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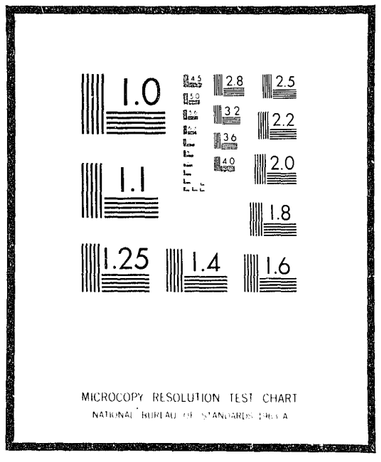

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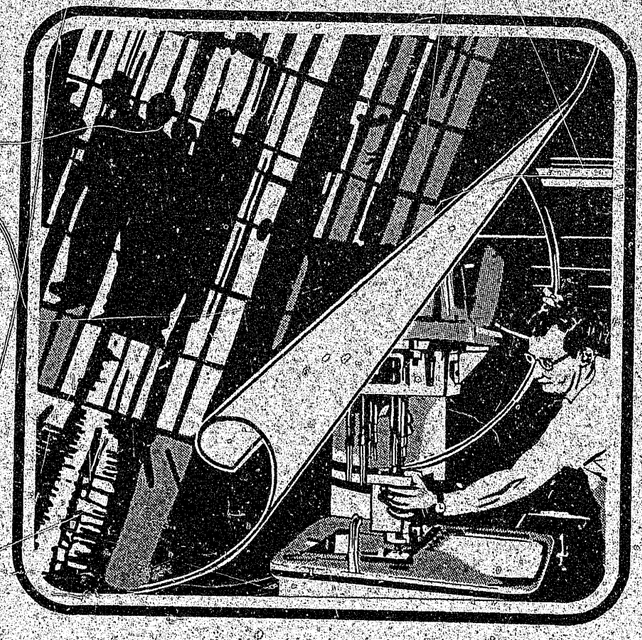
CORRECTIONS IN ALABAMA

A MASTER PLAN



VOL. 1

Master Plan Overview

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Corrections in Alabama: A Master Plan

Volume I

Overview

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October 10, 1973

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Organization of the Master Plan

The plan is organized into four volumes as indicated in the overall table of contents (Appendix A). In the interest of convenience, a brief description of each volume is presented here.

Volume One provides the general frame of reference from which this plan was developed. A brief overview of the existing system in Alabama and a summary of all recommendations are also presented in Volume One.

Volume Two contains a detailed description of each component of the corrections system and the recommendations pertinent to each. Recommendations in this section include a rationale, cost and implementation information, and the anticipated impact of each recommendation. A system-wide budget may also be found in Volume Two.

Volume Three, the Community Resources Directory, lists agencies and organizations by county which are considered potential referral sources for use by probation and parole officers, judges, and law enforcement personnel.

Volume Four summarizes the material presented in Volumes One and Two and provides an overview of the entire plan.

Chapter One

General Considerations and Philosophy

General Considerations

Over two million persons in the United States are incarcerated each year (Glaser, 1964). In 1967, the American correctional system handled nearly 1.3 million offenders on an average day. By 1975, the average daily population is projected to be over 1.8 million offenders (The President's Commission on Law Enforcement and Administration of Justice, 1967). In terms of measurable monetary costs, the nation's annual crime bill has passed the 20 billion dollar mark (Advisory Commission on Inter-governmental Relations, 1971). Of the reported crimes committed in 1969, there were 14,500 murders, 306,000 aggravated assaults, 36,000 forcible rapes, and at least 300,000 robberies. Although these figures are staggering, it is estimated that twice as many unreported crimes were committed.

Based on information contained in the 1971 Uniform Crime Reports, a comparison of the Crime Index can be made between Alabama, the southern region, and the nation as a whole. The Crime Index is composed of seven crime problems. The seven crime classifications that reflect the most common local crime problems are divided into two types: (1) violent crimes, which include murder, forcible rape, aggravated assault, and robbery; and (2) property crimes, which include burglary, auto theft, and larceny of $50 and over in value.

In order to indicate the trend of crime, a comparison is made between the 1971 figures and those of 1970. The rate of crime, which is expressed as the number of crimes per 100,000 people, can be interpreted as the probability of becoming a victim of one of the crimes.

From Table 1 a comparison of the total Crime Index indicates that Alabama, with 1,892.6 crimes per 100,000 people, is below the national level of 2,906.7/100,000 and below the South as a whole with 2,500.6/100,000. A comparison of the percent change in the total Crime Index from 1970 indicates that crime in Alabama has increased 2.5%. However, crime is not increasing as rapidly in Alabama as it is either in the southern region or in the nation. Since Alabama is primarily a rural state, the lower total incidence and rate of crime may be misleading. The four metropolitan areas of Alabama account for approximately 45% of the population in the state, but they account for 72% of the total crime. A comparison of the crime rate in these four cities with that of the nation would give a more representative picture of the rate of crime in Alabama. Mobile has a total Crime Index of 2,971.0/100,000, which exceeds the national level of

2,906.7/100,000. Montgomery, Huntsville, and Birmingham are below the national level (see Table 2), but all three are well above the level of crime for the state as a whole.

Although a comparison indicates that the South, Alabama in particular, is below the total Crime Index of the nation, a regional comparison from Table 3 of the seven crime classifications indicates that the South leads the nation in rate of murder and aggravated assault, and is second in the rate of rape. Alabama's most serious crime problems appear to be violent in nature and of the types that are most difficult to curb. The rate of murder in Alabama exceeds the national level and continues to rise rapidly, as evidenced by the 29.1% increase over 1970. Although Alabama is below the national level in the rate of robbery, the 1971 figures reflect a 14.5% increase in the rate of robbery over 1970. The rate of aggravated assault in Alabama exceeds the national level, and it has increased 4.5% since 1970. Rape is a serious problem in Alabama, occurring at a rate of 19.0/100,000, which is slightly below the national level. Alabama follows the national trend of decreasing levels of property crimes. In the categories of larceny and auto theft, Alabama experienced actual decreases of 0.3% and 0.1%, respectively, in the rate since 1970. However, these small decreases seem less significant when compared to the fact that property crimes comprise 83% of the total Crime Index in Alabama.

Philosophy

This section is an attempt to verbalize the philosophy of the staff and its hopes that meaningful changes will be realized in the corrections system of Alabama. Although the exact determinants of criminal behavior are unknown, it is known that crime does not occur in a social, psychological, or economic vacuum. The profile of a typical offender tends also to be a profile of the poor, the inadequately educated, the unemployed, and the racial or non-English speaking minorities.

The Master Plan is directed toward alleviating the problems of the corrections system. However, successful reform of the corrections system is dependent, to a large degree, upon amelioration of the social and economic concomitants of crime and criminal behavior.

Incarceration has been the traditional method of dealing with persons who have deviated from the prevailing social mores or who have violated a law; and, too often, punishment or retribution have been the motivation for incarceration. Recently, however, the rationale for incarceration has shifted toward rehabilitating the offender to prevent further criminal behavior. The ideal of rehabilitation is a worthy one, but it is one unlikely to be realized within the system as it is now. The criminal justice system so far has been

unable to eliminate crime or to positively affect the lives of criminals. Extensive data gathering, analysis, research, and evaluation must be undertaken to discover the causes of crime and the means by which such causes can be altered. The findings of the research and evaluation process must be rigorously applied to the existent correctional system to provide the best means of dealing with criminal behavior.

The Master Plan is aimed at providing a better corrections system. Underlying this aim is the hope that a basic change in the attitude of the system will result. The recommendations of this plan are based upon a philosophical orientation of advocacy and community-based corrections that hopefully will pervade the entire system. From the initial contact with the system, the offender is labeled a deviant and is often treated without due consideration for his humanity or rights. There must be, at all points within the system, an advocate for the rights and the welfare of the offender. The purpose of prisons must be changed from one of isolating and punishing the offender to one of providing him with the means and the desire to refrain from criminal behavior. An advocacy role requires that the system be *for* the offender and uphold his rights as a human being and as a citizen. This ultimately benefits society as well as the offender.

Moreover, correctional change must occur within the community as well as in the institutions. Institutionalization, no matter how humane or enlightened, still isolates the offender from the issues he must face in the community. When the offender returns to the community he is often isolated and stigmatized because he has a prison record. Through fear, misunderstanding, or apathy, the community rejects the offender. This rejection may lead him to commit further crimes.

There must be a mobilization of available resources in the community to prevent crime. But, merely increasing the surety of arrest and conviction will not solve the problem of crime. The community must also function as an advocate. The financial, educational, and social resources of the community should be utilized to reduce the economic and social inequities which often contribute to crime. The reintegration into the community of an offender who has "paid his debt" in prison can be facilitated by an aware and involved community. Criminals, like the majority of citizens, desire the "good things in life." However, the normal means of attaining a satisfactory life have often been denied to those persons who have become offenders. The community can provide education and employment for offenders; but, even more, it can give the offender a sense of being part of the community with legitimate access to its resources.

One of the premises of this plan is that a person, regardless of his status or past history, is due the respect and the rights of any human being. Undoubtedly there are men and women who have become a threat to the safety of society or themselves. Until another means of dealing with these people becomes available, institutionalization remains the only means of treating them. However, the denial of a man's freedom should be undertaken with extreme caution and with consideration of the ultimate benefit to the individual and to society.

Chapter Two

Overview of Existing System

Jails

Located throughout Alabama are approximately 300 jails and local lockup facilities that house a total of approximately 4,000 inmates on any given day. These facilities, characterized by atrophying and unsanitary structures, poverty-stricken inhabitants, and an almost complete lack of program and medical services, are a sad commentary on our treatment of not only those persons convicted of crimes but also of those presumed to be innocent while awaiting trial.

Drunkenness and alcohol-related offenses are the primary cause of incarceration in Alabama jails—the numbers rising as high as 90% in some facilities. A very conservative estimate is that at least 100,000 misdemeanants a year are held in Alabama jails.

Over two-fifths of the state jails are small, with capacities of ten or less, and they hold about 5% of the total state jail occupants on any given day. Another 43% of the jails have a capacity of 11-50 persons, confining 31.7% of the total state jail population on an average day. The jails with 51-100 beds have total average daily populations of 17.7% of the state's total. The largest jails hold 45.6% of the state jail population on an average day. Thus, 63% of the jail occupants were in the largest jails.

Probation and Parole

Probation and parole in Alabama are jointly administered by a three-member Board of Pardons and Paroles. Board members are appointed by the governor and, after confirmation by the senate, serve staggered six-year terms. All other personnel, except an administrative assistant, are hired through the State Merit System. The board hears all parole cases at major prisons; and, revocation hearings are held twice a month at the Medical and Diagnostic Center at Mt. Meigs.

An executive director heads a staff of 153 employees and is responsible for the administration of the entire system, including the Interstate Compact Unit. There are four assistant directors. Two are in charge of field services, one assistant director heads the Division of Planning and Development, and one is in charge of the Division of Training and Staff Development. Two institutional parole officers interview inmates and prepare reports used in evaluation of parole cases.

There are six districts with a Probation and Parole Supervisor III in charge of each district. There are 33 field offices employing 20 Probation and Parole Supervisor I's and 52 Supervisor II's. The supervisors perform all presentence investigations required by the

courts. These investigations account for approximately sixty percent of their time; in addition, they prepare all preliminary social histories requested by the board. The supervisors are also required to develop and report on probation and parole plans, to make investigations into restoration of civil and political rights, pardons, remissions of fines and forfeitures, and to serve as public relations officers in the area. The average caseload per supervisor is 131. The average length of parole is five years, and the average length of probation is three and one-half years.

Since 1966 there has been a decrease in the number of parole cases considered, but there has been an increase in the number and percentage of paroles granted. In 1971, of the 2,237 parole cases considered, 1,193, or 53.3%, were granted, compared to 957, or 39.9%, granted of the 2,396 considered in 1966. The number of paroles has steadily increased, despite an approximate 16% fluctuation in the percentage of probations granted within the past six years. In 1966-67, 2,035 (57.4%) probations were granted, while in 1970-71, 2,453 (41.8%) probations were granted.

Juvenile Delinquency

There is in Alabama a minimal program or system to deal with those children who come to the attention of the juvenile courts. In 1971 there were 12,698 total cases handled by the juvenile courts of the state. Of these, 3,796 were dependent and neglected children, and 8,902 were alleged delinquent. The median age of children in the delinquency group was 15 years.

Probation and informal handling of cases occur on the local (county) level. The probation officers, who now number 57 throughout 16 counties, are hired and attached to the local juvenile court. The state partially subsidizes their salaries. During the last biennium, the subsidy amounted to $184,000. The other 51 counties utilize the offices of the Department of Pensions and Security for probation services. The Department of Pensions and Security currently sets certification requirements for personnel employed as probation officers.

The state maintains three training schools that provide long-term detention (average of nine months). The school at Chalkville is for girls. It has a capacity of 98 and currently operates on a budget of $517,321. The Alabama Industrial School at Mt. Meigs is for males over 14 years of age. It has a capacity of 200 and currently operates on a budget of $535,832. The Alabama Boys Industrial School in Birmingham is for males 12 to 14

years of age. It presently houses 164 boys and has a current budget of $517,321. The minimal budgets severely restrict programming—e.g., there are no significant aftercare programs. Each of the schools is governed by a different board of trustees and seeks its funds separately. The last appropriation was $1,526,955.

There are five counties in Alabama that provide, at their own expense, short-term detention facilities for juveniles. These are Jefferson, Mobile, Madison, Morgan, and Montgomery counties. In Dallas County, a regional juvenile facility was built to serve nine counties. The other 53 counties rely on adult jails or special juvenile quarters in those jails. Additional facilities have been planned for the Mobile area and the Coosa Valley area, which is in Calhoun County.

Adult Male Corrections

The adult male corrections system in Alabama is administered by an appointed Board of Corrections. The board is composed of five members appointed by the governor to serve ten-year terms. The board is responsible for appointing a commissioner, and he, in turn, is granted the authority to appoint two deputy commissioners.

The system consists of an administrative staff, Atmore Prison, the Cattle Ranch, No. 4 Honor Camp, ten road camps, Draper Correctional Center, the Holman Unit, Frank Lee Youth Center, the Medical and Diagnostic Center, and Julia Tutwiler Prison for Women. These facilities are located on land areas exceeding 16,000 acres and house 3,842 persons, including 120 females. For the most part, the facilities are located in isolated rural areas.

For the operation and administration of these facilities, the board has an allotment of 648 employees. Of this number, 415 are correctional officers, including 15 of warden status.

The "typical" prisoner, as described by the mode of the distribution, is:

Male
Black (of the population of inmates, 60.1% are black and 39.9% are white)
Between the ages of 20 and 25
Unmarried
According to self-report, has 9 to 12 years of education in public schools
From an urban area
Without a formal occupation
Found guilty of burglary, larceny, theft, or forgery
Sentenced to 1 to 3 years

Less than 7% of the prison population are engaged in rehabilitation programs. Those persons who are in rehabilitation programs are either receiving vocational training, such as shoe repair, front-end alignment, and brick masonry, or involved in other educational programs, for example, adult education, college courses, or remedial courses. Some persons are enrolled in both vocational and educational programs.

The Board of Corrections raises cattle on the Cattle Ranch and is engaged in large farming operations throughout the system. In addition, automobile tags are manufactured at Holman Unit. These industries are designed to produce revenues that are not furnished by the state. Presently the board must produce approximately one-third of its budget of over 9 million dollars.

Adult Female Corrections

Alabama, as other states in the nation, currently has no overall plan or system designed to deal with female offenders. The female offender initially comes into contact with the criminal justice system at the local or community level. As of March, 1970, there were, according to the National Jail Census, 138 women in Alabama city or county jails. The two largest categories of female offenders incarcerated in jails were: (1) those either held for other authorities or not yet arraigned--50, or 36.2% of the total; and (2) those females serving sentences of one year or less–46, or 33.3% of the total. Several sheriffs have indicated that they did not have adequate facilities or programs to handle female offenders.

At the state level, responsibility for adult female offenders is held by the Board of Pardons and Paroles and by the Board of Corrections. The Board of Pardons and Paroles, between October 1, 1971, and September 30, 1972, reportedly granted 315 paroles to female offenders. Beyond this, information as to the number and types of females currently on probation and parole, where they are located, etc., is available only by hand tabulation of the approximately 9,000 persons under supervision. Currently, the board has two female probation-parole officers who are assigned to cases without reference to the sex of the offender.

The Board of Corrections operates one institution for female felons, the Julia Tutwiler Prison for Women at Wetumpka, Alabama, some 20 miles north of Montgomery. The main building was built in 1942 for a capacity of approximately 350. The current average population is 120. The physical facility lacks means of segregating the population by age, seriousness of offense, treatment, needs, etc. The available classroom areas, storage space, leisure-time areas, and visiting areas are also limited.

In 1970-71, the female offender comprised 3.3% of the total inmate population. An offender profile indicates that the "typical" female offender is:

Black (of the population of inmates, 75% are black and 25% are white)

Aged 30 or younger

Divorced, separated, or widowed

According to self-report, has completed 9 to 12 years of education in public schools

Incarcerated for "crimes against person," with second-degree murder the most frequent offense

Incarcerated for forgery, if the offense was a "crime against property"

Serving a sentence of 1 to 5 years

The institution is administered by a female superintendent and a male deputy supervisor, who has recently been added to the staff. There are 35-40 authorized positions at the institution, which are filled under the State Merit System. The majority of the staff are white, local women with rural backgrounds.

Current vocational and academic programs are inadequate and do not provide the female with skills which are marketable after release from the institution. Female offenders operate a cannery and manufacture clothing for the entire prison system. Commercial sewing, cosmetology, floral design, and food service are the four vocational training programs offered at Tutwiler, each of which has an enrollment of about 20 inmates. Continued funding of these programs, however, is in doubt.

Note: *This chapter is a brief overview of the existing correctional system. For a more detailed description of the existing Alabama system, the reader should refer to the individual sections found in Volume Two of the Master Plan.*

Chapter Three

Alabama Ideal Corrections System

Introduction

It is painfully clear that the traditional system of corrections has yielded few long-term benefits to society, as evidenced by the fact that a strikingly large proportion of crimes are committed by people who have had previous contact with the criminal justice system. Something is obviously wrong with our methods and practices in the field of corrections. Moreover, it is clear that any solution to our current problems in corrections cannot be a simple one, nor can it be found in the magnification of the current system.

For the overwhelming majority of individuals confined within our prison walls, crime is a pattern of behavior---a life style. How can the pattern be changed? For years we have listened to armchair theorists, and to little avail. What we have not done is apply a sound research methodology to the problems at hand. Only by building into our system a strong and vital research input can we hope to make meaningful progress toward the reduction of crime and the rehabilitation of the offender. We must place the highest priority on gathering and analyzing information, producing and following experimental designs, and applying the findings to alter our current methods. With the establishment of this priority, we may turn our attention to the task of developing a more successful system based upon our current but limited knowledge.

Goals and Tenets

Before proposing recommendations for the implementation of a more effective corrections system, it is appropriate here to consider the idealogical guidelines that have helped shape the action proposals contained in the Master Plan. The following goals and tenets outline such philosophical guidelines:

1. To maximize the effectiveness of corrections, a systematic approach should be instituted.
2. Deinstitutionalization for the maximum number of offenders should be undertaken. However, in spite of our best efforts to provide alternatives to incarceration, it will be necessary to provide secure confinement for some offenders.
3. No offender should be allowed to penetrate the criminal justice system any further than is absolutely necessary for the protection and ultimate benefit of society, and for the rehabilitation of the individual.

4. Rehabilitation of the offender, through effective treatment programs, should be a primary emphasis of the correctional system.

5. Before trial, all prisoners are assumed innocent until proven guilty, and should be treated accordingly. Pretrial prisoners should be treated as humanely as possible, given maximum opportunity to assist in their defense, and be allowed to remain on their jobs and with their families whenever there is not undue risk to society.

6. The alcoholic, the incompetent, the juvenile status offender, selected sex offenders, and selected drug abusers can be more appropriately treated elsewhere in the community than in the jail. Additionally, victimless crimes need to be de-criminalized. The practice of incarcerating indigents as a result of their inability to pay fines should be halted.

7. Alternatives to incarceration, including probation and parole, release on own recognizance, and various diversions, should be provided and used to the fullest extent possible.

8. Maximum use of community resources should be made in the correctional process.

9. The criminal justice system can significantly reduce the number of prisoners who require secure confinement by providing judges, parole authorities, and correctional officials with professional diagnostic studies to aid them in making decisions on each individual.

10. Rehabilitation efforts are greatly diminished in an atmosphere charged with hostility, where there are harsh rules, inhumane facilities, unreasonable regimentation, and little opportunity to improve one's skills, knowledge, and attitudes. New equipment and facilities should be designed for rehabilitation and corrections.

11. All offenders, juvenile and adult, male and female, should be provided equal opportunities for rehabilitation.

12. Training provided for the sentenced prisoner, if it is to be meaningful, must address itself to the job demands and skill market of the local area.

13. A community whose members understand a correctional philosophy is more likely to accept it and actively participate in the correctional process.

14. A primary emphasis of the criminal justice system should be the prevention of crime and delinquency.

15. A state-local relationship should be developed by coordinating the efforts of both for efficiency and maximum results in the correction of the offender. By so doing, the costly duplication of services will be avoided.

16. Adequate medical and mental health services should be provided to all offenders in the correctional system.

17. Staff recruitment should be upgraded, and ongoing training programs should be developed for existing correctional staff. Furthermore, standards relating to work loads and inmate staff should be adopted and implemented.

18. All jails, correctional facilities, and programs should be required to maintain thorough offender records.

19. Corrections in a changing society has no place for archaic approaches and monolithic structures. Systems, programs, and facilities should be continuously evaluated and altered, where necessary, to insure that the needs of society are being met.

20. Ongoing research and evaluation of the criminal law and the criminal justice system should be conducted to insure that man's individual freedom is not abridged, except in those cases where the protection of society is endangered.

Overview of Recommendations

The recommendations presented in this plan have as their objective the realization of an ideal corrections system. A primary tenet of this ideal system is that the task of the corrections machinery is to re-socialize persons who have demonstrated a particular type of asocial behavior. In short, the task of the system is to produce a positive change in the behavior of offenders. Many would argue that the primary responsibility of the corrections system is the protection of the public. However, changing the behavior of the offender would fulfill this responsibility more effectively than any other approach,

since many crimes are committed by recidivists. Thus, the protection of society is best served by constructive intervention in the "criminal" behavior of the offender.

Inasmuch as the best method of producing lasting behavior change in the offender remains undefined, an ideal corrections system must be guided by the fruits of intensive research and evaluation. The creation of a research division is recommended in the body of this plan and is considered to be of high priority. Direction and method should be the contribution of this division. The primary task of this division would be the application of current knowledge to the existing system.

An ideal system must be based upon the recognition that deprivation of social stimulation, isolation, and punishment have failed to produce any desirable behavioral change in the vast majority of offenders who have passed through the current system. Many feel that the prison experience has had the opposite effect. The danger in rejecting the current system, however, lies in embracing another approach in an equally dogmatic and rigid manner. In view of this possibility, recommendations contained herein are geared to transitional phases and open-ended programming. In general, movement away from mass incarceration in large isolated prisons and work farms would be complemented by development of local community resources, marshalled to the support of local programs of social reintegration. The administration and staff of the criminal justice system would be altered to this end. A unified system of correctional agencies, combined with increased staff training and additional staff members working with local resources, has been recommended. A shift in roles for persons working with offenders has been proposed, from task-master and sentry, to teacher and advocate. Vocational, social, and/or psychological reeducation would be the aim of the staff and field worker.

The development and expansion of regional and local programs will precede the phasing out of three large antiquated institutions. By 1983, over 45 percent of the projected prison population will be involved in community programs outside of major institution walls. Recognizing the lack of knowledge and method, it must be reluctantly conceded that incarceration will remain as a last resort for persons for whom the system has no other immediate alternative. To this end, Holman Unit and the Medical and Diagnostic Center will be retained, and three community corrections centers, located in major metropolitan areas, will be created. The goal of these secure, artificial environments will be the vocational and social reeducation of those offenders considered "hard-core" and dangerous. Farm programs will be replaced by training in industrial job skills. Knowledge and methods, as they are refined, should be applied to the reduction of this incarcerated population.

A goal of the ideal system is the development of uniform standards and services throughout the jail system in Alabama. In order to facilitate this development, the regionalization of correctional agencies, including a regional jail inspector, has been recommended. A jail inspection statute, which will establish minimum standards, has also been offered. In an effort to reduce jail populations and provide more adequate treatment and services to those confined, alternatives to local incarceration are proposed. Such alternatives include bail reform, release on recognizance, increased use of probation, misdemeanant parole, work release, a program of citations, and a screening process whereby alcoholics and selected drug offenders would be diverted from our jails to mental health facilities for treatment. The separation of pretrial from post-trial persons is recommended.

The ideal corrections system incorporates the current unstructured juvenile justice system in Alabama, and it would bring into existence a Department of Youth Services. Regionally shared resources would be brought to bear on the problem of juvenile delinquency and its reduction. By unifying the fragmented services available and supplementing them via a state-administered agency, a greater variety of options would be available to the juvenile judge and probation officer. The philosophical stance of this new unified agency is youth advocacy. In an ideal system, no juvenile would be confined in an adult jail, and those actions considered legal offenses because of age status would be reduced to a socio-familial problem and taken out of the courts.

In summary, the ideal corrections system in Alabama is felt to be centered in the community and based on the premise of resocialization and retraining under supervision and *in situ*. As a result, increases in manpower are concentrated in the areas of probation and parole, vocational and educational training, community resource management, and youth services. Salaries are increased in an effort to attract and retain persons able to meet raised minimum standards, and considerable emphasis is placed upon initial and ongoing training of personnel. On the other hand, savings are realized by the closing of three large prisons, the elimination of farm operations, and the removal of many persons from the incarcerated population. Three smaller community corrections facilities are called for over the next ten years to accommodate the incarcerated population projected for 1983.

Summarized Recommendations

GENERAL RECOMMENDATIONS

GENERAL RECOMMENDATION NO. 1: ALL CORRECTIONAL COMPONENTS OF THE STATE, INCLUDING PROBATION AND PAROLE, ADULT CORRECTIONS, AND JUVENILE SERVICES, SHOULD BE CONSOLIDATED INTO A NEW DEPARTMENT OF OFFENDER REHABILITATION, TO BE ADMINISTERED BY A STATE DIRECTOR ACCOUNTABLE TO THE GOVERNOR AND THE BOARD OF OFFENDER REHABILITATION. (THE BOARD OF PARDONS AND PAROLES WILL CONTINUE TO FUNCTION AS AN INDEPENDENT BODY BUT WILL BE RELATED TO THE SYSTEM.)

Impact:

Will create a Department of Offender Rehabilitation.

Will result in effective delivery of correctional services as economically as possible.

Will coordinate the common functions of the various components.

Will provide for coordinated research units to furnish evaluation and statistical data to all components.

Will provide for a system of state standard setting and subsidy to local units of government offering correctional services.

Will provide better and more efficient administrative control.

Will increase ability to secure financial support for correctional services.

Will allow the development of a common correctional mission and of common objectives, strategies, and techniques.

Will result in a more integrated system of state and local level corrections.

GENERAL RECOMMENDATION NO. 2: THE SERVICES OF THE ALABAMA CORRECTIONS SYSTEM SHOULD BE ORGANIZED ON A REGIONAL BASIS.

