

State of Nebraska

E. Benjamin Nelson, Governor

5-25-95
MFI

**Task Force on
Prison Alternatives**

152742

Executive Summary

April, 1993

152742

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Nebraska Department of
Correctional Services

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

152742

Governor's Task Force on Prison Alternatives

Co-Chairmen:

G. L. Kuchel

Professor of Criminal Justice, University of Nebraska at Omaha

The Honorable Frank B. Morrison Sr.

Former Governor of Nebraska

General Membership:

Rod Armstrong

Governor's Policy Research Office

Ronald L. Bartee

Chairman, Nebraska Board of Parole

Brett Blackwood

Nebraska Area Director, Prison Fellowship

William D. Blue

Judge, Lancaster County Court

Ernie Chambers

Nebraska Legislator, District No. 11

Gerald Chizek

Nebraska Legislator, District No. 31

Harold W. Clarke

Director, Nebraska Department of Correctional Services

Allen Curtis

Chief, Lincoln Police Department

Judy Dresser

President, Hastings Campus, Central Nebraska Community College

Debra Gilg

County Attorney, Keith County

Gary Hannibal

Former Senator, Omaha

Julie Horney

Professor of Criminal Justice, University of Nebraska at Omaha

NCJRB

FEB 2 1995

ACQUISITION

John P. Icenogle
Judge, Buffalo County District Court

Dennis Keefe
Public Defender, Lancaster County

Douglas A. Kristensen
Nebraska Legislator, District No. 37

Gary Lacey
County Attorney, Lancaster County

Sharon Lindgren
Attorney, Lincoln

John C. Lindsay
Nebraska Legislator, District No. 9

Jean Lovell
Executive Director, Commission on Law Enforcement and
Criminal Justice

James D. McFarland
Attorney, Lincoln

Scott Moore
Nebraska Legislator, District No. 24

Ray Myers
Program Director, NOVA Therapeutic Community

Donna Polk
Multi-Cultural Awareness Center, Lincoln

Richard L. Powell
Optometrist, Lincoln

John Rochford
Administrator, Budget Division, Department of Administrative Services

Carol Schoenleber
Administrator, Nebraska Probation Department

Terry Thompson
Police Officer, Omaha

Ron Tussing
Superintendent, Nebraska State Patrol

George Watson
Professor of Criminal Justice, Chadron State College

INTRODUCTION

The Task Force gathered a large amount of information through its periodic meetings and through the public and inmate hearings that were held. This information was utilized by the four committees that were formed to conduct the work of the Task Force. These committees met regularly and examined functions that are demonstrated by the names assigned them: the Front-end Committee, the Institutions Committee, the Back-end Committee, and the Community Based Corrections Committee.

It was established early in the discussion of the Task Force that history has demonstrated that a state cannot build its way out of prison overcrowding. Hence, we looked to other activities as we sought alternatives that would serve society's three basic purposes of incarceration:

1. Protection of the public.
2. Preparation of a person for return to society.
3. Punish the offender.

In our earliest deliberations, we agreed that in order to achieve society's purposes, total incarceration was not needed for all offenders.

In order to ascertain the magnitude of the problem of overcrowding, the Task Force utilized population statistics provided by the Department of Correctional Services. These are presented in Section I of the report and are summarized here. In addition, the reports of the separate committees are presented here in abbreviated fashion.

It was the intent of the Task Force to follow a logical sequence in an examination of the overcrowding that threatens to overwhelm the Department of Correctional Services. In this process we explain the problem, then show alternatives that can keep convicted offenders from prison; then we examined ways in which the institutions could function more effectively if populations were reduced; the Back-end Committee recommended ways in which offenders could leave prison with a better chance of success; and the Community Based Corrections Committee illustrated total correctional programs that have been very successful in other states and, when implemented, would economically serve the state of Nebraska and more effectively meet the goal of correcting criminal behavior.

As the people of Nebraska strive to keep persons from committing crime, we must recognize that one goal of corrections is to protect society by keeping offenders in custody. The other, and equally important goal, is to protect society by changing the patterns of criminal behavior of those persons in their custody. We must teach people in custody how to legitimately live in free society, not how to live in prison.

SECTION I

THE PROBLEM

Nebraska's adult prison population has been growing more rapidly than it has space to properly house its inmates. In February 1993, there were 2,593 adults confined in institutions that had a maximum design capacity of 1,706. This means that the Department of Correctional Services was operating at 152 percent of design capacity. The most crowded institution, the Lincoln Correctional Center, was occupied at 228 percent of design capacity, while only two facilities, the Hastings Correctional Center and the Nebraska Center for Women, were slightly below 100 percent of design capacity. These population statistics are shown in Table 1.

