increase the average aggregate length of stay by 2.9 months. Actual figures on the effect will not be available until next year.

PENNSYLVANIA

The Pennsylvania Sentencing Commission's guidelines have recently been accepted by the state legislature and will go into effect next year. The Commission has estimated that overall, sentences will be increased by 18% (see Table 7). The Pennsylvania State Planning Agency has recently concluded that the guidelines will cause a 13% increase in "man months."

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J. T. Brown
 MANAGER, DIVISION OF ENGINEERING & ARCHITECTURE

CHAPTER: III
 SECTION: 1
 TITLE: ARCHITECT-ENGINEER SELECTION PROCEDURES

I PURPOSE: To establish a uniform method of selecting individuals and firms to provide, by Personal Service Contracts, professional Architectural and Engineering Services to the State of Washington, Department of General Administration, required to construct State Facilities.

II SCOPE: The procedures described in this Section apply to all Architectural and Engineering (A/E) consultant selections executed by the Department of General Administration, Division of Engineering and Architecture, as authorized by R.C.W. 43.19.450 and in accordance with R.C.W. 39.80.

III DEFINITIONS:

1. ARCHITECTURAL & ENGINEERING SERVICES: Professional services within the scope of the practice of architecture, landscape architecture, professional engineering, or land surveying as defined by the laws of this State.
2. PERSONAL SERVICES CONTRACT: An Agreement with an independent consultant for the rendering of Personal Services to the State.
3. A/E AGREEMENT: A Personal Services Contract between the State of Washington (as client) and an individual or firm for the provision of Architectural and Engineering Services as defined above.
4. A/E CONSULTANTS: An individual or firm providing Architectural and Engineering Services (as defined above) to the State of Washington under the provisions of an A/E Agreement as defined above.
5. BASIC SERVICES: All required design services for the project excepting any "Extra Services" as may be defined in the terms of the Agreement.
6. A/E FILE: Division of Engineering and Architecture A/E File is a file of A/E firms who have expressed interest in A/E projects under \$25,000 fee. Firms will be solicited by public advertising annually, normally in January, in statewide circulation publications at two (2) separate times.

7. OWNING AGENCY: The State agency empowered with jurisdiction of the State facility for whom the design or construction services are to be provided.

IV POLICY: The Division of Engineering and Architecture, will utilize the following guidelines:

1. The process of selection will be an objective and impartial procedure in which all interested firms are evaluated against the same criteria.
2. The criteria utilized in evaluating prospective consultants shall relate to the qualifications and performance of the individual or firms being considered so that the individual or firm selected as consultant shall be deemed the most highly qualified of those interested in the project.
3. The procedures employed shall ensure that firms owned by women and minorities are afforded the maximum practicable opportunity to compete for and obtain public service contracts. The level of participation by minority and women - owned firms shall be consistent with their general availability within the professional communities involved.
4. The interests of the State shall be protected by negotiation of contract fees which are fair and reasonable.
5. Selection procedures will vary according to A/E basic services fee amount:
 - a. \$25,000 or more: Selection from oral interviews of finalists, selected from firms expressing interest from public advertisement of a specific project.
 - b. \$10,000 to \$24,999: Selection from oral interviews of finalists selected from the Division of Engineering and Architecture A/E file.
 - c. Less than \$10,000: Selection from Division of Engineering and Architecture A/E files.

PROCEDURE FOR:

V A/E AGREEMENTS INVOLVING A FEE OF \$25,000 OR MORE FOR BASIC SERVICES

- A. The Division of Engineering and Architecture, shall publish in a newspaper of statewide circulation an announcement inviting all interested A/E firms to indicate their interest in providing professional services for a specific project. Such announcements will contain the general scope and nature of the project or work and the general selection criteria to be used in the selection process. The announcement will encourage all interested women and minority owned firms to indicate their interest in specified project. The announcement will state a date by which statements of interests and supporting documentation must be received. Normally this date will be 10 calendar days from the date the announcement is published. Copies of the announcement will be provided to Professional A/E Associations.

- P. The Division of Engineering and Architecture, shall establish an A/E Selection Board for each project.
1. Duties of the Selection Board: The Selection Board shall be responsible for conducting the Phase I and Phase II Evaluations of interested firms (as outlined below) and, based upon a simple majority, establishing the selection list.
 2. Composition of the Selection Board: The Selection Board will be composed of three or more voting members and a non-voting chairman. When the Division of Engineering and Architecture is acting for another agency, the board will be comprised of five voting members.
 - a) CHAIRMAN/NON-VOTING: The non-voting member of the Board, will serve as Board Chairperson. The Chairperson will be appointed by the Division of Engineering and Architecture Manager from within the staff of the Division of Engineering and Architecture. The Chairperson will be responsible for providing to the Board members with all necessary data, defining the objectives and guidelines of the selection procedure, advising members of the number of firms to be considered and recommended, and conducting all deliberations in strict accord with established policy and procedure.
 - b) Owning Agency Representatives: Two members of the Selection Board will be appointed by the Owning agency as representatives of that agency.
 - c) Project Management Representatives: Two members of the Selection Board will be appointed from the Division of Engineering and Architecture. The individuals appointed will be licensed architects or licensed engineers.
 - d) Private Practice Representatives: The Division of Engineering and Architecture will appoint to the Board a license representative of the Architectural or Engineering profession, practicing within the private sector. The appointment to the Selection Board shall be confirmed in writing. The written notice of appointment will include the following conditions:
 - (1) Membership on the Selection Board is on a voluntary contract basis, with remuneration for reimbursement of travel and per diem expenses at existing State rates.
 - (2) Individuals accepting appointments shall agree that their firms are not eligible to participate in the subject project/contract on any level.
 - (3) The private practice representative may resign or be terminated from the Selection Board but his/her firm will remain ineligible for project consideration.
- C. In arriving at a Selection, the Selection Board shall undertake two phases of evaluating the qualifications of interested firms:

1. **PHASE I EVALUATION:** The Selection Board will review, evaluate and score the qualified submittals of all interested firms in response to the public announcement. The Selection Board will also review the A/E Reference File maintained by the Division of Engineering and Architecture. The Selection Board shall select a minimum of three firms deemed to be the most highly qualified to provide the required services. The evaluation criteria includes, but is not limited to the following:
 - a) Qualification of key personnel.
 - b) Relevant experience as shown by previous projects.
 - c) Performance on previous projects.
 - d) Expressed interest in the project.

2. **PHASE II EVALUATION:** Written invitations to participate in interviews will be sent to those firms selected to participate in Phase II Evaluation. The invitation will specify the amount of time to be allowed to each firm for its presentation. Questions may be posed by the Selection Board during and/or after the presentation. The following criteria will be used in evaluating the qualifications of each firm:
 - a. **ORGANIZATION**
 - (1) Management Plan
 - (2) Production Capabilities (Manpower & Facilities)
 - (3) Project Scheduling
 - (4) Budgeting and Cost Control Methods (In House & MACC)
 - b. **DESIGN ABILITY**
 - (1) Project Approach
 - (2) Qualifications of Design Team Members
 - (3) Qualifications of Sub Consultants
 - c. **EXPERIENCE**
 - (1) Relevant Projects
 - (2) Design Clarity Control & Quality Procedures
 - (3) Construction Surveillance
 - d. **SPECIAL FACTORS** (Criteria Unique to Project)

- D. Panel members shall evaluate, score and rank order all firms. The Chairperson shall total the panel members individual rank orders. The firm with the lowest total shall be considered the most qualified. In case of a tie, the toss of a coin by the Chairperson, will determine the first ranked firm. The ranking of the firms will be documented by completion of standard "Architect/Engineer Selection - Phase II Evaluation Summary" form and this ranking shall be the decision of the Committee. The chairperson will be responsible for insuring that such documentation is completed prior to the negotiation of the A/E Agreement.

- F. The project manager will be responsible for negotiating an agreement with the first ranked firm subject to approval of the Division Manager or designee. Should negotiations fail, the project manager will initiate negotiations with the next ranked firm. This process will continue until an A/E Agreement is executed or, the list is exhausted, or in the opinion of the Division Manager, a new selection process should be initiated.

VI PROCEDURE FOR A/E AGREEMENTS INVOLVING A FEE OF \$10,000 to \$24,999 FOR BASIC SERVICES

- A. A Selection Panel will be established consisting of three members. One member will represent the using agency. Two members will be appointed from the Division of Engineering and Architecture. A licensed member from the Division of Engineering and Architecture will be appointed the Selection Panel Chairperson.
- B. The Selection Panel will select at least three firms from the Division of Engineering and Architecture A/E file based on skill or speciality required for the project and location of the project.
- C. Each firm will be invited to present their qualifications orally to the panel. The invitation will be made in writing by the Chairperson.
- D. Panel members shall evaluate, score and rank order all presentations. The chairperson shall tabulate and total the panel members individual rank order scores. The firm with the lowest rank order total shall be the winner. In case of a tie, the toss of a coin by the chairperson will determine the first ranked firm. The ranking of the firms will be documented by completion of standard "Architect/Engineer Selection - Phase II Evaluation Summary" form and this ranking shall be the decision of the Committee. The chairperson will be responsible for insuring that such documentation is completed prior to the negotiation of the A/E Agreement.
- E. The choice of the Selection Board will not be considered final but only a recommendation, if the project is for an agency that requires approval of the selection by a Board of Trustees or similar governing body.
- F. The project manager will be responsible for negotiating an agreement with the first ranked firm. Should negotiations fail, the project manager will initiate negotiations with the next ranked firm. This process will continue until an A/E Agreement is executed or, the list is exhausted, or in the opinion of the Division Manager, a new selection process should be initiated.

