

LOUISIANA  
Governor's Prison Overcrowding  
Policy Task Force  
March 17, 1988

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ACQUISITIONS

March 17, 1988.

Governor's Prison Overcrowding  
Policy Task Force

March 17, 1988



State of Louisiana  
Louisiana Commission on Law Enforcement  
and Administration of Criminal Justice

GOVERNOR'S PRISON OVERCROWDING POLICY TASK FORCE

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Governor

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Vice Chairman

March 17, 1988

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Hon. Charles E. "Buddy" Roemer, III  
Governor  
State of Louisiana  
Post Office Box 94004  
Baton Rouge, Louisiana 70804

Dear Governor Roemer:

On behalf of the members of the Governor's Prison Overcrowding Policy Task Force, I respectfully submit to you our fourth and final report on correctional overcrowding in Louisiana.

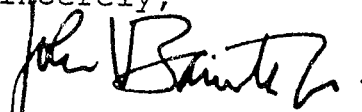
This report contains three proposals. Proposal One recommends a minor amendment to R.S. 15:574.4(A)(2)(a)(ii) to require a pre-sentence investigation for all inmates sentenced to the intensive incarceration/intensive supervision program. Proposal Two, entitled the "Incarceration Cost Control Act," recommends that the state require an appropriation for the funding necessary for the increased costs of incarceration caused by any law which increases prison sentences or otherwise increases the populations of state correctional facilities; if no funding is appropriated, the new law does not go into effect. Finally, Proposal Three recommends a "Community Corrections Plan" for the State of Louisiana.

The efforts of the Task Force to date reflect well upon the ability and willingness of all components of the criminal justice community, public officials, and the private sector to work together in addressing a common problem which is both complex and sensitive. It is our belief, as Task Force members, that only through such cooperation can the difficult issue of correctional overcrowding be resolved.

Hon. Charles E. "Buddy" Roemer, III  
March 17, 1988  
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Finally, we believe that the recommendations offered in this report, and previous ones, if acted upon with a strong committment by the key policy makers in Louisiana, can provide a sound basis from which a solution to the chronic correctional overcrowding problem can be found.

Sincerely,



John V. Baiamonte, Jr., Ph. D.  
Chairman

JVBJr:rm  
Enclosures

cc: TASK FORCE MEMBERS  
LEGISLATORS

Proposal One

Amendment to the Intensive Incarceration/  
Intensive Supervision Program

The Task Force recommends a minor amendment to R.S. 15.574.4 (A) (2) (a) (ii) to require a presentence investigation for all defendants sentenced to the intensive incarceration/intensive supervision program. Currently, defendants are screened for the program by probation and parole officers either through a pre-sentence or post sentence investigation. In order to eliminate any misunderstanding between the judges and the probation and parole officers and to ensure an orderly flow of information in the sentencing process, the Task Force recommends that a pre-sentence investigation shall be conducted for all defendants considered eligible for the intensive incarceration/intensive supervision program. This amendment will entail no additional expenses for the Department of Public Safety and Corrections because the only change envisioned is the sequence of the investigative report by the probation and parole officer.

See Appendix One for draft legislation.

## Proposal Two

### Incarceration Cost Control Act

The purpose of this act would be to provide that any act or resolution of the legislature which increases terms of imprisonment or otherwise increases the state prison populations shall be without effect unless sufficient funds are specifically appropriated to cover anticipated costs. Furthermore, the act is to ensure that sufficient funds and resources shall be available to be used solely to supplement the actual increased operating costs of the Department of Public Safety and Corrections.

See Appendix Two for draft legislation.

## Proposal Three

### Louisiana's Community Correction Plan

1. Probation and Parole (Traditional) entails the normal conditions of probabtion and parole as meted out by the judiciary or the Parole Board. It is envisioned that the workload units for the officers will be 50 per officer per the legislation endorsed by the Task Force and enacted by the Legislature in 1985. Also, this will require the enactment of the Task Force's Five-Year Probation and Parole Plan; i.e., adding 100 probation and parole officers each year for five years. No additional legislation is needed in this area--only an adequate appropriation per year to hire the officers.
2. Intensive Probation requires that the caseload per officer be no more than 25. The probationer is subjected to the following conditions: unannounced and frequent checks at his home and job by probation and parole officers; unannounced urine analysis tests; required to work or be in school; etc. The program is in a pilot stage at a few locations in the state. No additional legislation is needed at this time. The Five-Year Probation and Parole Plan, however, is an absolute necessity in order to make it statewide. Furthermore, the additional probation and parole officers will enable the state to enact a "House Arrest Program" which requires no legislation.