Table 1

February Inmate Count for the Nebraska Department of Correctional Services Adult Facilities

		02/26/91	02/25/92	02/23/93	% of Design Capacity			
DESIGN CAPACITY	ADULT INSTITUTIONS							
338	Nebraska State Penitentiary	546	561	557	164.79			
150 (488)	Medium Security Unit	186	207	220	(777)	(159.22)		
308	Lincoln Correctional Center	447	538	549				
160 (468)	LCC/Evaluation Unit	357	321	365	(914)	(195.30)		
240	Omaha Correctional Center	366	389	391				
152	Hastings Correctional Center	148	151	134				
139	Nebraska Center for Women	116	118	126				
INSTITUTIONAL TOTAL		2,166	2,285	2,342				
COMMUNITY CORRECTIONS CENTERS								
	*WD **ER ***WR							
	CCC-L/M	84	-	38	138	131	122	
129	CCC-L/W	26	-	3	27	26	29	117.05
	OCC/WRU - Men	33	1	52	98	93	86	
90	OCC/WRU - Women	7	-	7	8	9	14	111.11
	<u>150</u> <u>1</u> <u>100</u>							
COMMUNITY CORRECTIONS TOTAL		271	259	251				
1,706	INCARCERATED TOTAL	2,437	2,544	2,593				151.99

It is important to explain that the increased population in Nebraska's correctional institutions is the result of changing policy more than the result of increasing crime rates. As illustrated in Table 2, even though the offense rate in Nebraska in 1991 was virtually the same as it was in 1980, attention is drawn to the fact that there has been a steady growth in crime (index offenses) from the mid-1980's through 1991, corresponding to the period of growth in the inmate population. Even more dramatic has been the growth in arrests. Unlike reported crimes, arrests did not decline in the first half of the 1980's. They have, however, grown even more aggressively since the mid-decade. In 1985, the ratio of total arrests to reported crime was one-to-one. By 1991, this ratio had increased 116:100 - there were 116 arrests made for every 100 reported index crimes in the state. Most of the increase in arrest activity in Nebraska during the past decade has been for Part II offenses. These include the less serious, mostly non-violent offenses, including all drug-specific crimes (e.g., possession for distribution or sale). The number of Part II arrests increased over 25 percent between 1980 and 1985. Part II arrests increased again - by almost 50 percent - between 1985 and 1991. This trend in Part II arrests is consistent with the growth in the number of first time offenders with shorter sentences being sent to Nebraska's prisons. During this same period, the population of the correctional institutions grew from 1,212 to 2,382. This illustrates that larger numbers of persons are being incarcerated for less serious offenses.

Table 2
Historical Data

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
<u>Population (000's)</u>	1,564	1,576	1,586	1,597	1,606	1,606	1,598	1,594	1,601	1,611	1,578	1,593
<u>Offenses</u>												
Index Offenses	66,680	64,769	61,737	59,259	55,215	58,325	59,970	63,946	64,636	64,470	66,198	69,583
- Offense Rate	42.64	41.10	38.93	37.11	34.38	36.32	37.53	40.12	40.37	40.02	41.94	43.68
<u>Arrests</u>												
Part I Arrests	12,282	12,190	11,846	11,172	11,653	12,191	12,333	12,892	12,763	16,551	13,781	13,534
- Part I Arrest Rate	7.85	7.73	7.47	7.00	7.26	7.59	7.72	8.09	7.97	10.27	8.73	8.50
Part II Arrests	39,086	38,862	41,405	43,078	43,422	46,294	47,547	49,951	51,628	56,845	63,649	67,516
- Part II Arrest Rate	24.99	24.66	26.11	26.97	27.04	28.83	29.75	31.34	32.25	35.29	40.33	42.38
Total Arrests	51,368	51,052	53,251	54,250	55,075	58,485	59,880	62,843	64,391	73,396	77,430	81,050
- Total Arrest Rate	32.85	32.39	33.58	33.97	34.29	36.42	37.47	39.42	40.22	45.56	49.06	50.88

A brief look at the composition of the incoming male inmate to the Department of Correctional Services in 1992 reflects the following:

- o 62 percent were from the Metro-Omaha and Metro-Lincoln areas
- o 66.8 percent were first time incarcerations
- o 33.7 percent were 24 years of age or younger
- o 58 percent were White
- o 28.8 percent were Black
- o 8.6 percent were Hispanic
- o 4.2 percent were Native American
- o 72.2 percent were serving a minimum sentence of 2 years or less
- o 52.9 percent were serving a maximum sentence of 3 years or less
- o 74 percent were committed for crimes not generally regarded as violent

Based on data gathered on institutional releases for fiscal year 1992, 57.4 percent of these males will spend less than 18 months in prison; a total of 70.2 percent will spend less than 24 months; and finally, 85.7 percent will spend less than 3 years in the states' prisons.

The statistics for incoming female offenders, while not exactly the same as those for male offenders, reflect the same general trends and are presented in detail in the Task Force Report.

One last consideration relative to population must be an examination of the future. If current trends continue, the future population of adults confined by the Department of Correctional Services is discouraging. A projection or population forecast based on the following two variables is shown in Table 3:

- o Admission growth based on a pattern of the last five years;
- o Length of stay set at an average of the last five years.

