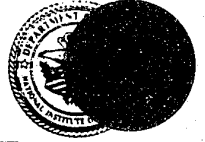


**U.S. Department of Justice
National Institute of Corrections**



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Summary for Corrections Administrators

Summer 1993

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Contents

Capacity Changes 2

Legislation 3

Litigation 5

Topical Survey: Americans with
Disabilities Act 10

AIDS Information 12

Additional Highlights 13

NIC Prisons Division Update 15

Recommended Reading 16

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CAPACITY CHANGES

Twenty-seven responding corrections departments (DOCs) reported changes in system capacity for the second half of 1992. Four agencies reported a decrease in capacity.

Systems with Change		Reason for Change
Alabama	+ 450	Prison re-opening.
Arkansas	+ 79	Expansion
California	- 619	Asbestos abatement.
Connecticut	+ 200	New construction.
Delaware	+ 480	Expansion.
Florida	+ 1,062	Completion of construction.
Georgia	+ 1,642	New construction.
Illinois	+ 381	Expansion of electronic detention.
Indiana	+ 432	Completion of construction.
Iowa	+ 254	New construction and expansion.
Kansas	- 1	Compliance adjustment.
Kentucky	+ 89	Expansion.
Louisiana	+ 1,665	Expansion.
Massachusetts	+ 854	Bed reclassification.
New Hampshire	+ 100	Renovation.
New Mexico	+ 207	Improved space management.
New York	+ 1,854	Facility acquisition and program expansion.
North Carolina	+ 819	(No explanation given.)
North Dakota	+ 20	Expansion.
Oregon	- 133	Closure of two older facilities.
Pennsylvania	+ 410	Renovation and expansion.
South Dakota	+ 288	New construction.
South Carolina	- 151	Housing modifications.
Texas	+ 6,296	New construction.
Washington	+ 500	New construction and expansion.
West Virginia	+ 100	New construction.
Federal Bureau of Prisons	+ 2,509	New construction and expansion.

LEGISLATION

Community Placement

The Rhode Island legislature expanded the eligibility for community confinement and created pretrial services within the Department of Corrections. This legislation is significant because it will allow the department to continue to develop sentencing options between traditional probation and prison. The pretrial provision will permit the DOC to concentrate not only on delay reduction strategies but also on various levels of potential release/supervision of pretrial detainees.

A Georgia bill limits probation supervision to a maximum of two years, requires most revoked sentences to be served in the community, revises procedures related to probation and parole, and provides for notification of victims.

A Maine act allows the DOC to place low-risk offenders in the community, usually at their homes, during the last twelve months of their sentences.

Cost of Confinement

Alabama lawmakers authorized the DOC to withhold up to 40 percent of an inmate's earnings to cover costs related to the inmate's confinement. The remainder of the inmate's earnings will be credited to his/her account and paid upon release.

Indemnification of Medical Service Providers

As a result of a new Nebraska law, contractors providing medical services who are sued by an inmate for deprivation of civil rights may be represented by the state's attorney general and may be indemnified for any judgments rendered against them as a result of the lawsuit.

Good Time

Nebraska has changed the computation of good time to allow one day of good time for every day of time served. The new law, which is applicable both to the parole eligibility date and the tentative release date, affects only those sentenced since July 1992.

As punishment for specified misconduct, a recent California law prohibits certain inmates housed in administrative segregation from earning sentence reduction credits.

Sex Offenders

Nebraska repealed its Mentally Disordered Sex Offender Act; persons convicted of specific sex crimes will now be sentenced like any other offender. Decisions regarding their treatment will be made by the Department of Public Institutions rather than the court.

A California bill established the UMBER-PRESLEY Habitual Sexual Offender Act to define and provide punishment for "habitual sexual offenders."

Louisiana now requires sex offenders to register with local law enforcement agencies. Another Louisiana bill requires notification of the victim when a sex offender is released from custody.

Crimes Involving Officers

In response to a recommendation by the Cook County State's Attorney, the Illinois legislature increased sentences for certain offenses involving the use of firearms against a peace officer, fire fighter, paramedic, or correctional officer.

Louisiana added probation and parole officers to the groups included in the definition of the crime of "resisting an officer."

Legislation, continued

Contraband Detection

As a result of recent legislation, the **Arizona** DOC may request a licensed practitioner to order x-rays when there is reason to believe that an inmate possesses contraband.

Women Offenders

Rhode Island passed a bill to establish a community correctional program for women offenders, specifically stating that the DOC may contract with private agencies to carry out the mandated program provisions.

DOC Study

The **Arizona** legislature mandated a "venture team" to help the DOC realize its mission by developing recommendations for more efficient and effective services. The venture team will consist of corrections professionals and volunteer private sector executives.

Domestic Violence Offenders

The **Massachusetts** legislature passed a bill requiring statewide registration of domestic violence offenders.

Parole

A new **Louisiana** law addressing parole revocation permits, as an alternative special condition of parole, placement of an offender in a community residential center or a substance abuse treatment program.

Arizona law now requires termination of parole supervision for parole-released individuals when they reach their earned release credit date.

Agency Workload Issues

The **Louisiana** legislature enacted two laws affecting DOC workloads. One permits the court to order a sentencing guidelines report only after a defendant has been convicted of a felony. The other repeals a requirement for the DOC to prepare post-sentence reports.

LITIGATION

Cases Filed

The cases reported in this section were in various stages of review in their respective courts during the second half of 1992. State respondents provided the case citations and the summary information.

Fair Labor Standards Act

Thompson v. Gunter, United States District Court for the State of Colorado.