Impact:

Will provide equitable distribution of all services among the counties and maximize the cooperation of correctional components, thereby improving the efficiency and rehabilitative effects of the system on the offender.

COURTS

RECOMMENDATION NO. 1: LATEST REVISION OF THE ALABAMA CRIMINAL CODE, INSOFAR AS IT IS CONSISTENT WITH THE RECOMMENDATIONS OF THE MASTER PLAN, SHOULD BE SUPPORTED AND ADOPTED. (There is currently under way a revision of the Criminal Code of Alabama by the Criminal Code Committee appointed by the Alabama Legislature. This is being done in cooperation with the Alabama Law Institute at the University of Alabama at Tuscaloosa.)

RECOMMENDATION NO. 2: A STATEWIDE PUBLIC DEFENDER PROGRAM SHOULD BE ENACTED.

Impact:

Will result in more uniform legal representation for indigents.

Will assist the courts in quicker disposition of cases.

RECOMMENDATION NO. 3: A BAIL REFORM BILL SHOULD BE ADOPTED AND PAROLE FOR MISDEMEANANTS SHOULD BE INSTITUTED.

Impact:

Will revise existing bail practices in the courts of Alabama to assure that no person shall be needlessly detained, pending appearance to answer charges, to testify, or pending appeal. Detention at those times serves neither the ends of justice nor the public interest.

RECOMMENDATION NO. 4: ALL TIME SPENT IN CONFINEMENT SHOULD BE CREDITED TOWARD THE ULTIMATE SENTENCE.

Impact:

Will assure that whenever a defendant remains in jail prior to his trial, pending appeal, or upon subsequent retrial, he will be given credit on the sentence ultimately imposed for all periods of actual confinement.

Will result both in earlier parole consideration and in an earlier expiration of the maximum sentence.

RECOMMENDATION NO. 5: ONLY THOSE CIVIL RIGHTS OF CONVICTED FELONS WHICH WOULD INTERFERE WITH THEIR SUCCESSFUL REHABILITATION OR ENDANGER THE PUBLIC SHOULD BE REMOVED.

Impact:

Will better enable the offender to participate in the free world with a maximum potential of civil rights and responsibilities.

Will aid in reduction of stigmatization of offender.

RECOMMENDATION NO. 6: POLICE AUTHORITIES, THE CORRECTIONAL SYSTEM, AND THE JUDICIAL SYSTEM SHOULD WORK TOGETHER TO DEVELOP DIVERSIONARY ALTERNATIVES TO PRESENT SENTENCING PRACTICES THAT WILL AID IN OFFENDER REHABILITATION.

Impact:

Will provide judges with a wide range of innovative alternatives with which to promote offender rehabilitation.

RECOMMENDATION NO. 7: THE CORRECTIONAL, JUDICIAL, AND LEGISLATIVE SYSTEMS IN ALABAMA SHOULD BE COGNIZANT OF THE DEVELOPING RIGHTS OF PERSONS CONFINED IN PENAL INSTITUTIONS AND ACT TO IMPLEMENT THESE RIGHTS BEFORE LITIGATION FORCES THEM TO DO SO. THESE SYSTEMS SHOULD ALSO BE AWARE OF THE RIGHTS OF VICTIMS OF CRIMINALS AND SEEK APPROPRIATE AVENUES OF COMPENSATION TO SUCH VICTIMS.

Impact:

Will provide understanding and awareness of the rights of victims and offenders and result in just attention to those rights.

JAILS

RECOMMENDATION NO. 1: THE STATE SHOULD HAVE THE AUTHORITY AND RESPONSIBILITY TO PERFORM THE FOLLOWING SERVICES AND FUNCTIONS FOR ALL JAILS:

ESTABLISH MINIMUM STANDARDS AND GUIDELINES.

PROVIDE AN INSPECTION SERVICE.

PROVIDE TECHNICAL ASSISTANCE.

PROVIDE TRAINING PROGRAMS FOR JAIL PERSONNEL

ESTABLISH AND MAINTAIN A CENTRALIZED STATE RECORD SYSTEM

ADMINISTER A STATE-FUNDED SUBSIDY PROGRAM.

PLAN AND CONDUCT RESEARCH AND EVALUATION.

DISSEMINATE CORRECTIONAL INFORMATION.

SET MINIMUM STANDARDS AND SPECIAL BUILDING CODES FOR DESIGN AND CONSTRUCTION OF CORRECTIONAL FACILITIES.

HAVE AUTHORITY TO CLOSE JAILS WHEN STANDARDS ARE NOT MET.

Impact:

Will create a humane jail environment within all of Alabama's jails and deliver services that will upgrade the entire system.

Will provide appropriate diversion and handling, thereby reducing recidivism.

RECOMMENDATION NO. 2: LOCAL GOVERNMENT SHOULD CONTINUE TO RETAIN RESPONSIBILITY FOR OPERATION OF JAILS AT THE LOCAL LEVEL AND PERFORM THE FOLLOWING FUNCTIONS AND SERVICES:

RECRUIT, ASSIGN, AND TERMINATE JAIL PERSONNEL.

MEET STATE STANDARDS AND GUIDELINES.

PROVIDE BASIC SERVICES SUCH AS FOOD, CLOTHING, SANITATION, AND HEALTH CARE.

DEVELOP APPROPRIATE TREATMENT PROGRAMS AND PROCEDURES.

UTILIZE COMMUNITY RESOURCES AND VOLUNTEER SERVICES TO THE FULLEST EXTENT.

MAINTAIN ACCURATE RECORDS.

PROVIDE DETAILED JOB DESCRIPTIONS AND WORK ASSIGNMENT SCHEDULES.

DEVELOP SECURITY AND EMERGENCY PROCEDURES AND PLANS.

CLASSIFY AND SEPARATE PRISONERS ON THE BASIS OF SUCH FACTORS AS AGE, AGGRESSIVENESS, DEGREE OF CUSTODY REQUIRED, HEALTH, ETC., TO THE DEGREE THAT PHYSICAL DESIGN ALLOWS.

ASSUME RESPONSIBILITY FOR BUDGET AND FISCAL MATTERS.

Impact:

Will create a humane jail environment within all of Alabama's jails and deliver services which will upgrade local jails.

Will preserve local autonomy in jail operations.

RECOMMENDATION NO. 3: ALL SEGMENTS OF THE CRIMINAL JUSTICE SYSTEM SHOULD PARTICIPATE AND ASSIST IN THE PLANNING AND IMPLEMENTING OF THE FOLLOWING PROGRAMS TO DIVERT EVERYONE FROM JAIL WHO IS NOT A THREAT TO SOCIETY OR HIMSELF:

PASSAGE OF A SPEEDY TRIAL LAW.

REMOVAL OF JUVENILES FROM JAILS TO APPROPRIATE JUVENILE PROGRAMS OR FACILITIES.

EXPANSION OF RELEASE ON RECOGNIZANCE AND BAIL-BOND PROGRAMS.

TRANSFERAL OF ALCOHOLICS, DRUG ABUSERS, OTHER VICTIMLESS CRIMINALS, AND MENTAL INCOMPETENTS FROM JAIL TO A MORE APPROPRIATE ENVIRONMENT.

ENACTMENT OF LEGISLATION THAT WILL EXPEDITE THE USE OF PAROLE AND PROBATION FOR THE MISDEMEANANT.

Impact:

Will provide alternate means of treatment for a significant number of pretrial, accused citizens.

Will tend to keep families intact.

Will reduce welfare/unemployment costs to the state.

Will enable the accused to retain his employment.

Will result in speedier delivery of justice.

RECOMMENDATION NO. 4: THE COUNTIES OF JEFFERSON, MADISON, MOBILE, AND MONTGOMERY, WITH PARTIAL FINANCIAL ASSISTANCE FROM THE STATE, SHOULD DEVELOP MODEL ADULT CORRECTIONAL SYSTEMS. A DIRECTOR OF CORRECTIONS IN EACH OF THESE COUNTIES WOULD BE EMPLOYED TO IMPLEMENT THE PROGRAMMATIC RECOMMENDATIONS OF THIS SYSTEM.

Impact:

Will reduce jail population through implementation of diversion programs.

Will provide a greater opportunity for successful offender rehabilitation and corresponding reduction in recidivision through the more efficient and systematic delivery of services.

Will achieve a separation of correctional functions from police functions.

Will eliminate duplication of administrative services, i.e., purchasing, record keeping, training, research, etc.

RECOMMENDATION NO. 5: ALL JAILS IN ALABAMA SHOULD UNDERTAKE THE DEVELOPMENT OF MEANINGFUL TREATMENT PROGRAMS.

Impact:

Will improve living conditions and encourage humane treatment through rehabilitation.

Will provide conditions conducive to more successful offender rehabilitation and a projected, corresponding decrease in recidivism.

RECOMMENDATION NO. 6: THE PROPOSED STATE DEPARTMENT OF OFFENDER REHABILITATION SHOULD EMPLOY A JAIL SPECIALIST FOR EACH OF THE PROPOSED SEVEN CORRECTIONAL REGIONS.

Impact:

Will expedite compliance with state-established standards.

Will improve the quality of services delivered to the confined.

Will provide the basis for a centralized record keeping system.

RECOMMENDATION NO. 7: AN ON-SITE, IN-DEPTH SURVEY OF ALL JAILS IN ALABAMA SHOULD BE MADE.

Impact:

Will establish base information on the Alabama jail system.

Will result in a proposed plan of action, including costs of implementation.

RECOMMENDATION NO. 8: A PLAN TO TRAIN ALL JAIL PERSONNEL IN ALABAMA SHOULD BE DEVELOPED.

Impact:

Will upgrade the quality of correctional personnel.

Will familiarize correctional personnel with recent developments and innovations in methods of offender rehabilitation.

Will minimize variations in philosophy, goals, and procedures of correctional programs.

RECOMMENDATION NO. 9: SELECTED FELONS SHOULD BE ALLOWED TO PARTICIPATE IN THE COUNTY CORRECTIONAL SYSTEMS PROPOSED IN RECOMMENDATION NO. 4.

Impact:

Will make community resources and a developed training program available to rehabilitate tractable felons, as well as misdemeanants, within their own communities.

PROBATION AND PAROLE

RECOMMENDATION NO. 1: THE SIX PRESENT PROBATION AND PAROLE DISTRICTS SHOULD BE REDEFINED TO CONFORM TO THE SEVEN LEPA REGIONS.

Impact:

Will improve efficiency in delivery of services and foster cooperation with other correctional components.

RECOMMENDATION NO. 2: THE BOARD OF PARDONS AND PAROLES SHOULD HAVE SUFFICIENT PERSONNEL TO PROVIDE ADEQUATE SERVICES, AND SHOULD SEPARATE ITS SERVICES INTO COURT AND FIELD SERVICES AND COMMUNITY RESOURCE MANAGEMENT.

Impact:

Will eliminate the conflicting duality of the supervisors' roles, allowing for increased advocacy and counseling and improved investigative reports.

Will provide community resource managers who will be strong links with the community and who will coordinate information between the other correctional components in the regional offices.

Will reduce the caseload from the present 131 per supervisor to approximately 50 per supervisor in 1983.

Will increase the number of offenders who can be placed on probation or parole without increasing the danger to society.

RECOMMENDATION NO. 3: THE BOARD OF PARDONS AND PAROLES SHOULD FURNISH MONIES TO CONTRACT FOR MEDICAL AND SOCIAL SERVICES AND TO MAKE SHORT-TERM LOANS TO OFFENDERS.

Impact:

Will provide social, psychological, and medical services not readily available in the community.

Will reduce the economic difficulties of reintegration into the community.

RECOMMENDATION NO. 4: THE BOARD OF PARDONS AND PAROLES SHOULD UPGRADE THE SALARIES OF ALL OFFENDER-CONTACT PERSONNEL.

Impact:

Will provide a competitive pay scale to attract and retain capable personnel.

Will reduce caseloads to the benefit of the offender.

RECOMMENDATION NO. 5: THE BOARD OF PARDONS AND PAROLES SHOULD EMPLOY FOUR HEARING EXAMINERS WHO WILL AID THE BOARD TO MAKE DECISIONS IN GRANTING PAROLES AND IN REVOCATION HEARINGS.

Impact:

Will increase the frequency and thoroughness of parole review and revocation hearings.

Will reduce the workload of the Board of Pardons and Paroles.

RECOMMENDATION NO. 6: A MEANS OF SETTING BAIL, OR OTHER MEANS OF AVOIDING INCARCERATION, SHOULD BE MADE AVAILABLE FOR THOSE PAROLEES ACCUSED OF VIOLATING THEIR PAROLE WHILE THEY AWAIT REVOCATION HEARING.

Impact:

Will lessen the disruption of the parolee's family life and job.

Will reduce the number of citizens who are incarcerated merely because of parole status.

RECOMMENDATION NO. 7: THE BOARD OF PARDONS AND PAROLES SHOULD CONTINUE TO PROFESSIONALIZE THEIR PERSONNEL BY EXPANDING AND UPGRADING THEIR PRESENT TRAINING PROGRAMS.

Impact:

Will provide adequately trained personnel and improve quality of services.

Will improve support to the released offender during the critical transition to the community, thereby reducing the chances of recidivism.

RECOMMENDATION NO. 8: THE BOARD OF PARDONS AND PAROLES SHOULD UNDERTAKE AN EXTENSIVE RESEARCH AND EVALUATION OF THEIR PERSONNEL, PROGRAMS, AND SERVICES TO DETERMINE BENEFITS TO OFFENDERS AND SOCIETY.

Impact:

Will provide reliable base data for evaluating present services and for planning future research efforts.

Will result in more accurate knowledge of the potential use and benefits of probation and parole.

RECOMMENDATION NO. 9: THE BOARD OF PARDONS AND PAROLES PERSONNEL SHOULD DEVELOP AN ACTIVE INVOLVEMENT WITH THE COMMUNITY AT ALL LEVELS THROUGH COMMUNICATION AND PUBLIC RELATIONS EFFORTS TO INCREASE PUBLIC AWARENESS AND UNDERSTANDING OF PROBATION AND PAROLE SERVICES.

Impact:

Will assist in mobilizing citizen support for needed legislation, increased appropriations, better administration, and other correctional improvements.

Will encourage community volunteer services to assist in insuring a successful parole or probation.

RECOMMENDATION NO. 10: THE BOARD OF PARDONS AND PAROLES AND THE COURT, UPON RECOMMENDATION OF THE PROBATION AND PAROLE SUPERVISOR, SHOULD HAVE THE RESPONSIBILITY TO TERMINATE ALL AUTHORITY AND SUPERVISION OVER THOSE PAROLEES AND PROBATIONERS WHO HAVE SUCCESSFULLY COMPLETED A SUFFICIENT PORTION OF THEIR PAROLE/PROBATION.

Impact:

Will motivate and reward parolees and probationers for a successful return to the community.

Will reduce the workload of the field supervisors by eliminating unnecessary cases.

JUVENILES

RECOMMENDATION NO. 1: THE STATE OF ALABAMA SHOULD ESTABLISH A STATE DEPARTMENT OF YOUTH SERVICES THAT WILL PROVIDE ASSISTANCE TO LOCAL AREAS IN THE JUVENILE JUSTICE SYSTEM.

Impact:

Will create state-level coordination and support of juvenile delinquency planning, prevention, and treatment.

RECOMMENDATION NO. 2: THE URBAN AND RURAL AREAS OF ALABAMA SHOULD JOIN TOGETHER IN REGIONAL GROUPINGS TO BETTER THEIR INDIVIDUAL JUVENILE JUSTICE SYSTEMS THROUGH THE IMPLEMENTATION OF TREATMENT AND PREVENTION PROGRAMS.

Impact:

Will provide a concentration of services to juveniles who come to the attention of the Alabama juvenile justice system.

Will provide, for the first time, aid to the 51 Alabama counties that have been unable to adequately treat juvenile delinquents.

RECOMMENDATION NO. 3: THE DEFINITION OF DELINQUENT BEHAVIOR SHOULD BE CHANGED SO THAT ONLY THOSE JUVENILES WHO COMMIT AN ACT WHICH WOULD BE PUNISHABLE AT LAW IF THEY WERE ADULTS BE TERMED DELINQUENT.

Impact:

Will remove those children with personal and familial problems from the juvenile delinquent category.

Will assure those juveniles of proper assistance.

Will reduce the need for expansion of physical facilities of state training schools.

Will reduce cost of, and need for, those institutions.

RECOMMENDATION NO. 4: THE AGE LIMIT OF JUVENILE DELINQUENTS SHOULD BE RAISED SO AS TO INCLUDE SIXTEEN AND SEVENTEEN YEAR OLDS IN THIS CATEGORY.

Impact:

Will make juvenile services available to a greater number of young offenders.

RECOMMENDATION NO. 5: THERE SHOULD BE A STATUTORY PROHIBITION AGAINST CONFINING JUVENILES AT ANY TIME IN ANY ADULT JAIL OR PENAL INSTITUTION.

Impact:

Will reduce the negative influence of adult offenders upon juveniles.

ADULT MALE CORRECTIONS

RECOMMENDATION NO. 1: THE TOTAL BUDGET FOR THE ALABAMA CORRECTIONAL SYSTEM SHOULD BE PROVIDED BY THE LEGISLATURE OUT OF THE GENERAL FUND.

Impact:

Will provide assured funding for programs and operating expenses in order that the Department of Offender Rehabilitation has no responsibility for providing any of its own revenue.

Will allow the correctional system to concentrate on its major purpose of rehabilitation of the offender.

RECOMMENDATION NO. 2: EVERY EFFORT SHOULD BE MADE TO FULLY PROFESSIONALIZE THE BOARD OF CORRECTIONS, INCLUDING UPGRADING OF SALARIES AND PROVIDING INCENTIVES FOR CONTINUOUS UPGRADING OF PERSONNEL.

Impact:

Will provide a competitive pay scale to attract and retain capable personnel.

Will facilitate intra-systems communications.

Will result in more efficient delivery of rehabilitative services.

Will improve prisoner morale.

RECOMMENDATION NO. 3: THE BOARD OF CORRECTIONS SHOULD EMPLOY A LEGAL STAFF TO ADVISE THE DEPARTMENT ON LEGAL MATTERS.

Impact:

Will provide the Board of Corrections with necessary information to establish adequate conditions and services and, thereby, reduce the need for prisoner litigation.

RECOMMENDATION NO. 4: EVERY EFFORT SHOULD BE MADE TO DEVELOP AND IMPROVE COMMUNICATIONS BETWEEN THE PUBLIC AND THE BOARD OF CORRECTIONS.

Impact:

Will provide increased public and financial support for offender rehabilitation and the correctional system.

RECOMMENDATION NO. 5: MAXIMUM EMPHASIS SHOULD BE PLACED ON RESEARCH AND DEVELOPMENT TO FACILITATE MANAGEMENT DECISIONS.

Impact:

Will provide an adequate data base for program design, policy implementation, and program evaluation.

RECOMMENDATION NO. 6: COMMUNITY PLACEMENTS AND SPECIAL CONTINGENCY PLANS SHOULD BE DEVELOPED FOR THE AGED AND CHRONICALLY INFIRM INMATES.

Impact:

Will reduce prison population by 200.

Will reduce amount of medical services required.

Will reduce current expenditures by $367,920 annually.

RECOMMENDATION NO. 7: A PROGRAM OF PASSES AND LEAVES BASED UPON THE CURRENT FURLOUGH STATUTE SHOULD BE DEVELOPED.

Impact:

Will help to maintain familial ties.

Will help to reduce sexual frustration and homosexuality.

Will improve prisoner morale.

Will also provide contact with community resources and present an opportunity to seek future employment.

RECOMMENDATION NO. 8: A STEADILY DECREASING EMPHASIS SHOULD BE PLACED ON FARM OPERATIONS AND AN INCREASING EMPHASIS ON DEVELOPING PROGRAMS DESIGNED TO PROVIDE INMATES WITH MARKETABLE JOB SKILLS.

Impact:

Will reduce prison population.

Will attain design capacity in system.

Will create savings in capital and operations costs.

Will increase job skills of offenders.

Will produce skilled labor pool.

Will promote cooperation between the correctional system, industry, and unions.

Will improve familial ties and maintenance, with reduction of welfare costs.

RECOMMENDATION NO. 9: THE OPERATION OF THE CATTLE RANCH SHOULD BE EXPANDED TO MEET THE MEAT REQUIREMENTS OF THOSE INCARCERATED IN THE CORRECTIONAL SYSTEM, AND THE FEASIBILITY OF VOCATIONAL AGRICULTURE PROGRAMS SHOULD BE EXPLORED.

Impact:

Will produce meat to fulfill prison meat requirements.

Will establish meaningful vocational training in agriculture and animal husbandry.

RECOMMENDATION NO. 10: ADEQUATE MEDICAL, SOCIAL, AND PSYCHOLOGICAL SERVICES SHOULD BE PROVIDED THROUGHOUT THE CORRECTIONAL SYSTEM.

Impact:

Will provide the inmate with the social and health services to which he is entitled.

Will improve prisoner morale.

RECOMMENDATION NO. 11: LEGAL COUNSEL SHOULD BE MADE AVAILABLE TO INCARCERATED OFFENDERS.

Impact:

Will provide the mechanism to assure that correctional facilities, programs, and services meet minimal constitutional standards.

Will make on-site legal services easily available to all offenders.

RECOMMENDATION NO. 12: THE BOARD OF CORRECTIONS, IN COOPERATION WITH THE BOARD OF PARDONS AND PAROLES, SHOULD DESIGN AND DEVELOP COMMUNITY-BASED PROGRAMS TO ACCOMMODATE, PERSONS FOR WHOM INCARCERATION IS INAPPROPRIATE OR UNNECESSARY.

Impact:

Will reduce the prison population to 1,792.

Will establish and maintain community contact.

Will provide offenders with training and education.

Will allow for the use of existing local resources.

Will establish a midpoint between parole and incarceration for persons requiring supervision.

Will provide rehabilitation facilities and resources too costly to duplicate within institutions.

RECOMMENDATION NO. 13: COMMUNITY CORRECTIONS CENTERS SHOULD BE ESTABLISHED IN MAJOR METROPOLITAN AREAS.

Impact:

Will provide rehabilitatively oriented secure housing for inmates.

ADULT FEMALE CORRECTIONS

RECOMMENDATION NO. 1: THE POPULATION OF INCARCERATED FEMALE OFFENDERS SHOULD BE REDUCED TO INCLUDE ONLY THOSE WOMEN CONSIDERED DANGEROUS TO SOCIETY OR THEMSELVES.

Impact:

Will reduce the female population in the Alabama prison system.

Will reintegrate non-assaultive females into the community as productive citizens.

RECOMMENDATION NO. 2: THE JULIA TUTWILER PRISON FOR WOMEN SHOULD BE PHASED OUT, AND ALTERNATIVES FOR MINIMUM SECURITY CONFINEMENT OF FEMALE OFFENDERS SHOULD BE DEVELOPED.

Impact:

Will result in adequate housing for those female offenders who need to be confined.

Will effect a savings to the state by locating facilities that will operate at maximum efficiency.

RECOMMENDATION NO. 3: FEMALE OFFENDERS IN ALABAMA SHOULD BE GIVEN EQUAL CONSIDERATION IN PLANNING, PROGRAMMING, AND SERVICES BY THE VARIOUS CORRECTIONAL AGENCIES.

Impact:

Will provide a greater opportunity for successful rehabilitation of the female offender.

Summary of Anticipated Impact of Recommendations in Master Plan*

The entire Alabama correctional system will be unified by 1983. Each component of the unified system will be organized on the basis of the seven ALEPA regions, each region maintaining its own offices and personnel. The cost of these recommendations is projected to be $8,928,006 over the next ten years.

In 1983, all jails will be supervised by jail inspectors under the statutory authority proposed in this plan. Following the establishment of a model jails program, Alabama jails can be expected to have met minimum physical, social, and psychological standards. As these models are developed, the increasing use of diversions and alternatives to incarceration will result in a decrease in the projected jail population by 1983. The net additional cost of development of these programs is projected to be $6,090,000 over a ten-year period.

The Board of Pardons and Paroles will hire 163 additional staff members by 1983, and the current functions of probation and parole supervisors will be partitioned into the three areas of community resource management, field services, and court services. These will be coordinated from seven regional offices. It is projected that, by 1983, the number of persons under supervision in these offices will be 11,398. This will represent a caseload of approximately 50 parolees and/or probationers per supervisor.

It is recommended that the budget for the Board of Pardons and Paroles be doubled over the ten-year period, representing a total of $14,450,030 in net additional monies. This increase in funds will support expanded training for personnel and increased numbers of personnel, parolees, and probationers.

By 1983, juvenile delinquents in Alabama will be defined as all youths who have not reached their eighteenth birthday and who have committed some act that would be criminal if they were adults. No juveniles will be confined in any adult jail or institution.

The Department of Youth Services, by 1983, will have been established for ten years. It will operate the state training schools for long-term detention, license and inspect local facilities, provide in-service training to juvenile personnel, and channel state, federal, and private subsidies to the local areas. Similarly, it will certify probation personnel, compile statistics, direct research, and coordinate volunteer services and interregional information.

*For detailed presentation of the Master Plan's recommendations and their anticipated impacts, see Volume Two.

There will be seven regional groupings of counties to cooperate and fund programs of detention, probation, aftercare, prevention, and court services. Personnel, such as those in probation and aftercare, working closely with juveniles in the field, will assume the role of youth advocate.

Projections indicate that there will be 3,174 adjudicated juvenile delinquents and 7,870 youths in need of supervision or treatment. These children will be handled by juvenile courts, the regional projects, and the State Department of Youth Services. There will be 4,756 dependent and neglected children who will be handled by juvenile courts and the State Department of Pensions and Security. The net additional cost of development of this juvenile justice system will be $15,805,000 during the next ten years.

The recommendations outlined in Adult Male Corrections result in the reduction of 1,630 persons from the incarcerated population, leaving 1,792 inmates. Persons diverted from the system will include 200 aged and infirm, 430 who will be on parole, 200 who will be on probation, 500 who will be in residential facilities, and 300 who will be in various community projects as the result of program impact. Farm operations will be phased out and replaced by industrial job training programs.

