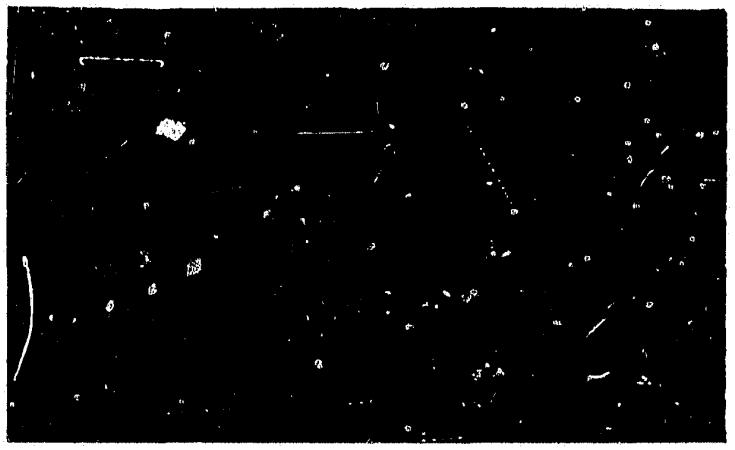
OREGON CORRECTIONS



MASTER PLAN

OREGON
CORRECTIONS
MASTER PLAN

Governor's Task Force on Corrections
December, 1976

EDWARD J. SULLIVAN
LEGAL COUNSEL
TO THE GOVERNOR
378-3130

ROBERT W. STRAUB
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
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Corrections programs, whether operated by local or state government, are seldom designated as high priorities for public funding or policy analysis except during crisis periods. Thus, Governor Robert Straub showed foresight in appointing a Task Force on Corrections not only to study the immediate ramifications of institutional overcrowding, but also to develop recommendations for the future of Oregon's correctional system. This *Corrections Master Plan* contains the priority Task Force recommendations formulated as a long-range policy plan for the development of additional corrections programs and facilities in Oregon.

The 11 Task Force members appointed by Governor Straub included two State Senators, two State Representatives, a Circuit Court Judge, a District Court Judge, the Administrator of the Corrections Division, an A.F.S.C.M.E. labor union representative, the Director of the Multnomah County Justice Services Department, and the chairperson of the Oregon State Parole Board, with the Governor's Legal Counsel chairing the Task Force. The members divided into three Subcommittees to study the initial criminal justice process from apprehension to sentencing, institutional programs and facilities, and the community supervision components of the criminal justice system. Subcommittee deliberations, research, and development of position papers were assisted by 16 Associate Members selected from law enforcement, mental health, legal, higher education, and other professions involved with the corrections system. Over 100 specific recommendations were formally adopted by the full Task Force and published in the final *Report of the Governor's Task Force on Corrections* in October, 1976.

The amount of needed corrections supervision results from many diverse factors, such as public attitudes toward crime, social and economic conditions, and the availability of weapons, as well as from decisions consciously made by law enforcement officers, courts, and other criminal justice agencies. Within the limited time allowed, the Governor's Task Force on Corrections could not study all interrelated facets of the criminal justice system. In focusing upon the adult corrections system, the Task Force did not study to any great degree the juvenile justice system nor the specific problems of alcohol and drug abuse as contributing factors in criminal behavior. These topics are currently being studied by other groups.

The system study and planning efforts of the Governor's Task Force on Corrections were made possible by a grant from the Law Enforcement Assistance Administration to the Oregon Law Enforcement Council.

Edward J. Sullivan, Chairman
Governor's Task Force on Corrections

GOVERNOR'S TASK FORCE ON CORRECTIONS

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Senator
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Vera Katz
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Oregon Legislature

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Oregon State Parole Board

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Janet Ashman of the Children's Serivces Division prepared the cover design and Figures for the Master Plan document.

State of Oregon

OFFICE OF THE GOVERNOR

Remarks by Keith Burns,
Executive Assistant

Tuesday, October 14, 1975
Governor's Ceremonial Office

GOVERNOR BOB STRAUB'S CHARGE TO THE TASK FORCE ON CORRECTIONS

On behalf of Governor Straub, I welcome all of you here today. To the members of the Governor's Task Force On Corrections, I extend a very personal welcome from the Governor. Your decision to accept his call to serve in a capacity of immediate concern is of vital importance to all Oregonians.

Your assignment is a difficult one. Solutions will not be easy to find — nor are you likely to find quick consensus in this group or in any cross section of Oregonians today.

The incidence of crime — crimes against property and crimes against persons — continues to climb despite our spending millions of dollars to fight crime . . . millions of dollars to apprehend suspects . . . millions of dollars to provide the fairest criminal justice system in the world . . . millions more to maintain prisons and still more millions for programs to return offenders to society — hopefully, as law-abiding and productive citizens.

Public reaction to a never-ending crime increase — and public frustration with our ability to cope with it — has had a jarring impact throughout our entire criminal justice system.

The result may be the bleak prospect of the corrections pendulum swinging away from enlightened and progressive systems founded on rehabilitation, not punishment or revenge.

Just two or three years ago, corrections emphasis finally shifted beyond prison walls, to community corrections, release programs, and smaller institutional populations.

Now, just as those programs are claiming community acceptance, corrections people are detecting a hardening resistance to those philosophies. Their concern is that the pendulum has started to swing back.

The question is: Can it be stopped?

The evidence of a change of public attitudes is clear: more persons convicted of crimes are going to jail. And they're getting longer jail sentences.

All this places a tremendous burden on the facilities and programs of our corrections system. In Oregon, that burden has reached a potentially critical level.

Almost without exception, every jail, lock-up, detention center and prison facility in Oregon is operating at or beyond designed capacity.

Our parole and probation programs are overloaded. Heavy caseloads demand most of the time and effort that should be spent in counseling, supervision and rehabilitation.

An obvious — and simplistic — response would be to build more prisons to hold more prisoners. Throughout our history, that has *always* been the response.

It has always proven to be the most expensive . . . and, in terms of rehabilitating offenders . . . the *least* effective answer.

New facilities, in the past, have been only interim answers . . . and those answers have never addressed the underlying problems. Those answers appease some . . . delude others . . . and, in the long run, cheat us all.

From the time a new prison is built . . . until its cells are full . . . the "problem" has been removed from the arena of public concern . . . "out of sight, out of mind" . . .

Then, always, a new crisis erupts.

Oregon has never been reluctant to lead the Nation in discovering solutions to problems which affect all Americans. In this instance, we'll *not* find that our sister States, or the Federal Government, have ready answers to these problems.

This country incarcerates its citizens at a rate far greater than any other country in the world. Reversing that process can start here . . . and now.

That is Governor Straub's charge to the members of the Corrections Task Force:

Find ways to reverse that shameful and counter-productive process.

Your research and deliberations over the next year may lead you to conclude that new correction facilities are needed.

Governor Straub wants you to understand that any such alternative must provide program improvement — not just more cells and more bunks.

For example, the conversion of Prigg Cottage to a correction facility will provide a long-needed pre-release center for the Corrections Division and a vastly improved treatment center for Prigg residents at Oregon State Hospital.

This charge from Governor Straub will require you to examine how Oregon's Correctional System developed and the status of that system today.

You must study the facilities and programs in that system.

You must examine other programs and facilities that may have significant impact on the rehabilitation of offenders.

You'll need to study sentencing practices and policies, as well as alternatives to incarceration.

You'll become experts on the intricate and vital interrelationships of the corrections system, our criminal justice system and our social structure.

We want to reduce prison populations in a responsible and constructive manner. You must develop recommendations for the future of our correctional system . . . recommendations which afford maximum public safety and, at the same time, offer the offender every opportunity and incentive for rehabilitation.

This assignment is to be completed in the next calendar year. The recommendations you develop will be considered in the context of Legislation and Budgets to be presented to the 1977 Legislative session.

It will be necessary for you to meet frequently. Some of your meetings will be long and arduous.

If you discover or develop programs that can be implemented in the interim between reporting dates — contact the Governor immediately. Don't wait for your next reporting date.

The Governor recognizes the heavy investment of time he is asking of you and your families. He believes, however, that the immense cost of corrections — in terms of wasted human lives and wasted tax dollars — will make your efforts doubly worthwhile.

Governor Straub has appointed Ed Sullivan, his Legal Counsel, to chair this Task Force. Staff support will be provided by the Oregon Law Enforcement Council, the State Planning Agency.

Between now and September 1, 1976, Governor Straub asks that progress reports be submitted to him, through OLEC, on a quarterly basis. The first draft of the final report of your findings and recommendations is to be submitted before December 1, 1976.

With this charge, Governor Straub trusts that your combined expertise and dedication will produce a superior corrections system for Oregon's future.

He pledges to you from his administration, any and all necessary support which will assist you in the execution of your task.

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INTRODUCTION

INTRODUCTION

In October 1975, Governor Robert Straub appointed a special corrections Task Force to develop guidelines for future corrections system planning in Oregon. Since that time, Task Force members have studied various facets of the existing adult criminal justice system. The major problem areas identified during the investigation were the present and projected overcrowding in state correctional institutions, and the provision of safe and effective alternatives to maximum security incarceration.

In establishing the Task Force, the Governor charged the members with finding "ways to reverse that shameful and counterproductive process" that produces higher rates of incarceration in state corrections facilities. The Task Force felt that increasing the future availability of community-based (field and residential) supervision would provide a reasonable alternative to incarceration. The Governor's Task Force on Corrections is therefore recommending implementation of a community corrections system for provision of correctional services by local jurisdictions or by the state Field Services section.

Community supervision offers the opportunity to utilize available local rehabilitative services as well as development of new resources. Public and private agencies provide a wide array of rehabilitative services including vocational training, basic education, alcohol and drug treatment, residential centers, and counseling for personal, family, and financial difficulties. In addition, community supervision encourages the maintenance of employment, family, and community ties that promote stability and responsibility.

Many other parts of the criminal justice system are locally controlled, but corrections programs are usually considered to be state responsibilities. City police departments and county sheriffs' offices operate as local law enforcement agencies. Judges in Circuit and District Courts are elected by the voters in judicial districts. Correctional responsibilities are divided among state and local agencies. Institutional supervision is provided both in state penitentiaries and work release centers, and also in city and county jails. Similarly, community supervision (parole and probation programs) may be provided by the Field Services section of the State Corrections Division or by local community corrections programs.

Local community involvement in planning and operation of corrections programs is also consistent with currently accepted philosophies of decentralization of government services, revenue sharing, and local responsibility for program administration. A community corrections system, as proposed by the Task Force, means a State/County partnership for the local provision of community supervision (mainly probation and parole services, with some intermediate and secure levels of

custody). State funding will be provided for counties, singly or as a region, that will assume responsibility for provision of corrections services to convicted felons. The counties may use the funds to improve existing corrections programs, to create new ones, or to contract for provision of correctional services. In areas of the State where counties do not choose to participate in community corrections programs, the state Field Services section will develop and implement a plan to provide community supervision.

In addition to the long-range proposal for a new community corrections system, the Task Force recommended many changes and additions to the existing corrections system. Task Force deliberations during the past year produced over 100 recommendations, which are contained in the *Report of the Governor's Task Force on Corrections* (issued in October 1976). Priorities among those recommendations were designated to form the *Corrections Master Plan* for Oregon. An "Executive Summary" of the *Corrections Master Plan* was submitted to Governor Straub in November 1976 as a guide for preparing priority corrections legislation for submission to the 1977-79 State Legislature.

The *Corrections Master Plan* and "Executive Summary" were intended as policy documents. The background data and statistical information upon which the recommendations are based are contained in many other sources: The *Report of the Governor's Task Force on Corrections* (October 1976); the Task Force's *Oregon Criminal Justice System: A Statistical Overview* (April 1976); publications of the Oregon Corrections Division, the Oregon Law Enforcement Council, the Oregon Uniform Crime Reporting System, the Justice Data Analysis Center, and the State Court Administrator; research by the Legislative Interim Committee on the Judiciary, Executive Department Budget Analysts, and Legislative Fiscal Analysts; and testimony and discussion recorded in the minutes of the Task Force meetings and Subcommittee hearings.

The *Corrections Master Plan* is organized in sections that parallel the general "problem-goal-objectives-evaluation" planning format. The "Problem Statement" section describes the present and projected institutional overcrowding which prompted the formation of the Task Force. In the "Goal Statement" section the Task Force states its long-range goal of establishing a community corrections system. Priority program recommendations that serve as objectives for achieving the goal are then explained briefly. Evaluation of the effects of these recommendations will be the responsibility of a Criminal Justice Council, which is described in the section entitled "A System Evaluation Mechanism." The final section, "System Priorities", explains the system priorities established at the October 1976 Task Force meeting. Appended materials include a glossary of terms and definitions, draft legislation to enact the priority recommendations, and a description of the Community Corrections Act Funding Formula.

PROBLEM STATEMENT

PROBLEM STATEMENT Overcrowding in State Correctional Institutions

Corrections in Oregon consists of state and local components that provide both institutional and community supervision. Generally, the State Corrections Division is responsible for convicted felony offenders and local programs are primarily responsible for convicted misdemeanants, but there is not an absolute division of responsibility by type of crime.

Persons are committed to corrections supervision only after flowing through the criminal justice system processes of observation or reporting of criminal behavior, apprehension by law enforcement agencies, court adjudication, and sentencing. Oregon's criminal justice system flow statistics for 1975 are shown in Figure 1. The number of crimes reported exceeds the number of arrests for various reasons: many crimes are never solved; some offenders commit multiple crimes; or some reported crimes may be false. There are fewer felony cases brought to court than there are arrests because many cases are not prosecuted, many of the arrests are for misdemeanor crimes, and many arrests involve juveniles who are subsequently processed in the juvenile justice system. Only a portion of the felony cases result in commitments to state corrections supervision because some cases are plea bargained to misdemeanor offenses, some offenders are adjudged "not guilty" or "not guilty by reason of mental disease or defect", and a few convicted felons are sentenced to county jails or local probation supervision. For these reasons, the Oregon State Corrections Division receives only part of the total flow through the criminal justice system. Any significant change in the activity of another part of the system is likely to produce a significant residual effect upon the corrections system.

The corrections system has little control over the numbers of clients or their length of stay, since sentencing decisions are made by the courts and release decisions by the parole board. The state and local corrections systems in Oregon each have capacities for community and institutional supervision of offenders sentenced to custody. The State Corrections Division operates a statewide Field Services (probation, parole, and work release) program and three centrally located correctional institutions in Salem. The Field Services Section maintains 21 offices in eight Regions throughout the State, staffed by 102 Corrections Counselors who supervise approximately 70% of the total caseload responsibility of the Division. Approximately 12% of the 1975-77 Corrections Division budget was allocated for probation/parole services. The state institutions are currently housing more inmates than their designed capacities. Additional bedspace has been created by conversion of recreational areas into dormitory facilities and by adding second beds in some of the cells designed for single occupancy. Approximately 30% of the total Corrections Division caseload responsibility is currently supervised in state institutional programs. About 80% of the 1975-77 Corrections Division biennial budget was allocated to institutional programs (including work release centers) and institutional construction.

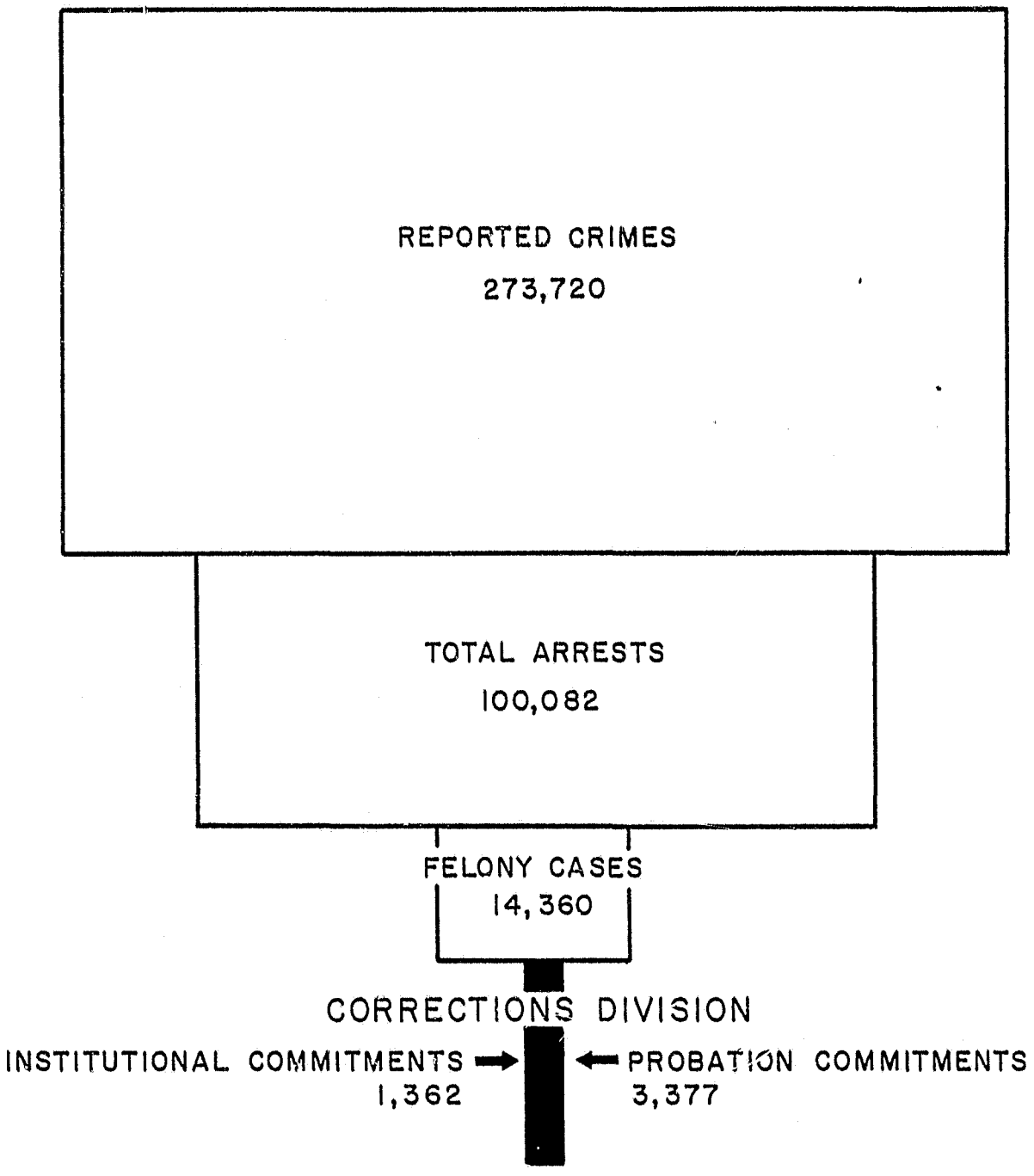
At the local level, 21 Oregon counties have community corrections programs that supervise misdemeanants and some felons placed on probation. Felons may also be incarcerated in county jails for sentences of less than one year or as a condition of probation. There are 39 county jails (including four facilities in Multnomah County) operating in Oregon currently. Many of the prisoners in local jails are awaiting trial, sentencing, or transfer to another facility.

Overcrowding has become a major problem in Oregon's three state institutions — the Oregon State Penitentiary (OSP) for men, the Oregon State Correctional Institution (OSCI) for men, and the Oregon Women's Correctional Center (OWCC). These institutions, together with the Penitentiary Annex, the Forest Camp, nine Work Release Community Centers, the State Hospital Alcohol and Drug Ward, and the contractual use

COMMENTARY AND REACTION

FIGURE I

CRIMINAL JUSTICE SYSTEM FLOW STATISTICS, 1975



SOURCE: OREGON LAW ENFORCEMENT COUNCIL - CORRECTIONS DIVISION

of the Salem City Jail, provide a "preferred" single cell capacity of 2,181 regular and emergency bedspaces. The current "extended" institutional capacity, made possible by double-celling and conversion of office and recreational space to dormitory usage, is 2,770. The actual institutional population count on October 1, 1976, was 2,744. Figure 2 shows actual and projected inmate population compared to available and anticipated bedspace for the period July 1, 1973, to July 1, 1977.

The average daily population for institutions and work release centers has increased approximately 45% since 1973. Other parts of the criminal justice system have also shown increases recently. From 1973 to 1975, the Oregon Index Crime Rate increased approximately 27%. The number of felony cases filed in Oregon Circuit Courts increased more than 28% during the same period. New commitments to state felony institutions increased 43% from 1973 to 1975. Figure 3 shows the increase in numbers in these segments of the criminal justice system in recent years.

The number of persons receiving Field Services (Parole and Probation) supervision was 6,975 on October 1, 1976. Total Corrections Division responsibility at that time included 10,557 persons in institutions, work release programs, parole and probation supervision, and interstate compact agreements. Amended budget allocations for the Division were based upon an anticipated Average Daily Population of 8,877. Though supervision of more people for the same amount of money may produce an impression of fiscal efficiency, program efficiency and effectiveness are probably reduced. Reformation — the goal of the criminal justice system specified by the Oregon Constitution — is hindered when program resources must be devoted primarily to security needs. Within the institutions, overcrowding produces "dead-time" and boredom as program facilities and recreational spaces are converted to bedspace. Continued overcrowding contributes to explosive tensions among inmates and staff.

The Oregon Corrections Division has successfully intervened to reduce repetitive criminal behavior of offenders released during earlier years when services were not over-extended. A three-year follow-up study of 2,389 paroled and discharged offenders revealed that only 27.2% had been returned to Corrections Division supervision for commission of a new crime or violation of parole rules; 72.8% had not been returned. A high percentage of state-supervised probationers successfully complete their sentences either by expiration of their sentences or by early termination from supervision. Of 5,393 state probation cases terminated during 1973-75, 46.5% completed the full sentence of probation, 42.9% were terminated early by the courts, and only 10.6% were revoked for failure to comply with the conditions of probation.

Local jails in Oregon, which house both unsentenced inmates and convicted offenders, have experienced periodic overcrowding (usually on weekends). Many of the jails require physical or programmatic improvement in order to meet the expected standards of safety, security, and services that contribute to public protection and offender rehabilitation.

Present trends indicate that overcrowding of state correctional institutions will continue in the future. Prediction of the numbers of inmates are imprecise due to the many variables involved, such as the amount and severity of criminal behavior, the efficiency of police and prosecutors in moving offenders through the system, and the attitudes of judges and the public that determine sentencing decisions. Historically, a measurable variable that correlates with the institutional population is the size of the "risk population" — those individuals between the ages of 15 and 29. The correlation seems logical as well as mathematical: members of this age group often seem mobile, energetic, rebellious; they suffer high rates of unemployment; most of the inmates in Oregon are in this age group; over half of the arrests for serious felonies in Oregon involve juveniles.

