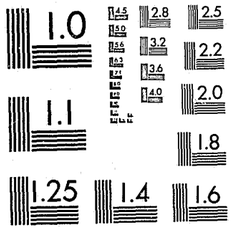

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An Exploration of Options

May 1984

JOINT FEDERAL/STATE ADMINISTRATION OF PRISONS

An Exploration of Options

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EXECUTIVE SUMMARY

Joint ventures in prison administration can help both the states and the federal government to deal with overcrowding, to reduce costs of construction and operation, to simplify siting of new prisons, and to expand facilities and programs for special inmate populations, thereby making general-population institutions safer and easier to manage. This study defines options for federal/state cooperation in institutional corrections and estimates the feasibility of the joint-venture concept.

Joint management refers to shared decision-making only at the level of broad policy-making. It may involve joint planning, joint funding, and ongoing shared responsibility for the facility, but because of the need for unified command at the institutional level, the concept does not envision shared operational management.

THE RESEARCH

Questionnaires sent to corrections directors in the 50 states, the District of Columbia, and the federal Bureau of Prisons asked respondents to indicate which categories of male and female inmates might best be handled in joint-venture prisons. These administrators also were asked to list and rate (1)potential incentives for participation in such a project (from state and federal points of view) and (2)potential problems raised by shared management of correctional institutions. A similar questionnaire was sent to 53 criminal justice experts --academics and representatives of criminal justice organizations.

A second questionnaire assessed current use of an existing mechanism for interjurisdictional handling of prisoners, the Interstate Corrections Compact. This questionnaire was sent to 51 compact administrators.

Potential models for joint-venture prisons were drawn from experience with multi-state and multi-county correctional and non-correctional operations and with joint ventures in the private sector. We reviewed reports of shared operations in such diverse fields as jails, water and power, and higher education and examined feasibility studies of regional correctional proposals. We looked at sample legislation and cooperative agreements to determine how joint ventures have been authorized and administered. We con-

sulted with representatives of private industry to learn from their experience nationally and internationally, and we visited the only current example of an interstate correctional operation --the Bi-State Criminal Justice Center in Texarkana, Texas and Arkansas. Finally, we asked a number of architectural firms with experience in prison construction to help us with estimates of economic feasibility.

As models for federal/state cooperation began to emerge, these were written up and presented to members of our project advisory committee for an assessment of their utility and acceptability. The models were revised to reflect input from advisors, then resubmitted for review. What ultimately developed was a range of administrative options --rather than discrete models-- with different emphases and oriented to different needs. Jurisdictions can use these as general guides in designing their own approaches to joint action in this critical area.

FEASIBILITY OF THE JOINT-VENTURE CONCEPT

No specific conclusions about economic and political feasibility would be broadly applicable, since implementation of any project will depend on the legislative, political, and economic forces at work in particular jurisdictions. However, we can estimate the general feasibility of the concept of federal/state cooperation, based on perceived needs and incentives to participate, commonality of problems in federal and state prison systems, and estimates of cost savings that may be obtained by joint rather than individual action.

Incentives to Cooperate

Incentives for states to cooperate in joint ventures may include:

- an opportunity to provide specialized housing and programs for small groups of inmates with special needs;
- financial savings and more efficient use of resources overall;
- relief of overcrowding;
- improved prison conditions, higher standards, increased possibility of accreditation, reduced threat

of court intervention;

- improved staff training and availability of specialized staff;
- shared risk-taking;
- reduction in pressures from interest groups;
- ability to add bed space without long-term commitment of capital and/or construction lead time;
- reduction in management problems associated with special inmate groups;
- opportunity for greater use of the private sector.

Incentives for the federal Bureau of Prisons to participate in joint-venture prisons may include:

- opportunity for leadership role in corrections nationwide;
- possible financial savings and more efficient use of resources overall;
- opportunity to place inmates closer to home;
- opportunity to foster higher standards and to encourage innovation and experimentation;
- increased availability of programs for special-needs inmates;
- simplified siting of new prisons.

In general, the correctional administrators agreed on the primary importance of four incentives to participate in a federal/state joint venture: relief of overcrowding, reduced operating costs, reduced costs of construction, and the availability of staff with specialized skills. Correctional experts saw the major state incentives as: availability of staff with special skills, relief of overcrowding, improvements in housing and programming, and reduced construction costs.

Major federal incentives, according to the director of the Bureau of Prisons, include the opportunity to aid development of model programs, cost savings, and simplified siting of new prisons.

Barriers to Cooperation

Problems raised by the concept of the joint-venture prison may include:

- inmates placed further from home and community resources;
- cost and complications of prisoner transportation;
- more complex budgeting;
- difficulties in predicting or maintaining need for added bed space or new programs, and thus in obtaining long-term commitments;
- potential legal and constitutional problems;
- complicated planning, funding, and management structures;
- differences among participating jurisdictions in policies, procedures, laws, standards of operation, and political situations.

The corrections directors and correctional experts agreed regarding the four most important problems posed by the regional or shared facility: long distances to inmates' home communities; diffusion of administrative control; difficulty obtaining long-term commitments from participating jurisdictions; and long distances from courts and attorneys.

Other potential barriers to joint-venture prisons can be assumed from experience with the Interstate Corrections Compact. Problems that discourage use of the compact reportedly include:

- lack of follow-up information on inmates transferred;
- overcrowding;
- restrictions on voluntary transfers;
- requirements for monetary reimbursement;
- differences in calculating time credits, and thus in maintaining balance between states when inmates are traded;

- excessive time and paperwork involved in transfers.

It is important to note that, although questionnaire respondents were aware of the many problems that might come up in joint ventures, none felt that these were insoluble or that the concept of joint ventures was unworkable.

Inmate Groups for Joint-Venture Prisons

To determine the extent to which needs are widely shared, our questionnaire asked which categories of inmates it would be most helpful to house in a joint-venture prison. Responses were grouped by region to highlight common needs in contiguous or nearby states. The five regions are: the Western Corrections Compact (13 states); the Central States Correctional Association (12 states); the Southern Correctional Association (14 states); the Mid-Atlantic Correctional Association (6 states); and the New England Correctional Compact (6 states).

For all regions, the results of this survey suggest strong nationwide support among corrections managers for three types of shared or concurrently operated prison facilities:

- a medical/psychiatric facility for men or women that would be capable of handling the aged and the developmentally disabled;
- a high-security facility for men who are assaultive and/or high escape risks;
- a protective custody facility for men.

A national consensus is not necessary, of course, for a shared facility to meet regional or local needs. This survey pointed up a number of areas in which regional cooperation might be profitable for selected states. For example, four clustered states in the Midwestern region and three in the Southern region expressed interest in a shared vocational/educational facility for women. Two Mid-Atlantic states showed an interest in jointly operated road maintenance camps for minimum-security inmates. A minimum of two states, or one state and the federal Bureau of Prisons, is sufficient to begin exploring the feasibility of a mutually beneficial operation.

ECONOMIC ISSUES

Implicit in the concept of regional or shared facilities is the anticipation of economies to be gained through the pooling of resources. Estimates provided by our architectural consultants suggest savings of from five to ten percent through joint siting of prisons and sharing of central services (one of our model options). Economies of scale obtained by constructing two 500-bed facilities on the same site instead of on separate sites could bring further savings of from three to five percent.

Savings in operating costs are difficult to project because of the large number of variables involved. However, in staffing costs alone, the savings are likely to be substantial. It can be assumed that every position saved is worth more than half a million dollars over the life of the institution, assuming a $20,000 salary (including benefits) and a life-cycle of 30 years. One architectural firm estimated that staffing costs will account for about 74 percent of total life-cycle costs and construction costs only about nine percent.

There are, of course, wide variations in salary schedules among the states, so for those on the low end of the scale it would be possible to save positions in a joint-venture facility and still end up with what seems a higher per capita cost if a jurisdiction with a higher pay structure (such as the Bureau of Prisons) were to operate the institution.

It is also true that a shared specialized facility, even if it is more cost-effective than two such institutions, may seem expensive to a state that currently houses its special-needs inmates in a general population facility with a low per capita cost. Court orders, however, may force such states to consider joint venture options in the future.

EXPERIENCE WITH JOINT VENTURES

Federal/state cooperation in the operation of prisons has no real precedent in the Unites States. However, there is considerable experience with joint ventures in community corrections, jail operations, interstate compacts in the areas of water and power, harbors, and conservation, regional colleges, and bi-state planning efforts. Private-sector businesses also engage in joint ventures as one means of cooperating on a project of common interest.

Most correctional joint ventures today are combined city/county jails. There are a number of jointly operated correctional facilities involving two or more counties (as under the Minnesota Community Corrections Act), and at least two examples of interstate cooperation: the Interstate Corrections Compact and the Bi-State Criminal Justice Center at Texarkana. There have also been studies of the feasibility of regional facilities in several areas, although only one of these currently shows promise of implementation.

Non-correctional joint ventures are far more numerous and in general have longer histories than correctional joint ventures. The management of water resources, for example, has a well-documented history of more than 100 years, and the working relationships among governments in this area can teach us much about joint ventures in corrections. There are thousands of other interjurisdictional arrangements in effect throughout the country. These make use of many different mechanisms: informal agreements, contracts, compacts, public corporations, and joint powers agreements. The federal government sometimes plays an initiating or a continuing role, and in some cases the private sector is involved.

Feasibility studies of correctional joint ventures that were never implemented suggest the pitfalls that may be encountered even before a project is underway. Some of these studies have neglected to consider political factors, and one even failed to look at methods of financing or to estimate costs. In some cases agreement could not be reached on the kind of facility needed, or even on whether a shared facility was needed at all. In only one of these areas (the Southwest) has the idea of a joint-venture prison remained alive.

MODELS FOR COOPERATION

Based on experience with correctional and non-correctional joint ventures, and on the expressed needs and concerns of federal and state governments, several options or models for cooperation can be specified. Four of these are: the special-purpose contract facility; joint siting; the compact or joint powers model; and the public corporation.

The Contract Facility

This would be a prison operated by one jurisdiction, with others reserving a specified number of beds. It could

be an existing prison or a new one constructed for the purpose.

This model represents the minimum amount of joint management in cooperative federal/state ventures. Management control would rest largely with the jurisdiction operating the prison, but a committee composed of the directors of each participating jurisdiction could play an advisory (non-binding) role. An advisory committee would provide for some ongoing interaction with those contracting for service beyond the contract negotiation stage.

The major issues in financing the joint venture would be: Should construction costs be amortized by pro-rating them to contracting jurisdictions? (Probably so.) What figure will be used to represent number of inmates? (Projected average daily population adjusted in the final quarter might be fairest.) Will participants pay only for inmates actually transferred or for a block of beds? (Payment for a predetermined block probably would be preferable.)

In this model the operating jurisdiction would bear most of the financial and legal risks, but would also retain most or all management control. Jurisdictions contracting for service would benefit by the opportunity to add bed space without major capital investment, and by the ability to remove special-needs inmates from their general populations.

Joint Siting

This model envisions two relatively independent program and housing units, one for state and the other for federal prisoners, located on the same site and sharing central services. This could be accomplished by adding on to an existing institution, but would be more effective if a new institution were designed for the purpose.

The extent of shared services would be subject to negotiation. At a minimum it would include water and power generating systems and sewage treatment. It probably also would include food services, laundry, and fire protection. It could involve sharing of professional staff and specialized (e.g., medical) equipment. And over time it might evolve into more extensive cooperation in planning and management functions.

Various arrangements are possible for operating the central services unit. One partner could both construct and

operate the central unit; one could build and the other operate it; or it could be built jointly, with operations contracted out to the private sector. Regardless of the arrangement negotiated, there must be some mechanism for each partner to influence the operation of shared services.

The primary incentive for both federal and state participation in joint siting would be financial. Savings in construction, equipment, and personnel costs could be expected on both sides, and these could be achieved with minimal added risk. Perhaps the most compelling feature of this model is the amount of control that may be retained by both participants, while some costs and risks are shared.

The Joint Powers Model

The compact or joint powers model is an elaboration of the contract model, the main difference being that under joint powers the committee overseeing the facility is a policy-making rather than advisory body. Because of this mechanism for shared policy-making, the model represents full expression of the concept of joint administration of prison facilities.

To implement the joint powers model with federal participation it would be necessary for Congress to authorize federal participation in an interstate corrections compact with binding status similar to the states. This could be accomplished through one of the existing compacts, but it would be preferable to create a new compact for the purpose.

Control and responsibility under the joint powers agreement are divided among the participants. Controlling interest on the board probably would be determined by the number of inmates a partner had in the institutional population. The board would be responsible for developing the facility's budget, which would be submitted to each participating jurisdiction for funding of the number of beds for which it had contracted. The operating jurisdiction would not be expected to make up for any deficiencies in bed use, since it would have no greater obligations than the other participants.

As with other models, the primary incentive to participate is financial. Participants would gain access to increased bed space without undertaking the obligations of an entire institution. Risk is more evenly shared than in the contract model, as the board would have legal responsibility for the joint venture. The entity with which the board

contracts for operation of the facility would have limited liability.

Compared to some other models, the joint powers model offers greater stability and less likelihood that a legislature would refuse to meet its obligations, since the interstate compact takes precedence over state law and is enforceable in court. While a participant could withdraw from the agreement, this would not be an operation subject to annual revisions, as could be the case with the contract model.

The Public Corporation

This model could be structured in one of two ways: as a federal corporation similar to the Tennessee Valley Authority and Amtrak or as a general public corporation independent of any one jurisdiction. Because the joint-venture prison does not seem to meet the criteria for a federal corporation (which is generally a self-sustaining project with many business-type transactions with the private sector), the general public corporation is probably the preferable arrangement.

The public corporation would be created not only by an act of Congress, but by identical state legislation as well. Its employees would report to the corporation, rather than to any of the participating jurisdictions. Each participant would name its representatives on the board of directors and contribute its portion to the joint-venture budget.

In this model control of the project is placed with the corporate board of directors. The state and federal enabling legislation would form the basic charter of the corporation, which would be created for the sole purpose of building and operating a prison or prisons to house federal and state inmates. Each jurisdiction would commit itself to maintaining an agreed-upon number of inmates in the joint-venture prison, and this would be formalized in a long-term contract with the corporation.

Theoretically, the corporation could float a bond issue to construct the facility, but in view of its lack of assets and history this is not likely. It would be more feasible to take over a vacant facility and remodel it, using funds advanced by participating jurisdictions.

In this model, the majority of risk is transferred from the participating jurisdictions to the corporate board of directors and the corporation. The financial risks of each

government would be limited to funding of the number of beds for which it had contracted. Legal risks also would fall primarily to the corporation. Offsetting the limited risk would be the lack of direct control.

Through the mechanism of the revenue bond, the public corporation offers a unique means of financing public projects in states with constitutional debt limitations. The corporate model also has proved effective in handling various kinds of interstate and inter-community problems. Whether or not it will be applied to the construction and/or operation of prisons remains to be seen.

GUIDELINES FOR IMPLEMENTATION

For the complexities of establishing a joint venture to seem worth investigating, there are several conditions that must be present:

- There must be a serious problem in the prison system that is perceived as lending itself to a cooperative solution.
- There must be a political climate friendly to joint ventures, or at least open to considering the possibility.
- Policy-makers must be aware of the existence and nature of joint-venture options.
- Perceptions of risk --political, economic, and correctional-- must be acceptable to all parties.
- The timing must be right.
- There must be strong and continuous leadership from some pivotal point in the system, preferably involving the corrections director.

Overcoming Bottlenecks

Certainly there are problems in state and federal prison systems that are widely shared and potentially responsive to joint solutions. These problems center on the relief of overcrowding and the management of special categories of inmates --psychiatric and medical cases, protective custody, and high-risk or assaultive inmates. Many prison systems do not have sufficient numbers of these inmates to warrant construction of separate facilities for

them, so a federal/state or regional joint venture is a logical solution.

Yet joint ventures are surprisingly rare, in large part because of barriers or bottlenecks that impede consideration of cooperative solutions to common problems. Overcoming bottlenecks will require the conviction and support of a strong corrections director and the participation of the governor, key legislators, and financial and legal officials.

States contemplating joint ventures must be willing to invest time and money in planning and negotiation. It is generally helpful if a jurisdiction has a history of innovative problem-solving and some experience with joint ventures in other areas. It also will be helpful if both jurisdictions are seeking the same outcome, that is, if their motivations are convergent rather than simply parallel.

Legislation is a common barrier to cooperative ventures in corrections. Even to make greater use of existing interstate compacts, laws requiring cash payments for out-of-state transfers may have to be revised. And states in which cumbersome procedures virtually prohibit transfers of psychiatric cases will need to revise or pass new laws if they are to participate in a regional psychiatric/medical facility.

In addition to these more general barriers or bottlenecks to overcome, there will be problems specific to almost any joint venture that will need to be worked out. One of the most important of these involves the specification of a contract or agreement that will share responsibility and resources without sacrificing the administrative control each party to the venture believes is necessary to meet its own obligations.

CONCLUSIONS AND RECOMMENDATIONS

From our investigations we conclude that the joint-venture prison is eminently feasible. Certainly there are widely shared needs that could be met by cooperative solutions, and there are strong precedents for joint action in other areas and among other levels of government. The federal/state joint-venture prison is a workable idea, politically, economically, and administratively.

It is also concluded that there are potential roles for the private sector in financing, constructing, and/or operating prisons or portions of a jointly operated facility. Private participation could be an element under any of the models described.

The following recommendations are offered:

- Joint ventures should be routinely considered in any planning for prison construction or modification of existing arrangements, especially in those geographical areas identified by this study as experiencing common problems. Also, in areas where both federal and state jurisdictions are currently considering new facilities, joint action should receive careful consideration.

- States should explore regional solutions. While this project focused on the federal/state joint venture, its findings imply the general feasibility of multi-state projects with or without federal involvement.

- The Interstate Corrections Compact should receive wider use. This compact is a potentially powerful vehicle for expanding interstate cooperation in prison management. Though underused today, its utility could be enhanced by:

  establishing a national compact clearinghouse or coordinator's office;

  establishing a national advisory committee representing participating jurisdictions;

  establishing a coordinated transportation system;

  allowing prisoner exchanges, rather than requiring cash payments;

  circulating current information about the compact and the needs and abilities of participating jurisdictions.

- Information on joint-venture options should be widely disseminated, and the concept should be opened up to public debate and testing through the political process.

1. INTRODUCTION

Overcrowding, substandard facilities, fiscal shortages, and inadequate resources for special inmate populations are spurring the search for new approaches to the construction and operation of the nation's prisons. One promising alternative --in fact, a collection of related alternatives-- involves some degree or kind of cooperation between or among jurisdictions. Joint ventures involving two or more states or one or more states and the federal government are seen as a possible solution to problems faced by a growing number of prison systems.

Federal/state cooperation is considered particularly desirable by many prison administrators. The federal government is seen by the states as a source of both funds and experience. For states struggling to meet standards for accreditation, to comply with court rulings, or to manage special inmate groups with inflexible or shrinking budgets, federal participation could help to resolve fiscal, political, and correctional problems. The federal government, too, has reason to view joint ventures in a positive light. In cooperative ventures with state corrections departments, the Bureau of Prisons not only could expand its national leadership role; it also could meet its own needs for dispersed prison sites closer to inmates' home communities and for facilities and programs for inmates with special needs.

There are, of course, many obstacles to federal/state joint ventures in corrections. There is, first of all, little or no experience with this kind of cooperation. Except for the limited number of state prisoners housed in federal facilities under board-and-care contracts, there is today virtually no operational sharing of federal and state correctional resources and responsibilities. At the same time, there is a strong tradition, inherent in our federal form of government, of state independence that militates against cooperative action even between states, but especially between state and federal governments.

Control concerns are a significant barrier to interjurisdictional cooperation. Organizations (or governments) and their members have an understandable need to exercise control over operations whose success or failure will importantly affect them. Among motivations for organizational change, pragmatic objectives such as program improvements -- or even cost-cutting-- generally take a back seat to political or administrative goals.[1]

Independence and control concerns are particularly acute in interactions involving federal and state governments. Federal/state partnerships tend to be viewed by neither party as a true joining together of equals. The states especially may be wary of any federal initiative that goes much beyond the dispensing of funds, but the federal Bureau of Prisons also may resist any sharing of administrative control with states whose correctional practices are perceived as not coming up to its own high standards.

There are also numerous legal complications that arise in implementing joint-venture prisons. In a shared facility, who will hold title to the property? What happens if one party decides to terminate the agreement? How does the arrangement affect employee organizations and labor contracts? Which jurisdiction's rules will govern inmate management? How will parole be handled? Who will prosecute crimes committed within the facility? Such questions can be resolved satisfactorily, but the prospect of dealing with these and many other thorny issues may make any but the most rudimentary forms of cooperation seem hardly worth the effort.

As has been learned from experience with the Interstate Corrections Compact, other practical problems do arise. Transferring inmates to another jurisdiction is costly, and there may be a great deal of paperwork involved. States have different ways of awarding time credits, and it is not always easy to get accurate or timely reports from the receiving institution. Many states have difficulty arranging for the cash payments required to transfer inmates to the federal system and to some other states, while prisoner exchanges are complicated by the need to maintain ongoing balance between departments that compute time served in different ways. The need to provide legal reference materials for inmates also can be a problem for facilities housing inmates from more than one state.

Despite these difficulties, cooperation in the management of federal and state prisoners may become more common in the years ahead. Most correctional systems are overcrowded, and many have begun or are planning to construct or convert facilities. Many systems also are experiencing problems with their psychiatric/medical, protective custody, and high-risk inmates, who are difficult to handle in crowded general-population institutions. Joint efforts to provide needed bed space or manage special inmate groups are more likely now to be seen as attractive options.

The Present Research

This study was designed to assess the feasibility of shared or concurrent federal/state administration of prison facilities and to investigate approaches to the planning, financing, and operation of joint-venture prisons. By definition, then, any option to be considered must involve both federal and state governments. There must be some sharing of funding of the project; inmates from each jurisidiction must be housed in the facility; and some mechanism must exist to allow for joint management.

Because of the overriding need for unified command at the institutional level, joint management was not construed as sharing responsibility for daily operation of the prison. Joint management here refers to shared decision-making only at the level of broad policy-making. Joint management also refers to cooperation in designing a solution to a common correctional problem, which is then carried out by one of the parties or contracted out to the private sector.

An early task in assessing feasibility of the joint-venture concept was to ask correctional managers and others what specific problems federal/state cooperation could be designed to solve and what incentives there might be for each party to participate. It was anticipated that different types of joint venture would be feasible in different regions of the country, serving different inmate groups, and operating under different organizational, administrative, and financial arrangements. By differentiating and prioritizing problems and potential solutions, we hoped to narrow and focus the range of possibilities.

Questionnaires were sent to corrections directors in the 50 states, the District of Columbia, and the federal Bureau of Prisons. The same instrument was distributed to 53 people identified as criminal justice experts --academics and representatives of criminal justice organizations. A second questionnaire was sent to 51 administrators of the Interstate Corrections Compact to assess current use of the compact for housing prisoners in another jurisdiction.

Potential models for interjurisdictional cooperation were gleaned from reports of multi-state and multi-county correctional and non-correctional operations and of joint ventures in the private sector. Feasibility studies of regional corrections proposals also were examined. No reports or studies of federal/state joint-venture prisons were found.

We also consulted with representatives of private industry to learn from their experience with joint ventures both nationally and internationally, and we visited the only current example of a bi-state correctional operation --the Bi-State Criminal Justice Center serving two states, two counties, and two cities in Texarkana, Texas and Arkansas. Both of these activities shed light on the process of creating joint ventures and the problems that must be addressed.

A number of architectural firms were contacted for information and estimates to assist in the analysis of economic feasibility, and sample legislation and cooperative agreements were examined to determine how jurisdictions have handled existing joint ventures in corrections.

As options or models for federal/state cooperation began to emerge, these were written up and presented to members of the project advisory committee and others for an assessment of their utility and potential for implementation. Some of the questions we raised were: Does the model respond to a priority problem or need? What problems would have to be overcome to implement it? What key actors and agencies would need to be involved? Who is likely to support or oppose it? What new laws, regulations, or contractual arrangements would be required? In what situations is the model most likely to work or be applied?

The models were revised to reflect input from advisors and others with experience in corrections, then resubmitted for review. Over time it became clear that no discrete models could be distinguished; what developed were administrative structures with different emphases and meeting different needs. Jurisdictions considering cooperative ventures thus can design their own solutions, drawing from one or more of the options described in this report.

Essential Elements of Joint-Venture Prisons

The elements of administration that may be shared in federal/state joint venture prisons include problem definition, planning, financing, decision-making, and monitoring for accountability purposes.

Cooperative solutions may require joint assessment of needs and capabilities, although one partner may take responsibility for designing the joint venture, identifying and courting potential participants, and even underwriting some of the major costs. In any event, participants must reach complete agreement on goals and objectives, the

decision-making process, and provisions for withdrawing from the agreement. Financing arrangements must receive early consensus, and provide for equity in costs, benefits, and risks if not identical financial contributions.

The decision-making process should include a mechanism for appealing decisions, and must be flexible enough to allow modification with changing circumstances. Provisions for withdrawing from the agreement must be balanced against the need for sufficiently long commitments to provide stability and make the venture worthwhile.

A formal joint venture agreement will reflect all of the above and focus on the following:

- role and type of shared facility;
- mechanism for joint decision-making in planning and setting up the project, with appropriate representation of participants;
- mechanism for joint decision-making once the project is operational, with appropriate representation of participants;
- equitable determination of financial and other resource contributions by participants;
- mechanism for monitoring and accountability.

Overview of the Report

This report is designed to familiarize policy-makers with the options in federal/state prison management. Several different models for cooperative action are set forth, ranging from contractual arrangements (with minimal sharing of administrative powers) through joint siting (with cooperative but not necessarily joint planning and construction and the pooling of support services) to more substantial co-management models involving joint powers or a public corporation.

Chapter 2 examines the feasibility of the concept of federal/state cooperation in general, looking at incentives for participation, the inmate groups identified by corrections directors as most in need of shared solutions, barriers to cooperation (including problems experienced under the Interstate Corrections Compact), economic issues and estimates of potential savings in construction and operating

costs, and public policy issues that must be addressed by jurisdictions considering joint-venture options.

Chapter 3 describes nationwide experience with joint ventures within and outside corrections and in the private sector.

Chapter 4 presents four models for federal/state cooperation: the contract facility, joint siting, the joint powers or compact model, and the public corporation. Each model is discussed in terms of its organization and management, financing arrangements, and benefits and risks to participating jurisdictions.

Chapter 5 is an overview of implementation issues. Specific suggestions for implementing the models cannot be set forth, since circumstances differ so widely from state to state. Instead, we offer some general observations regarding the conditions that may promote consideration of joint-venture options and ways of overcoming barriers to change.

Chapter 6 briefly summarizes our conclusions from this study and offers a few recommendations for future action.

NOTES TO CHAPTER 1

1. Council of State Governments, Reorganization of State Correctional Agencies: A Decade of Experience, Lexington, Ky.: 1977.

2. FEASIBILITY OF THE JOINT-VENTURE CONCEPT

The political and economic feasibility of federal/state cooperation in institutional corrections will ultimately be determined in the specific context in which it is introduced. That is, the idea will be followed through to implementation or be shelved, depending on the mix of forces at work in the legislative, executive, political, and economic setting of the jurisdictions involved. No conclusions about feasibility can be drawn that will apply to specific situations.

Still, there are ways of estimating the general utility of the joint-venture approach. Political feasibility will be strongly influenced by the perceived incentives for states and the federal government to work together and by barriers to cooperation each foresees. Economic feasibility can be roughly gauged by considering cost factors associated with joint planning and construction or with sharing of existing facilities with other jurisdictions. And finally, feasibility will be affected by the way in which major public policy issues raised by joint ventures are perceived, addressed, and resolved.

We will examine each of these here, beginning with the incentives for, and barriers to, interjurisdictional cooperation, then moving on to some of the major public policy issues raised by the prospect of federal/state cooperation in institutional corrections.

WHY COOPERATE?

A questionnaire distributed to corrections directors in the 50 states, the District of Columbia, and and the federal Bureau of Prisons sought to assess the potential usefulness of joint-venture prisons. The same questionnaire was sent to 53 experts in criminal justice, including members of relevant professional and research organizations, leaders of prisoner advocacy groups, legislative staff members, and members of the academic community. Forty-nine responses were received from the first group; 19 from the second. The difference in response rates may be due to the greater immediate concern with critical prison problems facing most corrections directors today. However, one academic nonresponder commented that the idea was so good a response seemed unnecessary.

