Standard Act for State Correctional Services

1966

NATIONAL COUNCIL ON CRIME AND DELINQUENCY

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Committee on Standard Act for State Correctional Services
of the
National Council on Crime and Delinquency
and the
American Correctional Association

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Foreword

The Standard Act for State Correctional Services provides (1) legislative models for the structure, at the state level, of a department bringing correctional services together; and (2) legislative models for the administration of correctional services for adults and youths. Its principal detailed provisions deal with institutions (because such model provisions have never before been drafted), but it is not exclusively an institutional act; it brings together correctional services in the community as well as institutional services.

Nonlegislative guides have long been available—notably in the *Manual of Correctional Standards,* published by the American Correctional Association—but the present act is the first formulation of *statutory* models to be published.

To accomplish this task, jointly undertaken by the National Council on Crime and Delinquency and the American Correctional Association, a committee of correctional leaders was designated, and generously consented to serve.

Under some of the suggested formulations juvenile institutions could be brought within a separate division of a department of correction (see Section 3); however, the act does *not* formulate a detailed provision for the administration of training schools and aftercare. The principal reason for leaving aside this important and closely related concern is that the members of the drafting committee were selected primarily for their expertise in adult correction and their broad experience relating to the structure of state departments. Guide materials for the administration of training schools and aftercare are discussed in the appropriate section comments (particularly the Comment on Section 3).

Developments in the correctional field in the postwar period have been enormous, and it is likely that in the coming years legislatures will turn even more to the problem of the administration of correctional services. The present act, we hope, will assist them, and consultation on it is available from both of the sponsoring agencies. Indeed, the Standard Act for State Correctional Services has already been utilized as a model, earlier drafts having been made available to various study groups. In 1964 Delaware enacted a comprehensive department of correction statute (Delaware laws of 1964, chapter 349), which was modeled closely on this Standard Act.

Some of NCCD's other model acts, particularly the Standard Probation and Parole Act (1955), are cited herein and would be used by those drafting a correction department act. Another is the Model Sentencing Act (1963), which provides for diagnostic services to courts. The Standard Act for State Correctional Services contains the necessary statutory provision for such a diagnostic service in the correction department (a provision that the Delaware legislature adopted in its act).

Our sincere appreciation is extended to members of the committee for their devotion to this task, now successfully completed.

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AN ACT
TO ESTABLISH A STATE DEPARTMENT OF CORRECTION

ARTICLE I. CONSTRUCTION OF ACT

§ 1. Construction and Purpose

The purpose of this Act is to establish an agency of state government for the custody, study, care, discipline, training, and treatment of persons in the correctional and detention institutions and for the study, training, and treatment of persons under the supervision of other correctional services of the state, so that they may be prepared for lawful community living. Correctional services shall be so diversified in program and personnel as to facilitate individualization of treatment.

Note: Articles I and II contain the basic provisions for the establishment of a department of correction, including (as an alternative form) various children's services. Provisions for these children's services are not given in detail, as are those for the administration of adult services.

Articles III, IV, and V are administrative provisions for adult institutions. Detailed provisions for juvenile services (probation, institutional, and aftercare) are not included, for reasons explained in the comment on Section 3; and the same is true of any detailed provisions regarding the administration of probation and parole. A legislature that adopts the Act with the alternative including children's services will have to incorporate appropriate sections, either by reference to existing statutes or by new provisions. The comment cites references to model legislation for such provisions.

COMMENT ON SECTION 1

Leadership in the entire field of state and local correction should stem from an agency of state government. Proper recognition of the importance of correctional services requires that this agency be a separate one.

The present Act embraces court diagnostic services (Section 13), community correctional services (probation and parole), and institutional services. It does not undertake to rewrite model probation and parole laws. Although it offers administrative structures that may differ from those in the Standard Probation and Parole Act (1955 revision), the latter is still the model legislation on these subjects.

The Standard Act for State Correctional Services sets forth the essential provisions not only for departmental structure but also for institutional administration. One of the difficult problems in such legislation is how to set limits or establish criteria for institutional size and other matters related to treatment of inmates. After considering whether the Act should limit the size of institutions, direct their classification or diversification, and prescribe the mode of groupings within institutions, the Committee decided against any statutory controls of this kind and in favor of leaving the decisions to administration.

Although the Committee decided not to attempt to legislate size, it was clearly in favor of small institutions and treatment in small groups. The *Manual of Correctional Standards*—a source for much of the comment material—states: "It has been held that the maximum population for a prison for adults should not exceed 1,200, and some say should be as small as 500."[1]

Like this Act, the federal statute does not attempt to furnish specific controls on size and classification:

> The Federal penal and correctional institutions shall be so planned and limited in size as to facilitate the development of an integrated system which will assure the proper classification and segregation of Federal prisoners according to the nature of the offenses committed, the character and mental condition of the prisoners, and such other factors as should be considered in providing an individualized system of discipline, care, and treatment of the persons committed to such institutions.[2]

As to the relative distribution of maximum, medium, and minimum security facilities, the *Manual of Correctional Standards* states: "If a prison system maintains an adequate program of classification, it is possible to maintain approximately one-third of the unselected adult prison population in open, or minimum security, institutions and facilities."[3]

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[1] American Correctional Association, *Manual of Correctional Standards* (New York: American Correctional Association, 1965), ch. 20, sec. 8.

[2] U.S. Code, Title 18, sec. 4081.

[3] American Correctional Association, *op. cit. supra* note 1, ch. 20, sec. 2 (c).

ARTICLE II. ORGANIZATION OF DEPARTMENT

§ 2. Department Established; Board

A state department of correction, hereinafter referred to as "the department," is hereby established. Within the department there shall be a board of correction of seven members, who are not officials of the state in any other capacity and are qualified for their position by demonstrated interest in and knowledge of correctional treatment. Members of the board shall be appointed by the governor with the advice and consent of the Senate. The terms of members shall be six years and until their successors are appointed and have qualified, except that the first appointments shall be for terms of two years for two members, four years for two members, and six years for three members. A member may be reappointed. The board shall elect its chairman and provide for its organization. Members of the board shall receive no salaries but, when in attendance at meetings of the board or engaged in other duty authorized by the board, shall receive [$ . . .] per diem and necessary expenses for not more than [. . .] days per year. The board shall meet quarterly and other times at the call of the chairman. The chairman shall call a meeting when requested by a majority of the board.

The board shall determine department policy; it shall not have administrative or executive duties and shall not deal with specific procedural matters. The board may appoint temporary or permanent advisory committees, for such purposes as it may determine. It shall have other duties as granted in this Act.