COMMENTARY AND REACTION

FIGURE 2

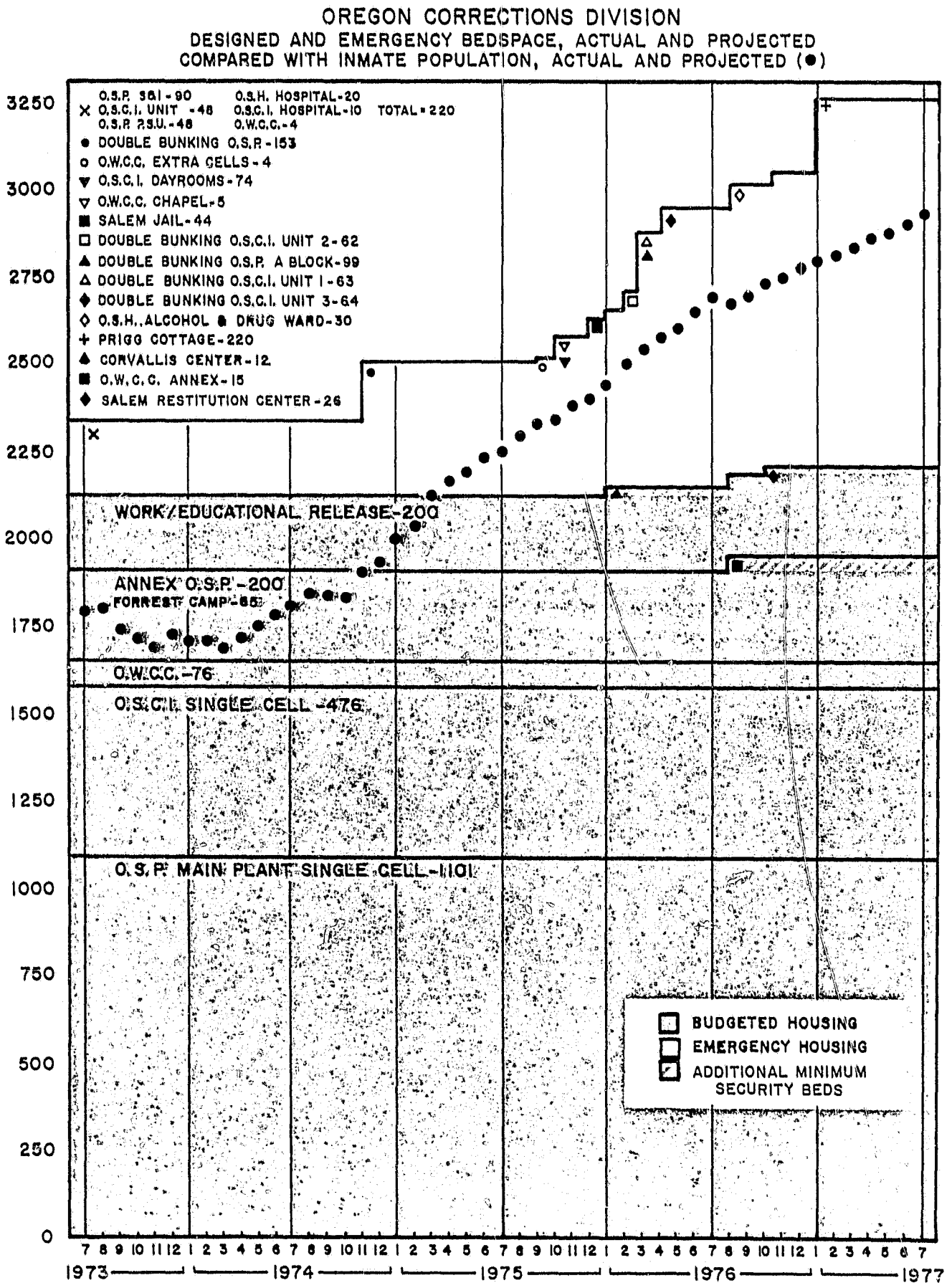


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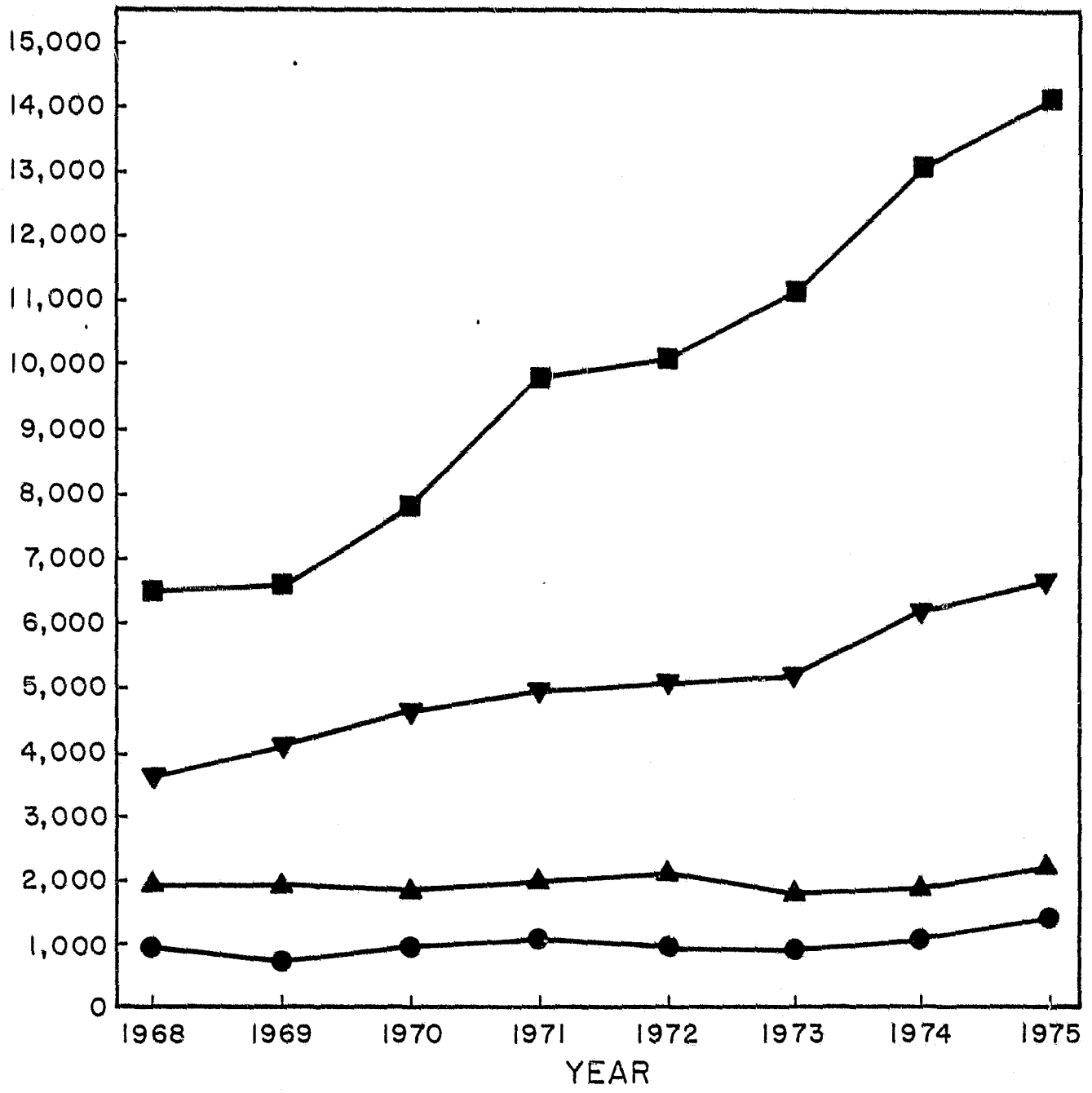
FIGURE 3

INCREASES IN CRIMINAL JUSTICE SYSTEM ACTIVITIES



■ CRIMINAL CASES FILED IN CIRCUIT COURTS - *SOURCE: STATE COURT ADMINISTRATOR*

▼ INDEX CRIME RATES (RATE PER 100,000 POPULATION) - *SOURCE: STATE OF ORE. ANAL. OF CRIMINAL OFFENSES AND ARRESTS FROM JAN. - DEC. 1975*

▲ STATE OF OREGON CORRECTIONS DIVISION INSTITUTIONAL PROGRAMS (AVERAGE DAILY POPULATION) - *SOURCE: CORRECTIONS DIVISION*

● NEW COMMITMENTS TO STATE CORRECTIONAL INSTITUTIONS - *SOURCE: CORR. DIV.*

PROBLEM STATEMENT Overcrowding in State Correctional Institutions

The size of Oregon's risk population has been increasing for several years and is expected to continue to grow until about 1980-81. Figure 4 shows Oregon risk population projections prepared by the Center for Population Research and Census. A Corrections Division projection (based on the risk population projections) estimates 3,233 inmates by July, 1979. This is 858 more than the current preferred single cell capacity, and 463 more than the current extended capacity, for all institutions and work release centers. The January, 1977 availability of 220 Prigg Cottage beds will reduce those discrepancies to 638 and 243, respectively.

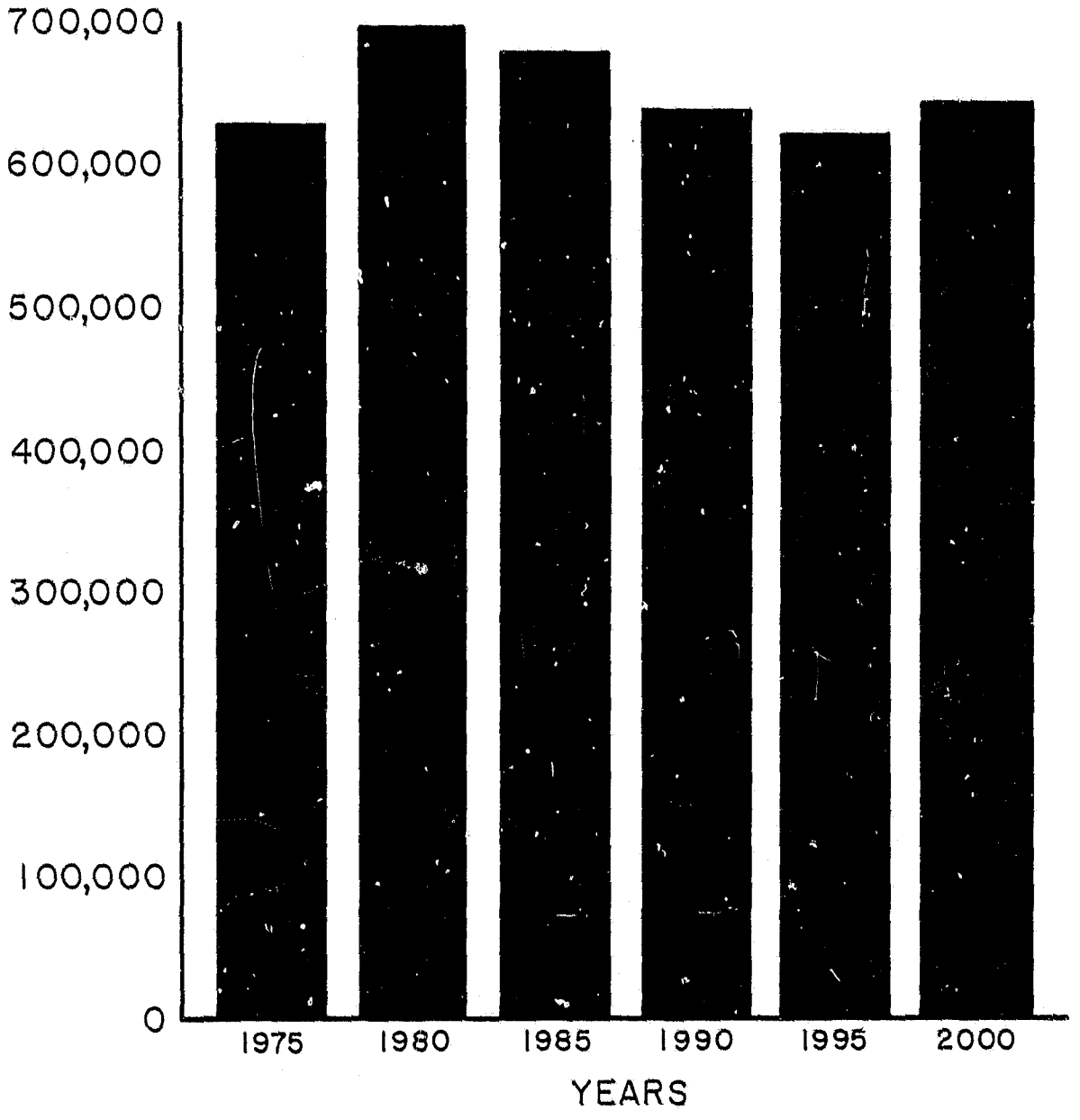
Several factors contribute to the increase in institutional population. The numbers of people coming into corrections supervision has increased, probably due to the amount of criminal behavior, efficiencies of police efforts, and public attitudes demanding prosecution and punishment. In addition to the increase in numbers, the median length of stay has changed. In 1973, the median time served in state institutions prior to release was 16.8 months. By 1975, the median had increased 50% to 25.2 months as shown by Figure 5. The proportions of all new offenders committed for crimes against persons, against property, or against statute has remained relatively constant — approximately 30%, 50%, and 20% respectively, as shown in Figure 6 — for several years, so the increased length of stay does not appear to have resulted from increased crimes of violence. The proportion of new institutional sentences exceeding five years appears to have increased. In 1975, 73.9% of 1,278 new male commitments had sentences of five years or less, 18% had sentences between five and ten years, and 8.1% had sentences exceeding ten years (see Figure 7). During fiscal year 1967-68, the proportions of 844 new male commitments with these sentence lengths were 82.4%, 10.9%, and 6.7% respectively.

Nevertheless it appears that a significant proportion of the institutional population is composed of offenders serving relatively short sentences, most probably for non-assaultive crimes against property or against statute. The Corrections Division Administrator stated that there were 980 inmates with sentences of five years or less as of July 1976 who had already served an average of 9.2 months each. Many of these individuals soon would (or should) be eligible for parole release, since the average institutional term served is 12.8 months for those with sentences of five years or less. Community supervision instead of institutional incarceration may have been possible for many of these offenders. In addition to community supervision provided by the State Field Services Section, 15 existing local community corrections programs provide community supervision in 21 counties in Oregon.

COMMENTARY AND REACTION

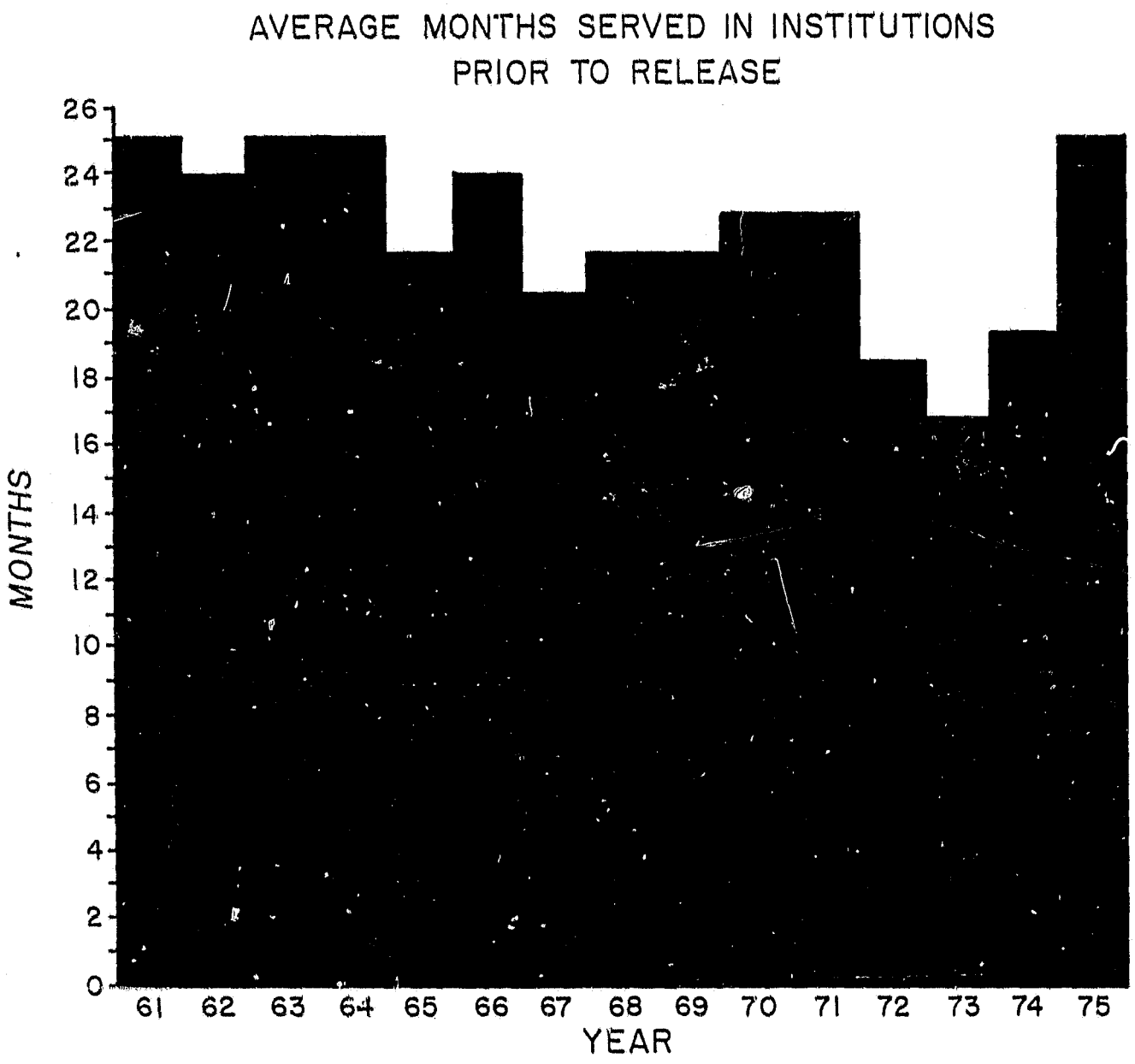
FIGURE 4

PROJECTIONS OF RISK POPULATION
AGES 15-29
STATEWIDE



SOURCE: CENTER FOR POPULATION RESEARCH AND CENSUS
PORTLAND STATE UNIVERSITY

FIGURE 5

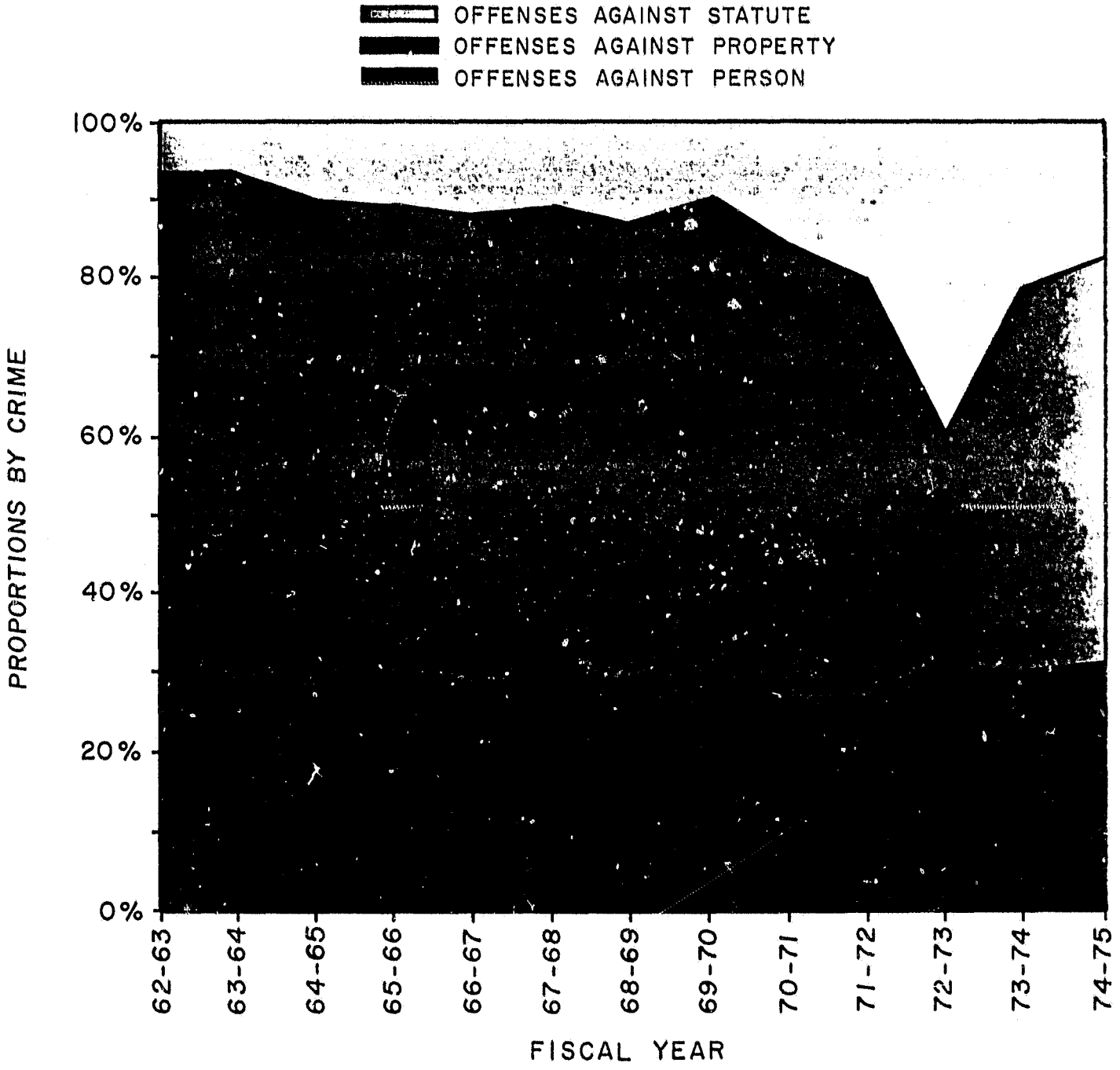


NUMBERS REPORTED ARE "TURN-OVER TIME" COMPUTED BY DIVIDING INSTITUTIONAL ANNUAL A.D.P. BY NUMBER OF RELEASES DURING THE YEAR.