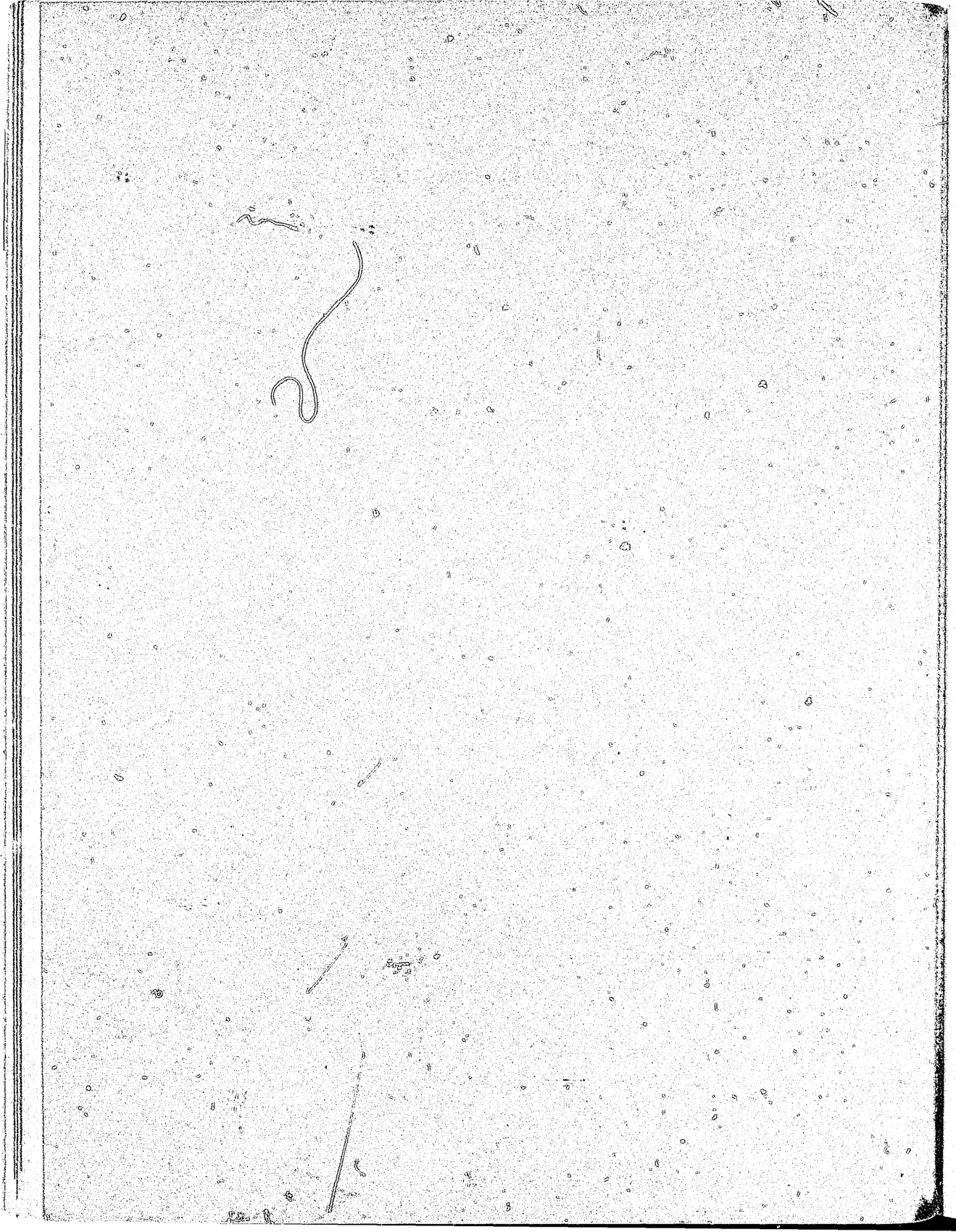
Construction will be necessary during the next decade. The planning and building of three community correctional centers to be located in major metropolitan areas will require a capital outlay of approximately $19,500,000. Over the next ten years, $28,810,243 net additional monies will be required for housing and programming for male and female offenders in Alabama.

Conclusion

It is felt that, by 1983, the Alabama corrections system will be moving in the general direction concomittant with the ideal system conceived as the goal of this plan. In the years following, as public attitude changes to accept the position that crime is a social error, and as knowledge increases and methods improve, less and less need will exist for space to incarcerate persons. Large isolated prisons, such as Holman and the Medical and Diagnostic Center, will give way increasingly to intercommunity solutions to social deviancy.

Chapter Four

Recommended Legislation



COURTS

Recommendations	Appropriations
1. *Revision of Alabama Criminal Code*. Being prepared by the Alabama Law Institute at the University of Alabama in Tuscaloosa.	None
2. *Provision of Public Defender Programs statewide*. Senate Bill No. 9 filed by Mr. Richard C. Shelby. Submitted to Judiciary Committee.	A sum to each county equal to $300 for each 1,000 persons residing in the county at the last census, plus $50,000 for private retainers/defense fund.
3. *Reform of bail bonding*. Senate Bill No. 353 filed by Mr. Richard C. Shelby and submitted to Judiciary. House Bill No. 361 filed by Mr. Robert M. Hill and submitted to Judiciary.	None
4. *Time spent in confinement credited toward ultimate sentence*. House Bill No. 1282 filed by Mr. George McMillan.	None
5. *Civil rights of felons not to be removed*. Legislation to be prepared.	None

JAILS

Recommendations	Appropriations
1. *Diversion from jails of alcoholics, drug abusers, and mental incompetents*. House Bill No. 362 filed by Mr. Robert M. Hill and submitted to the Judiciary Committee. Bill provides for medical treatment for alcoholism and public intoxication. Companion Senate Bill No. 120 filed by Mr. Richard C. Shelby and submitted to Health Committee. Bill provides for the medical care and treatment of drug abusers.	$500,000
2. *Employment of a director of corrections in each of the four urban counties.*	$600,000
3. *Jail Inspection/Service Program*. Bill to be submitted by Mr. Maston Mims. This is a revision of Title 45, Alabama Code (1940) as amended.	$225,000
4. *Selected felons to be allowed to participate in developed jail programs*. Legislation to be prepared upon successful development of Recommendation No. 4 above.	None

PROBATION AND PAROLE

No legislation is required to implement the recommendations of the Master Plan. But, note the legislation that has been or is in process of being filed:

Legislation	Appropriations
1. *Senate Bill No. 88* filed by Mr. Joe Fine abolishes the Board of Pardons and Paroles. It then creates a Prisoner Rehabilitation Commission that will have the identical rights, powers, and duties of the board. This bill is inconsistent with the Master Plan.	None
2. *Senate Bill No. 129* filed by Mr. W. Tom Jones provides for holding interstate parole and probation hearings.	None
3. *House Bill No. 5* filed by Mr. Maston Mims allows a parolee to credit good conduct toward discharge from parole.	None
4. *Senate Bill No. 63* filed by Mr. Joe Fine and submitted to Judiciary Committee. It distinguishes between drug pushers and drug users. *House Bill No. 10* and *Senate Bill No. 83* provide for misdemeanant parole. *Senate Resolution No. 5* filed by Mr. Fine establishes a State Alcohol and Drug Abuse Coordinating Commission.	None
5. *Speedy trial law*. To be prepared.	None

JUVENILE JUSTICE SYSTEM

Recommendations	Appropriations
1. *Establishment of a Department of Youth Services*. House Bill No. 756 filed by Mr. Robert M. Hill. Passed by House and Senate.	$200,000
2. *Establishment of Regional Juvenile Delinquency Projects*. Appropriation in matching funds (previously Act 880 funds) under House Bill No. 756.	None
3. *Redefinition of 'juvenile delinquent' to abolish 'status' offenses*. To be defined as a youth who commits an act that would be criminal if he/she were an adult. Requires revision of Title 13, Alabama Code (1940), as amended.	None
4. *Change in age limits of juveniles to include 16- and 17-year-olds*. Requires revision of Title 13, Alabama Code (1940), as amended. House Bill No. 1405 filed by Mr. Hugh D. Merrill, to amend the Alabama Constitution to make 18-year-old youths adults, is consistent with the Master Plan. See House Bill No. 14 filed by the late Mr. Ben Cherner and submitted to Constitution and Elections Committee. This provides for lowering the age of majority to 18 with restrictions. This bill is inconsistent with the Master Plan.	None

ADULT MALE CORRECTIONS

Recommendations	Appropriations
1. *Total budget for Alabama correctional system to be provided out of general fund*. Legislation to be prepared.	Unknown
2. *Miscellaneous bills affecting adult corrections*. House Bill No. 711 filed by Mr. Maston Mims further provides for time off for good behavior of convicts. House Bill No. 950 submitted by Mr. Thomas Reed provides for incarceration of any law enforcement officer convicted of crime in another state. House Bill No. 1304 submitted by Mr. Edward D. Robertson attempts to reinstate the death penalty which would be mandatory for certain crimes.	None
3. *House Bill No. 710* filed by Mr. Maston Mims and *Senate Bill No. 309* filed by Mr. L. D. Owen provide for giving a convict clothing and money upon discharge.	Unknown

ADULT FEMALE CORRECTIONS

No legislation is required to implement the recommendations of the female corrections section of the Master Plan. There are two bills in the legislature that concern the pregnant, confined, female offender, requiring that she be removed to a hospital. See House Bills No. 423 and No. 420 filed by Mr. Thomas Reed.

RIGHTS OF THE CONFINED AND THE RIGHTS OF SOCIETY

No legislation is required to implement the recommendations of the Master Plan. But, note the legislation that has been or is in process of being filed:

Legislation	Appropriations
1. *Senate Bill No. 95* filed by Mr. Richard C. Shelby creates a state-supported court of compensation to victims of criminal acts.	To be determined
2. *House Bill No. 115* submitted by Mr. Fred Gray provides for minimum standards for the protection of rights of prisoners, and the establishment of disciplinary and grievance procedures. The prohibition of flogging is an essential feature.	None
3. *House Bill No. 713* filed by Mr. Maston Mims makes provision for a law library under the Board of Corrections, presumably for the use of prisoners.	$165,000
4. *House Bill No. 746* filed by Mr. Bobby Crowe makes it a felony for an individual confined in a state correctional institution to possess a firearm, knife, or other deadly weapon.	None

AGENCY UNIFICATION

Recommendation	Appropriations	
1. *Legislation to be prepared that will consolidate the Board of Corrections and Board of Pardons and Paroles, creating a State Department of Offender Rehabilitation to provide the following services: corrections, probation and parole supervision, juvenile delinquency prevention and treatment, jail inspection, and technical assistance.*	1975-76	$741,352
2. *Services of Alabama Criminal Justice System to be organized on a regional basis (seven regions).*	$3,521,000	

Chapter Five

Planning Methodology

Introduction

Corrections in Alabama have been uncoordinated, fragmented, and nonsystematic. The delivery of existing services by stratified and isolated individual agencies results in a costly duplication of effort and services. The recognition of these and other problems brought into focus the need to develop a plan or to set guidelines for the future growth of the corrections system. As a result, steps were taken by the Alabama Law Enforcement Planning Agency to develop a Master Plan.

On August 30, 1972, the University of Alabama Psychology Department entered into a contract with the Alabama Law Enforcement Planning Agency to assist in developing a Comprehensive Master Plan for Corrections. The Master Plan was to include all phases of the criminal justice system as it relates to juvenile and adult corrections, both at the local and state level. At the outset of the planning project, the following major tasks were identified:

Data Collection

Data Reduction and Analysis

Derivation of the Existing Organizational Structure

Definition of Ideal Corrections System for the State of Alabama

Formulation of the Master Plan

These tasks were not undertaken as discrete projects separate from each other. The Master Plan project was a synthesis of information collected from various sources at various times. New data and developments modified and re-directed the planning efforts. The planning staff assumed major responsibility for the collection of information and the ultimate use of this information to formulate a ten-year plan for the development of corrections within the state. As can be seen from the list of tasks above, the planning process was conceptualized as describing "what there is" and then defining "what is desirable."

Data Collection

The first major task was to collect valid and adequate data upon which to formulate plans for corrections. Alabama, as other states, does not have adequate supportive data.

The data collection effort undertaken by the planning staff involved four major areas: jails, probation and parole, state correctional facilities, and community resources. For the jail and probation and parole survey, the four metropolitan areas of Birmingham, Huntsville, Mobile, and Montgomery were selected as sample areas for on-site data collection. In addition, a jail questionnaire was mailed to 379 police chiefs and sheriffs in the state. The jail questionnaire was designed to furnish information as to the number and status of individuals processed through the jails, the cost and efficiency of operating the jails, and the adequacy of the physical facilities and of any programs that were offered. The on-site jail survey was designed to provide residential offender data, pretrial commitment data, and post-trial commitment data. In addition, the on-site jail survey was designed to determine the annual number of commitments by offense category. The on-site survey of probation and parole services was designed to provide a nonresidential offender profile. The on-site surveys were conducted at the following places:

Residential

Madison County Jail
Madison County Juvenile Detention Center
Huntsville City Jail

Jefferson County Jail
Jefferson County Jail (Bessemer)
Birmingham City Jail
Jefferson County Juvenile Detention Center

Montgomery County Jail
Montgomery County Youth Detention Center
Montgomery City Jail

Mobile County Jail
Mobile City Jail
Mobile Girls Detention Home
Mobile Boys Detention Home

Nonresidential

Madison County Juvenile Probation Department
State Board of Pardons and Paroles (Huntsville)

Jefferson County Family Court
Birmingham City Probation Department
State Board of Pardons and Paroles (Birmingham)
State Board of Pardons and Paroles (Bessemer)

Montgomery Family Court Probation Department
State Board of Pardons and Paroles (Montgomery)

Mobile County Juvenile Court Probation Department
State Board of Pardons and Paroles (Mobile)

All state correctional facilities, both juvenile and adult, male and female, were surveyed to determine the average length of stay and other important information concerning the inmate population. The staff gathered information primarily from the Alabama Department of Court Management to determine the flow of offenders through the judicial process.

In addition to gathering data to describe the existing corrections system, a survey was conducted of all existing state and community resources that currently or potentially offer services to offenders or ex-offenders. All state agencies and all the relevant existing community resources which were identified from current listings were contacted. The information derived from a telephone survey of these resources was compiled into a statewide directory of resources that will be available to those persons dealing with offenders and ex-offenders.

Data Reduction and Analysis

The data collection by the planning staff, in conjunction with information contained in financial and statistical reports from governmental and private agencies, was organized and analyzed by computer to provide adequate summary statistics of all correctional operations within the state.

Projection of future trends in the Alabama correctional system was based on linear regression analysis of the trends existing during the past few years. Linear regression was chosen as the method of forecasting for the following reasons: (1) To achieve consistency throughout this volume, a parsimonious approach to data analysis was indicated. (2) The observed time span was relatively short (4 to 6 years), further dictating the use of a parsimonious statistical procedure. (3) Linear regression is generally considered to be a conservative approach to data analysis, and it is not as easily influenced by scatter within the data as are some other projection techniques.

Projections of the number of paroles and probations *revoked* were not directly computed by regression analysis. Rather, these forecasts were based on a fixed proportion of paroles and probations that were projected to be *granted*. The proportion was the mean proportion of paroles and probations revoked, compared to those granted during the observed time period. The shaded area around a projection line represents the 95% confidence interval based on the observed data.

It is important to note that the trend projections reflect only those factors present during the observed time period. It is assumed that those same factors will continue to influence future trends in the same manner. Thus, the projections represent the best estimate of future trends based solely on what has occurred in recent years.

Derivation of the Existing Correctional Organizational Structure

A description of the existing organizational and administrative structure of the corrections system was accomplished by consultation with representatives who know from experience the dynamics of corrections in Alabama. Meetings were conducted with these officials both to inform them about the Master Plan project and to learn from them about their particular agencies, problems, and needs. Olin C. Minton, Chief Consultant to the Master Plan project, utilized his experience and knowledge to direct, along with the project staff, informative sessions with these representatives from the corrections system. Subsequent to each of these meetings, the planning staff reviewed the information acquired and integrated it with the developing plan.

Concurrent with these meetings there were literature reviews of relevant studies and reports covering topics pertinent to the Master Plan project. These were ongoing during the Master Plan's development to apprise the planning staff of current developments and trends occurring within the corrections system at the state and national level.

Instrumental in the development of the Master Plan were meetings conducted with the Corrections Planning Committee. The four members of the committee represent four crucial areas of corrections: (1) *adult corrections*, represented by L. B. Sullivan, Commissioner, Alabama Board of Corrections; (2) *parole*, represented by Danny Long, Associate Member, Alabama Board of Pardons and Paroles; (3) *juvenile corrections*, represented by Ed Grant, Superintendent, Alabama Industrial School; and (4) *citizens and community interest*, represented by Guy Burns, Birmingham. The other individuals assisting in the development of the Master Plan are listed below by the criminal justice agency that they represent. The list depicts the breadth of involvement in the planning process of persons who are familiar with the operation of corrections in Alabama.

Board of Corrections

John B. Braddy, Associate Commissioner
Judson Locke, Deputy Commissioner
Billy H. Long, Warden, Medical and Diagnostic Center, Mt. Meigs, Alabama
Thomas Staton, Professor, Huntingdon College
L. B. Sullivan, Commissioner
Glenn Thompson, Corrections Plans Coordinator

Board of Pardons and Paroles

Warren Gaston, Assistant Director
Daniel B. Long, Associate Member
L. B. Stephens, Executive Director
Norman F. Ussery, Associate Member
David H. Williams, Assistant Director

Department of Mental Health

Peter Brock, Director, Alcoholism Program
Bob Humphries, Assistant Attorney General and Attorney to Mental Health Board
Jim Murphy, Assistant Director of Drug Abuse Program
John C. Watkins, Director of Community Corrections

Courts

Reneau P. Almon, Judge, Criminal Court of Appeals
Charles Y. Cameron, Court Administrator, Department of Court Management
Aubrey M. Cates, Judge, Criminal Court of Appeals
Charles DuBose Cole, Executive Director, the Judicial Conference
James H. Evans, Judge, Municipal Court, Montgomery
Conrad Fowler, Probate Judge, Shelby County
Ronald L. Stichweh, Alabama Department of Court Management

Jails

Wilson Baker, Sheriff, Dallas County
Mac Sim Butler, Sheriff, Montgomery County
A. E. Cooper, Chief of Police, Demopolis
Charles Feagin, Community Program Officer, United States Bureau of Prisons
E. H. Murdock, Chief of Police, Enterprise
Walter Nichols, Deputy Sheriff, Dallas County
Robert P. Strickland, Warden, Municipal Jail, Montgomery
Robert Turner, Sheriff, Autauga County
Ed Wright, Chief of Police, Montgomery

Prison Study Committee, Alabama Legislature

House of Representatives:

Ray Burgess
B. W. Connell
Francis Falkenburg
Maston Mims, Chairman
Thomas Reed

Senate:

L. L. Dozier
Don Horne
W. "Tom" Jones
L. D. Owen, Jr., Vice Chairman
Robert H. Wilder

In addition to these conferences, on-site visits were made to the following institutions:

Atmore Prison
Draper Correctional Center
Frank Lee Youth Center
Holman Unit
J. F. Ingram State Trade School
Medical and Diagnostic Center

Definition of Ideal Corrections for Alabama

Defining the ideal system for corrections in Alabama was an ongoing process that involved information obtained from statistical reports and from inputs of officials currently operating the system. The objectives that guided the entirety of the planning process were

aimed at: (1) the integration of a system of corrections in view of the current structure and in consideration of available resources, (2) deinstitutionalization for the maximum feasible number of offenders, (3) the utmost development of community resources for the treatment of the offender, and (4) the development of alternatives to incarceration.

The definition of the ideal system was first put into philosophical goals and broad objectives, such as those outlined above. However, as information was collected and assimilated, the definition of the ideal system became more concrete, as actual programs and projects were formulated in the Master Plan in order to attain these objectives.

An advisory committee composed of Dr. Raymond D. Fowler, Jr., Dr. Stanley L. Brodsky, and Dr. Carl B. Clements, all of the University of Alabama Center for Correctional Psychology, provided valuable assistance in defining the ideal system.

Formulation of Master Plan

The formulation of the Master Plan as a realistic, useful guideline for corrections in Alabama was dependent upon the successful completion of the other tasks mentioned previously. The planning effort at this final stage changed from describing the existing system to recommending means of implementing the ideal system. The completion of the final phase involved three major areas: (1) researching the existing legal statutes pertaining to corrections and establishing a legislative liaison committee to act as an advisor about needed legal changes; (2) utilization of consultants with specialized knowledge in all areas of the criminal justice system; and (3) utilization of technical consultants familiar with cost variables related to corrections operations. As has been mentioned before, these tasks were ongoing in nature and occurred simultaneously with other planning tasks.

The following description of the final task is separated into individual sections, in order to give credit to the people involved in preparing the section and to make clear the method of preparation. In general, written input was solicited from professional, correctional personnel with special knowledge of the particular section. As these inputs were received, the planning staff made revisions in the content and format of the Master Plan in order to follow the guidelines of the project and to coordinate all of the sections.

The individual sections are presented in the order that they are covered in the body of the Master Plan, with the exception of the cost analysis and recommended legislation sections. These areas are covered last because they pertain to all the previous sections.

Courts

The section describing the judicial system in Alabama was drafted by the planning staff. The courts are dealt with in a separate Master Plan. However, because the judicial process is an integral segment of the criminal justice system, it was felt that a brief section describing the judicial system in Alabama would be appropriate to preface the sections pertaining to the actual corrections system.

The recommendations following the courts section are general in nature, and they are intended to increase both the speed and the fairness of the judicial process in Alabama.

The following persons were consulted, and provided assistance in preparing the courts section:

Reneau P. Almon, Judge, Criminal Court of Appeals

Aubrey M. Cates, Judge, Criminal Court of Appeals

John Caylor, Courts Planner, ALEPA

Conrad Fowler, Probate Judge, Shelby County

Juvenile Justice System

The section of the Master Plan on the juvenile justice system was compiled by collecting data and by conferring with persons variously involved in juvenile corrections throughout Alabama. Particularly because juvenile corrections in Alabama consists of fragmented and disconnected services, tours and meetings were required to develop an understanding of juvenile corrections.

David Mills, Director, Division of Youth Services, Broward County, Florida, consultant for the section on the juvenile justice system, and the project staff conducted interviews with persons involved in juvenile corrections and visited various juvenile institutions, detention homes, and programs. Mr. Mills also collected input for this section by requesting these individuals to express in writing their ideas for an improved system of juvenile justice in Alabama. The information collected in the on-site survey of juvenile facilities in the four metropolitan areas was also used to describe the existing system and to pinpoint specific needs for improvement.

Listed below are the individuals with whom Mr. Mills and the project staff conferred and the institutions and projects which were visited:

E. Harvey Albea, Judge, Juvenile and Domestic Relations Court, Calhoun County

John R. Bailey, Supervisor, Division of Juvenile Delinquency Services, Department of Pensions and Security

Ross Bell, Judge, Family Court of Jefferson County

George Bellman, Director, Court Services, Mobile Juvenile Court Division

John Carr, Superintendent, Alabama Boys Industrial School, Birmingham

B. M. Miller Childers, Judge, Juvenile Court, Dallas County

Charles DuBose Cole, Executive Director, the Judicial Conference

A. C. Conyers, Jr., Chief Probation Officer, Jefferson County

Edward E. Earnest, Ridgecrest Children's Center, Tuscaloosa

Conrad Fowler, Probate Judge, Shelby County

Ben Franklin, Detention Director, Montgomery County Youth Aid Facility

Ed Grant, Superintendent, Alabama Industrial School, Mt. Meigs

Margaret Lilly, Director of Social Services, Alabama State Training School for Girls, Chalkville

Bennett McRae, Judge, Morgan County

Marilyn Meyers, Principal, Alabama State Training School for Girls, Chalkville

Anne Muscari, Casework Supervisor, Montgomery County Youth Aid Facility

Kenneth O'Dea, Director of Program Development, Alabama Industrial School, Mt. Meigs

Robert E. Patton, Chief Probation Officer, Morgan County

Ronald C. Smith, Program Planning Consultant, Division of Juvenile Delinquency Services, Alabama Department of Pensions and Security

Robin Snow, Director, Behavior Modification Programs, Alabama Boys Industrial School

L. B. Stephens, Executive Director, Board of Pardons and Paroles

James Strickland, Judge, Circuit Court, Juvenile Division (Mobile County)

O. M. Strickland, Assistant Chief, Commander, Youth Aid Division, Montgomery Police Department

John E. Upchurch, Probation Officer, Tuscaloosa County

Dorothy Weiss, Superintendent, Alabama State Training School for Girls, Chalkville

Don Williams, Program Administrator, Department of Pensions and Security

Harry G. Wilson, Administrative Assistant Superintendent, Alabama Boys Industrial School

Jack F. Wood, Director, Central Alabama Youth Service, Selma

LEAA Regional Staff, Region IV, Atlanta

On-site tours were conducted at the following state institutions and regional/local detention centers:

Alabama Boys Industrial School, Birmingham
Alabama Industrial School, Mt. Meigs
Alabama State Training School for Girls, Chalkville
Jefferson County Juvenile Detention Center
Mobile County Juvenile Youth Center
Montgomery County Youth Aid Facility

Jails

The jail section was developed by the staff with the assistance of jail consultant Dr. Stanley L. Brodsky, Associate Professor of Psychology at The University of Alabama and Assistant Director of the Center for Correctional Psychology. The on-site survey of the four metropolitan area jails and the response to the jail questionnaire provided the statistical basis for the jail section. In addition, various sheriffs, police chiefs, and police personnel were consulted about the needs and the problems of operating the jail system The following is a list of the police chiefs and sheriffs who were consulted:

Wilson Baker, Sheriff, Dallas County
A. E. Cooper, Chief of Police, Demopolis
Charles Feagin, Community Programs Officer, Bureau of Prisons
E. H. Murdock, Chief of Police, Enterprise
Walter Nichols, Deputy Sheriff, Dallas County
Robert Turner, Sheriff, Autauga County
C. P. "Red" Walker, Sheriff, Shelby County
Ed Wright, Chief of Police, Montgomery

Probation and Parole

The section of the Master Plan describing probation and parole in Alabama was developed by the staff with the assistance of L. B. Stephens, Executive Director of the Alabama Board of Pardons and Paroles. Through his experience with, and knowledge of, the system, Mr. Stephens was able to provide valuable insights into the present uses of probation and parole and its future possibilities. Mr. Stephens further augmented this section by consulting with various circuit judges, district attorneys, and other law enforcement officials.

The following individuals from the Board of Pardons and Paroles provided additional assistance in the development of this section:

Ealon M. Lambert, Associate Member
Daniel B. Long, Associate Member
Norman F. Ussery, Associate Member
David H. Williams, Assistant Executive Director
Middle Management Personnel

Adult Male Corrections

The section describing adult male corrections was drafted by the staff with the assistance of Dr. Thomas Staton, author of the COPE Report, member of the Board of Corrections, and professor of psychology at Huntingdon College.

In addition to conferring with members of the Master Plan staff, Dr. Staton met with Robert Grunska, superintendent of the Federal Prison Camp, Maxwell Air Force Base. The purpose of the meeting was to discuss the employment of classification systems, training standards, and salary schedules for federal correctional officers.

The following is a list of persons who provided additional information and assistance in preparing the section on adult male corrections:

John B. Braddy, Associate Commissioner, Board of Corrections
William O. Jenkins, Research Coordinator, Rehabilitation Research Foundation
Billy H. Long, Warden, Medical and Diagnostic Center, Mt. Meigs
John M. McKee, Executive Director, Rehabilitation Research Foundation
Jim Murphy, Assistant Director of Drug Abuse Programs, Department of Mental Health
L. B. Sullivan, Commissioner, Board of Corrections
John C. Watkins, Director of Community Corrections, Department of Mental Health

Adult Female Corrections

The portion of the Master Plan which delineates corrections for the adult female offender was developed by the staff with the assistance of Joanne Morton, a consultant from the Institute of Government, University of Georgia. The dearth of data and of record keeping in Alabama manifested itself in an absence of data pertaining to female offenders. Thus, in the preparation of this section, it was necessary to interview individuals who work with alleged and adjudicated female offenders. Because of their knowledge of and experience with the adult female offender, the following individuals were consulted:

Wayne Booker, Director, Work Release Program
John B. Braddy, Associate Commissioner, Board of Corrections
Hal L. Crouch, Deputy Superintendent, Julia Tutwiler Prison for Women
Richard Emmet, Judge, Fifteenth Circuit Court
Austin McDonald, Counselor, Vocational Rehabilitation Service
L. B. Stephens, Executive Director, Board of Pardons and Paroles
David H. Williams, Assistant Executive Director, Board of Pardons and Paroles
Doris Wood, Superintendent, Julia Tutwiler Prison for Women

High Crime Areas

Birmingham, Mobile, Montgomery, and Huntsville account for 45% of the state's population and 72% of the total crime committed. Thus, a special section highlighting the specific problems and needs of these densely populated areas was prepared by the planning staff. The high crime section was primarily an outgrowth of the other sections relating to adult corrections, juvenile corrections, and probation and parole. *The Criminal Justice Plan for the City of Birmingham 1973-74* and the *Annual Action Plan for the City of Mobile* were used as primary references for this section, in conjunction with the on-site surveys conducted in these areas by the planning staff. The City of Birmingham operates its own system of probation and parole under special statutory authority.

