

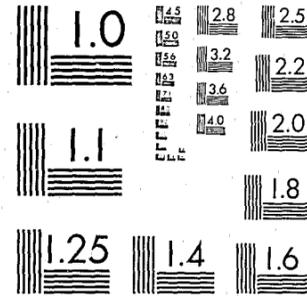
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THE RELATIONSHIP OF THE STATE TO
CITY AND COUNTY DETENTION AND
CORRECTIONAL FACILITIES

A REPORT SUBMITTED TO THE WASHINGTON
STATE LEGISLATURE BY THE STATE JAIL
COMMISSION PURSUANT TO RCW 70.48.060(8)

81167

DECEMBER 1980

TABLE OF CONTENTS

PREFACE.....i

I. INTRODUCTION.....1

II. CHARACTERISTICS OF LOCAL JAIL POPULATIONS...3

III. AN OVERVIEW OF LOCAL CORRECTIONS PROBLEMS...6

IV. SUMMARY OF FINDINGS AND RECOMMENDATIONS....12

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PREFACE

This report is submitted pursuant to legislative direction as set forth in RCW 70.48.060(8) which directs that the Jail Commission examine and present to the Legislature recommendations relating to detention and correctional services.

In 1977, Norman Carlson, Director of the Federal Bureau of Prisons stated, "We lock offenders in cages that only serve to breed hostility, bitterness and further crime. Depriving inmates of privacy and dignity has not solved the nation's crime problem. It has only made it more acute."

Clearly, the time for changing our approach to corrections is past due. Legislative, Judicial, and Executive branches of government must combine their efforts and subordinate their unilateral interests.

There are no easy solutions or simple answers for eliminating the complex problems of state and local corrections facilities. However, we must commit to the development of a coordinated and fully integrated criminal justice system. The establishment and operation of economically efficient, secure, and humane corrections facilities are essential to the public interests.

It must be understood that custodial staff in corrections facilities only implement policies and decisions. The consequences of their actions reflect the direction provided by elected and appointed officials. It is the duty and responsibility of the latter to effect necessary changes. Hopefully, this preliminary report will be a catalyst for the implementation of constructive and productive changes in our overcrowded, ineffective, outmoded, and costly corrections system.

Special acknowledgement should go to each member of the Jail Commission for their individual and collective contributions to this report and the myriad of task they have so willingly undertaken.


Saul Arrington, Chairman
Washington State Jail Commission

I.

INTRODUCTION

Constitutional and Statutory History

Both in common understanding and in actual practice, there are two separate corrections systems operating in Washington State today, a state system and a local one. This is true notwithstanding the significant convergence of state and local populations within local corrections facilities. Further, that there is no coordination of state and local correctional programs is probably more a result of accident and gradual historic development than a conscious determination by state and local governmental entities.

The State Constitution does not directly address the establishment and operation of local correctional facilities. Article XIII, Section 1, identifies the state's role as fostering and supporting reformative penal institutions. No specific reference is made in the Constitution to jails, their role or function. The constitutional power of local government with regard to law enforcement and local jails is set forth in Article XI, Section 11, which provides that: "Any county, city, town, or township may make and enforce within its limits all such local police, sanitary, and other regulation as are not in conflict with the general laws." Article XI, Section 5, specifically recognizes the office of Sheriff; however, his role in corrections is not defined.

The development of a division of responsibility between the state and local government in corrections has evolved through legislative initiative, practice, and tradition. Cities and counties were granted legislative authority to establish and operate jails in which persons may be held for varying periods not to exceed one year.

There are currently 121 classified jails operating in the State of Washington. Of these, 31 are "correctional" facilities, 9 "detention" facilities, and, 81 "holding" facilities. Classification of these facilities is determined by the Washington State Jail Commission as prescribed in RCW 70.48.

- (1) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.
- (2) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(3) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult person serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

The Legislature has directed that this report deal with the relationship of the state to local detention and correctional facility operations. Statistics available to the Commission indicate that on any given day, more than 80% of all local prisoners are housed within detention or correctional facilities. Insofar as the majority of the prisoner population discussed in this report are housed in correctional facilities, the term "correctional facility" is used interchangeably with "detention" facility.