SOURCE: CORRECTIONS DIVISION

FIGURE 6

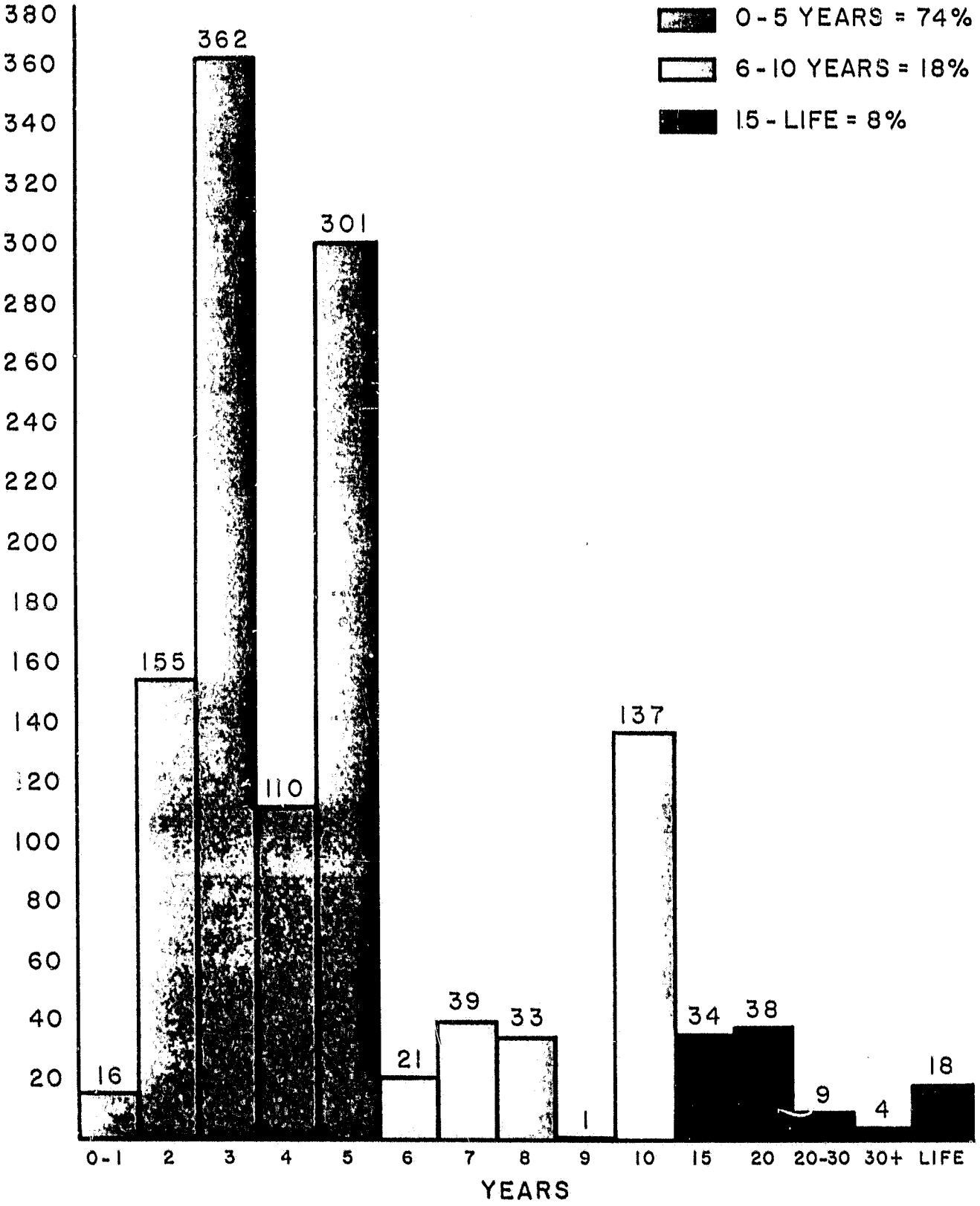
NEW COMMITMENTS RECIEVED AT OREGON FELONY INSTITUTIONS
BY FISCAL YEAR, 1962-63 TO 1974-75
BY TYPE OF PRIMARY OFFENSE
EACH TYPE SHOWN AS UNDUPLICATED % OF TOTAL RECEPTIONS



SOURCE: CORRECTIONS DIVISION

FIGURE 7

MALE COMMITMENTS TO INSTITUTIONS BY SENTENCE LENGTH, 1975



SOURCE: ROBERT J. WATSON, ADMINISTRATOR - CORRECTIONS DIVISION

GOAL STATEMENT

GOAL STATEMENT Effective Provision of Correctional Services

Priorities to enhance community supervision include community corrections legislation, appropriate use of state Field Services resources, a work unit system for allocating supervision, and implementation of some interim proposals to address present Field Services needs of the Corrections Division. Institutional supervision will be improved by priority proposals for an inmate custody classification system, improvement of state institutional programs, Corrections Division interim institutional proposals to accomodate overcrowding, and provision of funds for construction, renovation, and regionalization of local facilities. The establishment of a Criminal Justice Council is recommended to evaluate the functioning of the criminal justice system and specifically to monitor implementation of the Task Force recommendations.

COMMENTARY AND REACTION

OBJECTIVES/TASK FORCE RECOMMENDATIONS

DISPOSITION OF CRIMINAL CASES Presentence Investigations

Need:

Extensive and reliable information about the offender, the offense, and available community resources is necessary as a basis for constructive and relevant sentencing. In 1975, about 60% of the felony cases in Oregon courts received presentence investigations. Presently, presentence investigations are performed by the Field Services section of the State Corrections Division and by local corrections programs. Specialized reports including psychiatric and psychological evaluations are prepared by the Multnomah County Diagnostic Center, Mental Health Agencies, and the Oregon State Hospital. A presentence report should include a recommended disposition based upon an evaluation of available sentencing alternatives.

Recommendations:

Presentence investigations should be provided for all felony convictions in Oregon.

Administrative and Legislative Changes:

Legislation should require presentence investigations for all felony convictions. Judges should use the presentence information to increase their knowledge of the offender and their use of available community rehabilitative programs as sentencing options.

Impact on Criminal Justice System:

Presentence investigations can be provided by many agencies including community corrections programs, diagnostic centers, state Field Services offices, and mental health agencies. These agencies may designate some personnel to specialize in this function. Knowledge of an offender's needs and available community treatment resources should allow judges to sentence more non-dangerous offenders to adequate community supervision, rather than to incarceration in state facilities or to probation without adequate supervision and treatment. The information contained in presentence reports will assist judges in determining the least amount of confinement or supervision that is consistent with the goals of public safety and offender rehabilitation, and thus contribute to efficient management of limited corrections system resources. Duplication of effort can be minimized if those correctional supervisors responsible for preparing individual offender rehabilitation plans can also have access to the prepared presentence reports as a basis for individual program planning.

Implementation:

This recommendation should be implemented as soon as possible in the next biennium and will remain in effect thereafter.

Alternatives:

Currently presentence investigations are ordered at the option of individual judges. Some use them in almost every case, while others seldom use them. The Task Force feels that the benefits of presentence investigations should be available to all judges and offenders. Continuing the present system of optional presentence investigations does not assure their availability throughout the State.

COMMENTARY AND REACTION

DISPOSITION OF CRIMINAL CASES More Sentencing Alternatives

Need:

Maximum security institutional facilities are expensive and sometimes inappropriate resources for responding to the causes and effects of criminal behavior. Correctional institutions and institutional programs consume approximately 75% of the State Corrections Division biennial budget for supervision of approximately 30% of the total Corrections Division responsibility for offenders. The process of incarceration, though providing temporary safety to society, often creates new problems through disruption of employment ties or family relationships. More medium-security facilities (such as halfway houses or work camps) and community-based treatment programs (such as alcohol and drug abuse programs) are needed. Existing mental health programs, because of their other priorities and "voluntary treatment" orientation, are not sufficiently responsive to the needs of judges or corrections clients. Offenders who plead "not guilty by reason of mental disease or defect" place extra demands upon the criminal justice system, by requiring special hearings, psychiatric evaluations, and treatment supervision. In 1975, the Oregon State Hospital received 83 persons adjudged "not guilty by reason of mental disease or defect" and deemed dangerous to themselves or others. In addition, the courts ordered 157 persons to short-term commitments in the State Hospital for psychiatric evaluations. Judges need statutory authority to utilize more sentencing alternatives such as restitution, diversion, or mandatory minimum sentences of incarceration. Perceived disparity of sentences undermines respect for the courts. In many criminal dispositions, the sentencing rationale is not explicit nor is the sentence subject to any meaningful review.

Recommendations:

More sentencing alternatives should be available to Oregon judges to encourage relevant and effective judicial sentencing decisions. Pre-trial diversion of selected first-time non-dangerous offenders should be legislatively authorized. Successful performance in the diversion program will result in dismissal of the pending charges.

A mental Health Commitment-Release Board should be established to supervise defendants found "not responsible by reason of mental disease or defect" or otherwise in need of mental health services. Mental health programs should be more responsive to corrections clients and should receive additional funds to expand their services to offenders. A special unit of 12 Mental Health Corrections Officers should be established to assist the Commitment- Release Board.

Judges should be authorized to specify minimum sentences of incarceration without release for any offender. The minimum term designated cannot exceed half of the maximum imprisonment allowed by law. Nevertheless, the Parole Board may, by unanimous vote or with consent of the sentencing judge, release an offender before the expiration of the designated minimum term. Mandatory minimum terms of imprisonment without parole or work release should be legislated for aggravated murders and any crime committed with a firearm. A minimum fifteen years confinement without release should

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be the mandatory sentence for murder of a criminal justice system official, murder for pay, multiple murder, murder while committing another offense, or other aggravated murder. Any offender who used or possessed a weapon while committing a felony should receive a mandatory minimum two-year term of imprisonment.

Judges should state for the record a sentencing rationale with every decision. Executed sentences of incarceration should be reviewable by petition to the Court of Appeals. An appealed sentence may then be altered by this Court in the interests of justice. The Court of Appeals should be authorized to take judicial notice of all sentences imposed by Oregon courts and to collect statistical information on sentencing as a basis for informed comparative judgements.

Administrative and Legislative Changes:

These recommendations should be implemented by legislation.

Impact on Criminal Justice System:

The appropriate use of treatment programs and sentencing alternatives should reduce repetitive criminal behavior by offenders. Increasing the options for medium-security and minimum-security supervision will reduce some of the overuse of maximum-security custody facilities for both direct commitments and probation revocations. Early intervention into criminal behavior will be provided by the pre-trial diversion option. Many offenders commit only minor offenses and are not repetitive. Diversion offers the opportunity to clear some of them out of the system rapidly but effectively, and saves valuable court and corrections resources for more serious offenders. Legislative authorization for diversion will formalize the existing diversion programs operated by District Attorneys in cooperation with the AFL-CIO "First Offender" Program.

Closer program cooperation and planning will be possible among mental health agencies and corrections programs. The Mental Health Commitment-Release Board will assume some of the responsibilities now exercised by the Circuit Courts.

Additional sentencing alternatives for non-dangerous offenders will reduce the need for expensive state institutional facilities, and will make possible some reallocation of corrections resources. Explicit sentencing rationales and the possibility of sentence review will reduce perceived sentence disparity.

Implementation:

These recommendations should be authorized by the Legislature in the next biennium or as soon as possible. The availability of sentencing alternatives will be an important factor to encourage participation in the Community Corrections Act. The Mental Health Commitment-Release Board will be established as a four-year experiment, after which it may be continued or its functions will revert to the courts and the mental health agencies.

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DISPOSITION OF CRIMINAL CASES More Sentencing Alternatives

Alternatives:

Without sufficient sentencing alternatives, judges will continue to send offenders to overcrowded institutions or understaffed probation programs. Building a new 1000-person maximum-security institution to accomodate future sentenced offenders would cost about $47,000,000 exclusive of land acquisition and operating costs. In its 1977-79 budget requests, the Corrections Division is seeking to expand the present level of Field Services counselors to reduce present caseload ratios and to increase supervision for current and future offenders. Without the cooperation of agencies like Mental Health, duplicate programs would need to be established within the Corrections Division.

COMMENTARY AND REACTION

DISPOSITION OF CRIMINAL CASES Restitution

Need:

The recent *Stalheim* decision set strict limits on judges' powers to order restitution as a condition of probation. The criminal justice system is often not responsive to the needs of victims. Restitution is a method for remedying some of the damage done to the victims of crime. Presently judges cannot order restitution from an offender who is sentenced to incarceration. Restitution can not now be ordered to anyone other than the direct victim. Neither can restitution be ordered for "pain and suffering" or any other damages except financial loss.

Recommendations:

Broad concepts of restitution, including "symbolic restitution" through alternative community service, should be authorized by the Legislature. Restitution should be allowed to affected persons other than the direct victim, such as the surviving spouse or child of a homicide victim. Judges should be authorized to order restitution in addition to incarceration, with a repayment schedule established and supervised by the Parole Board.

Administrative and Legislative Changes:

Existing legislation that limits restitution must be modified. New judicial powers must be established in legislation.

Impact on Criminal Justice System:

The sentencing option of restitution will make the system more responsive to the needs of victims. Judges will have more sentencing options available. Community corrections personnel will be involved in supervision of the performance of symbolic restitution such as the Alternative Community Service work program currently operating in several Oregon counties.

Implementation:

Restitution legislation should be passed in the next biennium.

Alternatives:

Without these recommendations, the present limited forms of restitution would still be available to judges who choose to use them.

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COMMUNITY SUPERVISION Community Corrections Act

Need:

An effective alternative to expensive institutional incarceration of some felony offenders is needed. Part of the overcrowding within state correctional institutions has resulted from a large number of offenders sentenced to relatively short terms for nonviolent crimes against property or against statute. In 1975, approximately 74% of the new institutional commitments carried sentences of one to five years. Inmates in this sentence length category serve an average of about 13 months before parole.

In recent years, about 20% of new commitments received at Oregon felony institutions have been sentenced for crimes against statute, about 50% for crimes against property, and about 30% for crimes against person. Other types of supervision for some of these nonviolent offenders would preserve institutional resources for the more dangerous offenders. At present, community supervision of felony offenders is available from the Field Services (probation and parole) Section of the State Corrections Division. Existing county or regional community corrections programs supervise misdemeanants and some felons in 21 Oregon counties. Local jurisdictions often lack financial resources to establish or expand community corrections programs. Some judges have indicated that they would sentence fewer offenders to the penitentiary if adequate supervision within the community was available.

Currently, offenders who do not comply with the terms of probation or parole must be revoked to the institutions or continued under field supervision. Intermediate levels of custody and supervision are needed for many of these technical violators.

Recommendations:

Adequate community correctional supervision should be available either through the State Field Services Section or through Community Corrections programs. A Community Corrections Act should be passed to establish a state-local partnership for delivery of corrections services. State funds should be transferred to local jurisdictions (individual counties or groups of counties with a population base of at least 10,000) which choose to assume responsibility for felony probation and parole supervision.

The Task Force Community Corrections proposal establishes a three-factor funding formula for distribution of authorized Community Corrections monies. Participating jurisdictions would receive a "base budget" equivalent to the current level of state probation and parole services being provided there for supervision of felons. An "enhancement budget" would be added to the base for increasing and improving supervision of present and future caseloads. The enhancement budget would consist of new funds appropriated by the Legislature for distribution according to each county's resident proportion of the total state "risk population" (persons aged 15 through 29). The third element of the funding formula would be a "commitment reduction (or bonus) payment" made for reducing the county commitment rate of felons with sentences less than five years to state institutions. The funds saved by the State due to reduction of new commitments would be transferred to the counties that had reduced their rates, to defray the costs

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of supervising those felons in local programs and facilities. (Figure 8 illustrates the proportions of total state risk population and total institutional commitments by county in 1975.)

In addition to probation and parole caseloads, the target population for Community Corrections supervision should be non-dangerous felons with sentences of five years or less. To receive Community Corrections funds to supervise this target population, jurisdictions would be required to submit a comprehensive plan to the Corrections Division for approval. The Corrections Division would develop comprehensive plans and provide services in non-participating areas. Current Field Services line staff could choose (1) to transfer to county employment, (2) to provide services contractually while remaining in state employment, or (3) to transfer to another assignment within the State Corrections Division.

Administrative and Legislative Changes:

The Community Corrections Act would be a new major and far-reaching legislative proposal.

Impact on Criminal Justice System:

After successful implementation, Community Corrections programs would effect the size and composition of the state correctional institution populations. As more nonviolent offenders with short sentences are retained in community supervision, institutions would become repositories for more dangerous offenders with longer sentences. In addition, intermediate levels of community supervision for parole and probation technical violators would reduce the need to revoke them to the institutions. Probation and parole revocations have contributed significantly to institutional commitments in recent years, as shown by data in Figures 9 and 10. Of 416 probation and parole revocations recorded in 1975, 327 were for technical violations or absconding while 89 were for new crimes. If Community Corrections programs could absorb a large proportion of the revocations for technical violations or absconding, future institutional population could be reduced. Effective and relevant community corrections programs should reduce repetitive criminal behavior of program participants. Therefore, Community Corrections supervision could reduce the anticipated need for new state correctional institutions in the future. A need for improved local custody facilities (such as county jails), additional intermediate levels of supervision (such as halfway houses), and full utilization of community rehabilitation resources will probably result from implementation of a Community Corrections Act.

Implementation:

The Community Corrections Act should be enacted in the next legislative session. Not all Oregon counties will choose to participate initially. Probably the 21 counties which are currently served by misdemeanant community corrections programs will be the most able and the most willing to participate in the Act during the first biennium. Most of the counties in Oregon could probably be participating in the Community Corrections Act within ten years of enactment.

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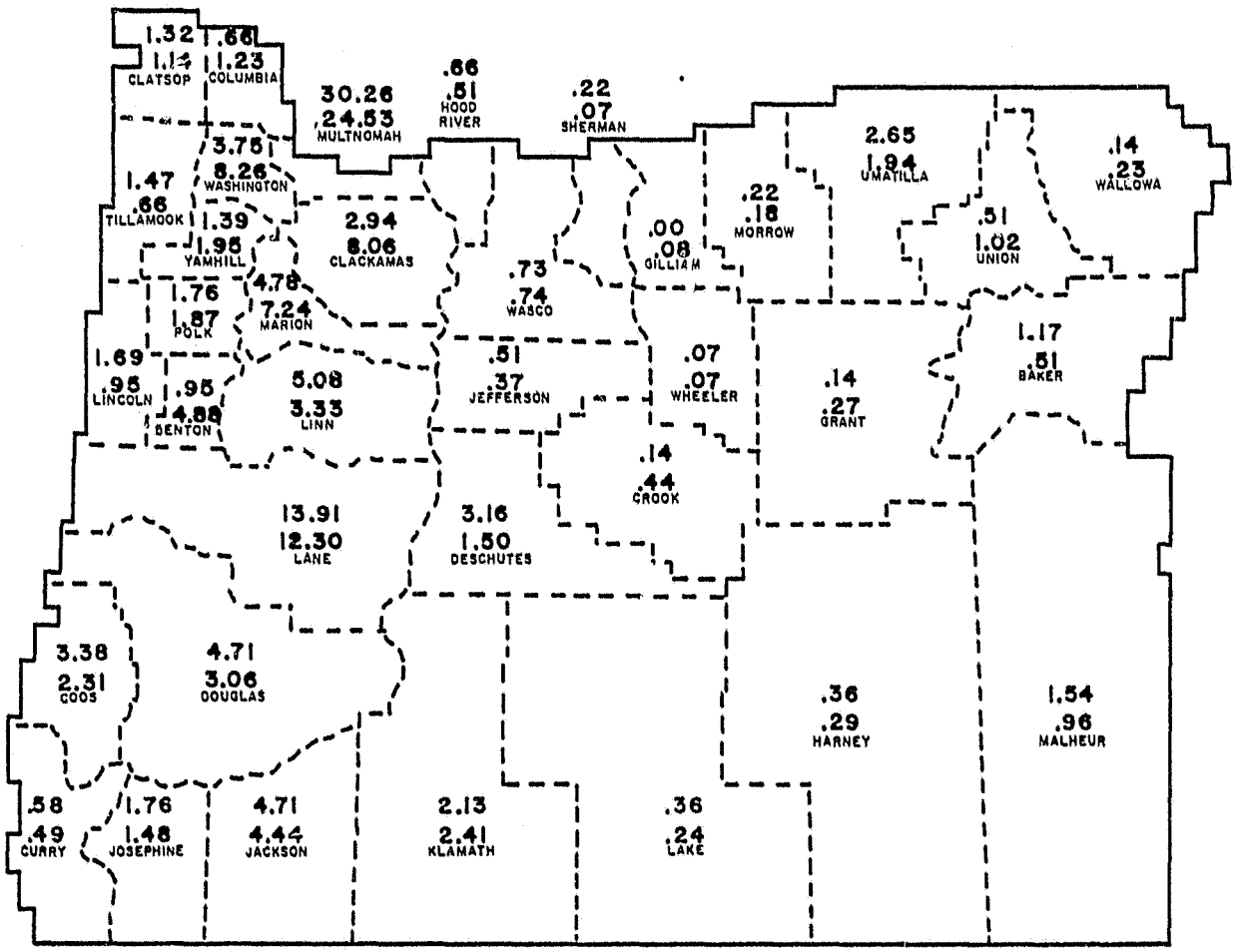
FIGURE 8

PERCENTAGES OF NEW INSTITUTIONAL COMMITMENTS AND RISK POPULATION BY COUNTY, 1975



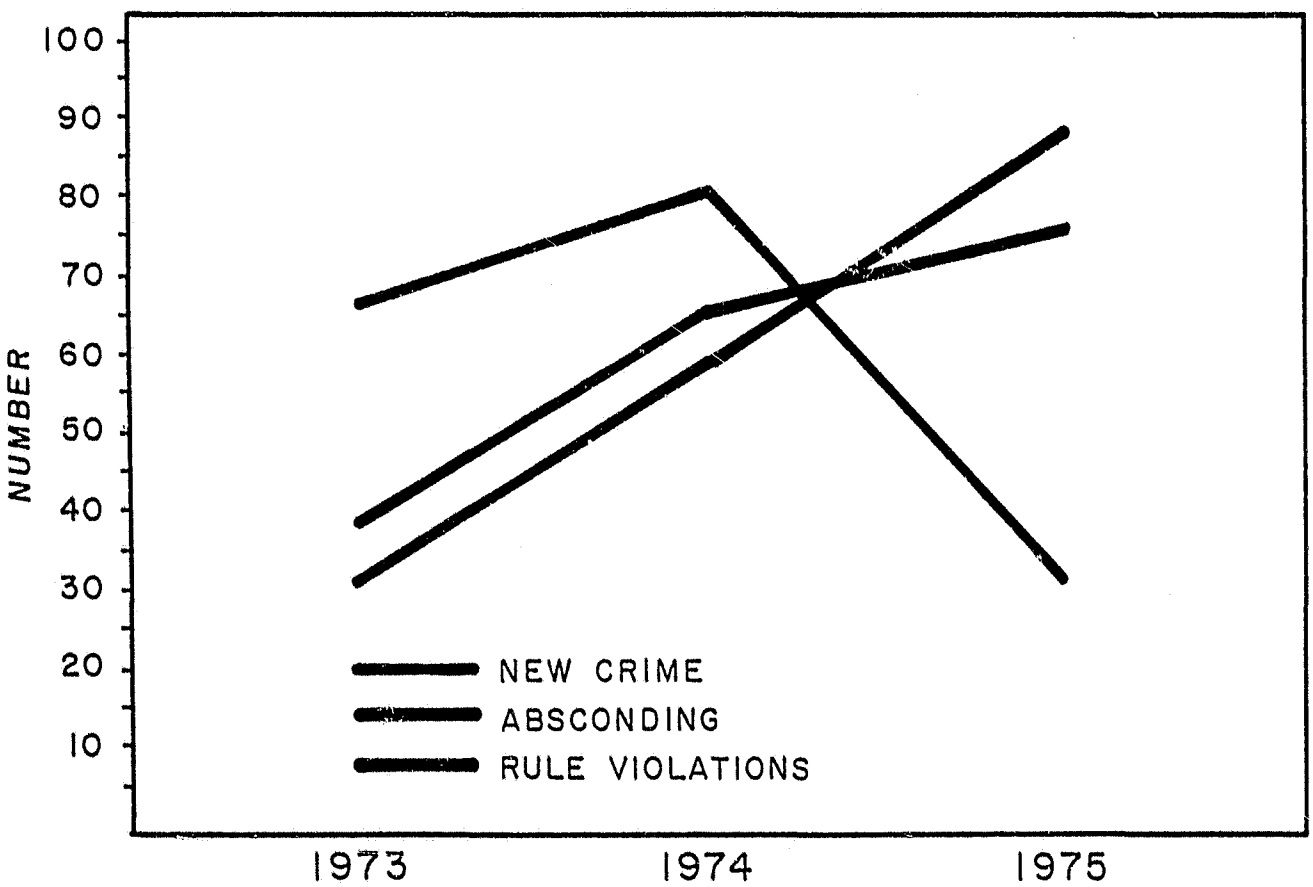
00 = PERCENTAGE OF NEW COMMITMENTS
00 = PERCENTAGE OF RISK POPULATION

SOURCE: CORRECTIONS DIVISION AND CENTER FOR POPULATION RESEARCH AND CENSUS, PORTLAND STATE UNIVERSITY

TYPE OF PROBATION REVOCATIONS BY YEAR, 1973-75

FIGURE 9

REASON FOR PROBATION REVOCATION	1973	1974	1975	2-YEAR CHANGE
ABSCONDING	38	65	75	+ 97%
RULE VIOLATION	31	59	89	+ 187%
NEW CRIME	67	82	32	− 52%
TOTAL	136	206	196	+ 44%