VII PROCEDURE FOR A/E AGREEMENTS INVOLVING A FEE LESS THAN \$10,000 FOR BASIC SERVICES

- A. The selection will be made by a committee consisting of a minimum of three members designated by the Division of Engineering and Architecture.
- B. The Selection Panel will select at least three firms from the Division of Engineering and Architecture A/E file based on skill or speciality required for the project and locations of the project.
- C. The committee will hold a meeting to evaluate the firms and select the project consultant.
- D. Panel members shall evaluate score and rank order all presentations. The chairperson shall tabulate and total the panel members individual rank order scores. The firm with the lowest rank order total shall be the winner. In case of a tie, the toss of a coin by the chairperson, will determine the first ranked firm. The ranking of the firms will be documented by completion of standard "Architect/Engineer Selection - Phase II Evaluation Summary" form and this ranking shall be the decision of the Committee insuring that such documentation is completed prior to the negotiation of the A/E Agreement.
- E. The choice of the Selection Board will not be considered final but only a recommendation, if the project is for an agency that requires approval of the selection by a Board of Trustees or similar governing body.
- F. The project manager will be responsible for negotiating an agreement with the first ranked firm. Should negotiations fail, the project manager will initiate negotiations with the next ranked firm. This process will continue until an A/E Agreement is executed or, the list is exhausted, or in the opinion of the Division Manager, a new selection process should be initiated.

VIII PROCEDURE FOR EMERGENCY SITUATION

- A. This procedure need not be complied with when the contracting authority makes a finding in accordance with any applicable law that an emergency requires the immediate execution of the work involved.

APPENDIX VI

PROGRAMMING QUESTIONS

What is the security level of this prison? If a multi-level prison, what is the breakdown between security classifications?

Define the security levels used in response to the previous question. Does a medium security prisoner have contact visiting? Eat in a dining room? Have bullpen privileges?

Does the programming include academic education?

Does the programming include vocational education?

Does the programming include industries activities?

Do inmates leave the prison for any reason? How frequently and how often?

What is the primary programming for the inmates?

Why was the particular size of this prison chosen? Discuss the pros and cons of 500 man institutions versus larger or smaller ones.

Discuss the flexibility of the prison design as to program and number of prisoners that can be accommodated. Also as to security levels.

Discuss any operational problems encountered once the prison commenced operation.

COST QUESTIONS

What was total cost?

Precisely what factors were included in the cost data for your prison?
(See Capital Project Cost Elements.)

Were any of these costs unusual? Were any particularly low?

Did these costs represent market value? Was donated land involved?

What was the effect of taxes, if any, on costs? Was there a sales tax on these costs?

Did the project include a sewer treatment facility? Power generations plant? Water well?

Was there a lengthy access road? Please describe.

Was there a lengthy utility access problem for sewer, water, electricity, etc.? Please describe.

Was a general contractor utilized? Or several primes? If the latter, who performed the coordination function or construction management function?

Discuss the level of competition among contractors when contract was let for bid.

Were any major change orders issued during construction? If so, please describe and indicate costs involved.

When did construction start and stop?

Was any inmate labor utilized? If so, please describe. Discuss cost impact.

Was equipment and furnishings manufactured by a prison industries operation? If so, discuss effects upon costs.

Prison staffing requirements.

DESIGN QUESTIONS

What is the total square feet? Define square feet and method of counting.

How many cells? Medical cells? Solitary confinement cells?

How many beds (normal beds)?

What is considered the capacity of the prison?

Does the prison contain all its own support elements such as kitchen, dining, medical, shops, power plant, etc. or is it sattelited in any way off another facility?

Are the central support services (power plant, kitchen, shops, etc.) designed to support any further expansion? If so, please describe.

What is the general type of construction? (Steel modular, reinforced concrete, etc.)

What is the general design of buildings? Multi-story, high-rise, low-rise?

What space within the institution is considered multi-use? Discuss usage of classrooms, visiting space, dining space.

Discuss flexibility of the design in terms of security level and numbers.

APPENDIX VII



The State of Washington

OFFICE OF THE STATE ACTUARY

October 14, 1982

Norman S. Lusk, State Actuary

RECEIVED
OCT 15 1982

LEGISLATIVE
BUDGET COMM.

B-36 Institutions Building -- AG-22
Olympia, Washington 98504
Telephone (206) 753-9144

Frank Hensley
Principal Management Auditor
Legislative Budget Committee

Dear Frank,

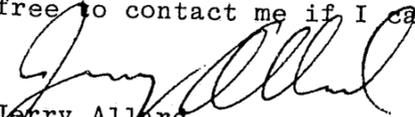
This is in response to your letter of October 1, 1982 requesting some calculations on the amount of additional construction cost which the state could incur in order to eliminate the future cost of one full time employee.

Fundamental to any calculation of this sort are two principle economic factors. One is the cost of money which must be borrowed in order to immediately complete construction. The second is the future salary increases we assume for the employee.

As you have suggested, I have made the calculations based on construction bonds that can be sold yielding 10% over the expected lifetime of the project - forty years. For the employee salary and salary increment rate, I have used your suggested \$20,000 per annum, including fringe benefits for the employee, and made the calculation using two different salary increment rates. (1) Straight 10% salary increase in each year; (2) 10% salary increment grading down to a 5% salary increment in ten years.