The recognition of the classifications and limitations upon local jails parallel the development of the Washington Criminal Code and its division of various criminal offenses into misdemeanors, gross misdemeanors and felonies (the latter being a term used without definition in Article IV, Section 6 of the State Constitution). In the recodification of this code, effective July 1, 1976, these terms are defined as follows:

FELONY	Any crime described as such, or for which a person can be sentenced in excess of one year.
MISDEMEANOR	Any crime described as such, or for which a person may be imprisoned no longer than 90 days.
GROSS MISDEMEANOR	Any crime for which a person may be imprisoned for up to one year.

RCW 9A.04.040. Felonies are divided into three categories:

Class A, sentences in excess of 20 years may be imposed;

Class B, sentences over 8 but less than 20 years; and

Class C, sentences of less than 8 years, RCW 9A.20.020.

It can be assumed both from the division of criminal offenses by length of time to be served and from the limitation placed on the length of time various classifications of jails may hold prisoners, that only pretrial and sentenced misdemeanants were intended to be held in local correctional facilities. Further, the wide discretion given to superior courts in sentencing may contribute to a large number of sentenced felons of all classes being held in local correctional facilities. This fact, together with the significant number of felons who are detained for long periods pending transfer to state facilities and of state prisoners who are held in local facilities pending parole hearings, renders any clear definition of specific prisoners as either state or local both difficult and arbitrary.

II.

CHARACTERISTICS OF LOCAL JAIL POPULATIONS

Sample data collected by the Commission from local jails for 1978 and 1979 provide a profile of local jail inmate characteristics.

The largest population consists of males between the ages of 15 and 29 (63.2%). Females comprise 8.7% of all persons incarcerated in jails and 14% of those under 15 years of age.

Non-whites (Blacks, Hispanics, Native Americans, Asians) comprise approximately 22.4% of local jail population even excluding the jail population figures for Clark, King, and Snohomish Counties for which ethnic characteristics were not available at the time of this writing. Ethnic minorities are substantially over represented in local correctional facilities proportionate to their numbers in the state's general population.

Statewide, 71.2% of all local jail prisoners have an established residence in the county where they are detained, 16.5% reside in another county in Washington and approximately 11.4% reside outside the state. Felons (convicted or charged) comprise 31.3% of all prisoners housed in local jails; misdemeanants comprise 27.5% and, 16.4% are DWI violators. Approximately 24.7% of the total prisoner population are classified as traffic or "other", a category which includes certain state and all federal prisoners.

The majority of prisoners held in jails are pre-trial detainees (44%); some 17.2% are sentenced prisoners. The remaining 21.7% are sentenced prisoners held in jail pre-trial and continuing in confinement following sentencing. Federal agency and U.S. Court holds comprised 5.9% of the total state jail population during this period and 3.2% were local adult probation detainees. The remaining 8.1% were parolees, work releases, and other prisoners held for the State of Washington.

The largest prisoner population held in local jails are pre-trial class E (misdemeanant) offenders (9.7%), followed closely by pre-trial DWI offenders (9.6%) and pre-trial traffic/other offenders (8.7%). Although subject to tremendous variation between jurisdictions (17 to 63 days), the overall average length of stay for all persons held in city or county correctional facilities is 42.5 days. The average length of stay for pre-trial persons is 28.3 days, while a sentenced prisoner's average length of stay is 59.4 days. Persons classified as "holds" average 43.2 days in local jails.

Pre-trial detainees, over 90% of whom spend less than 60 days in pre-trial detention, are often released on their personal recognizance, or bail (15.7%) or bond (12.4%), yet a significant number are not released pre-trial (17.8%). A separate and significantly large porportion of the jail population are persons who moved into sentenced status with no pre-trial release (14.6). In all, some 32.4% of all pre-trial detainees are not released prior to trial.

Sentenced prisoners are most frequently released following the completion of the imposed sentence (40.5%); 11.3% of such prisoners were released on supervision and 16.2% are transferred to a state or federal authority.