The issue in this case is whether a physician's assistant employed by the Colorado DOC is exempt or non-exempt under the Fair Labor Standards Act (FLSA) for time-and-a-half compensation for "on call" time. The monetary claim is for approximately \$188,500 for actual damages; there is a potential for 100 percent liquidated (penalty) damages plus attorney fees if Thompson prevails.

Americans with Disabilities Act

Gibbs v. DeBruyn, Cause No. IP92-928C, United States District Court for the Southern District of Indiana.

This class action suit involving the Indiana DOC alleges numerous violations of the Americans with Disabilities Act. It is one of the first cases addressing the rights of disabled offenders to access prison facilities and participate in educational, vocational, recreational, and other programs. The case is likely to have a significant effect on the DOC.

Equal Protection

Pargo v. Elliott, 4:92-CV-80781, (federal court). This case raises questions about whether women inmate's programs in the Iowa DOC are equal to those for men. If the court decides in the negative, it could result in increases in expenditures to make women's programs equal to men's programs.

Medical Care

DeFuria v. Department of Correction, Case No. 92-1834, Norfolk Superior Court.

The important issue raised is at what point are inmates entitled to the newest drug treatments. This case questions whether the Massachusetts DOC is liable for not treating inmates with hepatitis C with alpha-interferon when it first became available in the community. The DOC now uses this drug to treat individuals if it is clinically appropriate, so the outcome of this case will have little impact on DOC procedures.

Langton v. Vose, Case No. 92-P-884, Massachusetts Appeals Court.

This is an appeal from a summary judgment for the Massachusetts DOC in a case in which inmate plaintiffs challenged the agency's mandatory tuberculosis testing program, administered to control the spread of TB in the prisons. To ensure full compliance, the DOC issued disciplinary reports and sanctions for inmates who refused the test. Several inmates challenged these procedures on state and federal constitutional grounds, and the appeals court has taken the matter under advisement. The outcome could have a major impact on the department's procedures for gaining full compliance with TB screening.

Treatment of Mentally Ill Inmates

Bradley v. Harrelson, Civil Action No. 92-A-70-N, United States District Court for the Middle District of Alabama.

This class action lawsuit questions the constitutionality of the Alabama DOC's method of identifying and treating mentally ill inmates at the Kilby Correctional Facility. An adverse decision would result in the DOC's changing its procedures and could affect existing or future contracts for medical care by outside providers.

Litigation, continued

Cases Decided

Decisions have been rendered by a court on the cases reported below for the period from July 1 to December 31, 1992. Some of these cases are in the process of appeal. State respondents provided the case citations and the case summary information.

Assistance of Counsel

Gibson v. Gaither, United States Court of Appeals for the Seventh Circuit, 968 F.2d 1218 (1992). The Seventh Circuit affirmed the jury's verdict for the defendants in this Illinois case and held that the district court did not abuse its discretion in requiring the plaintiff to testify via video deposition at his trial rather than in person. The court was justified in weighing the cost of transporting a death row inmate against the inmate's interest in testifying personally.

Access to Courts

Jenkins v. Lane, United States Court of Appeals for the Seventh Circuit, 977 F.2d 266. In this Illinois case, the plaintiff, an inmate in protective custody, complained of a lack of direct access to the law library and that inmate law clerks would not provide legal assistance without compensation. The court rejected the plaintiff's claim because he failed to show any detriment from the alleged deficiencies in the Pontiac Correctional Center library access program. The DOC respondent noted, "This case is important because the Seventh Circuit has set forth a test to determine when a showing of detriment is required to prove a violation of an inmate's right to access to the courts. The court held that a showing of detriment will be waived where the prisoner alleges a direct, substantial and continuous, rather than a minor and indirect, limit on legal materials. The court defines 'a substantial and continuous limitation' as 'any restriction on counsel or legal materials that completely prevents the prisoner, or a person acting in the prisoner's behalf, from performing preliminary legal research.' "

Supervised Home Release

Miller v. Warden, Superior Court of Connecticut, (1992); *Wylie v. Warden*, Superior Court of Connecticut (1992).

These two cases challenged an amendment to Conn. Gen. Stat. 18-100b restricting eligibility requirements for supervised home release from the Connecticut DOC. The law would have an *ex post facto* effect on those sentenced prior to its enactment. The court held that incarcerated prisoners do not have a liberty interest in supervised home release. These decisions are unreported and may be subject to further appellate review. See also *Smith v. Libundi*, 26 Conn. App. 254 (1991).

State Inmates in Jails

Calvin v. Abate, Supreme Court of New York County. The court ordered the New York DOC to remove "state ready" inmates, parole violators, and court returns from New York City's custody within ten business days of disposition. As New York City is the largest single source of inmates in the state system, the DOC now has considerably less flexibility to deal with the incoming inmate population.

Inmate Transfer

Pletka v. Nix, United States Court of Appeals for the Eighth Circuit, 957 F.2d 1480 (1992) (en banc), *cert. denied*, 113 S. Ct. 163 (October 5, 1992). This case dealt with an Iowa DOC prisoner placed in disciplinary status and then transferred to a Texas prison and placed in the general population. The issue was whether accumulated disciplinary time could be imposed on the inmate without a new hearing upon his return to Iowa. The result of the case will prevent additional hearings in the transfer of disciplinary inmates under the Interstate Corrections Compact. Further, it will ensure that an inmate's accumulated disciplinary time will not be negated by an inmate's placement in a disciplinary status by a receiving state.

Americans with Disabilities Act

Rivera v. Dyett, United States District Court for the Southern District of New York.