Comment on Section 2

This section, setting up the separate state department of correction, carries out the purpose of the Act (as stated in Section 1). A generation ago, correctional functions were administered at the state level of government by means of a separate department of correction, or its equivalent, in only two or three states. In 1959, this number had grown to twelve[4]; since then, comprehensive correction departments have been established in four more states—Colorado (1959), Minnesota (1959), Kentucky (1962), and Delaware (1964).

Correctional functions are sometimes assigned to a division within a state department of welfare. This arrangement is likely to be less effective than a separate department

[4] American Correctional Association, *Manual of Correctional Standards* (New York: American Correctional Association, 1959), p. 41.

would be in developing adequate resources and specialized staff, for it relegates correctional services to a minor level and the division has minor influence in obtaining correctional resources. The division head—the principal correctional administrator in the state—is a subordinate official. Accordingly, the separate correction department is recommended even in a state that has few correctional institutions, if the department is, as recommended, responsible for other correctional services.

However, where correctional service in a broad welfare department (or some other department) has an adequate identity, an autonomous divisional administration, and a history of successful operation, the Standard Act does not urge a revision.[5]

In a few states the correctional institutions are administered by a department of institutions which also administers other institutions—mental hospitals, for example. Usually, in this instance, the major resources and the central office orientation have the stamp of the hospital rather than the correctional institution, and the administrator is likely to have little first-hand technical knowledge of either mental hospital or correctional needs. The result is that the programs for dealing with the inmates of the several types of institutions will probably be left largely in the hands of the wardens and superintendents.

Another type of organization encountered is administration of institutions by lay boards. Such boards are inefficient because they meet infrequently and lack professional competence, and they have failed to achieve the objective of reducing the dangers of political intervention in correctional administration.

Hence, in this Act the department is headed by a policy-making board which also chooses the director (see Section 4), who is appointed for merit and has tenure. The system whereby the chief administrator of the department is selected by and serves at the pleasure of the governor has proved to be no safeguard against political interference, a major cause of failure to improve penal administration.

Fixing the number of board members at seven was based on the following considerations: A larger board would be unwieldy and would lend itself to the formation of factions. A board of five might be satisfactory, but such a board or a smaller one might be too small for effective policy leadership or for public representation.

The Act calls for board members "qualified for their position by demonstrated interest in and knowledge of correctional treatment." If juvenile services are included, the section might require some members to have experience in the juvenile field.

The statute should prescribe the number of meetings a year for which per diem compensation will be paid. The per diem provision makes it possible for persons not of independent means to be appointed.

The purpose of the provision for temporary or permanent advisory committees is to afford a structure for special studies and surveys of particular aspects of operation—for example, vocational training programs or medical services.

A system should be developed at the local level in the community and area where each institution is located for maintaining sound and friendly relationships with the public through the press,

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[5] See American Correctional Association, *op. cit. supra* note 1, ch. 9, sec. 1.

community organizations, and key personalities. As much citizen participation as possible in shaping the institutional program should be encouraged and provided for by citizen advisory committees, prison visitors, and the like. If an institution expects to have good neighbors, it must be a good neighbor.[6]

§ 3. Institutions and Services[7]

First Alternative § 3.

1. The following institutions and services shall be administered by the department:

(a) All state institutions for the care, custody, and correction of persons committed for felonies or misdemeanors, persons adjudicated as youthful offenders, and minors adjudicated as delinquents by the [juvenile or family] courts under sections [. . .] and committed to the department.

(b) Probation services for courts having jurisdiction over criminals, youthful offenders, and children.

(c) Parole services for persons committed by criminal courts to institutions within the department. The parole board established by [reference to section establishing parole board] shall be continued and shall be responsible for those duties specified in sections [. . .].

2. The department [may] [shall] establish and operate institutions for misdemeanants committed for terms of thirty days or over. It may establish and operate regional adult and juvenile detention facilities.

3. The department shall provide consultation services for the design, construction, programs, and administration of detention and correctional facilities for children and adults operated by counties and municipalities and shall make studies and surveys of the programs and administration of such facilities. Personnel of the department shall be admitted to these facilities as required for such purposes. The department shall administer programs of grants in aid of construction and operation of approved local facilities. It shall provide courses of training for the personnel of such institutions and shall conduct demonstration projects with offenders in the institutions. It

[6] *Id.*, ch. 19, sec. 9.

[7] The sequence of the alternative forms of this section is according to the scope of departmental structure. The first alternative provides for the most complete and centralized departmental structure, including juvenile services. The second is similarly comprehensive, but has the parole board (rather than the director of the department) exercising control over parole personnel. The third alternative excludes services for delinquents. The fourth offers variations in adult and juvenile probation services.

shall establish standards and rules for the operation of correctional and detention facilities, shall at least once a year inspect each facility for compliance with the standards set, and shall publish the results of such inspections as well as statistical and other data on the persons held in detention. The director may order the closing of any detention or correctional facility that does not meet the standards set by the department.

SECOND ALTERNATIVE § 3.

1. The following institutions and services shall be administered by the department:

(a), (b) [Institutional and probation services as provided in the First or the Third Alternative.]

(c) Parole services for persons committed by criminal courts in institutions within the department. The parole board established by [reference to section establishing parole board] shall be continued and shall be responsible for those duties specified in sections [. . .]. It shall appoint a director of parole who shall appoint, with the approval of the board, a sufficient number of parole officers and other employees required to administer the parole provisions of this Act.

2. [Same as subdivision 2 of the First or the Third Alternative.]

3. [Same as subdivision 3 of the First or the Third Alternative.]

THIRD ALTERNATIVE § 3.

1. The following institutions and services shall be administered by the department:

(a) All state institutions for the care, custody, and correction of persons committed for felonies or misdemeanors or adjudicated as youthful offenders.

(b) Probation services for courts having jurisdiction over criminals and youthful offenders.

(c) [Parole services as provided in the First or the Second Alternative.]

2. [Same as subdivision 2 of the First Alternative, except for omission of the words "and juvenile" in lines 17-18.]

3. [Same as subdivision 3 of the First Alternative, except for omission of the words "children and" in line 21.]

FOURTH ALTERNATIVE § 3.

1. The following institutions and services shall be administered by the department:

(a) [Institutional services as provided in the First or the Third Alternative.]

(b) [See comment for alternative forms for probation service.]

2. [Same as subdivision 2 of the First or the Third Alternative.]

3. [Same as subdivision 3 of the First or the Third Alternative.]