The annual average daily population (ADP) in city and county correctional facilities has increased from 1,897 in 1975 to 2,559 in 1979. This represents a 34.8% increase in the ADP (see Table 1). An additional ADP of state or federal prisoners housed in such jails range between 155 and 203.

Table 1 summarizes the overall projection of local jail capacities which the Commission recently completed in the course of its determination of appropriate maximum levels of funding for new or remodeled local detention and correctional facilities.

TABLE 1

<u>Time Interval</u>	<u>Average Daily Population</u>	<u>Percent Change</u>
1975-1979	2427.58	
1980-1984	3539.60	+45.8
1985-1989	3862.40	+ 9.2
1990-1994	4051.80	+ 4.9
1995-1999	4410.80	+ 8.9
2000	4673.80	+ 6.0

The methodology used in making these projections is described more fully in a separate report on the jail bond program which has been submitted to the legislature. Overall, these projections have required certain assumptions to be made, principally including a slowing of the rate of population growth, a cyclical decline in the major at-risk age cohort, constant incarceration rates and no major changes in either the use of alternatives to local jails nor any substantial change in present sentencing practices, as well as the anticipated full use of any increased jail capacity.

The average daily population projections set forth in Table 1 reflect the following projected incarceration rates (number of persons incarcerated for each 1000 persons in the jurisdictions population):

TABLE 2

<u>Time Interval</u>	<u>Incarceration Rate</u>	<u>Percent Change</u>
1975-1979	.00068	
1980-1984	.00087	-27.9
1985-1989	.00084	- 3.4
1990-1994	.00080	- 4.5
1995-1999	.00079	- 1.2
2000	.00078	- 1.3

Presently available statistics suggest that increases in the ADP notwithstanding, incarceration rates should peak in the 1980-1984 period and decline up to the year 2000. This tapering off is principally attributed to the increasingly older population now projected for the state. However, it should be noted that the incarceration rate projected for the year 2000 will be 14.7% higher than the period between 1975 and 1979.

Again making certain assumptions which are included in the fundable capacity projects described more fully in the Commission's separate funding report, including a statutorily-directed peaking factor of 1.29, it is possible to project "available beds" and "needed beds" in local correctional facilities over the next twenty years. This projection, set forth in Table 3, of course assumes that all the local beds for which state funding has been sought will become available in the period 1984-1986.

TABLE 3

<u>Time Interval</u>	<u>Beds Available</u>	<u>Beds Needed</u>	<u>Percent Utilization</u>
1980-1984	3649	3529.6	97.0%
1985-1989	4428	3862.4	87.2%
1990-1994	4428	4051.8	91.5%
1995-1999	4428	4410.8	99.6%
2000	4428	4673.8	105.6%

This brief overview of local jail population is offered to provide a general basis for reviewing problems currently being encountered in local correctional facilities and how such problems necessarily involve the relationship between state and local government. Greater detail on certain prisoner populations is provided as appropriate in Part III which reviews such problems as they have come to the attention of the Jail Commission.

III.

AN OVERVIEW OF LOCAL CORRECTIONS PROBLEMS

The Commission recognizes that there are many problems which impede the efficient and effective management and administration of local jail facilities. This section examines those issues the Commission has determined to be current priority concerns in this regard.

PUBLIC ATTITUDES

The public has an ambivalent attitude regarding incarceration. On one hand, it is commonly held that the reason there is so much crime is that the courts are too lenient and that punishments are not severe enough. The public believes that the job this state's correctional system is doing is no better than "average" and that inmates should not be granted weekend leaves to visit relatives or to seek employment pre-release. Further, the public feels that incarceration reduces recidivism, that prisoner rights must be protected and that any new correction facilities that are built should be financed from existing revenues or other state and federal sources.

There is no clear public consensus regarding specific incarceration policies. While there is clearly a "get tough" attitude regarding sentencing and lengths of stay for persons committed to correctional facilities there is uncertainty concerning the willingness of the public to pay the high costs of massive incarceration.

