

Final Report of the
**Blue Ribbon Task Force on
Criminal Justice**

Submitted to
the Governor and the 43rd Legislature
of the State of Utah
November 1978



FINAL REPORT
OF THE
BLUE RIBBON TASK FORCE
ON CRIMINAL JUSTICE

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ACQUISITIONS

NOVEMBER, 1978
OFFICE OF LEGISLATIVE RESEARCH
STATE OF UTAH

CONTENTS

TASK FORCE MEMBERSHIP	v
ACKNOWLEDGMENTS	vii
INTRODUCTION	ix
SUMMARY OF RECOMMENDATIONS	xi
PART ONE: JUVENILE JUSTICE SYSTEM	
Section I - Status Offense Jurisdiction.	3
Section II - Handling of Minor Offenses	7
Section III - Detention Before Adjudication.	11
Section IV - Philosophy For Treatment	19
Section V - Programs and Facilities For Seriously Delinquent Juveniles.	25
PART TWO: ADULT CRIMINAL JUSTICE SYSTEM	
Section VI - Decriminalization of Public Intoxication	37
Section VII - Release Before Trial	41
Section VIII - State Responsibility for Local Jails	49
Section IX - Philosophy Statement	53
Section X - Sentencing Process	57
Section XI - Future Facility Requirements For Offenders Sentenced to Imprisonment	71
Section XII - Special Offenders.	89
Section XIII - Adult Probation and Parole	93
Section XIV - Board of Pardons	103
PART THREE: ORGANIZATIONAL ISSUES	
Section XV - Reorganization of Corrections	109
Section XVI - UCCJA: System Level Planning and Coordination.	127
PART FOUR: APPENDICES	
Section XVII - General Appendices	133
Section XVIII - Minority Reports and Statements by Individual Members	177
PART FIVE: DRAFT LEGISLATION	
Contents of Part Five	185
Introduction to Part Five	187
Draft Legislation	189

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ACKNOWLEDGMENTS

The Task Force would like to express its thanks to the many individuals who provided assistance or information to the Task Force in its study of the criminal justice system. The Task Force expresses special thanks to the following:

Division of Corrections - Gary Webster, Richard Oldroyd, William Vickrey, Sam Smith and Steve Love;

Division of Family Services - Jim Wheeler, Shirley Cox, Willard Malmstrom, Heber Tippetts and Doug Bates;

State Juvenile Court - John McNamara, Jim Marchel, and Michael Phillips; and

Sharon Keigher, Craig Barlow, Evelyn Brown, J. Lade Heaton, Cathy Gilmore, Barbara Hood, Jim Walker, Dave Bennett, Gary DeLand and Haze Locke.

The Task Force also wishes to thank Joan Thomas, Nancy Carlson, Jean Hottinger, Mary Kerr, Scott Lawrence and Wilda Schryver who assisted in preparing the report.

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INTRODUCTION

At the June, 1977, Special Session of the 42nd Legislature, several appropriations requests for expansion and renovation of correctional facilities were made to meet immediate problems of overcrowding at the Utah State Prison. In reviewing these requests, it was apparent to the Legislature that no long range plan had been developed for meeting the facility needs of Utah's growing prisoner population. To establish an appropriate framework for evaluating anticipated requests for additional facilities in future years, the Legislature directed that a Task Force be created to develop a policy plan for Utah's criminal justice system. The specific study assignment was as follows:

The task force committee shall develop a master plan for the state criminal justice system with emphasis on the correction system. The master plan study shall consider among other items whether the Youth Development Center, Adult Probation and Parole, and the State Prison should be included within an independent department for the purpose of providing overall responsibility for all corrections within the State of Utah.

In response to this mandate, the Social Services Interim Study Committee established the Blue Ribbon Task Force on Criminal Justice. The Task Force is composed of an equal number of representatives from the executive, judicial and legislative branches of government, with the executive and judicial representatives appointed from nominations submitted by the Governor and the chairman of the Utah Judicial Council.

The Task Force began its study in September, 1977, establishing several subcommittees to examine different aspects of the criminal justice system. An interim report was submitted to the Legislature by the Task Force in December, 1977, detailing several recommendations formulated by the subcommittees and endorsed by the full Task Force. Many of these recommendations were not acted upon by the Legislature at its 1978 Budget Session and are incorporated in this final report in somewhat amended form.

In April of 1978, the full Task Force resumed its consideration of issues concerning the criminal justice system, commencing

with definition of conduct as a crime and following the system through arrest, sentencing and imposition of sanctions. Parts One and Two of the report are organized in this manner and include recommendations for the juvenile and adult systems respectively. The recommendations range from proposed changes in juvenile court jurisdiction for status offenses and decriminalization of public intoxication, to general policy guidance for development and operation of facilities for secure confinement of juvenile or adult offenders. In this second phase, the Task Force reexamined the organization of the criminal justice system in Utah, and its recommendations concerning organizational issues are contained in Part Three.

Restrictions of time and staff resources prevented the Task Force from considering a large number of issues. Recognizing these limitations, the Task Force attempted to focus its attention on matters not under active review by other study groups and on issues with a direct impact on facility needs. Not considered by the Task Force and omitted from this report are many important issues such as aid to victims of crimes, standards and training of local law enforcement personnel, the effect of plea bargaining on the system, availability of competent counsel for indigents accused of crimes in all areas of the state, the availability of presentence reports for inspection by defense counsel and the establishment of a family court.

The Task Force report contains thirty-four recommendations for legislative or administrative action or for general policy guidance for the criminal justice system. Not all recommendations were unanimously endorsed by Task Force members. On most issues for which recommendations were made, the Task Force considered several alternative approaches or options. The alternatives considered by the Task Force and a record of Task Force votes on all issues are available from the Office of Legislative Research. Minority reports or statements by individual Task Force members are contained in Part Four.

SUMMARY OF TASK FORCE RECOMMENDATIONS

INTRODUCTION

Upon review of a broad range of issues concerning the criminal justice system, the Blue Ribbon Task Force has made several recommendations for legislative and administrative action or for general policy guidance in the operation of the system. Among the major recommendations of the Task Force are:

- Facility needs of prisoner populations through the year 1990 should be met by renovation of the Utah State Prison at its current capacity level and by development of small, community based facilities.
- The state should assume increased responsibility for local jails through enactment of legislation authorizing the Division (or Department) of Corrections to establish standards and providing state financial assistance for the construction and operation of local jails.
- The Division of Corrections should be removed from the Department of Social Services and established as an independent department, and responsibility for the Youth Development Center should be transferred to the new department.
- The Uniform Alcoholism and Intoxication Treatment Act should be enacted to decriminalize public intoxication and to substitute treatment programs for jail confinement.
- Utah's indeterminate sentencing process should be retained while the definite sentencing laws recently enacted in other states are evaluated, but the Judicial Council and the Board of Pardons should establish guidelines for the exercise of sentencing and parole decisions.
- Consistent with maintenance of public safety, community based alternatives to institutionalization for seriously delinquent juveniles should be expanded, and the Youth Development Center (or other small secure facilities) should be utilized as a secure back-up facility for dangerous juvenile offenders or chronic juvenile offenders who have failed in community based alternative programs.
- To help eliminate the practice of utilizing jails for confinement of juveniles in some rural areas, a statewide transportation network should be established to facilitate more effective utilization of existing facilities, and the role of holdover detention facilities should be modified to encourage development of new facilities in underserved areas.

These and the other recommendations made by the Task Force are summarized briefly in the material which follows. Detailed background information and supporting rationale for the recommendations are provided in the main text of the report. Draft legislation to implement the recommendations is contained in Part Five of the report.

PART ONE: THE JUVENILE JUSTICE SYSTEM

Status Offense Jurisdiction

In 1977, the Utah Legislature removed "ungovernables", and "runaways" from the original jurisdiction of the Juvenile Court, providing that these status offenders be diverted to the Division of Family Services (DFS) for counseling and treatment. The new law provides that such juveniles may be referred to the Juvenile Court only if earnest and persistent efforts by DFS fail to resolve the problems.

The Task Force recommends that the 1977 law be expanded to include diversion of curfew violators to DFS, and that school districts be required to demonstrate earnest and persistent efforts prior to referral of truants to the Juvenile Court. (Recommendation 1). This approach is believed by the Task Force to provide an appropriate screening mechanism to identify and treat these problems before they become more serious without the expense and possible labelling effect of immediate referral to the Juvenile Court.

Handling of Other Minor Offenses

A large proportion of the delinquent acts reported to the Juvenile Court involve relatively minor misconduct. The Court has developed an intake screening process for review of delinquency cases to determine whether the interests of the public or the juvenile justify the filing of a formal petition for full judicial involvement in the matter. In 1977, the Legislature authorized another process for handling some of these minor offenses - citation and bail forfeiture. For certain offenses identified by the Board of Juvenile Court (e.g. smoking infractions), the issuance of a citation in lieu of arrest by law enforcement personnel is permitted, and the cited offender is allowed to pay a fine (forfeit bail) without any direct involvement from intake or the court.

The Task Force endorses these processes for the handling of minor offenses and recommends that current Utah law be amended to eliminate some procedural requirements which have limited implementation of the citation/bail forfeiture program. (Recommendation 2). Non-judicial disposition of minor offenses allows the Court to allocate its resources to the more serious cases and provides a cost-effective means of handling minor offenses which assures both the public interest in controlling delinquent acts and the provision of treatment (or imposition of minor sanctions) for the juvenile.

Detention Before Adjudication

In many cases referred to Juvenile Court, it is necessary to temporarily detain or supervise a juvenile pending resolution of the matter to assure appearance of the juvenile at court hearings or to protect the public or the juvenile from further harm. Detention or supervision may be provided in a secure or non-secure setting. Non-secure detention (commonly referred to as alternatives of secure detention) are facilities or programs designed to provide some restriction or supervision of a juvenile pending adjudication, but which do not require the complete loss of the juvenile's physical liberty.

Consistent with the maintenance of public safety, the Task Force endorses the development and use of alternatives to secure detention such as shelter care or home detention. (Recommendation 3). These facilities and programs are less costly than secure detention, involve less disruption of normal family and school relations and limit exposure of inexperienced youths to hardcore offenders.

Responsibility for secure detention in Utah is divided between county and state government - the counties are responsible for operation and partial financing of secure detention facilities, and the state is authorized to establish standards and to provide partial financing for facilities. In many rural areas of the state, counties have been unable or unwilling to provide adequate detention facilities, and juveniles are often held in adult jails in these areas.

The Task Force recommends that a statewide transportation network be established to facilitate more effective utilization of existing facilities and that the role of holdover facilities be modified to encourage development of new facilities in underserved areas. (Recommendations 4 - 8). The approach of the Task Force is intended to improve accessibility to detention facilities without prohibitive increases in costs to state or local government.

Philosophy for Treatment of Juvenile Offenders

An important element of the Task Force's study and report concerning the state's criminal justice system is the establishment of general policies for the operation of the system. The Task Force has adopted a philosophy statement for the treatment of juvenile offenders which is intended to provide guidance (1) to the Legislature in developing a general legislative framework for the juvenile justice system and in evaluating the fiscal needs of the system, (2) to judges in determining appropriate dispositions for juvenile offenders, and (3) to the agencies and organizations responsible for the development and operation of treatment programs for juvenile offenders. Within the general parameters of public safety, the philosophy statement emphasizes the role of the family, the need for individualized treatment and the use of the least restrictive means possible for achieving the goals of control and rehabilitation. (Recommendation 9).

Programs and Facilities for Seriously Delinquent Juveniles

Among the most important developments in the juvenile justice system in recent years has been the movement to "de-institutionalize" treatment programs for many seriously delinquent juveniles. The Task Force strongly endorses the continued development of community based programs in Utah for juveniles traditionally placed at the Youth Development Center (YDC) who do not present an unwarranted threat to public safety. (Recommendation 10). Community based programs are generally less costly than institutional facilities, provide appropriate emphasis on maintenance and improvement of family ties and, in many cases, have greater promise for successful rehabilitation.

However, the Task Force also recognizes the need for a secure back-up facility for juveniles who fail in community based programs or who present a danger of serious bodily harm to others which cannot be controlled in a less secure setting. Information presented to the Task Force raised concerns that the YDC has not adjusted its operations and programs to meet the requirements of a smaller, more hardcore population, and the Task Force has made several recommendations to promote the fulfillment by the YDC of its changing responsibilities.

The Task Force recommends that the maximum age for continuing jurisdiction by the YDC be extended from age 19 to 21 to give the YDC greater flexibility in reintegrating hardcore offenders into the community. (Recommendation 11). The Task Force has established general principles for the operation of the YDC which are intended to define its role and responsibilities as the end point in the continuum of programs for seriously delinquent juveniles. (Recommendation 12). Establishment of guidelines for commitment and release are recommended to help assure that only juveniles clearly needing secure confinement are committed to the YDC and that release decisions include appropriate consideration of both the welfare of the juvenile and the interests of public safety. (Recommendations 13 and 14). The Task Force further recommends that a master plan for secure residential facilities be developed to evaluate the facility requirements for secure confinement as community based programs continue to expand and that no major capital expenditures be made at the YDC pending completion of such a plan. (Recommendation 15). Finally, the Task Force recommends that responsibility for the YDC be transferred from DFS to the Division (or Department) of Corrections to help ensure that necessary security and correctional expertise are employed in the operation of the YDC. (Recommendations 16 and 31).

PART TWO: ADULT CRIMINAL JUSTICE SYSTEM

Decriminalization of Public Intoxication

It is estimated that up to 25% of persons in Utah jails are being held on charges of or are serving sentences for public intoxication. Most jails do not offer or have the capacity to provide specialized treatment programs for chronic public intoxicants. The Task Force recommends that the Uniform Alcoholism and Intoxication Treatment Act be enacted in Utah, decriminalizing public intoxication and authorizing establishment of treatment centers to handle these cases. (Recommendation 17). Public intoxication is primarily a health and mental health problem, not a criminal matter requiring involvement of the criminal justice system.

Release Before Trial

Increasing attention has been given to procedures and programs for release of accused persons before trial as the rights of the accused have become more established and the costs of pretrial detention have risen rapidly. Field citation release is a procedure whereby a law enforcement officer issues a citation in the field rather than taking an accused offender to the station house for booking and detention. Pretrial release programs gather and verify information on those accused offenders who are brought to the station house to assist courts in making release decisions, and often provide supervision or treatment services to accused offenders who are released by the court.

The Task Force encourages the development of these procedures and programs which can help assure appropriate utilization of costly jail detention and assist courts in making informed release decisions. (Recommendations 18 and 19).

State Responsibility for Local Jails

The conditions of local jails have received greater scrutiny in recent years, largely as a result of the growing recognition by the federal courts of the rights of accused and convicted offenders held in confinement. In Utah, as in many other states, local governments have been unable or unwilling to expend the necessary funds to provide jail facilities and operations which meet the requirements of developing case law and national standards. A survey of jails in Utah reveals that none meets established national standards, and many are involved in major litigation in state or federal courts concerning the conditions, operations or treatment programs of the jails.

The Task Force recommends that a Community Corrections Assistance Act be enacted to authorize the development of state standards for local jails by the Division (or Department) of Corrections and to provide state funding for improvement of local jail facilities and operations. (Recommendation 20). The approach

proposed by the Task Force would help reduce the problems of local jails while leaving primary responsibility for providing jail services with local government.

Philosophy for Adult Criminal Justice System After Trial

As with the juvenile system, the Task Force has adopted a philosophy statement for the adult system which is intended to provide general guidance for policy decisions by the Legislature, judges and program administrators. (Recommendation 21). The primary objectives of the adult criminal justice system after trial identified by the Task Force are to reduce frequency and severity of harm caused by criminal acts, to assist offenders in the development of skills necessary to function adequately in society and to facilitate the reintegration of offenders into society following contact with the criminal justice system. The Task Force notes that these objectives can be achieved through control, punishment and habilitation/rehabilitation, and establishes principles governing their exercise.

Sentencing Reform

In recent years, no aspect of the criminal justice system has received greater attention than the sentencing process. This scrutiny and the development of new approaches to sentencing are not unexpected in that the sentencing process largely defines the philosophy of the criminal justice system after trial and sentencing decisions to a great extent dictate the services and resources which must be provided by the system.

The predominant form of sentencing in the United States today is indeterminate sentencing. Although there are several forms of indeterminate sentencing processes, the common characteristic of all is that the length of term of imprisonment actually served by an offender is not established by the judge at the time of sentencing, but rather by a parole authority during the term of the sentence. The indeterminate sentencing process has been strongly attacked for the disparities in parole and sentencing decisions, and because release decisions by parole authorities are based primarily on the increasingly challenged assumption that it is possible to determine when an offender has been rehabilitated (and release therefore appropriate).

One response to these criticisms has been a renewed interest in definite sentencing. Four states have enacted definite sentencing laws which allow the judge to establish a fixed or definite term of imprisonment at the time of sentencing, eliminating the possibility of early release on parole. Proponents of definite sentencing maintain that by determining sentence lengths solely by consideration of the seriousness of the offense and the record of the offender, the process avoids basing decisions on the largely discredited criteria of responsiveness to treatment and prediction of future criminal behavior. It is contended that definite sentencing properly emphasizes the

reemerging sentencing principles that punishment should be certain, that the relative degree of punishment should be primarily related to the seriousness of the offense and that punishment of offenders who have committed similar crimes should be as nearly equal as possible.

The Task Force debated sentencing reform issues at considerable length and recommends that, for the present time, Utah's indeterminate sentencing process be retained but that (1) the Judicial Council develop sentencing guidelines, (2) the Board of Pardons develop parole release guidelines and (3) definite sentencing processes enacted in other states be monitored to evaluate their effectiveness in achieving reform objectives and to assess their impact on correctional programs and operations. (Recommendation 22). This approach will achieve many of the objectives of sentencing reform while retaining some of the benefits of the indeterminate sentencing process, such as providing a safety valve for unjust sentencing decisions and facilitating early release in cases where such action clearly furthers goals of rehabilitation and reintegration of offenders. No state has had a modern definite sentencing law in effect for more than two years, and more time is necessary to fully evaluate the laws to ensure that the process does not create new unanticipated problems and to identify the model which is proven most workable.

Future Facility Requirements for Offenders Sentenced to Imprisonment

Among the major responsibilities assigned to the Task Force was the establishment of general policy direction for meeting anticipated facility requirements of future prisoner populations. The Task Force examined several methods for projecting future prisoner populations and selected a projection which estimates that between 100-220 additional beds may be required by 1990. This projection is based largely on the assumption that Utah's incarceration rate will remain close to its historic average as Utah's population continues to grow and assumes that existing facilities will continue to be available through 1990.

The Task Force recommends that the necessary renovations be made at the prison to extend its useful life at current capacity for at least another 30 years (Recommendation 23). The cost of constructing new prison facilities are high (\$40-60,000 per bed), and while exact figures are not yet available, it is apparent that the costs of renovation are considerably less than new construction. Unless substantial renovations and improvements are undertaken soon, pending federal court litigation could result in remedial orders (release of prisoners or usurpation of some administrative functions) which are unacceptable to the community.

As a matter of general policy, the Task Force recommends that any additional facility requirements for future prisoner populations be met by development of small community based facilities. (Recommendation 24). The construction costs of

community based facilities are considerably lower than institutional facilities, and ability of such facilities to utilize existing community resources and to allow offenders to be released for work during the day provide additional cost advantages to the system. Moreover, by avoiding the artificial environment of a large institution and by permitting supervised contact with families and the community, rehabilitation and adjustment to the real world are facilitated and reintegration into the community assisted.

The Task Force further recommends that the development of such community based facilities be coordinated with local government, and establishment of joint state/local multi-purpose facilities be encouraged. (Recommendation 25). Community based facilities developed by the Division (or Department) of Corrections may duplicate jail resources already available or in the planning stages, and state/local coordination can help assure the most cost-effective use of resources by the criminal justice system.

Special Offenders

Special offenders include groups such as women, racial/ethnic minorities, retarded, emotionally disturbed, young, drug/alcohol and sex offenders, who may have special or unique treatment needs. The Task Force recommends that the Division (or Department) of Corrections consider development of more special programs and facilities for these groups. (Recommendation 26). Special offenders often have substantial difficulties adjusting to prison life, and by recognizing and meeting their unique needs some of the underlying problems which led to criminal activity may be solved and interference with prison operations may be reduced.

Adult Probation and Parole

Adult Probation and Parole (AP&P) has recently established performance standards to define the appropriate level of performance and the specific steps considered necessary for officers to adequately discharge assigned duties such as supervision or preparation of presentence reports. The Task Force has reviewed and endorsed the standards and recommends that AP&P manpower be gradually increased to permit performance in accordance with the standards. (Recommendations 27 and 28). Probation is the least costly form of criminal sanction and increased supervision capacity will help assure greater public safety and may encourage increased utilization of probation as an alternative to imprisonment in appropriate cases.

Board of Pardons

Parole authority in Utah is vested by the state constitution in the Board of Pardons. The increased workload of the Board in recent years has caused some strain on its operations. The

Task Force recommends that the staff of the Board be increased to include an additional member and that the Board be expanded from three to five part-time members. (Recommendations 29 and 30). An additional staff member will allow the Board to develop a stronger policy and planning capacity, and expansion of the Board will help reduce the impact of the absence of a member at weekly Board meetings.

PART THREE: ORGANIZATIONAL ISSUES

Reorganization of Corrections

In establishing the Blue Ribbon Task Force on Criminal Justice, the Legislature specifically directed that the Task Force address issues concerning the organization of the criminal justice system. The juvenile and adult systems are currently operated separately. The juvenile justice system is divided between the Juvenile Court and the Division of Family Services (a division within the Department of Social Services), with some responsibilities at the local level. The adult corrections system is the responsibility of the Division of Corrections (a division within the Department of Social Services).

The Task Force reviewed the current organizational arrangement and, after considerable debate, has made two major recommendations. It is the judgment of the Task Force that the need of the juvenile justice system to have a secure "correctionally oriented" back-up facility for its continuum of community based alternatives for seriously delinquent juveniles can best be met by transferring responsibility for the Youth Development Center from DFS to the Division (or Department) of Corrections. (Recommendations 31 and 32). DFS administers a broad range of programs for youth (for delinquent and non-delinquent juveniles), and appears to lack the necessary expertise to effectively operate the YDC in the manner required by the system.

The Task Force further recommends that the Division of Corrections be removed from the Department of Social Services and be established as an independent department. (Recommendation 33). In an independent department, correctional programs will be assured of the visibility, accountability and professionalism required for effective performance. Although rehabilitation and the provision of social services to offenders and their families are important goals of Corrections' programs, it is the judgment of the Task Force that these objectives can be equally well achieved in an independent department.

Systems Level Planning and Coordination

In its review of the criminal justice system, the Task Force noted that responsibility for various aspects of the system is distributed among various agencies, organizations and branches of state and local government. It was apparent to the Task Force

that this fragmentation may, in many instances, be responsible for some of the deficiencies in the system, including the lack of coordination, duplication of services and development of inconsistent philosophies by and among different entities within the system.

The Task Force recommends that the Governor's Committee on Executive Reorganization consider relocating the Utah Council on Criminal Justice Administration (UCCJA) to maximize its planning and coordinating capacity. (Recommendation 34). The UCCJA is the designated state agency for the administration of the Law Enforcement Assistance Administration activities and funds in Utah, and transferring UCCJA from the Department of Public Safety to an agency such as the State Planning Coordinator's Office may enhance its systems planning and coordinating role.

PART ONE

THE JUVENILE JUSTICE SYSTEM

SECTION I - STATUS OFFENSE JURISDICTION

INTRODUCTION

"Status offenses" are acts by juveniles subject to legal sanction which if committed by an adult would not be considered criminal behavior. Examples of "status offenses" include curfew, truancy, using tobacco or alcohol and running away from home.

The appropriateness of juvenile court involvement in the restriction and control of conduct that does not constitute criminal action has been increasingly questioned in recent years. In this section, the national movement to remove or limit juvenile court jurisdiction over status offenses is discussed and the current situation in Utah is reviewed. The Task Force makes a recommendation to amend Utah law to further limit Utah State Juvenile Court involvement with status offenders, but also to maintain a mechanism to assure control of activity which either will not be tolerated by the community or which endangers the health and safety of the juvenile.

NATIONAL DEVELOPMENTS CONCERNING STATUS OFFENSES

In recent years there has been a growing national movement to limit juvenile court involvement with status offenders. It is contended by supporters of this movement that status violations usually reflect only minor misbehavior or "transitional deviance" without serious threat to society or the juvenile, and that such conduct does not require or justify full judicial involvement. It is argued that these problems can be best handled through counseling or other treatment, and that the possible stigmatization or labelling associated with juvenile court involvement may cause serious harm and encourage more serious behavioral problems.

Status offenses constitute a substantial portion (25-30%) of juvenile court workload in most areas of the country. This situation has led to an additional concern that the costs and administrative burden of handling status offenders may prevent the allocation of sufficient resources to more serious offenders who are in greater need of the attention of the juvenile justice system.

It is also contended that enforcement of status offense laws is subject to abuse. Many statutes defining status behavior use broad or vague language ("ungovernable", "incorrigible", or "in need of supervision") and so enlarge discretionary authority that virtually any child can fall within the court's jurisdiction. Moreover, while curfew ordinances may be effective in reducing opportunities for delinquency and in providing law enforcement personnel with a means of exercising some control over unsupervised youth, such ordinances provide broad discretion and are often subject to inconsistent enforcement and use as a harassment technique.

Despite this criticism of past juvenile court involvement with status offenses, most observers agree that a mechanism must exist to control or restrict some conduct not criminal for adults but which, nevertheless, either will not be tolerated by the public or which endangers the health and safety of the juvenile. The difficulty in developing a process to handle these problems lies in striking a balance between the need to ensure enforcement of these legitimate public interests and the desire to limit the negative consequences of governmental intervention. Strategies to achieve such a balance have varied widely, from complete removal of status offenders from juvenile court jurisdiction to limitations on the form and degree of juvenile court involvement. In the material which follows in this section, Utah's approach to this issue is discussed, and a recommendation is made by the Task Force for further action concerning the problem.

STATUS OFFENSE JURISDICTION IN UTAH

Runaways and Ungovernables

In 1977, the Legislature enacted HB 340* which removed children who are beyond the control of their parents ("runaways" and "ungovernables") from the original jurisdiction of the Juvenile Court. The law provides for diversion of runaways and ungovernables to the Division of Family Services (DFS) or its contracting agencies, which are directed to provide counseling and other services to these youths and their families. If despite earnest and persistent efforts the problem is not solved, DFS (or the contracting agency) may refer the case to the Juvenile Court.

Although somewhat hampered by funding limitations, DFS has attempted to establish a family crisis intervention program for these youths. Upon referral or apprehension by police of a runaway or ungovernable youth, DFS (or contracting agency) personnel attempt to arrange an immediate counseling session with the youth and his/her family. In most cases, the youth returns home with the family following the session, although in some cases temporary shelter is sought for the youth on a voluntary basis. The initial session is followed by additional sessions in an attempt to resolve the problem without attaching "blame" to any party.

The program has experienced some problems, especially in rural areas where difficulties have been encountered in assuring 24-hour availability of personnel. Although no exact figures are currently available, DFS estimates that approximately 10% of the cases are eventually referred to the juvenile court.

*Chapter 76, Laws of Utah, 1977.

Truancy

While the 1977 legislation removed runaways and ungovernables from the original jurisdiction of the Juvenile Court, the Court's jurisdiction for another status offense, truancy, was expanded. Prior to 1977, public school law required earnest and persistent efforts by school authorities before a student could be deemed an "habitual truant" (the basis for Juvenile Court jurisdiction). The 1977 legislation removed this requirement, and schools are no longer legally required to demonstrate any remedial efforts prior to referral of truancy cases to the Juvenile Court.

Curfew

While there is no state curfew law, many counties and municipalities have curfew ordinances restricting juveniles unaccompanied by an adult from public places during fixed hours. The Juvenile Court has original jurisdiction over curfew violations pursuant to its general jurisdiction over violation of local laws and ordinances by juveniles.

Use or Possession of Alcohol and Tobacco

Use or possession of alcohol and tobacco in Utah is not a "status offense" within the strict definition of the term since the age of Juvenile Court jurisdiction (under 18) is not coterminous with the prohibitions against use or possession of alcohol (under 21) and tobacco (under 19). Nevertheless, much of the same rationale which supports limited Juvenile Court involvement for status offenses applies to alcohol and tobacco violations--the expedited processing of these offenses by the Juvenile Court is discussed in Section II.

Task Force Recommendation

RECOMMENDATION 1 - CURRENT UTAH LAW SHOULD BE AMENDED TO REESTABLISH THE REQUIREMENT THAT SCHOOLS DEMONSTRATE EARNEST AND PERSISTENT EFFORTS AS A PREREQUISITE TO JUVENILE COURT JURISDICTION FOR TRUANCY, AND TO DIVERT CURFEW OFFENDERS TO DFS AND REQUIRE EARNEST AND PERSISTENT EFFORTS BY DFS AS A PREREQUISITE TO JUVENILE COURT JURISDICTION FOR CURFEW VIOLATIONS.

NOTE: For draft legislation, see Part Five of this report.

Supporting Rationale:

- The effect of this recommendation is to provide for the handling of curfew violators and truants in a manner similar to that of runaways and ungovernables. Curfew violators are initially diverted to DFS and, as provided in HB 340, may be referred to the Juvenile

- Court only after earnest and persistent efforts by DFS. Truancy is removed from the original jurisdiction of the juvenile court, and habitual truants may be referred to the court only if the school demonstrates that earnest and persistent efforts have failed.
- Removal of the remaining status offenses from the original jurisdiction of the Juvenile Court will help assure more cost-effective allocation of Court resources by helping limit Court involvement to the more serious problems of delinquency or neglect.
- Curfew violations generally do not constitute a serious threat to public safety, but are often symptomatic of other behavioral or family problems. The DFS family crisis intervention program (which would handle curfew violations under this recommendation) can provide an appropriate screening mechanism to identify and treat such problems before they become more serious.
- This recommendation places primary responsibility for school attendance where it belongs--with the education system. By requiring reasonable remedial efforts by schools prior to referral to the Juvenile Court, the education system will have an incentive to develop innovative approaches to truancy problems, such as alternative programs or student attendance review boards (SARB's) which have had considerable success in other areas of the country. Retaining the possibility of referral to juvenile court provides a sanction often necessary to obtain full parent and student cooperation.

SECTION II - HANDLING OF MINOR OFFENSES BY JUVENILE JUSTICE SYSTEM

INTRODUCTION

A large proportion of the delinquent acts reported to the Juvenile Court involve relatively minor misconduct.* Limited resources prevent full judicial consideration of all matters referred to the Juvenile Court. In this section, the processes which have been developed to handle some of these minor offenses without direct judicial involvement are described, and the Task Force makes a recommendation to facilitate more effective utilization of these processes.

INTAKE SCREENING AND NON-JUDICIAL DISPOSITION

In Utah, intake services are operated under the control and direction of the State Juvenile Court system. In metropolitan areas specialized personnel provide intake services, and in rural areas probation workers perform intake functions along with their other probation casework responsibilities.

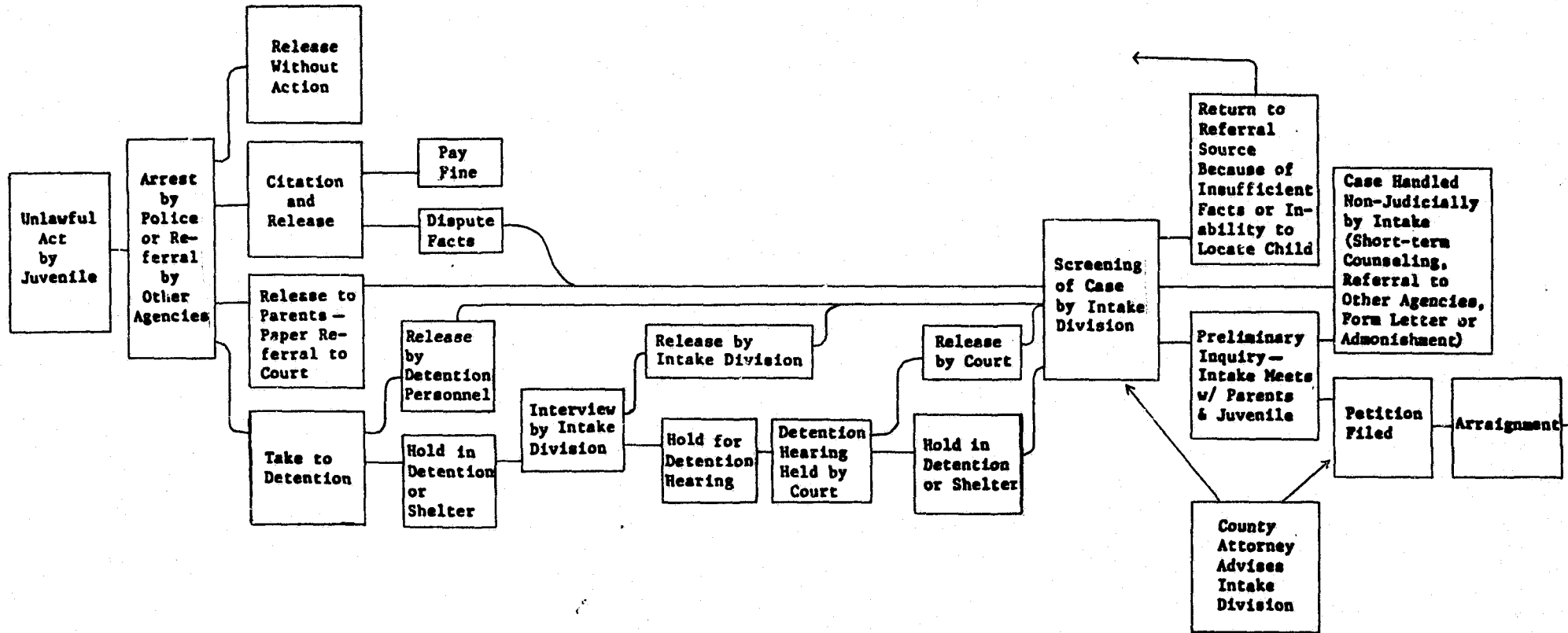
Intake services involve the screening of all delinquency matters referred to the Juvenile Court. Under guidelines established by the Court, intake workers determine whether the interests of the public or the juvenile require the filing of a formal petition with the Court. In cases involving minor offenses where the facts are admitted by the juvenile, the intake worker may elect not to file a petition and to handle the matter non-judicially through short term counseling or referral to another agency for additional assistance or treatment. Intake personnel also review each case to assure that the matter falls within the jurisdiction of the Juvenile Court and that sufficient facts exist to justify action by the Court. (See Figure 1 for a flow chart of the intake process). In 1977, almost 40% of all delinquency matters referred to the Juvenile Court were handled by intake personnel without direct judicial involvement.

CITATION AND BAIL FORFEITURE

In 1977, legislation was enacted authorizing another process for the expedited handling of minor offenses by the juvenile justice system. For offenses designated by the Board of Juvenile Court Judges, the issuance of a citation in lieu of arrest by law enforcement personnel is permitted, and the offender is allowed to deposit and forfeit bail without any direct intake or judicial involvement. The process is similar to that used in the adult system for minor traffic violations.

*See Appendix A for summary of offenses reported to Utah Juvenile Court in 1977.

FIGURE 1
 UTAH JUVENILE JUSTICE SYSTEM
 BEFORE ADJUDICATION



The goal of the law is to make it possible for the Court to proceed in a summary manner in minor cases such as drinking or smoking infractions which are status offenses in most states, but are not in Utah because the age restrictions on these activities are not concurrent with Juvenile Court jurisdiction. The law allows the Court to impose some sanction (bail forfeiture), but does not overburden intake or the Court personnel with the formalities required to handle more serious cases.

However, the legislation as enacted includes some procedural requirements which have limited its implementation. The law requires that the arresting officer mail a copy of the citation to the parents of the cited juvenile. Law enforcement personnel, already overburdened with substantial paperwork, are often reluctant to perform this task and such notice duplicates the notice generally provided to parents by the Juvenile Court pursuant to its own policy. The law also defines the required contents of the citation form with such specificity that existing forms already used for citations in traffic offenses are inadequate. Law enforcement agencies have been reluctant to develop new forms for use in these special cases, and the implementation of the citation program has, therefore, been severely limited.

TASK FORCE RECOMMENDATION

RECOMMENDATION 2 - NON-JUDICIAL DISPOSITION OF MINOR OFFENSES SHOULD BE ENCOURAGED WHERE APPROPRIATE, AND EXISTING LAW SHOULD BE AMENDED TO FACILITATE MORE EFFECTIVE USE OF CITATION AND BAIL FORFEITURE.

NOTE: The bail forfeiture provisions of current law (78-3a-22 UCA) would be amended (1) to remove the requirements that a special form be used and that police notify the parents of a cited juvenile, and (2) to establish a requirement that the Juvenile Court notify the parents of the cited juvenile. For draft legislation, see Part Five of this report.

Supporting Rationale:

- The non-judicial disposition of minor offenses by intake personnel is a cost-effective means of handling these offenses which assures both the enforcement of the public interest in controlling delinquent acts and the provision of needed treatment services for juveniles and their families before problems become critical.

- Facilitating the use of citation and bail forfeiture will help reduce law enforcement and Juvenile Court workloads. By eliminating the need to transport a juvenile to detention facilities or to locate a juvenile's parents in cases involving minor offenses, the time law enforcement officers must be off the street can be reduced. By limiting intake and judicial involvement, Court resources can be allocated more effectively while assuring that some form of sanction is imposed for the illegal conduct.
- While making the use of citations easier may have the effect of decreasing the use of admonishment or warnings by law enforcement officers for nuisance offenses and thereby widening the net of the juvenile justice system, the degree of involvement with the system will be limited and the potential cost savings are significant.

SECTION III - DETENTION BEFORE ADJUDICATION

INTRODUCTION

In many cases referred to the Juvenile Court, it is necessary to temporarily detain or supervise a juvenile pending resolution of the matter to assure appearance of the juvenile at court hearings or to protect the public or the juvenile from further harm. In this section, Utah's detention system is described and its problems, especially in rural areas where a lack of facilities and services has resulted in the use of adult jails, are examined. The Task Force makes several recommendations to help improve availability and accessibility of detention facilities and services in rural areas and to help promote more cost-effective operation of the system.

ALTERNATIVES TO SECURE DETENTION

Definition and Purpose

"Alternatives to secure detention" are facilities or programs designed to provide some restriction and supervision of a juvenile pending adjudication, but do not require the complete loss of the juvenile's physical liberty. Because these facilities or programs do not involve the elaborate security arrangements of secure detention facilities, the degree of interference in the normal activities of the juvenile is limited, and operating costs are substantially reduced. The two types of alternatives developed in Utah are described below.

Shelter Care

Shelter care is the temporary care of a juvenile in a physically unrestricted setting other than the home of the juvenile. Shelter care may be provided through a shelter care facility or a shelter care home. Shelter care programs are administered and financed by the Division of Family Services (DFS).

Salt Lake County has contracted with DFS for the operation of the state's only shelter care facility. The facility, located adjacent to the Salt Lake County Detention Center, is similar to a group home and is used for boys up to 17 years of age requiring moderate supervision. The facility offers juveniles counseling, education, recreational and other programs pending disposition of the case.

Shelter homes are the homes of families in the community which are licensed by DFS to provide temporary care and supervision of juveniles. Shelter care homes are selected for the ability of the contracting parents to provide emotional and

social support needed by juveniles pending permanent placement or return home. Shelter homes are retained on a "on-call" basis and reimbursement paid according to use. A recent survey of shelter care homes has indicated a high vacancy rate, but a shortage of homes willing to receive older youths or those with more serious problems.

Home Detention

Home detention is an alternative to secure detention which involves supervision of a juvenile in his/her own home. The juvenile is restricted to the home except while in the company of parents or when necessary to attend school or approved employment. Supervising personnel contact the juvenile (either in person or by telephone) daily for the first few weeks, and periodically thereafter. Violation of the terms of release result in placement in secure detention.

Salt Lake County is currently the only area in the state with a home detention program and, unlike other programs, it is operated without state funds.

Task Force Recommendation

RECOMMENDATION 3 - CONSISTENT WITH THE MAINTENANCE OF PUBLIC SAFETY, THE DEVELOPMENT AND USE OF ALTERNATIVES TO SECURE DETENTION SHOULD BE ENCOURAGED.

Supporting Rationale:

- The costs of secure detention are high in human terms. Placement in detention may unnecessarily expose inexperienced youth to hardcore offenders, disrupt normal family and school relations and have serious adverse psychological effects.
- The costs of secure detention are high in economic terms. By relying more on less costly alternatives in appropriate cases, substantial costs savings to the system will result.
- In 1977, 43% of youths referred to the Juvenile Court for delinquency in the Wasatch Front were held for some period in secure detention. Alternatives to detention can help reduce this figure which is well above nationally recommended rates for use of detention.

SECURE DETENTION

Background

A secure detention facility is a residential facility for the temporary confinement of a juvenile prior to adjudication or disposition of an alleged offense where the juvenile's physical liberty is controlled and his/her conduct is supervised on a 24-hour basis.

The responsibility for different aspects of secure detention in Utah is divided between county and state government. Counties are given the primary responsibility of providing detention care and administer all secure detention facilities. The state (the Division of Family Services) is charged with the duty of assisting the counties and provides up to 50% of the costs for operation of detention facilities and programs. The state is also responsible for the establishment of minimum standards for detention facilities and programs. Under current standards, two types of facilities are authorized for the detention of juveniles, and these are described below.

Detention Centers

Detention centers are regional facilities which provide full detention services, including counseling, education, recreation and other services and programs. Centers are located in Salt Lake, Weber and Utah Counties. The center located in Weber County, the Moweda Center, is a cooperative effort serving Morgan, Weber and Davis Counties, while the Salt Lake and Utah County centers are operated by single county governments. All of the centers do, however, enter into agreements with other counties to provide detention care on a contractual basis.

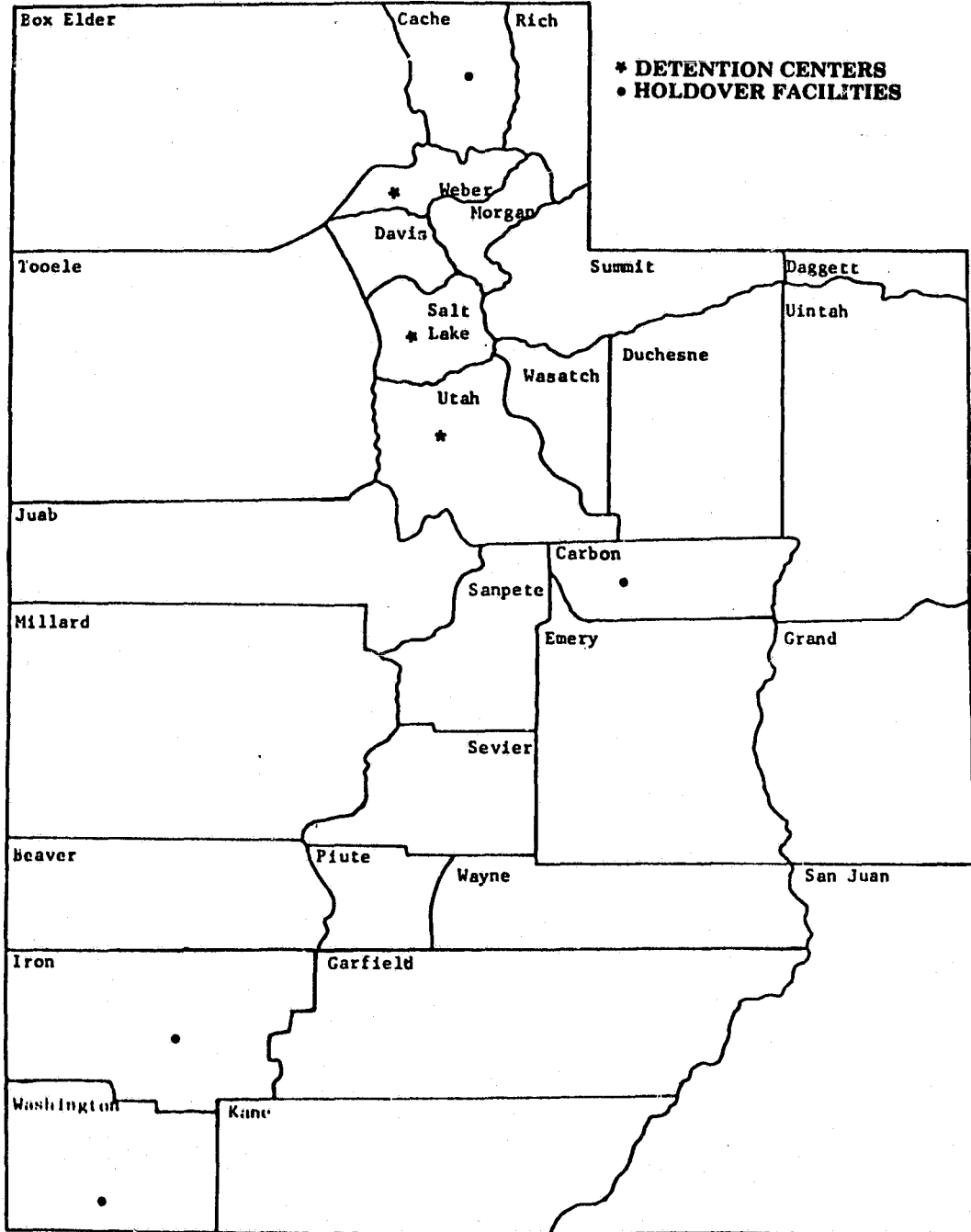
Holdover Facilities

Holdover facilities are used for the temporary detention of juveniles in rural areas pending a detention hearing by the Juvenile Court. The length of stay is limited to 48 hours, and when extended detention is determined by the Court to be necessary, the juvenile is transferred to a detention center. The facilities are operated on an as needed basis through retainer contracts with on-call staff, and program activities are, by necessity, limited. Holdover facilities are located in Cache, Carbon, Iron and Washington Counties.

Problems in Operation of Current System

The present distribution of detention centers and holdover facilities in the state leaves many areas with limited access to these facilities. (See Figure 2). In some areas, such as the

**FIGURE 2
DETENTION FACILITIES IN UTAH**



Uintah Basin, southeast and central regions of the state, local governments have been unable or unwilling to develop specialized facilities for secure detention of juveniles. Law enforcement personnel in some of these areas are often reluctant, due to manpower limitations, to transport juveniles requiring detention long distances to existing facilities. This situation has led in some instances to the use of local jails for detention of juveniles. In 1975, it was estimated that at least 1,100 juveniles were held in local jails. State law (UCA 55-10-49) prohibits detention of juveniles in adult jails, although the statutory language is somewhat vague and there is no sanction for violation of its provisions.

Even where holdover facilities are within a reasonable distance, the 48 hour detention limit has restricted their utilization. Additional time is often necessary to make final detention determinations or to arrange for transportation for out-of-state residents. This situation has led in some cases to inappropriate utilization of the holdover facility or to avoidance of the holdover facility and use of local jails.

Additional problems have resulted from the division of responsibility of juvenile detention between county and state government. This arrangement has resulted, to some extent, in a lack of necessary authority and leadership for development of workable solutions for detention problems, especially in low population density rural areas where regional, multi-county facilities and programs are necessary. Moreover, the current reimbursement formula (the state pays "up to" 50% of detention costs) has caused uncertainty in local operations since the actual proportion paid by the state has fallen well below the 50% level in recent years.

Task Force Recommendations

RECOMMENDATION 4 - A STATEWIDE JUVENILE DETENTION TRANSPORTATION SYSTEM SHOULD BE ESTABLISHED TO FACILITATE MORE EFFECTIVE UTILIZATION OF EXISTING FACILITIES*.

Supporting Rationale:

- Reluctance of law enforcement personnel to transport juveniles requiring detention over long distances (and possibly leave the jurisdiction without adequate law enforcement protection for several hours) has often resulted in use of local jails for detention of juveniles.

*Note: Recommendations 4-7 are based on recommendations from the State Advisory Committee of the Juvenile Court which were provided in response to a request for assistance from the Task Force.

- This approach will help limit the practice of using local jails and will facilitate more cost-effective utilization of existing holdover facilities which are currently used only sparingly.
- A transportation system would facilitate transfer of juveniles from holdover facilities to detention centers (which, except for Salt Lake County Detention Center, are currently operating well below capacity) in cases where extended detention is necessary prior to adjudication. The system could also be utilized along the Wasatch Front among the detention centers to make use of empty beds and to reduce overload in centers with high use.
- A transportation system is less costly (approximately \$80,000 per year) than construction and operation of numerous additional facilities in remote rural areas where utilization is likely to be infrequent.

RECOMMENDATION 5 - THE ROLE OF HOLDOVER FACILITIES SHOULD BE MODIFIED TO PERMIT DETENTION UP TO 5 DAYS.

- In many cases a short period of detention is necessary to assure that the juvenile does not present a threat to him/herself or others, to resolve difficulties within the juvenile's home or to make suitable arrangements for temporary out-of-home placement. A moderate expansion of programming (recreation and education) in holdover facilities and extension of the period of detention to 5 days (which is close to the average length of stay in detention centers) would permit more effective utilization of holdover facilities.
- Detention of out-of-state residents is common in rural areas, and a 5-day detention period would allow a more sufficient time period for arrangement of transportation with the home state.

RECOMMENDATION 6 - THE LAW PROHIBITING THE DETENTION OF JUVENILES IN ADULT JAILS SHOULD BE STRENGTHENED TO INCLUDE SANCTIONS FOR VIOLATION

Supporting Rationale:

- With the establishment of an effective transportation system and the modification of the role of holdover facilities to permit 5-day detention, there is no reasonable excuse for the detention of juveniles in adult jails. Without some form of sanction against the jailing of juveniles, the practice may continue despite the remedial efforts recommended by the Task Force.

RECOMMENDATION 7 - DEVELOPMENT OF A REGIONAL, MULTI-PURPOSE
DETENTION/SECURE RESIDENTIAL FACILITY IN A RURAL AREA
SHOULD BE CONSIDERED BY THE STATE AS A DEMONSTRATION
PROJECT WHEN JUSTIFIED BY NEED.

Supporting Rationale:

- No facilities exist in rural areas for extended detention of juveniles prior to adjudication or for secure residential treatment of juveniles after adjudication. Keeping troubled juveniles close to the community of residence and maintaining school and family ties can be helpful in resolving the problems which led to delinquency, and are important goals for all juvenile programs. Low population density in most rural areas is likely to preclude cost-effective development of separate facilities for extended detention and for treatment. When justified by population needs, the state should consider the development of a 30-bed multi-purpose facility constructed to serve both detention and treatment needs, while maintaining program separation consistent with progressive correctional practices.

RECOMMENDATION 8 - THE DIVISION OF RESPONSIBILITY FOR JUVENILE
DETENTION BETWEEN STATE AND COUNTY GOVERNMENT AND THE
CURRENT STATE REIMBURSEMENT FORMULA FOR ASSISTANCE TO
COUNTIES SHOULD BE EVALUATED FURTHER TO ASSESS THE
EFFECT ON SERVICE DELIVERY.

Supporting Rationale:

- The state/county division of responsibility for detention has to some extent resulted in a lack of leadership in developing workable solutions for detention problems, especially in rural areas where cooperation among counties is necessary for development of cost effective detention programs.
- The current reimbursement formula authorizing the state to pay "up to" 50% of detention costs has resulted in fluctuations in the proportion of detention costs paid by the state, and in recent years, the amount actually paid by the state has been below 50%. This situation has caused uncertainty in local operations and, if continued, may adversely effect the quality of detention services.

SECTION IV - PHILOSOPHY FOR TREATMENT OF JUVENILE OFFENDERS

INTRODUCTION

An important element of the Task Force's study and report concerning the state's criminal justice system is the establishment of general policies for the operation of the system. The philosophy statement for treatment of juvenile offenders is intended to provide guidance (1) to the Legislature in developing a general legislative framework for the juvenile justice system and in evaluating the fiscal needs of the system, (2) to judges in determining appropriate dispositions for juvenile offenders and (3) to the agencies and organizations responsible for the development and operation of treatment programs for juvenile offenders.

The philosophy statement adopted by the Task Force and set out below was prepared by an ad hoc group of individuals and organizations concerned with the juvenile justice system and has been endorsed by representatives from virtually all segments of the system.

TASK FORCE RECOMMENDATION

RECOMMENDATION 9 - TREATMENT OF JUVENILE OFFENDERS IN UTAH SHOULD BE GOVERNED BY THE FOLLOWING PHILOSOPHY:

PHILOSOPHY STATEMENT

General Introduction

The primary objectives of the Juvenile Justice System, as specified by the 1965 Juvenile Court Act, are "to secure for each child coming before the Juvenile Court such care, guidance and control, preferably in his own home, as will serve his welfare and the best interests of the state; to preserve and strengthen family ties whenever possible; to secure for any child who is removed from his home the care, guidance and discipline required to assist him to develop into a responsible citizen; to improve the conditions and home environment responsible for his delinquency; and at the same time, to protect the community and its individual citizens against juvenile violence and law-breaking."

