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NATIONAL COUNCIL ON
CRIME AND DELINQUENCY

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National Council on Crime
and Delinquency -

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Policies and Background Information

September 1972

Three policies were adopted by trustees of the National Council on Crime and Delinquency April 25, 1972. They call for major reforms in the nation's corrections system. This booklet includes those policies and documentation compiled by NCCD to assist legislators and administrators in supporting and adopting these recommendations and to encourage civic organizations and the general public to demand their implementation.

MILTON G. RECTOR
Executive Director
National Council on Crime
and Delinquency

INSTITUTIONAL CONSTRUCTION

A Policy Statement

BOARD OF TRUSTEES, NATIONAL COUNCIL
ON CRIME AND DELINQUENCY

No new detention or penal institution should be built before alternatives to incarceration are fully provided for. Specifically, the National Council on Crime and Delinquency calls for a halt on the construction of all prisons, jails, juvenile training schools, and detention homes until the maximum funding, staffing, and utilization of noninstitutional correction have been attained.

What is the justification for this position in view of the present condition of these institutions?

There is scarcely a large city in the country that does not suffer from crowded jails and detention facilities. In some jails, two or more persons are caged in cells designed for only one. The buildings are often dirty, cramped, and suffocating. Their age (some are more than two hundred years old) defies adequate refurbishment and modernization. The results of overcrowding under such conditions are evidenced by high tension, conflicts, and, sometimes, riots and death.

The large state and federal prisons and training schools are often overcrowded, though not so severely as the city jails and detention homes. But many of these facilities are among the most dismal custodial buildings in the country. Typically, they are in the remote areas of the state, far from the inmates' families, far from universities with their behavior specialists and education programs, far from industry with its opportunities for training and work-release, far from medical centers with competence in therapy and research.

Our incarceration and detention institutions have frequently been characterized as sordid and destructive. Rather than rehabilitate, they dehumanize and criminalize. Prison protests have been rising. Inmates have rebelled; some, to protest their brutalizing prison experience, have even crippled themselves by cutting their Achilles tendons.

Do we not, therefore, need new institutions? Since projected construction of prisons, jails and juvenile facilities totals nearly two billion dollars, many state and local governments apparently believe we need them. Why, then, does NCCD believe we do not need them?

Correctional officials repeatedly say that their prisons contain many

men who should not be there. The National Council on Crime and Delinquency estimates that less than 15 per cent of the men in prisons need maximum security. The President's Crime Commission urged that "only the very dangerous should be held in prison." It would be unwise, therefore, to plan new construction based on present practices. Until all forms of community-based correction are used to the optimum, the size, location, or type of facility required for the few remaining offenders who require institutional commitment cannot be accurately planned.

The compelling reason for turning aside from prison to community treatment is summed up by the director of the President's Crime Commission: "If we take a person whose criminal conduct shows he cannot manage his life, lock him up with others like himself, increase his frustrations and anger, and take away from him any responsibility for planning his life, he is almost certain to be more dangerous when he gets out than when he went in."

To allocate funds for institutions before making the greatest possible use of community correction will increase rather than decrease institution populations; it will absorb manpower and money that would be better used for community correction. Instead of wasting massive sums on a system that has not worked in the past and is not likely to work in the future, we should first allocate funds for expanded community treatment.

Through an investment in probation, California has reduced its state prison population from 28,000 to 21,000 in three years.

In Saginaw, Mich., NCCD conducted a three-year project which demonstrated that 80 per cent of felony offenders can be placed on probation without danger to the community. Their recidivism rate was lower than for those who went through prison. And in just eighty-eight cases, the citizens of Michigan saved over \$400,000.

In New Mexico, where 1,500 men and women were jammed into cells designed to hold 1,200, state authorities established an effective parole and probation system. The prison population dropped to 800. The proposed expenditure of \$20 million for a new institution was found to be unwarranted.

Cities, too, can benefit from community treatment. Philadelphia spends \$10.4 million to maintain a daily average of 2,961 prisoners. Cost: \$3,200 a year per prisoner. Upon release, at least 65 per cent will commit more crime. At the same time, the city spends \$2 million a year to supervise 17,300 offenders on probation. Cost: \$150 a year per person. The recidivism rate is about 16 per cent. Community treatment makes sense.

A recent jail census carried out by the National Criminal Justice Information and Statistics Service showed that 52 per cent of all persons in jail were in pre-trial detention. Most of them could not post bail or qualify for release-on-recognizance. Expanded use of pre-trial release such as that carried out in the Des Moines community correction project can significantly cut the number detained in jail each year.

The removal of victimless crimes—drunkenness, addiction, prostitution, gambling—from the criminal codes would drastically reduce the jail and prison population. Half of all those now in jail are victimless crime offenders.

Institutions are necessary for only the dangerous offender. On that basis we have vastly more institutional space than we need. This is why NCCD calls for a halt in institutional construction until the potential of community treatment is fully achieved.

COMPENSATION OF INMATE LABOR

A Policy Statement

BOARD OF TRUSTEES, NATIONAL COUNCIL
ON CRIME AND DELINQUENCY

Virtually all prisons have work programs in which inmates produce, for sale to and use by government departments, salable articles such as clothing, textile products, machine parts, stamped metal goods, and farm produce, among other items.

Work that prepares the inmate for jobs outside the institution is especially valuable. Any work that trains and improves inmate skills and is performed under humane conditions is an essential part of a sound correction program.

The present condition of prison industries, however, limits the value of these programs. The deficiencies vary from prison to prison. In some institutions the operation is so slipshod and poorly organized that, despite the virtual absence of the cost of labor, it loses money for the state; sometimes two or three inmates are assigned to do a task that would require only one worker in private industry. In none are even 25 per cent of the inmates released to work for which they were trained in prison. In all prison systems, idleness still obtains for a large part of the inmate population.