STATE AND LOCAL CORRECTIONS

The review of the constitutional and statutory development of local jails in the introduction to this report illustrates the separation and lack of coordination between state and local corrections efforts. This is not to suggest that there have been no efforts at coordination; however, to date such efforts have been sporadic and, from the perspective of local government, the state has been the principal beneficiary.

On any given day 13.6% of all prisoners in local correctional facilities are state prisoners. For purposes of this report, these are persons under the custodial jurisdiction and control of the state adult corrections division at the time they commit an offense, including parole violators and adjudicated felons awaiting transfer from a local to a state correctional facility. The most significant characteristic of these prisoners is that very few are eligible for disposition by local authorities. Their participation in programs designed as alternatives to incarceration is substantially diminished.

Chapter 72.68 RCW establishes the authority for contracting with local jurisdictions, other states or territories to house state prisoners. However, this statutory provision is rarely used and does not address the more significant state prisoner population in local correctional facilities. RCW 70.48.140 permits agreements between the federal and local governments to hold federal prisoners in local jails and such agreements whereby local government is reimbursed for jail space are common.

In 1979, legislation was enacted (Chapter 72.72 RCW) providing for the establishment of an institutional impact account whereby local governments could receive reimbursement for some of the costs incurred in housing, adjudicating and supervising residents of state institutions accused or convicted of committing crimes while in such institutions.

With regard to the significant state population in local jails, state statutes give local government little or no control over their housing. Specifically, RCW 9.95.120 provides that warrants by state probation and parole officers against state parolees who violate the terms of their parole or commit another offense shall be honored by local jails. It also provides that release of such prisoners prior to any revocation hearing is subject to order by the state Board of Prison Terms and Parole. Similar provisions are incorporated in RCW 72.02A.090, although this statute contains a "space available" provision which is the basis for some disputes currently as to the statutory obligation to hold such prisoners. Such prisoners, when held, are clearly not subject to local control with regard to the determination of qualification for pre-hearing release. An important provision relative to this population is that the various categories of state releases who are returned to state institutions for violation of terms of their release have local jail time credited to their new sentence if the minimum terms are equal to their maximum terms. In effect, the cost of housing these prisoners for a portion of their sentence length shifts from the state to local government for the sentenced time passed in local jails.

The fact that very few of these inmates are subject to any form of release by local officials under established "alternatives to incarceration" programs is the most significant characteristic of this state population. Less than 10% of all parole violators and less than 2% of the work release prisoners are released pre-hearing. On the other hand, local pretrial prisoners are released in almost three-fourths of the cases. Again, it should be noted that the release of parole violators awaiting an on-site hearing is the responsibility of the Board of Prison Terms and Parole.

The inability of local judges to release parole violators from local jails becomes even more evident when average lengths of state, pre-trial or pre-hearing are examined. The average length of stay pre-trial for the local prisoner population is 28.31 days; for parolees the average length of stay is 60.6 days or 114% longer.

To date, there have been few significant efforts to explore joint or cooperative facilities or programs between local governments and the state.

RCW 72.64.100 allows for the establishment of regional jail camps and for local correctional prisoners to be held therein with reimbursement to the state for such housing, but to date no such program has been undertaken.

Overall, local jails which maintain large state (and federal) prisoner populations with correspondingly long lengths of stay tend to be more noticeably overcrowded and to experience a greater number of major incidents. This prisoner population presence within local jails is a matter of major concern in any review of the relationship between state and local government in corrections.

CITY AND COUNTY CORRECTIONS

In recent months, attempts at resolving consolidation agreements between cities and counties over the housing of city prisoners in county facilities have produced prolonged and in some cases yet-unresolved negotiations. In one case a major city has chosen to rescind all municipal criminal ordinances, to close its own municipal jail, and to direct its law officers to charge violators under county or state law. In some cases, cities claim that a portion of state sales and excise taxes paid by city residents should be credited against the cost of housing city prisoners in the county jail. In some cases there is the potential for differences of opinion concerning whether a prisoner is the responsibility of the city or the county.