The inmate plaintiff, a double amputee and diabetic housed in the infirmary unit of the New York DOC's Auburn Correctional Facility, sought an injunction against the DOC to provide him with safe, handicap-accessible toilet and shower facilities as well as access to programs, on the basis that the DOC was in violation of the Eighth Amendment, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. The court found that the plaintiff could not use the toilet and shower facilities without seriously endangering his physical well-being and ordered the DOC to provide safe facilities. However, the court denied plaintiff's request for access to programs as well as the allegation that he was discriminated against on the basis of handicap in connection with evaluation for placement in a vocational program.

Body Searches

Jordan v. Gardner, United States District Court, State of Washington (1993).

This case questioned whether male correctional staff of the Washington DOC may perform clothed, full-body pat-down searches of women prisoners. The court held that such searches constitute cruel and unusual punishment in violation of the Eighth Amendment and that, given the female prisoners' histories of sexual abuse, constituted the infliction of pain.

Hemphill v. Kincheloe, United States District Court, State of Washington (1993).

The court of appeals reversed a judgment of the district court, holding that officials of the Washington DOC were entitled to qualified immunity based on their reasonable belief, based on information available at the time, that digital rectal cavity probe searches of all inmates transferred to a high-security unit were lawful. The decision saves the state from re-litigating and paying damages to numerous inmates subject to this search procedure.

Self-Incrimination

Asherman v. Meachum, United States Court of Appeals for the Second Circuit.

The court held *en banc* that the Connecticut DOC's revocation of a prisoner's supervised home release status because he refused to answer questions about his crime during a psychiatric evaluation did not violate the self-incrimination clause of the Fifth Amendment. (See 957 F.2d 978 [2nd Cir. 1992]).

Freedom of Speech

Chronicle Publishing Co. v. Rison, United States Court of Appeals for the Ninth Circuit, 962 F.2d 959 (1992), *cert. denied*, ___U.S. ___.

The Ninth Circuit Court of Appeals dismissed a petition for rehearing in the case and denied a petition for rehearing *en banc*. The court upheld Bureau of Prison regulations, finding that an inmate's constitutional rights were not violated when he was prohibited from writing news articles for the San Francisco *Chronicle* under a byline and from receiving compensation for the articles. The district court held that although prisoners have First Amendment rights, the Bureau can restrict these rights when they conflict with genuine concern for prison security. This order effectively concluded the case; however, prosecutors petitioned the U.S. Supreme Court for a writ of certiorari. The Court denied this petition, supporting current Bureau policy.

Sexually Explicit Reading Material

Dawson v. Scurr, DOC Nos. 91-3755, 92-3778, United States Court of Appeals for the Eighth Circuit (1992).

The court ruled that Iowa prison officials have a legitimate interest in limiting inmates' access to sexually explicit reading material. The court upheld controlled reading rooms and ruled that only inmates who have been screened and found psychologically fit may review such material and only under certain restrictions of time, place, and manner.

Litigation, continued

Conditions of Confinement

Butler v. Hunt, Civil Action No. 87-11-0058-N, United States District Court for the Middle District of Alabama.

This class action lawsuit challenged the conditions of confinement in the segregation unit at the Kilby Correctional Facility in Alabama. Several years of litigation resulted in a settlement in which the DOC agreed to hire a consultant to review the conditions. After receiving the recommendations, the DOC is free to make an objection based on lack of funds or on the fact that the recommendation is not constitutionally required. In return, plaintiffs have agreed to waive all damages, costs, and attorneys' fees.

Costello v. Singletary, United States District Court for the Middle District of Florida (1993).

In a March 1993 final hearing, the court dismissed this twenty-one-year-old class action covering all inmates in the custody of the Florida DOC. Any future complaints concerning medical issues or crowding will not be decided under the umbrella of *Costello* but would require the initiation of a new lawsuit. The DOC respondent noted, "Such a dismissal in institutional reform litigation is rare and significant. While most, if not all, states have been involved in institutional reform litigation concerning their prison systems over the past decade, Florida is the first and only state to have its prison case dismissed. For a state to extricate itself from consent decrees such as those entered in *Costello*, the state must demonstrate that it is in substantial compliance with those agreements and that there is a substantial likelihood of continued compliance with the standards achieved through consent, in the absence of the court and plaintiffs' counsel. It is this latter requirement that has prevented closure of most institutional reform litigation. The key to dismissal in *Costello* was the creation of a viable state entity, the Correctional Medical Authority, to monitor the delivery of prison health care. The CMA, in demonstrating its ability to monitor the delivery of health care, has satisfied the requirement of 'substantial likelihood of continued compliance' and, thus, provided the mechanism for ending the health care aspect of the *Costello* case."

Rose v. Nix, Case No. 1992-4-90-70017, United States District Court for the Southern District of Iowa.

In a case brought against the Iowa DOC, the court ruled that, to rise to a constitutional concern, a conditions suit must consider more than overcrowding; services such as food, medical services, and safety must also be considered and found wanting.

Trade Secret Protection for Inmates

Lariscey v. United States, United States Court of Appeals for the Federal Circuit (1992).

The Court of Appeals in 1991 reversed a grant of summary judgment by the U.S. Claims Court that held that former Bureau of Prisons inmate Lariscey failed to show that he retained a protectable trade secret for an invention which he claimed he created while incarcerated. The circuit court held that Lariscey retained a trade secret for the invention, which was taken by UNICOR without just compensation in violation of the Fifth Amendment, and that there was no "shop right" in favor of the government to use the invention. Following the 1991 reversal of this finding on appeal, the government petitioned the Federal Circuit for a rehearing of the case *en banc*. The Federal Circuit granted this petition and in December 1992 vacated its original opinion. Lariscey's petition for a rehearing *en banc* was subsequently denied. This decision is important to UNICOR and the Bureau, as it precludes inmates from receiving trade secret protection for inventions they conceive and produce while incarcerated.