Mr. Sam Black, Chief Probation officer of the Birmingham Probation and Parole Office, provided useful information about the operation and jurisdiction of the Birmingham Probation and Parole Office.

Cost Analysis

Mr. Harold Reep, former Deputy Director of Federal Prison Industries, performed the cost analysis for the Master Plan.

Nine jails in Alabama were analyzed on the basis of cost to give an estimate of the average cost of maintaining an inmate in jail. Six of the jails were county facilities (Jefferson, Madison, Mobile, Montgomery, Shelby, and Tuscaloosa), and three were city jails (Birmingham, Montgomery, and Tuscaloosa). These nine jails represent 44% of the total estimated average jail population. An accountant was hired to gather preliminary data on the original cost of the buildings and the cost of the operations of the jail. It was also necessary to contact county commissioners offices, county clerks, city finance officers, the State Department of Revenue, and architectural firms. A composite man-day cost for each jail was calculated and then applied to the estimated annual average number of prisoners in all jails to estimate the annual cost of the jail system.

Mr. Reep used his knowledge of cost factors to aid the planning staff in costing recommended new programs and changes within the current system. The list below includes those persons contacted in the cost analysis of jail operations:

H. Benson Carroll, Finance Department, Birmingham
Betty Griffin, Accountant
Wanda Hodnett, Comptroller's Office, Montgomery
Leland Holcomb, Warden, Birmingham City Jail
George Lamb, City Clerk, Tuscaloosa
Mary Niven, Clerk, Shelby County Commission
Robert P. Strickland, Warden, Montgomery City Jail
Evelyn Vineyard, Jefferson County Commissioners' Office
Don Whitson, Tuscaloosa County Board of Revenue

Recommended Legislation

Instrumental to the implementation of the ideal system was the revision of the current correctional legal framework to support the Master Plan recommendations. Legal researchers were employed to survey the existing statutes relating to the correctional system, its operation, responsibilities, and duties. It was then determined what laws or revisions of existing laws would be necessary for the implementation of the ideal system. A legislative

liaison committee was established to generate interest and to advise legislators concerning needed laws and revisions of laws.

The following is a list of the legal researchers, all of whom were members of the project staff:

Leon Ashford

Larry Lester

Randy Reeves

John Roach

Deficiencies of the Study

Throughout this study the most striking deficiency has been the lack of adequate data describing the Alabama system and the offenders processed within it. In general, records and information were either nonexistent or scattered and discontinuous. Inasmuch as there is no central unit of state government responsible for Alabama jails or the juvenile justice system, these areas were the most sparse in information, thereby yielding the least accurate description of system, process, and the offender. It was particularly difficult to obtain reliable information concerning system costs.

While on-site visits were made to all major institutions, these visits were too limited in time and scope to yield the most accurate description of the informal and formal system operations. Characteristics of staff-inmate interactions were not carefully examined. Demographic data on personnel were gathered in terms of administrative generalization rather than a thorough inspection of personnel records. Uniform standards and practices within and across state agencies dealing with the offender are not established and have been only lightly touched upon in this study.

Another recognized deficiency of this study is the lack of significant input from minority group representatives and the low visibility given to the limited input of inmates. Both of these sources of information and ideas should be included in future planning.

It is anticipated that this Master Plan will be updated periodically as additional data and information become available. These updating efforts should address the deficiencies referred to above, as well as other problems unrecognized at this time.

Chapter Six

Relationship to Courts

National Overview

The functions of the criminal court are of key importance within the criminal justice system, for the court system is the center around which the rest of the criminal system has evolved. Its actions determine those of the correctional system, and its rules and procedures regulate the activities of the police.

The design of the nation's court system was originally based on the needs of small, rural communities. The demands of our rapidly changing and complex society have not been met by sufficient reform within the criminal justice system. The problems are most severe in the inferior court system, especially in the urban areas. Population growth has increased the volume of cases, as have technological advances, which have created additional offenses, such as traffic violations. Although the inferior courts handle petty offenses and the preliminary stages of felony cases, their importance is incalculably great, as the majority of offenders make their first contact with the court system at that point. Their experiences in the inferior court may shape their subsequent behavior in regard to the law. Although public attention is drawn to the more dramatic cases handled by the higher courts, 90% of the criminal cases in this country are heard in the inferior courts. Yet the inferior court system is most often ignored, suffers the greatest shortage of personnel, and has the poorest quality of personnel. It is here that one sees some of the basic causes of the problems experienced by the inferior courts: (1) volume of cases handled in relation to available personnel; (2) lack of training of judicial and non-judicial personnel; (3) weak administration; and (4) confused and fragmented jurisdiction.

> In 1962 over 4 million misdemeanor cases were brought to the lower courts. Until 1966 legislation increased the number of judges, for example, the District of Columbia Court of General Sessions had four judges to process the preliminary stages of more than 1,500 felony cases, and to hear and dispose of 7,500 serious misdemeanor cases, 38,000 petty offenses and an equal number of traffic violations per year. In 1965, a single judge for the Detroit Early Session Division had to handle over 20,000 misdemeanor and non-traffic petty offense cases. The typical judge in an adult lower court handles 300 or more cases a day. (*State-Local Relations in the Criminal Justice System*, p.180)

Not only is there a tremendous shortage of judges, but also of prosecutors, defense counselors, and probation officers. This heavy work load has resulted in a type of "assembly line justice."

The officials at the inferior court level generally are not as well trained as those in the trial courts of general jurisdiction. Many cities do not require their lower court judges to be lawyers. Although there are competent judges, prosecutors, defense attorneys, and other officers in the inferior courts, qualified individuals frequently are not attracted to the inferior courts due to the lower pay and the frustrations peculiar to the inferior courts. Cases are often appealed due to the lack of judicial competence. Frequently there are no probation services.

> The Corrections Task Force of the President's Crime Commission found that over a third of the counties in the sample survey had no probation services for misdemeanants, and where services were available, they were inferior to those in felony courts. (Corrections Task Force, President's Crime Commission, *Report*, p.158)

Weak administration has added to the general confusion of the inferior courts. Often there is a lack of coordination between judges working in the same court. Also, inferior court judges, in addition to their judicial duties, are burdened with administrative duties.

Another cause of inferior court problems is the lack of clear-cut jurisdiction among courts serving the same urban area. This has particular significance to the offender for he may be charged in more than one court, that is, either a city, county, or State trial court. Each court has different rules and policies, and the offender's final disposition is profoundly affected by which court the arresting officer takes him to. The question also arises as to whether the case was tried or reviewed by the proper court, which opens up the opportunity for further litigation and further crowding of the courts.

The implication of the legal structure is that a court trial decides the outcome of criminal cases. Actually, the majority of cases are disposed of through either a guilty plea or the decision not to charge the suspect with a criminal offense. The President's Crime Commission reports that between one-third and one-half of the cases begun by arrest are dismissed, either by police, prosecutor, or judge. When a decision to prosecute is made, as many as 90% of the convictions are the result of a guilty plea. A high percentage of these cases are the product of plea bargaining between the prosecutor and defense counsel of the defendant.

> In a study of felons convicted in a district court, Newman found 93.8 percent had entered a plea of guilty. Over a third originally had entered a not guilty plea but had changed their plea short of a trial. More of those who changed had a defense attorney and were experiencing their first conviction than did those who pleaded guilty immediately. Over half (54.3%) of those who pleaded guilty immediately claimed that they had bargained for their sentence, and 84 percent of the immediate guilty pleas came from recidivists. (Johnson, *Crime, Correction, and Society*, pp.399-400)

Plea bargaining serves the court as a means of reducing the heavy work load, but this practice raises serious constitutional issues, for the informality of this procedure can undermine judicial checks for the protection of the defendant.

The system of sentencing in the United States is unique. A single individual determines, without review, the minimum period of time a convicted offender must remain in prison, although the legal training of the judge does not qualify him in the areas associated with the modern conceptions of rehabilitation. Although the sentence imposed by the judge is considered final, the parole and prison authorities have considerable influence on the amount of time to be served in prison.

The inconsistencies of sentencing result from the lack of review of one individual decision, the absence of an established sentencing standard, and the wide range of possible actions and sentences offered in the sentencing codes. The sentencing codes are statutory provisions that prescribe the possible sentences for each particular offense. Most sentencing codes are the result of enactments over many years, and, as a result, they have many inconsistencies and anomalies. Efforts to correct these inconsistencies are being undertaken at present by about half of the states. Furthermore, judges rarely have the opportunity to observe other judges at work. More information concerning the sentencing practices of other judges would provide a valuable comparison.

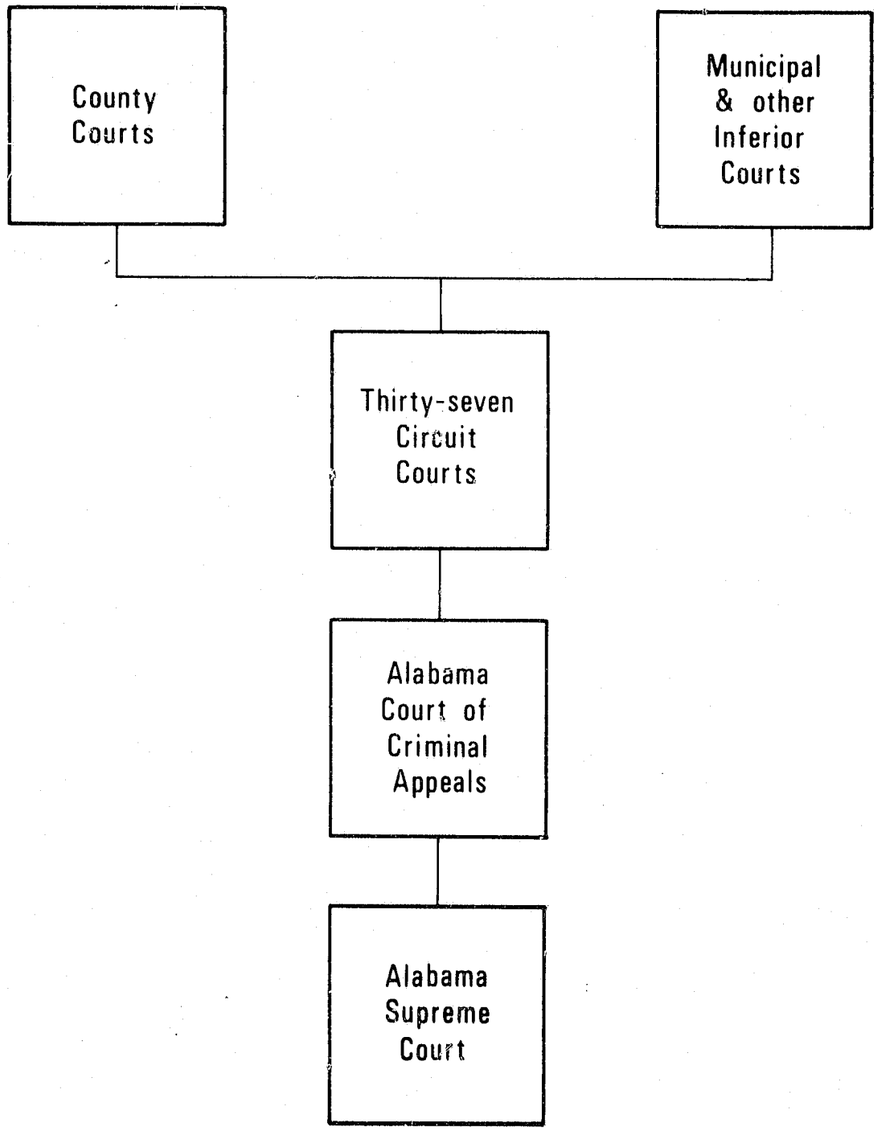
Description of the Existing System

Statutory law in Alabama provides that courts below the Alabama Supreme Court, the highest court, and the Court of Criminal Appeals, the intermediate appellate court, have original jurisdiction over criminal offenses. The extent of the jurisdiction of any particular court depends upon the classification of the crime as a felony or a misdemeanor. A felony, within the meaning of the Alabama Code, is a public offense that *may* be punished by death or by imprisonment. (Sentenced felons, however, may be held in Alabama jails.) All public offenses, except felonies, are called misdemeanors.

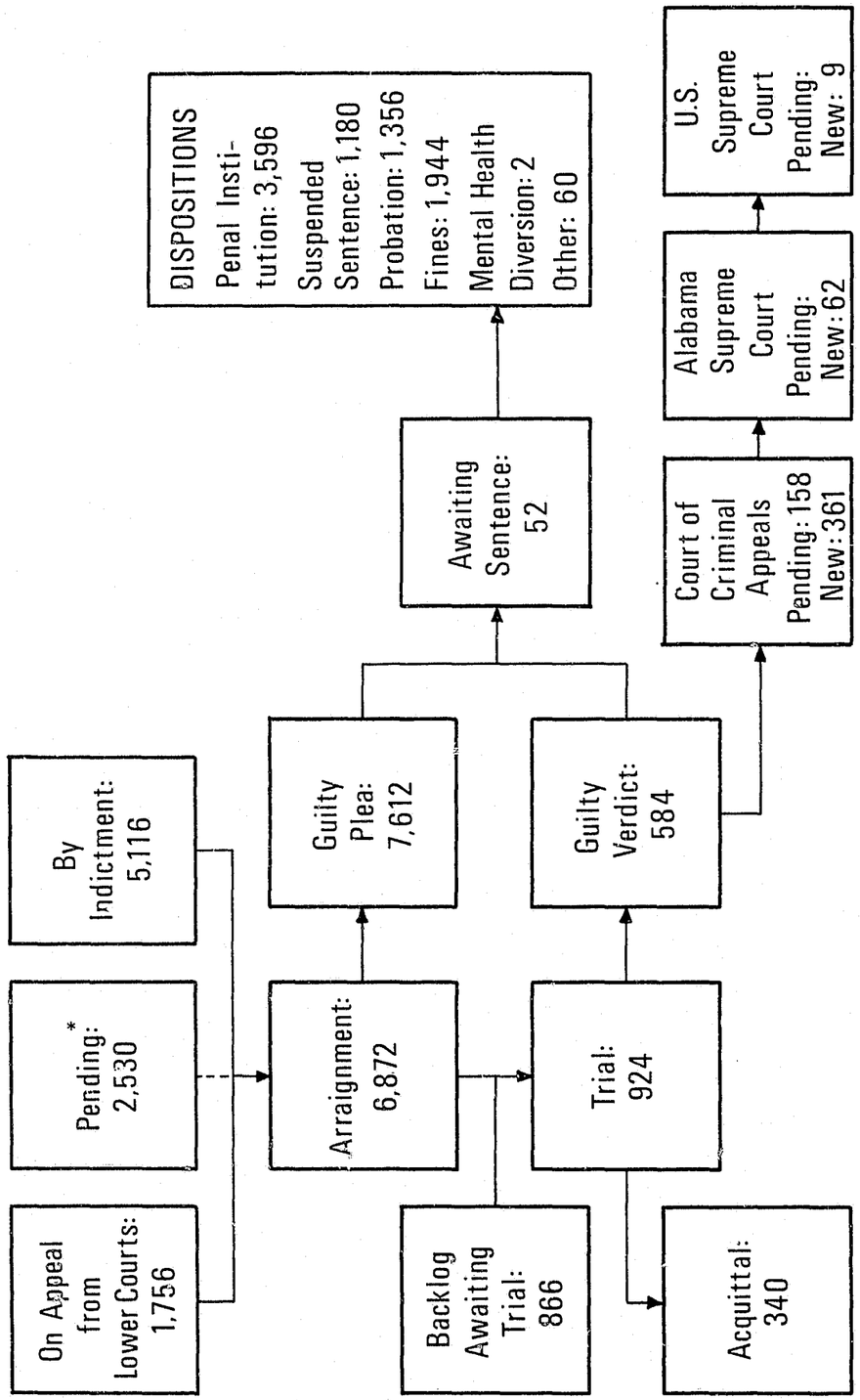
The 37 circuit courts are the basic trial courts in the state. The jurisdiction of these courts over criminal offenses includes original jurisdiction of all felonies and misdemeanors and appellate jurisdiction of all cases cognizable before lower courts. Their original jurisdiction can only be invoked by an indictment returned by a grand jury. The appellate jurisdiction is invoked by appeal and the procedure is to give a *de novo* trial. The lower courts, which are usually county or municipal courts, have original jurisdiction, concurrent with the circuit courts, over all misdemeanors committed in their respective jurisdictions. The circuit courts have exclusive jurisdiction over felonies. (See Figures 1 and 2.)

Alabama provides two methods of inquiry for determining whether a citizen who has been criminally accused should be tried or discharged. The first is indictment by the grand jury, and the other is the preliminary hearing. An indictment may be obtained either through the presentation of information to the grand jury by the district attorney, or after arrest, through the apprehension of the offender in the process of crime commission. The inquiry by the grand jury is directed toward whether there is probable cause to believe a crime was committed and that the accused probably committed it. The grand jury may return a "true" bill or a "no" bill after its deliberations. The accused is then placed under arrest or, if already detained, he is moved toward arraignment. If a meeting of the grand jury is not imminent, then a preliminary hearing may be held. This is a proceeding before a circuit judge or lower court judge who makes the same determination as the grand jury on probable cause/commission of a crime. He then "binds over" the accused to the grand jury or releases him from custody. The other important aspect of the preliminary hearing is that this is the point at which bail is set. There is no established right to have such a hearing, and failure to grant one is not a violation of due process.

Alabama law provides that prisoners may be released on bail, with the exception of those accused of what were formerly capital crimes. The decisions of the United States Supreme Court and the Alabama Supreme Court concerning the death penalty give rise to the presumption that all persons who are criminally accused are now bailable. A misdemeanant may be released on his own recognizance, but there is no such provision for those accused of felonies. The Alabama Court of Criminal Appeals has promulgated a general rule that bail should be set at $1,000 for every year that the accused could be imprisoned. If bail cannot be raised or bond obtained, then the accused must remain in detention until trial.



Alabama Criminal Court System



Case Flow in Alabama Criminal Courts

There is almost no pretrial diversion of adult offenders from the court system to specialized programs or institutions in Alabama. The only involuntary program is for so-called "sexual psychopaths." This statute has come under attack recently in a federal court suit, and continued confinement under it has been ordered curtailed.

Arraignment is the next step in the judicial process of determining the guilt or innocence of one who is criminally accused. At this point, which may be the initial appearance before the judge, the defendant must enter a plea of guilty or not guilty. A plea of not guilty by reason of insanity must be made at this point or it is waived. If there is a plea of guilty with full understanding by the defendant, representation by counsel, and procedural due process, then there is no trial or appeal. The judge then sets the sentence without a jury, even though the particular statute provides that the jury sets the sentence, unless there is a demand for jury sentencing. The sentence is then imposed and the punishment process begun. If there is a plea of not guilty, a trial date is set, bail may be continued, and if no continuance is sought by either side, the trial is held on that date. After a trial is held, the jury determines and weighs the facts while deciding the guilt or innocence of the accused. An acquittal results in release and bars further prosecution for that specific offense. A finding of guilt casts upon the jury the duty of setting the sentence to be imposed, if so provided by statute. If a particular statute defining a crime does not provide for the jury sentence, then the judge sets the sentence.

The judge then imposes the sentence. He has broad discretion to suspend the sentence and grant probation; however, probation cannot be granted where the sentence is for ten or more years. The defendant may appeal a conviction by posting an appeal bond, which is issued according to procedures similar to those used in bail bonds. If the appeal is successful, the defendant may receive a new trial or be released. If the appeal is unsuccessful, the defendant will begin to serve his sentence and/or pay his fine.

Recommendations

It is noted at the outset that few recommendations were called for with respect to the courts, because of the contributions which Chief Justice Howell Heflin of the Alabama Supreme Court has made to this area. His leadership and work have reduced case backlogs on both the trial and appellate levels. The establishment of the Department of Court Management has led to a more efficient delivery of criminal justice by the courts

of this state. That department is preparing under a separate grant from LEPA further proposals and recommendations for improvements in the Alabama court system which will become a part of the Master Plan. This is part of the courts planning of LEPA, and these particular recommendations are made only insofar as they affect the removal of persons from the criminal justice system.

RECOMMENDATION NO. 1: THE LATEST REVISION OF THE ALABAMA CRIMINAL CODE, INSOFAR AS IT IS CONSISTENT WITH THE RECOMMENDATIONS OF THIS PLAN, SHOULD BE SUPPORTED AND ADOPTED.

The Criminal Code of Alabama is being revised by the Criminal Code Committee appointed by the Alabama Legislature. This is being done in cooperation with the Alabama Law Institute at the University of Alabama in Tuscaloosa. Preliminary indications are that this will be a vastly improved code.

RECOMMENDATION NO. 2: A STATEWIDE PUBLIC DEFENDER PROGRAM SHOULD BE ENACTED.

Rationale:

There is, throughout the state of Alabama, sporadic and inadequate provision of legal counsel by court appointment to indigents who are accused of crime. In several jurisdictions in the state, public defender programs have been able to provide adequate counsel.

Implementation and Costs:

A. 1973

B. Legislative action required

C. No cost to the state. This program can be funded by the imposition of a fair trial tax (approximately $2) that is added as part of the court costs to every case handled by the court system.

Impact:

Will result in more uniform legal representation for indigents.

Will assist the courts in quicker disposition of cases.

RECOMMENDATION NO. 3: A BAIL REFORM BILL SHOULD BE ADOPTED AND PAROLE FOR MISDEMEANANTS SHOULD BE INSTITUTED.

Rationale:

The basic problem addressed here is the present emphasis on pretrial detention on the basis of wealth as opposed to actual risk factors. Those who can raise bail or afford an attorney have an advantage that poorer people do not have. The injustice of allowing freedom only to those who can afford to purchase it, while detaining those who are indigent rather than weighing risk factors for both, seems apparent. There are three major deficiences in the present approach:

(1) It tends to destroy the presumption of innocence that every citizen who is criminally accused enjoys under our justice system.

(2) It is uneconomical, in terms of incarceration costs, to detain anyone for any reason other than that he is a risk to the community or will fail to appear for trial.

(3) It is uneconomical, in terms of societal and personal costs, to so detain an accused because he is removed from the community setting. This is disruptive of his family life and maintenance of livelihood/support of family. It also interferes with preparation for his defense.

The basic proposal is to provide for a reform of the bail process for those accused of misdemeanors and felonies and to provide parole for misdemeanants. The emphasis is on release on personal recognizance, unless a judicial officer determines that such release would not insure the accused's appearance, or that release would create a risk to the community, based on severity of alleged crime and past record. Provision could be made for the setting of other conditions, i.e., placing the accused in the custody of another, restricting travel, abode, or association with others, or requiring a 10% appearance bond or bond with sureties.

Presently, in order to obtain parole, one must commit a felony. The development of adequate rehabilitative programs in jails depends, in part, upon the power to place misdemeanants on parole.

Implementation and Costs:

A. 1973

B. Legislative action required.

C. No additional cost to the state.

Impact:

Will revise existing bail practices in the courts of Alabama to assure that no person, regardless of his financial or social status, shall be needlessly detained, pending appearance to answer charges, to testify, or pending appeal. Detention at those times serves neither the ends of justice nor the public interest.

RECOMMENDATION NO. 4: ALL TIME SPENT IN CONFINEMENT SHOULD BE CREDITED TOWARD THE ULTIMATE SENTENCE.

Rationale:

This recommendation covers both pre- and post-trial confinement where the accused or convicted is unable to raise bail. There has been a great deal of litigation raising equal protection and due process problems. The United States Supreme Court has struck down state statutes that discriminate against indigent criminal defendants. For examples, see *Griffin v. Illinois*, 351 U. S. 12, *Douglas v. California*, 372 U. S. 353, *Gideon v. Wainwright*, 372 U. S. 335, *Tate v. Short*, 401 U. S. 395. That court held, in part, in *North Carolina v. Pearce*, 375 U. S. 711, that time served in confinement must be credited upon retrial in subsequent sentencing. The logical extension of this line of cases is to guarantee credit for all time actually spent in confinement. The reasons that citizens are currently serving "dead time" are that they cannot make bail or because of trial/appellate court backlog, which circumstances are beyond their control. This crediting should be given to pretrial confinees, post-trial felons who appeal, whether successful or not, and those simply awaiting transfer to the state penitentiary.

Implementation and Costs:

A. 1973

B. Legislative action required.

C. No additional cost to the state.

Impact:

Will assure that whenever a defendant remains in jail prior to his trial, pending appeal, or upon subsequent retrial, he will be given credit on the sentence ultimately imposed for all periods of actual confinement.

Will result both in earlier parole consideration and in an earlier expiration of the maximum sentence.

RECOMMENDATION NO. 5: CONVICTED FELONS SHOULD BE ALLOWED TO RETAIN ALL CIVIL RIGHTS, EXCEPT THOSE THAT INTERFERE WITH THEIR SUCCESSFUL REHABILITATION OR WOULD ENDANGER THE PUBLIC.

Rationale:

Felons in Alabama currently lose their civil rights upon conviction. They are usually not restored until satisfactory completion of parole. The only civil right that seems necessary and reasonable to revoke is the right to bear arms. Voting, holding public office, and bonding are all rights that enable and encourage felons to become successful, productive citizens. The removal of these rights is a stumbling block to reintegration into the community.

Implementation and Costs:

A. 1973

B. Legislative action required.

C. No additional cost to the state.

Impact:

Will restore all civil rights to convicted felons except those necessary to the protection of society or the offender.

Will aid in reduction of stigmatization of offender.

RECOMMENDATION NO. 6: LAW ENFORCEMENT AGENCIES, THE CORRECTIONAL SYSTEM, AND THE JUDICIAL SYSTEM SHOULD WORK TOGETHER TO DEVELOP DIVERSIONARY ALTERNATIVES TO PRESENT SENTENCING PRACTICES, SO AS TO AID IN OFFENDER REHABILITATION.

Rationale:

One of the primary concerns of corrections is diversion of those offenders from the criminal justice system who do not pose a threat to society. There are many alternatives for diversion; and, in most instances, the decision for diversion rests with the courts. Both the courts and corrections have a responsibility to achieve this goal through a coordinated effort. Corrections has the responsibility to provide complete diagnostic findings and other pertinent information to assist the courts in reaching the best decision. The courts have an equal responsibility to assure equal justice for all offenders. The correctional system should research and develop innovative alternatives for judges to utilize and, in addition, keep Alabama judges abreast of current trends and developments.

Implementation and Costs:

A. 1973

B. Administrative action required.

C. No additional cost to the state.

Impact:

Will provide judges with a wide range of innovative alternatives with which to promote offender rehabilitation.

RECOMMENDATION NO. 7: THE CORRECTIONAL, JUDICIAL, AND LEGISLATIVE SYSTEMS IN ALABAMA SHOULD BE COGNIZANT OF THE DEVELOPING RIGHTS OF PERSONS CONFINED IN PENAL INSTITUTIONS AND ACT TO IMPLEMENT THESE RIGHTS BEFORE LITIGATION FORCES THEM TO DO SO. THESE SYSTEMS SHOULD BE AWARE OF THE RIGHTS OF VICTIMS OF CRIMINALS AND SEEK APPROPRIATE AVENUES OF COMPENSATION FOR SUCH VICTIMS.