PHYSICAL PLANT

A majority of all local correctional facilities in which 90% of all local prisoners are held were built prior to 1950. In each case the effective and efficient institutional life of these facilities has exceeded the reasonable limits. This has occurred despite remodeling efforts in some instances.

Within existing local jails, the square footage per prisoner is significantly less than the square feet required by state physical plant standards for new facilities. In the majority of all correctional facilities, the per prisoner square footage is less than half that required by those standards; in almost a third of these jails, the per prisoner space is 15 square feet or less. If local jails held only the number of prisoners which could be accommodated by the physical plant standards, existing capacities in local correctional facilities would be reduced by nearly fifty percent. Even granting variances from existing standards would not substantially ameliorate this condition.

A major constraint on jail management is the inability to properly classify and separate individuals. Among local correctional facilities, some 35.1% have no single cells and almost 75% have 30% or less single cells. Consequently, most prisoners are confined in large dormitory-type units often with disregard for the nature of the offense for which they are suspected or convicted.

ESCALATING COSTS OF OPERATING CORRECTIONAL FACILITIES

Many counties estimate the cost of meeting state custodial care standards as increasing jail operating costs anywhere from 25 to 50%. While it is premature to attempt to analyze the accuracy of such predictions, the fact remains that the cost of operating jails is increasing significantly at a time of decreasing revenues. In a few jails a dramatic increase has resulted merely from recognizing the basic requirement of full-time, 24-hour staff coverage of the jail. In some larger jails which already provide regular checks upon jail population or to implement minimum medical standards.

Increased operating budgets are unavoidable within local corrections systems, just as they have been within the state facilities which are now attempting to catch up with developing constitutional standards as enunciated by the federal courts. This will continue to be true notwithstanding the Jail Commission's current effort to revise its custodial care standards to make them as flexible as constitutionally possible.

It is generally accepted that the cost of operating a new jail facility over its lifetime will be 20 to 30 times the cost of building that structure. This hard reality has had a beneficial impact on the design process for new facilities; funded jurisdictions are now taking an extremely close look at how new jail facilities can be made as operationally efficient as possible in order to keep their corrections budget at the minimum but still meet state standards. These efforts are essential and commendable but will undoubtedly be largely offset by the larger jail populations which can be expected to exist with larger jail facilities.

OVERCROWDING

Overcrowding in local correctional and detention facilities was found to be as high as 470% of the "reasonable capacity" of certain jails in 1979. In those jails where overcrowding presented a chronic problem, it was found that in 1979 these facilities overall maintained populations some 98.4% greater than their reasonable capacities. Of thirty-three cities or counties seeking state bond monies for renovating or expanding their jail facilities, 54.5% had daily populations exceeding their reasonable capacities on 50% or more of the 1825 days of the 1975-1979 period.

There are a number of specific factors which directly contribute to overcrowding in local correctional facilities. The first is the inability to control the flow of prisoners into and out of such facilities. This inability results principally from the fact that the sentencing, and control over release, of all categories of prisoners lies within the discretion of the judiciary or state agencies separate from the city or county government which operates, and pays for, the operation of the jail. At the same time, many of the programs which might be employed by sentencing judges as an alternative to jail time must be funded and developed by local government. Currently, the rules governing the use of alternatives to incarceration are fragmented, informal and varying in the degree of use between jurisdictions. Moreover, neither the local government nor the local judges have any programs for "state prisoners."

Approximately 73% of all local jail inmates are held prior to adjudication. The use of pre-trial release programs among local correctional facilities ranges from 26% to 99% of all pre-trial prisoners and is largely dependent upon available bed space as much as it is on the seriousness of charges. The most frequently used pre-trial release mechanism is personal recognizance (23.1%). Nearly one-third of all persons held pre-trial are not released prior to final court disposition. At least one-fifth of those jails seeking funding for remodeling or new construction, reported their largest pre-trial populations to be traffic violators, and 51% of all prisoners bound over to a sentenced status without pre-trial release were non-felons.