3. Parish Jail Contracts are already operating in the state in Tangipahoa Parish and other locations. The program is simply a contractual relationship between the sheriff and Department of Public Safety and Corrections in which the sheriff agrees to hold a certain number of state prisoners for 18.25 per day, which is the current rate. Those prisoners would then not be considered part of the state's backlog of prisoners waiting to be transferred to a state facility. Also, there is a considerable cost savings for the state -- \$18.25/day versus \$29/day for housing in a state institution. No legislation is needed in this area.
  
4. Halfway Houses are currently operating in the state. But these facilities (4) are for parolees only. What is needed almost immediately is a network of halfway houses across the state to serve as alternatives to the state prisons. In other words, the judiciary would sentence inmates to a halfway house in lieu of prison. However, legislation will be needed in this area, similar to the intensive incarceration/intensive supervision act, in order to assure that inmates who were actually destined for state incarceration are placed in halfway houses. These halfway houses can also serve as work release centers, study release centers, etc. Again, the implementation of the Five-Year Probation and Parole Plan is necessary for this concept to work because probation and parole officers must monitor all residents housed in these facilities. Finally, there is also a significant cost savings for the state similar to that stated previously for the parish jail contract.

5. Intensive Parole in Louisiana is currently tied to the IMPACT Program (intensive incarceration/intensive supervision). Conditions for intensive parole are similar to intensive probation. Presently, the program is still in a pilot stage. However, as the IMPACT Program is established at other institutions, there will be more intensive parolees thereby necessitating the implementation of the Five-Year Probation and Parole Plan.

Appendices

HLS 88-328

Regular Session, 1988

HOUSE BILL NO. D R A F T D R A F T D R A F T

BY REPRESENTATIVE XXX

CRIME/SENTENCING: Requires presentence investigation report prior to recommending participation in intensive incarceration program

1 AN ACT

2 To amend and reenact R.S. 15:574.4(A)(2)(a)(ii), relative to  
3 sentencing, to provide that a presentence investigation report  
4 be ordered by a sentencing judge prior to recommending  
5 participation in the intensive incarceration program, and to  
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:574.4(A)(2)(a)(ii) is hereby amended and  
9 reenacted to read as follows:

10 §574.4. Parole; eligibility for consideration; consideration  
11 and hearings; decisions of board; nature of parole; order  
12 of parole; conditions of parole; rules of conduct

13 A.(1) A person, otherwise eligible for parole, convicted  
14 of a first felony offense and committed to the Department of  
15 Public Safety and Corrections shall be eligible for parole  
16 consideration upon serving one-third of the sentence imposed;  
17 upon conviction of a second felony offense, such person shall be  
18 eligible for parole consideration upon serving one-half of the  
19 sentence imposed. A person convicted of a third or subsequent  
20 felony and committed to the Department of Public Safety and  
21 Corrections shall not be eligible for parole.

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words underlined are additions.

1 (2)(a) Notwithstanding the provisions of Paragraph A(1),  
 2 a person, otherwise eligible for parole, convicted of a first  
 3 felony offense and committed to the Department of Public Safety  
 4 and Corrections may be eligible for intensive parole supervision  
 5 upon successful completion of intensive incarceration. The  
 6 intensive incarceration and intensive parole supervision program  
 7 shall be established and administered by the department. The  
 8 offender may be considered for participation in the program if  
 9 all of the following conditions are met:

10 \* \* \*

11 (ii) The court orders a presentence investigation report,  
 12 as provided for in Code of Criminal Procedure Article 875, and  
 13 the department, through the division of probation and parole,  
 14 recommends to the sentencing court that the offender is  
 15 particularly likely to respond affirmatively to participation in  
 16 the program.

17 \* \* \*

HLS 88-331

Regular Session, 1988

HOUSE BILL NO. D R A F T D R A F T D R A F T

BY REPRESENTATIVE XXX

CRIME/SENTENCING: Requires appropriation when legislation increases  
cost of incarceration

1 AN ACT  
2 To enact Chapter 1-B of Title 15 of the Louisiana Revised Statutes of  
3 1950, to comprised to R.S. 15:350 through 359, relative to  
4 criminal procedure and sentencing, to provide that any act or  
5 resolution of the legislature increasing terms of imprisonment  
6 or otherwise increasing state prison populations shall be  
7 without effect unless sufficient funds are specifically  
8 appropriated to cover anticipated costs, to provide for the  
9 determination of increased costs, to provide procedure for  
10 appropriation, to provide definitions, to establish a special  
11 fund, to provide for procedure for appropriation, to provide for  
12 effect of any law not receiving an appropriation, to provide for  
13 an effective date, and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Chapter 1-B of Title 15 of the Louisiana Revised  
16 Statutes of 1950, comprised of R.S. 15:350 through 359, inclusive, is  
17 hereby enacted to read as follows:

18 CHAPTER 1-B. INCARCERATION COST CONTROL ACT

19 §350. Purpose

20 A. The enactment of statutes defining criminal offenses  
21 and the establishment of ranges of penalties for those offenses  
22 is a matter of substantive law solely within the prerogative of

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words underlined are additions.

