

U.S. Department of Justice  
National Institute of Corrections

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# The NIC Information Center

Quarterly Summary

# Corrections Quarterly Summary

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## Volume 8, No. 4 Fourth Quarter 1989

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The *Corrections Quarterly Summary* is prepared by staff of L.I.S., Inc., for the U.S. Department of Justice, National Institute of Corrections. To submit questions or comments, please write to the NIC Information Center, 1790 30th Street, Suite 130, Boulder, Colorado, 80301, call (303) 939-8877, or send a telefax to (303) 442-3412.

## CAPACITY CHANGES

Twenty-seven responding agencies reported changes in system capacity for the fourth quarter, 1989. All but four changes were net increases in bedspace.

Systems with Change			Reason for Change
Alabama	+	14	Closed a work release facility; opened addition at Mobile facility.
Alaska	-	20	Decreased use of out-of-state contractual beds.
Arizona	+	835	Increased beds through double-bunking, conversion of dayrooms, etc., to housing, and new construction; 79 general housing beds converted to lockup.
Arkansas	+	260	Miscellaneous expansion.
California	+	744	New construction.
Colorado	+	126	Emergency double-celling and new modular units.
Florida	+	3,100	New construction.
Georgia	+	1,501	Increased beds at seven facilities; decreased at one.
Idaho	+	252	Opened maximum security institution.
Iowa	+	25	Converted a prison farm barn to a 25-bed dormitory.
Louisiana	+	239	Opened 239-bed maximum security penitentiary.
Massachusetts	+	30	Contractual housing.
Minnesota	+	60	Renovated state hospital.
Nebraska	+	15	Remodelled existing space at women's facility.
New Hampshire	+	60	Opened New Hampshire State Prison for Women in Goffstown.
New Jersey	+	300	Erected emergency housing tents holding 150 beds; converted vacant laundry building to dormitory.
New Mexico	+	102	Opened new minimum security unit.
New York	+	468	Expanded existing facilities and opened new facility at Mohawk.
North Carolina	-	55	Reduced beds to increase space for the existing population.
Oregon	+	150	Opened minimum security facility at Baker City.
Pennsylvania	-	119	Increased capacity by 717; lost 836 beds in October inmate disturbance at SCI-Camp Hill.
South Carolina	-	621	Lost 725 minimum security beds in compliance with consent decree; added 104 beds at a new medium security facility.
South Dakota	+	48	Contracted with a county jail.
Texas	+	1,541	Opened 1,000-bed Hobby Unit for males; increased bedspace for females; opened 200-bed trusty camp.
Virginia	+	254	New construction.
Washington	+	85	Increased pre-release bed capacity.
District of Columbia	+	987	Added beds at several facilities.

# **LITIGATION**

## **Cases Filed**

### **Eligibility for Supervised Home Release**

In the Connecticut case *Wilson v. Meachum*, the petitioner claims that a law excluding certain offenders from eligibility for the supervised home release program cannot be implemented retroactively. The Connecticut Supreme Court has previously ruled in *Asherman v. Meachum* that revocation of supervised home release does not violate due process requirements.

### **Programming for Female Inmates**

*Katrina Houser v. District of Columbia, et al.*, concerns whether the District of Columbia is providing appropriate services for women committed to the Department of Corrections.

### **Electronic Monitoring**

In New Jersey, the federal suit *White v. Fauver, et al.*, alleges that the use of electronic devices such as cameras to monitor the activities of inmates under administrative segregation effectively eliminates inmates' right to counsel.

### **Freedom of Religious Observance**

*Picotte v. Power, et al.*, filed in federal court in North Dakota, involves a demand by a Native American that he be permitted to keep and use a ceremonial pipe in his cell. Penitentiary officials are concerned about increased security risks and the uncertainty that such a ruling could create as to how to handle allegedly religious objects.

### **Adequacy of Health Care**

A Utah class action suit, *Henry, et al. v. Gary W. DeLand, et al.*, challenges the constitutionality of medical, dental, and mental health care at the Utah State Prison, claiming that there is no compliance with "national" standards of care or with the department's previous audit recommendation.

### **Random Drug Testing**

*Carver v. Reynolds*, a federal suit filed in Tennessee, concerns whether random drug testing of inmates is constitutional.

## **Cases Settled**

### **Employment Discrimination**

In *Walker v. State of Alabama*, the district court ruled against the state, finding that employment discrimination was present in the state's Police Officer Standards and Training (POST) certification process. The settlement provides that felons will be ineligible for law enforcement positions and misdemeanants will no longer be automatically excluded. In addition, the legislature must appropriate funds for a payment of \$2.1 million to the plaintiff class and plaintiffs' attorneys.