The equipment on which the prisoner works is frequently antiquated and obsolete. Skills learned by the inmate during imprisonment are seldom marketable when he is released. And even where equipment is new, it is usually designed for a very restricted type of industrial production. The work done with it produces skills that can be applied only by men who have returned to prison.

Prison administrators who speak candidly (usually off the record) admit that much prison labor is "busy work." The whole operation lacks efficiency, incentives, production norms, and the complex of operational goals and attitudes that are the hallmark of a successful industrial endeavor. The know-how of private business or organized labor is not involved in inmate training or industry operation.

The pay for inmates employed in prison is too low to be regarded as wages. The average prison laborer receives from 10¢ to 65¢ a day. Few institutions pay inmate workers for a day's work what the federal minimum wage law requires for an hour's work. The rate of pay, there-

fore, provides no incentive; indeed, since it is only a token, it is a daily rebuke to the inmate, reminding him of society's power to exploit him at will.

This counterproductive prison labor system must be changed. An inmate receiving equitable payment for work performed will be able to provide some support of his family, continue payments on his social security, provide restitution (if this is applicable in his case), make some payment for room and board, and save some money to assist himself upon his return to society.

Therefore, the National Council on Crime and Delinquency urges the introduction of federal and state legislation requiring that an inmate employed at productive work in a federal, state, or local institution shall be paid no less than the minimum wage operative nationally or in his state.

We urge legislators and administrators to adopt and support the foregoing policy, and we call on civic organizations and the general public to demand its implementation.

THE FEDERAL BUREAU OF PRISONS

A Policy Statement

BOARD OF TRUSTEES, NATIONAL COUNCIL
ON CRIME AND DELINQUENCY

The original concept of the federal government's relationship to state governments severely limited the role of criminal law in the federal system. Thus, throughout most of our history, federal crimes dealt only with protection of borders, the currency, and similar matters that affected the interest of the nation as a whole. In contrast, all other common law crimes were the concern of the states.

In 1895, Congress transferred the military prison at Fort Leavenworth, Kans., from the War Department to the Department of Justice; the first new federal penitentiary, at Atlanta, Ga., was opened in 1902. Since federal prisoners were then being "boarded out" in state and local institutions, this new penitentiary was not a necessity. Nevertheless, in the next forty years, fourteen new federal penal institutions were built. At the same time, the federal government expanded its criminal code, enacting many provisions that duplicated state laws—laws which governed, for example, prostitution, auto theft, and juvenile delinquency, all of which could have safely been left to the states—and, in 1930, it established the Bureau of Prisons, to manage a system that had grown larger than that of any state.

To summarize this unfortunate development: first the federal government built unneeded institutions, then it enacted duplicative laws that produced inmates to fill these institutions, and finally it created an agency to administer this unnecessary system, which now is a complex of about forty penitentiaries, correctional institutions, reformatories, institutions for juvenile and youthful offenders, prison camps, and detention, medical and treatment centers.

Since the federal system consists only of institutions and does not deal with noninstitutional community treatment, it has no prospect of serving as a fully developed correctional model for the states. As innovative and forward looking as the Bureau's program has been, its institutions do not have a better record in rehabilitation than the states'; in addition, the federal system usually requires that the offender be transported great distances from his residence for presentence diagnosis or correctional confinement. The Bureau's proposed "community cen-

ters" cannot, of course, be established in every community; each one must necessarily serve a large region. The federal institution system can only duplicate the states' systems, and its very existence impedes a state's trend toward community correction.

For these reasons, the National Council on Crime and Delinquency urges the disestablishment of the Federal Bureau of Prisons and its replacement by a Federal Correction Agency whose functions would be to provide technical assistance, program guidelines, and research designs to state and local governments. LEAA funds should be used to upgrade state and local probation systems for the rehabilitation of all offenders—federal as well as state—in the local communities. Pre-trial detention centers should be operated by each state—for federal as well as state law violators. NCCD opposes the Federal Bureau of Prisons' plan to construct a large number of detention and correctional institutions at a cost of several hundred million dollars in the next decade. The funds should be allocated to the states to help them develop the maximum use of community correction.

BACKGROUND INFORMATION ON NCCD POLICIES

I. DEVELOPING ALTERNATIVES TO INCARCERATION

Confinement

On any given day, about 400,000 Americans are imprisoned in jails, prisons, reformatories, or other correctional institutions. For all except the few on work furlough or similar programs, these offenders are in secure confinement. It is highly doubtful that all these men, women, and children need to be locked up for the protection of society. NCCD maintains that imprisonment is necessary only for offenders so dangerous that they would pose a serious threat to society if allowed at large. For others, community treatment (probation, parole, halfway houses, educational release, etc.) generally is more effective and economical a rehabilitation process. At a minimum, non-institutional community programs avoid the further criminalization and deterioration that afflicts inmates in penal institutions.

Prison Populations

According to the Federal Bureau of Prisons, the number of adult prisoners in state and federal institutions in 1970 was 203,046.¹ The number of prisoners in local jails and detention centers in 1970 was 153,063.² Of the latter figure, a jail census revealed that more than half of these prisoners were being held for trial; they were individuals who could not afford bail and were denied release on recognizance.³

The national trend during the last few years (1967-1970) indicates that state and federal prison populations have gained slightly. The federal prison population increased from 19,579 to 20,003. State prison populations increased from 175,317 to 176,391. But the ratio of prisoners to total population continued a downward trend (99.1 per 100,000 in 1967 to 96.7 in 1970), suggesting that, on a per capita basis at least, we are confining fewer people than in the past.⁴

Location of Prisons

Typically, prisons are situated at some distance from the urban centers

from which they receive inmates. Even the most modern prisons tend to be constructed in isolated communities. The newest New Jersey State Prison, for example, is in Leesburg, many miles from Newark, Trenton, and other large cities. Ohio's new prison at Lucasville is even more remote. The location of these and other isolated prisons complicates the establishment of relations with industry, universities and their social science departments, hospitals, and, of course, with the families of the inmates.

