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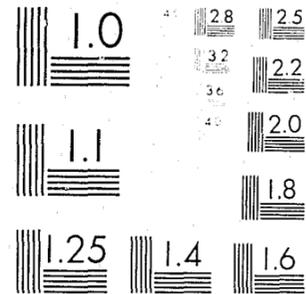
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A CORRECTIONS COMMISSION FOR THE STATE OF WASHINGTON?

PREPARED FOR THE WASHINGTON STATE
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
UNDER CONTRACT NO. 5029-ACR-24698

BATTELLE LAW AND JUSTICE STUDY CENTER

APRIL, 1980



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National Institute of Justice
United States Department of Justice
Washington, D.C. 20531



A CORRECTIONS COMMISSION FOR THE STATE OF WASHINGTON?

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Foreword and Acknowledgments

This report was prepared for the Washington State Department of Social and Health Services (DSHS), to provide it with a body of assessed information on the operational issues involved in administering correctional functions through a board of corrections. The issue was seen to have immediate policy relevance, a fact which made this research most rewarding to the project staff.

In the initial stages of this study, it became clear that there was some trend away from the use of such boards. However, the reasons for this were not at all clear, since no one had made a focused, comprehensive examination of the issue. Indeed, the basic information on which states even had boards was sketchy and sometimes conflicting. The study team and its advisory panel had the stimulation of breaking new ground.

Accomplishing the task before us in the short time available called for prodigious efforts from my colleagues Roland J. Cole and A. Henry Schilling from Battelle's Science and Government Study Center, which they gave capably and graciously. Their understanding of governmental organization, their contributions to methodology, their insights and their ability to write well under pressure was vital to this effort. Herbert Edelhertz, Director of the Battelle Law and Justice Study Center gave us the benefit of his counsel and constructive critiques.

Special thanks go to Mr. Hans Carstensen, Dr. Timothy R. Brown, and Dr. David L. Fallen of the Washington Department of Social and Health Services, for the guidance, encouragement, and assistance they offered. Mr. Carstensen is the Director of the Analysis and Information Services Division; Dr. Brown, the Chief of the Office of Research; and Dr. Fallen, a Research Investigator.

One of the major benefits of the study has been the opportunity to engage in two days of dialogue with a very able body of correctional experts--our National Panel. Dr. Joe Hudson, on leave from the Minnesota Department of Corrections to conduct a major study on restitution under the auspices of the University of Minnesota, provided special assistance throughout, including the design of our telephone interview protocol, the conduct of these interviews, and participation in the panel discussions and assistance in the writing of this report. Dr. John P. Conrad of the American Justice Institute helped us to identify and enlist our National Panel. The balance of the panel consisted of George Beto (former Director, Texas), Robert L. Smith (Assistant Director, National Institute of Corrections), William Kime (Deputy Director for Research, Michigan), John R. Manson (Commissioner, Connecticut), Kenneth F. Schoen (former Director, Minnesota), and Daniel L. Skoler (former Executive Director, ABA Commission on Correctional Facilities and Services; author on criminal justice organization)--each of whom made a unique and valuable contribution to this research effort.

We also owe thanks to those interviewed by telephone, listed in Appendix B, who gave us so much information as to operations and experiences in their own jurisdictions.

This effort could not have succeeded without the willing and capable assistance of the support staff in Battelle's Law and Justice and Science and Government Study Centers. Charleen Duitsman served as project coordinator/secretary/schedule keeper/placetag designer/draftsperson of report graphics, and more importantly, kept her calm disposition while we were losing ours. Secretaries Sandy Smith, Susan Oberlink, and Ingrid McCormack, who directs the Law and Justice Study Center secretarial staff, were mainstays in the production process, as were editors Gary Brock and Orv Johnson.

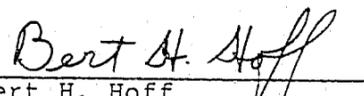

Bert H. Hoff
Principal Investigator
Corrections Commission
Project

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EXECUTIVE SUMMARY

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This report was commissioned by the Washington State Department of Social and Health Services in anticipation of proposed legislation to establish a corrections commission with authority over a separate department of corrections. The Battelle Law and Justice Study Center was asked to compare the corrections commission or board of corrections structure with the present "umbrella" agency structure (a corrections division in a human services agency) and with a separate department not under a corrections commission. No direct comparison of the present umbrella structure with a separate department without a board is involved. The focus is on corrections operation and on coordination with other agencies. Battelle was also asked to determine whether these comparisons would be affected by such variations in a board's composition and functions as the method of selecting the chairperson and members, length of terms, jurisdiction, and scope of powers. Specific impacts of a board include impacts on operations, communication, freedom from politics, public visibility and support, responsiveness to long-term problems, and responsiveness to crises. An analytical model is presented in which these impacts are seen as affecting the accountability, efficiency, and effectiveness of a department. Chapter I concludes with an overview of the structure of this report.

Chapter II describes our methodology. During the seven weeks' work leading to this report Battelle conducted a literature search (summarized in Chapter III), interviews with persons in states which have or recently had boards, and a two-day national panel discussion involving eight recognized experts in corrections and correctional organization. Forty interviews were conducted with correctional administrators, board members, former governors, legislative staff, and a newspaper editor. These persons were asked to describe their board and its relationship to the governor, legislature, and public; the state's experience with a board; its major strengths and weaknesses; and its impact with respect to such issues as riots, crises, overcrowding, and budget appropriations. While we asked for more general information as to states' experiences vis-a-vis these operational issues, we did not attempt to rank states in this regard or to establish whether boards had a causal impact on these issues. The national panel meeting alternated between open- and closed-ended discussions of how and why particular results might be obtained and of the rationales behind the positions taken by the participants. Panelists responded orally and in writing in agreement or disagreement with

conclusionary statements about the impact of a board and how a board should be set up if this option is chosen.

Chapter III provides an overview of correctional reorganization. What we now consider to be correctional services--prison, probation, parole, juvenile institutions, and other programs directed at juvenile offenders--began as separate functions. Concern for correctional reorganization has focused on integrating some or all of these services into a corrections department, either as a separate agency or as a part of a human services agency. These reorganizational efforts have affected, in decreasing order of impact, political accountability, managerial control, and program effectiveness. To date, the issue of boards has not been central to these initiatives. For example, of the standards for correctional organization promulgated by professional associations (e.g., the American Correctional Association and the American Bar Association), public interest organizations (e.g., National Council on Crime and Delinquency, or NCCD), and advisory bodies (e.g., Advisory Council on Inter-governmental Relations, Katzenbach Commission, Peterson Commission), only two address the issue of boards. NCCD, in presenting three alternatives to correctional organization, recommends retention of "lay" boards of corrections. The Commissioners on Uniform State Laws recommend an advisory board rather than a board of corrections.

Chapter IV provides a framework for the comparison of correctional structures in Chapter VI, by describing in detail the alternative structures to be compared. Existing boards are described in detail since these comprise the base for the experience of states with boards. Typical boards of corrections, found in nine states, consist of five to seven citizens selected by the governor with the advice and consent of the state senate, legislature, or governor's council. Boards elect their own chairpersons (in four of the nine states), and may include a lawyer, a doctor, a businessperson, a large-scale agricultural businessperson (where the prison system includes a large farming operation), a professor of criminal justice, an educator, or others with similar, relevant backgrounds. These boards set policy and have hire/fire authority over the director of corrections. No pattern emerges as to whether their authority includes parole, adult felony probation, probation or standard-setting authority, or juvenile corrections. Less-frequent approaches to boards include a board over all state institutional services, a board over the human services agency, and a board of the highest elected officials in a state. Chapter IV also describes the human services "umbrella" agency structure and a separate department of corrections without a board, to which the board structure is compared.

Chapter V compares the board structure to the present umbrella structure and to a department without a board. Boards

offer no panacea; states with boards have operational problems (e.g., overcrowding). Those persons interviewed who were willing to speculate on the impact of a board on such problems as overcrowding, security, and riots felt that boards had little or no direct impact on these problems. With the few exceptions noted, the benefits or drawbacks of a board held true in comparison with either the present structure or a department without a board. Whether these impacts occur in any one state depends on state circumstances, the caliber of board members, and the quality of the board/director relationship. Board impacts were reported vis-a-vis a department's external relationships, planning and coordination, policy and budget, and operations. Possible impacts are indicated in Figure 3.

States' experience, confirmed by the national panel, is that boards decrease accountability to the governor, thus increasing freedom from politics. Boards increase accountability to the public, since they provide broader public input and lead to a more open, visible department. Little or no impact was reported with respect to accountability to the legislature. Political insulation of the governor from sensitive corrections issues was a frequently cited benefit. Increased public outreach, sometimes leading to support for new programs, was also cited.

Continuity of policies, planning, and departmental leadership were cited as benefits in states with boards. Panel participants noted that this could dampen the speed or innovativeness of change but contribute to the permanence of change. Possible indirect benefits were noted with respect to staff tenure, professionalism, and training. Enhanced coordination of planning and service delivery would appear to hinge more on such issues as separate department versus umbrella agency, board jurisdiction, and the working relationships involved rather than on whether a board is established.

Boards contribute to the openness and deliberateness of policy making and act as a moderating influence in providing a real world perspective to balance bureaucratic thinking. Boards have been able to obtain community acceptance and support for such efforts as half-way houses, alternatives to incarceration, and upgrading of physical facilities. Board members have provided relevant, free expertise (e.g., physician, attorney, farmer). In some states, boards have assisted in obtaining increased budget appropriations. Possible board impacts cited by the panel, but not observed in states with boards, include increased focus on policy issues, budget flexibility, cost of operations, and responsiveness to general trends in corrections.

A board could have a negative impact on the administrative structure in that an additional power center could complicate

decision making or exacerbate department/warden conflict. States with boards did not report problems in this area. Anticipated decision-making slowness was not observed in many states, and in others this slowness was seen as being outweighed by increased deliberation. One reported benefit of a board is that it opens a second channel of communication for guards and inmates, without creating end-run problems. Boards were seen as having little or no impact on security, responsiveness to crises, client services, humaneness, or response to class-action litigation.

Chapter VI describes the organizational issues that arise if a decision is made to establish a board. These involve jurisdictional responsibilities; board composition, selection, and removal; and the relationship between a board and a department. The national panel reached consensus that a board should have jurisdiction over adult probation and parole services and that a board of parole should be retained, but reached no consensus on inclusion of juvenile services.

The experience of states with boards, confirmed by the national panel, is that a board of five to seven members serving staggered four- or six-year terms is desirable. The usual practice of appointing interested and respected citizens reflecting diversity of geography and viewpoint to serve on a volunteer basis was most frequently favored. Physicians, attorneys, businessmen, large-scale farmers, and others can lend valuable expertise. Problems were seen with the appointment of criminal justice officials or of representatives of particular constituencies. No problem was seen in obtaining qualified people willing to serve, but no prescriptions were offered to ensure high-quality appointments. Gubernatorial appointment with senatorial or legislative confirmation and removal for cause, typical in states with boards, were seen as satisfactory. Use of a nominating committee to recommend a number of candidates for each position was also suggested, but problems were seen with a committee of criminal justice officials.

States report that boards and corrections directors are able to agree on the distinction between the board's policy-making role and the director's role in administration. Board appointment and removal of the director, the usual practice, were seen as appropriate, but hire/fire power over deputies was not. Boards also promulgate regulations and perform valuable advisory functions. There was consensus that boards should not become directly involved in crises or individual personnel decisions. States report that administrative and secretarial support to the board by departmental staff is adequate, but the panel felt that one full-time professional would be better. A larger board staff could lead to dissension in the department and department/board conflict.

Chapter VII discusses implementation issues to be considered before deciding whether to select the board alternative. These involve problems arising with any governmental reorganization, including those accompanying changes in reporting channels, roles, and power relationships. Transition to new reporting channels is apt to be difficult because of DSHS's highly centralized nature. Increased staff turnover may result from doubts about tenure, and the ablest staff may find new jobs first. This is compounded where confusion about policy or reporting channels leads to cautious, bureaucratic, protective behavior. Problems specific to creation of a board could concern the education of new board members (not reported as a problem once the board has been functioning), the evolution of effective board-department relations, and the development of an initial board agenda. Tragic results could arise if a riot or other crisis occurs before these problems are resolved. Positive influences during implementation could include higher visibility, increased support, and flexibility in effecting change.

It is by no means clear that the board form is the only way to make desired differences. Indeed, there is support for the view that every proposed advantage of a board could be gained by other means and with better results. Chapter VIII describes nonstructural means to achieve the benefits which a board might offer, but does not discuss these alternatives in detail or attempt to assess whether the alternatives would achieve better results. In deciding to establish a board it is important to identify the objectives to be achieved, to establish priorities, to consider nonstructural alternatives, and to assess the effort required to implement each. Organizational changes are easier to address than changes in the general political culture of a state, which may be required to implement alternatives listed below, but the latter may be a better guarantee of professional, objective management.

Accountability to the governor could be increased if the governor chose to make corrections a high priority issue. Accountability to the legislature could be enhanced if the legislature designated corrections a high priority, passed a statute requiring detailed reporting of correctional operations or required legislative approval for important correctional decisions (e.g., facilities siting, hiring key personnel). Public accountability could be provided by direct election of the corrections administrator, although substantial political science theory suggests that low-visibility elected officials are not accountable.

Alternative approaches to freeing a department from politics include civil service status or long, fixed terms for the director and key officials. These alternatives also provide political insulation of the governor, as do

comprehensive, formal regulations, an open policy-setting process, and use of advisory boards. Increased public outreach can be achieved by aggressive public relations, advisory boards, and other forms of public participation in planning and policy formulation. Careful, timely response to information requests and advisory boards can enhance departmental credibility and visibility.

Continuity of policies and planning can be enhanced by lengthy fixed terms or civil service status for key officials, exhaustive statutory detail concerning correctional operations, legislative veto over policy changes, or detailed gubernatorial orders. Speed of changes can be enhanced by reorganizing communications channels, modifying officials' duties, finding new people, or rotating people between positions. Making change more permanent can be achieved by strong gubernatorial support, use of blue-ribbon panels, or by the means of achieving policy stability mentioned earlier.

The use of advisory boards, other public participation, and fostering free discussion internally can increase deliberation to policy making and provide a moderating influence. Extensive public relations, use of advisory boards, and public participation measures can all build support for program initiatives and for an adequate budget. Expertise could also be marshalled via advisory boards. Communications within a department regarding guard or inmate complaints can be enhanced by departmental tone with or without a board.

PART ONE

THIS STUDY AND ITS CONTEXT

Chapter	
I	INTRODUCTION
II	APPROACHES TAKEN, TASKS PERFORMED
III	OVERVIEW OF CORRECTIONAL REORGANIZATION

A CORRECTIONS COMMISSION FOR

WASHINGTON STATE?

CHAPTER I

INTRODUCTION

Abstract of Chapter

This report was commissioned by the Washington State Department of Social and Health Services in anticipation of proposed legislation to establish a corrections commission with authority over a separate department of corrections. The Battelle Law and Justice Study Center was asked to compare the corrections commission or board of corrections structure with the present "umbrella" agency structure (a corrections division in a human services agency) and with a separate department not under a corrections commission. No direct comparison of the present umbrella structure with a separate department without a board is involved. The focus is on corrections operation and on coordination with other agencies. Battelle was also asked to determine whether these comparisons would be affected by such variations in a board's composition and functions as the method of selecting the chairperson and members, length of terms, jurisdiction, and scope of powers. Specific impacts of a board include impacts on operations, communication, freedom from politics, public visibility and support, responsiveness to long-term problems, and responsiveness to crises. An analytical model is presented in which these impacts are seen as affecting the accountability, efficiency, and effectiveness of a department. Chapter I concludes with an overview of the structure of this report.

A. Statement of the Problem

A bill expected to be introduced in the Washington State Legislature in the 1980 session proposes to establish a corrections commission. Supporters feel that a commission would introduce a degree of rational stability into corrections

policy planning and operational functions by isolating this process from "day-to-day political interference." In order to respond to this proposed legislation, the Department of Social and Health Services (DSHS), the umbrella agency which encompasses adult corrections, commissioned the Battelle Law and Justice Study Center to examine issues that ought to be considered in deciding whether such a corrections commission should be established. This research report is the result of that examination.

In this study the term "corrections commission" means a policy-making board with authority (e.g., to hire and fire the chief executive) rather than an advisory committee or ombudsman. In this report we use the terms "commission" and "board" interchangeably, with a preference for the term "board" for brevity. The Department has specifically asked Battelle for a comparison of a board of corrections, in charge of a separate department of corrections, with:

- The present DSHS umbrella agency structure, and
- A separate department of corrections, without a board of corrections.

It should be noted that the mandate of this study did not involve any direct comparison between the present structure and a separate department of corrections without a board. Therefore Battelle, in this study, does not address this issue. It does focus on how a board structure compares with its alternatives with respect to:

- Accountability; that is, the checks and balances which would ensure that corrections policy and program decisions are responsive to citizen, legislative, and executive interests;
- Efficiency; that is, the ability to respond to corrections problems without waste of time or money; and
- Effectiveness; that is, the ability to choose the most appropriate course of action.

The isolation from day-to-day direct political interference cited by supporters of the proposed legislation is not the only possible result of creating a board. Creation of a board of corrections might also have an impact on corrections operation and on coordination with other agencies. With respect to operations, this study posed such questions as: would creation of a board of corrections in charge of a separate department of corrections have any impact on security? On riots? On escapes? On violence within the prison walls? Would better or more comprehensive programs result? Would efforts to build new facilities be enhanced? Would there be more use of non-custodial or minimum-custody alternatives? Would overcrowding be eased?

A number of issues are present with respect to coordination between agencies. For example, the Board of Prison Terms and Parole has promulgated new guidelines and the Washington State Superior Court Judges Association has developed voluntary sentencing guidelines. These guidelines, changes in legislation, and changes in the policies of judges and prosecutors could all affect the number and types of people who enter and leave our

correctional system. They would also have related consequences for local jail facilities. The Department of Social and Health Services has been conducting long-term planning for future correctional needs. The Jail Commission has been engaged in efforts to bring local jails up to standard. If a board of corrections is established to supervise a separate department of corrections, would cooperation and coordination in planning efforts to deal with these issues be enhanced? Would there be more coordination if a separate department were under a board of corrections than there would be if a separate department were established without such a board?

Battelle was also asked to examine whether these comparisons would be affected by variations in a board's composition and functions. These variations include:

- Method of selecting board head (e.g., elected, gubernatorial appointment, legislative consent, "Qualifications Board");
- Method of selecting board members;
- Terms (length? staggered? maximum number?);
- Removal (Superior Court finding? impeachment? firing? for cause?);
- Scope of authority (e.g., whether it includes parole board, juvenile facilities, jail commission); and
- Scope of board operations (policy? planning? staff selection? staff qualifications?).

Similarly, one would expect that the impact of a board of corrections would depend very much on circumstances and conditions in existence at the time a board is established. To

paraphrase the comments of several of the people interviewed for this report, "A board works well here, but I have no idea whether our state is similar to yours or whether a board would work there." Relevant local factors include the size and population of the state, rates of crime and commitment to prison; the nature, diversity, and capacity of correctional facilities; the nature and structure of state government; the corrections philosophy espoused by correctional officials and the populace; staff morale; departmental stability; and a host of other factors.

One could visualize the problem to be explored in this report schematically, as in Figure 1, which follows.

Of course, the structure of a corrections department is not the only issue which affects corrections operations or coordination with other agencies. While the existence of a board of corrections might have a significant impact in some respects, one would expect that the establishment of a board of corrections would have no impact on many of the issues and problems facing corrections in this state today. Indeed, one of the experts consulted in the course of this study stressed that this report should open with the observation that boards of corrections may be good for some things, make no difference with respect to others, and be bad for yet others.

This is not necessarily to say that the issue of a board of corrections is--or is not--the most vital issue facing corrections in the state of Washington at this time. The wisdom of

STRUCTURE → and → DECISIONS RE COMPOSITION, FUNCTION → acting through → STATE-SPECIFIC FACTORS → lead to → POSSIBLE IMPACTS → which have Influence on → CRITERIA OUTCOMES

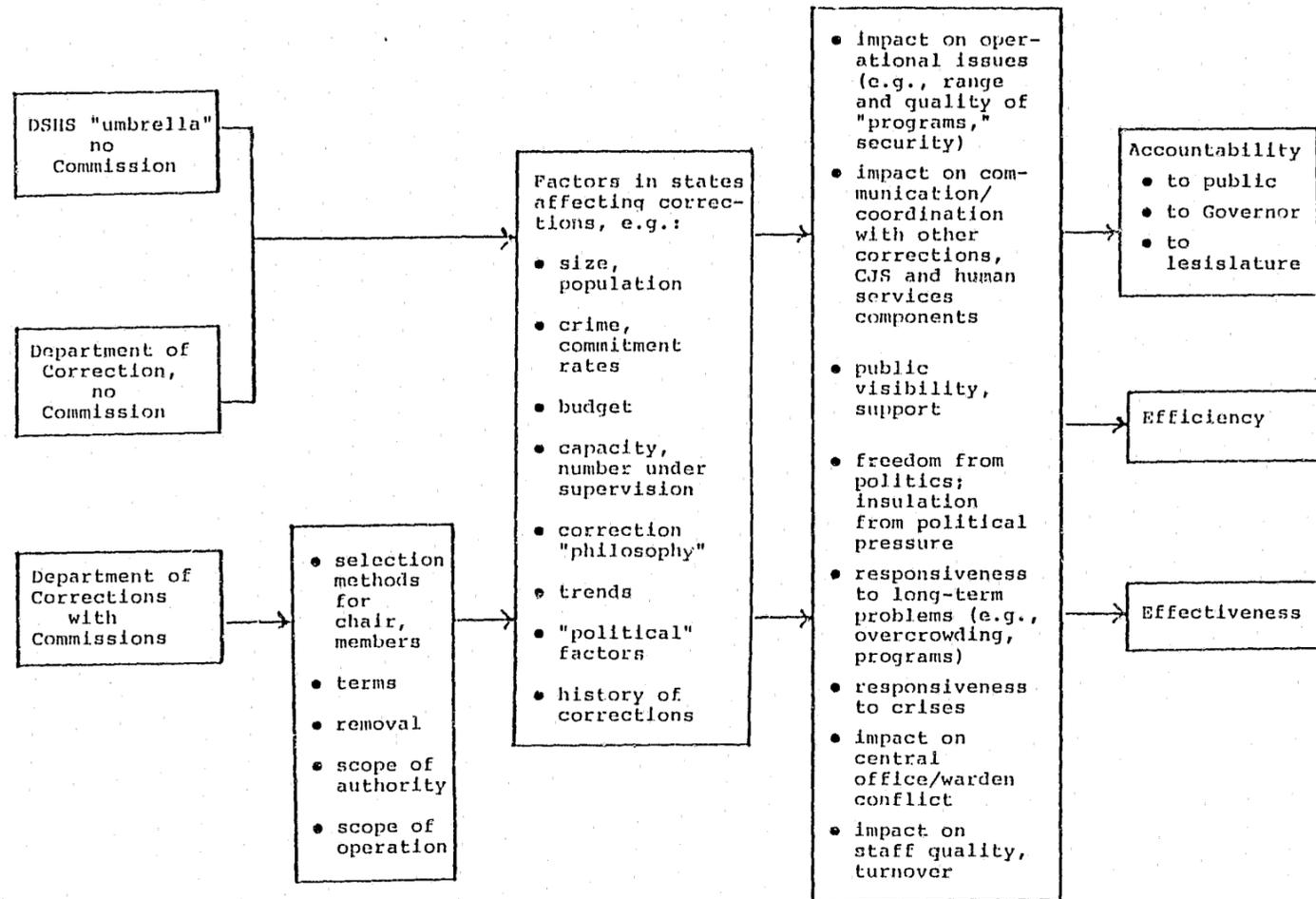


FIGURE 1

SCHEMATIC DIAGRAM OF PROBLEM TO BE EXPLORED

establishing a board of corrections, as against other possible measures which could be taken to resolve problems facing corrections, is not the subject of this report. Rather, this report seeks to shed light on the issues which should be considered once the threshold decision is made to seriously consider establishing such a board.

B. Overview of This Report

This report is divided into four parts. Part One serves to set the framework for this study. Chapter II discusses the approach taken and the specific tasks Battelle performed in collecting and analyzing relevant information and experience. The tasks included: (1) a literature search, (2) telephone interviews with officials and other observers in a number of states that have had experience with boards of corrections, (3) a two-day meeting of a national panel of corrections experts held at the Battelle campus in Seattle, and (4) a synthesis of the results of these efforts into this final report.