A federal judge in *Denise Beck v. New Jersey Department of Corrections* ruled that the department had not discriminated against female correction officers in its job assignment and promotional practices.

## **Litigation, continued**

### **Conditions of Confinement**

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In New Jersey federal case *Pennington, et al. v. Fauver, et al.*, the court's summary judgment in favor of the New Jersey Department of Corrections found that although conditions in the Capital Sentence Unit differ from those for the general population, they do not constitute "cruel and unusual punishment."

In the precedent-setting *Patterson v. Coughlin, et al.*, a federal court judge in New York ordered that an inmate placed in a special housing unit for fifty-three days in 1983 should be paid \$100 per day of his placement there. The court found that the superintendent's proceeding did not comply with due process standards. The agency plans to appeal.

A consent decree was issued in *Gates v. Deukmejian*, in which inmates protested conditions at the California Department of Corrections' main medical facility and the Northern Reception Center. Allegations included denial of access to appropriate medical and psychiatric treatment and inappropriate separation of HIV-positive and handicapped inmates. The department agreed, among other actions, to pilot a project to integrate into the general population HIV-positive inmates who meet conditions relating to high-risk behavior and medical needs. The correctional officers union has filed a motion to intervene because members believe that their safety is jeopardized by the consent decree.

### **Searches**

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In a ruling on *State of Vermont v. Berard*, the Vermont Supreme Court found that random shakedown searches are not in violation of the Vermont constitution.

A California court has ruled in *Milton Estes, et al. v. Daniel J. McCarthy, et al.*, that the state corrections department may conduct predesignated visitor vehicle searches, but with a number of stringent restrictions. The department plans to appeal the decision.

### **Facility Crowding**

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In *Jackson, et al. vs. New York State Department of Correctional Services*, a New York Supreme Court judge ruled that the department's commissioner is in contempt of an earlier order requiring the department to take all state-ready inmates within fourteen days of sentencing or parole violators within fourteen days of final adjudication. The judge commented, "If the State enacts laws calculated to increase prison population, without regard to its ability to house that population, the Commissioner is then placed in an untenable position...[However] it is beyond the authority of this Court to excuse public officials for failing to comply with the law, particularly where another party's rights would be impaired as a result."

### **Wrongful Conviction and Incarceration**

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In *McLaughlin v. State of New York*, a Court of Claims judge awarded an inmate \$1.9 million for his stress and loss of earnings due to his unjust conviction and incarceration.

### **Rights of Homosexual Inmates**

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In *Veysey v. Commissioner, Correctional Service of Canada*, the Canadian federal court ruled in favor of a gay inmate who had not been allowed to participate in the Private Family Visiting Program. The commissioner has appealed the case.

### **Facility Development**

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In federal case *Arney v. Hayden*, the court approved a Kansas plan for developing new long-term facilities as correctional facilities rather than hospitals. This was a significant cost-saving decision for the state.

# **LEGISLATION**

## **Construction Appropriations**

Arkansas passed a \$25 million bond issue for new construction which will allow for continuing expansion of much-needed bed space.

Pennsylvania appropriated funding for construction of 1,440 modular beds throughout the state correctional system.

A Connecticut law authorizes emergency construction or renovation of correctional facilities when there is an immediate need for additional space to relieve prison and jail overcrowding.

## **Sex Offender Treatment**

Effective November 1, 1989, a new Oklahoma law requires the Department of Corrections to develop and implement a special treatment program at the Joseph Harp Correctional Center for inmates with severe psychiatric problems, including inmates convicted of sex-related offenses and inmates that have prior convictions for sex-related offenses.

## **Offenders' Financial Obligations**

A new statute in Washington strengthens the state department of corrections' ability to enforce offenders' legal financial obligations. The measure provides for a six-month grace period for offenders to bring their payments up to date, after which community corrections officers may pursue court action. The department can also petition the court for mandatory wage assignment against offenders who commit a felony after July 1, 1990, and who fall more than one month behind in their payments.

## **Interstate Compact**

Authorization to enter the Interstate Corrections Compact Act of 1989 is pending Congressional review in the District of Columbia.

## **Management of Drug Offenders**

Massachusetts has passed an act prohibiting good conduct deductions until the mandatory minimum for certain drug offenses is served.

The Pennsylvania legislature approved a measure requiring inmates to be tested for drugs within one week prior to their release.