The questionnaire addressed three broad areas: incentives for participation in joint ventures; kinds of inmates for whom a joint-venture prison would be most useful; and potential problems in implementing the concept. This section examines responses to the first two question areas.

Incentives to Participate

Because of the complexities introduced by any joint venture, most jurisdictions probably would prefer to handle their correctional problems themselves if they have the necessary resources and facilities. Participation in a joint venture project thus must involve substantial incentives for both the states and the federal government.

Existing intra-state regional programs generally provide fiscal subsidies to participants. Minnesota heavily subsidizes the inter-county operations established under its Community Corrections Act, including the planning and evaluation activities required by state law. Multi-county jails in Virginia receive some state funding, including a major portion of the jail administrator's salary. And a Bi-State Criminal Justice Center in Texarkana received federal funds for construction, while the Arkansas Department of Corrections will underwrite portions of its operation.

Incentives to participate in a joint venture are not limited to the fiscal contributions or cost savings a jurisdiction expects to receive. In the case of joint-venture prisons, incentives might include the opportunity to reduce overcrowding in existing facilities, greater ease in locating prison sites, an increased ability to meet court-mandated standards, or the opportunity to develop or benefit from model program and facility designs or from staff with specialized skills and training. A joint venture that makes available some number of beds in a specialized facility also might offer the only cost-effective solution for those jurisdictions with small numbers of special-needs inmates.

The questionnaire sent to corrections directors and correctional experts listed seven possible incentives for participation and asked respondents to add any other incentives they perceived. The seven incentives listed, along with the ratings assigned by corrections directors and by others, are presented in Table 1. There was a wide range of opinion among administrators concerning each of these items (and somewhat less for correctional experts), but some interesting findings emerge.

Table 1

STATE INCENTIVES TO PARTICIPATE IN JOINT VENTURES, RESPONSES OF CORRECTIONS DIRECTORS AND OTHERS

INCENTIVES	STATES (47)			OTHERS (19)		
	MEAN	SUM	RANK	RANK	MEAN	SUM
Reduced Operating Costs	17.2	808	2	6	10.6	201
Reduced Construction Costs	17.0	800	3	3	14.4	273
Ease of Locating Sites	8.4	393	6	7	10.4	198
Relief of Overcrowding	26.4	1242	1	1	20.1	382
Housing/Program Standards	9.7	458	5	4	13.2	251
Staff with Special Skills	13.5	635	4	2	19.9	378
Model Programs	7.7	360	7	5	11.4	217

The correctional administrators generally agreed on the primary importance of four incentives. Relief of overcrowding was seen by this group as the most important, although one administrator pointed out that incentives should include more than the opportunity to reduce population in other facilities. Relief of overcrowding was ranked first also by the correctional experts, but this group saw the opportunity to meet housing and program standards as almost as important.

An unexpected result was the low rank assigned by both respondent groups to the possibility of increased ease in locating prisons. Either siting of prisons was not perceived as particularly difficult in these jurisdictions, or these respondents did not believe that working with other jurisdictions would substantially ease the siting problem.

Correctional administrators ranked reductions in both construction and operating costs as the second most important incentive to participate in joint ventures. The experts agreed regarding construction costs, but ranked reduced operating costs in sixth place. This group may be less aware of or concerned with day-to-day costs than they are with the well-publicized costs of prison construction.

The ability to draw on staff with specialized skills was ranked higher by the criminal justice experts than by administrators. The meaning of this difference is not clear, but in general the experts seemed more concerned with improving programs and meeting standards, while administrators expressed more concern with the immediate operational problems they face.

The criminal justice experts were asked to list the incentives they thought might motivate the federal Bureau of Prisons to participate in a joint-venture project. The Bureau was considered separately because its situation is somewhat different from that of most state correctional departments. The federal system has a greater variety of institutions and larger total resources than most states. It operates at a high level of efficiency and with higher standards of inmate programming and living conditions than many states. While there is some crowding at the federal level, this has not reached the crisis proportions that it has in some states, and a significant federal building program is underway. In other words, the problems that shared operations might address are less urgent at the federal level than they seem to be in many states.

Although responding experts were aware of the potential cost savings to the Bureau of Prisons in shared facilities, only ten percent of their comments addressed the cost issue. Most of their suggested incentives were variations on the leadership role that they saw as appropriate for the federal prison system. They listed as incentives for federal participation the opportunities to encourage innovation and experimentation nationwide, to foster compliance with correctional standards, and to develop model institutions and programs. They also mentioned the opportunity to promote more effective and efficient use of the nation's penal system and to help resolve the problems facing state prisons.

The director of the Bureau of Prisons himself stated that the opportunity to aid the development of model programs would be a major incentive for federal participation. But he also saw cost savings and simplified siting of prisons as potential incentives. Joint ventures could allow economies of scale for both federal and state systems in housing and programming for inmates with special needs (handicapped, mentally ill, etc.), and working together to locate sites for joint facilities could be of advantage to the Bureau of Prisons.

Inmate Groups for Joint-Venture Prisons

Jurisdictions are more likely to seek joint solutions in prison management if they have similar needs for facilities and programs. To determine the extent to which needs are shared widely, our questionnaire to corrections directors asked which categories of inmates it would be most helpful to house in a jointly planned or operated facility. Respondents were asked to rate 22 categories of inmates, both men and women, on a scale ranging from "extremely helpful" to "no help at all."

Table 2 shows the numbers of state corrections directors in each of five regions who assigned an inmate category the highest rating of "extremely helpful." Only those categories receiving this rating from 30 percent or more of respondents in that region are listed. The purpose is to highlight areas of greatest perceived need and to differentiate among regions with respect to these needs. This should help to indicate the kinds of programs for which there is a shared need in different areas of the country.

Tables 3 and 4 list by inmate category all of the states that rated joint solutions for that category as "extremely helpful." The six maps appended at the end of

Table 2

ITEMS RATED "EXTREMELY HELPFUL" BY 30% OR MORE OF STATES IN EACH REGION

	WESTERN CORRECTIONS COMPACT 13 States 13 Reporting		CENTRAL STATES CORRECTIONS ASSOCIATION 12 States 11 Reporting		SOUTHERN CORRECTIONS ASSOCIATION 14 States 13 Reporting		MID-ATLANTIC CORRECTIONS ASSOCIATION 6 States 6 Reporting		NEW ENGLAND CORRECTIONS COMPACT 6 States 5 Reporting	
	MALE %	FEMALE %	MALE %	FEMALE %	MALE %	FEMALE %	MALE %	FEMALE %	MALE %	FEMALE %
Conservation Camp	31						33			
Road Camp							67	33	80	
Industrial work	31		36							
Vocational/Educational				46	31	39	33		40	40
Comm. Center/Work Furlough	31				46	46				
Aged/Infirm	39		36		31	31	33	33		
Protective Custody	62	54	36		31		83	33	60	40
Medical	62	54	46		39	39	83	33	60	60
Psychiatric	77	77	46	36	54	46	83	83	100	100
Developmentally Disabled	54	54	46	36	46	46	50		60	60
Homosexuals									40	
Dangerous Assaultive	46	31	55		54	39	67	33	100	60
Victimizers	31		46		54	46	33		80	40
Prison Gang Members	31		55						60	40
High Escape Risks	46	39	36	36	54	39	50	33		
Notorious Inmates	31		36		31	31	33	33	40	40
Substance Abuse Programs					31	31	33	33		
Big Drug Traffickers							33			
Organized Crime									60	40
Career Criminals										
Minimum Security										
Medium Security							33			
Maximum Security	31	31		36	54	54	50	33		
0 to 9 Year Terms							33			
10 to 19 Year Terms							33			40
20+ Years	31				31	31	33			40

Table 3

STATES' MOST HELPFUL INMATE CATEGORIES: WOMEN

STATES	DEVELOPMENTALLY DISABLED (18)	CHRONIC MEDICAL (20)	PSYCH. MANAGEMENT (29)	DANGEROUS/ ASSAULTIVE (17)	ESCAPE RISK (17)	MAXIMUM SECURITY (18)	TRAINING/ EDUCATION (16)
ALABAMA	●	●	●	●	●	●	
ALASKA			●				
ARIZONA	●	●	●	●	●	●	
ARKANSAS	●	●	●				●
CALIFORNIA	●	●	●		●	●	
COLORADO							
CONNECTICUT			●				
DELAWARE			●				●
FLORIDA				●	●	●	
GEORGIA			●	●		●	
HAWAII			●	●	●	●	
IDAHO		●	●			●	
ILLINOIS	●	●			●		
INDIANA							
IOWA				●			●
KANSAS	●	●	●				●
KENTUCKY	●				●		●
LOUISIANA	●	●	●	●	●	●	●
MAINE		●	●	●			
MARYLAND			●				
MASSACHUSETTS							
MICHIGAN			●				
MINNESOTA				●	●	●	●
MISSISSIPPI						●	●
MISSOURI	●				●	●	
MONTANA	●		●				
NEBRASKA							
NEVADA	●	●	●	●			
NEW HAMPSHIRE		●	●	●	●	●	●
NEW JERSEY		●		●	●	●	
NEW MEXICO	●	●	●				●
NEW YORK	●	●	●	●	●	●	
NORTH CAROLINA							
NORTH DAKOTA						●	
OHIO							
OKLAHOMA							
OREGON			●				●
PENNSYLVANIA			●				
RHODE ISLAND			●				●
SOUTH CAROLINA	●	●	●	●	●	●	●
SOUTH DAKOTA			●				●
TENNESSEE							
TEXAS							
UTAH	●		●				●
VERMONT		●	●	●			
VIRGINIA							
WASHINGTON		●			●		
WEST VIRGINIA	●	●	●			●	
WISCONSIN	●	●	●	●	●	●	●
WYOMING	●	●		●	●		
DISTRICT OF COLUMBIA							

Table 4

STATES' MOST HELPFUL INMATE CATEGORIES: MEN

STATES	ESCAPE RISK (21)	ASSAULTIVE (28)	VICTIMIZE OTHERS (22)	DEVELOPMENTALLY DISABLED (21)	CHRONIC MEDICAL (26)	PSYCH. MANAGEMENT (32)	PROTECTIVE CUSTODY (24)
ALABAMA	●	●	●	●	●	●	
ALASKA						●	
ARIZONA	●	●	●	●	●	●	●
ARKANSAS				●	●	●	
CALIFORNIA	●	●	●	●	●	●	●
COLORADO						●	
CONNECTICUT		●	●			●	●
DELAWARE		●	●			●	●
FLORIDA	●	●	●				
GEORGIA		●	●			●	
HAWAII	●	●				●	●
IDAHO					●	●	●
ILLINOIS	●	●	●	●	●		
INDIANA							
IOWA	●	●	●				●
KANSAS			●	●	●	●	●
KENTUCKY	●		●	●			
LOUISIANA	●	●	●	●	●	●	●
MAINE		●			●	●	●
MARYLAND		●		●	●	●	●
MASSACHUSETTS							
MICHIGAN		●	●	●	●	●	●
MINNESOTA							
MISSISSIPPI	●	●					
MISSOURI	●						
MONTANA	●	●	●	●	●	●	
NEBRASKA		●					
NEVADA				●	●	●	●
NEW HAMPSHIRE	●	●	●		●	●	
NEW JERSEY	●	●			●		●
NEW MEXICO				●	●	●	●
NEW YORK	●	●	●	●	●	●	●
NORTH CAROLINA							
NORTH DAKOTA		●				●	
OHIO							
OKLAHOMA	●	●	●				●
OREGON							
PENNSYLVANIA					●	●	
RHODE ISLAND		●	●			●	●
SOUTH CAROLINA	●	●	●	●	●	●	●
SOUTH DAKOTA				●	●	●	
TENNESSEE							
TEXAS							
UTAH		●	●	●		●	
VERMONT		●	●		●	●	
VIRGINIA						●	
WASHINGTON	●				●		●
WEST VIRGINIA				●	●	●	●
WISCONSIN	●	●	●	●	●	●	●
WYOMING	●	●		●	●		●
DISTRICT OF COLUMBIA	●			●	●	●	●

this chapter then allow rapid visual identification of contiguous states reporting the same inmate categories as in need of housing in joint facilities.

It is not implied that joint ventures are appropriate only for those categories of inmates assigned the highest rating in our questionnaire. It is entirely possible that two jurisdictions might find good reason to cooperate in handling inmates they ranked here as "moderately helpful." Moving such inmates out into a shared facility, for example, might simplify management of other inmates or take some pressure off existing institutions. These are the kinds of issues that jurisdictions contemplating a joint venture will need to explore in more detail.

The 30 percent cut-off in Table 2 also is somewhat arbitrary. It is used here to pinpoint areas of widely shared concern, but it is certainly possible that a category of inmate rated high by only two states or by one state and the federal Bureau of Prisons could provide a basis for joint action. The Bi-State Criminal Justice Center described in Chapter 3 is an example of two states, Texas and Arkansas, jointly addressing their specific but mutual correctional needs.

Arrangement of the data in Table 2 to accord with the five regional corrections associations is designed to reveal common problems in regions with established links among corrections professionals. The data could have been grouped by the various regional governors' organizations, which would tap a communications system operating in the political arena. Ideally, the two regional networks will work together in exploring mutual problems and solutions.

Table 2 suggests some areas of consensus and disagreement among the states, some of which are regional. For example, only the Western region felt that joint-venture forestry camps would be useful. Only two states in the Mid-Atlantic region perceived a need for joint road maintenance camps. And only the New England region expressed a need for a shared facility for homosexuals or for inmates convicted of organized crime.

The categories receiving the most top rankings in all regions were psychiatric, medical, and developmentally disabled --in that order. This strong consensus, which applied to both men and women, makes these inmates the most likely candidates for a shared facility.

Dangerous-assaultive inmates and those who victimize others ranked second to the disabled in perceived need for cooperative solutions. All regions agreed on the need for joint facilities for male assaultive prisoners, and only the Central region failed to list women assaultive prisoners as a high-ranking problem.

All regions also saw protective custody as a priority need in planning joint facilities, reflecting the nationwide concern with the safe handling of vulnerable inmates. Only the Central and Southern regions did not rank female protective custody cases as a serious problem.

All regions except New England ranked the high escape risk as a likely candidate for shared facilities. And every region expressed some concern regarding the notorious inmate (although the Western and Central regions did not rank this category of women inmates very high).

Maximum-security institutions for men were much more likely to receive high rankings than other types of facility, but one region indicated a need for a maximum-security prison for women and two states ranked medium-security facilities for men among their priority needs. Several regions supported a shared facility for inmates serving more than twenty years.

Overall, the results of this survey suggest strong nationwide support among corrections managers for three types of shared or concurrently operated prison facilities:

- a medical/psychiatric facility for men and women that would be capable of handling the aged and the developmentally disabled;
- a high-security facility for men who are assaultive and/or high escape risks;
- a protective custody facility for men, perhaps on the same site as one of the other facilities but with no contact between protected and general populations.

A national consensus is not necessary, of course, for a shared facility to meet regional or local needs. Six of the 13 responding states in the Southern Correctional Association expressed interest in sharing community corrections and work-furlough facilities, and these states might profitably explore this possibility further. Or the two Mid-Atlantic states that showed an interest in road maintenance camps could join forces to establish this kind of facility. A

minimum of two states, or one state and the federal Bureau of Prisons, is sufficient to begin exploring the feasibility of a mutually beneficial operation.

The geographic proximity of states with perceived needs in common, as depicted in the maps at the end of this chapter, may make joint operations easier to develop and operate. Contiguity, however, is not mandatory, as demonstrated by the wide dispersal of prisoners in the federal system. Map #6, for example, shows that, of 16 states expressing interest in a shared vocational/educational facility for women, four in the Midwestern region and three in the Southern Association form compact geographical areas. Similar clusters of states with common problems and interests can be found for other inmate categories. These clusters suggest excellent starting points for further exploration of regional or interstate projects.

It is important to add that in many cases the number of inmates in a given category --e.g., the aged and infirm-- may be very small, even when several states join together to house and manage them. A specialized regional facility in such cases, might need to house several different categories of inmates. In other instances, the number of inmates in each state --e.g., psychiatric/medical-- may be too large for a shared facility. The present and projected numbers of inmates in the various categories must be examined carefully early in the planning of any proposed joint venture.

It should also be emphasized that we did not attempt to define these inmate categories, leaving it to each respondent to make his or her own operational definition. For specific planning purposes it would obviously be necessary for participants to arrive at a clear agreement regarding the types and characteristics of inmates to be considered for joint-venture facilities.

Needs of the Federal Bureau of Prisons

The expressed needs of the federal Bureau of Prisons are discussed separately because the role, resources, and scope of operations of the federal system differ from those of the states. Inmates with a high priority for placement in shared facilities, as identified by the Bureau director, include: protective custody, chronic medical problems, psychiatric management problems, and high escape risks. Priorities were the same for men and for women. The federal perspective thus matches that of the states, except for a greater responsiveness to the needs of women on the part of the Bureau of Prisons.

Views of Correctional Experts

As shown in Table 5, the 19 correctional experts who responded to our questionnaire agreed with the corrections directors that the medical/psychiatric and developmentally disabled were the inmate categories for which a shared facility would be most helpful. However, the experts ranked inmates in need of vocational/academic programs as their fourth priority, while the corrections managers placed this category further down on their list.

The corrections managers also saw a greater need to share facilities for protective custody prisoners, while the experts saw a substantially greater need for shared programs for substance abusers. There was some tendency for the experts to express more concern for programming and for the corrections directors to focus on management problems, but this seems to reflect a difference in emphasis rather than of opinion.

BARRIERS TO COOPERATION

Barriers to joint-venture prison operations were identified in two ways. First, the questionnaire described above asked corrections directors and correctional experts to rank a list of ten potential problems in the same manner in which they had ranked incentives to cooperation. Second, a separate questionnaire was sent to the administrators of the Interstate Corrections Compact in the 50 states and the District of Columbia regarding their experiences with the Compact. The responses to these two surveys are discussed separately here.

Perceived Problems with Joint-Venture Prisons

As shown in Table 6, there was considerable agreement between the corrections directors and the experts regarding the four most important problems posed by the regional or shared facility:

- long distances to inmates' home communities;
- diffusion of administrative control;
- obtaining long-term commitments from participants;
- long distances from courts and attorneys.

Table 5

ITEMS RATED EXTREMELY HELPFUL BY 30% OR MORE OF 19 CORRECTIONAL EXPERTS

	MALE %	FEMALE %
Conservation Camp Road Camp Industrial Work	37	
Vocational Educational Comm. Center/Work Furlough	63	63 32
Aged/Infirm Protective Custody	37 53	32 47
Medical Psychiatric Devel. Disabled	74 79 63	68 79 63
Homosexuals		
Dangerous Assaultive Victimizers Prison Gang Members	37 37 32	32
High Escape Risk Notorious Inmates	32	37
Substance Abuse Progs. Big Drug Traffickers	42	42
Organized Crime Career Criminals	32	
Minimum Security Medium Security Maximum Security	37	32
0 to 9 Year Term 10 to 19 Year Terms 20+ Years	37	37

MOST CHOSEN ITEMS IN RANK ORDER

Psychiatric	79	Vocat./Educat.	63
Medical	74	Protect. Cust.	53
Devel. Dis.	63	Sub. Abuse Prog.	42

Table 6

BARRIERS TO COOPERATION, RESPONSES OF CORRECTIONS DIRECTORS AND OTHERS

PROBLEMS						
	MEAN	SUM	RANK	RANK	MEAN	SUM
Administrative Control	13.7	643	2	2	13.2	251
Long-Term State Commitment	12.9	605	3	3	11.6	220
Long-Term Federal Commitment	9.4	441	6	7	9.2	175
Long Distance To Family	15.7	738	1	1	16.3	309
Long Distance to Attorney	12.6	593	4	4	11.4	217
Different Sentences	5.7	270	10	10	6.0	113
Different Parole Hearings	6.8	321	8	6	9.3	177
Conducting Parole Hearings	10.3	486	5	9	8.0	151
Employee Relation Problems	7.3	345	7	5	9.5	181
Domination by Large States	5.9	279	9	8	8.1	153

Both groups also ranked parole hearings fifth on the list of potential problems, but the administrators were responding to the difficulty of arranging hearings at a distant facility while the experts were more concerned about differing laws and procedures.

Interestingly, possible domination by larger jurisdictions was seen as a low-ranking problem by both administrators and experts. Both groups believed that obtaining a long-term federal commitment posed less of a problem than insuring a continuing state commitment. The groups also agreed that differing sentences imposed on prisoners from several jurisdictions was a minor problem.

The respondents listed a number of problems not mentioned specifically in the questionnaire: the complexities of working out funding arrangements and sharing costs equitably; legal and constitutional problems; difficulties in obtaining support from law enforcement when escapes occur; and differences in correctional philosophy, goals, policies, and procedures.

It is important to note that, although the respondents were aware of the many problems that might come up in joint ventures, there was no suggestion that these problems were insoluble. None of the questionnaire respondents, and no one contacted by project staff, indicated that they thought the concept in general was unworkable. Once again, it must be stressed that each proposed project will present a somewhat different set of problems, and solutions will be determined within the particular political, economic, and correctional setting.

Experience with the Interstate Corrections Compact

A key issue in the feasibility of shared correctional facilities is the willingness of states to send their prisoners to other jurisdictions. Corrections directors have expressed an interest in shared management of certain types of inmates, but how many prisoners do their states now transfer under the an existing legal vehicle, the Interstate Corrections Compact?

Thirty-two states and the District of Columbia responded to this questionnaire. A separate response was obtained from the federal Bureau of Prisons. The data are summarized in Table 7.

Five of the 34 responding jurisdictions do not participate in the Interstate Corrections Compact, although one of

Table 7

INTERSTATE COMPACT PARTICIPATION, BY STATE

STATES	PARTICIPATE	STATES (Number)	INMATES SENT (Number)	INMATES RECEIVED (Number)
Arizona	Yes	25	75	73
California	Yes	16	(43 BOP-39 O/S)	35
Connecticut	Yes	20+ BOP	78	50
Delaware	Yes	18	22	10
Dist. of Columbia	Yes	BOP only	1193	150-175 BOP
Georgia	Yes-BOP Only	0	11	0
Idaho	Yes	8 Inc. BOP	70	22
Indiana	No	1	2	0
Kansas	Yes	16	64	54
Louisiana	No	-	-	-
Maine	Yes	18	23 (18 BOP-5 O/S)	17 (7 BOP-11 O/S)
Maryland	Yes	13	1	1
Massachusetts	Yes	5	82	44
Michigan	No	-	-	-
Minnesota	Yes	28	37 (3 BOP-34 O/S)	51 (11 BOP-40 O/S)
Mississippi	No	-	-	-
Montana	Yes	11	28	28
Nebraska	Yes	25	31	35
Nevada	Yes	20	115	77
New Hampshire	Yes	10	62	67
New Jersey	Yes	25	27	11
North Carolina	Yes	21	28	29
North Dakota	Yes	4	7	4
Ohio	Yes	8	8	10
Oklahoma	Yes	2+ BOP	17	7
Oregon	Yes	21+ BOP	30	30
South Dakota	Yes	11	25	29
Tennessee	Yes	23	22	16
Texas	No			
Vermont	Yes	Interstate Compact	26 (19 BOP-7 O/S)	6
W. Virginia	Yes-BOP Only	0	47 (Females)	0
Wisconsin	Yes	6	210 (10 BOP-200 Minn.)	2
Wyoming	Yes	West St. I.C.	34	25
		TOTALS	2,433	895

BOP=Bureau of Prisons
O/S=Other States

these, the District of Columbia, does place inmates with the Bureau of Prisons. Most of the participating states transfer out more inmates (2,433) than they receive (895), the difference being due to the fact that the federal system accepts far more prisoners (2,000) than it places in state facilities (200). Participating states contract for placement of inmates with anywhere from one to 25 other jurisdictions, the average being about 14. Only three jurisdictions placed more than 100 inmates in other prison systems, and nine states transferred fewer than 25.

The number of inmates involved in interjurisdictional transfers thus is very small, representing about 1.5 percent of the inmate population of those states that reported participating in the compact. Almost half the total was provided by the District of Columbia, which places 1,193 inmates in federal facilities. However, of the 18 states that did not respond (including New York, Florida, Illinois, and Pennsylvania), some have very large prison populations. Conclusions drawn from this survey thus must be considered tentative.

Transfer of disruptive and high-risk inmates and gang leaders was by far the most common reason given for use of the compact. Only three states commented on the value of the compact for placement of inmates closer to home, two of these noting that this was the original rationale for the compact. Eleven respondents volunteered observations that the system works well and often gives inmates "a fresh start."

The following problems were reportedly connected with use of the Interstate Corrections Compact:

- Lack of follow-up information on transferred inmates. While the compact contains provisions for regular reports to be sent to the sending state, there are difficulties in obtaining accurate and timely information on inmates' day-to-day activities, and this may affect inmates' time credits and length of stay in prison.

- Overcrowding. Because of overcrowding, some states are limited in their ability to accept transfers from other states. Only one respondent found the compact helpful in easing overcrowding.

- Restrictions on involuntary transfers. Some states require the inmate's consent before transfer can be effected. Even obtaining written consent does not

insure the inmate's cooperation, either legally or behaviorally after the transfer.

- Reimbursement. Federal law requires money payments for state inmates placed in federal facilities, and this is a major disincentive to states where such direct payments are difficult to arrange. The one-for-one exchange of prisoners preferred by most states also causes problems when a state cannot find suitable inmates to trade or when, because of differences in computing time credits, inmates traded do not spend the same amount of time in prison.

- Differences in calculating time credits. Time credits are accumulated according to different procedures in different states, and the compact does not standardize this aspect of reporting. The Bureau of Prisons solves this problem by requiring sending states to do their own computations of time credits.

- Time and paperwork. Some states object to the amount of time and paperwork it takes to effect a transfer, especially if they do not transfer many inmates.

- Lack of information about the compact. Several states commented that they did not have current information on the operation of the Interstate Corrections Compact.

Respondents offered several recommendations for improving the operation of the Interstate Corrections Compact and increasing its use:

- Establish a national clearinghouse that would collect and circulate current information about the compact and the needs and abilities of participating states to transfer and receive inmates;

- Develop an objective, uniform inmate classification system, including common definitions of inmate types and behavioral characteristics;

- Establish a national advisory committee or council representing participating jurisdictions;

- Establish a coordinated transportation system, perhaps in conjunction with the Bureau of Prisons and the U.S. Marshal's Office.*

The Interstate Corrections Compact serves a valuable function for most of the states reporting their participation. The full potential of this compact is not currently realized because of a loose national organization, lack of information, varying inmate classification systems, and some costly and unwieldy procedures. Most of these problems are resolvable, given aggressive leadership at the national level and some serious attention to streamlining procedures for inmate transfer and record-keeping.

ECONOMIC ISSUES

Implicit in the concept of regional or shared facilities is the anticipation of economies to be gained through the pooling of resources. Our literature search failed to locate any data that would aid in quantifying the assumed economies, so we contacted several architectural firms with experience in prison construction and asked them the following questions. (The 500-bed facility was selected because it conforms to generally accepted correctional standards; the 1000-bed facility was used to reflect economies of scale in joint siting.)

1. What is the average national cost per bed for construction of each of the following types of institutions, built to ACA, hospital, and other relevant standards, in 1983 dollars:

   500-bed medium-security facility
   500-bed maximum-security facility
   500-bed psychiatric/medical facility

2. How would the above estimates be altered by construction of two independent 500-bed units on the same site, using common central services' (heating, sewage, laundry, food preparation)?

3. Are there economies of scale in constructing a 1000-bed institution (two 500-bed units) as opposed

* The U.S. Attorney General has approved consolidation of the prisoner transportation efforts of the U.S. Marshal's Office and the Immigration Service, and this system could be expanded to include other interstate transfers.

to one of 500 beds? If so, how much and how are they achieved?

4. On the average, are there differences in construction costs between federal and state institutions? If so, what accounts for the differences and how large would they be for a 500-bed medium-security institution?

Average Construction Costs and Savings

Costs for a 500-bed medium-security institution were estimated at $45,000 to $55,000 per bed, with one firm reporting $85 a square foot. For the maximum-security prison the range was greater --$55,000 to $85,000 per bed (with one firm reporting $95 per square foot). The facility for psychiatric and chronic medical cases was estimated at $65,000 to $85,000 per bed ($135 per square foot).

One firm cautioned that three significant factors will confuse any comparison of projects, development of averages, or projections of construction costs: location impacts, efficiency in design, and extent of program support. Recognizing the number of assumptions that must be made, we undertook the analysis in order to develop a rough estimate of economic feasibility.