COMMENT ON SECTION 3

In the First Alternative, all correctional services of the state are placed within a separate department —not only treatment and detention institutions, but also probation and parole services and supervision of and assistance to local facilities. This form of Section 3 includes institutions for juvenile delinquents; accordingly, the bracket at the end of subdivision 1 (a) (line 7) should incorporate the sections of the juvenile or family court law dealing with children adjudicated as law violators. Under subdivision 2, state institutions for misdemeanants may or may not be mandated; if these institutions are placed in the department, only detention institutions and those for very short commitments would be administered locally. The establishment of regional detention facilities is discretionary. Where detention or treatment facilities are administered locally, subdivision 3 gives the department supervisory responsibility. The Standard Juvenile Court Act (1959) and the Standard Family Court Act (1959) provide (Section 18) for a statewide plan for detention facilities for juveniles and suggest the possibility of administration either by the board of juvenile or family court judges or by an appropriate administrative agency (state welfare department, youth authority, or other).

The Second Alternative form includes the parole board within the department, but makes the parole board (rather than the department) responsible for appointment and supervision of parole officers and other parole staff.

The Third Alternative form would not include minors adjudicated and committed as delinquents by juvenile or family courts; and subdivision 3, dealing with consultation, does not include facilities for children.

The Fourth Alternative form allows for variations in administration of probation services.

Youthful Offenders

The reference to "youthful offenders" in subdivisions 1 (a) and 1 (b) is to special procedures, best typified by the New York statute, under which certain youths excluded from juvenile court jurisdiction may, at the discretion of the judge, be processed noncriminally. The New York Youthful Offender Act is applicable

to persons under nineteen. For a model statute, applicable to all minors, see the Model Sentencing Act, Article IV.

Juvenile Institutions

The First Alternative places within the department the institutions for minors adjudicated as delinquents, but not those for neglected and dependent children, who are more appropriately cared for through the services of a welfare department. In thus making a distinction between the two treatment orientations, the Act is supported by the Standard Juvenile Court Act and the Standard Family Court Act, which distinguish between juvenile law violators and other children within the jurisdiction of the court and provide that a neglected child may not be committed to an institution operated primarily for the care and treatment of children who have violated the law.[8] See Section 7 below, dealing with administrative structure and services for minors.

The Third Alternative excludes training schools. It reflects the view of those who feel that in some states, services for delinquent children should not be in a department of correction but rather in a separate department—for example, a youth authority or commission; a department of services for children and youth, including not only delinquents but also dependent, neglected, and perhaps other children; or a department of welfare or one of similarly broad jurisdiction.

The United States Children's Bureau supports the Third rather than the First Alternative. It states:

Since the advent of the juvenile court movement more than 60 years ago, and before then in the institutional field, the trend has been to separate child offenders from adult offenders both in terms of administration of services as well as in actual care.

This separation has come about in recognition of the fact that there are inherent differences in the handling of adult offenders and delinquent children. The legal approach to and the legal status of delinquent children are different from those of the adult. Parental rights and responsibilities are involved. Child-parent relationships are also involved and generally the parent has a vital role to play in a child's rehabilitation and, therefore, must be involved in the treatment program. The same is often true of the teacher's role. The techniques of working with delinquent children and the services and types of care needed are different from those for adults (see *Institutions Serving Delinquent Children—Guides and Goals,* developed by the Children's Bureau in cooperation with the National Association of Training Schools and Juvenile Agencies, p. 11). The techniques and facilities for the most part are similar to those required for children coming under the jurisdiction of the juvenile courts for reasons other than delinquency.

Also, the effect of such a merger should not be overlooked. Adult offenders in the eyes of the public are regarded differently from children in trouble. The administration responsible for adult offenders has constant difficulty in avoiding the operation of training schools as prisons for juveniles. Also, the public finds it hard to distinguish between children committed for care and treatment and the adult who, in the eyes of a large segment of the public, is committed for custody and punishment. Security and custody, unfortunately, often permeate the entire program in spite of good intentions. This is a reality factor which must be considered.

This in no way should be considered a reflection on the administration of de-

[8] See Standard Juvenile Court Act (1959) and Standard Family Court Act (1959), Sec. 24 (Decree).

partments of correction, nor is it implied that correctional programs for adults should be less treatment oriented. The same rehabilitative philosophy and approach should apply whether juvenile or adult. Facilities and services should be adequate and public attitudes with respect to the treatment of the adult offender need to be changed. There is no indication that the merging of these programs will bring this about. However, there is some evidence, on the other hand, that where adult corrections and services for delinquent children are merged with a single-function adult corrections department regimentation and emphasis on custody has hampered the development of services for delinquent children.

Present practice seems to indicate recognition of the above factors. This is evidenced by the fact that only about 10% of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands have placed their services for delinquent children within a department of corrections.

The Children's Bureau is in complete agreement with the need for a comprehensive statewide program for delinquent children which will ultimately lead to the development of uniform services adequate in both quality and quantity. It is believed that the attainment of this goal can be facilitated by placing this responsibility in a single state agency. This agency should be responsible for the administration of the training schools and the development of a variety of other types of facilities and services for delinquent children, including the provision of consultation services to local communities. No specific organization is recommended. These responsibilities may be placed in an existing division of a multi-function individual state department, in a new division of such a department, or in a new individual state department established for this purpose (see "Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services"). The provisions in the Standard Acts (cited earlier) will also facilitate this goal as far as probation services are concerned.

This statement also represents the view of the National Association of Training Schools and Juvenile Agencies.

In connection with services to delinquents, the Governors' Conference Committee on Juvenile Delinquency recommends the following:

> Each state should establish within its executive branch the machinery necessary to coordinate the planning, leadership, and services of the several agencies of the state government which contribute to the prevention, control, and treatment of juvenile delinquency. The responsibility for directing and coordinating machinery should be clearly vested in one official or agency, which should have the authority to delegate assignments and responsibilities among the other officials and agencies involved.[9]

The supporters of the First Alternative, which includes within the department institutions for delinquents, maintain that, although treatment of adult offenders may differ from that of delinquent children, competent staffs can be appropriately assigned and that including both adult and juvenile institutions within a unified department of correction does not compromise their administration. They disagree with the statement that "the administration responsible for adult offenders has constant difficulty in avoiding the operation of training schools as prisons for juveniles." On the contrary, some of the worst abuses in training schools have occurred in

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[9] Council of State Governments, President's Committee on Juvenile Delinquency and Youth Crime, and National Council on Crime and Delinquency, *Juvenile Delinquency—A Report on State Action and Responsibilities* (Chicago: Council of State Governments, 1962), p. 1.

institutions outside of correction departments. Such institutions—or the departments (other than correction) in which they are placed—often do not command the necessary status to insure adequate budget and staff and do not have specialized central services, such as training resources. The idea that the adult institution exists for punishment whereas the purpose of the juvenile institution is treatment is an outworn cliché; both require treatment and, in particular instances, security.