These objectives can best be achieved through the use of control, consequences, and rehabilitation on an individual, case-by-case basis within a family/community context as described below.

Control of Juvenile Offenders

Definition and Statement of Purposes

Control involves restrictions on the personal freedom and/or conduct of a juvenile offender. Control may be exercised by assisting parents to develop or regain the ability to control the child; by supervision of the child's contact in the community (probation and paroles' services); by directing the child's contact with the community by placement in a community-based treatment program; and by further directing the child's contact with the community by commitment to a secure residential facility.

The purposes of control include: to give the community reasonable assurance that it will be protected from further delinquent acts; to assure the availability of the child for treatment; to motivate a change in behavior; to structure time constructively; to enlarge appropriate contacts with the community; to design experiences and consequences that can effect behavior change; to provide an opportunity for positive adult role modeling and use of positive peer influence; and to work with the family to develop continuing control when the child is returned to the community.

Principles Governing Control

- Since the task of the child/adolescent is to establish an identity based on experience, personal choice, and internalized controls and values, external control should be exercised in the least restrictive manner consistent with community safety and the individual rights of the child. An alternative is less restrictive to the extent that it provides direct social linkages to the family and community.
- A child who continues to commit delinquent acts and fails in the community alternative programs will require additional control over his behavior in order to protect the community and effectuate changes in his/her behavior.
- A continuum of programs and alternatives should be available which provide a range of control.
- Commitment to secure residential facilities should be strictly limited in accordance with established criteria and standards to assure utilization solely by juveniles who:
 - Pose a danger of serious bodily harm to others which cannot be averted or controlled in a less secure setting; or

- Have engaged in a pattern of conduct characterized by persistent and serious criminal offenses which, as demonstrated through use of alternatives, cannot be controlled in a less secure setting.
- The limitations of control in achieving the objectives of the Juvenile Justice System should be recognized.

Use of Consequences with Juvenile Offenders

Definition and Statement of Purposes

Consequences are events occurring after a specific behavior which may affect the rate of that behavior, including positive and negative reinforcement to increase, reduce, or eliminate the behavior. Imposition of legal consequences or sanctions upon a juvenile offender may range from admonishment to payment of fines and restitution, to supervision at home, to removal from the home, including placement in a community-based program or commitment to a secure residential facility.

The purpose of using consequences with juvenile offenders is to act as a deterrent and to help the maturation process which requires experiencing reasonable consequences to antisocial behavior and positive consequences for appropriate behavior.

Principles Governing Consequences

- The least drastic consequences should be imposed to protect the community and achieve the normal development of the child.
- Consequences should be reasonable, related to the seriousness of the offense and the individual problems and circumstances of the offending juvenile.
- Consequences should be imposed expeditiously.
- A range of consequences should be available, and individualized treatment plans should be provided which include both positive and negative consequences necessary to change behavior.
- The limitations of imposing consequences to achieve the objectives of the Juvenile Justice System should be recognized.

Rehabilitation Based on an Individual Treatment Plan

Definition and Statement of Purpose

Rehabilitation based on an individual treatment plan involves not only consideration of the offense (s) committed by the juvenile, but also an assessment of the circumstances operating in the child's life; for example, family strengths and dysfunctioning, school and community stresses and supports, progress of the child/adolescent toward emancipation and the establishment of his/her own identity. An individual treatment plan will address these problems and their solution as well as consider the offenses committed and the need for community safety.

The purpose of rehabilitation based on an individual treatment plan is to design a program most likely to insure the development of internal controls and to assure the child's growth toward mature adulthood and adequate adjustment in society.

Principles Governing Rehabilitation

- Rehabilitation should be attempted in all settings for all juvenile offenders.
- Rehabilitation based on an individual treatment plan should be cognizant of the special needs of the child/adolescent and be aware that this is a time of transition when behavior can often be changed.
- Rehabilitation must encompass not only the child, but his/her family, school and community, and encourage the development of adequate personal, social, and educational/vocational skills.
- An individualized approach to adjudication and rehabilitation of juveniles is necessary to insure that the rights and responsibilities of children and families are not abridged and that the needs of the child will be met.
- Periodic and individualized reviews of each child's program are necessary to insure that both individual rights and proper treatment continue in effect.
- Rehabilitation programs should be available to meet the needs of all children and population subgroups such as minorities, retarded, emotionally disturbed offenders, etc.

- In order to obtain maximum cooperation in rehabilitative efforts from the juvenile offender and his/her family, the right of an adjudicated juvenile to the best treatment should include, to the extent possible, an opportunity for the child and his/her parents to choose from among appropriate available alternatives.
- When a child and his/her family refuse treatment or his/her behavior is such as to threaten the community, then the protection of the community shall become paramount. The state shall then impose appropriate action, with due regard to the child's basic needs and rights for rehabilitation, which may include placement in a community-based treatment program or commitment to a secure residential facility.
- The more involuntary the rehabilitation process, the more extensive will be the time and effort necessary to change behavior.

SECTION V - PROGRAMS AND FACILITIES FOR SERIOUSLY DELINQUENT JUVENILES

INTRODUCTION

Among the most significant developments in the juvenile justice field in the 70's has been the movement to "de-institutionalize" treatment programs for seriously delinquent juveniles. The effect of this movement has been for the system to limit the use of secure confinement in large institutions and to place greater reliance on community based programs and facilities emphasizing maintenance and improvement of family and school ties. In this section, Utah's response to de-institutionalization is described, and the Task Force makes several recommendations concerning the development of community based alternatives and the operation and utilization of secure residential facilities for the confinement of seriously delinquent juveniles.

COMMUNITY BASED ALTERNATIVES TO INSTITUTIONALIZATION

Definition

Community based alternatives include programs and facilities for seriously delinquent juveniles which are located within the community and which do not involve secure confinement. These programs and facilities are designed to provide judges with dispositional alternatives for seriously delinquent juveniles in need of supervision who have traditionally been placed in secure institutions, but who do not require secure confinement to assure public safety.

Alternatives involve a wide range of programs and facilities such as residential treatment in specialized group homes, intensive treatment and educational programming in specialized day treatment programs or tracking services providing intensive supervision within the community. Alternatives may be used as the last step prior to institutionalization in the continuum of community based programs for delinquent juveniles or as the first step in the reintegration of institutionalized juveniles back into the community after confinement in a secure residential facility.

Current Situation in Utah

In recent years, Utah has made a growing commitment to the development and utilization of community based alternatives to institutionalization for seriously delinquent juveniles. The continuum of community based programs was substantially expanded

in 1978 with the establishment of seven new programs (adding over 75 additional alternative placement slots). These new programs were generated by the Committee on Alternatives for Troubled Youth (CATY) and are operated by private providers under contract with the Division of Family Services (DFS), which is responsible for administration of all juvenile programs involving a change in custody or out-of-home placement. (See Appendix B for a brief description of the new programs).

A preliminary evaluation of the CATY alternatives indicates that substantial control of delinquent activity has been achieved at costs considerably below the expense of institutionalization at the Youth Development Center (YDC). The new programs have also demonstrated some success in achieving objectives concerning educational and social development of juveniles placed in the programs. Further evaluation of the new programs will be necessary to validate these initial findings and to assure the long term effect of the programs on the behavior of participating juveniles.

The impact of changing attitudes concerning the appropriateness of institutionalization for less serious juvenile offenders and the development of alternative programs for some seriously delinquent juveniles has led to a significant decline in YDC population. (See Figure 3 on page 28). One objective of the CATY programs is to provide additional alternative placements for juveniles who would otherwise be committed to or retained at the YDC, and thereby to further reduce YDC population. However, the relatively slight decline in YDC population since development of the CATY alternatives suggests the possibility that the programs may, to some extent, have had an effect of widening the net of juveniles considered for YDC commitment, rather than serving as true alternatives and reducing reliance on institutional facilities. Increased attention is being given to this problem by the Juvenile Court and DFS to assure appropriate utilization of the YDC and alternative programs.

Task Force Recommendation

RECOMMENDATION 10 - CONSISTENT WITH THE MAINTENANCE OF PUBLIC SAFETY, DEVELOPMENT AND UTILIZATION OF COMMUNITY BASED ALTERNATIVES FOR SERIOUSLY DELINQUENT JUVENILES AND CONCURRENT REDUCED RELIANCE ON INSTITUTIONAL FACILITIES SHOULD BE ENCOURAGED TO THE MAXIMUM EXTENT FEASIBLE.

Supporting Rationale:

- Institutionalization tends to promote conformance with the rules and artificial environment of the institution, rather than development of the social skills necessary to function adequately in society. The community location of alternative programs helps juvenile offenders maintain family and school ties which are important to reintegration into society.

- The small size of community based programs permits closer contact between juveniles and staff, facilitating treatment and control.
- The operating costs of most alternatives are considerably below those of institutional facilities, and as long as public safety can be assured, should be considered the preferred placement.
- To maintain systemwide cost advantages, care must be taken to insure that alternatives do not widen the net of juveniles considered for institutional or alternative placement, and that new alternatives either replace institutional beds or are necessary to meeting the needs of population growth.
- Utah's use of institutional facilities for juveniles in 1978 (152 per 100,000 youth population) is close to the national average (154 per 100,000) despite the relatively low rate of serious crime in Utah (see Appendix O), suggesting that additional expansion of alternative programs may be feasible.

SECURE RESIDENTIAL FACILITIES

Definition

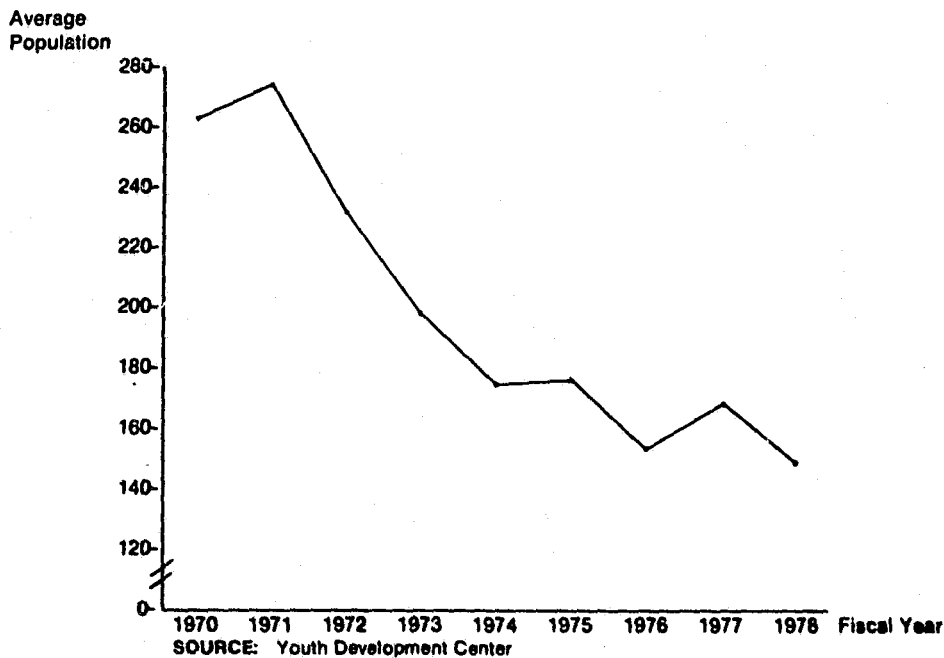
A secure residential facility is a facility for adjudicated delinquent juveniles which provides care and treatment in a confined setting where the juvenile's physical liberty is controlled and his/her conduct supervised on a 24-hour basis.

Secure residential facilities have historically been large institutions located in rural areas containing several hundred beds. While such facilities still exist, there is an increasing trend to develop smaller, 30-50 bed facilities in or near the community of the confined juveniles. When discussed in these materials, the term secure residential facility refers to either type of facility.

Current Situation in Utah

The Youth Development Center (YDC), formerly known as the State Industrial School, is the only state operated facility in Utah which has the capacity to meet the general qualifications of a secure residential facility as defined above. The YDC is located in Ogden and is operated by the Division of Family Services (DFS). The facility has a maximum potential physical capacity of approximately 250-300 beds, but with the significant decline in its population in recent years (see Figure 3), actual operational capacity has been reduced. The facility consists of several 20-40 bed residential cottages, an 80-bed dormitory and centralized educational, vocational, recreational, health, cafeteria and administrative facilities. (See Appendix C for a map of the YDC).

FIGURE 3
AVERAGE POPULATION
YOUTH DEVELOPMENT CENTER
FY 1970-1978



Except in the case of a short-term commitment (60-90 days), if the Juvenile Court commits a juvenile to the YDC, complete control and jurisdiction over the juvenile are vested in the YDC for an indeterminate term. The decision to conditionally release and place a juvenile outside the YDC in a less restricted setting (a community based alternative or even the juvenile's own home) is within the general discretion of the superintendent. The superintendent has authority to discharge the juvenile entirely from the YDC's jurisdiction any time after completion of 6 months residency at the YDC or after 12 months successful placement outside the YDC. Unlike other dispositions (such as probation or out of home placement where the Juvenile Court jurisdiction over the juvenile is retained until age 21), discharge of juveniles committed to YDC jurisdiction must be made at age 19.

With the development of community based alternatives and the increase in emphasis on de-institutionalization of less serious offenders, the role of the YDC in the juvenile justice system is undergoing significant change. The YDC is becoming, in effect, the end point in the continuum of programs for delinquent juveniles whose criminal activity cannot be adequately controlled in any other setting. With a smaller, more hardcore population,* security and correctional expertise are assuming greater importance

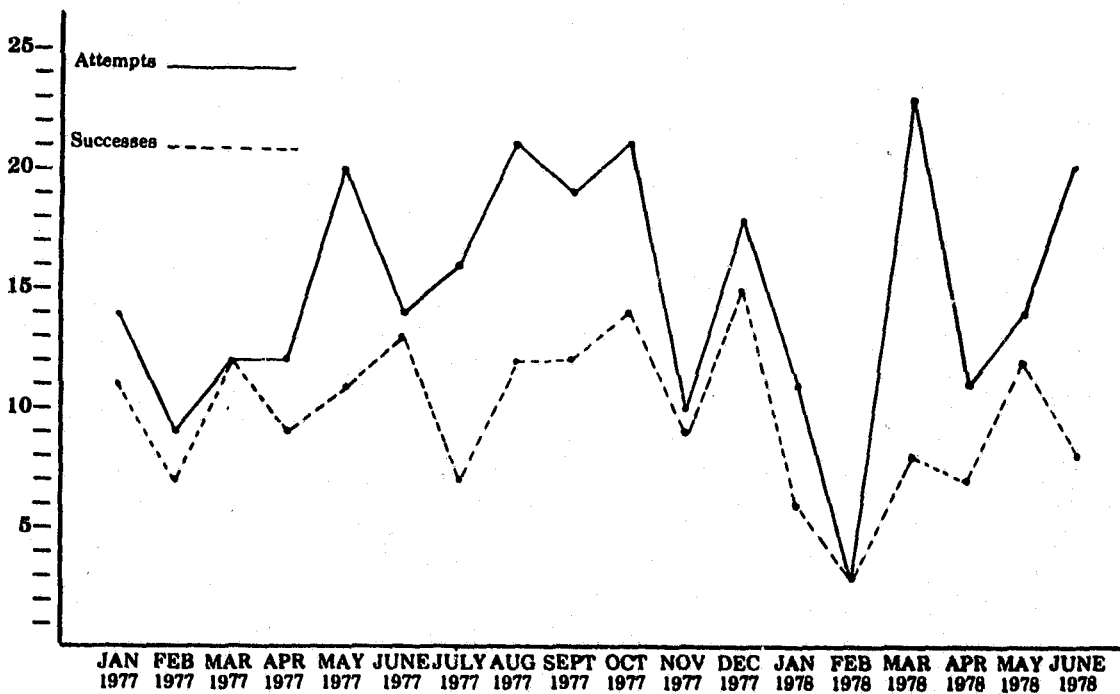
*See Appendix D for a profile of the YDC population in July, 1978. Comparable data for previous years is not available.

in YDC operations. The apparent failure of the YDC to adjust to this new role has resulted in substantial criticism from the Utah Board of Juvenile Court Judges, the John Howard Association and others, and YDC operations have been challenged in a major federal class action suit as violative of basic constitutional rights.

Much of the criticism of the YDC has focused on the lack of adequate security at the facility. As is indicated in Figure 4 below, the YDC has experienced a significant AWOL rate despite the reduced size of the population. DFS reports that several measures are currently being undertaken to help alleviate this problem, including construction of a perimeter fence, increase in security supervision, additional security training for all personnel and review of operations with correctional professionals.

Other criticisms have centered on YDC treatment programs and release policies. DFS indicates that prior programming emphasis on adjustment to the institution has been shifted to include greater consideration of developing skills to function adequately in society. Release policies have also been criticized for failure to take into sufficient account the serious nature

FIGURE 4
AWOLS FROM YOUTH DEVELOPMENT CENTER
 January 1977 to June 1978



SOURCE: Youth Development Center

of the conduct resulting in commitment and for releasing some offenders without adequate assurance for public safety. DFS reports that it is currently operating under a policy which requires a minimum 6 months stay at the YDC for committed juveniles (except for short term commitments) and that aftercare/parole programs have been strengthened to provide a more gradual and more intensively supervised reintegration of committed juveniles into the community.

Task Force Recommendations

RECOMMENDATION 11 - THE MAXIMUM AGE FOR CONTINUED JURISDICTION BY THE YOUTH DEVELOPMENT CENTER OVER COMMITTED OFFENDERS SHOULD BE INCREASED FROM AGE 19 TO AGE 21.

NOTE: This recommendation would increase the age for mandatory discharge to 21 and would allow continued YDC jurisdiction for juveniles conditionally released (placed on parole or in community based aftercare programs) to age 21. Persons committing criminal offenses after reaching age 18 would not be affected and would continue to be handled by the adult system. For draft legislation, see Part Five of this report.

Supporting Rationale:

- By increasing the age of mandatory release, juvenile judges may be less likely to certify some juveniles to the adult system because the YDC will be able to retain control over the offender for a period of sufficient length to adequately protect society and to provide ample opportunity for habilitation/rehabilitation.
- Under current law, the YDC is often forced to discharge juveniles who are not adequately prepared for release. This change will help afford the YDC more flexibility in efforts to reintegrate offenders into the community.
- This recommendation would make YDC jurisdiction parallel with that of the Juvenile Court which currently retains continuing jurisdiction over juvenile offenders until age 21 for dispositions such as probation.

RECOMMENDATION 12 - THE UTILIZATION AND OPERATION OF SECURE RESIDENTIAL FACILITIES SHOULD BE GOVERNED BY THE FOLLOWING PRINCIPLES:

PRINCIPLES FOR
SECURE RESIDENTIAL FACILITIES

The primary objective of a secure residential facility is the maintenance of public safety through the control and supervision of juveniles committed to the facility.

The facility should operate intensive habilitation/rehabilitation and treatment programs which emphasize the development of the vocational, educational and social skills which are necessary to function adequately in society.

Consistent with public safety, security should be maintained through effective programming. Where physical barriers are necessary, they should be of a low profile design.

The quality of facility staff is critical for maintenance of security and for operation of successful habilitation/rehabilitation programs. Staff should be carefully screened and should receive comprehensive training to promote the development of treatment and communication skills and to foster an understanding of delinquent behavior and the proper use of authority and discipline.

To avoid an "institutional" character, facilities should not exceed 20 beds. Multiple 20-bed units may be located on a single site unless it is clearly demonstrated that the quality of care and services afforded each juvenile would be impaired.

Commitment to secure residential facilities should be strictly limited in accordance with established criteria and standards to assure utilization solely by juveniles who:

- Pose a danger of serious bodily harm to others which cannot be averted or controlled in a less secure setting; or
- Have engaged in a pattern of conduct characterized by persistent and serious criminal offenses which, as demonstrated through use of other alternatives, cannot be controlled in a less secure setting.

The legal and constitutional rights of juveniles committed to secure residential facilities should not be restricted or infringed.

Placement or discharge from secure residential facilities should be made in accordance with established criteria and standards. The criteria should include consideration of the offense which resulted in commitment and the requirements of public safety, and should not rely exclusively on adjustment to the facility or progress in educational or other programs.

The reintegration of a committed juvenile into the community should be made through utilization of a continuum of programs involving gradually less restricted settings and/or less intensive supervision.

The limitation of secure residential facilities in achieving the objectives of the juvenile criminal justice system should be recognized.

RECOMMENDATION 13 - THE BOARD OF JUVENILE COURT JUDGES, IN COOPERATION WITH OTHER REPRESENTATIVES OF THE JUVENILE JUSTICE SYSTEM, SHOULD DEVELOP AND UTILIZE SPECIFIC GUIDELINES FOR ELIGIBILITY OF JUVENILE OFFENDERS FOR COMMITMENT TO A SECURE RESIDENTIAL FACILITY.

Supporting Rationale:

- Guidelines can be an effective management tool--until such guidelines are developed, it will be difficult to assess facility needs.
- Guidelines can help reduce commitment disparities among judges and can help ensure that only those juveniles clearly needing secure confinement are committed to secure residential facilities.
- Carefully drafted guidelines, which recognize the need for exceptions in unique circumstances and which allow deviation from the guidelines for good cause, will not inappropriately interfere with the exercise of judicial discretion.

RECOMMENDATION 14 - THE YOUTH DEVELOPMENT CENTER, IN COOPERATION WITH THE BOARD OF JUVENILE COURT JUDGES AND OTHER REPRESENTATIVES OF THE JUVENILE JUSTICE SYSTEM, SHOULD DEVELOP AND UTILIZE GUIDELINES FOR YDC PLACEMENT AND DISCHARGE DECISIONS.

Supporting Rationale:

- Clear guidelines, publicly developed and consistently applied, can help reduce the criticism of past release practices.

- Guidelines can be an effective management tool--until guidelines are developed and utilized, it will be difficult to assess facility needs.
- Carefully drafted guidelines which recognize the need for individualized treatment can help ensure fairness and equality in the broad discretionary placement and discharge authority vested in the YDC superintendent.

RECOMMENDATION 15 - THE YOUTH DEVELOPMENT CENTER SHOULD BE RETAINED, BUT (1) NO MAJOR CAPITAL EXPENDITURES SHOULD BE AUTHORIZED IN FY 79-80, (2) THE AGENCY RESPONSIBLE FOR YDC SHOULD MONITOR AND EVALUATE THE SIZE AND CHARACTER OF THE YDC POPULATION FOR 12 MONTHS AND (3) THE AGENCY RESPONSIBLE FOR THE YDC SHOULD DEVELOP A MASTER PLAN FOR SECURE RESIDENTIAL FACILITIES AFTER THE 12 MONTH MONITORING AND EVALUATION PERIOD.

Supporting Rationale:

- This is an inappropriate time to make any specific recommendations concerning secure residential facilities--more definitive plans for facility needs must await further evaluation of the effectiveness of alternatives to institutionalization and their impact on the size and character of the YDC population.
- If the YDC population continues to decline, the overhead costs of operating the facility may become difficult to justify and consideration of the sale or conversion to other use may be appropriate.
- Pending development of a master plan for secure residential facilities and a final decision on the best use of the YDC facility, no significant capital expenditures can be justified.

RECOMMENDATION 16 - RESPONSIBILITY FOR OPERATION OF SECURE RESIDENTIAL FACILITIES FOR JUVENILES SHOULD BE TRANSFERRED FROM THE DIVISION OF FAMILY SERVICES TO THE DIVISION OR DEPARTMENT OF CORRECTIONS.

Supporting Rationale:

- For discussion of this recommendation and its supporting rationale, see Part Three of this report.

PART TWO

THE ADULT CRIMINAL JUSTICE SYSTEM

SECTION VI - DEFINITION OF CONDUCT AS A CRIME - DECRIMINALIZATION OF PUBLIC INTOXICATION

INTRODUCTION

Decriminalization of public intoxication has been a much debated issue for many years. It is estimated that arrests for public intoxication may account for almost 40% of non-traffic arrests in the United States. To help control spiralling costs of jail operations and to provide more effective treatment for chronic alcoholics, 27 states have passed some form of the Uniform Alcoholism and Intoxication Treatment Act which decriminalizes public intoxication. In this section, the current situation in Utah is discussed, a brief description of the Uniform Act is provided, and the Task Force makes a recommendation concerning the handling of public intoxicants in Utah.

CURRENT SITUATION IN UTAH

Public intoxication is a misdemeanor under state law (UCA 76-9-701) and most counties and municipalities have supplementary ordinances prohibiting public intoxication or drunkenness. A survey of Utah jails indicates that up to 25% of the persons in some jails are being held on charges of or are serving time for public intoxication. Although some jails have treatment programs to assist chronic public intoxicants with their alcohol related problems, most have no specialized services.

In its interim report to the Legislature in December, 1977, the Blue Ribbon Task Force recommended passage of the Uniform Alcoholism and Intoxication Treatment Act and endorsed an increase in the beer tax as a means of funding of the treatment facilities and programs necessary for full implementation of the Uniform Act.* In the 1978 Budget Session of Utah Legislature, the Uniform Act (HB 87) passed the House, but failed in the Senate, reportedly due largely to concerns over raising the beer tax.

DESCRIPTION OF UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

In an effort to substitute comprehensive treatment for jail confinement in cases of public intoxication, many states have enacted the Uniform Alcoholism and Intoxication Treatment Act. In

*See Appendix E for an estimate of anticipated costs for full implementation of the Uniform Act in 1978.

the material below, a brief summary of the Uniform Act's major provisions as applied to Utah is provided.

- Treatment Facilities and Programs Authorized

The act provides for the development of facilities and programs for the comprehensive treatment of alcoholics and intoxicated persons. The act would be administered by the Division of Alcoholism and Drugs, and the division would be responsible for licensing public and private facilities providing treatment under the act.

- Enforcement of Public Intoxication Laws Prohibited

In areas of the State where approved treatment or receiving facilities are located, the act prohibits the enforcement of laws and ordinances which define being a common drunkard or being found in an intoxicated condition as the sole offense giving rise to criminal penalty. The act would not affect enforcement of laws concerning driving under the influence of alcohol or other criminal offenses committed while intoxicated.

- Role of Law Enforcement Officers - Protective Custody of Incapacitated Persons

If a law enforcement officer believes an intoxicated person to be incapacitated or a danger to him/herself or others, the officer would be authorized to take the person to a treatment facility (or central receiving facility). This action by police is termed taking a person into "protective custody", and no record would be made indicating the person was arrested or charged with a crime. The officer is specifically relieved of any liability for reasonable actions taken in accordance with the act. A person may be detained at the treatment center for up to 48 hours in these circumstances.

- Emergency Commitment

The act provides for emergency commitment to a treatment facility upon certification by a physician that a person is incapacitated or a danger to him/herself or others because of alcohol. A person could be committed to the facility under this provision for a period of 5 days.

- Extended Involuntary Commitment

The act provides for extended involuntary commitment to a treatment facility by a court if the court determines that a person is an alcoholic and that, because of alcohol, is incapacitated or a danger to him/herself or others. The initial period of

commitment pursuant to this provision is 30 days, and a person could be recommitted after a court hearing for two additional periods of 90 days.

TASK FORCE RECOMMENDATION

RECOMMENDATION 17 - THE UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT SHOULD BE ENACTED IN UTAH.

NOTE: The Task Force has taken no position on a specific funding source (e.g., beer tax increase) to support the Uniform Act.

For draft legislation, see Part Five of this report.

Supporting Rationale:

- Decriminalization of public intoxication is a necessary first step if Utah is to develop a comprehensive approach to coping with alcoholism and its myriad of related problems. Alcoholism is primarily a health and mental health problem requiring professional treatment and should not be handled as a criminal matter.
- Development of alternative facilities and programs for public intoxicants will help relieve overcrowded jails and will permit law enforcement agencies to concentrate resources on more serious problems.
- The Uniform Act affects only those statutes and ordinances in which being found in an intoxicated condition is the sole offense giving rise to criminal sanction and does not affect laws concerning driving under the influence of alcohol or criminal acts committed while intoxicated.

SECTION VII - RELEASE BEFORE TRIAL

INTRODUCTION

Increasing attention has been given to procedures and programs for release of accused persons before trial as the rights of the accused have become more established and the costs of pretrial detention to local government have risen rapidly. This rise in the costs of detention is due in part to increases in the number of persons arrested and to general inflationary trends, but also to the growing attention of the courts to the conditions of detention facilities and the rights of persons held in detention.

As will be discussed in Section VIII, Utah has not avoided the problems experienced in other areas of the country concerning the rising jail costs, overcrowded jails and substandard jail conditions. In this section, two processes (field citation and bail or recognizance release) for relieving overcrowded jails and for assuring the rights of accused persons to release before trial are discussed, and the Task Force makes recommendations for the more effective operation of these processes in Utah.

FIELD CITATION RELEASE

Definition and Background

Field citation release is a procedure whereby a law enforcement officer issues a citation in the field rather than taking an accused offender to the station house for booking and detention. If the offense is minor, if the accused can provide adequate identification and if a radio check with the station house confirms that there are no outstanding warrants against the accused, the officer issues a citation and the accused is released in the field. The citation describes the alleged illegal conduct and summons the accused to appear in court on or before a specified date.

There are two types of legislation authorizing and defining field citation release procedures. One approach is permissive, merely allowing field citation release in certain circumstances and giving local law enforcement agencies the option to utilize the procedure. A second type gives the officer discretionary authority to issue a citation for some cases, but requires issuance of a citation for certain specified minor offenses unless:

- The accused fails to identify himself, supply required information, or sign the citation.
- The officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to himself or others;
- Arrest and detention are necessary to carry out additional legitimate investigative action;
- The accused has no ties to the jurisdiction reasonably sufficient to assure his appearance, and there is a substantial risk that he will refuse to respond to the citation;
- It appears the accused has previously failed to respond to a citation or a summons, has violated the conditions of any pretrial release program, or has warrants outstanding; or
- The accused requires medical attention.

Current Situation in Utah

Utah has enacted legislation permitting field citation release for misdemeanors (UCA 77-11-6). However, despite the fact that many Utah jails are overcrowded, few jurisdictions have implemented a field citation release program. Salt Lake City has adopted a formal policy encouraging field citation release, but a review of jail records suggests that the policy is often not followed. A survey of other jurisdictions indicates that field citation release is seldom used except for minor traffic violations, and only two jurisdictions have adopted policies or guidelines to encourage and assist officers in the use of field citations.

Task Force Recommendation

RECOMMENDATION 18 - USE OF FIELD CITATION RELEASE SHOULD BE ENCOURAGED IN ACCORDANCE WITH GUIDELINES ESTABLISHED BY LAW ENFORCEMENT AGENCIES, AND GREATER EMPHASIS ON THE USE OF CITATIONS SHOULD BE INCLUDED IN PEACE OFFICER STANDARDS AND TRAINING (POST) PROGRAMS.

Supporting Rationale:

- Field citation release eliminates the expense of transporting and booking accused persons, the most expensive and time consuming portion of the arrest process, and can help reduce the time law enforcement personnel must be off the street, thereby promoting public safety.

- Jails are costly to operate and often expose young and inexperienced offenders to dangerous conditions. By screening persons prior to transport to jail, the field citation release process can help limit unnecessary detention, thereby alleviating jail overcrowding and reducing danger to many young or inexperienced offenders.
- Field citation release minimizes interference in the life of the accused, reducing the detrimental impact on family and employment relations and thereby increasing chances of successful rehabilitation.

PRETRIAL RELEASE ON BAIL OR RECOGNIZANCE

An Overview of the Pretrial Release Process

Pretrial release, as discussed in this section, refers to the release of an accused after arrest and booking upon authorization of the court. In Utah, as in most other states, a person may be released on bail after posting full cash bail or a bond with the court. Most bonds are posted by commercial bondsmen who charge the accused a fee for the bond (normally about 10% of the bond amount). Upon disposition of the case, the cash bail or bail bond is returned (unless the cash is used in payment of a fine imposed by the court). In the case of the commercial bond, the bondsman, of course, retains the fee. If the accused fails to appear, the cash bail or bail bond is subject to forfeiture.

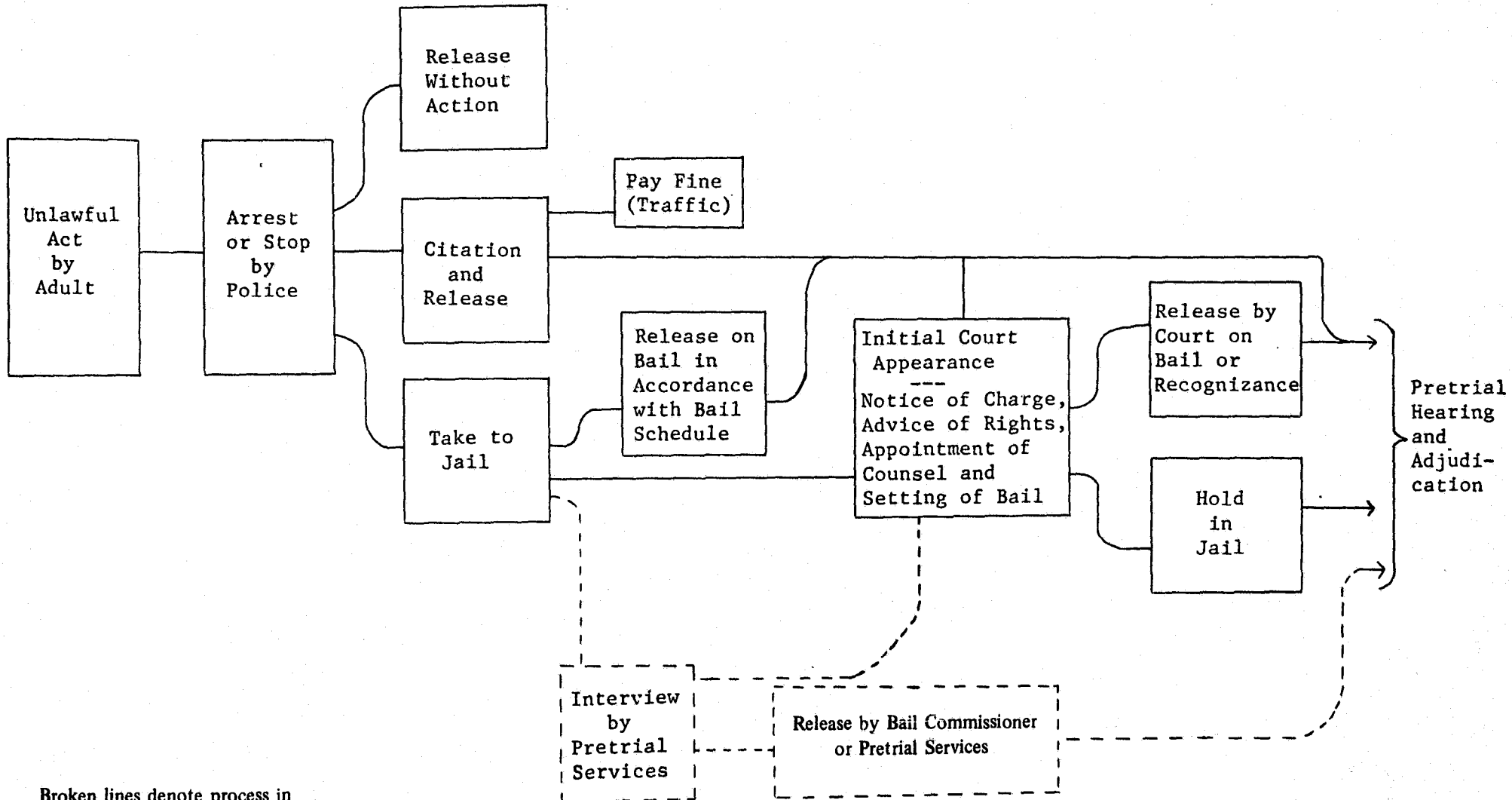
In most jurisdictions in Utah, courts have established bail schedules, and a person is designated by the court to release the accused at the stationhouse upon the payment of cash bail or the posting of a bond in accordance with the bail schedule. If such a system has not been established or if the accused does not qualify for stationhouse release, bail is set by the judge at the arraignment hearing.

The accused may also be released without bail if residency, employment and other qualifications are met. This is known as release on recognizance (OR release). Such releases are usually made by a judge at a hearing, but in some jurisdictions in Utah the court has authorized stationhouse OR release without a court hearing for persons meeting guidelines established by the court. (See Figure 5 for a flow chart illustrating the pretrial release process in Utah.)

UTAH ADULT CRIMINAL JUSTICE SYSTEM

BEFORE TRIAL

"SIMPLIFIED" FLOW CHART



Broken lines denote process in jurisdictions with pretrial services programs.

Some states have abandoned reliance on the commercial bail bond system and have established a bail system which substitutes personal bonds and percentage cash deposits for commercial bonds. Under this approach, if the accused is not released on recognizance, he/she may execute a personal bond for the bail amount and deposit 10% of the bail amount in cash with the court. Unlike the bondsman's fee in the traditional bail system, this 10% deposit is returned to the accused person upon appearance at trial or disposition of the case. In some jurisdictions a small portion of the cash deposit is retained to defray the costs of administering the program. If the accused fails to appear, the deposit is forfeited and the accused becomes liable for the remaining 90%.

These bail reform programs also often include provisions for higher bail, higher bail deposit or additional conditions on release (such as daily contact with a pretrial service program) where the prosecutor or police demonstrate the need for additional security. Commercial bonds are still permitted under this approach, but their use is substantially reduced.

Pretrial Service Programs in Utah

Pretrial service programs have been developed in many areas of the country to assist courts in making informed pretrial release decisions and to help accused offenders while on release. The programs perform a wide range of functions, some simply gathering and verifying information on the accused for use by the court in release decisions, and others providing services such as supervision of accused offenders on release to assure appearance at trial or treatment programs and "broker" services to help accused offenders with the problems which may have led to arrest.

In Utah, pretrial service programs exist only along the Wasatch Front, and the programs vary widely in their purposes and the scope of services provided. A brief description of the three existing programs is provided below.

- Salt Lake County

Salt Lake County operates the state's most comprehensive pretrial service program. The services offered by the program include:

Information collection and verification - Over 90% of persons brought to Salt Lake County jail are interviewed. The screening staff verifies the information obtained and provides the information to the bail commissioner or the court to facilitate OR release, setting of bail and appointment of counsel for indigents.

Release Supervision - In 1975 over 500 persons who did not qualify for OR release were released by the court into a supervised release program. The person released is required to contact the program office in accordance with an established schedule.

Assistance Services - Persons released are afforded a range of services aimed at immediately helping to resolve the problems that may have contributed to the arrest. These services include counseling, referral to other programs and assistance in locating employment or educational opportunities. A special program for drug abusers (TASC) identifies drug abusers, assists in referral to drug treatment facilities and monitors progress.

Tracking Services - If a person in the program fails to appear at a required court hearing, an effort is made to locate the person.

In 1977, the program experienced a failure to appear rate of 4.5% for supervised releases. Data for failure to appear rates for OR releases is not complete. The program is financed by Salt Lake County (over \$500,000) and is supervised by a judicial advisory board.

- Weber County

In Weber County, a pretrial service program is operated by the district office of adult probation and parole (AP&P). Using existing probation staff and one additional person (paid by funds from Weber County and Ogden), the program interviews approximately 60% of those booked at Weber County jail. After verification of the information obtained from the interview, program staff are authorized to release persons on recognizance in accordance with guidelines and a point system established by the court.

For those not released on recognizance or in accordance with a bail schedule, the court may use the information for setting bail or for its own OR release. In some circumstances, if the defendant pleads guilty to the offense at a court hearing the following day, the information is used in lieu of a pre-sentence report for imposition of sentencing. In other cases where a pre-sentence report is eventually required, the information is used in preparing the report.

The program is financed by Weber County and Ogden (\$21,000) and by use of AP&P personnel. The program has experienced a failure to appear rate of approximately 1%.

- Provo

The city of Provo has established a pretrial service program for information collection and verification. Trained BYU students are on call 24 hours a day and interview persons arrested for Class B misdemeanors. The verified information is given to the court to aid in its decision to release on recognizance or to set bail.

The program is financed by Provo City (\$6,000) and has experienced a failure to appear rate of 0%.

Task Force Recommendation

RECOMMENDATION 19 - THE DEVELOPMENT OF PRETRIAL SERVICE PROGRAMS SHOULD BE ENCOURAGED AND THE EXISTENCE OF A PROGRAM SHOULD BE INCLUDED IN ANY MINIMUM STANDARDS ESTABLISHED BY THE STATE FOR LOCAL JAILS.

Supporting Rationale:

- The background information on accused persons gathered and verified by pretrial service programs can assist courts in making informed release decisions, facilitating the release of persons for whom detention may not be necessary to assure appearance at trial and ensuring that the court is aware of factors and circumstances that would justify more stringent restrictions on release of potentially dangerous persons.
- Pretrial release programs can result in economic cost savings by reducing jail populations and allowing persons to work pending trial. The economic costs of detention include the expense of constructing and maintaining jails, the loss of wages, the depletion of family savings, the loss of tax revenues and the increase of public assistance payments for dependent families.
- The human costs of pretrial detention are high. Pretrial detention exposes youths or inexperienced offenders to hardened criminals and disrupts employment and family relations. Pretrial detention hampers efforts to establish a defense against criminal charges, placing those who are too poor to obtain release on bail at an unfair disadvantage.

- Comprehensive pretrial release programs can help solve underlying social or economic problems which may have led to arrest by addressing the problems immediately while the impact of the arrest and its possible consequences are fresh in the offender's mind.
- If the state is to provide assistance for operation and construction of local jails (see Recommendation 20), the existence of some form of pretrial service programs is important to assure appropriate utilization of the state supported facilities.

SECTION VIII - DETENTION BEFORE TRIAL - STATE
RESPONSIBILITY FOR LOCAL JAILS

INTRODUCTION

The conditions of local jails have received increasing scrutiny in recent years, largely as a result of the growing recognition by the federal courts of the rights of accused and convicted offenders held in confinement. In Utah, as in many other states, local governments have been unable or unwilling to expend the necessary funds to provide jail facilities and operations which meet the requirements of the developing case law and the standards established by national law enforcement and correctional organizations. In this section, the conditions of Utah's jails are reviewed and the Task Force makes a recommendation concerning increased state responsibility for local jails.

CURRENT SITUATION IN UTAH

In Utah, operation of facilities for the detention of accused offenders before trial and for convicted offenders serving a term of less than one year are the administrative and financial responsibility of local government. No state agency in Utah has authority to monitor the conditions and operations of local jails and/or to establish state standards for construction and operation of local jails.

Several national organizations have established standards for jails, and a survey conducted by the staff of the Utah Council on Criminal Justice Administration (UCCJA) suggests that none of Utah's jails meets national standards. Several Utah jails are currently involved in major litigation in state or federal courts concerning the conditions, operations or treatment of persons held in jail. A partial listing of those cases is provided below:

Weber County Jail - \$8,000,000 - challenging general jail conditions and operations.

Millard County Jail - \$850,000 - wrongful death actions, claiming negligence for failure to maintain 24 hour supervision.

Salt Lake County Jail - \$1,200,000 - wrongful death.

Iron County Jail - \$160,000 - assault on inmate.

Salina City Jail - \$225,000 - wrongful death.

Carbon County Jail - \$50,000 - assault on inmate.

This situation and the common practice of sentencing offenders convicted of felonies to short jail terms as a condition of probation (ranging from 15-40% of Utah's jail population and considered by many to be primarily a state responsibility), have led to suggestions that the state assume a greater role in the operation and financing of local jails. In June of 1978, the UCCJA appointed a special task force (see Appendix E for membership) to examine these issues concerning local jails and to make recommendations to the Blue Ribbon Task Force. The recommendations of the UCCJA Task Force are described below.

RECOMMENDATIONS FROM UCCJA JAIL TASK FORCE

After consideration of several alternative approaches to helping solve the problems of local jails, the UCCJA Jail Task Force recommended the enactment of a Community Corrections Assistance Act incorporating the following major elements:

- The Division of Corrections is authorized and directed to develop standards for the construction and operation of local jails.
- The Division of Corrections is authorized and directed to grant funds to counties or groups of counties to assist in achieving or maintaining compliance with the standards established by the Division. Eligibility for participation by a county or group of counties is contingent upon the development of a comprehensive plan detailing the manner in which compliance with the standards will be achieved or maintained. A plan may provide for the gradual upgrading of facilities and operations over a period of several years so long as the plan contains a reasonable timetable for achieving full compliance.
- Funds are to be allocated annually to all participating counties in accordance with a weighted formula which favors counties with mid-sized populations. (See Appendix G for an example of allocations under the proposed formula). Funds may be carried over by a county from one year to the next if specified in the county's approved plan. Unallocated funds (resulting from non-participation of any county) may be distributed to participating counties by the Division of Corrections in accordance with priorities established by the Division.

- Funds for the grants authorized by the proposed legislation would be appropriated from unallocated liquor profits.
- Participating counties are prohibited from reducing existing spending levels for jail facilities and services and are required to match one-half of the grant funds with new local funds.
- Cooperation among counties for development of regional facilities is authorized and encouraged.
- Cooperation between the Division of Corrections and any county or group of counties for the development of joint, multi-purpose correctional facilities is authorized and encouraged.
- The Division of Corrections is authorized and directed to provide a training program for local correctional workers.

TASK FORCE RECOMMENDATION

RECOMMENDATION 20 - A COMMUNITY CORRECTIONS ASSISTANCE ACT SHOULD BE ENACTED WHICH PROVIDES FOR ESTABLISHMENT OF STATE STANDARDS FOR LOCAL JAILS AND FOR STATE FINANCIAL ASSISTANCE TO LOCAL JAILS WITH AN APPROVED PLAN FOR MEETING STATE STANDARDS.

NOTE: For draft legislation, see Part Five of this report.

Supporting Rationale:

- Many Utah jails are in deplorable condition, and local government has demonstrated an inability or unwillingness to make the necessary improvements to bring Utah's jails up to established national standards and emerging case law. Failure to begin some remedial efforts may subject Utah jails to intervention by federal courts.
- The common practice of sentencing persons convicted of felonies to short jail terms as a condition of probation requires counties and municipalities to provide services for offenders traditionally considered a state responsibility, relieving the state of the expense of providing confinement at the state prison. Accordingly, the state has some obligation to help defray the costs to local government of jail operations.
- The proposed Community Corrections Assistance Act represents a balanced approach for beginning to solve many of the problems of local jails. It does not

establish an unrealistic requirement that a county achieve immediate compliance with jail standards to become eligible for state assistance and provides a sufficient incentive to many counties to develop an ongoing plan to upgrade deficient facilities and programs.

- The weighted formula for allocation of funds in the proposed act will provide more money where assistance is needed most, in the mid-sized rural counties. An incentive should not be created for smaller counties to develop costly independent facilities or programs-- the relatively low level of assistance for these counties under this approach may encourage cooperation with other counties for the development of regional facilities.
- The approach of the proposed act leaves the primary responsibility for providing jail services with local government and does not create an open-ended commitment by the state to finance some proportion of local jail construction or operating costs.

SECTION IX - PHILOSOPHY FOR ADULT CRIMINAL JUSTICE SYSTEM AFTER TRIAL

INTRODUCTION

Among the most important elements of the Task Force's study and report concerning the state's criminal justice system is the establishment of general policies for the operation of the system. The following philosophy statement for the adult system after trial is intended to provide general guidance (1) to the Legislature in developing a general legislative framework for the adult system after trial and in assessing the fiscal needs of the system, (2) to judges in making sentencing decisions and (3) to the agencies and organizations responsible for the development and operation of programs and services for adult offenders.

TASK FORCE RECOMMENDATIONS

RECOMMENDATION 21 - THE ADULT CRIMINAL JUSTICE SYSTEM AFTER TRIAL SHOULD BE GOVERNED BY THE FOLLOWING GENERAL PHILOSOPHY:

PHILOSOPHY STATEMENT

The primary objectives of the criminal justice system after trial are to reduce frequency and severity of harm caused by criminal acts, to assist offenders in the development of skills necessary to function adequately in society and to facilitate the reintegration of offenders into society following contact with the criminal justice system.

These objectives can be achieved through control, punishment, and habilitation/rehabilitation of offenders.

Control of Offenders

Definition and Statement of Purpose

Control involves restrictions on the personal liberty and/or conduct of a convicted offender. Control may be exercised by isolating the offender from the community (imprisonment), by limiting the offender's contact with the community (work release and community-based residential facilities) or by supervising the offender's conduct in the community (probation and parole).

The purposes of control include the promotion of public safety by limiting the opportunity for criminal acts and the imposition of punishment by restricting the personal liberty and/or conduct of the offender.

Principles Governing Control

- Consistent with public safety, control should be exercised in the least restrictive setting or manner possible.
- Persons who are a danger to the personal safety of the public and who present an undue risk of inflicting bodily harm should be isolated from the community.
- The limitations on predicting "dangerousness" should be recognized.
- Persons who are chronic, repeat offenders (including property offenders) should be isolated from the community.
- Consistent with public and offender safety, control should be exercised in a manner and in a setting which facilitates habilitation/rehabilitation.
- A continuum of facilities and programs should be available to provide a range of control for offenders and to facilitate reintegration of offenders into the community.
- The limitations of control in achieving the objectives of the criminal justice system should be recognized.

Punishment of Offenders

Definition and Statement of Purpose

Punishment involves the imposition of a penalty or sanction against a convicted offender. Punishment may range from admonishment to imprisonment or death.

The purposes of punishment include deterrence and retribution. Punishment helps deter criminal activity by isolating convicted offenders through imprisonment and discouraging potential offenders through fear of punishment. Punishment also has a retributive or expiatory effect by exacting some form of payment as an expression of society's condemnation of the criminal act and/or as a condition of acceptance or reintegration of the offender into society.

Principles Governing Punishment

- Consistent with public safety, the least drastic means of punishment necessary to achieve the objectives of the criminal justice system should be utilized.
- Punishment, if imposed, should be prompt and certain.
- Punishment should be reasonably related to the seriousness of the crime(s) for which the offender was convicted.
- While individualized judgment should be encouraged and punishment should take into account the circumstances of the offenses and offender, excessive discretionary authority should be limited to minimize inequalities and discrimination.
- A range of punishment alternatives should be available.
- The limitations of punishment in achieving the objectives of the criminal justice system should be recognized.

Habilitation/Rehabilitation of Offenders

Definition and Statement of Purpose

Habilitation/rehabilitation includes programs to assist offenders in developing vocational, educational and social skills necessary to function adequately in society.

The purposes of habilitation/rehabilitation are to reduce criminal activity by persons convicted of crimes and to facilitate reintegration of offenders into the community by eliminating the vocational, educational and social deficiencies which may have been contributing factors in past criminal behavior and which, if not corrected, may be conducive to future criminal activity.

Principles Governing Habilitation/Rehabilitation

- The opportunity for habilitation/rehabilitation should be available in all settings for all offenders, but participation should be voluntary.
- Consistent with public safety, habilitation/rehabilitation should be the primary objective for young or inexperienced offenders and offenders for whom vocational, educational or social deficiencies have been identified.

- Habilitation/rehabilitation should emphasize vocational and educational training and/or development of good work habits and social skills necessary to function adequately in society.
- A range of habilitation/rehabilitation programs should be available to meet the needs of all individuals and population subgroups (such as minorities, women, youth, retarded or mentally disturbed offenders).
- The limitations of habilitation/rehabilitation in achieving the objectives of the criminal justice system should be recognized.

SECTION X - THE SENTENCING PROCESS

INTRODUCTION

In the past five years, no aspect of the criminal justice system has received greater attention than the sentencing process. Congress and many state legislatures have either substantially revised or are currently considering revisions of existing sentencing laws. This attention and the development of new approaches to sentencing are not unexpected in that the sentencing process largely defines the philosophy of the criminal justice system after trial and sentencing decisions to a great extent dictate the services and resources which must be provided by the system.

In this section the predominant form of sentencing in the United States, indeterminate sentencing, is described. The major problems with indeterminate sentencing which have led to legislative or administrative action in many jurisdictions are examined, and some of the reforms which have been proposed are described. The Task Force makes a recommendation concerning the reform of Utah's sentencing and parole process.

INDETERMINATE SENTENCING: A DESCRIPTION

Introduction and Definition

The predominant form of sentencing in the United States today is indeterminate sentencing. Although there are several forms of indeterminate sentencing processes, the common characteristic of all is that the length of term of imprisonment actually served by an offender is not established by the judge at the time of sentencing, but rather by a parole authority during the term of the sentence. If the sentencing judge elects to impose imprisonment as the form of sanction, the term of imprisonment is of an indefinite length (e.g., 1-10 years or 5-life), either as specified by the legislature or, in some jurisdictions, as established by the judge in accordance with parameters determined by the legislature. At any time during the period of imprisonment (or any time after a minimum term has been served if the law permits the imposition of a mandatory minimum term), the offender may be released by the parole authority. If the offender is not released by the parole authority during the term, release must be made upon completion of the full term.