## **Privileged Communication**

A Massachusetts law regulating confidential communication between social workers and their clients was amended to allow, among other exceptions, the social worker to report the client's intent to kill or seriously harm a reasonably identified individual. Corrections counselors are classified as social workers in Massachusetts.

## **Fees for Correctional Services**

The Utah legislature has passed a law authorizing the state Department of Corrections to collect from offenders in prison and on probation or parole the full cost of services they receive. The department probably will not do so, however, because the cost of administering a collection program would likely be more than could be collected from offenders.

# QUARTERLY SURVEY: Policies on Contagious Disease

The survey for this quarter sought information about agency policies with regard to allowing staff to know whether inmates have contagious diseases, specifically human immunodeficiency virus (HIV) infection. The topic was proposed by George Green of the Nebraska Department of Correctional Services.

## Agency Policies

Table 1, on page 7, summarizes agency responses concerning the existence of policies on staff knowledge of inmates' infection with contagious diseases and whether those policies include HIV infection. Eighteen of the responding agencies do have policies that allow at least some corrections officials to know whether inmates have contagious diseases. Ten of these states sent copies of their policies to the Information Center.

The requirements are set forth in several types of documents or mandates.

- In six states (Massachusetts, Nevada, North Carolina, Oklahoma, South Carolina, and Washington), agencies are guided by health services-related policies.
- In Colorado, Hawaii, Iowa, and Montana, personnel policies govern the issue.
- Departmental administrative policies apply in Connecticut, Kansas, North Dakota, and Virginia.
- Delaware's policies are defined in a labor contract.
- California's position is contained in state law.
- In Pennsylvania, personnel policies limit information about inmates' HIV infection or AIDS to those employees with a need to know, and several labor contracts require that employees

be informed of the identity of persons with communicable diseases. In addition, an executive order calls for "a concerned and non-discriminatory environment for individuals with AIDS or HIV infection," including both state employees or persons served by the state.

- Texas guidelines appear both in a department administrative directive and in the department's health services policies and procedures.
- Because their policies emphasize confidentiality, Louisiana and North Carolina require that blood and body fluid precautions be taken with all inmates.
- Although Kansas does not have a general infectious disease policy, its specific policy is that medical staff notify the institution director and the central office health care administrator when a diagnosis of AIDS, ARC, or HIV infection is made.
- Employees in New Hampshire are notified of inmates with contagious diseases only on a "need-to-know" basis.

Responses indicate that, of the eighteen states that have contagious disease policies, only two (Delaware and Massachusetts) prohibit staff from knowing about inmates' HIV infection. Texas generally allows staff to know about contagious diseases except for HIV. Because of the question's wording, however, it is not clear, in some cases, whether the other states' policies allow knowledge of all infectious diseases, and therefore include HIV, or whether HIV and other blood-borne infections are mentioned specifically.

In Alabama all inmates with HIV infection are assigned to a special unit; therefore, all personnel are aware of those who have the infection.

## Quarterly Survey, continued

### **Categories of Employees with Information Access**

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Department policies reflect the need to balance public health concerns against inmates' right to privacy. Although twelve agencies reported that all specified categories of employees (custody, programming/treatment, and administrative) may be informed when inmates have contagious diseases, most agencies also require that the staff who are informed must need to know the inmates' status or must have come in direct contact with infected inmates. Specific state policies include the following provisions:

- **Oklahoma** includes any employee who has been sexually assaulted, bitten, or contaminated with blood.
- In addition to affected employees, union officials must be informed in **Delaware** and **Pennsylvania**.
- In **Massachusetts** only the commissioner and the superintendents are considered to have a need to know whether inmates have communicable diseases. Even these officials, however, may not be informed of inmates' HIV status without the inmates' consent. Massachusetts has also developed a detailed procedure for handling "exposures of concern," in which employees have come in contact with blood or body fluids. In these cases, communicable disease information about the source-contact will be obtained and

communicated to the employee's physician while the source's identity is kept confidential.

- In **Virginia** and **North Carolina** only the warden or superintendent and the medical staff are informed when inmates are infected with HIV.
- **Colorado's** personnel policies allow correctional staff and parole officers to know the HIV status of those they directly supervise.
- In **Texas** the policy specifically states those officials who are authorized access to health records. In general these persons are health services staff, including treating professionals from outside the institution; the assistant attorney general and departmental general counsel staff; the Board of Pardons and Parole, the governor, and their employees; and the unit warden and his/her designees. The unit health authority must approve the sharing of inmate medical information with other personnel who have a need to know.
- Several states' policies emphasize the requirement to keep all inmate health status information confidential by reminding staff of the penalties for divulging such information.