Regarding the differences between federal and state construction costs, the architectural firms differed in their estimates. One suggested about a three percent difference in favor of state facilities; another noted that any cost differences were more likely to result from program differences than from construction costs.

The firms estimated savings of from five to ten percent through joint siting and sharing of central services, with economies of scale of from three to five percent for construction of 1000 beds on a single site rather than 500 on each of two separate sites. One firm observed that the largest savings through economies of scale were already achieved at the 500-bed level. A comparison of 100 beds with 500 beds, they pointed out, would be dramatic; comparing 500 beds with 1,000 beds is less so. Data from the State of Washington support that contention. A 144-bed facility for psychiatric inmates completed in 1980 cost $12.5 million, or $87,000 per bed --higher than the highest figure for such institutions cited by the architectural firms using 1983 dollars.

Using the mid-point of these firms' estimates for a medium-security facility, a 1,000-bed institution would cost $50 million. With joint siting and shared central services for two 500-bed institutions, we can estimate savings of ten percent or $5,000 per bed --a total of $2.5 million for each participating jurisdiction.

Applying the same procedure to construction of a maximum-security facility, each jurisdiction could save a total of $3.5 million ($70,000 x 1,000 = $70 million; ten percent savings of $7,000 per bed x 500 = $3.5 million). The savings for a psychiatric/medical facility would be similar.

Savings in Operating Costs

Using data from the federal system, Ann D. Witte and William Trumbull report substantial cost penalties associated with operating small prisons:

> "The minimum cost per confined day will probably only be achieved with prisons of rather substantial size, say 1,000 to 1,600 inmates. The cost penalty associated with prisons as small as 500 inmates (advocated by the Commission on Accreditation) is likely to be substantial. Indeed, we estimate that the cost per confined day would be over twice as high in such a facility as it would be in a facility of the minimum-cost size (an estimated 1,371 inmates)."[1]

These authors note that their conclusions may not be valid for state prisons or even for the federal system as a whole, but experience in California and elsewhere confirm that small prisons can be costly to run. Ann D. Witte and Peter Schmidt extend their analysis to the cost implications of some recently advocated correctional standards:

> Specifically, our results indicate that providing single cells for inmates and rather substantial amounts of living space may actually decrease the cost of operating prisons. However, providing increased sanitary facilities and smaller prisons appears likely to increase prison costs. These results are best illustrated by considering the costs per inmate-day in a minimum-cost prison, defined as a prison that houses 1,075 inmates in single cells with an average of 70 square feet of living space, and . . an 'up-to-standards' prison, defined as a prison that houses 500 inmates in single cells with 70 square feet of living space. We estimated that the cost per

inmate-day in the minimum-cost-sized prison would be $7.43, whereas the up-to-standards prison would cost $12.79 per inmate-day. In contrast, a prison with the average characteristics observed in our sample, housing 822 inmates with 58 percent in single cells and an average of 64 square feet of living space, would cost $24.68 per inmate-day to run. Our results seem to indicate that the federal Bureau of Prisons could lower its operating costs if it constructed larger prisons with more living space and single cells.[2]

It should be noted that, although size is a major determinant, a number of other factors affect the cost estimates in these analyses. However, it seems that total institution size can be modified by subdivision into separately administered units without sacrificing the size-related cost savings.

A major problem in projecting savings in operating costs through joint-venture facilities is the number of variables involved. The largest item is staff salaries and benefits, and any savings here are likely to be important over the life of the institution. Assuming a 30-year life cycle, one of the architectural firms we consulted estimated staffing costs to account for about 74 percent of total life-cycle costs and construction costs to account for only about nine percent.

There are wide variations in salary schedules among the states, so for those on the low end of the scale it would be possible to save positions in a joint-venture facility and still end up with what seems a high per capita cost if a jurisdiction with a higher pay structure (such as the Bureau of Prisons) operates the prison. It can be estimated, however, that every position saved is worth more than half a million dollars over the life of the institution, assuming a $20,000 annual total for salary and benefits and a life-cycle of 30 years.

Operating costs vary, of course, with the type of institution. A psychiatric/medical facility generally will be more expensive to run than a general-purpose institution, but there is significant variation even within categories. To take just two examples, Washington's new psychiatric facility costs $98 per day confined, while the Federal Medical Facility at Springfield costs $64. Certainly for a state with a small psychiatric population --and thus with a projected high cost of operating its own facility-- transferring these inmates to a larger, lower-cost facility in

another state would result in substantial savings over the life of any proposed institution.

For jurisdictions where special needs inmates are currently housed in the general population at a low cost per day confined, transfer to a specialized facility with higher operating costs (even if lower than any facilities they might build themselves) may not seem cost-effective. Court orders, however, may force such states to consider joint-venture options in the future.

To gauge the size of the savings possible through joint siting and combined use of staff resources, a reduction of only $5 per inmate day would produce a savings per 500 inmates of $912,500 a year for each jurisdiction, or $22.8 million over a 25-year period.

PUBLIC POLICY ISSUES

There are several important issues of public policy that must be satisfactorily resolved before a federal/state joint venture in institutional corrections will be perceived as feasible and desirable. The most important of these issues involves the legitimacy or appropriateness of federal and state cooperation in this area. Other issues that must be resolved relate to the placement of inmates near their home communities, the requirement for inmates' informed consent to transfers, and the role of the private sector.

These issues cannot be decided here, since they will be worked out in the political arena and their resolution may differ from one jurisdiction to another. Here we can do no more than describe the issues and mention some factors that will affect their resolution.

Legitimacy of Federal/State Cooperation

No matter how economically feasible, no new governmental policy will be stable unless it is widely perceived as legitimate and appropriate. Joint ventures involving more than one jurisdiction or a government and a private entity run up against this reality from the outset. Cultural images of the "correct" means of delivering any public service typically involve employees of a single jurisdiction, working in a public bureaucracy, funded by appropriations from the general fund of that jurisdiction.[3] Public services actually are delivered through a wide range of structures that do not fit this mold, but in each case their

legitimacy must be established for the arrangement to persist.

Regional undertakings involving two or more states or local governments will address this issue too, but it is perhaps more troublesome when the federal government is involved. There are historic, and presumably deep-seated, reservations against federal/state cooperation, especially when the form it takes goes beyond the more usual provision of federal funds and possibly some federally imposed standards or regulations. When joint policy-making is considered, or a sharing of resources accompanied by joint management of an operation, both the federal government and the states may express a reluctance to become involved.

There are thus two parts to the issue of legitimacy, or two perspectives that must be considered. From the point of view of the states, the question may be: Will federal/state cooperation in this area lead to unwanted federal intrusion into what is essentially a state responsibility? Will it bring federal leadership or federal control? From the point of view of the Bureau of Prisons, whose director is most sensitive to the states' concern, the question will center on both the appropriateness of increased federal involvement in state activities and the possible dilution of federal standards for the operation of their own facilities.

Answers to these questions will vary with the jurisdictions involved and with the kind of joint action being considered. Where state and federal standards of operation are not incompatible, where antipathy toward federal participation is not strong, where cost incentives are present, and where the proposal for joint action involves no perceived threat to the independence and management responsibilities of either party, then federal/state cooperation may be seen as feasible and desirable. Clearly the issue will be decided on a case-by-case basis.

Some kind of federal/state cooperation was envisioned by the President's Commission on Law Enforcement and Administration of Justice in 1968. This Commission articulated a leadership role for the federal government in helping the states and local governments to upgrade their correctional programs and in providing direction to needed changes. They also recommended joint action between and among states in developing regional facilities and contracting with each other to manage special offender groups. In this they saw a role for the Bureau of Prisons:

> "Under such a pattern, the Federal Government would be in a particularly advantageous position to undertake the handling of small groups of special offenders who require highly specialized or long-term treatment. Maximum security prisoners and those serving life sentences are among the groups that could be handled away from local communities."[4]

Following from the Commission report were the various forms of the Law Enforcement Assistance Administration and the funds it provided to state and local jurisdictions to strengthen their criminal justice systems. Benefits to the correctional component included not only financial aid, but heightened visibility due to the emphasis on system-wide planning and a recognition of the interdependence of the various pieces of the criminal justice system. However, most of the regional efforts fostered under LEAA and the state planning agencies were at the local level. There is no evidence that any serious efforts were made to pursue joint federal/state facilities.

As the halcyon days of LEAA faded, the federal government was re-examining its role, not only in criminal justice, but in its overall relationship to the states and localities. Today the national administration has made it clear that significant funds will not be available for state correctional systems. The New Federalism has stressed both general revenue-sharing and decreased federal transfer payments, calling for the states to assume more responsibility for programs previously regarded as federal in nature. As long as this philosophy predominates, any large-scale subsidization of state correctional systems is unlikely.

There are, however, efforts in Congress to recognize the states' correctional problems. Senator Dole (R-Kans.) has introduced a bill to provide federal funds to enable the states to pay the interest on bonds issued for prison construction. Senator Specter (R-Pa.) has sponsored a bill to fund regional facilities to house career criminals. And there are other bills that would provide some assistance, although none would contribute the level of funding that might significantly further the states' proposed building programs.

The federal stance toward support of state corrections seems positive but less fiscally oriented than in years past. The federal/state relationship in the 1980s is likely to shift toward greater equality, with more input from the states and trade-offs rather than unilateral subsidies. But

there are still indications that the federal government will work with the states and localities for their mutual benefit. Attorney General William French Smith sent this message in a speech at the Vanderbilt School of Law:

> "The American corrections systems are extremely interdependent. Their combined capacity, in terms of space and alternative programs, determines this country's ability to deal with criminal offenders. A weakness in any part of the system undermines the national effort. Problems in state systems disrupt federal facilities, which are frequently dependent on state and local governments to house some of their prisoners. In addition, the federal prison system is often forced to convert long-term housing space to jail units to hold offenders for whom there is no room in local detention facilities.
>
> Obviously in these circumstances, cooperation is needed among state, local, and federal governments. The federal government can and must encourage and assist other levels of government in upgrading corrections facilities, and in coordinating efforts to improve our overall correctional system."

In assessing the legitimacy of federal/state cooperation in corrections, we must therefore recognize that the relationship between levels of government overall is changing and that federal involvement may not have the same meaning as it did in the 1960s and 1970s. The federal government apparently is open to the possibility of sharing resources and responsibilities, but it will not impose its assistance, nor will it offer it unilaterally. For jurisdictions that can offer something in return, and that approach the federal government with a plan for mutually beneficial action, federal/state cooperation in corrections seems eminently possible.

Interestingly, while the director of the Bureau of Prisons has expressed a reluctance to do anything that might be construed as federal intrusion, few state-level people we contacted regarded the joint-venture concept as raising this problem. Most people saw federal participation as representing appropriate leadership, and the threat to the balance of power between levels of government was felt to be nonexistent.

The Role of the Private Sector

At least one expert we consulted urged us to emphasize those joint-venture models that offer the greatest opportunity for private-sector involvement, claiming that only with the participation of private enterprise will the states be able to meet their growing needs for institutional beds. While this point of view probably does not reflect mainstream correctional thinking at this time, it is noteworthy that increased private-sector involvement has been emphasized in recent meetings of the American Correctional Association.

There is no hard evidence that operation of prisons or provision of some services by private-sector firms would be less expensive, although some studies have shown cost savings in other governmental service areas.[5] Efficiencies are attributed to lower wages paid by private service providers, as well as to better personnel management practices. Advocates of private-sector involvement also point to the flexibility of the private company and the freedom from many of the restrictions imposed on operations in the public sector.

Developments in the field of hospital management are suggestive of possible trends in at least one area of institutional corrections --the management of psychiatric and medical facilities. Beginning around 1970 there has been a remarkable growth in the ownership of hospitals by private, profit-making corporations, some of which also manage nonprofit hospitals for a fee. Large general hospitals contract with private vendors for radiology, laboratory, and other specialized services. One hospital management organization manages over 90 hospitals in the United States, with a capacity of more than 10,000 beds. Other firms own 50 or more hospitals, and manage others under contract. Experts in the field of hospital management anticipate several trends for the future:[6]

- Hospitals will not be single corporate entities but conglomerates offering not only in-patient and outpatient care, but also industrial safety, physical fitness, and other preventive programs.

- Single-unit hospitals will become part of a larger group through outright ownership, participation in a holding corporation, or interlocking directorates in order to reap the economic benefits of large-scale purchasing, more efficient management, and improved staff recruitment and training.

- Managers will come from the areas of marketing, finance, and hospital administration, while the influence of medical personnel will diminish in the operations area.

- Hospitals of the future will be a mixture of profit-making and nonprofit enterprises, with the scale of each function adjusted to the most efficient and effective size.

Whether or not these developments will find their analogues in the field of corrections remains to be seen. The complexities of hospital administration, coupled with the high costs of construction and operation, make the operation of a medical correctional facility a promising area for private-sector involvement. It is not such a radical step beyond the roles now existing or envisioned for the private sector in corrections.

Private-sector involvement in corrections has its roots in the field of community corrections, where both non-profit and profit-making private agencies have been providing service for some time. The Salvation Army, Volunteers of America, and many small community-based organizations have operated halfway houses, work-release centers, probation programs, and drug treatment programs. Following their lead, organizations such as RUBE and Eclectic Communications, Inc., are now operating community correctional centers in California. Canada and the federal Bureau of Prisons also make extensive use of private service providers in community-based corrections.

Institutional corrections also has discovered areas in which private-sector contracts can be beneficial. Private provision of food and medical services began with local jails, then spread gradually to state prisons. The private sector also is making inroads into prison education and vocational training programs and the operation of prison industries. About 20 states now permit their industries programs to contract with the private sector, and the waiving of restrictions on interstate commerce in prison-made goods has made possible seven federal joint-venture projects certified by the Department of Justice. Under the federal program, private industry may employ inmates in a plant inside a prison or in the community; prison industries may contract to supply goods or services to private companies; or inmates themselves may operate small businesses inside prison, selling to customers outside. In virtually all of these public-private partnerships, the impact extends well

beyond the industrial activity, affecting many aspects of institutional operations.

There has been some interest in the idea of private-sector construction and operation of new prison facilities. E.F. Hutton, a major investment house, has distributed a pamphlet describing ways in which private-sector financing can be used for construction of jails and prisons. And corporate consortiums have made proposals to states and counties to handle the financing of proposed new institutions.

The factors that make facility construction attractive to private investors are a variety of tax incentives: investment tax credits, accelerated depreciation, deductible interest charges, and energy conservation tax credits. Tax policies have become a substitute for correctional grants in what could become a major new form of federally subsidized prison construction. However, in his 1984-85 budget message, President Reagan called for a change in the law that now permits public agencies to participate in lease-back arrangements, which provide the private investor with tax benefits. This undoubtedly would slow or halt future financing ventures of this kind.

Some projects, however, are already underway. In Florida a private nonprofit corporation has been authorized by the state legislature to operate a youth institution. A private firm has contracted with the Immigration Service to construct and operate a facility for detainees in California. The Bureau of Prisons is contracting with a private company to run a minimum-security facility in Texas to handle immigration cases transferred to the Bureau. And an entrepreneur proposing to build a prison in Pennsylvania for protective custody inmates claims to have sufficient commitments from several states to more than fill the planned capacity of 500 beds. Proposals also have been made by private contractors to build and operate new facilities in some states or to assume responsibility for operating existing institutions.

In assessing the role of the private sector in federal/state joint ventures, it is important to remember that prisons are not a fixed bundle of services. Any service, in fact, consists of several components, each of which may be provided in a different manner. For example, the Los Angeles County Sheriff's Department provides at least a dozen components of service under contract, each a sub-part of "policing." Cities in that county decide which of these components (e.g., jails, helicopter patrols, traffic en-

forcement, etc.) they wish to provide themselves or through another arrangement and which they prefer to contract for with the Sheriff's Department.

Similarly, in any joint-venture prison project, different pieces of the operation could be assigned to one or more of the principals to the agreement, while others could be contracted out to private vendors. Alternately, the entire operation, with the exception of policy-making and planning, could be given over to a private contractor.

Regardless of what kinds of service the private sector provides there must be ample provisions for accountability to the legislative and regulatory bodies of the responsible jurisdictions. There must be strong links between private operators of facilities or services and those public entities that fund them. Performance standards and other protections can be built into the contract to assure that privately provided services remain at an acceptable level, and frequent inspections by public agents and an open environment can help to keep the private vendor responsive to the concerns of the jurisdictions involved.

At least as important is the issue of legitimacy. Should non-public business interests be involved in the operation of correctional institutions? Or is this an area that is more properly restricted to employees of government bureaucracies? There are regions of the country in which private operation of prisons would be seen as inappropriate, but in some areas legitimacy is already being established.

Inmate Proximity to Home Community

Inherent in any regional arrangement, or even within a large state or the federal system, is the concern that inmates will be sent too far from home to maintain family and community ties --one of the most effective foundations for post-release success. In a system that may place inmates outside their own state there is the additional problem of legally required access to state-based law libraries and to attorneys who can guide them through the legal complexities of their case.

A federal/state joint-venture prison would not operate only to restrict inmates' access to their home states. Federal prisoners, in fact, might be able to be placed closer to home than would otherwise be the case. If more than one state were involved, it is also possible that a regional facility would be closer to an inmate's home than a state facility to which he might otherwise be sent. A

prisoner from Los Angeles, for example, might be closer to home in Arizona than he would be in a prison in northern California.

Joint-venture facilities in some areas of the country would pose less of a problem in this regard than others. A multi-jurisdiction facility in New England, for example, would create less of a problem than a similar institution in some of the western states where distances are much greater and the population more spread out.

Another aspect of this problem is the type of inmate involved. As the President's Commission pointed out, for the long-term prisoner and those exhibiting violent behavior, maintaining family and community ties may be less important than providing safe and secure facilities to house them. For inmates in need of psychiatric management the situation is not as clear. Some prison administrators report that these kinds of inmates receive fewer visits anyway, and family ties may not be as strong. Jurisdictions considering this option should review their own data on visiting.

There is also the argument that programming in a specialized institution may be beneficial enough to offset any loss of family visits. This would be particularly true if a joint-venture psychiatric facility were designed for short-term treatment and return to the home institution within a year. The facility could then serve as the hub of a psychiatric treatment system with outpatient and follow-up programs in each participating jurisdiction. This would both conserve scarce in-patient resources and minimize the impact on family and community ties.

Informed Consent

There are several aspects to the issue of informed consent on the part of inmates who may be transferred to a regional facility: (1) Should transfer to the joint-venture facility be voluntary only? (2) If so, how can informed consent be assured? (3) If only voluntary transfers are allowed, can such a facility serve the purpose of handling entire categories of special inmates?

One potential role for the joint-venture facility would be to house certain kinds of inmates drawn from the general populations of participating jurisdictions. A primary motivation for participating in such a venture would be to remove all or most of one kind of inmate needing special handling from the general population, which then could be

managed more cost-effectively and with less disruption. For example, two states and the federal government might agree to move their high-risk inmates to a new joint facility, allowing other institutions in each jurisdiction to operate with less emphasis on control and security. However, if inmates can refuse to be moved to the new institution, the benefits of the arrangement may be largely lost.

This problem, of course, may arise even with involuntary transfers, as an inmate can usually arrange to be transferred back by acting out in the receiving facility or insisting on access to his state's law books. In cases where the joint-venture facility is designed to handle assaultive or high-risk inmates, it might be expected that transfers would not require inmate consent and that special arrangements would be made to accommodate inmates transferred there.

In the Interstate Compact there is no requirement that transfer to another state be voluntary, but some states do require an inmate's informed consent. In California, for example, state law requires the inmate to execute a written consent and he has the right to consult his attorney or a public defender before signing. Where there is no such state requirement the federal courts have held that inmates have no constitutional right to be imprisoned in the state where they were convicted. In a recent case, the federal court upheld the transfer of a prisoner moved from Hawaii to California because Hawaiian officials believed their facilities could not hold him safely.

Informed consent is especially problematic in cases of inmates needing psychiatric treatment. However, states have worked out mechanisms to deal with this issue, including the right to access to counsel, use of outside medical or psychiatric consultants, and family involvement in the decision.

It is apparent that, while the issue of voluntarism must be considered in any proposed joint venture, it does not constitute an insuperable problem. The legal and administrative aspects can be addressed if voluntarism is determined to be a criterion for inmate assignment.

FEASIBILITY: A RECAP

The political and economic feasibility of federal/state cooperation in institutional corrections will vary with the needs and perceptions of the jurisdictions involved, with

their laws and traditions, and with the specific nature of the proposed joint venture. The general concept of federal/state cooperation, however, seems both feasible and highly promising.

The federal and state corrections directors we contacted mentioned several common areas in which joint action might be desirable, generally involving housing and programming for special management inmates --medical and psychiatric cases, assaultive inmates and high escape risks, and protective custody inmates.

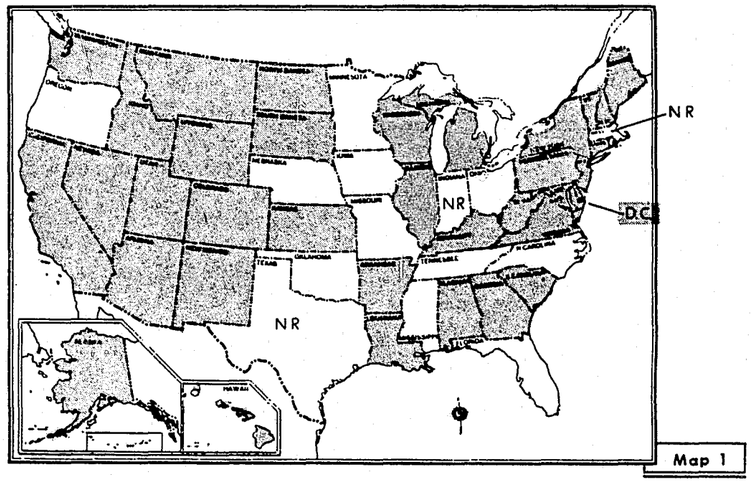
Barriers to cooperation were recognized --including long distances from inmates' homes and communities, problems in assuring administrative control, and the need for a long-term commitment to any joint project. None of these barriers were seen as impossible to overcome.

The economics of a joint-venture prison would appear to be beneficial, especially if both or all jurisdictions are planning to construct a new facility or if court orders are forcing the costly upgrading of existing institutions and programs. Where the alternative is to leave special-needs inmates in the general population of a low-cost facility, the economic benefits of a joint venture are less clear.

Public policy issues cannot be resolved outside the specific situation of a joint-venture proposal. The variables are too numerous and important. However, there seems to be significant support for the idea of federal/state cooperation, at both federal and state levels. The nature of that interaction will not be the same as it was in decades past when the Bureau of Prisons had unused bed space and the federal government was more open to grants and subsidies to the states. Joint ventures in the coming years, where they develop, will be more cooperative and emphasize mutual benefits to the parties involved.

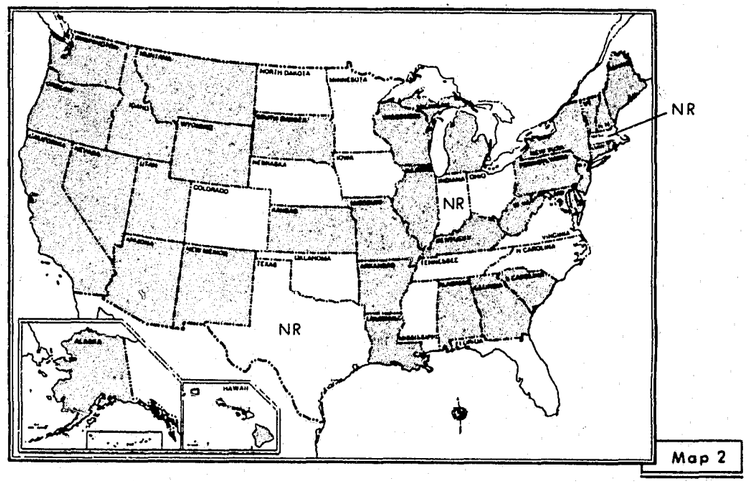
The other major policy issues will be decided on a case-by-case basis. Private agencies may play various roles in joint-venture prisons, though in some they may play no role at all. The issues of distance from inmates' homes and voluntary consent may require statutory changes in some jurisdictions, but neither seems to alter the conclusion that joint-venture prisons are well worth pursuing.

STATES RATING AS "EXTREMELY HELPFUL" AN INSTITUTION FOR PSYCHIATRIC, MEDICAL AND DEVELOPMENTALLY DISABLED INMATES: MEN



Map 1

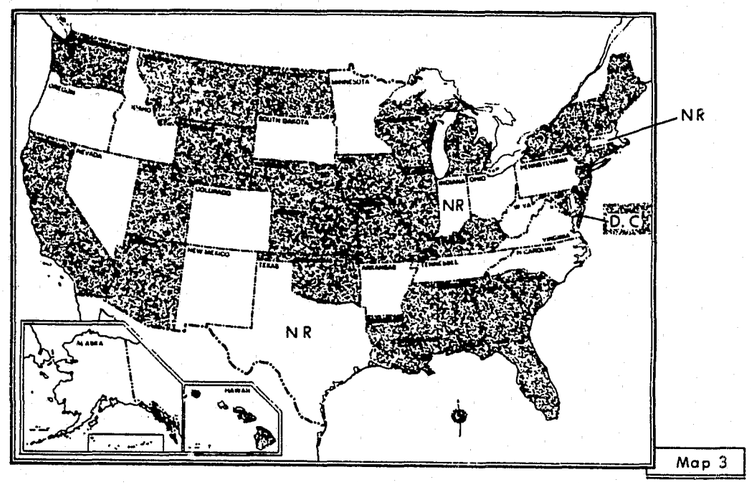
STATES RATING AS "EXTREMELY HELPFUL" AN INSTITUTION FOR PSYCHIATRIC, MEDICAL AND DEVELOPMENTALLY DISABLED INMATES: WOMEN



Map 2

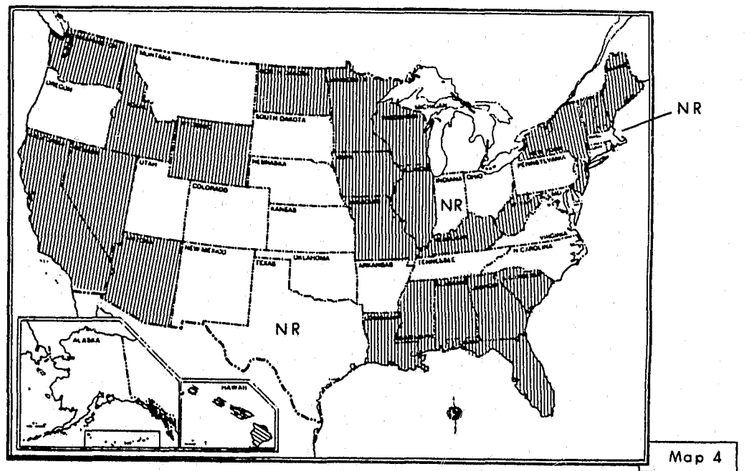
NR - NO RESPONSE

STATES RATING AS "EXTREMELY HELPFUL" AN INSTITUTION FOR ASSAULTIVE, VICTIMIZING AND ESCAPE RISK INMATES: MEN



Map 3

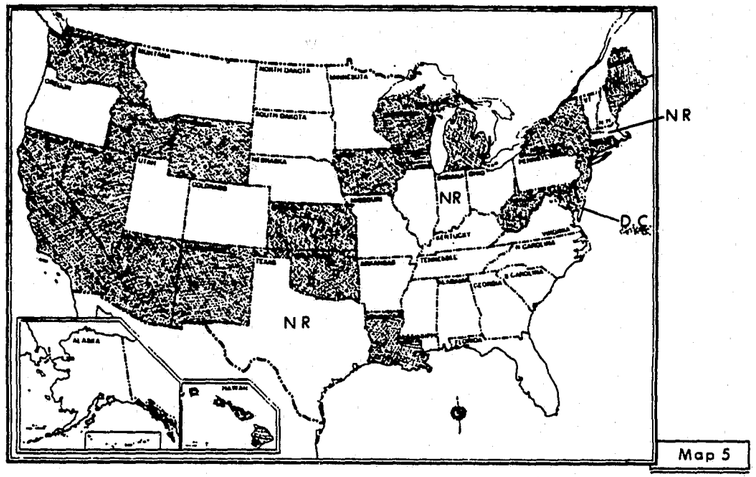
STATES RATING AS "EXTREMELY HELPFUL" AN INSTITUTION FOR ASSAULTIVE, ESCAPE RISK AND MAXIMUM CUSTODY INMATES: WOMEN



Map 4

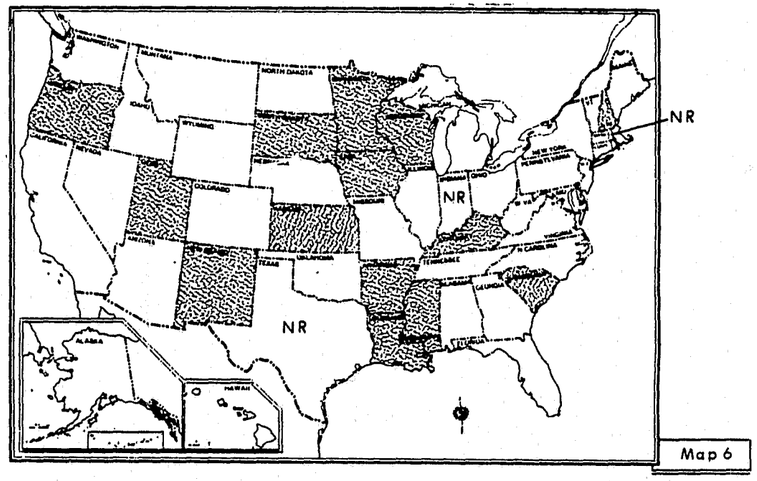
NR - NO RESPONSE

STATES RATING AS "EXTREMELY HELPFUL" AN INSTITUTION FOR PROTECTIVE CUSTODY INMATES: MEN



Map 5

STATES RATING AS "EXTREMELY HELPFUL" AN INSTITUTION FOR TRAINING AND EDUCATION: WOMEN



Map 6

N R - NO RESPONSE

NOTES TO CHAPTER 2

1. William N. Trumbull and Ann D. Witte, "Determinants of the Costs of Operating Large-Scale Prisons with Implications for the Cost of Correctional Standards," Law and Society Review, vol. 16, no. 1, 1981-82.