Historical Development and Philosophical Basis For Indeterminate Sentencing

Imprisonment as a control and punishment mechanism for convicted criminal offenders is of relatively recent origin. Imprisonment developed in the United States following the Revolutionary War as an alternative to traditional British sanctions such as execution, maiming, flogging, branding or banishment. Loss of freedom and the relatively harsh conditions of prison life were viewed as an appropriate punishment and as a deterrent to criminal activity. Moreover, imprisonment was consistent with emerging democratic notions of the perfectibility of man and was seen as providing an opportunity for penitence and reform.

Early sentencing laws provided for fixed terms of confinement and judges were largely free to choose any term within the legislatively established maximum. By the mid-19th century, prisons began to suffer from serious overcrowding, and these conditions were relieved by early release of offenders pursuant to the pardoning power of governors. As early releases became increasingly necessary and common, release authority was delegated to prison wardens. This use of the pardon became subject to widespread corruption and favoritism, and legislatures attempted to curb abuses and injustices by enacting "good time" laws which narrowed pardoning authority and allowed time off sentences for good behavior in accordance with a statutory formula.

These developments were accompanied by an increased emphasis by penal reformers on the rehabilitative potential of the prison system. These reformers espoused the "rehabilitative ideal", urging that criminal or deviant behavior could be diagnosed and treated, and that offenders need be imprisoned only while dangerous or prone to deviant behavior. When the offender had been cured or rehabilitated, it was contended that release was appropriate and should be permitted. Reformers argued that it was inappropriate to allow judges to fix the length of the prison term at the time of sentencing because it was not possible to determine in advance how long it might take to rehabilitate the offender. Release authority, it was argued, should be vested in an entity which could evaluate the offender's progress and authorize release at the optimal moment in the rehabilitation process.

The general acceptance of the rehabilitative ideal and the need to control the size of prison populations led to the emergence of the indeterminate sentencing process. By 1935 virtually every jurisdiction in the United States had adopted some form of indeterminate sentencing. Parole agencies were established and vested with authority to release offenders at anytime during the period of imprisonment or anytime after a minimum term had been served if the law permitted the judge to specify a mandatory minimum term.

Indeterminate Sentencing Process in Utah

Early Utah sentencing law authorized judges to specify a term of definite length within a statutory minimum and maximum for the crime for which the offender was convicted. In practice, this definite sentencing process resulted in wide variations in the lengths of terms imposed by judges for similar offenders, and this disparity and the general acceptance of the rehabilitative ideal led to passage of an indeterminate sentencing law in Utah in 1913.

Although modified to some extent since its original enactment, Utah retains an indeterminate sentencing process. Current law provides that if a sentencing judge elects to impose imprisonment as a sanction (rather than a fine, probation, etc.), the judge is limited to the imposition of the indefinite term specified by the legislature for the offense. (See Appendix H for a description of some prison terms under Utah law). The sentencing judge has no authority to establish a mandatory minimum term or to specify a maximum term less than the statutory maximum. The judge is required to submit a report to the parole authority specifying the actual length of term the judge believes ought to be served by the offender, but this recommendation is not binding.

It is common practice to suspend the statutory indeterminate prison sentence and place the offender on probation with the condition that some specified period be served in a county jail. This practice is not specifically authorized by statute, and it is contended by some local officials that it places an undue and perhaps illegal burden on local jail resources.

Parole authority in Utah is vested in the Board of Pardons. When Utah adopted an indeterminate sentencing process, the State Supreme Court determined that the authority to grant early release under the new law was within the exclusive jurisdiction of the Board of Pardons pursuant to its power to commute punishments or grant pardons, and could not be exercised by any other body (such as a parole board). The Court has interpreted the state constitution to limit the legislative authority over the Board of Pardons to defining the Board's composition and to providing rules for the manner of applying for pardons.

The Board of Pardons consists of three part-time members who are appointed by the Board of Corrections, and is served by an executive secretary and three clerical staff. The Board meets weekly to set parole dates, rescind parole dates and revoke parole.

Offenders serving prison terms with a maximum term of less than life imprisonment receive their first hearing within 6 months of imprisonment, and those serving terms with a maximum

of life are heard after a year of imprisonment. At the initial hearing, a parole date is set or a date is established for a new hearing to consider setting a parole date. While exact data is not available, Board staff report that approximately 80% of persons serving terms with a maximum of less than life imprisonment receive a parole date at the initial hearing. The date of release is reported to be generally 6-18 months after the hearing at which the parole date is set.

The parole agreement signed by the offender upon release defines the conditions of parole. Violation of the conditions of parole can result in revocation of parole (and return to prison) or an extension of the parole period. The period of parole is statutorily limited to 3 years (except where extended for a parole violation), and the average length of parole is reported by Board staff to be 24 months.

INDETERMINATE SENTENCING: THE PROBLEMS

Introduction

Concern over the efficacy of the rehabilitative ideal as the primary basis for sentencing decisions and the broad discretion often vested in judges and/or parole authorities has brought indeterminate sentencing laws under increasing scrutiny in recent years. In the material below, these issues are examined and in the next subsections some of the proposals for reforming current sentencing processes are discussed.

Reconsideration of the Rehabilitative Ideal as the Basis for Sentencing Decisions

The rehabilitative ideal suggests that criminal or deviant behavior can be diagnosed and treated and that the length of a prison sentence should be determined primarily by the offender's responsiveness to rehabilitation and treatment programs. When an offender is rehabilitated or cured, release is appropriate and should be made by parole authorities. If it is determined by the parole authority that inadequate rehabilitative progress has been made, imprisonment and treatment should be continued until a more optimal time for release is determined or the maximum term is served.

The major assumption underlying the rehabilitative ideal and indeterminate sentencing, that correctional and parole authorities can determine when an offender has been rehabilitated, has been seriously challenged in recent years. Studies of the high U.S. recidivism rates question current capacity to determine success of rehabilitation efforts and to accurately predict, based on such criteria, the likelihood of future criminal activity by an individual offender. Participation in and successful completion of rehabilitation and treatment programs have been

demonstrated by many studies to have little effect on recidivism rates. Compliance with norms of behavior in the artificial environment of the prison has been increasingly recognized as a poor indicator of behavior in outside world.

Moreover, the notion that the prospect of early release may provide an incentive for rehabilitation has been subject to reevaluation. It is contended by many that such coercive rehabilitation is often ineffective and merely encourages the utilization of limited rehabilitation resources and services by indifferent offenders whose primary motive is to impress and manipulate the parole authority.

This recent wave of criticism of the rehabilitative ideal should not be construed as questioning the appropriateness or primacy of the goal of rehabilitation for offenders for whom vocational, educational or social deficiencies have been identified. The focus of the criticism has not been on rehabilitation per se, but rather on rehabilitation as the primary basis for all sentencing decisions. The critics suggest that sentence length be determined by other factors such as the character and seriousness of the offense, the offender's past record and the offender's circumstances and physical condition at the time of the offense. These factors, it is contended, can be more objectively evaluated and may be better indicators of future behavior (although prediction of future behavior by any criteria is discouraged by many observers). More importantly, the critics argue, emphasizing the correlation between the crime committed and the punishment imposed not only has a valuable deterrent effect, but should constitute an important principle of the criminal justice system.

An examination of Utah's recidivism rates for offenders released from the state prison system pursuant to Utah's indeterminate sentencing process suggests that Utah has been no more successful than the rest of the nation in predicting rehabilitative progress of offenders. Utah parolees (11%) are returned to prison for major new convictions at nearly twice the rate of parolees nationally (6%). The technical parole violation rate for Utah (16%) is more than double the national rate (7%). The percentage of offenders admitted to the prison who are parole violators (32% of prison admissions) is the second highest in the nation.* While Utah does parole a higher percentage of its offenders and tends to maintain parole supervision longer than national averages, these figures seem to indicate a significant failure rate.

*Data from "Special Report", Uniform Parole Reports Project, 1978.

Disparities in Sentences Imposed By Judges

The reevaluation of the rehabilitative ideal has been accompanied by a reemphasis on the principle of equality in sentencing decisions and the importance of ensuring that offenders with similar backgrounds convicted of similar offenses receive comparable sentences.

The problems of disparities in the sanctions imposed by judges is not unique to indeterminate sentencing, but has been inherent in virtually all past sentencing processes. In fact, concerns with the wide variations in sentences under 19th century definite sentencing laws was a factor in the development of indeterminate sentencing laws. Parole authorities with their early release powers were perceived by reformers to be a control mechanism to even out disparate sentences.

Nevertheless, indeterminate sentencing processes still afford judges a substantial range of sentencing choices. In jurisdictions such as Utah where the judge must impose the statutory indeterminate term if imprisonment is selected as the sanction, the judge generally has unfettered discretion to choose among possible alternative sanctions such as admonishment, fine, probation or suspended sentence. In other jurisdictions, judges have authority to fix a maximum term within a statutory range or to establish a mandatory minimum term if imprisonment is the sentencing choice.

Judges are typically given little or no guidance from legislatures in choosing among sentencing alternatives. In the exercise of such wide discretionary powers, judges of differing temperament, training and philosophy might be expected to impose varying punishments for the same offense committed under similar circumstances by different offenders. Not surprisingly, studies of sentencing practices have uniformly demonstrated wide variations in sentencing patterns among judges and, in some cases, have shown disparities by individual judges in sentencing particular classes of offenders.

In a classic sentencing study, 50 federal judges in the Second Circuit were asked to impose sentences in 20 cases drawn from actual court records. Each judge was furnished with the same presentence report for each offender. The results (see Appendix I) showed dramatic differences in sentences imposed by the judges, with sentences for a bank embezzler ranging from 3 years imprisonment to 1 year on probation and sentences for a conspiracy charge ranging from 2 years imprisonment to a \$2,500 fine. Statistical analysis of actual sentencing practices in the federal system have shown similar disparities. (See Appendix J).

While no comprehensive study of sentencing practices in Utah has been conducted, there is no evidence to suggest that Utah has avoided the problems of sentencing disparity. Utah sentencing statutes provide no guidance to judges in deciding among sentencing alternatives. A study in 1974 monitoring the utilization of Utah's then new 90-day diagnostic commitment law showed substantial differences among judges in percentage of offenders placed on probation, committed to prison or committed for 90 day diagnosis. (See Appendix K). This data cannot be considered conclusive due to the small number of cases involved and the inability to control for differences in the seriousness of the cases handled by individual judges. Nevertheless, the study and testimony from judges at Task Force hearings suggest that Utah may experience sentencing disparities not unlike those documented in other areas of the country.

Disparities in Parole Decisions

The wide discretionary powers granted to judges in sentencing offenders is equalled by the broad discretion given parole authorities in determining the length of prison sentences. Parole authorities are generally given little or no guidance from legislatures for the exercise of their parole functions. Moreover, until recent years, few parole authorities developed specific criteria or guidelines for release decisions, and parole processes were characterized by undefined procedures.

Not surprisingly, studies of parole practices have demonstrated great disparities in sentence lengths for offenders released on parole. Examination of these differences in sentence lengths have in many cases failed to reveal any discernible rationale for the wide disparities. Accordingly, while one attribute commonly ascribed to parole authorities is their ability to correct inequalities in sentencing decisions by judges, it is contended by many that parole authorities tend to generate their own set of disparities.

In Utah, the Board of Pardons is given no specific legislative guidance for the exercise of its parole function. The only formal written criteria available to guide Board members in release decisions is Board Rule 24 which provides in its entirety:

In considering the applicant for release, the Board shall cause to be gathered and brought before it all information regarding the prisoner required by law to be considered, which information, if possible shall be properly verified. All adverse comments concerning his in Prison behavior will be called to the attention of the inmate by the Secretary when interviewing the inmate. Further, the Board shall personally interview the prisoner to consider his ultimate fitness for release, including the probability of his living within Federal or State laws after release and must

be reasonably satisfied that the prisoner has a suitable community plan with visible means of support, or is likely to be suitably employed in self-sustaining employment upon his release.

No thorough study focusing on possible parole disparities has been conducted in Utah. However, an examination of data on lengths of sentences served for specific crimes does reveal a broad range of sentence lengths. (See Appendix L). For example, during the period 1966-1970, burglary terms served in Utah varied from 6 months to 10 years and robbery terms ranged from 2 years to almost 13 years. No analysis of this data has been conducted to evaluate the possible reasons for the differing sentence lengths, and any firm conclusions concerning the seriousness of parole disparity problems in Utah must await further study.

SENTENCING REFORM: DEFINITE SENTENCING

Introduction and Definition

One response to the problems of indeterminate sentencing discussed above has been the renewed interest in definite sentencing processes. Four states (California, Illinois, Indiana and Maine) have enacted definite sentencing laws and many other states and Congress (S.1437) have definite sentencing proposals under consideration.

While definite sentencing laws and proposals vary greatly, all provide that if imprisonment is the sanction selected by a sentencing judge, the judge establishes a fixed term of imprisonment at the time of sentencing. The entire term imposed by the judge must be served by the offender, except where statutes provide for automatic reduction of terms for "good time" served. Early release on parole is eliminated, and parole authorities are either dissolved or their powers restricted to determining statutory good time or to making parole revocation decisions (in jurisdictions where a parole term must be served by offenders automatically upon completion of the definite term).

Proponents of definite sentencing maintain that by determining sentence lengths solely by consideration of the seriousness of the offense and the record of the offender, the process avoids basing decisions on the largely discredited criteria of responsiveness to treatment and prediction of future criminal behavior. It is contended that definite sentencing properly emphasizes the reemerging sentencing principles that punishment should be certain, that the relative degree of punishment should be primarily related to the seriousness of the offense and that punishment of offenders who have committed similar crimes should be as nearly equal as possible. Moreover, by eliminating the early release power of parole authorities and carefully structuring the judicial sentencing process, it is argued that the wide and often abused discretion which has characterized indeterminate sentencing processes can be obviated.

In the material which follows, two definite sentencing approaches are described. While these approaches illustrate the range of definite sentencing processes, they should not be considered an exhaustive description of all possible approaches.

Flat Term Sentencing

In 1975 Maine enacted the nation's first definite sentencing process in over forty years. Maine's new code establishes five major classes of offenses and defines a maximum prison term for each class (e.g., Class A: armed robbery, rape and armed burglary - Maximum 20 years). If the sentencing judge selects imprisonment as the form of sanction, a definite or flat term of years up to the statutory maximum is imposed by the judge. The new law contains no criteria or provisions for development of criteria to guide judges in the exercise of discretion in fixing the definite term of imprisonment. Early release on parole is abolished, although terms are automatically reduced for good time served at a rate of 10 days off for every month served in compliance with prison rules.

Presumptive Sentencing

A second possible approach for definite sentencing is generally referred to as "presumptive sentencing". Under this approach the legislature establishes a presumptive term for each crime or class of crimes (e.g., burglary with threat of violence: 6 years; burglary of an unoccupied dwelling: 1 year; etc.). If the sentencing judge elects imprisonment as the form of sanction, the presumptive term must be imposed unless the judge makes a finding that aggravating or mitigating circumstances exist. In such cases, the judge specifies the aggravating or mitigating factors and raises or lowers the sentence within a range established by statute. Aggravating or mitigating factors are generally defined by statute or delegated to a judicial council for adoption by rule. Some presumptive sentencing processes provide for automatic enhancement of sentence length where a dangerous weapon is involved or the offender has a recent prior record.

Early release on parole is abolished, although provisions for reduction of terms for good time served in accordance with a statutorily prescribed formula are generally included in presumptive sentencing processes. Some approaches provide for parole supervision for a specified period following release after completion of the definite term. Parole authorities are either dissolved or retained solely to consider disputes concerning denial of statutory good time or to make parole revocation determinations.

Presumptive sentencing laws of some form have been enacted in California, Illinois and Indiana, and are under consideration in several other states and in Congress. The approach currently

being reviewed by Congress (S. 1437) differs substantially from other presumptive sentencing processes in that the establishment of the presumptive sentence lengths for each crime or class of crimes would be delegated to a sentencing commission for adoption by rule, with Congress establishing only the maximum parameters for sentence lengths.

SENTENCING REFORM: IMPROVING THE INDETERMINATE SENTENCING PROCESS

Introduction

The concerns with existing sentencing processes which led to renewed interest in definite sentencing have also resulted in other reform proposals. These approaches involve less drastic changes in existing sentencing systems and seek to retain the perceived benefits of indeterminate sentencing while attempting to correct its major deficiencies. In the material below several of such reform proposals are described.

Sentencing Guidelines

One approach advocated to help reduce possible sentencing disparities is the development of sentencing guidelines or criteria for guidance of judges in the exercise of discretion. The guidelines are usually established by judicial panels or councils and attempt to define with as much specificity as is possible the factors which should be present or considered in the imposition of a particular sentence. It has been estimated that 80-90 percent of sentencing decisions fall within the range provided for by such guidelines. Where a judge elects not to follow the guidelines (e.g., where the guidelines fail to take into account the unique character of a particular offense or specific offender), the supporting reasons for the departure from the guidelines are specified by the judge at the time of sentencing. The intent of such guidelines is not to provide a mechanical computation process to fix sentences, but rather to develop a framework for decision-making where statutory authority has provided little or no guidance.

In Utah, judges are provided no legislative guidance in selecting among sentencing alternatives (fines, probation, imprisonment, etc.). To help reduce possible disparities in this and other areas, the Utah Judicial Council has adopted a goal of developing guidelines for the exercise of judicial discretion.* However, the Council has given the goal a ranking of only moderate priority and no action has yet been taken to implement the goal.

*Goal 10, "Goals For the Utah Judiciary 1977-79", Utah Judicial Council, 1977.

Parole Guidelines

The wide discretionary authority for release decisions granted to most parole authorities has been the focus of the most intensive criticism of any aspect of the sentencing process. In an effort to reduce possible disparities resulting from the exercise of such discretion, many parole authorities have adopted parole criteria or guidelines. Such criteria or guidelines generally establish sets of standard term lengths for each offense or class of offense and specify the factors which may constitute cause for lengthening or shortening the standard term length. (See Appendix M for an illustrative set of guidelines). Criteria or guidelines may also be established for the imposition of parole conditions and decisions on parole revocation.

The National Commission on Accreditation for Corrections has established as a standard for adult parole authorities the development of such written criteria for decisions of parole authorities. In its commentary on the standard, the Commission noted:

The fair application of discretion requires that a parole authority articulate clearly and explicitly the basis of its parole decision-making judgments. Such an expression is necessary for the equitable operation of the parole system and for the understanding of the public and the offender. Vague statements or pleas for total individualization in decision-making are not sufficient. Criteria development is difficult but, nonetheless, a central responsibility of a parole authority.

The Utah Board of Pardons has adopted no specific criteria for its discretionary authority to pardon, to commute punishments, to release on parole or to revoke parole.

Mutual Agreement Programming (MAP)

Uncertainty about release dates has been said to contribute to prison unrest. In an effort to ease such tensions and to regularize the parole process, many correctional systems have implemented Mutual Agreement Programming (MAP). The basic ingredient of MAP is a written, legally binding contract between the offender, the prison and the parole authority which is generally executed within a month of imprisonment. While the contents of the contracts vary, all set a fixed parole date subject to good behavior and often contingent upon achieving measurable goals in areas such as education or vocational training. In the contract the offender often agrees to participate in specified rehabilitation programs or, where feasible, to make restitution to the victim. Offenders who withdraw or fail to comply with the terms of the contract revert to the traditional parole process.

MAP has attracted a wide spectrum of critics and supporters. The program is often criticized for imposition of arbitrary and unnecessary requirements and for the lack of guidelines for assuring equal treatment of offenders. Supporters cite MAP's success in reducing release uncertainty and in assisting offenders in preparing for release, and view the program as a mechanism to control some of the abuses of indeterminate sentencing.

TASK FORCE RECOMMENDATION

RECOMMENDATION 22 - UTAH SHOULD RETAIN ITS INDETERMINATE SENTENCING PROCESS, BUT:

- THE JUDICIAL COUNCIL SHOULD DEVELOP GUIDELINES FOR USE IN THE EXERCISE OF SENTENCING DISCRETION;
- THE BOARD OF PARDONS SHOULD DEVELOP GUIDELINES FOR USE IN THE EXERCISE OF THE BOARD'S DISCRETIONARY AUTHORITY; AND
- DEFINITE SENTENCING PROCESSES ENACTED IN OTHER STATES SHOULD BE MONITORED BY THE LEGISLATURE TO EVALUATE EFFECTIVENESS IN ACHIEVING REFORM OBJECTIVES AND TO ASSESS IMPACT ON CORRECTIONAL PROGRAMS AND OPERATIONS.

Supporting Rationale:

- The development and utilization of sentencing guidelines will help provide structure in the exercise of sentencing discretion and may help reduce unjust sentencing disparities.
- Research has demonstrated that it is difficult or impossible to determine when an offender has been rehabilitated or to discern the optimal time for release of an offender. The development and utilization of guidelines by the Board of Pardons will help provide structure in the exercise of the Board's discretionary authority, and may reduce reliance on apparent rehabilitative progress as the sole or primary basis for parole decisions.
- While achieving many of the objectives of sentencing reform, this approach retains some of the benefits of the indeterminate sentencing process such as providing a safety valve for unjust sentencing decisions and facilitating early release in cases where such action clearly furthers goals of rehabilitation or reintegration of an offender into the community (e.g. availability of a unique employment opportunity).
- No state has had a modern definite sentencing law in effect for more than two years. While definite

sentencing may prove to be the most effective and acceptable sentencing process, the experience of states which have enacted definite sentencing laws should be evaluated over a period of time to ensure that the process does not create new, unanticipated problems and to identify the model which is proven to be most workable.

- The Utah Supreme Court has ruled that the Board of Pardons is not bound by any mandatory minimum term lengths established by the Legislature. To ensure orderly implementation of a definite sentencing process, an amendment to Utah's Constitution may be required.

SECTION XI - FUTURE FACILITY REQUIREMENTS FOR OFFENDERS SENTENCED TO IMPRISONMENT

INTRODUCTION

Among the major concerns which led to the establishment of the Blue Ribbon Task Force by the Legislature was the lack of a long range plan for meeting the facility requirements of future prisoner populations in Utah. Development of such a plan was considered necessary by the Legislature to provide guidance for immediate decisions concerning renovation of the State prison and for future considerations of possible construction proposals for additional facilities to meet anticipated growth in prisoner populations.

In this section, Utah's historic incarceration rate is examined and a projection of future prisoner populations is made. Alternative approaches for meeting future facility requirements are reviewed and the Task Force establishes a general plan for utilization of existing facilities and for future facility development.

ACCEPTABILITY OF UTAH'S HISTORIC INCARCERATION RATE

Introduction

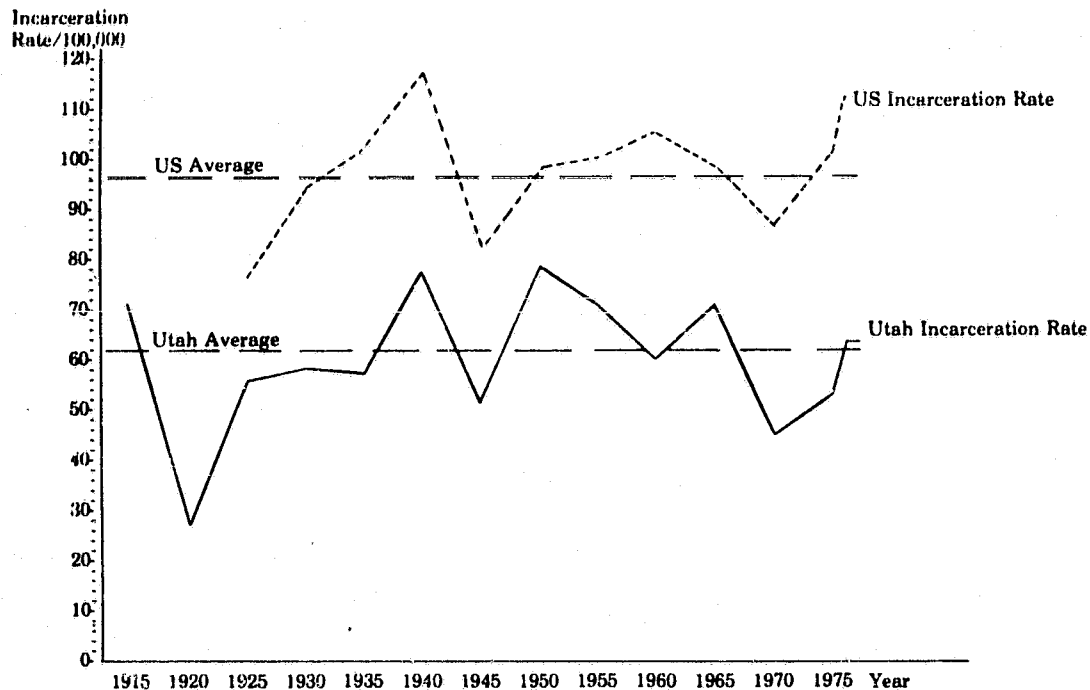
An incarceration rate is the ratio of prisoner population of a jurisdiction to the total population of the jurisdiction at some specific point in time and is usually expressed as a rate per 100,000 population. Prisoner population consists of those adult offenders in the custody of correctional authorities who are sentenced to a prison term of more than one year.

The projections of future prisoner populations considered later in these materials are, in effect, based on the application of historic Utah incarceration rates to estimated future populations. As Utah's population grows, the projections accordingly predict a proportional increase in prisoner population. A significant change in future incarceration rates for any extended period would, therefore, have a substantial impact on prisoner population projections. In this subsection, Utah's incarceration rate is examined and the factors which possibly influence incarceration rates are analyzed in an effort to provide some explanation for Utah's relatively low rate and to justify its use in projecting future prisoner populations.

Utah's Incarceration Rate

In 1976, Utah's incarceration rate was 60 per 100,000, almost one half the U.S. rate and the ninth lowest rate in the nation. (See Appendix N for comparative state incarceration rates). As Figure 6 below illustrates, Utah's relatively low incarceration rate is an historic phenomenon, and the current rate is near the 60 year average. While there has always been a wide gap between the Utah and US rates, both appear to have followed similar general patterns of rising during periods of economic recession and declining during war years and periods of economic expansion.

FIGURE 6
COMPARATIVE INCARCERATION RATES
UTAH AND US 1915-1977



Note: Averages do not include war years.

Source: Utah data from Division of Corrections, State Department of Social Services.
US data from *U.S. Bicentennial Edition of Social Statistics 1976*, and
Prisoners in State and Federal Institutions, 1978.

Analysis of Factors Possibly Influencing Utah's Incarceration Rate

Development of a definitive explanation of Utah's relatively low incarceration rate would require a major research effort beyond the resources or timeframe of the Task Force. In the

discussion below, an attempt is made merely to examine factors which may influence Utah's incarceration rate in an effort to provide all available information to assist in evaluating the appropriateness and acceptability of the rate.

- Crime Rates

While many factors influence incarceration rates and there is not always necessarily a direct correlation between crime rates and incarceration rates, crime rates have an obvious impact on the number of persons who may require imprisonment. If the number of serious crimes is low, the number of persons who may require imprisonment may be expected to be correspondingly low.

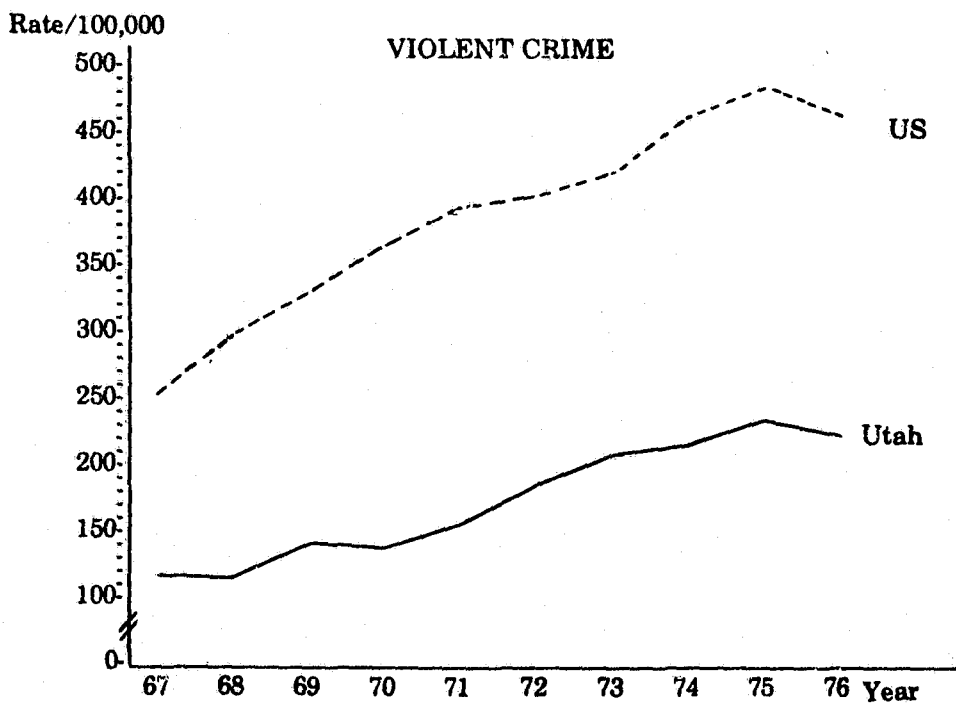
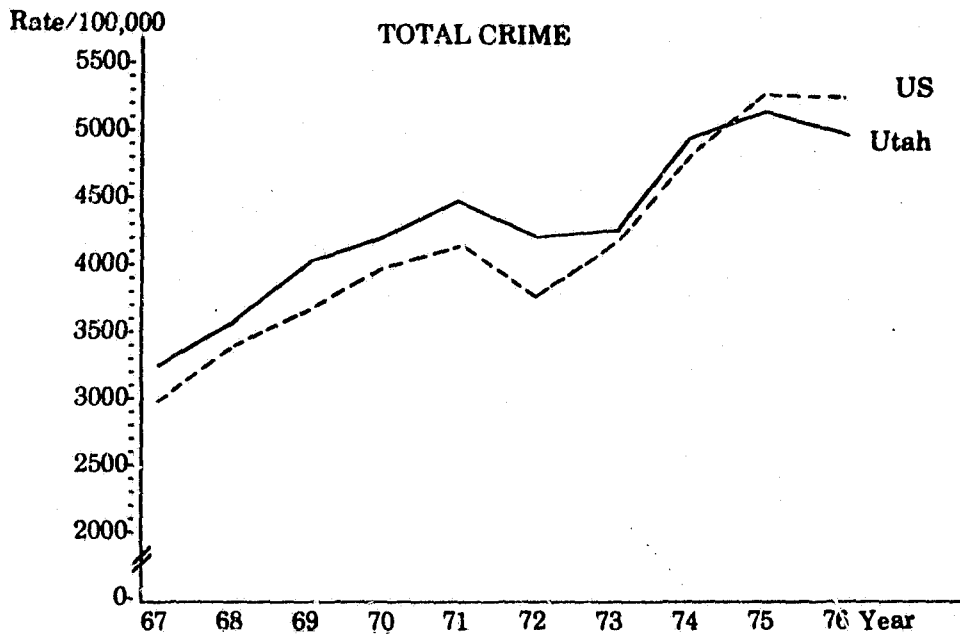
In Figure 7, Utah rates of known crime are compared to the U.S. rates. Utah's total crime rate has been close to the U.S. rate during the reported period, and until 1975 actually exceed the U.S. rate by as much as 10%. However, the graph shows that Utah's rate for violent crimes has been less than one half the U.S. rate during the same period.*

Violent crimes (homicide, forcible rape, robbery and assault) are crimes which are most likely to result in a sentence of imprisonment. Accordingly, the rate of violent crime within a jurisdiction may tend to have some impact on the jurisdiction's incarceration rate. An analysis of states with incarceration rates similar to Utah's reveals that all have experienced violent crime rates significantly below the national average and a review of states with high incarceration rates shows that most have violent crime rates well above the U.S. rate. (See Appendix P)

It should be emphasized that the crime rates discussed in this material are based on crimes known to the police--only crimes which are reported to the police by the public or become otherwise known to the police are included in the statistics. It has been suggested by some observers that Utah's crime rate statistics may be somewhat inflated compared to those of other areas of the nation as a result of an increased tendency or willingness of the public to report crimes to police due to a high sense of community responsibility and a relatively low degree of police/public alienation. This suggestion has not been documented.

* See Appendix O for detailed information concerning Utah and U.S. rates for specific crimes.

**FIGURE 7
COMPARATIVE CRIME RATES
(OFFENSES KNOWN TO POLICE)
UTAH AND US 1967-1976**



Source: *Crime in the U.S., 1976: Uniform Crime Reports.*
Federal Bureau of Investigation.

CONTINUED

1 OF 3

- Clearance Rates

Clearance rates are the ratio of crimes solved by the police to total crimes known to the police. Crimes are solved or "cleared" if the offender is arrested or if sufficient evidence is available to arrest the offender but arrest is precluded by exceptional circumstances such as death of the offender, denial of extradition or refusal of the victim to prosecute. The arrest of one person can clear several crimes or several persons may be arrested in the clearance of a single crime.

Clearance rates may influence incarceration rates in that the number of persons arrested has some bearing on the number of persons who may eventually be sentenced to imprisonment. If a jurisdiction's clearance rates are abnormally low, this factor may be one element contributing to a low incarceration rate.

A comparison in Table 1 of Utah and U.S. clearance rates, however, reveals that Utah rates generally exceed the national rates. Accordingly, clearance rates appear to provide no explanation for Utah's low incarceration rate.

**TABLE 1
COMPARATIVE CLEARANCE RATES
UTAH AND U. S. (1976)**

Offense	Percentage Cleared	
	Utah	U. S.
Murder	96	79
Rape	58	52
Robbery	39	27
Agg. Assault	57	63
Burglary	17	17
Theft	22	19
Auto Theft	33	14

Source: *Crime in U.S. 1976: Uniform Crime Report.*
Statistical Analysis Center MAS Report, 1976.

- Prosecution of Offenders

Prosecutors generally have complete discretion in decisions to prosecute offenders arrested by police. Patterns of prosecutorial discretion, especially the willingness to encourage diversion of offenders or a tendency to prosecute a lesser offense in accordance with a plea bargain, can affect the type of sanctions available to the judge and arguably may affect incarceration rates.

Unfortunately, no adequate data is available to compare Utah prosecution practices with those of other areas of the country. The number of cases filed per 100,000 population, a general indicator of prosecutorial discretion, has been examined by staff, and Utah's rate (3,307) was found to be similar to the national rate (3,500). However, these figures include both felony and misdemeanor cases, and the national data is only a sample of major U.S. cities. Accordingly, no evaluation can be made of the possible affect of prosecution practices on Utah's incarceration rate.

- Sentencing of Offenders

The wide discretionary authority of judges in making sentencing decisions is considered in Section XI of this report. The decisions by judges to impose probation or imprisonment as the sanction for convicted offenders have an obvious and direct impact on incarceration rates. Judicial sentencing patterns are, therefore, an important factor in assessing Utah's incarceration rate. If Utah judges, either as a result of deliberate policy or in response to overcrowded prisons, tend to use alternatives to imprisonment (such as probation or short jail terms) for offenders who would be sentenced to imprisonment in most other states, the low Utah incarceration rate might be largely explained.

Although no comprehensive study has been conducted comparing Utah's sentencing practices with those of other jurisdictions, comparative data is available for use of probation. A recent survey found that Utah's rate of persons on probation for felonies (94 per 100,000) was less than one-half the U.S. rate (212 per 100,000), with Utah ranking sixth lowest in the nation.* This data makes clear that excessive use of probation as an alternative to imprisonment is not responsible for Utah's relatively low incarceration rate.

Another factor which should not be overlooked in analyzing the impact of judicial discretion on incarceration rates is the apparent effect of race on sentencing patterns. Studies of sentencing disparities have demonstrated that minority offenders tend to receive prison sentences more often than non-minority offenders convicted of similar offenses. A review of states with low incarceration rates reveals that these states tend to have low minority populations, and states with high commitment rates tend to have high minority populations. (See Appendix R). Accordingly, the relatively small size of Utah's minority population may be a factor which can help explain Utah's low incarceration rates.

*State and Local Probation and Parole Systems, U.S. Department of Justice, 1978. See Appendix Q for survey results.

- Parole of Offenders

Parole practices can influence incarceration rates by determining the length of prison terms. Shorter prison terms cause lower incarceration rates since offenders are moved through the system faster, resulting in fewer offenders in the system at any one time.

In recent years, Utah's average length of stay at the prison has been approximately 30 months which is among the highest in the nation. (See Appendix S). Utah parole practices tend, therefore, to inflate Utah's incarceration rate rather than provide any explanation for Utah's relatively low rate.

Conclusion

While the information cited above fails to conclusively explain Utah's relatively low incarceration rate, there is no evidence suggesting the rate is inappropriate for Utah. The low use of probation in Utah indicates that this sentencing alternative is not being used excessively. It seems apparent that the most significant factor contributing to the low incarceration rate is the low rate of serious crime in Utah. This conclusion is reinforced by a comparison of a profile of Utah and U.S. prison populations. (See Appendix T). Analysis of the profile shows a significantly higher proportion of property offenders among Utah's prisoner population (53% versus 32%), with an especially large number of offenders convicted of larceny, forgery, fraud and embezzlement.

It should be further noted that there is no evidence that increases in incarceration rates have any effect on general deterrence of criminal activity in society. Moreover, while incarceration has the immediate effect of preventing criminal activity (against the public) by the imprisoned offender during the period of incarceration, it has not been demonstrated to have any significant impact on criminal activity of the offender after release. In fact, incarceration may tend to provide the offender with an opportunity to learn new criminal skills from other offenders and may serve to further alienate or isolate the offender from society.

Accordingly, the Task Force has determined that Utah's historic incarceration rate provides an acceptable basis for projecting prisoner populations. The incarceration rate and the information discussed above should, however, be carefully monitored in future years as Utah's economic growth continues and the characteristics of its population evolve.

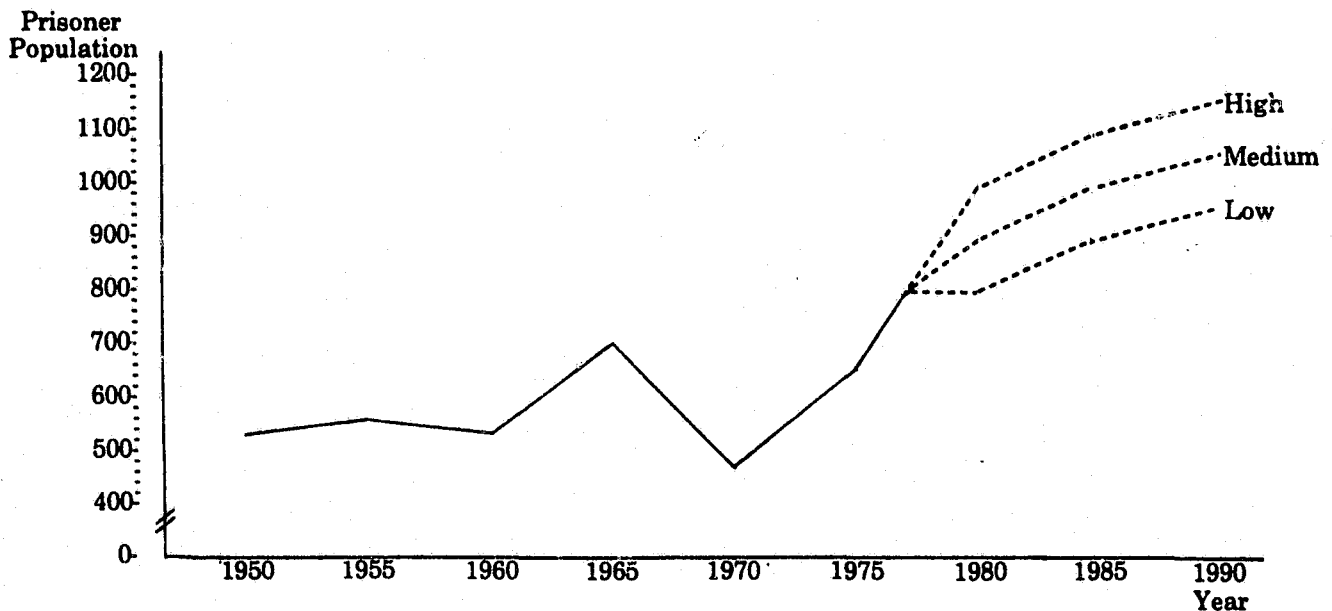
PROJECTION OF FUTURE PRISONER POPULATIONS

Task Force Projection

In Figure 8 below, a projection of future prisoner population is provided. The methodology employed in developing the projection involved use of linear regression equations comparing prisoner population and state population ratios at intervals from 1900 to 1977 and application of the historic trend to estimated future state population.

The Task Force selected the medium projection as the most likely, and the high and low projections reflect the statistical error range of the methodology. The previous projection prepared by the Division of Corrections in 1977 was not used because of the availability of more recent data, although the Division's projection is comparable to the high range of the Task Force projection.

**FIGURE 8
PRISONER POPULATION PROJECTION
1980—1990**



Source: Division of Corrections.
Office of Legislative Research.

Limitations of Projection Methodology

The projection selected by the Task Force has several limitations which may affect its reliability in predicting future prisoner populations. These limitations are described briefly below.

- As noted above, the projection in effect applies Utah's historic incarceration rate to estimates of future state population. As Utah grows and the character of its population evolves, incarceration rates may change substantially. Moreover, the population figures are, of course, estimates and are subject to an additional set of inherent limitations.
- The projections do not take directly into account economic indicators which have been demonstrated to correlate highly with incarceration rates. In recession years and periods of high unemployment, prisoner populations tend to increase-- in boom years and periods of low unemployment, prisoner populations usually decline. These factors, which would tend to suggest a short run period of lower incarceration rates for Utah, are not taken into account in the projection.
- The projection fails to take into full account the effect on prisoner population of changes in the population of the high risk group of males aged 15-29 who constituted 70% of prisoner admissions in 1977. This age group is expected to experience a much slower rate of growth than the population as a whole and is, in fact, projected to decline slightly between 1985 and 1990.
- Possible changes in sentencing laws (enactment of definite sentencing) or parole release policy (Utah's length of stay in prison is among the highest in the nation) could drastically effect prisoner populations. These and other policy matters necessarily are not considered in the projection methodology.

While these limitations do not invalidate the projection, the Task Force determined that awareness of the relatively primitive state of the art in this field is an important factor to be considered in developing a cost-effective plan for future facility needs.

MEETING FUTURE FACILITY REQUIREMENTS: USE OF EXISTING FACILITIES

Introduction

In this subsection, existing facilities are examined to determine suitability for future utilization. An inventory of the facilities is provided, major deficiencies are reviewed and the Task Force makes a recommendation concerning renovation of the state prison.

Inventory of Existing Facilities

State Prison

The Utah State Prison, located in Draper, was designed in the 1930's, but construction was delayed by World War II and the initial facility was not completed until 1951. Since that time, several additional structures have been built at the site including the maximum, minimum and women's facilities. In Table 2 below, a detailed description of the prison capacity is provided. (See Appendix U for a map of the prison).

**TABLE 2
INVENTORY OF
UTAH STATE PRISON CAPACITY**

Facility or Unit	Total Bed Capacity	Operational Capacity	Latest Count* 9/30/78
Maximum	61	52	31
Medium			
A Block	193	144	178
B Block	128	128	121
D Block	128	128	126
E North	28	24	18
Alcohol	30	30	29
Special Unit**	113	113	—
Minimum	300	290	292
Women's Facility	25	25	24
Total	1006	934	819

* Count includes 36 90-day diagnostic inmates, but does not include 87 inmates residing in Community Corrections Centers (see Table 3) and 8 inmates at the prison hospital.

** Expected to become operational in February, 1979

Source: Division of Corrections, October, 1978.

Table 2 reflects the Division of Correction's policy that some excess capacity should be available to maximize management flexibility and to facilitate transfer of problem offenders in crisis situations. Therefore, the "operational capacity" of several units is listed as somewhat less than the actual total physical capacity of the unit. The amount of excess capacity necessary for safe operations is currently under review by the prison administration.

Community Correction Centers

Community Correction Centers are small, non-secure facilities located within the community. These centers function as halfway-out houses for prisoners whose parole dates are approaching and/or as halfway-in facilities for offenders residing in the centers as a condition of probation. Residents are usually employed in the community and have meals at local restaurants or at home with their families. Close supervision is generally limited to the night time hours when the residents must be on the premises.

Although the Diagnostic Center is included in the inventory, it differs from the other centers in that it has a capacity for greater security and supervision, and its residents are solely offenders committed to the Division of Corrections for short term diagnosis and evaluation pending final sentencing by the court.

An inventory of Utah's community correction centers is provided in Table 3.

**TABLE 3
INVENTORY OF
COMMUNITY CORRECTION CENTERS
1978**

Facility	Total Capacity	Latest Count 9/30/78				
		Inmate	Probation	Parole	Diagnostic	Total
Lakehills	48	41	2	1	0	44
Central	48	16	24	4	2	46
S.L. Women's	21	14	5	0	2	21
Ogden	40	16	19	0	5	40
Ogden Women's*	30	0	0	0	0	0
Diagnostic	85	0	0	0	63	63
Total	272	87	50	5	72	214

* Became operational on October 1, 1978.

Source: Division of Corrections, October, 1978.

Deficiencies in Existing Facilities

In its efforts to develop a master plan for adult corrections and in response to the federal class action suit filed against the prison administration by inmates (and joined by the U.S. Department of Justice), the Division of Corrections has made a preliminary evaluation of prison facilities and has identified several major deficiencies. These deficiencies are detailed below.

- Prison Utilities

The main portion of the prison was constructed almost 30 years ago and the Division of Corrections reports that the facility was designed for a thirty year life expectancy. The problems of age combined with poor original design and increased load caused by prison expansion have severely strained the electrical, plumbing and heating systems of the prison. A preliminary analysis of the physical plant revealed that in many cases utilities do not meet code requirements and that a substantial overhaul will be necessary to supply and maintain usage at current levels. At the last session, the Legislature authorized some funds for repairs, but further evaluation of the situation has made clear that more extensive and costly renovation than was originally anticipated will be required. A comprehensive study of the physical plant is expected by the end of 1978.

- Maximum Security

A critical element of the federal class action suit involves conditions in the maximum security unit. The facility fails to meet established standards for artificial lighting, natural lighting, plumbing and ventilation. The design of the unit limits the availability of treatment programs and creates an environment unsuitable for more than secure lockup. The new prison administration is currently reevaluating the prison classification system to determine which offenders require maximum security (for public and inmate safety) and the Division of Corrections is negotiating with the Building Board to obtain funding for further architectural analysis of the facility to determine the most cost-effective method of eliminating these deficiencies. It is anticipated that substantial remodeling and/or new construction will be necessary.

- Medium Security

Current industrial facilities provide space for only a limited number of offenders and existing facilities and equipment fail to meet OSHA health and safety standards. Medium security also lacks adequate indoor physical exercise and recreation facilities and hobby-craft and other activity space for the 400 offenders in the unit.

- Women's Facility

The women's facility currently has no adequate space for indoor recreation or for visiting, counseling and other program activities. If the facility is to continue to be utilized for long term commitment of women or other special offender groups, additional construction will be necessary to meet these needs.

Task Force Recommendation

RECOMMENDATION 23 - THE NECESSARY RENOVATIONS AND IMPROVEMENTS AT THE PRISON SHOULD BE MADE TO PERMIT CONTINUED OPERATION AND TO EXTEND THE FACILITY'S USEFUL LIFE AT CURRENT CAPACITY SO LONG AS COST EFFECTIVE.

Supporting Rationale:

- The costs of new facilities are high (\$40,000-60,000 per bed). As long as costs of renovation and improvement to do not become prohibitive, the existing facility should continue to be utilized.
- There is sufficient land surrounding the prison to adequately insulate it from expanding urban areas and the facility is located at a site which affords reasonable accessibility for staff and for families and attorneys of most offenders (who come predominantly from the counties along the Wasatch front).
- If the suggested renovations and improvements are not undertaken soon, the federal court could order remedial actions (release of prisoners or usurpation of some administrative responsibilities) which are unacceptable to the community.

MEETING FUTURE FACILITY REQUIREMENTS: DEVELOPMENT OF NEW FACILITIES

Introduction

The additional facility requirements for projected future prisoner populations are set out in Table 4. These additional requirements are based on the assumption that necessary renovations and improvements will be made at the state prison to continue operations at the 1979 capacity of 934 beds.

**TABLE 4
PROJECTED BED NEED***

Projection	Projected Prisoner Population			Projected Additional Bed Need		
	1980	1985	1990	1980	1985	1990
Low	793	887	954	—	—	20
Medium	893	987	1054	—	63	120
High	993	1087	1154	59	153	220

* Projected additional bed need is based on expected 1979 prison operational capacity of 934. The prison capacity figure does not include beds in community correction centers used by prisoners although such prisoners are included in prisoner population projections. The prisoner population projections do not include diagnostic inmates although such inmates may occupy prison beds.

In the material below, two general approaches for meeting additional facility requirements are examined: community based facilities and institutional facilities. The advantages of each approach are reviewed and the Task Force makes a general recommendation for future development of new facilities.

Community Based Facilities

Description

Community based facilities include traditional halfway houses (generally referred to in Utah as community correction centers) and other small correctional facilities located within the community which utilize local services and resources.

In its draft master plan, the Division of Corrections has proposed that any facility needs in the immediate future be met through community based facilities. The Division has recommended the development of two new halfway houses and the construction of several 60 bed regional "residential treatment centers". The "residential treatment centers" would be located within the community and would have the capacity to provide security at least equivalent to that provided in most minimum security

institutions. Most residents of the regional centers would be released during the day for work or school, but unlike traditional halfway houses, the residents could be under secure supervision during non-work or non-school hours. Facilities would be available in the centers for provision of counseling or other treatment services by corrections personnel or by local agencies. Offenders not participating in work release programs could remain in the center under secure supervision on a 24-hour basis.

General Advantages of Community Based Facilities

- The construction costs for community based facilities are considerably lower than institutional facilities, and operational costs are also generally lower. In Utah, the cost per day for an offender is approximately \$29.00 at the prison and \$20.00 in community correctional centers, and the prison costs do not include facility costs, while the figures for community centers include lease expenses.
- The work release programs of community based facilities have economic and social benefits. Earnings from residents can be used to defray costs of custody, to help support dependent families, to make restitution to victims and to pay taxes. Moreover, development of good work habits in a real job is a necessary step in successful rehabilitation.
- The small size of most community based facilities permits closer contact between offenders and staff, facilitating control and treatment efforts.
- Utilization of services and resources from the community provides offenders with a greater range of programs and offers potential cost savings for the system by avoiding unnecessary duplication of programs by corrections and social services agencies.
- By avoiding an artificial institutional environment within the facility and by allowing daily contact with the community, adjustment to the real world is assisted. The community location helps residents maintain relationships with families and friends, facilitating reintegration into society.
- Community based facilities generally have lower rates of recidivism. While such lower rates might be expected since offenders participating in the programs are usually carefully screened, studies have also shown favorable success rates for the middle group of offenders who often fail in traditional release settings.

Institutional Facilities

Description

When discussed in these materials, institutional facilities include traditional large secure custodial prison facilities. The facilities are designed to maximize security, and are generally located near, but not within, population centers. Work release programs are possible in institutional facilities but are often limited by the distance to employment sites and by security problems.

General Advantages of Institutional Facilities

- The costs of criminal activity are high in human and economic terms. Institutional facilities help assure public safety by isolating dangerous and chronic offenders from the community during the term of imprisonment.
- By severely restricting freedom of movement and association, institutional facilities impose a more severe form of punishment on offenders. If confinement in an institutional facility were a prompt and certain penalty for criminal behavior, prison might be a more effective general deterrent to crime.
- By removing an offender completely from his/her previous environment, the criminal justice system helps troubled individuals obtain a fresh start free from prior relationships or circumstances which may have led to criminal activity.
- Work experience and development of good work habits can be fostered in prison industries under close supervision within the secure perimeter of the facility.
- By locating correctional facilities away from population centers, community resistance to construction can be largely avoided.
- If properly designed, institutional facilities can adjust the range of security from maximum to minimum as offender populations change and the needs of the system evolve. Community based facilities are generally limited to providing minimum or, at most, soft medium security.

Task Force Recommendations

RECOMMENDATION 24 - FACILITY NEEDS OF FUTURE PRISONER POPULATIONS WHICH CANNOT BE SATISFIED BY UTILIZATION OF EXISTING FACILITIES SHOULD BE MET BY DEVELOPMENT OF COMMUNITY BASED FACILITIES.

Supporting Rationale:

- See discussion above on pages 84-85 for general cost and program advantages of community based facilities.
- Projection of future prisoner populations is difficult and excess capacity tends to be filled quickly (regardless of actual need). This approach affords the state maximum flexibility in meeting future needs. If prisoner population projections prove too high, the phased development of community based facilities can be discontinued, with only minimal overcapacity because no new facility would exceed 50 beds. If prisoner population projections prove too low, development of a mid-sized institution can be reconsidered, or the minimum security unit at the prison can be made more secure.
- Only 12% of the prisoner population is currently released through community correction centers. Expansion of community based facilities would permit greater utilization of this effective means of reintegrating offenders into the community.
- Utah currently lacks facilities for offenders who could benefit from work release, but who require the additional security which could be provided by the regional "residential treatment centers". This approach would fill a gap in the continuum of facilities and programs provided by the system.