Chapter III contains a review of correctional reorganization experience. The review begins with a brief history of the organization of corrections, followed by a discussion of rationales for correctional reorganization and current trends in this area. A brief discussion of the standards and recommendations promulgated by a number of national organizations and study commissions with respect to reorganization of corrections is included. The chapter concludes with a discussion of

the role that corrections commissions or boards of corrections have played in such reorganizational efforts.

Part Two presents our data on alternative correctional structures. It contains chapters describing the alternative correctional structures to be examined, chronicling the experiences of states with the board structure, and comparing the impact of the board structure with the impact of other structures, vis-a-vis a number of issues.

Chapter IV discusses the alternative structures which are to be compared in this report. The model to be analyzed, and thus the first to be discussed, is a board of corrections. The discussion of the board of corrections model includes a review of the structure and functions of boards of corrections in other states. Although states have adopted several models, the typical model consists of a lay board of five to nine members appointed by the governor (usually confirmed by the senate) to serve staggered, four- to six-year terms. Such boards have policy-making authority and hire/fire authority over the director. The present umbrella structure and a separate department of corrections without a board of corrections are each discussed briefly.

Chapter V compares the board structure with the present umbrella structure and with a separate department of corrections, with respect to a number of issues. These issues fall into four broad categories. The first of these concerns a department of correction's external relations; that is, its

relations with the governor, the legislature, and the public. Does a board of corrections make a difference in the way a department operates in the political arena? The second category includes a department's planning and coordination. Does a board make a difference with respect to continuity of policies, stability of personnel, integration of services, or coordination with other agencies? The third category covers a department's policy-making process and budget. The fourth encompasses a range of operational issues, including the impact of a board on a department's general operations and on response to such specific problems as security, overcrowding, and riots.

Part Three discusses further issues which should be examined if a preliminary decision were made to consider the board alternative. These include issues of board structure and implementation.

Chapter VI considers how a board of corrections might actually operate. If there is to be a board of corrections, how should it be structured, what should its powers be, and how should it function?

Chapter VII reviews issues related to implementation of a board of corrections and the problems which might be encountered in the interim before a board of corrections is fully functional.

In Part Four of this report, which consists of Chapter VIII, all of the various challenges to be addressed by the

creation of a board of corrections are considered from the perspective of whether approaches other than a board could be implemented that would also deal with these challenges.

CHAPTER II

APPROACHES TAKEN, TASKS PERFORMED

Abstract of Chapter

During the seven weeks' work leading to this report Battelle conducted a literature search (summarized in Chapter III), interviews with persons in states which have or recently had boards, and a two-day national panel discussion involving eight recognized experts in corrections and correctional organization. Forty interviews were conducted with correctional administrators, board members, former governors, legislative staff, and a newspaper editor. These persons were asked to describe their board and its relationship to the governor, legislature, and public; the state's experience with a board; its major strengths and weaknesses; and its impact with respect to such issues as riots, crises, overcrowding, and budget appropriations. While we asked for more general information as to states' experiences vis-a-vis these operational issues, we did not attempt to rank states in this regard or to establish whether boards had a causal impact on these issues. The national panel meeting alternated between open- and closed-ended discussions of how and why particular results might be obtained and of the rationales behind the positions taken by the participants. Panelists responded orally and in writing in agreement or disagreement with conclusionary statements about the impact of a board and how a board should be set up if this option is chosen.

This chapter outlines the efforts undertaken by Battelle in preparation of this report. Work began in mid-December and was to be completed in seven weeks. During this time, Battelle conducted a brief literature search, planned and conducted telephone interviews with officials in states having experience

with boards of corrections, and convened a national panel of corrections experts for a two-day meeting in which they could provide the study team with a reflective and concentrated exposure to the issues involved. The results of these efforts have been synthesized into this report. The literature search confirmed Battelle's initial impression that there was very little in the literature germane to the topic of boards of corrections. The results of this literature search appear in Chapter III, below. The other efforts are described below.

A. Telephone Interviews

The purpose of the telephone interviews was to gain insights into the experience other states have had with boards of corrections.

The Battelle study team started by designing a telephone interview protocol that listed issues and topics to be discussed with officials in states having experience with boards of corrections. Two corrections experts who did not represent states with experience with boards of corrections were interviewed as a form of pretest of this draft interview protocol before formal interviewing was begun. Other purposes of these preliminary interviews were to identify additional issues to be explored and to glean the opinions of these two experts on the subject. The one-page draft instrument was then expanded and refined into a three-page second draft interview protocol, attached as Appendix A of this report. After interviews with

officials from two states having experience with boards, a review by Battelle staff, and a review by DSHS, it was determined that there was no need to further refine this instrument.

We then identified states which had corrections boards to be contacted and officials within these states to be interviewed. This was done by means of a "grapevine survey." During each interview we asked the persons interviewed to identify other states with boards. By this process we discovered boards in Arkansas, South Carolina, and Mississippi. Our original intention was to contact states that currently had boards and states that had recently abolished them. However, with the exception of Alabama, we were unable to find states that had recently abolished boards. Alabama presents a unique case, since abolition of its board was a direct result of federal litigation which placed the corrections system under the supervision of the federal courts.

Our plan for each state was to interview the director of corrections, the chairman of the board of corrections, and an additional knowledgeable person in each state. Interviews were conducted in a short time-frame over the holiday period (December 29, 1979, to January 3, 1980). Despite this time limitation, we were able to contact from two to four officials in each of the states. (It was determined that it was unnecessary to interview more than one person from Michigan or Texas,

since they were both represented on the national panel convened by Battelle to assist in this study.) A list of persons interviewed is attached as Appendix B of this report. In several instances, we interviewed a high-level corrections official in lieu of the director, or a board member or former chairman in lieu of the chairman of the board. In addition to the categories of officials just mentioned, we interviewed a member of a state legislative council, a newspaper editor who had reported on corrections issues for over twenty years, two former governors, two prison wardens, the director of a youth council (the juvenile equivalent of a board of corrections), and an analyst on a state Commission on Crime, Delinquency, and Corrections.

Persons interviewed were first asked to describe their board's composition, structure, powers, and jurisdiction. We then asked about the board's relationships with the director of corrections, the governor, and the legislature. After asking generally about the nature of the state's experience with a board, we asked for opinions as to the major strengths and weaknesses of the board structure and as to problem areas. We then sought opinions as to any impacts the board structure has had on a number of issues, including accountability to the public, accountability to the governor, efficiency, effectiveness, riots, overcrowding, and the budgetary process. We also asked the persons we interviewed what they viewed as the major

operational issues facing corrections in their respective jurisdictions, a question more broad and general in scope than our question about the impact of boards of corrections on these issues. But because responses were impressionistic and not substantiated by documentation, quantification, or interviews with a broader range of knowledgeable officials, they were not used in our analysis.

Forty persons were interviewed. These interviews ranged from twenty minutes to one and a half hours, averaging just under one hour each. We found the persons interviewed to be open, candid, and helpful. Because of the methodology employed, we were not concerned whether the people were "for" or "against" boards or whether their views were "biased." Our goal was not to conduct a survey of opinions, but to identify relevant issues and to glean insights from particular experiences with boards. Indeed, in several instances the persons interviewed indicated that the board structure was functioning satisfactorily, but that there had been problems encountered in the past. These comments gave us valuable insights into possible problem areas. Further, the comments of those interviewed were shared with our panel of national experts, to elicit reactions.

B. National Panel

The national panel of correctional experts was convened on Battelle's Seattle campus on January 7-8, 1980. Panel members included:

George Beto Distinguished Professor of Criminal Justice, Sam Houston State University
Former Director, Texas Department of Corrections

Robert L. Smith Assistant Director, National Institute of Corrections
Former Deputy Director for Prevention and Community Correction, California Youth Authority

John P. Conrad Senior Program Officer, American Justice Institute
Former Director of Research, U.S. Federal Bureau of Prisons and California Adult Authority

Joe Hudson Associate Professor, University of Minnesota
Former Director of Research and Development, Minnesota Department of Corrections

William Kime Deputy Director, Research, Michigan Department of Corrections

John R. Manson Commissioner, Department of Corrections, State of Connecticut

Kenneth F. Schoen Edna McConnell Clark Foundation
Former Director, Minnesota Department of Corrections

Daniel L. Skoler Director, Public Service Activities, American Bar Association (ABA)
Former Executive Director, ABA Commission on Correctional Facilities and Services

This panel represented a diverse range of expertise, including the perspectives of corrections commissioners,

administrators, researchers, and experts in correctional organization. It was "balanced" in the sense that about half favored the board structure and about half opposed this structure.

The two-day discussion was structured to precipitate a discussion of how and why particular results might be achieved and of the rationales behind positions taken. To gather information from the panel, we used a conference technique first developed by Darryl Hessel and others at Battelle for conferences sponsored by the Office of Technology Impacts of the Department of Energy. The technique involves alternation between directed and undirected discussion sessions, and between open-ended and closed-ended question formats, in order to elicit and record the diversity of viewpoints represented by conference participants. The first section of the conference was devoted to an introduction to the problem at hand and a description of the history and current status of corrections in the state of Washington. The material on corrections in Washington State was presented by Washington State personnel.

The second section of the conference was used to elicit open-ended responses regarding the advantages and disadvantages of a corrections board versus other organizational forms. Each panel member was asked in turn to add an item to a growing list of advantages or disadvantages, depending on the question under discussion.

During the third section of the conference, panel members responded individually to a series of conclusionary statements (54 in all) containing more detail about the advantages and disadvantages of a corrections board. The pattern of panel members' responses, ranging from strong unanimity (either in agreement or disagreement) to widely diverging views, became the basis for eliciting comments as to why individual members felt the way they did on the particular issue under discussion. As part of this exercise, panel members actually wrote brief two- or three-sentence statements of the particular reason for agreeing or disagreeing with one of the conclusions to which they had responded. The same exercise of responding to conclusionary statements and then discussing reasons for those responses was conducted for issues related to how a board should be set up if a board were to be the chosen option.

The next section of the conference asked each panel member to explain, based on his previous knowledge and the information gained at the conference so far, what he would say about the issues of a board versus its alternatives. At the conclusion of his statement, each panel member responded to questions from Battelle staff and other panel members to further explain his position.

The final section of the conference was devoted to a general, less structured discussion of anything a panel member wished to offer as an issue that had not yet received sufficient emphasis. The records of the conference included the

lists developed in the general sessions, the responses of the members to the conclusionary statements, the brief statements written by panel members, and extensive notes taken by Battelle staff.

C. Synthesis: Report Preparation

The information gained from the telephone interviews and the national panel proceedings is synthesized into this final report. It should be noted that, in order to complete this study in the available time, we sought the experience and opinions of persons who had been involved in corrections issues. This was true both of persons interviewed by telephone and panel participants. In this sense, they were "insiders" whose views may differ from those of governors, legislators, policy officials within umbrella agencies, or the citizenry. Our approach to preparing this report was, first, to identify all of the stated advantages and disadvantages of the board of corrections structure as compared to the present system and to a separate department of corrections, and then, with respect to each issue, to list the information, views, and insights of persons interviewed and panel participants.

CHAPTER III

AN OVERVIEW OF CORRECTIONAL REORGANIZATION

Abstract of Chapter

What we now consider to be "correctional services"--prison, probation, parole, juvenile institutions, and other programs directed at juvenile offenders--began as separate functions. Concern for correctional reorganization has focused on integrating some or all of these services into a corrections department, either as a separate agency or as a part of a human services agency. These reorganizational efforts have affected, in decreasing order of impact, political accountability, managerial control, and program effectiveness. To date, the issue of boards has not been central to these initiatives. For example, of the standards for correctional organization promulgated by professional associations (e.g., the American Correctional Association and the American Bar Association), public interest organizations (e.g., National Council on Crime and Delinquency, or NCCD), and advisory bodies (e.g., Advisory Council on Inter-governmental Relations, Katzenbach Commission, Peterson Commission), only two address the issue of boards. NCCD, in presenting three alternatives to correctional organization, recommends retention of "lay" boards of corrections. The Commissioners on Uniform State Laws recommend an advisory board rather than a board of corrections.

History of the Organization of Corrections

In the words of Daniel L. Skoler, in a recent, extensive study of the organization of the criminal justice system, "The American correctional system emerged like a pick-up baseball team."¹ In successive generations since the formation of our republic, prisons, probation and parole, and juvenile services

were instituted. In the earliest days, prisons were autonomous institutions, with wardens reporting directly to the governor or to separate boards of trustees. Because of political patronage and corruption in the institutions, these facilities were then placed under state-wide advisory boards or boards of corrections. As one of our national panel participants observed, state-wide boards were instituted in the South in some cases to limit the power of "carpetbagger" governors after the Civil War. As will be discussed below, states with boards of corrections are most frequently found in the South.

Probation services for felony and misdemeanor offenders, typically, were initially offered at the county level of government. Probation was usually under the supervision of the court. Parole from institutions was subject to favoritism and corruption. Thus, states instituted separate and autonomous parole boards of lay citizens. Juvenile services were instituted on the local level, again frequently under the auspices of courts.

B. Rationales for Reorganization: Current Trends

A recent survey of correctional reorganization by the Council of State Governments found that between 1965 and 1975 no fewer than 42 states reorganized their correctional systems, 23 states undergoing two or more reorganizations in this one decade.² Why this ferment? The Council of Governments' study lists three rationales cited to justify correctional

reorganization: political accountability, managerial control, and program effectiveness.

Reorganization aimed at political accountability seeks to enhance the relationship between the new agency and the administrative, legislative, gubernatorial, and public spheres for the purpose of gaining enhanced support for corrections, achieving higher visibility for correctional issues, and obtaining freedom from political interference.

In the area of managerial control, reorganization seeks to increase the efficiency of correctional operations through control of the bureaucracy, integration of administrative functions, and the ability to shift resources between program areas as needed.

Reorganization to enhance program effectiveness is aimed at development of a coherent, uniform correctional philosophy, increased professionalism, greater program innovation and developments, and improved service delivery.

The Council of Governments' study concludes that reorganization has the greatest impact on political accountability and managerial control. In their view, political accountability is the easiest goal to achieve. Regardless of the form of reorganization, reorganization efforts upset the established bureaucracy, creating a climate that allows for change in a department's internal and external relationships.

The Council of Governments' study advances some cautions with respect to whether reorganization can solve the problems facing corrections today. These bear repeating:

The evidence from this review of the experience of the states over the decade studied suggests that two factors need to be taken into account when deciding whether to reorganize and how the new agencies should be structured. First, although changing the administrative structure has important implications for correctional policy, the exact meaning is very problematical. Numerous intervening conditions are necessary for reorganization to have maximum impact. Second, reorganizing is a costly, time-consuming process which is more appropriate for dealing with broad-scale weaknesses in a state corrections program than rectifying specific problems.

Reorganizing the administrative structure is neither a panacea which will cure all ills, nor a futile exercise which is irrelevant to serious policy decisions. If its limitations as well as its strengths are recognized, it can be an effective means by which public officials can influence the future development of corrections programs.³

The issue of boards has not been central to the thrust for correctional reorganization to date. The most significant recent trend is toward unification of corrections services, typically by combining institutional services, parole supervision, and adult felony probation within one department or division. This department or division may also include adult misdemeanor probation and juvenile services within its ambit. In many states, particularly in the West, corrections has been placed under an umbrella superagency responsible for human services. (In two states, corrections has been combined with the state patrol and other law enforcement functions.) The Council of Governments' study states that the most dramatic trend is

toward the establishment of a separate department of corrections. However, the number of states using the umbrella agency approach increased from 11 to 15 between 1965 and 1970 but remained constant at 15 from 1970 to 1975. By contrast, the number of states opting for a separate department of corrections increased from 4 to 10 over the 1965-75 period.

C. Standards of Organizations and Study Commission Recommendations

A number of professional organizations and study commissions have addressed the issue of reorganization of corrections, but only one has directly addressed the issue of boards. The National Council on Crime and Delinquency (NCCD) Standard Act for State Correctional Services sets forth three alternative plans for the organization of corrections.⁴ The first would combine all adult and juvenile institutional, probation, and parole services into a separate department which would also have standard-setting authority over local jails. The second would eliminate parole from the department's functions, and a third would also eliminate juvenile programs from this department's jurisdiction. The NCCD standard is the only one that recommended retention of a "lay" board of corrections. It stressed that all administrative and executive duties should be the responsibility of the chief executive of the department of corrections under such a board.

The American Correctional Association urged the unification of administration of institutions and expressed a preference

for the integration of felony probation and parole into a separate department of corrections under a single executive head.⁵ It stated that this department should have standard-setting and inspection functions with respect to local jails and adult misdemeanor probation.

The American Law Institute Model Penal Code urged integration of institutional services, felony probation, and parole into a separate department.⁶ It recommended that such a department should have administrative or, in the alternative, standard-setting and inspection authority over local misdemeanor probation and jails. It expressed no view on combining juvenile and adult corrections.

In 1967, the President's Commission on Law Enforcement and Criminal Justice deplored the fragmentation of the corrections system.⁷ However, the only specific recommendation made by the Commission was for a state takeover of local jails, which it characterized as the weakest link in the system.

The Advisory Commission on Intergovernmental Relations recommended a separate department of corrections directly responsible to the governor, which would have authority over adult institutions, felony probation, and parole.⁸ Jails, adult misdemeanor probation, and juvenile probation would remain local responsibilities with the state having standard-setting functions and providing substantial state funding for these local services.

The National Advisory Commission on Criminal Justice Standards and Goals (the Peterson Commission) urged full integration of adult and juvenile institutional and noninstitutional services, including local detention.⁹ The Juvenile Justice Task Force of this Commission, however, recommended a separate juvenile department unifying state and local juvenile corrections functions.¹⁰

The American Bar Association/Institute for Judicial Administration Commission on Juvenile Justice Standards recommended a single juvenile corrections department, substantially separate from adult corrections.¹¹

The Commissioners on Uniform State Laws recommended a separate department of corrections which would totally integrate correctional services, including local jails and local probation. They recommended an advisory board rather than a board of corrections.¹²

D. The Role of Boards in Correctional Reorganization to Date

It would appear that the issue of a board of corrections to date has not been one of the major issues in reorganization of corrections. Of the standards outlined above, only the NCCD model legislation recommended a board of corrections. Indeed, it is difficult to discover how many states, in fact, have boards of corrections. A survey of correctional organizations conducted by NCCD for the Corrections Task Force of the President's Commission on Law Enforcement and Administration of

Justice indicates that in 1945 state boards with no other functions provided a central administration for corrections institutions in 13 states, and that this number was still the same in 1965. Information provided to the Washington State Department of Social and Health Services by the Council of State Governments indicated that seven states had boards of corrections, and that four additional states possibly had boards. The list of states with boards erroneously included one (Arizona) which has never had a board and failed to list three states (Arkansas, South Carolina, and Mississippi) which do have boards.

PART TWO

ALTERNATIVE CORRECTIONAL STRUCTURES

Chapter

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| IV | ALTERNATIVE STRUCTURES TO BE COMPARED |
| V | A COMPARISON OF A BOARD STRUCTURE WITH THE PRESENT STRUCTURE AND WITH A SEPARATE DEPARTMENT OF CORRECTIONS |

CHAPTER IV

ALTERNATIVE STRUCTURES TO BE COMPARED

Abstract of Chapter

Chapter IV provides a framework for the comparison of correctional structures in Chapter V, by describing in detail the alternative structures to be compared. Existing boards are described in detail since these compose the base for the experience of states with boards. "Typical" boards of corrections, found in nine states, consist of five to seven citizens selected by the governor with the advice and consent of the state senate, legislature, or governor's council. Boards elect their own chairpersons (in four of the nine states), and may include a lawyer, a doctor, a businessperson, a large-scale agricultural businessperson (where the prison system includes a large farming operation), a professor of criminal justice, an educator, or others with similar, relevant backgrounds. These boards set policy and have hire/fire authority over the director of corrections. No pattern emerges as to whether their authority includes parole, adult felony probation, probation or standard-setting authority, or juvenile corrections. Less-frequent approaches to boards include a board over all state institutional services, a board over the human services agency, and a board of the highest elected officials in a state. Chapter IV also describes the human services "umbrella" agency structure and a separate department of corrections without a board, with which the board structure is compared.

As mentioned earlier, this report compares a separate board of corrections with the existing Washington State corrections structure, on the one hand, and with a separate department of corrections without a board or commission, on the other.

A. Corrections Commission Structure

In the comparisons to be made in the next chapter of this report there is no attempt to define the scope, structure, or functions of a board of corrections. However, telephone interviewees and national panel participants based their comments on experiences with boards of corrections in other states. Thus, it is worthwhile to present a brief review of the structure of operations of boards of corrections in other states.

Nine states (Arkansas, Georgia, Idaho, Indiana, Michigan, Mississippi, New Hampshire, South Carolina, and Texas) had "typical" boards of corrections, which will be described below. As mentioned earlier, the Alabama Board of Corrections was abolished in 1979 as part of federal litigation leading to a revamping of their corrections system.

Three other approaches to boards were encountered. One approach, found in Iowa, South Dakota, and Wyoming, involves a board with responsibility over the full range of state institutions (e.g., juvenile facilities, mental health facilities, and homes for the aged) or, in the case of Iowa, the entire Department of Social Services. A second approach was encountered in Wyoming (in combination with the first approach, just described) and Nevada. These states have "constitutional" boards consisting of the highest elected officials of the state. In Nevada, such a structure takes the form of a Board of Prison Commissioners with responsibility over the prisons. The third approach, found in Virginia, involves a Department of

Corrections with an advisory Board of Corrections, which also has specific rule-making authority and standard-setting authority over state facilities as well as local jails. Because these latter five states had boards which differed in significant respects from the typical boards to be described below and from the board of corrections proposed in the legislation giving rise to this study, they have been disregarded in further analysis.

Graphic models of the structure of correctional administration within each of these 15 states are presented in Appendix C to this report.

The typical board consists of five to seven members (ranging from a high of nine in Texas and Georgia to a low of three in Idaho), who are reimbursed for expenses and who serve unpaid or receive \$22.50 to \$50 per day. Members are appointed by the governor, usually to be confirmed by the senate (in one case by both houses of the legislature, and in another by the Governor's Council of four lay citizens). The board elects its own chairperson in four of the states. According to the persons interviewed, board composition is not usually specified by statute. Two states require an attorney and a medical doctor; one also requires a college professor. In one state, board members come from each of the Congressional districts. At least one statute specifies that no more than three of the five members be from the same political party. Criminal justice

officials are members of the board in only one of the nine states.

These boards have policy-making authority over the department of corrections, which includes the authority to hire and fire the director of corrections (except in Indiana, where the director serves at the pleasure of the governor). In most states, board authority includes review of the budget before it is submitted to the governor and the legislature. Board confirmation of appointments below the level of director is required in only one of the nine states. In one state, the board has sole authority for approval of departmental expenditures and the lease or sale of departmental land or property.

With respect to the scope of jurisdiction of the boards in each of the nine states with typical boards, the boards in five states also had authority over parole and adult felony probation. Three of these states had autonomous parole boards, and two had parole boards appointed by or responsible to the board of corrections. In one state (Indiana) the board has authority over institutions and parole, but not adult felony probation. In the remaining four states, the board of corrections had authority over adult institutions. In only one of the nine "typical" states (Indiana) did the board have authority with respect to juveniles. The scope of jurisdiction of the boards just discussed is presented in the chart in Figure 2, which follows. Statutory references for the information in this chart appear in Appendix D.

	Adults					Juvenile		
	Insti.	Parole	Proba.	Misc. Proba.	Jail Comm'n	Insti.	Proba.	After-care
Alabama (abolished 1979)	X	Separate Board, Dept.			X			
Arkansas	X	X*	X					
Georgia	X	X*	X					
Idaho	X	X Parole Board reports to Board	X					
Indiana	X	X	X			X		X
Iowa	X	X*	X			X	X	X
Michigan	X	X**	X	X	X	X	X	X
Mississippi	X	X*	X					
Nevada	X	Separate Dept. Parole/Proba.						
New Hampshire	X	Separate Board, Dept.	Separate Board, Dept.					
South Carolina	X	Separate Parole Board	Proba./Pardon Board					
South Dakota**	X	*				X		
Texas	X							
Virginia (advisory & rule-making)	X ?	*	X ?		X			
Wyoming**	X	Separate Board, Dept. of Probation and Parole				X		

- * Staff supervision, casework, under a separate Parole Board.
 ** Board also over hospitals, mental facilities, etc.
 + Commission of Corrections appoints Parole Board, chair.