Parole

There is general agreement that the parole board should be autonomous in its quasi-judicial functions of parole granting and revocation, and all forms of Section 3 so provide. But control of parole staff may take more than one administrative form. Under the First Alternative, staff are appointed and supervised, like others in the department, by the director (see Section 5). The basis for this position is that the correctional process is a continuum, a concept that is supported by having all staff, institutional and parole, under a single administration rather than under a divided administration with the parole board directing parole staff and the department director in charge of institutional staff. The purpose of the consolidated correction department is to achieve a consistent administration, with all the advantages of centralization (selection, in-service training, supervision, etc.). Fragmented administration leads to budgetary competition for staff and to friction in policies.

On the other hand, those who support the Second Alternative—parole board control of its staff—contend that both preparation of the man for parole and his supervision must be within the parole board's province in order to obtain parole continuity and responsibility. They argue that if parole administration is in the hands of the department director, release decisions will be influenced by fluctuations in the institution population rather than by what should be the central criterion—the readiness of the prisoner for parole. The Advisory Council on Parole of the National Council on Crime and Delinquency supports this position. In a majority of states, parole boards appoint and supervise parole officers.

Placing parole services under the administration of the paroling authority is said to have the following advantages:

1. The paroling authority is in the best position to promote parole and gain public acceptance. It is the target of criticism for parole failures; it should, therefore, be responsible for parole services.

2. The paroling authority in direct control of administration is in the best position to evaluate the effectiveness of its parole services. When parole services are under some other administration, the paroling authority has no direct knowledge of how successfully its selection process for parole is functioning.

3. Supervision by the paroling authority properly divorces the parolee from the correctional institution.

4. An autonomous paroling authority, in charge of its own services, can present its own budgetary requests to the legislature. If these services are administered by the correction department director, they will suffer because the paroling authority

will have no contact with the legislature.

Probation

The First Alternative [subdivision 1 (b)] provides for juvenile, family, and criminal court probation services within the department. The Fourth Alternative authorizes other administrative forms. The Standard Juvenile Court Act and the Standard Family Court Act, for example, place juvenile probation services under the supervision of the judges. Under these model acts (Section 18 in both), detention services are also placed under the judges or in a state welfare department or youth authority. Under Section 11 below, the department may establish and operate regional adult and detention facilities.

The Standard Probation and Parole Act (published by the National Council on Crime and Delinquency in 1955) places the administration of adult probation and parole service in a combined probation and parole board and also proposes an alternative form—a local probation system supervised and partially subsidized by the state. Several states have adopted this alternative—New York (1955), Colorado (1959), Indiana (1959), and Ohio (1959). It is also applicable if judges administer the probation service. All of the model acts endorse only a statewide service in one form or another, or a service supported at the state level, as the means by which a uniform service of satisfactory quality can be attained.

Related Statutes

Other statutes are referred to at several points. Thus, in subdivision 1 (a) in the First Alternative, reference is made to the juvenile or family court law, whose code sections should be incorporated here. No attempt is made in this Act to affect juvenile and family court laws, models for which already exist (the Standard Juvenile Court Act and the Standard Family Court Act, both published in 1959 by the National Council on Crime and Delinquency). Similarly, this section, when enacted as part of a Correction Department or Correctional Services Act, may include reference to probation and parole services, but no attempt is made in this Act to affect probation or parole procedures. The previously mentioned Standard Probation and Parole Act is the model statute for such provisions.

If children's institutions are included in the Department of Correction Act as provided in the First Alternative, provision must exist elsewhere in the statutes for their administration, as well as for release and aftercare services. In its publication, *Institutions Serving Delinquent Children—Guides and Goals,* the United States Children's Bureau recommends that the authority for releasing a delinquent child from a training school should be vested in the executive of the department administering the training school or, in the absence of such department, in the training school superintendent, rather than in a parole board. The release of a child should be based upon the recommendations of a staff committee composed of professional and other staff who have been responsible for his day-to-day care and treatment.[10]

[10] U.S. Children's Bureau, *Institutions Serving Delinquent Children—Guides and Goals* (Pub. No. 360, 1962), pp. 112, 113. See also U.S. Children's Bureau, "Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services" (1957).

§ 4. Director of Correction

A director of correction, who shall be the chief executive, administrative, and budget and fiscal officer of the department, shall be appointed by the board for an indefinite term, at a salary fixed by the board. The director shall be qualified for his position by character, personality, ability, education, training, and successful administrative experience in the correctional field. He need not be a resident of this state. He shall be subject to removal only by vote of a majority of the entire board, after a hearing upon due notice, for disability, inefficiency, neglect of duty, malfeasance in office, or other just cause.

§ 5. Other Employees

The director shall appoint such personnel as are required to administer the provisions of this act.[11] All employees of the department other than the director and, with the approval of the board, [two to four] assistants to the director, shall be within the state merit system.

Comment on Sections 4 and 5

The personnel of the department, from the chief executive officer on down, should be professionally qualified persons selected for merit.

The head of the Department and the chiefs of divisions and heads of institutions should be persons with adequate training, experience, sound character, and offer high professional leadership to their subordinates. By virtue of ability and personality, they should develop public respect and confidence in their work. Career personnel from all divisions must have equal opportunity to promote to all levels of management, depending upon ability. Promotion to the position of Warden or Superintendent should not be limited to any one division or discipline.[12]

Wardens and other heads of institutions, like division heads, should be under civil service. It is sometimes argued that, under civil service, it is difficult to dismiss someone like a warden, for example, who becomes inefficient but whose case does not present clear-cut reasons for his discharge. "Conversely, however, the warden who is exempt from civil service too often feels the need to develop protection by playing a personal game of politics which interferes with his effectiveness on the job, and sometimes makes him even more difficult to separate from his post than if he were protected by civil service."[13]

[11] If the Second Alternative of Sec. 3 is adopted, the following reference to parole personnel should be added here: "except as provided in Section 3, subdivision 1 (c)."

[12] American Correctional Association, *op. cit. supra* note 1, ch. 9, sec. 10.

[13] *Ibid.*

Where there is no state merit system, provisions for merit selection and tenure should be written into Section 5.