For additional information on agency policies, contact the NIC Information Center by writing to 1790 30th Street, Suite 130, Boulder, Colorado, 80301, or call (303) 939-8877.

*Survey results are tabulated on the following page.*

## Quarterly Survey, continued

**Table 1: Agency Policies Regarding Contagious Disease Awareness**

	Policy Allows Staff to Know		Policies Include HIV Infection	
	No	Yes	No	Yes
Alabama	X			
Alaska	X			
Arizona	X			
Arkansas	X			
California		X		X
Colorado		X		X
Connecticut		X		X
Delaware		X	X	
Florida	X			
Georgia	X			
Hawaii		X		X
Idaho	X			
Illinois (N/A)				
Indiana	X			
Iowa		X		X
Kansas		X		X
Kentucky	X			
Louisiana	X			
Maine	X			
Maryland (N/A)				
Massachusetts		X	X	
Michigan (N/A)				
Minnesota	X			
Mississippi (N/A)				
Missouri	X			
Montana		X		X
Nebraska (N/A)				
Nevada		X		X
New Hampshire	X			
New Jersey	X			
New Mexico	X			
New York	X			
North Carolina		X		X
North Dakota		X		X
Ohio (N/A)				
Oklahoma		X		X
Oregon	X			
Pennsylvania		X		X
Rhode Island (N/A)				
South Carolina		X		X
South Dakota	X			
Tennessee	X			
Texas		X		X
Utah (N/A)				
Vermont	X			
Virginia		X		X
Washington		X		X
West Virginia	X			
Wisconsin (N/A)				
Wyoming	X			
District of Columbia	X			
Federal Bureau of Prisons (N/A)				
Canada	X			

## **COMMISSIONER CHANGES**

**Colorado** Frank O. Gunter, Executive Director, Colorado Department of Corrections; formerly Director, Nebraska Department of Correctional Services.

**District of Columbia** Walter B. Ridley, Director, D.C. Department of Corrections; formerly Acting Director.

**Hawaii** George Iranon, Director, Hawaii Department of Corrections; formerly Deputy Director.

## **ADDITIONAL HIGHLIGHTS**

**Idaho** has implemented a behavioral contract management tool at its new maximum security institution for close-custody and administrative segregation inmates.

A drug testing policy for all employees of the **Louisiana** Department of Corrections went into effect January 1, 1990. Included are pre-employment, random, reasonable cause, post-accident, and rehabilitative tests.

Inmate disturbances at SCI-Camp Hill in **Pennsylvania** in October 1989 resulted in a loss of 836 beds. Five investigations of events are currently in process.

The **Louisiana** Department of Corrections has contracted with Corrections Corporation of America to operate a new 610-bed, medium-security prison in Winnfield. The prison will be the first privatized medium-security facility in the U.S. and the first privatized facility in Louisiana.

The Correctional Service of **Canada** has developed an inventory of international organizations of interest to correctional agencies. Agencies may request a copy from Mario Dion, Assistant Commissioner, Communications and Corporate Development Branch.

### **Facility Construction**

Six donated sites were selected in **Texas** for the construction of three 2,250-bed and three 1,000-bed facilities for males. Construction continued on two 2,250-bed and one 1,000-bed facilities. In November, Texas voters approved the sale of general obligation bonds to finance prison construction.

In response to projected inmate population increases, the **Washington** Department of Corrections has revised its six-year capital plan to fund additional bed space. The plan calls for accelerated new construction, facility renovation, and expansion; core facility upgrades; addition of housing units and double-bunking at existing institutions; and construction of regional camps and two medium-security prisons.

**West Virginia's** governor announced a plan to build a new \$45 million, 926-bed medium- and maximum-security prison. The plan includes a compromise to lessen the economic impact of the court-ordered closing of the 123-year-old state penitentiary. A \$19 million, 388-bed medium-security prison/geriatric facility/regional jail complex will also be constructed.

## **AIDS INFORMATION**

In settling a class action suit, a federal judge endorsed **Alabama's** current policies regarding HIV-positive inmates and their medical treatment. Some inmates had argued that, because HIV-positive inmates are separated from other inmates, they do not have equal access to programs.

**Arizona** is evaluating private contractors who would like to provide AIDS education and testing for inmates and correctional facility personnel.

The **Connecticut** Department of Correction will soon participate in a knowledge, attitude, and behavior survey of randomized samples of both employees and inmates concerning HIV infection and AIDS risk reduction. Medical inservice training sessions have been held on topics including tuberculosis and HIV infection and federal agencies' revisions of AZT treatment modalities. The HIV program has established strong links with the Community Health Services of the Department of Correction.