RECOMMENDATION 25 - ESTABLISHMENT OF NEW COMMUNITY BASED FACILITIES BY THE DIVISION OF CORRECTIONS SHOULD BE COORDINATED WITH LOCAL LAW ENFORCEMENT AGENCIES, AND DEVELOPMENT OF JOINT STATE/LOCAL FACILITIES AND PROGRAMS SHOULD BE ENCOURAGED.

Supporting Rationale:

- Community based facilities established by the Division of Corrections may duplicate jail resources already available or in the planning stages. A coordinated state/local effort will help assure more cost-effective use of resources within the criminal justice system.

- As discussed in Section VIII, many local jails are in deplorable condition, and all fail to meet established national standards. Development of joint state/local facilities can help meet the needs of both the state in providing facilities for future prisoner populations and of some local communities in providing adequate jail facilities and programs.

SECTION XII - SPECIAL OFFENDERS

INTRODUCTION

When referred to in this report, the term "special offender" means a person convicted of a criminal act whose characteristics, circumstances or background indicate that specialized treatment programs may be necessary to assist the offender in adjusting to or functioning in the prison environment, or in developing the skills necessary to function adequately in society. Among the special offender categories considered in the report are women, ethnic/racial minority, retarded, emotionally disturbed, young, drug/alcohol and sex offenders.

In this section, the current programs and facilities for special offenders are reviewed, and the Task Force makes a recommendation for meeting the special needs of these offenders.

CURRENT PROGRAMS AND FACILITIES FOR SPECIAL OFFENDERS

In Table 5 below, an estimate is provided of special offenders in the adult correctional system. Not included in Table 5 or the discussion which follows are special offenders serving time in local jails.

**TABLE 5
SPECIAL OFFENDER POPULATIONS
SEPTEMBER, 1978**

Special Offender Category	Prison		Adult Probation and Parole	
	Number	Percent of Total Inmates	Number	Percent of Total Clients
Women	37	4.0	729	10.9
Racial/Ethnic Minority	289	31.2	928	13.8
Hispanic	193	20.9	563	8.4
Black	77	8.3	243	3.6
Native American	13	1.4	87	1.3
Other	6	.6	35	.5
Mentally Retarded (IQ 70 or less)	33	4.1	N/A	N/A
Emotionally Disturbed	95	10.3	361	5.4
Young (under 21)	87	9.4	1661	24.7
Drug and Alcohol Problems	N/A	N/A	N/A	N/A
Sex Offenders	89	9.6	297	4.4

Note: N/A means not available. Information for mentally retarded from June, 1978, prison data.

Source: Division of Corrections, 1978.

In Table 6 below, an inventory of facilities and programs is provided for special offenders sentenced to imprisonment. Facilities for women were expanded in October, 1978, with the addition of a new community correction center (halfway house) in Ogden. It is anticipated that the new center will substantially reduce the number of women residing in the Women's Unit at the prison. If this number can be reduced to zero, the unit can be converted to use by other special offender groups. The sex offender facility at the Utah State Hospital has recently expanded its program from 10 to 35 beds, and the sex offender program at the prison is also undergoing some expansion. Table 6 also shows the new alcohol unit at the prison which opened this year to provide specialized treatment for offenders with serious alcohol problems.

**TABLE 6
INVENTORY OF PROGRAMS AND FACILITIES
FOR SPECIAL OFFENDERS SENTENCED TO IMPRISONMENT
(1978)**

Special Offender Category	Program, Facility, or Unit	Capacity	Location	Supervision, Agency
Women	Women's Community Center	21	Salt Lake YWCA	Division of Corrections
	Women's Unit	25	Prison	Division of Corrections
	Women's Community Center	30	Ogden	Division of Corrections
Racial/Ethnic Minority	None			
Mentally Retarded	None			
Emotionally Disturbed	Public Offenders Program	30	State Hospital	Division of Mental Health
	Prison Psychiatric Counseling	65+	Prison	Division of Corrections
Young (Under 21)	None			
Drug and Alcohol Problems	State Unit III	10+	State Hospital	Division of Mental Health
	Alcohol Unit*	30*	Prison	Division of Alcohol & Drugs
Sex Offenders	Sex Offender Program	35	State Hospital	Division of Mental Health
	Sex Offender Program	Expanding	Prison	Division of Corrections

* The Alcohol Unit can handle more than 30 on an out-patient basis.

Source: Division of Corrections.
Division of Mental Health.
Division of Alcohol and Drugs.

PROBLEMS WITH CURRENT PROGRAMS AND FACILITIES

In reviewing the facilities and programs for special offenders, several possible problems were brought to the attention of the Task Force. In the material below, a summary of some of the major problems is provided.

- Women - Because of the small number of women sentenced to imprisonment, the range of treatment, vocational, educational and recreational programs available to women offenders is somewhat limited. The Women's Unit at the prison lacks space for necessary program and recreational activities. (See Section XI).

- Racial/Ethnic Minorities - No specialized programs exist at the prison which take into account the unique cultural and social backgrounds of these groups. Moreover, affirmative action plans for hiring more racial/ethnic minorities at all levels of the corrections system are either not fully developed or have failed to achieve satisfactory results. (See Table 7 below).

**TABLE 7
ETHNIC/RACIAL MINORITY
STAFF AND CLIENT COMPOSITION
(1978)**

Ethnic/Racial Minority Group	Prison		Adult Probation and Parole		Total State Population
	Prisoner Population	Staff	Client Population	Staff	
Women	4.0%	6.5%	10.9%	36%	50.6%
Minorities	31.2%	5.7%	13.8%	5%	6.5%
Hispanic	20.9%	2.4%	8.4%	2%	4.1%
Black	8.3%	1.5%	3.6%	3%	.6%
Indian	1.4%	.0%	1.3%	0%	1.1%
Other	.6%	1.8%	.5%	0%	.7%

Source: Bureau of Census, 1977.
State Personnel Office, 1978.
Division of Corrections, 1978.

- Mentally Retarded - No specialized programs or facilities currently exist for mentally retarded offenders at the prison. These offenders tend to be victimized by the general prison population because of their difficulties in adjusting to the demands of prison life.
- Mentally Disturbed - The Utah State Hospital is selective in decisions to accept mentally disturbed offenders and the prison cannot provide the full range of treatment required by some mentally disturbed offenders who are not accepted by the State Hospital.

TASK FORCE RECOMMENDATION

RECOMMENDATION 26 - IN THE DEVELOPMENT OF ITS PLAN FOR MEETING THE NEEDS OF SPECIAL OFFENDERS, THE DIVISION OF CORRECTIONS SHOULD CONSIDER:

- REMOVING, REBUILDING OR SIGNIFICANTLY IMPROVING THE WOMEN'S UNIT;
- STRENGTHENING AFFIRMATIVE ACTION PLANS;

- DEVELOPING SPECIAL FACILITIES OR UNITS AND PROGRAMS FOR MENTALLY RETARDED OFFENDERS;
- ESTABLISHING A SPECIAL UNIT OR FACILITY FOR YOUNG OFFENDERS; AND
- EXPANDING FACILITIES AND PROGRAMS AT THE STATE HOSPITAL AND THE PRISON FOR EMOTIONALLY DISTURBED OFFENDERS.

Supporting Rationale:

- Special offenders often have substantial difficulties in adjusting to prison life (or the requirements of probation), impeding the development of the skills necessary to function adequately in society. By recognizing and treating the special needs of these offenders, some of the underlying problems which led to criminal activity may be reduced or solved.
- The adjustment and behavioral problems of special offenders often interfere with operation of prison programs and impair progress by other offenders.
- The Division of Corrections has established a Special Offenders Task Force to develop a plan for improving special offender programs, and more specific direction from the Blue Ribbon Task Force is unnecessary.

SECTION XIII - ADULT PROBATION AND PAROLE

INTRODUCTION

For many years, Adult Probation and Parole (AP&P) has requested an increase in its manpower to meet the needs of expanding probation and parole population. In an effort to provide further justification for such a request and to improve management of service delivery, AP&P has recently developed performance standards for all of its major functions and has conducted a work load evaluation study to determine the manpower required to perform all AP&P functions in accordance with the standards.

In this section the major AP&P functions and corresponding performance standards are described, and the Task Force makes a recommendation endorsing the performance standards and establishes a general plan for increasing the manpower capacity of AP&P to the extent necessary to meet the standards.

MAJOR AP&P FUNCTIONS AND PROPOSED PERFORMANCE STANDARDS

Presentence Investigation Reports

Description of Function

Among the most important functions performed by Adult Probation and Parole is the preparation of presentence investigation reports. These reports, which contain detailed background information on the offense and the offender, are generally used for the following purposes:

- To assist the court in making sentencing decisions.
To assist probation agents in assessing the supervision and treatment needs of offenders placed on probation.
- To assist prison staff in the classification and treatment of offenders sentenced to imprisonment.
- To assist the Board of Pardons in making release decisions.
- To assist parole agents in assessing the supervision and treatment needs of offenders placed on parole.

While presentence investigation reports vary considerably in content, depending on the circumstances of the offense and the background of the offender, a complete report generally contains at least the following information:

- A description of the offense, including the official version from police reports and the offender's version from a personal interview. Additional statements from arresting officers, victims or witnesses may also be included.
- A summary of the offender's prior record.
- A description of the offender's educational background and employment experience, including present employment status or capabilities.
- A social history of the offender, including family relationships, marital status, personal interests and activities, residence history and religious affiliation.
- A medical history of the offender, including psychological and psychiatric reports where relevant.
- Information concerning special treatment resources which may be available to assist the offender.
- Other information which is considered to be relevant to sentencing or treatment decisions, including statements from collateral sources concerning the offender's character or concerning other possible criminal activities in which the offender may have been involved.
- A summary of the report, generally including a recommendation or alternative recommendations for sentencing.

In Utah, presentence investigation reports are prepared either by AP&P officers specializing in making such reports or by agents who also have a supervision caseload. Reports are provided for both felony and misdemeanor cases and are said by AP&P to average approximately 5-6 pages in length, with misdemeanor reports of somewhat shorter length. Under current Utah law, neither the offender nor his/her counsel have the right to inspect or review the contents of the report.

Proposed Performance Standards and Current Deficiencies

The Division of Corrections has recently established proposed "performance standards" for all of the major functions carried out by AP&P. These standards are an attempt to define the appropriate level of performance

and the specific steps considered necessary for officers to adequately discharge assigned duties. The performance standards established for presentence investigation reports are set out in Table 8. No distinction is made in the standards between reports prepared for District Courts and those prepared for lower courts.

While considerable emphasis is placed by AP&P on providing high quality presentence investigation reports to the courts, the Division of Corrections indicates that reports are generally not prepared in total conformance with the established standards. In many cases, officers are unable to personally interview the arresting officer, the prosecutor and the victim, and often rely primarily on the arrest report and other existing documents. Much of the background information contained in the reports is provided by the offender, and it is not always possible for the officer preparing the report to independently verify the information. Collateral contacts with the offender's family or persons in the community acquainted with the offender are often not made. In many cases, the availability of the specific treatment programs recommended for the offender is not verified prior to the sentencing hearing.

The level of conformance with the standards varies, of course, with the case and the individual officer, and the deficiencies described above do not exist in all reports. It is apparent, however, that existing resources do not permit full compliance with the performance standards.

Case Supervision

Description of Function

Case supervision includes the activities of agents in controlling or providing services to offenders on probation or parole. Control involves the monitoring of an offender's conduct in the community to promote public safety by motivating appropriate behavior and by assuring compliance with the conditions of probation or parole and the requirements of law. Services provided by AP&P officers include individual counseling, assistance in locating employment opportunities and, where needs have been identified, referral to appropriate agencies in the community to assist offenders in developing the vocational, education and social skills necessary to function adequately in society.

The amount of case supervision necessary in an individual case depends, of course, on the circumstances of the offender. To assist in the allocation of supervision resources, the Division of Corrections has recently adopted a statewide system for classifying offenders placed on

TABLE 8
PERFORMANCE STANDARDS FOR
PRESENTENCE INVESTIGATION REPORTS

1. Obtain available data from court, county attorney, and arresting agency.
2. Conduct a personal interview with arresting officer(s). Ask for any recommendation he (they) may want to make.
3. Conduct a personal interview with the victim(s). Obtain written statements regarding restitution (if any).
4. Conduct personal interviews with defendant, (minimum of one office interview and one visit to his place of residence). Additional contacts with defendant should be scheduled as often as necessary to obtain all pertinent information, and insights necessary to make an evaluation regarding attitude and the appropriateness of probation.
5. Make prior records check; UBCI, Drivers License Division, local law enforcement agencies, other states, F.B.I., etc., as warranted. Obtain verified information regarding dispositions of all prior arrests. If necessary, write to arresting agency or court of jurisdiction. If verified dispositions cannot be obtained, report what the defendant states regarding the dispositions. When using information reported by the defendant, so indicate. Verify any additional arrests reported by defendant that do not appear on the arrest record.
6. Send letters for collateral information, i.e. schools, military, prior treatment, family, etc.
7. Make a minimum of two personal collateral contacts for relevant information (at least one collateral with a family member).
8. Evaluate client's needs. Consider what type of treatment program should be developed. If a specific program (i.e. state hospital, ARC, drug treatment, halfway house) is anticipated, follow through with a referral so a determination regarding acceptance to the program has been made prior to sentencing. When appropriate, make arrangements for a psychological evaluation.
9. Dictate report.
10. Proofread report carefully for content and grammatical corrections.
11. Staff case and make recommendation.
12. Deliver report to judge and prosecuting attorney.
13. Review report with judge.
14. Review report with prosecuting attorney.
15. Be present in court for sentencing.
16. Record action taken by court in file.

Source: "Workload Evaluation Task Force Report", Division of Corrections, May, 1978.

probation and parole. General criteria have been developed for use in determining the level of supervision required for each offender. (See Appendix W). Offenders are divided into maximum, medium and minimum risk categories through an evaluation of the record and circumstances of each offender in accordance with the general criteria. The level of supervision provided each category increases with the degree of risk. Table 9 shows the number and percent of offenders in each classification category in April, 1978.

**TABLE 9
CLASSIFICATION OF PAROLEES AND PROBATIONERS
IN UTAH (APRIL, 1978)**

Classification	Number	Percentage of Total
Maximum	1530	26.3
Medium	2235	38.5
Minimum	2043	35.2
Total	5808	100.0

Source: *Workload Evaluation Task Force Report*,
Division of Corrections, 1978.

Proposed Performance Standards and Current Deficiencies

The performance standards for case supervision are set out in Table 10. The amount of supervision and service differs according to the assigned classification level. While maximum supervision involves two or more contacts of the probationer or parolee by one AP&P officer, minimum supervision requires no direct contact.

Current supervision efforts are reported by the Division of Corrections to fall considerably below the established standards. Manpower shortages are said to place many officers in a reactive role, responding to existing problems rather than identifying potential problems or increased risk situations. Personal contacts with offenders either at the probation/parole office or the offender's home are irregular and are often made primarily in response to serious problems reported to the officer. While verification of restitution or fine payments is said to be adequate, checks on employment status and treatment progress are not always made monthly as required by the standards for maximum and medium supervision.

TABLE 10
PERFORMANCE STANDARDS FOR OFFENDER SUPERVISION

I. Maximum Supervision Standards

- A. Client to report to probation/parole office for personal interview minimum of once per month; more often as directed
- B. Police records check
- C. Dictation in file monthly
- D. Formulate/evaluate supervision plan
- E. Monthly verification of objectives
 - 1. Employment or school
 - 2. Treatment program
 - 3. Restitution or fine
- F. One visit per month to client's residence or place of employment
- G. Collateral contacts as needed

II. Medium Supervision Standards

- A. Client to report in person at probation/parole office monthly
- B. Police records check
- C. Dictation in file bimonthly
- D. Formulate/evaluate supervision plan
- E. Verify objectives as needed
 - 1. Employment or school
 - 2. Treatment program
 - 3. Restitution or fine

III. Minimum Supervision

- A. Police records check daily
- B. Client to mail report to office monthly

Source: Division of Corrections

Other Functions

Description

AP&P personnel also perform other functions in addition to the major functions described above. In cases where offenders are committed to the Division of Corrections for 90-day diagnosis, a detailed report is prepared to assist the judge in final sentencing. AP&P also conducts pre-parole investigations to facilitate the parole release process and conducts interstate compact and other special investigations. In cases involving serious probation or parole violations, AP&P provides documents and information to assist the court or Board of Pardons in review of the case. It is estimated that performance of these responsibilities constitutes approximately 10% of total agency time.

Performance Standards

Performance standards for the functions described above have been established by the Division of Corrections and are available from the Division upon request.

ASSESSMENT OF MANPOWER NEEDED TO MEET PERFORMANCE STANDARDS

Work Load Evaluation Study

Adult Probation and Parole, like agencies in many other jurisdictions, has traditionally used a unit count method to measure and assess a probation and parole officer's work load. Under this method, the major activities of an officer are given a "unit count" in accordance with the following schedule:

- 5 Units - District Court Presentence Investigation and 90-Day Diagnostic Reports
- 3 Units - Lower Court Presentence Investigation Reports
- 3 Units - Interstate Compact Investigation Reports
- 1 Unit - Each Offender Supervised

The average work unit count per officer under this method has reached as high as 140, but in recent years has ranged between 80-100. The Division of Corrections has long sought to reduce the work load unit count to 35-50, which is the national standard, but has failed to obtain from the Legislature the funding to hire additional officers to meet the standard.

This traditional unit count method of determining work load has been much criticized because of an inability to demonstrate a direct relationship between the unit count assigned a particular activity and the actual time required to perform the activity. In response to these criticisms, the Division of Corrections has proposed a new method for assessing officer work load. A work load evaluation study was conducted in an attempt to establish the time necessary to complete major AP&P functions in accordance with the performance standards described above. A sample of agents was requested to perform all functions in accordance with the standards for one month, and the times required to carry out the activities were recorded. A summary of the results is provided in Table 11.

**TABLE 11
ESTIMATED TIMES REQUIRED TO PERFORM
AP&P FUNCTIONS IN ACCORDANCE
WITH STANDARDS**

Activity	Average Time Necessary To Perform Activity (Hours)
Supervision (Monthly)	
Maximum	5.50
Medium	2.75
Minimum	1.00
Administrative	.25
Major Investigations	
Pre-Sentence	16.50
90-Day Diagnostic	24.50
Other Assigned Activities	
Post-Sentence Investigations	2.80
Interstate Compact Investigations	2.30
Special Investigations	3.30
Pre-Parole Investigations	2.70
Probation Violation Procedure	5.10
Parole Violation Procedure	24.50

Source: Division of Corrections, August 1978.

A probation and parole officer has 146 hours per month available to perform his/her responsibilities. Therefore, the work load level for an officer performing duties in accordance with the established standards can be estimated. The Division of Corrections applied these time estimates to the entire AP&P caseload for the month of April, 1978, in an effort to determine total AP&P manpower requirements for performance of all functions in conformance with the established standards. (See Appendix X).

In an attempt to help limit the costs of meeting the standards, the Division of Corrections has proposed that some tasks traditionally assigned to probation and parole officers be performed by clerks (e.g., police records checks, verification

of employment, participation in treatment programs, payment of fines or restitution, etc.). As is shown in Table 12, substantial additional manpower would be needed if AP&P were to perform all functions in conformance with the standards.

TABLE 12
ESTIMATED MANPOWER NEEDED TO MEET STANDARDS
(APRIL, 1978)

Man Hours to Meet Standard (See Appendix X)	28,850
Man Hours Currently Available (97 Officers x 146 Hours)	14,162
Additional Man Hours Needed to Meet Standards (28,850 - 14,162)	14,688
Additional Manpower Needed to Meet Standards	61 Officers 40 Clerks 17 Supervisors 20 Secretaries
Estimated Cost of Additional Manpower (Personnel, Travel, Space and Equipment)	\$2,301,342

Source: Division of Corrections, August, 1978.

TASK FORCE RECOMMENDATIONS

RECOMMENDATION 27 - THE PROPOSED AP&P PERFORMANCE STANDARDS SHOULD BE ENDORSED AS CONSTITUTING AN ADEQUATE LEVEL OF SERVICES TO THE COURTS AND THE BOARD OF PARDONS AND AN APPROPRIATE LEVEL OF SUPERVISION FOR PROBATIONERS AND PAROLEES.

NOTE: See Tables 8 and 10 for Performance Standards.

Supporting Rationale:

- Completion of presentence investigation reports in conformance with the standards may help assure that more complete and reliable information is available to the courts for making sentencing decisions.
- Supervision of offenders in accordance with the standards may help assure greater public safety by identifying problems and risks earlier and by encouraging more consistent compliance with probation/parole conditions. With current resources, probation often constitutes little more than an admonishment or a warning that future conduct may result in imprisonment.
- Increased levels of supervision may encourage judges to place on probation offenders who are currently

sentenced to imprisonment, thereby creating substantial cost savings in many cases.*

- Although not clearly delineated in the performance standards, increased manpower may enable officers to allocate more time as a "broker" of services for offenders. Increased personal contact with offenders may facilitate a greater officer awareness of offender needs, and a reduced work load will permit more opportunity for the officer to locate appropriate treatment programs or other community services available to the offender.

RECOMMENDATION 28 - AP&P MANPOWER SHOULD BE INCREASED TO THE EXTENT NECESSARY TO MEET PERFORMANCE STANDARDS OVER AT LEAST A THREE YEAR PERIOD. ADDITIONAL STANDARDS TO MEASURE EFFECTIVENESS OF REDUCED CASELOADS ON PROBATIONER AND PAROLEE PERFORMANCE SHOULD BE ESTABLISHED. USE OF NON-PROFESSIONAL STAFF TO PERFORM CLERICAL FUNCTIONS SHOULD BE ENCOURAGED TO THE MAXIMUM EXTENT FEASIBLE.

Supporting Rationale:

- The costs of increased manpower are high, and immediate compliance with the standards would place too great a burden on the state's budget.
- By establishing standards for measuring effectiveness of reduced manpower on probationers and parolees and by phasing in increased manpower, the effectiveness of reduced work load can be monitored and evaluated, and the manpower expansion discontinued if substantial impact on parolees and probationers is not demonstrated.
- Many of the tasks required by the performance standards are essentially clerical. To help control costs of implementing the standards, use of non-professional staff is strongly recommended where feasible.

*Current comparative costs: Prison cost/day - \$29.00
Probation cost/day - \$1.50

SECTION XIV - BOARD OF PARDONS

INTRODUCTION

The increase in the work load of the Board of Pardons has caused some strain on the operation of the Board in recent years. In this section, the current organization and operation of the Board of Pardons are briefly reviewed, and the Task Force makes recommendations to help the Board of Pardons operate more effectively.

CURRENT ORGANIZATION AND OPERATIONS

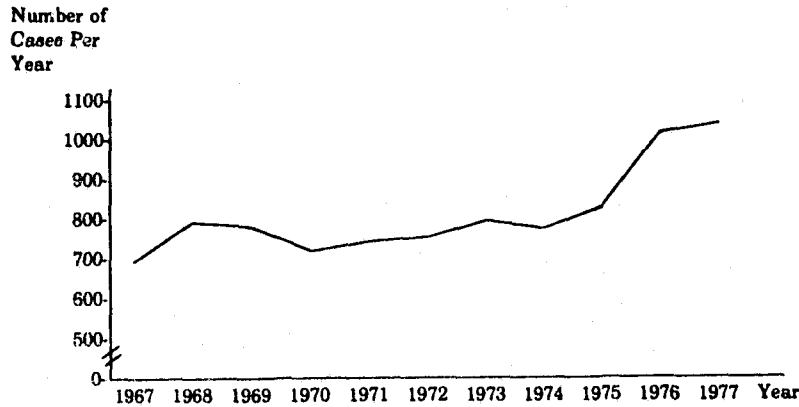
Parole authority in Utah is vested in the Board of Pardons. When Utah adopted an indeterminate sentencing process, the State Supreme Court determined that the authority to grant early release under the new law was within the exclusive jurisdiction of the Board of Pardons pursuant to its power to commute punishments or grant pardons, and could not be exercised by any other body (such as a parole board). The court has interpreted the state constitution to limit the legislative authority over the Board of Pardons to defining the Board's composition and to providing rules for the manner of applying for pardons.

The Board of Pardons consists of three part-time citizen members appointed by the Board of Corrections for four year terms. The chairperson of the Board is elected by the other members, and all receive a \$25 per diem for Board meetings. The Board of Corrections has also appointed an "alternate" member to sit with the Board of Pardons in the absence of a regular member, although there is no clear statutory authority for this practice.

The Board is served by an executive secretary, a hearing officer (for preliminary hearings in cases of parole revocation), and three clerical workers. The staff conducts investigations and prepares background materials for the Board's consideration in its parole decisions.

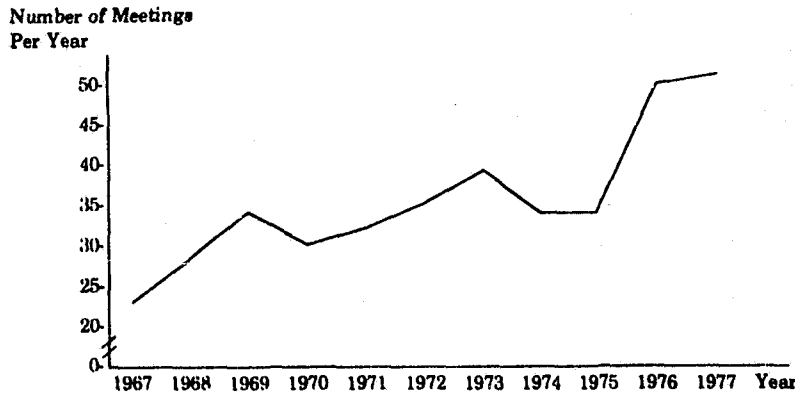
As is illustrated in Figures 9 and 10, the work load of the Board of Pardons has grown substantially in recent years. This growth has necessitated an increased number of Board meetings (the Board currently meets at least weekly) and a greater utilization of the alternate member (the alternate served on 14 occasions in FY 1977-78).

**FIGURE 9
CASES CONSIDERED BY
UTAH BOARD OF PARDONS
1967-1977**



Source: Division of Corrections.

**FIGURE 10
FREQUENCY OF MEETINGS OF
UTAH BOARD OF PARDONS
1967-1977**



Source: Division of Corrections.

Current work load levels require the Board and its staff to devote almost all energies to the individual case by case consideration of decisions to award, deny or revoke parole. The Board and staff have generally been unable to engage in substantial policy and planning efforts or to regularly coordinate the Board's activities with other organizations within the criminal justice system. Accordingly, the Utah Board of Pardons fails to fully comply with some of the standards for adult parole authorities established by the American Corrections Association, including the following:

- The parole authority has a written set of long-range goals and policies which are developed continuously and reviewed annually; these goals and policies are developed alone or jointly with the agency of which the authority is a part, and in the formulation of which all members of the authority participate; the authority can document

the existence of practical and specific plans to move toward the realization of these long-range goals and policies.

- The parole authority participates directly, or through the agency of which it is a part, in federal, state and regional criminal justice planning efforts, and there is written documentation of this participation.
- Members of the parole authority meet at least annually with representatives of relevant criminal justice agencies--police, prosecution, courts--to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans.
- The criteria which are employed by the parole authority in its decision-making are available in written form and are specific enough to permit consistent application to individual cases.*

TASK FORCE RECOMMENDATIONS

RECOMMENDATION 29 - THE STAFF OF THE BOARD OF PARDONS SHOULD BE EXPANDED TO INCLUDE ONE ADDITIONAL PROFESSIONAL STAFF MEMBER.

Supporting Rationale:

- The executive secretary must currently prepare background materials for the Board for over 20 cases per week. An additional professional staff member would permit the development of more thorough and complete information for the Board.
- An additional professional staff member would allow the executive secretary to develop more long-range policy and planning material for the Board's consideration. A strong professional staff is vital to functioning of a part-time Board and provides the correctional expertise necessary for informed decision-making.

RECOMMENDATION 30 - MEMBERSHIP OF THE BOARD OF PARDONS SHOULD BE EXPANDED TO FIVE (5) REGULAR PART-TIME MEMBERS, AND THE USE OF ALTERNATES SHOULD BE DISCONTINUED.

NOTE: For draft legislation see Part Five.

Supporting Rationale:

- The frequency of Board meetings means that regular members, who as part-time volunteers have other

*Criteria are currently being adopted by the Board in response to Task Force Recommendation 22.

responsibilities, cannot attend all meetings and an alternate member often sits with the Board. Continued use of alternates without clear statutory authority may subject Board decisions to legal challenge.

- Even if use of an alternate member were given authorization by statute, the alternate member would have second class status and, because of the limited participation inherent in the role, may be unable to provide necessary continuity in Board decisions.
- This approach gives all members equal status. The increased size of the Board will prevent occasional absences by members from impairing Board performance, and full participation by all members will allow broader representation on the Board and will help assure continuity and consistency of Board decisions.
- The lay status of Board members helps assure consideration of the values and perspectives of the entire community in the sensitive decisions made by the Board. Full-time members are likely to be drawn from or to become a part of the "corrections" community, which may discourage diversity and innovation. Necessary "correctional" expertise for Board decisions can be provided by professional staff.
- Comparison of the work load level of the Utah Board of Pardons with parole authorities in other jurisdictions reveals that most states with similar work loads have part-time parole authorities (see Appendices Y and Z.), and it may be difficult to justify the increased costs of a full-time Board. Moreover, the time required for Board decisions may be reduced with the implementation of parole guidelines and criteria.

PART THREE
ORGANIZATIONAL ISSUES

SECTION XV - REORGANIZATION OF CORRECTIONS

INTRODUCTION

In establishing the Blue Ribbon Task Force on Criminal Justice, the Legislature specifically directed that the Task Force consider issues concerning the organization of the criminal justice system and the possible establishment of an independent department with responsibility for all "correctional" facilities and programs in Utah. In this section consolidation of the juvenile system, unification of the juvenile and adult systems and establishment of a Department of Corrections are discussed, and the Task Force makes recommendations concerning these issues.

CURRENT ORGANIZATION

The organization of state correctional services is displayed in Table 13 below. Juvenile services are divided between the Juvenile Court and the Division of Family Services (DFS). The Juvenile Court, through its Court Administrator, operates intake and probation programs for juveniles. (See Appendix AA for an organization chart). Approximately 90% of all juveniles referred to the juvenile court for delinquency matters are handled solely by intake or probation programs.

DFS, a division of the Department of Social Services, administers programs and services for delinquent juveniles and for abused or neglected juveniles who have been removed from parental custody. These programs and services include foster care, group homes, community based alternatives, Youth Development Center and after-care/parole. Except for the YDC and aftercare/parole,

**TABLE 13
CURRENT ORGANIZATION OF
CORRECTIONAL SERVICES IN UTAH**

Services	Juvenile Court	Department of Social Services	
		Division of Family Services	Division of Corrections
JUVENILE SERVICES			
Intake	X		
Probation	X		
Out of Home Placement*		X	
Youth Development Center		X	
Aftercare/Parole		X	
ADULT SERVICES			
Probation			X
Prison			X
Community Based Facilities			X
Parole			X

*"Out of Home Placement" includes foster care, group homes, ranches and community based alternatives.

most of these programs and services are provided under contract by private providers or local public agencies licensed by DFS. To provide greater visibility and identity for these programs and services, DFS recently reorganized its internal structure to create a Youth Services Section. This unit is responsible for all programs for delinquent and abused or neglected youth. (See Appendix BB).

All adult correctional services, except jail services which are a local responsibility, are provided by the Division of Corrections, a division of the Department of Social Services. The Department of Social Services has recently reorganized, removing the Division of Corrections and the Division of Health from the authority of the Deputy Director for Personal Social Services and making Corrections and Health directly responsible to the Executive Director. (See Appendices CC and DD).

PROBLEMS WITH EXISTING ORGANIZATIONAL STRUCTURE

In reviewing the current organizational structure, several possible problems were reported to the Task Force, ranging from specific concerns as to possible duplication of services or programs to general and more subjective issues regarding the philosophy which ought to guide the operation of the criminal justice system. A summary of these problems is provided below.

- The separation of intake and probation services (located in the Juvenile Court) from services and programs for delinquent juveniles removed from parental custody (located in DFS) creates a fragmented juvenile corrections system, resulting in the following:
 - The possible development of divergent or inconsistent philosophies for juvenile corrections;
 - A lack of communication between Juvenile Court staff and DFS staff, causing misunderstanding and misapprehension concerning policies and programs and limiting cooperation, coordination and the interchange of ideas and expertise;
 - Duplication of administrative services and training programs for Juvenile Court intake and probation workers and for DFS caseworkers and aftercare/parole workers; and
 - The development of separate and uncoordinated data systems.

- It is contended by some observers that programs for delinquent youth under the control of DFS fail to take into sufficient account the need to protect the public. When custody of a delinquent juvenile is vested in DFS for placement in foster care, a group home, a community-based alternative or the YDC, the juvenile has generally failed to respond to probation efforts and is in many cases a chronic or serious offender. (See Appendices D and EE for a profile of some offenders in DFS custody). The lack of security and high AWOL rate at the YDC (see Appendix FF) are cited as an example of the failure or inability of DFS to recognize its "correctional" responsibilities and the need, in many cases, to place primary emphasis on the maintenance of public safety through more intensive control and supervision of the offender.
- The separation of juvenile and adult corrections services creates a fragmented corrections system which results in the following:
 - Lack of communication between the adult and juvenile systems, causing misunderstanding and misapprehension and limiting cooperation, coordination and the interchange of ideas and expertise;
 - The possible duplication of administrative services, training programs and corrections programs for some services (such as probation) common to both the adult and juvenile systems;
 - The reinforcement of the use of arbitrary age categories as the predominant factor in determining the type and range of services available to an offender, and the concomitant discouragement of the development of specialized programs and facilities for older "juvenile" and younger "adult" offenders; and
 - The establishment of separate and uncoordinated data systems.
- The inclusion of adult corrections services within the Department of Social Services causes a lack of identity and role confusion (rehabilitation vs. community protection) for correctional workers, fails to give adequate recognition to corrections' community protection functions and gives corrections a tarnished image in the law enforcement community. Location within the Department of Social Services is also said to limit public accountability, restrict access to the Governor and Legislature and require Corrections to compete directly with social services programs for funding.

CONSOLIDATION AND/OR UNIFICATION OF THE CORRECTIONS SYSTEM

Introduction

In this subsection the consolidation of corrections services and programs for delinquent juveniles and the unification of juvenile and adult corrections services and programs are considered. The general advantages and disadvantages of consolidation and unification are discussed, including some analysis of the impact of such reorganization on the problems outlined above. Several alternative approaches to consolidation/unification considered by the Task Force are examined, and the Task Force makes a recommendation concerning the issue.

Consolidation of Juvenile Corrections

Description of Consolidation

Consolidation of juvenile corrections services and programs involves removing intake and probation services from the Juvenile Court and combining these services with the services and programs currently operated by DFS for juveniles removed from parental custody (foster care, group homes, community based alternatives, YDC and aftercare/parole). The consolidated services could be located in a newly created division of the Department of Social Services, in a section within the Division of Corrections or in a division of a newly established Department of Corrections. (See Options 1-5 below on pages 117-22). The adjudicatory functions of the Juvenile Court would not be directly affected, and the Court would remain in the judicial branch as currently organized or possibly as a newly created Family Court Division of the District Court.

General Advantages of Consolidation

- Consolidation will eliminate the fragmentation of the juvenile corrections system and help assure a uniform and coherent philosophy at all levels of the system. With the entire continuum of juvenile correctional services under a single administrative authority, the movement of offenders from one level of the system to another would be facilitated.
- Potential cost savings exist for consolidation. Administration and training programs for intake and probation workers could be combined with those for workers providing similar services and supervision for offenders removed from parental custody. Use of probation workers for aftercare/parole supervision and other services for delinquent juveniles removed from parental custody may even result in a more efficient resource allocation, providing further possible cost savings.

- Placement of largely executive functions (such as probation supervision) in the Juvenile Court violates the doctrine of separation of powers. If probation policies or programs were challenged in court, the Juvenile Court would be required to rule on matters for which it has administrative responsibility.
- Court administrators are appointed by Juvenile Court judges and, although administration of probation is within the direct responsibility of the administrator, the judges may, nevertheless, tend to interfere in administrative matters for which they have no training.

General Disadvantages of Consolidation

- Placement of intake and probation services in the Juvenile Court gives the Court greater assurance of satisfactory performance. Workers tend to be more responsive to Court direction and guidance, and the Court has a better awareness of resource availability or limitation.
- The Utah Juvenile Court system has received national recognition for the quality of services it provides. Any change in organization may adversely affect this portion of the system which is already working well.
- It is inappropriate to rely on general statements of "potential" costs savings. If cost factors are to be relied upon to any substantial extent in a decision to consolidate, more specific data is necessary.
- If control of probation workers is removed from the Juvenile Court, the Court may not be as willing to keep offenders on probation, possibly resulting in earlier placement of some offenders in more expensive foster care, group home or community based alternative programs, increasing costs to the system.
- Consolidation will not necessarily solve the problems of uncoordinated data systems since the court is likely to retain its own data system regardless of consolidation.

Unification of Juvenile and Adult Corrections

Description of Unification

Unification of juvenile and adult corrections involves combining some or all of the corrections services and programs now located in the Juvenile Court, DFS and Division of Corrections into a single administrative organization. The unified services and programs could be located in a reorganized Division of Corrections within the Department of Social Services or in a newly established Department of Corrections. (See Options 1-5 below). Organization of the new division or department could include separate sections for juvenile and adult services and programs, and unification does not necessarily involve commingling of juveniles and adults in service delivery. The adjudicatory functions of the Juvenile Court would not be directly affected and the Court would remain in the judicial branch as currently organized or possibly as a newly created Family Court Division of the District Court.

General Advantages of Unification

- Combining the juvenile and adult systems will promote the interchange of ideas and expertise which will be beneficial to both systems, and will facilitate the development of a more uniform philosophy which recognizes the unique needs of each and common characteristics of both systems.
- Placing the YDC in an organization also responsible for the operation of the prison will assure the direction and expertise necessary to make the YDC more secure.
- Unification of juvenile and adult corrections may facilitate the development of special programs or facilities for older juvenile and younger adult offenders for whom adequate programs do not currently exist in either system.
- Potential costs savings exist for unification. Training programs for common services (such probation/parole or facility security operations) could be combined. In rural areas, probation/parole workers could handle mixed caseloads, or specialized juvenile and adult probation/parole workers with separate caseloads could work out of the same office, sharing overhead and transportation expenses.

- A unified corrections administration can promote development of more coordinated juvenile and adult data systems which will facilitate the evaluation and treatment of adult offenders with prior contact with the juvenile system.
- In 1973, the National Advisory Commission on Criminal Justice Standards and Goals adopted a standard endorsing a unified corrections system (Corrections; Standard 16.4).

General Disadvantages of Unification

- Proposals to unify juvenile and adult corrections fail to recognize the fundamental differences in philosophy governing the two systems. The capacity of juvenile offenders to change with maturity necessitates greater emphasis in the juvenile system on the developmental needs of the offender, and the importance of the family and community in achieving normal development of juvenile offenders requires increased dependence on community based programs. Combining juvenile and adult corrections, even as separate sections within a division or department, may blur important distinctions in the treatment methods for juvenile and adult offenders.
- The juvenile corrections system has been relatively successful in obtaining funding for juvenile programs. Combining these programs with programs for adults, which have historically had less success, may impair the ability of the juvenile component of unified system to maintain or expand current levels of funding.
- It is inappropriate to rely on general statements of "potential" cost savings. If cost factors are to be relied upon to any substantial extent in the decision to unify, more specific data is necessary.
- If unification includes location of services for delinquent juveniles removed from parental custody (foster care, group homes, etc.) in a new division or department, DFS will, nevertheless, still administer similar foster care and group home programs for abused and neglected juveniles. Accordingly, unification may result in unnecessary duplication and increased costs.

- Most of the advantages and cost savings cited above can be achieved now by closer coordination and cooperation by all segments of the system. DFS and the Division of Corrections are already "unified" to some extent by their placement within the Department of Social Services and both divisions could benefit from greater participation in the Department's own collocation and unification efforts. The disruption and political turmoil inherent in any unification effort should be avoided and problems remedied to the extent possible within the context of the existing organizational structure.
- In 1976, the National Advisory Committee on Criminal Justice Standards and Goals adopted a standard endorsing separate juvenile and adult systems (Juvenile Justice and Delinquency Prevention; Standard 19.2). A survey of organizational structure in the U.S. reveals that most states have either separate juvenile and adult systems or have located both systems within a human resources umbrella agency similar to Utah's Department of Social Services. (See Appendix GG).

Alternatives Considered by the Task Force

In the material which follows, the options presented to the Task Force for its consideration of the consolidation/unification issue are provided. Other options are obviously possible and may have been considered by individual Task Force members.

OPTION 1 - PARTIAL CONSOLIDATION AND PARTIAL UNIFICATION (1977 Initial Recommendation of Task Force)

Services	Juvenile Court	Division of Family Services	Department (or Division) of Corrections
JUVENILE SERVICES			
Intake			X
Probation			X
Out of Home Placement*		X	
Youth Development Center			X
Aftercare/Parole			X
ADULT SERVICES			
Probation			X
Prison			X
Community Based Facilities			X
Parole			X

*"Out of Home Placement" includes foster care, group homes, ranches and community based alternatives.

Advantages:

- Location of the YDC and aftercare/parole within the Division (or Department) of Corrections will help assure that the need to protect the public will be taken into sufficient account in the treatment of the dangerous or chronic juvenile offenders committed to the YDC.
- The separation of institutionalized care from the agency (DFS) responsible for community based programs may create a positive incentive for DFS to keep offenders in community based programs since transfer to the YDC would affect its funding levels.

Disadvantages:

- This approach will require that the Division (or Department) of Corrections develop aftercare programs and facilities (group homes and community based alternatives) for juvenile offenders virtually identical to those provided by DFS in its continuum of programs prior to institutionalization. If Corrections elects to rely on existing DFS programs, an incentive may be created for Corrections to keep offenders at the YDC (to maintain funding levels), thereby slowing the movement of offenders back into the community.
- See also general disadvantages of consolidation and unification discussed above.

OPTION 2 - NO CONSOLIDATION AND PARTIAL UNIFICATION
 (Position of Board of Juvenile Court Judges)

Services	Juvenile Court	Division of Family Services	Division (or Department) of Corrections
JUVENILE SERVICES			
Intake	X		
Probation	X		
Out of Home Placement*		X	
Youth Development Center			X
Aftercare/Parole			X
ADULT SERVICES			
Probation			X
Prison			X
Community Based Facilities			X
Parole			X

*"Out of Home Placement" includes foster care, group homes, ranches and community based alternatives.

Advantages:

- Location of the YDC and aftercare/parole within the Division (or Department) of Corrections will help assure that the need to protect the public will be taken into sufficient account in the treatment of the dangerous or chronic juvenile offenders committed to the YDC.
- The separation of institutionalized care from the agency (DFS) responsible for community based programs will create a positive incentive for DFS to keep offenders in community based programs since transfer to the YDC will affect funding levels for DFS.
- This approach does not involve removal of intake and probation services from the Juvenile Court -- see general discussion of disadvantages of consolidation.

Disadvantages:

- This approach will require that the Division (or Department) of Corrections develop aftercare programs and facilities (group homes and community based alternatives) for juvenile offenders virtually identical to those provided by DFS in its continuum of programs prior to institutionalization. If Corrections elects to rely on existing DFS programs, an incentive may be created for Corrections to keep offenders at the YDC (to maintain funding levels), thereby slowing the movement of offenders back into the community.
- This approach will further fragment the juvenile corrections system, spreading responsibility for services across three different agencies and impairing the free movement of offenders within the continuum of juvenile corrections services.

OPTION 3 - NO CONSOLIDATION AND PARTIAL UNIFICATION

Services	Juvenile Court	Division of Family Services	Division (or Department) of Corrections
JUVENILE SERVICES			
Intake	X		
Probation	X		
Out of Home Placement*			X
Youth Development Center			X
Aftercare/Parole			X
ADULT SERVICES			
Probation			X
Prison			X
Community Based Facilities			X
Parole			X

*"Out of Home Placement" includes foster care, group homes, ranches and community based alternatives.

Advantages:

- This approach would place all delinquent juvenile offenders removed from parental custody within the responsibility of a juvenile section of a partially unified corrections system, avoiding the funding incentive problems of Option 2. Most of these juvenile offenders have failed on probation and many are chronic or serious offenders, and a unified corrections system can better assure that treatment programs place sufficient emphasis on community protection. (See general advantages of unification).

Disadvantages:

- If out of home placement programs for delinquent juveniles are removed from DFS, similar programs would be continued by DFS for abused and neglected juveniles, thus creating costly duplication of administrative services.
- Many "delinquent" juveniles are removed from parental custody less due to the seriousness of the offense committed by the juvenile than due to concern over problems in the family environment of the juvenile. This option may, therefore, result in placing juveniles who are neither chronic or serious offenders under the control of a "corrections" agency, causing stigmatization and restricting the normal development of the child.

OPTION 4 - FULL CONSOLIDATION AND FULL UNIFICATION

Services	Juvenile Court	Division of Family Services	Division (or Department) of Corrections
JUVENILE SERVICES			
Intake			X
Probation			X
Out of Home Placement*			X
Youth Development Center			X
Aftercare/Parole			X
ADULT SERVICES			
Probation			X
Prison			X
Community Based Facilities			X
Parole			X

*"Out of Home Placement" includes foster care, group homes, ranches and community based alternatives.

Advantages:

- See general advantages of consolidation and unification discussed above.

Disadvantages:

- See general disadvantages of consolidation and unification discussed above.
- Many "delinquent" juveniles are removed from parental custody less due to the seriousness of the offense committed by the juvenile than due to concern over problems in the family environment of the juvenile. This option may, therefore, result in placing juveniles who are neither chronic or serious offenders under the control of a "corrections" agency, causing stigmatization and restricting the normal development of the child.

OPTION 5 - FULL CONSOLIDATION AND NO UNIFICATION
 (Establish a new division of Department of Social Services)

Services	Juvenile Court	Division of Family Services	Division of Delinquent Juvenile Services	Division (or Department) of Corrections
JUVENILE SERVICES				
Intake			X	
Probation			X	
Out of Home Placement*			X	
Youth Development Center			X	
Aftercare/Parole			X	
ADULT SERVICES				
Probation				X
Prison				X
Community Based Facilities				X
Parole				X

*"Out of Home Placement" includes foster care, group homes, ranches and community based alternatives.

NOTE: A possible variation of this option is to leave intake with the Juvenile Court and to place the other juvenile services in the new division.

Advantages:

- See general advantages of consolidation and general disadvantages of unification discussed above.
- DFS, as currently organized, must provide a broad range of services to numerous different special populations (see Appendix BB). A separate division of the Department of Social Services concentrating its efforts solely on services and programs for delinquent youth may provide more professionalism and innovation in the delivery of "correctional" services for juveniles.

Disadvantages:

- See general disadvantages of consolidation and general advantages of unification discussed above.
- If out of home placement programs for delinquent juveniles are removed from DFS, similar programs would be continued by DFS for abused and neglected juveniles, thus creating costly duplication of administrative services.

OPTION 6 - RETAIN PRESENT SYSTEM - ESTABLISH A JUVENILE
CORRECTIONS COORDINATING COUNCIL

NOTE: A Juvenile Corrections Coordinating Council would be established with representatives from all segments of the Juvenile Justice System and from the Division of Corrections.

The purposes of the Coordinating Council would include:

- Identification of problems in the juvenile corrections system;
- Recommendation of solutions to problems identified;
- Coordination of the development and operation of services and programs within the juvenile corrections system and between the juvenile and adult systems; and
- Promotion of the interchange of ideas and expertise within the juvenile corrections system and between the juvenile and adult systems.

If within 12 months, no progress has been achieved in remedying any problems in the system, the Council would make a recommendation to the Legislature concerning consolidation and/or unification.

Advantages:

- This approach has the potential to solve most of the problems with the existing system cited above in these materials and does not involve the disruption and political turmoil inherent in reorganization.
- Although final resolution of the organization issue will be delayed, this option places a specific 12 month timeframe on a decision which will permit development of a more specific cost impact analysis and will afford the recently reorganized DFS and newly appointed YDC director an opportunity to demonstrate an ability to solve the problems discussed above.

Disadvantages:

- Coordinating councils are notoriously ineffective in solving difficult problems and this one has little promise for success.
- If the Blue Ribbon Task Force cannot decide on the appropriate organizational structure for the corrections system in Utah, the matter should be referred to the Governor's Committee on Executive Reorganization. Only one member of the Task Force directly represents the juvenile corrections system, and any action on consolidation or unification may lack credibility.

Task Force Recommendations

RECOMMENDATION 31 - RESPONSIBILITY FOR THE YOUTH DEVELOPMENT CENTER AND FOR AFTERCARE/PAROLE PROGRAMS FOR JUVENILES RELEASED FROM THE FACILITY SHOULD BE TRANSFERRED FROM THE DIVISION OF FAMILY SERVICES TO THE DIVISION (OR DEPARTMENT) OF CORRECTIONS.

NOTE: For draft legislation, see Part Five of this report.

Supporting Rationale:

- See discussion of Option 2 above.
- The historic lack of security and correctional expertise at the YDC is a matter of paramount concern to the Utah criminal justice system. For years YDC and DFS administrators have promised remedial action for development of correctionally oriented programs at the YDC to assure the safety of the public and juveniles committed to the institution. Those programs have consistently failed to be adequately implemented, and the system can no longer tolerate inaction.
- Duplication of programs and services between Corrections administered YDC aftercare/parole programs and DFS administered community based alternatives present potential problems, but these problems can be largely obviated by careful planning and coordination between Corrections and DFS.

RECOMMENDATION 32 - AGENCIES AND ORGANIZATIONS PROVIDING SERVICES IN THE JUVENILE JUSTICE SYSTEM SHOULD DEVELOP A MECHANISM TO ACHIEVE GREATER COORDINATION OF POLICIES AND PROGRAMS.

Supporting Rationale:

- The fragmentation of the juvenile justice system as currently organized has resulted, to some extent, in development of divergent philosophies and a lack of communication between the Juvenile Court and Division of Family Services. This situation may be exacerbated by the implementation of Recommendation 31 which creates an additional entity responsible for juvenile justice matters. To prevent this problem from becoming more serious, some means must be developed to assure coordination of policies and programs with the juvenile justice system.

ESTABLISHMENT OF A DEPARTMENT OF CORRECTIONS

Introduction and Description

In this subsection the issue of the establishment of a Department of Corrections is considered. The establishment of a Department of Corrections involves the removal of the Division of Corrections and all its programs and services (See Appendix D) from the Department of Social Services and the creation of a separate new department responsible directly to the Governor. Any juvenile corrections services unified with adult corrections services would be included in the new department.

Arguments Considered by the Task Force

Advantages of Establishing a Department:

- The establishment of a Department of Corrections will provide improved access to the Governor and the Legislature, which may both improve Corrections' ability to obtain resources and increase Corrections' accountability to the political process.
- A substantial portion of correctional activities involve community protection -- in a Department of Corrections, greater recognition of this role will be assured and improved programs for supervision and control of offenders may result.
- Removing Corrections from the Department of Social Services will improve its image within the law enforcement community and may facilitate closer cooperation between corrections workers and law enforcement officers.
- Establishment of a Department of Corrections will result in improved self-identity by corrections workers and may potentially increase professionalism and program innovation.
- Many of the "human services" resources required by criminal offenders, such as education and vocational training, are located outside of the Department of Social Services, and the Division of Corrections has experienced little difficulty in establishing satisfactory relationships with the agencies providing these services. Removal of Corrections from the Department of Social Services should not seriously impair the ability of Corrections to establish similar relations with the agencies remaining with the Department of Social Services.
- The Department of Social Services has grown too large--separation of Corrections will help improve the accountability of both agencies to the Legislature and the public.

Disadvantages of Establishing a Department:

- Although no thorough cost impact study has been conducted, the establishment of a Department of Corrections is likely to involve increased costs. As an independent department, Corrections would be required to develop capabilities for general administrative services such as personnel, finance, budget, management audit and data processing. The pooling of resources within the Department of Social Services permits the provision of these services to the Division of Corrections on a more cost-effective basis.
- A large portion of correctional activities involve "human services" functions. Evaluating the problems and needs of convicted offenders in presentence investigations, locating vocational and counseling services for probationers, providing assistance to the families of probationers and prisoners and providing educational, vocational and counseling programs for offenders at the prison are essentially human services functions and are similar to the services provided by the Department of Social Services to other target populations.
- Removal of Corrections from the Department of Social Services may be viewed as a reduction in commitment to rehabilitation of offenders, resulting in decreased emphasis on rehabilitation programs by correctional workers and limiting the ability of the Department of Corrections to obtain funding support for such programs from the legislative committee reviewing the budget of the new department.
- Establishing a new department would increase the already large number of agencies reporting directly to the Governor and may adversely affect the ability of the Governor to effectively manage the executive branch. Moreover, Corrections often receives considerable public attention and, to facilitate professional operations, it should be somewhat insulated from direct public or political pressures.
- In-house coordination and cooperation is generally easier to develop than inter-department coordination and cooperation. The recently established alcohol unit at the prison, involving a substantial amount of non-corrections funds, reflects the importance of Corrections' relationships with other divisions within the Department of Social Services. Removal of Corrections from the Department of Social Services may impair these relationships.