In the case of federal penitentiaries, men may be transported hundreds of miles from their homes, making it a special hardship for their families. Given the cost of land and construction, the tendency is to pick the cheapest location and thus the most remote. The possibility of attracting guards of ethnic background similar to those incarcerated is difficult, and the provision of housing for custodial and professional personnel presents formidable problems.

Imprisonment as Protection of Society

While offenders are prevented from committing further crimes against the public during their incarceration, their isolation is only temporary. About 95 per cent of the inmate population will eventually be returned to the community and there is much evidence that the prison experience contributes to crime rather than deterring it.⁵ Prisons have been characterized as "schools of crime" where criminals learn from each other the techniques of crime. The experience of institutionalization is often so detrimental that an offender returns to society more maladjusted than when he went in. And the fact of a prison record erects additional barriers to adjustment through discrimination in such vital areas as the labor market where ex-offender unemployment rates in 1969 were five to twelve times as high as among the rest of the population.⁶

Imprisonment as Rehabilitation

One of the stated purposes of imprisonment is to change an offender from a lawbreaker to a law-abiding citizen. As Chief Justice Warren Burger of the Supreme Court has stated: "to put a person behind walls and not to change him is to win a battle and lose a war."

Considerable doubt exists as to whether rehabilitation is possible in the typical prison. Some authorities say bluntly that prisons cannot rehabilitate. A recent study by the California Assembly Committee on Criminal Procedure found no evidence that state correctional institutions in California or in the nation as a whole are effective in rehabili-

tating offenders. This study reported that, for any large state in the nation, regardless of variations in the median length of institutional stay, it is safe to predict that 35 per cent of persons paroled from state prisons will be returned to prison within a few years and another 15 per cent will be fined or jailed for minor offenses. Reducing incarceration time was found to effect no significant increase in recidivism and in some cases was accompanied by a decrease in recidivism.⁷ It has been determined that the violation rate of federal parolees increases as the length of time served, before release, is extended. For persons serving terms of six months or less before parole, the violation rate was 9 per cent; with those serving five years and longer, the violation rate was 64.5 per cent.⁸

Estimates of recidivism of released prison inmates range from 30 per cent to 75 per cent, but the consensus is that imprisonment cannot be viewed as an effective rehabilitative measure.

Community Treatment as an Alternative to Imprisonment

Community treatment is generally held to mean placing the offender under supervision in the community. He may live at home, at an educational facility, in a half-way house, or in foster family or group living arrangements. There are restraints under which the offender lives. He is limited as to where he may live, what he may do, with whom he may associate. He is regularly seen by a probation or parole officer or other supervisory personnel. He may be required to undergo treatment or therapy, participate in training courses, or in any number of ways adhere to a rehabilitation plan. But he is not isolated in secure confinement and, most likely, responds to the help provided.

Community Treatment and Recidivism

Probation success rates range as high as 90 per cent.⁹ Because it takes place in the community, supervision accelerates adjustment to society. Prisons, on the other hand, tend to exacerbate rather than eliminate the innate weaknesses of offenders, to dehumanize the individual, and to erode his capacity for responsibility and self-government. In addition, imprisonment provides the opportunity to learn more about the techniques of crime.

While no reliable national data on recidivism exist with which to compare prison and community treatment, studies strongly suggest that community treatment is more effective than imprisonment.

A three-year probation project was conducted by NCCD in Saginaw,

Michigan.¹⁰ Fully trained officers carrying fifty-man caseloads brought about the following results:

- the number of offenders who required imprisonment was reduced 50 per cent;
- 80 per cent of felony offenders could be treated in the community with no significant threat to the public safety;
- the probation failure rate was reduced from 32.2 per cent to 17.4 per cent.

In California, a study was made of offenders in the state's Superior Court.¹¹ Some were placed on probation; others were given probation plus a jail term; the remainder received straight jail sentences.

The results:

- 66 per cent of felons given *probation* remained free of violations during the first year.
- 52 per cent given *probation and jail* remained free of violations for the first year.
- 41 per cent placed in *jail* remained free of violations for the first year.

It is on the basis of such experiences as those cited that the American Bar Association states that a judge should assume at the outset that probation is the best sentence—unless convincing reasons exist for imposing another sentence. From this perspective, *imprisonment must be viewed as an alternative to community treatment*, and not vice versa.

Juveniles in Institutions

A national survey of children's residential institutions undertaken in 1966 found 49,000 children in facilities for delinquents and over 13,000 children in detention facilities. These figures do not include the considerable number of children incarcerated in adult institutions—both prisons and jails.¹²

Institutionalization apparently is not reserved for the most serious delinquents. A recent study of nineteen major cities found that 40 to 50 per cent of the residents of correctional institutions nationwide are juveniles whose behavior or condition would not be criminal for an adult. This study found that such children are more likely to receive harsher dispositions and to be sent to correctional institutions than are serious delinquents; they are mixed indiscriminately with delinquents in

most institutions; and the median length of institutional stay for children charged with noncriminal offenses is 13 months, compared with 9 months for serious delinquents.¹³

While no effort to rehabilitate delinquents or prevent delinquency works well, the more deeply young offenders or problem children are brought into the juvenile justice system, the less likely they are to be rehabilitated. Within this framework, commitment to a training school for juveniles is considered the very end of the line and the most harmful disposition a judge can make. When the Senate Juvenile Delinquency Subcommittee held public hearings into the problems of juvenile institutions and prisons in March 1969, administrators of juvenile programs testified that it would be better if many delinquents were never apprehended because they deteriorate rather than improve under the guardianship of the state.¹⁴ The public probably would receive better protection by releasing young offenders back onto the streets rather than sending them to institutions where they become more dangerous and more adept at crime. Certainly noncriminal and victimless offenders should be diverted from the justice system.