FIGURE 2
 SCOPE OF JURISDICTIONS
 STATE BOARDS OF CORRECTIONS

B. The Present System in Washington

Until July 1, 1970, adult corrections institutions in the state of Washington were part of a separate Department of Institutions, which also had responsibility for juvenile and mental facilities. With the reorganization of state government and creation of a Department of Social and Health Services (DSHS), adult institutional services and community services (felony probation and parole) and juvenile services were placed as separate divisions within DSHS. Juvenile and adult misdemeanor probation now are the responsibility of county or local government, as are detention and short-term jail facilities (sentences of up to one year). Standards for the operation of local facilities are the responsibility of a separate and independent Jail Commission.

C. Department of Corrections

The main comparison to be made in this report is between a board of corrections structure and the present structure of corrections, on the one hand, and a department of corrections without a board of corrections, on the other. We made no separate analysis of the possible scope of authority or structure of a separate department. Our discussion, in Chapter VI, of whether a board of corrections should have authority over juvenile corrections, adult probation, and parole would apply equally well, in general terms, to a separate department of corrections without a board of corrections. Where there are differences, these have been noted in our comparison of the separate department with and without a board.

CHAPTER V

A COMPARISON OF THE CORRECTIONS COMMISSION STRUCTURE WITH THE PRESENT STRUCTURE AND WITH A SEPARATE DEPARTMENT OF CORRECTIONS

Abstract of Chapter

Chapter V compares the board structure to the present umbrella structure and to a department without a board. Boards offer no panacea; states with boards have operational problems (e.g., overcrowding). Those persons interviewed who were willing to speculate on the impact of a board on such problems as overcrowding, security, and riots felt that boards had little or no direct impact on these problems. With the few exceptions noted, the benefits or drawbacks of a board held true in comparison with either the present structure or a department without a board. Whether these impacts occur in any one state depends on state circumstances, the caliber of board members, and the quality of the board/director relationship. Board impacts were reported vis-a-vis a department's external relationships, planning and coordination, policy and budget, and operations. Possible impacts are indicated in Figure 3.

States' experience, confirmed by the national panel, is that boards decrease accountability to the governor, thus increasing freedom from politics. Boards increase accountability to the public, since they provide broader public input and lead to a more open, visible department. Little or no impact was reported with respect to accountability to the legislature. Political insulation of the governor from sensitive corrections issues was a frequently cited benefit. Increased public outreach, sometimes leading to support for new programs, was also cited.

Continuity of policies, planning, and departmental leadership were cited as benefits in states with boards. Panel participants noted that this could dampen the speed or innovativeness of change but contribute to the permanence of change. Possible indirect benefits were noted with respect to staff tenure, professionalism, and training. Enhanced coordination of planning and service delivery would appear to hinge more on such issues as separate department versus

umbrella agency, board jurisdiction, and the working relationships involved rather than on whether a board is established.

Boards contribute to the openness and deliberateness of policy making and act as a moderating influence in providing a real world perspective to balance bureaucratic thinking. Boards have been able to obtain community acceptance and support for such efforts as half-way houses, alternatives to incarceration, and upgrading of physical facilities. Board members have provided relevant, free expertise (e.g., physician, attorney, farmer). In some states, boards have assisted in obtaining increased budget appropriations. Possible board impacts cited by the panel, but not observed in states with boards, include increased focus on policy issues, budget flexibility, cost of operations, and responsiveness to general trends in corrections.

A board could have a negative impact on the administrative structure in that an additional power center could complicate decision making or exacerbate department/warden conflict. States with boards did not report problems in this area. Anticipated decision-making slowness was not observed in many states, and in others this slowness was seen as being outweighed by increased deliberation. One reported benefit of a board is that it opens a second channel of communication for guards and inmates, without creating end-run problems. Boards were seen as having little or no impact on security, responsiveness to crises, client services, humaneness, or response to class-action litigation.

This chapter compares the corrections commission or board of corrections structure with the present structure, on the one hand, and with a separate department of corrections, on the other. For purposes of this comparison, it is assumed that a board of corrections would have authority over a separate department of corrections.

We also gathered data to ascertain whether or not states with boards had operational problems such as overcrowding,

inmate idleness, or riots and disturbances. States with boards did have operational problems; overcrowding and inadequate resources were frequently mentioned, and several persons interviewed mentioned recent riots, disturbances or escapes. It was beyond the mandate of this study to compare the experiences of states with and without boards, with respect to these operational issues. As mentioned, the only question asked of the persons we interviewed with respect to operational issues (as opposed to the impact of boards on operational issues) yielded impressionistic and unsubstantiated replies, which would form an incomplete basis for such comparisons. Even if we had been in a position to rank or compare states with respect to these operational issues, it would be difficult or impossible to establish that such difference were or were not caused by the presence or absence of a board. Our hesitation to conduct such analysis was substantiated by the telephone responses to be discussed, that boards were seen as having little or no impact on these operational issues.

For the most part, the advantages and disadvantages of the board of corrections structure appear to be similar in comparison with either the present structure or a separate department of corrections. Exceptions are specifically noted by a comment that a different result obtains when the board structure is compared with a separate department.

Persons interviewed by telephone and the national panel participants alike were explicit in pointing out that the

advantages and disadvantages stated may or may not hold true, depending on conditions in a particular state. As mentioned above and as will be discussed in more detail below, a board might have some impact on correctional operations and policies, but there are other aspects of corrections upon which a board would have little or no impact.

Further, persons interviewed by telephone and panel participants specified that their comments on boards of corrections were predicated on certain key assumptions about the people and working relationships involved. Persons interviewed by telephone, in particular, stressed that the benefits of boards were due to the dedication, high caliber, and interest of board members; to their respected positions in their own communities; to their lack of political ambition; to the mutual trust and respect existing between board members and the director of corrections; and to the ability of the director and the board to work together. To the degree that these elements are not present, the benefits of a board of corrections that are described below may disappear. Statutory and other measures which may be taken to foster this type of working environment are discussed in Chapter VI, Board Structure, below. Even taking the steps outlined in Chapter VI will not ensure that such a climate of cooperation will be created; the most one can say is that, if the necessary preconditions for cooperation are present, these steps will make it possible to better capitalize on them.

Even where benefits of boards are described in the balance of this chapter, the experiences of the states with boards confirm our original impression that boards should not be seen as a panacea. Boards were not seen as offering immediate solutions to many of the more significant problems facing corrections today. Many persons interviewed, for example, offered no opinion as to the impact of a board on such issues as riots or overcrowding. Those who did so were of the opinion that a board would have little or no direct impact.

Responses were more definitive when particular mechanisms were discussed. For example, boards have been helpful in at least some instances in obtaining community acceptance of community correctional facilities or alternatives to incarceration. This, in turn, can alleviate overcrowding in prison facilities. The corrections administrator in one state specifically mentioned that he had used this approach in attempting to solve the overcrowding problem.

Another aspect of corrections in which organizational form appears to make no difference is security of institutions. Persons interviewed in states with boards generally saw no direct impact of boards on security, and no examples to the contrary were offered. None of the observers and corrections experts consulted in this study suggested that the organizational forms considered here (or any variation of them) would make any difference in rates of escapes from institutions.

They do not seem to make any difference, either, in the incidence of riots and very little difference in efforts to solve problems such as overcrowding.

There are several significant trends in corrections today on which a board may have little or no direct impact. In our review of the experiences of states with boards we did not discover any direct effects of boards on these trends, although some indirect effects were reported. This point is discussed in more detail below.

* * * * *

The Council of Governments' study of the reorganization of corrections, discussed earlier, stated that correctional reorganization might affect political accountability, managerial control, and program effectiveness. The information we received actually fell into four broad categories that are roughly similar to accountability, control, and effectiveness. We list and discuss them below in roughly descending order, from those where a board is likely to make the most difference, to those where a board is likely to make the least difference.

The four categories, in more or less descending order, are: (1) External Relations; (2) Planning and Coordination; (3) Policy and Budget; and (4) Operational Issues. Possible board impacts are both shown in Figure 3 and described in more detail in the balance of this chapter.

	Board Enhances	Board Inhibits	Board has Little or No Effect	Comments
A. External Relations				
1. Accountability to the governor		Yes; freedom from political interference frequently cited. At possible cost of governor/corrections friction		Is increased accountability desirable?
2. Accountability to the legislature			Yes; Indirect if any	
3. Accountability to public	Perhaps; more open system, public input			Less where corrections already visible issue and public input mechanism exists
4. Freedom from politics	Yes; cited frequently as a major benefit esp. vis-a-vis governor			
5. Political insulation: Governor	Yes; cited frequently as benefit			
6. Political insulation: Legislature			Yes; legislature not as responsible for corrections as governor	
7. Public Outreach	Yes; cited as major benefit			
8. Credibility	Yes; not bureaucrats, no axe to grind			Depends on members being perceived as independent, respected

FIGURE 3
POSSIBLE IMPACTS OF A BOARD OF CORRECTIONS

	Board Enhances	Board Inhibits	Board has Little or No Effect	Comments
9. Visibility			Yes; already visible	Can change focus from riots/crises to basic long-term problems
10. Clarity of Responsibility		Possible inhibition; confusion of responsibilities between board and director is possible		
B. Planning and Coordination				
1. Continuity of policies, planning	Yes; frequently cited, esp. thru continuity of leadership; freedom from political interference			
2. Speed, degree of change		Yes, trade-off with quality of decision, degree of public support		
3. Permanence of change	Possibly through increased support for changes adopted			
4. Stability of director	Yes, cited especially by present/former directors; seen also by board as a benefit			
5. Stability of staff	Possible, indirectly through professionalism, training, policy and leadership consistency. Not as significant as is continuity of directors			Negative aspects: staleness and bureaucratic thinking, resistance to even minor change, or difficulty in firing undesirable staff

Figure 3 (cont'd)

	Board Enhances	Board Inhibits	Board has Little or No Effect	Comments
6. Coordination of Planning		Perhaps in contrast to umbrella structure		
7. Coordination of Services		Perhaps in contrast to umbrella structure		
<u>C. Policy and Budget</u>				
1. Deliberation of decision-making	Yes, frequently cited benefit; "discussion forum," "grass roots insight," "openness," "keeps on toes"			Trade-off with speed of decision-making
2. Moderating influence on decisions	Yes, frequently cited but not as often as 1. "Real world," "counters thinking like bureaucrats," "fresh approach"			
3. Consistency	Yes, indirectly, through continuity/stability, above			
4. Concentration on policy	Possible, to the degree that a director without a board is not able to focus on policy in the face of daily problems		No direct effects mentioned	
5. Support for program initiatives	Yes, frequently cited. Examples from several states re: overcrowding, halfway houses, physical plant			Specific benefit of keeping outsiders informed above
6. Availability of expertise	Perhaps, depending on members' expertise			Could inhibit getting second opinions

Figure 3 (cont'd)

	Board Enhances	Board Inhibits	Board has Little or No Effect	Comments
7. Adequacy of budget appropriations	Perhaps, in some states depending on budget process			Informal contact with legislators as needed is main vehicle
8. Budget flexibility				
9. Lower costs of operations	No	Yes, where Board institutes budget administration procedures, reviews. Yes in removal from umbrella where \$ transfers from other services occur	Yes	Expense of board itself is minor
10. Response to general trends				
D. <u>Operational Issues</u>				
1. Administrative structure		Additional power center complicates structure		Will have impact but direction is unclear, depending on existing administrative and "power" structure, degree and nature of change introduced (see Part Three)
2. Speed of response to problems				
		Possibility; not seen as major problem. In few board states that reported any problem		Trade-off with quality deliberateness

Figure 3 (cont'd)

	Board Enhances	Board Inhibits	Board has Little or No Effect	Comments
3. Definitiveness of response		Committee decisions tend to be less definite		
4. Communications within Department	Board provides second channel			
5. Alleviation of overcrowding			No direct impacts seen	
6. Security			No direct impacts seen	
7. Response to crises			Anticipated negative impacts not encountered	Board role to establish procedures, give director authority, be available, conduct <u>post</u> review seems clear
8. Client Services			No direct impacts seen	
9. Other Operational Issues	Some help with inmates rights litigation by establishing formal policies		No direct impacts seen	

Figure 3 (cont'd)

A. External Relations

A board of corrections could help a department to operate in the political arena. One of the main spheres of correctional operations where persons interviewed by telephone and national panel participants cited a positive impact of a board of corrections was in the area of a department's external relations, that is, their relations with the governor, legislature, and the public. A primary concern in this area is accountability. Answers to questions of accountability might vary depending on whether one is referring to accountability to the governor, to the legislature, or to the public.

1. Accountability to the Governor

There are two facets to the issue of the accountability of a department to the governor. The first is whether a corrections board makes a department more, or less, accountable to the governor. The second is whether the department should be more, or less, accountable to the governor.

There seemed to be a consensus among persons interviewed by phone and panel participants that a board of corrections makes a department less accountable to the governor although there was some disagreement over the degree. There was much less consensus as to whether the department should be less accountable in this respect. On the one hand, it was argued that a department free from "political interference" is better able to do a professional job. It was also argued, to the contrary, that corrections is and must be a political issue:

how society deals with offenders is ultimately an issue to be left to the people. The governor, as an elected official, expresses at least a general mandate from the people, even if the mandate is not particularized to the level of any issue as specific as corrections.

A former governor who was interviewed stated that the department of corrections must be accountable to the governor, for the governor reflects the current will of the people. During our national panel discussions, one participant forcefully argued that corrections is ultimately a political issue for which the governor should be accountable to the people. Others, during telephone interviews and national panel discussions, advanced the view that it is difficult to do a professional job within corrections wherever there is "interference" from the governor or the legislature.

In a few states, those interviewed by telephone cited specific examples of friction between the board of corrections and the governor. One interviewee stated, "Our new governor is an activist, and he doesn't like the board very much." In several states which have instituted boards of corrections in response to political favoritism and corruption, directors of corrections and board members both cited instances where the existence of a board permitted the department to resist pressures on the governor to hire specific politically favored staff or to do favors for politically connected inmates.

In one state, the board was able to help the department resist pressures from the governor and treasurer. The governor, with the support of the treasurer, strongly favored moving delapidated and condemned army barracks from a nearby abandoned facility to house inmates and alleviate overcrowding. The director was able to get the support of board members by pointing out the barracks were a fire hazard, and that board members would be defendants in any subsequent litigation.

In another instance, a guard was accused of inmate brutality. The governor's response was to call for the firing of the guard. The board members were able to persuade the governor that guards, as well as inmates, are entitled to due process protections.

Some interviewees and participants observed that a board of corrections might not make a department significantly less accountable to the governor where the governor appoints the board members. In one state that abolished a board, the governor had been in office for so long that he had appointed all of the members of the board.

Interviewees cited two instances where the board was not able to resist pressures from the governor to fire the director. In one, the governor observed a homosexual act on a prison tour and ordered the director to put a halt to it. The director refused, saying it was impossible to prevent such behavior in a prison setting. The governor announced that he

would refuse to approve any appropriations for the department as long as the director remained. The board resisted but eventually yielded. In the other state, a guard went to the press with allegations of corruption by the warden and the staff. The board determined not to fire the warden. The governor then called for a study by a blue-ribbon commission, which recommended firing the warden. In response to the commission's findings and subsequent public opinion, the board removed the warden and the director of the department.

In some respects, it was observed, a board may make a department more accountable to the governor. Board members may have access to the governor which the director does not enjoy and may have an independent credibility with the governor.

In summary, persons interviewed by telephone and national panel participants were in basic agreement that a board of corrections would make a department less accountable to the governor, although there was less agreement as to the degree to which this would occur. There was also substantial disagreement over the desirability of accountability.

2. Accountability to the Legislature

A governor and a legislature may differ dramatically in their approach to corrections, and it may be difficult for a department to be accountable to both. A governor and a legislature may differ on whether a department should be accountable to either, to both, or to neither. Several individuals observed that if a particular legislator had a problem or a

question, he or she was free to call a board member to discuss the issue. One would expect that the board member would alert the director, directly or indirectly, to the issue. This at least would have an indirect effect on the accountability of a director to the legislature. Another indirect effect occurs when members of the board are themselves former legislators or legislative staff members, bringing their prior experience to bear on board deliberations.

In summary, few interviewees or participants stated that a board would have any significant impact on accountability of a department to the legislature.

3. Accountability to the Public

Ultimately, a department is accountable to the public. One may argue that the governor and legislators, being elected officials, reflect the public will, and to be accountable to these officials is to be accountable to the public. But public officials are not necessarily elected on the basis of their positions on only one or two issues, and a community might differ quite strongly with its elected officials over corrections issues.

Several directors of corrections stated that a board could provide broader public input into corrections policy-making, and that this was a positive benefit. Similarly, a board could make a corrections system more visible to the public. In a similar vein, a board could help "explain" the department to

the public, and thus enable a department to gain increased community support.

Directors and board members in several states with boards asserted that theirs was a more "open system" because of the board. This was especially true where public meetings of the board received extensive media coverage.

Some directors and board members also asserted that boards had made their departments more responsive to the public in a positive and "non-fad" way. A counterargument by one experienced corrections administrator was that the head of a separate department, in order to survive must be sensitive to attitude shifts; a board reading of a situation may be in disagreement or divided, hence incapable of making an immediate response to shifts in public opinion.

On the other hand, a director in one state with a board said that the board had no particular impact because the department was already sensitive to public issues. The position was also advanced by some telephone interviewees that public visibility was not particularly important, since corrections issues were frequently in the media. In response, one panel participant observed that what is needed is a change of focus from such specific events as riots, escapes, and violence within prison walls to a broader understanding of the problems and issues facing correctional departments. Several sources advanced the opinion that a board would make a

department more accountable to the public. These opinions were borne out by experiences in states with boards.

4. Freedom from Politics

In many respects, issues of political insulation of a department are related to issues of accountability. For example, isolating a department politically from the governor might also lessen the department's accountability to the governor.

There are several aspects to the issue of political insulation. For example, a board might make a department more politically insulated from the governor than from the legislature.

This issue also subsumes issues of freedom from such practices as political patronage and the hiring of departmental employees, favors for politically connected inmates, and pressures to institute politically attractive but unsound programs, or to eliminate sound but politically unpopular programs.

One of the benefits most frequently attributed to a board by observers in states with boards was that it provided political insulation to the department. To quote one source, a board gave a director "the ability to make unpopular decisions."

The aspect of political insulation cited most frequently was insulation from the governor's office. Again, to cite an observer, "A board can tell a governor things I wouldn't dare."

A board was seen as having less impact on insulating a department politically from the legislature. Insulation from

the legislature was mentioned as a benefit of a board by observers in at least three of the states surveyed.

In summary, sources expressed the view that political insulation is one of the major benefits of a board. This could involve political insulation from the governor, the legislature, or the public.

5. Political Insulation: Governor

Existence of a board of corrections could serve to isolate a governor politically from sensitive issues corrections. To the degree that a board of corrections isolates the governor from sensitive issues in corrections, it would serve to make the governor less accountable to the people for these matters.

There was a fairly strong consensus that a board of corrections would provide at least a degree of political insulation to the governor. But at least one national panel participant raised the philosophical question of whether a governor should be politically insulated from issues of corrections.

Specific instances of political insulation of the governor were cited in several of the states. Indeed, the director of corrections in one state was able to help ensure this by telling each incoming governor that corrections was never a political asset but could become a major political liability.

In one state, a majority of the board members are, by choice, members of the political party opposite that of the governor. This phenomenon may be seen both as an example of

political insulation and as a device to help ensure such insulation.

6. Political Insulation: Legislature

The same general argument could be made about a board providing political insulation to the legislature, as is made for insulating the governor. However, no evidence was gathered in this study to suggest a board made any difference in this area.

7. Public Outreach

One of the problems frequently cited by corrections administrators is the difficulty in keeping interested citizens and groups informed of efforts the department is trying to undertake or the problems it is encountering. Does a board of corrections help in this process? This issue is closely related to that of accountability of a department to the public.

The experience of states with boards is that boards have, in fact, been helpful in keeping interested citizens and groups informed. Where board members reflect a geographic diversity, their activities in their own communities have led to a broader understanding of corrections across the state, several jurisdictions reported. One tangible result of this board benefit is that this has led to support for new program initiatives, a point which will be discussed below.

8. Credibility

This issue is related to issues of accountability and public outreach. To be effective, a department must maintain credibility with the governor, the legislature, and the public

at large. Is the department perceived as being a bureaucracy with its own axe to grind? Is a budget request perceived as empire-building, or a statement of resources actually required to carry out a department's mission and deal with current problems? Are departmental programs seen as practical and offering solutions to current problems?

A board can help a department gain needed credibility with the governor, the legislature, and the public, especially when the board consists of respected citizens who are perceived as being generally knowledgeable and having common sense.

Directors of corrections stated that board members, unlike the directors themselves, were not perceived as bureaucrats with a particular political axe to grind. This is especially true among legislators with respect to the credibility of board members who are themselves former legislators and without further political ambitions. In the words of one director, such board members "speak their language." In at least one state, board members were effective in lobbying for a community corrections initiative.

Instances were cited in several states where board members were helpful and persuasive in the legislative appropriation process. Board members were not helpful with the legislature in one state, where legislators perceived board members as being too sympathetic to inmates.

In the words of one national panel participant, "A united board and department are as likely or more likely to obtain

gubernatorial support than a director alone because they confirm to a politically aware governor that his or her 'bases are covered,' i.e., the diverse elements on the board are mutually reinforcing and all see the department's requests and priorities for support as being rational."

9. Visibility

Establishment of a board of corrections may lend visibility to corrections issues. But corrections is a highly visible, public topic frequently discussed in the media. If media coverage focuses on riots, escapes, and violence within prison walls, a department may need assistance in making more visible its less controversial and more long-term problems, as a way of gaining public understanding and support.

10. Clarity of Responsibility

A board adds a power center to corrections decision making, which could diffuse responsibility between institutions. Regardless of the clarity of statutory responsibility, there could be more uncertainty about who really makes major decisions when a board and a director are involved than when there is just a director.

Persons interviewed from states with boards did not cite this as a problem, but some of the other sources consulted in this study argued that boards could indeed have the effects just described.

B. Planning and Coordination

One of the most frequently cited benefits of a board was that it provided a higher degree of continuity and stability to a corrections department. In general terms, this encompassed continuity and stability in planning, policy, and leadership.

1. Continuity of Policies and Planning

One of the possible benefits of a board is that it could lend increased continuity and stability to departmental policies and planning. Continuity in departmental leadership was seen as making a major contribution in this regard.

Comments of persons interviewed by phone confirmed that a board can contribute to increased continuity in planning and policy-making within a corrections department. To cite one example, a director who had served in a state with a policy-making board and was currently in a state with an advisory board told us, "We just came up with a ten-year plan here, but I don't know whether it will be thrown out when we elect a new governor in 1981."

2. Speed and Degree of Change

A certain amount of change should be expected in correctional philosophies and programs, but how much change is required, and what change is needed, is frequently at issue. A department may be slow to institute needed change. On the other hand, swift and dramatic changes can leave a department in a state of turmoil. Does a board of corrections inhibit necessary change? Does a board lead to precipitous changes?

To the degree that a board contributes to long-term continuity within a department, it may also contribute to the preservation of the status quo. Thus, there may be a dampening of the speed and nature of change. It was speculated among national panel participants that such innovative and wide-reaching reforms as the de-institutionalization of juvenile offenders in Massachusetts and the Minnesota community corrections initiative might not have been possible in states having boards.

Status quo, however, does not necessarily mean absence of change; the status quo of a department may be one of maintaining a climate of change. Here, it was observed, an innovative director can be freer to institute change where he has the political insulation afforded by a board.

Interviews with persons in states with boards offered no particular insight into this issue, perhaps because interviewees were not in a position to offer relevant comparisons of the speed and nature of change between their states and states without a board. At any rate, this was not cited as a benefit or a drawback of the board structure.

3. Permanence of Change

Related to the issue of speed and nature of change, just discussed, are the issues of innovativeness (the degree to which the change is a departure from the past) and permanence of change. To the degree that a change represents a radical departure from past practices, it may be difficult to obtain

the necessary support within a department and from the community. Thus, change may be difficult to implement, may be subject to sabotage after being implemented, and may be dismantled at the first opportunity. This is not, however, a necessary result of radical change. On the other hand, change that represents only a minimal departure from past practices may be subject to the same problems. A board of corrections may make radical change more easy or more difficult and may contribute or detract from the permanence of such change.

Far-reaching reforms, however, may fail to gain the needed support within a department or with the outside community necessary to ensure that such change is permanent and not susceptible to sabotage. Thus, while a board may inhibit the radicalness of change, it may contribute to the permanence of change, especially where a board is an effective vehicle for obtaining community support.