Using these two sets of assumptions, the first will yield a value of \$800,000. Thus, if our assumptions hold true, the state would save money if the incremental construction cost is less than \$800,000 to replace an FTE. If the cost is in excess of \$800,000, then the additional employee would be a better buy. The second set of assumptions yields a lower number since we are assuming smaller salary increases in the future and therefore a less expensive employee. The extra construction cost which would exactly cause us to break even under this assumption is \$435,000. Here again, the interpretation is the same as above.

I hope this information will be of help to you, and please feel free to contact me if I can help further.


Jerry Allard
Acting State Actuary

APPENDIX VIII
SUMMARY OF RECOMMENDATIONS

Assigned
Completion Date

RECOMMENDATION 1

That the Department of Corrections provide the appropriate standing committees of the Legislature and the Legislative Budget Committee with the current problem resolution status of the problems noted in the Report to the Legislature, Academic and Vocational Training, October 12, 1981.

RECOMMENDATION 2

That the college level academic program be reinstated as an integral part of the inmate education program, provided, that the priorities for educational programs contained in the Report to the Legislature, Academic and Vocational Training, October 12, 1981 are maintained.

RECOMMENDATION 3

It is recommended that the Department of Corrections, using its health services quarterly reports and the initial health data base, collect specific data on the incidence of drug and/or alcohol abuse by prison inmates and also specific data on treatment provided for drug and/or alcohol problems among prisoners.

RECOMMENDATION 4

It is recommended that further study be made of the extent of mental health services and treatment provided to offenders under the jurisdiction of the Division of Prisons, the Division of Community Services, and the local jails. Such a study should also determine whether that mental health care is adequate.

RECOMMENDATION 5

That the Department of General Administration revise its procedures for selecting architects and engineers to provide that either raw score totals or integrated rank orders between tied firms only, be the deciding factor in the event of a tie between competing firms.

CONTINUED

2 OF 3

Assigned
Completion Date

RECOMMENDATION 6

That the standing committees consider the advisability of specifically exempting prison projects from the provisions of Chapter 19.27 RCW which requires compliance with amendments to the State building code made by local jurisdictions, and local administration and enforcement of the building code.

RECOMMENDATION 7

That the standing committees consider whether the expenditure of 1/2 of 1% of the construction cost for art is appropriate for prison projects, and whether these projects should be specifically exempted from this requirement by a provision in the Appropriations Bill.

APPENDIX IX

FISCAL IMPACT

The potential savings from exempting the prison projects from local building code jurisdiction could amount to millions of dollars. The precise amount is dependent upon numerous variables. However, for illustrative purposes, if project occupancy were deferred when the project was virtually completed (and costs virtually all paid) and an interest rate of 10% is assumed, a cost of \$350,000 per month in extra interest expense alone would result. The cost of contract change orders, legal actions, administrative costs, delays in prisoner transfers, etc., would be in addition thereto.

The exemption of the Clallam Bay project from the requirement to spend 1/2% of the construction cost for art, would be a saving of at least \$138,132. A comparable amount could be assumed for the Grandview project.

APPENDIX X

AGENCY COMMENTS

JOHN SPELLMAN
Governor



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
Olympia, Washington 98504

December 10, 1982

AMOS REED
Secretary

RECEIVED
DEC 10 1982

LEGISLATIVE
PROPERTY COMM.

The Honorable Otto Amen
Chairman - Legislative Budget Committee
506 East 16th Avenue
Olympia, Washington 98504

Re: Prison Construction Issues

Dear Representative Amen:

After the November 19, 1982 presentation of the preliminary "New Prison Construction Issues" report by your staff, I requested the Division of Prisons' staff to address a number of issues raised in that report. Most notably, I am concerned about the issues related to the Department of Corrections' classification process.

The Classification Manual prepared by the Division of Prisons reflects the behavioral criteria and time lines essential to the management of a prison population which is becoming increasingly complex. The Department, after many years of operating essentially without a structured classification policy, has invested considerable time and energy in developing a structured, consistent classification process without creating marked disruption in that process.

In reference to the observations made by the Legislative Budget Committee staff, much work remains in projecting a population profile which will ensure adequate public protection and at the same time assure the availability and accessibility of programs to meet the needs of the offenders who will be returning to society.

However, the present classification process was also characterized as over classifying inmates in comparison with a couple of other states. The Department of Corrections conducted a brief survey of correctional systems nationwide to accurately reflect the relationship of Washington State with a variety of other states. The purpose of the study was to determine how Washington State compared proportionately in terms of the number of inmates assigned to the various custody levels.

From our analysis, it is clear that Washington State is relatively consistent with a majority of other states with the exception of the State of Texas which houses most of their inmates in maximum or close custody. With only six months experience, the track record for our current classification system is yet to be demonstrated.

The Honorable Otto Amen
December 10, 1982
Page Two

The graphs noted in the draft report as Exhibit 7 on page 40 clearly delineate an evolution of the prison population over a five-year period from approximately 48 percent violent offenders in 1976 to a 60 percent level of the current population. These statistics strongly suggest that more inmates are serving longer sentences for more serious crimes and will require a more intensive level of internal control during the course of their prison term in Washington State.