Community Alternatives for Juveniles

Growing recognition of the failure of training schools and prisons to rehabilitate and of the actively destructive effects of incarceration has led to a reduction in the number of adjudicated delinquents committed to training schools and other large institutions. This movement is nationwide in scope and convincing evidence of its progress may be found in many jurisdictions throughout the country. Most notably, Massachusetts has closed down its training schools for boys and placed its juvenile inmates in private residential centers, foster homes, and family-style group homes. The reorganized Department of Youth Services is in the process of developing a wide range of community alternatives for juvenile offenders. California has been providing community alternatives for juvenile offenders since the early 1960's. Both the Community Treatment Project and the Community Delinquency Control Project of the California Youth Authority Department have demonstrated that offenders usually not released to community supervision can be as safely and at least as effectively handled in community-based intensive treatment programs without institutionalization. The utilization of alternatives at an even earlier point also appears to be effective. Youth Service Bureaus, which divert youths from the justice system entirely, have played a major role in the dramatic reduction of training school populations in Indiana and promise to be a major new resource in reducing delinquency nationwide.

Cost-Effectiveness: Incarceration versus Community Correction

A major rationale for the use of community programs is that correctional costs can be considerably reduced by handling in the community a large number of those offenders normally institutionalized. A nationwide survey conducted by NCCD for the President's Crime Commission found that the daily cost for a juvenile in an institution is ten times the cost of juvenile probation or aftercare. For adults, state institutional costs are about six times that of parole and about fourteen times that of probation.¹⁵

AVERAGE DAILY COST PER CASE (1966)*

	Juvenile	Adult
Detention	\$11.15	\$
State Institution	9.35	5.24
Local Institution (including jails)	10.66	2.86
Probation	.92	.38
Parole or aftercare	.84	.88

*The low cost of probation can be attributed in part to excessively heavy caseloads and low salaries. The average cost per case should be more than doubled to enable probation nationally to become more effective. Also, 1972 figures are undoubtedly considerably higher for both categories.

The quality of community supervision required to effectively handle serious offenders (candidates for institutionalization) in the community costs more than regular probation supervision, but still considerably less than incarceration. In addition, the cost of building a new institution (estimated at \$20,000 per bed)¹⁶ and the cost of supporting families of breadwinners in prison (more than \$16 million in one state in 1967) are avoided.

One highly successful way of increasing the use of local community supervision and at the same time significantly reducing state correctional costs is the probation subsidy program. During the 1966-1967 fiscal year, the 31 counties then participating in California's probation subsidy program reduced institutional commitments so that a proposed \$5.8 million expenditure on institutional programs was reduced to \$2.4 million for intensive supervision programs.¹⁷

The California Assembly Office of Research issued a report on the costs and effects of the California criminal justice system. The major

findings of this study were: (1) commitment to state institutions is the most expensive penal alternative in the state; (2) local corrections is less expensive and permits the maximum rehabilitation potential and return of costs to the system by the offender; (3) at least 50 per cent of the men entering prison each year may be no more dangerous than those placed on probation; and (4) the increased use of local corrections (probation or community treatment) which has occurred in the last decade has been associated with *no recorded increase at all* in serious crime among those supervised.¹⁸

Jail Construction

Plans continue to be developed by federal, state, and local authorities for the construction of jails to hold pretrial detainees, convicted offenders awaiting sentencing, and sentenced misdemeanants. The Federal Bureau of Prisons is involved in the development of metropolitan correctional centers, which will provide facilities for numerous services as well as for the basic jail function. Such federal metropolitan centers are planned for several locations, the first to be built in New York City in 1972.¹⁹

In Connecticut, where jails are state-operated, new jail construction is already in progress and the planning of replacements for local jails is currently being financed by the Law Enforcement Assistance Administration.²⁰ The total planned jail construction expenditures for fiscal 1970 were reported in the National Jail Census to be over \$170 million. Since then a new \$60 million city jail has been proposed for New York City.

Jail Populations

Rather than place such a huge burden on the taxpayer for the construction and operation of jail facilities, a severe reduction in jail admissions should be accomplished, eliminating the need for additional cell blocks.

The decriminalization of public drunkenness, for example, would cut jail admissions profoundly. As former Attorney General John Mitchell has stated, "... drunkenness per se should not be handled as an offense subject to the processes of justice."²¹ It has been estimated that taking alcoholics out of jail would reduce the jail population by one-quarter.²² One-quarter of the jail population on March 15, 1970, amounted to over 37,500 inmates. At \$2.86 per day, per person, this would constitute a savings of more than \$100,000 a day.