Medical Care

Eng v. Coughlin, United States District Court for the Western District of New York.

In October 1992 the court approved a settlement agreement, dismissing the portion of the *Eng* complaint that addressed medical issues in the special housing unit at Attica Correctional Facility in New York. The agreement settles the medical claims in this twelve-year-old case; other claims are pending.

Muhammad v. U.S. Bureau of Prisons, Civil Action No. 91-3244, United States Circuit Court for the District of Columbia (April 30, 1992).

An inmate challenged the Bureau of Prisons' AIDS policy, which specifies that an inmate may be segregated "when there is reliable evidence that the inmate may engage in conduct posing a health risk to another person." The court upheld the policy, noting that it is consistent with the general medical understanding that AIDS is not spread through casual contact.

Equal Protection

Fiandaca v. Cunningham, Case No. 83-400-L, United States District Court for the District of New Hampshire. This claim addressed the issue of lack of parity in conditions of confinement in the New Hampshire DOC. Plaintiffs alleged that felony male prisoners were afforded privileges and benefits not given to felony female prisoners. While legal proceedings were pending, the DOC established a prison for women, thus rendering this legal action moot.

Canterino v. Wilson, United States District Court for the Western District of Kentucky, 546 F. Supp. 174 (1982). This case was set aside by agreement of the parties for full compliance, and an order was entered by the court. The case involved findings by the federal court that the conditions of confinement in the Kentucky DOC, in terms of housing and access to work and training programs, violated the Equal Protection Clause of the Constitution. The DOC's full compliance with remedies eliminates federal court supervision over the women's institution.

Fair Labor Standards Act

Henthorn v. Department of the Navy, United States District Court for the District of Columbia (1992). An inmate housed at the Federal Prison Camp, Millington, Tennessee, sought minimum wage compensation under the FLSA for maintenance labor he performed on the grounds of the U.S. Naval Air Station Memphis, in Millington. The court dismissed the case, ruling that the plaintiff is not an "employee" as that term is defined by the FLSA.

Brinkman v. Department of Corrections of the State of Kansas, Case No. 93-3019, United States District Court for the District of Kansas, 804 F. Supp. 163, *motion denied*, 815 F. Supp. 407.

An appeal of the Kansas DOC to the Tenth Circuit was denied, leaving intact a district court decision awarding overtime compensation to a group of corrections officers who alleged they had not received bona fide meal periods under the FLSA. Issues raised involved the Tenth and Eleventh Amendments. The DOC had used thirty-minute periods to offset attendance at pre-shift roll call and end-of-shift relief briefings. As a result of the verdict in this case at the trial level, the DOC discontinued the meal periods as well as the pre- and post-shift time.

McMaster v. Pung, United States District Court for the District of Minnesota.

This class action was suit brought by current and former inmates in various Minnesota correctional facilities. Plaintiffs alleged that defendants violated their constitutional and statutory rights by failing to pay inmates minimum or prevailing wages for work performed in prison industries and by punishing inmates who refused to work by depriving them of good time. The court dismissed five of the six counts and granted summary judgment for the defendants for the other.

TOPICAL SURVEY: Americans with Disabilities Act

Information on how state corrections agencies are responding to the Americans with Disabilities Act (ADA) was received from forty-three state agencies plus the District of Columbia, a total of forty-four DOCs. The NIC Information Center has received copies of a number of states' plans for ADA compliance and, based on survey results, has compiled a list of coordinators for ADA in the DOCs. Persons interested in either should contact the Information Center.

Impact of the Act

As Table I shows, twenty-six of the respondents anticipate that the Americans with Disabilities Act will have a substantial impact on their agencies. Nine respondents do not believe the ADA will have a substantial impact on their agencies, and nine others are not sure of the potential impact.

Extent of Compliance

Table I also indicates the extent of agencies' compliance with the ADA. Twenty-nine state corrections agencies have developed plans to achieve compliance with the ADA; another eight agencies are in the process of developing such plans. Seven respondents indicated that their agencies have not developed a plan.

- **Compliance with ADA Hiring Regulations**— Title I of the ADA addresses employee issues. Thirty-five of the forty-four survey respondents indicated that their agencies are in compliance with Title I in terms of employee hiring practices. Two agencies are not in compliance, six respondents indicated that they do not know if the DOC complies with this aspect of the ADA, and one respondent indicated that the question was not applicable to the agency.
- **Compliance with ADA Building Guidelines**— Survey results indicate that forty agencies are complying with ADA building guidelines when

building new facilities or remodeling existing facilities. Two respondents indicated that they didn't know if their agencies were in compliance with ADA building guidelines; two indicated that the question was not applicable.

Lawsuits Resulting from the ADA

Respondents from nine states (Alabama, Arizona, Connecticut, Florida, Indiana, Kentucky, Massachusetts, New York, and North Carolina) indicated that their agencies are involved in lawsuits, claims, or issues related to the ADA. As of mid-April, only one of these cases, *Capitano v. State of Arizona*, had been decided. Although that case was filed under the Rehabilitation Act, the Pima County Superior Court judge applied the ADA in deciding the case in favor of the plaintiff. The Illinois DOC has not been involved in any ADA lawsuits, but the agency has responded to several related complaints involving, among other matters, access of a wheelchair visitor to one facility and the access of a hearing-impaired inmate to programs, services, and activities.