As was the case with respect to the speed and nature of change, persons in states with boards did not mention any impact of the board structure on the radicalness or permanence of change in a corrections department. Panel participants, however, cited this as a possible impact of a board.

4. Stability of Directors

The most direct impact of a board on continuity and stability would appear to be in the continuity and tenure of departmental leadership. In a similar vein, it was observed that a board might deter a governor from imposing political

conditions on the appointment of a director. Existence of a board might enhance the ability of a department to attract a good director. Without a board, a director may fear that his tenure would not last beyond that of the current governor. A board might eliminate practices of imposing political conditions (e.g., commitments to hire only members of the governor's party, or to hire specific aides) on a director's being appointed, or contribute to the continuity and tenure of a director. On occasion, strong differences of personality or philosophy, or both, arise between a governor and a director of corrections. Are these less likely to arise, or more easily dealt with, under a board of corrections structure? One simplistic answer is that in a structure without a board of corrections, a governor is free to fire the director of corrections. A director, however, may have established his or her own political constituency and firing a director may be a politically dangerous act for the governor. Similarly, if a board of corrections has authority to hire or fire a director, a governor may still be able to exert influence to have an incompatible director removed.

Comments of persons interviewed by phone and national panel participants also confirmed that a board can contribute to continuity in departmental leadership. Several directors stated that they were able to stay in their departments despite a "clean sweep" of high-level positions following a change of administration in the governor's office. Some of the persons

in states with boards cited specific instances of board intervention with the governor to ensure this continuity, or highly visible board resistance to such change. In one state that has a board, the position of director of corrections was the only position which did not change hands in an incoming administration. Several directors and former directors cited particular instances where they were reluctant to take jobs in states which did not have boards for fear of short tenure in office. One perhaps extreme example of the problem was offered by one of our panel participants: he declined to take a position as director of corrections in a state where the governor had six months remaining to serve in his term.

A board, however, is not a guarantee of tenure. This is illustrated by the two examples cited earlier, where a governor was able to remove a director of corrections despite board resistance.

5. Stability of Staff

The view was also expressed that a board could contribute at least indirectly to a department's ability to attract and retain key staff under the director. The board could have consequences on professionalism, staff turnover, and esprit de corps, as well.

Continuity in long-term planning and in the chief executive position within the department contributes to staff professionalism by affording political insulation and provides long-term consistency to policies and operations. Continuity

also permits (but does not ensure) the development and implementation of training programs for corrections staff. Staff development is itself a long-term process most effectively and efficiently accomplished in a department with continuity. It is also akin to capital investment with long-term payoffs. Thus, to the degree that departmental policies and procedures change rapidly within a department, training becomes outmoded. Continuity in departmental policies may also decrease staff turnover and contribute to the development of an esprit de corps.

There was no clear consensus, however, that a board would have any particular impact on the issue of the ability of a department to attract and retain key personnel.

One corrections official in a state having a board stated that the existence of the board was helpful in obtaining the support of departmental personnel. Departmental staff members were more responsive, knowing that the director was not going to be removed in the next administration. There was no possibility of waiting him out. Other persons consulted thought that a board would not make a significant difference in this regard.

There are negative aspects to too much continuity and stability among department staff. Staleness and bureaucratic thinking may beset a department. Resistance to even relatively minor change may increase. It may become more difficult to remove undesirable personnel.

6. Coordination of Planning

The board structure could lead to decreased coordination in the planning of corrections services or human services in comparison to the present umbrella structure, yet have no impact on planning coordination in comparison with a separate department without a board. Whether corrections is within an umbrella agency or a separate department would appear to be an issue with more impact on planning coordination than is the issue of whether the department is headed by a board. But there is no clear-cut evidence from the states that inclusion of corrections within an umbrella agency leads to increased planning coordination. Such coordination would appear to depend on a number of factors in addition to the structure of a department.

None of the interviewees from states with boards indicated that a board would have any direct impact on planning coordination. Experience from one state indicates that it is possible to increase planning coordination in states with boards. The governor of that state sent letters to the chair of the board of corrections, parole board, and state crime-control planning board, directing these boards to coordinate their planning efforts. This led to an increase of planning coordination.

7. Coordination of Services

One possible disadvantage of a separate department of corrections headed by a board is that it may inhibit the integration of services within corrections and, more generally, across

the broad range of human services which offenders may require. Where a board is responsible only for adult institutions, for example, it may be difficult to coordinate the programs of the institution with those of parole and probation. Even where all such correctional services are integrated under the leadership of a board and separate department, it may be more difficult to obtain such social services as counseling, vocational training, employment, mental health services, and the like.

In one sense, this disadvantage may be more illusory than real. Experts disagree on the actual degree of coordination obtained by administrative integration of the services. Structure is only one aspect of the issue; separate departments may work well together, and divisions within a department may be fractionalized and in constant competition.

C. Policy and Budget

1. Deliberation of Decision-Making

One of the most frequently cited benefits of a board is that it provides a department with a discussion forum, or sounding board, in decision-making and the formulation of policy, since boards can provide outside views. Members with a diversity of backgrounds and perspectives can engage in more far-ranging consideration of policy issues.

The director in at least one state appreciated the benefit of grass-roots insight. A board can provide an openness to a department, observers in several states noted, including broader public input into policy. An official in one state

said that his board "keeps our department on its toes." In the words of another departmental official, "A board enables embarrassing questions to be asked that might not otherwise be asked by staff."

2. Moderating Influence on Decisions

One of the impacts of a board is that it serves as a moderating influence and provides a real world perspective to departmental policy-making in the view of some of the persons interviewed.

This point was brought to our attention during telephone interviews. Departmental officials and board members in several states observed that there could be a tendency for departmental staff to talk only among themselves and, in the words of one departmental official, "think like bureaucrats." The necessity of explaining departmental policies to board members without outside perspectives counteracts this tendency. From another perspective, moderating was viewed as involving a trade-off between correctional expertise and a fresh approach.

3. Consistency

To the degree that a board contributes to the stability of a department, it allows for more consistency in policy making and in departmental policies.

4. Concentration on Policy

It was mentioned earlier that the board and the director were able to reach consensus on the difference between policy making (the responsibility of the board) and day-to-day

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administration (the province of the director). As one national panel participant observed, one indirect benefit of this division of labor is that it permits a board to concentrate on policy making without the distractions of day-to-day administration, whereas a director without a board must focus on both, and may not find time to develop long-range policy in the press of daily events. This may be one reason why a department with a board may be more likely to have comprehensive written policies.

5. Support for Program Initiatives.

The most frequently cited possible impact of a board on corrections programming, among telephone interviewees and national panel participants alike, was in the broad but indirect benefit of board support for corrections initiatives. One of the possible benefits of the improved public outreach provided by a board, cited by several observers, is that it can lead to increased public support for corrections. That is, citizens and groups informed about the problems facing a department of corrections may also be persuaded to (or may on their own initiative) lend their support to department programs, particularly to attempts to alleviate visible problems.

This benefit was confirmed by experiences in the states with boards. No specific instances were cited where informed citizens or groups have come forward on their own initiative to lend support to the solution of a corrections problem in the state. But board members in several states have been

successful in approaching the community and obtaining support. The kinds of support obtained ranged from assistance in finding sites for community corrections or work-release facilities to obtaining a new baseball diamond or closed-circuit television system for the prison.

As mentioned before, boards can be helpful in gaining the support of the governor, the legislature, and the community for such initiatives as community corrections, an upgraded prison industries program, or upgrading of facilities. Reasons for this have been discussed earlier. A board has an independent credibility, keeps interested citizens and community groups informed, and assists in gaining their support. Such credibility is not likely to exist when a weak board replaces a strong, effective umbrella agency or an administrator or department head who is vitally interested in corrections.

In New Hampshire, board support was instrumental in establishing a half-way house in the major metropolitan area and is currently helping to establish a second such facility. In South Carolina, the board has lent its support to work-release efforts and has contributed to the acceptance of an innovative extended work-release program.

Other states have cited board assistance in the alleviation of overcrowding and the development of alternatives to remedy the situation. In South Dakota, the director of corrections stated that board support was very helpful in reducing the

prison population from 570 to the institution's capacity of 440 through use of such alternatives as work release and furloughs.

6. Availability of Expertise

Several observers cited the benefits of free expertise to be gained from attorneys, doctors, large-scale farmers, and businesspersons who are members of the board. One national panel participant, however, added a caution. When members of the board have a particular area of expertise, a director may be less free to go outside for a second opinion.

In more than one state, a physician who has been a member of the board has been instrumental in upgrading the health services within a correctional system. In Arkansas and other states with large prison agricultural units, board members have helped to put these operations on a business-like, profitable basis. Board members help in other ways, as well. In one state, a board member who was a contractor constructed a baseball diamond for the prison.

7. Adequacy of Budget Appropriations

A board of corrections may enhance a department's ability to obtain budget appropriations. This may occur during budget review by an executive office of budget and management or the governor, or in hearings before legislative appropriations committees.

Officials in several states with boards indicated that board members had been quite helpful, formally and informally, in the budgetary and appropriation process. This was not

universally true. Officials in other states indicated that board members had little or no effect. Officials in these states stated that board members were available, but were seldom, if ever, called on because the director of corrections was effective in obtaining resources. No states reported adverse influences of boards on the appropriation process.

Usually, a board will review a department's budget before it is submitted to the governor. Once the budget is submitted to the governor, boards are supportive and informally influential on occasion, but it would appear that they seldom make a real difference.

Where boards are helpful in the budgetary process, their impact is felt with the legislature. The board chairperson usually appears with the director of corrections at the initial appropriations committee hearing.

Typically, from this point on, the director of corrections and his or her staff appear before the legislative committees in support of their programs, with only an occasional appearance by a board chairman or member to lend support on specific issues. Informally, board members may call or visit key legislators. This is particularly helpful where board members are themselves former legislators who have no further political ambitions. They have an independent credibility and speak the same language.

An example of board support was offered in one state with a constitutional provision that the governor must submit a

balanced budget. Such budgets typically include a reserve for contingencies, which the legislature may appropriate toward specific program areas. In this state, the board obtained the informal approval of the governor to lobby with the legislature to increase the department's appropriation beyond what was in the governor's original budget. This tactic was successful.

8. Budget Flexibility

One argument advanced for placing a department of corrections within an umbrella human services agency is that this may permit latitude in transferring resources between programs as needed. Similarly, in an integrated department of corrections which includes institutional, probation, and parole services, there is flexibility in shifting resources between correctional services in response to changing needs. Will such flexibility necessarily be affected if a board of corrections is established?

As contrasted with a department within an umbrella agency, a separate department under a board may have less flexibility in transferring resources between program areas to meet changing needs or to respond to unanticipated problems. The ability to transfer resources between program areas depends on the amount of flexibility that the head of an umbrella agency has. In this regard, there is no reason to believe that a separate department under a board has less budgetary flexibility than a separate department without a board.

9. Costs of Operations

A board of corrections may have an indirect impact on the cost of correctional services by affecting the scope and nature of programs, by its impacts on managerial efficiency of the department, or both.

Telephone interviewees and national panel participants saw no particular advantage or disadvantage of a board structure related to the cost of correctional services. Costs of administration under a board structure are discussed below.

A board may provide an increased measure of cost control within a department. The example was offered of one state where the board required detailed, quarterly budgetary reports specifying amounts spent in each area in the last quarter and anticipated needs for the coming quarter. In another state, the board has sole authority for the approval of departmental expenditures. This requires the board chairman to be available to the director of commissions on an almost daily basis to sign the necessary documents.

10. Response to General Trends

The existence of a board might conceivably have some affect on the response of a corrections organization to the general trends in corrections administration. We have estimated the impact of a board, compared to its alternatives, on ten such trends:

- Prison industries
- Determinate sentencing

- Community-based corrections
- Alternatives to incarceration
- Upgrading local jails
- Standards and accreditation for state institutions
- Empirically based offender classification
- Development and placement of new facilities
- Evaluation research
- Smaller facilities

Boards were not seen as having any direct effect on determine sentencing, the upgrading of local jails (except in the one state where the board has jail standard-setting authority), standards and accreditation for state institutions, empirically based offender classification, evaluation research, or the use of smaller facilities. A board may or may not encourage a department to undertake or expand such initiatives. To the degree that a board adds continuity to the long-term planning process, provides community input, and gains for the department the support of elected officials and the community, a board would have an indirect impact on such initiatives.

The possible indirect affect of a board on the establishment of community-based corrections, use of alternatives to incarceration, and the development and placement of new facilities is clearer. Here, a board can assist a department in gaining necessary community support and acceptance.

There has been a renewed emphasis in recent years on prison industries, in part due to a significant LEAA initiative in

this area. Emphasis is being placed on a "free enterprise" approach to prison industries, which involves sales to the private sector and private sector entry into the institutions to conduct these programs. Long-standing federal and state statutory barriers to selling the products of prison industries to customers other than "state use" or non-profit organizations are being challenged. One of the major problems in this area is the capital investment required to upgrade these programs. Boards may be of some use for gaining support for statutory change or involving businesses and unions in this initiative. Indeed, in California a separate policy-making board has been established to oversee prison industry initiatives. Other states have achieved similar results by the use of advisory boards as opposed to boards with policy-making power.

D. Operational Issues

1. Administrative Structure

A board of corrections might affect the administrative structure of a department of corrections in several ways. These might include the clarity of the chain-of-command, the number of administrative levels involved in making and reviewing decisions, the existence of competing power centers, or conflicts between wardens and the central department staff.

Several observers indicated that a board could have a significant impact on the administrative and decision-making structure within a department. For example, where a governor

retains the power to remove a director, the chain of command is clearer. A board also increases the number of administrative levels involved in the decision-making process. Several observers indicated that the creation of a board could give rise to competing power centers, especially where board members are politically ambitious. (Competing power centers developed in one state were between the board and the governor.) There is also the possibility of intra-corrections conflicts of philosophy, priorities, or power.

It was observed that creation of a board could exacerbate conflicts between prison superintendents and the central staff of a department. Where creation of a board slows the decision-making and policy-formulating process, more policy issues could be resolved on a day-to-day basis within the fiefdom of a distant institution. Further, prison superintendents and other departmental personnel could make end runs around the director to board members.

This was not perceived as a problem in states having boards. Where there is mutual trust and respect between board members and the director, board members reject such overtures and inform the director. A strong director can nip this tendency in the bud.

2. Speed of Response

Several observers speculated that a board could significantly slow the decision-making process.

Officials in at least one state having a board indicated that this did not, in fact, occur. Officials in other states with boards indicated that this was possible, but that this had not yet been a problem in their jurisdiction. Officials in three states with boards indicated that the decision-making process was slowed, but the delay was not significant and that it was balanced by the value of the board's input and by the increased effectiveness of a department due to the board's oversight role.

3. Definitiveness of Response

Several observers indicated that the existence of a board led to a diffuseness rather than a definitiveness of response to problems. Boards were sometimes seen as making compromises rather than hard choices. In the words of one official, "A board never ran anything." As another official observed, a board could diffuse responsibility for decision making: "where everybody is responsible nobody is responsible."

4. Communications within Department

One benefit of a board which was pointed out by board members and directors was that a board opens up a second channel of communication, which has been used by prison inmates and guards alike to bring to the attention of the director of corrections problems which might otherwise be overlooked.

This second channel of communication has not been seen as interference by directors in states having boards. For example, when a board member receives an anonymous letter from

an inmate which seems to state a valid complaint, he or she will turn the letter over to the director or advise him of its contents. Similarly, a guard complained to a board member about the procedures by which overtime was allocated. The board member advised the director, who had an assistant investigate the issue. The result was the establishment of a fair and equitable policy for distribution of overtime; this was seen by the director as a positive move.

5. Alleviating Overcrowding

Overcrowding is one of the long-range problems faced by a department of corrections. Indeed, many states report that overcrowding is the long-term problem facing their corrections departments. Because of the significance of this issue, it is treated separately here. There are two aspects to the overcrowding issue. The first is the construction of new facilities. The second is the increased use of alternatives to incarceration. Even if creation of a board has no direct impact on overcrowding, to the degree that a board affects community support, long-range planning, and financial resources available to a department, it may be said to have an indirect impact on overcrowding. In addition a board can convince legislators, interest groups, and others of the very real nature of the overcrowding problem. A board could be instrumental in rallying support for allocation of resources to alleviate this problem, or for increased use of alternatives to incarceration.

Persons interviewed by telephone and national panel participants were unwilling to speculate as to a board's direct impact, either positive or negative, on the alleviation of this problem.

6. Security

No board impact on security was suggested by the literature, interviews, or national panel.

7. Response to Crises

Initially, several observers speculated that a board might be a very real disadvantage where a quick response was needed to a crisis situation, such as a riot, an escape, or a hostage taking. A board might delay response where time is of the essence. Further, board members might disagree with a director's handling of the situation and intervene in such a manner as to confuse the situation. These problems are very real, and national panel participants expressed grave reservations as to a board's role in crises.

However, problems of board intervention in crises have not arisen in states that now have boards. Where boards have high-caliber members and there exists a relationship of mutual trust and respect between the board and a director, board members and the director agree that the board's only role in such situations is to lend such support as a director may require at the time, and to conduct ex post facto inquiry after the situation is resolved. Directors in two states with boards cited examples where board members appeared at the scene, but their

role was to stand by to lend such assistance as the director requested. Even though boards typically meet only once a month, formal or informal procedures have been established in virtually every state with a board that, in the event of crisis, the director will phone the board chairperson to advise him or her of the problem and to mutually agree whether other board members should be polled. The wiser course, implemented in several states, is for a policy-setting board to establish clear policies and guidelines for such situations before they occur.

As one national panel participant explained, "The director, appointed by the board, will anticipate and expect the board's support (on a post hoc basis, i.e., review of handling) of actions taken, and therefore the director would act decisively in resolving the crisis. Further, the director would, presumably, know or sense the inclinations of the board and act accordingly in relation to the crises."

8. Client Services

Possible impacts of a board of corrections might be found in the following areas:

- The range of services offered
- The use of innovative approaches
- The availability of expertise for particular problems (e.g., medical services, agricultural operations)
- Support for programs
- Greater integration of human services, both within corrections (e.g., probation, parole) and within human services (e.g., employment, training, mental health)

- Long-term program planning

None of the sources consulted for this study suggested any noticeable impact of a board on client services.

9. Other Operational Issues

Telephone interviewees and national panel participants considered other possible impacts of a board of corrections on correctional operations. These include a department's response to complex class-action federal litigation, or to humaneness of correctional operations.

National panel participants saw no particular advantage or disadvantage of a board with respect to these issues, except as noted in the next paragraph nor were any encountered in our survey on the experiences of states with boards.

One panel member observed that written policies promulgated by a board and enforced by a department might have an indirect effect on these issues. A board, viewing policy making as perhaps its most important function, may be more likely than a director in a department without a board to promulgate written policies. A board may also be more interested in ensuring that such written policies are, in fact, enforced. Such policies might help ensure due process for inmates, an element of humaneness. And they might contribute to successful defense of class-action litigation in federal courts.

PART THREE

ISSUES IF A BOARD IS CHOSEN

Chapter	
VI	BOARD STRUCTURE
VII	IMPLEMENTATION

CHAPTER VI

BOARD STRUCTURE

Abstract of Chapter

The organizational issues that arise if a decision is made to establish a board involve jurisdictional responsibilities; board composition, selection, and removal; and the relationship between a board and a department. The national panel reached consensus that a board should have jurisdiction over adult probation and parole services and that a board of parole should be retained, but reached no consensus on inclusion of juvenile services.

The experience of states with boards, confirmed by the national panel, is that a board of five to seven members serving staggered four- or six-year terms is desirable. The usual practice of appointing interested and respected citizens reflecting diversity of geography and viewpoint to serve on a volunteer basis was most frequently favored. Physicians, attorneys, businessmen, large-scale farmers, and others can lend valuable expertise. Problems were seen with the appointment of criminal justice officials or of representatives of particular constituencies. No problem was seen in obtaining qualified people willing to serve, but no prescriptions were offered to ensure high-quality appointments. Gubernatorial appointment with senatorial or legislative confirmation and removal for cause, typical in states with boards, were seen as satisfactory. Use of a nominating committee to recommend a number of candidates for each position was also suggested, but problems were seen with a committee of criminal justice officials.

States report that boards and corrections directors are able to agree on the distinction between the board's policy-making role and the director's role in administration. Board appointment and removal of the director, the usual practice, were seen as appropriate, but hire/fire power over deputies was not. Boards also promulgate regulations and perform valuable advisory functions. There was consensus that boards should not become directly involved in crises or individual personnel decisions. States report that administrative and secretarial support to the board by

departmental staff is adequate, but the panel felt that one full-time professional would be better. A larger board staff could lead to dissention in the department and department/board conflict.

This chapter addresses the organizational issues that arise if the decision is made to establish a board or commission with authority over a separate department. These issues are of three types. The first involves the jurisdictional responsibilities to be given to a board-headed department. The second issue involves the composition, selection, and removal of the board. The third involves the relationship between the board and the department.

The sections below discuss each type of issue in turn. Each section deals with the general problems involved, the range of options, particularly those used in other states, and the suggestions made by those we interviewed and those who participated in the national panel which Battelle convened to assist this study.

Much of this chapter is based on the experiences of states with corrections boards. The jurisdiction, composition, and powers of these boards are discussed in Chapter IV, above.

In general, we were impressed by the amount of agreement on the subsidiary organizational issues. Even those who were opposed to the board concept contributed suggestions about its least undesirable form that closely paralleled what those in favor of a board were calling its most desirable form. This agreement not only makes the task of discussing these

subsidiary organizational issues easier, but also aids the task of comparing the board form with other forms since those doing the comparing pretty well agreed on the form of board that should be compared to its alternatives.

A. Jurisdictional Responsibilities

This section discusses issues relevant to the decision whether a board should have jurisdiction over juvenile offenders, probation services, and parole services.

1. Juvenile Corrections

Authorities take different positions on the question of including juvenile corrections within the organization responsible for administering adult corrections. The National Advisory Commission on Criminal Justice Standards and Goals recommends the consolidation of adult and juvenile corrections. Greater efficiencies are seen as more likely to result from the joint administration of adult and juvenile corrections. The Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project recommends a separate state-wide department for juvenile corrections that is functionally autonomous from the administration of adult corrections. An agency responsible for both adult and juvenile corrections is seen as likely to be preoccupied with matters pertaining to adults. Further, they argue that the underlying rationale for a separate juvenile justice system in terms of protecting juveniles from full exposure to the criminal justice

system supports the separation of juvenile and adult corrections.

These arguments were considered by the national panel in respect to the state of Washington with approximately equal numbers favoring the separation of juvenile and adult corrections as compared to those who supported an integrated corrections department having responsibilities for both adults and juveniles.

Arguments against the notion of a separate juvenile corrections agency include:

- small size and diminished ability to secure resources
- likelihood of inefficiencies in program operations

Arguments against the notion of an integrated corrections system included:

- the possibility that juvenile corrections might be overshadowed by operations for adults
- the relatively good status of juvenile corrections in the state and the likelihood of diluting administrative initiative and leadership by merging within a separate corrections department

In three of the states with boards, these boards had authority over juvenile corrections as well. Persons interviewed in our survey of state experiences with boards felt that the issue of board structure was particularly germane to the issue whether adult and juvenile corrections should be combined.

In summary, both the literature and the national panel express conflicting views about the question of including

juveniles with adults in a corrections department. The national panel was unanimous in the view that the question of including or not including juveniles was secondary to the issue of whether or not to establish a separate department of corrections in Washington.

2. Probation Services

The literature on the subject reflects disagreement about including probation services within a state-wide corrections agency. The National Advisory Commission on Criminal Justice Standards and Goals calls for a consolidation of corrections services, including probation, under the administration of state departments of corrections. Corrections programs, it is argued, should connect with each other so that a range of program options is available within dispositional categories, and greater coordination of services can be achieved.

A different view is held by those who support the use of state subvention schemes in which the state corrections agency is largely restricted to providing financial incentives for the development of program options at the county level. The Minnesota Community Corrections Act, Probation Subsidy in California, and similar subvention schemes in such states as Oregon, Kansas, Ohio, and Washington are based on moving responsibility for the operation and administration of corrections services away from a central state agency and placing the locus of responsibility on county government.

In five of the nine states with typical boards, the corrections department is also responsible for adult felony probation. The issue of whether to adopt the board structure was not seen as having any particular bearing on the issue of whether to integrate probation into a corrections department.

The national panel considered the arguments raised and concluded that probation services should be included within the responsibility of a state-wide corrections department in Washington. Again, however, this question was unanimously seen as secondary to the question of establishing a separate corrections department in Washington.