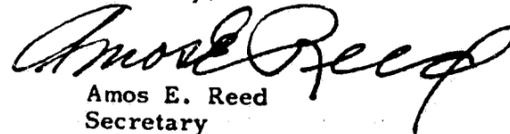
A copy of the Executive Summary, as well as the Cross Tabulation of Offense by Security Level, is enclosed for consideration by the Legislative Budget Committee.

In addressing the construction and design costs for the prototype medium security facility, it was my intent to ensure maximum flexibility for Washington State by designing a facility which could accommodate the anticipated responses of a more violent type of offender suggested by the statistics. My instruction to staff who have coordinated the design development phase of the project was to ensure that wherever possible, the applicable standards from the American Correctional Association, American Medical Association, American Public Health Service Association and the United States Department of Justice were evaluated and applied appropriately to the needs of Washington State. Where flexibility existed with regard to a particular standard, cost-effectiveness and staff efficiencies were to be considered in reaching the final decision. It is my belief that these objectives have been achieved within the current design. Through the Department of General Administration, appropriate steps are being taken to ensure that the design objectives are accomplished within the maximum allowable construction cost.

The level of scrutiny by the federal court regarding the operation of the state prison system will continue as the state begins to build facilities which ensure both flexibility and proper defense from legal challenges regarding the constitutionality of prison conditions in Washington State. While it is regrettable that construction of prisons is expensive, it is clear that the long-range cost associated with delays in construction could prove to be cost prohibitive.

Again, we wish to express our appreciation to the Legislative Budget Committee and to Mr. Don Petterson, Mr. Fred Tilker, Mr. Frank Hensley, Mr. Ron Perry and Mr. Rob Krell whose judgment and assistance during the course of this evaluation have been courteous and proficient at all times.

Sincerely,


Amos E. Reed
Secretary

AER:wtkm
Enclosures

cc: Members, Legislative Budget Committee
Staff, Legislative Budget Committee



JOHN SPELLMAN
Governor

KEITH A. ANGER
Director

STATE OF WASHINGTON

DEPARTMENT OF GENERAL ADMINISTRATION

218 General Administration Building • Olympia, Washington 98504

December 9, 1982

RECEIVED
DEC 10 1982

LEGISLATIVE
BUDGET COMMITTEE

Mr. Frank M. Hensley
Principal Management Auditor
Legislative Budget Committee
506 East 16th Avenue
Olympia, WA 98504
M.S. KD-11

Re: Legislative Budget Report
New Prison Construction Issues

Dear Mr. Hensley:

I have reviewed your report on Current Prison Construction Data to the Legislative Budget Committee on November 19, 1982. My comments follow:

1. Architect Selection Process:

I concur with your recommendation to change the tie-breaking procedure. A meeting was held December 7, 1982 to review the proposed procedure changes with representatives from the A/E private sector. The changes are now in final draft form.

2. Costs:

I concur with your analysis. As you have pointed out, the current design team cost estimates are above the budgeted maximum allowable construction costs. I am concerned about the projected overrun. At the completion of the design development phase of a project, it is not uncommon to require a cost reduction program to get the project back into budget. An aggressive cost reduction program is underway on the two 500 bed prison project.

Members of the design team and my staff are currently making a detailed tour of the Eastern Prison in North Carolina to seek cost reduction concepts. Every effort will be made to reduce the projected costs to the budgeted amount without sacrificing programmatic requirements.

Also of concern to me are the uncertainties of the construction industry in the near future. Our current excellent "buyer's market" in Washington's construction industry could quickly shift to a "seller's market" with the falling prime rate. Construction cost estimating accuracy is in jeopardy in this period of economic uncertainty.

Mr. Frank M. Hensley
December 9, 1982
Page 2

3. Cost Comparisons to Other States:

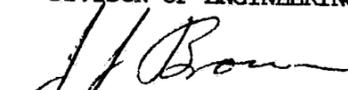
I concur with your analysis and recommendation.

4. Design Cost Considerations:

I concur with your analysis and recommendation.

Sincerely,

DIVISION OF ENGINEERING AND ARCHITECTURE


JACK L. BROWN P.E.
Manager

JLB:jbb

cc: R. Siegle

W. Kautzky

R. Bradley

D. Stebbins



JOHN SPELLMAN
Governor

RECEIVED
JAN 17 1983

AMOS E. REED
Secretary

STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

Olympia, Washington 98504

January 14, 1983

LEGISLATIVE
BUDGET COMM.

The Honorable George Clarke,
Acting Chairman
Legislative Budget Committee
Mail Stop AS-32
Olympia, Washington 98504

Dear Senator Clarke:

Thank you for the opportunity to make a formal response to the Legislative Budget Committee's report on New Prison Construction Issues. We feel that the report, as a whole, was quite well done. The Committee and its staff are to be congratulated for examining difficult and complex issues and analyzing them in a straightforward, clear fashion.