**Oregon's** HIV counseling will be incorporated with other counseling programs to reduce the stigma attached to HIV.

The **Washington** Department of Corrections has begun a new clinical tracking system for inmates who are HIV-positive. The system assures timely clinical monitoring and intervention, as necessary.

The **District of Columbia** has established a committee to review policies, procedures, and clinical practices pertaining to the management of patients with HIV disease. The department has also proposed a special medical clinic for chronic diseases, including HIV infection.

An AIDS task force composed of a cross-section of Department of Corrections personnel was established in **South Carolina**. The task force will look at programmatic changes needed to keep abreast of issues in treatment and will familiarize staff with available community resources.

### **Education and Training**

In consultation with Health and Welfare **Canada**, the Correctional Service of Canada has developed infection control guidelines for staff and inmates.

In **Indiana**, the American Federation of Teachers is working with the Indiana State Employees Association, using funds from the U.S. Centers for Disease Control, to develop an AIDS education program. Correctional officers within the state corrections department may be targeted for a special program.

**Connecticut** is expanding its HIV counseling and education program by adding an assistant program coordinator and two full-time counselors.

### **AIDS Testing and Treatment**

**Georgia** has implemented a testing program that includes AIDS counseling for inmates with either positive and negative test results. Inmates with ARC or AIDS are housed in a medically oriented facility that has access to secondary and tertiary community resources. HIV-positive inmates are placed in the general population or, if needed, in segregated units.

The **North Carolina** Department of Corrections is conducting a six-month study in which all incoming inmates will be tested for the HIV antibody. Results will be reported to the legislature in May.

**South Carolina** is testing high-risk inmates and providing AZT for inmates with T-cell counts below 500 and aerosol pentamidine for those with cell counts below 200. A new treatment standard in **Oregon**, however, requires the Department of Corrections to administer aerosol pentamidine with discovery of the HIV virus. Like South Carolina, Oregon administers AZT when inmate T-cell counts fall below 500.

## **RECOMMENDED READING**

***A Practitioner's Guide to Treating the Incarcerated Male Sex Offender.*** Washington, D.C.: U.S. Department of Justice, National Institute of Corrections, 1988.

Adult male sex offenders constitute an ongoing problem for correctional personnel. Unfortunately, the atmosphere of the typical prison aggravates the conditions for sexual acting out, and if a paroled individual reoffends, public opinion may be directed against the corrections department. Although recidivism rates must be used with caution, studies indicate that the rate for untreated sex offenders is 80 percent, compared with 15 percent for treated offenders. These facts illustrate the need for implementing treatment programs for this population.

This newly released monograph is the culmination of NIC's response to requests from the field for information and assistance regarding sex offender treatment modalities and supervision strategies. A collection of papers by experts on the topic, the publication offers suggestions for correctional administrators and treatment personnel for establishing treatment programs that have the ultimate goal of reducing sexual victimization.

The essays are organized around five primary topics: the psychodynamics of sex offenders, program implementation and administration, treatment, aftercare, and legal issues. An underlying theme is the need for a coordinated effort to involve all segments of the community in the effort to implement and evaluate sex offender treatment programs.

The publication also includes sample program outlines and guidelines, evaluation schemes, suggested parole conditions, brief descriptions of model programs from twenty-four states, and an annotated bibliography.

***Competency Profile of Institutional Department Head and Competency Profile of Warden/ Superintendent.*** Boulder, Colorado: U.S. Department of Justice, National Institute of Corrections, National Academy of Corrections, 1989 and 1988, respectively.

Under the sponsorship of the National Academy of Corrections, panels of experts have compiled DACUM profiles that outline the responsibilities of wardens/superintendents and institutional department heads. The warden/superintendent oversees the overall management of the correctional facility, including administrative services, safety and security, and program and support services, whereas the department head is responsible for the supervision and overall management of one or several correctional institution programs, areas, or departments.

The DACUM (Developing A Curriculum) analyses list the panels' consensus regarding these administrators' duties and the tasks by which these duties are carried out; desirable traits, attitudes, knowledge, and skills; and tools and equipment with which they should be familiar.

The profiles can be used for job descriptions, curriculum development, student counseling and recruitment, training needs assessment, worker performance evaluation, and competency test development.

**Availability:** Individual copies of these publications may be obtained by calling the NIC Information Center at (303) 939-8877 or sending your request to 1790 30th Street, Suite 130, Boulder, Colorado, 80301.