Rationale:

It is clear not only from inmate litigation in Alabama but across the nation that penal institutions will be increasingly required to meet the standards of the U. S. Constitution in their practices and operations. The current federal caseload stemming

solely from the Alabama system is overwhelming. Although underfunding and understaffing are both critical problems in the Alabama system, these are not excuses for maintaining the system which infringes on the rights of those confined. It would be judicious on the part of all concerned to determine what rights an inmate has and seek to implement them systemwide prior to crisis situations brought about through inmate challenge. (See Chapter Seven for more detailed discussion.)

While discussing rights, it is important to give some consideration to the rights of victims of criminals. Citizens have paid taxes for protection from crime and when that protection fails, they have a right to look to society for recompense. Victims of crime must often bear extraordinary expense because of bodily injury or property loss. Many times crime victims are the citizens least able to bear such losses.

It is recommended that various avenues of victim compensation be explored and one chosen that will be adequate to provide for Alabama citizens who become victims of crime. (See Chapter Seven for discussion of approaches to victim compensation.)

Impact:

Will provide understanding and awareness of the rights of victims and offenders and result in just attention to those rights.

CONTINUED

1 OF 2

Chapter Seven

Rights of the Confined and the Rights of Society

Introduction

The past decade has seen the judicial hierarchy rise to the defense of the constitutional rights of those accused of crime. *Gideon, Escobedo, Miranda*, and a score of similar cases have expanded constitutional protection to accused criminals in all facets of criminal law, from surveillance and apprehension through trial and conviction. The decade of the seventies, however, promises increased attention to two almost forgotten areas of the legal framework: the rights of the confined and compensation for the victims of crime.

Our judicial system has begun to take a long-needed look beyond criminal conviction and into the penal institutions which house the convicted. There is a growing judicial recognition of the inalienability of constitutional rights that cannot be cut off by prison walls. At the same time, social and political reformists are raising the cry for compensation for those injured as a result of criminal acts. The notion that victims of crimes must bear their burden alone is disintegrating as new ideas begin to come forth in support of restitution following criminal loss.

This section concerns both the rights of the confined and victims' compensation. It is not intended to answer completely all the social and legal issues involved. Rather, it is an attempt to create an awareness of two subjects long ignored and to provide for the reader an illumination of what has gone before and what should be expected in the future.

Rights of the Confined

> Judges spend their lives consigning their fellow creatures to prison; and when some whisper reaches them that prisons are horribly cruel and destructive places, and that no creature fit to live should be sent there, they only remark calmly that prisons are not meant to be comfortable, which is no doubt the consideration that reconciled Pontius Pilate to the practice of crucifixion.[1]
>
> When we get down to the poorest and most oppressed of our population, we find the conditions of their life so wretched that it would be impossible to conduct a prison humanely without making the lot of the criminal more eligible than that of many free citizens. If the prison does not underbid the slum in human misery, the slum will empty and the prison will fill.[2]

These two quotes from George Shaw reflect not only the disparagement of the incarcerated, but the thin line that must be walked by those burdened with the responsibility of confining those convicted of crime and administering the institutions to which they are confined.

While the prison has become an accepted part of the correctional system, there exists a growing recognition that a convict is a human being capable of being returned to society as a productive citizen.[3] Society, interested in the preservation of the dignity and self-respect of every human being, can no longer tolerate the view that a convicted criminal "has, as a consequence of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords him. He is for the time being the slave of the state."[4]

The modern trend of penological thought has recognized that the right of an individual to seek relief from improper treatment does not terminate with incarceration. The prisoner retains the personal liberties of ordinary citizens except those rights that are expressly, or by the necessity of imprisonment, taken from him.[5]

The purpose of this section is to explain the change in judicial attitude toward prisoners' rights and to present a broad outline of these rights, with general guidelines to follow in protecting those rights.

Abolition of the 'Hands Off' Doctrine

In the past, courts have not been a major source of direction for the correctional administrator. The judicial reluctance to intervene in prison affairs has been explained through a doctrine of self-restraint commonly known as the "hands off" doctrine,[6] in which courts have refused to review prisoner allegations of mistreatment.[7] This doctrine espoused the theory that, because of his antisocial behavior, the criminal could be divested of his constitutional rights. Inmate complaints were answered with the response that the inmate had no constitutional claim; the matter, therefore, fell within the discretion of the prison administrator.

This ambulatory notion of constitutional rights contradicted the concept of the inalienability of those constitutional rights,[8] and has crumbled in the face of increasing judicial recognition that the Constitution is available to all persons irrespective of their position in society. Courts now consider prisoners as retaining all the rights of ordinary citizens except those expressly taken from them by law.[9] Such a view necessarily requires judicial intervention into prison life in order to protect these rights.

Increase in Inmate Litigation

With increasing judicial recognition of prisoner rights, inmates have begun to exercise their right of access to the courts. The great majority of inmate suits are based on three forms of action–the writs of *habeas corpus* and *error coram nobis* and suits under the Civil Rights Act of 1871.

Writ of Habeas Corpus and Writ of Error Coram Nobis. These writs are used to challenge the legality of confinement. The bulk of cases involve inmates who are alleging that errors at their trial have resulted in illegal confinement. At the same time, some states and the federal government allow an inmate to challenge the legality of the conditions of his confinement with these writs.[10]

Civil Rights Act of 1871 (42 U.S.C., Section 1983). This action has become the most popular and useful tool for inmates challenging the actions of prison administrators. There are three reasons for its widespread use. First, it presents the least number of obstacles to reaching a federal court. Second, it allows class actions. And third, it is an extremely flexible piece of legislation.[11]

Effect on Corrections and Correctional Administrators

Now, when confronted with the infringement of a fundamental right, the prison administrator must be prepared to justify the restrictive regulation of policy by showing that the restriction is both in service of a compelling state interest and is the minimum restriction necessary to accomplish that interest.[12] The burden is now on the administrator, and it cannot be met by mere opinion or speculation; the presumption in favor of administrative discretion no longer exists.

This is not to say that inmates are not in a different position than free men with respect to the exercise of their rights. Conditions of confinement and the needs of security present compelling interests that are not available in the free world.

Therefore, the rest of this section will consist of separate categories of inmate rights and the basic principles[13] of each category, which, if followed, should promote the preservation of prisoners' constitutional rights and facilitate the burden now shifting to the correctional administrator.

Access to the Courts

In order to seek relief from objectionable conditions of confinement, or to seek relief from the execution of their sentences, prisoners must have access to the judiciary. The right of access to the courts, while not expressly applied to inmates, has been considered to be included within the due process clauses of the Fifth and Fourteenth Amendments to the Constitution. This right has been extended not only in respect to courts but also to attorneys and service organizations such as the American Civil Liberties Union. General principles to be followed are:

1. Inmate mail to courts and public officials may not be subjected to any restrictions, including censorship.
2. Inmate mail to attorneys and service organizations must not be intercepted and probably should not be censored, although it may be subject to reasonable inspection.
3. Prison officials retain the power to punish individual abuses of the above mailing rights upon a factual showing that the mail rights are being used for improper purposes.
4. Legal assistance to inmates by other inmates ("writ writers") must not be prohibited by prison officials in the absence of a realistic and workable alternative program of legal assistance, however, reasonable regulations as to time, place, and duration may be imposed by prison officials.
5. Prison libraries must be sufficient to allow an inmate to research the points of law and procedure applicable to his case and regulations limiting the possession of legal materials must be reasonable and must not curtail the inmate's right of access to the courts.
6. Inmates must be given the opportunity to and a reasonably private conference area for conferring with attorneys and with counsel, subject to restriction upon individual demonstrations of abuse or impropriety.
7. Punishment may not be imposed upon an inmate for asserting or attempting to assert any of his rights of access to the courts or counsel.

Exercise of Religion

Litigation in this area is dominated by the Black Muslim struggle for administrative and judicial recognition. Nevertheless, each principle set down by the courts in such cases is applicable to the exercise of any religion by an inmate.

The First Amendment guarantees the free exercise of religion and at the same time forestalls the compulsion by law of the acceptance of any creed or form of worship. Such compulsion includes not only direct compulsion, but indirect compulsion by encouraging compliance through the granting of some privilege or benefit. Principles to be followed are:

1. The free exercise of religion by inmates is a preferred freedom, guaranteed by the First Amendment of the Constitution and solicitously protected by the courts. Any restrictions must be based upon a clear and present danger to prison security.
2. No governmental authority may compel religious belief or practice in any manner whatsoever.
3. Each religious organization has the right to assemble on a regular basis and to have its services conducted by one of its own ministers.
4. The members of each religious organization have the right to correspond with, and be visited by, ministers of their faith; right of access to religious books and periodicals of their faith; and efforts should be made to comply with requests for diets dictated by religion.
5. Inmates in segregation cannot be deprived of their right of exercise of religion. While considerations of security may preclude their attending general prison religious services, special services should be conducted within the segregation facility. Their right to correspond with, and be visited by, ministers of their faith and their access to religious literature should not be curtailed.
6. Privileges afforded any religious group must be equally available to every other religious group. It is the responsibility of the prison administrator to establish that differences in treatment are not arbitrary.

Correspondence and Visitation

Rights of inmates to use the mails and to receive visitors are slowly being recognized by the courts, and already some limitations on administrative discretion have been set down. Principles to be followed in this area are:

1. Courts are beginning to provide broad First Amendment protection to all classes of correspondence. This protection is implemented by the "clear and present danger" test, whereby the burden is on the prison administrator to justify by more than mere speculation that the restrictions on correspondence rights are necessary to nullify an immediate threat to institutional security.
2. The trend is toward restrictions on censorship, with the requirement that a clear and present danger be demonstrated; however, in regard to general private correspondence, this trend is still in the embryonic stage.

3. Correspondence with the media and religious correspondence should remain free from interference, absent a showing of a clear and present danger to institutional security.

4. The trend is toward broad First Amendment protection of private correspondence that does not fit into any of the above categories.

5. The prison administration should be prepared to establish by "clear and present danger" standards the necessity for relatively more stringent restrictions on the correspondence rights of those on death row or in maximum security, if such stringent restrictions exist.

6. While there have been few visitation cases, it would appear that the First Amendment's basic guarantee of free speech is equally applicable thereto. The "clear and present danger" test should be applied to any restrictions on rights of visitations.

7. If the "clear and present danger" test is deemed inapplicable in a particular situation, the equal protection of laws guarantee of the Fourteenth Amendment precludes the arbitrary application of a restriction.

Access to Media

As courts move away from the "hands off" doctrine, First Amendment protection of free speech and free expression is expanding to those incarcerated. This protection encompasses access to the media and applies both to receiving material from the media and disseminating material via the media. Any restrictions on these rights require that the prison administrator show proof of a clear and present danger. Principles to be followed are:

1. The equal protection clause of the Fourteenth Amendment precludes denial of inmate access to the media on arbitrary grounds such as race, religion, or national origin.

2. Before access can be denied to any periodical, publication, or broadcast, the administrator must establish that access thereto would result in a clear and present danger to institutional security.

3. The clear and present danger must be articulated and must be supported by more than mere speculation or opinion. Procedural due process requires that the inmate to whom the publication is addressed be afforded an opportunity to present evidence at the censorship hearing. The burden of establishing the necessity for the censorship is definitely on the institution.

4. There is also a separate right of the media to have access to the inmate. This is necessary because of the public's right to know, as protected by the First Amendment's guarantee of freedom of press. Before the media can be denied access to the inmate, the institution must establish that such access would create a clear and present danger to institutional security.

Grievances

The right to assemble and to petition the government for redress of grievances is guaranteed to the people by the First Amendment. The exercise of these rights by those in prison does present special problems due to security requirements. Nevertheless, these rights are not subject to complete administrative discretion. Principles to be followed are:

1. The First Amendment guarantees the freedom of speech and assembly, and these rights may not be curtailed unless there exists a clear and present danger that a certain exercise of the right will result in a breach of prison security or discipline.

2. Prison officials need not wait until a disturbance has occurred before acting, but may act on reasonable cause to dispel a conspiratorial endeavor against the security and discipline of the prison or the safety of inmates or staff.

3. Administrative grievance procedures probably will not have to be exhausted prior to filing suit in a federal court to allege a deprivation of constitutional rights. Nonetheless, administrative grievance procedures may be useful for other reasons. Use of the concept of maximum feasible participation may help to avert tense confrontations over matters of general inmate concern.

Self-Identification

This is a psychologically important area, though it has had little exposure in the courts and is probably not of constitutional dimension. Its importance lies in the inmate's need for self-identification. As much freedom as possible should probably be allowed for therapeutic reasons, so long as such allowances are neither disruptive to the institution nor unsanitary. Some principles to be followed are:

1. A general right to personal choice in grooming may exist, and if so, it may not be infringed upon by prison administrators without establishing that such interference is necessary to maintain some valid penal interest. (So far, the courts have been willing, upon very little showing of proof, to find the state interests of identification and sanitation sufficient to permit the infringement of the right.)

2. The right to attire oneself as one will is speculative and probably not a fundamental right, however, variations from the norm may be required by different ethnic or religious beliefs.

3. Differences in treatment because of religious beliefs are not permitted.

4. If permitted at all, religious medallions must be permitted to those of all faiths, but may be regulated to the extent that they may be put to violent, noncommunicative purposes.

Disciplinary Methods

This is a major area of institutional and inmate problems, and there are widespread cases based on the Fifth and Fourteenth Amendment requirements for due process and the Eighth Amendment proscription against cruel and unusual punishment. The first two examine the procedural mechanics under which an inmate is assigned punishment; the last one addresses the type of punishment itself. Principles to be followed are:

1. Disciplinary action may be taken against an inmate only when factual evidence demonstrates that a violation of a definite, previously promulgated rule that is reasonably related to legitimate state interests in maintaining discipline and security has taken place.
2. A severe punishment may be defined as any action that drastically changes the actual time to be served and/or the opportunities available to the inmate, and it may be imposed upon an inmate only with attendant procedural safeguards. Examples of such punishments are: punitive segregation, forfeiture of good time, actual removal from parole eligibility, transfer to a materially less advantageous classification (or institution), and perhaps withdrawal of rehabilitative treatments.
3. Procedural safeguards include: presentation of the charges to the inmate; allowance of time to prepare a defense; opportunity for a hearing before an impartial panel; opportunity to present a defense and/or to rebut the evidence proffered; representation by counsel or counsel substitute; decision based upon substantial evidence in the record; notice of the decision and the reasons thereof; if an appeal is allowed, review of no more than the decision on the record. The right of confrontation and cross-examination may be necessary.
4. Lesser punishments may be imposed without attendant procedural safeguards if the decision is made impartially, with an opportunity for the inmate to be heard.
5. Where an inmate is committed for a special purpose such as treatment, it may be that he cannot be incarcerated unless provisions are made for his receiving such treatment.
6. Good time may not be withheld for arbitrary and capricious reasons, or in conjunction with a classification that is unrelated to the purpose for allowing good time.
7. The imposition of an administrative penalty, as well as a criminal penalty for the same act, does not presently violate the double jeopardy clause.
8. Punishments disproportionate to the offense charged and proven and disparate from those imposed on others in similar situations are prohibited.

Punitive Isolation and Administrative Segregation

Though some institutions distinguish between the two, punitive isolation and administrative segregation are much the same. Both entail such substantive deprivation that they are regarded similarly by the courts, where they are frequently contested under the Eighth Amendment's ban on cruel and unusual punishment or the Fifth and Fourteenth Amendments' guarantee of due process. The courts have held that the inmate's right of access to the courts (via counsel, "writ writers," etc.) be retained while he is in isolation, and that he have the right to an attorney at his disciplinary hearing. In this context, the attorney's services must be provided free of charge, if the inmate is indigent. Principles to be followed are:

1. The length of detention in segregation, either punitive or administrative, must bear a reasonable relation to the purpose of such detention. Inordinately long periods of such incarceration may be deemed cruel and unusual punishment.
2. Any of the following factors constitute cruel and unusual punishment: unsanitary conditions, overcrowding, extremes of temperature, bread-and-water diet.
3. Additionally, courts are beginning to indicate concern over lack of opportunity for physical exercise, lack of opportunity for exercise of religion, and the effect of isolation from human contact. Courts will not approve of conditions in segregation which are more rigorous than demonstrably necessary for security.
4. Segregatees must be afforded ready access to courts and counsel.
5. Courts will not condone *any* form of corporal punishment.

Administrative Investigations and Interrogations

Under the Fourth Amendment, unreasonable search and seizure is prohibited in prison as it is on the outside. However, what is "unreasonable" is apt to be judged differently, since the needs and requirements of prison security might provide a compelling interest. Nevertheless, searches cannot be conducted as punishment or harassment, since such searches could not be justified as reasonable or supportive of a legitimate penal interest.

Fifth Amendment protection against self-incrimination is not as clear-cut, especially where the interrogation is purely internal. But *Miranda* warnings are already required if there is to be a criminal prosecution, and, even where there is no such prosecution, forthcoming legal decisions will probably protect the inmate, since his answers at an interrogation can so materially affect his condition of confinement. Principles to be followed are:

1. Inmates will be protected from unreasonable searches, but the courts consider the reasonableness of the search in the context of the prison environment.
2. The entire problem of investigations of inmates is subject to certain constitutional limitations, but the courts will not interfere with inspections necessarily exercised by prison administrators in order to maintain proper internal security.
3. Interrogation of inmates for the purposes of outside prosecution is subject to the same limitations that are placed on the police in interrogating an accused in the civilian environment.
4. Constitutional limitations are still not fully applied to interrogation of inmates for internal disciplinary hearings. However, in light of recent developments in other areas, one might expect certain limitations to be enforced because of the substantial effect these internal hearings can have on the life of the inmate.

Inmate Safety

Prison officials have the responsibility of protecting the lives and safety of inmates in their charge. Usually, inmate claims have been based on the negligence of the official, and actual injury had to be sustained before the case could be heard. There had to be proven a direct causal relationship between the jailer's actions and the inmate's injury and/or a clear reason for the official to have acted. Recently, cases have been brought under the Civil Rights Act, which does not require the inmate to wait until after he is injured to take action, and which does not require prior exhaustion of available state remedies. Principles to be followed are:

1. The courts recognize that prison administrators have the duty to protect the personal security of inmates in their custody. In those cases where breach of duty is evident, administrators may be held personally liable, or judicial intervention in the operation of the prison may be enacted.
2. Abuse of inmates by supervisory personnel has, in one case, resulted in a federal panel of observers being placed in the prison by a federal court to determine if this abuse was continuing.
3. Isolated incidents of abuse by either supervisory personnel or other inmates which might not result in judicial intervention when considered individually may constitute a judicially recognized constitutional deprivation when considered together.
4. Class actions by inmates seeking injunctive relief for all members of the class have been an effective method of obtaining court-enforced penal reform.
5. A prison administrator's duty to protect an inmate includes protecting an inmate from himself, e.g., suicide, self-mutilation, starvation diet.

6. The courts require that prison administration make only reasonable steps to maintain inmate safety. However, where the threat to safety is of constitutional proportion, fiscal considerations will not be considered an adequate excuse.

Facilities

While the concern of prison officials, inmates, and the public over the physical facilities of most penal institutions has not been considered of constitutional dimensions, facilities which do not meet minimum standards of sanitation will prompt judicial relief. Some conditions may even lead a court to conclude that confinement in such a substandard institution is a cruel and unusual punishment. Principles to be followed are:

1. Simple incarceration in a given facility may be deemed cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution, if the conditions of incarceration, taken as whole, are shocking to the conscience of contemporary humanity.
2. Ordinarily a combination of severe overcrowding, inadequate sanitation, and inadequate protection from assaults by other inmates or by guards will lead to this conclusion.
3. If incarceration in a given facility is deemed unconstitutional, the court may order its closing and the transfer or release of the inmates.
4. The lack of funds is not an acceptable excuse for unconstitutional conditions of incarceration.

Medical Treatment and Practices

Just as in other areas of prison administration, courts are beginning to demand more of prison officials and to require them to justify certain activities concerning the quality and availability of medical treatment for inmates. Increasing use of the Civil Rights Act is slowly eroding the "hands off" doctrine that has lingered in the medical area. Principles to be followed are:

1. The inmate has a right to reasonable medical treatment from the prison administration.
2. Negligent failure or deliberate refusal to give an inmate proper medical treatment can result in damages being assessed against the administrator in a state court action for tort.
3. Generally speaking, the negligent failure to give an inmate proper medical treatment will not result in damages being assessed against the administrator in a federal court action for deprivation of an inmate's civil rights. However, if the negligent failure to give an inmate proper treatment is gross, or the refusal is deliberate, the administrator may be held liable.

4. Deliberate or negligent failure to give an inmate proper treatment will not result in injunctive relief against the administrator by a federal court, unless the failure or refusal is so barbaric as to shock the conscience of the court, or is based on racial, religious, or some other invidious discrimination.

5. Disputes between a prison physician and an inmate over the adequacy of the treatment that he is receiving will not be entertained by a federal court.

6. Interference by prison administrators with the terms of treatment and prescriptions given by physicians will be enjoined by the federal courts.

7. The expense of a treatment or prescription cannot be a bar to its use.

8. An inmate probably has the right to consult his private physician and receive treatment prescribed by him.

9. An indigent inmate may be able to assert the right to a medical opinion other than that of the prison physician.

10. A refusal to be treated, based upon religious, personal, or political grounds, must be respected by prison administrators. However, at the point of death or of irrevocable damage to the inmate, as determined by the physicians, treatment must be imposed.

11. Rehabilitative treatments must be made available to all who need them, and may not be denied on the basis of race, religion, or status of confinement.

12. If an inmate is confined for the purpose of receiving treatment, he must receive it.

13. Penal benefits should not be granted on the basis of participation in experimental programs.

14. Prison administrators must retain responsibility over the propriety and execution of medical experiments that entail risk.

Administrative Liability

As the presumption in favor of administrative discretion has waned, suits against prison administrators have increased significantly. While administrators need not consult an attorney before making any administrative decision, complete understanding in this area of personal liability necessitates the use of competent legal services. Principles to be followed are:

1. Prison officials are liable in tort for negligence in much the same manner as any other person occupying a position of authority.

2. Liability for damages to an inmate that have been incurred at the hands of other inmates or lower-level personnel is predicated upon the administrator's knowledge of the dangerous nature of the other inmates or lower-level personnel and upon his ability to foresee the possibility of harm to the injured inmate.

3. Prison officials are liable in damages for deprivations of an inmate's civil rights under the Civil Rights Act of 1871, however, money damages are available only where the deprivation of those rights is willful or malicious. Good faith adherence to duty may be a defense in these actions.

Rehabilitation

The law governing the rehabilitation of prisoners is probably the most nebulous of the rights of the confined. As attitudes change toward acceptance of prisoner rehabilitation, the law governing such rehabilitation services can be expected to change rapidly. Principles to be followed are:

1. Although there is presently no statutory or constitutional right to rehabilitation, it is possible that there will be in the future.

2. The denial of access to rehabilitation programs cannot be arbitrary and capricious, and, in each case, the prison administrator should be prepared to back up his decision with facts.

3. At present, a prisoner, lawfully placed in segregation, may be denied access to rehabilitative services, however, administrators may be required to provide services to segregated inmates in the near future.

4. The courts already consider the presence or absence of rehabilitation services to be an important factor in determining whether conditions in a prison meet constitutional standards.

5. There presently exists no legal right to refuse rehabilitation, but there is sufficient constitutional basis on which to found the right.

6. Even if such a right were recognized, the officials would probably be able to enforce treatment specially designed for that inmate, if they could show the requisite interest and if the treatment would not be unreasonable, excessive, or inappropriate.

Classification and Work Assignment

Once an inmate has been convicted and confined–but not before–he may be forced to work. The type of work he does and where he does it depends on his classification and work assignment; hence, the latter are very important to him. They determine to a very large degree the conditions of confinement, the availability of privileges, and the decisions concerning his future, such as parole eligibility.

Since these things are so important to the inmate, they also are important to the prison administrator, who can use them as a means of control over the prison population.

Of course, if mishandled, such control can be highly coercive in nature; therefore, the administrator should take care to see that classification and work assignments are handled equitably. They are not intended as an arbitrary means of punishment. Principles to be followed are:

1. While courts have at times been willing to determine that administrators have the duty to classify inmates, the courts have generally avoided intervention in specific classification decisions, regarding it as an internal administrative matter.
2. Recently, a trend has developed in which there is a willingness on the part of the judiciary to examine the exercise of correctional discretion in this area. The courts have been particularly responsive to inmate requests to review decisions allegedly made arbitrarily and capriciously in violation of standards of due process.
3. Although not granting widespread relief, several courts have set minimum standards for decision-making procedures in classification and work assignment. Courts are most apt to intervene when such decisions result in punitive segregation or in the loss of good time.
4. Once an individual comes under prison regulations, courts have widely held that he may be punished for refusing to work. Forcing a prison inmate to work does not constitute "involuntary servitude" in violation of the Thirteenth Amendment, provided he has been convicted.

Transfers

Transfers are a very sensitive area from the standpoint of the inmate, since he is going from a familiar to an unfamiliar setting. Conditions there may be worse (or, at any rate, quite different); there is a natural resistance to change in most people. If, after the transfer takes place, the conditions *are* in fact found to be worse, then there is apt to be a negative reaction from the inmate; he may contest his having been transferred. While such challenges have usually not stood up in court, it behooves the prison administrator to see that transfers are handled fairly and with a minimum of disruption. Principles to be followed are:

1. Correctional administrators are generally given wide discretion to transfer inmates within or between prison systems. This authority is most often expressly stated in legislation, although courts have justified transfers as being within the general authority of the administrator when there is no specific statute relied upon.
2. Transfer statutes and the exercise of correctional discretion have been overwhelmingly presumed to be legitimate by the judiciary. (Note exceptions listed under Principle 7.)

3. Transfers have been challenged, albeit unsuccessfully, on the following constitutional grounds:

   Cruel and unusual punishment, in violation of the Eighth Amendment.

   Violation of the equal protection clause of the Fourteenth Amendment.

   Violation of the due process clause of the Fourteenth Amendment.

4. The most successful means of attack thus far is nonconstitutional in character. It is based upon the failure of correctional officials to adhere strictly to the procedures and requirements outlined in transfer statutes or in regulations.
5. There is a trend in this, as in other areas involving the exercise of correctional discretion, to examine decisions to ascertain their fairness in the light of the constitutionally imposed standards of due process.
6. Accordingly, correctional administrators would be well advised to:

   Document transfer decisions and procedures extensively.

   Develop a high standard of documentation so that under subsequent court scrutiny the record will reflect:

   Compliance with applicable status and regulations.

   A "fair" decision-making procedure.

   A rationale for the transfer that is penologically and constitutionally supportable.

7. While reluctant to intervene in transfers generally, courts will review and grant relief more readily in situations wherein:

   Transfer statutes or the exercise of discretion is based solely on race in an effort to maintain segregated correctional facilities.

   Juveniles are transferred to adult institutions.

   Prisoners under sentence are transferred to mental hospitals.

Compensation to the Victims of Crime

Mike Schubowsky, resident of Miami, Florida, blundered into a robbery in an all-night market in 1968. A shot fired by a clerk at the holdup man hit Schubowsky in the head, leaving him blind in one eye. Today he lives in pain, still paying the staggering medical bills. His story is tragic, but resembles the stories of thousands of other innocent victims of crime who suffer every year. With little or no personal insurance, they face bankruptcy as they struggle to pay astronomical medical bills.