The discussion of incarceration policies clearly outlines the fact that the Department of Corrections has no real control on who is incarcerated or for how long, and thereby the number of people in prison. The discussion correctly focuses on the fact that the control of prison population lies with the policy makers in the legislature and in the courts. We think the discussion on prison population projections and prison use was most helpful, and agree that projections are more of an art than a science. All projective mechanisms are flawed in that they, by necessity, must rest on historical perspectives and thus do not accurately reflect present and future policies and practices. Despite these flaws the projections are the best available tool. We also recognize that as the Sentencing Reform Act of 1981 (House Bill 440) goes into place our earlier projections will be obsolete. We agree that the impact of HB 440 is unknown at this time and that the specifics of its impact are subject to the legislature's decisions and policies.

The discussion of prison construction, policies, practices, and costs, is a particularly enlightening discussion of an issue area that has too frequently been misunderstood and/or oversimplified. We feel that the discussion of the extremely long lead times in both design and cost estimation as well as the relatively limited number of available options will be very useful to the legislators and the general public in understanding this complex issue.

Senator George Clarke
January 14, 1983
Page 2

We were somewhat concerned that the discussion of classification and its impact on prison construction and management was not as complete as it might be. As you know, Washington State is among the last states in the Union to address the classification issue in an organized fashion. Because of this earlier inattention, the present capacity of Washington State to have a comprehensive classification system has been limited. One of the results of this inattention over the years is the fact that, until very recently, we have had only three major institutions while other states such as Alabama and California have a larger number of facilities. With this greater number there comes an inherent ability to be more flexible in classification and management.

Another issue that impacts upon classification is Washington's long-standing reliance on alternatives to incarceration. In this state, now and for many years past, approximately 80 percent of convicted felons were placed on probation or some other community alternative. This rate of alternative use is much higher than that of either California or Alabama and it results in the significantly different mix of people coming into the institutions. The use of alternatives "skims off" the overwhelming majority of the first offenders and minor offenders which in other states are traditionally placed in or move quickly to minimum custody. We receive into our institutions a population that has a much higher ratio of serious offenses. This presents a more difficult population management problem than many other states have to deal with. In addition to this mix having a greater number of serious multiple offenders, it also contains a larger number of people who are serving longer terms. In those states which make little use of alternatives, large numbers of offenders, frequently the majority, are serving short sentences. With our more serious offender mix, many of our offenders come in with longer sentences. This longer length of sentence contributes to a "stacking up" of the population within our own facilities, i.e., they don't move out as quickly on the average. This combination of serious offenders and the "stacking effect" present serious management problems and tends to force a movement toward higher levels of custody.

To address these problems we have, after more than a year's work, established the state's first organized comprehensive inmate classification system. Under previous cover we provided Committee staff with a copy of this manual. Our new classification system, which became effective at the first of this year, is based on widely recognized "pyramid" process. In this process, an individual begins in highly restricted circumstances or high levels of custody. As we get to know the individual and as he/she comes to grips with his/her own behavior and status, he/she moves onward through the system to lesser levels of custody. This movement is based on earned trust and demonstrated ability to handle greater levels of responsibility. As individuals move through the system

Senator George Clarke
January 14, 1983
Page 3

they have increased degrees of freedom and greater responsibilities. This continues until they leave the department's custody. The classification system, for the first time, clearly defines the physical capacities of our individual institutions. It also objectively defines the qualifications for movement by an individual forward through the classification process. With these specific definitions and qualifications we are confident that our clients will be able to understand the situation better. With this understanding they will be better able to return successfully to the community. We feel that this clear and specific progression is a more sensible and satisfactory way of classifying offenders than using some statistical or theoretical artifact.

As we implement our classification system over the coming years we will need to address securing the necessary resources to enable Corrections to meet its mandated goals. As you know, we are extensively remodeling the Penitentiary and have initiated the remodeling of the Reformatory. These physical changes in those old restrictive facilities, coupled with the increased flexibility we will be getting at McNeil Island and the new 500 bed facilities at Monroe and Clallam Bay, will enable us to expand our resources and programs in the middle (or medium custody) area of the classification process. This middle, or medium custody area, is a part of the continuum where most of our clientele spend a significant portion of their time. During this time the people become more stabilized although not to the degree that they represent no threat to community safety. As we are able, through time and with available resources, we anticipate expanding the program array within this middle area. This will not only increase the services available to our clientele but also enhance their ability to successfully move to the minimum custody phase of their correctional experience and finally to return to their communities.

The report made mention of several of the programs we are mounting as part of this effort. We would like to note only one of them, the educational program. The report notes its status 14 months ago when the effort had just been begun. At that time we reported to the legislature 13 problem areas which we felt must be addressed. In the intervening months we have made substantial progress in addressing these problem areas, particularly considering the sharp reduction of resources. We are attaching, for your information, an interim report which describes the status of these problem areas at the end of calendar year 1982. As you can see from this attachment, we have made substantial progress in this area over the past year. I'm sure you agree that despite this substantial progress we need to continue to expand and develop this program area.