More than 40% of all sentenced prisoners in correctional facilities are released only after completion of their imposed sentence. Only 11.3% of all sentenced prisoners receive some form of supervised release in lieu of incarceration in a local jail. Uncoordinated and fragmented use of available alternatives to incarceration characterized more than 60% of those applicant jurisdictions seeking funding for jail construction or remodeling. The Commission found little evidence that existing conditions and practice are projected to change.

Conditions within local jails and state facilities undoubtedly have had an effect on sentencing practices. Overcrowding in both systems has caused judges to use alternatives to incarceration and hand out shorter sentences. Many judges prefer to hold an offender in the community jail. There is a perception that control of a prisoner is lost when he is sentenced to a state institution and that the potential for rehabilitation is correspondingly reduced. The availability of space in a local jail will reduce the likelihood of a judge sentencing an offender to a state institution while the converse is also true. The overcrowded conditions found within state institutions directly affect local jail populations. In the various local jails the lengths of stay will differ, and the longer the length of stay the greater the tendency towards overcrowding and the occurrence of serious incidents. The institutional settings in which persons are held against their will foster tensions. Incidents between inmates and between inmates and staff will always occur, but in overcrowded facilities with inadequate physical plants, the occurrence of such incidents will happen even more frequently.

Parole holds, work release, and furlough violators and other state holds comprise approximately 10% of all prisoners held in local jails. While more than two-thirds of all local prisoners are granted pre-trial release, less than 10% of all parole violators held in local facilities are released prior to their parole hearing. Long lengths of stay pre-trial for parole violators held in local jails contribute to overcrowding as well as the displacement of local prisoners.

Sentenced prisoners awaiting transfer to state institutions account for 4.2% of the total sentenced prisoners population in local jails, and their stay following conviction averages 30 days.

DIFFERENTIAL INCARCERATION

There is a disproportionately high incarceration rate for Native Americans, Blacks, and Hispanics in the nation generally and particularly in Washington State. The inequalities suffered by ethnic minorities generally in our society tend to be exacerbated in the corrections setting.

The data available (does not include Clark, King, or Snohomish Counties) reveals that while the overall incarceration rate during the period August through October, 1980, was .00082, it was .00346 for Native Americans, .00325 for Blacks, and .00200 for Hispanics. This raises serious humanitarian, political and management issues regarding the administration of justice in this state. The effect of this circumstance on overcrowding, although untested, may be pronounced. That such a relatively small proportion of the total population occupies such a large proportion of local jail beds presents this issue as one requiring

review and consideration within the discussion of overcrowding. Because there is inadequate data available to more clearly determine the basis for this situation, it requires additional study and analysis.

TRAINING OF CORRECTIONAL STAFF

The State Criminal Justice Training Commission offers a basic academy for correctional staff as well as many specific courses for such personnel. The state custodial care standards specifically require both preservice and inservice training for such staff. Despite this, the lack of appropriate training for correctional staff remains one of the most serious areas of concern in local jails.

This problem occurs for a variety of reasons. Foremost is the frequent turnover of staff which, in turn, reflects a lack of incentives to continue such work. Perhaps even more critical is the cost to local government to send staff to the state training center for available programs. While the cost of the program is absorbed by the Training Commission, local government must pay for its staff travel and housing and for the cost of replacement staff, often requiring use of overtime by existing staff. The result is the current practice of only sending longer term staff to such training and having a majority of jail staff serve without such basic training unless acquired prior to hire.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

The following findings and recommendations regarding the relationship of state to local corrections is submitted with awareness and understanding of the complexity of the problems. Additionally, the Commission is fully cognizant of the work being undertaken by other concerned state, local, and public interest entities regarding corrections issues. Therefore, the Commission has substantially restricted the findings and recommendations in this report to those areas where its statutory responsibilities have caused it to focus attention. It should be noted that the specific recommendations are necessarily inter-related and should be considered for implementation as such.

A. CENTRAL CURRENT JAIL CONCERNSFindings

(1) The cost of constructing and operating local jail facilities is escalating at an alarming rate. For each month that new jail construction or remodeling is delayed, the cost may increase by 1.1%. The costs of operating jails in a manner which insures the protection of inmate rights and provides a safe work environment for jail staff may be expected to increase by 50 - 70% overall. Further delay in addressing the needs of local corrections may only exacerbate these costs.