For the criminal, the story is, of course, a different one. Once he commits a crime, the enforcement arm of the state swings out to apprehend him. The judiciary raises its head and casts a watchful eye over the constitutional rights of those suspected and accused of the crime. The eyes of the court remain on the defendant through trial, appeal, and incarceration behind prison walls to safeguard his rights as a citizen of this country.

The state and the criminal struggle through the courts until we finally say that justice has been done. But has it? In the popular crusade to protect the criminal, the victim has been crowded out from beneath the dome of justice. He is usually forgotten, left to suffer his loss while the state takes its revenge against the wrongdoer.

Can we long afford to continue to ignore the innocent victim? The rate of crime continues to rise and the number of victims rises with it. As Senator Mike Mansfield said in 1971:

> The point has been reached, for example, where we must give consideration to the victim of crime--to the one who suffers because of crime. For him society has failed miserably. Society has failed to protect its members adequately. To those who suffer, society has an obligation.[14]

Compensation programs are not unique to American society. The federal and state governments pay out billions of dollars each year through social security, workmen's compensation, Medicare, Medicaid, and various other programs designed to assist those in need. While these types of benefits are available throughout the country, only nine states have enacted legislation to aid those injured by criminal acts. However, the impetus for victim's compensation is growing as the need for it becomes more apparent.

This section does not attempt to solve the problem completely. Rather, it seeks to illustrate the many obstacles that must be overcome and to offer some thoughts and suggestions for a workable solution.

History of Victim's Compensation

Victim's compensation is by no means a new concept, having its beginnings in the early history of society. As early as 2270 B.C., the Code of Hammurabi in Ancient Babylon included provisions for compensation in certain cases.[15] The early Hebrews developed a compensation system that applied extensively to personal injuries. The victim was paid

for loss of time and was provided complete medical care.[16] In early Anglo-Saxon legal systems, as in other early societies where law was based largely upon kinship, the family was required to atone for crimes by its members.[17]

Gradually, wrongs committed by individuals came to be regarded as crimes against the state. As legal systems evolved, the state not only required retribution from the guilty criminal, but replaced the victim as recipient of that retribution.

As civil and criminal law divided, the plight of the victim became overshadowed by humanistic attitudes toward the criminal. By the laws of our society today, the accused is prosecuted for his crime and, if found guilty, punished by the state. The victim, whose cooperation is often essential to the prosecution process, is prohibited from inflicting any type of physical revenge. The victim's sole recourse within our legal system is to seek damages by instituting civil action against the guilty criminal. At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime.[18]

The Rising Rate of Crime

Between 1958 and 1967, violent crime increased for all ages by 65.7%. When the arrest rates are broken down into age groups, there are increases of 222.0% among the 10-14 year olds and 102.5% among the 15-17 year olds.[19]

In 1965, the economic impact of violent crimes against persons in the United States totaled in excess of $815,000,000. This figure includes out-of-pocket expenses, loss of earnings, and the expense of dependent families. The figure is a combination of the impact felt by homicides ($750,000,000) and assaults and other violent crimes ($65,000,000).[20]

To provide a statistical picture of this rising rate of crime and its consequential cost to the victims of crime, statistics compiled by the State of Florida are presented here. The Florida statistics were selected because they are the most recent and detailed compilations of this type of data.

TABLE 4

Chances of Being a Victim of a Violent or Property Crime Per 1,000 Florida Citizens

1965	20.1	per 1,000
1966	22.8	
1967	25.8	
1968	29.2	
1969	31.7	
1970	36.0	
1971	40.4	

The figures show that between 1965 and 1971, the possibility of the average individual being victimized by a violent crime has more than doubled. When we combine these statistics with the additional facts that police solutions to serious crimes have declined 32% since 1960[21] and that the rate of conviction for serious crimes is only 3%,[22] we cannot ignore the need to assist those who have been and will be the victims of crime in this country.

Who are the Victims?

In terms of our present system of socio-jurisprudence, we are prone to say that a criminal act is one committed against all of society. However, this is slight consolation to those individuals who have actually suffered physically or mentally from a criminal act.

Not only can we no longer ignore the actual individual suffering brought about by a criminal act, but we must acknowledge that the victim is most often an individual who is physically and financially unable to recover from the criminal act. The physically vulnerable–those very young, aged, female, or handicapped and, therefore, unable to provide self-help–are in fact the most likely victims.

A report from President Johnson's Commission on Law Enforcement, "The Challenge of Crime in a Free Society," is helpful in providing a clear profile of likely victims. A non-white is four times more likely than a white to be raped or robbed; he will suffer aggravated assault twice as many times as will a white; and his overall chances of being victimized are twice as great.[23]

On an income level basis, the analysis is even more revealing. The single highest category of victims per income level is found among those with an income of less than $3,000. The second highest category is in the $3,000 to $6,000 income level. The combined totals of these two lowest income brackets comprise a majority of all victims.[24]

This analysis provokes an unmistakable conclusion: those who are weakest and can least afford to be victimized by crime are those most likely to become the victims of criminal acts.

The Cost to the Victim

Further studies concerning the cost to the victims of certain crimes are even more indicative of the need for victim assistance. The statistics below, also from Florida, give projected estimates of the statewide costs of five serious crimes,[25] and they are a good indication of the problem that this country faces nationwide.

TABLE 5

Estimated Cost of Certain Crimes to Their Victims

Florida, 1970

Crime	Number	Cost/Care	Total Cost
Homicide	860	$37,200	$32,992,000
Rape	1,509	100	1,509,000
Aggravated Assault	18,819	180	3,387,420
Robbery	12,636	50	631,800
Burglary	106,036	16	1,696,576
			$39,216,796

The cost of homicide to the victim (in this case, his dependents) may be estimated by taking the present value of the victim's earning stream over the balance of his productive life. This value must be discounted for the fact that the individual may die naturally prior to his retirement. The estimate given above for criminal homicide is the mean present value of homicide victims from 1964-1970 in Pinellas County, Florida. In establishing this figure, it is assumed that the age, sex, race, and occupation of the victim is known; yearly income is assigned the victim accordingly. Further, a 5.5% discount rate and a retirement age of 65 are assumed. Children under 18 years old are assumed non-productive, but their future earning stream is netted against the support they would have received had they reached the age of 18 years. The estimates only include the income of the deceased had he lived and, thus, do not include any other value he may have had outside that of a provider. The mean present value of the victims in 1970 dollars is $37,200. Again, this estimate is based on what similar individuals (classed by age, sex, race, and occupation) earned per year, discounted at 5.5%.[26]

The cost of rape is even more difficult to measure than that of homicide. In addition to direct medical expenses, there is the earnings loss for time lost as a result of the attack. The greatest cost may be the psychological cost produced by such a traumatic experience. These costs, however, escape measurement and are not included.

The cost of aggravated assault to the victim is the cost of any medical care required plus the cost of lost time from earning activities. The mean cost per case of aggravated assault is computed to be $180. This estimate also assumes a lost time cost of $1.65/hour.[27]

For the crimes of robbery and burglary, the only cost to the victim would be any injuries he suffered (in the case of robbery) or property damaged (in the case of burglary).

In the above table are listed the number of reported crimes in each of these categories for Florida. If it is assumed that the cost estimates made in Pinellas County are applicable for the whole state, estimates can be made of the payments that would have been made if total compensation had been paid to each of the victims. These estimates do not represent the actual cost of compensation that would have been paid by the state, since for those individuals having life or medical insurance (private compensation) there is no justification for doubling their compensation. The state would only bear the difference between what the individual is insured for and what his actual losses were. In this sense, the values in the table are potential payments. Actual payment would be reduced by the amount of the victim's insurance. These figures represent the reported crime in that portion of

the state having 91.4% of the population with virtually all metropolitan areas reporting. If the non-reporting areas are like the reporting areas, then the potential, total 1970 cost for the entire state would have been approximately $43 million. This sum represents 30.8% of the expenditure for police protection in Florida during 1970.[28]

Should the State Bear the Loss?

There are many suggestions and opinions as to who should bear the victim's loss. The most feasible suggestions are: governmental liability, recovery of damages in civil actions, penal fines, restitution as a condition of probation or parole, prison wages as a source of compensation, personal insurance, loss borne by victim himself, or loss borne by victim's family.[29]

Many who fear the rising cost of government spending and subsequent tax increases suggest private insurance programs as a feasible alternative to state responsibility. However, private insurance programs which could provide adequate coverage are too expensive for those who need them most. The 40 million Americans who comprise the lowest income brackets, whose annual income provides a less than adequate standard of living, have been shown to be those most likely to be victimized. They are the people who need criminal insurance coverage the most. However, these people have inadequate insurance coverage or no insurance coverage at all.

This lack of adequate insurance coverage reflects a combination of problems. The increased crime rate in low income areas has driven the cost of insurance too high. Insurance companies cannot offer policies at low enough rates and are forced to place arbitrary limitations upon the amount of insurance issued to an individual or businessman in such high crime areas. In addition, many of those in the low income brackets are poorly educated and are either unaware of insurance programs or reluctant to make premium payments for which they see no immediate return. Thus, both the high cost and limited availability of private insurance preclude their adequacy as a form of compensation for victims of crime.

Restitution to the victim by the criminal who inflicted the injury would perhaps be the most equitable solution if it were feasible. For many reasons, however, it is not. In order for such a system to work, we would first have to apprehend the guilty criminal, which requires that the crime be reported and the criminal identified. Next, the criminal would have to be convicted of the crime that caused the injury. F.B.I. statistics indicate

that only 20% of all crimes reported are cleared by police arrests, and, of the 20% cleared, only 28% of those arrested for serious felonies (3% of the total number of offenders) are convicted of crimes.[30] Furthermore, were the criminal apprehended and convicted, there would still be the problem of his inability to provide the necessary restitution. Statistical evidence indicates that the person most likely to commit a crime is also the most likely to be uneducated and to have very little earning potential.

When we add to this the cost to the victim, in terms of loss of work due to appearances in court which would be required, it virtually rules out restitution by the offender as a viable alternative.

The argument for state liability is indeed a strong one. The state undertakes the protection of the public against crime. A crime represents a failure by the state to perform its function of protection and it should therefore compensate the victims.[31] As Indiana Attorney General Theodore L. Sendak puts it:

> The purpose of our system of criminal law is to minimize the quantity of human suffering by maintaining a framework of order and peace. The primary object of the law in this area is to forestall acts of violence or other aggression by which one person inflicts harm on another. To the extent that government fails to do this, the primary function of the state is neglected, and individual suffering is increased.[32]

By a contractual analysis, the citizen pays his taxes and obeys the laws of the state, so it is expected that government will provide adequate protection from criminal acts which damage the citizen.

This basic argument is strengthened by showing that when a criminal is apprehended, tried, and possibly convicted, the state invokes sanctions which interfere with the exercise of the victim's civil remedies and his chances of obtaining compensation.[33]

Efficiency provides, perhaps, an even stronger positive argument for compensation by the state. Under the present system, the state bears the cost of law enforcement, while victims bear the cost of crimes. Each is attempting to minimize its own cost independent of the cost to the other. This practice may lead to distortions in the allocation of resources, since there is strong economic support for an inverse relationship between the costs of enforcement and the cost of criminal activity.[34]

It would seem that a proper social goal would be to minimize the sum of these two costs. Such a result cannot be obtained by minimizing each separately since they

are inversely related. If both functions, enforcement costs and criminal costs, were the responsibility of the state, then the inverse relationship would be more easily recognized, thus leading to the eventual adoption of the goal to minimize their sum. Expenditures would then be made up to the point where the last dollar spent on enforcement would result in an equal reduction in the cost of criminal activity. It is at this point where the sum of the two costs are minimized, that is, where marginal social cost just equals marginal social benefit. As the situation currently stands, allocations to law enforcement are suboptimal since the state is not responsible for crime costs--only enforcement costs.

Victim compensation can lead to increased economic efficiency (minimizing the total social cost of crime) as well as increased equity. Efficiency will only be accomplished if the state is responsible for the total cost of crime rather than just enforcement costs. Equity will only be accomplished when the expected losses due to crime are equalized for everyone. Compensation of victims is one method of accomplishing both objectives at the same time.[35]

As mentioned, there are opponents of state responsibility,[36] but the majority of commentators see it as the most feasible solution, and those attempting to legislate in this field rely on it.

Scope of Compensation

Once we decide to compensate victims of crime, we must define the area of compensation. We must decide not only what crimes are compensable, but which victims will be included or excluded by the compensation scheme. At the same time, proof and measure of damages must be considered.

Most commentators conclude that the cost of compensation precludes compensation for any losses other than those to the person. Besides the cost factor, most agree that personal injuries involve much greater hardships to the victim and his family. The risk of fraud is significantly reduced when only personal injury is involved. The widespread use of property insurance is yet another factor indicating that only personal injuries should be compensated.[37]

As for which crimes should be compensable, some writers suggest a listing of compensable crimes which could be expanded or restricted as experience dictates,[38] while others suggest compensating for personal injury suffered as a result of any "violent"

crime.[39] Still other suggestions concentrate more on the degree of injury than its source. Perhaps the best solution is to define as a compensable crime, any willful act or omission which, if committed by an adult, would be punishable as a crime.[40]

Perhaps the question giving rise to most speculation is, who should be compensated? The difficulty arises in determining the degree of provocation that might lead to a violent crime. The answer to this question will probably lie with the type of system used, the compensation board or court having the responsibility to determine the degree of culpability on the part of the victim.

Some writers suggest that injuries inflicted within families should not be compensated. This is still open to dispute, however. It is recognized that in cases where the death of a victim incurs monetary loss to the survivors, they may seek restitution.

The amount of damages recoverable must also be considered. The consensus seems to favor basing compensation on actual loss, including out-of-pocket loss, loss through absence from work, pecuniary loss to the family if the victim has died, and any other pecuniary loss.[41] Compensation for pain and suffering may provide opportunity for too many fraudulent claims.

Most writers suggest setting ceilings on the amount of compensation that can be awarded. There are various suggestions for these limits; the British system limits compensation for loss of earnings to a figure twice the average industrial wage.[42] Any compensation from insurance should be subtracted from the amount to be compensated.

The Machinery of the Compensation System

The majority of commentators propose that the state or federal government, and perhaps both, should provide the needed compensation. This would probably be achieved through a fund financed from the general revenue.

Still, the question of the administration of such funds remains. There is a significant split between those who contend it should be administered through the court system and those who advocate a special administrative tribunal designed especially as a compensation commission.

Massachusetts has given jurisdiction to determine and award compensation to the state district courts.[43] There are valid reasons, however, that argue against this approach and point toward the use of an administrative tribunal. First, our courts are already too crowded. Second, it would seem better to relax the rules of evidence in this type of

case. Third, an administrative tribunal could rapidly gain expertise in this area. Finally, since it would be better to have periodic payments rather than one lump-sum payment in some cases, an administrative tribunal would be better equipped to supervise the payments.

Such specialized administrative agencies are in operation in ten jurisdictions.[45] They are small, usually composed of three members. The frequent occurrence of legal questions requires a background of legal education for one or more board members. The commission or board should have the power of subpoena and the responsibility of conducting a thorough investigation and hearing of each petition for assistance.[46]

While there are nine states operating systems for victim compensation, comparison of the standards and practices of the different programs is hampered by the lack of agency reports from some jurisdictions, incompatible categories among some existing reports, and varying emphases and details of others.[47]

Victim Ombudsman

Medical bills and loss of earnings can be expressed and repaid monetarily but are only part of a victim's actual suffering.

Social and psychological stresses, resulting from either direct exploitation of the media in the promotion of sensationalism or community rejection due to distorted information surrounding the incident, must also be considered. Especially relevant to victims of personal crimes is the community response to an injury. This response, frequently compounded by the media, only tends to perpetuate the injury.

Also important in this area is the tendency of many victims to be repeatedly involved in crimes. This "victim recidivism" often continues unchecked, creating situations which produce crime after crime. It is thus reasonable to assume that attention to the victim/offender relationship may be of preventative value. Records should be kept on victim recidivists. In many instances, victims need therapeutic services to alter their criminogenic behavior, and specific treatment modalities need to be developed for the type person who is inextricably a part of our serious crime pattern.

The idea behind a victim ombudsman is to provide communities with people who can assist victims by intervening in the crisis and acting as a community facilitator directing the victim to the community's resources.

A possible procedure that such an ombudsman might utilize would be:

Interview victims of felonious crimes, counseling them and providing guidance when necessary.

Advise victims as to existing community resources that are available and how to use such services.

Act as resource facilitator in cases where the victim is not able to help himself (due to emotional or physical reasons), making contact for him with service agencies, and arranging the needed transportation to such agencies.

Provide accurate information to the media about the victim, and act as a buffer between the victim and the media.

Accumulate data on the victim to ascertain the victim/offender relationship.

Serve as a preventative resource in the community by assisting other local agencies.

Provide correctional agencies with whatever information is necessary to facilitate the rehabilitation of the offender.

The concept of a victim ombudsman is not intended as a substitute for actual monetary compensation, rather, it is viewed as a complement to that system for providing the victim with every possible means of complete recovery.

Federal and State Legislation

On the federal level, the first attempt at victim compensation came in 1965 when former Senator Ralph Yarbrough (D. Texas) introduced the Criminal Injuries Compensation Act.[48] This legislation was unsuccessful, although reintroduced several times.

Senator John McClellan is perhaps the chief proponent of federal action in this area. While such legislation has been slow to gather needed support, Senator McClellan's Victims of Crime Act of 1972 was passed by the Senate in 1972.[49] This bill was designed to compensate the victims of violent federal crimes or their survivors, plus those who intervene to prevent such crimes. A specially appointed Victims Compensation Board will administer the program through the Department of Justice. Compensation up to $50,000 could be provided following a claim-filing procedure by a victim or his surviving dependents whose specific amounts of monetary loss were verified. Such claims could include medical expenses, physical and occupational therapy, loss of earnings, support payments for dependents, and even funeral expenses which resulted from the crime committed. Part B of the Victims of Crime Act would provide federal funding (up to 75%) for state programs of victim compensation to the extent that these programs are substantially comparable to the federal program.

The position of the administration toward this legislation was one of cautious inaction, expressed in the view that restitution or other forms of compensation be considered as a part of the study on the reform of the Federal Criminal Laws, and that the enactment of such legislation would be premature.

Senator McClellan and his supporters are tired of deferring consideration of victim compensation legislation and have reintroduced S. 750 in the 93rd Congress as the Victims of Crime Act of 1973.[50] They are not without opposition, however; opponents include Senators Hruska, Ervin, and Thurmond. Opponents argue that governmental responsibility is not completely acceptable, that only middle-class Americans will be eligible for compensation, that the injuries covered are insurable by private means, and that proponents grossly underestimate the actual cost of such a plan.

Three other bills providing some form of victim compensation have been introduced in the 93rd Congress and have been reported on favorably by the Senate Judiciary Committee. S. 13 would provide strengthened civil remedies to victims of racketeering activity prohibited by Title IX (Racketeer Influenced and Corrupt Organizations) of the Organized Crime Control Act of 1970 (18 U.S.C. Sections 1961-1968), and will provide a civil action for damages resulting from violations of Section 659 of Title 18 of the United States Code, which relates to crimes involving property in interstate or foreign commerce.[51]

S. 15 is the Public Safety Officer's Benefits Act of 1973.[52] It is intended to help assist the dependent survivors of a public safety officer when death results to that officer in the performance of his duty and the cause of death was a criminal act or an apparent criminal act. This act should pass this session, since it is substantially the same measure agreed to in the Senate-House Conference concerning a similar bill in the 92nd Congress, that failed when adjournment of the Congress did not allow time to take up the conference report.

S. 33 would establish a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and it would assist state and local governments to provide such insurance.[53]

On the state level, there are currently nine states that have adopted various victim compensation programs: California (1965), New York (1966), Hawaii (1967), Massachusetts (1967), Maryland (1968), Nevada (1969), New Jersey (1971), Rhode Island (1972), and

Alaska (1972). These programs vary in size and design. New York may have the most active system, having 2,000 claims in 1972, paying 750 and rejecting 1,250.

Proposed Alabama Legislation

Alabama is one of several states with proposed legislation for compensation of crime victims. A bill, prefiled S.B. 95 by Senator Richard Shelby of Tuscaloosa in April, 1973, is designed to create a state-supported court of compensation to victims of criminal acts.[54] If passed, this legislation would create a court, known as the "Crime Victims Compensation Court of Alabama," that would have the power to review the claims of victims of alleged criminal acts, to determine the validity of such claims, and to award compensation to such victims from a fund created by the state.

The Alabama bill is patterned somewhat after the New York compensation act, and, on the whole, appears to be a very adequate piece of legislation. Discussion of some of its strong and weak points follows:

Strong Points

1. A crime is defined so as to allow flexibility rather than be restricted to a certain definite list.
2. In order to guard against fraudulent claims, compensation is restricted either to innocent persons suffering physical injury as a direct result of a crime or to those who suffer monetarily from the death of such a victim.
3. Criteria for determining the amount of awards do not include pain and suffering.
4. Provisions require prompt notification of the criminal act to law enforcement authorities.
5. The administrative machinery allows maximum flexibility to court members. Each claim can be handled by one member, subject to petitioner's application for review by the court as a whole.
6. The court, when determining the amount of an award, may consider the victim's conduct that may have contributed to his injury.
7. Alternative means of payment, either lump-sum or periodic, are provided for.

Weak Points

1. This bill calls for a compensation court composed of seven lawyers and sets their compensation at $200 a day. The cost of funding such a program will necessarily be high and will be one of the principal drawbacks to the passage of such legislation. It is submitted here that a seven-member court is too large and that a three-member court is sufficient. While a seven-man court could process applications quicker than a three-man court, it is doubtful that this efficiency will justify the amount of money required, not only to compensate four more members but to provide an adequate staff for each. Furthermore, when sitting as a panel, a seven-member court will not necessarily reach a more equitable decision than a three-member court will.
2. This bill requires a minimum out-of-pocket loss of $1,000 or one and one-half months continuous earnings or support. Such a provision may hurt the very people it is intended to protect. A one month's loss of earnings may mean much more to a low-income family in a high-crime area than a $1,000 loss to a family in a high-income bracket. Minimum claim requirements also have a tendency to produce inflated claims.
3. The avoidance of double recovery has merits; however, it is questionable whether one should be penalized for holding private insurance.
4. This act sets no maximum award. While it remains to be seen whether this will prove to be disadvantageous, some programs do set a limit. New York, for instance, sets theirs at $15,000.

Conclusion

Rights of the confined is a field of the law that is in a state of tremendous expansion. We cannot specifically enumerate what these rights are at this time, for scores of civil rights suits, which will decide these questions, are just beginning to accumulate in the federal courts, and their full impact is yet to be felt. However, it can be said with assurance that, before the decade of the seventies has ended, the rights of the confined will no longer occupy an obscure position in the realm of the law.

The need for effective programs of compensation for innocent victims of crime grows each day as the crime rate spirals across the nation. More and more state legislators are beginning to propose legislation to provide some type of assistance for the victims of criminal acts. A comprehensive federal program may catalyze the numerous state programs into a standardized system before the end of this decade. The impetus for change is here, but actual change itself remains a function of the awareness of the problems to be solved.

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Appendix A

Abbreviated Table of Contents for all Volumes of the Master Plan

Abbreviated Table of Contents for all Volumes of Master Plan*

*As this is an abbreviated table of contents for the Master Plan, items of front and back matter that reappear in every volume have been omitted. For example, lists of contributors, lists of tables and figures for all the volumes, acknowledgements, bibliographies, etc., have been excluded.

Appendix B

Lists of Tables and Figures for all Volumes of the Master Plan

List of Tables for all Volumes of the Master Plan

VOLUME ONE

VOLUME TWO

List of Figures for all Volumes of the Master Plan

VOLUME ONE

VOLUME TWO

Appendix C

Jail Inspection Statute
and
Youth Services Bill

A BILL

TO BE ENTITLED

AN ACT

To provide for the inspection of the jails of Alabama; to provide for the establishment and enforcement of minimum standards; to prescribe the duties and powers of the Board of Corrections in relation to jail inspection; to provide for personal attention by the Board and Commissioner; to provide for the publishing of rules and regulations; to provide for the furnishing of information by the sheriffs of Alabama; to provide penalties for failure to give such information; to provide for the removal of prisoners; to provide for the return of prisoners upon restoration of a jail to acceptable conditions; to provide for the publishing of reports of jail conditions; to provide for the fumigating and cleansing of jails; to provide for janitorial service and bathing facilities; to compel prisoners to bathe; to provide for meals for prisoners; to provide for monthly reports from jails to the state agency; to provide for the appointment of special coroners; to provide for grand jury reports from the probate judge to the state agency; to provide for notice of any alterations in any Alabama jail; to provide for special sessions of the county commissioners; to provide penalties for violating article; to provide for size and separation of men and women in jails; to provide for expense of maintenance; to require attendance of deputy or watchman; to provide for inspection of mental hospitals upon request of the governor; to provide authority and effect of orders of the state agency; to provide for inspection of places outside the state upon request of the governor; to provide funds for the implementation of this statute.

Section 3. Functions and Duties. - The functions and duties of the department shall be: To manage, supervise and control all penal and correctional institutions, except as otherwise herein provided. To sell, distribute, process, or otherwise dispose of all farm products, livestock, or poultry raised, or articles, goods, or wares made or manufactured by use of labor or machinery under the control or supervision of this department, or any personal property not needed. To visit and inspect, or cause to be inspected, all county and city jails or places of adult detention, in every county and incorported town or city in this state, and to aid in securing the just, humane, and economic management of all such institutions; to require the erection of sanitary buildings for the accommodations of the inmates of such institutions, to investigate the management of all such institutions and the conduct and efficiency of the officers or persons charged with their management. To promulgate, publish and distribute to such institutions minimum standards, regarding hygiene, sanitation, cleanliness, healthfulness, feeding of prisoners, management and security of all prisons and jails, and to take any necessary steps to secure adherence to and the enforcement of said rules and regulations. To

supervise the employment of prisoners within or without the walls or enclosures of all state prisons and other state institutions housing persons convicted of crime except prisoners in mental hospitals and asylums to collect statistics and to make a detailed report to the governor annually or at such other time as the governor may require, concerning the condition of any or all prisons and jails and the inmates thereof. To cooperate with any court having criminal jurisdiction in the administration of any law with respect to parole or probation. To cooperate with the State Department of Public Welfare in the discharge of any duties and functions which may be delegated by law to such department with reference to persons committed to state penal institutions, and with reference to families or children of such persons who may be in need of public welfare services or assistance.

The department shall be charged with the duty and responsibility of cooperating with all boards, agencies, and institutions relating to the administration, operation, supervision, and control of other penal and correctional institutions of the state in the performance of any of the functions and duties delegated to them by law. The department shall specifically be charged with the duty and responsibility of cooperating with the Department of Public Welfare in the

discharge of its duties with reference to the families or children of prisoners who may be in need of public welfare services or assistance. If any man or woman committed to a prison or penitentiary is, at the time of commitment, the parent of a child or children under sixteen years of age, and such child or children need the care and protection of the state, it shall be the responsibility of the department when advised of such need to call it to the attention of the State Department of Public Welfare.