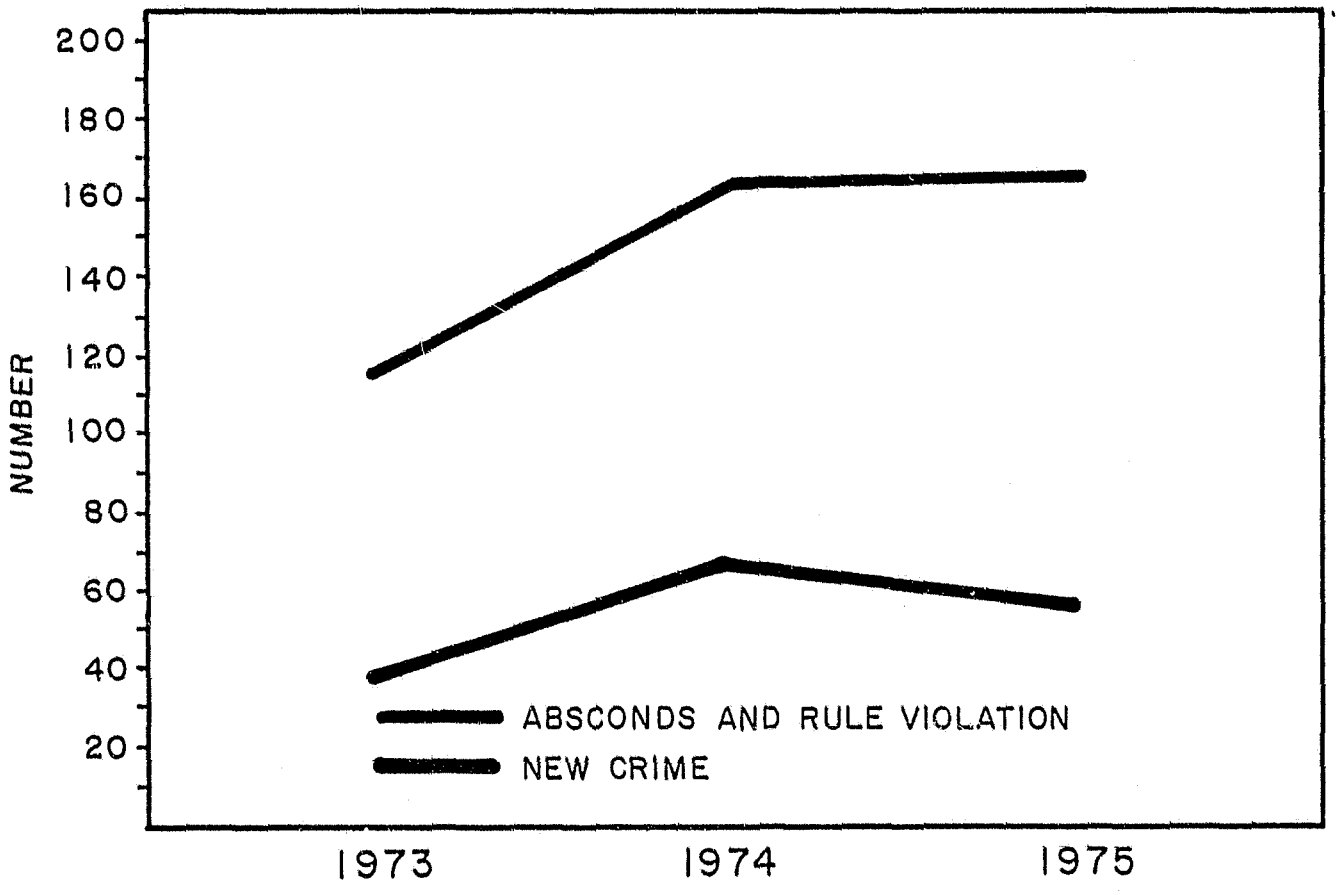


SOURCE: GOVERNOR'S TASK FORCE ON CORRECTIONS STAFF

TYPE OF PAROLE REVOCATIONS BY YEAR, 1973-75

FIGURE 10

REASON FOR REVOCATION	1973	1974	1975	2-YEAR CHANGE
ABSCONDING OR RULE VIOLATION	116	162	163	+ 40.51%
NEW CRIME	38	67	57	+ 50.00%
TOTAL	154	229	220	+ 42.85%



SOURCE: GOVERNOR'S TASK FORCE ON CORRECTIONS STAFF

COMMUNITY SUPERVISION Community Corrections Act

Alternatives:

Oregon cannot continue to provide adequate institutional and community supervision to an increasing number of corrections clients without allocating additional resources. The Corrections Division has requested an increase of approximately $12,000,000 for the next biennium to improve community corrections services, and to increase the number of field counselors. If extensive and effective community supervision can not be provided, construction of a new 500-person institution would cost about $23,700,000, exclusive of land acquisition, plus approximately $10,000,000 to $12,000,000 of biennial operating costs thereafter. Implementation of a Community Corrections system on a limited pilot program basis would be an alternative to state-wide program implementation.

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COMMUNITY SUPERVISION

Field Services and Corrections Division Interim Proposals

Need:

About 75% of the clients of the Oregon Corrections Division are under Field Services parole and probation supervision, yet parole and probation received only about 12% of the total Corrections Division budget for 1975-77. Adequate numbers of skilled correctional counselors are needed to provide supervision and services. Additional services should be purchased contractually within the community.

Recommendations:

The Board on Police Standards and Training should establish training requirements and certification standards for all state and local field officers. Salaries for state correctional counselors should be increased to a competitive level based upon the training and experience required of them.

Contracts for purchase of services from private agencies or other public agencies should be utilized to provide the required appropriate treatment resources. Field officers and the Corrections Division administration should cooperate to reduce paperwork that interferes with effective service delivery to clients. Close working relationship with the courts should be established.

The Task Force has endorsed the Corrections Division interim proposals to increase Field Services resources for the 1977-79 biennium. Specifically, the Division is requesting budget increases to support five new probation centers, 99 new Field Services line staff positions, and funding for purchase of services for Field Service clients.

Administrative and Legislative Changes:

The new positions, probation centers, contract funding, salary authorizations, and assistance from the Board on Police Standards and Training would have to be authorized by the Legislature. Working relationships and paperwork requirements are administrative matters that could be adjusted by the Division.

Impact on Criminal Justice System:

These recommendations will make possible better delivery of correctional services within the community. Community supervision makes possible the maintenance of family and employment ties, and is therefore potentially more relevant and effective than is incarceration. Community Corrections programs will reduce the need for state Field Services supervision. Some of the requested line staff positions will be effectively transferred to Community Corrections programs.

Implementation:

These recommendations should be implemented in the next biennium.

Alternatives:

The current level of Field Services resources is inadequate to supervise the large numbers of field clients. Supplemental state or community corrections resources should be allocated. Otherwise, judges and community attitudes will require incarceration of offenders instead of assignment to inadequate field supervision.

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COMMUNITY SUPERVISION Work Unit System

Need:

Limited correctional supervision resources should be allocated according to an assessment of the relative difficulty of the workload. Caseload size is a rough measurement of difficulty, but other factors should also be considered. Without a work unit system, the Legislature lacks a rational basis for evaluating budget requests for more correctional personnel.

Recommendations:

A comprehensive work unit system should be developed for determining the necessary supervision and personnel levels for community corrections and State Field Services programs. The system should be based upon caseload sizes, travel requirements, client supervision and support needs (levels of difficulty), and specialized work functions such as presentence investigations. Budgetary requests for additional staff positions should be based upon demonstrated need in terms of work units to be performed.

Administrative and Legislative Changes:

A work unit system could be developed by the Administrator of the Corrections Division.

Impact on Criminal Justice System:

A work unit system would assist in planning and allocation of staff resources. It would make possible a justification of future requests for staff positions or budget increases in terms of the work to be performed. The Task Force work unit system proposal incorporates elements of the systems used in Nevada, Oklahoma, and California.

Implementation:

A work unit system could be developed and implemented in the next biennium. It could be modified as necessary and would continue to be used indefinitely.

Alternatives:

The present system of allocating staff resources and assigning workloads could continue.

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INSTITUTIONAL SUPERVISION Custody Classification

Need:

Limited correctional institution resources must be used appropriately to assure public and individual safety and to allow inmate program participation. Particularly when system resources are overloaded, proper assignment of inmates to programs and housing is extremely important. The Corrections Division Administrator has stated that in July, 1976, there were 980 inmates with relatively short sentences who should be considered for reclassification and early release.

Recommendations:

The Corrections Division should establish and implement a comprehensive custody classification system for all state correctional institutions. Based on this classification system, inter-institutional program participation should be allowed. An offender's tentative program schedule should be developed within 30 days of arrival at the institution. The least amount of custody consistent with safety and rehabilitation should be provided for each classification in the system.

Administrative or Legislative Changes:

The custody classification system could be developed and implemented by administrative action.

Impact on Criminal Justice System:

A uniform custody classification system would facilitate movement of inmates into available program vacancies, in pre-release programs, work release centers, or work camps as well as in other institutional programs. A uniform system could be used to facilitate access of inmates to programs in other institutions. For example, women residents should be allowed to receive vocational training with the equipment at the men's penitentiary.

Implementation:

The custody classification system should be developed and implemented in the next biennium.

Alternatives:

The present custody classification methods used separately by the three institutions could continue. The separate institutional classification systems discourage uniform access to institutional programs.

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INSTITUTIONAL SUPERVISION Local and Regional Jail Facilities

Need:

Many of the local jails in Oregon need some physical improvement to meet requirements of the existing jail standards. When local jurisdictions assume responsibility for supervision of felons through the Community Corrections Act, there may be a need for more secure detention space. Community Corrections programs may utilize local jails for short-term or partial detention (i.e., work release participation) as well as for incarceration of sentenced offenders.

Recommendations:

The Legislature should appropriate funds for renovation or construction of local jail facilities, in addition to the Community Corrections program appropriations. Necessary new facility construction should be jointly planned on a regional basis to accomodate the needs of several local jurisdictions. The State should participate in the planning process for regional facilities, and should subsequently be allowed to contract for bedspace in those facilities. Rehabilitative programming for inmates of local and regional facilities should be obtained by contracts for local services.

Administrative and Legislative Changes:

Legislative appropriation will be necessary to provide funds for renovation or construction. The Corrections Division should, at the very least, act in an advisory capacity to all regional facility planning efforts.

Impact on the Criminal Justice System:

Adequate local or regional facilities might encourage local jurisdictions to assume the full supervisory responsibility for some felons as required in the Community Corrections Act. Such facilities would also provide a detention option that would be less severe than sentencing to a state institution. In some jurisdictions, the State might contract with local jurisdictions to hold state prisoners. Regional facilities should provide some construction savings and eliminate service duplication for some small jurisdictions.

Implementation:

Funding for local facility construction or renovation should be appropriated at the same time that the Community Corrections program funding is available.

Alternatives:

Without adequate local or regional facilities, some jurisdictions may not participate in community corrections. Local jurisdictions could continue to raise funds for construction through bond issues and federal LEAA grants. Without the facility sharing and cooperation that would exist through regional facilities, some jurisdictions will continue to experience periodic inmate population surpluses while others are underutilized.

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INSTITUTIONAL SUPERVISION — Institutional Programs and Corrections Division Interim Proposals

Need:

Institutional programs are necessary to encourage the rehabilitation of incarcerated offenders. Especially under the present conditions of overcrowding, programs help to reduce the tensions and boredom generated in an institutional setting. Approximately 300 of the inmates currently at Oregon State Penitentiary are unable to participate in vocational training or work programs because program opportunities are limited. Provision of basic services, such as medical and dental care, is important because inmates lack access to resources of the free society.

Recommendations:

Prison industries and vocational training opportunities should be increased within the institutions, and the market for prison industry products should be expanded to all public jurisdictions within the State. Private sector involvement in prison industries and vocational training should be continued and expanded. Inmates should receive higher rates of compensation so that they could be required to make payments for victim restitution, support for defendants, room and board costs, and training expenses. Evaluation of institutional programs through a tracking system should occur. A Career Planning and Guidance capacity should be established at each institution.

Institutional education, vocational, and library facilities should be used to full capacity; substitute teachers should be available when regular instructors are absent. Women inmates should have access to the vocational and industry programs at the men's prisons; the small size of OWCC does not warrant the creation of separate programs.

Continuing evaluation of institutional health care and service delivery should be a responsibility of a continuing Criminal Justice Council. A uniform health records system should be implemented. Additional health care staff should be added for the Division including a fulltime Administrator, a physician, a nutritionist, a pharmacist, a psychiatrist, and nurses. In addition, OSP should have four dentists, six dental assistants, a lab technician training program with two technician teachers, and diabetes and cardiology clinics. Contracting for hospital and sanitarian services should be provided, and malpractice coverage should be available for all contracted health care providers. Special programs and facilities for sex offenders and alcohol and drug abusers should be developed in cooperation with other Department of Human Resources agencies.

Policies for the administration of good time should be consistent for all state institutions. Parole release procedures should be established by the Parole Board. Limited ranges of duration of pre-parole imprisonment (a parole release "matrix") should be specified for each offense.

The Corrections Division is specifically requesting more secure beds for special offenders (sex offenders, mentally retarded, aged/infirm/disabled, psychiatric and alcohol/drug wards), pre-release programs and staff, internal program improvements, and interagency cooperation as part of its biennium budget requests.

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Administrative and Legislative Changes:

Legislative authorization will be necessary to expand the market for prison industries products, to change inmate pay scales, and to establish new staff positions and functions for training and health care. Access to institutional programs, creation of uniform good time policies, development of parole release guidelines, and other recommendations could be accomplished administratively. If necessary, the administrative decisions could also be established in law.

Impact on Criminal Justice System:

These recommendations for changes in institutional programs and services should produce a more effective correctional system. Better programs and services should help former inmates to adjust to the outside world and should reduce repetitive criminal behavior. Interagency cooperation in these efforts should increase effectiveness and reduce duplication and costs. Consistent good time policies and parole release guidelines should reduce uncertainty and tensions among the inmates. Approximately one-third of all institutional releases occur through discharge rather than parole, as shown in Figure 11. This means that many offenders are serving the full sentence term and are released into the community without transitional programming or parole supervision. The parole release guidelines should provide greater access to transitional programs and community supervision as offenders leave the institutions.

Implementation:

Implementation of these recommendations should begin in the next biennium or as soon as possible. However program expansion and addition of staff will probably continue for several years.

Alternatives:

Simply "warehousing" inmates with no programs or services is an alternative that is generally considered unacceptable. The current levels of programs and services could be maintained, but are insufficient to meet the demands of the current population. Provision of all programs and services by external contractors does not seem feasible at this time.

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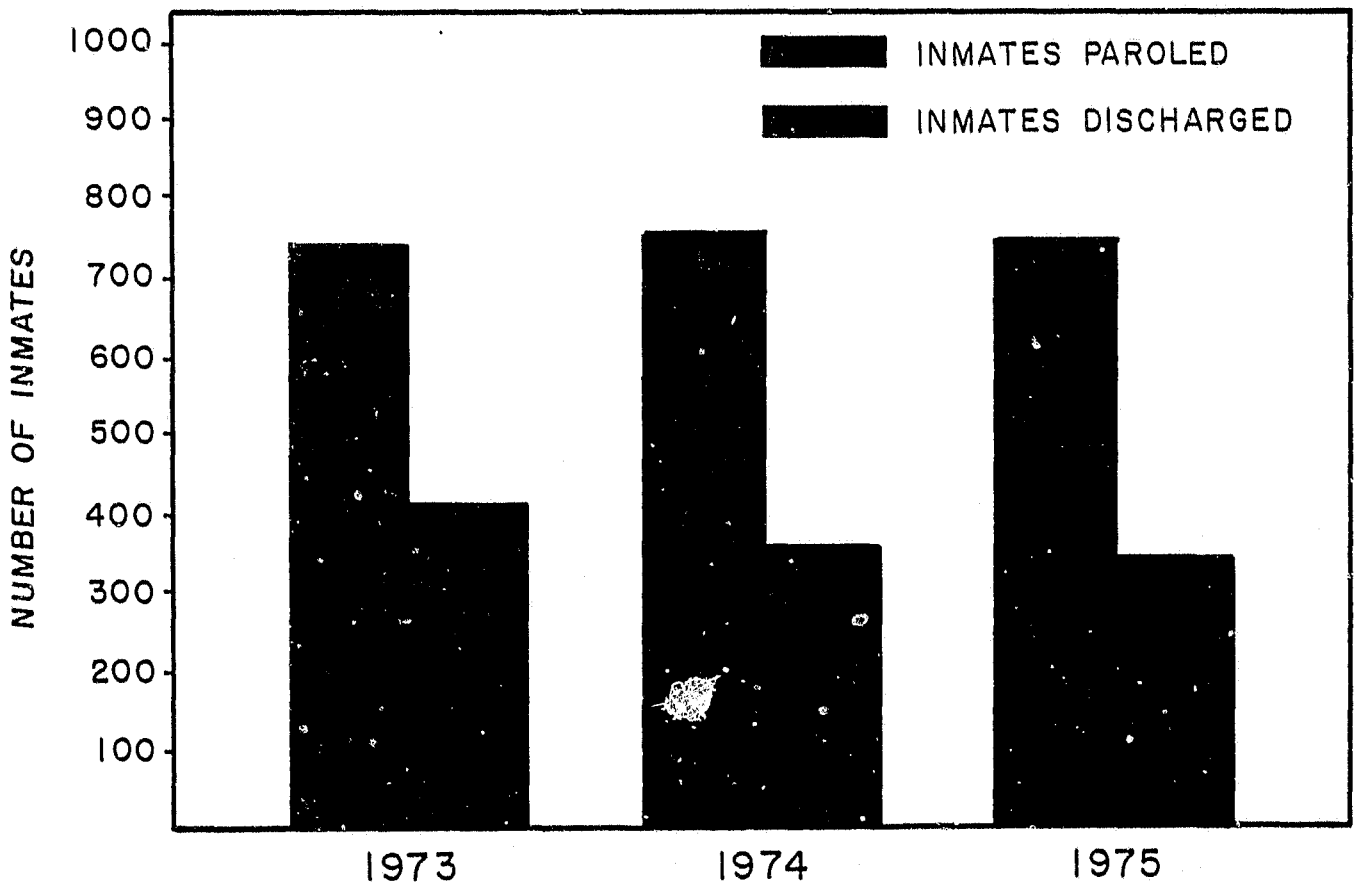
FIGURE II

INSTITUTIONAL RELEASES, 1973-75

YEAR	PAROLE	DISCHARGE	TOTAL	% PAROLES OF ALL RELEASES
1973	730	407	1137	64.2%
1974	750	354	1104	67.9%
1975	734	339	1073	68.4%
TOTALS	2214	1100	3314	66.8%

COMPARISON OF NUMBERS OF INMATES PAROLED AND DISCHARGED FROM OREGON CORRECTIONS DIVISION 1973-75



SOURCE: CORRECTIONS DIVISION DATA

A SYSTEM EVALUATION MECHANISM

A SYSTEM EVALUATION MECHANISM

After implementation of the Task Force priority recommendations, evaluation of program effects will determine the need for continuation or further modification. For example, the transfer of certain responsibilities of the Circuit Courts to a new Mental Health Commitment-Release Board was proposed as a four-year experiment. An evaluation after the experimental period will determine whether these responsibilities should continue to be exercised by the Board or should revert to the Courts.

Criminal justice system evaluation should be performed by a continuing body of legislators and system participants. Specifically, the Task Force recommends that the Governor appoint a Criminal Justice Council composed of 30 members representing the three branches of state government, local government, and community organizations. This Council will absorb the responsibilities, staff, and funding currently administered by the Oregon Law Enforcement Council. The new Criminal Justice Council would become the chief agency for planning and monitoring of corrections services in Oregon.

The Governor shall appoint to the Criminal Justice Council five members from the Judicial Branch of State government, six members from the Legislative Branch, six from the Executive Branch, and thirteen from local government and the community. When vacant positions exist for Judicial or Legislative members, the Governor shall appoint from nominations submitted by the Chief Justice of the State Supreme Court and by the Legislature, respectively. Council members may serve three year terms from the date of their appointment provided that they continue to hold the office, position, or class description as designated by statute, and may be reappointed. As suggested by its title and membership, the Criminal Justice Council will be more representative of the total criminal justice system than any existing special interest group representing law enforcement, legal, judicial, correctional, or client interests. The Criminal Justice Council will also function as an advisory body to the Corrections Division Administration for implementing the provisions of the Community Corrections Act.

Accurate and extensive information is necessary for system planning and evaluation. Oregon has several automated data systems that are operational or are being developed. These include the Law Enforcement Data System (LEDS), Computerized Criminal History (CCH) records maintained by the State Police, the Oregon Uniform Crime Reporting (OUCR) system, the Justice Data Analysis Center (JDAC), the State Judicial Information System (SJIS) of the State Court Administrator, the Corrections Division Automated Data Processing (ADP) Support Services, and three regional information systems. The Task Force recommends that all information systems which receive state funds be required to cooperate in efforts to collect and disseminate criminal justice system data. Understanding the flow of clients through the system requires comprehensive data from law enforcement, courts, and corrections agencies. As Task Force recommendations are implemented, evaluative data should be collected to measure the effects throughout the system. Further planning should be based upon the evaluation of these systematic changes.

COMMENTARY AND REACTION

SYSTEM PRIORITIES

SYSTEMS PRIORITIES

Governor Straub charged his Task Force on Corrections with developing policy recommendations for the future of the corrections system in Oregon. The Task Force produced over 100 recommendations that address both the immediate problems of overcrowding in state correctional institutions and the anticipated long-range problems that will challenge corrections in Oregon during the next fifteen years. These proposals encourage public protection, offender rehabilitation, and fiscal practicality by developing more fully an idea that has already taken root in Oregon — an effective, flexible community supervision system that utilizes all available rehabilitative resources. The community corrections concept builds upon strong points in Oregon's system — Field Services provided by State probation and parole programs and by local community corrections programs — without limiting system options through an overcommitment of resources to expensive institutional construction.

In selecting priority recommendations for submission to the 1977-79 Legislature, the Task Force advocated interim solutions that would also contribute to the realization of other recommendations for future system improvement. Recommendations which were not designated as priorities for the next biennium are nonetheless important for subsequent years. The Task Force strongly advocates that administrative action soon be taken to implement as many of the recommendations as possible. Recommendations that do not require extensive legislative action or expenditure of funds may still have a significant impact upon the functioning of the system.

The Task Force grouped key recommendations into six priority categories. Immediate attention to current system needs was selected as the highest priority; therefore, the Task Force identified the Corrections Division interim proposals (as reflected in the prioritized list of 1977-79 Budget Requests) and the provision of pre-sentence investigations for all felony convictions as the most important proposals. The recommendations to effect long-range system changes were designated the second priority: establishing and implementing a Community Corrections Act with supplemental funds for construction or renovation of community correctional facilities, evaluating system effects with an ongoing Criminal Justice Council, and organizing state and local community supervision with a work unit system. The third system priority selected was to authorize more sentencing options for the provision of Mental Health evaluation, supervision, and services for correctional clients. Increasing and improving State Field Services community supervision was picked as the fourth priority. Improving and expanding state institutional programs (health services, vocational training, educational and recreational opportunities) was the fifth priority. Increasing the opportunities for restitution as a sentencing alternative was designated as the sixth system priority.

COMMENTARY AND REACTION

APPENDICES

GLOSSARY

Words and concepts used in the Oregon Corrections Master Plan

CLIENT . . . A person receiving attention, supervision, or services from agencies or individuals in the criminal justice system.