3. Parole Services

Parole includes both the decision to release an offender from a corrections institution after having served some portion of the sentence and the actual supervision of the offender within the community. Almost all of the states have a separate parole authority responsible for making parole-release decisions and include adult parole supervision within the operations of a corrections agency.

In six of the nine states with typical boards, boards also have responsibility over parole services. In four, there are separate parole boards; in two, the parole board is appointed by the board of corrections. Persons interviewed did not feel that the structure of a corrections department had any special significance vis-a-vis whether to integrate parole into corrections.

The national panel was unanimous in the view that, given the existence of a parole program in Washington, the parole release decision should be made by an independent board separate from the corrections department. In their view, staff assistance to the board should be provided by the department of corrections but a clear separation of administrative lines is necessary. The panel was also unanimous in the view that parole supervision be a responsibility of the state corrections agency and could be integrated with the delivery of probation services.

B. Composition, Selection, and Removal

Issues related to a board's composition include the number of people on the commission or board, the nature of their terms, and the kinds of people that should be members. In general, the problems raised by these issues involve several trade-offs. One trade-off is between diversity and consensus--between obtaining new perspectives and splitting into factions that stalemate functioning. A second trade-off is between stability and malleability--between restraint in the face of passing fads of either elected officials or the public and responsiveness when an actual long-term change in policy attitudes has taken place. A third trade-off is between inside and outside viewpoints--corrections expertise versus perspectives of those outside the system.

1. The Number of Members

In this case, a large board is an advantage in that it allows diversity of expertise and viewpoint; it is a disadvantage in that it may make a quorum harder to achieve, it decreases the probability of consensus, and it increases the probability of factions.

Some officials in states with boards indicated that there should be more than five members on a part-time, volunteer board, so that the substantial time and effort involved would impose less of a hardship on individual members.

Among other states, the numbers range from three to as many as nine, with five or seven being typical.

Among our national panel participants, the highest number anyone would accept was 20 board members; 9 was a more frequent maximum, and the 5-to-7 range was the preferred size. There was agreement that there should be an odd number of board members to prevent tie votes. Several people did mention that some numbers (e.g., 6 and 9) were easier for designing staggered terms than were others.

2. Nature of Terms

The problem in this case concerns the amount of control to be given to the governor or other appointing authority. The length of terms and whether or not these are staggered can dramatically affect the power of a new appointing authority to change the composition of the board. Also involved is the ability of the board members to become educated in the problems

of correction without at the same time losing their outside perspective.

a. Length of term. Longer terms increase the stability of the board and the ability of the members to become educated in corrections issues. In practice, however, board members are usually reappointed for two or three terms, so the length of term may be less important than would be the case if board changes were more frequent.

The general practice in states with boards is for members to serve six- or four-year terms.

Persons interviewed by telephone indicated that members should serve for relatively long terms. One reason advanced was that it took time for board members to become educated in the issues. New members may also have a "one-issue focus" and take up meeting time with these issues when they first join the board. After a while, new members broaden their interests, argue their "cause" with less ardor, and become members of an effective and harmonious working group. The experience in the states contacted is that boards seldom have factions because of this acculturation process, but that the process requires a period of time for new board members.

There was considerable agreement on the opinion that members' terms should be longer than that of the governor, so that a board will not quickly become dominated by a new governor's appointees.

The typical experience in states with boards is that members are reappointed to the board. One person interviewed by telephone indicated that a ten-year term with a prohibition against reappointment would be desirable. Most people interviewed seemed happy with six-year terms without any restriction on reappointments.

Our panel participants suggested that terms be at least as long as the term of the governor if the governor appoints them, but thought that length made little difference otherwise. For instance, the terms in Michigan were changed from six years to four years with no observable effects on its board.

b. Sequence of terms. The issue here would usually be posed as involving a choice between staggered terms and terms which are coterminus with the appointing authority (usually a governor). Persons interviewed by telephone and our panel participants were unanimous in recommending that terms should be staggered, probably on a fairly even basis. This, indeed, is the practice in virtually every state with a board. (The seven-member Mississippi board includes a doctor and an attorney appointed on the recommendation of their respective state professional associations to serve terms coterminous with that of the governor.) Almost everyone suggested that it takes an appointing authority such as a governor at least two terms in order to completely change the composition of the board.

3. Board Members

The issue of who should be on the board raised a number of possibilities. One possibility is to include officials from agencies with whom the corrections system must interact, such as police, prosecutors, and human services. A second possibility is to appoint corrections experts who are not officials from the agencies just mentioned. A third is to involve experts in related fields such as law, medicine, construction, and industry. A fourth possibility is to include persons who are members of minority or special-interest groups such as women, minorities, political parties, and geographic regions in the state. These people may or may not act as "agents" or "representatives" of such groups. Of course, within the constraints of the number of members on the board, one can combine these alternatives as well.

The usual practice in states with boards is to have a board of interested and respected citizens who are well-established in their professions or areas of endeavor, who represent the geographic diversity of the state, and who collectively represent a significant range of viewpoints. While members may have been selected from the ranks of organizations or special-interest groups, they are not perceived as "agents" or "representatives" of such organizations or groups. Some, but not all, of the board positions are allocated to professionals whose areas of expertise are seen as particularly helpful, such as physicians, attorneys, businesspersons, and large-scale

farmers. Persons interviewed by telephone generally agreed that these elements were helpful--or even essential--to successful board operation.

Persons interviewed by telephone and our panel participants were relatively consistent in recommending that at least some of the board members have a particular area of expertise (e.g., medicine, law, or agriculture) helpful to the department. The experience of states with boards bears out their view that a board can be a useful source of valuable free advice on matters such as law, medicine, and prison industry where board members have the requisite expertise. An additional thought expressed was that board members who were influential with the governor or the legislature could be helpful to the department.

If board members who are members of minority or special-interest groups saw themselves acting as individuals, the panel participants said all was well and good. They said problems arose when such members saw their roles as representing some group or other. A diversity of individuals was useful for the diversity of individual viewpoints, not for the diversity of the groups represented. Diversity in race, sex, or geographic region gave the board outside credibility without hampering effectiveness if the board members were willing to act as individuals.

A decision to have representatives or members from minority or special-interest groups raises an additional problem as well. Especially where such board members are perceived as

agents of particular constituencies, one can expect pressure to have all such constituencies represented on the board. This raises thorny questions as to which are the legitimate constituencies. It also could lead to the expansion of the board to an unmanageable size.

Panel participants were clearly opposed to the appointment of officials or representatives from related criminal justice agencies. First, such appointees might be more likely to view themselves as representatives of agencies rather than individuals. This is especially true of criminal justice agency officials, since their agencies have more of a vested interest in corrections in the sense that decisions with respect to correctional policies have direct impacts on their agencies. Second, officials or experts from other areas of criminal justice may view correctional issues from the limited perspective of their agencies' specific concerns. Participants did make the point that groups composed of such people could be useful as coordinating devices.

A related issue is whether the board members should serve full time or not. We did not encounter any state with a board composed of persons who were not government officials but who served full time. The panel participants were fairly consistent in recommending that the board be part time rather than full time. Keeping the board part time both opened up the field of those willing to serve and lowered the probability that the board would interfere with operations in harmful ways.

A second related issue was whether qualified people would be willing to serve on a corrections board. In the experience of states with boards, obtaining qualified people would pose no problem, particularly if the amount of time required could be kept reasonable.

4. Selection and Removal

In most states with corrections boards, members are selected by the governor with the advice and consent of the state senate. In one state, both houses of the legislature must consent. In another, appointees are confirmed by a governor's council of three citizens, who also have other oversight functions with respect to state government. In the two states with constitutional boards the highest elected officials in the state serve as an ex-officio board.

Telephone survey interviewees and national panel members pointed out that statutory or other provisions specifying the method of appointment of board members might help to create a climate which would make more likely the appointment of high-caliber board members, but that no such prescriptions could guarantee the quality of board members.

Observers in states with boards reported no problems with the appointment of board members by the governor with the advice of the senate, except in one state where the governor had been in office for so long that he had appointed all the members of the board. It was repeatedly stressed that the absence of problems with respect to gubernatorial appointment

depended on good-faith exercise of this appointment power. Observers offered no alternatives which would better ensure this good faith. Legislatures or special committees formed to make such appointments may be slower to act than a state's chief executive.

Because legislative confirmation of board appointments puts this issue into the arena of public debate, a governor has more of an interest in nominating persons perceived as high-quality nominees. Similar results can be achieved by the use of a nominating committee to recommend three or four candidates for each board position, or through informal consultation with a broad spectrum of officials and citizens in the appointment process.

National panel participants expressed reservations about the use of a qualifications board of criminal justice officials and organizations to select corrections board members. Such a board might consist of representatives of the superior court judges' association, association of sheriffs and police chiefs, prosecutors' association, correctional association, state bar association, and commission on crime and delinquency.

This approach poses the same kind of problem as would occur if representatives of these organizations were appointed directly to the board. That is, to the extent that such officials view themselves as "representatives" of these agencies, rather than individuals whose perspectives are shaped in part by their prior criminal justice experience, it would be

difficult to derive a consensus. This consensus may be in the form of a "treaty" that one board position will "go to" the judiciary, another to law enforcement, another to the prosecutor, and so on. People appointed on this basis may be more likely to perceive themselves as representatives of these constituencies during corrections board deliberations, with all the dangers thereto that have been mentioned earlier.

How should the chair of a corrections board be appointed? Direct appointment by the governor (with or without senatorial consent) may give the governor more control over the board, at least initially, but experience in appointments to autonomous positions suggests that this control may be more illusory than real. The practice in most states is for the board to select its own chair. Observers in several states said that this was beneficial, in that it gave the board a higher degree of autonomy and led to smoother working relationships among board members. In some states, a chair is elected annually and there is a prohibition against serving consecutive terms. Persons interviewed in two states saw this as beneficial, one pointing to the danger that a long-term chair might be more susceptible to pressures to do favors for inmates or employees at the request of politically influential persons.

There was a general consensus that removal from the board should be for cause if a board is to have autonomy, although there was no discussion as to particular mechanisms (e.g., impeachment; court hearing) for accomplishing this.

Some officials in states with boards pointed out the benefits of a provision in a statute or board by-laws to ease removal of inactive, noncontributing board members.

C. Board/Department Relations

Under this heading, three issues received intensive scrutiny. One was the distinction between policy and administration. A second was the hiring and firing powers of the board. The third was the need of the board for its own staff.

1. Policy Versus Administration

The problem for insiders is one of the board's interfering in department operations. The problem for outsiders is one of the board's failing to take corrective action for errors within the department. For instance, what should a board do in response to a sealed letter from a prisoner about conditions in a particular prison?

The basic conclusion from the experiences of states with boards and from the panel participants is that appropriate adjustment is possible and usually is reached. There was less consensus on the issue of whether or not the agreement reached between the board and the director as to policy versus administration would be the appropriate one.

No state reported any present problem with boards and directors reaching a mutually agreeable understanding as to what was policy making, which would place it in the province of the board, and what was day-to-day administration and the responsibility of the director. Officials in two states

indicated that there had been problems in the past, where a board member had been interfering or where a weak director had left a power vacuum to be filled by the board. The key ingredients in a sound board/director relationship were repeatedly cited to be mutual trust and respect between the board and the director, and an attitude of reasonableness on both sides. This issue was one of a number where the specific state and the specific individuals involved were more crucial than organizational form.

2. Hiring and Firing Power of the Board

The general assumption about the board form is that the board hires and fires the director of the department but no one else. This is the usual practice in other states, although board approval is required for the director's choice to fill other key positions in the department in at least one state.

Our panel participants were unanimous in their opposition to giving a board more extended power in this area, such as the power to hire or fire assistant directors or others in the department. In fact, several of them suggested stricter limitations on the board's hiring and firing authority than expansion of it. One option suggested was to give the board removal authority only, with appointment authority given to the governor. Another option involved some role for the legislature in the appointment process. In general, the panel participants were against imposing restrictions on the board's removal authority. Indeed, they saw the board's power to

remove the director as its chief source of influence and one of its chief functions in the system.

The issue of hiring and firing the director was the occasion for an extended discussion of the relationships between the board, the department, the governor, and the legislature. All the panel participants stressed the point that a board is no substitute for a harmonious relationship between the director on the one hand and the governor and the legislature on the other. A board can help to facilitate that relationship and it can help to dampen some of the more serious consequences of a bad relationship, but it cannot produce a good relationship or save the state from all the consequences of a bad one. As a consequence, whoever hires the director has to keep these relationships in mind.

3. Other Board Authority

Another issue that arose in the context of board-department relations concerns the functions of the board in other than hiring or firing the director. In other words, what are the board's policy-setting responsibilities? In most states, the board must approve the budget that the director will submit to the governor who then submits it to the legislature; in others the board must at least be consulted. Most of our panel participants agreed that this was an appropriate and desirable board function. It is common for boards to have final authority for the promulgation of regulations, or at least the power of approval over rules and regulations. This is especially true

where a state's administrative procedures act requires the publication of proposed regulations, a public meeting with adequate public notice, and a formal vote or resolution. Another function performed by boards is to provide written statements of how various reoccurring situations will be dealt with in a constitutional manner. Our panel members agreed this function could be useful if achieved generically and not in response to some individual incident. However, a board must be careful to limit its role in establishing standards to be applied by operational people, and to ensure that these standards do not require board involvement in operational decisions.

Boards and individual board members also serve as useful forums for discussing problems a department faces and for the solutions a director may want to try, according to persons interviewed in states with boards. In fact, much of the value of the board may come in these advisory functions rather than in their mandatory functions.

Persons interviewed by telephone and panel members revealed that directors and board members alike reached fairly general agreement as to the power that a board should not have. Boards should not be involved in individual personnel actions or in crisis situations, except to establish general policies beforehand and conduct an after-the-fact review of actions taken by the director. No actual problems in this area were reported.

4. The Board's Own Staff

The basic question in this area is how does the board have issues brought to its attention and how does it assemble information on those issues? Almost everyone we talked to agreed that board members are very unlikely to perform such information-gathering functions on their own. Almost always, someone from "inside the system" brings an issue or information to a board member's attention. However, that someone could be an employee of the board, an employee of the department assigned full-time to the board, or the members of the department. The practice in most states is to have an administrative or secretarial person in the director's office serve part-time as liaison to the board, and to draw upon other departmental staff as needed.

An issue related to who should provide the information is the question of how much information is needed. One question is whether department members, with presumably full-time duties inside the department, will be able to respond to board member requests in a timely and appropriate fashion?

With its own staff, a board is apt to be much more active than otherwise. For one thing, very aggressive staff members will seek out issues and information in order to fill out their time. If they are assigned to the board full-time as board employees, they may feel that a professional skepticism about information they obtain from the department is required of them which can lead to dissension within the department, conflict

between the department and the board, and requests for funding of outside experts.

Virtually all of our panel members were willing to agree that the board needed more than a secretary. This was in sharp contrast with the practice in most states, according to persons in these states who were interviewed. The most frequent suggestion was that they have one full-time "professional" or "managerial" rather than "administrative" or "secretarial" staff member for the whole board, who could either be an employee of the board or detailed from the department. For additional help, our panel members in general thought that the board should go inside the department or to short-term outside consultants. Our panel members were against the development of a permanent, separate staff for the board.

CHAPTER VII

IMPLEMENTATION

Abstract of Chapter

Implementation issues to be considered before deciding whether to select the board alternative involve problems arising with any governmental reorganization, including those accompanying changes in reporting channels, roles, and power relationships. Transition to new reporting channels is apt to be difficult because of DSHS's highly centralized nature. Increased staff turnover may result from doubts about tenure, and the ablest staff may find new jobs first. This is compounded where confusion about policy or reporting channels leads to cautious, bureaucratic, protective behavior. Problems specific to creation of a board could concern the education of new board members (not reported as a problem once the board has been functioning), the evolution of effective board-department relations, and the development of an initial board agenda. Tragic results could arise if a riot or other crisis occurs before these problems are resolved. Positive influences during implementation could include higher visibility, increased support, and flexibility in effecting change.

It is axiomatic that implementation problems are problems of change. Generally, preserving the status quo involves no implementation problems. (An exception would be an external change which then makes it difficult to continue a system without modification.) For example, cities losing population find it difficult to maintain public services. By and large, implementation problems with corrections in Washington State will arise only if a decision is made to produce organizational change, for example, by creating a board of corrections or a separate department.

It is vitally important to take note of the implementation aspects of any public policy, whether in corrections or other fields. Too commonly the development of policy focuses exclusively on what ought to be and pays little, if any, attention to the problems of accomplishing the end. Often, as a result, implementation of the policy is painful, ineffective, or protracted. While it is not usually the case, implementation problems might govern a policy decision. They should be considered carefully in any event.

There are a number of potential implementation problems with conversion of corrections systems in Washington State to a board/department form. The first of these is a general problem with any governmental reorganization. Reorganization introduces different reporting channels, roles, power relationships and, often, different personalities in key positions. It will always take some time for the people involved to adjust to the new organizational environment.

For instance, the transition from the current umbrella agency form with corrections at DSHS to a separate department with a board would replace the current reporting channel of the Division to the Secretary of Social and Health Services with one in which the head of the new department reports to the board and to the governor. This new channel implies a shorter route to the state's chief elected official. The shorter route may not be quicker, at least initially, since there is apt to be some mutual learning needed in order to develop the channel

effectively. Transition to new reporting channels is apt to be abnormally difficult because of the highly centralized nature of DSHS.

In any reorganization in corrections the offices and roles within and without the department will change, and so will the relative power of individuals and groups. It will inevitably take some time to select and place people in newly defined positions. Once the positions are occupied the incumbents will need time to learn their roles effectively. Even if each position in the new agency is occupied with someone versed in corrections in Washington State, there will be difficulties in the transition as people learn their roles and work out communications and the distribution of power issues.

Obviously, a purpose (often implicit rather than explicit) of reorganization can be staff changes, the replacement of deadwood, and the infusion of new blood. This aspect of organizational change can complicate the transitional problems. During the transition period the possibility of staff turnover is likely to bring about even more staff turnover. If doubt about tenure is introduced into a system, people will, on their own, look elsewhere. Invariably, the ablest people will have the least difficulty finding other jobs. They will go first, leaving behind those that are less able or, in exceptional cases, more dedicated to the particular organization.

Even if there is no particular threat of staff turnover, the transition period is likely to be marked by caution in the

behavior of personnel on the one hand and confusion on the other. The caution, a form of bureaucratic protective behavior, will result from people being uncertain as to where they stand. Confusion, whether about policy or reporting channels, will have a similar effect. Such confusion will exacerbate tendencies within the organization to "lay low" rather than act vigorously. Caution and confusion may, in the extreme, result in organizational paralysis. Such paralysis will retard the very change that is often the objective of reorganization. In addition, it may accelerate the exodus of able people.

There are additional implementation problems peculiar to the development of a board. An important one is that of educating the board. Unless a board is made up entirely of people expert in corrections matters, there will be some period at the beginning of its tenure during which the members' effectiveness will be unusually limited, because it will take some time to educate the members about details of the corrections system and its problems. This learning period is apt to be greater for a lay board than for one whose members have experience with corrections previously, but it will exist to some extent regardless of the board's composition. Related to this are problems arising from difficulties with inappropriate board involvement in corrections operations (as opposed to policy) or poorly advised board decisions. Both are much more likely for a brand new board than for a seasoned one.

It must be recognized, of course, that states with established boards reported few difficulties of this kind. This is apparently because board terms are generally staggered so that none has, in the recent past, had a board made up entirely of neophytes. Moreover, experience suggests that board members are reappointed. Obviously, over several terms of board membership, members with no prior expertise in corrections will become quite knowledgeable about the corrections system with which they deal, even if the board meets infrequently. The experience of states with good boards indicates that this may only involve a period of weeks or months, but the period would be longer for a newly initiated board.

In addition to the general problem of educating board members will be one of board/department relationships. There can be difficulties in evolving effective relationships between board and director. Even without marked difficulties, the process will take time. This is a separate problem from that of educating board members, since it is apt to exist when a board begins to deal with a new director, even if the board is experienced.

A problem that combines, or is complicated by, both of the preceding observations, involves the initial agenda for a corrections board. The board will feel some incentive to review existing department policy and ratify it or develop alternatives, particularly if the board has explicit policy responsibility (and very probably even if it does not). There could be

considerable difficulty if a board begins its work by exhaustively reviewing all that the department does. As an extreme case, the department will be required to mark time during board review of its policies and devote much of its energy to participating in the review.

The difficulties just described will make life difficult for those involved with a state's corrections policy and institutions. These difficulties could, under some circumstances, combine to produce tragic results. In the event of a crisis, such as a riot, it is quite conceivable that a novice board with untested relationships with the director, department, governor, and other officials could confound response to the crisis. Such a board might attempt to interject itself directly into crisis management. Even if it did not attempt direct involvement it might divert the director and other key department staff from effective response by well-intentioned but misguided requests for information.

An advantage with transitions generally is increased visibility and often support. New agencies tend to capture greater funding and other legislative support for their programs. There is often a period of grace during which an agency has extra support inside and outside government for accomplishing its goals. Both visibility and power are apt to decay fairly soon, but for a while a new agency will have room to move. This phenomenon is apt to be stronger for an agency with a prominent board because the board will heighten its visibility.

Related to the visibility of a new agency is flexibility or change. If change is desirable, reorganization is a way to stimulate it. Reorganization to a board form is likely to initially accelerate change, particularly if the board members are new to corrections or are selected on the basis of their interest in innovation. Again, the rate of change is likely to dampen as the system accommodates to a reorganization. This dampening will be greater for a board than for other forms because of the inherent conservatism of boards with respect to rates of change.

To summarize, implementation of converting corrections to a department headed by a board presents opportunities for change and difficulties in accomplishing this end because of the confusion inherent in reorganization. In particular, conversion to a board raises the possibilities for a wide range of difficulties not normally experienced with corrections boards because of the need to educate new members and to develop effective communications channels and other organizational relationships.

CHAPTER VIII

NONSTRUCTURAL ALTERNATIVES TO
CORRECTIONS PROBLEMS

Abstract of Chapter

It is by no means clear that the board form is the only way to make desired differences. Indeed, there is support for the view that every proposed advantage of a board could be gained by other means and with better results. This chapter describes nonstructural means to achieve the benefits which a board might offer, but does not discuss these alternatives in detail or attempt to assess whether the alternatives would achieve better results. In deciding to establish a board it is important to identify the objectives to be achieved, to establish priorities, to consider nonstructural alternatives, and to assess the effort required to implement each. Organizational changes are easier to address than changes in the general political culture of a state, which may be required to implement alternatives listed below, but the latter may be a better guarantee of professional, objective management.

Accountability to the governor could be increased if the governor chose to make corrections a high priority issue. Accountability to the legislature could be enhanced if the legislature designated corrections a high priority, passed a statute requiring detailed reporting of correctional operations or required legislative approval for important correctional decisions (e.g., facilities siting, hiring key personnel). Public accountability could be provided by direct election of the corrections administrator, although substantial political science theory suggests that low-visibility elected officials are not accountable.

Alternative approaches to freeing a department from politics include civil service status or long, fixed terms for the director and key officials. These alternatives also provide political insulation of the governor, as do comprehensive, formal regulations, an open policy-setting process, and use of advisory boards. Increased public outreach can be achieved by aggressive public relations, advisory boards, and

PART FOUR

NONSTRUCTURAL ALTERNATIVES

Chapter

VIII OTHER WAYS TO ACHIEVE BOARD BENEFITS

other forms of public participation in planning and policy formulation. Careful, timely response to information requests and advisory boards can enhance departmental credibility and visibility.

Continuity of policies and planning can be enhanced by lengthy fixed terms or civil service status for key officials, exhaustive statutory detail concerning correctional operations, legislative veto over policy changes, or detailed gubernatorial orders. Speed of changes can be enhanced by reorganizing communications channels, modifying officials' duties, finding new people, or rotating people between positions. Making change more permanent can be achieved by strong gubernatorial support, use of blue-ribbon panels, or by the means of achieving policy stability mentioned earlier.

The use of advisory boards, other public participation, and fostering free discussion internally can increase deliberation to policy making and provide a moderating influence. Extensive public relations, use of advisory boards, and public participation measures can all build support for program initiatives and for an adequate budget. Expertise could also be marshalled via advisory boards. Communications within a department regarding guard or inmate complaints can be enhanced by departmental tone with or without a board.

In Chapter V we pointed to some advantages a board might have over the present structure or over a separate department without a board. The purpose of this chapter is to examine whether there are other, nonstructural means to achieve the benefits that a board might offer. For each of the advantages of the board form suggested in Chapter V, several alternatives are described. There is no attempt to be exhaustive or to analyze the advantages or disadvantages of different approaches.