TITLE 45, SECTIONS 159-184

ARTICLE 4

INSPECTION OF JAILS

Section 159. Jails in Entire State Embraced in Article. The Board of Corrections shall see that all cities and counties in the State of Alabama provide safe and suitable jails or other adult detention facilities, and shall cause the same to be maintained in good sanitary condition at all times, properly ventilated, heated and lighted; structurally sound, fire resistant and kept in good repair. Furthermore, the board shall cause the cities and counties to keep their respective detention facilities in a clean and healthy condition, provided with water of safe quality and ample quantity and sewer disposal facilities in accordance with good sanitary standards, and provided with clean comfortable mattresses and blankets sufficient for the comfort of the prisoners, and to insure that food is prepared and served in a palatable and sanitary manner and according to good dietary practices and of a quality to maintain good health.

Section 160. Duties of State Agency. The board shall make or cause to be made at least twice yearly, or as often as it may deem necessary, an inspection of every county jail or adult detention facility, and every municipal jail in any

incorporated town or city in this state, and shall aid in securing the humane and economic management of all such institutions; and shall investigate the management of all such institutions and the conduct and efficiency of the officers or persons charged with their management. It shall in addition have the following powers and duties:

(1) To establish recommended procedures concerned with the safekeeping, health, and welfare of all prisoners committed to such jails and other local adult detention facilities;

(2) To prescribe minimum standards for the operation of jails and other local adult detention facilities;

(3) To have authority to recommend the rules and regulations for the control and discipline of the prisoners;

(4) To make such recommendations to the local sheriff and other city or county officials for the improvement of the jail conditions in such area;

(5) To promulgate other regulations as the board deems necessary to promote the welfare of the prisoners;

(6) To achieve the inspection and visitation of the city and county jails by establishment of special advisory committees or by such other means as it may determine to be necessary and proper.

The board shall further, within 30 days after inspection, make a detailed report to the governor of the number of inmates in each such jail or adult detention facility, their

condition as to health, the condition in which the buildings are kept, the arrangement for the sanitation of buildings and grounds, the cost of the management of such institutions, and of keeping the inmates, and whether the money appropriated for such purposes is properly expended thereof, and it shall at the same time give a copy of its report to the court of county commissioners, board of revenue, city council, or other board or body having control over the jail, or adult detention facility dealt with in such report, together with such recommendations for the betterment of the conditions thereof as it may deem necessary. After receipt of this report, the governing body shall consider the report at its next regular public meeting, and shall initiate the necessary corrective action in any case where the local confinement facility does not meet the specified minimum standards.

Section 161. Personal Attention by Board and Commissioner; Inspections. The board shall arrange for personal contact by its members, or their duly authorized agents, and by the commissioner, or his duly authorized agents, with all county and city jails, or places of adult detention, by visitations and by such other means as it may determine to be necessary and proper, so that it may be as nearly as is practicable continually in touch with and informed concerning the general condition and progress of the local places of detention and the general results of the management thereof

and the condition and welfare of the inmates and prisoners. Any member of the board, or the commissioner, or their duly authorized agents, shall be admitted to any and all parts of any such facilities or institutions at any time, for the purpose of inspecting and observing the physical condition thereof, the methods of management and operation thereof, the physical condition of the inmates, the care, treatment and discipline thereof. Such visitation and inspection at each county and city facility shall be at periods which shall not be fixed in advance.

Section 162. Enforcement of Minimum Standards. If an inspection under Section 161 discloses that a local adult detention facility does not meet the minimum standards established under Section 165, and if the Board considers that the conditions in such local adult detention facility jeopardize the safe custody, safety, health, or welfare of prisoners confined herein

(1) The board shall so notify the governing body and other officials of the local city or county government unit responsible for the local adult detention facility. A copy of this notice, together with a copy of the written report of the inspection required under Section 161, shall also be sent to the senior or presiding circuit judge for the circuit in which the local adult detention facility is located.

The governing body shall call a special public meeting to consider this report, and the inspection personnel from the board shall appear at this meeting to advise and consult with the governing body concerning appropriate corrective action.

(2) The governing body shall initiate appropriate corrective action within 30 days or may voluntarily close the local adult detention facility. Such corrective action shall be completed within a reasonable period of time.

(3) If the governing body fails to initiate corrective action within 30 days after receipt of the report of inspection, or fails to correct the disclosed conditions within a reasonable period of time, the Board may order that the local adult detention facility be closed. The governing body, the senior or presiding circuit court judge, and other responsible local officials shall be notified by registered mail of the Board's order closing a local adult detention facility. Such an order shall become effective immediately.

(4) A governing body shall have the right to appeal to the senior or presiding circuit court judge from an order of the Board which requires that a local adult detention facility be closed. Notice of intention to appeal shall be given by registered mail to the Board and to the senior or presiding circuit court judge within 15 days after receipt

of the Board's order. The right of appeal shall be deemed waived if notice is not given as herein provided.

(5) The appeal hearing shall be before the senior or presiding circuit court judge who shall cause proper and sufficient notice of the date, time, and place of the appeal hearing to be given to all interested parties including the board, the governing body, and other local officials. The hearing shall be conducted by the judge without a jury, consistent with principles of due process of law and fundamental fairness. The Board, members of the governing body, and other responsible local officials, shall have the right to be present at the appeal hearing to present evidence which the court deems appropriate. The issue shall be whether the local adult detention facility has met the required minimum standards on the date of the last inspection. The court may affirm, reverse, or modify the board's order.

Section 163. Sheriffs, etc., to Furnish Information on Request. For the purpose of ascertaining the condition of such institutions and their inmates, and in making the reports required to be made under this article, and its recommendations for the improvement of the condition of the institutions, the department may call upon the sheriff or other keeper of the jails, or commissioners' courts or

boards of revenue, or the city council, or other governing board or body, for information upon all such matters as it is required to investigate and report upon, and may also summon any witness or witnesses and may administer oath to them and examine them touching all such matters.

Section 164. Penalty for Failure to Give Information. Any sheriff or other keeper of jails or adult detention facilities, or members of commissioners' courts or boards of revenue, or city council, who shall wilfully refuse or fail to give the Director the information called for by it, and such officer or other person who, when summoned to testify, as prescribed in the foregoing section, shall wilfully refuse or fail to attend and testify, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Section 165. Rules and Regulations, Minimum Standards Formulated.

(a) The Board of Corrections shall develop and

publish new minimum standards for the operation of local, city and county confinement facilities. In the development of these minimum standards, the Board shall consult with and seek the advice of the executive heads of appropriate state departments (or their designated representatives), including the State Board of Health, and the Department of Mental Health. These minimum standards shall be approved by the governor and shall become effective only upon such approval. These minimum standards shall become effective not later than sixty days after the governor's approval and shall have the force and effect of law.

(b) These minimum standards shall be developed with a view to providing secure custody of prisoners, and to protecting their health, comfort, and welfare. Minimum standards shall include: (1) Physical facilities which are secure and safe; (2) Jail design; (3) Adequacy of space per prisoner; (4) Heat, light and ventilation; (5) Supervision of prisoners; (6) Personal hygiene and comfort of prisoners; (7) Medical care for prisoners; (8) Sanitation; (9) Food allowances, food preparation, and food handling; (10) Such other provisions as may be necessary for the safekeeping, privacy, care, protection, and welfare of prisoners.

Section 166. Removal of Prisoners. In the event such instructions prescribed in the foregoing sections are not

carried out, and in the event the unsanitary or insecure conditions or overcrowding of prisoners, in the opinion of the department, warrant it, the department may order any or all persons confined in such jail, immediately transferred to a jail, of some other county, to be designated. In the event of the condemnation of any jail under this section in which are confined more than one hundred prisoners, the department may designate the Alabama state penitentiary as the most suitable place for removal of said prisoners and such removal shall be made by the sheriff of the county from which they are ordered to be removed, and the expense of the removal of the prisoners and the maintenance of the removed prisoners is to be borne by the county, town or city, from which said prisoners are removed, except the feeding of state and county prisoners.

Section 167. Return of Prisoners. Upon the restoration of any jail, to a proper sanitary or safe condition, the department shall be notified in writing by the presiding officer of the court of county commissioners, board of revenue, or city council, or other governing board or body, whereupon the department shall issue a written order for the return of said prisoners, and they shall be returned at the expense of the county, or city or town, from which they were originally removed.

Section 168. Penalty For Refusal to Obey. If any sheriff, or member of a commissioners' court or board of revenue, or chief of police, marshal, or member of a city council, or other governing board or body, willfully fail or refuse without good excuse, to obey such orders, such person or persons shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than five hundred dollars.

Section 169. Reports Published. The court of county commissioners, board of revenue, or city council, or other governing board or body, shall cause the reports and recommendations of the department upon the jail, in their respective counties, towns or cities, to be published not later than thirty days after receipt of a copy of such reports and recommendations, in some newspaper published in said county, and shall send a copy of such newspaper to the department; and the probate judge shall lay such reports and recommendations before the grand jury of such county at the next meeting of such grand jury after receipt of a copy of such reports and recommendations. The cost of the publication of such reports and recommendations shall be paid out of the funds of the county in which is located the institution dealt with in such reports if the institution be a county institution, and out of the funds of the

town or city if the institution be a town or city institution, upon the order of the court of county commissioners or board of revenue or the city council or other governing board or body, of such counties, towns or cities.

Section 170. Fumigating and Cleansing Jails. The court of county commissioners, board of revenue, city council, or other governing board or body of each county, city or town, during the first week of April and October of each year shall thoroughly fumigate and cleanse the jails of their respective counties, cities, or towns, after which they shall be painted inside, including all cells and metal work, with two coats of white paint, unless otherwise specified by the department, and the judge of probate or the presiding officer of the board or governing body shall notify the department immediately after compliance with this section.

Section 171. Janitor Service and Bathing Facilities. The court of county commissioners, board of revenue, or city council, shall provide adequate janitor service for, and shall enforce cleanliness in their respective jails; shall provide bathing facilities separate for males and females, soap and towels, hot and cold water, clean and sufficient bedding, and with clean clothes when the prisoners are not able to provide them.

Section 172. Prisoners Compelled to Bathe. The sheriff, chief of police, town marshal, or other keepers of jails, shall enforce cleanliness among the prisoners, shall compel them to bathe their persons when entering jail, and at least once each week while confined therein.

Section 173. Jails, etc., to Be Kept Clean. The sheriff, chief of police, town marshal, or other keepers of jails, shall keep their respective jails in a clean and sanitary condition; shall use every means and effort to prevent spitting on the floors and the walls of the jails, and shall exercise every precaution to prevent the spread of disease among the inmates.

Section 174. Fumigation When Contagious Disease in Jails. Any apartment of any jail in which any person shall have been confined affected with any infectious, contagious or communicable disease shall be fumigated immediately upon the removal of such person, the fumigation to be done under the direction of the sheriff, chief of police or town marshal, in their respective places, and the expense thereof to be paid out of the funds of the county if the institution be a county institution, and of the town or city if the institution be a town or city institution.

Section 175. Duty of Sheriff, etc., as to Food. The sheriff, the chief of police or town marshal shall see that the food for the inmates of the jail, respectively, is nutritious, clean, wholesome and of sufficient quantity and variety, and shall have all kitchens where food is prepared for the inmates adequately screened against flies.

Section 176. Report to Department Monthly. The sheriff of each county in this state, and the chief of police or town marshal, shall mail to the department, not later than the tenth of each month, a full and complete statement for the previous month of the number of prisoners in jail, designating them by races and sex, stating their physical condition as to health, the number of times and dates the jail or prison visited by the county health officer, and by the city health officer, and such other detailed information as may be required by the department. For this purpose necessary blanks will be furnished by the department.

Section 177. Special Coroner, Appointment of. In the event the department needs the service of a coroner, and there be not a coroner in the county, the judge of probate shall appoint a special coroner at the request of the department.

Section 178. Probate Judge to Furnish Grand Jury Report. The judge of probate of each county in this state shall furnish to the department a copy of each grand jury report of their respective counties as soon as such report shall have been published.

Section 179. Department Notified as to Alteration, etc. The courts of county commissioners or boards of revenue, or the city councils, or other governing board or body, shall notify the department in writing at least fifteen days beforehand of any contemplated action by them with reference to the building of a new jail, or adult detention facility, or of any additions, alterations, or improvements thereto, when the cost is to exceed two hundred dollars, and the plans and specifications of all such contemplated work shall be submitted to the department for approval.

Section 180. Special Session of County Commissioners. Whenever, in the judgment of the department, there is a necessity, the Director may order the judge of probate of any county to call a special session of the court of county commissioners or board of revenue, and their action at such special session upon the subject matter for which such special session is called shall be legal.

Section 181. Penalty for Violating Article. Any member of the court of county commissioners or board of revenue, sheriff or other keeper of any jail, or the mayor, chief of police or marshal, or member of a city council or other governing board or body, who violates any of the provisions of this article, and for which no specific penalty is provided, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less then twenty-five nor more than one hundred dollars, or imprisoned in the county jail for thirty days, or both.

Section 182. Size, etc., of Jail, etc. Each county or city jail must be of sufficient size and strength to contain and keep securely the prisoners confined therein; and must contain at least two separate apartments, one for men, and one for women. It shall be fireproof, properly ventilated, sufficiently lighted, by day and night, adequately heated, containing adequate sanitary plumbing, and sewerage connections, including separate bath facilities for males and females.

Section 183. Expense of Maintenance, etc., How Paid. The expense incident to the construction, maintenance, sanitation, healthfulness and hygiene of each county jail in this state shall be paid out of the funds of the county in which such institution is located and of the town or city, if the institution be a town or city institution.

Section 184. Deputy or Watchman Must Be in Attendance. Prisoners shall not be confined in any jail in this state when such jail is not provided with a deputy, watchman or attendant, whose duty it shall be to watch the jail at night for the prevention of escapes, and fire, and to aid in case of sickness among the prisoners, and who shall have access to the jail and to the prisoners. If the department is satisfied, after inspection, that the construction and management of a jail is such as to render a night watchman unnecessary, it may be written order to the sheriff to suspend the appointment of said watchman, this order to be subject to revocation at the discretion of the department. The sheriff, in case of a county jail, or the proper governing authority, in case of a municipal jail, shall appoint, direct and control said deputy, watchman or guard, and the court of county commissioners or board of revenue, or the proper municipal governing authority, as the case may be, shall fix a reasonable salary and the same shall be paid out of the funds of the county or of the municipality, if it be a town or city jail, in which the jail is located.

Section 185. Inspection of Mental Hospitals, Convict Camps, Jails, etc. Upon the written order of the governor, the department shall cause to be inspected the mental hospitals of the state by whatsoever name they may be known, state, county and municipal convict camps, the penintentiary, prisons, and any and all state institutions of whatsoever

kind and nature, and shall visit any and all places designated by the governor.

Section 186. Authority and Effect of Orders of Department. The same powers and authority are conferred upon the department with reference to such inspections as are, or may be, conferred upon it by law with respect to county jails, and its orders following such inspection, shall be final and obeyed by those in authority at such institutions, subject only to modification or revocation by the governor.

Section 187. Inspection of Places Outside the State Provided For. The governor may direct the department to cause to be visited any place or places outside the state, whenever, in the opinion of the governor, it is necessary, in order that the interests of the state may be safeguarded, furthered or enhanced.

Section 187 (1). Appropriation. There is hereby appropriated out of the General Fund in the State Treasury not otherwise appropriated for the biennium beginning October 1, 1973, and ending September 30, 1975, the sum of $83,500 for the implementation of this statute to be paid to the Department of Corrections for the first year of the said biennium, the sum of $73,500 from the General Fund for the implementation of this statute to the Department of Corrections for the second year of the biennium. Such sums shall be budgeted and allocated as prescribed by law.

Section 187 (2). Severability. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 187 (3). Repealer. The following Acts are hereby expressly repealed on the date this Act becomes effective: Chapter 1, Section 3 of Title 45 of the Code of Alabama of 1940, as amended; Chapter 4, Sections 159-188, inclusive of Title 45 of the Code of Alabama of 1940, as amended. All other laws or parts of laws in conflict with the provisions of this Act are hereby repealed and shall become void and inoperative on the effective date of this Act.

Section 187 (4). Effective Date. This Act shall become effective immediately upon its approval by the Governor, or upon its otherwise becoming law.

Each Probate Judge, Sheriff, and the Clerk and Register of the Circuit Court is required by law to preserve this slip or pamphlet in a book kept in his office until the Act is published in permanent form.

ALABAMA LAW

(Regular Session, 1973)

Act No. 816 H. 756—Hill, Lyons, Turner, Flippo, Hearn, Hale, Jones (F)

AN ACT

To provide for the creation of a department of the state to be known as the Department of Youth Services; to prescribe the powers and duties of the said department; to provide for the creation of the Alabama Youth Services board; to provide for the selection of the members of the said board; to prescribe the powers and duties of the board; to provide for the appointment of a State Youth Services Director, and to prescribe the powers, duties, and qualifications of the said Director; to transfer control of the state training schools to the department; to provide court review of the decisions of the said board; to provide for reports to the Governor; to provide for the submission of an annual budget; to require competitive bidding; to authorize medical, psychiatric, surgical, and dental care for the youth of the state; to provide for the treatment, education, and disposition of youth in the custody of the said department of the said board; and to prescribe penalties for the violation of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Purpose. The purpose of this Act is to promote and safeguard the social well-being and general welfare of the youth of the state through a comprehensive and coordinated program of public services for the prevention of juvenile delinquency and the rehabilitation of delinquent youth. This State program shall provide the following: social and educational services and facilities for any youth whom a juvenile judge deems in need of such state services; the establishment of standards for social and educational services and facilities for such youth; cooperation with public and voluntary agencies, organizations, and citizen groups in the development and coordination of programs and activities directed toward the prevention, control and treatment of delinquency; the promotion and improvement of community conditions, programs, and resources to aid parents in discharging their responsibilities for the care, development and well-being of their children; and the promotion of improved communications between the public and voluntary agencies and bodies of this state responsible for said youth, and the juvenile courts of this state.

Section 2. Definitions. The following terms, wherever used in this Act, shall have the following respective meanings unless the content thereof clearly indicates otherwise:

(a) "Aftercare" means a youth is released by the Department from a state training school operated by the Department wherein the Department releases legal custody, supervision, and the right to return until further order of the juvenile court

Aftercare means a legal status created by order of the committing court at the time of release from a state training school whereby a youth is permitted to return to the community subject to supervision by the court or any agency designated by the court and subject to return to the court at any time during the aftercare period.

(b) "Board" means the Alabama Youth Services Board.

(c) "Board member" means any member of the Alabama Youth Services Board.

(d) "Committed youth" means any youth committed to the legal custody of the department upon a finding of delinquency and a finding by a juvenile judge that said youth is in need of care/treatment in a state training school; provided that it shall not include any youth so committed upon a finding of neglect or dependency.

(e) "Department" means the Department of Youth Services established herein.

(f) "Detention" or "detention care" means temporary care in a detention facility.

(g) "Detention facility" means a facility, other than a jail, affording secure custody for children and youths as licensed by the department.

(h) "Director" means the Alabama Youth Services Director.

(i) "Discharge" means a complete release of a committed youth by the department without further supervision.

(j) "Foster care facility" or "group home" means any place providing care for one or more youths alleged or adjudicated delinquent, exclusive of the state training schools.

(k) "Guardian" means any parent who has legal custody of the person or property of a youth or a person or agency who has custody of the person or property of the said youth pursuant to a court order.

(l) "Juvenile court" means any court established pursuant to the provisions of Title 13 of the Code of Alabama of 1940, as amended, and including any court established by local act of the Legislature of Alabama which exercises juvenile court functions in any county in the state.

(m) "Juvenile Court Act" or "Juvenile Code" means Chapter 7 of Title 13 of the Code of Alabama of 1940, as amended.

(n) "Legal custody" means a legal status created by a court order embodying the following rights and responsibilities: the right to have physical possession of the youth; the right and the duty to protect, train and discipline him; the responsibility to provide him with food, clothing, shelter, education, and medical, dental and hospital care; and the right to determine where and with whom he shall reside.

(o) "Maintenance" means all general expenses for care such as food, clothing, shelter, education, and medical, dental and hospital care, transportation, and other necessary or incidental expenses or money payments therefor.

(p) "Probation" means a legal status created by a court order following adjudication in a delinquency case whereby a youth is permitted to remain in the community, subject to supervision by the court or any agency designated by the court and subject to return to the court at any time during the probation period.

(q) "Probation services" means: (1) the making of investigations, reports, and recommendations to the court as directed by the State Code; (2) the receiving and examining of complaints and charges of delinquency for the purpose of considering the commencement of proceedings under the State Code; (3) the supervision of a child placed on probation by order of the court; (4) the supervision of a child placed on aftercare by order of the court; (5) the making of appropriate referrals to other private or public agencies of the community, if their assistance appears to be needed or desirable; (6) the taking into custody and detaining of a youth who is under the supervision and care of the department as a delinquent where there is reasonable cause to believe that the youth's health, or safety, or that of another is in imminent danger, or that he may abscond or be moved from the jurisdiction of the court, or when ordered by the court pursuant to the juvenile code; and (7) the performing of all other functions designated by the juvenile code or by order of the court pursuant thereto.

(r) "State" means the State of Alabama.

(s) "Training school" means an institution operated by the Department for the rehabilitation of delinquent youth.

(t) "Youth" means any person who has not reached his sixteenth birthday for whom a petition has been filed alleging delinquency based on actions the said person is alleged to have committed before his sixteenth birthday, or as provided by law relating to local or state jurisdiction, and for the purpose of continuing to provide service only, any person under the age of twenty-one who is already on probation or in aftercare or in the legal custody of the department.

(u) "Youth Services" means the duties and functions which are authorized or required by this Act to be provided by the department with respect to the establishment and enforcement of standards of treatment for youths.

Section 3. Creation and Composition of Department. There is hereby created and established a department of the state to be known as the Department of Youth Services. The department shall be composed of the board, the director, and such divisions and administrative sections as the board may establish. The principal offices of the department shall be located at the state capital. The department shall have the powers and duties and shall perform the functions hereinafter prescribed.

Section 4. Creation of Board. There is hereby created and established the Alabama Youth Services Board. The principal offices of the board shall be located at the state capital. The board shall have the powers and duties and shall perform the functions hereinafter described.

Section 5. Members, Officers and Proceedings of the Board. The Governor shall be the ex-officio chairman of the board. The board shall be composed of sixteen (16) voting members, five of whom shall be the Commissioner of the State Department of Pensions and Security, the State Superintendent of Education, the Commissioner of the State Department of Mental Health, and the State Health Officer, and the Director of the Alabama Law Enforcement Planning Agency, each of whom may delegate his/her vote to any agent/employee of the said agencies by written notification ten days prior to a meeting of the board. The chairman, vice-chairman and secretary of the board shall be elected by the members thereof. The chairman shall vote only in the case of a tie. The Speaker of the Alabama House of Representatives shall appoint one

member to be selected from the membership of said House who has demonstrated some interest in the field of juvenile delinquency prevention and treatment, and the presiding officer of the Alabama Senate shall appoint one member to be selected from the membership of said Senate who has demonstrated some interest in the field of juvenile delinquency prevention and interest. The president of the Alabama Council of Juvenile Court Judges shall appoint one member to be selected from the membership of said council. The chairman of the Alabama Chief Probation Officers Association shall appoint one member to be selected from the membership of said Association. The Governor shall appoint the remaining seven (7) members of the Board, as representatives of the public, one such member to be selected from each of the congressional districts of the state as they existed on January 19, 1972.

The term of each member representative of the public appointed by the Governor shall be determined by lot at the first meeting of the board following the effective date of this Act. Two of such members shall serve five-year terms, two shall serve two year terms, and one each shall serve three, four, and six year terms, respectively. Thereafter the term of any such member representative of the public shall be six years. The terms of office of the appointed legislative members shall be for the duration of their respective elected terms of office to the Senate or House of Representatives. The term of office of the member representative of the Alabama Council of Juvenile Court Judges and the member representative of the Chief Probation Officers Association shall be for six years. If any appointed legislative member should die, cease to be a member of the Legislature or resign from the board, such vacancy shall be filled by the Speaker of the House or presiding officer of the Senate, such member to be selected from the respective legislative body. If the appointed juvenile court judge should die, cease to be a juvenile court judge or resign from the board, the President of the Alabama Council of Juvenile Court Judges shall appoint a successor for the unexpired term of such a member. If the appointed chief probation officer should die, cease to be a probation officer or resign from the board, the Chairman of the Alabama Chief Probation Officers Association shall appoint a successor for the unexpired term of such a member. If a vacancy occurs in the appointed membership, upon certification thereof by the board, the Governor shall appoint a person to fill the vacancy for the unexpired term of said member. Any nine (9) members of the board shall constitute a quorum thereof for the transaction of business. If any person holding any state office named in this section should cease to hold such office by reason of death, resignation, expiration of term of office, or for any other reason, then his successor in office shall take his place as a member of the board. No member of the board shall draw any salary in addition to that now authorized by law for any service he may render or for any deed he may perform in connection with the board. The member representative of the Alabama Council of Juvenile Court Judges, the member representative of the Alabama Chief Probation Officers Association and each member representative of the public shall receive twenty-five dollars ($25.00) per day and mileage expense at the state rate of mileage reimbursement while attending meetings of the board or while engaged in other official duties at the request of the board. The legislative members shall receive their regular legislative compensation and mileage when actively engaged in board business. All proceedings of the board shall be reduced to writing by the secretary of the board, shall be signed by at least six members of the board, and shall be recorded in a substantially bound book and filed in the office of the secretary who shall be the custodian of the records of the board. Copies of such proceedings, when certified by the secretary of the board shall be received in all courts as prima facie evidence of the matters and things therein set forth.

Section 6. Powers of the Board. The board shall have the following powers: (a) to appoint the director and to fix his salary; (b) to institute and defend legal proceedings in any court of competent jurisdiction and proper venue; (c) to contract with any private person, organization, or entity or any combination thereof capable of contracting, if it finds such act to be in the public interest.

Section 7. Transfer of Control of State Training Schools. As soon as practicable after the board takes office, it shall establish a plan for the transfer of control of the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School from their respective boards of trustees. Such transfer shall be effective as soon as practicable and feasible and not later than October 1, 1975. Upon completion of the transfer of such control, the Board of Trustees of the Alabama Boys Industrial School, the Board of Trustees of the Alabama Training School for Girls, and the Board of Trustees of the Alabama Industrial School shall be abolished. All duties, responsibilities, authority, power, assets, appropriations, liabilities, contractual rights and obliga-

tions, and property rights, whether accruing or vesting in the aforementioned institutions before or after the effective date of this Act, shall be vested in the board on the effective date of transfer of functions; provided, however, that it is the intention of the Legislature that out of moneys available to the board the first priority shall be given to insuring that the services provided by and in the financial resources available to the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School shall be maintained at least at the present level. On the date of transfer of responsibility provided for herein, all youths in the custody of or committed to the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School, shall be transferred to the legal custody of the department. The department shall establish separate advisory boards for the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School. Any regulation of the aforementioned institutions shall be made a regulation of the department on the date of transfer of responsibility and shall continue in force until repealed or amended by the board. Employees of the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School holding positions on the date of transfer shall become employees of the department on the date of such transfer. Such employees of the above-mentioned institutions shall continue to enjoy employment conditions, including salary, housing, and office arrangements, at a level no less than those enjoyed prior to transfer to the department. Any reference to any one or more of the said institutions contained in the Code of Alabama of 1940, as amended, or in any act of the Legislature of Alabama, shall, unless the context clearly requires a different meaning, be construed to mean the department.