Table 3
Nebraska Prison Population Forecast

Year	Adult Males LOS* = 26 mo.	Adult Males LOS* = 16 mo.
-----	-----	-----
1992	2,459	179
1993	2,549	191
1994	2,657	207
1995	2,770	223
1996	2,881	238
1997	2,988	253
1998	3,091	267
1999	3,190	281
2000	3,285	294
2001	3,378	308
2002	3,470	321

*Length of Stay

Nebraska, and most other states, are faced with serious financial problems. Corrections is an expensive operation. The budget for the Department of Correctional Services is estimated to be \$61.2 million for Fiscal Year 1993-1994. Almost 89 percent of the general fund dollars go toward operating adult institutions and adult parole.

The average cost to maintain an adult for one year in a Nebraska correctional institution is \$18,345. These figures range from \$11,470 for a community corrections facility, to \$19,916 for the maximum security unit. The per capita costs for handling adult prisoners for the fiscal years 1988 through 1992 are shown in Table 4.

Table 4

Nebraska Department of Correctional Services
Per Capita Inmate Costs - Facilities & Programs
FY88 - FY 92

Facility/Program	Average Daily Population				Per Capita Yearly Cost				Per Capita Daily Cost			
	88-89	89-90	90-91	91-92	88-89	89-90	90-91	91-92	88-89	89-90	90-91	91-92
ADULT												
Nebraska State Penitentiary	653	711	743	768	\$18,946	\$18,985	\$20,803	\$19,916	\$51.91	\$52.01	\$56.99	\$54.56
Hastings Correctional Center	137	147	146	150	\$12,820	\$13,287	\$15,834	\$16,500	\$35.12	\$36.40	\$43.38	\$45.21
Lincoln Correctional Center	696	759	791	828	\$15,679	\$16,307	\$17,783	\$17,459	\$42.96	\$44.68	\$48.72	\$47.83
Omaha Correctional Center	299	349	366	400	\$15,693	\$15,399	\$16,983	\$16,098	\$42.99	\$42.19	\$46.53	\$44.10
OCC - Work Release Unit	93	100	108	110	\$8,961	\$9,190	\$7,839	\$8,056	\$24.81	\$25.18	\$21.48	\$22.07
Nebraska Center for Women	100	114	114	124	\$21,368	\$22,533	\$25,145	\$24,031	\$58.54	\$61.73	\$68.89	\$65.84
Community Corrections - Lincoln	132	144	160	158	\$9,950	\$10,492	\$10,924	\$11,470	\$27.26	\$28.75	\$29.93	\$31.42
Adult Parole Administration	431	475	567	635	\$2,022	\$1,993	\$1,829	\$1,889	\$5.54	\$5.46	\$5.01	\$5.18

Nebraska, currently the sixth most overcrowded state in the nation, is not yet under federal court orders that require the construction of new confinement facilities. Should this occur, the state would be faced with minimum costs such as those reflected in the following figures which are quoted from the Corrections Yearbook, 1992, published by the Criminal Justice Institute, Inc.

Security Level	Construction Cost per Bed
Maximum	\$75,010
Medium	\$56,435
Minimum	\$35,889

The current problem faced by Nebraska in its correctional institutions is not new, nor is this Task Force the first to examine the situation. In the past six years, there have been several other groups who have studied our correctional policies and facilities, and offered suggestions. Among these groups are the following:

- o Touche Ross - Analysis of Major Strategic Issues Facing the Department of Correction (February 1987)
- o Nebraska Criminal Justice Capacity Project (1987-1989)
- o Nebraska's Prison Capacity Crises, prepared by the Legislative Research Division (April 1989)
- o Legislative Resolution 222 (LR222) - Report to the Legislature by the Select Committee on Prison Overcrowding (January 1990)

Each of the reports from the above groups reached conclusions similar to those reached by this Task Force: In effect, all have said that steps must be taken to reduce population by diverting some offenders to other types of programs; by granting sufficient discretion to the Department of Correctional Services to manage their population by the development and utilization of community based facilities; and, by the expansion of programs that are specifically designed to assist offenders in making the necessary behavioral changes that will allow them to live in ways that will prevent their return to unlawful activity.

SECTION II
FRONT-END COMMITTEE

This committee considered programs that could be implemented to reduce the number of persons coming into the custody of the Nebraska Department of Correctional Services without increasing the risk to the public.

RECOMMENDATIONS

1. Enact Legislation Requiring System Impact Studies and Appropriations for All Legislation Having an Impact on the Criminal Justice System.

Under this proposal, legislation would be enacted requiring that the Legislature conduct a "system impact study" and appropriate sufficient funds to offset the impact whenever legislation is enacted that would increase penalties, create new crimes, or increase funding to one portion of the criminal justice system. Until the required funding is appropriated, the changes would not go into effect.

2. Increase Funding and Resources Available to the State Probation System.

The State Probation System is underfunded and understaffed. Probation officers are underpaid and required to handle caseloads that are unmanageable. Limitations on the number of persons who can be sentenced to intensive probation severely and unnecessarily restricts the use of that program. As a result of these conditions, probation is eliminated in many cases as a viable alternative to incarceration.