2. Peter Schmidt and Ann D. Witte, An Economic Analysis of Crime and Justice, New York, Academic Press, 1984, p. 344.

3. John J. Kirlin, "Federal-State Cooperation in Prisons," paper prepared for this project, January 1984.

4. U.S. President's Commission on Law Enforcement and Administration of Justice, Task Force Report, Corrections, Washington, D.C., 1969.

5. Supra note 3.

6. Everette A. Johnson and Richard L. Johnson, "Hospitals in Transition," Rockville, Md., Aspen Systems Corp., 1982; E. Siafaca, Investor-Owned Hospitals and Their Role in the Changing U.S. Health Care System, New York, F & S Press, 1981.

7. Supra note 3.

3. EXPERIENCE WITH JOINT VENTURES

Since federal/state cooperation in the operation of prisons has no real precedent in the United States, we must look for guidance in the experiences of states or counties in joint correctional management, as well as in the experiences of federal and state governments and private industry in non-correctional joint ventures. Feasibility studies of correctional joint ventures that were never implemented also are instructive, especially in pointing up barriers to implementation.

CORRECTIONAL JOINT VENTURES

Compared to other governmental functions, good examples of interstate or large-scale intra-state cooperative arrangements in corrections are relatively scarce. Most of the correctional joint ventures in operation today are combined city/county jails. In fact, this form of cooperation is so common these days that the city jail has practically disappeared.

There are a number of jointly operated correctional facilities involving two or more counties, and at least two examples of interstate cooperation: the Interstate Corrections Compact and a concurrently administered facility now under construction. There have also been studies of the feasibility of regional facilities in several areas, but since none of these has led to such a facility, they are primarily useful in identifying barriers to implementation.

The proliferation of local joint ventures is in large measure a result of conditions-of-confinement litigation, the high costs of jail construction, and the failure of city and county revenues to keep pace with local needs. Most of these city-county or multi-county operations are run by one jurisdiction with others participating under contract, but some are true examples of shared administration. A recent study of jails also found a large number of informal arrangements between sheriffs to trade prisoners or otherwise cooperate in prisoner management.[1]

Two states, Minnesota and Iowa, have enacted laws to encourage regional criminal justice operations statewide. Other states permit counties to contract with one another, but do little to promote joint management.

The primary mechanism for interstate cooperation is the Interstate Corrections Compact. About 2,500 prisoners nationwide currently are handled under such compact provisions. Our survey showed that use of the compact varies widely, from no out-of-state inmate transfers to placement of inmates in up to 25 different jurisdictions. (Refer to Table 7 in Chapter 2.) Although some states make substantial use of other jurisdictions (e.g., West Virginia houses all women prisoners in a federal facility, Wisconsin has sent 200 prisoners to Minnesota to relieve overcrowding) overall use of out-of-state placements is very slight.

There are no jointly managed interstate facilities at this time, but this will soon change. A bi-state center serving the cities of Texarkana, Arkansas, and Texarkana, Texas, is scheduled to open in late 1984, and the Western Governors' Association is currently reviewing the prospects for conversion of an existing institution to an interstate facility.

Described below are some examples of correctional joint ventures. The Minnesota regional corrections programs involve local jurisdictions in a single state; the Interstate Corrections Compact and the facility being built at Texarkana are bi-state or multi-state joint ventures.

The Minnesota Community Corrections Act

Minnesota's Community Corrections Act of 1973 adopts a comprehensive approach to regional corrections. Counties are encouraged, singly or in concert, to improve all aspects of their justice system, including probation, jail, and community-based programs.[2] The state provides powerful incentives to the counties in the form of subsidies tied to per capita income, taxable value, correctional expenditures, and county population in the six through 30 age range. Counties also are charged a per diem rate for each juvenile they send to state correctional facilities. The law stipulates that counties must maintain levels of spending for corrections, and they may be required to take over certain state corrections responsibilities in their areas.

The statewide program is administered by the Minnesota Department of Corrections, which provides technical assistance to counties and monitors compliance with provisions of the act. Each county or group of counties must develop a comprehensive correctional plan, funding for which the state may provide. Minnesota law stipulates the areas to be covered in the plan, but allows considerable diversity in substantive details. Participating counties are authorized

to reorganize local administrative and judicial structures to meet the intent of the Community Corrections Act.

The Act requires the counties to form a corrections advisory board of at least nine members, representing law enforcement, prosecution, judiciary, educational interests, corrections, ethnic minorities, social services, and the public at large. Any committee formed by the board must reflect the composition of the entire board.

A county may withdraw from the subsidy program on 90 days notice, but there may be penalties for doing so. Unexpended funds or funds needed to replace state services displaced by subsidized county programs may be assigned to the commissioner of corrections.

The Minnesota Community Corrections Act assures that counties will not work together solely for the purpose of increasing bed space. The comprehensive plans mandated by the legislature require counties to consider pre- and post-sentence reports, probation and parole services, pre- and post-trial detention, diversion programs, community correctional centers, administrative structure, client participation, staff training, and evaluation of the overall program.

An evaluation of the Minnesota program completed in 1981 showed mixed results in terms of correctional outcomes, but regional arrangements created under the Act were working well.[3]

The Arrowhead Regional Corrections District

This regional corrections operation is a participating district under the Minnesota Community Corrections Act. Six counties in the northeastern part of the state entered into a joint powers agreement to plan and deliver correctional services. The agreement notes the prior existence of regional arrangements affecting some member counties, and provides for their continued operation. It also allows members to develop procedures and operate programs not supported by the Community Corrections Act. In other words, membership in the regional agreement neither supersedes nor disallows other forms of cooperation.

To be eligible for participation in the state subsidy program, the six counties had to create a regional corrections board and a corrections advisory board and to develop a comprehensive corrections plan. The Regional Corrections Board consists of one county commissioner from each of five counties and two from St. Louis County (the largest in the

region); one member selected by the Chippewa Tribal Council; and one member selected by the Corrections Advisory Board. The Regional Corrections Board has all the powers needed to operate a regional system that includes adult and juvenile corrections and corrections-related programs and facilities.

The regional corrections system is financed largely by the state subsidy, but participating counties also contribute. A comprehensive plan, along with a budget specifying each county's share, is prepared by the Board and submitted to the counties every year.

Withdrawal from the agreement may be accomplished by notification of intent at the beginning of any quarter, the withdrawal becoming effective at the end of the quarter. Withdrawal can be prohibitively costly, however. Not only will the county receive no more state subsidies for corrections, but it must pay to restore any state services displaced by regionalization and cannot retrieve any capital investments until the property in question is sold or converted to non-correctional purposes.

As is true of all regional corrections operations in Minnesota, the Arrowhead district is governed by comprehensive legislative mandates. The annual plan must specify measurable objectives relating to such varied activities as the number of juvenile cases to be heard each session and the dollar amount to be generated by jail farm income. This obviously adds to the complicated process of developing agreements among independent jurisdictions, but the monetary incentive to cooperate is strong.

The Interstate Corrections Compact

The Interstate Corrections Compact, one of several interstate compacts in the area of criminal and juvenile justice, allows prisoners in one jurisdiction to be housed in a facility in another. The corrections compact follows the general format and requirements of all interstate compacts; that is, the U.S. Congress must pass authorizing legislation, and the states involved must enact similar legislation before they can participate.

In addition to the national interstate compact, there are regional compacts such as the Western Interstate Corrections Compact and the New England Corrections Compact, which follow the national format but with some differences.[4] For example, a state can withdraw from the national compact on a year's notice, whereas dropping out of the Western regional compact requires a two-year notification.

There are also some more important differences between the national and regional compacts. The Western compact allows a state to provide funding to add capacity to a facility planned for another state, in exchange receiving a guaranteed number of beds in that facility for its own use. The receiving state, it is implied, will operate the facility, but the language of the compact does not preclude contractual arrangements that provide for joint management.

Compact language in general provides a framework within which states can work out many details to their own satisfaction. For example, states may write into their contracts specifications involving such matters as duration of stay, payments for specialized services, management of inmate pay, procedures for transfer of inmates, or any other policies or procedures needed to fix the obligations and rights of participating states.

In addition to these contractual items, the Interstate Corrections Compact addresses a number of issues that must be handled by any interstate correctional operation. Inmates who escape, for example, are considered fugitives from both the sending and the receiving state and have no right to contest extradition if apprehended in either state. If an escapee is caught in a state other that the sending or receiving state, the sending state is responsible for pursuing extradition.

Sending states have a mandated right to inspect the facilities in which their prisoners are housed and to interview the prisoners. Receiving states must provide sending states with reports on their inmates. Inmates retain the right to any hearings mandated by the laws of the sending state; the receiving state must provide facilities for such hearings and may, if the agreement so specifies, also staff the hearing.

Payment for out-of-state housing of prisoners varies. In many cases the states agree to a prisoner-for-prisoner exchange so that no monies need be transferred nor special budgetary arrangements made. Some state prison systems advertise on institution bulletin boards for prisoners who were bonafide residents of another state before conviction so that a prisoner trade can be arranged.

Even where prisoner trades replace payment for out-of-state housing, the costs of processing the necessary paper and of transporting prisoners under escort are seen as burdensome by some states. (Nebraska handles this by requiring that prisoners themselves pay the costs of trans-

portation, a practice that understandably limits the number of requests for out-of-state placement.) Other problems reported by participants in the Interstate Corrections Compact include:

- time-consuming processing of transfer requests;
- lack of uniform classification system and occasional failure to communicate real reasons for transfer;
- difficulty in getting reports from receiving state;
- maintaining a credit balance with other states if no money is exchanged;
- monetary payments required by federal system;
- lack of a central clearinghouse for arranging trades and transportation.

The Interstate Corrections Compact is a flexible mechanism currently not used to its full potential. Now used primarily to manage individual problem inmates, it could serve as a means of pooling resources for entire groups of prisoners with special characteristics or needs. The rather extensive use of probation and parole compacts suggests the potential inherent in the Interstate Corrections Compact.

Interstate Parole and Probation Compact

The Interstate Compact for the Supervision of Parolees and Probationers is similar in its legal provisions to the Interstate Corrections Compact. However, the probation and parole compact is worded in more general terms, and it contains an important provision that is lacking in the corrections compact:

> "That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact."

This provision has resulted in the formation of the Parole and Probation Compact Administrators' Association, which meets annually and has prepared a manual for the operation of the compact. The association has a Secretariat based at Sam Houston State University in Huntsville, Texas.

Compared to the Interstate Corrections Compact, the parole and probation compact has been widely adopted and heavily used. From July 1981 through June 1982, nearly 18,000 parole cases were sent and received by the states, and more than 55,000 probation cases were similarly handled. This contrasts sharply with the less than 3,000 cases handled under the Interstate Corrections Compact. While the differences in client population and implementation costs have much to do with the underuse of the corrections compact, the existence of a national coordinating body and the organizational contact with state governors' offices undoubtedly also encourages use of the interstate compact in probation and parole.

The Texarkana Bi-State Criminal Justice Center

This is the product of the only proposal for a jointly administered interstate correctional facility that has gone beyond the feasibility study stage. The bi-state Center, which physically straddles the Texas-Arkansas border in the twin cities of Texarkana, is in the final stages of construction and expected to be in operation by the end of 1984. The project will have been eleven years in development, considerably less than some inter-county jail construction projects.

The jurisdictions involved in the Center are Bowie County and the town of Texarkana, Texas, and Miller County and Texarkana, Arkansas. The jails of these four jurisdictions were all judged seriously substandard in the 1970s, and the offices of the various police and prosecuting agencies had become inadequate for the workload. By 1975 it was clear that a major effort would be required to upgrade facilities in the four contiguous jurisdictions. A number of local officials supported the idea of a bi-state facility, and in January 1976 this proposal was presented to the Bi-City Council.

Planning for the joint venture involved numerous local, state, and federal agencies and lengthy consideration of the options.[5] Among the individuals and groups brought into the planning process were the bi-state Criminal Justice Planning Council, the U.S. senators and representatives from both states, the Law Enforcement Assistance Administration, state crime commissions, the National Clearinghouse for Criminal Justice Planning and Architecture, the attorneys-general of both states, city attorneys, the National Center for State Courts, the U.S. Department of Commerce, the Economic Development Administration, the Arkansas Historical Preservation

Program, architectural firms, and professionals concerned with jail standards and facility design.

Innumerable legal and political problems were handled during the developmental phase, but project director Raymond Braswell reports that the most serious problems arose in the later stages of the project. These were due entirely to the fact that the total funding needed was not obtained at the outset, which required a succession of contractors and made responsibility for construction problems difficult to assign. In addition, inflation --particularly in construction costs-- raised the total cost of the project from $9 million to $19 million, an increase some local citizens found difficult to accept. Construction delays also gave those opposed to the Center another opportunity to make their opposition felt.

A number of factors seem to have contributed to the success of this interstate joint venture, some of which may be unique to the situation. The relative importance of the various factors is a matter of speculation since, in a politically dynamic situation, the effects of any single element will vary greatly over time. With this caution in mind, we can list a few of the factors that may differentiate this successful venture from those that have failed to move beyond the early planning stages:

- The twin cities of Texarkana have a long history of working together to provide such mutually needed services as libraries, water system, airport, and other community services.
- There were four old, substandard jails that required rebuilding or replacement at about the same time.
- The people with the power to make things happen in the area comprise a relatively small group, well known to each other, and with good lines of informal communication.
- There was ready access to the Congressmen whose approval was required for federal funding, and some of these officials served on the committees that had to approve that funding.
- The Law Enforcement Assistance Administration was actively interested in the bi-state concept, and thus willing to consider funding it.

- There was sufficient continuity during the developmental years in the composition of city councils and law enforcement agencies to maintain a solid and consistent base of support.
- Supporters of the bi-state concept were in politically strategic positions to provide positive and negative inducements to those who wavered in their support.
- The downtown area in which the center is located was in the process of urban renewal, and planners anticipated that the Center would have a favorable economic impact on the area.
- The need for city and county office space and courtrooms, which the Center will provide, was an added incentive to support the project.
- The project director, who has been connected with the project from the start, has a vast personal knowledge of the people and agencies whose support was required for the project to succeed.
- The existence of a project staff provided a focal point for maintaining the momentum of the project and the resources needed to deal with any problems that surfaced.

The agreement signed in 1978 by representatives of the two cities, the two counties, and the two sheriffs deals with both the developmental stages and the functioning of the Center in operation. Development was guided by a seven-member Project Coordinating Committee: two from each city, one from each county, the two sheriffs, and a seventh member elected by the other six. This committee employs and supervises the project director, the agreement stipulating that the position will cease within 90 days after project completion. Committee members serve as a liaison with their parent bodies, review draft agreements, fund applications, and budgets, and receive periodic progress reports. The committee cannot enter into agreements, submit applications, or approve budgets, these powers being retained by the parent jurisdictions.

The costs associated with land acquisition have been shared between the two cities, based on a formula involving the amount of common space in the center and the amount each jurisdiction uses. Construction costs were allocated using the same formula, but there is no doubt that the project

would have been seriously jeopardized, and possibly halted, if federal funding had not been forthcoming.

For ongoing operation of the facility the agreement establishes an Intergovernmental Advisory Committee with the same composition and many of the same functions and constraints as the Project Coordinating Committee. The Advisory Committee is additionally responsible for hiring and supervising a building maintenance chief to manage the central utility services and maintain the building and grounds. Inmates of the Arkansas Department of Corrections will perform the actual maintenance work.

An Operations Coordinating Committee consisting of the two county sheriffs, the director of public safety of Texarkana, Arkansas, and the chief of police of Texarkana, Texas, will direct operations of the Communications and Records Sections, employing staff, preparing budgets, and adopting and monitoring administrative policies and procedures.

The detention operation will be the joint responsibility of the two sheriffs, who may hire detention staff or use existing employees. The new Center will require more detention personnel than did the four old jails, a problem that has been resolved by the Arkansas corrections department's offer to take over the detention function in exchange for 100 work-furlough beds. This arrangement aids the economics of the Center, but at a cost of a number of offices that had been earmarked for local government functions.

Costs of the communications, records, and detention services will be prorated among the agencies, based on the number of records kept, dispatches made, and hours of confinement of prisoners. Accounting, purchasing, personnel, and other business functions will be performed by one or more of the four governmental entities involved, based on mutual agreement.

The basic agreement is signed for a perpetual term and will remain in effect until terminated by mutual agreement. Each city retains title to the real property on its side of the state line, and the Intergovernmental Advisory Committee will act as trustee during the period of any dissolution.

In sum, the bi-state Center was not a "quick fix" for the Texarkana jail problem, and it would not seem a solution for jurisdictions facing immediate court-ordered closures. But the new Center provides the Texarkana area with 100 modern, secure jail beds and 100 state work-furlough beds. The building also provides four well-designed and secure

courtrooms, and some office space for related functions.

The presence of the courts in the bi-state Center did require legal clearances to permit judges to hold court in any available courtroom. Legislation also was needed to handle potential extradition problems when prisoners are moved across the state line, as well as to specify that the arresting county retains jurisdiction when crimes are committed by inmates within the Center. The basic legal concept is situs jurisdictus, which means that prisoners carry their original jurisdiction with them wherever they go in the building.

The Texarkana project should continue to receive careful attention so that other jurisdictions can profit from the lessons learned. More problems will be encountered and resolved as the Center goes into operation this year.

NON-CORRECTIONAL JOINT VENTURES

Because there are relatively few examples of concurrently administered correctional facilities, we must turn to inter- and intra-state joint ventures involving other government agencies and functions. Partnerships involving non-correctional agencies are far more numerous and in general have longer histories, so there is much more experience from which to draw.

The management of water resources, for example, has a well-documented history of more than 100 years, and the working relationships among governments in this area can teach us much about joint ventures in corrections. The functions or services provided by a particular operation, while important to the context, are not crucial to the analysis of management methods used, developmental steps and timetables required, or policies and procedures needed to carry out the mission of the joint venture.

There are thousands of interjurisdictional agreements currently in effect throughout the United States, most of them intra-state and outside the criminal justice field. These range from local library services and public transit systems to vast regional water and power operations. Cooperating jurisdictions make use of many different mechanisms for the pursuit of common goals: informal agreements, contracts, compacts, public corporations, and joint powers agreements. Boards and commissions set policies and develop regulations. Sometimes one jurisdiction operates the venture with contractual arrangements that allow other agencies

to use or benefit from it. In some cases the private sector is involved as service provider or operator of a facility.

Interstate Compacts

Interstate compacts differ from agreements between entities within a single state in that Congressional authorization is required. The Constitution of the United States requires the consent of Congress when states ". . . enter into any Agreement or Compact with another State, or with a foreign power." Congress may take the initiative by passing legislation, as in the Compact on Mental Health, that authorizes state participation and provides language for incorporation into state legislation, thereby promoting uniform application of the law. Or the states may initiate plans for a joint venture, then seek Congressional authorization. Some compacts do not require Congressional approval for new projects initiated under the provisions of the compact; others require further approval even for extension of existing programs.

The first interstate compacts were signed in 1783 and served primarily to settle boundary disputes between adjacent states. Only 36 interstate compacts went into effect between 1783 and 1920. Since 1920 the number and scope of such agreements has increased substantially, with over 150 in effect at this time. Some states have ratified as many as 40 compacts, others as few as 16.

Multi-state agreements have become commonplace as issues of water, power, harbors, conservation, and air pollution come to be seen as regional problems. During the 1920s the Port Authority of New York and New Jersey was the first to deal with a major bi-state function, and the Colorado River Compact, with seven participating states, was the first to involve a major regional issue. Over the next decade compacts based on functional rather than geographical issues brought together states with similar problems but no common boundaries. The Compact on Mental Health, the Interstate Compact for the Supervision of Parolees and Probationers, and the Interstate Pest Control Compact are examples of functionally oriented agreements.

The federal government is an active participant in some compacts; in others it plays little or no role after the initial authorization. Monitoring and enforcement of standards are common federal activities, whether or not such a role is specified in the compact. For example, federal air and water quality standards are monitored regardless of a

state's participation in a compact affecting these environmental issues.

In sum, the interstate compact provides an existing, readily available legal mechanism for regional correctional operations. Once considered primarily as a means of dealing with boundary disputes, these agreements are now seen as devices for resolving problems lying somewhere between the federal and state levels.

Two Regional Water and Power Compacts

The Susquehanna River Basin Compact (involving New York, Pennsylvania, Maryland, and the federal government) and the Northwest Power Planning Council (Oregon, Washington, Idaho, Montana, and the federal government) are typical agreements for the management of natural resources in two widely separated and diverse regions of the country. The Northwest Council is involved primarily in planning and monitoring activities carried out by other state, federal, and local agencies. The Susquehanna Commission also plans and monitors many operations in the Basin, but it may acquire facilities, has condemnation powers, and can raise funds for specific projects.[6]

Following the pattern of interstate compacts, both joint ventures were brought into existence through the concurrent enactment of federal and state statutes. In both projects the states have equal representation on a council or commission that has broad powers and responsibilities for the use of regional water resources. Both also are characterized by continued federal involvement --in the Northwest Council by Congressional requirements for consultation with federal agencies; in the Susquehanna project by the requirement that one commission member be appointed by the President.

Both the Susquehanna Commission and the Northwest Council have responsibilities not only for water quality and supply, but also for fish and wildlife conservation, energy production, watershed management, and recreational development. The plans they adopt are binding on other public and private agencies that conduct related operations. The two boards also have broad powers to approve plans and projects of other agencies, subject to statutory limitations. Agencies can ask Congress for approval of projects rejected by the Northwest Power Planning Council. A participant in the Susquehanna compact can request a review in the U.S. Supreme Court.

The Northwest Council must work with many local agencies and groups, but the Bonneville Power Authority is the dominant operation in the area, with a scope of responsibility paralleling that of the Council. Both groups are mandated by Congress to cooperate with each other and to work with other community groups. Council plans for wildlife conservation, for example, must fit the economics of power production by the Bonneville Authority. Native American groups must be consulted and the general public involved, the latter primarily through community meetings.

The Susquehanna River Basin Commission deals with as many local communities as the Northwest Council, but it does not have a one-to-one relationship with a single major entity. The Commission does need to consider the goals and activities of the Army Corps of Engineers, which has harbor and flood control responsibilities throughout the Susquehanna River Basin, and must work with the federal government and with local citizens groups.

Both the Northwest Council and the Susquehanna Commission are authorized to set personnel qualifications and hire staff needed for regional operations, which they do through the executive officers they appoint. The Susquehanna Commission also can acquire land, purchase or construct facilities, and issue bonds for capital outlay projects. The Northwest Council does not have these powers, the Bonneville Power Authority being the agency that acquires and operates water and power facilities.

The Northwest Council's source of funding is a surcharge on the wholesale power rates set by the Bonneville Authority. The Susquehanna Commission is authorized to collect rents and tolls and establish rates for the services it provides. Any deficit can be apportioned "equitably among the signatory parties," although equitability is not defined in the contract.

Continuity of interjurisdictional ventures is provided for by the Susquehanna compact through a stipulated 100-year renewal period. (The federal government, however, may withdraw from the agreement at any time, and also may revise the terms under which it will remain as a partner.) If the Northwest Council is terminated, its functions are by law transferred jointly to the administrator of the Bonneville Power Authority, the Secretary of the Interior, and the administrator of the National Marine Fisheries Service. States may withdraw from the Northwest Council by giving quarterly notice, but they will lose their voice in regional planning.

These two projects are examples of the recent development of interstate compacts to which the federal government is actually a party, with binding status similar to the member states. They represent a new option for interjurisdictional cooperation with federal participation.

A Regional College Program

Based on a study of needs and resources for veterinary education in the western United States, the Western Interstate Commission for Higher Education recommended a joint venture involving eight western states and the College of Veterinary Medicine of the State University of Colorado.[7] By 1977 a 19-year developmental effort was complete, and students from all over the region were enrolled at the Colorado veterinary school.

Management of the College of Veterinary Medicine remains the sole responsibility of the State University of Colorado; there is no interstate governing board or commission. The Western Interstate Commission for Higher Education (WICHE) approves state fees at their general biennial meeting, and a Regional Advisory Council on Veterinary Medicine within WICHE meets annually to fine-tune the relationship between participating states and the University.

Participating states pay a per-student fee, which takes into account current operating costs minus tuition paid by students, amortization of pre-1976 facilities used by out-of-state students, and debt service on that portion of the new construction that was not funded by the federal government.

An interesting aspect of this joint venture is that federal funding (80 percent of construction costs) was contingent upon the University's making the program available regionally. The federal contribution then made it feasible to construct a facility large enough to handle students from several states.

The Colorado College of Veterinary Medicine is an example of a contractual arrangement in which the participant with the most resources provides service to the rest and in which the federal government does not play a continuing role.

A Bi-State Planning Commission

The Tahoe Regional Planning Compact creates a two-state, four-county agency that plans for and regulates activities

in the Lake Tahoe area in a manner similar to a county-level planning commission.[8] Heavy development in the Lake Tahoe area has threatened water quality and the health of the surrounding forests for years, and the influx of tourists to the gambling casinos on the Nevada side of the lake has created serious traffic congestion. Thus problems of preserving wilderness areas co-exist with urban issues such as waste disposal and parking space.

The composition of the Regional Planning Agency reflects the sensitivity and economic complexity of the problem and the political realities of Nevada and California. California representatives include one member from each of two counties, one from the City of South Lake Tahoe, two appointed by the Governor, one appointed by the Speaker of the State Assembly, and one appointed by the Senate Rules Committee. Nevada representatives include one member from each of two counties, one from Carson City, one appointed by the Governor, the Secretary of State, the Director of Conservation/Resources, and a member elected by the other Nevada representatives.

For approval of a proposed action or project the required number of votes varies with the topic under consideration. For example, approval of actions on the regional plan, ordinances, rules, or variances requires four votes from each state. Approval of projects requires five votes from the state in which the project is located, and a total of nine votes. Routine business actions require a total of eight votes. A quorum consists of four members from each state.

The responsibilities of the Tahoe Regional Planning Agency, as specified in the compact, include the development of a regional plan addressing land use, transportation, recreation, and public services and facilities. The regional agency has the power to pass ordinances and to enforce them, as well as to rule on building and other land use requests. The agency has substantial enforcement muscle: it may assess a maximum fine of $5000 for each day that a violation persists.

The Tahoe Regional Planning Agency is required to form an advisory planning commission composed of specified county planners and state officials concerned with resources and environmental management. The compact also establishes a transportation district, the directors of which are somewhat different from the members of the agency but cannot take action without agency approval.

The agency appoints an executive officer and other staff as needed. Personnel standards and regulations conform as far as possible to the civil service requirements of both states. As in other compacts, there is a stipulation that other agencies of either state may provide services to the regional planning agency.