Training

All but two DOC respondents indicated that someone in the agency has received some training on the implications and ramifications of the Act.

Agencies were also surveyed on their training needs related to ADA. Respondents expressed interest in receiving additional training on a wide range of ADA-related topics. Mentioned most frequently were: Title I issues; definitions of "reasonable accommodation"; and information on innovative approaches developed by other DOCs to accommodate disabilities.

NIC is currently planning to provide training on the ADA to corrections personnel; all responses to this survey are being considered during NIC's planning process.

Table I. DOC Responses to the Americans with Disabilities Act

	DOC Anticipates Substantial Impact			DOC Has Compliance Plan		DOC Hiring Practices Are in Compliance			DOC's Current Construction Is in Compliance		
	Yes	No	Don't know	Yes	No	Yes	No	Don't know	Yes	No	Don't know
Alabama		✓		✓		✓			✓		
Alaska (No response)											
Arizona	✓			✓		✓			✓		
Arkansas			✓	✓		✓			✓		
California	✓			In process				✓	✓		
Colorado	✓			✓		✓			✓		
Connecticut	✓			✓		✓			✓		
Delaware	✓				✓	✓				N/A	
District of Columbia	✓			✓				✓			✓
Florida	✓			In process		✓			✓		
Georgia	✓				✓		✓		✓		
Hawaii			✓	✓		✓			✓		
Idaho		✓			✓	✓			✓		
Illinois			✓	✓				✓	✓		
Indiana	✓			✓		✓			✓		
Iowa	✓			In process		✓			✓		
Kansas	✓			✓		✓			✓		
Kentucky			✓	✓		✓			✓		
Louisiana			✓	✓		✓			✓		
Maine (No response)											
Maryland (No response)											
Massachusetts	✓			✓				✓			✓
Michigan	✓			✓		✓			✓		
Minnesota	✓			✓		✓			✓		
Mississippi	✓			✓				✓	✓		
Missouri		✓			✓	✓			✓		
Montana	✓			✓		✓			✓		
Nebraska	✓			✓		✓			✓		
Nevada (No response)											
New Hampshire	✓				✓	✓			✓		
New Jersey			✓		✓	✓			✓		
New Mexico	✓			✓		✓			✓		
New York		✓		In process		✓			✓		
North Carolina	✓			In process		✓			✓		
North Dakota	✓			✓		✓			✓		
Ohio (No response)											
Oklahoma			✓	In process		✓			✓		
Oregon			✓	✓		✓			✓		
Pennsylvania		✓		✓		✓			✓		
Rhode Island		✓		✓			N/A			N/A	
South Carolina	✓			✓		✓			✓		
South Dakota		✓		✓		✓			✓		
Tennessee		✓		In process			✓		✓		
Texas	✓			✓		✓			✓		
Utah (No response)											
Vermont			✓	✓		✓			✓		
Virginia	✓			✓		✓			✓		
Washington		✓		✓		✓			✓		
West Virginia	✓				✓			✓	✓		
Wisconsin	✓			In process		✓			✓		
Wyoming (No response)											
Bureau of Prisons *											
TOTALS	26	9	9	29	7	35	2	6	40	0	2

* The BOP declined to respond, pending completion and review of an ADA task force report.

AIDS INFORMATION

Education

Arizona DOC health services conducted an extensive two-day seminar on HIV/AIDS in the correctional setting. Phoenix Shanti Group, a nonprofit, full-service facility for persons with HIV disease, coordinated the seminar, which was attended by more than 100 health care professionals.

The American Red Cross has initiated an AIDS education program in South Carolina for participants in a shock incarceration program.

An AIDS information video continues to be used as part of the Pennsylvania DOC's inmate classification process.

The Correctional Service of Canada has initiated a project to educate inmates on HIV/AIDS. Educational materials, including pamphlets and videos relevant to inmates, are being developed.

In Puerto Rico, the Administration of Corrections and pediatric AIDS personnel have developed a ten-session training seminar on AIDS.

The Bureau of Prisons Health Services Division has revised its AIDS program guidelines to allow BOP institutions to develop AIDS educational curricula specific to the needs of inmates at each facility.

Testing

The Connecticut Department of Correction, in conjunction with the Yale School of Medicine, conducted a women's HIV cohort study focusing on risk factors, natural history studies, and utilization of medical/mental health resources. The study found a direct relationship between compliance with AZT therapy and the utilization of health services.

In conjunction with the Department of Public Health, three Massachusetts DOC facilities participated in a

blind sero-prevalence study to estimate the percentage of inmates who would test HIV positive. The results indicated that approximately 8 percent of the total population would test HIV positive.

Task Forces

The Correctional Service of Canada has established an Expert Committee on AIDS and Prisons (ECAP), a four-member advisory panel with expertise in both AIDS and corrections.

The Wisconsin DOC AIDS Task Force completed its final report in October 1992. The report included recommendations on single celling, work restrictions, education and training of both staff and inmates, medical appointment escorts, and compassionate release. The DOC is also reviewing OSHA's Standards on Universal Precautions, which are being adopted by the state's Department on Industry, Labor and Human Relations.

An AIDS task force is being formed at the direction of the Massachusetts Executive Office of Public Safety. Its purpose is to research current medical practices and make recommendations to the DOC health services division.

Treatment

The Massachusetts DOC is reviewing the possibility of allowing terminally ill inmates access to certain clinical drug trials.

The Bureau of Prisons has adopted all health care practices regarding bloodborne pathogens consistent with OSHA standards. The BOP has educated all staff about bloodborne pathogens and made vaccinations for hepatitis B available to staff.

