State of Maryland

Department of Public Safety

and Correctional Services

Maryland's Defective Delinquent Statute

A Progress Report

Patuxent Institution

January 9, 1973

The Honorable Marvin Mandel, Governor

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Edwin R. Tully, Deputy Secretary for Public Safety
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In an opinion in 1931, Judge Joseph N. Ulman stated, "Proper institutions must be provided and the law must be so amended that defective delinquents will be sent to them and kept in them for treatment until cured, if curable, or for life, if not curable."

In 1947, by Joint Resolution, the State Legislature of Maryland directed the appointment of a commission to study the problem. After several years of study, they proposed a new statute that was enacted into law in 1951. The statute was Maryland's approach to dealing with that segment of the criminal population who were defective emotionally and/or intellectually and who were repeated offenders whose anti-social or criminal behavior was deemed physically dangerous to society.

The legislative research report was quite clear in its intent. "The primary purpose of such legislation is to protect society from this segment of the criminal population who probably will again commit crimes if released on the expiration of a fixed sentence; and thus they should be detained and specially treated unless and until cured."

To implement the intent, the statute provided for an indeterminate sentence. ". . .An indeterminate sentence, as herein used, is one without maximum or minimum limits in order to confine defective delinquents until, as a result of the special treatment which they need, it is safe to return them to the community. If they cannot be cured, such indeterminate sentence accomplishes their confinement for life, which the protection of society demands.... The treatment may, and in many cases would, involve incarceration for life...not because of guilt, but to protect the defective himself and society." To implement the Defective Delinquent Statute, the legislature created a special institution known as Patuxent Institution.

The establishment of the Patuxent Institution was hailed at the time both nationally and internationally, on the one hand, as the most logical development

resulting from a century of progress in corrections, and as a noble experiment on the other. The idea was coming to prevail that punishment meted out in proportion to the seriousness of the offense is not the only answer to the problem of crime, but that treatment of the offender and protection of society are also important and suggest an indeterminate sentence. If an attempt is made to "cure" the offender of his criminal propensities, it is impossible to predict beforehand when the treatment will take effect. Hence the length of the sentence cannot be foretold in advance. If one is concerned about the safety of society and future potential victims, one likewise cannot foretell beforehand when the threat will disappear, and the judgment regarding the release must be made in due time on the basis of experience, expertise and the best available knowledge. This is why the Patuxent Institution and even the plans for it received such wide attention in the international Congresses on the Prevention of Crime and the Treatment of Offenders in the Hague and Geneva in 1950 and 1955.

During the first ten years of operation (1955-1964), 794 patients were recommended for commitment by the professional staff of the Patuxent Institution. At their formal court hearing, the courts concurred (committed) in 638 cases and disagreed (did not commit) in 156 cases. That is, the courts concurred with the staff recommendation in approximately 80 per cent of the cases. Following the course of those patients who have subsequently been completely released, we found that these individuals fall into four categories in regard to treatment. The first group (untreated) are those whom the courts did not commit, contrary to professional staff recommendation. The second group are those who were subsequently released by the courts, contrary to staff recommendation, and who had only received in-house treatment at the time of their release. The third group comprised of individuals who were also released by the courts at subsequent redetermination hearings, contrary to staff recommendation, but who had experienced conditional release status (leaves, work release, parole), prior to their court release. The fourth group are those

who had in-house treatment, had served three years on parole and whose court release had been initiated by the Institutional Board of Review at the request of the professional staff.

To evaluate the Patuxent experience, the four aforementioned groups were compared for recidivism with each other and with the most frequently quoted national recidivism rates. Recidivism here was defined as conviction for a new offense and data was obtained from F.B.I. follow-up reports. This data may be found in Table I.

TABLE I

Recidivism Rates - Comparing Four Groups of Patuxent Patients and the National Recidivism Rate*

	Number	Recidivism Rate
National Rate Most Frequently Quoted for Adult Offenders		65%
1. Patients recommended for commitment but not committed by the Courts (not treated, subjected to regular correctional system programs)	136	81%
2. Patients released at rehearing against staff advice, in-house treatment only	186	46%
3. Patients released at rehearing against staff advice, in-house treatment plus conditional release experience	100	39%
4. Patients released at recommendation of staff and Institutional Board of Review, in-house and continued treatment for three years on parole	135	7%

* 217 of the 638 committed patients were not included in Table I. 166 were still under the jurisdiction of the Institution (in-house and on parole). The remaining 51 were released on legal technicalities and/or were too recently released to meet the criterion for inclusion (opportunity to be in society for three years).

The Patuxent results indicate a distinct reduction in recidivism rates, well below national average, for all treated groups. Among all published data available

to us, the finding of a 7 per cent recidivism rate in patients released by the Institutional Board of Review stands out dramatically as the lowest rate by far of any ever reported, and reflects the ability of a professional staff working in conjunction with an outside board of professionals from various disciplines to treat dangerous offenders and identify those who have been fully rehabilitated, returning them to society as productive citizens, as the statute envisioned.

The 135 patients comprising Group 4, have been in society for an average of 7.4 years. Some might question the 7 per cent recidivism rate since the first three years in society were accomplished under supervision and continued treatment. This, of course, is as the law intended. However, even if one considers only those patients from this group who were completely beyond any formal control or supervision, 58 patients would fall into this group (at least six years in the community) and their recidivism rate is 12 per cent. It should be further noted that only four of these recidivists spent any time in a correctional institution as a result of their new offense. The longest sentence was three years for shoplifting.

It should be noted that the treatment program of the Patuxent Institution has in a timely fashion responded to the recent emphasis on so-called community-based treatment. The Patuxent Institution has always emphasized the gradual termination of its care of its patients, continuing to work with them after their release from the confines of the institution itself. In recent years a great deal of emphasis has been given to the parole program, the halfway house, leaves, and work releases. The approach of the Patuxent parole is unique, assuring the offender, who is back in the community, of supervision and help by the same team of treatment personnel who have been working with him within the institution. The Patuxent parole is kept flexible in the sense that returns to the institution, if needed, can be effectuated with relatively little formality and just as necessary steps in a continuing treatment program. Thus the Patuxent treatment program is located both within and without the institution.

Of the 638 patients committed between 1955-1964, only 3 per cent (22) have been continuously confined.

The seven per cent rate of recidivism has been accomplished within the limits of fiscal responsibility. During the period 1963-1972, the Maryland State Budget has increased by 301 per cent (mean annual growth rate 17%), the budget of the Division of Correction has increased by 334 per cent (mean annual growth rate 18%), the budget of Patuxent Institution has increased 153 per cent (mean annual growth rate 11%).

II. Background and Development of Maryland's Defective Delinquent Statute

On October 3, 1931, Judge Joseph N. Ulman in the Criminal Court of Baltimore City, issued his written opinion and sentence in the case of a young man who had murdered a milkman in the course of an armed robbery. Seven psychiatrists were involved in the case. All concluded that this young man was a "psychopathic personality", a legally sane person but "emotionally unstable, abnormally self-centered, and his moral responsibility is less than that, or different from that, of a normal man... He is socially dangerous and a menace to the life of others..."