Section 5 authorizes exemption from civil service for, in addition to the director, a small number (depending on the size of the department) of confidential assistants to him.

§ 6. Duties of Director

Within the general policies established by the board, the director shall administer the department, shall prescribe rules and regulations for operation of the department, and shall supervise the administration of all institutions, facilities, and services under the department's jurisdiction.

The director shall prescribe the duties of all[14] personnel of the department and the regulations governing transfer of employees from one institution or division of the department to another. He shall institute a program for the training and development of all personnel within the department. He shall have authority, subject to civil service requirements, to suspend, discharge, or otherwise discipline personnel for cause.

Comment on Section 6

The orderly and effective administration of a state department will not be possible, and the single responsible administrator will not be able to control his organization, without a large body of carefully formulated written material. . . .

The departmental administration should be based upon a clear-cut, logical, and consistent statement of policy, agreed upon by the head of the department and [under this Act, the board]. This policy should be consistent with law and the ideals of American democracy, and should represent a plan of operation which will insure a rational balance between the needs of the individual probationers, prisoners, or parolees, and the general public interest.

For this purpose, a policy is an overall long-term plan of action. It is highly important to any organization as large and complex, and involving as many people as a state correctional system, to have a clear cut statement in writing of the broad objectives and principles and general plans of the leadership. Such a statement should cover all phases of the total operation, and be expressed in simple and direct language in order that it may be clearly understood by the public, and by every employee of the department. There are few more productive sources of bad morale in a correctional system than vague or vacillating policies. While such a statement of policy should be issued by the head of the department and approved by the board, its preparation should be participated in by as many of the key officials and staff specialists in the department as is practicable.

Specific rules and regulations, issued by the head of the state department, should be detailed enough to leave no doubt in the minds of institutional and

[14] If the Second or the Fourth Alternative of Sec. 3 is adopted, an appropriate exception for parole or probation personnel should be inserted here.

other personnel of the basic objectives and specific limitations desired by the administrative head of the organization. On the other hand, these regulations should also be broad enough to permit a considerable degree of discretion on the part of responsible subordinates on all levels of administration. Rules and regulations are, fundamentally, a means of limiting the authority at subordinate levels of operation and, at the same time, of delegating authority to them. It is impossible to state in general terms the exact balance between the limitations on authority and the delegation thereof. Any agency desiring to revise its rules and regulations would do well to examine those in use by existing agencies with reputations for competent administration.[15]

§ 7. Administrative Structure

The director and the board of correction shall develop a suitable administrative structure providing for divisions and services to accomplish the purposes, goals, and programs required by this Act. [Services for minors committed as delinquents by the (juvenile or family) courts shall be provided by specially qualified staff, in institutions separate from those for adults, and, where administratively practical, other services for children shall be administered separately from those for adults.[16]]

Comment on Section 7

The administrative structure of the department is left in the hands of the board and the director, without any divisional plan dictated by the legislature. This arrangement gives the director the necessary flexibility and autonomy and avoids the danger of a rigid and top-heavy administrative structure. Most departments, if they included all of the services and institutions provided for in this Act, would be adequately served by a division of institutions, a division of probation and parole, and a division of staff services.

Where services for juveniles are included in the department, a juvenile division is authorized, and, where administratively practical, a separate administrative unit is mandated.

§ 8. Research, Statistics, and Planning

The department shall establish programs of research, statistics, and planning, including study of the performance of the various functions and activities of the department, studies affecting the treatment of offenders, and information about other programs.

[15] American Correctional Association, *op. cit. supra* note 1, ch. 9, sec. 5.

[16] If the Third Alternative of Sec. 3 (which does not include children's facilities) is adopted, the second sentence of Sec. 7, appearing within brackets, should be omitted; otherwise, the sentence should be included except for the bracket marks.

COMMENT ON SECTION 8

Long-term planning to meet future needs and changing conditions should be a major concern of the management. All public agencies are required to do a certain amount of planning for the future if it is nothing more than planning the coming year's budget. However, this is a hand-to-mouth approach to public administration. Statistical studies should be made of population trends in an effort to predict at least ten years into the future what the volume and nature of the load of the department may be expected to be. Based on this fundamental consideration, long-term plans should be made for new construction and the modernization of old facilities, as well as for the programs that will be desirable and practicable, and the personnel needed to carry them out. Committees of staff people should be consistently at work planning and projecting developments in the numerous specialties of the operation.

Organized scientific research designed to test the effectiveness of correctional programs and to develop new techniques for the prevention, cure, abatement and control of behavior disorder is now a recognized responsibility of a well directed correctional system. To accomplish this end objective attitudes must be encouraged and fostered at all levels of the management. A well qualified staff person to direct and stimulate research projects is essential. Close relationships with institutions of higher learning and with philanthropic foundations must be established and the initiative for such relationships should come from top correctional administrators.[17]

Section 8 as it stands is not sufficient without statutory provisions for the collection of court dispositions. Such provision is made in Section 13 of the Standard Probation and Parole Act, which reads: "It shall be the duty of the court disposing of any criminal case to cause to be transmitted to the board statistical data, in accordance with regulations issued by the board, regarding all dispositions of defendants whether found guilty or discharged."[18]

§ 9. REPORTS

The department shall make an [annual] [biennial] report to the governor on the work of the department, including statistical and other data, accounts of research work by the department, and recommendations for legislation affecting the department. Printed copies of the report shall be provided to each member of the legislature.

The director shall periodically submit to the board an analysis of the institutions and services within the department, and an analysis and evaluation of the adequacy and effectiveness of personnel and buildings.

[17] American Correctional Association, *op. cit. supra* note 1, ch. 9, sec. 6.

[18] See also Ronald H. Beattie, *Manual of Criminal Statistics* (New York: American Correctional Association, 1950).

Comment on Section 9

The department should provide more than only an account of its work during the period for which it is reporting. It has both an opportunity and a responsibility to advise the legislature concerning needed legislation in all phases of the correctional program.

The department should actively advise the legislature concerning needed legislation in all phases of criminal justice and the total correctional program. These should be in the nature of consultant and advisory services when requested by the legislature. For example, the department might be prepared to give information and guidance on such matters as: (1) the effect of the sentencing procedures; (2) potential uses of substitutes for imprisonment such as probation, deferred payment of fines, the versions of the Huber Law permitting prisoners to work outside the jail or prison, etc.; (3) means by which the department can make the fullest constructive use of inmate labor in industrial and similar programs.