COMMUNITY-BASED CORRECTIONS . . . The provision of correctional services and supervision to offenders in their general area of residence, rather than in a centralized state facility. A community-based corrections system utilizes local rehabilitative and custody resources.

COMMUNITY RESOURCES . . . The supply of public and private rehabilitative services available to corrections clients within their area of residence.

COMPREHENSIVE PLAN . . . The application document required for participation in the Community Corrections Act. The Plan outlines the need for community corrections, the services to be provided, and the program budget.

CORRECTIONS . . . State and local programs for the custody and supervision of sentenced offenders, which promote public safety and offender rehabilitation.

CRIME AGAINST PERSON . . . A criminal offense involving physical injury (or imminent threat of injury) to another human being. Crimes against person include murder, assault, rape, robbery, arson, and kidnapping, among other offenses.

CRIME AGAINST PROPERTY . . . A criminal offense involving damage to, loss of, or unauthorized use of property or other objects of value. Crimes against property include theft, larceny, burglary, unauthorized use of a motor vehicle, forgery, issuing bad checks, and possession of stolen property, among others.

CRIME AGAINST STATUTE . . . A criminal offense involving activity prohibited by law, but without direct injury or threat to persons or property. Crimes against statute include perjury, bribery, drug abuse, criminal activity in drugs, and escape from custody, among other offenses.

CRIMINAL JUSTICE SYSTEM . . . All agencies and individuals that participate in processing and supervising persons accused of or convicted of violations of the criminal laws. The "system" includes, but is not limited to, law enforcement and police agencies, prosecutors and defense attorneys, courts, victims and witnesses, corrections agencies, public and private rehabilitative agencies and defendants, clients, and offenders. These elements of the "system" often operate very independently, without mechanisms for assessing the effects of their actions upon other parts of the "system".

DEFENDANT . . . A person accused (but not yet convicted) of a violation of the criminal law.

EX-OFFENDER . . . A person formerly convicted of criminal activity who has completed a sentence of correctional supervision.

FELON . . . A person convicted of committing a felony offense.

FELONY . . . A serious criminal offense punishable by imprisonment of longer than one year in a state correctional institution, or by probation.

FUNDING FORMULA . . . The method proposed by the Task Force for the distribution of Community Corrections Act funds allocated by the Legislature.

INTERMEDIATE SUPERVISION . . . Directing/supervising the activities of a corrections client to a medium degree. Intermediate supervision is less restrictive than incarceration in a maximum security correctional institution but more intensive than the average probation or parole supervision.

MATRIX . . . A schedule developed by the Parole Board for use in determining the amount of time to be served before parole eligibility by each new inmate. The matrix is based on the inmate's prior record and the severity of the present offense.

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MISDEMEANANT . . . A person convicted of committing a misdemeanor offense.

MISDEMEANOR . . . A criminal offense punishable by a maximum imprisonment of one year in a county jail, or by probation.

OFFENDER . . . A person convicted of a violation of the criminal law.

POSITION PAPERS . . . The Task Force recommendations or resolutions, with rationale, on 29 different corrections system topics. These are contained in a special 81-page "Position Papers" section of the *Report of the Governor's Task Force on Corrections* (Oct. 1976).

PRE-TRIAL DIVERSION . . . A halting or suspending before conviction of formal criminal proceedings against a person on the condition or assumption that he will do something in return. Diversion refers to formally acknowledged and organized efforts to utilize alternatives to initial or continued processing into the criminal justice system. This definition was developed by the National Advisory Commission on Criminal Justice Standards and Goals.

REVOCATION . . . In response to a client's unacceptable behavior, the action of the Parole Board or Court to rescind parole or probation status and to commit a client to a penal institution.

RISK POPULATION . . . The group of persons aged 15 through 29 which has a propensity for involvement with the criminal justice system. The size of the risk population is used as a predictor for the number of clients expected to be under Corrections Division supervision.

TECHNICAL VIOLATION . . . The act of disregarding a specified rule or condition of parole or probation that does not involve the conviction for a new crime.

TREATMENT ORIENTATION *VERSUS* CUSTODY ORIENTATION . . . Treatment is generally concerned with rehabilitation or changing offender behavior through programs. Custody is mainly designed to ensure offender isolation from the public for maximum safety, and emphasizes secure facilities. Most corrections programs combine treatment and custody to promote both rehabilitation and public safety, but other programs emphasize one almost to the exclusion of the other.

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MEASURE SUMMARY

Creates a Community Corrections Advisory Board to advise Corrections Division in the administration of community corrections program. Requires counties wishing to participate in program to submit corrections plan to Corrections Division. Establishes formula for payment of funds to participating counties by Corrections Division.

Appropriates $_____ to carry out purposes of this Act.

Appropriates $_____ for constructing and renovating local correctional facilities in participating counties.

A BILL FOR AN ACT

Relating to community corrections programs; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Administrator of the Corrections Division shall establish a Community Corrections Section within the Corrections Division to implement the provisions of this Act.

SECTION 2. (1) There is hereby established the Community Corrections Advisory Board consisting of 15 members appointed by the Governor. The board shall be composed of representatives of:

(a) Community corrections agencies;
(b) State corrections agencies;
(c) Private corrections and counseling agencies.
(d) Former criminal offenders;
(e) The judicial branch of government;
(f) Law enforcement agencies;
(g) Criminal prosecuting attorneys;
(h) Criminal defense attorneys;
(i) Local government;
(j) Ethnic minority groups; and
(k) Lay citizenry.

(2) Members of the board shall serve for a period of three years at the pleasure of the Governor provided they continue to hold the office, position or description required by subsection (1) of this section. The Governor may at any time remove any member for inefficiency, neglect of duty or malfeasance in office. Before the expiration of the term of the member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the board shall receive no compensation for service as a member, but all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or rule under ORS 292.220 to 292.250 and 292.495.

SECTION 3. Notwithstanding the term of office specified by section 2 of this Act, of the members first appointed to the board:

(1) Five shall serve for a term ending June 30, 1978.

(2) Five shall serve for a term ending June 30, 1979.

(3) Five shall serve for a term ending June 30, 1980.

SECTION 4. The Community Corrections Advisory Board shall:

(1) Advise the Administrator of the Corrections Division in selecting the Chief of the Community Corrections Section;

(2) Advise the administrator in the formulation of standards for the establishment, operation, and evaluation of community corrections;

(3) Review applications of counties for participation under this Act and make recommendations thereon to the administrator; and

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(4) Provide advice and assistance to the administrator in all other matters related to this Act.

SECTION 5. (1) From any state moneys appropriated pursuant to this Act, the state, through the Corrections Division, shall make grants to assist counties in the implementation and operation of community corrections including, but not limited to, preventive or diversionary correctional programs, probation, parole, work release, and community corrections centers for the care and treatment of criminal defendants.

(2) As used in this Act, "county" means one county, or two or more counties acting jointly or in combination by agreement, having an aggregate population of 10,000 or more persons.

SECTION 6. (1) A county may apply to the Administrator of the Corrections Division in a manner and form prescribed by the administrator for financial aid made available under this Act. Application shall be made on a biennial basis and shall include a community corrections plan. The administrator shall provide consultation and technical assistance to counties to aid in the development and implementation of community corrections plans.

(2) The administrator, with the advice of the Community Corrections Advisory Board, shall adopt rules prescribing minimum standards for the establishment, operation, and evaluation of community corrections under a community corrections plan and other rules as may be necessary for the administration and implementation of this Act. The standards shall be sufficiently flexible to foster the development of new and improved supervision or rehabilitative practices.

(3) All community corrections plans shall comply with rules adopted pursuant to this Act, and shall include but need not be limited to:

(a) Proposals for correctional programs that demonstrate the need for the program, its purpose, objective, administrative structure, staffing, staff training, proposed budget, evaluation process, degree of community involvement, client participation and duration of program;

(b) The location and description of facilities that will be used by the county pursuant to this Act, including but not limited to halfway houses, work release centers, and jails;

(c) The manner that probation, parole and other correctional services will be provided;

(d) The manner in which counties that jointly apply for participation under this Act will operate a coordinated community corrections program;

(e) Correctional services that will be made available to persons who are confined in local correctional facilities;

(f) The manner in which the local corrections advisory committee will participate in community corrections; and

(g) A certification that all major criminal justice agencies affected by the plan took part in the formulation of the plan.

(4) All community corrections plans shall provide that an amount equal to at least five percent of the financial aid received under this Act shall be used for staff training and that an amount equal to at least five percent of the financial aid shall be used for evaluation of county correctional programs. The plan shall specify the manner in which these requirements shall be met.

(5) All community corrections plans shall designate the chief correctional official of the county and shall provide that the administration of community corrections under this Act shall be offered first to the chief correctional official.

(6) No amendment to or modification of an approved community corrections plan shall be placed in effect without prior approval of the administrator.

SECTION 7. Financial aid for community corrections pursuant to this Act shall be appropriated biennially in three portions and distributed among participating counties as follows:

(1) From the first portion, the Administrator of the Corrections Division shall pay to each county amounts necessary to provide those services that the Corrections Division provided

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in the county before the county commenced participation under this Act, other than for the operation of state institutions.

(2) The administrator shall distribute the second portion among the counties in the form of community corrections enhancement grants. The administrator shall determine each county's percentage of the total population of persons between the ages of 15 and 29 residing in all the counties which participate under this Act. The ratable share of the second portion allocable to each county shall be based on that county's percentage of that total population. The administrator shall distribute to each county participating under this Act the share allocable to it. The administrator shall biennially review the calculation of the ratable share of each county and adjust the subsidy rate accordingly.

(3) The administrator shall distribute the third portion among the participating counties on the basis of any reduction in the number of persons from the county committed to state penal or correctional institutions for Class B or Class C felonies that do not involve violence. The administrator shall determine for each participating county for the three-year period prior to its initial participation under this Act the base rate of commitment of those persons. The base rate shall be determined by dividing the unduplicated total of persons convicted of Class B or Class C felonies that do not involve violence and persons arrested for those felonies and subsequently placed in pretrial diversion programs during the period, into the number of persons convicted of those felonies and committed to the custody of the state institutions during the period. At the end of each fiscal year after the effective date of this Act the administrator shall determine for each county the commitment rate of those persons for that year, and shall subtract that rate from the base commitment rate. If the resulting figure is a positive number, the administrator shall multiply it by the total of those persons convicted in the county for that year and thereby establish the commitment reduction number for the county for that year. The administrator shall divide one-half of the third portion by the sum of the commitment reduction numbers of all participating counties to establish the commitment reduction subsidy rate. Each county shall then receive an amount measured by the product of its commitment reduction number and the commitment reduction subsidy rate.

SECTION 8. (1) The Administrator of the Corrections Division shall periodically review the performance of counties participating under this Act. A county must substantially comply with the provisions of its community corrections plan and the operating standards established pursuant to subsection (2) of section 6 of this Act to remain eligible to participate. If the administrator determines that there are reasonable grounds to believe that a county is not in substantial compliance with the plan or operating standards, the administrator shall, after giving the county not less than 30 days' notice, conduct a hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. After the hearing, the administrator, with the advice of the Community Corrections Advisory Board, may suspend all or a portion of financial aid made available to the county under this Act until the required compliance occurs.

(2) Financial aid received by a county pursuant to section 7 of this Act shall not be used to replace local funds for existing correctional programs and shall not be used to develop, build or improve local correctional facilities as defined by subsection (1) of ORS 169.005.

SECTION 9. (1) A county that accepts financial aid under this Act shall assume responsibility for those correctional services, other than the operation of state institutions, presently provided in the county by the Corrections Division.

(2) Any county that receives financial aid under this Act may terminate its participation at the end of any legislative biennium by delivering a resolution of its board of commissioners to the Administrator of the Corrections Divisi n not less than 120 days before the end of the biennium.

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(3) If a county terminates its participation under this Act, or if necessary funds are not appropriated to carry out the purposes of this Act, the responsibility for correctional services transferred to the county pursuant to subsection (1) of this section shall revert to the Corrections Division.

SECTION 10. (1) When a county pursuant to this Act assumes responsibility for correctional services previously provided by the Corrections Division, any state correctional field officer whose job involves rendering services assumed by the county may transfer to employment by the county or may remain in the employment of the division and provide field services to the county under the terms of a contract for services between the county and the division. The county shall pay the division for any services rendered by a state correctional field officer on an actual cost basis.

(2) A state correctional field officer who transfers employment pursuant to subsection (1) of this section shall be entitled to reenter state employment if the county to which the officer has transferred withdraws from participation under this Act or if funds are not appropriated to carry out the purposes of this Act.

SECTION 11. The Community Corrections Section shall establish and operate a state-wide evaluation and information system to monitor the effectiveness of correctional services provided to criminal defendants under this Act.

SECTION 12. The board of county commissioners of a county that is participating under this Act shall designate a local corrections advisory committee. The committee may be an existing local body with responsibilities in the criminal justice system or may be specially created pursuant to this section. The committee shall actively participate in the design of the county's community corrections plan and application for financial aid, observe the operation of community corrections in the county and make appropriate recommendations for improvement or modification to the county commissioners or chief correctional official of the county.

SECTION 13. In providing correctional services other than the operation of state institutions in a county which does not participate under this Act, the Administrator of the Corrections Division may, where practicable, use a portion of the Corrections Division appropriation to contract with private correctional agencies.

SECTION 14. (1) If a Criminal Justice Council is created by the Fifty-ninth Legislative Assembly in_____(1977), sections 2 and 3 of this Act are repealed, and all powers and duties which would have vested in the Community Corrections Advisory Board pursuant to this Act shall be transferred to and vested in the Criminal Justice Council. Any reference in sections 3 to 13 of this Act to the Community Corrections Advisory Board shall be considered a reference to the Criminal Justice Council.

(2) If sections 2 and 3 of this Act are repealed pursuant to subsection (1) of this section, the Legislative Counsel may substitute for words designating the Community Corrections Advisory Board in this Act, words designating the Criminal Justice Council.

SECTION 15. There is hereby appropriated to the Corrections Division of the Department of Human Resources for the biennium beginning July 1, 1977, out of the General Fund, the sum of $_____ for the purpose of carrying out the provisions of this Act and the sum of $_____ for the purpose of constructing and renovating local correctional facilities in counties participating in this Act.

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MEASURE SUMMARY

Authorizes the State Board of Parole to require parolee to live in a community correctional center as a condition of parole.

A BILL FOR AN ACT

Relating to conditions of parole; amending ORS 144.270.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 144.270 is amended to read:

144.270. (1) The State Board of Parole, in releasing a person on parole, shall specify in writing the conditions of his parole and a copy of such conditions shall be given to the person paroled.

(2) The board shall determine, and may at any time modify, the conditions of parole, which may include, among other conditions, that the parolee shall:

(a) Accept the parole granted subject to all terms and conditions specified by the board.

(b) Be under the supervision of the Corrections Division and its representatives and abide by their direction and counsel.

(c) Answer all reasonable inquiries of the board or parole officer.

(d) Report to the parole officer as directed by the board or parole officer.

(e) *Reside in a community correction center such as a halfway house or similar facility.*

[(e)] *(f)* Not own, possess or be in control of any weapon.

[(f)] *(g)* Respect and obey all municipal, county, state and federal laws.

[(g)] *(h)* Understand that the board may, in its discretion, suspend or revoke parole if it determines that the parole is not in the best interest of the parolee, or in the best interest of society.

(3) The board may establish such special conditions as it shall determine are necessary because of the individual circumstances of the parolee.

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MEASURE SUMMARY

Abolishes the Law Enforcement Council. Creates the Criminal Justice Council. Transfers functions of the Law Enforcement Council to the Criminal Justice Council. Gives the Criminal Justice Council additional duties. Changes the name of the Crime Control Coordinating Council Account to the Criminal Justice Council Account.

A BILL FOR AN ACT

Relating to criminal justice; creating new provisions; amending ORS 423.280; and repealing ORS 423.205, 423.210, 423.220, 423.230 and 423.240.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds that:

(1) The criminal justice system in Oregon consists of a series of administrative fragments operated by different branches and levels of government, together with private agencies and individuals who take part in activities within that system.

(2) No effective coordinated mechanism for intergovernment and interbranch cooperation exists in the system, nor is there an effective mechanism for evaluation of parts of the system or for long-range planning.

(3) A criminal justice council reflecting the principal components of the criminal justice system will establish essential continuous cooperation between parts of the system and permit effective evaluation and planning.

SECTION 2. As used in this Act, "criminal justice system" includes all activities and agencies, whether state or local, public or private, pertaining to the prevention, prosecution and defense of offenses or disposition of offenders under the criminal law, including police, public prosecutors, defense counsel, courts, correction systems, mental health agencies, and all public and private agencies providing services in connection with that system voluntarily, contractually or by order of a court.

SECTION 3. (1) There is hereby established the Criminal Justice Council consisting of 30 members. The council shall be composed of:

(a) Five members of the judicial branch of government as the Governor shall appoint from a list of nominations containing two nominees for each vacant position, submitted by the Chief Justice of the Supreme Court;

(b) Six members of the Legislative Assembly as the Governor shall appoint from a list of nominations containing two nominees for each vacant position, submitted by the Legislative Assembly;

(c) Six members of the executive branch of government as the Governor shall appoint;

(d) Thirteen members of local governments and communities as the Governor shall appoint.

(2) The Governor shall appoint a chairman from the membership of the council who shall serve at his pleasure. Members of the council shall serve for a period of three years at the pleasure of the Governor provided they continue to hold the office, position or description required by subsection (1) of this section.

(3) The council shall elect from its members a vice chairman who shall exercise the functions of the chairman during the chairman's absence or disability.

(4) The chairman shall, subject to the approval of a majority of the council, appoint an executive committee composed of the chairman, vice chairman and seven other members to exercise the powers and responsibilities of the council between meetings. All action taken by the executive committee not previously authorized shall be submitted to the council for its approval at the next regular or special meeting. The chairman may appoint subcommittees as he thinks necessary.

(5) Regular meetings of the council shall be

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held quarterly. Special meetings shall be held at such times as the chairman shall fix or as 10 members of the council shall request in writing.

(6) A member of the council shall receive no compensation for service as a member, but all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or rule under ORS 292.220 to 292.250 and 292.495.

SECTION 4. The Criminal Justice Council shall:

(1) Study and make recommendations concerning the functioning of the various parts of the criminal justice system, including implementation of community corrections programs;

(2) Study and make recommendations concerning long-range plans for the prevention and reduction of crime and delinquency;

(3) Study and make recommendations concerning the coordination of the various parts of the criminal justice system;

(4) Conduct research and evaluation of programs, methods and techniques employed by the several components of the criminal justice system;

(5) Serve as a monitoring and evaluating body for criminal justice programs concerning criminal justice and juvenile agencies, publicly or privately funded by the Federal Government;

(6) Advise and assist local communities and citizens groups in understanding the criminal justice system and developing community-based corrections programs;

(7) Accept gifts and grants and disburse them in the performance of its responsibilities; and

(8) Report annually to the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives and the Governor.

SECTION 5. The council shall appoint a criminal justice system coordinator who shall be the director and chief executive officer of the council and who shall serve at its pleasure. The council may employ additional employes as may be necessary to perform its duties.

SECTION 6. The Law Enforcement Council is abolished. On the effective date of this section, the tenure of office of the members of the Law Enforcement Council shall cease.

SECTION 7. There are imposed upon, transferred to and vested in the Criminal Justice Council all the duties, functions and powers of the Law Enforcement Council.

SECTION 8. Notwithstanding the transfer of duties, functions and powers by this Act, the lawfully adopted rules of the Law Enforcement Council in effect on the effective date of section 6 of this Act continue in effect until lawfully superseded or repealed by rules of the Criminal Justice Council. References in the rules of the Law Enforcement Council to the Law Enforcement Council or a member or employe thereof are considered to be references to the Criminal Justice Council or a member or employe thereof.

SECTION 9. The transfer of duties, functions and powers to the Criminal Justice Council under this Act does not affect any action, suit, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Criminal Justice Council shall be substituted for the Law Enforcement Council in such action, suit, proceeding or prosecution.

SECTION 10. The rights and obligations of the Law Enforcement Council legally incurred under contracts, leases and business transactions, executed, entered into or begun before the effective date of section 6 of this Act, are transferred to the Criminal Justice Council. For the purpose of succession to these rights and obligations, the Criminal Justice Council is considered to be a continuation of the Law Enforcement Council and not a new authority, and the Criminal Justice Council shall exercise such rights and fulfill such obligations as if they had not been transferred.

SECTION 11. There are transferred to the Criminal Justice Council:

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(1) All the supplies, materials, equipment, records, books, papers and facilities of the Law Enforcement Council.

(2) All the employes of the Law Enforcement Council, subject to the right of the Director of the Criminal Justice Council to abolish positions and change duties to the extent that he finds it desirable for the sound, efficient and economical administration and enforcement of the duties, functions and powers transferred by this Act. However, subject to the right of the director to abolish positions and change duties under this subsection, in the case of any transfer of personnel made under this subsection, an employe occupying a classified position under the State Merit System Law who is transferred shall retain the same salary classification and merit system status in so far as possible.

SECTION 12. (1) The unexpended balances of amounts authorized to be expended for the biennium beginning July 1, 1977, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by this Act, are appropriated and transferred to and are available for expenditure by the Criminal Justice Council, to the extent provided in subsection (2) of this section, for the biennium beginning July 1, 1977.

(2) For the purpose of administering and enforcing the duties, functions and powers transferred by this Act and for the payment of the expenses lawfully incurred by the Law Enforcement Council with respect to the administration and enforcement of such duties, functions and powers, the Criminal Justice Council may expend the money authorized to be expended by the Law Enforcement Council for administering and enforcing the duties, functions and powers transferred by this Act and that is unexpended on the effective date of section 6 of this Act. The Criminal Justice Council shall assume and pay all outstanding obligations lawfully incurred by the Law Enforcement Council before the effective date of section 6 of this Act that properly are charged against amount authorized by this section to be expended by the Criminal Justice Council. The expenditure classifications, if any, established by Acts authorizing or limiting expenditures remain applicable to expenditures by the Criminal Justice Council under this section.

Section 13. ORS 423.280 is amended to read:

423.280. There hereby is established in the General Fund of the State Treasury an account to be known as the [Crime Control Coordinating] *Criminal Justice* Council Account. All moneys received by the council shall be paid into the State Treasury and credited to such account and hereby are appropriated continuously for and shall be used by the council in carrying out the purposes of [ORS 423.210 to 423.280] *this 1977 Act.*

SECTION 14. (1) The amendment of ORS 423.280 by section 13 of this Act is intended to change the name of the Crime Control Coordinating Council Account to the Criminal Justice Council Account.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Crime Control Coordinating Council Account, wherever they occur in Oregon Revised Statutes, words designating the Criminal Justice Council Account.

SECTION 15. (1) Any reference in the statutes to the Law Enforcement Council shall be considered a reference to the Criminal Justice Council.

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Law Enforcement Council, wherever they occur in Oregon Revised Statutes, words designating the Criminal Justice Council.

SECTION 16. ORS 423.205, 423.210, 423.220, 423.230 and 423.240 are repealed.

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MEASURE SUMMARY

Requires that presentence reports be furnished to the sentencing judge in felony cases. Provides access to presentence reports by counsel for the state and counsel for the defendant, regardless of the content of the reports.

Provides new procedure for appealing sentences in felony cases to Court of Appeals. Prohibits further review by Supreme Court.

A BILL FOR AN ACT

Relating to criminal sentencing procedures; creating new provisions; and amending ORS 2.520, 137.079, 137.120, 138.081, 138.185 and 138.210.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this Act is added to and made a part of ORS 137.077 to 137.100.