3. Establish Community Corrections Programs.

Community Corrections programs have been successfully implemented in a number of states. The primary advantage of these programs is that they restrict a persons' actions while keeping that person in the community as a functioning member of society. Community correctional facilities are cheaper to construct, and cost considerably less per person to operate than traditional incarceration. Further, under most programs, persons assigned to a community correctional facility are required to work and to pay for a portion of the costs incurred for their custodial care and treatment. This recommendation is elaborated upon under Section V of this Executive Summary.

4. Judges Should be Provided with Sufficient Information to Make Sentencing Reviews Meaningful.

In 1983, a Nebraska Supreme Court Committee on Sentencing Guidelines recommended against sentencing guidelines for the state of Nebraska, and this committee concurs with that finding. It was feared that sentencing guidelines could result in longer sentences and worsen the overcrowding problem. Further, it was felt that such guidelines would not be acceptable to the Nebraska Judiciary.

However, the Supreme Court Committee did recommend that statistical information regarding sentencing in the state of Nebraska be disseminated to judges on a regular basis; that sentencing conferences or seminars be held for judges on a regular basis; and that legislation which would enable sentencing judges to review and modify their own sentences within a limited period of time be enacted.

This committee concurs with the above recommendations and further recommends that judges receive information from the Department of Correctional

Services, on a regular basis, that deal with population, population projections, and sentence comparisons for each judge.

5. No Persons Convicted of Misdemeanors Should be Placed in the Custody of the Department of Correctional Services.

The committee recommends that legislation be considered that would prohibit a person serving only misdemeanor sentences to serve those sentences in a facility operated by the department; however, provision should be made that if the person has also been convicted of a felony and placed in the custody of Corrections, any misdemeanor sentences could be served while in the department's custody. In some unusual instances, such as the need for protective custody, misdemeanants might be confined by the Department of Correctional Services for short periods of time.

6. Education of Policy Makers and the Public Regarding the Causes of Prison Overcrowding and the Alternatives Available.

As a result of the public hearings held by the Task Force, it is not clear that the public wants more institutional lock-ups or would reject the alternatives being proposed. At times, it appears that "public perception" may be based more upon the policy makers' mistaken belief that being "hard on crime" will fulfill the citizens' desire to be secure, and in reality may be designed to further political careers.

In order to overcome this, it is necessary to educate the public and the policy makers to the fact that punishments, other than traditional incarceration, are a viable alternative that involves no additional risks to society. All members of the Task Force should work to inform all citizens of Nebraska of the problems that exist in the correctional system, the potential costs of the various alternatives, and the solutions we propose.

It was reported to the Front-end Committee that in some counties, persons convicted of fourth-degree felonies are being remanded to county jails by sentencing judges, rather than to the Department of Correctional Services. While this has a favorable impact on the prison population, it has the effect of increasing county jail populations and subsequent local jurisdiction operating expenses. We do not know the extent to which this occurs, but are aware that persons so sentenced are in actuality convicted felons and could at any time become part of the already bloated prison population.

SECTION III

INSTITUTIONS COMMITTEE

Changes in policy, as they relate to crime, have resulted in rapidly increasing prison population. In 1970, there were 96 prisoners per 100,000 of the United States population, and there was a total prison population of 196,429. By 1990, the rate of imprisonment had grown to 293 per 100,000 citizens and there were 771,243 persons in prison. Ever greater increases were reflected in the figures of probation, parole and jail populations. The change in the percentage relationship of index crimes, total arrests, total population and persons under court or penal jurisdiction are reflected Table 5, following, which shows an 8 percent increase in reported index crimes and a 134 percent increase in prison population.

Table 5

Correctional Populations Percent Change 1980-1990

	1980	1990	% Change
Probation	1,118,097	2,670,234	139%
Jails	163,994	403,019	146%
Prison	329,821	771,243	134%
Parole	220,438	531,407	141%
Totals	1,832,350	4,375,903	139%
Adult Population	162.8 million	184.7 million	13%
Adult Arrests	6.1 million	8.2 million	34%
Reported Index Crimes	13.4 million	14.5 million	8%

In Nebraska, the state's prison population has more than doubled in the past fifteen years. Our prisons hold 2,593 inmates in space designed for 1,706. The number of adult inmates is growing at a rate exceeding more than 100 persons a year. As noted earlier, this has resulted in a prison system that is one of the most crowded in the United States. The 1992 Corrections

Yearbook shows that Nebraska operates the sixth most crowded prison system in the country. Overcrowding is greater in only five states: Massachusetts, California, Ohio, Maryland and Hawaii.

Population forecasts clearly indicate that unless dramatic change occurs, the prison bed deficit will increase from the present 887 to some place between 1,204 and 1,778, depending on the impact of good time changes approved by the 1992 Legislature in LB816.

RECOMMENDATIONS

1. Court Order Avoidance.

The state of Nebraska must recognize the increasing probability of court intervention in its prison system. Two class action lawsuits on conditions of confinement have already been before the court since 1990 (Kitt v. Ferguson, and Gunter v. Jensen). In the most recent, Gunter v. Jensen, the department lost a section of the case. This case is currently being appealed, but may be an indication of the continued erosion in the department's ability to adequately cope with the increasing levels of overcrowding. The Department of Correctional Services should identify specific characteristics of the current prison system that make the state more susceptible to losing a conditions of confinement lawsuit. Steps which could be taken to strengthen the state's position, which would require additional appropriation or legal authority, should be presented to the Legislature for consideration.