1 the legislature. The appropriation of funds for the  
2 implementation of the substantive law is solely within the  
3 prerogative of the legislature.

4 B. The legislature has determined that the best interest  
5 of the state would be served by requiring the appropriation for  
6 the funding necessary for the increased costs of incarceration  
7 of any law which increases prison sentences or otherwise  
8 increases the populations of state correctional facilities be  
9 made upon the enactment of such law and for each of the two  
10 years immediately thereafter. The purpose of this Chapter is to  
11 ensure that sufficient funds be appropriated into a special fund  
12 and that the funds shall be available and used solely to  
13 supplement the actual increased operating costs of the  
14 Department of Public Safety and Corrections.

15 §351. Appropriation sufficient to fund increased costs of  
16 incarceration

17 A. Unless otherwise specifically provided therein, any act  
18 or resolution of the legislature enacted after the effective  
19 date of this Act estimated to cause a net increase in the  
20 populations of state correctional facilities shall have a  
21 specific appropriation from recurring revenues for the estimated  
22 operating costs of such act as provided for herein. The  
23 specific appropriation shall be made to the Incarceration Cost  
24 Control Fund as established herein.

25 B. "Operating costs" as used herein means all costs other  
26 than those contained in the Capital Outlay Act.

27 C. This Chapter shall apply to any act or resolution of  
28 the legislature which increases terms of imprisonment or  
29 otherwise increases populations of state correctional facilities  
30 and enacts, repeals, amends and reenacts, or suspends any  
31 provisions of the Louisiana Constitution of 1974, the general  
32 statutes of the State, including the Louisiana Revised Statutes

1 of 1950, the Louisiana Code of Criminal Procedure, and the  
2 Louisiana Code of Juvenile Procedure.

3 §352. Method of determining increased costs of incarceration

4 A. The amount of appropriations made to the Incarceration  
5 Cost Control Fund under the provisions of this Chapter shall be  
6 equal to the amounts reflected in a fiscal note prepared by the  
7 staff of the Legislative Fiscal Office and reviewed by the  
8 Louisiana Commission on Law Enforcement and the Administration  
9 of Criminal Justice as provided for by R.S. 15:1204.1.

10 B. The fiscal note shall reflect the anticipated costs  
11 increase for the next five years following the effective date of  
12 the act or for the five years following the initial year in  
13 which the act causes an estimated cost increase.

14 §353. Initial appropriation

15 A. The author of each bill contemplated by this Chapter  
16 shall, at the earliest practicable time, propose, or cause to be  
17 proposed, an amendment to the General Appropriations Bill making  
18 a line item appropriation to the special fund, as established in  
19 R.S. 15:355, in the amount of the annual average of the five  
20 years of fiscal impact as reflected in the fiscal note.

21 B. Each amendment shall be contingent upon final enactment  
22 of the author's bill.

23 C. Each such bill or resolution shall contain a clause  
24 which makes its enactment contingent upon the enactment of the  
25 General Appropriations Bill with its corresponding line item  
26 amendment intact. If this initial appropriation is not included  
27 in the General Appropriations Bill then the bill shall be  
28 without effect as provided for in R.S. 15:358.

29 §354. Subsequent appropriations

30 A. After September 1, 1988, in addition to the initial  
31 appropriation as provided for in R.S. 15:353, a subsequent  
32 appropriation shall be made in each of the following two years



1 immediately after the initial appropriation for the law to have  
2 continued effect as provided for by R.S. 15:358.

3 (1) The subsequent appropriations shall be made by  
4 September 1 of the year in which such appropriations are  
5 required.

6 (2) The subsequent appropriations also shall be in the  
7 amount of the average annual estimated increased costs of  
8 incarceration of the five years of fiscal impact or in an  
9 adjusted amount based upon a fiscal note prepared by the staff  
10 of the Legislative Fiscal Office and reviewed by the law  
11 enforcement commission in the same manner as set forth in R.S.  
12 15:352(A).

13 B. Prior to submission of the budget, the Department of  
14 Public Safety and Corrections shall certify to the Joint  
15 Legislative Committee on the Budget that the subsequent  
16 appropriations required under the provisions of this Chapter are  
17 included in the budget request of the department. Each  
18 subsequent appropriation shall be made directly to the special  
19 fund established in R.S. 15:355. In the fourth and subsequent  
20 years following the initial appropriation, an amount of  
21 estimated increased costs of incarceration shall be included in  
22 the General Appropriations Bill as an adjustment to the  
23 operating expenses of the Department of Public Safety and  
24 Corrections.

25 §355. Incarceration Cost Control Fund

26 A. There is hereby established in the state treasury as a  
27 special fund, the Incarceration Cost Control Fund, hereinafter  
28 referred to as the "fund". It shall consist of such funds as  
29 may be appropriated or otherwise made available thereto by the  
30 legislature for that purpose.