These responsibilities can only be accomplished if the department maintains a continuous concern about such matters and collects background and supporting data which might point to the weaknesses of existing procedures and policies on the one hand, and to the savings in money and human values that will accrue on the other hand, if desirable remedial measures are provided by the legislature.[10]

Section 4 of the Standard Probation and Parole Act requires the board to include in its annual report "research studies which it may make of probation, sentencing, parole, or related functions, and a compilation and analysis of dispositions by criminal courts throughout the state."

§ 10. Cooperation and Agreements with Other Departments and Agencies

The department shall cooperate with public and private agencies and officials to assist in attaining the purposes of the Act. The department may enter into agreements with other departments of federal, state, or municipal government and with private agencies concerning the discharge of its responsibilities or theirs.

Comment on Section 10

Public agencies that would quite naturally enter into cooperative agreements with the department of correction would be departments of education (for staffing of institutional programs) and of public works (for the use of inmate labor). See Section 15, last paragraph.

On cooperation with private and public community agencies, see the *Manual of Correctional Standards,* chapter 16, "Community Agencies."

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[10] American Correctional Association, *op. cit. supra* note 1, ch. 9, sec. 14.

ARTICLE III. INSTITUTIONAL ADMINISTRATION

§ 11. Commitment; Transfers

Commitment to institutions within the jurisdiction of the department shall be to the department, not to any particular institution. The director shall assign a newly committed inmate to an appropriate facility. He may transfer an inmate from one facility to another, consistent with the commitment and in accordance with treatment, training, and security needs, except that he may not transfer to an institution for offenders committed by criminal courts a minor adjudicated as delinquent by a [juvenile or family] court. A person detained in or sentenced to a local jail may, at the discretion of the director, be transferred to a state institution.

Comment on Section 11

A state correctional system should include a variety of types of institutions. It can do so in almost all states if the capacity of each institution is kept low. Having this variety the department itself can determine, after a reception and classification process, the institution, as well as the program, that is best suited for the prisoner. Accordingly the section calls for the commitment to be made to the department and not to any particular institution. The provision for transfer assures flexibility in the treatment program.

However, a child committed by a juvenile or family court after being adjudicated delinquent may not be committed to an institution for persons committed by criminal courts. This prevents the commingling of children and adults, and it carries out in practice the juvenile and family court's concept that the adjudication is noncriminal. Similarly, Section 24 (4) of the Standard Juvenile Court Act provides that "an institution to which a child is committed under subdivision 1 or 2 [violation of law or neglect] shall not transfer custody of the child to an institution for the correction of adult offenders."

§ 12. Treatment of Mentally Ill and Mentally Retarded Inmates; Transfer

The department may establish resources and programs for the treatment of mentally ill and mentally retarded inmates, either in a separate facility or as part of other institutions or facilities of the department.

On the recommendation of the medical director, the director of the department may transfer an inmate for observation and diagnosis to the department of mental hospitals or other

appropriate department or institution for not over [. . .]days. If the inmate is found to be subject to civil commitment for psychosis or other mental illness or retardation, the director of the department shall initiate legal proceedings for such commitment. While the inmate is in such other institution his sentence shall continue to run.

When, in the judgment of the administrator of the institution to which an inmate has been transferred, he has recovered from the condition which occasioned the transfer, he shall be returned to the department, unless his sentence has expired.

COMMENT ON SECTION 12

A defendant adjudged incompetent before his trial or not guilty on the grounds of insanity is usually confined (if committed) in a mental hospital. However, a substantial percentage of persons convicted of crime are mentally ill at the time of conviction or become mentally ill later in the correctional institution. For most of them the correctional setting can be as therapeutic as any other setting; therefore, departmental resources to care for them are authorized by this section. Establishment of such resources is not mandatory under the section; in a state with a fairly large correctional institution population, the language should be mandatory.[20]

The transfers authorized by the second paragraph of the section may be governed by other statutory provisions, such as the requirement of a separate civil proceeding for commitment, or the consent of the institution to which transfer is made.[21]

§ 13. DIAGNOSTIC CENTER

There shall be within the department a diagnostic center, consisting of one or more branches, to make social, medical, and psychological studies of persons committed to the department. At the request of any sentencing court, the diagnostic service shall, in accordance with standards established by the department, receive for study and a report to the court any person who has been convicted, is before the court for sentence, and is subject to commitment to the department.

[20] On psychiatric and related needs in prison programs, see Henry Weihofen, "Institutional Treatment of Persons Acquitted by Reason of Insanity," *Texas Law Review*, October 1960, and "Treatment of Insane Prisoners," *University of Illinois Law Forum*, 1960, p. 524.

[21] On treatment in the mental hospital, see F. LeGrande Magleby, "Should Criminal and Noncriminal Patients in State Hospitals Be Segregated?" *Mental Hygiene*, July 1958.

A defendant may not be held for more than [. . .] days for such purpose. The diagnostic center may apply to the court for an extension of time, which may be granted for an additional period not to exceed [. . .] days. Time spent in the diagnostic center shall be credited on any sentence of commitment.

COMMENT ON SECTION 13

Clinical studies are an important adjunct of the court probation staff for presentence investigations. Some statutes (such as the special statutes governing sexual psychopaths) require a diagnostic workup, which could be performed by a center such as the one called for in this section. In its criteria for establishing the status of dangerous offender, the Model Sentencing Act calls for a clinical workup (but it does not specify sex offenders, who, in the majority of instances, are not dangerous). "The diagnostic facility . . . may be a state agency independent of the state correctional system (e.g., the New Jersey Diagnostic Center), a part of a special state treatment facility (e.g., Patuxent Institution, Maryland), or a part of the correctional system (e.g., as in federal diagnostic referrals). It is important that it be a well-established clinic set up by the state, perhaps with regional branches, but staffed by full-time psychiatric and other necessary personnel."[22]

A time limit within which the report of the diagnostic center must be made should be included in the sentencing statute. The Model Sentencing Act provides for a remand of not over ninety days and, on order of the court, an extension of not over ninety days.

In the second sentence of the section, referral to the diagnostic center is authorized for presentence purposes of the court and, as such, is to be distinguished from referrals for incompetence to stand trial or at some other stage of the prosecution. The criminal procedure act may provide for incompetency examinations either in the diagnostic center of the department of correction or in an institution of some other department.

[22] Council of Judges, National Council on Crime and Delinquency, "Model Sentencing Act" (New York: NCCD, 1963), Sec. 6, note 4.