It is by no means clear that the board form is the only way to make desired differences. Indeed, there is support for the view that every proposed advantage of a board could be gained

through other means and with better results. For example, if one truly desires stability in corrections personnel, one can put the management positions of the system under civil service or statutorily provide lengthy, fixed terms for high corrections personnel. Each of these approaches to staff stability is more direct and, likely, more effective than establishing a corrections board. For any objective, one can choose between conversion to a board and other measures.

It should be borne in mind, of course, that some of the objectives of a conversion to a board are more important than others. For example, stability and continuity may not be so important as effective administration. Indeed, in the extreme, stability is undesirable. It is important to be attentive to the relative importance of various organizational objectives. Hence, in addition to choosing among alternatives one must pay attention to priorities among objectives.

Apart from alternatives and priorities, there are some general limits on the efficacy of organizational remedies for corrections (or other public policy) problems. The general political culture of a state is probably a better guarantee of professional, objective management of a corrections systems than any organizational formula that might be devised. Organizational changes are apt to be of limited effect if they are at variance with the more general political culture. For example, it is commonly reported that great pressure is brought to bear on city employees of Boston to participate actively in mayoral

re-election campaigns even though the civil service structure and state legislative policy are clearly designed to prevent such pressures.

However, when there are problems facing corrections, it is always easier to address them through organizational change than through changing the political culture. It is a great deal easier to change reporting channels, personalities, description of functions, and other organizational variables than it is the array of political pressures surrounding corrections. As an example of the power of the political environment, consider the tenure of J. Edgar Hoover at the FBI. By many accounts a considerable number of United States presidents attempted to remove him from office but found it prohibitively costly to do so.

The alternatives to a board are described in the following Sections, using Chapter IV's organization. Figure 4 is a summary of the nonstructural alternatives to a board.

A. External Relations

The discussion in Chapter V above noted that many of the principal impacts of establishing a corrections board are in the sphere of a department's external relations (relations with the governor, the legislature, and the public). The greatest concern here is with accountability and insulation from politics. In a very profound sense the two broad categories are merely conflicting aspects of the same phenomenon. Thus, increasing one generally decreases the other, although there

	Board Enhances	Board Inhibits	Enhancing Alternatives to Board
A. External Relations			
1. Accountability to the governor		Yes; freedom from political interference frequently cited. At possible cost of governor/corrections friction	Governor gives priority, staff to corrections as issue area
2. Accountability to the legislature			Legislative focus on area. Operational detail in corrections laws, reporting requirements, etc.
3. Accountability to public	Perhaps; more open system, public input		Direct election of corrections commissioner (may reduce accountability)
4. Freedom from politics	Yes; cited frequently as a major benefit esp. vis-a-vis governor		Lengthy, fixed terms or civil service status for Department head
5. Political insulation: Governor	Yes; cited frequently as benefit		See 4. Also independent advisory groups may help
6. Political insulation: Legislature			Umbrella agency limits on Department contact with legislature

FIGURE 4
NONSTRUCTURAL ALTERNATIVES TO ACHIEVE BOARD BENEFITS

	Board Enhances	Board Inhibits	Enhancing Alternatives to Board
7. Public Outreach	Yes; cited as major benefit		Public relations by Department, use of advisory groups, broad citizen participation
8. Credibility	Yes; not bureaucrats, no axe to grind		Departmental responsiveness to requests for information. General professionalis and advisory groups may help
9. Visibility			Gubernatorial focus on corrections. Public relations and advisory groups helpful
10. Clarity of Responsibility		Possible inhibition; confusion of responsibilities between board and director is possible	Strong executive, Gubernatorial concern with management. Legislative detail
B. Planning and Coordination			
1. Continuity of policies, planning	Yes; frequently cited, esp. thru continuity of leadership; freedom from political interference		Stability of Director and other key staff. Legislative detail in policy
2. Speed, degree of change		Yes; trade-off with quality of decision, degree of public support	Internal reorganization, rotation of personnel
3. Permanence of change	Possibly, through increased support for changes adopted		Advisory groups and Gubernatorial support

Figure 4 (cont'd)

	Board Enhances	Board Inhibits	Enhancing Alternatives to Board
4. Stability of director	Yes, cited especially by present/former directors; seen also by board as a benefit		Lengthy fixed terms, civil service status
5. Stability of staff	Possible, indirectly through professionalism, training, policy and leadership consistency. Not as significant as is continuity of directors		See 4. Also Departmental attention to staff development and political insulation
6. Coordination of Planning			Gubernatorial focus, umbrella agency. Advisory groups and public scrutiny.
7. Coordination of Services			Umbrella agency, expert advisory groups
C. <u>Policy and Budget</u>			
1. Deliberation of decision-making	Yes, frequently cited benefit; "discussion forum," "grass roots insight," "openness," "keeps on toes"		Advisory groups, public participation and Departmental climate

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Figure 4 (cont'd)

	Board Enhances	Board Inhibits	Enhancing Alternatives to Board
2. Moderating influence on decisions	Yes, frequently cited but not as often as 1. "Real world," "counters thinking like bureaucrats," "fresh approach"		Advisory groups
3. Consistency	Yes, indirectly, through continuity/stability, above		Stability of personnel
4. Concentration on policy	Possible, to the degree that a director without a board is not able to focus on policy in the face of daily problems		Advisory groups less a problem
5. Support for program initiatives	Yes, frequently cited. Examples from several states re: overcrowding, halfway houses, physical plant		Public relations, advisory groups, and public participation
6. Availability of expertise	Perhaps, depending on members' expertise		Advisory groups, general and specific to issue
7. Adequacy of budget appropriations	Perhaps, in some states depending on budget process		Gubernatorial focus. Advisory groups, Department credibility
8. Budget flexibility			Umbrella form Gubernatorial and Departmental power. Legislature's desire to provide
9. Lower costs of operations			Department or Administration priority. Efficient facilities.
10. Response to general trends			Administration priority. Advisory groups

FIGURE 4 (cont'd)

	Board Enhances	Board Inhibits	Enhancing Alternatives to Board
D. Operational Issues			
1. Administrative structure			Legislative clarity. Administration focus on effective management. Expert advisors
2. Speed of response to problems		Possibility; not seen as major problem. In few board states that reported any problem, outweighed by deliberation in decision-making	Department priority and competence. Advisory groups can provide wider viewpoints
3. Definitiveness of response			Power of Department head and clarity of structure
4. Communications within Department	Board provides second channel		Advisory groups, public participation Departmental climate
5. Alleviation of overcrowding			Gubernatorial focus. Departmental priority. Advisory group can help
6. Security			Departmental professionalism
7. Response to crises			Establishing clear policy. Crisis Training
8. Client Services			Administration and Departmental focus
9. Other Operational Issues	Some help with inmates rights litigation by establishing formal policies		Advisory groups. Public participation in policy. Legislative veto of Departmental policy.

FIGURE 4 (cont'd)

may be ways to increase both accountability and insulation somewhat. One must keep this general point in mind when considering the separate discussions of alternatives that follow.

1. Accountability to the Governor

As noted in Chapter V the establishment of a corrections board is likely to reduce rather than raise accountability to a governor. Having chief corrections officials serve at the pleasure of the governor is an extremely effective way to gain accountability; whether such accountability is desirable is another question.

Other approaches to increasing accountability to the governor might include a governor's choosing to make corrections a high priority issue or delegating this responsibility to their staff. Such focus is apt to make the corrections systems more accountable to a governor regardless of whether the system is organized into an umbrella agency, a separate department headed by a board, or a separate department without a board. It should be noted that such focus is apt to arise in response to visible problems with corrections (e.g., riots or major escapes).

2. Accountability to the Legislature

This was an issue for which few people thought that a board of corrections made any difference except perhaps for informal lobbying by influential board members. Even if the board were important here, there are many other ways to heighten

accountability to the legislature. One, in parallel to the points about accountability to the governor above, may simply be the legislature's devoting energy and staff resources to corrections. A particular focal point of legislative attention, obviously, is in the appropriations process.

Beyond this, the legislature could enact statutes specifying very detailed reporting of corrections operations. It could promulgate reporting requirements, require legislative review of corrections policy through legislative veto of corrections regulations, approve sites for new facilities, or take power to advise and consent on important corrections appointments.

3. Accountability to the Public

As with legislative accountability, there were no particularly strong arguments that a board would increase public accountability or visibility of the corrections system.

An obvious way to provide such accountability would be to provide for a directly elected corrections commissioner. Presumably, such an official would be accountable directly to the public through the electoral process. It may, in addition, be possible to provide for direct public accountability on important corrections actions through the electoral process. For instance, one might provide for siting new corrections facilities through either state-wide or local referenda.

Public accountability in this sense cuts two ways. There is substantial theory in political science that public

officials who are directly elected but have low visibility are not truly accountable to anyone. The public might pay little attention to elections for corrections commissioners and know little about the candidates for such offices. If so, public accountability would be enhanced by having the commissioner responsible to the governor rather than directly elected.

4. Freedom from Politics

There were strong perceptions in the research conducted for this study that one clear advantage of a board of corrections would be the insulation of the system from political meddling, either from the governor or the state legislature.

Alternative means of getting such insulation include providing for fixed and lengthy terms for important corrections officials or putting the head of the system and his or her subordinates under civil service. Such steps could insulate the system from both the governor and the legislature. It might be noted that Washington's current structural arrangement of corrections within an umbrella agency also provides considerable insulation from the legislature. Insulation from the governor might be gained by providing direct communications between the corrections system and the legislature for appropriations.

5. Political Insulation: Governor

A fair consensus emerged in the research that a board of corrections provides some political insulation to a governor from issues involving corrections. Such insulation may also be provided through fixed-term or civil service appointments for

corrections officials. If a governor has little ability to influence the officials in the system, he or she will be somewhat removed from the politics surrounding the system. Extensive use of comprehensive formal regulations and open processes for defining corrections policy will also enhance the governor's insulation by increasing perceptions of corrections' independence. Advisory boards, whether composed of experts or prominent citizens, can also help foster independence and thus insulate a governor. However, such groups are generally more likely than formal boards to act on their own since their membership will not be socialized to the same extent and their powers will be less clear. An advisory board might very well reduce gubernatorial insulation by making hostile statements to the press.

6. Political Insulation: Legislature

No impact was noted in this area from a board. An umbrella agency or administrative policy of limiting direct contact between the department and legislature are ways to provide such insulation.

7. Public Outreach

A board may provide some help on this score as would aggressive public relations campaigns by a corrections agency, the use of lay advisory groups, and extensive public participation in corrections planning and policy formulation.

8. Credibility

An independent board of corrections was generally felt to enhance the corrections systems' credibility. There are other means. For instance, corrections officials might take great care to be responsive to legislators' and other political officials' requests for information. A corrections agency may make use of advisory panels of both lay people and experts to accomplish the same objectives.

9. Visibility.

A board has limited effect. Alternatives for increasing corrections visibility include attention by governor, public relations efforts by department and, perhaps, use of advisory groups.

10. Clarity of Responsibility

Board impacts are (slightly) negative. Alternatives include clear accountability to governor, specificity in statutes organizing the corrections system, and development of strong individual administrators within the system.

B. Planning and Coordination

1. Continuity of Policies and Planning

Continuity and stability were described as important values by most of the sources consulted in this study. There was clear consensus that a corrections board would be helpful in achieving it. Indeed, stability emerged as the single most important advantage of a board.

There are, however, alternatives to achieving such stability, some of which have been mentioned above.

For instance, lengthy fixed terms or civil service status for high officials will, themselves, provide considerable staff stability, and thus considerable stability in policy. Another way to obtain such stability is by exhaustive statutory detail concerning corrections operations since it is in general more difficult for a legislature to act to change its statutory policies than for an executive agency to amend internal rules. A variation of such a step would be provision for legislative veto over corrections policy change. In addition there are procedural controls, such as statutory requirements, that all corrections policy be written and that it be arrived at through an open review process. An executive branch alternative to the legislative approaches just mentioned would be to provide similar detail in gubernatorial orders. Obviously the greater the specificity and detail of external policy (e.g., statutes) the less flexibility corrections management will have. Lack of appropriate flexibility poses several management problems.

2. Speed and Degree of Change

The other side of stability, of course, is change. In some circumstances rather radical changes in a corrections system may be highly desired as a way of correcting problems. In general, the research suggests that boards may tend to dampen rather than enhance change. However, as suggested in the implementation discussion below, the establishment of a new

board is likely to produce a rather high degree of change in the short run. A means of encouraging change within corrections involves reorganizing communications channels, modifying the duties of officials, and finding new people. An alternative, for example, would be the frequent change of individuals in important roles within a corrections system regardless of any structural reorganization, by rotating people among positions.

3. Permanence of Change

A board may help desired change take root. So may strong gubernatorial support for specific changes, use of blue ribbon task forces to propose and implement them and the measures described to gain policy stability above.

4. Stability of Directors

A board may help on this score. A lengthy, fixed term for the director or civil service status is likely to be more effective.

5. Stability of Staff

Civil service protection is helpful. Attention to staff development and insulation from political pressures are also likely to help.

6. Coordination of Planning

This is not an area of positive board impact. It can be achieved through the umbrella agency form, gubernatorial emphasis, use of advisory groups and, perhaps, public scrutiny.

7. Coordination of Services

This is unlikely to have positive board impact. An umbrella agency is likely to work better. Use of outside experts may also help by highlighting problems and devising solutions.

C. Policy and Budget

1. Deliberation of Decision Making

A board, an advisory committee, whether expert or lay, standing or ad hoc, can be helpful in providing such a mechanism. Such committees offer the additional advantage of focusing on particular areas since they can be specialized. A number of committees offers multiplicity of groups with which to have discussions. Corrections leadership can foster an internal atmosphere of free discussion through its own policies. At a more formal level, open proceedings and high degrees of public participation in arriving at corrections policies can provide similar benefits.

2. Moderating Influence on Decisions

This advantage of the board form can be provided through the mechanisms described above. In particular, lay advisory groups can be helpful on this score. So, for that matter, can be the use of outside consultants.

3. Consistency

A board has little effect in the matter of consistency. Stability of corrections personnel is one way to enhance

consistency. So are the other measures described in the discussion above about continuity and stability.

4. Concentration on Policy Issues

Policy concentration involves a potential, though rarely reported, problem as regards board intrusion in corrections operations. The problem can also exist for advisory committees and public participatory processes; however, the limited authority accorded to each makes major problems less likely. A committee with no formal powers can create problems only through public statements.

5. Support for Program Initiatives

The research suggested that a corrections board could be helpful in generating support for program initiatives. Alternatives have been touched on above. For example, extensive public relations, use of lay and expert advisory boards in formulating policy, and exhaustive public participation procedures can all be used successfully to build support.

6. Availability of Expertise

An advantage of the board form mentioned by some was the corrections system's ability to use expertise of board members (e.g. to consult physicians on the board about policy questions involving medical care in institutions). An alternative way to obtain expertise is simply to appoint advisory groups of experts for each area of interest. For example, a panel of prominent educators could address inmate education questions.

A corrections system might also, within the context of an umbrella agency, draw readily on existing agency expertise.

7. Adequacy of Budget Appropriations

Advisory groups, whether of prominent lay people or experts, can provide the same advantages in lobbying for appropriations as a board system. Generally, a more important variable is the priority placed on corrections appropriation by the executive department. Staff professionalism and the credibility it implies can also enhance the systems ability to compete for necessary funds.

8. Budget Flexibility

A board is unlikely to be helpful on this score. Use of an umbrella agency, high degrees of freedom for a Governor in fiscal management and, even, explicit legislative desire for flexibility of this kind are more effective.

9. Costs of Operations

A board is likely to have little affect on this score. Perhaps the most important variable here is the attention such costs receive by the governor and legislature. A serious concern with controlling corrections costs combined with analytic expertise in a budget agency may make a great deal of difference. So, presumably, will the use of new and efficient facilities as opposed to inefficient ones. An additional important variable may be location of facilities. Wage rates for institutional staff, for example, may be a good deal lower in isolated rural areas than near large cities. So might the

propensity for such workers to organize and demand higher salaries.

10. Response to General Trends

Ten categories of such trends are:

- Prison industries
- Determinate sentencing
- Community-based corrections
- Alternatives to incarceration
- Upgrading local jails
- Standards and accreditation for state institutions
- Empirically based offender classification
- Development and placement of new facilities
- Evaluation research
- Smaller facilities

Boards were of little direct impact in any of these areas. Any positive board impacts (e.g. enhanced public support for prison industries programs) can be gained through gubernatorial and other political attention and appropriate use of advisory groups.

D. Operational Issues

1. Administrative Structure

A Board may have negative impact on clarity of structure. Detail in statutes organizing executive branch agencies and the general administrative competence of the executive branch are important. Expert advisory panels focused on structural issues can both highlight problems and generate solutions. In any

event, clarity of reporting channels and strength of directors are likely to be determining.

2. Speed of Response to Problems.

Boards can slow response, but provide benefits, in increased deliberation. Ways to avoid costs, but gain some of the benefits, include use of advisory boards generally and task forces addressed to specific issues.

3. Definitiveness of Response

Negative board impact. Clear administrative structure in department and strong leadership are important to providing definite response to problem.

4. Communications within Department.

The board might provide an informal and highly effective channel for communications upward from within the system. Alternatives include providing a high degree of public participation in corrections policy making, use of standing expert and lay advisory groups, and public relations. Most importantly, the tone set by the system's leadership will govern its permeability to such communications.

5. Alleviating Overcrowding

The corrections board may help in responding to this problem. The more important variables include the priority that is given to responding to the problem by the governor and legislature, effectiveness of the corrections system in dramatizing the problem through public relations, and the system's

credibility. The use of devices such as blue ribbon panels of either prominent citizens or experts can be enormously helpful.

6. Security

A board has no direct impact in this area. Departmental professionalism and effectiveness are most important. Gubernatorial and legislative interest, including provision of adequate resources, are also important. Expert advisory panels specific to the area can help.

7. Response to Crises

Boards make little difference. General quality of staff, clear policy (e.g. no bargaining when hostages are taken), and crisis training are important. Various kinds of advisory groups are useful in learning from past crises.

8. Client Services

A board has indirect impact. Improvement of client services is much more likely as a result of gubernatorial or legislative interest or of specific departmental policy. Advisory panels focused on the area will also be helpful.

9. Other Operational Issues

The advantages of a board in this area, namely the legitimacy of corrections policies in the face of inmates' rights litigation, can be achieved through other means. An obvious example is the provision of an open review process for defining

corrections policy. An alternative might be the provision of legislative veto over such policies where the absence of such a veto for a given policy might be probative of the legislature's assent to it.

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11. Commission on Juvenile Justice Standards, Corrections Administration (1977), standards 2.1-2.5, 3.1 and 3.2.
12. National Conference of Commissioners on Uniform State Laws, Uniform Corrections Act (tent. 1977), art. 2.

APPENDIX A

INTERVIEW PROTOCOL

I. Commission

- A. Have one?
- B. For how long? or When abolished? Why? (skip to II and III, then return to details of I)
- C. Composition, terms, who appoint, staggered? Turnover? What happened to those who served?
- D. Do they have a staff? Probe: size, qualifications, character. Turnover: What happened to those who served?
- E. How often do they meet?
- F. Powers?
- G. Role vis-a-vis Director of Corrections? Probe. Describe:
 - 1. Reporting channels.
 - a. Are they effective?
 - b. Problem areas?
 - 2. Accountability.
 - 3. Has competition developed between them?
- H. Role vis-a-vis Governor? Probe. Describe:
 - 1. Reporting channels.
 - a. Are they effective?
 - b. Problem areas.
 - 2. Accountability.
 - 3. Has competition developed between them?

- I. Role vis-a-vis Legislature? Probe.
Describe:
1. Reporting channels.
 - a. Are they effective?
 - b. Problems areas.
 2. Accountability.
 3. Has competition developed between them?

II. History

- A. Was/is your experience with a Commission? (Probe to elaborate, get specific examples.)
- B. What are/were its major strengths/benefits? (Probe to elaborate, get specific examples.)
- C. What are/were its major weaknesses? (Probe to elaborate, get specific examples.)
- D. What major problem areas were encountered? Were they resolved? How? or Why not? (Probe to elaborate, get specific examples.)
- E. Have any factions developed on Commission? Describe. (Probe to elaborate, get specific examples.)

III. Impact, Alternatives?

- A. Accountability.
 1. What is the impact of a Commission on accountability to the public. Why? How?
 2. On accountability to the Governor? Why? How?
 3. On accountability to the Legislature? Why? How?
- B. What is the impact of the Commission on efficiency?
- C. What is the impact of the Commission on effectiveness?
- D. How could Commission be (have been) restructured or changed to resolve or avoid problems?

- E. What are the trends in riots? Overcrowding? What are other major management issues for department? What are the trends here (better, worse, same)?
- F. Was/is the Commission a factor or influence on these trends? In which direction? How?
- G. How did the Commission act with respect to these problems?
- H. How quickly did/does Commission respond to crisis?
- I. Has the Commission led to increased public support? Why or why not? Please elaborate.
- J. How responsive has the Commission been to shifts in policy? In public sentiment?
- K. What has been your experience or history with budget requests? Has the Commission had an influence one way or another? How? Why?

IV. Ask for:

- A. Reports/studies.
- B. Legislation/legislative studies.
- C. Annual reports.
- D. Quantitative data.

APPENDIX B

LIST OF PERSONS INTERVIEWED

ALABAMA

- Mr. Yetta Samford, former Board member, attorney
- Mr. John Hale, Public Information Officer, Department of Corrections

ARIZONA

- Mr. Don Thayer, Corrections Research Project, Alabama Legislative Council

ARKANSAS

- Mr. Richard Griffin, Chairman, Arkansas Board of Corrections
- Ms. Linda Phillips, Administrative Assistant to the Director, Arkansas Department of Corrections
- Mr. Terrell Don Hutto, former Director, Arkansas Department of Corrections; presently Director, Virginia Department of Corrections
- Mr. Wayne Jordan, editor of Arkansas Gazette

FLORIDA

- Mr. David T. Bachman, Deputy Secretary, State of Florida Department of Corrections

GEORGIA

- Mr. Sam Austin, Assistant Commissioner for Special Services, State of Georgia, Department of Corrections and Offender Rehabilitation
- Mr. Chuck Berrier, Executive Assistant to the Commissioner, Georgia Department of Corrections and Offender Rehabilitation
- Mr. Bill Reid, Planner, Georgia Department of Corrections and Offender Rehabilitation
- Dr. Allen L. Ault, former Commissioner in the states of Georgia, Mississippi, and Colorado

IDAHO

- General George Bennett, Chairman of the Idaho Board of Corrections

- Mr. C. W. Crowl, Director, Department of Corrections, State of Idaho
- Administrator, Support Division in the Idaho Department of Corrections

INDIANA

- Mr. Ron Vail, Research Director, Department of Indiana Corrections
- Mr. Tom Hanlan, Administrative Assistant to the Executive Director, Adult Authority, Indiana Department of Correction
- Mr. Les Miller, Indiana Legislative Services Agency

IOWA

- Mr. Hal Ferrier, Commissioner, State of Iowa, Division of Corrections
- Mr. Victor Preisser, former Director of the Division of Prisons, Iowa Department of Social Services
- Mr. Kevin Burns, formerly Commissioner of the Department of Social Services, State of Iowa

MICHIGAN

- Mr. Perry Johnson, Director, Department of Corrections, State of Michigan
(Mr. William Kime, Deputy Director, Department of Corrections, State of Michigan, was a National Panel participant.)

MISSISSIPPI

- Dr. Covington, Chairperson of the Board, State of Mississippi Corrections Board
- Dr. Allen L. Ault, former Commissioner in the states of Georgia, Mississippi, and Colorado.
- Mr. Tom Gregory, Public Information Officer, Mississippi Department of Corrections

NEVADA

- Mr. Charles L. Wolff, Jr., Warden, Nevada State Prisons
- Mr. Ed Forrest, Nevada State Prisons
- Mr. Mike Bartlett, Analyst, Commission on Crime, Delinquency and Corrections

NEW HAMPSHIRE

- Mr. Robert Hamel, Chairman, New Hampshire Board of Trustees
- Mr. Meldrim Thomson, Jr., former Governor of New Hampshire
- Mr. Everett Perrin, Warden, New Hampshire State Prison, Concord

SOUTH CAROLINA

- Mr. William D. Leeke, Commissioner, South Carolina Department of Corrections

SOUTH DAKOTA

- Mr. Jim Smith, Executive Director (staff) to South Dakota Board of Charities and Institutions
- Mr. Herman Solem, Warden, Sioux Falls Penitentiary

TEXAS

- Mr. W. J. Estelle, Jr., Director, Department of Corrections, State of Texas
- Mr. Ron Jackson, Executive Director, Texas Youth Council
(Mr. George Beto, former Director, Department of Corrections, State of Texas, was a National Panel participant.)