Section 8. Provisions for Juvenile Court Probation Officers. The Department shall provide salary subsidies for probation services to all Alabama counties. The Department shall expend funds to match at least half of the probation officers' salaries according to the following formula. At a minimum, each county will receive funding for one juvenile probation officer per 20,000 population or fraction thereof. The Department shall use the last federal decennial census for these determinations. The various counties shall provide the necessary matching funds for these subsidies. If there are counties of under 30,000 population which do not provide matching funds, the Department is authorized at its discretion to fully subsidize one probation officer per such county.

The Department shall establish and promulgate reasonable minimum standards for certification of juvenile probation officers. Any person serving as a juvenile probation officer as of the date of passage of this Act shall be considered to meet the requirements of the Department. The existing level of state support for county juvenile probation officers employed by counties as of the date of passage of this Act shall not be reduced. Any funds heretofore or hereafter appropriated for the purpose of carrying out the provisions of Act No. 880 of the 1965 Regular Session are hereby transferred to the Department hereby created; and all such funds shall be used by each Department for providing matching funds for salaries of juvenile probation officers. All funds expended by the Department will be contingent upon the recipients of said funds meeting the standards established by the Department.

The responsibilities of the Department of Pensions and Security exercised pursuant to law relating to probation, parole, and foster care services to a minor who is an adjudicated delinquent shall cease effective January 1, 1976; it being the intention of the Legislature that these functions shall be performed by the Department of Youth Services. Any responsibilities of the Department of Pensions and Security relating to probation services to a court when a petition alleging delinquency has been filed, shall cease effective January 1, 1976. Provided, however, that the authority of the Department of Pensions and Security to continue to give services and provide foster care for a child who is dependent, neglected, or under insufficient guardianship shall continue. Provided further that the Department of Pensions and Security, if appointed by a court of competent jurisdiction, shall perform the functions of a probation officer of the court in cases involving children who are dependent, neglected, under insufficient guardianship, and otherwise handicapped children.

Section 9. Provision for Standards, Licensing, Inspection, Consultation, Training and Subsidies to Counties.

The Department is authorized and directed to establish and promulgate reasonable minimum standards for the construction and operation of detention facilities, programs for the prevention and correction of youth delinquency, in service training for probation officers, consultation from local officials and subsidies to local delinquency projects. The said standards shall include, but not be limited to, reasonable minimum standards for detention facilities, foster care facilities, group homes, correctional institutions, and aftercare services.

On or after January 1, 1974, no county or city in the state or any public or private agency, group, corporation, partnership, or individual shall establish, maintain, or operate any detention facility or any foster care facility for youths found delinquent by a juvenile court, without a license from the Department. A license shall be required on an annual basis, or as determined by the Department. The Department shall revoke the license of any city, county, or public or private agency, group, corporation, or individual conducting, operating, or acting as a detention facility, or foster care facility caring for children and youths alleged or adjudged to be delinquent, that fails to meet the standards prescribed by the Department. The Department is authorized to visit and inspect any public or voluntary detention facility, foster care facility or group home as it deems necessary.

The Department is authorized to develop standards for probation and aftercare services. The Department shall provide consultation upon request by the juvenile court judges and staffs of the county administered programs as to the standards for probation and aftercare services, and conduct in-service training to aid in the development of services which are in accord with the standards.

Section 10. Provision for Youth Detention Facilities and Subsidies.

The functions and facilities related to youth detention facilities, licensed by the Department or previously licensed by the State Department of Pensions and Security, of each county or counties acting together may, upon the express written agreement of each such county or such counties acting together, and the Department, receive funds from the Department according to formulae for disbursement established by the Department and in accordance with the terms of written agreements between each such county, or such counties acting together, and the Department relative to detention care. Any county, or counties acting together, shall retain control of such detention functions and detention facilities, and shall continue to have financial responsibility for their operation, unless otherwise provided for by the Department. All detention programs and facilities shall maintain standards prescribed by the Department. All funds expended by the Department will be contingent upon the recipients of said funds meeting the standards established by the Department.

Section 11. The State Youth Services Director; Duties, Powers, Qualifications.

The director shall have the following powers and duties: (a) subject to the provisions of the state merit system, to appoint all officers and employees of the Department, or to authorize any superintendent, division or bureau head, or other administrator to select with his approval all staff members and employees; (b) to exercise supervision over all the officers and employees of the Department, and should any such officer or employee fail to perform faithfully any of the duties which are lawfully prescribed for him, or if he fails or refuses to observe or conform to any rule, regulation, or policy of the board, to remove him from office, in conformity with the state merit system law; (c) to make agreements with the heads of other executive departments of the state providing for the coordination of the functions of the various departments of the state; and the director shall also serve as the Administrator of the Interstate Compact on Juveniles hereinafter referred to.

The Director to be employed shall have at a minimum a master's degree in Behavioral or Social Science or related field from an accredited school and shall have at least six (6) years experience in the field of services to children and youth, with at least three (3) years of that experience being in the field of juvenile delinquency services. The last three years of such experience must have been in an administrative and/or management position with demonstrated competence as indicated by promotion or other indications of responsibility. The director may be removed from office by a vote of nine members of the board for reasons fully set forth in the minutes of the meeting at which such removal takes place.

Section 12. Development of Department Program. As soon as practical after the effective date of this Act, the Department shall proceed to develop a workable program of youth services as follows: (a) to collect statistics, information, and data concerning the need for and condition of rehabilitative services to delinquent youth throughout the state; (b) to disseminate information to the public and to appropriate public and private agencies and organizations within the state on the conditions and needs thus ascertained; (c) to serve in a consultative and licensing capacity and develop materials and standards concerning delinquent youth within the state; (d) to enlist the participation of citizens and representatives of other agencies and organizations in the planning and development throughout the state of an adequate youth services program as provided for in this Act; (e) to cooperate with and assist other public and voluntary agencies and organizations in the develop-

ment and coordination of programs and activities for youths, particularly those programs and activities which contribute to the prevention or treatment of delinquency; (f) to collaborate with others in the establishment of state-wide and local planning bodies, or to assist and cooperate with any such existing bodies which are concerned with promoting the physical, mental, emotional, and social well-being of youths; (g) to assist local communities in making surveys of conditions contributing to delinquency and of the facilities and services provided to rehabilitate committed youths; and (h) to prescribe and furnish uniform procedures and forms for all law enforcement agencies and court clerks to use in reporting contacts with youths.

Section 13. Duties and Functions of Department. As soon as practical after the effective date of this Act, the Department shall have the following duties and functions: (a) to provide services for youths who have run away from their own communities in this state, or from their home communities in other states to this state, and to provide such services, care, or cost for such youths as may be required pursuant to the provisions of Act No. 675 adopted at the 1965 Regular Session of the Legislature of Alabama (hereinafter "Interstate Compact on Juveniles"); (b) to provide for the expansion of local detention care for youths alleged to be delinquent pending court hearing; (c) to encourage the expansion of juvenile probation services to youths alleged or adjudged to be delinquent; (c) to establish and promulgate reasonable minimum standards for juvenile probation services; (d) to establish and promulgate reasonable minimum standards for juvenile probation officers and certify any applicant meeting such standards for the position of juvenile probation officer; (f) to secure the provision of medical, hospital, psychiatric, surgical, or dental service, or payment of the cost of such services as may be needed for committed youths; (f) to license and subsidize foster care facilities or group homes for youths alleged to be delinquent pending hearing before a juvenile court or adjudged delinquent following such hearing, including detention, examination, study, care, treatment and training; (g) to establish, maintain and subsidize programs to train employees of the Department, juvenile courts, and law enforcement personnel in such subject matters and techniques as may be necessary to assure efficient and effective administration of such services in accordance with the purpose of this Act; (h) to make and enforce all rules and regulations which are necessary and appropriate to the proper accomplishment of the duties and functions vested in the Department by law with respect to youth services and which do not conflict with or exceed the provisions of law vesting such duties and functions in the Department.

Section 14. Additional Powers of the Department. The Department is hereby given the following additional and cumulative powers: (a) to enter into contracts with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest; (b) upon approval of the Attorney General of the state, to file and prosecute suits in any court in the name of the Department to enforce the provisions of this Act and to enforce such rules and regulations as may be duly promulgated under the provisions of this Act; such suits may include actions for an injunction to restrain any person, agency, or organization from violating any provision of this Act or any rule or regulation duly promulgated under the provisions of this Act; (d) to accept gifts, trusts, bequests, grants, endowments, or transfers of property of any kind and prudently to manage such property in accordance with sound financial principles; (e) to prescribe for and furnish forms to clerks of probate and juvenile courts for use in connection with any action to be taken under the provisions of this Act; (f) to enter into reciprocal agreements with appropriate agencies of other states relative to youth services programs; and (g) to engage in research in the field of youth services, to enter into contracts with public or voluntary organizations including educational institutions, and with individuals, for the purpose of securing such research and to make provisions for any pay grants to such organizations or individuals in accordance with the rules of the Department, as may be necessary to secure the performance of such research.

The employees of the Department shall be governed by the personnel merit system rules and regulations of the State Personnel Department. Employees of institutions and agencies which are transferred to the Department under the provisions of this Act, who have been so employed for six months immediately preceding such date shall remain in their respective employments, and shall be considered to meet the requirements of the Department in terms of training and experience; but nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law.

Section 15. Additional Powers of the Board. The board is hereby given the following additional and cumulative powers: (a) to establish and promulgate reasonable rules, policies, orders, and regulations for the carrying out of its duties and responsibilities; (b) to purchase or lease land or to acquire property by eminent domain and to purchase, lease, let, sell, exchange, or otherwise transfer property, land, or buildings in order to carry out its duties and responsibilities under the provisions of this Act; and (c) to hold such meetings as are convenient and necessary, which shall be at least annually, to carry out its duties and responsibilities at such place or places within the state as it may direct, and a quorum consisting of any nine members of the board shall be competent to act at all regular or special meetings. Special meetings may be called by the Chairman of the board or by any three members of the board upon one week's written notice to every member of the board, which notice shall state the purpose of the meeting.

Section 16. Legal Division. The director shall be authorized, subject to the provisions of the state merit system law, to appoint legal counsel for the Department. Such counsel shall be commissioned as assistant attorney generals except that they shall devote their entire time to the business of the Department. Salaries for such counsel will be paid by the Department.

Section 17. Court Review. Any person aggrieved by any final order or decision of the board may have a review of such order or decision in the Circuit Court of Montgomery County, provided a sworn bill is filed within fifteen (15) days of the date of such order or decision, charging that such order or decisions was arbitrary, illegal or capricious. The review granted by this section shall be cumulative with that provided elsewhere in the laws of Alabama.

Section 18. Report to the Governor. As soon after the end of a fiscal year as practicable the board shall print and send to the Governor of Alabama a report to include the activities of the board, the need for facilities under its jurisdiction, juvenile service conditions in the state, plans for the future, financial reports for the preceding year, and the names and addresses of the members of the board. A sufficient number of copies of such report shall be printed and distributed to the members of the Legislature of Alabama.

Section 19. Budget. Each biennium the board shall present to the Governor a request for funds based on projected needs for juvenile services in the state, together with a budget showing proposed expenditures; and the Governor shall include in his appropriation bill a request for funds to meet the reasonable financial needs of the Department.

Section 20. Competitive Bids. Any purchase and any construction or supply contract of the Department in an amount in excess of ($500) shall be made or let by competitive bids through the state purchasing agent or otherwise, as the board may direct. No purchases, except for rights of way, shall be made from nor shall any sales be made to any member of the legislature, any member of the board, any employee of the Department, or any other person holding an office of the state.

Section 21. Study and Evaluation of Youth. When the legal custody of a youth has been vested in the Department by order of the juvenile judge, the Department shall, under rules established by it, study and evaluate such youth and investigate all pertinent circumstances of his behavior and life in order to prepare a service plan while he/she is detained in the state training schools. Data concerning such youth secured in any previous study and evaluation undertaken under this Act may be utilized by the Department in lieu of or in supplementation of a new study and evaluation. The police authorities, the school authorities, and other public officials and agencies of the state or any county or municipality in the state, shall upon the request of the Department promptly make available to the Department all pertinent information in their possession with respect to a youth whose custody is vested in the Department; provided, however, that this subsection shall not require any disclosure which would be inconsistent with the requirements of any federal statute or regulation under which grants are made to the state or any state law. The Department shall make available its findings pursuant to this section to any juvenile court in the state.

Section 22. Guardianship of Youth. If at any time while legal custody of a youth is vested in the Department, the Department learns that he/she, for any reason, does not have a natural or adoptive parent in a position to exercise effective guardianship or a legally appointed guardian of his/her person, the Department may thereupon file a petition in the appropriate court for the appointment of a guardian of the person or property of such youth. No officer or employee of the Department shall accept appointment as the guardian of a youth, whose legal custody is vested in the Department.

Section 23. Determination of Social Service Plan. When legal custody of a youth has been vested in the Department and so long as such legal custody is so vested in the Department, the Department may, after an objective consideration of all available information, take one of the following social service actions: (a) the Department may place the youth in

a State training school within the state, or in another state in accordance with the provisions of the Interstate Compact on Juveniles, under such conditions as it believes best designed for his welfare or the protection of the public; (b) the Department may release the youth to the jurisdiction of the committing court; (c) the Department may arrange temporary return or a trial visit of the youth to his own home, as often as conditions appear desirable; (d) the Department may revoke or modify any social service plan as often as conditions appear desirable.

The committing court shall be kept informed by the Department of the physical location of the youth at all times.

Section 24. Authorization of Medical, Psychiatric, Surgical and Dental Treatment.

The director or his delegate may authorize major surgery or medical treatment to be performed upon any committed youth or general anesthetic to be administered to a committed youth when it is deemed necessary by a licensed medical physician and approval by the parent or guardian is acquired. If such approval is not given or the parent or guardian is unavailable for two weeks, the director or his delegate may apply to the juvenile court in the county where the child is confined for an order to undertake such surgery or treatment. A ruling must be made within twenty-four hours by the said juvenile judge.

The director or his delegate may authorize major surgery or medical treatment to be performed upon any committed youth or general anesthetic to be administered to a committed youth when it is deemed an emergency situation where a child has suffered serious injury or is experiencing severe pain or his/her life is endangered and such judgment is made by a licensed medical physician. The director shall within forty-eight (48) hours notify in writing the juvenile court in the county where the child is confined and the parent or guardian of such action. A copy of the report shall be sent to the committing court.

Section 25. Confinement of Youth by Department in Adult Penal Institutions Prohibited.

The Department shall not have the power, by virtue of the vesting in it of the legal custody of a youth or of anything contained in this Act, to confine any youth in any adult jail or adult penal institutions now or hereafter established.

Section 26. Review of Committed Youth. The Department shall make a periodic review in the case of each youth whose legal custody is vested in the Department who has not been finally discharged. Such review shall be in the form of a written report to the committing court and shall include study of all pertinent circumstances of his personal and family situation and shall be for the purpose of determining whether existing decisions, orders and dispositions in his case should be modified or continued in force. Such review may be made as frequently as the Department deems necessary and shall be made with respect to every youth at least every nine (9) months. The Department shall review the case of each youth transferred to its control from another agency or department by virtue of the transfer of authority and responsibility of other agencies and departments provided for in this Act within six (6) months after custody is vested in the Department.

Section 27. Detention of Committed Youth Without Order or Warrant.

A committed youth who has been placed by the Department in any state training school and who has escaped or run away therefrom may be taken into custody without warrant or order of the director by a peace officer or employee designated by the Department. Any youth taken into custody, pursuant to this section, shall be detained in a suitable place designated by the Department until determination concerning his further care and treatment is made.

Section 28. Petition for Review by the Director or Court.

In the event any committed youth has not been examined as provided in Section 21 of this Act or has not been reviewed within nine (9) months of a previous review as provided in Section 26 of this Act, such youth or his parent or guardian shall be entitled to petition the director for such examination or review and to have his petition given prompt consideration in accordance with appropriate rules established therefor. In the event such petition to the director has not been granted or where it has not been acted upon within thirty (30) days such youth or his parent or guardian shall be entitled to petition the committing court for such examination and review, and the same shall be granted. Pending the determination of such a petition by the court, the authority of the Department to take such action as it may deem necessary with respect to such youth shall in no way be affected.

Section 29. Aftercare, Discharge, and Termination of Order Vesting Legal Custody in Department

In the event a committed youth shall be diagnosed in writing as mentally ill to the degree that said youth is unable to profit from the programs operated by the Department for the benefit of delinquent youth, the Department may petition the proper court for the commitment of the said youth to the state hospital for the mentally ill. The diagnosis must be made by a person who is legally and professionally qualified under the laws of Alabama to make such a diagnosis.

In the event a committed youth shall be diagnosed in writing as mentally retarded to the degree that said youth is unable to profit from the programs operated by the department for the benefit of delinquent youth, the Department may petition the proper court for the commitment of the said youth to the state hospital for the mentally retarded. The diagnosis must be made by a person who is legally and professionally qualified under the laws of Alabama to make such a diagnosis.

A committed youth shall be discharged who in the judgment of the director has gained optimal rehabilitation from the programs of the Department and will not be received again by the Department under the original commitment order.

A committed youth shall be released into aftercare when the Department determines that said youth is no longer in need of the services of the state training schools and can function within open society under the supervision of a probation officer in accordance with terms and conditions as established by the committing court. The Department shall notify the committing court in writing at least ten (10) days in advance of the release. Legal jurisdiction shall revest in the committing court and aftercare supervisor will be undertaken at the court's direction. The committing court at the time of release into aftercare shall then invest custody in a party which the court deems suitable.

The committing court shall have jurisdiction to extend an order of commitment during the time of aftercare and to issue further orders in relation to the investment of legal custody in some other party until the youth reaches his twenty-first (21st) birthday only upon proper petitions being filed with the said court by a probation officer alleging all reasons for any aftercare extension or change of legal custody. A hearing shall be held in said juvenile court within ten (10) days after the filing of the petition to determine whether the youth's aftercare should be extended, for no more than six (6) months.

When a committed youth has fulfilled his period of commitment, he/she shall be discharged from the Department's custody and any recommitment to the Department must be based on a new offense and a new hearing.

In the event that a youth has not been discharged prior to the expiration of two (2) years from the date of the entry of the original commitment order, the Department must request either (a) the termination of the commitment order and the issuance of such other orders respecting the legal custody and continued supervision of the youth as may be warranted under the circumstances; or (b) the extension of the original order for a further specifically limited period of time, on the grounds that such extension is necessary for the welfare of the youth or for the public interest, such extension not to exceed the date upon which the youth will reach the age of twenty-one (21) years. There must be a hearing at which the youth and his/her parent, guardian or counsel are present. The commiting court shall have jurisdiction until the youth reaches his twenty-first (21st) birthday to issue an extension of its original commitment order. If the Department does not act as prescribed in this paragraph, custody awarded by the commitment order is terminated and such order as regards such youth has no further force and effect after the expiration of two years.

Upon the youth's reaching his twenty-first birthday, custody awarded bythe commitment order is terminated and such order as regards such person has no further force and effect.

Section 30. Clothing, Money and Transportation Furnished Upon Release

The department shall insure that each youth it releases from the state training schools has clothing, transportation to his home, or to the place at which a suitable home or employment has been found for him, and such an amount of money as the rules of the Department shall authorize.

Section 31. Records of Examinations. The Department shall keep adequate written records of all social studies and examinations and of the conclusions based thereon, and of all major decisions and orders concerning the disposition or treatment of every youth for whom the Department provided social services and care pursuant to this Act.

Section 32. Use of Records. It shall be unlawful, except for purposes directly connected with the administration of this Act, or as herein provided, and in accordance with regulations of the Department, for any person or persons to solicit,

disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any information concerning any youth for whom the Department provides social services or care in accordance with the provisions of this Act, and derived from the records, papers, files, or communications of the Department, or of any agency or facility utilized by the Department in providing services to any youth or acquired in the course of the performance of official duties.

Nothing contained in this section shall preclude the disclosure of information secured in the performance of functions under this Act upon order of the court which vested legal custody of the youth in the Department, in any one of the following circumstances: (a) in subsequent proceedings for delinquency involving the same youth; (b) to other youth care agencies which subsequently provide services to the said youth; (c) in any issue of custody before a court in which the court finds that such disclosure is necessary to protect the general welfare of the youth; (d) for research purposes where anonymity is preserved.

Section 33. Referral from Federal Government. The Department is authorized to serve as an agent of the state in entering into agreements with any appropriate agency of the federal government to provide care and treatment for a youth found by a federal court to be delinquent and committed to the custody of the Attorney General of the United States. Such agreement shall be upon such terms and conditions and shall provide for such compensation as may be mutually agreed upon between the Department and the appropriate agency of the federal government. Funds received as compensation under such agreement shall be placed in the state treasury and are hereby appropriated for the use of the Department for carrying out the provisions of this Act.

Section 34. Appropriation. There are no new funds to be directly appropriated for the implementation of this statute. All monies appropriated to the Alabama Industrial School, Alabama Boys' Industrial School, and the Alabama State Training School for Girls from the Special Education Trust Funds, shall be used solely for the operations of these institutions.

Any funds heretofore or hereafter appropriated for the purpose of carrying out the provisions of Act No. 880 of the Regular Session of 1965 are hereby transferred to the Department of Youth Services to be used for the implementation of Sec. 8 of this Act and such other functions and duties as the Youth Services Board may determine are necessary and proper.

Section 35. Penalities. Violations of the provisions of the Act shall be penalized or punished as follows: (a) any person, partnership, corporation, or association that violates the provisions of this Act or any regulations promulgated under the authority delegated to the board or to the director, after notice of such violation served upon such person, partnership, corporation or association by United States registered mail to the last known address thereof, shall be liable to pay to the Department a penalty of fifty dollars ($50) per day for each day such violation continues after receipt of such notice; (b) and any person, group of persons, association or corporation who (i) conducts, operates, or acts as a foster care facility or detention facility without a license, or an approval to do so in violation of the provisions of this Act; (ii) makes materially false statements in order to obtain a license or permit; (iii) fails to keep the records and make the reports provided under this Act; (iv) advertises any service not authorized by license or permit held; (v) publishes any advertisement in violation of this Act; or (vi) violates any other provision of this Act or any reasonable rule or regulation adopted and published by the Department for the enforcement of the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than $100 nor more than $1,000 or be imprisoned in the county jail not longer than one year, or both, and in case of an association or corporation, imprisonment may be imposed upon its officers who knowingly participated in the violation; (c) any person who shall allow, assist, aid, or abet in the escape of any juvenile confined by court action or pursuant to the authority of the board or Department, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not more than one hundred dollars ($100) or by imprisonment in the county jail in the county in which such act shall occur at hard labor for the said county for not more than 90 days, or by both such fine and imprisonment as the court may decide; (d) any member of the legislature, any member of the board, any employee of the Department or any holder of any office of the state, who takes any contract, for work or services for the board, the Department, or any of their agencies, or is employed in any way under such contract or sells any goods or supplies to the board, the Department, or any of their agencies, or is in any way pecuniarily interested in any such contract or sale, as principal or agent, must, on conviction, be fined not less than $50 nor more than $1,000 and also shall forfeit his office or employment; (e) it shall be the duty of every district attorney, deputy district attorney, county or other solicitor, to institute action for the enforcement of the provisions of this Act or prosecute action for the violation of the provisions of this Act, or both.

Section 36. Severability. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 37. Donations and Endowment Funds. Notwithstanding the provisions contained in the other sections of this Bill and in order to make provision for the proper preservation and application of donations from private sources by gift, devise or otherwise, heretofore made to the Board of Trustees of the Alabama Boys Industrial School, the Board of Trustees of the Alabama Training School for Girls, or the Board of Trustees of the Alabama Industrial School for the uses and purposes intended by the private donors and in order to encourage future donations from private sources by way of gift, devise or otherwise to said schools and assure prospective private donors of the use thereof at the particular school or schools designated as the object of donations and to prohibit the diversion of past and future donations to said schools from the uses and purposes for which the same were made, each of the boards of trustees of the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School is authorized and empowered to set up and establish an endowment trust fund for its respective school, to enter into an agreement with a bank or banks organized either under the national banking laws or the banking laws of this state and having trust powers, to serve as trustee for the endowment trust fund, to make provision for designation of successor trustee or trustees, to transfer to the trustee or trustees of the endowment trust fund in trust for the benefit of said school and for the uses and purposes intended by the donors thereof stocks, bonds, securities and cash together with any accretion thereto and unexpended income therefrom heretofore donated by private sources to said school or to the board of trustees thereof for the use and benefit of said school, to authorize the trustee or trustees to accept the transferred property and any future donations from private sources for the benefit of the particular school involved, manage the trust property in a prudent manner in accordance with sound financial principles and pay out so much of the income therefrom and/or of the principal as may be required by appropriate resolutions adopted and approved by the board of trustees of the particular school involved or upon the abolition of said board of trustees, then by the advisory board established for said particular school pursuant to the provisions of Section 7 of this Bill, to provide for release of the trustee or trustees from any liability for any payment out of the trust fund made pursuant to any resolution of said board of trustees or advisory board, and to provide in the event of disestablishment of the particular school for the termination of its endowment trust fund and transfer of trust property then on hand to the Department of Youth Services for use for the particular uses and purposes of each separate endowment fund then included in the trust or if such use has ceased to be practicable then for such use as in the Department's judgment constitutes an equitable approximation of such uses and purposes. The trustee or trustees of any endowment trust fund established pursuant to this section shall periodically, not less infrequently than once every three years, make a full accounting of its handling of the trust estate to the board of trustees of the particular school involved or upon the abolition of said board of trustees, then to the advisory board of said school, and written approval of the trustee's or trustees' accounts by either of said boards shall be final and binding and have the same full force and effect as a partial final settlement or final settlement, as the case may be, had the accounting been accomplished through judicial proceedings. The board of trustees of a school establishing an endowment trust fund pursuant to this section and the advisory board of said school are prohibited from authorizing or directing any payment out of the endowment trust fund of said school for any purposes contrary to the expressed uses and purposes of the private donors of a donation constituting a part of the school's endowment trust fund.

Section 38. Repealer. The following Act is hereby expressly repealed on the date that the General Fund Appropriation bill becomes law: Act No. 880 adopted at the 1965 Regular Session of the Legislature of Alabama. Funds or moneys that would have been made available for implementation of Act No. 880 of the 1965 Regular Session of the Legislature of Alabama, shall hereby be available for such lawful purposes as set out in this Bill. The following Acts are hereby expressly repealed effective October 1, 1975: Chapter 36, Sections 570-584 of Title 52 of the Code of Alabama of 1940, as amended; Chapter 37, Sections 585-591, inclusive 593, 597-600, inclusive, and 602 of the Code of Alabama of 1940 as amended; and Chapter 38, Sec. 613(1)-613(15) inclusive. All other laws or parts of laws in conflict with the provisions

of this Act are hereby amended on the effective date of this Act, provided, however, that: the Department of Pensions and Security of the State of Alabama shall continue to license child care institutions, group homes and foster homes for children alleged or adjudicated delinquent pursuant to Act No. 174 adopted at the 1971 Third Special Session of the Legislature of Alabama until January 1, 1974; and the commissioner of the state department of pensions and security shall continue to be the Administrator of the Interstate Compact on Juveniles pursuant to Act No. 675 adopted at the 1965 Regular Session of the Legislature of Alabama until July 1, 1974.

Section 39. Effective Date. This Act shall become effective immediately upon its approval by the Governor, or upon its otherwise becoming law.

Approved September 5, 1973.

Time: 5:00 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 10th day of October, 1973.

JOHN W. PEMBERTON
Clerk of the House

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