Judge Ulman went on to state, "For these reasons, the Court has sentenced this young man to death. This action is, let it be added, a confession of social and legal failure. The best available medical opinion is to the effect that men of this type can be restrained adequately and effectively in institutions of the proper kind. Maryland has no institution specifically designed and intended for the permanent or long time segregation of defective delinquents of this type.... This is not said in bitterness -- but in the hope that this case may help to bring nearer the day when our state will deal withthis problem realistically and humanely... One thought only should be stressed. Whatever is done should be done after the most thorough study and upon a comprehensive basis. There should be no tinkering with existing laws, no half-baked and half-way legislation dealing with mere details of procedure. Instead, there should be set up legal standards, legal procedure, and proper places of detention, all carefully planned and thoroughly integrated -- and all designed to protect society from crime by reducing the opportunities for its commission. Proper institutions must be provided and the law must be so amended that defective delinquents will be sent to them and kept in them for treatment until cured, if curable, or for life, if not curable."

Although Judge Ulman's decision was handed down in 1931, it was the State Legislature of Maryland during the 1947 session that adopted Joint Resolution No. 16,

that authorized and directed the appointment of a Commission to Study Medico-Legal Psychiatry. This joint resolution was approved by the Governor of Maryland on April 16, 1947. The Commission was appointed on March 4, 1948. Its membership included:

Hon. Irvin A. Adler
R. Emmet Bradley
Dean George C. Grant
Manfred S. Guttmacher, M.D.
Benjamin C. Howard, Esq.
Dr. Robert M. Lindner
Ephrain T. Lisansky, M.D.
Hon. Joseph D. Mish
Hon. Charles E. Moylan
George H. Preston, M.D.
Hon. Jerome Robinson
Hon. P. G. Stromberg
John C. Whitehorn, M.D.
Edward E. Yaggy, Jr.
John H. Skeen, Jr., Esq., Chairman

The Commission submitted its report to the Governor and General Assembly on December 28, 1948. The preamble to the resolution indicating the purpose of the Commission included these main points:

1. "... members of the Judiciary in Maryland have on numerous occasions called attention to the deplorable lack of institutions and facilities for the care of psychopathic criminals, and of persons suffering from such mental disorders as to have marked criminal propensities;

2. "....it is imperative that study be given to the possibility for providing such institutions and facilities;

3. "....it is well known that mental and emotional disturbances and aberrations are a major motivating cause of the commission of crime;"

The Commission added, "The recommendations contained in the report reflect the considered judgment of every member of the Commission, and the conclusions reached are based upon long study and deliberation. Time has not permitted the reaching of a complete and satisfactory conclusion to all the matters concerned, nor is it indeed considered likely that there ever can or should be a final conclusion to the work. The very nature of the task is such as to require constant attention and vigilance. This report is submitted with the hope that it will provide the basis for improvement of the highly unsatisfactory conditions existing at

this time. ...In addition to the items of study enumerated in the resolution, it was the consensus that no study would be complete without a consideration of the problems presented by that large class of individuals commonly known as the "defective delinquent." It was found that the so called defective delinquent comprises a sizeable percentage of all those who come into contact with the criminal law and can best be dealt with through a particular type of procedure and institutions. To this end our recommendations include measures deemed necessary to treat this group."

Accordingly, the Commission's recommendations included the following:

"6. Establishment of legal procedures for determination of defective delinquency and subsequent commitment.

7. All defective delinquents to be detained on an indeterminate commitment.

8. A new special institution for defective delinquents to be established outside urban limits under the jurisdiction of the Department of Correction.

9. A Board of Review to be created within the Institution for Defective Delinquents and charged with the duty of recommending to the Courts when an inmate may be safely released.

10. While in custody all persons committed as defective delinquents to be re-examined at least once a year.

11. Release from the Institution for Defective Delinquents to be only on order of court and on an indeterminate parole, unless otherwise directed by the Court."

The Commission went on to define the term defective delinquent in the following words, "...we feel that a proper definition of defective delinquents would be those individuals, who, by the demonstration of persistent aggravated anti-social or criminal behavior, evidence a propensity toward criminal activity and who, on the evidence of standard test and clinical procedures, reveal either intellectual deficiency or emotional

disorder, or both." They went on to explain..."that the term 'defective' is to be understood as applying in the two chief spheres of human behavior; the intellectual and the emotional."

The intent of the Commission can be seen in their report in the following statements:

"The fundamental approach to the problems considered has not been primarily on behalf of the criminal and/or mental defective person who has run afoul of the law. On the contrary, the paramount interest is and must always be the welfare of the community as a whole. The interests of the individual must ever be subjugated to the interest of the community where the two are in irreconcilable conflict...

The problem is essentially a dual one, dealing on the one hand with the medical aspects of each individual case and on the other hand with the general procedures which are necessary to deal with such a case. There are certain inalienable rights of every citizen with which we may not and should not interfere. There are safeguards for both the individual and for the community as a whole which must be preserved. Within these boundaries, however, much can be accomplished by enlightened practices and procedures..., the responsibilities of the State are continuing in nature and are discharged only upon the restoration of the individual to his proper place as a member of society, or in the event that such individual is incurable, by the protection of the community against his acts during his entire natural life."

The Commission then charged the legislature in the following fashion:

"In accordance with the provisions of the resolution, this report is prepared for submission to the members of the General Assembly of 1949. It is, therefore, to the General Assembly of 1949 that the people of the State of Maryland must now look for an implementation of the recommendations contained in this report and the enactment of appropriate legislation to deal with these problems which are

so pressing as to permit no further delay. This report is the first ever made to the Legislature, with respect to certain phases of the problem. Indeed, it would seem that never before has the Legislature dealt with some of these problems. They can no longer be ignored."

The General Assembly of 1949 accepted the findings of their Commission. The Legislative Council of Maryland on September 7, 1949, appointed a Committee on Medico-Legal Procedure to further study the problem of the defective-delinquent and to prepare a statute in this regard. The Committee included:

Anders R. Lofstrand, Jr.
J. Otis McAllister
P. G. Stromberg
G. Ferdinand Sybert
John Grason Turnbull
Jerome Robinson, Chairman

The Committee selected Dr. G. Kenneth Reiblich, Professor of Law of the University of Maryland Law School, to prepare a report. The Committee was assisted by Maryland's leading psychiatrists and psychologists including Dr.John C. Whitehorn, Professor of Psychiatry at Johns Hopkins; Dr. Jacob E. Finesinger, Professor of Psychiatry at University of Maryland; Dr. Manfred S. Guttmacher, Medical Advisor to the Supreme Bench of Baltimore City; Dr. Robert M. Lindner, consultant for the State Mental Institutions; Dr. Vernon P. Scheidt, Prisoners Aid Society; and Dr. Clifton T. Perkins, Director of the Department of Mental Hygiene.

Dr. Carl N. Everstine, Assistant Director of Research of the Legislative Council drafted the proposed statute and the statute was reviewed by Mr. Reuben Oppenheimer, Chairman of the Board of Correction, Dr. Reiblich, Dr. Everstine, Dr. Elwyn A. Mauck, Director of the Fiscal Research Bureau and Dr. Horace A. Flack, Director of the Department of Legislative Reference.