SECTION 2. Whenever any person is convicted of a felony, the Corrections Division shall furnish a presentence report to the sentencing court. If a presentence report has previously been prepared by the Corrections Division with respect to the defendant, the division shall furnish a copy of that report, and a supplement bringing it up to date, to the sentencing court. The reports shall contain recommendations with respect to the sentencing of the defendant, including incarceration or alternatives to incarceration whenever the Corrections Division officer preparing the report believes such an alternative to be appropriate. All recommendations shall be for the information of the court and shall not limit the sentencing authority of the court.

Section 3. ORS 137.079 is amended to read:

137.079. [(1)] A copy of the presentence report *and all other written information concerning the defendant that the court considers in the imposition of sentence* shall be made available to the district attorney, the defendant or his counsel a reasonable time before the sentencing of the defendant. *All other written information, when received by the court outside the presence of counsel, shall either be summarized by the court in a memorandum available for inspection or summarized by the court on the record before sentence is imposed.*

[(2) The court may except from disclosure parts of the presentence report which are not relevant to a proper sentence, diagnostic opinions which might seriously disrupt a program of rehabilitation if known by the defendant, or sources of information which were obtainable only on a promise of confidentiality.]

[(3) If parts of the presentence report are not disclosed under subsection (2) of this section, the court shall inform the parties that information has not been disclosed and shall state for the record the reasons for the court's action. The action of the court in excepting information shall be reviewable on appeal.]

Section 4. ORS 137.120 is amended to read:

137.120. (1) Each minimum period of imprisonment in the penitentiary which prior to June 14, 1939, was provided by law for the punishment of felonies, and each such minimum period of imprisonment for felonies, hereby is abolished.

(2) Whenever any person is convicted of a felony, the court shall, unless it imposes other than a sentence to serve a term of imprisonment in the custody of the Corrections Division, sentence such person to imprisonment for an indeterminate period of time, but stating and fixing in the judgment and sentence a maximum term for the crime, which shall not exceed the maximum term of imprisonment provided by law therefor; and judgment shall be given accordingly. Such a sentence shall be known as an indeterminate

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sentence. *The court shall state on the record the reasons for the sentence imposed.*

(3) This section does not affect the indictment, prosecution, trial, verdict, judgment or punishment of any felony committed before June 14, 1939, and all laws now and before that date in effect relating to such a felony are continued in full force and effect as to such a felony.

SECTION 5. Section 6 of this Act is added to and made a part of ORS 138.005 to 138.500.

SECTION 6. (1) Whenever any person is convicted of a felony and when a sentence of imprisonment has been imposed and judgment entered, the defendant may file in the Court of Appeals within 30 days from the date the judgment was entered a Petition for Review of Sentence. A copy of the petition shall be served on the sentencing judge and the district attorney and a copy shall be filed with the clerk of the court that imposed the sentence appealed from. The petition shall be signed by the defendant and his attorney and shall set forth the reasons the sentence is unjust or inappropriate.

(2) Upon the filing of the petition in the sentencing court the clerk shall immediately forward to the Court of Appeals the court file in the case, and the sentencing judge shall forward his personal file, certified by him to be complete, containing all materials in his possession relating to the defendant and a transcript of the reasons for imposing the sentence.

(3) The district attorney may promptly file in the Court of Appeals a letter commenting on the matters set forth in the petition.

(4) The Court of Appeals shall review the petition, the court file, the judge's file and the district attorney's comments without further appearances, argument or evidence, and determine the petition within 30 days from the date it was docketed in the Court of Appeals. The Court of Appeals may take judicial notice of sentences imposed by courts of the State of Oregon and of statistical information collected for it by the State Court Administrator and the Corrections Division of the Department of Human Resources.

(5) The Court of Appeals may affirm, increase or decrease the sentence within the statutory range of penalties provided for the offense. It may also return the defendant to the sentencing court for an enhancement hearing and resentencing. However, the Court of Appeals shall make no change in the sentence imposed by the trial court unless it finds that a change is required by justice to correct an inappropriate sentence. In all instances in which the Court of Appeals does not affirm the sentence imposed, it shall state the reasons for its action by written opinion.

(6) In an appeal under this section, the judgment of the Court of Appeals shall not be reviewable by the Supreme Court.

Section 7. ORS 138.081 is amended to read:

138.081. (1) *Except as provided in section 6 of this 1977 Act,* an appeal shall be taken by causing a notice of appeal in the form prescribed by ORS 19.029 to be served:

(a) (A) On the district attorney for the county in which the judgment is entered, when the defendant appeals, or if the appeal is under ORS 221.360 on the plaintiff's attorney; or

(B) On the attorney of record for the defendant, or if the defendant has no attorney of record, on the defendant, when the state appeals; and

(b) On the trial court reporter if a transcript is required in connection with the appeal; and

(c) On the clerk of the trial court.

(2) The original of the notice with proof of service endorsed thereon or affixed thereto shall be filed with the [clerk of the court to which the appeal is made] *State Court Administrator.*

Section 8. ORS 138.185 is amended to read:

138.185. (1) *Except as provided in section 6 of this 1977 Act,* in an appeal to the Court of Appeals, when the notice of appeal if filed, or when the appeal is perfected upon publication of notice as provided in ORS 138.120, the record in

the trial court shall be prepared and transmitted to the State Court Administrator, at Salem, in the manner and within the time prescribed in ORS 19.029 and 19.078 to 19.098.

(2) The provisions of ORS 19.033 and 19.170 and, if the defendant is the appellant, the provisions of subsection (3) of ORS 19.130 shall apply to appeals to the Court of Appeals.

Section 9. ORS 138.210 is amended to read:

138.210. *Except as provided in section 6 of this 1977 Act,* if the appellant fails to appear in the appellate court, judgment of affirmance shall be given as a matter of course; but the defendant need not personally appear in the appellate court.

Section 10. ORS 2.520 is amended to read:

2.520. *Except as provided in section 6 of this 1977 Act,* any party aggrieved by a decision of the Court of Appeals may petition the Supreme Court for review within 30 days after the date of the decision, in such manner as provided by rules of the Supreme Court.

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DRAFT LEGISLATION

MEASURE SUMMARY

Establishes a fifteen-year mandatory period of incarceration for the crime of aggravated murder.

A BILL FOR AN ACT

Relating to aggravated murder; creating new provision; and amending ORS 137.010.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this act, "aggravated murder" means murder as defined in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

(1) The victim was one of the following and the murder was related to the performance of the victim's official duties in the criminal justice system:

(a) A police officer as defined in subsection (5) of ORS 181.610;

(b) A correctional, parole or probation officer or other person charged with the duty of custody, control or supervision of convicted persons;

(c) A member of the Oregon State Police;

(d) A judicial officer as defined in ORS 1.210;

(e) A juror or witness in a criminal proceeding;

(f) An employe or officer of a court of justice; or

(g) A member of the State Board of Parole.

(2) The defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody when the murder occurred.

(3) The defendant committed the murder pursuant to an agreement that he receive money or other thing of value for committing the murder.

(4) The defendant had solicited another to commit the murder and had paid or agreed to pay the person money or other thing of value for committing the murder.

(5) There was more than one victim, and the murders were part of a common scheme or plan, or the result of a single act of the defendant.

(6) The defendant committed the murder in the course or in the furtherance of the crime of robbery in any degree, kidnapping or arson in the first degree, any sexual offense specified in ORS chapter 163, or in immediate flight therefrom.

(7) The defendant committed murder after having been convicted of murder or manslaughter.

(8) The defendant committed murder by means of bombing.

Section 2. ORS 137.010 is amended to read:

137.010. (1) The statutes that define offenses impose a duty upon the court having jurisdiction to pass sentence in accordance with this section unless otherwise specifically provided by law.

(2) When a person is convicted of an offense, if the court is of the opinion that it is in the best interests of the public as well as of the defendant, the court may suspend the imposition or execution of sentence for any period of not more than five years.

(3) If the court suspends the imposition or execution of sentence, the court may also place the defendant on probation for a definite or indefinite period of not less than one nor more than five years.

(4) The power of the judge of any court to suspend execution of sentence or to grant probation to any person convicted of a crime shall continue until the person is delivered to the custody of the Corrections Division.

(5) *Notwithstanding subsections (1) to (4) and (6) of this section, the court shall not suspend the imposition or execution of sentence on any person convicted of aggravated murder.*

[(5)] *(6)* When a person is convicted of an offense and the court does not suspend the imposition or execution of sentence or when a

COMMENTARY AND REACTION

suspended sentence or probation is revoked, the court shall impose the following sentence:

(a) A term of imprisonment; or

(b) A fine; or

(c) Both imprisonment and a fine; or

(d) Discharge of the defendant.

[(6)] *(7)* This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty. An order exercising that authority may be included as part of the judgment of conviction.

SECTION 3. Notwithstanding the provisions of chapter_____, Oregon Laws 1977 (Enrolled House Bill 2013), (Parole Release: Policy and Procedures), the State Board of Parole may not release on parole a person who has been convicted of aggravated murder until the expiration of the initial 15 years of the person's sentence of life imprisonment.

SECTION 4. Notwithstanding the provisions of ORS 144.450, 421.165, 421.465 and 421.490, no person convicted of aggravated murder shall be eligible for work release, temporary leave or employment at a forest work camp or other work camp until the expiration of the initial 15 years of the person's sentence of life imprisonment.

SECTION 5. The provisions of this Act apply to persons convicted of aggravated murder on and after the effective date of this Act but do not apply to persons convicted of the crime of murder prior to the effective date of this Act, even though the circumstances of the murder conform to the definition of aggravated murder in section 1 of this Act.

COMMENTARY AND REACTION

DRAFT LEGISLATION

MEASURE SUMMARY

Requires that determination be made prior to sentencing in a felony case as to whether defendant used or possessed a firearm during commission of the crime. Requires imposition of minimum sentence of two years upon finding that defendant possessed or used firearm during commission of the crime.

A BILL FOR AN ACT

Relating to mandatory minimum sentences; amending ORS 137.010, 161.605, 166.210, 166.250, 166.410 and 166.460; and repealing ORS 166.230.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 137.010 is amended to read:

137.010. (1) The statutes that define offenses impose a duty upon the court having jurisdiction to pass sentence in accordance with this section unless otherwise specifically provided by law.

(2) *Except as provided in subsection (4) of ORS 161.605,* when a person is convicted of an offense, if the court is of the opinion that it is in the best interests of the public as well as of the defendant, the court may suspend the imposition or execution of sentence for any period of not more than five years.

(3) If the court suspends the imposition or execution of sentence, the court may also place the defendant on probation for a definite or indefinite period of not less than one nor more than five years.

(4) The power of the judge of any court to suspend execution of sentence or to grant probation to any person convicted of a crime shall continue until the person is delivered to the custody of the Corrections Division.

(5) When a person is convicted of an offense and the court does not suspend the imposition or execution of sentence or when a suspended sentence or probation is revoked, the court shall impose the following sentence:

(a) A term of imprisonment; or

(b) A fine; or

(c) Both imprisonment and a fine; or

(d) Discharge of the defendant.

(6) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty. An order exercising that authority may be included as part of the judgment of conviction.

Section 2. ORS 161.605 is amended to read:

161.605. *(1)* The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

[(1)] *(a)* For a Class A felony, 20 years.

[(2)] *(b)* For a Class B felony, 10 years.

[(3)] *(c)* For a Class C felony, 5 years.

[(4)] *(d)* For an unclassified felony as provided in the statute defining the crime.

(2) As used in this section, "firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless powder.

(3) Prior to sentencing upon a felony conviction, it shall be the duty of the district attorney to advise the court, and the duty of the court to inquire, as to whether the defendant used or possessed an operable or inoperable firearm during the commission of the crime.

(4) Unless the defendant admits on the record that he used or possessed a firearm during the commission of the crime, whenever the court has reason to believe that the defendant so used or possessed a firearm, it shall set a presentence hearing on the matter. The state may offer evidence and examine and cross-examine witnesses during the hearing.

COMMENTARY AND REACTION

DRAFT LEGISLATION

(5) The court shall enter its finding based upon the evidence received during the trial of the case and the presentence hearing. If the court finds that the defendant used or possessed a firearm during the commission of the crime, it shall impose a minimum term of imprisonment of two years. In no case shall any person punishable under this section become eligible for work release or parole until the minimum term of imprisonment is served, less reductions of imprisonment for good time served, nor shall the execution of the sentence imposed upon such person be suspended by the court.

Section 3. ORS 166.210 is amended to read:

166.210. As used in ORS [166.230,] 166.250 to 166.270, 166.280, 166.290 and 166.410 to 166.470:

(1) "Pistol," "revolver" and "firearms capable of being concealed upon the person," apply to and include all firearms having a barrel less than 12 inches in length.

(2) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, from which two or more shots may be fired by a single pressure on the trigger device.

Section 4. ORS 166.250 is amended to read:

166.250. (1) Except as otherwise provided in this section, ORS [166.230,] 166.260, 166.270, 166.280, 166.290 or 166.410 to 166.470, any person who possesses or has in his possession any machine gun, or carries concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver or other firearm capable of being concealed upon the person, without having a license to carry such firearm as provided in ORS 166.290, is guilty of a misdemeanor, unless he has been convicted previously of any felony or of any crime made punishable by this section, ORS [166.230,] 166.260, 166.270, 166.280, 166.290 or 166.410 to 166.470, in which case he is guilty of a felony.

(2) This section does not prohibit any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business is required of any such citizen.

(3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

Section 5. ORS 166.410 is amended to read:

166.410. Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or keeps, offers, exposes for sale, gives, lends or possesses a pistol, revolver or machine gun, otherwise than in accordance with ORS [166.230,] 166.250 to 166.270, 166.280, 166.290 and 166.420 to 166.470, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

Section 6. ORS 166.460 is amended to read:

166.460. ORS [166.230,] 166.250 to 166.270, 166.280, 166.290, 166.410 to 166.450, and 166.470 do not apply to antique pistols or revolvers incapable of use as such.

SECTION 7. ORS 166.230 is repealed.

COMMENTARY AND REACTION

DRAFT LEGISLATION

MEASURE SUMMARY

In cases not involving firearms, authorizes minimum sentence of one-half the maximum term provided by law. Requires unanimous vote by members of State Board of Parole to release a defendant on parole before minimum term of imprisonment is served if the sentencing court enters an objection with the board.

A BILL FOR AN ACT

Relating to mandatory minimum sentences; creating new provisions; and amending ORS 144.035.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 144.035 is amended to read:

144.035. (1) *Except as provided in subsection (4) of this section,* in hearings conducted by the State Board of Parole, the board may sit together or in panels.

(2) Each panel shall consist of at least two members. The chairman of the board from time to time shall make assignments of members to the panels. The chairman of the board may participate on any panel and when doing so shall act as chairman of the panel. The chairman of the board may designate the chairman for any other panel.

(3) The chairman shall apportion matters for decision to the panels. Each panel shall have the authority to hear and determine all questions before it. However, if there is a division in the panel so that a decision is not unanimous, the chairman of the board shall reassign the matter and no issue so reassigned shall be decided by fewer than three affirmative votes.

(4) *Whenever the board receives an objection to release of the defendant from the sentencing court pursuant to section 3 of this 1977 Act, the board shall sit together and may release the defendant only upon unanimous vote by the full membership of the board.*

SECTION 2. Section 3 of this Act is added to and made a part of ORS 161.605 to 161.685.

SECTION 3. (1) In any felony case not involving the use or possession of a firearm, the court may impose a minimum term of imprisonment of up to one-half of the applicable maximum term provided in ORS 161.605. Except as provided in subsection (2) of this section, in no case shall any person sentenced to a minimum term of imprisonment under this section be eligible for parole until the minimum term is served.

(2) When a minimum term of imprisonment is imposed, the State Board of Parole shall, before releasing a defendant who has served less than the minimum term, notify the sentencing court that it intends to release the defendant upon parole and shall state its reasons therefor. If the State Board of Parole does not receive an objection from the court within 15 days from the mailing of the notice of intent to release the defendant, it may proceed to release the defendant. If the State Board of Parole receives an objection and reasons for that objection from the court, within 15 days from the mailing of the notice of intent to release the defendant, the State Board of Parole shall review the objection of the court and may proceed to release the defendant only upon a unanimous vote of the five members of the State Board of Parole.

COMMENTARY AND REACTION

DRAFT LEGISLATION

MEASURE SUMMARY

Authorizes the State Board of Parole to establish a minimum period of confinement to be served before a person may be released on parole.

Establishes standards for eligibility and procedures for release of inmates.

A BILL FOR AN ACT

Relating to parole sentences; creating new provisions; and repealing ORS 144.175, 144.180, 144.221 and 144.345.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The State Board of Parole shall establish limited ranges of duration of imprisonment for felony offenses which shall be served prior to eligibility for release on parole. The minimum period of preparole confinement specified for an offense shall be proportionate to the severity of the offense and the periods specified for other offenses and sufficient to provide an effective deterrent to persons who might commit similar offenses.

SECTION 2. In order to insure public participation and comment, the State Board of Parole and the Secretary of State, in so far as practicable, shall follow the procedures prescribed in ORS 183.335 and 183.355 in the adoption, amendment or repeal of the limited ranges of duration of imprisonment required by section 1 of this Act.

SECTION 3. (1) Within six months after the admission of a convicted person to any state penal or correctional institution, the State Board of Parole shall conduct a parole hearing to interview such person and set the initial date of his release on parole, determined pursuant to subsection (2) of this section.

(2) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this section, the board shall apply the range of duration of imprisonment determined for his offense, modified as appropriate by reference to include, but not be limited to, the following factors:

(a) The particular aggravating or mitigating circumstances of the prisoner's offense, including, but not limited to, the use of a firearm in the commission of the offense, which shall constitute an aggravating circumstance;

(b) The prisoner's prior criminal record, including the nature and circumstances, dates, frequency and types of previous offenses;

(c) The prisoner's conduct during any previous period of probation or parole and when the period occurred;

(d) The reports, statements and information specified in ORS 144.210;

(e) Any relevant information provided by the prisoner or gained as a result of the prisoner's parole hearing or other personal interview; and

(f) Such other relevant information concerning the prisoner as may be reasonably available.

(3) Notwithstanding subsection (1) of this section, in the case of a prisoner whose offense included particularly violent or otherwise serious criminal conduct or whose offense was preceded by several convictions for serious offenses or whose record includes a psychiatric diagnosis of severe emotional disturbance, the board may choose to set no parole date.

(4) The board may defer setting the initial parole release date for a prisoner until it receives psychiatric reports, criminal records or other information essential to formulating the release decision.

(5) When the board has set the initial parole release date for a prisoner, it shall inform the sentencing judge of the date.

SECTION 4. In the case of any prisoner for whom an initial parole release date is set in excess

COMMENTARY AND REACTION

DRAFT LEGISLATION

of four years from the date of commitment, the State Board of Parole shall interview the prisoner personally and review its parole decision at least once every year after the parole hearing to determine whether an advancement of release date is appropriate and consistent with the policies of this Act. Any prisoner may waive the interview required by this section, and in this manner, satisfy the requirements thereof.

SECTION 5. (1) Prior to the scheduled release on parole of any prisoner and prior to release rescheduled under this section, the State Board of Parole shall interview each prisoner to review his parole plan, his psychiatric report, if any, and the record of his conduct during confinement.

(2) If the board finds that the prisoner has engaged in serious misconduct during confinement, or that a psychiatric diagnosis of present severe emotional disturbance has been made with respect to the prisoner, it may order the postponement of the scheduled parole release until a specified future date.

(3) If the board finds that the parole plan is clearly inadequate, it may indicate in what respect the plan is inadequate and defer release until the defect is remedied.

SECTION 6. Upon petition of a prisoner or upon its own initiative, the State Board of Parole, in furtherance of justice, may order the release on parole of a prisoner prior to the set parole release date or order the release on parole of a prisoner for whom it previously decided to set no parole release date.

SECTION 7. (1) Notwithstanding the provisions of ORS 179.495, prior to a parole hearing or other personal interview, each prisoner shall have access to the written materials which the State Board of Parole shall consider with respect to his release on parole, with the exception of materials exempt from disclosure under paragraph (d) of subsection (2) of ORS 192.500.

(2) The board and the Administrator of the Corrections Division shall jointly adopt procedures for prisoner's access to written materials pursuant to this section.

SECTION 8. The State Board of Parole shall specify in writing the basis of its decisions and actions under sections 2 to 5 of this Act.

SECTION 9. ORS 144.175, 144.180, 144.221 and 144.345 are repealed.

COMMENTARY AND REACTION

DRAFT LEGISLATION

MEASURE SUMMARY

Allows the State Board of Parole to proceed with a parole revocation hearing without having first arrested or detained the parolee.

A BILL FOR AN ACT

Relating to parole revocation hearings; amending ORS 144.331 and 144.343.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 144.331 is amended to read:

144.331. *(1)* The State Board of Parole may suspend the parole of any person under its jurisdiction upon being informed and having reasonable grounds to believe that the person has violated the conditions of his parole and may order the arrest and detention of such person. The written order of the board is sufficient warrant for any law enforcement officer to take into custody such person. A sheriff, municipal police officer, constable, parole or probation officer, prison official or other peace officer shall execute the order.

(2) The board or its designated representative may proceed to hearing as provided in ORS 144.343 without first suspending the parole or ordering the arrest and detention of any person under its jurisdiction upon being informed and having reasonable grounds to believe that the person under its jurisdiction has violated a condition of parole and that revocation of parole may be warranted.

Section 2. ORS 144.343 is amended to read:

144.343. (1) When [a parolee is arrested and detained under ORS 144.331 or 144.350,] the State Board of Parole or its designated representative *has been informed and has reasonable ground to believe that a person under its jurisdiction has violated a condition of parole and that revocation of parole may be warranted, the board or its designated representative* shall conduct a hearing as promptly as convenient [after arrest and detention] to determine whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred and also conduct a parole violation hearing if necessary. The location of the hearing shall be reasonably near the place of the alleged violation or the place of confinement.

(2) The board may:

(a) Reinstate or continue the alleged violator on parole subject to the same or modified conditions of parole; or

(b) Revoke parole and require that the parole violator serve the remaining balance of his sentence as provided by law.

(3) Within a reasonable time prior to the hearing, the board or its designated representative shall provide the parolee with written notice which shall contain the following information:

(a) A concise written statement of the suspected violations and the evidence which forms the basis of the alleged violations.

(b) The parolee's right to a hearing and the time, place and purpose of the hearing.

(c) The names of persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purposes of confrontation and cross-examination unless it has been determined that there is good cause for not allowing confrontation.

(d) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk of harm if their identity were disclosed.

(e) The parolee's right to subpena witnesses under ORS 144.347.

(f) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed at state expense if the board or its

COMMENTARY AND REACTION

designated representative determines, after request, that the request is based on a timely and colorable claim that:

(A) The parolee has not committed the alleged violation of the conditions upon which he is at liberty; or

(B) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or

(C) The parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

(g) That the hearing is being held to determine:

(A) Whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred, and if so;

(B) Whether to reinstate or continue the alleged violator on parole subject to the same or modified conditions of parole; or

(C) Revoke parole and require that the parole violator serve the remaining balance of his sentence as provided by law.

(4) At the hearing the parolee shall have the right:

(a) To present evidence on his behalf, which shall include the right to present letters, documents, affidavits or persons with relevant information regarding the alleged violations;

(b) To confront witnesses against him unless it has been determined that there is good cause not to allow confrontation;

(c) To examine information or documents which form the basis of the alleged violation unless it has been determined that informants would be subject to risk of harm if their identity is disclosed;

(d) To be represented by counsel and, if indigent, to have counsel provided at state expense if the request and determination provided in paragraph (f) of subsection (3) of this section have been made. If an indigent's request is refused, the grounds for the refusal shall be succinctly stated in the record.