ARTICLE IV. TREATMENT OF INMATES

§ 14. Classification and Treatment Programs

Persons committed to the institutional care of the department shall be dealt with humanely, with efforts directed to their rehabilitation, to effect their return to the community as promptly as practicable. For these purposes the director shall establish programs of classification and diagnosis, education, casework, counseling and psychotherapy, vocational training and guidance, work, and library and religious services; he may establish other rehabilitation programs; and he shall institute procedures for the study and classification of inmates.

Women committed to the department shall be housed in institutions separate from institutions for men.

Comment on Section 14

In addition to dealing with these subjects in the *Manual of Correctional Standards,* the American Correctional Association published (1957) a pamphlet, "Standard Minimum Rules for the Treatment of Prisoners and Selection of Personnel," by the U.N. Economic and Social Council.

§ 15. Work by Inmates; Allowances

The department shall provide employment opportunities, work experiences, and vocational training for all inmates. Equipment, management practices, and general procedures shall approximate, to the maximum extent possible, normal conditions of employment in free industry. Tax-supported departments, institutions, and agencies of the state and its governmental subdivisions shall give preference to the purchase of products of inmate labor and inmate services.

Inmates shall be compensated, at rates fixed by the director, for work performed, including institutional maintenance and attendance at training programs. Prisoners who are unable to work because of injury, illness, or other incapacity may be compensated at rates to be fixed by the director. The inmate shall contribute to support of his dependents who may be receiving public assistance during the period of commitment if funds available to him are adequate for such purpose.

The department shall make contractual arrangements for the use of inmate labor by other tax-supported units of government responsible for the conservation of natural resources or other public works.

COMMENT ON SECTION 15

The resolution on prison labor adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1955) included the following recommendation:

> The precautions laid down to protect the safety and health of free workmen should likewise be observed in institutions. Provision should be made to compensate prisoners for industrial accidents and diseases on terms not less favorable than those granted by law to free workmen. In addition, prisoners should participate to the greatest practicable extent in the social insurance schemes in force in their countries. Prisoners should receive an equitable remuneration for their work. The remuneration should be at least such as to stimulate keenness and interest in the work. It is desirable that it should be sufficient to enable prisoners at least in part to help their families, to indemnify their victims, to further their own interests within the prescribed limits, and to set aside a part as savings to be returned to them on discharge, where desirable through an official or agency.

With respect to the last paragraph of the section, see Section 10, Cooperation and Agreements with Other Departments and Agencies.

"Work release" programs are authorized in several states.[23] The key provision of the statutory prototype, the Huber law, which was enacted in Wisconsin in 1913, reads as follows:

> Any person sentenced to a county jail for crime, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes . . . : (a) seeking employment; (b) working at his employment; (c) conducting his own business or other self-employed occupation including, in the case of a woman, housekeeping and attending the needs of her family; (d) attendance at an educational institution; or (e) medical treatment.[24]

Similar statutes applicable to inmates serving sentences of up to five years have been enacted in North Carolina[25] and Maryland.[26]

§ 16. DISCIPLINE

The director shall prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions of the department, including procedures for dealing with violations. A copy of such rules shall be provided to each inmate. Corporal punishment is prohibited.

The director shall provide for a record of charges of infractions by inmates, any punishments imposed, and medical inspections made.

COMMENT ON SECTION 16

Rules for inmate behavior should be well defined and clearly stated. They should be so drawn as to include a minimum of "shall nots." It is important to make certain that every inmate knows what they are and

[23] See Stanley E. Grupp, "Work Release in the United States," *Journal of Criminal Law, Criminology and Police Science*, September 1963.

that he understands them. This may be accomplished by providing every inmate with a booklet of rules and regulations. The booklet should be informative and explanatory in tone rather than harsh and threatening. The rules should be explained to the inmate during the orientation program, soon after his arrival at the institution.

Understanding the rules, however, does not insure their observance. The inmates must be instructed in how to observe them properly. This instruction must be followed up with guidance and supervision; in many cases, this is a continuing process.

The booklet should set forth the inmate's responsibility with respect to the rules of the institution and the laws of the state. A paragraph or two should be sufficient to emphasize that offenses recognized as crimes outside, as well as inside, institutions—larceny, assault, sex perversions, etc.—will be dealt with not only by institutional discipline but also, if deemed necessary, by recourse to the courts.

The rules booklet should clearly define the minor types of misconduct that frequently occur in institutions—insolence, loud or abusive language, violation of smoking rules, taking food out of the mess hall, possession of unauthorized articles of comparatively minor importance, etc. The injunctions against abusive and insolent language, disorderly conduct, etc., can be general in nature and to the effect that inmates are expected at all times and in all parts of the institution to conduct themselves in an orderly manner and to respect the dignity and rights of others.

Special punishment is occasionally required in order to maintain discipline and good order. It should be carefully regulated and recorded in accordance with established rules governing the administration of discipline and punishment. Corporal punishment or brutality in any form or any practice designed to degrade the individual should be prohibited.

Solitary confinement should be limited by the regulations; where it is used, the regulations should require daily visits by a physician as part of the director's responsibility to protect the health of the inmate.[27]

§ 17. Medical Care

The director shall establish and shall prescribe standards for health, medical, and dental services for each institution, including preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients. An inmate may be taken, when necessary, to a medical facility outside the institution.

Comment on Section 17

The medical service, embracing both an outpatient department and a hospital, is an essential part of each correctional institution. The central administration should provide general guidance for medical units.[28]

[24] Wisconsin Statutes Sec. 56.02 (2).

[25] Session Laws 1959, ch. 126.

[26] Session Laws 1963, ch. 285.

[27] See American Correctional Association, *op. cit. supra* note 1, ch. 13, sec. 6, on "Good Communication."

[28] *Id.*, ch. 26.

§ 18. Inmate Contacts with Persons Outside the Institution; Temporary Releases

Under rules prescribed by the department, heads of the institutions may authorize visits and correspondence, under reasonable conditions, between inmates and approved friends, relatives, and others, and temporary release of an inmate for such occasions as the serious illness or death of a member of the inmate's family or an interview of the inmate by a prospective employer.

Comment on Section 18

Correspondence and visiting privileges can be an important and valuable part of a realistic treatment program. As a matter of general policy, the members of the inmate's family should be permitted and encouraged to maintain close contact with the inmate, not only to help his morale while serving a sentence but to sustain family life, insure close ties after release and assist in the inmate's institutional adjustment, giving him encouragement and helping him keep in touch with the outside world in a practical way.[29]

Lengthy visits by spouses in complete privacy are permitted in certain other countries (most liberally in Sweden).[30]

In some jurisdictions "vacation" furloughs for a period of one week up to several months are authorized. Under Alaska law, honor prisoners with a record of good behavior may be given the privilege of visiting their families for up to one week during a six-month period.[31] Delaware law[32] provides for temporary furloughs for inmates to visit their families or prospective employers.[33]

An inmate may be taken, when necessary, to a medical facility outside the institution (Section 17); correspondingly, consideration should be given to permitting aged or infirm inmates to live for periods of time in suitable public or private institutions or residences or in their own homes.