Numerous pretrial projects have shown that the pretrial detainee

population can be decreased without increasing the rate of non-appearance at court. The following New York City programs are examples of such programs:

- The Manhattan Summons Project—over 36,000 summonses were issued in two years, a saving of more than \$2.5 million in police time plus the amount saved by not housing those who would otherwise have gone to jail.²³
- The Manhattan Court Employment Project—as of June, 1970, charges against 366 men had been dropped due to their successful participation in the program.²⁴
- The Manhattan Bail Project—of 3,505 persons released on recognizance by the end of the action phase of the project only 56 persons willfully failed to appear in court. Many of these persons would have spent time in jail awaiting trial.²⁵

NCCD, in its Des Moines Community Corrections Project, has gone beyond other release-on-recognizance projects in several ways. Through it, accused persons who could not afford bail and could not qualify for release on standard ROR criteria, were released with less than a 3 per cent rate of non-appearance at court. While awaiting trial the releasees were provided job training, therapy, literacy assistance, marital counseling, and other assistance. During 1971, the project's existence saved 3,343 defendant jail days, or approximately \$10,030. In addition, the project's employment assistance aided its clients in obtaining jobs, thus saving money that might otherwise be spent for the support of the offender's family. Persons released to the project also were able, more often than those jailed, to provide their own defense attorneys, saving the cost of court-appointed counsel.²⁶

Convicted misdemeanor jail populations can and should also be reduced by the increased use of suspended sentences, fines, and misdemeanor probation. Several jurisdictions now allow for the payment of fines in installments. It was estimated that in 1969 as many as 40 to 60 per cent of all offenders confined in county jails were imprisoned for failure to pay a fine.²⁷ Provisions for the payment of fines in installments in all jurisdictions would further reduce jail populations.

The increased use of misdemeanor probation would serve to decrease jail populations and reduce jail operation costs. The Volunteers in Probation program, which began in Royal Oak, Mich., has been successful in reducing recidivism among misdemeanor offenders. The Royal Oak concept of probation volunteers has recently spread to over 2,000 courts throughout the nation.²⁸

By these and other related means the jail population can be reduced to the point where existing jail cells would be more than required to house the decreased numbers. This would save the vast amount of money needed for planned construction.

Once the potential of community treatment is fully achieved with the resultant dramatic decrease in jail populations, new facilities for those persons still requiring confinement might be considered. Pending full development of pretrial services, however, cancellation of plans for the construction of new jails would be a significant step in the right direction.

NCCD CONCLUSIONS: Institutional Construction

Experimental programs have repeatedly demonstrated that serious (but not dangerous) offenders who are candidates for institutionalization can be managed safely, at least as effectively (often more effectively), and at much less cost under supervision in the community. Further, there is considerable evidence that the institutional experience is brutalizing and destructive to those incarcerated. Imprisonment is temporary for the vast majority of inmates, yet by isolating and alienating the inmate, it works against his reintegration into society.

Community correction programs should be expanded and upgraded and a large proportion of the types of offender now sentenced to prison should be retained under supervision in the community.

Despite negative evidence, offenders continue to be unnecessarily incarcerated, primarily because our correction system is oriented—not only ideologically but, more importantly, in terms of manpower and financial resources—toward institutionalization. A nationwide survey conducted by NCCD in 1966 found only one-third of offenders but eighty-one per cent of correctional expenditures allocated to institutions. Many judges interviewed during NCCD surveys have reported that they were reluctant to place offenders on probation because probation services were already overburdened. Where probation services have been expanded and upgraded, judges have made greater use of them, suggesting that sentencing practices could be changed through a reallocation of resources.

Further construction of correctional institutions can only perpetuate a misguided policy of excessive and unnecessary institutionalization. Reallocation of correctional resources would result in a less costly, more effective and more humane correctional system.

II. INMATE COMPENSATION

Originally conceived as punishment, work programs for convicts once consisted of such practices as road work by chain gangs or working in mines and on prison farms. The prisoners received no pay. Under lease and contract systems, prison labor was used as an income-producing resource for the state. Under some of these arrangements, convicts were housed, fed, and clothed by those who physically removed them from the institution and employed them in fields or factories. Again the prisoners received no pay.

Subsequent penal thinking conceived work to be a rehabilitative device designed to bring a sense of industry to the offender, to instill good work habits, and in some cases to teach a trade which might be plied after release. Because unrewarded labor does not provide incentive for the development of diligence and skill, some wages were paid to inmates.

Through the State Use and Prison Industry System, the production of goods by inmates has grown. In 1970, more than \$165 million in goods were produced by poorly paid convict labor. They produced such products as furniture, textiles, license plates, shoes, flags, farm machinery, etc. Payment to inmates for work performed has been minimal.

In a national survey, 20 states, the District of Columbia, and the Federal Bureau of Prisons reported that more than 90 per cent of their inmates received wages. In five states, no more than 10 per cent earned money. Six states did not permit inmates to earn anything in prison. Of 33 states supplying data in another survey, wages ranged from 4 cents a day to a high of \$1.30 a day.²⁹

No state pays its inmates the amount specified by the federal minimum wage standards, currently \$1.60 per hour. However, in Washington, D.C., one experimental penal program has demonstrated that it is feasible to pay inmates the minimum wage and more. Inmates employed in its Capital Housing Project earn an average of \$80. per week and some inmates have earned up to \$150. per week.

The President's Crime Commission Task Force on Corrections supported efforts to raise inmate wages, suggesting that higher wages would motivate inmate workers to increase production and quality.³⁰

The California Assembly Office of Research recommended that correctional industries be phased out and replaced by private industrial programs with inmate employees paid at the normal prevailing wage for the task performed, including the usual benefits.³¹

NCCD CONCLUSIONS: Inmate Compensation

Studies of existing correctional industries have shown that the conditions of prison work do not contribute to an offender's adjustment on release, do not teach either marketable skills or work habits relevant to employment outside, and do not provide incentive to achieve high standards of production within the institution.