The New York DOC has fully implemented OSHA standards for dealing with bloodborne pathogens.

ADDITIONAL HIGHLIGHTS

Facilities

Federal Correctional Complexes (FCCs), an important organizational concept for the **Bureau of Prisons**, came on line during 1992. FCCs include several institutions of different security levels on a common site, enabling them to share utilities and administrative services, and an inmate labor pool. FCCs will also increase career opportunities for spouses who are both employed by the Bureau and avoid the disruption of moving families to other BOP locations.

To increase cost-effectiveness, the **Oregon DOC** closed two small, aging correctional facilities, the Parole Violators Prison and the Women's Release Unit, and moved these programs to larger prisons.

The **Texas DOC** opened two 2,250-bed prototype units and four 1,000-bed prototype units.

In a special session, the **Alabama** legislature provided additional funding to reopen an institution that had been closed in April for budgetary reasons.

Prison Crowding

The governor of **Rhode Island** established a commission charged with formulating cost-effective mechanisms to prevent the prison population from exceeding system capacity. The commission will focus on: 1) intermediate punishments, 2) a coordinated criminal justice system that will include a mechanism to monitor and respond to prison crowding, and 3) the possible termination of a federal court order.

Training on Gangs

The **South Dakota DOC** is using a new statewide telecommunication system to provide training on gangs. The training program, which is transmitted simultaneously to six sites, focuses on gang problems specific to South Dakota.

Community Corrections

Iowa's DOC has completed construction on two intermediate sanctions facilities for violators, a 100-bed facility for men and a 60-bed facility for women. The program requires confinement of up to sixty days for probation, parole, and work release offenders who have violated their conditions of supervised release and would otherwise be revoked to prison. The highly structured program is designed to address the deficiencies in cognitive skills that are at the root of anti-social behaviors and recidivism. Treatment for substance abuse addiction will also be provided.

The **Kentucky DOC** has awarded Community Corrections Act funding for three projects. A total of \$300,000 is available during this biennium.

Boot Camps

Kentucky received a federal grant to operate a boot camp program for male and female non-violent offenders. The 120-day program will include a rigorous regimen, substance abuse counseling, education, and participation in work projects. The DOC will provide services to program graduates through a community phase of the program.

Massachusetts has opened its first boot camp, which introduces younger, non-violent offenders to a strict regimen of work assignments and military discipline. Personnel from the DOC and county sheriffs' departments are working cooperatively on the program.

The **Bureau of Prisons** opened its first Intensive Confinement Center (ICC) for women offenders at the Federal Prison Camp, Bryan, Texas, in July 1992. The ICC program is the Bureau's adaptation of the boot camp concept. Inmates who successfully complete the six-month program will be permitted to serve the remainder of their sentences in community-based correctional facilities until they become eligible for pre-release programming.

Additional Highlights, continued

Tuberculosis

New York has developed an infection control unit with twenty-two staff to work primarily on controlling TB and hepatitis B.

The **Bureau of Prisons** continues to participate in CDC's Multidrug-Resistant Tuberculosis Task Force and to assist CDC in developing guidelines for the management and control of multidrug-resistant TB in correctional facilities.

The **Louisiana DOC** has begun annual TB testing of all staff and inmates.

The **Connecticut DOC** surveyed the total incarcerated inmate population to determine how many inmates had positive TB skin tests and to gather patient information relating to treatment, follow-up demographic statistics, and compliance with CDC-recommended guidelines for TB screening in correctional facilities.

Programs

The **Delaware DOC** institutions held a series of educational fairs to raise offenders' awareness and to increase enrollment in education programs.

Volunteers

The **Bureau of Prisons** established a National Office of Citizen Participation to help expand the role of volunteerism with the BOP. A priority for the office will be to develop new programs and initiatives that will provide a support network for released inmates who are attempting to reintegrate into the community and remain crime-free.

Health Care

The **Louisiana DOC** is developing plans to reorganize medical and mental health services delivery by decentralizing some operations at the Louisiana State Penitentiary and centralizing intensive medical care at two other prisons. The department has also begun negotiations with a local hospital district to construct 250 secure beds to house juveniles who have serious substance abuse problems.

Parole Boards

South Carolina increased the size of its parole board from three to six members.

Michigan removed its parole board from the civil service system and increased the size of the board from seven to ten members.

South Dakota expanded its parole board from three to six members.

NIC PRISONS DIVISION UPDATE

By Anna Z. Thompson, NIC Prisons Division
Correctional Program Specialist

Projects

The Prisons Division has funded a Fiscal Year 1993 initiative entitled, "Strategies for Effective Communication on Correctional Policy." The initiative builds on the process begun with a FY 92 communications audit project involving three state DOCs. (See discussion under Publications.) Technical assistance and small grants have been made available to assist states in developing effective strategies for communicating with the public, elected officials, legislatures, the judiciary, and other stakeholders or constituents. Interest has been significant enough to warrant an ongoing effort in the area of internal and external communications: more than thirty states asked to participate in the initial audits, and another five expressed interest in participating in future efforts. NIC will award a grant in FY 94 for review and reporting on the status of the strategic communications plans implemented in the original three DOCs. The grantee will also conduct communications audits in up to three additional DOCs and assess the most effective methods for developing and implementing communications and marketing strategies in state correctional agencies.

In May 1993, the Prisons Division awarded funds through a cooperative agreement to K-Ran Design, Inc., to develop a curriculum for a five-day program of executive training for women in corrections. The project's goal is to enhance the ability of women to achieve executive-level positions in state DOCs. The program will focus on cultivating executive skills applicable to public sector leadership and developing effective methods for overcoming the barriers to advancement faced by women in corrections. Initial delivery of the program to women in correctional management positions is planned for FY 94. For further information, contact Alethea Taylor Camp, NIC Prisons Division, at (800) 995-NIC-E, ext. 140.