§ 19. Good Behavior Allowance

An inmate serving a commitment shall be allowed a reduction, from his maximum term, of ten days for each month served for the first five years of any term, and fifteen days per month for the period of any term over five years. Regulations shall be issued authorizing the director to deny such allowances for one or more months of time served prior to the infrac-

[29] *Id.*, ch. 33, sec. 1.

[30] Ruth Shonle Cavan and Eugene S. Zemans, "Marital Relationships of Prisoners in Twenty-eight Countries," *Journal of Criminal Law, Criminology and Police Science*, July-August 1958, pp. 133-39.

[31] Session Laws 1964, ch. 133.

[32] Department of Correction Act, Laws of 1964, ch. 349.

[33] On the use of furloughs by several jurisdictions, see Eugene S. Zemans and Ruth Shonle Cavan, "Marital Relationships of Prisoners," *Journal of Criminal Law, Criminology and Police Science*, May-June 1958, pp. 50-57.

tion of rules by the inmate. The regulations shall also authorize, under stated circumstances, restoration of good time lost.

COMMENT ON SECTION 19

Some argue that the development of parole has outmoded good behavior allowances; nevertheless, many prisoners are never released on parole. Whether the prisoner is released on parole or discharged at the end of his term, his attitudes are significantly influenced by the maximum sentence. Granting a reduction in term has been demonstrated by experience to support good discipline.

Good behavior allowances also make it possible for mandatory release programs, endorsed by the Standard Probation and Parole Act, to be established. The pattern of allowances here adopted is a simple one, related solely to good behavior and not to work, blood donations, or heroic acts. The section follows the general pattern in giving a greater allowance for long-term prisoners.

§ 20. DISCHARGE ALLOWANCE; LOANS

Inmates released upon completion of their term or released on parole or mandatory conditional release shall be supplied with satisfactory clothing, transportation, and financial assistance to meet their needs for a reasonable period after release. If the inmate or his family has financial resources, these shall be used prior to the use of public funds.

The department shall establish a revolving fund from funds available to the department, to be used for loans to prisoners discharged, released on parole, or released on mandatory conditional release, to assist them to readjust in the community. The fund shall be operated in accordance with regulations approved by the board.

COMMENT ON SECTION 20

Most prison systems provide both transportation and clothing routinely, and, in addition, a cash gratuity for the living expenses in the period immediately after release.

The highest figure reported as the most commonly issued gratuity is the $50 which Texas reports it pays to those inmates who receive a discharge from their sentence at the prison, rather than a parole. Wyoming regularly pays $35 to dischargees, but not to parolees. Nebraska pays $30 to all releasees; Colorado, Illinois, Minnesota, Missouri, Montana, Nevada, New Mexico, Ohio and Utah all pay $25 routinely, while Indiana and Idaho pay $15, and several states pay lesser amounts. North Carolina, Alabama, Louisiana, and Vermont, as well as the Canadian province of Ontario, determine the gratuity by a uniform formula which increases the amount paid as the time which the inmate has served increases.

All other states vary gratuity payments markedly on the basis of individual inmate needs. The most common method

is to establish a minimum amount of cash which each man should have at release, then provide him with the difference between this sum and the money he has in his account at the prison. Massachusetts pays men the difference between their savings and $50, but not over $25. Oregon adds whatever amount is needed to give a dischargee $50 at release and a parolee $25. Washington pays no more than $20 per man, and no more than enough to give a man $40 at release. Kansas adds enough to the funds of its releasees to guarantee them each $25, and Rhode Island assures $20 to dischargees (but not parolees). The Federal prison system has extremely diverse gratuity payments, fluctuating sharply from one releasee to the next according to need, but in all cases the amount given as an outright gratuity is limited by law to $30. California likewise has very diverse payments, as a function of need, most commonly paying $25. . . .

An examination of some of the features of the firmly established loan funds may suggest their distinctive contribution to a well-rounded program of inmate rehabilitation. Notable in California is provision of meal tickets or room credits by the parole officer, rather than cash. This reduces the problem of funds being dissipated by alcoholics, or by narcotics addicts, and makes the administration of the loans relatively simple. All of these loans are interest-free. Apparently no one expects the loan funds to be completely self-sustaining; it is routinely assumed that they must regularly be replenished by new appropriations. They are a resource for post-release needs which cannot be anticipated readily when the prisoner leaves the institution gate.

Such loan funds would seem to lose their distinctive rehabilitation value if employed by a state only as a substitute for other funds at the moment of release. While systematic research on the effectiveness of these loans is lacking, California's Director of Corrections, Richard McGee, expressed in conversation the opinion that the small annual loan fund replenishment appropriation in that state more than pays for itself if it saves the state the cost of handling violations by even a small number of economically desperate parolees.[34]

[34] Daniel Glaser, Eugene S. Zemans, and Charles W. Dean, "Money against Crime: A Survey of Economic Assistance to Released Prisoners" (Chicago: John Howard Association, 1961), pp. 2, 5, 14, 16.

ARTICLE V. INTERSTATE RELATIONS; DETAINERS

§ 21. Agreement on Detainers

The Agreement on Detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows: . . . . . .

Comment on Section 21

The interstate compact on detainers, recommended by the Council of State Governments,[35] is endorsed for inclusion in the Act. Other related state legislation suggested by the Council of State Governments includes the Uniform Mandatory Disposition of Detainers, the Interstate Compact on Juveniles, and the Interstate Probation and Parole Compact. Regional interstate compacts for institutional care, such as the Western Interstate Corrections Compact and the New England Interstate Corrections Compact, may be considered.

[35] See "Suggested State Legislation Program for 1957," pp. 78-85.

ARTICLE VI. APPLICATION OF ACT

§ 22. Laws Repealed

Chapters [. . .] and all other acts and parts of acts inconsistent with the provisions of this Act are hereby repealed.

§ 23. Constitutionality

If any section, subdivision, or clause of this Act shall be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

§ 24. Appropriation

The sum of $[. . .] is hereby appropriated for the purpose of this Act for the fiscal year [or biennium] ending [. . .].

§ 25. Time of Taking Effect

This Act shall take effect on [. . .].

END