31 B. Disbursements from the fund shall be used solely to  
32 supplement the general operating expenses of the Department of

1 Public Safety and Corrections to defray the increased costs of  
2 incarceration due to laws increasing the populations of state  
3 correctional facilities enacted after the effective date of this  
4 Act.

5 §356. Procedure for disbursements from the fund

6 A. A supplemental line item appropriation to the  
7 department from the fund shall be included in the General  
8 Appropriations Bill only after the requested appropriation is  
9 reviewed and approved by the Joint Legislative Committee on the  
10 Budget. The request shall reference the specific act which  
11 caused the increased cost of incarceration to the department.

12 B. The Joint Legislative Committee on the Budget may  
13 approve payment of all or a portion of the request or reject  
14 payment of the entire request. If the actual costs of  
15 incarceration of a specific act or resolution exceeds the amount  
16 appropriated into the fund, then the committee may approve an  
17 increase in the line item appropriation requested by the  
18 department. If payment of all, an increase, or a portion of the  
19 appropriation is approved by the Joint Legislative Committee on  
20 the Budget, then the appropriation shall be submitted for  
21 inclusion as a line item appropriation in the General  
22 Appropriations Bill for the year requested. Such appropriation,  
23 if approved, shall be made from monies in the fund.

24 §357. Surplus funds; retention; use

25 Any funds which remain unexpended or unobligated in the  
26 fund at the end of the fiscal year shall remain in the fund.  
27 Retained funds shall only be spent on the purposes set forth in  
28 this Chapter to defray the increased costs of incarceration  
29 caused by the enactment of laws or resolutions increasing the  
30 populations of state correctional facilities. All interest  
31 accrued on monies in the fund shall accrue to the credit and be  
32 deposited into the state general fund.

1        §358. Failure to appropriate funds; effect of law

2            A.(1) If during the first three years of operation of a  
3        law funding is made as required by this Chapter, then the law  
4        supercedes any conflicting provisions of existing law or  
5        continues to be effective if a new law but shall not  
6        implicitly repeal any existing law.

7            (2) If after the first three years of operation of a law  
8        funding has been made as required by this Chapter, then the law  
9        shall repeal any conflicting provisions of law.

10          (3) If funding is not made within any of the first three  
11        years of operation of a law as required by this Chapter, then  
12        such law shall be inoperative and shall be deemed to be without  
13        effect and shall not be deemed to have repealed either partially  
14        or in its entirety the former law. The former law shall prevail  
15        and become operative on October 1 of the year in which a  
16        required subsequent appropriation was not made by September 1 of  
17        that year.

18          (4) Unless otherwise specifically provided for therein, no  
19        act or resolution enacting, repealing, amending and reenacting,  
20        or suspending any law increasing prison sentences or otherwise  
21        increasing the populations of state correctional facilities that  
22        is without effect or inoperable for not being funded as required  
23        by the provisions of this Chapter shall extinguish or alter the  
24        liability for penalty of the prior law nor shall any prior law  
25        be declared null and void or otherwise unenforceable solely due  
26        to that reason.

27          B. If no appropriation is made by September 1 of any year  
28        within the three years following the effective date of any law  
29        or resolution enacted under the provisions of this Chapter, the  
30        Department of Public Safety and Corrections shall publish in the  
31        Louisiana Register and the official journal of the state a  
32        statement that no such appropriation has been made by September

1 1 and which law or resolution is no longer operative and without  
2 effect. The department shall also certify to the governor, the  
3 legislature, the Louisiana Sentencing Commission and the  
4 Judicial Administrator of the Louisiana Supreme Court that no  
5 appropriation has been made by September 1 and that on October 1  
6 of that year previously existing law shall prevail. The  
7 judicial administrator, upon receipt of such certification,  
8 shall deliver written notice of a list of any inoperative laws  
9 or resolutions to all judicial districts and courts of appeals  
10 of this state and that on October 1 of that year the former law  
11 shall be deemed in full force and effect.

12 C. No person sentenced under the provisions of an act of  
13 the legislature valid at the time of sentencing but later  
14 without effect for failure to comply with the provisions of the  
15 Chapter shall invoke the appellate or supervisory jurisdiction  
16 of the appellate court nor be entitled to any post-conviction  
17 relief solely for that reason but may petition the sentencing  
18 court for resentencing under the former law now with full force  
19 and effect.

20 §359. Short title

21 This Chapter may be cited as the Incarceration Cost Control  
22 Act.

23 Section 2. This Act shall become effective upon signature by  
24 the governor or, if not signed by the governor, upon expiration of  
25 the time for bills to become law without signature by the governor,  
26 as provided in Article III, Section 18 of the Constitution of  
27 Louisiana.