Dr. Reiblich prepared the final Committee report which was unanimously agreed to and submitted as Research Report No. 29 of the Research Division of the Maryland Legislative Council in December, 1950. The Report was entitled, An Indeterminate

Sentence Law for Defective Delinquents.

In the Introduction to Research Report No. 29, Dr. Reiblich again reiterated the following purpose of the proposed statute:

"The primary purpose of such legislation is to protect society from this segment of the criminal population who probably will again commit crimes if released on the expiration of a fixed sentence; and thus they should be detained and specially treated unless and until cured. A secondary purpose is more effectively and humanely to handle them, which aids in the cure, where possible.

...An indeterminate sentence, as herein used, is one without maximum or minimum limits in order to confine defective delinquents until, as a result of the special treatment which they need, it is safe to return them to the community. If they cannot be cured, such indeterminate sentence accomplishes their confinement for life, which the protection of society demands... The treatment may, and in many cases would, involve incarceration for life... not because of guilt, but to protect the defective himself and society."

The psychiatric and psychological consultants added, "Many of these individuals cannot be cured by our present treatment techniques. However, with individual and group therapy, a considerable number will be able to be released safely in the community under prolonged supervision.... When Maryland has an institution of the proposed type, many of the most serious crimes can be prevented."

The Research Report was submitted with proposed statute and passed by the General Assembly in 1951.

As one can see, the legislative study started in 1947 and culminated in the passage of the Defective-Delinquent Statute, Article 31B of the Annotated Code, in 1951, four years later.

The statute provided for a joint effort of law and psychiatry in the identification, confinement, and treatment of offenders classified as defective delinquents. The "legislative intent" had as primary purpose the safeguarding or protection of society, but not ignoring the rights and needs of the individual.

Under the statute, only the courts can refer and then only after the criminal has been convicted and sentenced on a criminal offense. The examining professional staff cannot commit individuals as defective delinquents, only the Court can after formal hearing with all procedural rights preserved. The committed individual has to be reviewed by the Institutional Board of Review every calendar year and is additionally entitled to periodic re-determination hearings in Court. The Institutional Board of Review has the authority to grant forms of conditional release (leaves, work-release and parole) but only the committing Court can grant complete release from defective delinquency. In that sense, it is the Court who commits, maintains jurisdiction and releases individuals from defective delinquency. The professional staff examines, recommends and treats. All is accomplished within the framework of an indeterminate sentence, no fixed minimum or maximum. The indeterminate sentence was intended to serve a two fold purpose. First, to protect society through the identification and confinement of dangerous offenders for as long as necessary to treat them. Secondly, to insure the return of the defective delinquent to society when he is ready for such return, and it is felt to be reasonably safe to assume that he will no longer be a danger to society.

The Research Report pointed out "..., the ordinary prison has no facilities for their treatment." To implement the Defective Delinquent Statute, the legislature created a special institution known as Patuxent Institution.

III. The Patuxent Experience (1955-1972)

The Patuxent Institution, the institution built to implement the Defective Delinquent Statute, was opened to receive patients January 5, 1955. The cut-off date for the present study was set at September 30, 1972.

During the aforementioned time period, 2054 patients were referred for evaluation for defective delinquency. At the cut-off date, 1894 referrals had been fully evaluated. Of these 1894 patients, 731 (39%) were evaluated and not recommended for commitment. The remaining 1163 referrals (61%) were recommended for commitment after evaluation by the Patuxent staff. Thus, while we can safely assume that Circuit Court judges refer patients for evaluation whom they suspect might be defective delinquents, the professional staff further screens these referrals and recommends for commitment only those individuals who fully meet the legal definition for defective delinquency.

The court, as the committing authority, does not automatically accept the findings of the institution's staff. Of the 1163 patients that the staff recommended for commitment, 187 (16%) were not found to be defective delinquents at their court hearings. Thus, 48 per cent of those patients referred were not found to be defective delinquents under the law and were never committed. 976 or 52 per cent of all patients evaluated were committed.

A. Characteristics of Patients Referred for Evaluation as Defective Delinquents

The demographic variables evaluated included age at admission, I.Q., age at first conviction, prior convictions, type of offense, length of sentence and race. All referrals over the past 17 years were grouped in consecutive five year intervals in order to evaluate trends. Over the past 17 years, some variables have remained fairly constant while others have shifted dramtically.

1. Variables that have remained constant.

a. Age at admission - Age 25 has been the average age for patients referred over the past 17 years with the preponderance being in their twenties.

b. I.Q. - The 17 year experience has remained fairly constant with the average I.Q. for the Patuxent population being I.Q. 91, nine points below the average for the general population. It should be noted that 27 per cent of the Patuxent population have measured I.Q.'s of 79 or below, approximately 20 points below the average of the general population and ten points below the point at which it is recognized that one may complete high school, but with difficulty.

c. Age at first conviction - The data in this area indicates that the average patient referred had started his criminal career by age 15. This is based on recorded convictions and not on mere display of antisocial behavior.

d. Prior convictions - Our records indicate that over the past 17 years, those referred have averaged four to five prior convictions before committing the criminal offense leading to their referral to Patuxent.

2. Variables that have changed over time.

a. Type of offense - The crimes resulting in referral to Patuxent Institution (to be referred to as "last crime"), have shifted emphasis from 41 per cent for murder, robbery, assault, and rape (1955-1959), to 71 per cent being convicted for murder, robbery, assault and rape (1970-1972). The proportion for whom the "last crime" was a so-called property offense (burglary and larceny),

has decreased from 59 per cent in 1955-1959, to 29 per cent during the time period 1970-1972.

b. Length of sentence - As one would expect from the shift in "last crime" from less severe to more severe personal danger, the length of last criminal sentence has also increased significantly. In 1955-1959, the average length of sentence of those referred was 4.5 years. Showing a steady increase, the length of sentence of those referred has increased to an average of 10 years in the time period 1970-1972.

c. Race - During the time period 1955-1959, 74 per cent of those individuals referred were white and 26 per cent were non-white. The ratio of white to non-white has shifted dramatically over time. For the time period 1970-1972, the ratio has shifted to 44 per cent white and 56 per cent non-white.

These trends show a shifting emphasis in the past 17 years from property type offenses to offenses of increased personal violence, with concomitantly longer criminal sentences.

B. Differences Between Patients Recommended and Not Recommended for Commitment by the Staff

How do patients that the staff recommends for commitment differ from those that the staff does not recommend for commitment?

As Table II indicates, those recommended for commitment are younger by three and a half years when they started their criminal careers, had a longer history of prior convictions, were younger when referred to Patuxent and had longer sentences. I.Q. and race were not discriminating factors in determining who should or should not be recommended for commitment. In psychological terms, onset of problem started at an earlier age with greater frequency of acting out behavior and severity of the criminal process.

TABLE II

Characteristics of Patients Recommended and Not Recommended for Commitment by the Patuxent Staff (1955-1972)*

Variable	Recommended (N=1163)	Not Recommended (N=731)
1. Age at Admission	24.4	26.8
2. Age at First Conviction	15.3	18.9
3. Prior Convictions	4.8	3.3
4. Sentence	8.6	6.6
5. I.Q.	91.9	90.8
6. Race	62% white/38% non-white	62% white/38% non-white

* Numbers represent arithmetic means (average). Life sentences were not included when computing average length of sentence.