(5) Within a reasonable time after the preliminary hearing, the parolee shall be given a written summary of what transpired at the hearing, including the board's or its designated representative's decision or recommendation and reasons for the decision or recommendation and the evidence upon which the decision or recommendation was based. If an indigent parolee's request for counsel at state expense has been made in the manner provided in paragraph (f) of subsection (3) of this section and refused, the grounds for the refusal shall be succinctly stated in the summary.

(6) If the board or its designated representative has determined that there is probable cause to believe that a violation of one or more of the conditions of parole has occurred, the hearing shall proceed to receive evidence from which the board may determine whether to reinstate or continue the alleged parole violator on parole subject to the same or modified conditions of parole or revoke parole and require that the parole violator serve the remaining balance of sentence as provided by law.

(7) At the conclusion of the hearing if probable cause has been determined and the hearing has been held by a member of the board or by a designated representative of the board, the person conducting the hearing shall transmit the record of the hearing, together with a proposed order including findings of fact, recommendation and reasons for the recommendation to the board. The parolee or his representative shall have the right to file exceptions and written arguments with the board. After consideration of the record, recommendations, exceptions and arguments a quorum of the board shall enter a final order including findings of fact, its decision and reasons for the decision.

COMMENTARY AND REACTION

DRAFT LEGISLATION

MEASURE SUMMARY

Establishes an alternate system of handling person charged with criminal offense. Authorizes court to stay criminal proceedings whenever defendant found suitable for and consents to diversion agreement. Provides for dismissal of criminal charges upon successful completion of diversion program.

A BILL FOR AN ACT

Relating to pretrial diversion procedures in lieu of criminal proceedings.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this Act:

(1) "Diversion" means referral of a defendant in a criminal case to a short-term, supervised performance program prior to plea and adjudication.

(2) "Diversion agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against him dismissed.

(3) "Staff" means personnel used by a court to evaluate defendants, to formulate proposed diversion agreements, to supervise the performance of defendants under the agreements and to report to a court concerning the evaluation, formulation and supervision.

SECTION 2. Section 3 of this Act applies whenever an accusatory instrument charging the commission of a crime has been filed in a court if:

(1) The offense with which the defendant has been charged does not involve violence or threatened violence;

(2) The defendant has no prior felony conviction;

(3) The defendant has no more than one prior misdemeanor conviction within three years preceding the alleged commission of the offense with which he is charged; and

(4) The defendant has not previously participated in diversion pursuant to section 3 of this Act.

SECTION 3. (1) Whenever the conditions in section 2 of this Act are met, and subject to the consent of the defendant, the court shall set a date within 30 days of the filing of the accusatory instrument to consider diversion as an alternative to further criminal proceedings. The court shall stay the criminal proceedings and instruct the staff to evaluate the suitability of diversion for the defendant.

(2) In determining whether to allow diversion of a particular defendant and in selecting terms and conditions for the diversion agreement, the court shall consider:

(a) The public interest;

(b) The background, individual needs and present circumstances of the defendant;

(c) The defendant's juvenile record, if any;

(d) The nature of the alleged crime with which the defendant has been charged; and

(e) The recommendation of the district attorney who filed the accusatory instrument against the defendant.

(3) On or before the date set to consider the suitability of diversion for the defendant, the staff shall transmit to the court its findings and, if one is recommended, a proposed diversion agreement. The proposed diversion agreement shall include the defendant's waiver of his right to a speedy trial.

(4) If the court determines diversion is suitable for the defendant, at the time set for such determination, the court may use or modify the staff's diversion agreement, if one is proposed, or may propose its own agreement.

(5) A diversion agreement carries the understanding that if the defendant fulfills the obligations of the program described therein, the criminal charges filed against the defendant will be dismissed with prejudice. The agreement may include but is not limited to the payment of costs and restitution, performance of community service, residence in a halfway house or similar facility, maintenance of gainful employment, compliance with a schedule of meetings with staff and participation in programs offering medical,

COMMENTARY AND REACTION

educational, vocational, social, and psychological services, corrective and preventive guidance and other rehabilitative services.

SECTION 4. If the court elects to offer diversion in lieu of further criminal proceedings and the defendant, with the advice of counsel, agrees to the terms of the proposed agreement, including a waiver of the right to a speedy trial, the court shall stay further criminal proceedings for a definite period. The stay shall not exceed 270 days in the case of a defendant charged with the commission of a felony, and shall not exceed 120 days in the case of a defendant charged with the commission of a misdemeanor. The defendant shall commence performance of the agreement immediately upon receiving the decision of the court. If the court or the defendant rejects diversion, the court shall resume criminal proceedings.

SECTION 5. (1) If the court finds at the end of the stay of proceedings ordered under section 4 of this Act that the defendant has fulfilled the terms of the diversion agreement, the court shall dismiss with prejudice the charges that were the subject of the criminal proceedings. The dismissal of the charges shall constitute a bar to any other prosecution of the defendant for the same alleged offense or any lesser included offense.

(2) If the court finds, after a hearing at the end of the stay of proceedings ordered under section 4 of this Act, or at any time prior thereto, that the defendant has failed to fulfill the terms of the diversion agreement without good cause, the court shall resume criminal proceedings. If the defendant is found guilty, the court shall consider any partially completed fulfillment of the agreement in determining the appropriate sentence. If good cause for failure to fulfill the agreement is demonstrated to the court's satisfaction, the court may modify the agreement, and if the defendant agrees, may order fulfillment of the modified agreement as a prerequisite to dismissal of charges.

(3) The court shall cause notice of the defendant's participation in the diversion disposition procedures described in this Act to be sent to the State Court Administrator. Upon request, the administrator shall make available the information contained in the notice to any court that subsequently considers diversion for the defendant.

SECTION 6. In any trial of a defendant for an offense that has been stayed pursuant to section 4 of this Act or for a lesser included offense, the following information shall not be admissible into evidence against the defendant:

(1) That the defendant has requested to be considered for diversion;

(2) That the defendant has decided to participate or not to participate in diversion;

(3) That the court or staff has determined that the defendant would or would not benefit from diversion;

(4) The contents of any statement, or any information procured therefrom, made by the defendant as a part of the evaluation of his suitability for diversion, as a part of his participation in diversion or as a part of any hearing held with respect to the defendant's participation in diversion;

(5) That the defendant has taken action, including restitution, in fulfillment of the terms and conditions of the defendant's diversion agreement; and

(6) The contents of any prediversion evaluation report, diversion agreement or progress report made with respect to diversion of the defendant.

SECTION 7. The Administrator of the Corrections Division shall adopt rules for the establishment and operation of diversion programs in order to foster public safety and effective rehabilitation, and to insure uniformity and equity among diversion programs undertaken throughout the state. The rules shall establish maximum caseload levels, the general form of diversion agreements and recordkeeping procedures and shall include other matters as are needed to carry out the purposes of this Act.

COMMENTARY AND REACTION

DRAFT LEGISLATION

MEASURE SUMMARY

Requires the Corrections Division to establish a uniform procedure for administering sentence reductions for good time served.

A BILL FOR AN ACT

Relating to reductions of terms of imprisonment; amending ORS 183.310, 421.120 and 421.195.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 183.310 is amended to read:

183.310. As used in ORS 183.310 to 183.500:

(1) "Agency" means any state board, commission, department, or division thereof, or officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches.

(2) "Contested case" means a proceeding before an agency:

(a) In which the individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after an agency hearing at which such specific parties are entitled to appear and be heard; or

(b) Where the agency has discretion to suspend or revoke a right or privilege of a person; or

(c) For the suspension, revocation or refusal to renew or issue a license required to pursue any commercial activity, trade, occupation or profession where the licensee or applicant for a license demands such hearing; or

(d) Where the agency by rule or order provides for hearings substantially of the character required by ORS 183.415, 183.425 and 183.450 to 183.470.

(3) "License" includes the whole or part of any agency permit, certificate, approval, registration or similar form of permission required by law to pursue any commercial activity, trade, occupation or profession.

(4) "Order" means any agency action expressed verbally or in writing directed to a named person or named persons, other than employes, officers or members of an agency, but including agency action under ORS chapter 657 making determination for purposes of unemployment compensation of employes of the state and agency action under ORS chapter 240 which grants, denies, modifies, suspends or revokes any right or privilege of such person.

(5) "Party" means each person or agency entitled as of right to a hearing before the agency, or named or admitted as a party.

(6) "Person" means any individual, partnership, corporation, association governmental subdivision or public or private organization of any character other than an agency.

(7) "Rule" means any agency directive, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(a) Internal management directives, regulations or statements between agencies, or their officers or their employes, or within an agency, between its officers or between employes, unless hearing is required by statute, or action by agencies directed to other agencies or other units of government.

(b) Declaratory rulings issued pursuant to ORS 183.410 or 305.105.

(c) Intra-agency memoranda.

(d) Executive orders of the Governor.

(e) Rules of conduct for persons committed to the physical and legal custody of the Corrections Division of the Department of Human Resources, the violation of which will not result in:

(A) Placement in segregation or isolation status in excess of seven days.

(B) Institutional transfer or other transfer to secure confinement status for disciplinary reasons.

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[(C) Noncertification to the Governor of a deduction from the term of his sentence under ORS 421.120.]

[(D)] *(C)* Disciplinary procedures adopted pursuant to ORS 421.180.

Section 2. ORS 421.120 is amended to read:

421.120. (1) Each inmate confined in execution of the judgment of sentence upon any conviction in the penal or correctional institution, for any term other than life, and whose record of conduct shows that he faithfully has observed the rules of the institution, [and where industry and general reformation are certified to the Governor by the superintendent of the penal or correctional institution,] shall be entitled [, upon the order of the Governor,] to a deduction from the term of his sentence to be computed as follows:

(a) From the term of a sentence of not less than six months nor more than one year, one day shall be deducted for every six days of such sentence actually served in the penal or correctional institution.

(b) From the term of a sentence of more than one year, one day shall be deducted for every two days of such sentence actually served in the penal or correctional institution.

(c) From the term of any sentence, one day shall be deducted for every 15 days of work actually performed in prison industry, or in meritorious work in connection with prison maintenance and operation, or of enrollment in an educational activity as certified by the educational director of the institution during the first year of prison employment or educational activity, and one day shall be deducted for every seven days of such work actually performed or educational activity certified after the first year to and including the fifth year of prison employment or educational activity certified, and one day for every six days of such work actually performed or educational activity certified after the fifth year of prison employment.

(d) From the term of any sentence, one day shall be deducted for every 10 days of work actually performed in agriculture during the first year of prison employment, and one day for every six days of such work actually performed thereafter.

(e) From the term of any sentence one day shall be deducted for every six days' work performed at work camp during the first year of prison employment, and one day for every four days thereafter. Once the four-day rate is achieved it may be applied to subsequent work or education release programs while the inmate is serving the same term.

(f) The Corrections Division shall develop a uniform procedure for granting, retracting and restoring deductions allowed in paragraphs (a) and (b) of this subsection.

[(f)] *(g)* The deductions allowed in paragraphs (c), (d) and (e) of this subsection shall be in addition to those allowed in paragraphs (a) and (b) of this subsection.

[(g)] *(h)* In this subsection, "prison employment" includes actual work in prison industry, meritorious work in connection with prison maintenance and operation, actual work in agriculture and actual work at work camp.

(2) When a paroled inmate violates any condition of his parole, no deduction from the term of his sentence, as provided in subsection (1) of this section, shall be made for service by such inmate in the penal or correctional institution prior to his acceptance and release on parole, except when authorized by the State Board of Parole upon recommendation of the superintendent thereof.

Section 3. ORS 421.195 is amended to read:

421.195. If an order places an inmate in segregation or isolation status for more than seven days, institutionally transfers him for disciplinary reasons or provides for [noncertification to the Governor of a deduction] *nondeduction* from the term of his sentence under paragraphs (a) and (b) of subsection (1) of ORS 421.120, the order and the proceedings underlying the order are subject to review by the Court of Appeals upon petition

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to that court filed within 30 days of the order for which review is sought. The division shall transmit to the court the record of the proceeding, or, if the inmate agrees, a shortened record. A copy of the record transmitted shall be delivered to the inmate by the division. The court may affirm, reverse or remand the order on the same basis as provided in paragraphs (a) to (d) of subsection (7) of ORS 183.480. The filing of the petition shall not stay the division's order, but the division may do so, or the court may order a stay upon application on such terms as it deems proper.

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MEASURE SUMMARY

Requires State Board of Parole to discharge paroled prisoner convicted of nonviolent crime after successful completion of one year of parole unless parole officer indicates continued parole advisable.

A BILL FOR AN ACT

Relating to termination of parole; amending ORS 144.310.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 144.310 is amended to read:

144.310. *(1) When a paroled prisoner convicted of a crime not involving violence has performed the obligations of his parole for the period of one year after the date of release on parole, the State Board of Parole shall make a final order of discharge and issue to the paroled prisoner a certificate of discharge unless a parole officer indicates to the board that further supervision on parole is advisable.*

(2) When a paroled prisoner *not discharged pursuant to subsection (1) of this section* has performed the obligations of his parole for such time as satisfies the [State] board [of Parole] that his final release is not incompatible with his welfare and that of society, the board may make a final order of discharge and issue to the paroled prisoner a certificate of discharge; but no [such] order of discharge shall be made within a period of less than one year after the date of release on parole [, except that when the period of the sentence imposed by the court expires at an earlier date,].

(3) Notwithstanding subsections (1) and (2) of this section, a final order of discharge shall be made and a certificate of discharge issued to [the] *a* paroled prisoner not later than the date of expiration of the sentence *imposed by the court.*

NOTE: It was decided on December 28, 1976, that the Task Force would not prefile this bill for the 1977-79 Legislative Assembly.

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MEASURE SUMMARY

Authorizes court to impose sentence of restitution in felony case. Provides for civil enforcement of sentence of restitution. Authorizes State Board of Parole to determine payment schedule for restitution by a defendant on parole.

A BILL FOR AN ACT

Relating to restitution to victims of crimes.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this Act is added to and made a part of ORS 161.605 to 161.685.

SECTION 2. (1) Whenever a sentence is imposed upon a felony conviction, the court may, in addition, impose a sentence of restitution. Restitution may be ordered for property damage, personal injury, disturbance, distress, or loss of support suffered by the immediate victim or a member of the victim's family.

(2) Whenever the court imposes a sentence of restitution, it shall fix the amount of restitution based upon information in the record and the presentence report. If the record and presentence report do not contain sufficient information for the court to determine the amount of restitution, it may hold a hearing on the question at the time of sentencing.

(3) A sentence of restitution shall have the effect of a civil judgment not dischargeable in bankruptcy and, except as provided in subsection (4) of this section, shall be enforceable by civil process.

(4) If the defendant is sentenced to a term of imprisonment, the judgment of restitution shall not be enforceable until the defendant is discharged or paroled, unless at the time of sentencing the court finds that the defendant has sufficient assets to satisfy all or part of the judgment of restitution at the time of sentencing.

(5) Whenever a defendant is placed on parole, or at any time during a defendant's period of parole, the State Board of Parole may, after notice to the person to whom restitution is to be paid and a hearing, determine a schedule of payments of restitution that may be required as a condition of parole and that shall have the effect of staying civil process while the defendant is on parole, so long as the payments in the schedule are made. An order determining a schedule of payments may be modified by the State Board of Parole upon the motion of either party, after notice and hearing, during the period of parole.

(6) Payments made under subsection (5) of this section shall be made to the county clerk or court administrator of the county or judicial district from which the defendant was sentenced, and the county clerk or court administrator shall furnish the State Board of Parole with a record of payments received.

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MEASURE SUMMARY

Authorizes evaluation and treatment by mental health facilities as conditions of probation. Establishes a six-member Psychiatric Security Review Board to supervise the provision of mental health services to corrections clients and persons found "not responsible by reason of mental disease or defect." Provides for hearings, reports, and appeals regarding commitment or conditional release.

Appropriates $_____ to carry out the purposes of this Act.

Relating to criminal responsibility; creating new provisions; amending ORS 137.540, 161.315, 161.319, 161.325, 161.329, 161.390, 192.690 and 428.210; repealing 161.335, 161.340, 161.345 and 161.350; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this 1977 Act: "conditional release" includes, but is not limited to, the monitoring of mental and physical health treatment.

Section 2. ORS 137.540 is amended to read:

137.540. (1) The court shall determine, and may at any time modify, the conditions of probation, which may include, as well as any others, that the probationer shall:

[(1)] *(a)* Avoid injurious or vicious habits.

[(2)] *(b)* Avoid places or persons of disreputable or harmful character.

[(3)] *(c)* Report to the probation officer as directed by the court or probation officer.

[(4)] *(d)* Permit the probation officer to visit him at his place of abode or elsewhere.

[(5)] *(e)* Answer all reasonable inquiries of the probation officer.

[(6)] *(f)* Work faithfully at suitable employment.

[(7)] *(g)* Remain within a specified area.

[(8)] *(h)* Pay his fine, if any, in one or several sums.

[(9)] *(i)* Be confined to the county jail for a period not to exceed one year or one-half of the maximum period of confinement that could be imposed for the offense for which the defendant is convicted, whichever is the lesser.

[(10)] *(j)* Make reparation or restitution to the aggrieved party for the damage or loss caused by offense, in an amount to be determined by the court.

[(11)] *(k)* Support his dependents.

[(12)] *(l)* Remain under the supervision and control of the Corrections Division.

(2) (a) As a condition of probation, the court may require the defendant to report to any state or local mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is recommended, the court may order the defendant, as a condition of probation, to cooperate with and accept the treatment from the facility.

(b) The facility to which the defendant has been referred for evaluation shall perform such evaluation and submit a written report of its findings to the court. If the facility finds that treatment of the defendant is appropriate, it shall include its recommendations for treatment in the report to the court.

(c) Whenever treatment is provided by the facility, it shall furnish reports to the court on a regular basis concerning the progress of the defendant.

(d) Copies of all reports submitted to the court pursuant to this section shall be furnished to the defendant and his counsel. The confidentiality of these reports shall be determined pursuant to ORS 192.500.

(e) Whenever treatment is provided pursuant to this subsection, the court may order, as an additional condition of probation, that the defendant pay the reasonable cost of the treatment to the mental health facility.

Section 3. ORS 161.315 is amended to read:

161.315. Upon filing of notice or the introduction of evidence by the defendant as provided in subsection (3) of ORS 161.309, the state shall have the right to have at least one psychiatrist *or licensed psychologist* of its selection examine the defendant. The state shall file notice with the

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court of its intention to have the defendant examined. Upon filing of the notice, the court, in its discretion, may order the defendant committed to a state institution or any other suitable facility for observation and examination as it may designate for a period not to exceed 30 days. If the defendant objects to the [psychiatrist] *examiner* chosen by the state, the court for good cause shown may direct the state to select a different [psychiatrist] *examiner*.

Section 4. ORS 161.319 is amended to read:

161.319. When the defendant is [acquitted on grounds found *not responsible due to* mental disease or defect [excluding responsibility], as defined in ORS 161.295, the verdict and judgment shall so state.

Section 5. ORS 161.325 is amended to read:

161.325. After entry of judgment of not [guilty] *responsible* by reason of mental disease or defect [excluding responsibility], the court shall, on the basis of the evidence given at the trial or at a separate hearing, if requested by either party, make an order as provided in ORS 161.329, Section 10 or Section 12 of this 1977 Act, whichever is appropriate.

Section 6. ORS 161.329 is amended to read:

161.329. If the court finds that the person is no longer affected by mental disease or defect, or, if so affected, that he no longer presents a substantial danger to himself or [the person of] others and is not in need of care, supervision or treatment, the court shall order him discharged from custody.

SECTION 7. Section 8 of this Act is added to and made a part of ORS 161.295 to 161.390.

SECTION 8. (1) There is hereby created a Psychiatric Security Review Board consisting of six members appointed by the Governor and subject to confirmation by the Senate by the affirmative vote of majority of the Senators voting, a quorum being present. If an appointment is made when the Legislative Assembly is not in session, the Senate shall act through the Committee on Executive Appointments under ORS 171.560.

(2) The membership of the board shall be composed of:

(a) A psychiatrist experienced in the criminal justice system and not otherwise employed on a full-time basis by the Mental Health Division or a community mental health program;

(b) A licensed psychologist experienced in the criminal justice system and not otherwise employed on a full-time basis by the Mental Health Division or a community mental health program;

(c) A member with substantial experience in the processes of parole and probation;

(d) Two members of the general public; and

(e) A lawyer with substantial experience in criminal trial practice.

(3) The term of office of each member is four years. The Governor at any time may remove any member for inefficiency, neglect of duty or malfeasance in office. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(4) Notwithstanding the term of office specified by subsection (3) of this section, of the members first appointed to the board:

(a) One shall serve for a term ending June 30, 1978.

(b) One shall serve for a term ending June 30, 1979.

(c) Two shall serve for terms ending June 30, 1980.

(d) Two shall serve for terms ending June 30, 1981.

(5) A member of the board shall receive a per diem allowance of $200 when he is engaged in the performance of his official duties, including necessary travel time. In addition, subject to ORS 292.220 to 292.250 regulating travel and other expenses of state officers and employes, he shall be reimbursed for actual and necessary travel and

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other expenses incurred by him in the performance of his official duties.

(6) Subject to any applicable provision of the State Merit System Law, the board may hire employes to aid it in performing its duties under this 1977 Act.

(7) (a) The board shall select one of its members as chairman to serve for a one-year term with such duties and powers as the board determines.

(b) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(8) The board shall meet at least twice every month at the Oregon State Hospital in Salem, unless the chairman determines that there is not sufficient business before the board to warrant a meeting at the scheduled time. The board shall also meet at other times and places specified by the call of the chairman or of a majority of the members of the board.

(9) (a) When a person over whom the board exercises its jurisdiction is adversely affected or aggrieved by a final order of the board, the person is entitled to judicial review of the final order. The person shall be entitled to counsel and, if indigent, counsel shall be provided.

(b) The order and the proceedings underlying the order are subject to review by the Court of Appeals upon petition to that court filed within 60 days of the order for which review is sought. The board shall submit to the court the record of the proceeding or, if the person agrees, a shortened record. A copy of the record transmitted shall be delivered to the person by the board.

(c) The court may affirm, reverse or remand the order on the same basis as provided in paragraphs (a) to (d) of subsection (8) of ORS 183.482.

(d) The filing of the petition shall not stay the board's order, but the board or the Court of Appeals may order a stay upon application on such terms as are deemed proper.

SECTION 9. ORS 161.335 is repealed and section 10 of this Act is enacted in lieu thereof.

SECTION 10. (1) Following the entry of a judgment pursuant to ORS 161.319, if the court finds by a preponderance of the evidence that the person is affected by mental disease or defect and that he presents a substantial danger to himself or others, the court shall order him committed to the jurisdiction of the Psychiatric Security Review Board for care and treatment. The board shall hold a hearing within 20 days to determine whether the person should be confined or conditionally released. Pending hearing before the board, the person may be confined in a state hospital designated by the Mental Health Division.

(2) If the board determines that the person is affected by mental disease or defect, that he presents a substantial danger to himself or others if he does not participate in necessary care and treatment, that he can be adequately controlled with supervision and treatment if he is conditionally released and that necessary care and treatment is available, the board may order him conditionally released, subject to those supervisory orders of the board as are in the best interests of justice, the protection of society and the welfare of the person. The board may designate any person or state, county or local agency the board considers capable of supervising the person upon release, subject to those conditions as the board directs in the order for conditional release. Prior to the designation, the board shall notify the person or agency to whom conditional release is contemplated and provide the person or agency an opportunity to be heard before the board. After receiving an order entered under this section, the person or agency designated shall assume supervision of the person pursuant to the direction of the board.