Task Force Recommendation

RECOMMENDATION 33 - THE DIVISION OF CORRECTIONS SHOULD BE REMOVED FROM THE DEPARTMENT OF SOCIAL SERVICES AND ESTABLISHED AS AN INDEPENDENT DEPARTMENT.

NOTE: For draft legislation, see Part Five of this report.

Supporting Rationale:

- See advantages of establishing a department discussed above.
- The establishment of a Department of Corrections is of substantial importance to the criminal justice system in Utah to assure adequate visibility, accountability and professionalism in correctional programs. Although rehabilitation and provision of social services to offenders and their families are important goals of the correctional programs, these objectives can be equally well achieved in an independent department which can also assure greater professional attention to considerations of public safety.

SECTION XVI - UCCJA: SYSTEM LEVEL PLANNING AND COORDINATION FOR THE CRIMINAL JUSTICE SYSTEM

INTRODUCTION

In its review of the criminal justice system, the Task Force noted that the responsibility for various aspects of the system is distributed among numerous agencies, organizations and branches of state and local government. (See Table 14). It was apparent to the Task Force that this fragmentation may, in many instances, be responsible for some of the deficiencies of the system, including the lack of coordination, duplication of services and development of inconsistent philosophies by and among different entities within the system. While some of these problems may be inherent in the constitutional framework of checks and balances and the historic division of responsibilities between state and local government, the Task Force observed that many could be obviated through careful planning and greater coordination.

In this section, the role and organizational location of the Utah Council on Criminal Justice Administration (UCCJA) are reviewed, and the Task Force makes a recommendation to facilitate the strengthening of UCCJA's system level planning and coordination capacity.

UTAH COUNCIL ON CRIMINAL JUSTICE ADMINISTRATION

The Utah Council on Criminal Justice Administration (UCCJA) is the designated State agency for the administration of Law Enforcement Assistance Administration (LEAA) activities and funds in Utah. The Omnibus Crime Control and Safe Streets Act of 1968 established the LEAA to assist state and local government in improving and strengthening criminal justice programs.

Assistance is provided by UCCJA in the form of planning and research by UCCJA staff, and by planning and action grants to state and local government. Planning grants are provided to the seven local associations of government to develop multi-county plans which are incorporated into a statewide plan. Over \$450,000 is spent annually for planning efforts at the district and state level.

Action grants provide funding to state and local units of government to help finance projects to improve the effective operation of the criminal justice system in accordance with established plans. Since 1969, over \$29 million in federal funds have been allocated in Utah for planning and implementation programs. The 1979 action plan is summarized in Table 15.

**TABLE 14
ORGANIZATION OF CRIMINAL
JUSTICE SYSTEM IN UTAH**

Activity or Service	Local	State				
		Juvenile Court	Div. of Family Services	Div. of Corrections	Dept. of Public Safety	Other
Crime Prevention	X				X	X
Law Enforcement						
Policing	X				X	X
Training	X				X	
Juvenile Systems						
Detention						
Operation	X					
Standards			X			
Financing	X		X			
Shelter Care						
Operation	X		X			
Standards			X			
Financing			X			
Diversion Programs	X	X	X			
Intake Services		X				
Prosecution	X					
Public Defender	X					
Adjudication		X				
Probation Services		X				
Foster Care/Group Care			X			
Alternative Programs						
Operation	X		X			
Standards			X			
Financing	X		X			
Secure Residential Facilities			X			
Aftercare/Parole			X			
Adult System						
Pretrial Service	X			X		
Jail	X					
Prosecution	X					X
Public Defender	X					
Adjudication	X					X
Probation Service				X		
Incarceration	X			X		
Community Corrections				X		
Parole Release						X
Parole Supervision				X		
Other Services						
Systems Research					X	
Systems Planning					X	

**TABLE 15
UCCJA ACTION PLAN
(1979)**

Program Category	Funding	Description of Program Objectives
Police	\$334,000	Interjurisdictional cooperation. Department reorganization. Crime-scene investigation. Records systems. Crime analysis. Burglary and narcotics prevention. Improve planning capabilities. Conduct management system. Career criminal unit.
Prosecution	\$135,000	Statewide Association of Prosecutors and assistance to local county attorneys.
Courts	\$182,000	Circuit Court implementation. Trial courts executives. Automated transcription. Develop non-judicial personnel system. Facility study.
Community Crime Prevention	\$159,000	Law-related education. Statewide crime prevention program. Local crime prevention officers. Victim assistance.
Juvenile Prevention and Diversion	\$587,000	Police youth bureaus. Youth service bureaus.
Juvenile Community Based	\$616,250	Group homes. Alternatives to incarceration. Aftercare services. Victim restitution. Administration of planning requirements.
Juvenile Facilities and Alternatives	\$407,750	Juvenile detention center improvements and development of YDC alternatives.
Adult Community Based	\$323,000	Women's Halfway House. Pre-trial release. Improvements in probation and parole services.
Local Jails	\$ 20,000	Upgrading two jails.
Adult Corrections Training	\$ 16,000	Training for personal at Juvenile Court detention centers. Prison, probation, and parole staff in-service training. Jailer training.
Information Systems	\$623,000	Uniform crime reporting. Statewide and regional analysis centers. Statewide warrant system. Offender transaction systems. Computerized criminal histories. Expansion of Juvenile Court information system.
Technical Assistance	\$ 20,000	Model Procurement Code.

Source: 1979 Annual Action Plan Summary, Utah Council on Criminal Justice Administration, September, 1978.

UCCJA is currently located within the Department of Public Safety. While this placement provides necessary insulation of UCCJA from many of the state agencies with criminal justice responsibilities which are grant recipients, it may also have the effect of diluting the potential capacity of UCCJA to provide systems level planning and policy coordination for the entire criminal justice system in Utah. With responsibility for criminal justice divided among numerous agencies, organizations and branches of government, no entity other than UCCJA (or an ad hoc group such as the Blue Ribbon Task Force) exists to perform these planning and coordinating functions.

TASK FORCE RECOMMENDATION

RECOMMENDATION 34 - THE GOVERNOR'S COMMITTEE ON EXECUTIVE REORGANIZATION SHOULD CONSIDER RELOCATING THE UTAH COUNCIL ON CRIMINAL JUSTICE ADMINISTRATION TO MAXIMIZE ITS SYSTEMS LEVEL PLANNING AND COORDINATION CAPACITY.

Supporting Rationale:

- Responsibility for various aspects of the criminal justice system are divided between state and local government and distributed among numerous agencies, organizations and branches of government. (See Table 14). Policy decisions at each level of the system have implications and effects on other levels of the system. It is vital that some entity have the duty and capacity to provide systems level planning and coordination for the entire system.
- Relocation of UCCJA in an agency such as the State Planning Coordinator's Office could provide appropriate insulation from agencies and organizations receiving action grants, while assuring sufficient visibility and access to the Governor to facilitate its systems level planning and coordinating role.

PART FOUR
APPENDICES

SECTION XVII - GENERAL APPENDICES

**OFFENSES REPORTED TO
UTAH JUVENILE COURT
1977**

OFFENSES	DISTRICT					STATE	
	First	Second	Third	Fourth	Fifth	Total	Percent
Thefts	535	1,698	321	98	73	2,725	10.5%
Possession of Alcohol	648	949	771	217	122	2,707	10.4%
Shoplifting	560	1,220	316	47	45	2,188	8.4%
Ungovernable/Runaway	548	729	324	29	40	1,670	6.4%
Burglary	406	903	195	112	46	1,662	6.4%
Property Destruction	305	836	220	84	46	1,491	5.7%
Contempt of Court	440	336	584	75	26	1,461	5.6%
Possession of Marijuana	377	660	243	47	31	1,358	5.2%
Possession of Tobacco	118	618	447	38	27	1,248	4.8%
Fish & Game	310	371	146	127	71	1,025	3.9%
Car Theft & Joyriding	219	452	225	47	47	990	3.8%
Curfew	104	504	271	14	36	929	3.6%
Assaults	279	500	79	14	37	909	3.5%
Trespass	269	322	97	28	29	745	2.9%
Habitual Truancy	197	132	85	43	50	507	1.9%
Public Intoxication	129	277	53	8	7	474	1.8%
Disorderly Conduct	147	159	73	13	34	426	1.6%
Car Prowl	89	244	55	9	3	400	1.5%
Out-of-State Runaway	32	140	131	18	24	345	1.3%
Receiving Stolen Prop.	65	75	35	14	12	201	.8%
Robbery	20	157	5	0	6	188	.7%
Crime Attempt	11	147	9	6	0	173	.7%
Escape	29	99	33	0	5	166	.6%
Forgery	40	49	42	14	15	160	.6%
False I.D.	36	92	21	6	1	156	.6%
Weapons Violations	30	74	18	13	12	147	.6%
Interrupting School	7	113	4	1	12	137	.5%
Restricted Shooting	30	81	16	3	3	133	.5%
Resisting Arrest	44	69	8	5	6	132	.5%
Throwing at Vehicles	24	34	29	8	5	100	.4%
Indecent Acts	28	32	16	3	5	84	.3%
Arson and Firesetting	25	32	13	8	3	81	.3%
Selling Drugs & Pot	11	32	17	4	9	73	.3%
Glue Sniffing	37	27	8	0	0	72	.3%
Forcible Sex	22	30	14	1	2	69	.3%
Fireworks	4	32	20	3	1	60	.2%
Credit Card & Bad Checks	16	28	11	4	0	59	.2%
Possession of Drugs	5	26	14	9	4	58	.2%
Minor in Tavern	16	31	1	1	2	51	.2%
Vehicle Tampering	2	37	4	2	4	49	.2%
Homicides	1	3	3	0	0	7	*
Kidnaping	0	5	0	0	0	5	*
Minor Misc. Offenses	89	194	70	22	19	394	1.5%
TOTAL OFFENSES	6,304	12,549	5,047	1,185	920	26,015	100%

Source: Annual Report 1977, Juvenile Court for the State of Utah.

DESCRIPTION OF
CATY ALTERNATIVESCopper Mountain

The Copper Mountain Adolescent Day Care Center provides intensive and varied services for their youth. Extensive educational, recreational, and counseling services are available during the working day. After-hours services are also provided through trackers. The youth are given firm guidelines to direct their behavior but allowance is made for individual variation within those guidelines. The facilities are new and well kept and the staff and students work closely with one another most of the day.

Esperanza

Esperanza Para Manana is the only program intended for Chicano-male adolescents. The staff at Esperanza have established a home atmosphere that provides a flexible yet firm structure particularly appropriate for Chicano youth. All the youth at the home experience a therapeutic social milieu and receive educational and vocational services from other agencies or local schools. The home is old but in good repair and is centrally located in an older Salt Lake residential area. Each youth has clearly defined responsibilities both to himself and to the other group members.

Marmalade

Marmalade offers educational and recreational services which have proven valuable to two of the other alternative groups, Esperanza and Sam Howe. Marmalade has several satellite schools in the Salt Lake area operating in donated or leased facilities. This arrangement allows the satellite schools to be available to youth in their own neighborhoods. Para-professional and professional teachers demonstrate a "street-sense" empathic understanding for each youth. When needed, the teachers are very firm in disciplining problem behavior yet the atmosphere is very open and the structure very flexible.

Provo

The Provo School District offers extensive educational services through the Adolescent Day Care Center. The Center provides classroom, recreational, and some vocational services for the female adolescents residing in the adjacent girl's group home in Provo. The staff are all professional educators, many of whom are involved in their first teaching experience. The curriculum is designed for the needs of those enrolled and is quite structured. The facilities are modern but somewhat crowded.

Sam Howe

Sam Howe provides tracker services for delinquent youth. The tracker approach allows for much flexibility in the treatment of each youth. Trackers depend upon other organizations to provide such essential services as education, vocational training, or employment. Sam Howe accepts youth from areas where trackers are available. Presently they service adolescents in Salt Lake, Ogden and Provo. Professional counseling services are provided in Salt Lake for youth who will participate.

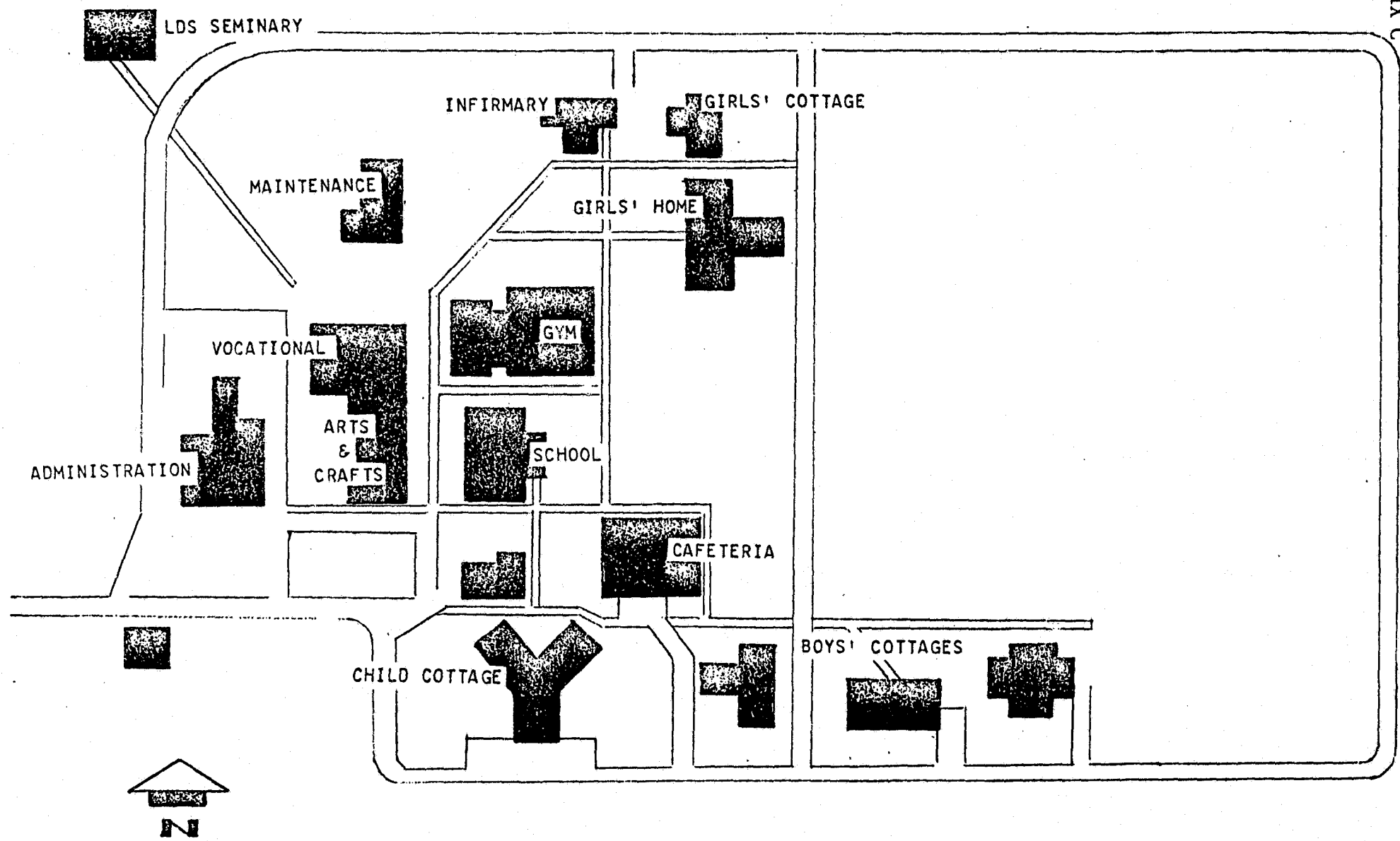
Weber

The Renaissance project of Weber County Mental Health maintains a group home for adolescent males. A structured social milieu has been established to aid the youth living there. Extensive formal counseling is also provided for each youth and for his family. Most of Weber's adolescents receive vocational training from the Skills Center in Ogden; one youth has been attending a local junior high school. The home is spacious, well maintained, and well furnished.

Westminster

The Westminster program, located on the campus of Westminster College in Salt Lake, depends heavily upon the therapeutic effects of the social milieu available on a college campus. The youth enrolled are necessarily older since they live with a student roommate in the campus dormitories. The youth are encouraged to enroll in college classes and are provided needed help through their student-advocate and the program staff. Special courses are being designed for the needs of these youth in developing study skills and gaining more social skills.

Source: These descriptions are taken directly from "Study to Evaluate the Effectiveness of the Seven Alternatives for Troubled Youth", WICAT Inc., 1978.



STATE YOUTH DEVELOPMENT CENTER

Source: Division of Family Services

PROFILE OF JUVENILES
AT
YOUTH DEVELOPMENT CENTER

(JULY 18, 1978)

NOTE: The information contained in this profile was compiled by the Office of Legislative Research from computerized records of the Juvenile Court and is subject to the limitations of the Court's data gathering system. The information should not be used without contacting the Office of Legislative Research for further explanation of the methodological limitations of the data.

PROFILE OF JUVENILES AT YOUTH DEVELOPMENT CENTER

(159 STUDENTS -- JULY 18, 1978)

DEMOGRAPHIC INFORMATION*

	<u>Short Term</u>		<u>Regular</u>		<u>Total</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
<u>SEX</u>						
Male	37	94.9	104	91.2	141	92.2
Female	2	5.1	10	8.8	12	7.8
<u>AGE</u>						
11-12 Years	--	--	1	0.9	1	0.7
13-14 Years	4	10.3	6	5.2	10	6.5
15-16 Years	15	38.4	49	43.8	64	41.8
17-18 Years	20	51.3	58	50.9	78	50.0
<u>RESIDENCY AT THE TIME OF CONTRACT</u>						
Salt Lake Area	16	41.0	56	49.1	72	47.1
Provo Area	5	12.8	13	11.4	18	11.8
Ogden Area	10	25.6	25	21.9	35	22.9
Rural North	1	2.6	3	2.6	4	2.6
Rural South	4	10.3	16	14.0	20	13.1
Out of State	2	5.1	1	0.9	3	2.0
<u>FAMILY INCOME</u>						
Public Assistance	7	17.9	25	21.9	32	20.9
Less Than \$5,000	2	5.1	8	7.0	10	6.5
\$5,000 - \$10,000	8	20.5	27	23.7	35	22.9
\$10,000 - \$15,000	9	23.1	23	20.2	32	20.9
\$15,000 - \$20,000	5	12.8	6	5.3	11	7.2
Over \$20,000	2	5.1	1	0.9	3	2.0
<u>RACE/ETHNICITY</u>						
White	31	79.5	79	69.3	110	71.9
Hispanic	2	5.1	21	18.4	23	15.0
Black	3	7.7	2	1.8	5	3.3
Indian	--	--	10	8.8	10	6.5
Other	1	2.6	--	--	1	0.7

* Juvenile court records were not available for six male regular commitment students. Some percentages will not total to 100 percent due to missing data.

APPENDIX D
(Continued)

RECORD OF
ADJUDICATED OR ADMITTED
OFFENSES *

AVERAGE NUMBER OF OFFENSES

	<u>Short Term</u>		<u>Regular</u>		<u>All Commitments</u>
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	
Felonies	2.5	1.5	4.4	0.9	3.7
Misdemeanors	6.1	4.0	7.6	2.5	6.8
Status Offenses	2.2	1.5	2.1	4.5	2.3
Total Offenses	10.8	7.0	14.1	7.9	12.8

FREQUENCY OF OFFENSES (MALE AND FEMALE)

	<u>Short Term</u>		<u>Regular</u>		<u>All Commitments</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
<u>Felonies</u>						
0	7	17.9	17	14.9	24	15.7
1-2	16	41.0	30	26.3	46	30.1
3-5	13	33.3	37	32.5	50	32.7
6-10	3	7.7	21	18.4	24	15.7
11-15	0	0.0	6	5.3	6	3.9
16+	0	0.0	3	2.6	3	2.0
<u>Misdemeanors</u>						
0	3	7.7	9	7.9	12	7.8
1-2	6	15.4	12	10.5	18	11.8
3-5	11	28.2	26	22.8	37	24.2
6-10	14	35.9	39	34.2	53	34.6
11-15	4	10.3	21	18.4	25	16.3
16+	1	2.6	7	6.1	8	5.2
<u>Status</u>						
0	9	23.1	26	22.8	35	22.9
1-2	16	41.0	46	40.4	62	40.5
3-5	11	28.2	33	28.9	44	28.8
6-10	3	7.7	8	7.0	11	7.2
11-15	0	0.0	1	0.9	1	0.7
16+	0	0.0	0	0.0	0	0.0

* Information displayed in this table includes only those offenses in which the allegations were admitted or found by the court to be true.

APPENDIX D
(Continued)

RECORD OF ALL OFFENSES REPORTED TO COURT *

AVERAGE NUMBER OF OFFENSES

	Short Term		Regular		All Commitments
	Male	Female	Male	Female	
Felonies	3.3	1.5	6.5	1.0	5.3
Misdemeanors	8.6	6.5	12.8	3.2	11.1
Status Offenses	3.6	4.0	4.5	6.0	4.4
Total Offenses	15.5	12.0	23.8	10.2	20.8

FREQUENCY OF OFFENSES (MALE AND FEMALE)

	Short Term		Regular		All Commitments	
	No.	%	No.	%	No.	%
<u>Felonies</u>						
0	5	12.8	9	7.9	14	9.2
1-2	16	41.0	26	22.8	42	27.5
3-5	11	28.2	25	21.9	36	23.5
6-10	6	15.4	35	30.7	41	26.8
11-15	0	0.0	14	12.3	14	9.2
16+	1	2.6	5	4.4	6	3.9
<u>Misdemeanors</u>						
0	3	7.7	4	3.5	7	4.6
1-2	1	2.6	12	10.5	13	8.5
3-5	8	20.5	13	11.4	21	13.7
6-10	15	38.5	26	22.8	41	26.8
11-15	8	20.5	22	19.3	30	19.6
16+	4	10.3	37	32.5	41	26.8
<u>Status</u>						
0	9	23.1	11	9.6	20	13.1
1-2	10	25.6	30	26.3	40	26.1
3-5	8	20.5	34	29.8	42	27.5
6-10	2	5.1	8	7.0	10	6.5
11-15	0	0.0	3	2.6	3	2.0
16+						

* The information displayed in this table includes all alleged offenses reported to the Juvenile Court regardless of the disposition by intake personnel or the Court (including offenses dismissed for any reason and all "lesser included offenses" where charged).

APPENDIX D
(Continued)

OFFENSE RESULTING IN COMMITMENT

	<u>Short Term</u>		<u>Regular</u>		<u>All Commitments</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
<u>Acts Against Persons</u>						
Murder 1	1	2.6	0	--	1	0.7
Forcible Sexual Abuse	0	--	2	1.8	2	1.3
Aggravated Sexual Assault	0	--	3	2.6	3	2.0
Robbery 1	1	2.6	3	2.6	4	2.6
Robbery 2	5	12.8	5	4.4	10	6.5
Assault 3	1	2.6	4	3.5	5	3.3
Assault B	0	--	1	0.9	1	0.7
Escape 2	0	--	1	0.9	1	0.7
TOTAL	8	20.5	19	16.7	27	17.6
<u>Acts Against Property</u>						
Burglary 2	10	25.6	19	16.7	29	19.0
Burglary 3	5	12.8	14	12.3	19	12.4
Prowling	0	--	2	1.8	2	1.3
Trespassing	0	--	1	0.9	1	0.7
Arson 2	0	--	1	0.9	1	0.7
Theft 2	1	2.6	4	3.5	5	3.3
Grand Larceny Auto	1	2.6	19	16.7	20	13.1
Joyriding 1	1	2.6	1	0.9	2	1.3
Joyriding 2	1	2.6	2	1.8	3	2.0
Bike Theft A	0	--	1	0.9	1	0.7
Theft A	1	2.6	1	0.9	2	1.3
Petty Theft Shoplifting	0	--	1	0.9	1	0.7
Theft B	2	5.1	4	3.5	6	3.9
Gas Theft B	1	2.6	1	0.9	2	1.3
Receiving Stolen Property	0	--	1	0.9	1	0.7
Forgery	1	2.6	1	0.9	2	1.3
Destruction of Property	0	--	1	0.9	1	0.7
TOTAL	24	61.5	74	64.9	98	64.1
<u>Acts Against Public Order</u>						
Selling Drugs	0	--	2	1.8	2	1.3
Selling Marijuana	1	2.6	0	--	1	0.7
Possession of Marijuana	0	--	1	0.9	1	0.7
Interfering in Schooling	1	2.6	0	--	1	0.7
Resist Arrest	1	2.6	1	0.9	2	1.3
Escape B	0	--	2	1.8	2	1.3
TOTAL	3	7.7	6	5.3	9	5.9
<u>Other Offenses</u>						
Attempted Crime	1	2.6	1	0.9	2	1.3
Conspiracy	0	--	2	1.8	2	1.3
Contempt	2	5.1	3	2.6	5	3.3
Curfew	0	--	1	0.9	1	0.7
Runaway	0	--	5	4.4	5	3.3
Alcohol	1	2.6	1	0.9	2	1.3
Fish & Game	0	--	1	0.9	1	0.7
Truancy	0	--	1	0.9	1	0.7
TOTAL	4	10.3	15	13.2	19	12.4

APPENDIX D
(Continued)

MOST SERIOUS OFFENSE ON RECORD*

	Short Term		Regular		All Commitments	
	No.	%	No.	%	No.	%
<u>ACTS AGAINST PERSONS</u>						
Murder 1	1	2.6	--	--	1	0.7
Murder 2	--	--	1	0.9	1	0.7
Aggravated Sexual Assault	--	--	4	3.5	4	2.6
Robbery 1	1	2.6	3	2.6	4	2.6
Robbery 2	8	20.5	7	6.1	15	9.8
Manslaughter	---	--	1	0.9	1	0.7
Forcible Sodomy	--	--	1	0.9	1	0.7
Escape 2	--	--	2	1.8	2	1.3
Forcible Sexual Abuse	--	--	3	2.6	3	2.0
Assault 3	2	5.1	1	0.9	3	2.0
Assault B	1	2.6	1	0.9	2	1.3
TOTAL	13	33.3	24	21.1	37	24.2
<u>ACTS AGAINST PROPERTY</u>						
Burglary 1	--	--	1	0.9	1	0.7
Burglary 2	11	28.2	31	27.2	42	27.5
Theft 2	1	2.6	6	5.3	7	4.6
Grand Larceny Auto	3	7.7	28	24.6	31	20.3
Burglary 3	1	2.6	7	6.1	8	5.2
Theft 3	--	--	1	0.9	1	0.7
Forgery	1	2.6	1	0.9	2	1.3
Prowling	--	--	1	0.9	1	0.7
Arson 2	1	2.6	--	--	1	0.7
Theft A	1	2.6	--	--	1	0.7
Joyride 1	1	2.6	--	--	1	0.7
Joyride 2	1	2.6	--	--	1	0.7
Shoplifting	--	--	1	0.9	1	0.7
Bike Theft B	--	--	1	0.9	1	0.7
Theft B	2	5.1	1	0.9	3	2.0
Gas Theft B	--	--	1	0.9	1	0.7
TOTAL	23	59.0	80	70.2	103	67.3
<u>ACTS AGAINST PUBLIC ORDER</u>						
Selling Drugs	1	2.6	--	--	1	0.7
Damage to Place of Confinement	1	2.6	--	--	1	0.7
Selling Marijuana	1	2.6	--	--	1	0.7
Escape B	--	--	1	0.9	1	0.7
Indecent Acts	--	--	1	0.9	1	0.7
Glue Sniffing	--	--	1	0.9	1	0.7
Possession of Marijuana	--	--	1	0.9	1	0.7
TOTAL	3	7.7	4	3.5	7	4.6
<u>OTHER OFFENSES</u>						
Conspiracy	--	--	2	1.8	2	1.3
Runaway	--	--	3	2.6	3	2.0
Truancy	---	--	1	0.9	1	0.7
TOTAL	--	--	6	5.3	6	3.9

* The information displayed in this table includes only offenses in which the allegations were admitted or found by the Court to be true.

RACE/ETHNICITY COMPARISON*

AVERAGE NUMBER OF OFFENSES

	<u>White</u>	<u>Hispanic</u>	<u>Black</u>	<u>Indian</u>	<u>Other</u>	<u>Total</u>
Felonies	3.6	5.2	4.8	0.7	3.0	3.7
Misdemeanors	7.1	7.9	6.3	1.6	5.0	6.8
Status	2.6	2.4	1.8	0.8	0.0	2.4
Total Offenses	13.3	15.5	12.8	3.1	8.0	12.9

FREQUENCY INFORMATION

Felonies	<u>White</u>		<u>Hispanic</u>		<u>Black</u>		<u>Indian</u>		<u>Other</u>		<u>Total</u>	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
0	15	14.0	0	0.0	0	0.0	7	70.0	0	0.0	22	15.0
1-2	35	32.7	6	24.0	1	25.0	2	20.0	0	0.0	44	29.9
3-5	35	32.7	9	36.0	1	25.0	1	10.0	1	100.0	47	32.0
6-10	16	15.0	7	28.0	2	50.0	0	0.0	0	0.0	25	17.0
11-15	3	2.8	3	12.0	0	0.0	0	0.0	0	0.0	6	4.1
16+	3	2.8	0	0.0	0	0.0	0	0.0	0	0.0	3	2.0

Misdemeanors

0	7	6.5	0	0.0	0	0.0	2	20.0	0	0.0	9	6.1
1-2	16	15.0	0	0.0	0	0.0	3	30.0	0	0.0	19	12.9
3-5	21	19.6	7	28.0	3	75.0	4	40.0	1	100.0	36	24.5
6-10	36	33.6	14	56.0	0	0.0	1	10.0	0	0.0	51	34.7
11-15	20	18.7	3	12.0	1	25.0	0	0.0	0	0.0	24	16.3
16+	7	6.5	1	4.0	0	0.0	0	0.0	0	0.0	8	5.4

Status

0	20	18.7	4	16.0	0	0.0	5	50.0	1	100.0	30	20.4
1-2	42	39.3	12	48.0	3	75.0	5	50.0	0	0.0	62	42.2
3-5	36	33.6	6	24.0	1	25.0	0	0.0	0	0.0	43	29.3
6-10	8	7.5	3	12.0	0	0.0	0	0.0	0	0.0	11	7.5
11-15	1	0.9	0	0.0	0	0.0	0	0.0	0	0.0	1	0.7
16+	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

OFFENSE RESULTING IN COMMITMENT

Acts Against:												
Persons	19	17.8	6	24.0	1	25.0	0	0.0	0	0.0	26	17.7
Property	70	65.4	17	68.0	3	75.0	5	50.0	0	0.0	95	64.6
Public Order	7	6.5	0	0.0	0	0.0	1	10.0	1	100.0	9	6.1
Other Offenses	11	10.3	2	8.0	0	0.0	4	40.0	0	0.0	17	11.6

MOST SERIOUS PRIOR OFFENSE

Acts Against:												
Persons	24	22.4	9	36.0	3	75.0	1	10.0	0	0.0	39	26.5
Property	72	67.3	16	64.0	1	25.0	5	50.0	1	100.0	95	64.6
Public Order	5	4.7	0	0.0	0	0.0	2	20.0	0	0.0	7	4.8
Other Offenses	4	3.7	0	0.0	0	0.0	2	20.0	0	0.0	6	4.1

*The information displayed in the table includes only offenses in which the allegations were admitted or found by the Court to be true.

**COST ESTIMATES FOR
IMPLEMENTATION OF
ALCOHOL AND INTOXICATION TREATMENT ACT**

District	Expected Public Public Intoxicant Population	Intoxication Events	Cost
I. Box Elder, Cache, Rich	80	510	\$113,822.76
II. Weber, Morgan	226	1,443	\$321,537.99
Davis	48	309	\$ 68,291.26
Salt Lake	550	3,505	\$782,503.98
Tooele	27	170	\$ 38,413.83
III. Summit, Utah, Wasatch	128	816	\$182,110.02
IV. Juab, Millard, Piute	45	286	\$ 64,023.05
Sanpete, Sevier, Wayne			
V. Beaver, Iron, Kane,	39	251	\$ 55,521.34
Washington, Garfield			
Daggett, Duchesne,	65	415	\$ 92,477.74
Uintah			
VII. Carbon, Emery,	70	443	\$ 99,591.42
Grand, San Juan			
Utah	1,278	8,148	\$1,818,293.39

Source: Division of Alcohol and Drugs, 1977.

UCCJA JAIL TASK FORCE

Jack Tanner
Executive Director
Utah Assoc. of Counties
Salt Lake City

Commissioner Karl R. Lyman
Utah County Commission
Provo

Gary DeLand, Captain
Salt Lake Co. Sheriff's Office
Salt Lake City

Judge Paul C. Keller
Juvenile Court, District Five
Price

Mack Holley
Utah County Sheriff
Provo

Lynn Lund
Executive Director
Utah Peace Officers Assoc.
Salt Lake City

Rex Huntsman
Sevier County Sheriff
Richfield

Gary Webster
Deputy Director
Division of Corrections
Salt Lake City

William Milliken, Director
Division of Corrections
Salt Lake City

Paul Sheffield
Adm. Assistant
Department of Social Services
Salt Lake City

Samuel Smith
Special Assistant to the Dir.
Division of Corrections
Salt Lake City

**EXAMPLE OF ALLOCATION OF FUNDS UNDER
PROPOSED COMMUNITY CORRECTIONS ASSISTANCE ACT
(\$1,000,000 Total Appropriation)**

Jurisdiction	Population	Total Allocation	Per Capita Allocation
Daggett	800	\$ 1,178	\$1.47
Piute	1,400	2,118	1.51
Rich	1,700	2,613	1.54
Wayne	1,800	2,784	1.55
Garfield	3,600	6,165	1.71
Kane	3,800	6,609	1.74
Beaver	4,300	7,736	1.80
Morgan	4,900	9,256	1.89
Juab	5,600	11,288	2.02
Summit	7,200	18,154	2.52
Grand	7,300	18,632	2.55
Wasatch	7,300	18,632	2.55
Millard	8,400	22,867	2.72
Emery	9,300	25,429	2.73
Duchesne	11,400	29,954	2.63
San Juan	13,000	32,670	2.51
Sanpete	13,400	33,284	2.48
Sevier	13,700	33,728	2.46
Iron	15,600	36,290	2.33
Uintah	18,000	39,091	2.17
Washington	19,200	40,355	2.10
Carbon	20,500	41,635	2.03
Tooele	24,300	45,000	1.85
Box Elder	31,200	50,072	1.60
Cache	51,600	61,019	1.18
Davis	124,000	83,766	.68
Weber	138,000	86,959	.63
Utah	177,000	94,781	.54
Salt Lake	533,000	137,936	.26
State of Utah	1,271,300	\$1,000,000	\$1.27

SOURCE: Utah Council on Criminal Justice Administration,
Office of Legislative Research

**CURRENT UTAH LAW
INDETERMINANT SENTENCE LENGTHS
FOR VARIOUS OFFENSES**

Class of Crime	Examples of Offenses	Indeterminant Prison Term
Capital Felony	1st Degree Murder Aggravated Assault by Prisoner (Serious Bodily Injury Aggravated Kidnapping	Death or Life Imprisonment
First Degree Felony	2nd Degree Murder Aggravated Sexual Assault Aggravated Robbery Aggravated Burglary	5 Years to Life
Second Degree Felony	Manslaughter Rape Robbery Burglary of a Dwelling Theft in excess of \$1,000	1 - 15 Years
Third Degree Felony	Automobile Homicide Unlawful Sexual Intercourse Aggravated Assault Arson Theft (\$100 - \$1,000)	0 - 5 Years

Note: This table reflects only the major crime classifications in Utah - not all crimes fit into these categories. Utah law also provides for additions to the indeterminate sentence where a firearm was used in the commission or furtherance of the offense.

APPENDIX I - SECOND CIRCUIT SENTENCING STUDY

NOTE: Judges were given 20 hypothetical cases and asked to impose sentences based on presentence reports. The table below shows the range of sentences imposed by 50 judges.

	Most Severe Sentence	6th Most Severe Sentence	12th Most Severe Sentence	Median Sentence	12th Least Severe Sentence	6th Least Severe Sentence	Least Severe Sentence	Number of Sentences Ranked
<i>Case 1</i> Extortionate credit transactions; income tax violations	20 yrs. pris. \$65,000	15 yrs. pris. \$50,000	15 yrs. pris.	10 yrs. pris. \$50,000	8 yrs. pris. \$20,000	5 yrs. pris.; 3 yrs. prob.; \$10,000	3 yrs. pris.	45
<i>Case 2</i> Bank robbery	18 yrs. pris. \$5,000	15 yrs. pris.	15 yrs. pris. [(a) (2)]	10 yrs. pris.	7.5 yrs. pris. [(a) (2)]	5 yrs. pris.	5 yrs. pris.	48
<i>Case 3</i> Sale of heroin	10 yrs. pris.; 5 yrs. prob.	6 yrs. pris.; 5 yrs. prob.	5 yrs. pris.; 5 yrs. prob. [(a) (2)]	5 yrs. pris.; 3 yrs. prob.	3 yrs. pris.; 3 yrs. prob.	3 yrs. pris.; 3 yrs. prob.	1 yr. pris.; 5 yrs. prob.	46
<i>Case 4</i> Theft & possession of stolen goods	7.5 yrs. pris.	5 yrs. pris.	4 yrs. pris.	3 yrs. pris.	3 yrs. pris.	2 yrs. pris.	4 yrs. prob.	45
<i>Case 5</i> Possession of barbituates with intent to sell.	5 yrs. pris.; 3 yrs. prob.	3 yrs. pris.; 3 yrs. prob.	3 yrs. pris.; 3 yrs. prob.	2 yrs. pris.; 3 yrs. prob.	1.5 yrs. pris.; 3 yrs. prob.	5 yrs. prob.; \$500	2 yrs. prob.	42
<i>Case 6</i> Filing false income tax returns	3 yrs. pris.; \$5,000	3 yrs. pris.; \$5,000	2 yrs. pris.; \$5,000	1 yr. pris.; \$5,000	6 mos. pris.; 2.5 yrs. prob.; \$3,000	6 mos. pris.; \$5,000	3 mos. pris.; \$5,000	48
<i>Case 7</i> Possession of heroin	2 yrs. pris.	2 yrs. pris.	1.5 yrs. pris.	1 yr. pris.	6 mos. pris.; 18 mos. prob.	3 mos. pris.	1 yr. prob.	39
<i>Case 8</i> Mail fraud	YCA indet.	YCA indet.	6 mos. pris.; 5 yrs. prob. [§4209]	5 mos. pris.; 5 yrs. prob. [§4209]	2 mos. pris.; 2 yrs. prob. [§4209]	3 yrs. prob.	1 yr. prob.	41
<i>Case 9</i> Eluding examination & inspection by immigration officers; illegal entry after deportation	3 yrs. pris.	6 mos. pris.; 2 yrs. unsup. prob.	6 mos. pris.	3 mos. pris.; 21 mos. unsup. prob.	1 mo. pris.; 2 yrs. unsup. prob.	2 yrs. unsup. prob.	susp. if leave U.S.	49
<i>Case 10</i> Postal embezzlement	1 yr. pris.	6 mos. pris.; 1 yr. prob.	3 mos. pris.; 27 mos. prob.	2 mos. pris.; 1 yr. prob.	3 yrs. prob.	2 yrs. prob.	1 yr. prob.	48
<i>Case 11</i> Bribery	6 mos. pris.; 6 mos. prob.; \$5,000	6 mos. pris.; \$2,500	2 mos. pris.; 22 mos. prob.; \$5,000	1 mo. pris.; 11 mos. prob.; \$5,000	2 yrs. prob.; \$7,500	\$7,500; 2 yrs. unsup. prob.	\$2,500	43
<i>Case 12</i> Possession of unregistered firearm	1 yr. pris.	6 mos. pris.; 3 yrs. prob.	3 mos. pris.; 21 mos. prob.	1 mo. pris.; 11 mos. prob.	2 yrs. prob.	1 yr. prob.	6 mos. prob.	44
<i>Case 13</i> Possession of counterfeit currency	1.5 yrs. pris.	6 mos. pris.; 2 yrs. prob.	6 mos. pris.; 18 mos. prob.	5 yrs. prob.	2 yrs. prob.	2 yrs. prob.	2 yrs. prob.	48
<i>Case 14</i> Altering a forged U.S. Treasury check	YCA indet.	YCA indet.	1 yr. pris.	4 yrs. prob.	2 yrs. prob.	2 yrs. prob.	1 yr. prob.	39
<i>Case 15</i> Operating an illegal gambling business	1 yr. pris.; \$3,000	6 mos. pris.; 3 yrs. prob.; \$10,000	3 mos. pris.; 2 yrs. prob.; \$5,000	3 yrs. prob.; \$10,000	2 yrs. prob.; \$5,000	2 yrs. prob.; \$1,000	1 yr. prob.; \$1,000	45
<i>Case 16</i> Bank embezzlement	YCA indet.	5 yrs. prob.	3 yrs. prob.	3 yrs. prob.	2 yrs. prob.	2 yrs. prob.	2 yrs. unsup. prob.	42
<i>Case 17</i> Interstate transportation of stolen securities	3 yrs. pris.	6 mos. pris. 4.5 yrs. prob.	6 mos. pris.	3 yrs. prob.	3 yrs. prob.	2 yrs. prob.	1 yr. prob.	46
<i>Case 18</i> Mail theft	6 mos. pris.; 18 mos. prob.	5 yrs. prob.	3 yrs. prob.; \$100	3 yrs. prob.	2 yrs. prob.	2 yrs. prob.	1 yr. prob.	48
<i>Case 19</i> Conspiracy to commit securities fraud	2 yrs. pris.; \$2,500	6 mos. pris.; 2 yrs. prob.	3 mos. pris.; 33 mos. prob.; \$7,500	2 yrs. prob.; \$15,000	2 yrs. prob.; \$400	1 yr. prob.; \$7,500	\$2,500	47
<i>Case 20</i> Perjury	1 yr. pris.; \$1,000	3 mos. pris.; \$1,000	3 yrs. prob.; \$1,000	2 yrs. prob.; \$500	1 yr. prob.; \$1,500	1 yr. prob.; \$500	\$1,000	48

Note. References to "(a) (2)" signify a sentence pursuant to former 18 U.S.C. §4208 (a) (2), under which the defendant is given an indeterminate sentence and is eligible for parole at any time determined by the Board of Parole.

References to "§4209" signify a sentence pursuant to former 18 U.S.C. §4209, under which young adult offenders (under age 26) are given specialized treatment.

References to "YCA indet." signify an indeterminate sentence for young offenders under age 22 pursuant to 18 U.S.C. §5010.

SOURCE: Partridge and Eldridge, The Second Circuit Court Sentencing Study: A Report to the Judges of the Second Circuit, 1974.

TABLE 1

Average Sentence Length for Selected Offenses, in 1972
(months)

	Homicide and Assault	Robbery	Burglary	Larceny	Auto Theft	Forgery and Counterfeiting
National Average	102	120	63	40	38	42
Maine	—	—	—	144(+104)	21 (-17)	24 (-18)
Massachusetts	48 (-54)	115 (-5)	40 (-23)	36 (-4)	20 (-18)	32 (-10)
New York (Northern)	—	39 (-81)	—	11 (-29)	9 (-29)	12 (-30)
New York (Eastern)	18 (-84)	130 (+10)	2 (-61)	48 (+8)	12 (-26)	49 (+7)
New Jersey	11 (-91)	103 (-17)	27 (-36)	50 (+10)	32 (-6)	29 (-13)
Pennsylvania (Eastern)	102 (0)	88 (-32)	—	25 (+15)	49 (+11)	30 (-12)
Maryland	6 (-96)	146 (+26)	61 (-2)	45 (+5)	49 (+11)	40 (-2)
Virginia (Eastern)	66 (-36)	135 (+15)	81 (+18)	50 (+10)	41 (+3)	39 (-3)
Florida (Middle)	—	126 (+6)	34 (-29)	37 (-3)	32 (-6)	41 (-1)
Texas (Northern)	62 (-40)	224(+104)	46 (-17)	42 (+2)	39 (+1)	66 (+24)
Kentucky (Eastern)	24 (-78)	124 (+4)	167(+104)	25 (-15)	32 (-6)	20 (-22)
Ohio (Northern)	28 (-74)	119 (-1)	36 (-27)	29 (-11)	31 (-7)	35 (-7)
Illinois (Northern)	20 (-82)	81 (-39)	30 (-33)	40 (0)	45 (+7)	38 (-4)
Indiana (Southern)	40 (-62)	101 (-19)	24 (-39)	35 (-5)	29 (-9)	34 (-8)
Missouri (Eastern)	27 (-75)	180 (+60)	60 (-3)	54 (+14)	46 (+8)	46 (+4)
Missouri (Western)	36 (-66)	120 (0)	—	57 (+17)	36 (-2)	33 (-9)
California (Northern)	79 (-23)	115 (-5)	120 (+57)	32 (-8)	42 (+4)	37 (-5)
California (Central)	190 (+88)	96 (-24)	24 (-39)	40 (0)	41 (+3)	43 (+1)
Kansas	74 (-28)	115 (-5)	—	46 (+6)	47 (+9)	63 (+21)
Oklahoma (Western)	29 (-73)	85 (-35)	48 (-15)	31 (-9)	36 (-2)	41 (-1)
District of Columbia	161 (+59)	103 (-17)	84 (+21)	42 (+2)	40 (+2)	67 (+25)

Note: The federal district courts for each of the 11 circuits were chosen on the basis of the two districts in each circuit that sentenced the greatest number of offenders for the selected offenses.

TABLE 2

Percentage of Convicted Offenders Placed on Probation, 1972

	Homicide and Assault	Robbery	Burglary	Larceny	Auto Theft	Forgery and Counterfeiting
National Average	36	13	43	60	36	58
Maine	—	—	—	50 (-10)	0 (-36)	20 (-38)
Massachusetts	14 (-22)	17 (+4)	0 (-43)	77 (+17)	50 (+14)	53 (-5)
New York (Northern)	100 (+64)	50 (+37)	—	54 (-6)	83 (+47)	62 (+4)
New York (Eastern)	60 (+24)	16 (+3)	50 (+7)	52 (-8)	89 (+53)	62 (+4)
New Jersey	80 (+44)	6 (-7)	20 (-23)	64 (+4)	60 (+24)	66 (+8)
Pennsylvania (Eastern)	50 (+14)	18 (+5)	—	79 (+19)	80 (+44)	74 (+16)
Maryland	33 (-3)	7 (-6)	0 (-43)	79 (+19)	57 (+21)	67 (+9)
Virginia (Eastern)	8 (-28)	6 (-7)	60 (+17)	53 (-7)	33 (-3)	52 (-6)
Florida (Middle)	50 (+14)	0 (-13)	40 (-3)	47 (-13)	28 (-8)	45 (-13)
Texas (Northern)	0 (-36)	4 (-9)	25 (-18)	51 (-9)	24 (-12)	41 (-17)
Kentucky (Eastern)	50 (+14)	0 (-13)	0 (-43)	11 (-49)	8 (-28)	17 (-41)
Ohio (Northern)	43 (+7)	10 (-3)	50 (+7)	67 (+7)	45 (+9)	68 (+10)
Illinois (Northern)	43 (+7)	16 (+3)	0 (-43)	64 (+4)	50 (+14)	62 (+4)
Indiana (Southern)*	—	—	—	—	—	—
Missouri (Eastern)	60 (+24)	7 (-6)	0 (-43)	51 (-9)	14 (-22)	58 (0)
Missouri (Western)	0 (-36)	6 (-7)	100 (+57)	78 (+18)	47 (+11)	74 (+16)
California (Northern)	29 (-7)	12 (-1)	50 (+7)	65 (+5)	25 (-9)	62 (+4)
California (Central)	53 (+17)	21 (+8)	50 (+7)	75 (+15)	64 (+28)	79 (+21)
Kansas	10 (-26)	19 (+6)	100 (+57)	61 (+1)	35 (-1)	64 (+6)
Oklahoma (Western)	18 (-18)	25 (+12)	0 (-43)	49 (-11)	21 (-15)	42 (-16)
District of Columbia	37 (+1)	16 (+3)	35 (-8)	49 (-11)	48 (+12)	54 (-4)

*No information was available for the Southern District of Indiana.

Source: Administrative Office of the United States Courts, *Federal Offenders in United States District Courts, 1972* App. Table X-4.

Individual Comparison of Disposition of
Felony Cases by Utah District Court Judges
Fiscal Year 1974

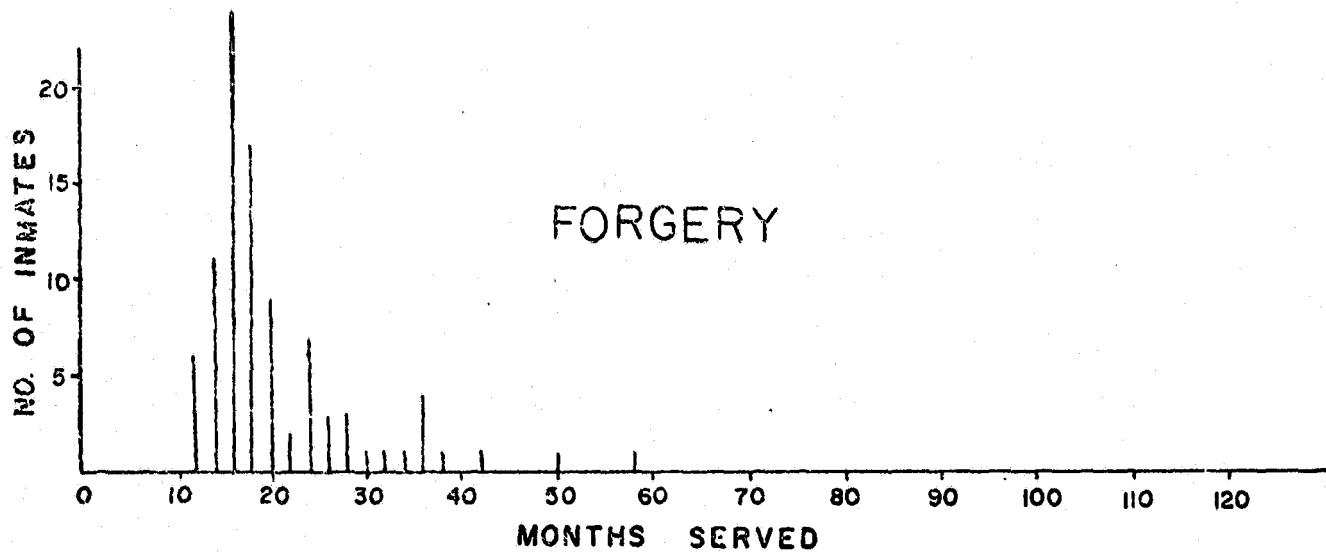
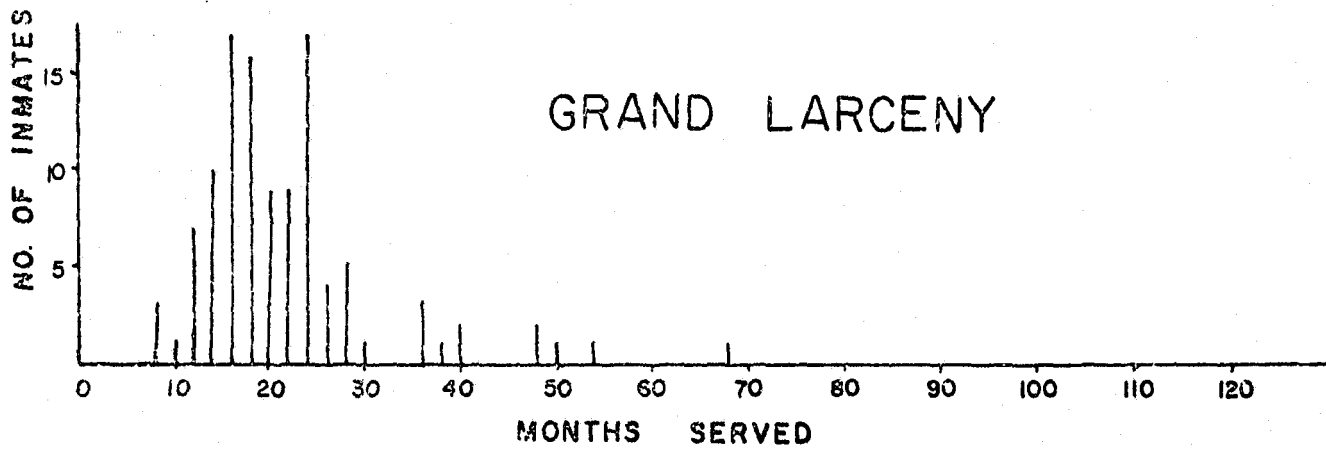
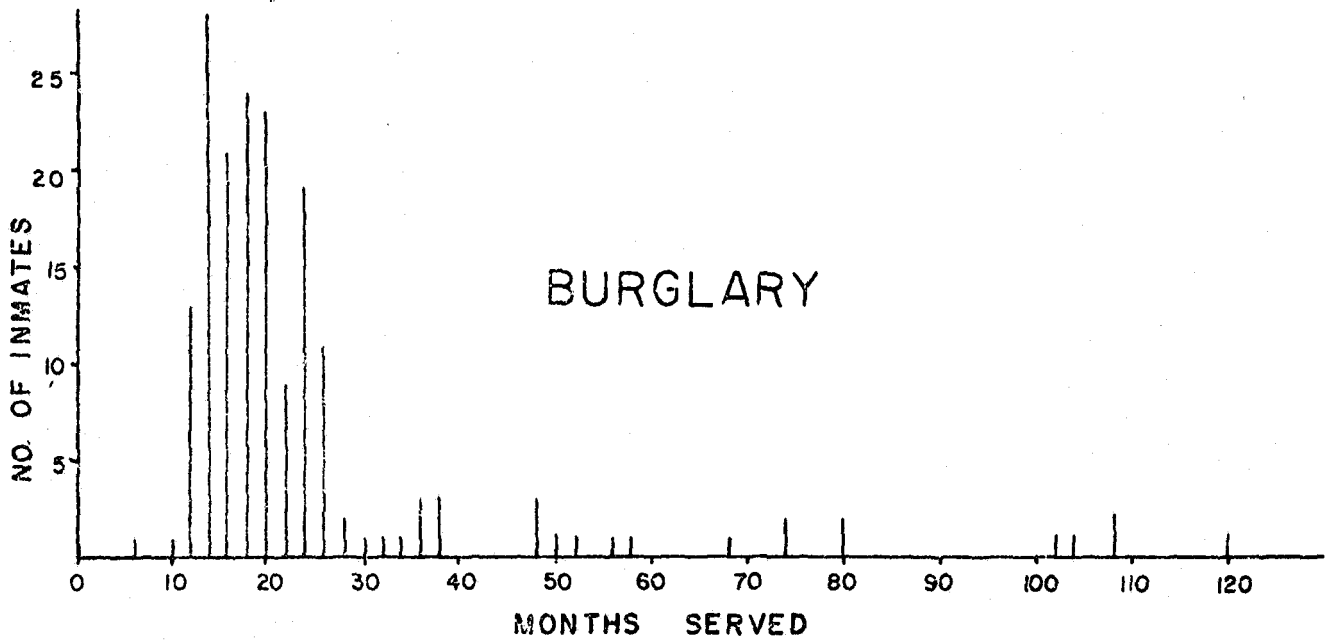
JUDGE	CASES HEARD PLACED ON PROBATION		CASES HEARD COMMITTED TO UTAH STATE PRISON		CASES HEARD REFERRED TO DIAGNOSTIC SERVICES		TOTAL*	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
A	34	57.6	12	20.3	13	22.0	59	7.6
B	12	60.0	5	25.0	3	15.0	20	2.6
C	8	42.1	3	15.8	8	42.1	19	2.4
D	27	75.0	1	2.8	8	22.2	36	4.6
E	6	37.5	4	25.0	6	37.5	16	2.0
F	8	34.8	7	30.4	8	34.8	23	2.9
G	30	68.2	8	18.2	6	13.6	44	5.6
H	38	62.3	9	14.8	14	23.0	61	7.8
I	22	73.3	4	13.3	4	13.3	30	3.8
J	---	---	1	100.0	---	---	1	.1
K	41	66.1	9	14.5	12	19.4	62	7.9
L	52	49.1	34	32.1	20	18.9	106	13.6
M	3	37.5	3	37.5	2	25.0	8	1.0
N	12	66.7	4	22.2	2	11.1	18	2.3
O	10	47.6	5	23.8	6	28.6	21	2.7
P	18	64.3	3	10.7	7	25.0	28	3.6
Q	47	90.4	1	1.9	4	7.7	52	6.7
R	7	70.0	---	---	3	30.0	10	1.3
S	14	36.8	8	21.1	16	42.1	38	4.9
T	68	77.3	10	11.4	10	11.4	88	11.3
Unknown	17	41.5	20	48.8	4	9.8	41	5.2
T O T A L	474	60.8	151	19.3	156	19.9	781	100.0

* Slight variations may occur between total and disposition status because of abstracting problems.