The Tahoe Regional Planning Agency is financed through a complex process of allotting operating costs to the counties on the basis of taxable land valuation, collecting a specified sum from each county in addition to the prorated assessment, and submitting the balance in a budget presented to each state. The agency cannot obligate itself or the participants beyond the fiscal year.

The Tahoe Regional Planning Compact is an example of an interstate organization structured to take into account the complexities of the situation and the disparities in population and resources of two neighboring states. The compact is noteworthy for the detailed manner in which immense powers are given to the bi-state agency.

PRIVATE-SECTOR JOINT VENTURES

Joint ventures are only one way that private companies may cooperate on a project. At least some of the goals of a joint venture can also be accomplished through licensing, mergers, contracts, franchising, syndication, jointly used facilities, or co-production agreements. A company can build and furnish a plant and then sell it or lease it to another company. A firm can form a wholly owned subsidiary or enter into a joint venture with another company to create a jointly owned subsidiary. Foreign governments have insisted on some local ownership and control when investing in the local economy, which has forced international companies to choose joint ventures as the structure for foreign investments.

Structure of the Joint Venture

No two joint ventures are the same. Each is structured to satisfy the needs of participants, whether these be two domestic companies, a multi-national company and host government, two multi-nationals, or a multi-national and a local or foreign company.

Joint ventures are used to aid technology transfer, to reduce or share capital investment and risk, to speed commercialization of new products or markets, and to achieve

economies of scale in production. These advantages are well known to American businessmen, but because failed joint ventures are so well publicized many managers may instead choose alternatives such as licensing, merger, or internal investment. Since joint ventures provide an equity position, they are preferred to licensing by some private-sector managers; others claim that coordination problems make the joint venture less desirable.[9]

The three main ways of doing business in the private sector are the sole proprietorship, the partnership, and the corporation. In a sole proprietorship a single person has full responsibility for management control and liability. A partnership is based on a contract that specifies how the business will be run and how profits and losses are to be divided among the partners. A corporation is a creature of the law possessing only those properties conferred upon it by the charter of its creation. Whereas a sole proprietorship and a partnership may place the participants' personal assets at risk, a corporation offers its owners and shareholders limited liability --they are liable only to the extent of their investments in the corporation. (A limited partnership also limits risk in this manner.)

A "corporate joint venture" is a corporation owned and operated by a group of businesses as a separate business or project. (A government may also be a member of a corporate joint venture.)

A "dominant parent" joint venture is managed by one parent in a manner similar to a wholly owned subsidiary. The board of directors in such a venture, although representing both or all parents, plays a largely ceremonial role.

In "shared management" joint ventures, both parents manage the enterprise and the board of directors has a real decision-making function. Shared management is most common in manufacturing ventures in which one parent supplies the technology and the other knowledge of the local market.

The basic organizational structures for joint ventures are similar to that of a single business. Internal investment is analogous to the sole proprietorship. A joint venture with shared management and equity resembles a partnership, while a joint venture with a dominant partner has the features of a limited partnership. A joint venture also may create a separate corporation, answering to an elected board of directors from both companies. The amount of

management control and type and extent of contribution from each partner are determined in initial negotiations.

The higher failure rate of shared-management joint ventures is a strong indication that these are more difficult to operate than dominant-parent joint ventures.[10] If a partner is chosen for reasons other than managerial capability, a dominant-parent venture may provide the best chance of success. But if each partner has a specific area of managerial competence then shared management may be required. This is often the case in international joint ventures, since the locally based company usually has expertise in local marketing, regulations and laws, and personnel management customs.

In sum, the structure of the joint venture is determined by the amount of managerial control wanted by each partner and agreed upon during initial negotiations.

Management of Private Joint Ventures

A joint venture may have a board of directors to make major policy decisions, but over-involvement of the board in daily operations can be disastrous. If senior management is spending most of its time collecting information to report to the board, the joint venture may be doomed.

At the policy-making level managerial control does not necessarily have to be proportional to financial investment, so long as the rights and responsibilities of each participant are clearly understood in advance. In joint ventures where the board of directors is not equally divided between the partners, it generally is stipulated that no decision can be forced on the minority partner. Problems in managing a joint venture generally stem from the fact that there is more than one parent and each has its own interests and goals.

Joint ventures that draw functional managers from both parents are more difficult to manage but perform neither better nor worse than those that do not. Research suggests no clear-cut superiority of methods of selecting the management team, but a joint venture often fails due to management errors, regardless of how management was selected.[11]

When managers are assigned to joint venture companies, their salaries typically remain tied to the parent salary structure. Sometimes this means that a junior manager from one company is making more than a senior manager from another. Some companies rotate their international man-

agers from one overseas assignment to another. Some companies return their managers to the United States as soon as a local manager is trained.[12]

It is important for personnel policies to tie in with and reflect other broad policy objectives of the parent firms. Differences in approach have serious long-range management implications for the parent companies and equally serious career implications for the people involved. There are no clear indications that certain compensation policies work better than others, but these policies should result from conscious decisions at a high level within the organization.

Problems with Joint Ventures

The problems encountered by private sector joint ventures fall generally into two areas: failure by the parties to state their expectations early in negotiations; and failure to build into the initial contract a method for handling changes in goals and expectations. The importance of the initial negotiations cannot be overstated.[13] Both partners must be candid and explicit in expressing their intentions and expectations and in revealing their strengths and weaknesses.

A firm's managerial weaknesses are as important as its managerial strengths. American managerial skills in production control and technology transfer can be used in a foreign joint venture, but personnel management and marketing skills may be weak because of cultural differences. Foreign managers will be able to provide expertise in these areas, but they may lack American technology and production control skills. A candid analysis of strengths and weaknesses on both sides can aid selection of a competent management team.

The relative size of the partners also can cause difficulty because of differences in operating styles. A large corporation may spend months or years studying a problem, whereas a small entrepreneur may be accustomed to making decisions on the spot. Large companies, having contributed a smaller proportion of their total resources to the project, may be better able to withstand failure or to wait a longer time for success. Decisions favoring long-term goals may be unsatisfactory to the smaller partner.

In one study of the failure of joint ventures, 90 percent of the reasons cited by the companies involved were admittedly their own fault. More than half the companies

mentioned three contributing factors: inadequate market analysis, product deficiencies, and costs higher than anticipated. A fourth common reason was simply poor management.[14]

Companies have strengthened their joint ventures by: better screening of foreign ventures; redesigning joint venture responsibilities; improving communications between partners; strengthening liaisons between domestic product divisions and the joint venture; and better control of product quality and engineering support during project start-up.[15]

Even though joint venture partners may have similar goals and resources at the outset, their priorities and needs may change over time. It is critical that a method of solving disputes be specified in the initial agreement, as should the steps to be taken if a joint venture is to be terminated.[16] But joint ventures that have been well thought out and skillfully managed show a high rate of success and are enthusiastically supported by both partners. The successes simply are not as well publicized.

INTERSTATE FEASIBILITY STUDIES

The reports of the National Advisory Commission on Criminal Justice Standards and Goals generated considerable interest in the concept of regional corrections during the 1970s, and many jurisdictions undertook studies of the feasibility of joint programs and facilities at that time. Most of these studies involved jails and community-based corrections, in part because the Commission strongly encouraged alternatives to incarceration in state prisons. Emerging standards also stressed the need for more programming and for separating different categories of inmates within the local jail, requirements that many small cities and counties could not meet with their limited budgets. Joining forces with other jurisdictions seemed a logical solution to the problem.

A few studies, mostly from the early 1970s, examined the feasibility of interstate or federal/state cooperation in corrections. Three of these found that a joint facility was not feasible or desirable, although for different reasons. One study supported the creation of a regional facility, but political considerations intervened to halt further exploration of the idea. These four studies are briefly described below.

New England Regional Programs

This study of the systems and prisoner characteristics of six New England states --Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont-- was commissioned by the Law Enforcement Assistance Administration.[17] The study capped a decade of discussion about a regional solution to the problem of dealing with special offenders in a geographical area with a history of cooperation in dealing with other problems.

The study defined special offenders as inmates in need of special handling or treatment for mental disturbance or deficiency, for repeated aggressive, disruptive, or self-destructive behavior, or for other conditions or behaviors that absorb an inordinate amount of staff time and effort. Using this broad definition, the study determined that 11 percent of the New England prison population were special offenders, with a range among institutions from 7.6 to 32 percent. Of this special population, 20 percent were deemed to need protective custody.

Following a detailed description of the various institutions, their programs, and their special offender populations, the report concludes with 85 findings and recommendations. Three models were set forth: (1) the federal Bureau of Prisons could build and operate a regional facility that would meet the Bureau's needs while housing and programming special offenders from the New England region; (2) a tri-state public authority could be created under an interstate compact, providing a regional program for special offenders in Maine, Vermont, and New Hampshire (These states were more receptive to a regional plan, their special offender populations were smaller, and their need for maximum-security beds was more pressing than in the southern New England states); and (3) one state could build and operate a facility to which the other states in the region would send their special offenders. Option number one was emphasized.

The report is noteworthy for the amount of space devoted to inmate demography and prison system characteristics and for the negligible consideration of the political processes involved in getting even a tri-state arrangement underway. Costs associated with a regional operation were not discussed, nor were methods of financing. It is interesting that in the end, the regional concept was abandoned because of political considerations, and not because of any problems in identifying inmates in need of specialized management.

Regional Corrections in the Southwest

In 1977 officials of the states of Utah, Arizona, Colorado, New Mexico, and Nevada began to explore the feasibility of a regional prison to serve the needs of these geographically large but sparsely populated jurisdictions. The focus was on a maximum-security facility for disruptive inmates and some prisoners requiring protective custody. The National Institute of Corrections awarded a grant to Nevada to study the concept, and a two-day conference was held in 1978 to discuss the findings.[18]

From a study of non-correctional interstate operations such as port authorities, it was concluded that there were no legal barriers to the creation of a multi-state prison. Two organizational models were addressed: (1) a multi-state authority operating the prison as a joint venture (legislation and authorization for funding would be required); and (2) contracts with one state, which would build and operate the regional prison (this could be done through the Western Interstate Corrections Compact).

The regional concept was rejected at the two-day conference for the following reasons. Some participants felt that it would be difficult to classify special offenders in a uniform fashion, and thus that the regional prison might be used to unload difficult prisoners. Representatives of three states saw no need for more capacity, in part because they had construction projects planned or underway and also because they saw the interstate compact as sufficient to handle any excess. Others argued that a suitable site would be difficult to find, that a regional commission would greatly complicate operation, or that a port-authority type of operation might bring on federal controls. And finally, some people anticipated serious legal challenges to transfers to such a facility, while others opposed the concept on the grounds that it ran counter to the goal of diverting more offenders from state prison.

Most of these objections to regional cooperation have been handled satisfactorily by local jurisdictions that now operate regional facilities through a board or commission. The one obstacle that could be seen as truly problematic is the disagreement over the need for such a facility.

Yet the regional concept has remained alive in these western states. In 1983 the Western Governors' Conference approved a resolution submitted by the Western Regional Correctional Administrators that supported the idea of "regional special-needs corrections facilities," and an

abandoned psychiatric facility in Idaho has been identified as a possible site. A plan for the financing and operation of such a facility is to be submitted to the 1984 annual meeting of the Western Governors' Conference, and the federal Bureau of Prisons has been approached to operate the new prison. The Bureau supports the concept generally, but has not made any firm commitments to the project.

Regional Programs for the Southeast

A study of the feasibility of a regional prison for special offenders from the states of Georgia, Florida, North Carolina, and South Carolina was undertaken in 1972.[19] Special offenders were defined as including women, the criminally insane, the hard-core criminal (persistent offenders and prison troublemakers), and the mentally retarded offender.

The authors of this study devoted considerable space to the opinions of some of those groups whose support would be needed in implementing such a project: the legislature, the judiciary, and agencies dealing with vocational rehabilitation, mental retardation, the mentally ill, parolees, and prisoners. Attitudes toward the regional prison ranged widely, a fact that the authors felt did not bode well for its successful implementation. While the abstract notion of the regional facility was favored by most respondents, there was much less agreement when specific types of offenders were considered. For example, people involved with mental retardation objected to the separation of the retarded prisoner population because this conflicted with their goal of "mainstreaming" the intellectually handicapped.

The major conclusion of this study was that a regional institution should not be built in this area at that time. One reason for this was that there were too many prisoners in each category, and a facility to deal with the entire special inmate population would be too large. With groups of this size each state could develop its own specialized facility. The door was not closed to consideration of smaller, more specialized facilities within the four-state region, and greater cooperation among state corrections systems through existing interstate compacts was urged.

A Federal/State Facility for Women

In 1971 a study was funded by LEAA and conducted by the corrections departments of Iowa and Minnesota to determine whether a bi-state/federal facility for adult female offenders was practical.[20] Several neighboring states and the

Bureau of Prisons were contacted by the principals, but only the federal agency maintained a continuing interest in the project.

Both Iowa and Minnesota had small, antiquated facilities for female prisoners; per capita operating costs were high, and the need for extensive renovation or new construction was anticipated. The Iowa facility also was remote from urban centers, which made it difficult to recruit professional staff or provide specialized programs.

The joint feasibility study examined most of the important dimensions of an interjurisdictional project, including:

- existing facilities and projected needs
- existing programs and treatment philosophies
- current and projected inmate populations
- population trends in areas served by both states and the federal system
- interstate compact and legislative requirements
- probation, parole, and judicial procedures
- existing and potential community corrections programs

Four alternative models were then described: (1)construcion of a new facility; (2)one state contracting with the other; (3)increased emphasis on community programs; and (4)development of community residential treatment centers. The first model or option envisioned the construction of a 150-bed institution to serve the two states and the federal system. The new facility would be closely tied to a system of community correctional facilities. While this option would enable the states to avoid renovating two old institutions and provide a Midwest location for the Bureau of Prisons, there would be a high initial capital investment and, with the expected expansion of community programs, the facility might be overbuilt by the time it opened.

The second model would involve closing one of the two old facilities and moving its inmates to the facility in the other state. This option would avoid new construction costs, but it might encourage an emphasis on institutions in the receiving state and inmates from the sending state would be far from their home communities.

The third and fourth options envisioned a shift in emphasis from institutional to community-based corrections. Advantages of both were seen as including a gradual phasing out of institutions, while disadvantages included the possibility of fragmented community programs for small numbers of women. The study concludes with a proposed model for community corrections based on a 1969 Canadian Corrections Association plan for female offenders. Key elements of this plan include a diagnostic center, a hospital and psychiatric center, a custodial facility, and a series of hostels in the community.

This study did not address the fiscal aspects of a joint facility in sufficient detail to be helpful in making a judgment about its feasibility. The authors seemed so certain that de-institutionalization was the way to go that their analysis of other possibilities appeared to lack enthusiasm.

EXPERIENCE WITH JOINT VENTURES: A RECAP

There are no precedents for federal/state joint venture prisons, but there is much relevant experience in correctional and non-correctional cooperation at state and local levels and in the private sector as well.

The Minnesota Community Corrections Act, and its Arrowhead Regional Corrections District, demonstrate that very extensive cooperation is feasible between and among local governments. The Interstate Corrections Compact, although not used to its full potential, shows that states can work together in managing their prison populations. And the Texarkana Bi-State Criminal Justice Center is a prime example of how contiguous jurisdictions in two states can design and carry out a plan for meeting their mutual and separate needs in institutional corrections.

Non-correctional joint ventures also teach us much about interjurisdictional cooperation. Interstate compacts are widely used in non-correctional areas of government. Once viewed as a means of resolving boundary disputes, these agreements now are seen as mechanisms for handling regional problems that lie somewhere between state and federal levels. The federal government is a party to some of these compacts, as in Susquehanna River Basin Compact and the Northwest Power Planning Council.

The Colorado College of Veterinary Medicine demonstrates how, with initial but not continuing federal

support, one state can provide service to the rest under contract.

The Tahoe Regional Planning Agency is an example of a bi-state agency given extensive powers by the two states involved to plan for the Lake Tahoe region.

Private-sector joint ventures illustrate the different arrangements under which management responsibilities can be shared and the problems that may come up when two independent entities undertake a project in common.

Studies of the feasibility of interstate corrections programs are reviewed to determine why these studies did not lead to construction and operation of a joint facility. One of these studies was shelved for political reasons; one because agreement could not be reached on the type and size of facility needed; and one seemed to have been dismissed because it conflicted with the goal of promoting alternatives to incarceration. In one area (the Southwest), although the initial study rejected the regional concept, the idea of regional corrections has remained alive, and the Western Governors' Conference will consider a new plan for a joint facility at its annual meeting this year.

CONTINUED

1 OF 2

NOTES TO CHAPTER 3

1. Barbara R. Price and Charles L. Newman, "Multi-jurisdictional and State Jails; A Study in Organization and Management," Pennsylvania State University, February 1979.

2. Minnesota statutes, "Chapter 401: Community Corrections Act," 1973.

3. Minnesota Department of Corrections, Minnesota Community Corrections Act Evaluation: General Report, St. Paul, Minn., January 1981.

4. Massachusetts, "New England Interstate Corrections Compact, Chapter 753, Act of 1962," approved July 25, 1962; "Western Interstate Corrections Compact, Article 1: Purpose and Policy," Deerings Penal., p. 647.

5. Victoria S. Raffaelli, "A Case History of the Texarkana Bi-State Criminal Justice Center," Criminal Justice Institute, March 1980; Raymond E. Braswell, "Texarkana Bi-State Criminal Justice Facility," Texarkana, 1979.

6. Northwest Power Planning Council, "Bylaws of Northwest Power Planning Council," Portland, Oregon, July 1982; Northwest Power Planning Council, "Northwest Conservation and Electric Power Plan," Vol. 1, 1983; Susquehanna River Basin Commission, "General Policies," Harrisburg, Pa., March 1973; Susquehanna River Basin Commission, "Susquehanna River Basin Compact," Harrisburg, Pa., May 1982.

7. Western Interstate Commission on Higher Education, "Consideration of Planning for a Regional Center for Veterinary Education," Boulder, Colo., 1975.

8. Tahoe Regional Planning Agency, "Rules and REgulations of Practice and Procedure," August 1982.

9. Sanford V. Berg and Philip Friedman, "Corporate Courtship and Successful Joint Ventures," California Management Review, 22(2):88, 1980.

10. J. Peter Killing, "How to Make a Global Joint Venture Work," Harvard Business Review, May/June, 1982, p. 121.

11. Don A. Bowring, "Private-Sector Joint Ventures," paper prepared for this project, 1984.

12. Calvin Reynolds, "Career Paths and Compensation in the MNCs," Columbia Journal of World Business, Nov./Dec., 1972, p. 77.

13. Barry H. Lawrence, "Initial Steps are Crucial to Satisfactory Joint Venture," Professional Builder, March 1981, p. 43.

14. Lawrence G. Franko, Joint Venture Survival in Multinational Corporations, New York: Praeger, 1971.

15. Thomas P. Collier, "How to Succeed with a Joint Venture by Really Trying," American Import-Export Bulletin, Dec. 1980, p. 60.

16. Supra note 13.

17. William J. Curran, "Feasibility Study for the Development of New England Regional Programs for the Management and Treatment of Dangerous, Special Offenders," Boston: Socio-Technical Systems, December 1973.

18. "Regionalism in Corrections: Highlights of a Two-Day Meeting to Consider Building America's First Regional Prison for Disruptive Inmates," Washington, D.C., National Institute of Corrections, 1979.

19. E. Vaughn, "Four-State Feasibility Study of Regional Programs for Special Offenders: Final Report," Southeastern Correctional and Criminological Research Center, no date.

20. Iowa Bureau of Adult Correction Services, "Multi-State and Federal Facility for Adult Female Offenders: A Feasibility Study," St. Paul, Minn., 1971.

4. MODELS FOR COOPERATION

Based on experience with correctional and non-correctional joint ventures between and among local, state, and federal governments and the private sector, several different approaches to cooperative action can be envisioned for the construction and operation of correctional facilities. Four of these are presented here: the contract special-purpose facility; joint siting; the compact or joint powers model; and the public corporation. These are not discrete models in that there is much overlap among them. For example, a joint siting arrangement may have many of the elements of a joint powers agreement in the ways in which the parties agree to develop and maintain the shared site or to operate shared central services.

All of these models, in fact, might be better viewed as points on a continuum, ranging from only slight interface between the parties at the policy-making level to full interaction or joint/concurrent administration. In no case, it should be stressed, is there joint management at the operational level.

Interface and Interaction

In terms of organizational design and management, there would seem to be two generic types of joint venture that flow from the motivations of the parties in considering any kind of cooperative action. These can be called interface and interaction models. The degree and nature of the coming together of two or more partners is what distinguishes one type of joint venture model from another.

Interface models imply a meeting of independent parties as distinguished from a joining together of the parties to form a blended operation. In the interface model the participants agree to work in concert to realize mutual benefits, which may not be same for each. They work in parallel, sharing only those resources agreed upon as meeting their separate needs more economically. The impact of the joint venture on the internal structure and operations of each partner is slight.

The contract for services is an example of the interface joint venture. The parties contract for specific services to be provided for a definite time period. Money is exchanged or services traded. There is little that the

contracting party can do to affect the internal operations of the contractor; his only real source of power is the option of terminating the contract and obtaining the service elsewhere.

Joint siting, in which two parties construct facilities on the same site and share some central services, is basically an interface model, but under some agreements it could become quite interactive. Or the model might start out as an interface and, over time, come to involve much more interaction.

Interface models lend themselves to situations where the motives and problem definitions of the parties run parallel but are not shared. Interaction models are built on fundamentally different relationships. The parties in this case combine forces to produce a new element that is distinct from either parent organization. Interaction models are best suited to situations where the needs and motivations of the parties are essentially the same, and where the parent organizations are not threatened by a high degree of interdependency.

Four points on the interface-interaction continuum are described below as models for joint action. The contract model is similar to existing arrangements whereby one jurisdiction constructs and operates a facility while others contract for a certain number of beds. The major difference between this model and existing contract arrangements is the opportunity for contracting jurisdictions to have some input regarding the main elements of the program affecting their inmates.

The second model, joint siting, involves construction and operation of a federal and a state institution on the same site, with independent program and housing but shared central services. Sharing the costs of common systems, and probably also some professional staff and treatment resources, could result in substantial savings for both governments. Shared responsibility for perimeter security also should benefit both partners.

The third model would be created under an interstate compact to which the federal government would be a signatory party. This model differs from the contract model in that a committee or board shares policy-making responsibilities with the operating jurisdiction.

Model number four would involve either a federal corporation similar to the Tennessee Valley Authority or a public

corporation in which the federal government is one of several partners. As the management of a prison does not appear to meet the criteria for federal corporations, the general public corporation seems more appropriate.

Elements of the Models

The models are differentiated along three dimensions: organization and management; financing; and benefits and risks to each partner.

Organization and Management. The dimension of organization and management explores the questions: Who controls what? Who is responsible for what? There are several different aspects of control that must be examined. The first is the distinction between control over the process of creating the joint venture and control over the operations of the venture once it is established. The former, developmental control, may be divided equally among the parties to the venture or may be proportional to the resources each invests in development. A proportional approach, for example, is most common when private-sector firms are developing a joint-venture project.

Operational control may be divided between a policy-making or advisory body and an operations manager. The distinction between policy and administration is never clear in the real world, but it is generally agreed that the administrative head of any venture must be provided sufficient latitude to operate effectively. This is a generic organizational principle, but it has special applicability to joint ventures whose operations are complicated by the often differing interests of two or more agencies or organizations. It should be understood that, regardless of the degree of interaction at the policy-making level, daily operational management of the facility cannot be shared.

Responsibility typically goes with control, but the two are not always equivalent. For example, one partner may be responsible for getting a particular job done --say, records management in the operating facility-- but other partners may have some influence through their membership on an oversight board or committee.

Financing. Both developmental and operating costs will be met through contributions from both or all parties in the form of money, staff time, equipment, and facilities. The amounts and forms of resource contributions must be clearly defined at the outset. Formulas for assessing each partner's contribution to the joint venture are sometimes quite

complex, even in the case of the contract facility. How will the various components of planning, construction, staffing, support services, and so on be paid for or provided?

Benefits and Risks. What are the incentives for each party to participate? How will each benefit? What does each risk? Benefits and risks are more than financial and are not always tangible. There may be political, legal, administrative, or programmatic benefits and risks that counterbalance any costs or cost savings. For example, participating in a regional prison for special offenders may cost a state more in dollars than retaining these inmates in existing state prisons, but the payoff may come in the form of protection against lawsuits, positive media attention, and improved handling of inmates with special needs.

We will turn now to descriptions of the four models, beginning with the one in which each party retains the most independence and moving toward greater sharing of planning and policy-making responsibilities.

THE CONTRACT FACILITY

In essence, this would be a prison operated by one jurisdiction with others reserving a specified number of beds. This could be an existing facility or a new one constructed for the purpose.

Under existing contract arrangements the receiving jurisdiction, whether the Bureau of Prisons or a state corrections agency, agrees to provide bed space for inmates from other agencies. Out-of-state inmates are treated in most respects as other prisoners in the institution. The committing agency exercises little or no control over housing, programming, or other aspects of prisoner management. The model proposed here could simply carry on and extend existing contract arrangements, or it might involve some degree of input from sending jurisdictions regarding the major program elements and operating policies of the institution in which their inmates are housed.

Control

This model represents the minimum amount of joint management in cooperative federal/state ventures. One party, perhaps the Bureau of Prisons, would be responsible for operating the facility, to which the other or others would send certain types of inmates under contract. If the federal

government operates the facility, the state in which the prison is located might provide a specified portion of the operation, but this would inject an additional element of complexity with little obvious benefit.

There could be a mechanism for some joint policy-making: a committee composed of the directors of each participating jurisdiction might play an advisory role. The preponderance of control in any case would rest with the jurisdiction operating the prison, but an advisory committee would provide for some ongoing negotiation with those contracting for service. These advisory negotiations are distinguished from the contract negotiations, which must resolve in advance any differences in policy and procedures between the parties that affect the needs of sending departments or the protection of their inmates' rights.

If there is an advisory committee, its meetings should be regular and may be chaired by rotation. The purposes of the committee and its responsibilities should be clearly specified in contract negotiations. Meetings might be preceded by inspectional tours of the facility by committee members. Each contracting jurisdiction might also have a resident liaison officer to interact with inmates and work with institutional management. West Virginia, which houses its women inmates at the federal facility at Alderson, makes use of such a liaison.

The recommendations of the advisory committee would not be binding on the jurisdiction operating the prison. The ultimate control exercised by contracting jurisdictions would be that of withdrawing from the venture. Conditions of withdrawal, as specified in the contract, would provide for some degree of continuity in prison operations, with stipulated notification periods of at least a year.

Legislative oversight of the program could be provided for through required reporting to state and federal legislatures by the heads of the respective correctional agencies.

Two areas of responsibility that would need to be negotiated are the transportation of inmates to and from the institution and parole hearings. The sending state probably would be responsible for transportation, as is now the case in contract arrangements. Parole hearings could be handled by representatives of the sending state traveling to the institution periodically, as is generally done under existing contracts, or the parole board of either the federal government (if it is operating the facility, or the state in

which the facility is located could provide information to the parole board of the sending state.

The legal requirements of the contracting jurisdiction (such as sentence credits or inmate rights in disciplinary hearings) would have to be spelled out in the master contract or in a letter of understanding between the responsible jurisdiction and those with which it has contracts.

Financing

Legislatures would need to provide funds in the department of corrections budget for the number of beds for which the jurisdiction had contracted. Formulas for calculating cost-per-inmate vary. Among the issues to be negotiated are:

> Are construction costs to be included? Institutional budgets generally do not include construction costs, and most computations of per capita costs involve dividing the total institutional budget by number of inmates. Amortization of construction costs probably should be prorated to participating "joint venturers," especially if one partner has constructed a new institution for the purpose.
>
> What figure will be used to represent number of inmates? Costs assessed may vary significantly depending on whether daily population, year-end population, or capacity is used to calculate per capita costs. The fairest approach probably would be one based on projected average daily population adjusted in the final quarter of the fiscal year to reflect actual population.
>
> Will states pay only for inmates actually transferred or for a predetermined block of beds? The former would be advantageous to the sending jurisdictions, the latter to the operator of the receiving facility. Since the operator would bear the brunt of the project, it would seem that the second approach would be a better division of costs.