C. Differences Between Patients Committed and Not Committed by the Courts

The staff of the Patuxent Institution, after evaluation, makes recommendations for commitment to the referring Court. As earlier stated, the Courts find 16 per cent of the patients referred as not being defective delinquents. Table III examines the differences between patients that the Courts do and do not commit.

TABLE III

Characteristics of Patients Committed and Not Committed by the Courts (1955-1972)*

Variable	Committed (N=976)	Not Committed (N=187)
1. Age at Admission	24.6	23.0
2. Age at First Conviction	16.6	15.7
3. Prior Convictions	4.9	4.1
4. Sentence	7.8	4.1
5. I.Q.	91.9	92.1
6. Race	60% white/40% non-white	73% white/27% non-white

* Numbers represent arithmetic means (average). Life sentences were not included when computing average length of sentence.

As Table III indicates, the Court uses somewhat different criteria in making its judgments. That is, the younger offender (both from admission age and age at first conviction) seems to stand a better chance of not being committed. Fewer prior convictions and shorter last sentence seem to favor not being committed as it did with not being recommended. Of course it should be kept in mind that "Court" in this report includes jury decisions and not solely the judge acting as the "Court".

D. Referral Rates from Different Jurisdictions

Has the defective delinquent statute been protecting all the people of Maryland or just some of the people? Put another way, do all jurisdictions of the state make use of the statute? Dividing the state into urban, suburban and rural geographic areas, the data covering 1955 to 1972 indicates that 53 per cent of all referrals come from Baltimore City courts (urban), 30 per cent of all referrals come from the suburban counties (Anne Arundel, Howard, Montgomery, Prince George and Baltimore Counties) and the remaining 17 per cent come from the rural counties. Thus one can see that referrals to Patuxent closely follow the amount of Court activity in each jurisdiction with a disproportionately higher percentage of referrals coming from Baltimore City as compared to its population.

E. Treatment Programs

1. Goal

The basic goal of the treatment program has been to develop personal responsibility for one's behavior through the development of an internal set of controls. This goal emphasizes the development of an internalized set of controls, rather than conformity to externally imposed rules which are rarely incorporated as personal standards for living by the offender. The system used at the Patuxent Institution is one where the offender actively has to do something for himself rather than wait or demand that others do something for him.

2. Programs

The beginning of the procedure is a gathering of social, academic, vocational and criminal behavior of the offender utilizing source information from other agencies and the family. At the Institution, the patient undergoes a medical examination, psychiatric examination, psychological examination and social service evaluation. These examinations are used to determine the emotional needs of the patient. Added is the evaluation of the patient's educational and vocational status and needs. With this information, a treatment program recognizing the combined educational, vocational and psychotherapeutic needs of the patient is established.

a. The Therapeutic Milieu

An important aspect of the treatment program is the therapeutic milieu. The basic system employed is taken from psychological learning theory and, at Patuxent, is called The Graded Tier System. Essentially, this is a four level system to assist the patient in developing behavioral controls using increased rewards as a motivator. New patients, with some exceptions, start at level one and work their way to level four. The requirements to earn promotion to successive levels are 30 days of acceptable behavior, work and program involvement to be eligible for promotion to second level, 90 days on second level to be eligible for promotion to third level and six months on third level to be eligible to earn promotion to fourth level. There is officer supervision on all levels except the fourth tier level. Some of the changing privileges include a ten o'clock lock-in time at first level with graduated extensions until lock-in time is determined by the patient on fourth level. There are specified day room times for inside recreation on all levels except

fourth level, where patients' doors are never locked and they have free access to the day room at anytime when not working.

Recognizing the Institution's obligations to the safety of the community, as well as their obligations to the patient, the Graded Tier System offers graduated movement back toward society. Promotions within the graded tier system lead to more personal responsibility for behavior, decreasing levels of supervision and control, and increased contact with the family unit. Thus, on the highest tier level, there is no direct officer supervision of behavior, individual cells are not locked, and the tier has a form of self-government with the assistance of the professional staff. In terms of the family unit, there are almost no limits placed on visiting, with Christmas parties for invited relatives including children, held on the tier, and lawn picnics from April through November. This system serves as a yardstick for progress and has been so utilized by the patients and the courts.

As the Institution increased in terms of number of patients and staff, the Unit Treatment Team approach was developed. To insure treatment coverage, ease of communication between patients and staff, and continuity of treatment, patients are assigned to one of four treatment units. Each treatment unit functions as a smaller institution within the Patuxent Institution. Each treatment unit is comprised of psychiatrists, psychologists, social workers with assistance from the educational and vocational departments, and the correctional force. Each Unit has its own graded tiers and the unit treatment staff is responsible for coordinating the treatment programs of its patients. The unit treatment team is responsible for patient job assignments and changes, disciplinary hearings for its patients and for promotions and demotions within the graded-tier system.

The team makes regular rounds of its housing units and has the responsibility to see that each patient is assigned a therapist.

As a means of meeting the statutory requirement of reviewing each committed patient at least once a year, the Institutional Board of Review meets monthly. For this review, each treatment team submits a comprehensive progress report for their patients being reviewed. When the Institutional Board of Review concurs that a patient is ready for conditional release, there is a system of holiday leaves, monthly leaves, work release, school release, and parole available to the patient. The Institution maintains an out-patient clinic and a Halfway House for the continued treatment of all patients on work release and parole. The clinic staff is comprised of professional staff members of the Unit Treatment Teams, each Unit being responsible for clinic coverage on a different night. They continue with the treatment of their own patients and also offer service to relatives of their patients who are also involved in the rehabilitative effort. When necessary, the team will assist the patient in finding suitable employment, suitable living accomodations, as well as providing continuing psychotherapy.

b. Psychotherapy

The therapeutic milieu offers continuing communication and contact between therapists and patients. Each committed patient, additionally, is offered formal psychotherapy. The emotional needs of the patients dictate that group psychotherapy be the treatment of choice. As a minimum, each patient has formal psychotherapy on a weekly basis. Depending on the needs of the patient, individual therapy sessions are scheduled as indicated. Individual sessions may be necessary to ready the patient for the group therapy experience or as an adjunct to group

therapy. Also, patients may request one or more individual sessions as deemed necessary and appropriate through verbal or written request of their therapists.

The Institution has the capability of providing psychotherapy for all committed patients. The therapists are trained psychiatrists, psychologists and social workers. Over 95 per cent of all committed patients are in psychotherapy. The remainder are newly committed patients awaiting therapy assignments and a few refusing psychotherapy.

c. Educational Programs

The Institution has a separate school building offering educational programs. For the patients who are illiterate their are programs to teach them to read and write. For those with I.Q.'s below 90, there are programs designed to bring them up to an eighth grade level. For those whose I.Q. is over 90, there are programs leading to the High School Equivalency diploma. Approximately 70 per cent of the committed patients are enrolled in educational programs and 146 patients have earned state high school equivalency diplomas.

d. Vocational Programs

Few patients committed to the Institution have marketable vocational skills. The Institution offers vocational training in automotive skills, clerical work, bookbinding, cooking, baking, meat cutting, food service, carpentry, masonry, painting, sheet-metal work, plumbing, barbering, electronics, and circuit board repair. In vocational areas beyond the resources of the Institution, the assistance of the State Vocational Rehabilitation Agency is employed. When patients earn work release or parole, professional assistance in obtaining employment is available.