(2) Overcrowding is presently the most pervasive problem facing local jails. Overcrowding in local jails has been found to occur as often as one-half of the time. There are few days where daily populations do not approach capacity. Segregation and classification of inmates is virtually impossible while the potential for violence is greatly enhanced by the over-utilization of local jails.

(3) Nearly all local jail facility physical plants are inadequate for the tasks expected of them and should be closed, remodeled, or replaced. These jail physical plants contribute to overcrowding and other serious problems. The reasonable capacities of these facilities are less than half the number presently housed therein. Segregation and classification of prisoners in these facilities is virtually non-existent. Approximately 30% of the larger local jails in this state have reached or have exceeded their institutional lives. Current physical plants of virtually all city and county jails are inadequate to meet minimum constitutional standards.

Recommendations

(1) The Commission recommends that the Legislature continue to support, through the appropriation of necessary bond monies, the jail construction and remodeling program which commenced in 1979.

(2) The Commission recommends that the jail bond monies program be considered by the Legislature as a component part of the overall state and local corrections strategy and policy.

(3) The Commission recommends that the Legislature provide express statutory direction as to whether or not the Commission may withhold construction funds from local jurisdictions who do not in the opinion of the Commission make a good faith effort to comply with custodial care standards in existing correctional and detention facilities.

B. ALTERNATIVES TO INCARCERATIONFindings

(1) In reviewing plans for the use of alternatives to incarceration the Commission found that the use of alternatives varied substantially among the different jurisdictions. A lack of knowledge concerning how such programs work and a failure to develop the resources needed to implement such programs appear to be the principal impediments to their use. Additionally, current local budget constraints are adversely affecting misdemeanor probation and other needed alternative-type programs.

(2) Too many pre-trial low security risk suspects are being held in local jails. At a time when providing constitutional protections to prisoners is mandated, coupled with escalating costs, approximately one-third of all pre-trial suspects are not released prior to trial. Further, in one fifth of the larger jails in the state, the largest pre-trial population are traffic violators and more than 50% of all prisoners bound over to a sentenced status after conviction are non-felons.

(3) There are no clear cut public attitudes regarding corrections. The public seems to favor increasing incarceration and yet is reluctant to finance the tremendous costs associated with massive incarceration. The development and implementation of any specific corrections strategy will undoubtedly engender controversy.

(4) A significant number of persons presently incarcerated may not pose a security or safety risk to the public. There is great inconsistency between counties as to sentencing practices and there is a substantial basis to postulate that whether a person is incarcerated or not is as much a function of the availability of bed space as it is of the perceived dangerousness of the prisoner.

Recommendations

(1) The Commission recommends that the Legislature task an appropriate state agency with the responsibility for research, evaluation, and dissemination of information regarding alternatives to incarceration.

(2) The Commission recommends that the costs and benefits of alternatives to incarceration be fully developed and made known to the general public.

(3) The Commission recommends that where alternative programs are determined to be both cost beneficial and effective, that local jurisdictions be provided offsetting monetary compensation as an incentive to employ such programs.

(4) The Commission recommends that a clear and consistent state policy for the housing and treatment of all mentally ill persons be set forth and complied with. Further, that necessary state funds be appropriated to insure proper staffing and treatment for the mentally ill who are required to be incarcerated in local correctional facilities.

(5) The Commission recommends that the Legislature determine and establish clear direction as to the proper use of jails and prisons and revise sentencing laws in such a way as to permit greater predictability of space needs as well as planning of necessary functions and programs within such facilities. The Commission strongly supports expeditious review of this need and careful projections of the impact of any revisions in current practice upon local jails as well as state corrections institutions.

C. DIFFERENTIAL INCARCERATION

Finding

There is a significantly high number of ethnic minorities incarcerated in our jail facilities and our state institutions. Conversely, there are few minorities employed in these facilities in any capacity and there are none in positions involving the development and implementation of policies or administration.