In addition to the economic advantages of paying inmates decent wages in the institution (enabling the inmate to help support his family, continue social security payments, make restitution or pay fines, pay income tax, and contribute to his institutional room and board), the payment of the prevailing wage for the task performed would teach habits of earning and saving vital to making it on the outside and normally not part of the offender's lifestyle. Also, the receipt of the minimum wage required by law would importantly contribute to the inmate's self-respect and respect for "the system." Poor self-concept and alienation have been identified as common characteristics of the offender population. Receiving 10 cents for a day's work probably aggravates his bitterness toward society and further downgrades his estimate of his own worth.

Imprisonment is punishment enough; token wages are counter-productive. An inmate employed in a federal, state, or local institution should be paid no less than the minimum wage required nationally or in his state.

III. THE DISESTABLISHMENT OF THE U.S. BUREAU OF PRISONS

Background

The federal government's first penitentiary for men was established at McNeil's Island in the State of Washington in 1890. Constructed 23 years earlier as a territorial prison, McNeil's Island is still in operation. It is accessible only by boat.

At the time the Federal Bureau of Prisons was created in 1930, there were seven federal prisons. All were funded separately by Congress. All functioned autonomously. At the time, 12,000 offenders were confined in those institutions and an equal number of federal prisoners were held in state and local facilities.³² Federal prison employees numbered 650.³³ There were eight probation officers, no clerks, and 4,280 probationers in the entire U.S. system.³⁴

Following the creation of the Bureau 42 years ago, expansion occurred rapidly. The Leavenworth Annex Penitentiary had been "borrowed" in 1929 from the Army for use as a narcotics and drug addict institution. The Petersburg, Va., institution was opened in 1930 as a "temporary" prison camp. Today, Leavenworth is a major penitentiary in the Bureau of Prisons' system with satellite camps attached. Petersburg is also still in operation for confinement of young adults. In 1932, Lewisburg, Pa., was opened. In 1933, El Reno, Okla., a prison for men west of the Mississippi was completed. (This was a beginning of the regional institution concept.) That same year a medical center for federal prisoners opened in Springfield, Mo. Alcatraz was opened in 1934.

Nine new institutions were authorized under the Public Works Administration for completion during the period 1938-1941. Substantial additions were also approved for many existing facilities. The new institutions and improvements in older ones created additional bed space for 5,589 federal prisoners, making the boarding of sentenced federal offenders in state facilities no longer necessary.³⁵

Today, 38 institutions are operated by the Federal Bureau of Prisons throughout the nation. Of the 203,046 adults in all prisons in 1970, approximately 20,000 were in Federal institutions.³⁶ As of June 30, 1968, 36,799 persons were under the supervision of the Federal Probation System, 3 per cent less than the previous year. In 1970, the

system employed 606 federal probation officers. Location of Bureau of Prisons' institutions and community centers are as follows:

Penitentiaries

Atlanta, Ga.
Leavenworth, Kans.
Lewisburg, Pa.
Marion, Ill.
McNeil Island, Wash.
Terre Haute, Ind.

Short Term Adult

Elgin AFB, Fla.
Florence, Ariz.
Montgomery, Ala.
New York, N.Y.
Safford, Ariz.

Youth and Juvenile

Ashland, Ky.
Englewood, Colo.
Morgantown, W. Va.
(male & female)

Community Treatment Centers

Atlanta, Ga.
Chicago, Ill.
Dallas, Texas
Detroit, Mich.
Houston, Texas
Kansas City, Mo.
Los Angeles, Calif.
New York, N.Y.
Oakland, Calif.

Intermediate Term Adult

Danbury, Conn.
Fort Worth, Texas
LaTuna, Texas
Sandstone, Minn.
Terminal Island, Calif.
(male & female)
Texarkana, Texas

Young Adult

El Reno, Okla.
Lompoc, Calif.
Milan, Mich.
Petersburg, Va.
Seagoville, Texas
Tallahassee, Fla.

Female

Alderson, W. Va.
Terminal Island, Calif.
(women's division)
Morgantown, W. Va.
(women's division)

Staff Training Center

El Reno, Okla.

Medical Center

Springfield, Mo.

In addition, there are five satellite community treatment centers. Three are in Chicago, one in Milwaukee, and one in Long Beach, Calif.

Bureau of Prisons Expansion

In November 1968, President Nixon gave the Attorney General a 13-point correction program. The Bureau of Prisons has responded to this

program by developing a plan calling for the construction, over a ten-year period, of 66 new institutions at an estimated cost of \$700 million. Estimates of annual operating expenses, although not reported, would probably exceed \$150 million, based on normal ratios of average construction costs to average operating costs.³⁷ This figure does not include maintenance costs, depreciation or sizeable interest.

Metropolitan Diagnostic Guidance and Detention Centers

Eight metropolitan diagnostic guidance and detention centers are planned. Construction funds have been appropriated for one in New York City while planning funds are now available for a similar center in Chicago.³⁸ Others are scheduled for construction in Philadelphia, San Diego, and San Francisco. The multimillion dollar facility planned for construction in lower Manhattan is adjacent to property where the City of New York Corrections Department proposes to construct a detention center at an estimated cost of \$60 million. But no joint planning has been done by federal, state, or local criminal justice agencies to determine whether both facilities are needed or the extent to which alternative measures in lieu of pretrial detention would reduce estimated capacities. The number of federal inmates currently housed in the San Francisco County jail would not seem to justify the need for a new facility in that area. In Ventura, Calif., a state-operated institution very similar to that proposed by the Federal Bureau of Prisons already exists on the grounds of the Camarillo State Hospital which has excess capacity and can be readily expanded. Further, the County is planning to construct a new correctional center which will consolidate fragmented resources available at all three levels of government.