Senator George Clarke
January 14, 1983
Page 4

In closing, I would like to thank you again for the opportunity to respond to your report. We look forward to the continuing interest of the Legislative Budget Committee as we continue to develop our programs to meet the needs of the state.

Sincerely,



Amos E. Reed,
Secretary

AER:jfw
Attachment

cc: Don Petersen, Legislative Auditor
Legislative Budget Committee Members

JOHN SPELLMAN
Governor



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

Olympia, Washington 98504
January 7, 1983

RECEIVED
JAN 17 1983

AMOS E REED
Secretary

LEGISLATIVE
BUDGET COMM.

In the December 17, 1982 Legislative Budget Committee working paper, New Prison Construction Issues, Chapter III B, Inmate Rehabilitation and Education Needs, two recommendations were proposed.

RECOMMENDATION 1

That the Department of Corrections provide the appropriate standing Committees of the Legislature and the Legislative Budget Committee with the current problem resolution status of the problems noted in the Report to the Legislature, Academic and Vocational Training, October 12, 1981.

RECOMMENDATION 2

That the college level academic program be reinstated as an integral part of the inmate education program, provided, that the priorities for educational programs contained in the Report to the Legislature, Academic and Vocational Training, October 12, 1981 are maintained.

The Department of Corrections is pleased to have this opportunity to respond to the recommendations and report the progress made in resolving issues identified in its report to the Legislature fourteen months ago. We also fully support Recommendation 2; to reinstate the college level academic program as an integral part of the inmate education program within the priorities stated in the report to the Legislature.

Considerable progress has been made in the 13 problem areas restated in the LBC paper. Most objectives have been met and steady progress is being made on those remaining issues.

1. In October 1981 the Department of Corrections did not have a satisfactory procedure for monitoring and documenting educational programs. In February, 1982 a new monthly reporting system was initiated. The reports were developed by working with staff at the State Board for Community College Education using common definitions. The result has been more consistent and accurate monthly reports documenting educational program activities in all of the DOC institutions. Procedures have been developed to support most of the educational policy directives. Ongoing monitoring has been conducted by the DOC Educational Administrator and the institutional administrators. Annual Reports have been submitted for the first time by all of the educational contractors. The Department is currently working with SBCC staff and the educational contractors to develop the three year external review procedure for all DOC educational programs.

2. The 1981-82 educational contracts were developed and based on limited background experience. The current 1982-83 educational contracts were developed with the benefit of a year's operating experience and by working closely with contractors. The 1982-83 contracts are more specific so they may be monitored more closely. They specify the specific program hours to be offered and the cost of those programs. As the result of an audit review of the 1981-82 contracts a procedure for determining indirect costs was developed. This procedure was reviewed by staff at SBCC and OFM. Technical assistance in the development of the 1981-82 contracts was also received from the Office of the Attorney General.
3. The appropriate program placement of inmates during the classification process has been difficult because of increased numbers and limited facilities. This continues to be a problem and it has been compounded by the elimination of the college level academic courses and growing waiting lists for vocational programs. The new DOC classification manual provides the structure and procedures for determining program placement. Its optimum use will depend on solving over population in our institutions.
4. In 1981 there was not enough work for all inmates in the institutions to provide full employment. This continues to be a problem. Educational programs provide an average of 78,000 inmate program hours per month providing not only positive self-improvement opportunities, but also addressing the critical issue of idle time.
5. Historically, there has been little coordination between the vocational training programs and Institutional Industry. In the October 12 report to the Legislature the new DOC policy directive 500.034 Training in Conjunction with Institutional Industries Production Shops speaks to this issue. In the DOC Report to the Legislature, Offender Employment Management Program, January 1, 1982, the importance of integrating the vocational programs with Institutional Industries was also identified and incorporated into a number of the procedures recommended.

Since October, 1981, a number of actions have been taken to bring both programs together. A few examples resulting from this effort have been the modification of the welding program at the Washington State Penitentiary to support the metal fabrication industry at WSP. Vocational training programs were developed to support the clothing industry at Purdy Treatment Center for Women. The auto mechanic and auto body and paint programs are being reviewed so they will better prepare inmates to work in the new bus repair facility at the new 500 bed facility at Monroe. Working with Institutional Industry staff, minimum academic and vocational education requirements have been established for all new Institutional Industry inmate positions as part of the job descriptions. The goal is to have inmates receive sound educational preparation and successful job experience so when they return to a free society they will have marketable skills.