2. Internal Administration.

A. Criteria Used for Inmate Classification - The committee recommends that the Department of Correctional Services evaluates criteria used for inmate classification. The committee recognizes that classification can

have a significant impact on population movement within a correctional system. The department should review the appropriateness of its current instrument in areas outlined for study in the January 1993 Carter Goble & Associates, Inc. technical assistance report.

B. Disciplinary Procedures - The committee recognizes the necessity and role of sanctions within a correctional setting; however, it is recommended that feasible, effective administrative disciplinary sanctions, other than taking away good time, be utilized so that an offender's length of stay will be affected as little as possible.

3. Departmental Programs.

It is recognized that recidivism is one of the contributing factors to prison overcrowding. Therefore, the committee recommends that the department identify steps which can be taken, while the inmate is in custody, to reduce his or her propensity to continue to commit crimes and be returned to prison. This ultimately would increase public safety.

4. Prison Capacity Expansion.

A. General Capacity Expansion - Intermediate sanctions or prison alternatives can significantly impact present and future prison capacity requirements. The committee feels that since incarceration is the most expensive form of correctional sanction, capacity expansion should only be pursued if the state fails to implement effective alternative strategies. Failure to implement these strategies will most certainly require extensive capacity expansion. If it is decided that additional capacity (stand alone facility) is needed, the committee recommends that the state review

facility location in the central or western part of the state. In any event, costs must be examined. If additional construction is needed and no alternatives to incarceration are adopted, Table 6 reflects cost projections which should be considered.

Table 6

Estimated Costs of Providing Additional Housing if No
Alternatives to Incarceration are Implemented

Current and Projected Population and Design Capacity:

Current Population:	2,607	Projected Population (1996):	2,810
Design Capacity:	1,706	Design Capacity (1996):	2,013
Population as Percentage of Design Capacity:	152%	Population as Percentage of Design Capacity:	140%

Cost Projections

Construction Costs -

System at 100% of Design Capacity by 1996:	\$52,482,450
System at 120% of Design Capacity by 1996:	\$44,000,000

Assumptions used: Projected population in 1996 was estimated using the IMPACT computer software package adjusted for the effects of LB816 which increased the amount of good time granted inmates. Design capacity in 1996 is adjusted for the completion of the new housing units at OCC, LCC and the Penitentiary, and assumes that the Air Park facility will be closed. Cost projections for construction assumes 35 percent of beds built will be maximum security at \$86,000 per bed and 65 percent will be medium/minimum at \$55,000 per bed. This does not include additional per diem and medical costs.

Note: This estimate is based on LB816 impact at maximum effect. Actual projected population could be 3,119 by 1996, causing the system to be at 154 percent of capacity. Construction costs would then be \$69,200,000 for a system at 100 percent of design capacity, and \$44,000,000 for a system at 120 percent of design capacity. Actual capacity needs could be greater if judicial sentences are ultimately adjusted to offset LB816. Also, any additional legislation that impacts corrections will require additional capacity.

- B. Segregated Housing - The committee recognizes that an immediate need exists for more segregated and protective custody housing within the Department of Correctional Services. Considering current fiscal constraints and efficient resource utilization, the committee does not recommend the construction of a new separate segregation unit. However, the committee does recommend that additional segregation capacity be made available through the creative utilization of existing facility space. This has been outlined in the Carter Goble & Associates, Inc. report to the department, referred to previously.
- C. Work Release Unit - Given current and projected crowding problems within Nebraska's prison system, the committee recommends that the Community Corrections Center-Lincoln (Work Release Unit) remain open.
- D. Prison Privitization - The committee considered the issue of prison privitization and recommends that no action be taken in this area until sufficient data is available to carefully weigh the efficiency, effectiveness and critical concerns that such action would elicit.

SECTION IV

BACK-END COMMITTEE

The Back-end Committee was primarily concerned with establishing goals that are designed to move inmates through their sentences and speed their release from prison while maintaining adequate public protection. It was the position of the committee that by improving the ability of existing programs to perform their primary functions and by creating some new, relatively inexpensive programs, a favorable increase in the number of inmates being released from custody could be realized.

RECOMMENDATIONS

1. The Governor Support and Propose Legislative Action That Creates a Community Corrections Act.

This is the most viable, least expensive, most successful alternative available. Since it cuts across the recommendations of all of the committees, it is dealt with as a separate section in this summary.

2. The Governor Propose Legislation to Establish a Therapeutic Community and Special Minimum Security Program for Youthful Offenders.

A treatment model that has, over the years, demonstrated a higher degree of efficacy than any other type of prison based treatment program is the Therapeutic Community. Many states, including New York, New Jersey, Florida and Arizona, have had Therapeutic Communities (T.C.) in their correctional facilities for years. The Federal Bureau of Prisons operates several T.C.'s, including the Maximum Security Facility in Marion, Illinois.