Serving as "models to replace traditional jails, most of which are obsolete and overcrowded," the eight Metropolitan/Federal Correctional Centers, according to the Bureau, will provide facilities for pretrial and short-term detention of sentenced federal offenders.³⁹ The eight centers will provide diagnostic services for the federal courts in determining appropriate judicial decisions, and for intensive short-term treatment. The centers will also include a community treatment unit for counseling and guidance of inmates being readied for return to the community. The Federal Bureau of Prisons is taking a route of isolating its activities still further from those of existing state and local community facilities, even though federal funding is being made available to upgrade the latter.

Federal Jail Inspection Service

There are no federal minimum standards for approving local jails. In fact, the federal jail inspection service may operate more to retard than facilitate the improvement of local jails and detention facilities. For example, it has often approved the detention of children in jails for adults.

In his *Illinois Jails*, Professor Hans Mattick of the University of Chicago writes: "The bureau is mainly concerned with finding a jail close to federal courts and commissioners. In the absence of its own local detention facilities, it has to settle for what is available. The bureau is properly concerned about the conditions under which its own prisoners are locally incarcerated, but they do not impose minimum standards on nonfederal prisoners or interfere with how the local jailer runs the rest of the jail."⁴⁰

In Austin, Texas, the Travis County Jail has been severely criticized by citizens and grand juries convened to inspect it, but those conditions have been defended on the grounds that the institution is approved by the U.S. Bureau of Prisons for federal prisoners.⁴¹

In Toledo, Ohio, a Federal Court, in 1970, found that incarceration in the federally-approved jail constituted cruel and unusual punishment. A similar ruling was made by a Circuit Court in Detroit, Mich., in 1971. There, the federally-approved jail was described as "unfit for human habitation."⁴²

Federal/State Relations

The Federal government has the financial resources and the mandate to upgrade the operation of state and local correctional programs. LEAA grants now provide assistance for corrections and rehabilitation. Of the 289 LEAA programs now underway in all 50 states, 49.8 per cent are residential and institution-based.

Allocations for state correctional programs in 1971 Planned LEAA block grants range from as little as 1.3 per cent and 2.6 per cent to 42.2 per cent. The latter is California's allocation for corrections from its \$43,300,000 block grant. New York, receiving \$40,124,700, allocated 31.6 per cent to corrections. New Jersey, with \$15,826,670, allocated 24.3 per cent for corrections.

The Bureau of Prisons is influencing trends in the use of LEAA funds through advisory services to state and local programs. However, since the Bureau does not include probation and other noninstitutional services, the advice is institution-oriented. Advisory services of the Bureau include:

- ... assignment of a correctional advisor to each of the seven LEAA field offices;
- ... supplying technical consultation on problems ranging from food service to planning for new construction;
- ... assignment of special Bureau of Prisons staff to each LEAA office to deal with the planning, development, and implementation of modern correctional programs and facilities;
- ... publication of guides on planning and operations of facilities;
- ... assignment of ten Bureau experts on full-time duty of inspection of local jails to insure that acceptable standards are maintained where federal prisoners are being held;
- ... publication of a Jailer Training correspondence course to teach basic operational and management skills;
- ... issuance of a Classification of Jail Prisoners booklet for jail personnel;
- ... provision of statewide surveys and technical assistance (in collaboration with LEAA).

NCCD CONCLUSIONS:

Disestablishment of the Federal Bureau of Prisons

The Law Enforcement Assistance Administration program was created basically to improve the nation's fragmented and duplicative state and local criminal justice network. The principal role of the Federal government in relation to all other services to people, such as health, welfare, and education, is leadership, research, training, development of standards and guidelines for upgrading services, funding of innovative models and their testing, and financial assistance to the state and local community. State and local governments bear more than 90 per cent of the correctional load but possess less than 40 per cent of the total government revenues.⁴³

LEAA funds to state and local corrections systems merely serve to reinforce the existing national policy for prisons, minimizing noninstitutional corrections within the offenders' home communities. A comprehensive federal correction agency must be established to provide the leadership in noninstitutional correctional services for states and localities as well as to assist in their funding.

There is no justification for continuance of the practice of incarcerating offenders in institutions great distances from their home communities if federal leadership and grant programs such as those provided by LEAA are available and succeed in upgrading the state and local correctional programs.

Offenders charged and convicted in federal courts can when necessary be detained and confined in state and local corrections and detention centers, a practice now being conducted in several parts of the country.

The juvenile delinquency law enacted by Congress makes it unnecessary to place youngsters convicted of federal crimes (interstate auto thefts, for example) in United States government institutions.

Children should be diverted from the federal system and placed under the jurisdiction of the juvenile or family court in local communities.

The federal correction system duplicates what LEAA seeks to develop within each state system. The ten-year Master Plan for the construction of a greater network of jails and correctional institutions is a needless economic burden for the nation, and the Plan's objectives warrant serious questioning.

Existing federal institutions should be phased out as state systems are upgraded and programmed to receive federal prisoners through transfer or direct commitment.

Contrary to the practice in a number of states, the federal courts continue to imprison more people each year than they place on probation. In 1962, 46 per cent were placed on probation and 54 per cent placed in institutions; in 1968, 48 per cent were given probation and 52 per cent went to prison.

States with progressive penal systems place more people in community treatment programs than in institutions. For example, Wisconsin has approximately 89 per cent of its inmates on probation; Hawaii has

about 85 per cent; California has 67.7 per cent.⁴⁴ In none of these states is the threat to the public greater than in those areas where a majority are placed in prison.