Recommendations

(1) The Commission recommends that a comprehensive review of differential incarceration rates be undertaken at the state level to determine the causes and the effects relative to both minorities and government.

(2) The Commission recommends that immediate actions be initiated by all units of government to implement positive appointment and employment practices as pertains to minorities in corrections positions.

D. TRAINING OF CORRECTIONAL STAFF

Finding

A substantial majority of jail staff are initially given responsibility for the security and welfare of prisoners without reasonable and adequate training to discharge their assigned functions. Many continue to serve long periods without the minimum training needed to ensure staff safety and the proper administration of their custodial duties.

Recommendations

(1) The Commission recommends that the Washington State Criminal Justice Training Commission give priority to the development and implementation of corrections staff training.

(2) It is recommended that the Washington State Criminal Justice Training Commission take the lead responsibility for determining alternative and innovative methods whereby training for local corrections personnel can be provided both initial and remedial training needed for the satisfactory discharge of their duties.

E. STATE AND LOCAL CORRECTIONS

Findings

(1) There is considerable confusion regarding the definition of "state prisoners" held in local facilities.

(2) Historically, state corrections facility planning has not properly considered those prisoners being housed in local facilities. The present statutory relationship between state and local government with regard to incarceration is inequitable and of little benefit to either. Though both systems share many of the same problems and indeed the same prisoner population, existing attempts to alleviate problems in one system have a tendency to either ignore or even exacerbate problems in the other. Though practically and inextricably related, the two corrections systems act unilaterally. The existing statutory relationship between the two systems reveals little understanding of the problems inherent within local jails.

(3) Local government entities are responsible for operating and maintaining jails yet they have little opportunity to control the incarceration rate of pre-trial or convicted persons.

(4) Local correctional facilities could be utilized as alternatives to state institutions when space is available. However, consideration of this alternative should be on the basis of return to the county of residence and should be limited to non-violent prisoners.

(5) On-site hearings for parolees are often delayed pending conclusion of local criminal prosecutions. These offenders are not subject to local court jurisdiction regarding the use of alternative programs.

(6) There is a lack of necessary mental health services available for persons apprehended and held in local corrections facilities. In many instances, public assistance health benefits are not made available to indigent prisoners.

Recommendations

(1) The Commission recommends that the following definition be used in differentiating state and local prisoners:

- (a) Any prisoner who has been sentenced to confinement into the Adult Corrections Division of the State Department of Social and Health Services who, while still under the jurisdiction of that department, commits either a new offense and/or violates the terms and conditions of such sentence, as a consequence of which he or she is held in a city or county jail, PROVIDED that any such prisoner who is not eligible for release from such jail due to other charges and restrictions on release shall not be included within this category.

- (b) Any prisoner sentenced to a state correctional facility or being returned to such facility following a violation of conditions of release on probation, following the first ten days such prisoner is held within a given jail following sentence or order of confinement.

(2) The Commission recommends that the Legislature establish a central state criminal justice coordination and control agency. Further, that this agency be initially charged with coordinating a comprehensive review of state and local corrections programs involving the Legislative, Executive, and Judicial branches of government. And, that the results of such review serve as the basis for future direction regarding corrections-related policies and programs.

(3) The Commission recommends that necessary consideration be given to providing compensation to local governments for maintenance and operating costs when it is determined that local facilities are being used as alternatives to state institutions.

(4) The Commission recommends that parole violators held in local facilities be subject to the authority of the local Superior Court for purposes of employing alternatives to protracted period of incarceration. Further, that consideration be given to statutorily eliminating the option of delaying on-site hearings pending resolution of separate criminal proceedings.

E. CITY AND COUNTY CORRECTIONS

Finding

Effecting city/county consolidations and attempts to resolve disputes with regard to cost-sharing highlighted the need for clarification in this area. The questions are:

- (a) Who are "city" or "county" prisoners;
- (b) Should cities bear the full cost of housing their prisoners in county facilities; and,
- (c) How should differences between jurisdictions be reconciled?

Recommendation

The Commission recommends that these issues be clarified through statutory action.

END