(3) Conditions of release contained in orders entered under this section may be modified from time to time and conditional releases may be terminated by order of the board as provided in section 16 of this 1977 Act.

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(4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when his disease may, with reasonable medical probability, occasionally become active and, when active, renders him a danger to himself or others. The person may be continued on conditional release by the board as provided in this section.

(5) (a) As a condition of release, the board may require the person to report to any state or local mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is recommended, the board may order the person, as a condition of release, to cooperate with and accept the treatment from the facility.

(b) The facility to which the person has been referred for evaluation shall perform the evaluation and submit a written report of its findings to the board. If the facility finds that treatment of the person is appropriate, it shall include its recommendations for treatment in the report to the board.

(c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a regular basis concerning the progress of the person.

(d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the person and his counsel. The confidentiality of these reports shall be determined pursuant to ORS 192.500.

(e) The facility shall comply with any other conditions of release prescribed by order of the board.

(6) If at any time while the person is under the jurisdiction of the board it appears to the board or its chairman that the person has violated the terms of the conditional release or that the mental health of the individual has changed, the board or its chairman may order the person returned to a state hospital designated by the Mental Health Division for evaluation or treatment. Within 20 days of a revocation of a conditional release, the board shall conduct a hearing. Notice of the hearing shall be given to the person, the court and the prosecutor from the committing county of the time and place of the hearing. The board may continue the person on conditional release or, if it finds by a preponderance of the evidence that the person is affected by mental disease or defect and presents a substantial danger to himself or others and cannot be adquately controlled if conditional release is continued, it may order the person to a state hospital designated by the Mental Health Division. The state must prove by a preponderance of the evidence the person's unfitness for conditional release. A person in custody pursuant to this subsection shall have the same rights as any person appearing before the board pursuant to section 14 of this 1977 Act.

(7) The community mental health program director, the director of the facility providing treatment to a person on conditional release, any peace officer or any person responsible for the supervision of a person on conditional release may take a person on conditional release into custody or request that the person be taken into custody if he has reasonable cause to believe the person is a substantial danger to himself or others because of mental disease or defect and that the person is in need of immediate treatment. Any person taken into custody pursuant to this subsection shall immediately be transported to a state hospital designated by the Mental Health Division. A person taken into custody under this subsection shall have the same rights as any person appearing before the board pursuant to section 14 of this 1977 Act.

(8) (a) Any person conditionally released under this section may apply to the board for discharge from or modification of an order of conditional release on the ground that he is no longer affected by mental disease or defect or, if still so affected, he no longer requires supervision, medication, care or treatment. Notice of the hearing on an application for discharge or modification of an order of conditional release shall be made to the district attorney and the court or

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department of the county of original commitment. The applicant must prove by a preponderance of the evidence his fitness for discharge or modification of the order of conditional release. Applications for discharge or modification of an order of conditional release shall not be filed more often than once every six months.

(b) Upon application by any person or agency responsible for supervision or treatment pursuant to an order of conditional release, the board shall conduct a hearing to determine if the conditions of release shall be continued, modified or terminated. The application shall be accompanied by a report setting forth the facts supporting the application.

(9) The total period of conditional release ordered pursuant to this section shall not exceed the maximum sentence the person could have received had he been found responsible.

(10) The board shall maintain and keep current the medical, social and criminal history of all persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be determined pursuant to ORS 192.500.

(11) In determining whether a person should be confined, conditionally released or discharged, the board shall have as its primary concern the protection of society.

(12) (a) Upon request of any party to the hearing provided in subsection (1) of this section, the board or its designated representatives shall issue, or the board on its own motion may issue, subpenas requiring the attendance and testimony of witnesses.

(b) Upon request of any party to the hearing provided in subsection (1) of this section and upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, the board or its designated representative shall issue, or the board on its own motion may issue, subpenas duces tecum.

(c) Witnesses appearing under subpenas, other than the parties or state officers or employes, shall receive fees and mileage as prescribed by law for witnesses in civil actions. If the board or its designated representative certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to that witness shall be reimbursed by the board.

(d) If any person fails to comply with a subpena issued under paragraphs (a) and (b) of this subsection or any party or witness refuses to testify regarding any matter on which he may be lawfully interrogated, the judge of the circuit court of any county, on the application of the board or its designated representative or of the party requesting the issuance of the subpena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpena issued by the court. If any person, agency or facility fails to comply with an order of the board issued pursuant to subsection (2) of this section, the judge of a circuit court of any county, on application of the board or its designated representative, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of an order issued by the court. Contempts for disobedience of an order of the board shall be punishable by a fine of $100.

SECTION 11. ORS 161.340 is repealed and section 12 of this Act is enacted in lieu thereof.

SECTION 12. (1) If the court finds that the person is affected by mental disease or defect and presents a substantial risk of danger to himself or others and that he is not a proper subject for conditional release, the court shall order him committed to the jurisdiction of the Psychiatric Security Review Board for placement in a state hospital designated by the Mental Health Division for custody, care and treatment. The period of commitment ordered by the court shall not exceed the maximum sentence the person could have received had he been found responsible.

(2) If at any time after the admission of a person to a state hospital designated by the Mental Health Division under this section, the superintendent of the hospital is of the opinion that the person is no longer affected by mental

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disease or defect, or, if so affected, that he no longer presents a substantial danger to himself or others or that the person continues to be affected by mental disease or defect and continues to be a danger to himself or others, but that the person can be controlled with proper care, medication, supervision and treatment if released on supervision, the superintendent shall apply to the board for an order of discharge or conditional release. The application shall be accompanied by a report setting forth the facts supporting the opinion of the superintendent. Within 30 days of the hearing before the board, copies of the report shall be sent to the district attorney and the circuit court or department of the county of original commitment. The district attorney or circuit court or department of the county shall notify the board in writing if they wish to present evidence at the hearing.

(3) The district attorney or circuit court or department of the county from which the person was committed may choose a psychiatrist or licensed psychologist to examine the person prior to a decision by the board on discharge or conditional release. The results of the examination shall be in writing and filed with the board, and shall include, but need not be limited to, an opinion as to the mental condition of the person, whether the person presents a substantial danger to himself or to others and whether the person could be adequately controlled with treatment as a condition of release.

(4) Any person who has been committed to a state hospital designated by the Mental Health Division for custody, care and treatment or another person acting on his behalf, after the expiration of 6 months from the date of the order of commitment, may apply to the board for an order of discharge or conditional release upon the grounds:

(a) That he is no longer affected by mental disease or defect; or

(b) If so affected, that he no longer presents a substantial danger to himself or others; or

(c) That he continues to be affected by a mental disease or defect and would continue to be a danger to himself or others without treatment, but he can be adequately controlled and given proper care and treatment if placed on conditional release.

(5) When application is made under subsection (4) of this section, the board shall require a report from the superintendent of the hospital which shall be prepared and transmitted as provided in subsection (2) of this section. The applicant must prove by a preponderance of the evidence his fitness for discharge under the standards of subsection (4) of this section. Applications for discharge or conditional release under subsection (4) of this section shall not be filed more often than once every six months. In no case shall a person be held pursuant to this section for a period of time exceeding five years without a hearing before the board to determine whether the person should be released pursuant to section 10 of this 1977 Act.

SECTION 13. ORS 161.345 is repealed and section 14 of this Act is enacted in lieu thereof.

SECTION 14. (1) The board shall conduct a hearing upon any application for discharge, conditional release, commitment or modification filed pursuant to sections 10 or 12 of this 1977 Act.

(a) If the board finds that the person is no longer affected by mental disease or defect, or, if so affected, that he no longer presents a substantial danger to himself or others, the board shall order him discharged from custody or from conditional release.

(b) If the board finds that the person is still affected by a mental disease or defect and is a substantial danger to himself or others, but can be controlled adequately if he is released on supervision with treatment as a condition of release, the board shall order him conditionally released on supervision as provided in section 10 of this 1977 Act.

(c) If the board finds that the person has not recovered from his mental disease or defect and is a substantial danger to himself or others and cannot adequately be controlled if he is condi-

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tionally released on supervision, the board shall order him admitted to or retained in a state hospital designated by the Mental Health Division for care, custody and treatment.

(2) In any hearing under this section, the board may appoint a mental health professional to examine the person and to submit a report to the board. Reports filed with the board pursuant to the examination shall include, but need not be limited to, an opinion as to the mental condition of the person and whether the person presents a substantial danger to himself or others, and whether the person could be adequately controlled with treatment as a condition of release. To facilitate the examination of the person, the board may order the person placed in the temporary custody of any state institution or other suitable facility.

(3) The board may make the determination regarding discharge or conditional release based upon the written reports submitted pursuant to this section. If any member of the board desires further information from the examining psychiatrist or licensed psychologist who submitted the report, these persons shall be summoned by the board to give testimony. The board shall consider all other evidence regarding the defendant's mental condition, including but not limited to the record of trial, the information supplied by the district attorney or the court or department of the county from which the person was committed or by any other interested party, including the person. A written record shall be kept of all proceedings before the board.

(4) The person about whom the hearing is being conducted shall be furnished with written notice of any hearing pending under this section within a reasonable time prior to the hearing. The notice shall include:

(a) The time, place and location of the hearing.

(b) The nature of the hearing and the specific action for which a hearing has been requested.

(c) A statement of the right to consult with legal counsel, and if indigent, to have legal counsel provided without cost.

(d) A statement of the right to examine, prior to the hearing, all relevant information, documents and reports in the board's possession.

(5) At the hearing, the person subject to the provisions of this Act shall have the right:

(a) To appear at all proceedings held pursuant to this section, except board deliberations.

(b) To cross-examine all witnesses giving testimony at the hearing.

(c) To subpena witnesses.

(d) To be represented by legal counsel and, if indigent, to have counsel provided without cost.

SECTION 15. ORS 161.350 is repealed and section 16 of this Act is enacted in lieu thereof.

SECTION 16. (1) Any person committed to the jurisdiction of the Psychiatric Security Review Board pursuant to sections 10 or 12 of this 1977 Act, shall be discharged at such time as the board shall find by a preponderance of the evidence that the person is no longer affected by mental disease or defect or, if he continues to be so affected, that he no longer presents a danger to himself or others which requires regular medical care, supervision or treatment.

(2) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect. A person whose mental disease or defect may, with reasonable medical probability, occasionally become active and when it becomes active will render him a danger to himself or others, shall not be discharged. The state has the burden of proving by a preponderance of the evidence that the person continues to be affected by mental disease or defect and he continues to be a substantial danger to himself or others. These persons shall continue under such provision and treatment as the board deems necessary to protect the defendant and others in the community.

(3) Any person who has been committed to the jurisdiction of the board under an order of

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confinement to the Mental Health Division or an order of conditional release for a period of 10 years shall be brought before the board for hearing within 30 days of the expiration of the 10-year period. The board shall review the person's status and determine whether he should be discharged from the jurisdiction of the board.

(4) If the person is in the custody of a state hospital designated by the Mental Health Division, the superintendent of the hospital shall notify the committing court or department of the expiration of the 10-year period. The notice shall be given at least 30 days prior to the expiration of the 10-year period. After receiving the notice, the board shall order a hearing.

(5) The notice provided in subsection (4) of this section shall contain a recommendation by the superintendent of the hospital either:

(a) That the person is still affected by a mental disease or defect but is no longer a substantial danger to himself or others and should be discharged; or

(b) That the person continues to be affected by a mental disease or defect and is a substantial danger to himself or others and should continue in custody; or

(c) That the person is no longer affected by a mental disease or defect and should be discharged.

(6) If the recommendation of the superintendent of the hospital is that the person should continue in custody, the person seeking discharge has the burden at the hearing of proving by a preponderance of the evidence that he:

(a) Is no longer affected by a mental disease or defect; or

(b) If so affected, is no longer a substantial danger to himself or others.

(7) If the state wishes to challenge the recommendation of the superintendent of the hospital for discharge, the state has the burden of proving by a preponderance of the evidence that the person seeking release continues to be affected by a mental disease or defect and is a substantial danger to himself or others.

(8) If the recommendation of the superintendent of the hospital is that the person should continue in custody, the superintendent shall notify in writing the board and the circuit court or department and district attorney of the county of the original commitment and request that commitment proceedings be instituted as provided in ORS chapter 426.

Section 17. ORS 161.390 is amended to read:

161.390. The Mental Health Division shall promulgate rules for the assignment of persons to state mental hospitals under [ORS 161.335, 161.340, 161.350,] *section 12 of this 1977 Act. ORS* 161.365 and 161.370.

Section 18. ORS 192.690 is amended to read:

192.690. (1) ORS 192.610 to 192.690 shall not apply to the deliberations of the State Board of Parole, the State Banking Board, *the Psychiatric Security Review Board*, the Commission on Judicial Fitness, of state agencies conducting hearings on contested cases in accordance with the provisions of ORS chapter 183, the review by the Workmen's Compensation Board of similar hearings on contested cases, or to any judicial proceedings.

(2) Because of the grave risk to public health and safety that would be posed by misappropriation or misapplication of information considered during such review and approval, ORS 192.610 to 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting Council pursuant to subsection (3) of ORS 469.530.

Section 19. ORS 428.210 is amended to read:

428.210. As used in ORS 428.210 to 428.270, unless the context requires otherwise:

(1) "Foreign hospital" means an institution in any other state which corresponds to the institutions defined in subsection (7) of this section.

(2) "Division" means the Mental Health Division.

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(3) "Nonresident" means any person who is not a resident of this state as defined in subsection (6) of this section.

(4) "Other state" includes all the states, territories, possessions, commonwealths and agencies of the United States and District of Columbia, with the exception of the State of Oregon.

(5) "Patient" means any person who has been committed by a court of competent jurisdiction to a state hospital, except a person committed to a state hospital pursuant to ORS 136.150, 136.160, [160.340 or] 161.370 *or section 12 of this 1977 Act.*

(6) "Resident of this state" means a person who has lived in this state continuously for a period of one year and who has not acquired legal residence in any other state by living continuously therein for at least one year subsequent to his residence in this state. However, a service man or woman on active duty in the Armed Forces of the United States who was domiciled in Oregon upon entry into active duty and who has acquired no other domicile shall be entitled to have his or her children considered a resident of this state so long as no other domicile is acquired by the service man or woman.

(7) "State hospital" means any institution listed in ORS 426.010 or 427.010.

SECTION 20. (1) Except as provided in subsection (2) of this section, this Act does not become operative until January 1, 1978.

(2) The Psychiatric Security Review Board may be appointed before the operative date of this Act and may take any action before the operative date of this Act that is necessary to enable it to exercise, on or after the operative date of this Act, all the duties, functions and powers conferred on it by this Act.

SECTION 21. On the operative date of this Act, the jurisdiction of all persons released on supervision or committed to a state mental hospital designated by the Mental Health Division shall be transferred to the Psychiatric Security Review Board. The circuit court previously having jurisdiction over the person shall, on the operative date of this Act, transfer its court file pertaining to the person to the board.

SECTION 22. There is appropriated to the Psychiatric Security Review Board for the biennium beginning July 1, 1977, out of the General Fund, the sum of $_____.

SECTION 23. If this Act is ever repealed, it is the intent of the Legislative Assembly that all the duties, functions and powers conferred on the Psychiatric Security Review Board by this Act vest in the circuit courts of this state. On the date of repeal, jurisdiction over persons remaining under the jurisdiction of the board shall revert to the circuit court that found the person not responsible. Any orders of the board shall, at that time, become orders of the court and shall continue in effect for the maximum period of supervision or until modified or terminated by the court.

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FUNDING OPTION

The distribution of subsidy funds to counties and regions under the Community Corrections Act (CCA) is proposed to be based on three sources:

1. Enhancement of existing field supervision (parole and probation) by allocation of a proposed $11.3 million legislative appropriation on the basis of risk population distribution,
2. Funding equivalent to the costs of absorbing current state field officer positions at the local level,
3. Per capita, lump sum payments for each potential one-to-five year felony commitment handled in local facilities or programs.

Enhancement of field supervision

$11.3 million is the amount requested by the Corrections Division for the 1977-79 biennium to bring field supervision to adequate levels — independent of the CCA. Therefore, the Task Force has proposed that this amount be provided as the CCA subsidy appropriation, in order to allow local programs to effect a parallel improvement in supervision provided to offenders.

The distribution of this sum is calculated on the basis of each county's percentage of the state risk population (persons 15-29, inclusive) in 1975. This information was provided by the Center for Population Research and Census at Portland State University, and appears as Figure 8 in the Master Plan text.

Funds for transfer of field staff

Based on the 1977-79 Field Services budget request, the cost of maintaining one parole and probation officer per biennium is $44,764. The calculation of this figure is shown below:

Salary:	
$1,251 per month x 24 months =	$30,024
Benefits:	
Other Payroll Expenses @ 18% =	5,404
Service and supply (travel, office space, telephone, etc.):	
$389 per month x 24 months =	9,336
	$44,764

Since information on current state parole and probation officers is provided by Field Services in terms of the eight regions, the distribution of officers per county was calculated on the basis of risk population. This number of officers was then multiplied by the unit cost figure of $44,764 to determine the funds that each county should receive in order to accomplish the transfer of state field staff to local control under the CCA.

Per capita funds for 1-5 year potential commitments handled locally

In addition to funds for supplanting and enhancing current state field supervision, funds will also be distributed in accordance with the numbers of the "target population" (one-to-five year sentences) that are handled in the community, rather than being committed to a state correctional institution. The local disposition may include up to one year of time in local jails, but the approval of comprehensive plans will be contingent upon services being provided in such local facilities.

The determination of the per capita payment is based upon the average cost to the Corrections Division to supervise one offender during the 1975-77 biennium. According to Sid Coleman, Assistant Administrator, the total Division budget for the biennium was $44,500,000 (including August 13, 1976, Emergency Board appropriations).

Using Division data regarding total monthly responsibility from July 1, 1975, to September 1, 1976, an average monthly supervision figure of 9,348 was determined. These budget and client figures allow for determination of unit costs to the Division for the following intervals of time:

Biennium	— $4,760.38	
Year	— 2,380.19	One offender under
Month	— 198.35	supervision
Day	— 6.52	

The next step is to determine the average length of institutional stay for one-to-five year felons. Using data provided by Division Administrator Bob Watson and Division A.D.P. Support Services, it was determined that the average

COMMENTARY AND REACTION

FUNDING OPTION

length of actual time served for one-to-five year commitments is 12.78 months.

Multiplying 12.78 months by the monthly Division supervision cost of $198.35 yields a figure of $2,534.91. This represents the proposed per capita payment to the participating county or region for providing sentencing alternatives to state institutionalization for one-to-five year offenders.

Since it is not known how many one-to-five year felons can be diverted into local programming for each county, an estimate of fifty (50%) percent so diverted is applied to an average of the one-to-five year commitments for 1973, 1974, and 1975.

COMMENTARY AND REACTION

Funding Option
9/23/76

COUNTY	(1) % of state risk population	(2) "Enhancement" budget [(1) x $11.3 million]	(3) Current state Counselors	(4) "Absorption" budget [(3) x $44,764]	(5) Average annual 1-5 year commitments 1973-75	(6) Projected "Non-commitment" budget [(5) x .50 x $2534.91]	(7) Total Projected Budget
BAKER	0.51	$ 57,600	0.68	$ 30,439.52	8	($ 10,139.64)	($ 98,179.16)
BENTON	4.06	551,400	3.73	166,969.72	12	(15,209.46)	(733,579.18)
CLACKAMAS	6.06	910,800	5.41	242,173.24	25	(31,686.38)	(1,184,659.62)
CLATSOP	1.14	128,800	0.77	34,468.28	10	(12,674.55)	(175,942.83)
COLUMBIA	1.23	139,000	0.83	37,154.12	5	(6,337.28)	(182,491.40)
COOS	2.31	261,000	2.55	114,148.20	30	(38,023.65)	(413,171.65)
CROOK	0.44	49,700	0.47	21,039.08	2	(2,534.91)	(73,273.99)
CURRY	0.49	55,400	0.54	24,172.56	5	(6,337.28)	(85,909.84)
DESCHUTES	1.50	169,500	1.59	71,174.76	21	(26,616.56)	(267,291.32)
DOUGLAS	3.06	345,800	3.38	151,302.32	45	(57,035.48)	(554,137.80)
GILLIAM	0.08	9,000	0.08	3,581.12	0	(--------)	(12,581.12)
GRANT	0.27	30,500	0.36	16,115.04	1	(1,267.46)	(47,882.50)
HARNEY	0.29	32,800	0.39	17,457.96	2	(2,534.91)	(52,792.87)
HOOD RIVER	0.51	57,600	0.54	24,172.56	5	(6,337.28)	(88,109.84)
JACKSON	4.44	501,700	4.90	219,343.60	45	(57,035.48)	(778,079.08)
JEFFERSON	0.37	41,800	0.39	17,457.96	5	(6,337.28)	(65,595.24)
JOSEPHINE	1.48	167,200	1.63	72,965.32	23	(29,151.47)	(269,316.79)

Funding Option
5/23/76

COUNTY	(1) % of state risk population	(2) "Enhancement" budget [(1) x $11.3 million]	(3) Current state Counselors	(4) "Absorption" budget [(3) x $44,764]	(5) Average annual 1-5 year commitments 1973-75	(6) Projected "Non-commitment" budget [(5) x .50 x $2534.91]	(7) Total Projected Budget
KLAMATH	2.41	$ 272,300	2.55	$ 114,148.20	23	($ 29,151.47)	($ 415,599.67)
LAKE	0.24	27,100	0.25	11,191.00	3	(3,802.37)	(42,093.37)
LANE	12.30	1,389,900	14.00	626,696.00	97	(122,943.13)	(2,139,539.13)
LINCOLN	0.95	107,400	0.73	32,677.72	17	(21,546.74)	(161,624.46)
LINN	3.33	376,300	2.54	113,700.56	54	(68,442.57)	(558,443.13)
MALHEUR	0.96	108,500	1.29	57,745.56	14	(17,744.37)	(183,989.93)
MARION	7.24	818,100	4.58	205,019.12	49	(62,105.30)	(1,085,224.42)
MORROW	0.18	20,300	0.19	8,505.16	2	(2,534.91)	(31,340.07)
MULTNOMAH	24.53	2,771,900	42.00	1,880,088.00	186	(235,746.63)	(4,887,734.63)
POLK	1.87	211,300	1.18	52,821.52	17	(21,546.74)	(285,668.26)
SHERMAN	0.07	7,900	0.07	3,133.48	2	(2,534.91)	(13,568.39)
TILLAMOOK	0.66	74,600	0.44	19,696.16	11	(13,942.01)	(108,238.17)
UMATILLA	1.94	219,200	2.60	116,396.40	19	(24,081.65)	(359,668.05)
UNION	1.02	115,300	1.37	61,326.68	6	(7,604.73)	(184,231.41)
WALLOWA	0.23	26,000	0.31	13,876.84	1	(1,267.46)	(41,144.30)
WASCO	0.74	79,100	0.78	34,915.92	6	(7,604.73)	(121,620.65)
WASHINGTON	8.28	935,600	5.56	248,887.84	25	(31,686.38)	(1,216,174.22)

CONTINUED

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Funding Option
3/23/76

COUNTY	(1) % of state risk population	(2) "Enhancement" budget [(1) x $11.3 million]	(3) Current state Counselors	(4) "Absorption" budget [(3) x $44,764]	(5) Average annual 1-5 year commitments 1973-75	(6) Projected "Non-commitment" budget [(5) x .50 x $2534.91]	(7) Total Projected Budget
WHEELER	0.07	$ 7,900	0.07	$ 3,133.48	0	($ ----------)	($ 11,033.48)
YAMHILL	1.95	220,400	1.23	55,059.72	13	16,476.92)	291,936.64)