VIRGINIA

- Mr. Terrell Don Hutto, Director, Virginia Department of Corrections

WYOMING

- Mr. Don Glidden, Secretary to the Board of Charities and Reform, State of Wyoming

* * * * *

GENERAL

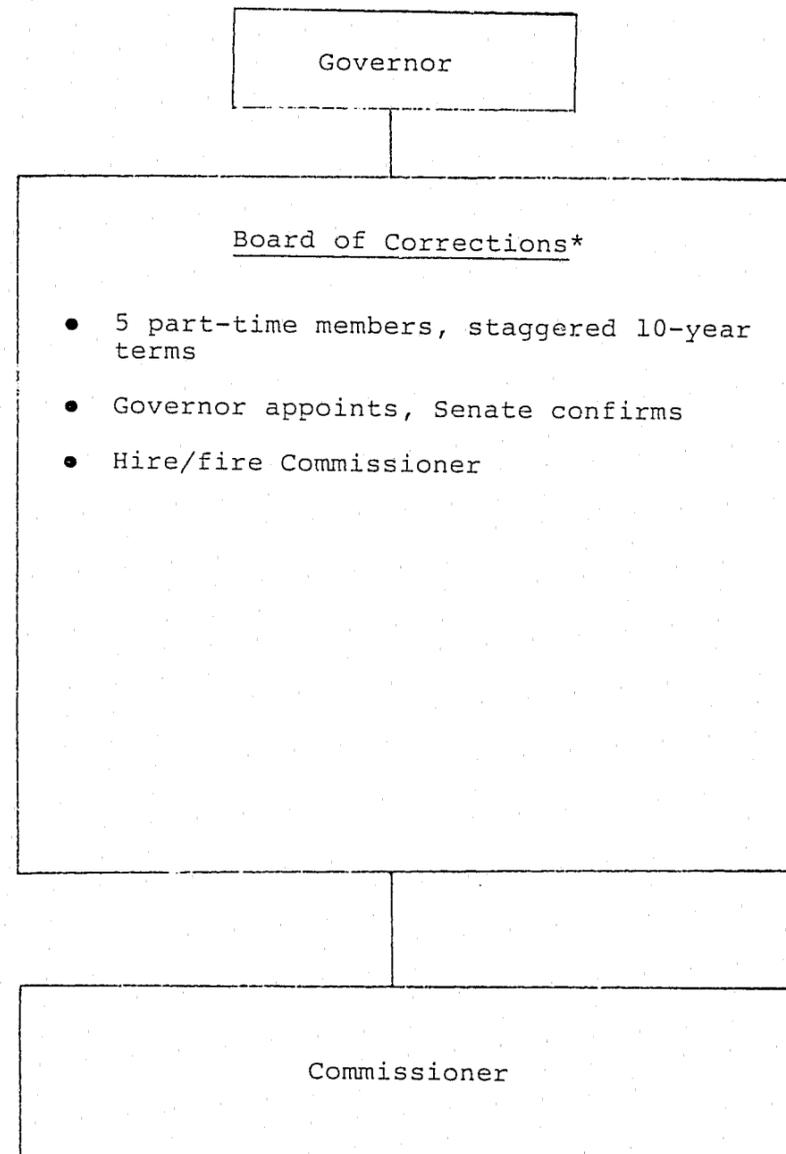
- Mr. Richard Mulcrone, Regional Administrator, U.S. Parole Commission, Kansas City
- Mr. Tony Travisono, Executive Director, American Corrections Association
- Mr. Gerald Strathman, Director of Research and Information Systems, Minnesota Department of Corrections
- Mr. Tom Henderson, Institute for Economic Policy Studies, Alexandria, Virginia

APPENDIX C

MODELS OF STATE BOARDS
OF CORRECTIONS

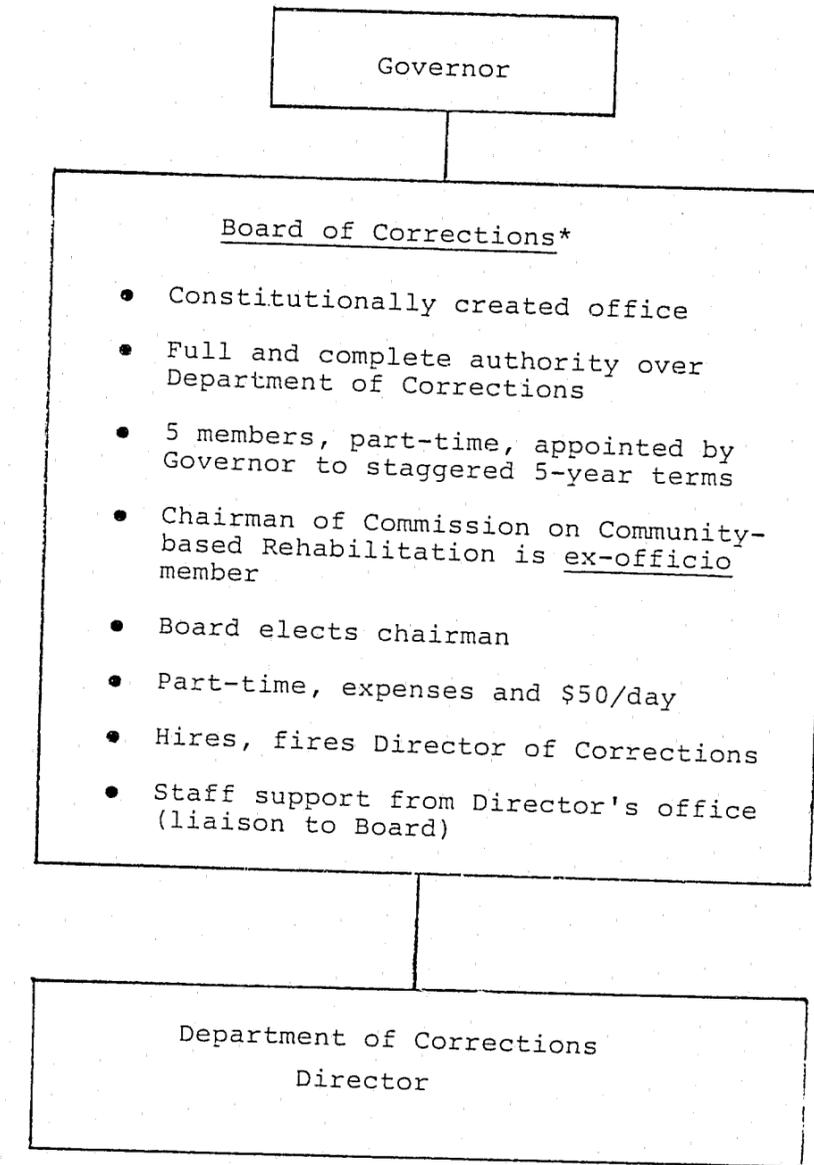
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1. "Typical" Models	
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ALABAMA MODEL



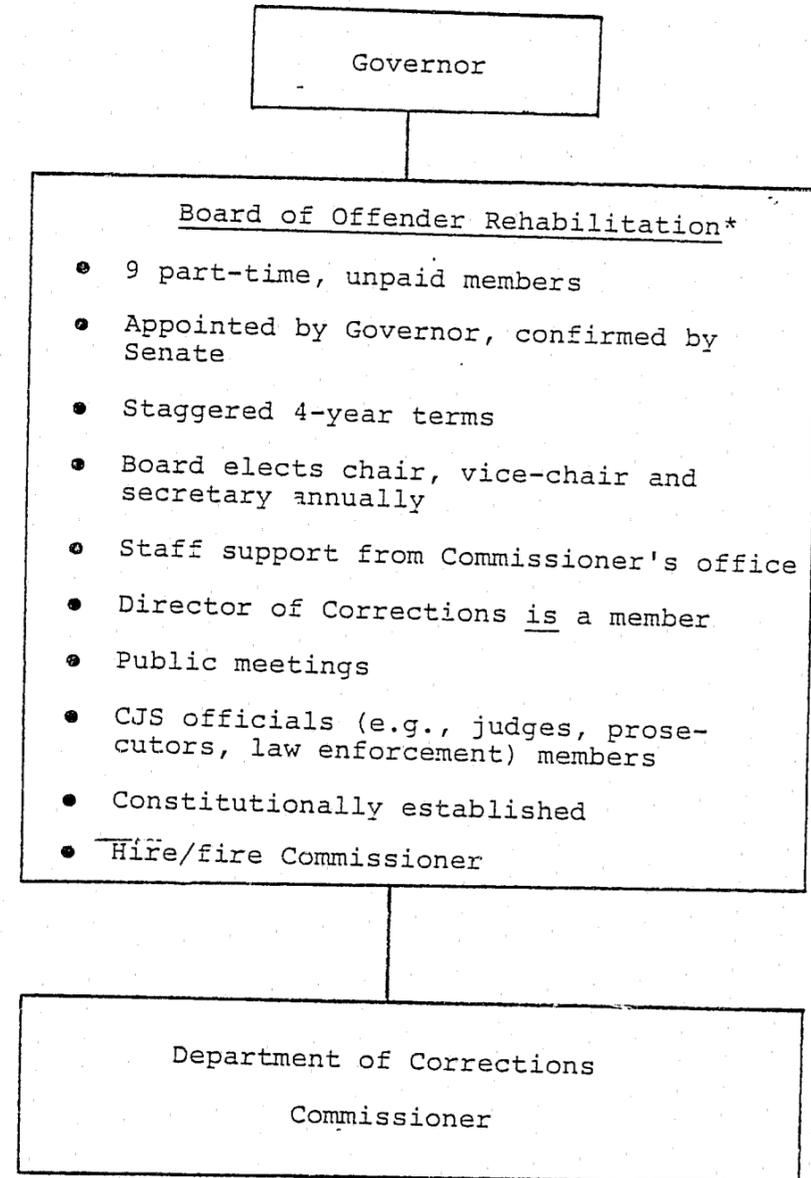
* Created in 1953, abolished in 1979.

ARKANSAS MODEL

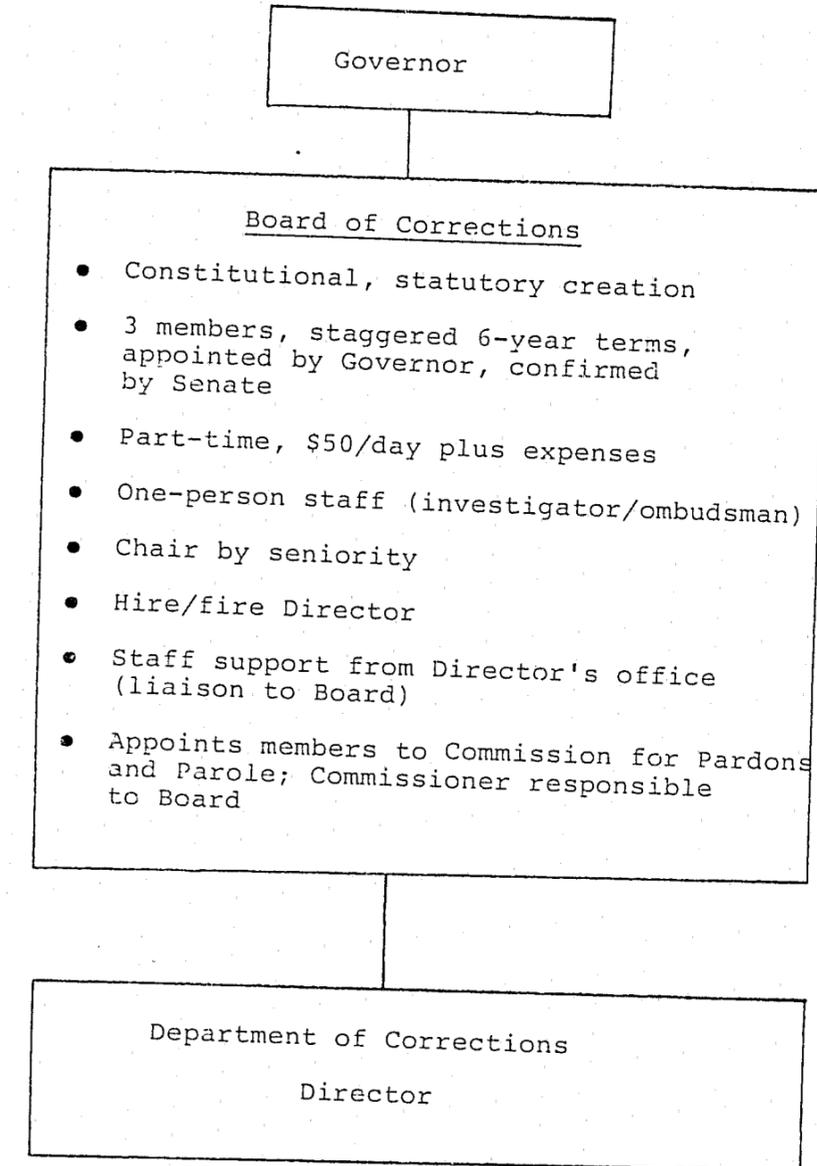


* Established in 1969 or urging of then-Governor to curb political influence in corrections.

GEORGIA MODEL

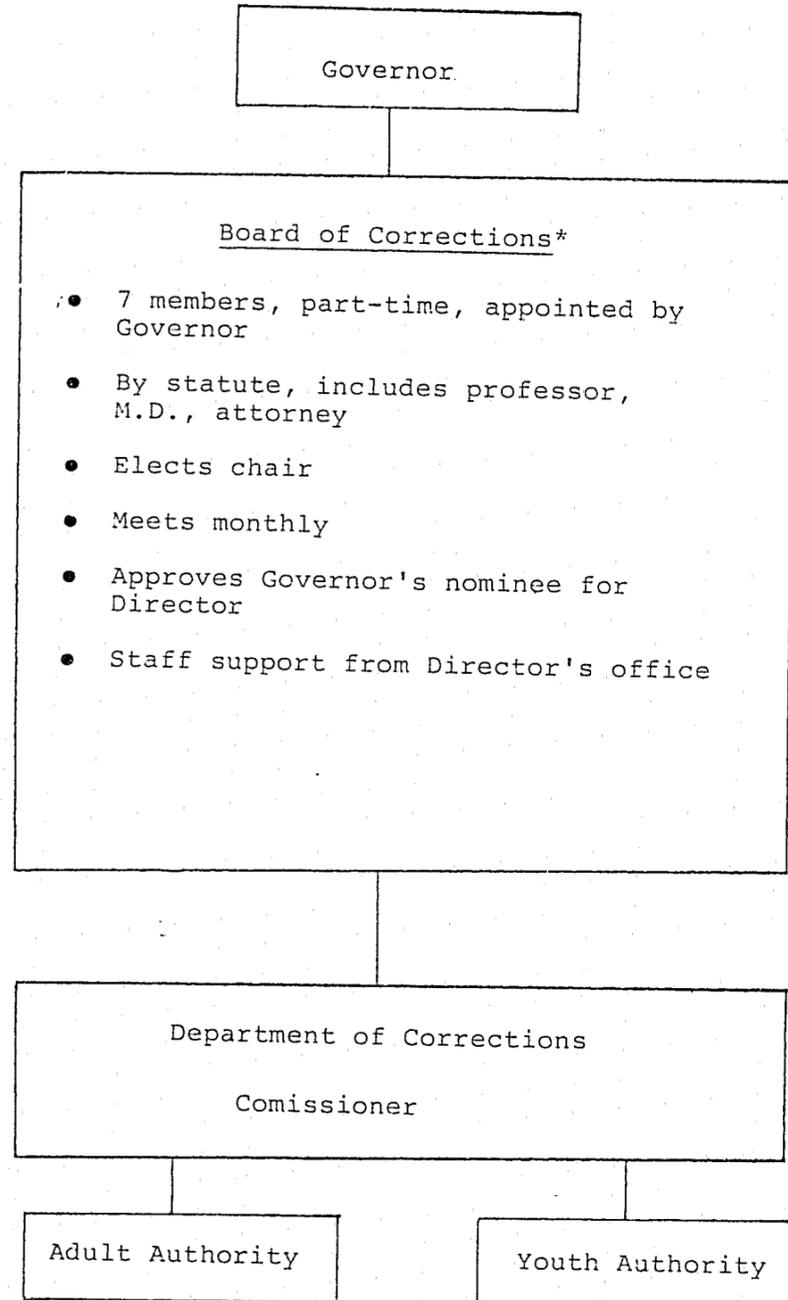


IDAHO MODEL



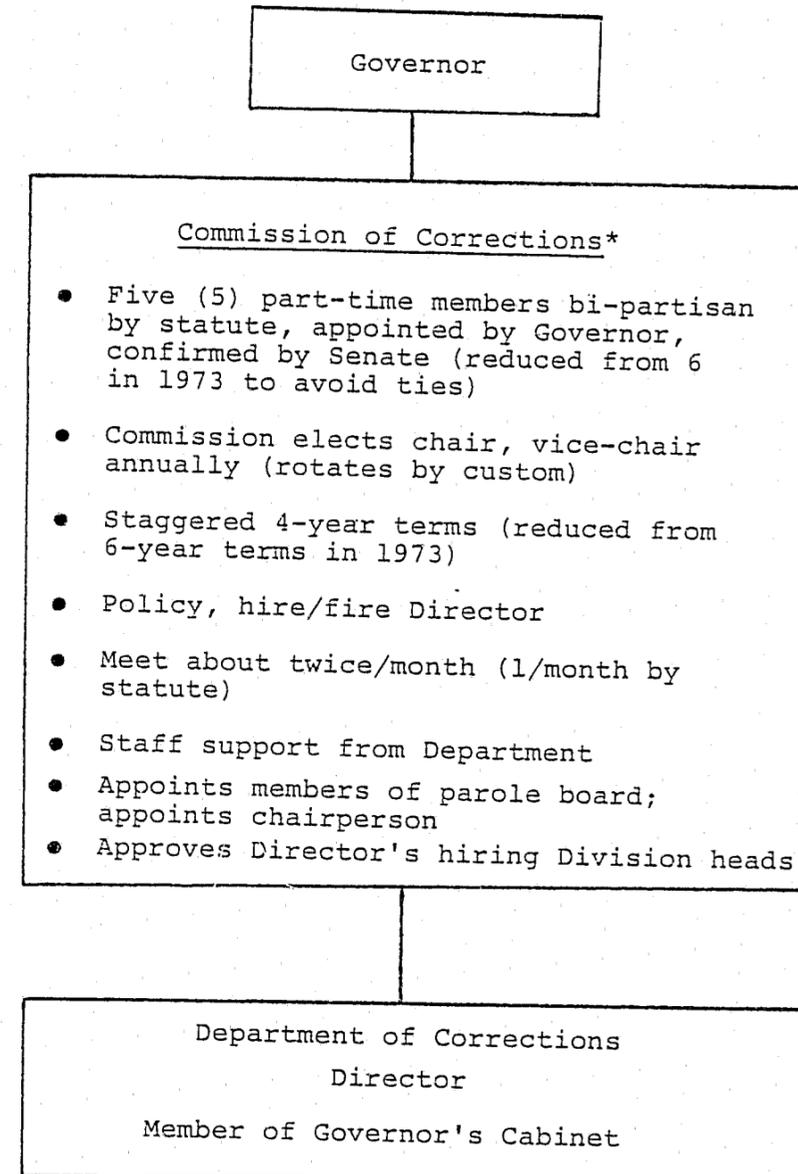
* Prisons and Probation/Parole Boards combined in 1972.

INDIANA MODEL



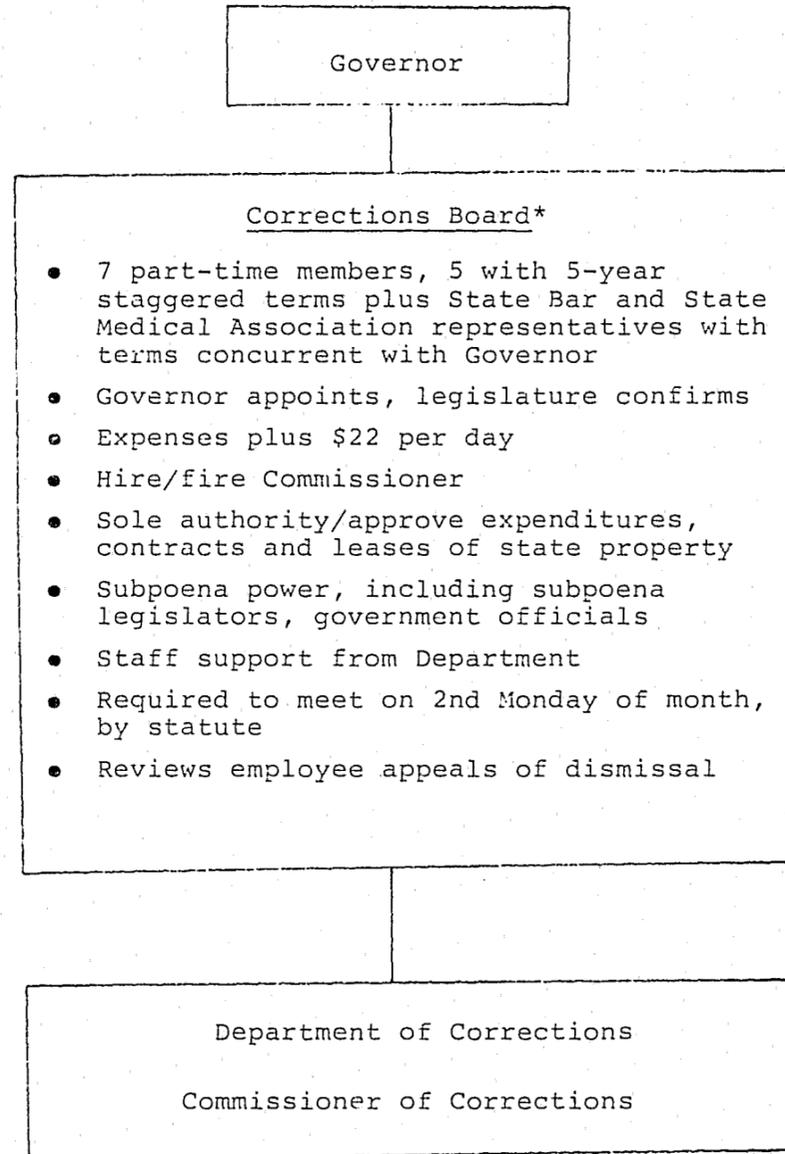
* Created in early 60's. Department separated from health/social services agency in 1953. 1979 amendments to statute strengthen Board powers.

MICHIGAN MODEL

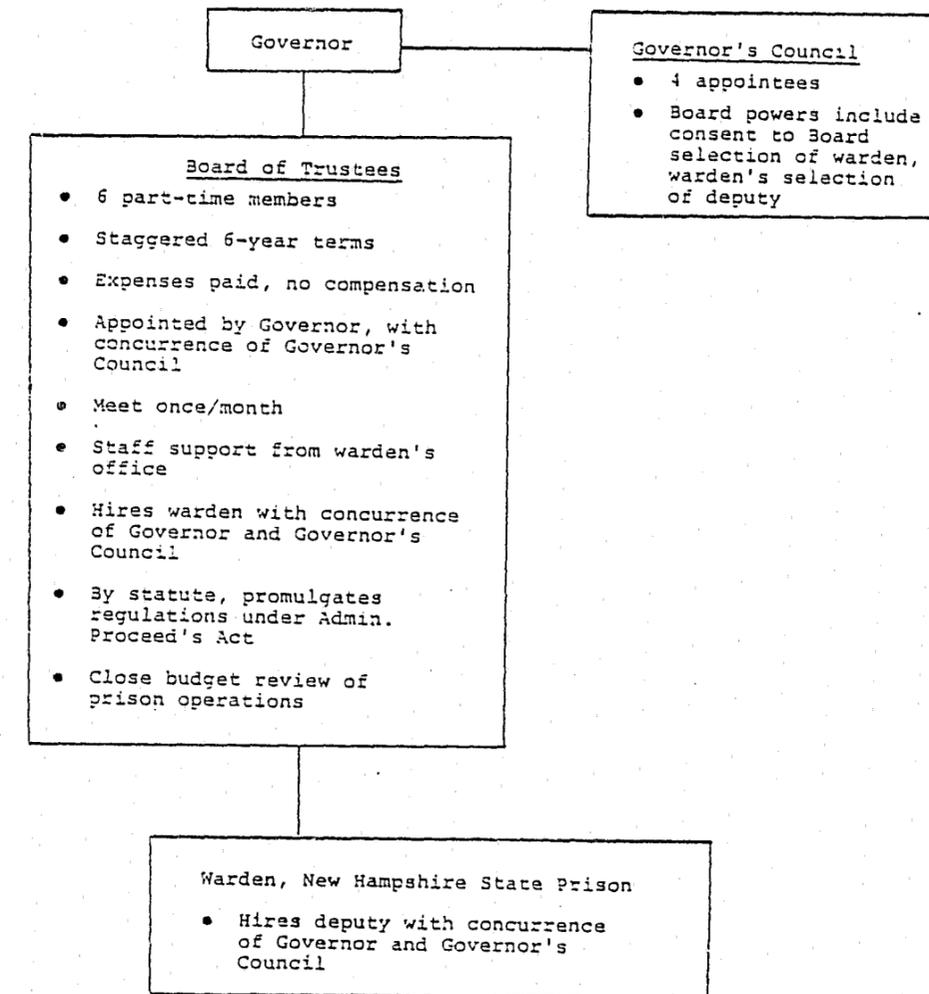


* Created in 1953 following riot.