Benefits and Risks

As in current contractual relationships between the Bureau of Prisons and the states, the major share of the risk in this model rests with the operator of the facility. The financial risk includes both construction and operation of the facility as a whole and the setting aside of a number

of beds for prisoners from other jurisdictions. While the operating jurisdiction probably could make effective use of the space if a sending jurisdiction were to withdraw, there would be costs involved in restructuring the operation to meet other needs.

Legal risks would also seem to bear more heavily on the operating jurisdiction. Sending agencies cannot totally abdicate their responsibility for prisoners committed to their care, but primary responsibility for prisoner health, safety, and security lies with the agency in charge of operations.

The primary incentive for agencies to contract with another for inmate housing would be financial. Sending agencies would gain access to specialized services without extensive capital investment. For states with small special offender populations and a fiscal inability to develop their own high-quality programs for them, this might be the only cost-effective way of avoiding lawsuits and complying with standards.

A related benefit for all participants would be the ability to remove hard-core and difficult-to-manage inmates from general-purpose institutions. Critics point out that whenever a group of disruptive inmates is removed from the general population another will rise to replace it, but there is some evidence that separation of the dangerous from non-dangerous inmates reduces violence overall.[1]

Incentives for the operating jurisdiction to participate in this kind of joint venture are less clear than those for the contracting jurisdictions. Certainly it is difficult to develop a purely financial rationale. Some operational savings would result from allocating costs among the contracting jurisdictions, but this would not appear to be a significant factor.

If the federal government were to operate a shared facility, its primary incentive probably would lie in the intangible area of public policy --an opportunity for the Bureau of Prisons to expand its national leadership role, and a means of helping the states with a difficult problem without an outright grant or subsidy program. Under this model the Bureau of Prisons could enter into a needed federal/state partnership while retaining primary control over the extent and nature of the cooperative arrangement.

An additional benefit for the Bureau of Prisons would be the opportunity to develop specialized programs and

facilities --e.g., a medical/psychiatric center, an institution for the retarded-- to meet its own needs, and to expand facilities in areas closer to its inmates' home communities.

Both the Bureau of Prisons and the states might benefit from the opportunity to meet the service needs of inmates without adding to their personnel complement. Personnel ceilings do not yet appear to be affecting the Bureau as they have other federal agencies, but they may in the future. Funds for contract operations appear in the budget in a section separate from personnel and are not subject to the same restrictions.

JOINT SITING

This model for federal/state joint ventures involves two relatively independent program and housing units, one for state and the other for federal prisoners, located on the same site and sharing central services. This could be accomplished by adding on to an existing institution, but would be more effective if a new institution were designed for the purpose. If the federal government and a state are already planning to build in the same area, this could be one of the quickest models to implement.

The extent of shared services would be subject to negotiation. At a minimum it would include water and power generating systems and sewage treatment. It probably also would include food services, laundry, and fire protection. It could involve sharing of certain professional staff and medical services. Obviously, the more services centralized the greater the savings, both in construction and in operation. Shared responsibility and mutual aid in perimeter surveillance --including a common plan for dealing with escapes, a common plan for perimeter supervision of the central unit, and similar if not identical tower post orders-- would benefit both institutions.

There could be some problems associated with a wide-ranging central services unit. Inmates assigned to the unit would have to enter the housing units on occasion. (This could be solved by attaching a 50- or 100-bed minimum-security unit to the central services unit to house those inmates assigned to work in the unit.) Lack of direct control over vital services also might be a source of irritation to housing unit managers. An inter-institutional committee of representatives from the three units would need to meet regularly to deal with common problems.

Organization and Management

One of the most compelling features of this model is the amount of control that may be retained by both partners. Responsibility and control, both developmental and operational, would rest with the operating jurisdictions of the two institutions, although there would need to be much coordination and cooperation. The main element to be negotiated would be responsibility for the central services unit. Over time there may be increased levels of sharing and cooperation.

Various different arrangements are possible. One partner could assume responsibility for both construction and operation of the shared services and facilities. One partner could build and the other operate the central unit. Or both partners could split the responsibility --and the costs-- either equally or based on some negotiated formula. The two most feasible options for operating the central unit include:

> Contract with the private sector to manage the unit. Of the various areas of institution management, those within the central services unit are most likely to be effectively managed by a neutral private-sector contractor. There is also some potential for cost savings here.
>
> One partner assumes operating responsibility. Operation by the Bureau of Prisons may be preferable because of the economies of the federal purchasing apparatus. The Bureau would need to be sensitive to the concerns of the state partner in negotiations regarding their respective roles.

Regardless of the arrangements made for operating the central services unit, there will need to be some mechanism for each partner to influence its operation. The creation of a committee representing management of each housing and program unit as well as the central unit would allow for this kind of input.

Legislative oversight of prison operations would be provided as for any other institution operated by either partner.

Financing

Construction of the central services unit could be handled in one of two ways: One of the partners could build

and operate it, in consultation with the other, and provide the services under contract; or the two could jointly plan and build the entire prison, splitting the cost of the central services unit, with operation of the central unit subject to negotiation.

Based on architectural estimates, the use of shared central services would result in savings of 5 to 10 percent in construction costs. The economies of scale involved in building 1000 beds on the same site instead of two 500-bed institutions on separate sites would produce another 3 to 5 percent savings. More significant, however, would be the savings accruing in operating costs. Every staff position saved by sharing a central services unit would be worth perhaps half a million dollars over the life of the institution, if $20,000 in salaries and benefits are saved over a period of 30 years.

Using data on staffing guidelines developed by the Bureau of Prisons and appearing in the American Correctional Association's Design Guide for Secure Adult Correctional Facilities, we can estimate potential savings in staff positions. For example, under maintenance the staffing guidelines show seven positions for the power plant as sufficient for both a 500-bed institution and a 1000-bed facility. An institution of 500 beds would require 13 medical and dental staff; 22 are required for 1000 beds. Food service staffing differs only in the number of dining room supervisors; in both institutions food preparation requires seven staff. In the aggregate, a net savings of more than ten and perhaps as many as 15 positions could be anticipated as a result of centralized support services.

Construction savings are most apparent up to the level of 500 beds, but continue up to about 1,000 beds on a single site. After this the savings are less dramatic. Operational savings may be greatest up to around 1,200 beds, after which per capita costs again begin to rise. This may mean that small states would benefit most from the contractual model, while larger states should consider joint siting. Joint siting also would be more effective for general-purpose rather than special-purpose facilities.

Benefits and Risks

Here the primary incentive for both federal and state governments would appear to be financial. Savings in construction, equipment, and personnel costs could be expected on both sides. And these savings could be achieved with minimal added risk.

The essential ingredient here is a convergence of needs on the part of federal and state governments for additional bed space. If the federal government were planning a new institution in an area of the country where a state was also planning to build, joint siting becomes a model to be considered.

Other benefits may derive from close proximity of two institutions. Both partners would be able to make better use of volunteers, professional specialists, equipment repair services, educational programs, and other community resources. Institutional staff might be exchanged or shared, either formally or informally, and staff training could be jointly undertaken. Emergency plans and perimeter security arrangements could be developed in concert, and relations with local law enforcement could be better coordinated than if the two institutions were geographically separated.

Risks presumably would be assumed equally by both partners, except if one of them were responsible for construction and operation of the central services unit. Legal risks also would be borne equally, since each partner would be responsible for the operation of its own institution.

During the course of this study we received suggestions from several sources regarding the feasibility of state-county facilities. While outside the scope of our study, the concept does merit consideration. The joint siting model could provide an opportunity for joint ventures involving federal, state, and county governments. Although such interagency efforts would be more complex to plan and implement, their effects and implications likely would extend well beyond any specific venture.

THE JOINT POWERS MODEL

The compact or joint powers model is an elaboration of the contract model. In fact, joint powers agreements are forms of intergovernmental contracts. The main difference between the simple contract model described earlier and the joint powers model is that the committee overseeing facility operations would be a policy-making rather than advisory body. Because of this mechanism for shared policy-making, this model represents full expression of the concept of joint or concurrent prison administration.

In most cases the best arrangement under this model would appear to be operation of the facility by the Bureau

of Prisons. If the facility were located in a state with substantial resources and well-developed corrections and administrative support agencies, the jointly managed facility could instead be operated by the state.

Even though the committee or board would be responsible for policies governing the institution, it would be appropriate to adhere to the policies of the operating agency to the extent possible. Any significant deviation from standard procedures could cause problems for the operating agency, and probably would lead to a reassessment of the decision to take on that responsibility.

To implement this model with federal participation it would be necessary for Congress to authorize federal participation in an interstate corrections compact with binding status similar to that of the states. This could be accomplished through one of the existing compacts, but it would be preferable to create a new compact for the purpose. The development of a new compact also would present the state legislatures with an opportunity to assess the implications of participation and to make a clear policy choice.

Organization and Management

In this model control and responsibility are divided among the participants. Controlling interest on the board probably would be determined by the number of inmates a partner had in the institutional population. In any event, as opposed to the contract model, policy-making control in the joint powers model rests with the board rather than with the operating agency. Operational control, of course, remains with the manager of the facility.

The committee or board would be composed of representatives of each of the participating states (appointed by the governors) and a representative of the federal government (appointed by the President). Each would undoubtedly be the head of the correctional agency of the jurisdiction. This is the pattern followed in other interstate compact arrangements to which the federal government is a party.

The voting power of each member could be determined by the percentage of inmates in the total population committed by each jurisdiction. Alternately, it could vary with the amount of resources each member jurisdiction devoted to the joint venture. An equitable arrangement would need to be negotiated in the early planning stages.

A danger in this type of interactive joint venture is that policy and operational control may not be sufficiently differentiated. The committee or board must restrict itself to broad policy decisions and respect the need of the administering jurisdiction and the facility manager to make operational decisions without interference. While this is true for any organization governed by a policy-making board, it is particularly important in view of the prison organization's reliance on a strong, unitary source of command.

The policy-making board would, in this model, approve appointments of the facility manager from recommendations made by the operating jurisdiction. Appointments below that level would be the responsibility of the facility manager. Under the contract model, in contrast, the operating jurisdiction would make these decisions without input from the advisory committee.

The board could contract with a private entity to operate the facility. There might, in fact, be some advantages to having a non-participant in the operational role.

Because of the shared control at the policy-making level, the joint powers model has some advantages for smaller jurisdictions in that it provides some protection from domination by the federal government or by larger states and it creates a mechanism for increased accountability to participating jurisdictions. However, the price paid for shared control is a complex management structure and some diffusion of authority in a policy-making board.

Financing

The policy-making board would be responsible for developing the joint facility's budget, which would be submitted to each participant for funding of that number of beds for which it had contracted. The operating jurisdiction would not be expected to make up for any deficiencies in bed use, since it would have no greater obligations than the other participants.

The issues involved in computing per capita costs would be the same here as in the contract model. These would need to be resolved in early negotiations as well.

Unusual budget expenses such as capital outlay would be dealt with by the board as would other budget decisions. Each member would then be responsible for presenting to his legislature that portion of any new costs for which the jurisdiction is to be billed. The budget submission and

review by each legislature would provide the necessary oversight of the project.

Benefits and Risks

In this model risk is more evenly shared than in the contract model, as the board or commission would have legal responsibility for the joint venture. The entity with which the board contracts for operation of the prison would have limited liability.

As with the other models, the primary incentive to participate is financial. Participants would gain access to increased bed space without undertaking the obligations of an entire institution. This would be particularly attractive in the case of a specialized facility for psychiatric or chronic medical management or for assaultive inmates and high escape risks. For states with small numbers of such inmates a joint venture could offer the only cost-effective option for providing the necessary services or security level.

Compared to some other models, the joint powers model offers greater potential for stability and less likelihood that a legislature would refuse to meet its obligations, since the interstate compact takes precedence over state law and is enforceable in court. While an individual participant could withdraw from the arrangement, this would have to be done in accordance with procedures set forth in the contract, and there probably would be some cost penalties involved. In any case, this would not be an operation subject to annual revisions, as could be the case with the contract model.

THE PUBLIC CORPORATION

This model could be structured in one of two ways: as a federal corporation similar to the Tennessee Valley Authority or Amtrak or as a general public corporation independent of any one jurisdiction. The joint-venture prison, however, would not seem to meet the generally accepted criteria for a federal corporation. Formation of a federal corporation is normally indicated only when a program:

- is predominantly of a business nature;
- is revenue-producing and potentially self-sustaining;

- involves a large number of business-type transactions with the private sector;
- requires greater flexibility than the customary type of appropriation budget ordinarily permits.

Not only does the joint-venture prison not meet these criteria, but there do not appear to be any distinct advantages to using a federal corporation, which is essentially a federal agency with considerable administrative and fiscal flexibility. A general public corporation in which the federal government participates equally with one or more states would seem the preferable arrangement.

The general public corporation would be created not only by an act of Congress, but by identical state legislation as well. Its employees would report to the corporation, not to any of the participating jurisdictions. Each jurisdiction would name its representatives on the board of directors and contribute its portion to the joint-venture budget.

Organization and Management

In this model control of the project is placed with the corporate board of directors. This does not mean that the public corporation is outside the control of the governments that create it. A public corporation derives its capital from public funds or publicly guaranteed loans and it is run by government-appointed managers; it is, therefore, a part of the apparatus of government and ultimately subject to political control.[2]

The public corporation, however, is more independent from political controls than an agency, department, or regulatory commission. It has administrative autonomy from the executive branch of government. It need not adhere to the usual civil service requirements, it can sue and be sued, and it is free from departmental restrictions on the awarding of contracts or purchase of goods and services.[3] It also can enter into contracts and acquire property in its own name, and is exempted from most of the regulatory and prohibitory statutes applicable to the expenditure of public funds.

The state and federal enabling legislation would form the basic charter of the corporation, which would be created for the sole purpose of building and operating a prison or prisons to house federal and state inmates. Each jurisdiction would commit itself to maintaining an agreed-upon num-

ber of inmates to the venture, and this would be formalized in a long-term contract with the corporation.

The corporate charter would define the functions and limitations of the corporation and its board. Although appointed by the participating jurisdictions, the board members would assume responsibility and liability as individuals rather than as representatives of their jurisdictions.

Accountability would be achieved not only through the budget process, but by the contractual right and obligation of each committing jurisdiction to inspect the facility on a regular basis and review the treatment of its inmates. Findings from these inspections would be reported back to correctional agencies and legislative bodies, and violation of the terms of the contract would be grounds for withdrawing from the agreement.

As with the compact model, there would need to be clear distinctions between the role of the board and that of the chief administrative officer of the facility, although this generally is less of a problem with corporate boards of directors. Also, the president and governors would be likely to appoint to the board the heads of their correctional agencies, and such managers would tend to respect the role of the prison administrator.

The corporation would have the option of creating its own personnel structure and hiring its own staff, but it could choose instead to contract with the Bureau of Prisons, the corrections department of the state in which the facility is located, or even with a private firm. A contractual arrangement would seem more advantageous than creation of an independent staff, and the resources and experience of the Bureau of Prisons would make it a likely candidate. The Bureau of Prisons, of course, would have to consider whether the corporate structure would create insurmountable problems for its own operations, and the needs of each participant would have to be met through contract negotiations.

Withdrawal from the corporation would be possible only through action by the legislature and with whatever penalties and in whatever time period are specified in the enabling legislation.

Financing

Theoretically, the corporation could float a bond issue to construct the facility, but in view of its lack of assets or history this is not likely to be feasible. It would be

more reasonable to take over a vacant facility and remodel it for use as a prison. Funds for this purpose could be advanced by the participating jurisdictions.

The method of initial funding would determine whether the corporation's charges for housing inmates would include capitalization costs or not. As with the other models, it is likely that the corporation would require each participating correctional agency to contract for a specific number of beds, depending upon its anticipated use of the facility.

A public corporation usually is given the power to "determine the character of and the necessity for its expenditures, and the manner in which they shall be incurred, allowed, and paid." A corporation is thus exempted from most of the prohibitions applicable to the expenditure of public funds.

The accounting systems of government corporations normally follow private commercial practice and are designed to reflect all costs properly attributable to the operation, including interest on the government's investment, depreciation, and the costs of services furnished by other government agencies. A corporation also is responsible for developing its own accounting system and keeping accounts up to date. Its affairs are audited in accordance with principles and procedures applicable to commercial corporate transactions.

The corporation also seeks legislative approval of its budget program as a whole, unlike government agencies, which must request specific appropriations. Unlike the government agency also, the corporation may carry over unobligated funds from one fiscal year to another.

Benefits and Risks

In this model the majority of risk is transferred from the participating jurisdictions to the corporate board of directors and the corporation. The financial risks of each government would be limited to funding of the number of beds for which it had contracted. Legal risks involved in the operation also would fall primarily to the corporation. Offsetting the limited risks to participating governments would be the lack of direct control.

Financial incentives are present also in this model, as participants would gain access to additional bed space without major capital investment. This is, however, the most complex of the four models, and it would undoubtedly take

longer to implement. The need to convince several legislatures of the feasibility of forming a public corporation to operate a regional prison might make this model unworkable in most jurisdictions.

The public corporation does offer a unique means of financing public improvements in states with constitutional debt limitations. The revenue bond, which is the major means of financing non-federal public corporations, has circumvented these limitations since their interest and principal are paid solely from the earnings of the operations they fund. Revenue bonds do not require a pledge of the credit of the state and are not regarded as general state obligations.

The public corporation also has proved an effective mechanism for handling interstate and inter-community problems. An example of this is the Southern Regional Educational Conference, established by a compact among the governors of 13 southern states. The agreement provides that different schools will specialize in different fields and accept students from anywhere in the region. The Conference enables the states to determine which schools will offer what programs and to save money by avoiding duplication of effort.

While the federal government has restricted its government corporations to income-producing enterprises, the states have used the corporate model to form interstate compacts and to relieve the financial burden of large construction projects. This type of arrangement has been successful in building schools, hospitals, roads, bridges, office buildings, and other public facilities. It remains to be seen whether or not it will be applied to the construction and operation of prisons.

THE MODELS: A RECAP

Four models, representing points on a continuum of interaction and control, are presented here: the special-purpose contract facility; joint siting; the joint powers or compact model; and the public corporation. Any number of other options could be developed, combining various aspects of those described.

The four models suggest the range in shared management encompassed by the joint-venture concept. The contract facility would require little more cooperation than exists today under the Interstate Corrections Compact. Even if an

advisory board is used, the extent of joint management is limited as the board's input is not binding on the jurisdiction operating the facility.

The joint siting model would involve somewhat more joint planning and cooperation, but even here the range of possibilities is broad. Two jurisdictions could share basic services without cooperating extensively in other areas, or they might decide to work closely together in almost all aspects of facility planning, construction, and operation. Although cooperation implies more complex management structures, cost savings could be substantial where more functions and services are shared.

The joint powers model is an elaboration or extension of the simple contract model, the major difference being that the advisory board here becomes a policy-making committee. Because of this mechanism for shared management, the joint powers model represents the full expression of the concept of joint prison administration.

The public corporation would seem to be the least likely model to be implemented, at least until there has been more experience with less interactive forms of joint management. This model envisions an independent entity chartered as a government corporation formed for a well-defined public purpose. While it does not seem appropriate to create a federal corporation to run joint-venture prisons, the general public corporation has been used successfully for interstate and inter-community projects. It may prove to be an effective mechanism for constructing and operating joint-venture correctional facilities.

NOTES TO CHAPTER 4

1. Martin J. Bohn, Jr., "Inmate Classification and the Reduction of Institution Violence," Corrections Today, July/Aug. 1980, pp. 48-49, 54-55.

2. A. H. Hanson, Public Enterprise and Economic Development, London: Routledge, Kegan Paul, 1959.

3. George A. Steiner, Government's Role in Economic Life, New York: McGraw-Hill, 1953.

5. GUIDELINES FOR IMPLEMENTATION

What, then, is the future of interjurisdictional cooperation in the management of federal and state prisoners? Will corrections directors, legislators, budget officers, and other decision-makers turn to cooperative models as a feasible solution to prison problems? It depends. For the complexities of establishing a joint venture even to seem worth investigating, there are several conditions that must be met:

- There must be a serious problem in the prison system that is perceived as lending itself to a cooperative solution. Obviously, this perception must be present in both federal and state jurisdictions. It helps if both jurisdictions' motives are convergent rather than parallel (that is, the desired results are the same, not simply compatible), since operational issues are then more likely to be satisfactorily resolved.

- There must be a political climate friendly to joint ventures, or at least open to considering the possibility. Perceptions of the problem as amenable to cooperative solutions will depend in part on such a climate. A history of joint ventures in other areas may help. Special interest groups --prisoners' rights groups, civil liberties organizations, unions, business interests-- also will need to be supportive or at least not actively opposed.

- Policy-makers must be aware of the existence and nature of joint-venture options. They must have access to information on the types of cooperation open to them, their costs and benefits, and the time-frames within which each can be expected to begin producing results.

- Perceptions of risk --political, economic, and correctional-- must be acceptable to all parties. This will vary with the particular option being considered, but no alternative is likely to get far if one or more jurisdictions perceives its risk as substantially increased by cooperation with others.

- The timing must be right. This does not mean that no negative factors will exist, since initiatives of this kind will always have barriers to overcome. But some events or circumstances will guarantee failure, and the astute planner of joint ventures will know when it is time to act and when it is best to postpone action.

- There must be strong and continuous leadership from some pivotal point in the system, preferably involving the corrections director. This is probably the most important element, since committed leadership from a well-placed individual or group can do much to create the other requirements listed here. A strong leader, for example, can influence the perception of the problem and the political climate, develop and distribute information on options, seek alternatives that minimize risk, and gauge when the timing is right.

  The length of time required to implement joint-venture prisons, and the often high turnover of corrections directors and other officials, means that some formal mechanism for continuity may be required.

PROBLEMS AMENABLE TO JOINT ACTION

Certainly there are problems in state and federal prison systems that are widely shared and potentially responsive to joint solutions. Most corrections departments are struggling with prison overcrowding. This may be a transient problem, and thus probably should not be the sole reason for establishing a joint-venture prison. But overcrowding can be eased if the states and the federal government work together to optimize use of existing and planned prison bed space.

Many corrections departments also have difficulty dealing with emotionally disturbed and mentally ill inmates. Especially in smaller jurisdictions, the number of such inmates may not warrant the construction of a specialized facility, and a joint-venture or regional psychiatric institution could make quality programming for these inmates feasible. In some states, it should be noted, the corrections department has great difficulty transferring inmates to psychiatric facilities outside the department or outside the jurisdiction. Statutory changes probably will be necessary if these agencies are to participate in a joint-venture facility for psychiatric inmates.

Protective custody is another widely shared problem that is amenable to joint solutions. Many states do not handle enough protective custody cases to justify establishing a separate institution, but court-imposed requirements for out-of-cell programming are making this population even more difficult to manage safely in the general population. Removal of vulnerable inmates to a shared or regional protective custody facility could greatly simplify their management while taking some pressure off other institutions.

Assaultive or disruptive inmates and high escape risks are other categories that could be handled in a joint-venture prison. The staff time, managerial attention, and security measures required by these inmates generally are far out of proportion to their numbers, and their removal to a regional or shared high-security facility could make the sending institutions safer and less difficult to manage.

Joint ventures also could be useful in dealing with the problem of inmate idleness. Shared minimum-security facilities might be located in areas where low-risk inmates could perform conservation, maintenance, reclamation, and fire-fighting jobs on public lands. A joint-venture industrial prison could serve as a test of the economics and general practicality of a well-designed and efficiently operated prison industries program. Through the joint-venture process also, women inmates from two or more jurisdictions could be housed in a shared facility serving either the general female inmate population or women prisoners needing vocational training or education.

Minimizing and sharing risk, complying with or avoiding court orders, and displacing or absorbing the criticisms of pressure groups are other potential benefits of a joint-venture project. A joint-venture prison would not be immune to adverse attention, but its shared operation, semi-autonomous leadership, and often remote location could make it easier to handle the pressures often placed upon prison management. The joint venture also typically includes a system of review and a quality-control component that should help to maintain high levels of service and may forestall court intervention. And by pooling resources participants in a joint venture can reduce individual risk and blunt the reaction to any program failures.

Finally, it is difficult to imagine a joint venture in which a participating jurisdiction would not gain as well as

contribute. The exchange of knowledge, sharing of resources, and cooperative working relationships involved in joint projects certainly could enhance communication and coordination among different levels of correctional practice within a region or nationwide.

OVERCOMING BOTTLENECKS

The states and the federal government apparently are experiencing common problems that could be resolved through joint action of some kind. Yet cooperative solutions are surprisingly rare, considering the logic behind them. The lack of cooperation among corrections systems has been likened to a double-ended funnel with a bottleneck separating the problems they share from the solutions possible through a joint-venture project.[1] Implementation thus becomes a matter of overcoming bottlenecks and opening up the system to the possibilities for change.

Overcoming bottlenecks will require the conviction and support of a strong corrections director. The governor, key legislators, and financial and legal officials also will need to be drawn into the process early, even before another state or the federal government is approached. It must be determined that the general political philosophy of the state government is at least not opposed to working with other jurisdictions.

States contemplating joint ventures must be willing to invest time and money in planning and implementation. Some of these projects take a long time to become operational, and though they may eventually produce cost savings, they may absorb a sizeable sum before this point is reached. As demonstrated in private industry joint ventures, the initial negotiations and feasibility studies involve a considerable investment of staff time and money --an investment that may or may not in more prison bed space. A willingness to negotiate on this premise is an important element in overcoming the bottleneck phenomenon.

It is generally helpful if a jurisdiction has a history of innovative problem-solving and some experience with joint ventures in other areas. Mutual aid pacts with county corrections agencies or compact agreements with other states provide a useful background for exploring the possibility of a joint-venture prison. Satisfactory prior experience with other states under the Interstate Corrections Compact could, as a natural progression, evolve into a more extensive joint-venture project.

Starting small and moving gradually toward more ambitious projects is a good approach for jurisdictions that have little experience in working together. One state, for example, might begin accepting another state's psychiatric cases, while placing with that state some portion of its own protective custody population. These arrangements require much less of a commitment and are more easily reversed than construction of a jointly operated prison, and they allow both sides an opportunity to experiment with the concept in its less complex forms.

Two jurisdictions considering a joint venture may be hoping to solve the same problem, but the end results they seek may differ. Bottlenecks are more likely to be overcome if both are seeking the same outcome. For example, where a state and the federal government are considering a joint venture to handle protective custody cases, they will encounter fewer problems if their objectives for these inmates are identical. If one party sees the shared facility as a permanent placement while the other expects to use it to prepare inmates for return to a general population, the two agencies will have less reason to cooperate and may experience more operational problems.

Legislation is a common barrier to cooperative ventures in corrections. If two jurisdictions, for example, hope to establish a joint-venture industrial prison, it may be necessary to change both federal and state laws that now restrict the sale of prison-made goods. State or federal laws requiring cash payments for out-of-state inmate transfers may have to be altered if some jurisdictions are to make any more than minimal use of existing or new interstate compacts. And states in which cumbersome procedures virtually prohibit transfers of psychiatric cases will need to revise or pass new laws if they are to participate in a regional psychiatric/medical facility. Some new legislation will be required to allow certain jurisdictions to participate in joint ventures at all.

And finally, in addition to these more general barriers or bottlenecks to overcome, there will be problems specific to almost any joint venture that will need to worked out. One of the most important of these involves the specification of a contract or agreement that will share responsibility and resources without sacrificing the administrative control each party to the venture believes is necessary to meet its own obligations. Although existing contracts and the experience of other jurisdictions will be helpful in this regard, no generally applicable contract or contract provisions can be set forth. Specific problems must be

worked out in the early planning stages and in formal negotiations between the parties involved.

BASIC STEPS IN IMPLEMENTING JOINT VENTURES

A review of feasibility studies and of existing interjurisdictional projects points up some basic steps in implementing joint ventures. Some of these should occur before seeking official approval even to explore the possibilities for joint action. It must be determined, for example, that legislative and executive attitudes support the idea of cooperative ventures before planning proceeds too far and extensive developmental work has been completed. On the other hand, a detailed system for identifying inmates to be housed in a regional facility is less critical in the initial pre-approval phase. There is little point in investing time and money in a uniform classification system until the project is found to be politically feasible.

Pre-Approval Planning

Basic steps in the pre-approval planning stage include an assessment of support for and opposition to the idea of interjurisdictional approaches; a clear definition of the problem, the inmate groups that may be involved, and the mission and goals of the project; a preliminary estimate of costs and cost savings; and a general plan for managing the joint venture.

These early tasks will be further developed in the formal planning stage. At this point the initiators of the project need have only a preliminary plan that is specific enough to generate interest and gauge the general feasibility of the joint-venture project. Internal support for the idea must be obtained, at least from the corrections director, the governor, and key legislators and finance officers, before any overtures are made to officials in other jurisdictions. The idea may be quickly repudiated if important decision-makers hear about it first from outsiders.