The effectiveness of the T.C. is grounded in its philosophy and culture. The primary goal of the T.C. is to foster substantive change through immersion in a collective milieu, or family, committed to social competence. The T.C. is based on social learning and facilitates change through active participation in a community whose survival depends on each of its members working together toward a common goal. As a self-help model, the T.C. program is typically staffed with ex-inmates, or in the addictions field, recovering addicts. Staff act as real role models with whom the inmate can more readily identify. All facets of the program member's life is considered important and vital. Education, work, taking pride in oneself, acceptance of responsibility and developing respect for rules, authority and discipline are essential components of the T.C. Moral, as well as ethical, standards and expectations function as the "glue" that holds the community together. Program members work together, and rather than being clients, patients or inmates, they are family members.

The Special Minimum Security Program (called "Boot Camp" by many) is a relatively new alternative to incarceration. It has grown in popularity in the federal system, and some states have adopted this approach. Its primary attraction appears to be due to two factors. One, large numbers of people can be worked within a highly structured but otherwise open setting. These programs can be run without extraordinary security and they are efficient and substantially less expensive to construct and operate than more secure facilities. Because those who are sent to them are classified as presenting a much lower risk to public safety, it is considered a relatively safe alternative to incarceration.

The second advantage to the Special Minimum Security Program is its regimentation and emphasis on discipline, which is one of the major deficits in the functional make-up of the younger offender. Proponents of these programs, as with the Therapeutic Community, believe that through tough discipline, rigorous training and groups working toward a common goal, lasting change can be achieved.

The committee proposes that this model be combined with the Therapeutic Community described above, to form a highly regimented correctional program for younger offenders who do not pose a risk to public safety but who would otherwise be incarcerated with older, more serious offenders.

3. The Parole Administration, in Concert with the Board of Parole, Expand Those Early Release Programs That Have Already Been Implemented. These Include, But Are Not Restricted to, Extended Leave, the Mentor Program, and Intensive Parole Supervision.

It is also recommended that the Board of Parole and the Parole Administration make better use of those community based programs that already exist as a vehicle for releasing inmates from custody earlier than would otherwise be possible.

On its own initiative, the Parole Administration and the Board of Parole have, in recent years, initiated several programs that allow inmates to be released prior to their date of eligibility. These programs have been extremely creative and are reasonably safe and cost effective. Expanding these programs would, of course, require more supervision, quality control and some expenditure of funds. However, the cost of expanding these programs, when compared to the cost of maintaining inmates in custody, is significantly less.

4. The Board of Parole.

Throughout the testimony during the Task Forces' public hearings, a recurrent theme dealt with the value and credibility of the Board of Parole. Several members of the public, as well as the inmate population, expressed concern about the ability of the Board to make professional decisions. In addition, confidential interviews with Department of Correctional Services staff, ranging from administrative to line personnel, revealed a lack of confidence in the Board of Parole's ability to discharge its function in a professional and responsible manner.

Recent, highly publicized incidents involving the Board of Parole appear to give credence to the above concerns and raise the issue relative to the Board's ability to discharge its function in a manner that allows for the expeditious discharge of those inmates who are eligible for release without increasing the risk to public safety.

Relative to the Board of Parole, the committee recommends that the Governor should propose the following:

- A. The number of Board members remain the same.
- B. Each position on the Board be determined by specific qualifications needed to discharge the responsibilities of the Board. For instance, since risk management is of the highest order, having someone who is skilled in either forensic or criminal psychology would be invaluable to the Board of Parole. Also, since institutional performance is considered relevant in the Parole process, it would seem practical to have on the Board someone who can factor in the relative value of institutional behavior.

- C. That a job description be developed to include pre-screening qualifications for each of the Board positions and that vacancies be filled based on the type of expertise needed. By developing a more restrictive set of qualifications for Board membership and by increasing the standards of excellence necessary for Board membership, the Governor will lose some measure of discretion. However, recent events regarding members of the Board would indicate that it would be to the Governor's advantage to insure that only the most qualified and professionally competent persons be appointed.

Taking into consideration the various organizational and operational problems exhibited by the Board of Parole, it is further recommended that:

- A. The Governor order a detailed internal audit of the Board of Parole. This audit should focus on internal policies and procedures.
- B. If the internal audit so dictates, the Governor should propose legislation that would make the Board of Parole Chairperson remain administratively accountable to the Director of the Department of Correctional Services in terms of operating procedures, scheduling, and the day-to-day activities of the Board. It is not recommended that the Board or its members lose their autonomy in terms of their ability to discharge their primary functions as Board members, however, it is recommended that the Board be more accountable to the Department of Correctional Services in terms of their scheduling priorities.
- C. Legislation be proposed that would prohibit the Board of Parole from establishing any of its own pre-release criteria that would conflict with departmental criteria or sentencing guidelines.