The federal government should use probation far more frequently than it does at present; it should use imprisonment primarily for those too dangerous or assaultive to be allowed to live in the community.

Footnotes

1. Federal Bureau of Prisons. *National prisoner statistics: prisoners in federal institutions for adult felons, 1968, 1969, 1970*. (NPS Bulletin No. 47). Washington, D.C., 1972.
2. U.S. Law Enforcement Assistance Administration. *1970 National jail census*. Washington, D.C., 1971. This figure does not include jail populations in the state-operated systems of Connecticut, Rhode Island, and Delaware.
3. *Ibid.*
4. *Supra* note 1.
5. California. Legislature. Assembly Committee on Criminal Procedure. *Deterrent effects of criminal sanctions*. Sacramento, 1968.
6. National Clearinghouse on Offender Employment Restrictions. *Offender Employment Review*, March 1972.
7. *Supra* note 5.
8. Administrative Office of U.S. Courts. *Persons under the supervision of the Federal Probation System*. Washington, D.C., 1968.
9. National Institute for Mental Health. *Community-based correctional programs: models and practices*. (Public Health Service Publication No. 2130). Washington, D.C., 1971. pp. 3-4.
10. National Probation and Parole Association (NCCD). Michigan Council. *The Saginaw Probation Demonstration Project*. 1963.
11. California. Criminal Statistics Bureau. "Superior court probation and/or jail sample. One year followup for selected counties." Sacramento, 1969.
12. NCCD. *Corrections in the United States: a survey for the President's Commission on Law Enforcement and Administration of Justice*. New York, 1966.
13. Delaware Agency to Reduce Crime. *Proposed juvenile delinquency prevention legislation*. Memorandum to members of the National Governor's Conference Committee on Crime Reduction and Public Safety Task Force. Wilmington, Del., 1972.
14. Dodd, Thomas J. "Corrections do not correct." *Trial*, 5(6):12-13, 1969.
15. *Supra* note 12.
16. Stark, Heman. "Alternatives to institutionalization." *Crime and Delinquency*, 13(2):323-329, 1967.
17. NCCD. Research Center. *Research, demonstration and social action*, prepared by Leslie T. Wilkins and Don M. Gottfredson for the Office of Juvenile Delinquency and Youth Development. Davis, Calif., 1969.
18. California. Legislature. Assembly. *The California prison, parole and probation system*, by James Robison. Technical supplement to Assembly

- report, "Preliminary report on the costs and effects of the California criminal justice system. . ." Sacramento, 1969.
19. Balchen, Bess. "Prisons: the changing view of the inside." *AIA Journal*, September 1971, pp. 15-26.
20. Velde, Richard W. "The future of corrections." *Police*, 16(3):62-65, 1971.
21. *New York Times*, February 15, 1972. p. 33.
22. Based on FBI *Uniform Crime Reports* figures.
23. Criminal Justice Coordinating Council of New York City and Vera Institute of Justice. *The Manhattan Summons Project*. New York, 1969.
24. Criminal Justice Coordinating Council of New York City and Vera Institute of Justice. *Manhattan Court Employment Project*. New York, 1970.
25. Sturz, Herbert. "The Manhattan Bail Project and its aftermath." *American Journal of Correction*, 27(6):14-17, 1965.
26. NCCD. Research Center. *Des Moines Community Corrections Project: evaluation report no. 2*. Davis, Calif., 1972.
27. Westen, Derek A. "Fines, imprisonment, and the poor: thirty dollars or thirty days." *California Law Review*, 57(3):778-821, 1969. p. 788.
28. Reported by former Judge Keith Leenhouts, Director, Volunteers in Probation.
29. Glaser, Daniel. *The effectiveness of a prison and parole system*. Indianapolis, Bobbs-Merrill, 1964.
30. U.S. President's Commission on Law Enforcement and Administration of Justice. Task Force on Corrections. *Report: corrections*. Washington, D.C., 1967. p. 54.
31. California. Legislature. Assembly Office of Research. *Report on the economic status and rehabilitative value of California correctional industries*. Sacramento, 1969.
32. Federal Bureau of Prisons. *Annual report*, 1969.
33. U.S. Senate. Judiciary Committee. Subcommittee on National Penitentiaries. *Hearings*, January 22, 1964.
34. *Id.*
35. Hurst, Hunter; Whittaker, William. *Prisons . . . Federal/state relationships*. Unpublished paper, 1972.
36. Carter, Robert M.; Glaser, Daniel; Wilkins, Leslie T., eds. *Correctional institutions*. Philadelphia, Lippincott, 1972.
37. The cost of maintaining one inmate in a federal institution for one year is estimated at \$3,600 by Norman Carlson, Director, U.S. Bureau of Prisons. See: U.S. Senate. Judiciary Committee. Subcommittee on National Penitentiaries. *The future role of the U.S. Bureau of Prisons. Hearings*, March 2-3, 1971 p. 37.
38. Federal Bureau of Prisons. *Biennial report, 1970-1971*.
39. *Ibid.*, p. 24.

40. Mattick, Hans. *Illinois jails: challenge and opportunity for the 1970's*. Chicago, University of Chicago Center for Studies in Criminal Justice, 1969.

41. U.S. Senate, Judiciary Committee. Subcommittee on National Penitentiaries. *Hearings*, January 22, 1964. p. 60.

42. *Id.*

43. *Supra* note 41, p. 69.

44. California Department of Justice, Division of Criminal Investigation and Information. *Crime and delinquency in California—1970*. (Note: of the 49,950 persons convicted by the Superior Court, California, 1970, 38.5 per cent were placed on probation and 29.2 per cent were placed on probation with jail.)

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