F. Results of the Program

To evaluate the program, two cohorts (defined groups) have been established. Cohort A consists of 507 patients who were evaluated for defective delinquency during 1955-1959. Cohort B consists of 607 patients who were evaluated for defective delinquency during 1960-1964. Use of the Cohort approach allows for accountability of all patients from those time periods and allows one to establish meaningful recidivism rates. The remaining patients comprising Cohort C (1965-1969) and Cohort D (1970-1974) are not included since insufficient time has elapsed to fully evaluate those cohorts on a longitudinal basis. The data of the Institution indicates that it takes approximately one year from arrival to court commitment. Whether one gains re-entry into society via parole or release by court at a re-determination hearing it takes, on the average, another three to five years after commitment. The criterion for establishing recidivism is three years opportunity in society. Thus, a time period of approximately eight years has to be allowed to evaluate a cohort.

Of the 507 patients comprising Cohort A, 163 (32%) were not recommended for commitment by the staff. Of the 344 patients whom the staff recommended for commitment, 272 (79%) were committed by the Courts. On September 30, 1972, of the 272 patients committed during the 1955-1959 period, 234 (86%) had been completely released from defective delinquency status (60 at recommendation of Institutional Board of Review and 174 at subsequent redetermination hearings by the courts) and 38 (14%) were still under the jurisdiction of the institution. Of these 38 patients, 14 were on parole and 19 had been returned as conditional release violators. Of the original group of 272 committed patients, there are five (2%) who have not obtained conditional release status from the Institutional Board of Review or release at a subsequent redetermination hearing by the courts.

Of the 607 patients comprising Cohort B, 157 (26%) were not recommended for commitment by the staff. Of the 450 patients whom the staff recommended for

commitment, 366 (81%) were committed by the Courts. On September 30, 1972, of the 366 patients committed during 1960-1964, 238 (65%) had been completely released from defective delinquency (75 at the recommendation of the Institutional Board of Review and 163 at subsequent redetermination hearings by the Courts) and 128 (35%) were still under the jurisdiction of the Institution. Of these 128 patients, 60 (47%) were on parole and an additional 48 had been returned as conditional release violators. Of the original group of 366 committed patients, there were 17 (5%) who had never obtained conditional release status from the Institutional Board of Review or release at a subsequent redetermination hearing by the Courts.

Thus when one combines the committed patients from Cohorts A and B (N=638), all committed patients covering the ten year time period January 5, 1955 through December 31, 1964, 166 (26%) were still under the jurisdiction of the institution and only 22 patients (3%) had not had conditional or complete release (as of September 30, 1972).

As one can see from the data, only 22 (3%) of the first 638 committed patients had notexperienced complete or conditional release. Thus, the expressed fear of life confinement as the routine outcome of an indeterminate sentence voiced by certain groups, is not supported by the evidence.

The data for all those committed patients from Cohorts A and B, reveals that of the 472 patients who were completely released from defective delinquency, 337 (71%) were released by the Court in opposition to the Institutional Board of Review opinion and 135 (29%) were released by the courts at the recommendation of the Institutional Board of Review. There are several factors involved in the Court initiated release. Frequently patients were released as a result of actions of juries and not necessarily those of the judges. It is important to note that 148 (44%) of these 337 patients were or had been on conditional release status at the time of their court redetermination hearing and release.

G. Criterion Measures and Recidivism Tables

The Defective Delinquent Statute is silent in regard to criteria to be used by the staff, the Institutional Board of Review, or the Courts in determining when it is "reasonably safe for society to terminate the confinement and treatment" of an individual in defective delinquency status. As mentioned earlier, the Institutional Board of Review did set up a trial leave system for gradual, evaluated release from confinement leading to parole. However, parole, under law, is for an indeterminate period. The Institutional Board of Review then established a standard of three years success on parole before it would recommend complete release from defective delinquency status to the Court of jurisdiction. Since each parolee is followed in treatment on a weekly basis, the parole agent cannot artificially inflate a success rate, by design or load pressure, by minimally supervising the parolee and allowing a sentence to expire. The criterion of three years success on parole follows a medical model for evaluating success of treatment. It was felt that such a standard was necessary to reasonably insure the safety of society as well as to benefit the patient by reducing regression or relapse and further confinement. It should be noted that a research article from the California Correctional System entitled "The Effectiveness of Group Psychotherapy in a Correctional Institution" appearing in the American Journal of Psychiatry indicated that the beneficial effect of in-house therapy lasted one year and had become negligible by year two after release. They recommended continued treatment after release to cover at least the first two years to improve the success rate. The patients they treated and followed were "257 inmates suffering primarily from personality and character disorders." A matched comparison group of 257 patients who were untreated was used for the study. The patients studied are from the California Medical Facility at Vacaville and are fairly comparable to Maryland's Defective Delinquents.

In developing the recidivism tables, only those patients who had had opportunity to be in society for three years were included. To determine whether they were convicted of further criminal acts, follow-up F.B.I. reports were obtained. Using this procedure, those individuals who were convicted of a new offense even one day after release were recorded as failures. However, to be recorded as a success, the individual had to be free of further convictions for at least three years after release into society. All estimates are "conservative" ones in that the Institution has fairly sure knowledge of its violators through its after-care system. However, those released by Court on redetermination hearing could only be followed through F.B.I. reports. Thus, their follow-up is not as complete due to F.B.I. report shortcomings. However, this error may serve to inflate the success rate of those court released and does not favor the success rate of those released through recommendation of the Institutional Board of Review.

An additional note is in order. That is, the recidivism rate for those not committed at original hearing despite an institution recommendation for commitment, is taken from the study of Patuxent patients made by Dr. Emory Hodges and reported in the American Journal of Psychiatry. His study covered Patuxent patients through June 20, 1966, a time period that does include our two cohort groups. It should be noted that this portion of Dr. Hodges' study was not disputed by the critics of his study. His recidivism rate for this "untreated group" was 81 per cent.

When one evaluates treatment programs and recidivism rates, one has to be concerned with quality or effect of treatment, and not merely quantity or number treated and released. To ignore the quality or result of treatment only leads to false and misleading evaluations of any program. On a quantity basis, one may treat and release 100 per cent of one's patients in a specified time period. However if all or a significant majority then commit new offenses, no meaningful purpose has been served.

TABLE IV

Recidivism Rates for Cohort A (1955-1959 Group)*

	Number	Committed new Offenses	Recidivism Rate
1. Released at Re-hearing against staff advice, in-house treatment only	96	45	47%
2. Released at Re-hearing against staff advice, in-house treatment plus conditional release experience	67	26	39%
3. Released at recommendation of staff and Institutional Board of Review, in-house and continued treatment for three years on parole	60	8	13%

* 11 patients were released at re-hearing and were not included because they did not meet the criterion of the possibility of three years in society.