Publications

Evaluation Study: Internal Management and Operations Review System. Through a 1991 NIC grant, the Center of Corrections Professional Development at California State University has developed a guide for correctional administrators in internal management and operations review. Chapters review the literature, summarize auditing and program review concepts, discuss the structure of performance reviews, present model program review/audit systems, and explore the role of management information systems. The study will be available in October through the NIC Information Center, (800) 995-NIC-W. For further information, contact John Moore at (800) 995-NIC-E.

Communications Audits: Promoting Public Understanding of Corrections. Carter Goble Associates Consulting Services, Inc., received an FY 92 grant to develop a process for conducting communications audits that was then used in the Florida, Rhode Island, and California DOCs. The grantee assessed each department's communications needs and goals, reviewed existing formal and informal communications processes, helped each agency identify its communications goals and strategies, and assisted each in developing a strategic communications plan. A monograph on the audit process and its use in the three model states will be distributed to DOCs early in calendar year 1994. For additional information, contact Dan Russell at (800) 995-NIC-E, ext. 141.

Personnel Changes

Ella J. Colley, formerly Correctional Program Specialist for correctional industries and educational and vocational programming for inmates, returned to the Federal Bureau of Prisons in June to assume the duties of Special Assistant to the Warden at FCI-Terminal Island, California. Ella brought to the Prisons Division seventeen years' experience in the Bureau, where she held positions as teacher, education specialist, and principal.

RECOMMENDED READING

The following materials were selected from among documents recently cataloged into the NIC Information Center's Robert J. Kutak Library. Many were produced by or for state DOCs. Individual copies of these titles may be obtained by calling the NIC Information Center at (800) 877-1461 or sending your request to 1860 Industrial Circle, Suite A, Longmont, Colorado, 80501.

Administrative Overview of the Older Inmate.

Morton, Joann B. Sponsored by National Institute of Corrections (Washington, DC), 1992. 36 p.

To help correctional administrators meet the needs of an increasing number of older inmates, this document explores primary policy and programmatic issues relevant to this population. It provides a brief overview of existing literature, describes current special unit programs designed for older inmates, and provides an extensive list of resources available for those focusing their efforts on these inmates.

Backtime Decision Making for Technical and Convicted Parole Violators: September 1990 thru August 1991.

Pennsylvania Board of Probation and Parole (Harrisburg, PA), 1992. 24 p.

Policy modifications implemented in 1990 were intended to impact parole violators' effects on prison overcrowding. This study finds that those modifications are saving Pennsylvania millions of dollars in reduced prison time.

Bloodborne Disease Pathogens Standard: Exposure Control Plan.

Michigan Dept. of Corrections (Lansing, MI), 1992. 47 p.

In accordance with Occupational Safety and Health Administration (OSHA) Standards, this Exposure Control Plan (ECP) defines tasks, procedures, and job classifications for areas where occupational exposure to blood occurs. Additionally, the ECP outlines a schedule for implementing other provisions of the OSHA standard and specifies the procedures for evaluating exposure incidents.

Community Sanctions Evaluation Project: Final Report.

Phelan, Lynn; Brown, Lynn; Friel, Charles. Sam Houston State University. Criminal Justice Center (Huntsville, TX), 1992. Sponsored by National Institute of Corrections (Washington, DC) 61 p.

This project was developed to measure the cost/benefit of applying community sanctions to parolees with drug and alcohol restrictions who were in danger of having their parole revoked. Findings indicate significant financial and prison bed space savings by placing the parolees in community corrections programs.

Corrections in Wisconsin: A Response to the Wisconsin Policy Research Institute Reports, "Parole in Wisconsin," "Probation in Wisconsin."

Below, Patricia; King, Kathy; Lind, Lloyd; Rankin, Bill. Wisconsin Dept. of Corrections. Division of Probation and Parole (Madison, WI), 1992. 24 p.

Findings of a review of two reports published by the Wisconsin Policy Research Institute are summarized. This report evaluates both reports, discusses Wisconsin's balanced approach in applying a broad array of sentencing options and correctional programs, and examines the resources needed to effectively operate Wisconsin's system.

Diversions Effectiveness of Community Alternative Programs.

Whitehead, John T.; Miller, Larry S.; Myers, Laura B. Tennessee Dept. of Correction (Nashville, TN); East Tennessee State University. Dept. of Criminal Justice and Criminology (Johnson City, TN), 1992. Sponsored by National Institute of Corrections (Washington, DC) 53 p.

Two programs (Community Corrections and Intensive Probation Supervision) implemented by the DOC to divert some felony offenders from incarceration are evaluated. A number of legal and social variables, such as custody status, drug problems, prior record variables and offense severity are explored.

Findings and Recommendations from California's Experimental Treatment Program.

Marques, Janice K.; Day, David M.; Nelson, Craig; West, Mary Ann. California State Dept. of Mental Health (Sacramento, CA), 1992. Sponsored by National Institute of Mental Health (Rockville, MD) 19 p.

An article on California's Sex Offenders Treatment and Evaluation Project (SOTEP) describes the four phases of the program, outlines evaluation procedures for SOTEP, examines general trends in sex offender treatment, and provides recommendations for the evaluation of sex offender treatment programs. Following a description of the four phases of SOTEP (selection, treatment, aftercare, and follow-up) the report summarizes rearrest statistics for program participants.