SOURCE: Final Report - Diagnostic Services Project, Office of Evaluation and Quality Control, Utah State Department of Social Services, November, 1974.

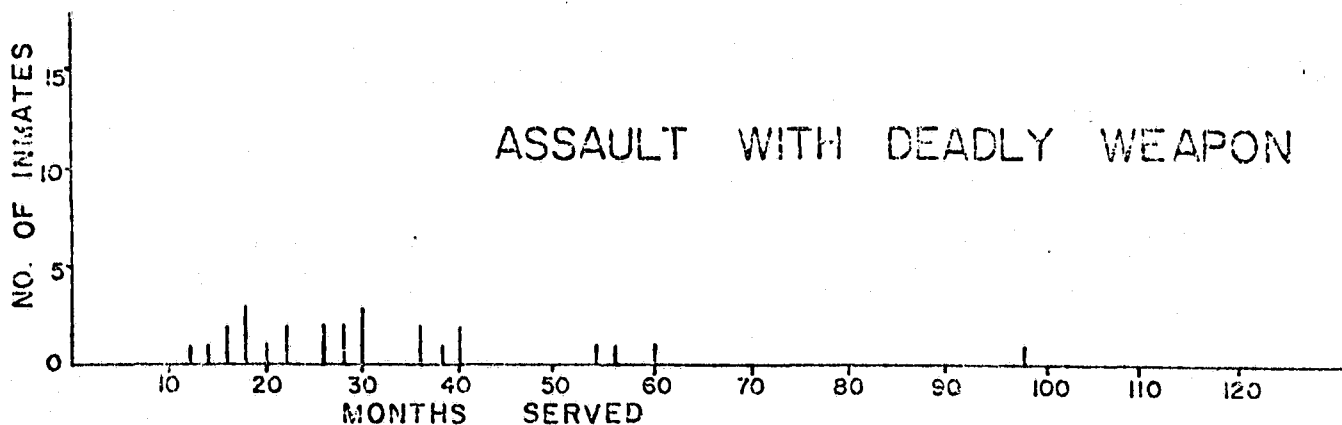
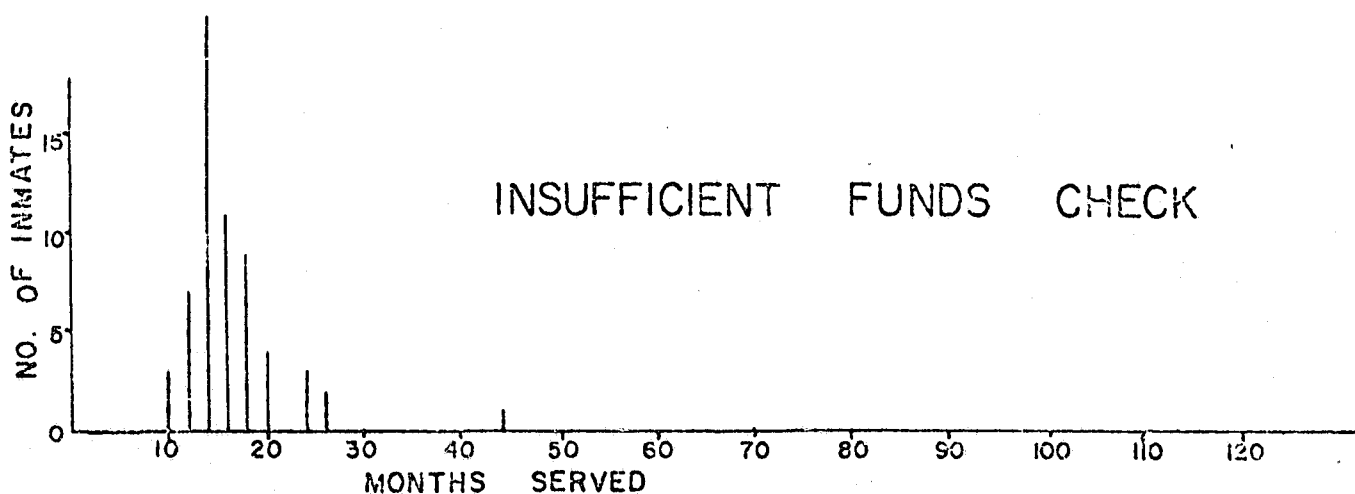
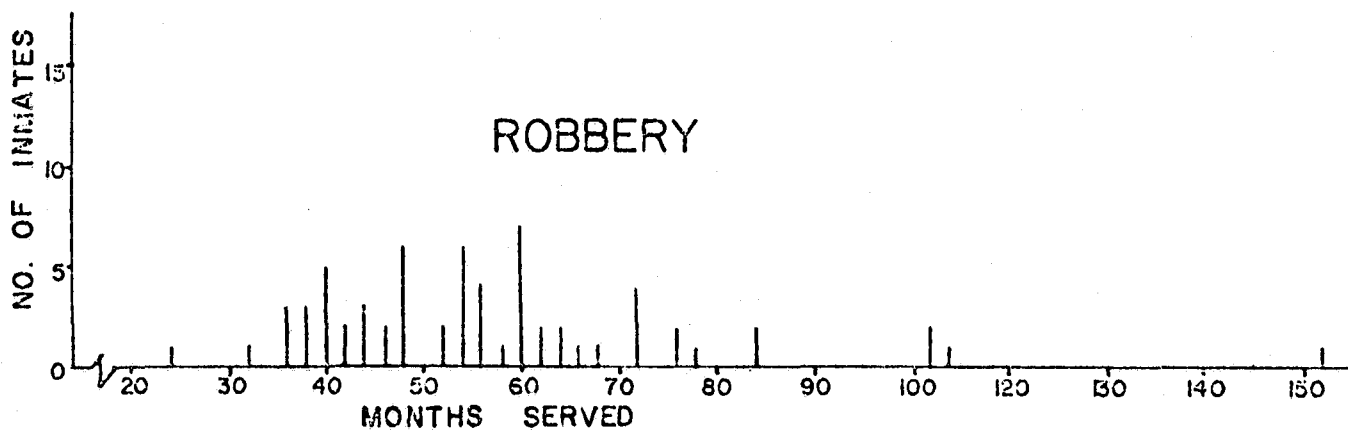
LENGTHS OF SENTENCES

(UTAH 1966-70)



LENGTHS OF SENTENCES

(UTAH 1966-70)



Source: "Sentences, Utah State Prison," Division of Corrections - Undated

Guidelines for Paroling Adult Offenders

(guidelines for decision making, customary total time served before release, including jail time)

Offense Characteristics: Severity of Offense Behavior (examples)	Offender Characteristics: Parole Prognosis (Salient Factor Score)			
	Very Good (11-9)	Good (8-6)	Fair (5-4)	Poor (3-0)
<p style="text-align: center;">Low</p> Immigration law violations Minor theft (includes larceny and simple possession of stolen property less than \$1,000) Walkaway	6-10 mos.	8-12 mos.	10-14 mos.	12-16 mos.
<p style="text-align: center;">Low Moderate</p> Alcohol law violations Counterfeit currency (passing/possession less than \$1,000) Drugs: marijuana, simple possession (less than \$500) Forgery/fraud (less than \$1,000) Income tax evasion (less than \$10,000) Selective Service Act violations Theft from mail (less than \$1,000)	8-12 mos.	12-16 mos.	18-20 mos.	20-26 mos.
<p style="text-align: center;">Moderate</p> Bribery of public officials Counterfeit currency (passing/possession \$1,000 to \$19,999) Drugs: Marijuana, possession with intent to distribute/sale (less than \$5,000) "Soft drugs," possession with intent to distribute/sale (less than \$5,000) Embezzlement (less than \$20,000) Explosives, possession/transportation Firearms Act, possession/purchase/sale (single weapon not sawed-off shotgun or machine gun) Income tax evasion (\$10,000 to \$50,000) Interstate transportation of stolen/forged securities (less than \$20,000) Making threatening communications Misprision of felony Receiving stolen property with intent to resell (less than \$20,000) Smuggling/transporting of aliens Theft/forgery/fraud (\$1,000 to \$19,999) Theft of motor vehicle (not multiple theft or for resale)	12-16 mos.	16-20 mos.	20-24 mos.	24-30 mos.
<p style="text-align: center;">High</p> Burglary or larceny (other than embezzlement) from bank or post office Counterfeit currency (passing/possession \$20,000-\$100,000) Counterfeiting (manufacturing) Drugs: Marijuana, possession with intent to distribute/sale (\$5,000 or more) "Soft drugs," possession with intent to distribute/sale (\$500 to \$5,000) Embezzlement (\$20,000 to \$100,000) Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons) Interstate transportation of stolen/forged securities (\$20,000 to \$100,000) Mann Act (no force - commercial purposes) Vehicle theft (for resale) Receiving stolen property (\$20,000 to \$100,000) Theft/forgery/fraud (\$20,000 to \$100,000)	16-20 mos.	20-26 mos.	26-32 mos.	32-38 mos.
<p style="text-align: center;">Very High</p> Robbery (weapon or threat) Drugs: "Hard drugs" (possession with intent to distribute/sale) (no prior conviction for sale of "hard drugs") "Soft drugs," possession with intent to distribute/sale (over \$5,000) Extortion Mann Act (force) Sexual act (force)	26-36 mos.	36-45 mos.	45-55 mos.	55-65 mos.
<p style="text-align: center;">Greatest</p> Aggravated felony (e.g., robbery, sexual act, aggravated assault) - weapon fired or personal injury Aircraft hijacking Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit (prior conviction(s) for sale of "hard drugs") Espionage Explosives (detonation) Kidnapping Willful homicide	Greater than above-however, specific ranges are not given because of the limited number of cases and the extreme variations in severity possible within the category.			

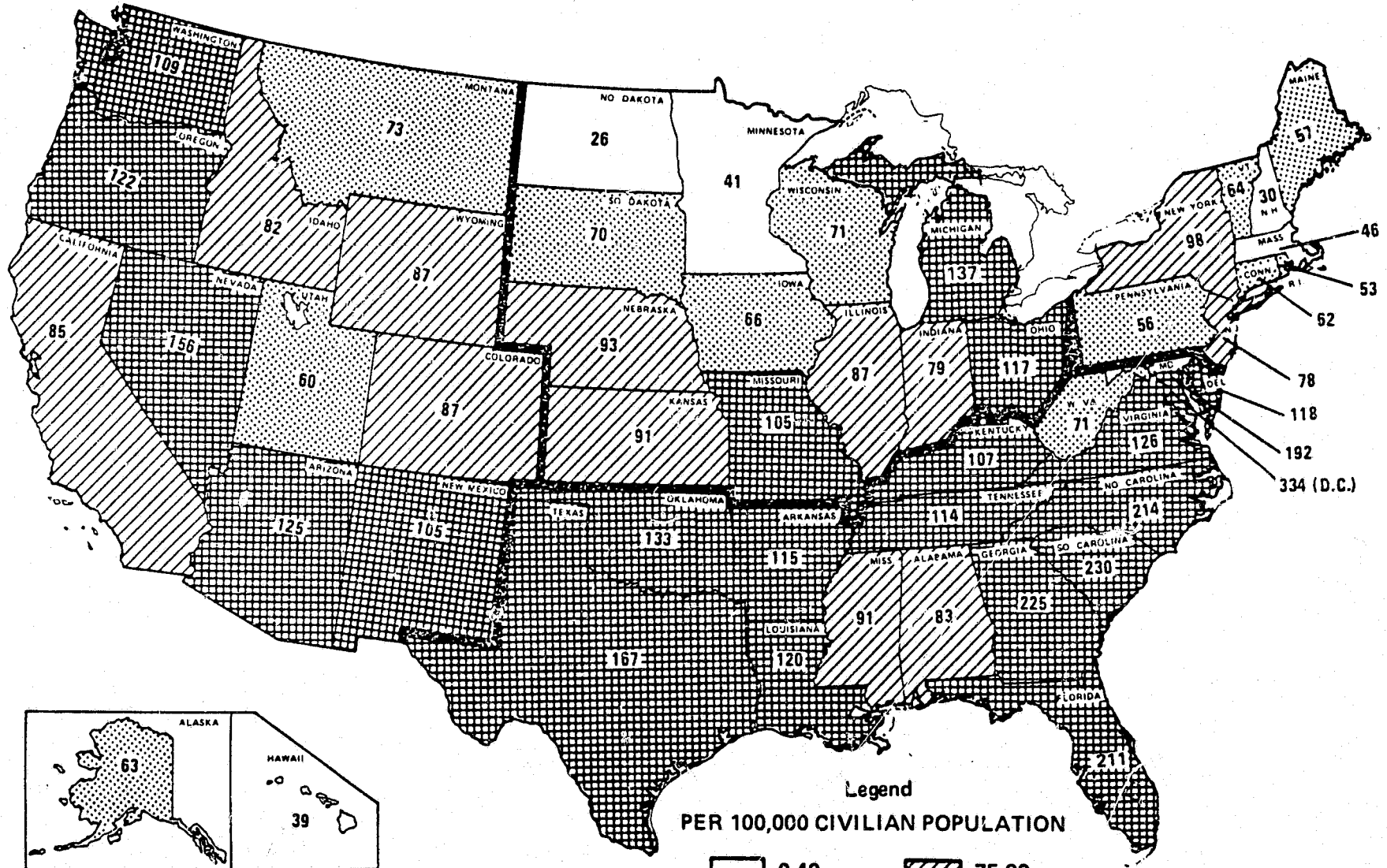
- Notes: 1. These guidelines are predicated upon good institutional conduct and program performance.
 2. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.
 3. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
 4. If an offense behavior involved multiple separate offenses, the severity level may be increased.
 5. If a continuance is to be given, allow 30 d. (1 mo.) for release program provision.
 6. "Hard drugs" include heroin, cocaine, morphine, or opiate derivatives, and synthetic opiate substitutes; "soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD, and hashish.
 Source: 28 C.F.R. §2.20, as amended by 41 Fed. Reg. 19326 (May 12, 1976).

NOTE: The offender characteristics which are the basis for different term lengths are based on such factors as prior convictions, age of first arrest, employment history, family relationship and drug or alcohol dependencies. These factors are given weighted scores (Salient Factor Score) and are used in justifying different sentence lengths.

COMPARATIVE INCARCERATION RATES

(PRISONERS PER 100,000)

December 31, 1976



-156-

Legend
PER 100,000 CIVILIAN POPULATION

0-49	75-99
50-74	100 or more

**COMPARATIVE CRIME RATES
(OFFENSES KNOWN TO POLICE)
UTAH AND U.S. 1967-1976**

Year	Total Reported Crime Rate		Violent Crime Rates										Property Crime Rates							
			Total		Murder		Rape		Robbery		Agg. Assault		Total		Burglary		Larceny-Theft		Auto Theft	
			Utah	US	Utah	US	Utah	US	Utah	US	Utah	US	Utah	US	Utah	US	Utah	US	Utah	US
1967	3245	2990	117	253	3	6	7	14	39	103	68	130	3128	2740	686	827	2217	1576	225	334
1968	3582	3370	116	298	2	7	11	16	34	132	69	144	3466	3070	741	932	2469	1747	255	393
1969	4028	3680	140	329	2	7	14	19	49	148	74	155	3888	3350	849	984	2742	1931	298	436
1970	4202	3985	138	364	2	8	11	19	54	172	70	165	4048	3620	915	1085	2833	2079	316	457
1971	4486	4165	154	396	2	9	15	21	61	188	76	179	4332	3770	915	1164	3089	2146	328	460
1972	4206	3761	183	401	3	9	18	23	63	181	100	190	4023	3560	913	1141	2832	1994	278	426
1973	4247	4154	209	417	3	9	23	25	63	183	120	201	4038	3740	987	1223	2748	2072	301	443
1974	4950	4850	215	461	3	10	22	26	76	209	113	216	4736	4390	1133	1438	3273	2490	330	462
1975	5113	5282	232	482	3	10	21	26	81	218	132	227	4881	4800	1211	1526	3335	2805	317	469
1976	4970	5266	221	460	4	9	21	26	69	196	126	229	4757	4810	1138	1439	3302	2921	317	446

Note: Figures may not add to total due to rounding.

Source: *Crime in the U.S.*, Uniform Crime Reports, 1976.
Federal Bureau of Investigation.

**COMPARATIVE CRIME RATES
STATES WITH HIGH AND LOW INCARCERATION RATES
1976**

Jurisdiction	Incarceration Rate	Total Crime Rate	Violent Crime Rate
US	111	5266.4	459.6
Ten States with Highest Incarceration Rate			
Washington D.C.	334	5350.7	511.8
South Carolina	230	4906.9	599.2
Georgia	225	4809.5	423.1
North Carolina	214	3881.2	403.4
Florida	211	7016.7	648.3
Maryland	192	5664.4	633.4
Texas	167	5464.4	355.7
Nevada	156	8306.1	691.0
Michigan	137	6478.2	646.0
Oklahoma	133	4480.9	286.6
Ten State Average	185	5683.8	504.6
Ten States with Lowest Incarceration Rate			
North Dakota	26	2514.3	71.9
New Hampshire	30	3611.3	86.3
Hawaii	39	6322.0	229.3
Minnesota	41	4331.1	189.0
Massachusetts	46	5820.9	399.2
Rhode Island	53	5650.2	299.8
Pennsylvania	56	3339.9	284.9
Maine	57	4084.4	220.0
Utah	60	4977.8	220.6
Connecticut	62	5004.6	273.2
Ten State Average	51	4356.0	281.0

Note: All rates are expressed as rate per 100,000.

Source: *Prisoners in State and Federal Institutions, 1978.*
Crime in the US: Uniform Crime Reports, 1978.

**COMPARATIVE PROBATION RATES
1976**

Jurisdiction	Felonies		Misdemeanors	
	Number	Rate/100,000	Number	Rate/100,000
Alabama	8,458	231	2,267	62
Alaska	752	197	134	35
Arizona	8,095	357	1,786	79
Arkansas	811	38	1,092	52
California	63,324	294	94,988	441
Colorado	7,283	282	3,646	141
Connecticut	4,248	136	10,528	338
Delaware	218	37	2,294	394
District of Columbia	1,792	255	2,742	391
Florida	27,883	331	2,552	30
Georgia	12,186	245	11,321	228
Hawaii	1,618	182	532	60
Idaho	1,479	178	832	100
Illinois	11,343	101	24,749	221
Indiana	6,057	114	8,391	158
Iowa	3,330	116	898	31
Kansas	2,191	117	2,823	122
Kentucky	2,710	79	1,047	31
Louisiana	6,737	175	3,716	97
Maine	1,096	102	717	67
Maryland	8,428	203	21,824	527
Massachusetts	21,684	373	38,548	664
Michigan	29,891	328	17,556	193
Minnesota	5,319	134	6,198	156
Mississippi	3,949	168	—	—
Missouri	7,290	153	6,379	134
Montana	1,321	175	291	39
Nebraska	2,154	139	2,185	141
Nevada	902	148	469	77
New Hampshire	2,104	256	465	57
New Jersey	20,920	285	10,371	141
New Mexico	1,346	115	1,361	117
New York	25,228	140	30,117	167
North Carolina	6,645	122	31,096	569
North Dakota	740	115	—	—
Ohio	20,291	190	16,669	156
Oklahoma	8,877	321	467	17
Oregon	4,291	184	6,349	273
Pennsylvania	21,415	181	23,443	198
Rhode Island	1,449	158	756	82
South Carolina	8,340	293	8,962	315
South Dakota	698	102	99	14
Tennessee	5,197	123	440	10
Texas	52,250	418	41,054	329
Utah	1,155	94	3,808	310
Vermont	942	198	2,046	430
Virginia	8,465	168	1,403	28
Washington	4,013	111	11,513	319
West Virginia	1,152	63	677	37
Wisconsin	6,711	146	6,023	131
Wyoming	315	81	301	77
US	455,093	212	467,971	218

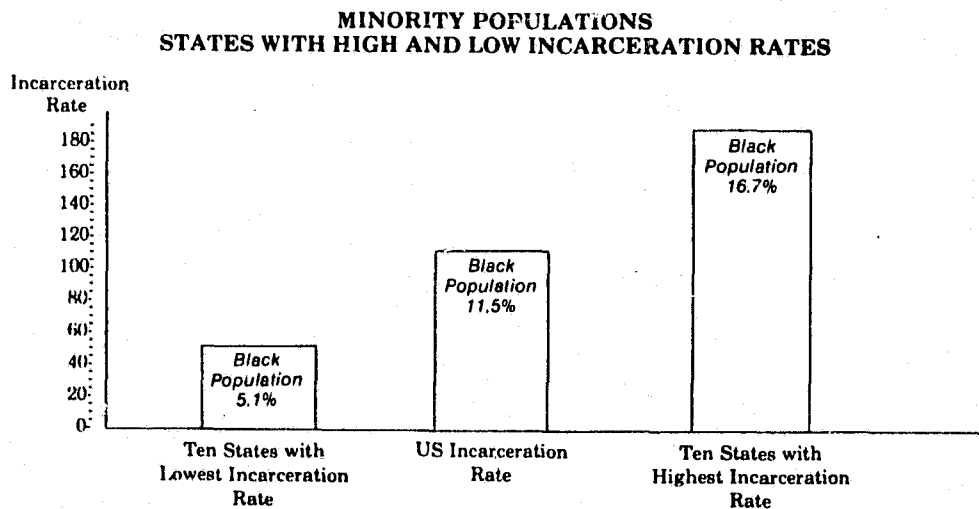
Source: State and Local Probation and Parole Systems, 1978.

**MINORITY POPULATIONS
STATES WITH HIGH INCARCERATION RATES AND
STATES WITH LOW INCARCERATION RATES
1976**

Jurisdiction	Incarceration Rate per/100,000 Population	Black Population as % of Total Population
US	111	11.5
Ten States with Highest Incarceration Rate		
Washington D.C.	334	71.9
South Carolina	230	30.8
Georgia	225	26.1
North Carolina	214	21.9
Florida	211	14.2
Maryland	192	20.1
Texas	167	12.5
Nevada	156	6.0
Michigan	137	11.9
Oklahoma	133	7.1
Ten State Average	185	16.7
Ten States with Lowest Incarceration Rate		
North Dakota	26	0.4*
New Hampshire	30	0.3*
Hawaii	39	1.0*
Minnesota	41	1.0
Massachusetts	46	3.6
Rhode Island	53	3.0
Pennsylvania	56	8.8
Maine	57	0.3*
Utah	60	0.6*
Connecticut	62	6.1
Ten State Average	51	5.1

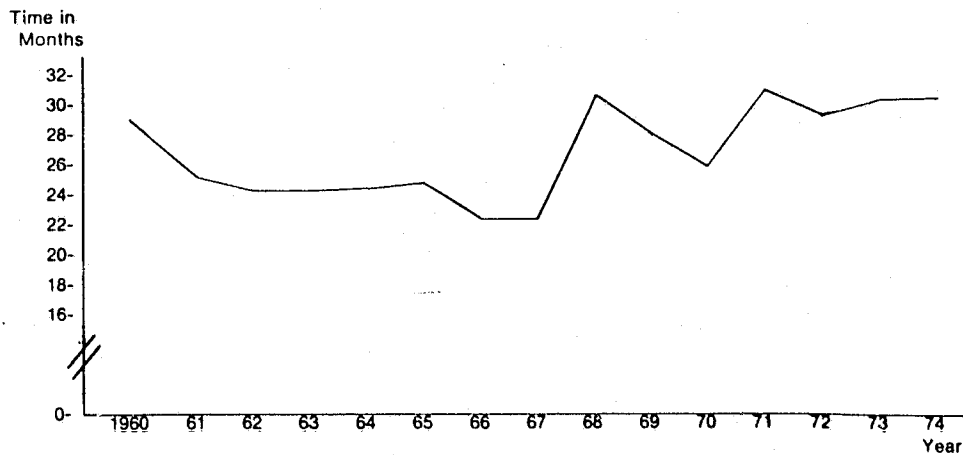
Source: *Prisoners in State and Federal Institutions, 1978.*
Statistical Abstract of the U. S., 1977.

* 1970 Census data.



Source: *Statistical Abstract of the US, 1977.*
Prisoners in State and Federal Institutions, 1978.

**AVERAGE TIME SERVED TO FIRST PAROLE
BY UTAH MALE PRISONERS
1960—1974**



Source: Utah Division of Corrections, 1978

**AVERAGE PRISON TIME
SERVED IN UTAH
(MALES 1960—1975)**

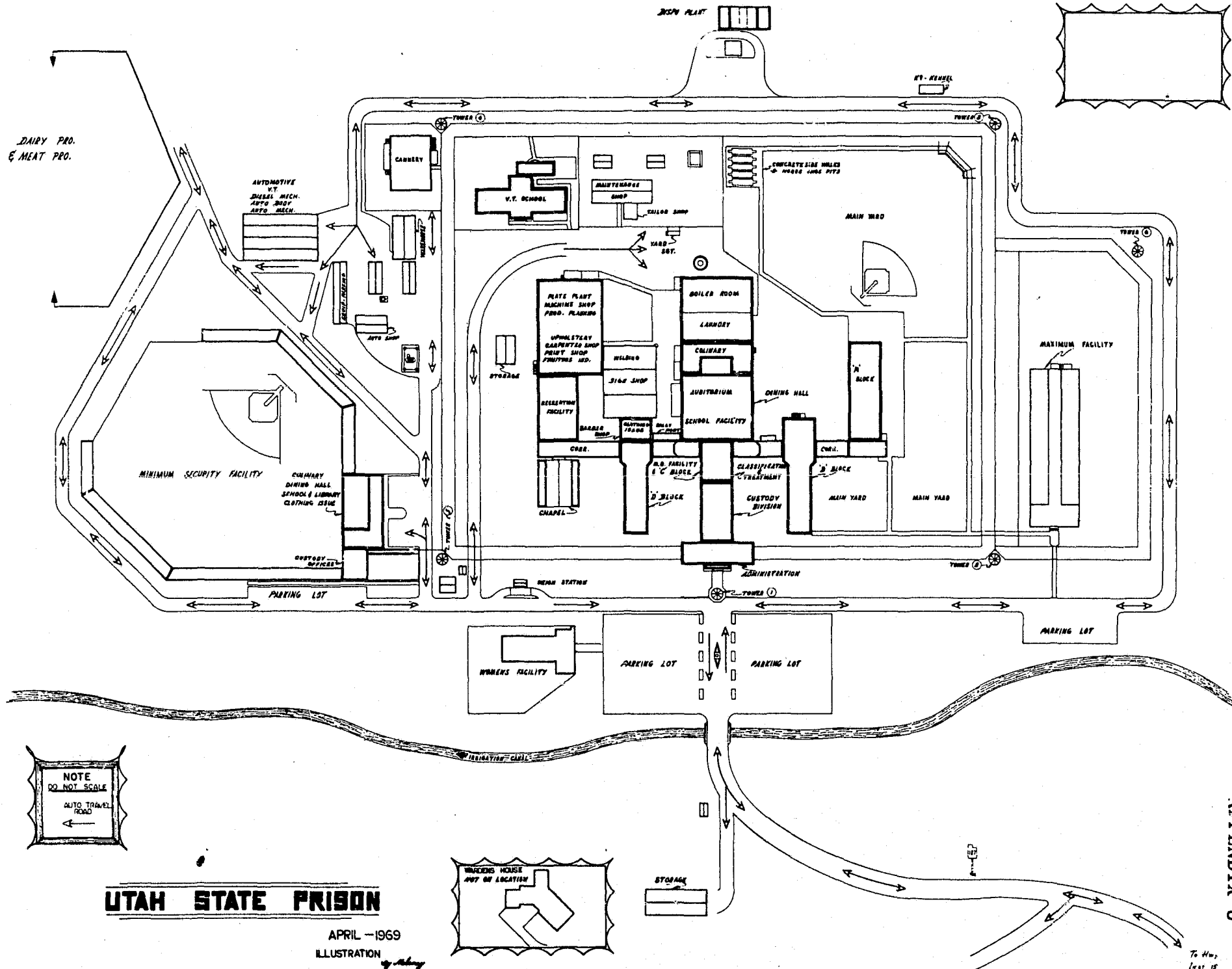
Crime	Average Time Served (months)	Number of Inmates
Assault	54	8
Aggravated Assault	33	91
Automobile Homocide	21	26
Kidnapping	23	5
Manalaughter	33	23
Murder 1st Degree	191	10
Murder 2nd Degree	87	24
Rape	47	46
Sodomy	44	11
Arson	22	11
Burglary	22	679
Forgery	22	279
Fraud	20	10
Bad Checks	20	416
Grand Larceny	21	294
False Pretenses	22	21
Receiving Stolen Goods	18	20
Robbery	54	168
Aggravated Robbery	73	4
Embezzlement	21	33
Distribution of Drugs	18	32
Possession of Drugs	18	31

Source: Utah Division of Corrections, 1978.

**COMPARATIVE PRISONER PROFILE
UTAH (1973) AND US (1974)**

Crime	Utah(%)	U.S. (%)
Violent Crimes		
Homicide	11	18
Rape	4	5
Kidnapping	—	1
Robbery	18	23
Assault	4	5
Other Sex Crimes	1	1
Sub Total	38	53
Property Crimes		
Burglary	24	18
Larceny	15	6
Auto Theft	—	2
Fraud, Forgery, Embez.	12	4
Other Property	2	2
Sub Total	53	32
Crimes Against Public Order		
Drug Offenses	7	10
Other Public Order	2	5
Sub Total	9	15

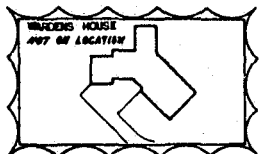
Source: *Census of Prisoners in Correctional
Facilities, 1973.*
*Survey of Inmates of State Correctional
Facilities, 1974.*



NOTE
DO NOT SCALE
AUTO TRAVEL
ROAD

UTAH STATE PRISON

APRIL - 1969
ILLUSTRATION



COST ESTIMATES
FOR COMMUNITY BASED AND
INSTITUTIONAL FACILITIES

Option One - 60 Bed Residential Treatment Facility

Construction:	\$ 1,100,000
Land Acquisition:	\$ 93,552
Personnel (17 staff):	\$ 321,346
Operating Budget:	\$ 60,000
Construction Cost Per Bed:	\$ <u>19,893/bed</u>
Cost Per Resident Per Day*:	\$ <u>18.99/day</u>

*Cost/day determined with occupancy of 55

Option Two - 250 Bed Medium Security Institution

Construction:	\$ 10,433,228
Land Acquisition:	\$ 105,000
Personnel (50 staff):	\$ 1,016,968
Operating Budget:	\$ 771,897
Construction Cost Per Bed:	\$ <u>42,153/bed</u>
Cost per Inmate Per Day*:	\$ <u>21.80/day</u>

*Cost/day determined with occupancy of 225 and does not include costs for program and support activities which are estimated to require an additional 50 employees.

Source: Draft Master Plan, Division of Corrections, 1978

CONTINUED

2 OF 3

UTAH CLASSIFICATION CRITERIA
FOR PROBATIONERS AND PAROLEES

Maximum Classification

1. PRIOR RECORD
 - a. Three or more arrests for alcohol or drug offenses
 - b. A prior probation or parole
 - c. State Industrial School commitment
 - d. Repeated arrests for same offenses
2. EMPLOYMENT RECORD
 - a. Unemployed for majority of last twelve months
 - b. No employment skills
3. HISTORY OF VIOLENCE
 - a. Present offense for aggressive acts against person
 - b. Past aggressive acts known
 - c. Significant potential for violence indicated
4. PRIOR DIAGNOSED OR KNOWN PSYCHOLOGICAL PROBLEMS
 - a. Suicide attempts or indication of suicidal tendencies (severe depression)
 - b. Prior commitment to State Hospital
 - c. Diagnosis of mental instability
 - d. Retarded or borderline retardation
5. IMMEDIATE TREATMENT NEEDS
 - a. Present drug addiction
 - b. Present alcohol addiction
 - c. Present need for mental health treatment
 - d. No place to stay and no financial resources
6. ATTITUDE
 - a. Very negative with display of open hostility or anger
 - b. Defensive - denies apparent problems
 - c. Uncooperative - failure to report or to follow programs

7. FAMILY SITUATION

- a. Antisocial family background
- b. Recent or pending divorce or separation
- c. Lack of family support
- d. Undesirable residence

8. FINANCIAL OBLIGATIONS

- a. Large amount of restitution or fine owing
- b. Considerable personal indebtedness

9. PEER RELATIONS

- a. Associating with known offenders; i.e., drug cultures and places where drugs are present
- b. Loner

10. GOALS AND OBJECTIVES

- a. No immediate goals
- b. Completely unrealistic goals

Medium Classification

All cases not initially classified as maximum are classified as medium. Medium supervision includes cases where moderate problems are present but not to the degree required for maximum classification.

Minimum Classification

Minimum classification may be earned by satisfactory probation or parole performance. Misdemeanor cases may be classified as minimum after three months successful medium supervision, and felony cases may be classified as minimum after twelve months successful supervision, although exception cases may merit earlier consideration for minimum supervision.

Source: "Final Report," Classification and Specialization Task Force, Division of Corrections, September, 1977.

**MAN HOURS REQUIRED
TO MEET STANDARDS
(APRIL, 1978)**

Activity	Proposed Time Standard		Average # Per Month	Estimated Man Hours To Meet Standard	
	Professional	Clerical		Professional	Clerical
Pre-Sentence	16.50	—	572	9438	—
90-Diagnostic Study	24.50	—	30	735	—
Post-Sentence	2.80	—	100	280	—
Maximum Supervision	4.50	1.0	1530	6885	1530
Medium Supervision	1.75	1.0	2235	3911	2235
Minimum Supervision	—	1.0	2043	—	2043
Probation Violation	5.10	—	210	1071	—
Parole Violation	24.50	—	15	368	—
Administrative Cases	.25	—	238	60	—
Interstate Investigations	2.30	—	40	92	—
Special Investigations	3.30	—	53	175	—
Pre-Parole Investigations	2.70	—	10	27	—
Sub Totals				23,042	5808
Total				28,850	

Source: Division of Corrections, August, 1978.

**SUMMARY OF ORGANIZATION AND WORK LOAD
OF ADULT PAROLE AUTHORITIES
IN US (1977)**

Type of Membership	Number of Jurisdictions	Annual Entries onto Parole*		
		High	Low	Average
Full-Time Board	29	10,652	365	2602
Part-Time Board	18	1,277	44	448
Mixed Full-Time and Part-Time Board**	4	923	354	579

* Entries onto parole do not represent the entire work load of a parole authority and are presented here only as a general indicator of parole authority work load.

** Mixed boards have one or more members who serve full-time with other members serving on a part-time basis.

Source: *Parole Systems in the United States*,
O'Leary and Hanrahan, 1976.
Parole in the United States: 1976 and 1977,
Uniform Parole Reports, 1978.

ORGANIZATION AND WORK LOAD OF
ADULT PAROLE AUTHORITIES IN THE U.S.
(1977)

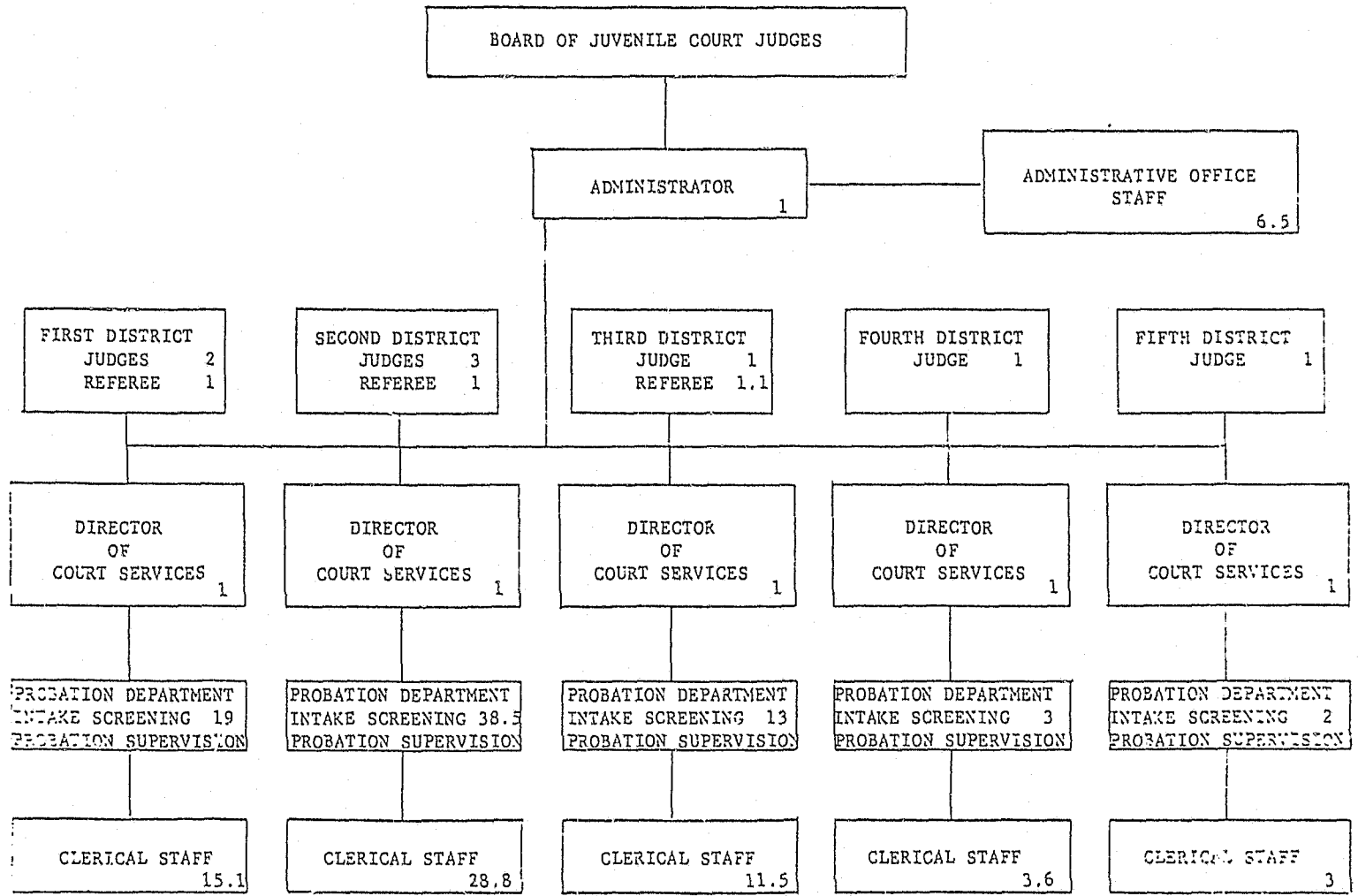
Type of Board & Jurisdiction	Number of Members on Board	Annual Entries* onto Parole
Full-time Boards:		
Alabama	3	1398
Arizona	3	583
California	9	10652
Colorado	4	1223
D. of C.	3	711
Florida	7	3027
Georgia	5	3236
Illinois	10	3476
Indiana	5	1261
Kentucky	5	1507
Louisiana	5	780
Maryland	7	2469
Massachusetts	7	N/A
Michigan	5	N/A
Minnesota	5	806
Missouri	3	1034
New Jersey	3	3976
New Mexico	3	466
New York	12	5500
North Carolina	5	4887
Ohio	7	5029
Oregon	5	1295
Pennsylvania	5	3379
Tennessee	3	2108
Texas	3	6889
Virginia	5	1636
Washington	7	1500
West Virginia	3	365
Wisconsin	11	1050
Part-time Boards:		
Alaska	5	84
Arkansas	5	1265
Hawaii	5	72
Idaho	5	191
Iowa	3	581
Kansas	5	1010
Maine	5	310
Montana	3	262
Nevada	5	435
New Hampshire	3	203
North Dakota	3	117
Oklahoma	5	1277
Rhode Island	5	170
South Carolina	7	1224
South Dakota	3	244
Utah	3	380
Vermont	5	203
Wyoming	3	44
Mixed Boards:**		
Connecticut	11	956
Delaware	5	354
Mississippi	5	520
Nebraska	5	487

* Entries onto parole do not represent the entire work load of a parole authority and are presented here only as a general indicator of parole authority work load.

** Mixed boards have one or more members who serve full-time with other members serving on a part-time basis.

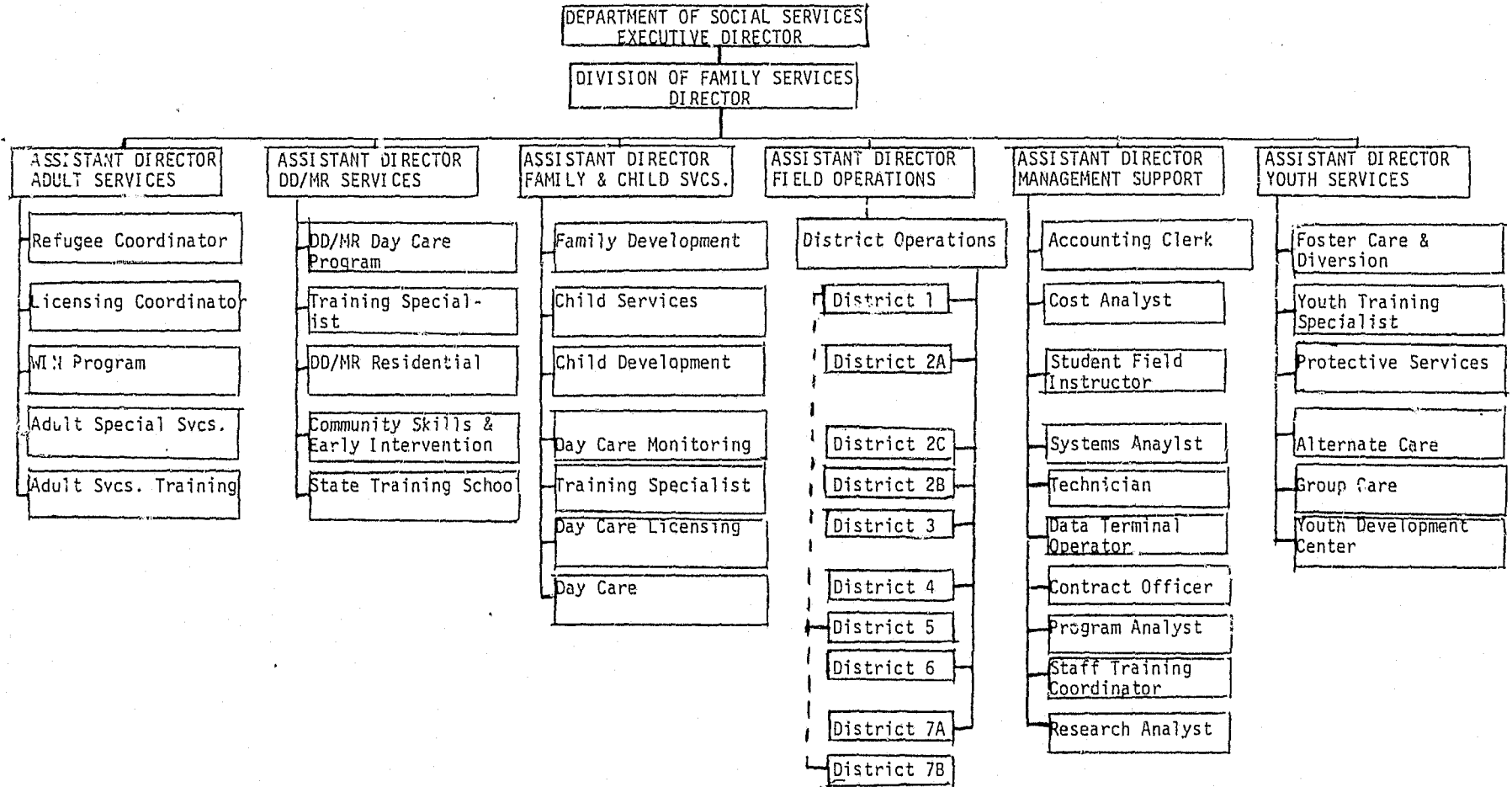
Source: *Parole Systems in the United States*,
O'Leary and Hanrahan, 1976.
Parole in the United States: 1976 and 1977,
Uniform Parole Reports, 1978.

UTAH JUVENILE COURT



Source: Office of Court Administrator, Utah Juvenile Court, 1978.

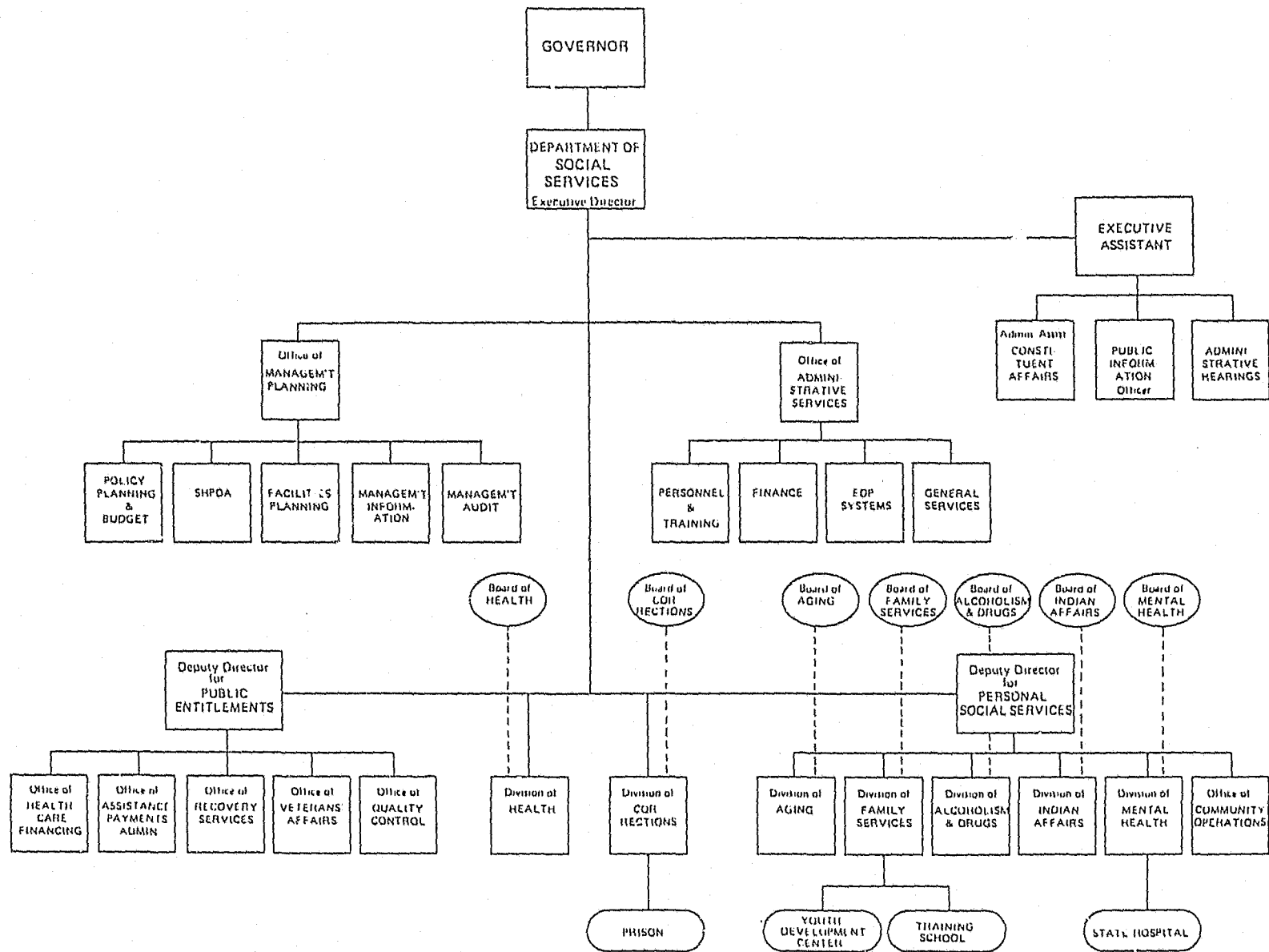
DIVISION OF FAMILY SERVICES



Source: Division of Family Services

Prepared by: Office of Legislative Research, August, 1978

DEPARTMENT OF SOCIAL SERVICES

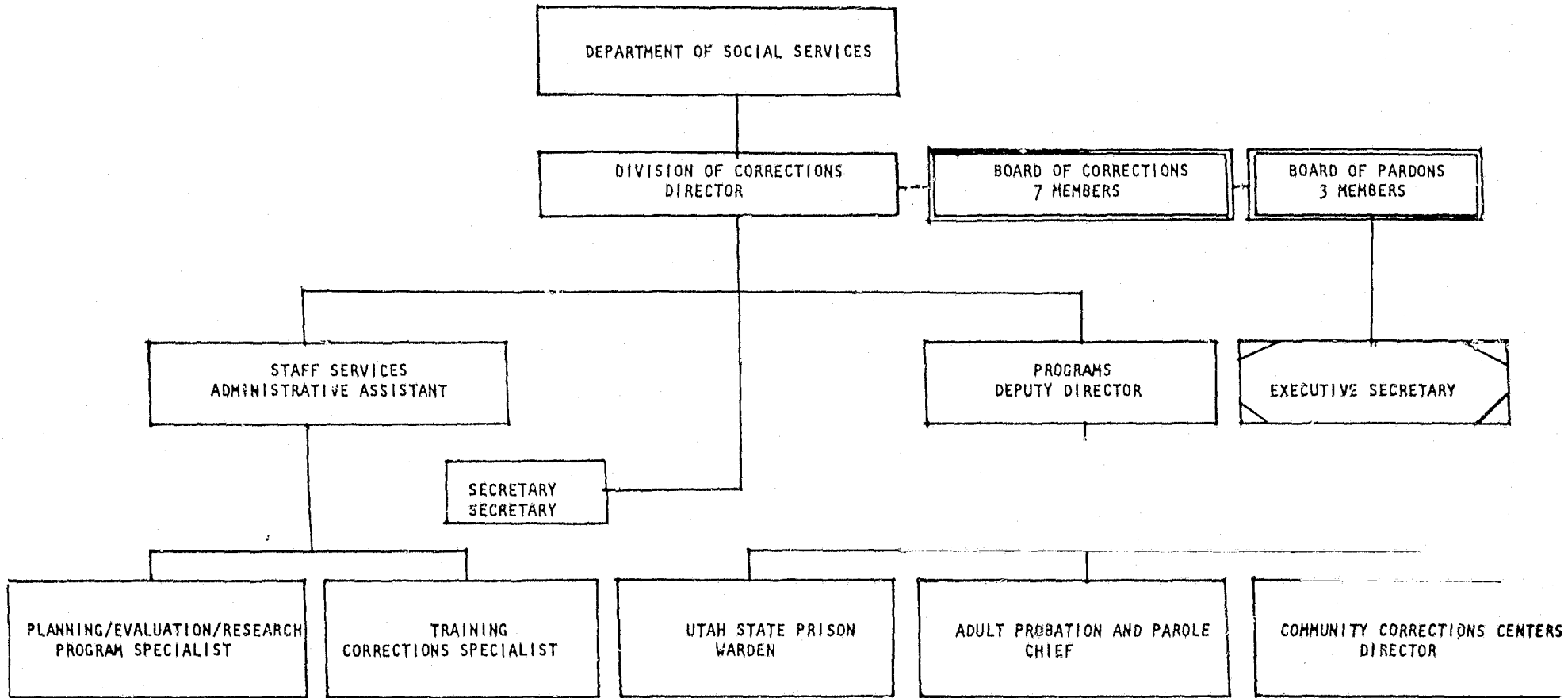


Source: Department of Social Services, August, 1978.