TABLE V

Recidivism Rates for Cohort B (1960-1964 Group)*

	Number	Committed new Offenses	Recidivism Rate
1. Released at Re-hearing against staff advice, in-house treatment only	90	38	42%
2. Released at Re-hearing against staff advice, in-house treatment plus conditional release experience	33	13	39%
3. Released at recommendation of staff and Institutional Board of Review, in-house and continued treatment for three years on parole	75	2	3%

* 40 patients were released at re-hearing and were not included because they did not meet the criterion of the possibility of three years in society.

The usual recidivism rates quoted nationally talk of a 60 to 70 per cent recidivism rate for adult offenders. In the case of Maryland's defective delinquents, Dr. Hodges found an 81 per cent recidivism rate for the "untreated group", those who

were not committed at original defective delinquency hearings despite the recommendation of the institution staff. In evaluating the two Cohort groups of this report (see Tables IV and V), all the patients had been committed and treated at the Patuxent Institution for a period of at least three years before release. To make the data more meaningful, those patients released at redetermination hearings by the courts contrary to the Institutional Board of Review recommendation are divided into two groups. The first group includes those released who had never experienced conditional release status (treated but released directly from confinement) and the second group includes those released against advice but who had had conditional release status (further along in treatment but not fully meeting the Institutional Board of Review standard for full rehabilitation). The third group consists of those patients who had been on parole and were recommended by the Institutional Board of Review as rehabilitated.

As one can see from the Tables, the recidivism rate of those treated but released directly from confinement was 47 per cent in Cohort A and 42 per cent in Cohort B. Although four to five of each ten released from this group again violated the law, their recidivism rate was well below that of Hodges' untreated group or the nationally quoted recidivism rates. The recidivism rate for the second groups, those who had conditional release experience, was 39 per cent for Cohort A and Cohort B, a better success rate than the first group and well below the national recidivism rates.

The recidivism rate drops dramatically in the third group, those who have received the full benefit of the treatment program and are recommended for complete release by the Institutional Board of Review. The rate for Cohort A is 13 per cent (or approximately one of every eight individuals) and for Cohort B it is 3 per cent (or approximately one of every thirty-three individuals).

A criticism of Dr. Hodges' study was his omission of ages for those completely released as rehabilitated.

TABLE VI

Characteristics of those Completely Released at the Recommendation of the Institutional Board of Review (N=135)

Variables	Averages (Arithmetic Mean)
1. Age at Admission	25.5
2. Age at First Conviction	16.0
3. Prior Convictions	4.0
4. Sentence in Years	5.0
5. I. Q.	95.0
6. Age at Parole	29.9
7. Age at Complete Release	34.1

The data indicate that those released as rehabilitated return to society at the average age of 30 and are completely released from defective delinquency status by age 34. A commonly proposed theory holds that psychopaths "burn out" in middle life, but clearly these patients are neither in middle life nor are they "burned out."

In terms of the main purpose of the defective delinquent statute - the protection of society from dangerous offenders - one could ask, "What risk is worth taking when the safety of Maryland's citizens is involved?" In effect, we are dealing with comparative risk with respect to offenders who have not been treated at all at the Patuxent Institution, those partially treated and those completely treated. So, the risk rate for the untreated group is that eight in every ten will be convicted of another crime. Whereas, in respect to Patuxent Institution patients who were partially treated, the risk rate was 39 per cent or six out of every ten will be convicted of another crime. But, with respect to patients

fully treated under the Patuxent Institution program, only one of every fourteen individuals will be convicted of another offense.

What we observe in our patients and what they tell us is that, if they were offered a choice between completing treatment as recommended by the staff or receiving immediate release, they almost always opt for release. Our findings indicate that such a choice is not in the patient's own best interest because he runs a high risk of being reincarcerated for a longer period of time than would be required for him to complete treatment at the Patuxent Institution.

IV. The Financial Experience of the Patuxent Institution

A. History

In 1961, the State Legislature decided to separate the Patuxent Institution from the Division of Correction. Until that time, the Institution had been under the administrative control of the Division. This control extended to budgetary control, and all budgets submitted at that time were reviewed by and modified by the Division of Correction. This budgetary control included the preparation of future budgets. For this reason, the effects of this control extended through fiscal year 1962, in that the budget prepared for that year was influenced by policies of the Division of Correction. Beginning in fiscal year 1963, we see the first budget prepared and submitted as an autonomous agency. For this reason, this study will compare fiscal growth of Patuxent Institution from 1963 to the present date with other similar agencies for the same period.

B. Method

The data used for this study were the reported actual budget figures for each agency included in the study as published in The Maryland State Budget. Figures reported are for the fiscal year. The figures used include the total expenditure of the agency, the actual average daily patient population, the number of authorized personnel positions, and the average daily per capita cost. Per capita cost for State agencies is computed by dividing the actual total expenditure by the average daily population.

Agencies included in this study are Patuxent Institution, Clifton T. Perkins State Hospital, Maryland Correctional Institution-Hagerstown, Maryland Correctional Institution for Women, and the Division of Correction as a whole. These agencies were selected because they reflect certain comparisons with Patuxent Institution. Since Patuxent deals with a special group of criminal offenders, it is reasonable

to compare the Institution with the general fiscal trends of the entire Division of Correction, especially in the area of per capita cost. The Perkins State Hospital is a specialized state hospital dealing with criminal offenders, having a diagnostic function for court referrals, a psychiatric treatment commitment, and maximum security facility of relatively limited size - making it in many respects similar to Patuxent. The Womens Institution is similar only in that it is a small correctional unit in patient size, and thus exhibits many of the problems found in fiscal study of units with small populations. The Hagerstown Institution is a two-institution complex, including the new Correctional Training Center. It is a mixture of old and new facilities with part of the institution devoted to major rehabilitation functions while retaining necessary high-security facilities. Perhaps it is the typical large correctional institution of the Division of Correction.

We will study, by comparison, the fiscal pictures of these related organizations, dealing with the immediate past performance and projecting some trends into the future. One of the primary purposes of this study is to provide some answers to the questions:

1. Does it cost more to confine persons at Patuxent than elsewhere?
2. Why is the per capita cost at Patuxent so high?
3. Has Patuxent displayed fiscal responsibility with regard to growth?
4. Would there be any significant savings in returning Patuxent to the Division of Correction as a regular correctional institution?

C. Data Studied

The Tables which follow display the data used in this study. Each Table shows the data arrayed by Agency and by fiscal year.