Preliminary assessment of the feasibility of the concept should answer the following questions: What is the general legislative climate internally and in relationship to the governor's office? Will key political figures be supportive, neutral, or opposed? How cooperative are current relationships among the states expected to participate and between these states and the federal government? What is the attitude of the corrections department? Unions and employee associations? Departments of finance and

others with influence on budget approval? The attorney-general's office? Professional groups? Interest groups such as taxpayers' associations, civil liberties and prisoners' rights groups, ethnic and religious organizations?

What will be the overall mission of the shared facility? Who will be housed there? And how will the rest of the corrections system benefit?

What new legislation or changes in regulations or policies will be needed to allow the proposed project to succeed?

When informal approval of the idea has been obtained and the federal government and/or another state can be approached with the plan, it will be time to proceed further in outlining the proposed project. In early informal negotiations the preliminary management plan will be developed. Who will operate the institution? How will other participants' needs for control be met? Preliminary cost studies also should be undertaken and a formula agreed upon for sharing costs. Sources of possible direct or indirect subsidies may be identified. Fiscal incentives and risks should be specified. A joint venture is unlikely to proceed beyond this stage if the costs and risks of a shared operation are significantly greater than independent action by any one party.

Formal Planning and Implementation

The steps in formal planning and implementation will include development of the detailed management model, including the decision-making and accountability mechanisms that will be required for ongoing operation of the project. These will reflect the power balance worked out in preliminary planning stages. These mechanisms should be sufficiently flexible to permit adaptation to changing circumstances, and a process should be provided for appealing any decisions made.

An objective classification system to be used by all participating jurisdictions should be developed or adopted at this stage. The point-based classification systems of the federal Bureau of Prisons, the National Institute of Corrections, California, and some other states might be adapted for this purpose. A uniform system will need to be used by participating jurisdictions to avoid the dumping of unsuitable inmates into the regional facility.

Standards for adult detention facilities must be incorporated into the implementation plan to the extent possible. There are standards for every architectural and operational aspect of a correctional facility, and no new institution today is constructed without reference to them.[2] Standards for psychiatric/medical facilities are particularly stringent, and adherence is costly.

Formal planning and implementation will involve many different individuals and groups, and the process increases in complexity with the number of jurisdictions involved. Federal, state, and local officials, politicians, representatives of regulatory bodies and experts on law, policy, architecture, and correctional standards are some of the many people who will need to be brought into the formal planning process. The Texarkana project (two states, two counties, and two cities) required contacts with the following individuals and organizations, as reflected in the steps taken over a three-year planning period:[3]

- Statements of interest elicited from judges and police agencies.
- Bi-City Council receives bi-state facility suggestion.
- Preliminary construction estimates obtained.
- Bi-State Criminal Justice Planning Council meets to discuss the idea; local officials attend.
- Delegation of Texarkana officials meet with Senator John McClelland.
- Delegation of local Arkansas and Texas officials meet in Washington, D.C., with the four senators representing the states.
- Meeting with Arkansas Crime Commission and Law Enforcement Assistance Administration.
- Property value estimates received.
- Architect's analysis of cost of one joint facility compared to building two separate jails.
- Arkansas Criminal Facilities Detention Board estimates costs of repairing the two Arkansas jails.
- Review of project by National Clearinghouse for

Criminal Justice Planning and Architecture is requested.

- Funding applications sent to LEAA.
- Local officials send letters of support to U.S. senators and representatives.
- Frequent progress reports to the senators of both states.
- Legal opinions approving the bi-state concept received from the two states' attorneys-general.
- Information on compacts received from the National Center for State Courts.
- Letters of support (27) sent to LEAA.
- City attorney and attorney-general confer on statutes needed for joint facility.
- Architectural firm employed.
- Texas and Arkansas attorneys-general work with Council of State Governments to draft legislation needed to make the bi-state project work.
- U.S. Department of Commerce notified of project approval.
- Economic Development Administration advised of land acquisition procedures.
- Arkansas Historical Preservation Program reviews project favorably.
- Environmental impact assessment.
- National Clearinghouse completes jail survey.
- Continued interaction between various federal and state agencies.
- Further contacts regarding legal issues is required.
- Numerous interactions with officials, agencies, and architects regarding jail standards and facility design.

- Agreements regarding what functions and officials would be housed in the new facility.

- Frequent letters of appreciation and progress reports sent to decision-makers.

As a result of careful planning, the cities of Texarkana, Texas and Arkansas, have a large, well-designed facility that will operate as a concurrently administered bi-state facility upon its completion in 1984.

SOME THOUGHTS ON INITIATING CHANGE

In the public or the private sector, program development or institutional change typically involves two fundamentally different activities: (1)creation of the most rational plan the best minds can produce; and (2)its modification to meet what the budget will absorb, what leadership perceives to be public opinion or understanding, and what the existing bureaucracy can produce within a two- to four-year administrative cycle.[4]

These two different functions or activities, design and advocacy, are essential to any effort to develop regional or shared correctional facilities. The functions are conceptually distinct and involve different skills and tasks, but they should be part of a coherent plan, and thus must be performed or coordinated by the same group. This group, which should understand both the design and the advocacy process, may be an informal collection of people representing different interests but working toward the same goal. They will provide both initiating and continuing leadership for the project.

A written program design, outlining broad concepts but flexible enough for detail to be added in the process, should be drafted early. A written advocacy prospectus should indicate those people to be involved in decisions or actions, schedules of steps to be taken, organizational arrangements, and other factors to be utilized. Both of these preliminary documents may be no more than informal memos around which the group develops a consensus. They will certainly be affected by continuing interaction and further written material.

There also must be a continuing process that mobilizes ideas contributed by the group, develops relationships among those people who are able to play an advocacy role, provides for review and reinterpretation to aid communication among

potentially supportive groups, and is capable of exploiting "moments of opportunity" to further the plan. In this process, leadership must reach out to involve both idea or design people and active or advocacy people and to help them communicate with each other.

It must be anticipated that membership in the sponsoring group will change; new people will emerge as major actors, and others will fade away. Leadership should actively seek out potential members, rather than simply reacting to those who come forward of their own accord. Most people will function best in design or advocacy, but some will provide important cross-references. A person of established creative ability, for example, may move to a position on a governor's committee from which he can influence action.

The process of "getting on the agenda" may involve stimulation of research proposals on the topic, presentation of the idea at meetings of professional organizations, providing an interested public official or politician with a well-researched paper to use as a basis for a speech, or offering technical support to a state official testifying before a Congressional committee. Such efforts obviously require selectivity and sensitivity to the issues, the situation, and people involved. The goal is to develop a sound design and action plan, and then to use it --through various intermediaries and with successive redrafts-- to equip a principal advocate, such as the governor, in an action forum, such as a legislative hearing. The proposal thus works its way up through a network of supporters as it is tested throughout the system for feasibility and acceptability. This takes time, but not a herculean effort; what is required is the continuing concern of a small sponsor group, whose members can pick up the the thread and detour or restart in case of a breakdown.[5]

PROGRAM COMPONENTS TO ENHANCE ACCEPTANCE

Beyond the continuing effort to refine useful ideas and to locate key actors who can serve as or produce major advocates, there are certain aspects of the program design itself that can aid its own implementation.[6]

- Integration into existing system. As a rule, the more that a new proposal can be posed as an add-on element, rather than a complete overhaul of existing arrangements, the more likely it is to be seen as feasible. This is especially true of proposed in-

stitutional change, new organizational units, changed lines of authority, or procedures typically involved in a multi-jurisdiction or multi-agency program.

When proposing a new facility, then, advantage is gained if the proposed plan will improve services already strained by system demands or add to existing facilities to sustain the larger system. The tendency to fall back to a proposal for a discrete facility, with shared cost and use but totally separate administration, is understandable, but may reduce chances for acceptance without enhancing program quality.

- A broader policy context. It is likely that the need for a new facility, which is expressed in a proposal for a joint venture, is part of a larger need for change in organization or policy, and that this larger need is already widely recognized or requires only articulation to bring it to public awareness. The proposed facility will have a better chance for acceptance if it can be placed within this larger context --if it is seen as a part of an overall plan.

  Even if the new facility is pursued as a discrete project, acceptance of the proposal and its operational design may be improved by fitting it within a broader policy context. This, of course, calls for more strategic planning, higher levels of leadership, and probably more complex change and interaction.

- Continuing flexibility and credible judgment. There must be an openness to continuing adjustment of the plan and a credible process for refining it. Transition periods must be scheduled, not only to build an initial readiness for change, but to allow time for adjustments while implementation is underway. Transition periods allow for orientation and training, for further study, and for pilot testing of components of the plan. The entire process should be overseen by a credible governing unit, with clear but flexible responsibilities for guiding the multi-jurisdictional undertaking.

- Taking advantage of current trends. The pace and nature of political, social, and economic change in the 1980s may actually favor the implementation of

proposals as non-traditional as joint-venture prisons. Through the media we see daily evidence that basic shifts are occurring both in this country and internationally. There is growing acceptance of institutional change, from the Reagan administration's New Federalism to cooperative ventures between foreign and American car manufacturers. There is some nostalgia for the parochial approaches of decades past, but also a willingness to look at proposals that offer entirely new ways of doing things.

Innovation is easier when public interest in the issue area is high and finding workable solutions is a priority of government. Correctly or not, there is now some public interest in the construction of prisons as well as in conserving scarce tax dollars. Judicial interest in conditions of confinement also is high, and governments are under pressure to upgrade facilities and programs, generally under conditions of tight money and little time.

These trends set the stage for the design of new alternatives involving other jurisdictions with similar problems. If successful, these new projects themselves may begin a trend, one that will make it easier for future joint ventures to gain acceptance.

IMPLEMENTATION: A RECAP

Because of the vast differences among the states in their political, economic, and legal situations, no specific advice can be offered for implementation of joint-venture models. General guidelines, however, are appropriate, and some are offered here.

In preliminary planning or exploration of options much effort will be devoted to overcoming a variety of what we have labeled bottlenecks --building support for the concept among political representatives, the executive, interest groups, and the general public, identifying legal barriers to change and making plans to overcome them, shaping the joint-venture proposal to meet well-publicized problems and to fit within a larger policy context.

Once formal planning of the joint venture has been approved, efforts are directed toward defining the management model and specifying mechanisms for insuring accounta-

bility and a mutually acceptable division of responsibility and control. Legal, political, and fiscal problems must be satisfactorily resolved at this time.

Implementing change involves two fundamentally different activities: design and advocacy. These two functions should be carried out by the same sponsoring group, although different members of the group ma erform different tasks. It is the responsibility of leader. p to promote communication between designers and advocates and to guide articulation of the developing plan.

There are aspects of proposal itself that may enhance the likelihood of implementation. A plan is more likely to be implemented if it can be posed as an add-on to the existing system, if it fits within a broader policy context, if there is sufficient built-in flexibility to adapt to changing circumstances, and if it takes advantage of existing political, economic, or correctional trends.

NOTES TO CHAPTER 5

1. Ernest Reimer, "The Bottleneck Phenomenon," paper prepared for this project, 1984.

2. American Correctional Association, Standards for Adult Correctional Institutions (2nd ed.), 1980.

3. Victoria S. Raffaelli, "A Case History of the Texarkana Bi-State Criminal Justice Center, Criminal Justice Institute, March 3, 1980.

4. This section and the one that follows are based on a paper prepared for this project by John Whisman, "Partnership Regionalism, Part II, Application to Program Development in the 1980s," 1984. That paper describes the American experience with Title V regional projects in the 1960s and 1970s and its implications for cooperative ventures today.

5. Ibid.

6. Ibid.

6. CONCLUSIONS AND RECOMMENDATIONS

This project examined the general feasibility of the concept of federal/state cooperation in institutional corrections and explored options for building and operating joint-venture prisons. None of the options considered allow for joint management at the level of daily facility operations; they envision joint planning, funding, and broad policy-making, but facility management remains, as it must, under a single, unified command.

From our investigations we conclude that the concept of the joint-venture prison is certainly feasible, and that there are strong precedents for joint action in other areas and among other levels of government. We believe that federal/state cooperation in institutional corrections is a workable idea politically, administratively, and economically:

- Politically. State corrections directors and the federal Bureau of Prisons have expressed interest in the concent. The most likely areas for joint action include medical/psychiatric facilities for men and women, high-security facilities for assaultive male inmates and high escape risks, and protective custody facilities for men. Given the Bureau's reluctance to be the initiating party in joint ventures with the states, interested states would have to take the lead and work through their state and national legislators to achieve the necessary consensus.

- Administratively. The models described in Chapter 4 offer a variety of administrative and legal structures for creating and operating a joint venture. Combinations and variations of these models are also possible, and there is ample opportunity for tailoring the plan to specific jurisdictions. Previous experience with intergovernmental cooperation within and outside corrections will be helpful in designing appropriate administrative structures. The Interstate Corrections Compact provides an existing framework within which one or more models could be implemented.

- Economically. There are significant potential savings to be achieved through the pooling of resources, and economies of scale are possible through the aggregation of more than one unit on the same site. Joint siting with shared central services, for example, could produce savings of 10 percent in construction costs and a reduction in operating costs of half a million dollars per position saved over the life of the institution. While the major economies derive from the planning and construction of new institutions, even the conversion of existing facilities would at least offer no disincentives in terms of cost.

In addition to the economic benefits, which could be substantial, federal/state cooperation in institutional corrections could promote the development and assessment of innovative approaches in the management of special needs inmates, resulting in new knowledge that should further correctional science throughout the United States. Moving troublesome and difficult-to-manage inmates out into specialized institutions also should make the sending institutions easier, safer, and less costly to run. Increased cooperation and joint planning among the states and between the states and the federal government should promote more effective and efficient use of the nation's penal resources.

There are potential roles for the private sector in financing, constructing, and/or operating prisons or portions of a joint project. Private participation could be an element under any of the models described. Involving another party would complicate the negotiations and subsequent operations somewhat, but recent developments in public-private hospital management demonstrate that such multi-dimensional arrangements are workable.

The next step is to present the idea of federal/state joint ventures for public debate. If cooperation in institutional corrections is not to remain an interesting but purely theoretical concept, the idea must receive wide dissemination and ultimately commitment from key people in the political arena. A general study of this kind cannot establish the feasibility of regional facilities for any specific state or region. It can only serve as a basis for discussion and a guide for those who would take the idea further in their own jurisdictions.

RECOMMENDATIONS

1. Joint ventures should be routinely considered in any planning for prison construction or modification of existing arrangements.
The possibilities for joint action should be considered by any jurisdiction planning to expand its prison capacity or to alter existing arrangements for handling certain categories of inmates. This is especially important for states in regions where the federal Bureau of Prisons is already looking for prison sites, including the southeast, the northeast, and the Baltimore/Washington, D.C., area. Multi-state projects, whether or not the federal government is involved, also should be considered, especially in those areas identified by this study as experiencing common problems.

2. States should explore regional solutions.

While this project was focused on the federal/state joint venture, its findings imply the general feasibility of multi-state projects without federal government involvement. Because of its greater resources and acknowledged leadership in the field, there are advantages to participation by the Bureau of Prisons. But in situations where common state interests can be identified, there are sufficient potential advantages for state correctional planners to consider the possibility of regional solutions.

3. The Interstate Corrections Compact should receive wider use.

The Interstate Corrections Compact is a powerful vehicle for expanding interstate cooperation in prison management. To date, however, this vehicle has been underused. To enhance the utility of the compact, the following recommendations for change should be considered:

- Establish a national compact clearinghouse or coordinator's office;
- Establish a national advisory committee or council representing participating jurisdictions;
- Establish a coordinated transportation system, perhaps in conjunction with the Bureau of Prisons and/or the U.S. Marshal's Office;

- Allow prisoner exchanges, rather than requiring cash payments, among the states and between the states and the federal system;

- Circulate current information, perhaps through a clearinghouse, about the compact and the needs and abilities of participating jurisdictions to transfer and receive inmates.

4. Disseminate information on joint-venture options and generate public debate.

The purpose of this report is to raise the issue of federal/state cooperation in institutional corrections and to encourage discussion of the concept's feasibility. To achieve this goal, the report and its findings should be widely disseminated. To begin this process, copies of the executive summary have been sent to the governor, the corrections director, and the judiciary committees of both branches of the legislature in each state.

We recommend that the U.S. Department of Justice make available copies of the full report or the executive summary to congressmen and others who express an interest in the problems of state corrections. In addition, the Department should consider providing limited funding to permit presentations to organizations with an interest in this area. The following groups should receive copies of the report, as well as presentations of the findings:

- the National Governors' Association and its regional conferences;

- the National Conference of State Legislators and its regional conferences;

- the National Council of State Governments;

- the National Association of Attorneys General;

- the National Association of State Budget Officers;

- the Association of State Correctional Administrators,

- the National Institute of Corrections and its regional conferences;

- the American Correctional Association;

- criminal justice graduate schools.

Copies of the report could also be sent to all state planning agencies, the major correctional architectural firms, all state architects, and all state legislative research/planning offices.

The American Correctional Association could be encouraged to include the topic of joint-venture prisons as one of the panel discussions at its annual meeting, and the National Institute of Corrections could support one or more regional conferences on this issue, involving legislators, attorneys general, and corrections directors from various jurisdictions.

This modest effort would at least inject this promising idea into the thinking of those who are most concerned with the need for prison beds at state and national levels. Future implementation of the concept then would depend upon its perceived value to these decision-makers in relation to other alternatives.

APPENDICES

BIBLIOGRAPHY

Alliance of Canadian Prison Aftercare Societies. "CSC Funding of VO's: A Report to the Commissioner of Corrections." Ottawa, March 31, 1983.

American Bar Association, Commission on Correctional Facilities and Services, and the Council of State Governments. Compendium of Model Correctional Legislation and Standards. 2nd ed., American Bar Association, 1972.

American Correctional Association. Design Guide: Secure Adult Correctional Facilities. Rockville, MD, 1983.

American Correctional Association. Standards for Adult Community Residential Services. Prepared in cooperation with the Commission on Accreditation for Corrections for the Law Enforcement Assistance Administration. 2nd ed., Rockville, MD, August 1980.

American Correctional Association. Standards for Adult Correctional Institutions. Prepared in cooperation with the Commission on Accreditation for Corrections for the Law Enforcement Assistance Administration. 2nd ed., Rockville, MD, August 1980.

"An Act to Grant the consent of the Congress to the Tahoe Regional Planning Compact and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created." Public Law 96-551-December 19, 1980.

Anthony, Robert N. and Regina E. Herzlinger. Management Control in Nonprofit Organizations. Illinois: Richard D. Irwin, Inc, 1980.

Arkansas, 72nd General Assembly. "A Bill for an Act to be Entitled A Compact Between the States or Arkansas and Texas." House Bill 243, Regular Session, 1979.

Arkansas, 73rd General Assembly. "A Bill for An Act to Provide for the Establishment of a Criminal Justice Center to be Located on the Arkansas State Line; to Provide for Financing, Center Management, Applicable Provisions of Law, Arrest, Extradition, and Service or Process at the Center; and for other Purposes." Regular Session, 1981.

Arkansas Department of Corrections. "Arkansas Plan for Local and State Corrections: Phase I Report." Little Rock, Arkansas, n.d.

Arkansas and County of Miller. "Lease Agreement By and Between the City of Texarkana, Arkansas and the Arkansas Department of Correction Jail Facility for Work Release/Restitution Space to

be Located in the Bi-State Criminal Justice Center." September 9, 1983.

Arrowhead Regional Corrections Board. Arrowhead Regional Corrections Plan: 1983. MN: Saginaw.

"Article 3: Uniform Act for Out-of-State Parolee Supervision." In Deering's California Penal Code. San Francisco, CA: Bancroft-Whitney Co., 1981, pp.642-643.

Bi-State Criminal Justice Center. "Agreement between the City of Texarkana, Miller County, Arkansas; The City of Texarkana, Bowie County, Texas; Miller County, Arkansas; Bowie County, Texas; the Sheriff of Bowie County, Texas; and the Sheriff of Miller County, Arkansas."

Board of Supervisors of Essex County, Virginia; Board of Supervisors of King and Queen County, Virginia; Board of Supervisors of King William County, Virginia; Board of Supervisors of Mathews County, Virginia; and Board of Supervisors of Middlesex County, Virginia. "Agreement to Operate and Maintain Regional Jail Known as the Regional Security Center at Saluda." November 1, 1975.

Bonneville Power Administration, U.S. Department of Energy. "Pacific Northwest Electric Planning and Conservation Act with Index." n.d.

Braswell, Raymond E. "Texarkana Bi-State Criminal Justice Facility." 1979.

Brumer, Leah. Preliminary Report to the Western Governors' Conference-The Stresses on State Correctional Systems: Major Issues and Potential Policy Directions. 1981 Annual Meeting at Teton Village, Wyoming, September 10, 1981. Lexington, Kentucky: The Council of State Governments.

California. "Article 4: Interstate Corrections Compact." Deerings Penal Code, p. 643-645.

California Department of Corrections. "Administrative Manual: Chapter 4300, Conservation Camps." Sacramento, CA, 12/23/81.

California Department of Corrections. "Case Records Manual: Chapter 900, Detainers, Notices and Extraditions." Sacramento, CA, 11/24/80.

California Department of Corrections. "Community Correctional Center Program: Request for Proposal." Sacramento, CA, n.d.

California Employment Development Department, Office of Planning and Policy Development. "Planning Guidebook for Communities Facing a Plant Closure or Mass Layoff." Sacramento, CA, January 1983.

California Health and Welfare Agency. "Memorandum to Program Administrators from the Department of Rehabilitation regarding Cumulative Activity Report for Cooperative Programs: Fiscal Year 1975-1976 (Excluding Alcoholism Program)." September 3, 1976.

Camp, George and Camille. The Corrections Yearbook. South Salem, NY: Criminal Justice Institute, 1983.

Canada, Solicitor General. "CRC Funding Review - 1981."

Carter, Robert M.; Robert Cushman; and Frederick P. Trapp. Program Models: Community Correctional Centers. Washington, D.C.: U.S. Govt. Printing Office, September 1980.

Congressional Budget Office. The Economic and Budget Outlook: An Update. Washington, D.C.: U.S. Government Printing Office, August 1983.

Council of State Governments. Interstate Compacts and Agencies. Lexington, Kentucky, 1983.

Council of State Governments. State Public Authorities 1970. Lexington, Kentucky.

Criminal Justice Impact Committee, Des Moines Junior League, Inc. "Replicating LEAA's First Exemplary Program." Reprinted from the September Edition of Corrections Magazine.

Curran, William J. "Feasibility Study for the Development of New England Regional Programs for the Management and Treatment of Dangerous, Special Offenders." Vol. 2. Boston, MA: Socio-Technical Systems, December 1973.

Dell'Apa, F. and C.D. Weller. "Interstate Approach to Corrections Manpower and Training - A Supplemental Report." Boulder, CO: Western Interstate Commission for Higher Education, 1968.

Dell'Apa, F. and C.D. Weller. "Interstate Approach to Corrections Manpower and Training - A Final Report." Boulder, CO: Western Interstate Commission for Higher Education, 1968.

Desroches, F. "Regional Psychiatric Centres - A Myopic View." Canadian Journal of Criminlogy and Corrections, Vol. 15, No. 2 (April 1973), pp. 200-218.

General Motors Corporation and International Union, United Automobile Aerospace and Agricultural Implement Workers of America, and the State of California. "Memorandum of Understanding." September 24, 1982.

Ginzberg, Eli; Dale L. Hiestand; and Beatric G. Reubens. The Pluralistic Economy. New York, NY: McGraw-Hill Book Company, 1965.

Goldberg, Sidney D. and Harold Seidman. The Government Corporation: Elements of a Model Charter. Chicago, IL: Public Administration Service, 1953.

Goldman, Harvey. "Privatization of Infrastructure." Presentation to the Governor's Infrastructure Review Task Force, Sacramento, CA, December 8, 1983.

Gordon, George J. Public Administration in America. New York: St Martin's Press, 1982.

Guynes, Randall, et al. "The Organization and Management of County Jails." Alexandria, VA: Institute for Economic and Policy Studies, Inc, n.d.

Hanson, A.H. Public Enterprise and Economic Development. London: Routledge and Kegan Paul, Ltd, 1969.

Iowa Bureau of Adult Correction Services. "Multi-State and Federal Facility for Adult Female Offenders - Feasibility Study." St. Paul, Minnesota, 1971.

Iowa Department of Court Services, Fifth Judicial District. "Overview of Des Moines Project." Des Moines, Iowa, March, 1982.

Johnson, Everette A., and Richard L. Johnson. "Hospitals in Transition." Rockville, MD: Aspen Systems Corporation, 1982.

Jones, H.C. Corrections Under the Fiscal Gun: State-Local Partnerhsip Strategies. College Park, MD: American Correctional Association, 1982.

Jungman, M. "Austin (TX): Capital Area Planning Council - Regional Community Corrections Program." Austin, Texas: Capital Area Planning Council, n.d.

Keezer, Dexter Merriam and Stacy May. The Public Control of Business. New York, NY: Arno Press, 1973.

Kirlin, John J. and Anne M. Kirlin. Public Choices-Private Resources: Financial Capital Infrastructure for California's Growth Through Public-Private Bargaining. Sacramento, CA: California Tax Foundation, 1982.

Kirlin, John J. "Federal-State Cooperation in Prisons." Unpublished Paper prepared for the American Justice Institute, 1984.

Koontz, Harold and Richard W. Gable. The Public Control of Economic Enterprise. New York, NY: McGraw Hill Book Company, Inc., 1956.

Massachusetts. "New England Interstate Corrections Compact - Chapter 753, Act of 1962. Approved July 25, 1962."

McDiarmid, John. Government Corporations and Federal Funds. Chicago, IL: The University of Chicago Press, 1938.

Michigan Department of Social Services. "Michigan Regional Juvenile Detention Plan." Lansing, MI, 1979.

Michigan Department of Social Services. "Regional Detention Program Statement on Holdover, Quasi-volunteer Home Detention, Transportation, and Secure Detention Clearinghouse Services." Lansing, Michigan, n.d.

Michigan Department of Social Services, Office of Children and Youth Services. "Third Annual Update to the April 1979 Michigan Regional Juvenile Detention Plan." Lansing, Michigan, December 1982.

Minnesota. "Chapter 401: Community Corrections Act." Statutes. 1973.

Minnesota. "Sec. 641.262 County Jails." Statutes.

Minnesota Department of Corrections. Minnesota Code of Agency Rules. 1977 edition. St. Paul, Minnesota: Office of the State Register, Department of Administration.

Minnesota Department of Corrections. Minnesota Community Corrections Act Evaluation: General Report. St. Paul, Minnesota, January 1981.

Minnesota Department of Corrections. "Minnesota - Comprehensive Plan for Regional Jailing and Juvenile Detention: Final Report, January 1971." St. Paul, Minnesota, 1971.

Musolf, Lloyd D. and Harold Seidman. "The Blurred Boundaries of Public Administration." Public Administration Review 40:2 (March/April 1980), pp. 124-130.

National Association of Criminal Justice Planners. "Conference Proceedings: 1983 Annual Conference, Philadelphia, Pennsylvania - September 19-21, 1983." Washington, D.C., February 1984.

National Parole Board and Correctional Service of Canada. "Community Correctional Centres and Community Residential Centres: A Study of their Comparative Utilization." March 1982.

Nederhoff, Dale A., and Eileen P. Vandcros. "The Increasing Appeal of the Regional Jail: An Iowa Case Study." Corrections Today (April 1984).

Northwest Power Planning Council. "Bylaws of Northwest Power Planning Council." Portland, Oregon, July 22, 1982.

Northwest Power Planning Council. "Northwest Conservation and Electric Power Plan." Vol. 1, 1983.

Oregon Governor's Task Force on Regional Correctional Facilities. "Report to the Governor, June 1980."

Parole and Probation Compact Administrators' Association. "A Survey of the Interstate Movement of Parolees and Probationers - July 1, 1982-July 30, 1983." Huntsville, Texas.

Parole and Probation Compact Administrators' Association. Handbook on the Interstate Compact for the Supervision of Parolees and Probationers. Huntsville, TX: Parole and Probation Compact Administrators' Association and Texas Criminal Justice Center, 1979.

Parole and Probation Compact Administrators' Association. "The Parole and Probation Compact Manual." Huntsville, Texas, 1981.

Pena, Dante R. "Parole and Probation Compact Administrators' Association: A Survey of the Interstate Movement of Parolees and Probationers - July 1, 1981-June 30, 1982." Huntsville, Texas, 1983.