-172-

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DIVISION OF CORRECTIONS



Source: "Draft Master Plan", Division of Corrections, 1978.

**PROFILE OF
YOUTH IN CATY
ALTERNATIVE PROGRAMS**

Program	Number of Youths Enrolled	Ave. Months Between Referrals	Ave. Number of Prior Misdemeanors	Ave. Number of Prior Felonies
Copper Mountain	19	2.7	9.6	7.2
Esperanza	7	3.1	10.7	4.1
Marmalade	11	3.0	10.7	3.4
Provo	11	3.5	1.8	0.4
Sam Howe	21	3.7	9.8	4.9
Weber	8	3.0	9.6	3.6
Westminster	7	2.3	8.6	5.7
Total	77*	2.9	8.5	4.6

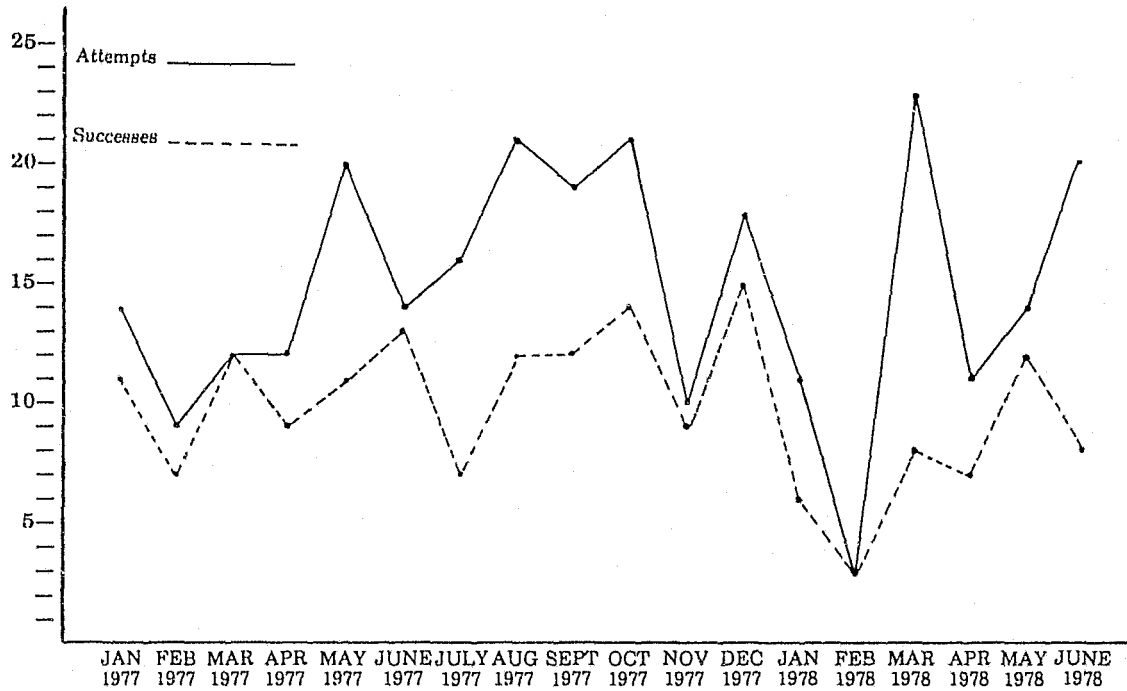
* Less than column total because 7 youths enrolled at Marmalade School are also enrolled at Sam Howe (4) and Esperanza (3).

Note: Due to possible methodological differences in compiling the data, the information in this chart may not be comparable to the YDC Profile (Appendix D).

Source: "A Study to Evaluate the Effectiveness of Seven Alternatives For Troubled Youth with Emphasis on Improving the Projects: Final Report", Learning Design Laboratories, July, 1978.

AWOLS FROM YOUTH DEVELOPMENT CENTER

January 1977 to June 1978



	1977				1978	
	FIRST HALF		SECOND HALF		FIRST HALF	
	ATTEMPTED	SUCCESSFUL	ATTEMPTED	SUCCESSFUL	ATTEMPTED	SUCCESSFUL
Group	14	6	42	24	30	10
School	11	4	19	4	14	3
Detail	9	8	3	2	3	2
Off-Campus	20	20	10	10	7	5
Home Visit	23	22	23	22	19	17
Other	3	2	8	7	9	7
Total	81	63	105	69	82	44

SOURCE: Youth Development Center

Office of Legislative Research
July 1, 1978

ORGANIZATIONAL STRUCTURE OF
ADULT AND JUVENILE CORRECTIONS

Adult and Juvenile Corrections in Separate Departments	Adult and Juvenile Corrections in a Human Resources Agency	Adult and Juvenile Corrections in a Single Corrections Dept.
Alabama Arkansas Connecticut Florida Georgia Idaho Kansas Kentucky Maryland Michigan Mississippi Nevada New Hampshire New York North Carolina North Dakota Ohio Oklahoma Pennsylvania South Carolina Texas	Alaska California Hawaii Iowa Maine Missouri Montana Oregon South Dakota* Utah* Vermont Washington West Virginia Wisconsin Wyoming	Arizona* Colorado* Delaware* Illinois Indiana Louisiana Massachusetts Minnesota Nebraska New Jersey New Mexico Rhode Island Tennessee Virginia

*Juvenile Probation administered separately by court.

Source: Reorganization of State Corrections Agencies, Council of State Governments, 1976, and telephone survey, August, 1978.

SECTION XVIII - MINORITY REPORTS AND STATEMENTS FROM
INDIVIDUAL TASK FORCE MEMBERS

STATEMENT

by

Genevieve Atwood
with
K.S. Cornaby
James Macfarlane
Ivan M. Matheson
G. LaMont Richards

First and foremost, I would like to thank the Task Force members for their participation in the two-year long review of Utah's criminal justice system. The knowledge and expertise of Task Force members from the judicial, executive, and legislative branches of state government provided an opportunity to develop general policy guidelines for legislative or administrative action in the operation of the criminal justice system. The Task Force took advantage of this opportunity and has responded to the specific mandate of the legislature and also to issues posed by the public, by other executive agencies, and by the judiciary. Considering the broad range of issues addressed by the Task Force, it is not surprising that some recommendations were adopted by close votes after substantial disagreement and debate.

I would like to express my personal dissent from Recommendations 16, 31 and 33 which propose the transfer of administrative responsibility for the Youth Development Center (YDC) from the Division of Family Services (DFS) to a newly established independent Department of Corrections.

Recommendation 16: Responsibility for operations of secure residential facilities for juveniles should be transferred from the Division of Family Services to the Division or Department of Corrections.

Recommendation 31: Responsibility for the Youth Development Center and for aftercare/parole programs for juveniles released from the facility should be transferred from the Division of Family Services to the Division (or Department) of Corrections.

Recommendation 33: The Division of Corrections should be removed from the Department of Social Services and established as an independent department.

This proposed administrative change reflects a disaffection with the existing system. If it is a wise change, the reorganization should resolve some of the problems of the present system without creating a new set of more serious problems. Problems with the present system include:

- Fragmentation of the criminal justice system;
- Unresponsiveness to legislative, executive, judicial and public directives;

- Dissatisfaction with present administrators;
- A lack of well-defined departmental role of corrections/ rehabilitation;
- Administrative distance from the Governor's office;
- Chronic underfunding from the Appropriations Subcommittee of Social Services, a committee whose members are not viewed as advocates of corrections.

Would a Department of Corrections (including adults and youths) resolve these problems?

- Fragmentation - Such a department would increase fragmentation of the juvenile justice system by dividing the preventative, educational and family support programs from the correctional and aftercare programs.
- Unresponsiveness - A department will labor under the same burden of multiple mandates from the judicial, executive, legislature and public as the present Division of Family Services.
- Personnel - Admittedly, a program depends more upon the individuals who run it than upon administrative structure. Departmental status would provide more "exempt" positions than within a division and more flexibility for advancement.
- Lack of defined roles - The ability to define a philosophy for adult corrections and juvenile corrections is not a function of organization.
- Access to the Governor - The Governor has stated a reluctance to promote various divisions to departmental status and past administrative reorganizations have attempted to limit the number of department heads.
- Legislative advocacy - The present competition for funding among social services agencies may frustrate administrators but may not be an altogether negative influence, particularly to the taxpayer's pocketbook, because it forces the committee to prioritize among programs.

Could the Department of Corrections (including adults and youths) create more problems than it solves?

- Change of emphasis - Combining youth and adult corrections in a single department could blur important distinctions in the treatment for juvenile and adult offenders as are illustrated in the following excerpts from the separate philosophy statements adopted by the Task Force:

"The primary objectives of the Juvenile Justice System, as specified by the 1965 Juvenile Court Act, are to 'secure for

each child coming before the Juvenile Court such care, guidance and control, preferably in his own home, as will serve his welfare and the best interests of the state; to preserve and strengthen family ties whenever possible; to secure for any child who is removed from his home the care, guidance and discipline required to assist him to develop into a responsible citizen; to improve the conditions and home environment responsible for his delinquency; and at the same time, to protect the community and its individual citizens against juvenile violence and law-breaking.'

"The objectives can best be achieved through the use of control, consequences, and rehabilitation on an individual, case-by-case basis within a family/community context as described below."

"The primary objectives of the Adult Criminal Justice System after trial are to reduce frequency and severity of harm caused by criminal acts, to assist offenders in the development of skills necessary to function adequately in society and to facilitate the reintegration of offenders into society following contact with the criminal justice system.

"These objectives can be achieved through control, punishment, and habilitation/rehabilitation of offenders.

"The purposes of control include the promotion of public safety by limiting the opportunity for criminal acts and the imposition of punishment by restricting the personal liberty and/or conduct of the offender.

"Punishment involves the imposition of a penalty or sanction against a convicted offender. Punishment may range from admonishment to imprisonment or death."

- Departmental costs - "Upgrading" to departmental status will tend to upgrade salaries and administrative costs as well.
- Administrative costs - A large portion of correctional activities involve "human services" functions. Evaluating the problems and needs of convicted offenders in presentence investigations, locating vocational and counseling services for probationers, providing assistance to the families of probationers and prisoners and providing educational, vocational and counseling programs for offenders at the prison are essentially human services functions and are similar to the services provided by the Department of Social Services to other target populations. If the Department of Corrections provides such services, some will be duplicative of those provided by the Department of Social Services. If the services of the Department of Social Services are used, the dual administration will cost money.
- Status of youths - The number of clients and personnel within the adult system is so large compared to the youth system, that departmental

status may increase the emphasis on adults at the expense of youth programs. There is a marked difference in caseload size between adult and juvenile parole systems and this greatly reduced caseload of juvenile parole officers should be preserved.

In conclusion, I believe that to combine youth and adult corrections into a department would at worst create more problems than it would solve and, at best, would simply give administrators the impressions that they were accomplishing change when, in fact, the present problems of the system are not addressed by reorganization.

Again, I would like to reiterate my appreciation to the Task Force, its staff, and to the public at large that attended our meetings and provided valuable input and wise counsel.

PART FIVE
DRAFT LEGISLATION

CONTENTS
OF
PART FIVE

Introduction.	187
Juvenile Court Jurisdiction	189
Youth Development Center Age Jurisdiction	199
Alcoholism and Intoxication Treatment Act	201
Community Corrections Assistance Act.	215
Definite Sentencing Study Resolution.	225
Board of Pardons Membership	227
Department of Corrections Act	229

INTRODUCTION

Part Five of the Final Report of the Blue Ribbon Task Force on Criminal Justice contains draft legislation for Task Force recommendations which require legislative action for implementation. Many of the recommendations made by the Task Force are intended to provide general policy guidance to the courts, administrative agencies and legislative appropriations committees for the operation of and allocation of resources for the criminal justice system, and accordingly do not require statutory amendment or enactment to effectuate.

The specific language of the draft legislation contained herein has not been approved or endorsed by the Task Force, and the draft legislation is included in the report primarily to illustrate the type of legislative action necessary to implement the Task Force recommendations.

1 (JUVENILE COURT JURISDICTION)

2 1979

3 GENERAL SESSION

4
5 B. No. _____ By _____
6 _____
7 _____

8 AN ACT AMENDING SECTION 78-3a-16, UTAH CODE ANNOTATED 1953, AS
9 ENACTED BY CHAPTER 165, LAWS OF UTAH 1965, AS AMENDED BY
10 CHAPTER 134, LAWS OF UTAH 1971, AS AMENDED BY CHAPTER 120,
11 LAWS OF UTAH 1973, AS AMENDED BY CHAPTER 67, LAWS OF UTAH 1975,
12 AND AS AMENDED BY CHAPTER 76, LAWS OF UTAH 1977, SECTION
13 78-3a-16.5, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 76,
14 LAWS OF UTAH 1977, SECTION 78-3a-22, UTAH CODE ANNOTATED 1953,
15 AS ENACTED BY CHAPTER 165, LAWS OF UTAH 1965, AS AMENDED BY
16 CHAPTER 167, LAWS OF UTAH 1975, AND AS AMENDED BY CHAPTER 81,
17 LAWS OF UTAH 1977 AND SECTION 78-3a-39, UTAH CODE ANNOTATED 1953,
18 AS ENACTED BY CHAPTER 165, LAWS OF UTAH 1965, AS AMENDED BY
19 CHAPTER 67, LAWS OF UTAH 1975, AS AMENDED BY CHAPTERS 79 and
20 213, LAWS OF UTAH 1977; AND ENACTING SECTION 53-24-10, UTAH CODE
21 ANNOTATED 1953; REMOVING CURFEW OFFENDERS FROM THE ORIGINAL
22 JURISDICTION OF THE JUVENILE COURT, REQUIRING EARNEST AND
23 PERSISTENT EFFORTS BY SCHOOL DISTRICTS PRIOR TO REFERRAL OF
24 HABITUAL TRUANTS TO JUVENILE COURT AND PROVIDING FOR CITATION
25 IN LIEU OF PETITION AND FOR PARENTAL NOTICE IN CERTAIN CASES
26 DESIGNATED BY THE BOARD OF JUVENILE COURT JUDGES.

27 Be it enacted by the Legislature of the State of Utah:

28 Section 1. Section 78-3a-16, Utah Code Annotated 1953, as
29 enacted by Chapter 165, Laws of Utah 1965, as amended by Chapter 134,
30 Laws of Utah 1971, as amended by Chapter 120, Laws of Utah 1973,
31 as amended by Chapter 67, Laws of Utah 1975, and as amended by
32 Chapter 76, Laws of Utah 1977, is amended to read:

33 78-3a-16. Jurisdiction of juvenile court--Judge may sit as
34 district court judge--Except as provided in section 78-3a-16.5 or as
35 otherwise provided by law, the court shall have exclusive original
36 jurisdiction in proceedings:

37 (1) Concerning any child who has violated any federal, state or

1 local law or municipal ordinance, or any person under 21 years of
2 age who has violated any such law or ordinance before becoming
3 eighteen years of age, regardless of where the violation occurred.

4 (2) Concerning any child [-]

5 [~~a~~] who is a neglected or dependent child, as defined in
6 section 78-3a-2 [~~1~~].

7 [~~b~~] ~~---who-is-an-habitual-truant-from-school-~~

8 (3) Concerning any parent or parents of a child committed to
9 the [~~state-industrial-school~~] youth development center, in so far
10 as to order, at the discretion of the court and on the recommendation
11 of the [~~state-industrial-school~~] youth development center, the
12 parent or parents of a child committed to the [~~state-industrial~~
13 ~~school~~] youth development center for a custodial term, to undergo
14 group rehabilitation therapy under the direction of the [~~state~~
15 ~~industrial-school~~] youth development center school therapist,
16 who has supervision of that parent or parents' child, or such other
17 therapist that the court may direct, for a period directed
18 by the court as recommended by the [~~state-industrial-school~~]
19 youth development center.

20 (4) To determine the custody of any child or appoint a guardian
21 of the person or other guardian of any child who comes within the
22 court's jurisdiction under other provisions of this section.

23 (5) To terminate the legal parent-child relationship,
24 including termination of residual parental rights and duties as
25 defined herein.

26 (6) For judicial consent to the marriage, employment, or
27 enlistment of a child when such consent is required by law.

28 (7) For the treatment or commitment of a mentally ill or
29 mentally retarded child who comes within the court's jurisdiction
30 under other provisions of this section.

31 (8) Under the Interstate Compact on Juveniles.

32 Any judge of the juvenile court may at the request of any judge
33 of district court, sit as a judge of the district court and shall
34 have the same powers as the judge thereof.

35 Section 2. Section 78-3a-16.5, Utah Code Annotated 1953,
36 as enacted by Chapter 76, Laws of Utah 1977, is amended to read:

37 78-3a-16.5. Jurisdiction of juvenile court--Cases referred by

1 ___ B. No. ___

2 agencies.--

3 (1) The court shall have jurisdiction in cases referred to
4 the court by the division of family services or those public or
5 private agencies which have contracted with the division of family
6 services to provide the services referred to in section 55-15b-6(12)
7 where, despite earnest and persistent efforts of the division of
8 family services or the contracting agency, the child demonstrates
9 that he or she:

10 [~~1~~] (a) Is beyond the control of the parent or parents,
11 guardian, other lawful custodian, or school authorities to the
12 point that his or her behavior or condition is such as to endanger
13 his or her own welfare or the welfare of others [] ;

14 [~~2~~] (b) Has run away from home [] ; or

15 (c) Has violated any curfew law or ordinance or any law or
16 ordinance which restricts or prohibits children unaccompanied by
17 an adult from public places during fixed hours.

18 (2) The court shall have jurisdiction in cases referred to
19 the court by a school district where a child is habitually truant
20 from school despite earnest and persistent efforts by school
21 personnel.

22 Section 3. Section 78-3a-22, Utah Code Annotated 1953, as
23 enacted by Chapter 165, Laws of Utah 1965, as amended by Chapter
24 167, Laws of Utah 1975 and as amended by Chapter 76, Laws of Utah
25 1977, is amended to read:

26 78-3a-22. Petition--Preliminary inquiry--Nonjudicial
27 adjustments--Citation or summons--Failure to appear.--(1) Proceedings
28 in children's cases are commenced by petition.

29 (2) Whenever the court is informed by a peace officer or any
30 other person that a child is or appears to be within the court's
31 jurisdiction, the probation department shall make a preliminary
32 inquiry to determine whether the interests of the public or of
33 the child require that further action be taken.

34 On the basis of the preliminary inquiry the court may authorize
35 the filing of or request that the county attorney file a petition,
36 or the court may, through its probation department, make such
37 nonjudicial adjustment of the case as is practicable without a

1 ___ B. No. ___

2 petition, provided that the facts are admitted and establish prima
3 facie jurisdiction, and provided that consent is obtained from the
4 parents or other custodian and also from the child if of sufficient
5 age and understanding. Efforts to effect such nonjudicial adjustment
6 may not extend for a period of more than two months without leave of
7 a judge of the court who may extend the period for an additional
8 two months. The probation department is not authorized in connection
9 with any nonjudicial adjustment to compel any person to appear at
10 any conference, produce any papers, [~~to~~] or to visit any place.

11 (3) In cases of violations of motor vehicle laws or ordinances,
12 fish and game laws, [~~and~~] boating laws, and other [~~cases~~] infractions
13 or misdemeanors as designated by general order of the board of
14 juvenile court judges, a petition shall not be required and the
15 issuance of a citation [~~or-summons~~] shall be sufficient to invoke
16 the jurisdiction of the court, and a preliminary [~~investigation~~]
17 inquiry shall not be required unless requested by the court.

18 In those cases designated as appropriate by general order of
19 the board of juvenile court judges, a peace officer or any public
20 official of any county, city or town charged with the enforcement
21 of the laws of the local jurisdiction may, in lieu of taking a
22 juvenile into custody, issue and deliver a citation requiring any
23 juvenile subject to arrest or prosecution on such designated charge
24 to appear at the juvenile court.

25 A [~~juvenile~~] child receiving a citation described in this
26 subsection shall appear at the juvenile court designated in the
27 citation on or before the time and date specified in the citation.
28 No citation shall require a [~~juvenile~~] child to appear sooner
29 than five days nor later than 14 days following its issuance.
30 Any [~~juvenile~~] child who receives a citation and who fails
31 to appear on or before the time and date and at the juvenile
32 court specified shall be subject to arrest. The court may
33 issue a warrant of arrest for such [~~juvenile~~] child.

34 If a citation is issued pursuant to this section,
35 the peace officer or public official shall issue one
36 copy to the [~~juvenile~~] child cited [~~mail-one-copy-to-the~~
37 parent-or-guardian-of-the

1 ___ B. No. ___

2 juvenile] and shall, within five days, file a duplicate copy
3 with the juvenile court specified in the citation.

4 Each copy of the citation shall contain:

5 (a) The name and address of the juvenile court before which
6 the [juvenile] child is to appear;

7 (b) The name of the [juvenile] child cited;

8 (c) A brief description of the offense charged;

9 (d) The date, time and place at which the offense is alleged
10 to have occurred;

11 (e) The date on which the citation was issued;

12 (f) The name of the peace officer or public official who issued
13 the citation, and the name of the arresting person if an arrest was
14 made by a private party and the citation was issued in lieu of
15 taking the arrested [juvenile] child into custody as provided in
16 section 78-3a-29;

17 (g) The date and time on or before and after which the
18 [juvenile] child is to appear [and] .

19 ~~[(h) A notice containing substantially the following language:]~~

20 [READ-CAREFULLY]

21 ~~[This citation is not a petition and will not be used as a petition~~
22 ~~without your consent. If a petition is filed, you and your parents~~
23 ~~will be provided a copy by the juvenile court. You MUST appear~~
24 ~~in court on or before the time set in this citation. IF YOU FAIL~~
25 ~~TO APPEAR A PETITION WILL BE FILED AND THE COURT MAY ISSUE A WARRANT~~
26 ~~FOR YOUR ARREST.]~~

27 Whenever a citation is issued pursuant to the provisions of
28 section 78-3a-22(3), ~~[the copy of the citation filed with the~~
29 ~~juvenile court may be used in lieu of a petition, to which the~~
30 ~~juvenile cited may admit or on which]~~ bail may be posted and
31 forfeited as provided in section 78-3a-30(5) [and] with
32 the consent of the parent or legal guardian of the child cited.

33 ~~[If the juvenile cited willfully fails to appear before the~~
34 ~~juvenile court pursuant to a citation issued under section 78-3a-22(3),~~
35 ~~or pleads a denial to the offense charged or does not deposit bail~~
36
37

1 B. No.
2 ~~on-or-before-the-date-set-for-his-appearance,-a-petition-may-be~~
3 ~~filed-and-proceedings-held-in-accordance-with-section-78-3a-22(1)~~
4 ~~and-other-applicable-sections-under-the-Juvenile-Court-Act,~~
5 ~~which-petititon-shall-be-deemed-an-original-pleading-but-the~~
6 ~~juvenile-cited-may,-by-written-agreement,-waive-the-filing-of-the~~
7 ~~petition-and-thereafter-the-prosecution-may-proceed-on-the-citation~~
8 ~~notwithstanding-any-provisions-to-the-contrary-]~~

9 Any [juvenile] child who willfully fails to appear before the
10 juvenile court pursuant to a citation issued under the provisions
11 of section 78-3a-22(3) may be found in contempt of court and may
12 be dealt with in any manner provided by law, regardless of the
13 disposition of the offense upon which he was originally cited.

14 Section 4. Section 78-3a-39, Utah Code Annotated 1953,
15 as enacted by Chapter 165, Laws of Utah 1965, as amended by
16 Chapter 67, Laws of Utah 1975, as amended by Chapters 79 and
17 213, Laws of Utah 1977, is amended to read:

18 78-3a-39. Adjudication of jurisdiction of juvenile court--
19 Disposition of cases--Enumeration of possible court orders--
20 Considerations of court.-- When a child is found to come within
21 the provisions of section 78-3a-16 or section 78-3a-16.5, the
22 court shall so adjudicate, and make a finding of the facts upon which
23 it bases its jurisdiction over the child. Upon such adjudication,
24 the court may make the following dispositions by court order:

25 (1) The court may place the child on probation or under
26 protective supervision (as these terms are defined herein) in his
27 own home, upon conditions determined by the court.

28 (2) The court may place the child in the legal custody of a
29 relative or other suitable person, with or without probation or
30 protective supervision, provided that the juvenile court shall
31 not assume the function of developing foster home services.

32 (3) The court may vest legal custody of the child in the
33 [state division of family services/state department of social
34 services] or other public agency, department, or institution, or in
35 a child placement agency as defined herein, for placement in a foster
36 family home or other facility, not to include the state hospital or
37 the state youth development center or any similar institution.

1 ___ B. No. ___

2 (4) The court may commit the child to the state youth
3 development center or other similar institution that may be
4 available; provided, that in the event that a youth correction
5 agency is established for this state, the child be committed to the
6 youth correction agency rather than the state youth development
7 center or similar institution. But a child who is found to come
8 under the jurisdiction of the court solely on the ground of neglect
9 or dependency pursuant to section 78-3a-16(2) [(a)] may not be
10 committed to the state youth development center or any similar
11 institution within or without this state, nor to the state youth
12 correction agency.

13 (5) The court may commit the child to an institution or
14 facility for short-term confinement that may be established in
15 accordance with accepted standards for the care and treatment of
16 delinquent children including the [~~state-industrial-school~~]
17 youth development center. However, no short-term confinement may
18 be made for [~~less-than-sixty-days~~] more than ninety days.

19 (6) The court may place the child on a ranch, forestry camp,
20 or similar facility, for care and for work if possible; provided,
21 that the person, agency, or association operating the facility has
22 been approved or has otherwise complied with all applicable state
23 and local laws. A child placed in a forestry camp or similar
24 facility may be required to work on fire prevention, forestation
25 and reforestation, recreational works, forest roads, and on other
26 works on or off the grounds of such facility, and may be paid wages,
27 all subject to the approval of and under conditions set by the court.

28 (7) The court may order that the child be required to repair or
29 replace or to otherwise make restitution for damage or loss caused
30 by his wrongful act, and may impose fines in limited amounts.

31 (8) The court may through its probation department encourage the
32 development of employment or work programs, to enable children to
33 fulfill their obligations under the preceding paragraph of this
34 section, and for other purposes when deemed desirable by the court,

35 (9) In cases of violations of traffic laws or ordinances, the
36 court may, in addition to any other disposition, restrain the child
37 from driving for such periods of time as the court deems necessary,

1 ___ B. No. ___

2 and may take possession of the child's driver's license.

3 (10) The court may order that the child be examined or treated
4 by a physician, surgeon, psychiatrist, or psychologist, or that he
5 receive other special care, and for such purposes may place the
6 child in a hospital or other suitable facility.

7 (11) The court may appoint a guardian for the child where it
8 appears necessary to do so in the interest of the child, and may
9 appoint a public or private institution or agency in which legal
10 custody of the child is vested, as such guardian.

11 (12) In placing a child under the guardianship or legal custody
12 of an individual or of a private agency or institution, the court
13 shall give primary consideration to the welfare of the child,
14 but whenever practicable, may take into consideration the religious
15 preferences of the child and of his parents.

16 (13) In support of a decree under section 78-3a-16 the court may
17 make an order setting forth reasonable conditions to be complied
18 with by the parents, the child, his custodian, or any other person
19 who has been made a party to the proceedings, including, but not
20 limited to, restrictions on visitation by the parents or one parent,
21 restrictions on the child's associates, occupation, and other
22 activities, and requirements to be observed by the parents or
23 custodian.

24 (14) With respect to a child within the court's jurisdiction
25 under section 78-3a-16, the court may order admittance to any
26 mental health or retardation facility in accordance with the
27 procedures set forth in section 64-7-36.

28 (15) The court may make an order committing a child within
29 its jurisdiction to the Utah state training school if the child has
30 been found mentally retarded in accordance with the provisions of
31 sections 64-8-16 to 64-8-21. The procedure applicable in the
32 district courts with respect to judicial commitments to the Utah
33 state training school shall be followed by the juvenile court in
34 such cases.

35 (16) The court may terminate all parental rights, provided
36 that the provisions of section 78-3a-48 are complied with.

37 (17) The court may make any other reasonable orders which are

1 ___ B. No. ___

2 for the best interest of the child or are required for the
3 protection of the public, except that no person under the age of
4 eighteen may be committed to jail or prison. The court may combine
5 several of the above-listed modes of disposition where they are
6 compatible.

7 (18) Before depriving any parent of custody, the court shall
8 give due consideration to the preferred right of parents to the
9 custody of their children, as expressed in section 78-3a-1, and
10 shall not transfer custody to another person, agency, or
11 institution, unless the court finds from all the circumstances in
12 the case that the welfare of the child or the public interest
13 requires that the child be taken from his home.

14 (19) An order under this section for probation or placement of
15 a child with an individual or an agency shall include a date certain
16 for a review of the case by the court, with a new date to be set
17 upon each review. In reviewing foster home placements, special
18 attention shall be given to making adoptable children available
19 for adoption without delay.

20 Section 5. Section 53-24-10, Utah Code Annotated 1953, is
21 enacted to read:

22 53-24-10. Referral of habitual truants to juvenile court--
23 duty of school district.

24 A child may be referred to the juvenile court for habitual
25 truancy only after earnest and persistent efforts by school
26 district personnel have failed to obtain satisfactory attendance.

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1 (YOUTH DEVELOPMENT CENTER

2 AGE JURISDICTION)

3 1979

4 GENERAL SESSION

5 B. No. _____

By _____

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8 AN ACT AMENDING SECTION 64-6-12, UTAH CODE ANNOTATED 1953, AS
9 AMENDED BY CHAPTER 174, LAWS OF UTAH 1973, AND SECTION
10 64-6-13, UTAH CODE ANNOTATED 1953, AS AMENDED BY CHAPTER
11 197, LAWS OF UTAH 1969, AS AMENDED BY CHAPTER 174, LAWS OF
12 UTAH 1973, PROVIDING FOR EXTENSION FROM AGE NINETEEN TO AGE
13 TWENTY-ONE OF THE MAXIMUM AGE JURISDICTION OF THE YOUTH
14 DEVELOPMENT CENTER FOR JUVENILES COMMITTED TO THE CENTER.

15 Be it enacted by the Legislature of the State of Utah:

16 Section 1. Section 64-6-12, Utah Code Annotated 1953, as
17 enacted by Chapter 174, Laws of Utah 1973, is amended to read:

18 64-6-12. Term of commitment--Discharge.--Every person
19 committed to the school shall remain until he shall arrive at
20 the age of [~~nineteen~~] twenty-one years, or be legally discharged,
21 except that any student so committed shall not remain within the
22 school for more than eighteen months without an administrative
23 hearing before the superintendent, or a committee appointed by
24 him, to consider the status of the student. Any student, boy or
25 girl, regardless of age who has been on placement outside the
26 school for twelve months or more, and who has not been in violation
27 of any state or federal laws, or local ordinances, and who has
28 made a good adjustment and successfully met conditions of
29 placement, may be discharged by the written order of the superin-
30 tendent of the school. The discharge shall be a complete release
31 of all penalties incurred by conviction of the offense for which
32 a student was committed.

33 Section 2. Section 64-6-13, Utah Code Annotated 1953, as
34 enacted by Chapter 197, Laws of Utah 1969, as amended by Chapter
35 174, Laws of Utah 1973, is amended to read:

36 64-6-13. Commitment beyond age [~~nineteen~~] twenty-one prohibited--
37 Discharge after six months' residency.-- No person shall

1 ___ B. No. ___

2 be committed to said school for a term to extend beyond the time
3 when he shall attain the age of [~~nineteen~~] twenty-one years; and
4 the superintendent, by written order may, at any time after six
5 months' residency within the school, and upon satisfactory evidence
6 of acceptable performance and behavior discharge any student from
7 the school.

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(ALCOHOLISM AND INTOXICATION TREATMENT ACT)

1979

GENERAL SESSION

B. No. _____ By _____

AN ACT ENACTING THE UTAH ALCOHOLISM AND INTOXICATION TREATMENT ACT; PROVIDING FOR THE ESTABLISHMENT AND APPROVAL OF PRIVATE AND PUBLIC TREATMENT FACILITIES; PROVIDING THAT THE DIVISION OF ALCOHOLISM AND DRUGS SHALL ESTABLISH PROGRAMS FOR THE TREATMENT OF ALCOHOLICS; PROVIDING PROCEDURES FOR THE HANDLING OF INTOXICATED PERSONS BY PEACE OFFICERS; PROVIDING FOR VOLUNTARY AND INVOLUNTARY ADMISSION OF ALCOHOLICS TO TREATMENT FACILITIES; PROVIDING FOR RECLASSIFICATION OF PUBLIC INTOXICATION AS A NON-CRIMINAL OFFENSE UNLESS AN INTOXICATED PERSON ENGAGES IN OTHER CRIMINAL CONDUCT; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Utah:

Section 1. This act shall be known and may be cited as the "Utah Alcoholism and Intoxication Treatment Act."

Section 2. It is the policy of this state that alcoholics and intoxicated persons engaged in public drunkenness shall not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages but rather shall be afforded a continuum of treatment in order that they may be assisted toward more normal lives as more productive members of the community.

Section 3. As used in this act:

(1) "Alcoholic" means a person who suffers from an illness characterized by preoccupation with alcohol which is typically associated with physical disability and impaired emotional, occupational or social adjustments as direct consequences of loss of control over consumption of alcohol demonstrated by persistent

1 B. No.

2 and excessive use of alcohol, such as to lead usually to intoxication
3 if drinking is begun; by chronicity; by progression; and by
4 tendency toward relapse;

5 (2) "Approved Treatment Facility" means a licensed public or
6 private treatment agency meeting the standards prescribed in section 5 (1);

7 (3) "Central Receiving Facility" means an approved treatment facility
8 designated to conduct initial intake and evaluation functions;

9 (4) "Executive Director" means the executive director of the
10 department of social services;

11 (5) "Department" means the state department of social services;

12 (6) "Director" means the director of the division of alcoholism
13 and drugs;

14 (7) "Division" means the division of alcoholism and drugs as
15 established by section 63-43-3;

16 (8) "Incapacitated by Alcohol" means that a person, as a result
17 of the use of alcohol, is unconscious or otherwise exhibits, by overt
18 behavior or by extreme physical debilitation, an inability to care for
19 his/her own needs;

20 (9) "Intoxicated Person" means a person whose mental or physical
21 functioning is substantially impaired as a result of the use of alcohol;

22 (10) "Treatment" means the broad range of emergency, out-patient,
23 social detoxification, residential care and inpatient services and care,
24 including diagnostic evaluation, medical, psychological, and social service
25 care, vocational rehabilitation and career counseling, which may be extended
26 to alcoholics and intoxicated persons;

27 (11) "Program Administrator" means a director, executive director,
28 administrator or other person designated to act as the principal executive
29 officer of an approved treatment facility; and

30 (12) "Peace Officer" means members of the highway patrol and peace
31 officers as designated in section 77-10-6.

32 Section 4.

33 (1) The division shall be responsible for developing, promoting
34 or establishing and operating a comprehensive and coordinated program
35 for the treatment of alcoholics and intoxicated persons in each planning
36 district in the state.

1 B. No.

2 (2) These programs shall include:

3 (a) emergency treatment;

4 (b) inpatient treatment;

5 (c) intermediate treatment; and

6 (d) outpatient and follow-up treatment.

7 (3) The division shall see that adequate and appropriate
8 treatment is provided for alcoholics and intoxicated persons admitted
9 under sections 7 to 10. Treatment may not be provided at a correctional
10 institution except for inmates.

11 (4) Coordination with and utilization of all appropriate public
12 and private resources shall be accomplished whenever possible. Nothing
13 in this act shall preclude cities and counties from operating or
14 implementing local treatment programs.

15 (5) The director shall prepare, publish, and distribute annually
16 a list of all approved public and private treatment facilities.

17 Section 5.

18 (1) The division shall establish standards for public or private
19 treatment facilities to be licensed.

20 (2) The division shall periodically inspect approved public and
21 private treatment facilities at reasonable times and in a reasonable
22 manner.

23 (3) The division shall specify uniform methods for keeping
24 statistical information by agencies, organizations and individuals and
25 collect and make available statistical information, including number of
26 persons treated, frequency of admission and readmission, frequency
27 and duration of treatment and cost of treatment.

28 (4) The division, after holding a hearing, may suspend, revoke,
29 limit, or restrict an approval, or refuse to grant an approval, for
30 failure to meet its standards.

31 (5) A district court may restrain any violation of this section,
32 review and denial, restriction, or revocation of approval, and grant
33 other relief required to enforce its provisions.

34 (6) Upon petition of the division and after a hearing held upon

1 B. No.

2 reasonable notice to the facility, the district court may issue a
3 warrant to an officer or employee of the division authorizing the employee to
4 enter and inspect at reasonable times, and examine the books and accounts
5 of any approved public or private treatment facility refusing to consent
6 to inspection or examination by the division or which the division has
7 reasonable cause to believe is operating in violation of this act.

8 Section 6. The director and treatment program administrators
9 shall adopt and may repeal rules for acceptance of persons into the
10 treatment program considering available treatment resources and
11 facilities, for the purpose of early and effective treatment of
12 alcoholics and intoxicated persons. In the exercise of the power
13 provided in this section, the director and the program administrators
14 shall be guided by the following criteria as it is consistent with
15 an effective treatment program:

16 (1) If possible, a person shall be treated on a voluntary
17 rather than an involuntary basis;

18 (2) A person shall be initially assigned or transferred to
19 outpatient or intermediate treatment, unless the person is found
20 to require inpatient treatment;

21 (3) A person shall not be denied treatment solely because he/she
22 has withdrawn from treatment against professional advice on a prior
23 occasion or because he/she has relapsed after earlier treatment;

24 (4) An individualized treatment plan shall be prepared and
25 maintained on a current basis for each person involved in ongoing
26 treatment;

27 (5) Provisions shall be made for a continuum of coordinated
28 treatment services, so that a person who leaves a facility or a
29 form of treatment will have available and utilize other appropriate
30 treatment;

31 (6) Persons who seek voluntary treatment shall be assessed
32 for all or a part of the cost of such treatment consistent with
33 their ability to pay.

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2 Section 7.

3 (1) A person may apply for voluntary treatment to any approved
4 treatment facility. If the person is a minor, the applicant (a parent,
5 a legal guardian, or other legal representative) may make the application
6 with the consent of the minor. If the person is incompetent, a parent,
7 a legal guardian, or other legal representative may make the application.

8 (2) Subject to the rules adopted by the director and the treatment
9 program administrators, the administrator in charge of the approved
10 treatment facility may determine who shall be admitted for treatment.
11 If a person is refused admission to an approved treatment facility,
12 the administrator, subject to the rules adopted by the director and the
13 treatment program administrator, shall refer the person to another
14 approved public or private treatment facility, the administrator, subj-
15 ect to the rules adopted by the director and the treatment program
16 administrator, shall refer the person to another approved public or
17 private treatment facility for treatment if possible and appropriate.

18 (3) If a person receiving inpatient care leaves an approved
19 treatment facility, the person shall be encouraged to consent to
20 appropriate outpatient or intermediate treatment. If it appears to
21 the administrator in charge of the treatment facility that the person
22 is an alcoholic who requires help, the treatment program shall arrange
23 for assistance in obtaining supportive services and residential facilities.

24 (4) If a person leaves an approved facility, with or against
25 the advice of the administrator in charge of the facility, the treat-
26 ment program and the division shall make reasonable provisions for
27 his/her transportation to another facility or to the person's home.
28 If the person has no home, that person shall be assisted in obtaining
29 shelter.

30 Section 8.

31 (1) If a peace officer believes that a person is a danger to
32 himself/herself or others because of the use of alcohol or is incapac-
33 itated by alcohol, the peace officer may take said person to a central
34 receiving facility for evaluation. If the person is unconscious or
35 non-ambulatory, the person may be taken to an emergency medical
36 service or approved treatment facility suitable for

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1 B. No.

2 the treatment of such persons.

3 (2) A peace officer, in detaining a person and in taking them
4 to an approved public treatment facility, is taking that person into
5 protective custody and shall make every reasonable effort to protect
6 that person's health and safety. In taking the person into protective
7 custody, the detaining officer may take reasonable steps to protect
8 himself/herself. Protective custody is not an arrest and no entry or
9 other record shall be made to indicate that the person has been arrested
10 or charged with a crime.

11 (3) A person who comes voluntarily or is brought to a central
12 receiving facility shall be afforded alcohol-related medical or nursing
13 care as needed. The central receiving facility shall arrange for
14 transportation to an appropriate treatment facility.

15 (4) A person who, by medical examination, is found to be
16 incapacitated by alcohol at the time of admission or to have become
17 incapacitated at any time after admission shall be detained by the facility
18 director until the person is no longer incapacitated by alcohol or in any
19 event not more than 48 hours if the person remains incapacitated by alcohol
20 unless he/she is committed under section 9 or 10. A person may consent to
21 remain in the facility as long as appropriate.

22 (5) A person who is not admitted to an approved treatment facility, is
23 not referred to another facility, and has no funds may be taken to his/her
24 home if any. If the person has no home, the approved treatment facility
25 shall assist him/her in obtaining shelter.

26 (6) No person shall be detained at any facility without opportunity
27 to notify next of kin. The facility shall take reasonable steps to
28 accomplish such notification as promptly as possible. If an adult patient
29 who is not incapacitated requests that there be no notification, this request
30 shall be respected.

31 (7) A peace officer or central receiving or treatment facility director
32 or employee by complying with this section in a reasonable manner is acting
33 in the course of official duty and is not criminally or civilly liable therefore.

34 (8) If the program administrator of an approved treatment facility

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determines it is for the person's benefit, the person shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.
Section 9.

(1) A person may be committed to an approved treatment facility for emergency treatment if because of alcohol such person (a) has threatened, attempted, or inflicted physical harm on another or himself/herself and is likely to inflict physical harm to another or himself/herself unless committed or (b) is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of an inability to care for his/her own needs.

(2) The certifying physician, spouse, guardian, or relative of that person whose commitment is sought, or any other responsible person, may make a written application for commitment under this section, directed to the administrator of the approved treatment facility. The application shall state facts to support the need for emergency treatment and be accompanied by a physician's certificate stating that the physician has examined the person sought to be committed within two days before the certificate's date and by facts supporting the need for emergency treatment. If a private physician cannot be obtained to examine the person to be committed, the division will contract with a physician to provide these services.

(3) Upon approval of the administrator in charge of the approved facility, the person may be brought to the facility by a peace officer, health officer, the patient's spouse, the patient's guardian, or any other interested person. The person shall be retained at the facility to which the person has been brought, or transferred to another appropriate treatment facility, until discharged under subsection (5).

(4) The administrator in charge of an approved treatment facility shall refuse an application if in the administrator's opinion the application and certificate fail to sustain the grounds for commitment.

(5) When on the advice of the medical staff the administrator determines that the grounds for commitment no longer exist, the administrator shall discharge a person committed under this section. No

1 B. No.

2 person committed under this section may be detained in any treatment
3 facility more than five days. If a petition for involuntary commitment
4 under this section has been filed within the five days and the
5 administrator in charge of an approved treatment facility finds that
6 grounds for emergency commitment still exist, the administrator may
7 detain the person until the petition has been heard and determined,
8 but no longer than ten days after filing the petition.

9 (6) A copy of the written application for commitment and of
10 the physician's certificate and a written explanation of the person's
11 right to counsel and the availability of free counsel shall be given
12 to the person within 24 hours after commitment by the administrator,
13 who shall provide a reasonable opportunity for the person to consult
14 counsel.

15 Section 10.

16 (1) A person may be committed to the custody of the division
17 or to an approved treatment facility by a court of appropriate
18 jurisdiction upon the petition of the spouse or guardian, a relative,
19 the certifying physician, or the administrator in charge of any approved
20 treatment facility. The petition shall allege that the person is
21 an alcoholic who habitually lacks self-control as to the use of alcoholic
22 beverages and that:

23 (a) because of alcohol has threatened, attempted, or inflicted
24 physical harm to another or himself/herself and that unless committed
25 is likely to inflict physical harm to another or on himself/herself or

26 (b) the person is incapacitated by alcohol. A refusal to undergo
27 treatment does not constitute evidence of an inability to care for his/her
28 own needs.

29 The petition shall be accompanied by a certificate of a licensed
30 physician who has examined the person within two days before sub-
31 mission of the petition, unless the person whose commitment is sought
32 has refused to submit to a medical examination, in which case the fact
33 or refusal shall be alleged in the petition. The certificate shall set
34 forth the physician's findings in support of the allegations of the
35 petition.

1 B. No.

2 (2) Upon filing the petition, the court shall fix a date for
3 a hearing no later than ten days after the date the petition was filed.
4 A copy of the petition and of the notice of hearing, including the date
5 fixed by the court, shall be given to the petitioner, the person whose
6 commitment is sought, the next of kin other than the petitioner, a parent
7 or the legal guardian if the person is a minor, the administrator in charge
8 of the approved public treatment facility to which commitment for care is
9 sought, and any other person the court believes advisable.

10 (3) At the hearing the court shall hear all relevant testimony,
11 including the testimony of at least one licensed physician who has examined
12 the person whose commitment is sought. The individual whose commitment is
13 sought shall be afforded an opportunity to be present and testify at the
14 hearing. Nevertheless the court is authorized to exclude any or all persons
15 not necessary for the conduct of the proceedings. If the person has
16 refused to be examined by a licensed physician, the person shall be
17 given an opportunity to be examined by a court-appointed licensed physician.
18 If the person refuses and there is sufficient evidence to believe that
19 the allegations of the petition are true, or if the court believes that
20 more medical evidence is necessary, the court may make a temporary order
21 committing the person to the division for a period of not more than five
22 days for the purposes of a diagnostic examination.

23 (4) If, after hearing all relevant evidence, including the
24 results of any diagnostic examination by the division, the court finds
25 that grounds for involuntary commitment have been established by clear
26 and convincing proof, the court may make an order of commitment to
27 the division or to an approved treatment facility. It may not order
28 commitment of a person unless it determines that the division or
29 the approved treatment facility is able to provide adequate and
30 appropriate treatment for the person and the treatment is likely to
31 be beneficial.

32 (5) A person committed under this section shall remain in
33 the custody of the division or approved treatment facility for
34 treatment for a period of 30 days unless sooner discharged. At

1 B. No.

2 the end of the 30-day period, the commitment shall expire unless
3 the division or the approved treatment facility obtains a court
4 order for the recommitment upon the grounds set forth in subsection (1)
5 for a further period not to exceed 90 days. If a person has been
6 committed because he/she is an alcoholic likely to inflict physical
7 harm on another or himself/herself, the division or approved treatment
8 facility shall apply for recommitment if after examination it is
9 determined that the likelihood still exists.

10 (6) A person recommitted under subsection (5) who has not been
11 discharged before the end of the 90-day period shall be discharged at the
12 expiration of that period unless a court order is obtained before expiration
13 of the period on the grounds set forth in subsection (1) for recommitment
14 for a further period not to exceed 90 days. Only two recommitment orders
15 under subsection (5) and (6) are permitted.

16 (7) Upon the filing of a petition for recommitment under
17 subsections (5) or (6), the court shall fix a date for hearing no
18 later than ten days after the date the petition was filed. A
19 copy of the petition and of the notice of hearing, including the
20 date fixed by the court, shall be given to the petitioner, the
21 person whose commitment is sought, the next of kin other than the
22 petitioner, the original petitioner under subsection (1) if
23 different from the petitioner for recommitment, one of the parents
24 or the person's legal guardian if they are a minor, and any other person
25 the court believes advisable. At the hearing the court shall proceed
26 as provided in subsection (3).

27 (8) The division or approved treatment facility shall provide
28 for adequate and appropriate treatment of a person committed to its
29 custody and for transportation from one approved treatment facility to
30 another if transfer is medically advisable.

31 (9) A person committed to the custody of the division or
32 approved treatment facility for treatment shall be discharged at
33 any time before the end of the period for which the person has been
34 committed if either of the following conditions is met:

1 ___ B. No. ___

2 (a) in case of an individual committed on the grounds of
3 likelihood of infliction of physical harm upon another or himself/herself,
4 that the likelihood no longer exists or

5 (b) In case of an individual committed on the grounds of the need
6 of treatment because of incapacity, that incapacity no longer exists.

7 (10) The court shall inform the person whose commitment or
8 recommitment is sought for their right to contest the application, be
9 represented by counsel at every stage of any proceedings relating
10 to commitment and recommitment, and to have counsel appointed by the
11 court or provided by the court, if the person wants the assistance of
12 counsel and is unable to obtain counsel. If the court believes that
13 the person needs the assistance of counsel, the court shall require
14 by appointment, if necessary, counsel for the person regardless of
15 his/her wishes. The person whose commitment or recommitment is sought
16 shall be informed of the right to be examined by a licensed physician
17 of his/her choice. If the person is unable to obtain a licensed physician
18 and requests examination by a physician, the court shall order the
19 division to contract with a licensed physician. The court may also order
20 that all or part of the expense of treatment be paid by the committed
21 person.

22 (11) If a private treatment facility agrees with the request
23 of a competent patient or their parent, sibling, adult, child, or
24 guardian to accept the patient for treatment, the administrator of
25 the public treatment facility shall transfer the patient to the
26 private treatment facility.

27 (12) A person committed under this act may at any time seek
28 to be discharged from commitment by writ of habeas corpus.

29 (13) The venue for proceedings under this section is the
30 place in which a person to be committed resides or is present.

31 Section 11.

32 (1) Each public and private treatment facility shall file
33 with the division on request, data, statistics, schedules and
34 information the division reasonable requires. Individual patient

1 B. No.

2 records shall be considered confidential and privileged.

3 (2) The director may make available information from patient's
4 records for purposes of research into the causes and treatment
5 of alcoholism. Information under this subsection shall not be
6 published in a way that discloses patient names or other identifying
7 information.

8 Section 12.

9 (1) Subject to reasonable rules regarding hours of visitation,
10 persons in any approved treatment facility shall be granted opportunities
11 for adequate consultation with counsel and for continuing contact with
12 family and friends consistent with an effective treatment program.

13 (2) Neither mail nor other communication to or from a patient
14 in any approved treatment facility may be intercepted, read or censored.
15 Reasonable rules regarding the use of telephone by patients or clients
16 may be adopted in approved treatment facilities.

17 Section 13.

18 (1) If treatment is provided by an approved treatment facility
19 and the patient has not paid the charge therefore, the facility is
20 entitled to any payment:

21 (a) received by the patient or to which the patient may
22 be entitled because of the services rendered; and

23 (b) from any public or private source available to the
24 division because of the treatment provided to the patient or client.