MISSISSIPPI MODEL

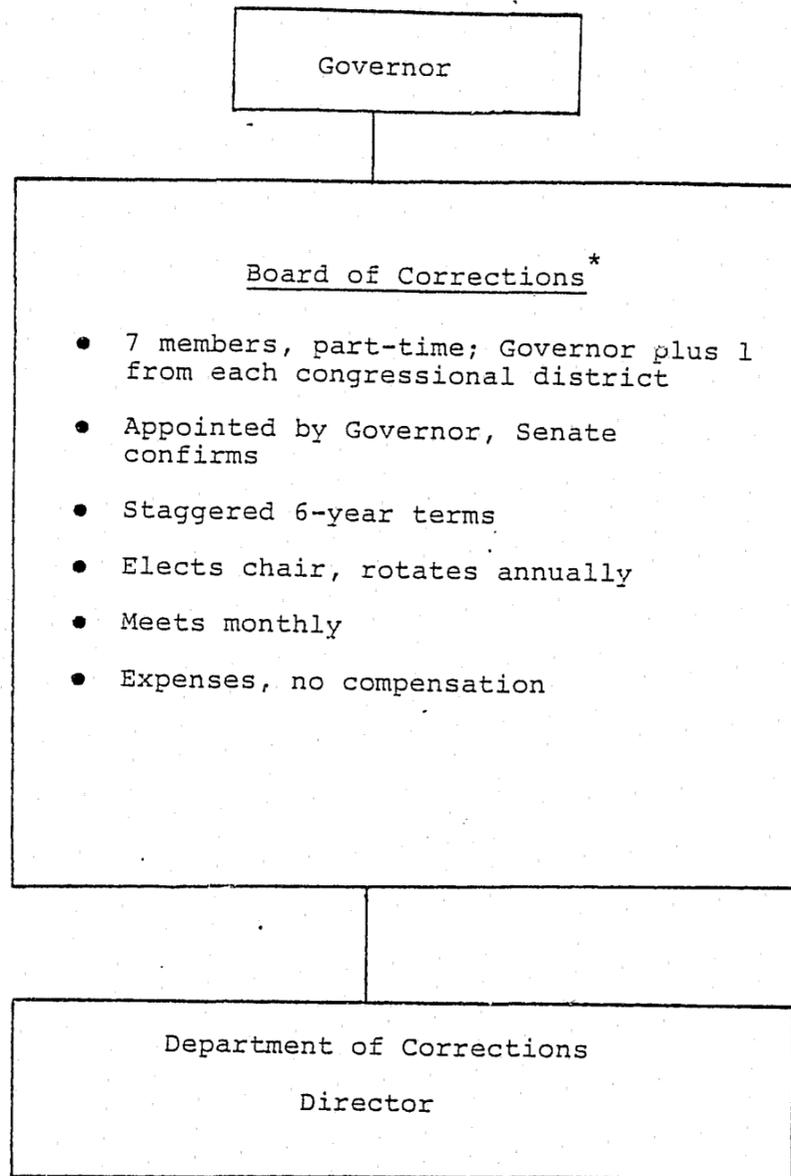


NEW HAMPSHIRE MODEL

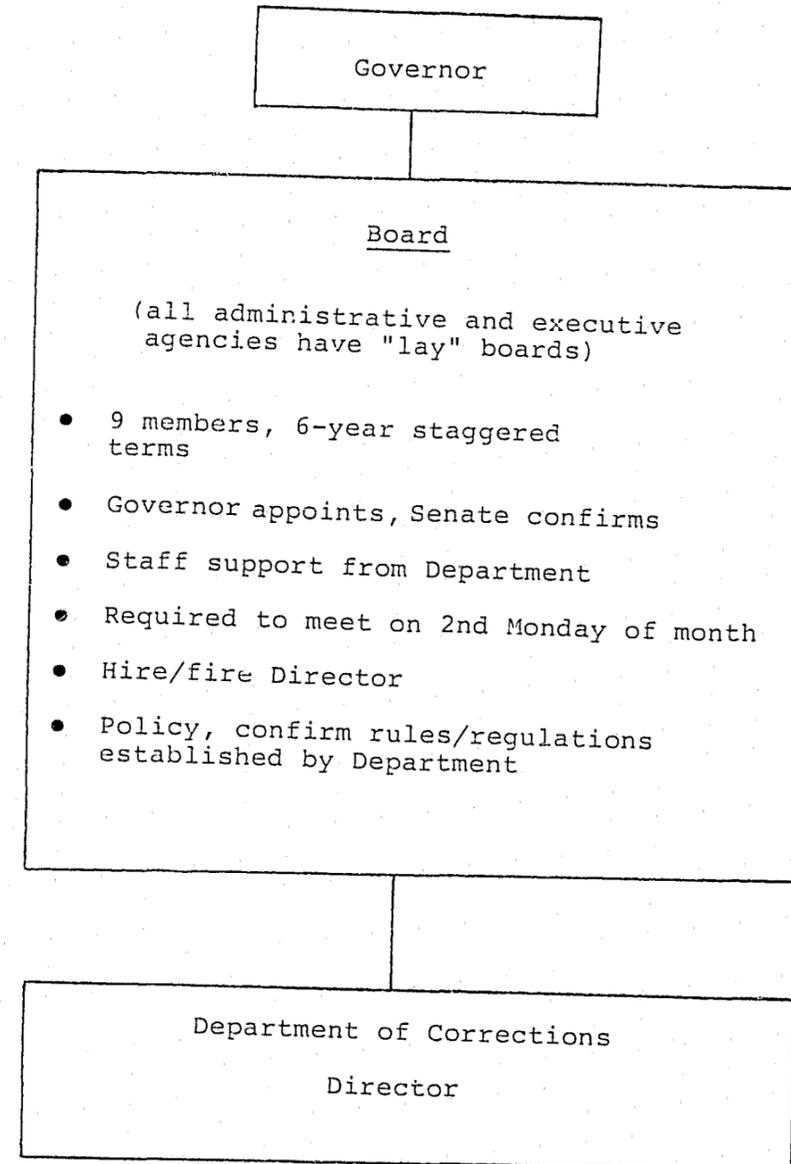


* Department and Board created in 1976, above Supervisor of Mississippi State Penitentiary. Approaching end of 5-year "sunset law" period, legislation will be introduced to continue it.

SOUTH CAROLINA MODEL



TEXAS MODEL

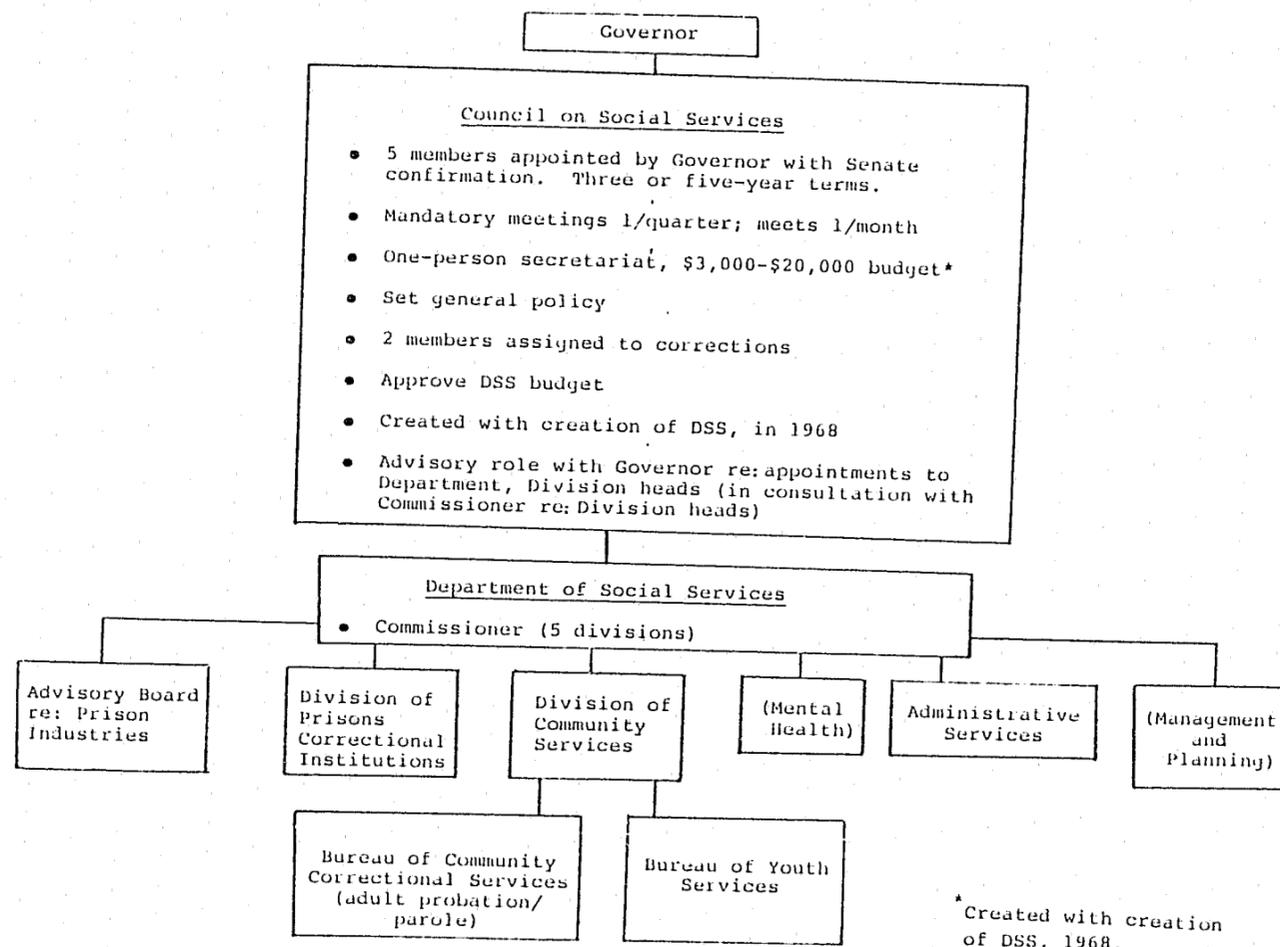


*Established in 1960.

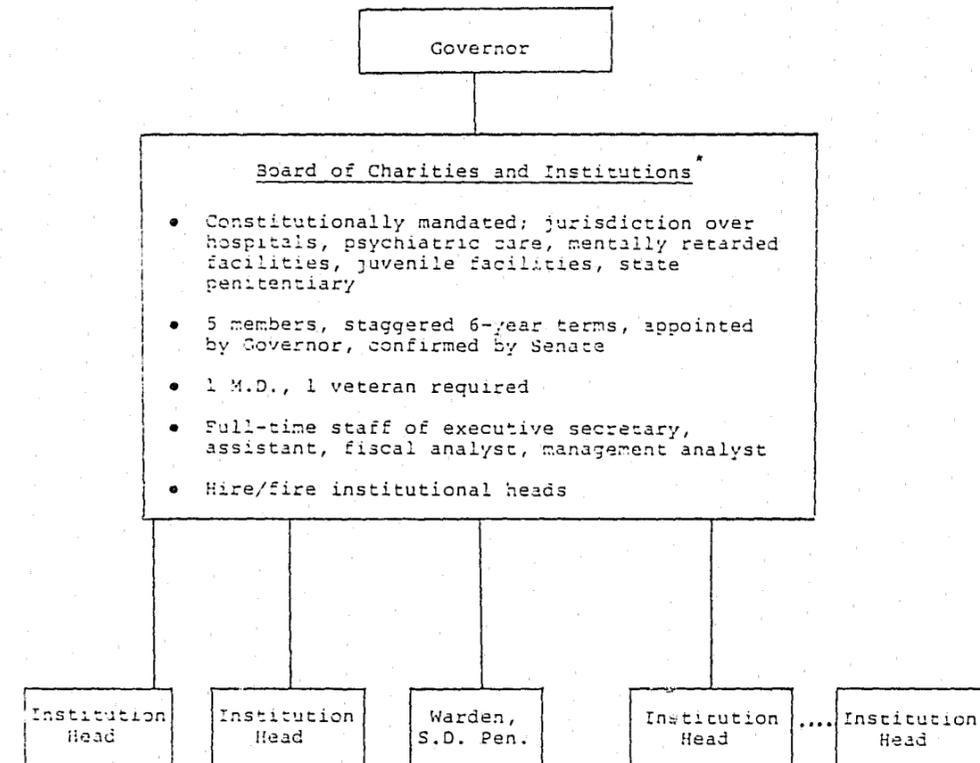
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2 OF 3

IOWA MODEL

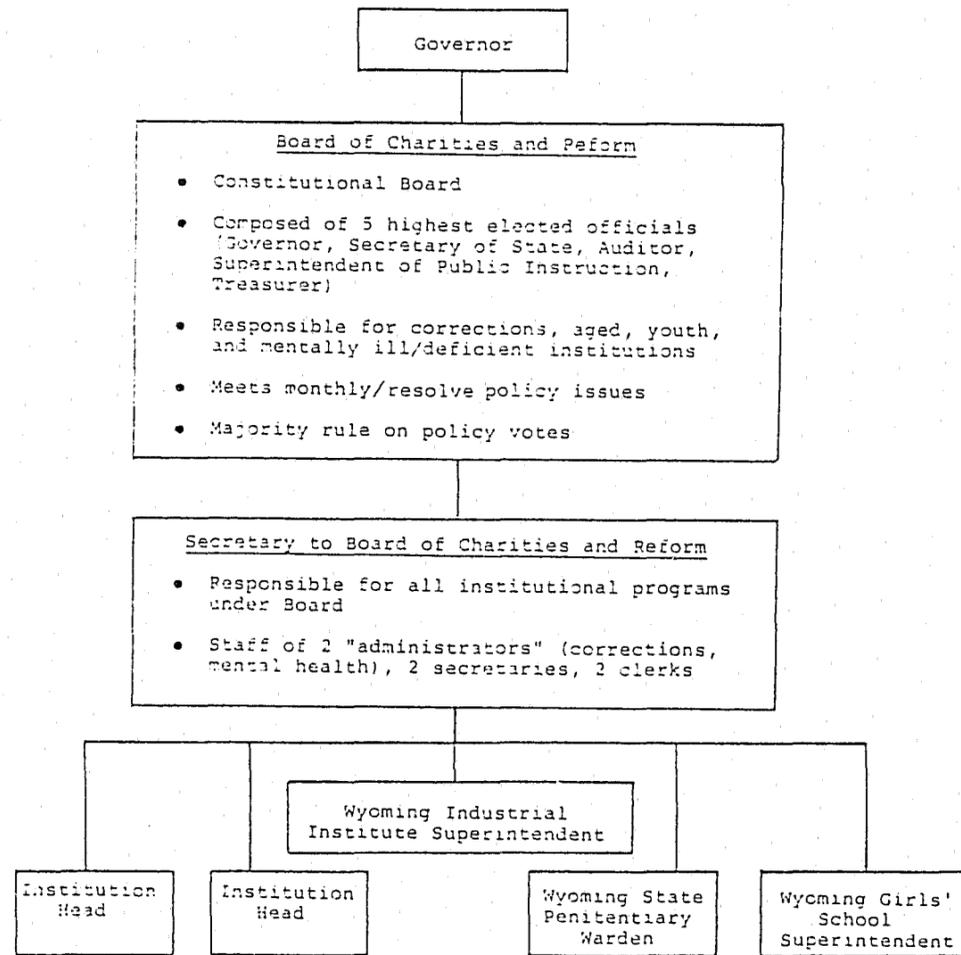


SOUTH DAKOTA MODEL

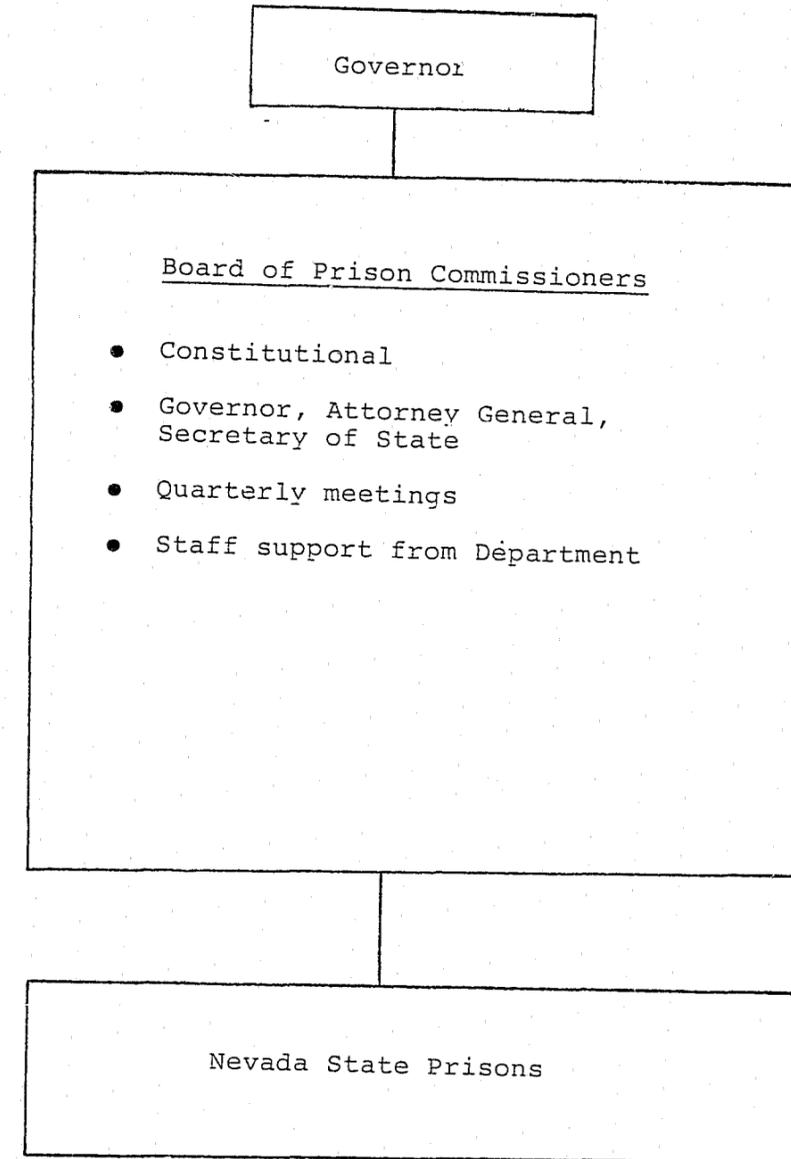


* Was under Department of Social Services. Conflicts of philosophy, budget. Removed from DSS in 1977.

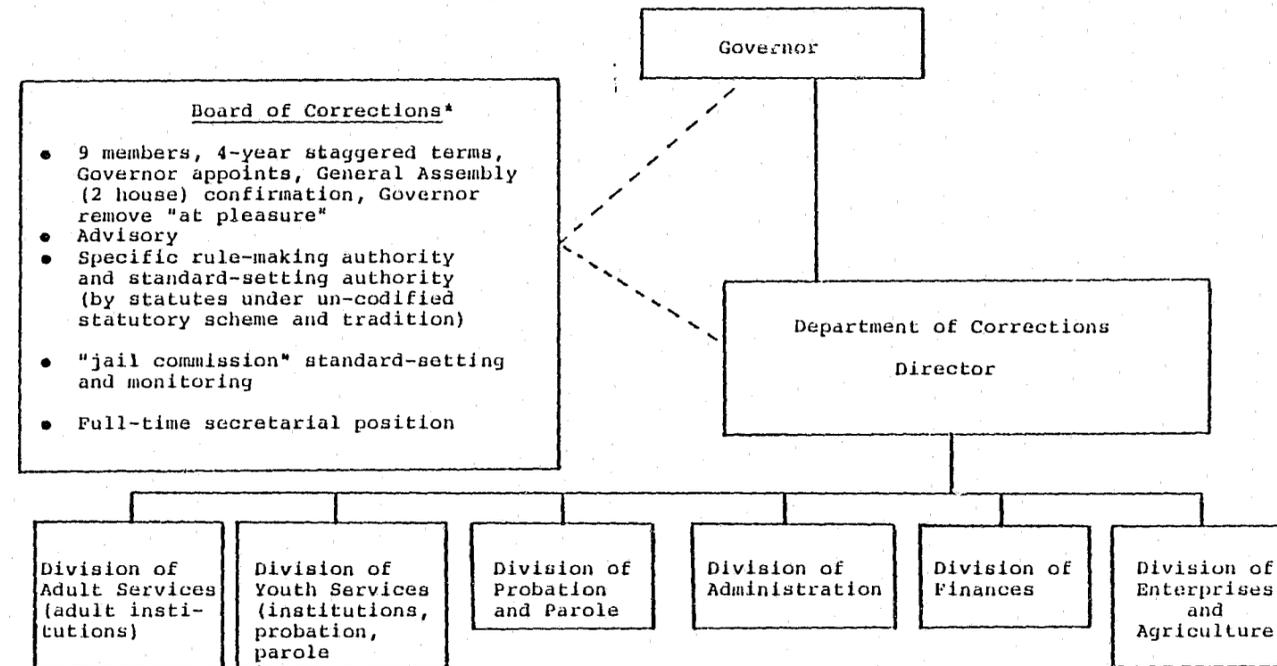
WYOMING MODEL



NEVADA MODEL



VIRGINIA MODEL



* Board separated from Board of Welfare and Institutions in 1977.

APPENDIX D

STATUTORY REFERENCES FOR FIGURE 2, SCOPE OF JURISDICTION, STATE BOARD OF CORRECTIONS

ALABAMA	Ala. Code, Tit. 14, § 14-1-1 - 14-1-14, 14-3-1. Abolished, §§ 14-1-15 - 14-1-17
ARKANSAS	Ark. Stat. Anno. §§ 46-100 - 46-101, 46 - 103(m)-(o)
GEORGIA	Ga. Code Anno. §§ 77-302 - 77-304, 77-309, 77-503(a) - 77-508(a)
IDAHO	Idaho Code, §§ 20-201, 20-209, 20-210, 20-223
INDIANA	Burns Ind. Stat. Anno. §§ 11-1-1-7 [13-1607], 11-1-1-9 [13-1609], 11-1-1.1-7, 11-1-1.1-9, 11-1-1.1-17, 11-1-1.1-18, 11-8-2-3 (eff. 10/1/80)
IOWA	Iowa Code Anno, Tit. XI, §§ 217.2, 217.6, 217.8, 217.9, 217.13, 218.1, 904.1, 904.5
MICHIGAN	MCA §§791.201-.206, .221-.223, .232-.234
MISSISSIPPI	Miss. Code Anno., §§ 47-5-8, 10, 19, 20
NEVADA	Nev. Consti., Art. 5, § 21, Nev. Rev. Stat. §§ 213.1071, .108
NEW HAMPSHIRE	N.H. Rev. Stat. Anno. §§ 10:2, 504:7-:9, 651:37
SOUTH CAROLINA	S.C. Code §§ 24-1-130, 24-21-10
SOUTH DAKOTA	S.D. Compiled Laws Anno. §§ 1-15-9, 1-15-16.1
TEXAS	Tex. Rev. Civ. Stat., Art. 6166g
VIRGINIA	Va. Code §§ 16.1-311, 53-19.33-.35, 53-230, 53-243.1
WYOMING	Wyo. Stat. Ano. §§ 9-3-706, 7-13-402

END