TABLE VII

Total Expenditures of Agencies Studied - 1963 to 1972

	Division of Correction	Md. Corr. I. Hagerstown	Md. Corr. I. Women	C.T.Perkins St. Hosp.	Patuxent Institution
1963	$ 5,548,500	$ 1,756,449	$ 434,411	$ 981,465	$ 1,857,862
1964	7,928,209	1,943,718	484,304	1,148,379	2,104,968
1965	8,398,368	2,103,845	473,335	1,302,557	2,241,511
1966	9,620,925	2,412,194	544,673	1,481,432	2,475,337
1967	11,626,769	3,123,232	650,590	1,794,602	2,690,247
1968	14,608,034	4,328,619	839,149	2,208,585	3,138,429
1969	15,880,763	4,656,409	852,247	2,344,800	3,426,354
1970	19,088,905	5,491,909	1,112,385	2,737,698	3,920,904
1971	21,684,172	6,344,539	1,206,306	3,169,769	4,396,494
1972	24,071,472	7,062,448	1,296,335	3,405,661	4,708,754
Ten Year Percentage Growth	334%	302%	198%	247%	153%
Mean Annual Growth	18%	17%	13%	15%	11%

Table VII shows the growth experience in overall expenditures for the period 1963 to 1972. The accumulated ten year percentage growth ranges from a high of 334 per cent for the Division of Correction to a low of 153 per cent for Patuxent Institution. The Mean Annual Growth reflects this by ranging from 18 per cent for the Division of Correction to 11 per cent for Patuxent Institution. While no direct relationship is found in the dollar values, the total expenditures form the basis for later comparisons in per capita cost and per capita growth rate.

For comparison purposes, the total Maryland State Budget for the same period showed a ten year growth of 301 per cent and a Mean Annual Growth of 17 per cent.

TABLE VIII

Patient Populations of Agencies Studied - 1963 to 1972

	Division of Correction	Md. Corr. I. Hagerstown	Md. Corr. I. Women	C.T.Perkins St. Hosp.	Patuxent Institution
1963	5646	1226	191	163	409
1964	5248	1178	165	176	471
1965	5542	1353	175	190	487
1966	5722	1477	180	215	479
1967	5370	1405	170	203	480
1968	5139	1469	139	205	488
1969	5274	1579	143	218	497
1970	5536	1704	145	217	509
1971	5363	1614	122	209	550
1972	5097	1582	119	200	494
Ten Year Growth	- 10%	29%	- 38%	23%	21%
Mean Annual Growth	- 1%	3%	- 5%	2%	2%

Table VIII shows the growth experience in patient population for the period of the study. We see here a different pattern than that found in the previous Table. The Division of Correction and the Womens Institution show a decline while the other agencies show an increase. The decline has been modest for the Division of Correction, but steady and significant for the Womens Institution. Note that the rate of increase in population for the other agencies has not been equal to the increase in total expenditures. This is the first indicator that factors other than population size effect operating costs.

TABLE IX

Authorized Personnel of Agencies Studied - 1963 to 1972

	Division of Correction	Md. Corr. I. Hagerstown	Md. Corr. I. Women	C.T.Perkins St. Hosp.	Patuxent Institution
1963	917	231	70	236	309
1964	951	245	73	243	330
1965	1020	270	73	245	343
1966	1062	273	77	264	351
1967	1248	377	83	286	354
1968	1548	448	102	292	354
1969	1685	473	112	297	357
1970	1711	495	111	300	357
1971	1776	499	113	307	368
1972	1811	520	114	302	380
Ten Year Growth	97%	125%	63%	28%	23%
Mean Annual Growth	8%	10%	6%	3%	2%

Table IX shows the growth experience in authorized personnel positions for the period of the study. There is a significant increase for the Division of Correction and the Hagerstown Institution. Noting the relatively constant population, it would appear that additional facilities and/or increases in security or treatment functions have required an increase in personnel. Again, we can see that factors other than population play a part in determining overall expenditures.

TABLE X

Per Capita Costs of Agencies Studied - 1963 to 1972

	Division of Correction	Md. Corr. I. Hagerstown	Md. Corr. I. Women	C.T.Perkins St. Hosp.	Patuxent Institution
1963	$ 983	$ 1,433	$ 2,274	$ 6,021	$ 4,552
1964	1,511	1,650	2,935	6,525	4,469
1965	1,515	1,555	2,701	6,856	4,603
1966	1,681	1,633	3,026	6,842	5,168
1967	2,165	2,223	3,827	8,482	5,605
1968	2,842	2,947	6,037	10,262	6,431
1969	3,011	2,956	6,101	10,755	6,894
1970	3,448	3,223	7,672	12,616	7,703
1971	4,043	3,931	9,888	15,166	7,994
1972	4,723	4,464	10,894	17,028	9,532
Ten Year Growth	380%	109%	212%	379%	183%
Mean Annual Growth	19%	9%	14%	19%	12%

Table X shows the growth experience in per capita cost for the period 1963 to 1972. Per capita cost, as previously mentioned, is a combined function of population and expenditure. It gives a basis for comparing costs between agencies as it relates to size of the population served. An interesting growth pattern is noticed in the smaller institutions. In 1963 Perkins exceeded Patuxent per capita by $ 1,500, but in 1972 this separation has grown to $ 7,500. In 1963 Patuxent per capita cost was twice that of the Women's Correctional Institution. In 1972 Women's per capita cost exceeds Patuxent by over $1,000.

D. Observations Based on Data

We see from the data three distinct and separate classes of institution or agency. The experience of the Division of Correction as a whole appears to reflect the trends in major institutions with large populations such as the Hagerstown complex. We can thus class the Division and the Hagerstown complex in the large population, correctional-oriented group. Womens institution is an example of a very small correctional institution in the same system. Both Patuxent and Perkins represent relatively small population institutions (compared to most correctional institutions) with special missions and a high level of professional personnel to meet the diagnostic and treatment functions required under the laws governing their operation.

Even with the distinct differences between missions, we find that the Womens institution has a per capita cost now exceeding Patuxent's, and a growth rate that exceeds both Perkins and Patuxent. In fact, an extension of the present growth experience indicates that in 1979 or 1980, Womens institution will have a per capita cost equal to Perkins. It would seem that the immediate cause for this increase in per capita cost is the continuous decline in their population. It should be noted that in the usual correctional institution, personnel costs account for between 75 and 85 per cent of total cost. We see Womens having a steadily increasing number of employees and a decreasing population, thus easily accounting for strong increases in per capita cost.

The Division of Correction shows a strong increase in per capita cost, also with a somewhat declining population, though not as significant a decline as Womens institution. Here we see a population with frequent periods of advance and decline. The population fluctuations, however, seem insufficient to explain the rising per capita costs. The Hagerstown institution, incidently, does show an increase, but primarily this is due to the opening of the Correctional Training Center as a part of the complex. While this permitted a spreading of the overall Division of Cor-

rection population, it did not materially change the total picture for the Division. The growth in per capita cost within the Division can be seen also in the increase in authorized personnel. Note that this has increased significantly, partly due to the new facility in Hagerstown, but also due to the increasing role of rehabilitation in the correctional process. This growth mirrors the nation-wide awareness of the need for corrections to do more than simply warehouse criminals until their return to society. To meet the needs of offenders, the correctional system has increased their personnel and operating costs, and these are reflected in rising per capita costs. At the present rate of growth, the Division of Correction will overtake Patuxent within the present decade, and Perkins within the next. Thus, we see here an increasing per capita cost because of program enhancement rather than population changes.