- D. A Quality Assurance or "Code of Conduct" Policy be established to specifically increase individual accountability. Board members should be required to account for their behavior, and when a conflict of interest occurs, be required to abstain from any and all discussion and/or vote. Violations of the policy would be subject to disciplinary action.
- E. The Board of Parole be defined as less of a "Quasi-judicial" body, and more of an administrative oversight committee. The task of the Board of Parole is not to dispense justice, or pass judgment, but rather to determine the readiness of an inmate to return to society based on specific, pre-determined criteria. Voting should be restricted to objective criteria, not one's "own conscience."
- F. In addition, it is recommended that the adversarial nature of the Board of Parole be purged from the hearing process and that Board members restrict their inquiries to objective criteria relative to the fitness of the specific inmate to return to society. It is not unreasonable to expect the Board of Parole to conduct itself according to established rules of conduct and procedural limits. Ideology and bias should be strictly prohibited from the hearing process.

SECTION V
COMMUNITY CORRECTIONS COMMITTEE

As an alternative to prison incarceration, at least eighteen states have now enacted community corrections acts to divert non-violent offenders from prisons into community corrections facilities and programs. In general, these acts are designed to keep the non-violent offender within the community in correctional facilities and programs as an alternative punishment to warehousing minor offenders in the state's prison system. Community corrections facilities and programs include victim restitution, intensive supervision, drug or alcohol treatment, community service, house arrest, electronic monitoring, victim and offender reconciliation, halfway houses, job training, and other similar programs.

Across the nation, correctional expenditures are now the second largest item in state and local budgets. The increased expenditures, generated by incarcerating more and more people, has not resulted in any significant decrease in the rate of crime.

Nebraska, like all states, faces the problems of escalating confinement costs and insufficient monetary resources to continue the practice of using close confinement for the increasing numbers of convicted felons. All committees of the Task Force are in agreement that the most logical action for the state of Nebraska is to move rapidly into a strong community corrections program.

There are a number of advantages of community corrections facilities and programs over prison incarceration. These advantages are:

1. There is a cost savings to the state. It is less expensive for states to fund local community corrections than it is for them to warehouse offenders in prisons. The diversion of offenders to community corrections facilities and programs reduces the cost for prison construction and operation.

2. Victim restitution, initiated through community corrections programs, provides compensation to victims from the offender who has harmed them.
3. Community service work by offenders saves many thousands of dollars for local communities.
4. The rate of recidivism for non-violent offenders completing community corrections programs is significantly less than the rate of recidivism for offenders paroled or released from prisons.
5. Many community corrections programs provide job training so that the offender can obtain employment after completion of the programs.
6. Community corrections programs are much more successful at drug and alcohol rehabilitation of offenders than are programs in the state prison systems.
7. Community corrections programs allow the offender to maintain contact with community support groups such as family, church, and employment to assist in the rehabilitative process.

All states that have adopted community corrections programs have statistics that establish the legitimacy of the above recommendations. Arizona has demonstrated an approximate \$10,000 savings for each non-violent offender diverted to community based facilities. This resulted in a savings of \$7 million for the year 1990. The state of Minnesota had an average cost of \$1,290 per offender per year for the 1,551 non-violent offenders in their community corrections programs in 1990. This compares with the \$28,000 per year average cost of incarcerating an offender in Minnesota prisons.

In addition to the savings in operating costs in fiscal 1988-89, the Arizona Intensive Probation Supervision program collected over \$700,000 in victim restitution. In 1987, in Kansas, community corrections offenders paid \$361,302 in restitution to crime victims. Community service work provided by offenders amounted to almost 250,000 hours in Arizona in 1990, which they valued at \$830,000. The average cost per day per offender in community corrections programs in Colorado was approximately \$30 in 1990, or about \$10,950 per year per offender. This average cost was approximately one-half the average cost of prison incarceration in that state.

In addition to the cost savings demonstrated above, there are reduced costs from lower recidivism rates that cannot be calculated. The recidivism rate nationally is averaging about 60 percent. The average recidivism rate for community corrections programs in all states is computed at approximately 9 percent.

There are many other benefits to community corrections programs beyond the ones previously mentioned. As an example, community corrections offenders in Georgia paid more than \$200,000 in restitution for fiscal year 1986. There were additional cost benefits beyond restitution, however. The state also collected \$1,293,000 for room and board costs, \$905,000 in taxes, \$680,000 in fines and court costs, and \$539,000 for support of the offenders' families.

While statistical data varies from state to state, just as community corrections acts vary from state to state, the data so far collected from these states clearly establishes that community corrections acts have positive effects. These states have significantly reduced their costs of correctional services. Victims receive restitution and compensation. Communities receive benefits from community service work. Families receive support from their family members in community corrections programs. Finally, individual offenders in community corrections programs are more likely to rehabilitate themselves through successful drug/alcohol programs and job training/education programs so that they do not become repeat offenders.

SPECIAL PROBLEMS IN IMPLEMENTING A COMMUNITY CORRECTIONS ACT IN NEBRASKA

As a result of not having a community corrections act like the other eighteen states who have enacted such legislation, and as a result of a unique state-wide probation system, Nebraska confronts special problems with respect to the implementation of a community corrections act. There are several concerns that need to be addressed.