6. Frequently, inmates were not able to complete educational courses because they are transferred to other institutions. The Department now provides open entry basic education programs at all of its institutions. Inmates

- are able to complete their GED or High School degree at each of the institutions. Vocational programs have been limited mostly to the major institutions. College level academic programs were discontinued at the direction of the Legislature. This has created a severe limitation to those inmates that would benefit from this kind of program. During this past year, inmates have not been able to complete their associate vocational degrees because college level academic courses are also required for that program. Alternative and more cost effective delivery systems have been reviewed and the use of the small home computer has been found to provide an excellent alternative for repetitious skill instruction. The use of telephone networks appear to offer another more cost effective method of providing educational programs for some of the more remote facilities.
7. Inmate educational records were incomplete and lagged far behind the inmate when transferred to another institution. This continues to be a problem, but several small steps have been taken to make improvements. A directory has been developed so counselors and teachers can contact staff at the sending institution. The contracts specifically call for the colleges to maintain the inmate educational file. Much will depend on the development of an on-line offender based file system to resolve this issue. Such a system has been requested by DOC.
 8. The assessment of inmate educational program needs has not been conducted with the same level of skill at all institutions. To address this problem the 1982-83 contracts call for the community colleges to help with the inmate educational program need assessment. The college staff will work with the Institutional Administrators and the DOC Educational Administrator to develop the educational program needs assessment. A common assessment form has not been developed; however, the use of such an instrument is under study.
 9. Prior to October, 1981 there were limited opportunities for teachers employed by the educational contractors and DOC in the correctional institutions to receive in-service training designed to help them work more effectively with inmates.

In-service training for teachers working in the DOC correctional institutions has been increased. An adult basic education workshop was held on August 26 through 28, 1982 at the Evergreen State College. Vocational teachers participated in the Washington Vocational Association statewide workshops held in Yakima on August 15 through 18, 1982. Selected teachers participated in the Correctional Education Conference held November 12 and 13, 1982 in Vancouver, Washington. Key counselors and administrators from DOC, SPI, and DSHS participated in a one day learning disability seminar sponsored by DOC and conducted at no cost by Lehigh University at the Evergreen State College. Teachers in the institutions have also participated in in-service staff meetings on their home campus.
 10. The Washington State Library has been providing excellent public library services to inmates with limited resources; however, educational program libraries and the expanding law libraries in the institutions have brought about the need to examine further the effective management of library resources in the institutions.

DOC and WSL have been working closely together to increase library collections in the institutions and worked together to develop the 1983-85 budget request. Funding levels will determine the size and scope of the library programs. Significant progress has been made to develop minimal law library collections and procedures for the use of those resources. In addition, training tapes produced to help inmates make better use of the law libraries have been developed in cooperation with the University of Washington Law Library.

11. Currently there is very little postrelease information gathered that may be used to evaluate whether the vocational programs have adequately trained an inmate for employment in a competitive market. This continues to be a problem that needs attention although some progress has been made within DOC and by working with Corrections Clearinghouse.
12. Inmate eligibility for educational benefits and recovery of such benefits may not be receiving adequate attention by the institutions. This area is currently under study; however, the financial benefits available to inmates have become fewer during this past year.
13. There may be the opportunity to lower the cost of certain educational programs by offering those programs only at selected institutions and assigning inmates who would benefit from those programs to that particular institution. During the development of the 1982-83 contracts, careful attention was given to providing educational programs that would serve those greatest in need. All offerings were prioritized and programs that were not cost effective were discontinued. Further consolidation of educational programs will come with the reorganization of the Institutional Industries programs and through the implementation of the procedures detailed in the inmate classification manual. The further development of the Offender Employment Management Program is described in the Report to the Legislature, January 1, 1982.

FACTS ABOUT THE LEGISLATIVE BUDGET COMMITTEE

The Legislative Budget Committee, a statutory joint committee of the Legislature, is composed of eight Senators and eight Representatives equally divided between the two major political parties. It serves as a general purpose oversight arm of the Legislature. The Committee staff, headed by the Legislative Auditor, undertakes studies, surveys and performance audits concerning: (1) economy, efficiency and effectiveness of State programs and agency operations; (2) whether appropriations have been expended in accordance with legislative intent; (3) general fund revenue trends; and (4) other specific oversight duties assigned by the Legislature. Assistance may also be provided to standing committees of the Legislature and to individual legislators in areas of Committee staff expertise. The Committee staff also conducts program and fiscal reviews of State agencies, programs or statutes for termination under the Washington Sunset Act.

The regular performance audits undertaken by the Committee staff include reviews of program goals and objectives of State agencies to determine how faithfully State agencies are conforming with legislative intent. These audits are intended to provide, for legislative review, objective analyses of the economy, efficiency and effectiveness of State agency and State program management.

The Legislative Budget Committee staff also monitors and reports on the use of consultants by State agencies and maintains a central control file of personal services contracts for legislative and public use. Spending from unanticipated Federal, State or local revenues by State agencies is also monitored by the Committee staff. A regular report of such spending is provided to the Committee staff. A regular report of such spending is provided to the Committee and other interested parties.

During periods when the Legislature is not in session, the Committee is responsible for review and approval of proposed changes in the executive budget format as well as maximum subsistence mileage allowances for State employees.

Other oversight responsibilities assigned by the Legislature concern educational clinics, salary survey plans, fiscal notes, Washington Public Power Supply System and confidential motor vehicle plate use by public entities.

The Committee meets on a monthly basis during the interim period between legislative sessions, or more often when circumstances indicate the desirability or necessity of additional meetings. The Committee reports directly to the Legislature, making recommendations for legislative consideration and action.

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