Handbook for Evaluating Objective Prison Classification Systems.

Alexander, Jack; Austin, James. National Council on Crime and Delinquency (San Francisco, CA), 1992. Sponsored by National Institute of Corrections (Washington, DC) 98 p.

Developed to provide correctional professionals with a tool for more effectively and efficiently managing their departments, this document presents a critical review of issues relevant to the evaluation of correctional classification systems. Topics covered include: standards for conducting classification evaluations, impact evaluation and validation goals, evaluation questions, designs, and methods; and data collection techniques.

In the Decade of the Child: Addicted Mothers, Imprisonment and Alternatives.

Murphy, Jim; Johnson, Nancy; Edwards, Wanda. New York State Coalition for Criminal Justice. Center for Justice Education (Albany, NY), 1992. Sponsored by Daniel and Florence Guggenheim Foundation (New York, NY) 41 p.

This report analyzes the social and economic context of substance abuse and responses to it, with particular reference to addicted mothers. The analysis examines drug and alcohol abuse, treatment

and aftercare, and special concerns regarding women, addiction, and imprisonment. The authors review programs both inside and outside of the prison system and evaluate how each program succeeds or fails in meeting the needs of addicted women with children and addicted pregnant mothers. These programs include Partridge House, Arms Acres, Riker's Island, Lincoln Hospital Clinic, and Catholic Family Center's Liberty Manor.

Incarceration and Crime: Facing Fiscal Realities in Pennsylvania.

Steffensmeier, Darrell J. Pennsylvania State University. Center for the Study of Law and Society (University Park, PA), 1992. Sponsored by Pennsylvania Commission on Sentencing (State College, PA) 11 p.

The Commission on Sentencing was created to develop sentencing guidelines to reduce disparity and increase severity of sentences. This report assesses the effectiveness of the guidelines system and suggests that increasing incarceration levels has not reduced violent crime rates, rather, they have been rising in recent years. Also, incarceration rates for property offenders have increased even faster. These results challenge the Commission to reconsider its present policy and develop a more effective policy for the 1990's.

Ohio Quality Corrections: A Plan to Implement Total Quality in the Ohio Department of Rehabilitation and Correction.

Ohio Dept. of Rehabilitation and Correction (Columbus, OH), 1992?. 20 p.

Ohio's Quality Corrections (OQC) plan describes efforts to change the agency's organizational culture by implementing quality management. Objectives include expanding the agency's focus from the short term to include long-term goal-setting, and moving toward a more process-oriented and customer-driven philosophy. The plan describes the OQC organization and teams, outlining each team's responsibilities.

Recommended Reading, continued

Risk Classification and Needs Assessment of Female Inmates in Idaho Correctional Facilities: A Report and Recommendations to the Idaho Department of Corrections.

Robinson, Robin A.; Gilfus, Mary E. Idaho Dept. of Corrections (Boise, ID), 1991. 54 p.

After reviewing the Idaho classification system for women inmates, this study proposes redesigning the classification system to better reflect the needs of women inmates. The study presents research on female crime, typology of women offenders, as well as a profile of incarcerated women in Idaho. Recommendations specify interim programming, policy reform, and proposed risk classification and needs assessment forms.

Sentencing Guidelines and the Management of the Prison Population: An Executive Summary of Events and Policy Choices.

Florida. Legislature. Senate. Committee on Corrections, Probation and Parole (Tallahassee, FL), 1993. 12 p.

This document presents a summary of the evolution of Florida's sentencing guidelines and their subsequent results. The committee suggests policy options and forecasts the results of addressing the problems of gridlock, sentencing disparity, public safety risks, and lack of sentencing integrity.

STARS/Shelterhouse Project.

Huffman, Terri. Florence Crane Women's Facility (Coldwater, MI); Michigan Dept. of Corrections (Lansing, MI), 1993. 5 p.

Designed to meet the needs of incarcerated women experiencing problems in the areas of chemical dependency, and domestic and sexual violence, this program has shown success with first-time offenders. Using a dual team approach, the program provides on-going group therapy, support, and weekly individual counseling. This report outlines the phases of the program and the group agendas.

Task Force on Field Services Consolidation: Report to the Legislature.

Kansas Sentencing Commission. Task Force on Field Services Consolidation (Topeka, KS), 1992. 121 p.

The Task Force voted unanimously for consolidation of field services in Kansas under a new field services agency rather than the Department of Corrections. This consolidation of field services applies only to adult offenders; juvenile issues need further study. Appendices include: field services maps, flow charts, workload time study, current staffing requirements, and services questionnaire.

Uniform Victims of Crime Act.

National Conference of Commissioners on Uniform State Laws (Chicago, IL), 1992. 70 p.

Model legislation consolidates aspects of victims' rights protection, compensation, and reparation in a single bill recommended for enactment in the states. Articles address definitions, duties and powers of agencies designated to protect victims' rights and administer compensation programs, and court procedures for determining and imposing restitution. The document was developed through extensive collaboration with the American Bar Association, the U.S. Dept. of Justice and nationally prominent crime victims' organizations.

The Use of Prison Inmates: Interim Report to the 1991 General Assembly of North Carolina, 1992 Session.

North Carolina Legislative Research Commission. Committee on the Use of Prison Inmates (Raleigh, NC), 1992. 34 p.

Recommendations include establishing with a private corporation a commercial enterprise to provide employment for inmates in meaningful jobs for wages, examining the feasibility of instituting a self-motivation course in the state prison system, allowing counties to require prisoners in local facilities to work on the public streets, public highways or public works, and establishing a plan for increasing the use of inmate labor in prison construction and maintenance projects.