First, Nebraska judges may be reluctant to utilize such programs if it is left to their sole discretion. It may be advisable to mandate or establish a presumption that all non-violent class III and IV felony offenders and class I misdemeanor offenders should be sentenced to correctional facilities and programs if such facilities and programs are available in the particular court district. To rebut such a presumption, the judge should be required to explain why such an offender should be incarcerated.

Second, there is a concern of whether local communities will voluntarily establish community corrections programs. There might not be sufficient financial incentive for them to do so. There was, however, considerable discussion at public hearings conducted by the Task Force, particularly at the Ogallala hearing, regarding how a community corrections program could be an economic development benefit to local communities.

Finally, the unique state-wide probation system in Nebraska would have to coordinate any intensive supervision programs administered by a community corrections facility/program in a particular area of the state.

RECOMMENDATIONS

1. The Governor's Task Force on Prison Alternatives Recommends That the Governor and the State Legislature Enact a Community Corrections Act for the State of Nebraska.

With the impending crisis caused by prison overcrowding in Nebraska and the dramatically increased costs of incarceration, a community corrections act, perhaps modeled after the Colorado Act, would provide some relief to prison and jail overcrowding and reduce the administrative and supervisory costs for non-violent offenders. A community corrections act which takes into

consideration the special problems and unique needs of the Nebraska criminal justice system, should be immediately considered by the Legislature with the support of the Governor's Office and the Nebraska Department of Correctional Services.

2. Therefore, it is Also Recommended that There be a Moratorium on Legislation Creating New, Non-probationable Offenses or Mandating Increased Sentences for Non-violent Offenders.

Additional legislation creating new non-probationable offenses or mandating increased sentences for non-violent offenders will negate any reductions in prison overcrowding or cost savings resulting from a community corrections act.

3. It is Recommended that Current State Statutes be Changed From Mandatory Sentences for Non-violent Offenses to Allow Probation or Sentences to Community Based Correctional Programs as an Alternative.

CONCLUSION

The different sections of the Task Force report offer recommendations relative to the specific area each of the committees examined. The recommendations clearly indicate that a problem of some magnitude exists and can only be solved by taking a different course of action than that which has been followed.

The Task Force has maintained contact with the representatives of Carter Goble Associates who are under contract to assist the Department of Correctional Services in planning a departmental master plan. We believe that the recommendations offered in the Task Force report are consonant with significant portions of their master plan.

The Front-end Committee recommends action that would enact legislation requiring system impact studies and appropriations for all legislation having an impact on the criminal justice system; options for the courts; changes in probation; and a program of public education.

The Institutions Committee recommends actions that could protect the Department of Correctional Services should a conditions-of-confinement lawsuit occur; that changes in inmate classification and disciplinary procedures be evaluated and recommended changes be implemented; and that consideration be given to institutional expansion, especially the immediate need for segregated and protective custody beds. It is also recommended that the Air Park facility remain in operation and eventually convert to a treatment program for chemically dependent inmates.

The Back-end Committee recommends that special minimum security programs for low risk, youthful offenders be established; that special facilities and programs be established for drunk driving offenders who are currently received by the Department of Correctional Services; that community based correctional services be developed; and that a study be conducted that would lead to changes in the administration, structure, and operation of the Board of Parole.

The Community Based Corrections Committee carefully examined the impact of community based programs in several states, and recommends that a program of this nature be started in Nebraska. Since community based correctional programs are very comprehensive, their recommendation, by its very nature, includes many of the suggestions offered by the Front-end and Back-end Committees.

Obviously, there are many actions available in these recommendations that would help to reduce institutional overcrowding. Some of these are long range and controversial. All of the changes that would recognize less stringent conditions of confinement or different programmatic activity will be objectionable to some people. However, changes must occur. The recommendations that hold the most long-range promises are those that are community based.

The old adage, "crime is a local problem and must be solved at the local level," is particularly applicable in this situation. Persons who are incarcerated in our state institutions generally return to their home communities once they are released. This requires readjustment to family, work, and community environment. If this process can be avoided for some, through locally operated programs, the community will benefit.

Community based programs are more successful and much less expensive than any other correctional process yet devised. Most assuredly, it is not a panacea and is not to be used for all offenders. But for those convicted of less serious offenses, where subsequent danger of the public is lowest, this activity offers the greatest hope for favorably impacting Nebraska's most precarious correctional situation.

It will take some time to put a program of this nature into effect and the overcrowding problem must be addressed now. One immediate solution is to increase parole rates and adopt procedures that make more persons eligible for parole. Action by the Board of Pardons making the provision of LB816 applicable to many who were confined prior to its passage would also reduce the population.

To reduce the number coming to the institutions at the present time, an increase in the use of intensive supervision probation should be implemented. This will require an increase in that budget, but it is much less expensive than the cost of incarceration. It is appropriate that consideration be given to implementing, at the earliest possible time, those Task Force recommendations that will immediately reduce the overcrowded conditions that now exist in Nebraska's prison system.