What of the two specialized institutions, Patuxent and Perkins? Here separate factors play a part it would seem. Perkins is the younger of the two institutions, and its growth has been similar to Patuxent. At the present time it is still enlarging its physical plant, with facilities that require additional personnel. It operates on the mental hospital model, with a large nursing staff responsible for the care of the patients, yet at the same time requiring a large security staff for the maintenance of maximum security for which it was designed. Undoubtedly, personnel costs associated with dual staffs represents a major feature in the rising per capita costs. The population rose for the first four years and then appears to have stabilized. Here then, is a highly specialized security mental hospital still growing in cost but with a steady population and with a growth rate, incidently, almost matching the overall State rate of growth.

Finally we look at Patuxent Institution - a facility opened in 1955 and almost continually under construction since that time. For the period of this study, however, most of the major construction has been completed, especially the units which

require the employment of additional personnel. The present additions to the physical plant are, for the most part, service buildings that will permit increases in operating capability without major increases in new positions. The population at the Institution appears to have become relatively stabilized, with admissions equalling discharges. Personnel additions have been minimal in the ten years of the study. Here we see a per capita cost growth rate that is the lowest of any of the agencies herein studied. We find that the last year of the study, 1972, found the largest single year per capita cost increase. In that year the Institution had the only decrease in population in the entire ten year study, dropping 10 per cent. The institution has a relatively constant ratio of personnel to patients, the lowest ten year growth in total expenditures and per capita cost, and an expenditure growth rate lower than the State average for the same period. The Patuxent Institution has a mission that includes a diagnostic function for the courts, a maximum security confinement facility, a specialized treatment program for offenders generally described as the most difficult confinement and treatment risks, and an outpatient program for paroled offenders that includes a Halfway House and out-patient clinic operation and community supervision.

This last factor highlights the problem of hidden cost factors related to per capita cost not reported in normal budget operation. Patuxent Institution is responsible for a group of offenders not reported in the budget as a part of the patient population and therefore not considered in computing per capita cost. By law, offenders paroled from Patuxent Institution remain the responsibility of the Institution, and the continued supervision and treatment of these offenders in the community results in direct expenditure of funds from the operating budget for this purpose. At the present time, over 120 such offenders are on parole from the Institution. The Institution provides professional staff aftercare services at an Out-Patient Clinic maintained for this purpose. Other professional personnel are responsible for the parole supervision of these offenders in the community. A

part of the management and administrative costs of the Institution are diverted to this operation. While the cost of maintaining the offender in the community is less than institutional costs; it is a significant factor in assessing overall cost. Based on experience, this factor can reduce the per capita cost of the Institution by $1,000 or more - over 10 per cent at the 1972 level.

There is another significant factor not immediately observable from the data but bearing upon per capita costs. That is the physical plant of the institutions themselves, with special regard for the housing of patients therein. In most correctional-type institutions, a major personnel component is the group of employees responsible for the direct and around-the-clock supervision of the patients. The physical structure of the institutions determines, to a large degree, the number of such employees required to maintain the required supervision. Some correctional facilities utilize large cell blocks housing between 200 and 500 patients in a design that can be observed by a very limited number of employees. Other facilities utilize dormitory facilities where 100 or more patients may be assigned beds and supervised again by limited numbers of employees. Improved treatment through ease of contact between patients and staff as well as control and supervision of patients are enhanced by reducing the number of patients in a housing unit. To obtain such increased treatment and supervision, however, smaller units are required and this requires additional personnel. The best example of this is Patuxent Institution. Here the maximum number of patients in a housing unit is 32 with almost one-half of the units having a maximum of 22 per unit. This housing pattern accounts for the large personnel to patient ratio found at the Patuxent Institution. Related to this factor is the need for certain personnel regardless of the number of patients. For example, ancillary personnel such as maintenance workers, office employees, management personnel, etc. are required without direct relationship to the number of patients. For example, in a maximum security facility,

tower guards, if required, must be provided in numbers related to the guard towers, not the number of patients. The complexity of the physical structure often dictates the placement of supervisory correctional personnel without regard to fluctuations in patient population. These factors make the use of per capita cost figures themselves of questionable value as a means of comparing one agency with another, unless other factors are given equal weight. For this reason, in this study we have emphasized the growth of the per capita cost for each agency, rather than comparisons in annual cost between agencies.

E. Comments

At the beginning of this fiscal section, we proposed some questions to be answered. We submit the following:

1. Does it cost more to confine persons at Patuxent than elsewhere?

The answer is yes and no. It costs more at Patuxent than at the other male correctional institutions, but less than at Womens institution or at Perkins hospital. Patuxent is an institution similar to Perkins in physical structure, program content and personnel complement. However, in the future, we can expect corrections to overtake Patuxent before the end of the present decade at present growth rates.

2. Why is the per capita cost at Patuxent so high?

Primarily because the physical structure of the institution requires a large correctional staff. In terms of treatment program, we see Patuxent as the possible forerunner of Maryland's future correctional institutions -- a small treatment oriented facility with a community based component. While present day costs are higher than most correctional institutions, the rate of cost growth is more moderate, actually less than the overall State government rate of cost growth.

3. Has Patuxent displayed fiscal responsibility with regard to cost growth?

We believe it has and that the data in this study confirms this. The Patuxent concept was something new to Maryland in 1954. Our major growth years are behind us now. During this period of growth, the Executive and Legislative bodies have accepted the responsibility for adequate support of what was described as Maryland's "noble experiment". The Courts have upheld the adequacy of that support, finding that it met constitutional requirements. During the second decade of its existence, the Institution had a fiscal growth rate lower than the State average. At the same time, other data indicate that the effectiveness of the Institution in meeting the intent of the law is undiminished.

4. Would there be any significant savings in returning Patuxent to the Division of Correction as a regular correctional Institution?

For the purposes of this section, this question must be answered in purely fiscal terms. It carries with it the implicit concept of the abandonment of the Defective Delinquent Statute, with consequences beyond the scope of this study. From the fiscal view; no, there would be no significant savings. The physical structure would certainly be used to the fullest extent possible by the Division of Correction. One would presume therefore, that the staff would remain intact. Perhaps the professional staff would not be required at the same level for a traditional correctional institution, but it would be foolish to expect that professional staff personnel, in critically short supply throughout the country, would be permitted to leave the correctional system. It would be expected that professional personnel would either be retained or transferred to other institutions to provide much-needed support. The existing personnel would be required for the operation of the facility regardless of the identity of the operating agency. As stated earlier, the physical structure of the Institution accounts for the staffing pattern, especially for the guard force. Since personnel costs account for the major

portion of all correctional budgets, there would appear to be little expected reduction in expenditure by transferring ownership. In point of fact, the exact opposite would be more likely.

It should be remembered that upon elimination of the defective delinquent statute, those persons presently confined as defective delinquents would be immediately released from Patuxent Institution. That is, those with remaining criminal sentences would be absorbed by the correctional system. Those without remaining criminal sentences would be released outright to the community. One immediate effect would be the reduction of the population at Patuxent Institution. Even considering transfers between institutions, the overall net effect for the Division of Correction would be a reduction in population while at the same time the absorption of the full expenditure for operation of the Institution. Presuming a continuation of the current correctional population trend downward, we would see what was observed at the Womens institution - a dramatic reduction in population, maintenance of the same physical structure, an increase in authorized personnel - all spelling an increase in per capita cost. Therefore, a return of Patuxent to the Division of Correction would not result in any fiscal saving for the state.

END