25 (2) A patient in an approved treatment facility, or the estate
26 of the patient, or a person obligated to provide for the cost of
27 treatment and having sufficient financial ability is liable to
28 the facility for cost of maintenance and treatment of the patient or
29 client in accordance with rates established.

30 Section 14.

31 (1) No county, or other political subdivision which has access
32 to a central receiving facility or in which there are division-approved
33 treatment facilities may adopt or enforce any law, ordinance, resolution,
34 or rule having the force of law that includes being a common drunkard or

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being found in an intoxicated condition as a sole offense giving rise to a criminal penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection.

(3) Nothing in this act affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

Section 15. If any provision of this act or the application of any provision to any person or circumstance is held invalid, the remainder of this act shall not be affected thereby.

Section 16. This act shall become effective July 1, 1979.

1
2 (COMMUNITY CORRECTIONS ASSISTANCE ACT)

3 1979

4 GENERAL SESSION

5 _____ B. No. _____

By _____

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8 AN ACT AMENDING SECTION 32-1-4, UTAH CODE ANNOTATED 1953, AS AMENDED
9 BY CHAPTER 48, LAWS OF UTAH 1959, AS AMENDED BY CHAPTER 62, LAWS
10 OF UTAH 1967, AS AMENDED BY CHAPTER 83, LAWS OF UTAH 1969, AS
11 AMENDED BY CHAPTER 3, LAWS OF UTAH 1972, AS AMENDED BY CHAPTERS
12 58 AND 59, LAWS OF UTAH 1973, AS AMENDED BY CHAPTER 12, LAWS OF
13 UTAH 1974, AND ENACTING CHAPTER 14 OF TITLE 64, UTAH CODE
14 ANNOTATED 1953; PROVIDING FOR STATE ASSISTANCE TO COUNTIES FOR
15 COMMUNITY CORRECTIONS, ESTABLISHMENT OF STANDARDS BY THE DIVISION
16 OF CORRECTIONS FOR COMMUNITY CORRECTIONS FACILITIES AND PROGRAMS
17 AND FINANCING THE ASSISTANCE PROGRAM FROM THE LIQUOR CONTROL FUND.

18 Be it enacted by the Legislature of the State of Utah:

19 Section 1. Section 64-14-1, Utah Code Annotated 1953, is enacted
20 to read:

21 64-14-1. Title. This act shall be known as and may be cited
22 as the "Community Corrections Assistance Act of 1979".

23 Section 2. Section 64-14-2, Utah Code Annotated 1953, is
24 enacted to read:

25 64-14-2. Legislative Findings and Purpose:

26 (1) The legislature finds that local jails in the state fail to
27 meet established national standards for construction and operation;
28 that the conditions and operations of local jails in the state have
29 increasingly been subject to challenge in state and federal courts;
30 and that local jails are commonly used to confine offenders convicted
31 of felonies wh have been sentenced to short jail terms as a
32 condition of probation and who might otherwise have been sentenced
33 to imprisonment at the state prison and become a direct responsibility
34 of the state.

35 (2) It is the purpose of this act to establish a program to
36 provide greater protection of the public from persons held in
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1 B No.

2 confinement, to promote efficiency and economy in local and state
3 correctional services, to authorize development of state standards
4 for construction and operation of local correctional facilities
5 and programs, to provide assistance to participating counties for
6 the provision of local correctional services, and to protect the
7 rights and safety of persons held in confinement. It is the further
8 declared purpose of the legislature to finance this program with
9 non-lapsing annual appropriations from the Liquor Control Fund for
10 allocation by the Division of Corrections in accordance with the
11 provisions of this act.

12 Section 3. Section 64-14-3, Utah Code Annotated 1953, is enacted
13 to read:

14 64-14-3. Definitions. As used in this act:

15 (1) "Community Corrections Advisory Council" means the council
16 appointed by the director of the Division of Corrections as provided
17 in Section 64-14-4 to advise the director in the exercise of his
18 powers and duties pursuant to Section 64-14-5.

19 (2) "Community Correction Assistance Fund" means a fund established
20 pursuant to Section 64-14-6 to provide financing for the implementa-
21 tion of this act.

22 (3) "Director" means the director of the Division of Corrections.

23 (4) "Liquor Control Fund" means the fund established pursuant
24 to Section 32-1-24.

25 (5) "Multi-Purpose Correctional Facilities" means facilities
26 constructed and operated on a cooperative basis by the state and one
27 or more counties for the confinement of persons awaiting trial,
28 committed to jail and committed to the Utah State Prison.

29 (6) "Pretrial Service Programs" means programs for the gathering
30 and verification of information concerning persons accused of a crime
31 for use by a court of competent jurisdiction in its decision to set
32 bail or release the accused on recognizance, and such other programs
33 which are determined by the Director to be necessary to assure
34 appropriate utilization of correctional facilities.

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1 _____ B No. _____

2 Section 4. Section 64-14-4, Utah Code Annotated 1953, is enacted
3 to read:

4 64-14-4. Community Corrections Advisory Council.

5 (1) A Community Correction Advisory Council shall be appointed
6 by the Director to advise the Director in the exercise of his authority
7 and duty as provided in Section 64-14-5.

8 (2) The Council shall consist of the following members:

9 (a) A representative of a local jail with a capacity of
10 less than 100 beds;

11 (b) A representative of a local jail with a capacity
12 greater than 100 beds;

13 (c) A representative of the Utah Peace Officer's Association;

14 (d) A county commissioner;

15 (e) A representative from the Division of Corrections; and

16 (f) A member of the public at large.

17 (3) Members shall serve for four year terms and shall serve
18 without pay except that reasonable expenses for attending meetings
19 shall be reimbursed.

20 Section 5. Section 64-14-5, Utah Code Annotated 1953, is enacted
21 to read:

22 64-14-5. Authority and Duty of Director. With the advice of
23 the Community Corrections Advisory Council, the Director shall have
24 the authority and duty to:

25 (1) Enter into agreements with counties or groups of counties
26 for the construction and operation of multi-purpose correctional
27 facilities.

28 (2) Develop and adopt rules prescribing minimum standards for
29 the construction, operation and evaluation of local jail's, lockups
30 or other correctional facilities. The standards shall be sufficiently
31 flexible to foster the development of new and improved supervision
32 or rehabilitative practices.

33 (3) Develop and adopt rules establishing standards for developing
34 comprehensive correction plans by county or groups of counties. All
35 correction plans shall comply with rules adopted pursuant to this Act

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1 B No.

2 and shall include but need not be limited to:

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

8 (b) The location and description of facilities that will
9 be used by the county or group of counties for persons awaiting
10 trial or sentenced to jail, including but not limited to halfway
11 houses, work release facilities, lockups and jails;

12 (c) The manner in which pretrial service programs and
13 other corrections programs will be provided;

14 (d) The time and manner in which compliance with the
15 standards pursuant to Subsection (2) of this Section will be achieved
16 or maintained; a plan may provide for the gradual upgrading of
17 facilities and services over a period of more than one year so long
18 as the plan contains a reasonable time-table for achieving full
19 compliance;

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

23 (4) Provide consultation and technical assistance to county
24 governments in order to develop local comprehensive corrections plans.

25 (5) Develop and provide a training and certification program
26 for county corrections officers.

27 (6) Establish and maintain a uniform record keeping system for
28 the county correction operations and programs, and establish
29 reporting requirements and a monitoring system for county correction
30 operations and programs to assure compliance with the standards
31 developed pursuant to Subsection (2) of this Section.

32 (7) Authorize and direct grant funds from the Community
33 Corrections Fund to county governments for the purposes of carrying
34 out the intent of this Act.

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2 Section 6. Section 64-14-6, Utah Code Annotated is enacted to
3 read:

4 64-14-6. Annual Appropriation to Community Assistance Correction
5 Fund. A Community Corrections Assistance Fund shall be established
6 in the Division of Corrections and beginning with the fiscal year
7 ending June 30, 1980, the Legislature shall provide an annual,
8 non-lapsing appropriation from the general fund from the Liquor Control
9 Fund to the Community Corrections Assistance Fund to make the grants
10 provided for in this act.

11 Section 7. Section 64-14-7, Utah Code Annotated 1953, is enacted
12 to read:

13 64-14-7. Community Corrections Grants, Authority and Procedure.

14 (1) The Director is authorized to make grants to counties
15 or groups of counties for the purposes set forth in this Act.

16 (2) The grant amount participating counties will be eligible to
17 receive each year will be determined by the Director on a weighted
18 county population basis. The weighted county population coefficient
19 will be determined by the following formulas:

20 (a) For counties with a population of 7,000 or less:

21
$$w = (p-8)^{\frac{1}{3}} + 2$$

22 (b) For counties with a population of more than 7,000:

23
$$w = (p-6)^{\frac{1}{3}}$$

24 Where "w" is the weighted county population coefficient and "p"
25 is the county population expressed in thousands, a computation factor
26 shall then be calculated for each county by dividing the weighted
27 county population coefficient by the sum of the 29 weighted county
28 population coefficients. This computation factor shall then be
29 multiplied by the total allocation to determine the amount each
30 county is eligible to receive.

31 (3) No county shall be eligible for the grant or multi-purpose
32 correctional facility unless its comprehensive community corrections
33 plan shall have been filed and approved by the Director. The Director
34 shall promulgate by rule the procedure and requirements that shall be

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1 B No.

2 met in order to be eligible to receive the grant funds.

3 (4) In order to be eligible for a grant pursuant to this Act,
4 participating counties or groups of counties shall not diminish
5 their current per capita level of spending for corrections and
6 one-half of grant funds shall be matched with new additional local
7 funds. The purpose of the grant funds is to provide additional funds
8 to upgrade the current jail facilities and community corrections
9 programs.

10 (5) On or before the end of each calendar quarter, participating
11 counties or groups of counties shall submit to the Director certified
12 statements detailing the amounts expended and costs incurred in
13 furnishing the correctional services provided herein. Upon receipt
14 of certified statements the Director shall determine the amount of
15 grant funds each participating county or group of counties is entitled
16 to receive. Upon certification by the Director of the amount a
17 participating county is entitled to receive, a notice is given the
18 Director of Finance who shall thereupon issue a state warrant to
19 the chief fiscal officer of the participating county.

20 Section 8. Section 64-14-8, Utah Code Annotated 1953, is enacted
21 to read:

22 64-14-8. Carryover Provision. The Director may carry over
23 funds for a county or group of counties in the Community Corrections
24 Fund from one fiscal year to another in order to meet specific goals
25 outlined in a comprehensive community corrections plan or plans. At
26 the beginning of the final quarter of the fiscal year, the Director
27 may allocate unexpended and surplus funds according to priorities
28 established by rule.

29 Section 9. Section 64-14-9, Utah Code Annotated 1953, is enacted
30 to read:

31 64-14-9. Withdrawal by County. Any participating county or group
32 of counties may at the beginning of any calendar quarter by resolution
33 notify the Director of its intention to withdraw from the grant program
34 and such withdrawal shall be effective the last day of the last month

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1 _____ B No. _____

2 of the quarter in which such notice was given.

3 Section 10. Section 32-1-24, Utah Code Annotated 1953, as amended
4 by Chapter 48, Laws of Utah 1959, as amended by Chapter 62, Laws of
5 Utah 1967, as amended by Chapter 83, Laws of Utah 1969, as amended
6 by Chapter 3, Laws of Utah 1972, as amended by Chapters 58 and 59,
7 Laws of Utah 1973, as amended by Chapter 12, Laws of Utah 1974, is
8 amended to read:

9 32-1-24. Moneys received in administration of act--Disposition
10 or distribution of--Payment to state treasurer--Liquor control fund--
11 Transfer of funds--Appropriation for law enforcement and state buy-in
12 for Omnibus Crime Control and Safe Streets Act--Appropriation for
13 public transit--Appropriation for Community Correction Assistance--Duty
14 and criminal liability of commissioners.--(1) All moneys received
15 by the commission in the administration of this act, shall be paid
16 to the state treasurer and credited to a special fund to be known
17 as the liquor control fund; and on the first day of June, 1973, or
18 within thirty days thereafter, a sum of money equal to the amount
19 of the net profit earned from the sale of liquors during the preceding
20 two-month period, as certified by the state auditor, shall be made
21 available for transfer by the proper fiscal officers from the liquor
22 control fund to the state general fund and on the first day of
23 January, 1974, and on the first day of each June and January there-
24 after, or within thirty days after each of these dates, a sum of
25 money equal to the amount of the net profit earned from the sale of
26 liquors since the preceding transfer date, as certified by the state
27 auditor, shall be available for transfer by the proper fiscal
28 officers from the liquor control fund to the state general fund.
29 The legislature shall provide an appropriation from the general fund
30 from liquor control profits to cities, incorporated towns, and
31 counties in an amount not exceeding \$1,000,000 which shall be used
32 exclusively for programs for projects related to prevention,
33 detection and control of violations of this act and chapter 6,
34 Title 16, as it relates to storage or consumption of liquor on premises

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1 _____ B No. _____

2 maintained by social clubs, recreational or athletic associations
3 or kindred associations. To be entitled to receive said funds it
4 is contingent upon any city, town or county seeking the same to
5 appropriate an amount or render services having an equivalent value
6 equal to 25% of the amount of funds to which said city, town or
7 county may become entitled to receive hereunder, for the purposes
8 stated herein, and to submit a brief report to the commission and
9 the council of expenditures, activities, programs and accomplishments
10 regarding purposes as stated. The appropriation provided for by
11 this provision is intended to supplement the budget of the law
12 enforcement agencies of each city, town and county within the state
13 and not to replace funds which would otherwise be allocated for
14 law enforcement, to enable such cities, towns and counties to more
15 effectively enforce the liquor laws of the state. The amount of
16 this transfer shall be computed in the following manner: In the
17 event that the net profit earned from the sale of liquors during
18 any one calendar year beginning January 1, 1967, and each year there-
19 after shall exceed the sum of \$2,500,000 then all of such net profit
20 in excess of \$2,500,000 not exceeding \$1,000,000 shall be made
21 available to cities, incorporated towns and counties.

22 (2) The legislature shall also provide an appropriation of
23 \$1,000,000 from the general fund from liquor control profits to
24 cities, incorporated towns, counties for law enforcement purposes
25 and for state buy-in for the Omnibus Crime Control and Safe Streets
26 Act. These moneys shall be distributed to cities, incorporated
27 towns, and counties on the same basis as in section 59-9-13.

28 (3) The Legislature shall also provide an appropriation of
29 \$1,000,000 from the general fund from liquor control profits to
30 be distributed on a population basis to cities, incorporated towns,
31 and counties for use as deemed advisable by the governing authority
32 of such cities, incorporated towns, and counties. Where public
33 transit districts exist or are created through a public referendum
34 the money appropriated by this section must be used for public

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2 transit and any city, incorporated town or county must appropriate
3 an amount or render services having an equivalent value equal to
4 25% of the amount of funds to which the city, incorporated town or
5 county may become entitled to receive under this subsection for the
6 purposes of providing public transit, and must submit a brief report
7 to the commission and the council of expenditures, activities,
8 programs, and accomplishments regarding purposes as stated. The
9 appropriation provided for by this subsection is intended to supple-
10 ment the budget of public transit districts to more effectively
11 provide public transportation within the state.

12 (4) The legislature shall also provide an appropriation of
13 not less than \$1,000,000 from the general fund from liquor control
14 profits to the Community Corrections Assistance Fund established
15 pursuant to Section 64-14-6 to be distributed in accordance with
16 Sections 64-14-5 and 64-14-7.

17 [~~4~~] (5) It shall be the duty of the liquor control commissioners
18 to operate the business of the commission in such manner that a sum
19 of money equal to the amount of the net profits earned for each
20 six-months period will be available to the state treasurer for
21 transfer as in this section required. Should such commissioners fail
22 to make such sums of money available for transfer, as in this section
23 required, the commissioners responsible for such failure shall be
24 guilty of a misdemeanor.

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1 (DEFINITE SENTENCING STUDY)

2 1979

3 GENERAL SESSION

4 _____ J.R. No. _____ By _____

5 _____
6 _____
7 A JOINT RESOLUTION OF THE 43RD LEGISLATURE OF THE STATE OF UTAH RELATING TO
8 DEFINITE SENTENCING; PROVIDING FOR A STUDY OF DEFINITE SENTENCING LAWS
9 ENACTED IN OTHER STATES TO ASSESS THE EFFECT ON CORRECTIONAL PROGRAMS
10 AND OPERATIONS AND TO DETERMINE THE NEED FOR SUCH LEGISLATION OR OTHER
11 SENTENCING REFORM MEASURES IN UTAH; AND DIRECTING THE LEGISLATIVE
12 MANAGEMENT COMMITTEE TO ASSIGN THE RESPONSIBILITY FOR SUCH STUDY AND
13 RESEARCH TO THE APPROPRIATE LEGISLATIVE STUDY COMMITTEE.

14 Be it resolved by the Legislature of the State of Utah:

15 WHEREAS, the basic assumption underlying the indeterminate sentencing
16 process, that correctional and parole authorities can determine when an
17 offender has been rehabilitated and that release decisions should be based
18 primarily on such determinations, has been increasingly challenged;

19 WHEREAS, possible disparities in sentences imposed by judges under
20 indeterminate sentencing laws for offenders with similar backgrounds convicted
21 of similar offenses violate fundamental principles of justice and equality;

22 WHEREAS, possible disparities in release decisions by parole authorities
23 under indeterminate sentencing laws for offenders with similar backgrounds
24 convicted of similar offenses violate fundamental principles of justice and
25 equality; and

26 WHEREAS, several states have enacted definite sentencing laws to help
27 eliminate these deficiencies.

28 NOW, THEREFORE, BE IT RESOLVED, that the General Session of the 43rd
29 Legislature of the State of Utah directs the Legislative Management Committee
30 to assign to the appropriate legislative study committee the responsibility
31 to study the indeterminate sentencing process, to review definite sentencing
32 processes in other states to assess their effect on correctional programs
33 and operations and to determine the need and appropriateness of such legislation
34 or other sentencing reform measures in the State of Utah.

1 (BOARD OF PARDONS MEMBERSHIP)

2 1979

3 GENERAL SESSION

4
5 B. No.

By _____

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7
8 AN ACT AMENDING SECTION 77-62-2, UTAH CODE ANNOTATED 1953, AS AMENDED
9 BY CHAPTER 174, LAWS OF UTAH 1967, AS AMENDED BY CHAPTER 197,
10 LAWS OF UTAH 1969; PROVIDING FOR EXPANSION OF THE BOARD OF
11 PARDONS FROM THREE PART-TIME MEMBERS TO FIVE PART-TIME MEMBERS,
12 FOR LIMITATION ON TERMS AND FOR GROUNDS FOR REMOVAL.

13 Section 1. Section 77-62-2, Utah Code Annotated 1953, as
14 amended by Chapter 174, Laws of Utah 1967 and as amended by Chapter
15 197, Laws of Utah 1969, is amended to read:

16 77-62-2. Board of pardons within department of social services--
17 Establishment--Membership--Qualifications and appointment--Terms--
18 Filling vacancies.-- There is established within the department of
19 social services a board of pardons, which shall consist of [three]
20 five part-time members, all of whom shall be resident citizens of
21 the state of Utah, and who shall be appointed by the board of
22 corrections. The present members of the state board of pardons are
23 to continue to serve and shall become the members of the board of
24 pardons until the terms for which they were appointed shall expire
25 and until their respective successors shall be appointed and
26 qualified. Thereafter, each member of the board of pardons shall
27 hold office for four years and until his successor shall be appointed
28 and qualified. [~~In the event that any member of the board of pardons~~
29 ~~shall be rendered incapable of performing his duties, the governor~~
30 ~~shall appoint a suitable person to act in his stead during the period~~
31 ~~of his absence.] No member shall serve more than two consecutive
32 terms. Any vacancy occurring in the membership of the board of
33 pardons otherwise than by expiration of the term, shall be filled in
34 the same manner as those occurring by expiration of term, but for the
35 unexpired term only. Any member of the board of pardons may be re-
36 moved from office prior to expiration of the member's term by the
37 board of corrections for cause, after proper notice and hearing.~~

(DEPARTMENT OF CORRECTIONS ACT)

1979

GENERAL SESSION

___ B. No. ___

By _____

AN ACT AMENDING SECTIONS 64-13-1, 64-13-2, 64-13-5, 64-13-6, 64-13-7, 64-13-9, 64-13-18, AND 64-13-21, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 253, LAWS OF UTAH 1977, SECTION 63-35-3, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 174, LAWS OF UTAH 1967, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, AS AMENDED BY CHAPTER 22, LAWS OF UTAH 1970, AS AMENDED BY CHAPTER 168, LAWS OF UTAH 1971, SECTION 63-35-6, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 174, LAWS OF UTAH 1967, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, SECTIONS 64-9a-1, 64-9a-2, 64-9a-3, 64-9a-4 AND 64-9a-6, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 135, LAWS OF UTAH 1975, SECTION 77-62-2, UTAH CODE ANNOTATED 1953, AS AMENDED BY CHAPTER 174, LAWS OF UTAH 1967, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, SECTIONS 77-62-20, 77-62-21, 77-62-28 AND 77-62-30, UTAH CODE ANNOTATED 1953, AS AMENDED BY CHAPTER 174, LAWS OF UTAH 1967, SECTION 77-62-22, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 199, LAWS OF UTAH 1975, SECTION 77-62-25, UTAH CODE ANNOTATED 1953, SECTIONS 64-6-1.1 AND 64-6-18, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 174, LAWS OF UTAH 1973, SECTIONS 64-6-2, 64-6-4, 64-6-5, 64-6-6, 64-6-7, 64-6-8, AND 64-6-10, UTAH CODE ANNOTATED 1953, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, AS AMENDED BY CHAPTER 174, LAWS OF UTAH 1973, SECTION 64-6-1, UTAH CODE ANNOTATED 1953, AS AMENDED BY CHAPTER 142, LAWS OF UTAH 1957, AS AMENDED BY CHAPTER 141, LAWS OF UTAH 1965, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, AS AMENDED BY CHAPTER 174, LAWS OF UTAH 1973. SECTION 55-15b-3, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 121, LAWS OF UTAH 1973, SECTION 55-15b-6, UTAH CODE ANNOTATED 1953, AS ENACTED BY CHAPTER 121, LAWS OF UTAH 1973, AS AMENDED BY

1 B. No.

2 CHAPTER 170, LAWS OF UTAH 1975, AS AMENDED BY CHAPTER 76,
3 LAWS OF UTAH 1977, AND REPEALING SECTION 64-6-15, UTAH CODE
4 ANNOTATED 1953, AS AMENDED BY CHAPTER 142, LAWS OF UTAH
5 1965, AS AMENDED BY CHAPTER 197, LAWS OF UTAH 1969, AS AMENDED
6 BY CHAPTER 174, LAWS OF UTAH 1973; RELATING TO CORRECTIONS;
7 PROVIDING FOR A DEPARTMENT OF CORRECTIONS TO REPLACE THE
8 DIVISION OF CORRECTIONS; PROVIDING AN ADULT AUTHORITY DIVISION
9 AND A JUVENILE AUTHORITY DIVISION; PROVIDING DUTIES AND
10 RESPONSIBILITIES; PROVIDING FOR A BOARD; PROVIDING THE
11 DEPARTMENT TO BE IN CHARGE OF STATE PRISONS, COMMUNITY
12 CORRECTIONAL CENTERS, ADULT PROBATION AND PAROLE; PROVIDING
13 FOR THE BOARD OF PARDONS TO BE WITHIN THE DEPARTMENT OF
14 CORRECTIONS; AND PROVIDING THE DEPARTMENT OF CORRECTIONS TO
15 BE IN CHARGE OF THE STATE YOUTH DEVELOPMENT CENTER AND
16 JUVENILE AFTERCARE AND PAROLE.

17 Be it enacted by the Legislature of the State of Utah:

18 Section 1. Section 64-13-1, Utah Code Annotated 1953, as
19 enacted by Chapter 253, Laws of Utah 1977, is amended to read:
20 64-13-1. As used in this chapter:

21 (1) "Board" means the board of corrections within the
22 department of [~~social-services~~] corrections.

23 (2) ["~~Division~~"] "Department" means the [~~division~~] department
24 of corrections [~~within-the-department-of-social-services~~].

25 (3) "Director" means the director of the [~~division~~]
26 department of corrections.

27 Section 2. Section 64-13-2, Utah Code Annotated 1953, as
28 enacted by Chapter 253, Laws of Utah 1977, is amended to read:

29 64-13-2. There is created within the department of [~~social~~
30 ~~services~~] corrections a board of corrections to formulate policy
31 for the [~~division~~] department of corrections [~~7-the-state-prison,~~
32 ~~and-adult-probation-and-parole~~]. Except as otherwise provided
33 in this chapter, whenever reference is made in Title 64, or in
34 any other state statute, to the present board of corrections, it
35 shall be construed as referring to the board where the reference
36 pertains to policy-making functions, powers, duties, rights, or
37 responsibilities; in all other instances it shall be construed as

1 ___ B. No. ___

2 referring to the [~~division~~] department of corrections.

3 Section 3. Section 64-13-5, Utah Code Annotated 1953,
4 as enacted by Chapter 253, Laws of Utah 1977, is amended to
5 read:

6 64-13-5. (1) There is created [within-the-department-of
7 social-services-the-division] a department of corrections [~~under~~
8 the-general-supervision-of-the-executive-director-of-the
9 department-of-social-services--The-division] which is the
10 state authority for corrections.

11 (2) The department of corrections shall consist of two
12 divisions: the adult authority division and the juvenile
13 authority division.

14 (a) The adult authority division will have responsibility
15 for the prison, community correction centers, adult probation
16 and parole, and administration of the Community Corrections
17 Assistance Act.

18 (b) The juvenile authority division will have responsibility
19 for the youth development center and juvenile aftercare and
20 parole programs.

21 (c) All personnel, equipment, office furniture, and budget
22 which prior to the effective date of this act were under other
23 departments of the state, but who, because of this act, are now
24 under the department of corrections, shall be transferred to the
25 department as of the effective date of this act.

26 Section 4. Section 64-13-6, Utah Code Annotated 1953, as
27 enacted by Chapter 253, Laws of Utah 1977, is amended to read:

28 64-13-6. The chief executive and administrative officer of
29 the [~~division~~] department shall be [~~a-director-appointed-by-the~~
30 board-with-the-approval-of-the-executive-director-of-the
31 departme t--social-services] appointed by the governor and
32 approved by the senate. The director shall be experienced and
33 knowledgeable in the field of corrections.

34 Section 5. Section 64-13-7, Utah Code Annotated 1953, as
35 enacted by Chapter 253, Laws of Utah 1977, is amended to read:

36 64-13-7. The administration and operation of the state
37 prison shall be under the general jurisdiction of the [~~division~~]

1 B. No.

2 department.

3 Section 6. Section 64-13-9, Utah Code Annotated 1953, as
4 enacted by Chapter 253, Laws of Utah 1977, is amended to read:

5 64-13-9. The warden may reside in quarters furnished by the
6 [~~division~~] department. All utilities and provisions sufficient
7 for the warden and such warden's family together with persons
8 who visit the warden on prison-connected business shall be
9 furnished by the [~~division~~] department.

10 Section 7. Section 64-13-18, Utah Code Annotated 1953, as
11 enacted by Chapter 253, Laws of Utah 1977, is amended to read:

12 64-13-18. Any property destroyed or injured by fire, or
13 other cause, shall be rebuilt or repaired immediately under the
14 direction of the [~~division~~] department. The cost of construction
15 shall be paid from the state treasury or by inmates.

16 Section 8. Section 64-13-21, Utah Code Annotated 1953, as
17 enacted by Chapter 253, Laws of Utah 1977, is amended to read:

18 64-13-21. The warden upon request shall submit reports to
19 the [~~division~~] department informative of the business, management,
20 and property of the prison, and the condition, conduct and employ-
21 ment of inmates. The board may require the director to submit
22 such reports to it for review. Such reports shall be submitted
23 at least once annually.

24 Section 9. Section 63-35-3, Utah Code Annotated 1953, as
25 enacted by Chapter 174, Laws of Utah 1967, as amended by Chapter
26 197, Laws of Utah 1969, as amended by Chapter 22, Laws of Utah
27 1970, as amended by Chapter 168, Laws of Utah 1971, is amended
28 to read:

29 63-35-3. There is created within the government of the
30 state of Utah a department of social services. There is created
31 within the department of social services the following boards:

- 32 (1) Board of health.
33 (2) Board of family services.
34 [~~{3}--Board-of-corrections-~~]
35 [~~{4}--Board-of-pardons-~~]
36 [~~{5}~~] (3) Board of mental health.
37 [~~{6}~~] (4) Board of Indian Affairs.

1 B. No.

2 [~~7~~] (5) Board of aging.

3 [~~8~~] (6) Board of alcoholism and drugs.

4 And the following divisions:

5 (1) Division of health.

6 (2) Division of family services.

7 [~~3~~--~~Division-of-corrections~~]

8 [~~4~~] (3) Division of mental health.

9 [~~5~~] (4) Division of Indian affairs.

10 [~~6~~] (5) Division of aging.

11 [~~7~~] (6) Division of alcoholism and drugs.

12 Section 10. Section 63-35-6, Utah Code Annotated 1953, as
13 enacted by Chapter 174, Laws of Utah 1967, as amended by Chapter
14 197, Laws of Utah 1969, is amended to read:

15 63-35-6. The chief administrative officer of each division
16 within the department of social services shall be a director.
17 Each director shall be appointed by the board having direction of
18 the division with the concurrence of the executive director of
19 social services. The director of each division may be removed
20 from office at the will of the board having direction of the
21 division or by executive director of social services after
22 consultation with the division board. The respective directors
23 shall receive a rate of compensation to be established by the
24 board of examiners. The director of each division shall be
25 experienced in administration and in addition:

26 (1) The director of the division of health shall be a
27 medical doctor.

28 (2) The director of the division of mental health shall
29 be a psychiatrist or a psychologist.

30 (3) The director of the division of family services shall
31 be experienced in administration and familiar with public welfare
32 programs.

33 [~~4~~--~~The-director-of-the-division-of-corrections-shall-have~~
34 ~~training-in-criminology-and-penology~~]

35 Section 11. Section 64-9a-1, Utah Code Annotated 1953, as
36 enacted by Chapter 135, Laws of Utah 1975, is amended to read:

37 64-9a-1. As used in this act:

1 B. No.

2 (1) [~~"Division"~~] "Department" means the [~~division~~]
3 department of corrections [~~as-created-within-the-department-of~~
4 ~~social-services-by-section-64-9-371~~].

5 (2) "Director" means the director of the [~~division~~]
6 department.

7 (3) "Resident" means any pre-parolee, parolee, or
8 probationer who is under the jurisdiction of the [~~division~~]
9 department of corrections and who is assigned to a minimum
10 security facility, a community correctional center, or a
11 community based release program.

12 Section 12. Section 64-9a-2, Utah Code Annotated 1953, as
13 enacted by Chapter 135, Laws of Utah 1975, is amended to read:

14 64-9a-2. (1) The [~~division~~] department shall establish
15 and maintain facilities known as community correctional centers
16 for work and day release programs for pre-parolees, parolees,
17 or probationers.

18 (2) The director shall make rules and regulations deemed
19 necessary for the management and governance of such community
20 correctional centers.

21 Section 13. Section 64-9a-3, Utah Code Annotated 1953, as
22 enacted by Chapter 135, Laws of Utah 1975, is amended to read:

23 64-9a-3. A resident may be permitted to leave a minimum
24 security facility, a community correction center, or a community
25 based program during reasonable hours if the [~~division~~]
26 department determines that such release will assist in such
27 individual's rehabilitation and will not cause undue risk to
28 the public for any of the following purposes:

29 (1) To work;

30 (2) To conduct a business or self-employed occupation
31 including housekeeping or attending to family needs;

32 (3) To attend a private or public educational institution.

33 (4) To obtain medical or psychological treatment, including
34 treatment for drug addiction or alcoholism;

35 (5) To visit relatives and family, contact prospective
36 employers, or for any other reason satisfactory to the division;

37 (6) To participate in a foster home program; or

1 B. No.

2 (7) To participate in any program administered or
3 sanctioned by the division.

4 The release status of any resident shall be entered of
5 record and maintained on file at the Utah State Prison.

6 Section 14. Section 64-9a-4, Utah Code Annotated 1953, as
7 enacted by Chapter 135, Laws of Utah 1975, is amended to read:

8 64-9a-4. (1) The [~~division~~] department shall promulgate
9 written rules and regulations governing release status. A copy
10 of such rules and regulations shall be furnished to the resident
11 and to any employer or other person participating in the
12 resident's release program. Any employer or other participating
13 person shall agree in writing to abide by such rules and
14 regulations and to notify the [~~division~~] department of any
15 discharge from employment or school or of any violation of the
16 rules and regulations governing release status.

17 (2) The [~~division~~] department may impose appropriate
18 sanctions upon residents who violate its rules and regulations
19 including prosecution for escape under section 76-8-309, for
20 unauthorized absence from any minimum security facility,
21 community correctional center, or community based release
22 program.

23 (3) A writ certified by the director, deputy director, or
24 any person in charge of a community correctional center, or
25 person designated by such person, shall be sufficient warrant for
26 the officer or person to whom such writ is directed to arrest and
27 deliver the resident to the correctional official designated in
28 such writ. No writ shall issue except upon the formalities
29 required by the criminal code.

30 (4) If a resident is arrested upon suspicion of the
31 commission of a crime, the arresting authority shall immediately
32 notify the nearest community correctional center of the arrest.

33 Section 15. Section 64-9a-6, Utah Code Annotated 1953, as
34 enacted by Chapter 135, Laws of Utah 1975, is amended to read:

35 64-9a-6. (1) The [~~division~~] department shall establish and
36 collect from residents on work release programs the reasonable
37 cost of maintenance, transportation, and incidental expenses

1 B. No.

2 incurred by the division on behalf of such resident. The
3 ~~[division]~~ department under rules and regulations prescribed by
4 it may advance funds to any resident necessary to establish such
5 resident in a work release program.

6 (2) Compensation paid on account of any resident's
7 employment less any advanced funds shall be credited in an
8 account in the name of the resident in a bank or other financial
9 institution recommended by the resident and approved by the
10 ~~[division]~~ department. Employment compensation after deduction of
11 costs may be sent to the legal dependents of such resident if the
12 ~~[division]~~ department is so directed by the resident or to the
13 appropriate agency if such dependents are receiving public
14 assistance or are inhabitants of a state hospital, state school,
15 or foster care facility provided by the state. Any surplus shall
16 be deposited to the account of such resident for distribution in
17 accordance with such resident's direction according to the rules
18 and regulations of the ~~[division]~~department.

19 (3) Upon discharge from custody any balance shall be paid
20 to the resident.

21 Section 16. Section 77-62-2, Utah Code Annotated 1953, as
22 amended by Chapter 174, Laws of Utah 1967, as amended by Chapter
23 197, Laws of Utah 1969, is amended to read:

24 77-62-2. There is established within the department of
25 ~~[social-services]~~ corrections a board of pardons, which shall
26 consist of three part-time members, all of whom shall be resident
27 citizens of the state of Utah, and who shall be appointed by
28 the board of corrections. The present members of the state
29 board of pardons are to continue to serve and shall become the
30 members of the board of pardons until the terms for which they
31 were appointed shall expire and until their respective successors
32 shall be appointed and qualified. Thereafter, each member of
33 the board of pardons shall hold office for four years and until
34 successor shall be appointed and qualified. In the
35 event that any member of the board of pardons shall be rendered
36 incapable of performing his or her duties, the governor
37 shall appoint a suitable person to act in his or her stead

1 B. No.
2 during the period of [~~his~~] the member's incapacity. Any vacancy
3 occurring in the membership of the board of pardons otherwise
4 than by expiration of the term, shall be filled in same manner
5 as those occurring by expiration of term, but for the unexpired
6 term only.

7 Section 17. Section 77-62-20, Utah Code Annotated 1953, as
8 amended by Chapter 174, Laws of Utah 1967, is amended to read:

9 77-62-20. There is created within the [~~division~~] department
10 of corrections the adult parole and probation section of the
11 state of Utah. Except as otherwise provided in this act, whenever
12 reference is made in Title 77, or any other provision of law, to
13 the department of adult parole and adult probation, it shall
14 [~~be construed as referring to~~] mean the adult parole and
15 probation section.

16 Section 18. Section 77-62-21, Utah Code Annotated 1953, as
17 amended by Chapter 174, Laws of Utah 1967, is amended to read:

18 77-62-21. The management and control of the adult parole
19 and probation section shall be vested in the [~~division~~] department
20 of corrections.

21 Section 19. Section 77-62-22, Utah Code Annotated 1953, as
22 enacted by Chapter 199, Laws of Utah 1975, is amended to read:

23 77-62-22. The director of the [~~division~~] department of
24 corrections shall appoint a chief of adult probation and parole,
25 who shall be the chief executive officer of the adult probation
26 and parole section. The chief shall appoint a sufficient number
27 of probation and parole officers, supervisors, and assistants,
28 and other employees to carry on the professional, clerical and
29 other work of the section, the board of pardons, and the courts
30 of the state. The chief of adult probation and parole and
31 other employees of the section shall be within the classified
32 service of the state merit system, and their appointment, salary,
33 tenure, and all other conditions of their employment shall be in
34 accordance with the laws and regulations governing that system.

35 Section 20. Section 77-62-25, Utah Code Annotated 1953,
36 is amended to read:

37 77-62-25. The [~~board~~] department of corrections shall

1 B. No.

2 adopt such by-laws, rules and regulations as are necessary for
3 the proper operation of the department of adult parole and
4 adult probation.

5 Section 21. Section 77-62-28, Utah Code Annotated 1953, as
6 amended by Chapter 174, Laws of Utah 1967, is amended to read:

7 77-62-28. The [~~division~~] department of corrections shall
8 establish [~~such~~] parole and probation districts in the state as
9 may be expedient and necessary to the efficient and economical
10 administration of the adult parole and probation section [~~and~~
11 ~~the~~] . The director of the [~~division~~] department of corrections
12 shall, appoint [~~such~~] district agents as may be necessary to
13 serve in the district, subject to the advice of the judicial
14 district judge or judges within the district.

15 Section 22. Section 77-62-30, Utah Code Annotated 1953, as
16 amended by Chapter 174, Laws of Utah 1967, is amended to read:

17 77-62-30. The [~~division~~] department of corrections shall
18 establish and maintain clinics for the purpose of thoroughly
19 investigating the social, mental and physical conditions and
20 background of those charged with the various crimes and shall
21 conduct examinations wherever required, and, upon completing
22 such an examination, the [~~division~~] department shall file a copy
23 of its findings and formal clinical report with the court having
24 jurisdiction and make such recommendations to the court as it may
25 see fit. For this purpose the [~~division~~] department may, without
26 expense to it, command the services of any expert in the employ
27 of the state of Utah [~~or any other expert in the employ of any~~
28 ~~state institution~~].

29 Section 23. Section 64-6-1.1, Utah Code Annotated 1953, as
30 enacted by Chapter 174, Laws of Utah 1973, is amended to read:

31 64-6-1.1. As used in this act:

32 ~~[(1)] "Division" means the division of family services.~~

33 ~~[(2)]~~ (1) "Department" means the department of [~~social~~
34 ~~services~~] corrections.

35 ~~[(3)]~~ (2) "School" means the Utah [~~state industrial school~~]
36 youth development center.

37 ~~[(4)]~~ (3) "Student" means any juvenile [~~boy or girl~~]

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2 committed or admitted to the custody, care, and jurisdiction of
3 the superintendent of the [~~state-industrial-school~~] youth
4 development center, and a resident therein.

5 [~~4~~] (4) "Placement" means a conditional release of a
6 student [~~7-bey-or-girl~~] from residency within the school, to
7 live outside the school under the supervision of an officer of the
8 school or other person designated by the superintendent of the
9 school. [~~Such~~] A student may be released to [~~his-own~~] the
10 student's home, [~~to~~] a foster home, or other appropriate
11 residence, but shall remain under the jurisdiction of the
12 school until discharged as provided [~~for~~] in section 64-6-13,
13 and may be subject to be returned to the school for law
14 violation, or for failure to abide by the conditions of his
15 placement in accordance with section 64-6-1.

16 [~~6~~] (5) "Discharge" means a written order signed by
17 the superintendent of the school, removing from the jurisdiction
18 of the school [~~and-from-the-division~~] any student [~~7-bey-or-girl~~]
19 who is either currently in residence or is residing outside at
20 the school in "placement" as defined in item [~~4~~] (4).

21 [~~7~~] (6) "Revocation of placement" means the written order
22 of the superintendent to terminate residence outside of the
23 school of a student or former student, who has been granted the
24 privilege of residency outside of the school, while he continues
25 under the jurisdiction of the school. Such revocation is
26 made only because of law violation, or for failure to abide
27 by the conditions of placement.

28 [~~8~~] (7) "Appeal" means the right of a parent or
29 guardian to appeal the decision of the superintendent in cases
30 where a student's placement has been revoked and [~~he-or-she~~]
31 the student has been returned to residency within the school.

32 Section 24. Section 64-6-2, Utah Code Annotated 1953, as
33 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
34 174, Laws of Utah 1973, is amended to read:

35 64-6-2. The government, management, operation and
36 control of the school shall be in the [~~division~~] department.

37 The school with the approval of the [~~division-and-board-of~~]

1 B. No.

2 ~~family-services~~ department is authorized to carry out innovative
3 and co-operative programs in the care, treatment, placement,
4 training, rehabilitation, education and evaluation of children
5 within the school either committed or referred by the juvenile
6 court.

7 Section 25. Section 64-6-3, Utah Code Annotated 1953, as
8 amended by Chapter 142, Laws of Utah 1957, as amended by Chapter
9 141, Laws of Utah 1965, as amended by Chapter 197, Laws of Utah
10 1969, as amended by Chapter 174, Laws of Utah 1973, is amended
11 to read:

12 64-6-3. With the approval of the [~~division-and-the~~]
13 department, the school may contract and be contracted with, and
14 sue and be sued in all matters concerning the school, and may
15 contract to receive or place for care juvenile charges from or
16 with the United States department of justice, other states
17 of the United States or other public or private agencies on
18 such terms and under such conditions as may be determined by
19 the [~~division-with-the-approval-of-the~~] department.

20 The [~~division~~] department may take, in the name of the
21 state, and hold in trust for the school, realty or personalty
22 [~~and-with-the-approval-of-the-department~~] and in accordance
23 with section 65-7-9 , [~~Utah-Code-Annotated-1953~~] may convert
24 property [~~which-is-not~~] for suitable [~~for-the-uses~~] use of
25 the school [~~into-suitable-property~~].

26 The superintendent may adopt policy and rules for the
27 regulation [~~of-all-the-concerns~~] of the school not inconsistent
28 with the law, subject to approval of the [~~division~~] department
29 director [~~and-the-board-of-family-services~~].

30 The [~~division~~] department shall see that the affairs of the
31 school are conducted in accordance with the requirements of the
32 law, and that a broad program of education, pre-vocational
33 and vocational training, social services and counseling, on-the-
34 job training, with well-defined goals for the rehabilitation of
35 [~~the~~] students is available [~~to-the-students~~]. The superintendent
36 shall approve the appointment of all officers and staff
37 personnel necessary to achieve the goals and objectives of the

1 B. No.

2 school; and may remove any officer or personnel for good and
3 sufficient reason, and fix the salaries to be paid to the
4 officers and employees, according to standards established by
5 the department of finance.

6 Section 26. Section 64-6-4, Utah Code Annotated 1953, as
7 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
8 174, Laws of Utah 1973, is amended to read:

9 64-6-4. The [~~division~~] department shall succeed to all the
10 powers and discharge all the duties and perform all the functions
11 which by existing and continuing law are conferred upon and required
12 to be discharged or performed by the board of trustees of the school
13 or the [~~public-welfare-commission~~] board of family services. Whenever
14 any existing and continuing law refers to or names the board of
15 trustees of the school or to the [~~public-welfare-commission~~] board
16 of family services or to any employee or officer of said board or
17 commission, it shall be construed to mean, refer to and name the
18 [~~division~~] department or the corresponding employee or officer of
19 said [~~division~~] department.

20 Section 27. Section 64-6-5, Utah Code Annotated 1953, as
21 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
22 174, Laws of Utah 1973, is amended to read:

23 64-6-5. The superintendent of the school shall be appointed by
24 the director of the [~~division-with-the-approval-of-the-executive~~
25 ~~director-of-the~~] department. The superintendent shall be the
26 executive and administrative head of the school and shall be a
27 person who has a combination of college or university training and
28 experience in professional administration totaling at least eight
29 years, with no fewer than four years of college or university study
30 and no fewer than three years of full-time professional employment in
31 fields related to the functions and administration of the school,

32 Section 28. Section 64-6-6, Utah Code Annotated 1953, as
33 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
34 174, Laws of Utah 1973, is amended to read:

35 64-6-6. It shall be the duty of the [~~division~~] department
36 to visit the school as often as it may deem necessary to inquire
37 into all matters connected with the government

1 B. No.

2 and discipline and operation of the school; and [~~one-or-more-of~~
3 ~~the-members-of-the-board-of-family-services,-or~~] the director of the
4 [~~division~~] department shall visit the school at least once in every
5 month, and examine into the progress and behavior of the students, and
6 inspect the records and reports of the superintendent, and evaluate
7 the administration of the school. Minutes of such visits and
8 meetings shall be kept by the superintendent.

9 Section 29. Section 64-6-7, Utah Code Annotated 1953, as
10 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
11 174, Laws of Utah 1973, is amended to read:

12 64-6-7. The school under the direction of the [~~division-of~~
13 ~~family-services~~] department shall provide or make available to the
14 students admitted to the school various types of instruction for
15 students appropriate to their age, needs, and range of abilities.
16 Each student in the school shall be provided instruction comparable
17 to other schools of learning. [~~He~~] Students may also receive pre-
18 vocational education designed to acquaint [~~him~~] them with several
19 vocations and their requirements and opportunities in a manner to
20 prepare ~~him~~ for job entry, or motivate [~~him~~] them towards further
21 training upon release from the school.

22 Section 30. Section 64-6-8, Utah Code Annotated 1953, as
23 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
24 174, Laws of Utah 1973, is amended to read:

25 64-6-8. The superintendent may, subject to the approval of
26 the [~~board-of-family-services~~] department of corrections,
27 establish rules and regulations under which any student may be
28 allowed to be placed outside of the school, but such student
29 shall remain in the legal custody and under the control of the
30 school and shall be subject at any time to be returned to the
31 school unless otherwise discharged. Full power to retake and
32 keep any child on placement is conferred upon the superintendent
33 of the school, whose written order shall be sufficient warrant
34 to any officer authorized to make arrest to return to actual
35 custody any [~~boy-or-girl~~] student on placement. However,
36 after a student is returned to the custody of the school for
37 violation of the law or placement violation, the superintendent

1 B. No.

2 shall arrange a hearing in accordance with procedures approved
3 by the [~~board-of-family-services~~] department of corrections. The
4 decision of the superintendent may be appealed by writing to the
5 director of the [~~division-of-family-services~~] department.

6 Section 31. Section 64-6-10, Utah Code Annotated 1953, as
7 amended by Chapter 197, Laws of Utah 1969, as amended by Chapter
8 174, Laws of Utah 1973, is amended to read:

9 64-6-10. The [~~division~~] department may contract with any
10 institution or agency organized in this state to provide for
11 the care, training, rehabilitation or education of any student
12 who shall be committed to the school, and shall pay for such care
13 from the funds appropriated to the school. Such facilities may
14 include but are not limited to foster homes, boys and girls
15 group homes, camp programs or any other institution or
16 agency approved by the [~~division~~] department for the care, training,
17 rehabilitation or education of children and youth. Such student
18 shall remain in the legal custody and under the supervision
19 of the [~~division~~] department and shall be subject at any time
20 to be returned to the school.

21 Section 32. Section 64-6-18, Utah Code Annotated 1953, as
22 enacted by Chapter 174, Laws of Utah 1973, is amended to read:

23 64-6-18. There shall be established a citizen advisory
24 committee to the school. This citizen advisory committee shall
25 be formed and function in accordance with policy established
26 by the state board of [~~family-services~~] corrections.

27 Members of the citizen advisory committee shall be paid
28 for all actual and necessary expenses as determined by the
29 board of examiners.

30 Section 33. Section 55-15b-3, Utah Code Annotated 1953, as
31 enacted by Chapter 121, Laws of Utah 1973, is amended to read:

32 55-15b-3. There is created within the department a board
33 of family services, which, except as otherwise provided in this
34 act, shall assume all of the policy-making functions, powers,
35 duties, rights, and responsibilities granted to the board by
36 this act. The board shall be the policy-making body of the
37 division of family services [~~7-the-state-industrial-school~~]

1 B. No.

2 and the state training school.

3 The board is charged with the duty and responsibility
4 of determining and adopting all such procedures, rules and
5 regulations as may be required or deemed necessary and
6 advisable in order to perform the duties and functions
7 conferred upon it by any law of this state. Such rules and
8 regulations when adopted by a majority vote of the board, shall
9 be binding upon the division and its state, district or
10 local offices and shall be printed for the benefit of the
11 legislature and the public in general.

12 The board is authorized to license division, district
13 or local offices as child-placing agencies in accordance with
14 chapter 8a of Title 55, in the receiving, acceptance, or
15 providing custody or care of any child under eighteen years,
16 temporarily or permanently, for the purpose of finding a person
17 to adopt such child or placing the child temporarily or
18 permanently in a home for adoption.

19 The board may establish a subsidized adoption program
20 to provide financial support to persons who adopt physically or
21 mentally handicapped, older or other hard-to-place children
22 who immediately prior to their adoption were legal wards of
23 the state. Such financial support may not exceed the amounts
24 which similar services would cost the division if it were to
25 provide or secure them for the child as the legal ward of the
26 state.

27 Section 34. Section 55-15b-6, Utah Code Annotated 1953, as
28 enacted by Chapter 121, Laws of Utah 1973, as amended by Chapter
29 170, Laws of Utah 1975, as amended by Chapter 76, Laws of Utah
30 1977, is amended to read:

31 55-15b-6. The division shall:

32 (1) Administer all individual and family services
33 including child welfare activities and all other service matters
34 the legislature may assign to the division.

35 (2) Co-operate with the federal government in the
36 administration of family service programs and other social
37 service activities in which the federal government may

7 ___ B. No. ___

8 participate.

9 (3) Provide for the compilation of necessary or desirable
10 information, statistics and reports relative to family service
11 matters in the state of Utah.

12 (4) Prepare and submit to the department of social
13 services and the governor and the legislature of the state of
14 Utah reports of the operation and administration of the division
15 as required.

16 (5) Promote and enforce all laws for the protection of
17 mentally defective, illegitimate, dependent, neglected and
18 delinquent children, except laws in which administration is
19 expressly vested in some other state department. To this end it
20 shall co-operate with juvenile courts and all licensed child
21 welfare agencies and institutions of a public or private
22 character and shall take the initiative in all matters
23 involving the interest of such children where adequate
24 provisions have not already been made or are not likely to be
25 made, and to make such expenditures as may be found necessary
26 for the care or protection of such children.

27 (6) Provide shelter care for dependent, neglected,
28 delinquent, and other children in need of temporary care and
29 develop and promulgate standards for shelter care facilities.

30 (7) Govern, manage, operate, and administer [~~the-state~~
31 ~~industrial-schools~~] the state training school (7) and the federal
32 WIN program.

33 (8) Purchase or rent such property and buildings as
34 are required to provide services as are within the terms of
35 this act.

36 (9) Co-operate with the office of assistance payments
37 administration in meeting social and economic needs of
38 individuals eligible for assistance, food stamps, and medical
39 assistance.

40 (10) Purchase or provide services for children or adults
41 in need of day care or group home care. Division-operated day
42 care centers or group homes (24 hour care) shall conform to
43 law and licensing standards required of private agencies

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providing a similar service.

(11) Provide social services to adult recipients of any of the programs for which eligibility is determined by the office of assistance payments administration or the federal government.

(12) Provide services either directly or by contract to youth and their families who are in need of services as demonstrated by behavior of the youth identifying him or her as a runaway, or beyond the control of his or her lawful custodian or school authorities as described in section 78-3a-16.5. The parents or parent or guardian of youth exhibiting the behavior shall participate with the division of family services or contracting agency in resolving the problems which led to the misbehavior. If after earnest and persistent efforts by the division of family services or contracting agency the behavior is not corrected, a petition may be filed with the juvenile court. The petition shall be accompanied by a statement specifying what efforts have been made by the referring agency to deal with the child's behavior and giving recommendation to the court regarding further disposition of the child. The division shall offer contracts to counties to provide these services for children provided that the county's facilities and programs meet the standards and guidelines set forth by the division.

(13) Perform such other duties and functions as may be required by law.

Section 35. Section 64-6-15, Utah Code Annotated 1953, as amended by Chapter 142, Laws of Utah 1965, as amended by Chapter 197, Laws of Utah 1969, as amended by Chapter 174, Laws of Utah 1973, is repealed.

END