Powitzky, R.J. Programs for the Mentally Ill or Retarded Offender. College Park, MD: American Correctional Association, 1978.

Price, Barbara Raffel, and Charles L. Newman. "Multijurisdictional and State Jails: A Study in Organization and Management." Pennsylvania State University, February 1979.

Public Authorities in the States. A Report to the Governors' Conference. Chicago, IL: The Council of State Governments, 1953.

Raffaelli, Victoria S. "A Case History of the Texarkana Bi-State Criminal Justice Center." Criminal Justice Institute, March 3, 1980.

Regionalism in Corrections: Highlights of a Two-Day Meeting to Consider Building America's First Regional Prison for Disruptive Inmates." Prepared under a grant from the National Institute of Corrections. Washington, D.C., 1979.

Savas. E.S. Privatizing the Public Sector: How to Shrink Government. Chatham, NJ: Chatham House Publishers, Inc., 1982.

Schaffer, J. "Virginia Department of Corrections: Evaluation of the Joint Confinement and Corrections Operations Project Final Report." Richmond, VA, 1978.

Schmidt, Peter; and Ann D. Witte. An Economic Analysis of Crime and Justice: Theory, Methods, and Applications." Academic Press, Inc., 1984.

Shasta County Office of the Sheriff. "Northern California Regional Rehabilitation Center: Crystal Creek." Redding, CA, 1977.

Sheeran, F. Burke. Public Authorities: What are They? An Introduction. Pittsburg, PA: University of Pittsburg Press, 1966.

Siafaca, Eratherini. "Investor-Owned Hospitals and their Role in the Changing U.S. Health Care System." New York, NY: F&S Press, 1981.

Smith, Robert L. "Corrections: An Update of the 1967 Presidential Task Force Report on Corrections." National Institute of Corrections, April 30, 1983.

Sonenblum, Sidney; John J. Kirlin, and John C. Ries. How Cities Provide Services: An Evaluation of Alternative Delivery Structures. Cambridge, MA: Ballinger Publishing Company, 1977.

South Carolina Department of Corrections. "South Carolina Department of Corrections: Master Plan, Implementation Schedule, 1975-1982." Columbia, SC, 1975.

Southern Regional Education Board. "Saving Through Sharing," Regional Spotlight, Vol. ix, No. 4, March 1975.

Stare, Armond H., and Isaac Patino. "Recommendation for Utilization of the Former Idaho State Tuberculosis Hospital as a Long-Term Care Center by the Idaho Department of Corrections." Prepared for Idaho Department of Corrections. Huntsville, Texas: Department of Corrections, December 1983.

Steiner, George A. Government's Role in Economic Life. New York, NY: McGraw Hill Book Company, 1953.

Susquehanna River Basin Commission. "General Policies." PA: Harrisburg, March 1973.

Susquehanna River Basin Commission. Susquehanna River Basin Compact. PA: Harrisburg, May 1982.

Tahoe Regional Planning Agency. "Rules and Regulations of Practice and Procedure." Lake Tahoe, California, August 26, 1982.

Trumbull, William N., and Ann D. Witte. "Determinants of the Costs of Operating Large-Scale Prisons with Implications for the Cost of Correctional Standards." Law and Society Review, Vol. 16, No. 1 (1981-82).

Turkington, Carol. "A Ray of Hope for the Retarded Offender." Monitor. American Psychological Association, March 1984.

U.S. Bureau of Prisons. "Statement of Work: Contract Community Treatment Centers." February 1981." Washington, D.C., March 4, 1981.

U.S. Department of Justice, Bureau of Justice Statistics. "Prisoners at Midyear 1983." Bureau of Justice Statistics Bulletin. Washington, D.C.: Bureau of Justice Statistics (October 1983).

University of Illinois. Guidelines for the Planning and Design of Regional Community Correctional Centers for Adults. Urbana IL: University of Illinois Department of Architecture, 1971.

Vaughan, E. "Four State Feasibility Study of Regional Programs for Special Offenders - Final Report." Southeastern Correctional and Criminological Research Center, n.d.

Virginia Department of Corrections. "Laws of Virginia Relating to Corrections." Reprinted from the Code of Virginia of 1950 and the 1980 Cumulative Supplement. Charlottesville, Virginia: The Michie Company, 1980.

Walsh, Annmarie Hauck. The Public Business: The Politics and Practices of Government Corporations. Cambridge, MA: MIT Press, 1978.

Western Governors' Conference. "Approved Resolutions: 1983 Annual Meeting." Western Governors' Conference (WGC) Kalispell, Montana, June 29, 1983. San Francisco, CA: The Council of State Governments.

"Western Interstate Corrections Compact: Article I - Purpose and Policy." In Deering's California Penal Code. San Francisco, CA: Bancroft-Whitney Co., 1981, p. 647.

Whisman, John D. "Partnership Regionalism - Workable Federalism." Unpublished paper. Sacramento, CA: American Justice Institute, January 15, 1984.

WICHE. "Consideration of Planning for a Regional Center for Veterinary Education (Colorado State University)." Boulder, Colorado, 1975.

WICHE. The Western Regional Education Compact. Boulder, Colorado.

§ 11189. [Adoption and provisions of compact.] The Interstate Corrections Compact as set forth in this section is hereby adopted and entered into with all other jurisdictions joining therein. The provisions of the interstate compact are as follows:

INTERSTATE CORRECTIONS COMPACT

This section may be cited as the Interstate Corrections Compact.

The Interstate Corrections Compact is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:

INTERSTATE CORRECTIONS COMPACT

Article I

Purpose and Policy

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

Article II

Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in (d) above may lawfully be confined.

Article III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or cred-

iting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Article IV

Procedures and Rights

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Article V

Acts Not Reviewable in Receiving State: Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Article VI

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

Article VII

Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

Article VIII

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

Article IX

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Article X

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1976 ch 667 § 2.] *Cal Jur 3d Penal and Correctional Institutions § 50.*

§ 11190. [Enactment into law: Form and contents.] The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this State with any and all other states legally joining therein in a form substantially as follows:

Western Interstate Corrections Compact

Article I

Purpose and Policy

The party states, desiring by common action to improve their institution facilities and provide programs of sufficientiy high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of co-operation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of co-operation for the confinement, treatment and rehabilitation of offenders.

Article II

Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, or, subject to the limitation contained in Article VII, Guam.

(b) "Sending state" means a state party to this compact in which conviction was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(e) "Institution" means any prison, reformatory or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.

Article III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on accounts thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific per centum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiv-

ing state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV

Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V

Acts Not Reviewable in Receiving State; Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII

Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purpose of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the States of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of Congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

ARTICLE VIII

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense,

such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of co-operative institutional arrangements.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1961 ch 1397 § 1.] *Cal Jur 3d Penal and Correctional Institutions § 50.*

§ 11191. [Commitment or transfer of inmate: Prohibition against transfer of inmate sentenced under California law to institution outside state in absence of consent: Revocability of consent.] Any court or other agency or officer of this state having power to commit or transfer an inmate (as defined in Article II(d) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact) to any institution for confinement may commit or transfer such inmate to any institution within or without this state if this state has entered into a contract or contracts for the confinement of inmates in said institution pursuant to Article III of the Interstate Corrections Compact or of the Western Interstate Corrections Compact, but no inmate sentenced under California law may be committed or transferred to an institution outside of this state, unless he has executed a written consent to the transfer. The inmate shall have the right to a private consultation with an attorney of his choice, or with a public defender if the inmate cannot afford counsel, concerning his rights and obligations under this section, and shall be informed of such right prior to executing the written consent. At any time more than five years after the transfer, the inmate shall be entitled to revoke his consent and to transfer to an institution in this state. In such cases, the transfer shall occur within the next 30 days. [1961 ch 1397 § 1; 1976 ch 667 § 3.] *Cal Jur 3d Penal and Correctional Institutions §§ 50, 51.*

§ 11192. [Enforcement of compact.] The courts, departments, agencies, and officers of this State and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission of such reports as are required by the compact. [1961 ch 1397 § 1.]

§ 11193. [Entitlement of inmate sentenced under California law and imprisoned in another state to hearings: Hearings in compliance with compact.] Any inmate sentenced under California law who is imprisoned in another state, pursuant to a compact, shall be entitled to all hearings, within 120 days of the time and under the same standards, which are normally accorded to persons similarly sentenced who are confined in institutions in this state. If the inmate consents in writing, such hearings may be conducted by the corresponding agencies or officials of such other jurisdiction. The Board of Prison Terms or its duly authorized representative is hereby authorized and directed to hold such hearings as may be requested by such other jurisdiction or the inmate pursuant to this section or to Article IV (f) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact. [1961 ch 1397 § 1; 1965 ch 238 § 19; 1976 ch 667 § 4; 1977 ch 165 § 89, effective June 29, 1977, operative July 1, 1977; 1979 ch 255 § 59.]

§ 11194. [Contracts implementing State's participation in compact: Prerequisite approval: Authorized provisions: Determination of suitability of institution and confinement.] The Director of Corrections is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Interstate Corrections Compact and the Western Interstate Corrections Compact

pursuant to Article III thereof. No such contract shall be of any force or effect until approved by the Director of General Services. Such contracts may authorize confinement of inmates in, or transfer of inmates from, only such institutions in this state as are under the jurisdiction of the Department of Corrections, and no such contract may provide for transfer out of this state of any person committed to the custody of the Director of the Youth Authority. No such contract may authorize the confinement of an inmate, who is in the custody of the Director of Corrections, in an institution of a state other than a state that is a party to the Interstate Corrections Compact or to the Western Interstate Corrections Compact. The Director of Corrections, subject to the approval of the Board of Prison Terms, must first determine, on the basis of an inspection made by his direction, that such institution of another state is a suitable place for confinement of prisoners committed to his custody before entering into a contract permitting such confinement, and shall, at least annually, redetermine the suitability of such confinement. In determining the suitability of such institution of another state, the director shall assure himself that such institution maintains standards of care and discipline not incompatible with those of the State of California and that all inmates therein are treated equitably, regardless of race, religion, color, creed or national origin. [1961 ch 1397 § 1; 1965 ch 371 § 253; 1976 ch 667 § 6; 1977 ch 165 § 90, effective June 29, 1977, operative July 1, 1977; 1979 ch 255 § 60.] *Cal Jur 3d Penal and Correctional Institutions § 52.*

§ 11195. [Right of transferred prisoner on release from prison outside this state: Place of release: Transportation cost.] Every prisoner released from a prison without this state to which he has been committed or transferred from this state pursuant to this article shall be entitled to the same benefits, including, but not limited to money and tools, as are allowed to a prisoner released from a prison in this state. Any person who has been sent to another state for confinement pursuant to this article shall be released within the territory of this state unless the person, the Director of Corrections of California, and the corresponding agency or official of the other state shall agree upon release in some other place. This state shall bear the cost of transporting the person to the place of release. [1961 ch 1397 § 1; 1976 ch 667 § 7.]

§ 11196. [Severability of provisions of article: Construction.] The provisions of this article shall be severable and if any phrase, clause, sentence, or provision of this article is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of this article and the applicability thereof to any other state, agency, person or circumstance shall, with respect to all severable matters, not be affected thereby. It is the legislative intent that the provisions of this article be reasonably and liberally construed. [1961 ch 1397 § 1.]

§ 11197. [Incompetency of person sentenced under California law and committed in another state to testify for prosecution unless defense counsel notified: Opportunity to interview witness.] No person sentenced under California law who is committed or transferred to an institution outside of this state shall be competent to testify for the prosecution in any criminal proceeding in this state unless counsel for each defendant in such proceeding is notified that the prosecution may call the person as a witness and is given an opportunity to interview the person no less than 10 days before the commencement of the proceeding or, in the event the prosecution is not at that time considering the possibility of using such testimony, the notice and opportunity for interview shall be given at the earliest possible time. Nothing in this section shall be construed to compel the prisoner to submit to such an interview. [1976 ch 667 § 8.]

CHAPTER 3

Prevention and Abatement of Unlawful Activities

Article

[1980 ch 1071 § 4; 1981 ch 135 § 1, effective July 1, 1981 ch 435 § 6, effective September 12, 1981.]

§ 11174. [Investigation] The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (f) of Section 11165, in group homes or institutions and shall ensure that every investigation of alleged child abuse coming within that definition is conducted in accordance with the regulations and guidelines. [1980 ch 1071 § 4; 1981 ch 435 § 7, effective September 12, 1981.]

ARTICLE 3

Uniform Act for Out-of-State Parolee Supervision

§ 11175. [Citation of article.] This article may be cited as the Uniform Act for Out-of-State Probationer or Parolee Supervision. [1953 ch 1384 § 3; 1955 ch 309 § 1.] *Cal Jur 3d Criminal Law § 16, Penal and Correctional Institutions § 170.*

§ 11176. [Compacts: Authority to enter into.] Pursuant to the authority vested in this State by that certain act of Congress, approved June 6, 1934, and entitled "An act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime, and for other purposes," the Governor is hereby authorized and directed to enter into a compact or compacts on behalf of this State with any of the United States legally joining therein. [1953 ch 1384 § 3.] *Cal Jur 3d Penal and Correctional Institutions § 170.*

§ 11177. [Same: Form.] The compact or compacts authorized by Section 11176 shall be in substantially the following form:

A compact entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that

purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state. If at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within such state, the form of ratification to be in accordance with the laws of the ratifying state.

(7) That this compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. [1953 ch 1384 § 3.] *Cal Jur 3d Penal and Correctional Institutions § 170; Witkin Criminal Procedure p 52.*

§ 11177.5. [Deputization of person of another state to effect return of violator.] The officer designated by the Governor pursuant to subdivision 5 of Section 11177 of this code may deputize any person regularly employed by another state to act as an officer and agent of this State in effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this State. In any matter relating to the return of such a person, any agent so deputized shall have all the powers of a police officer of this State.

Any deputization pursuant to this section shall be in writing and any person authorized to act as an agent of this State pursuant hereto shall carry formal evidence of his deputization and shall produce the same upon demand. [1955 ch 657 § 1.]

§ 11177.6. [Contracts for sharing cost of effecting return of violator.] The officer designated by the Governor pursuant to subdivision 5 of Section 11177 of this code may, subject to the approval of the Department of General Services, enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this state. [1955 ch 657 § 2; 1965 ch 371 § 252.]

§ 11178. [Invalidity of part of article : ot to affect remainder.] If any portion of this article is held unconstitutional, such decision shall not affect the validity of any other portions of this act. [1953 ch 1384 § 3.]

§ 11179. [Construction of article.] This article and compacts made pursuant thereto shall be construed as separate and distinct from any act or acts of this State relating to the extradition of fugitives from justice. [1953 ch 1384 § 3.] *Cal Jur 3d Penal and Correctional Institutions § 170.*

ARTICLE 4

Interstate Corrections Compacts

[The heading of Article 4 was amended to read as above by Stats 1976 ch 667 § 1.]

MINNESOTA STATUTES

CHAPTER 401

COMMUNITY CORRECTIONS ACT

401.01 PURPOSE AND DEFINITION: ASSISTANCE GRANTS

Subdivision 1

For the purpose of more effectively protecting society and to promote efficiency and economy in the delivery of correctional services, the Commissioner is hereby authorized to make grants to assist counties in the development, implementation, and operation of community based corrections programs including, but not limited to preventive or diversionary correctional programs, probation, parole, community corrections centers, and facilities for the detention or confinement, care and treatment of persons convicted of crime or adjudicated delinquent.

Subdivision 2 Definitions

(a) For the purposes of sections 401.01 to 401.16, the following terms shall have the meanings given them:

(b) "Commissioner" means the commissioner of corrections or his designee;

(c) "Conditional release" means parole, supervised release, work release as authorized by section 241.26 and 244.065, and includes probation;

(d) "Joint board" means the board provided in section 471.59.

401.02 COUNTIES OR REGIONS: SERVICES INCLUDABLE

Subdivision 1 Qualification of Counties

One or more contiguous counties, have an aggregate population of 30,000 or more persons or comprising all the counties within a region designated pursuant to sections 462.381 to 462.396 or sections 473.122 to 473.249, situated within the same region designated pursuant to sections 462.381 to 462.396, or sections 473.122 to 473.249, may qualify for a grant as provided in section 401.01 by the enactment of appropriate resolutions creating and establishing a corrections advisory board, designating the officer or agency to be responsible for administering grant funds, and providing for the preparation of a comprehensive plan for the development, implementation and operation of the correctional services described in section 401.01, including the assumption of those correctional services, other than the operation of state facilities, presently provided in such counties by the department of corrections, and providing for centralized administration and control of those correctional services described in section 401.01.

Where counties combine as authorized in this section, they shall comply with the provisions of section 471.59.

Subdivision 2 Planning Counties; How Designated; Travel Expenses of Corrections Advisory Board Members

To assist counties which have complied with the provisions of subdivision 1 and require financial aid to defray all or part of the expenses incurred by corrections advisory board members in discharging their official duties pursuant to section 401.08, the commissioner may designate counties as "planning counties", and, upon receipt of resolutions by the governing boards of the counties certifying the need for and inability to pay the expenses described in this subdivision, advance to the counties an amount not to exceed five percent of the maximum quarterly subsidy for which the counties are eligible. The expenses described in this subdivision shall be paid in the same manner and amount as for State employees.

Subdivision 3 Establishment and Reorganization of Administrative Structure

Any county or group of counties which have qualified for participation in the community corrections subsidy program provided by this chapter may, after consultation with the judges of district court, county court, municipal court, probate court and juvenile court having jurisdiction in the county or group of counties establish, organize, and reorganize an administrative structure and provide for the budgeting, staffing and operation of court services and probation, juvenile detention and juvenile correctional facilities, and other activities required to conform to the purposes of this chapter. No contrary general or special statute divests any county or group of counties of the authority granted by this subdivision. This subdivision does not apply to Ramsey County or Hennepin County or to the counties in the Arrowhead region. In Hennepin County and Ramsey County the county board and the judges of the district court, county court, municipal court, probate court and juvenile court shall prepare and implement a joint plan for reorganization of correctional services in the county providing for the administrative structure and providing for the budgeting, staffing and operation of court services and probation, juvenile detention and juvenile correctional facilities, and other activities required to conform to the purposes of this chapter. The joint plan shall be subject to the approval of the commissioner of corrections and submitted to the legislature on or before January 15, 1983.

Subdivision 4 Detaining Probationer or Parolee

Probation officers serving the district, county, municipal and juvenile courts of counties participating in the subsidy program established by this chapter may, without order or warrant, when it appears necessary to prevent escape or enforce discipline, take and detain a probationer, or any person on conditional release from confinement and bring him before the court or the Minnesota corrections board respectively, for appropriate action by the court or the board. No probationer or other person on conditional release shall be detained more than 72 hours, exclusive of legal holidays, Saturdays and Sundays, pursuant to this subdivision without being provided with the opportunity for a hearing before the court or the board. When providing supervision and other correctional services to persons conditionally released pursuant to sections 241.26, 242.19, 243.05, 243.16, 244.05, and 244.065, including intercounty transfer of probation cases, and the conduct of presentence investigations, participating counties shall comply with the policies and procedures relating thereto as prescribed by the commissioner of corrections.

401.03 PROMULGATION OF RULES: TECHNICAL ASSISTANCE

The commissioner shall, as provided in section 15.0411 to 15.0422, promulgate rules for the implementation of section 401.01 to 401.16, and shall provide consultation and technical assistance to counties to aid them in the development of comprehensive plans.

401.04 ACQUISITION OF PROPERTY; SELECTION OF ADMINISTRATIVE STRUCTURE; EMPLOYEES

Any county or group of counties electing to come within the provision of sections 401.01 to 401.16 may (a) acquire by any lawful means, including purchase, lease or transfer of custodial control, the lands, buildings, and equipment necessary and incident to the accomplishment of the purposes of sections 401.01 to 401.16, (b) determine and establish the administrative structure best suited to the efficient administration and delivery of the correctional services described in section 401.01, and (c) employ a director and other officers, employees, and agents as deemed necessary to carry out the provisions of sections 401.01 to 401.16. To the extent that participating counties shall assume and take over State correctional services presently provided in counties, employment shall be given to those State officers, employees and agents thus displaced; if hired by a county, employment shall, to the extent possible and notwithstanding the provisions of any other law or ordinance to the contrary, be deemed a transfer in grade with all of the benefits enjoyed by such officer, employee or agent while in the service of the State.

State employees displaced by county participation if the subsidy program provided by this chapter are on layoff status and, if not hired by a participating county as provided herein, may exercise their rights under layoff procedures established by law or union agreement whichever is applicable.

State officers and employees displaced by a county's participation in the community corrections act and hired by the

participating county shall retain all fringe benefits and recall from layoff benefits accrued by seniority and enjoyed by them while in the service of the state.

401.05 FISCAL POWERS

Any county or group of counties electing to come within the provisions of sections 401.01 to 401.16, may, through their governing bodies, use unexpended funds, accept gifts, grants and subsidies from any lawful source, and apply for and accept federal funds.

401.06 COMPREHENSIVE PLAN; STANDARDS OF ELIGIBILITY; COMPLIANCE

No county or group of counties electing to provide correctional services pursuant to sections 401.01 to 401.16 shall be eligible for the subsidy herein provided unless and until its comprehensive plan shall have been approved by the commissioner. The commissioner shall, pursuant to the administrative procedures act, promulgate rules establishing standards of eligibility for counties to receive funds under sections 401.01 to 401.16. To remain eligible for subsidy counties shall maintain substantial compliance with the minimum standards established pursuant to sections 401.01 to 401.16 and the policies and procedures governing the services described in section 401.02, subdivision 4 as prescribed by the commissioner. The commissioner shall review annually the comprehensive plans submitted by participating counties, including the facilities and programs operated under the plan and inspect books and records, for purposes of recommending needed changes or improvements.

When the commissioner shall determine that there are reasonable grounds to believe that a county or group of counties is not in substantial compliance with minimum standards, at least 30 days notice shall be given the county or counties and a hearing conducted by the commissioner to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. The commissioner may suspend all or a portion of any subsidy until the required standard of operation has been met.

401.07 EXISTING SINGLE JURISDICTION COUNTIES OR GROUPS

In any county or group of counties where correctional services are currently being provided by a single jurisdiction within that county, nothing in sections 401.01 to 401.16 shall be interpreted as requiring a change of authority.

401.08 CORRECTIONS ADVISORY BOARD; MEMBERS; DUTIES

Subdivision 1

The corrections advisory board provides in section 401.02, subdivision 1 shall consist of at least nine members, who shall be representative of law enforcement, prosecution, the judiciary, education, corrections, ethnic minorities, the social services, and the lay citizen.

Subdivision 2

The members of the corrections advisory board shall be appointed by the board of county commissioners or joint board in the case of multiple counties and shall serve for terms of two years from and after the date of their appointment, and shall remain in office until their successors are duly appointed. The board may elect its own officers.

Subdivision 3

Where two or more counties combine to come within the provisions of sections 401.01 to 401.16 the joint corrections advisory board shall contain representation as provided in subdivision 1, but the members comprising the board may come from each of the participating counties as may be determined by agreement of the counties.

Subdivision 4

The corrections advisory board provided in sections 401.01 to 401.16 shall actively participate in the formulation of the comprehensive plan for the development, implementation and operation of the correctional program and services described in section 401.01, and shall make a formal recommendation to the county board or joint board at least annually concerning the comprehensive plan and its implementation during the ensuing year.

Subdivision 5

If a corrections advisory board carries out its duties through the implementation of a committee structure, the composition of each committee or subgroup shall generally reflect the membership of the entire board. All proceedings of the corrections advisory board and any committee or other subgroup of the board shall be recorded and shall become matters of public record.

Subdivision 6

The corrections advisory board shall promulgate and implement rules concerning attendance of members at board meetings.

401.09 OTHER SUBSIDY PROGRAMS; PURCHASE OF STATE SERVICES

Failure of a county or group of counties to elect to come within the provisions of sections 401.01 to 401.16 shall not affect their eligibility for any other State subsidy for correctional purposes otherwise provided by law. Any comprehensive plan submitted pursuant to sections 401.01 to 401.16 may include the purchase of selected correctional services from the State by contract, including the temporary detention and confinement of persons convicted of crime or adjudicated delinquent; confinement to be in an appropriate State institution as otherwise provided by law. The commissioner shall annually determine the costs of the purchase of services under this section and deduct them from the subsidy due and payable to the county or counties concerned; provided that no contract shall exceed in cost the amount of subsidy to which the participating county or counties are eligible.

401.10 CORRECTIONS EQUALIZATION FORMULA

To determine the amount to be paid participating counties the commissioner of corrections will apply the following formula:

(1) All 87 counties will be scored in accordance with a formula involving four factors:

(a) per capita income;
(b) per capita taxable value;
(c) per capita expenditure per 1,000 population for correctional purposes; and,
(d) percent of county population aged six through 30 years of age according to the most recent federal census, and in the intervening years between the taking of the federal census, according to the State demographer.

"Per capita expenditure per 1,000 population" for each county is to be determined by multiplying the number of persons convicted of a felony under supervision in each county at the end of the current year by $350. To the product thus obtained will be added:

(i) the number of presentence investigations completed in that county for the current year multiplied by $50;
(ii) the annual cost to the county for county probation officers; salaries for the curent year; and,
(iii) 33 1/3 percent of such annual cost for probation officers' salaries.

The total figure obtained by adding the foregoing items is then divided by the total county population according to the most recent federal census, or during the intervening years between federal censuses, according to the State demographer.

(2) The percent of county population ages six through 30 years shall be determined according to the most recent federal census, or, during the intervening years between federal censuses, according to the State demographer.

(3) Each county is then scored as follows:

(a) Each county's per capita income is divided into the 87 county average;
(b) each county's per capita taxible value is divided into the 87 county average;
(c) each county's per capita expenditure for correctional purposes is divided by the 87 county average; and,
(d) each county's percent of county population aged six through 30 is divided by the 87 county average.

(4) The scores given each county on each of the foregoing four factors are then totaled and divided by four.

(5) The quotient thus obtained then becomes the computation factor for the county. This computation factor is then multiplied by a "dollar value", as fixed by the appropriation pursuant to sections 401.01 to 401.16, times the total county population. The resulting product is the amount of subsidy to which the county is eligible under sections 401.01 to 401.16. Notwithstanding any law to the contrary, the comissioner of corrections, after notifying the committee on finance of the senate and appropriations of the house of representatives, may, at the end of any fiscal year, transfer any unobligated funds in any appropriation to the department of corrections to the appropriation under sections 401.01 to 401.16, which appropriation shall not cancel but is reappropriated for the purposes of sections 401.01 to 401.16.

401.11 ITEMS INCLUDED IN PLAN PURSUANT TO REGULATION

The comprehensive plan submitted to the commissioner for his approval shall include those items prescribed by regulation of the commissioner, which may require the inclusion of the following: (a) the manner in which presentence and postsentence investigations and reports for the district courts and social history reports for the juvenile courts will be made; (b) the manner in which probation and parole services to the courts and persons under jurisdiciton of the commissioner of corrections and the Minnesota corrections authority will be provided; (c) a program for the detention, superivsion and treatment of persons

under pre-trial detention or under commitment; (d) delivery of other correctional services defined in section 401.01; and, (e) proposals for new programs, which proposals must demonstrate a need for the program, its purpose, objective, administrative structure, staffing pattern, staff training, financing, evaluation process, degree of community involvement, clients participation and duration of program.

In addition to the foregoing requirements made by this section, each participating county or group of counties shall be required to develop and implement a procedure for the review of grant applications made to the corrections advisory board and for the manner in which corrections advisory board action shall be taken thereon. A description of this procedure shall be made available to members of the public upon request.

401.12 CONTINUATION OF CURRENT SPENDING LEVEL BY COUNTIES

Participating counties shall not diminish their current level of spending for correctional expenses as defined in section 401.01 to the extent of subsidy received pursuant to sections 401.01 to 401.16; rather the subsidy herein provided is for the expenditure for correctional purposes in excess of those funds currently being expended. Should a participating county be unable to expend the full amount of the subsidy to which it would be entitled in any one year under the provisions of sections 401.01 to 401.16, the commissioner shall retain the surplus, subject to disbursement in the following year wherein such county can demonstrate a need for and ability to expend same for the purposes provided in section 401.01. If in any biennium the subsidy is increased by an inflationary adjustment which results in the county receiving more actual subsidy than it did in the previous calendar year, the county shall be eligible for that increase only if the current level of spending is increased by a percentage equal to that increase within the same biennium.

401.13 CHARGES MADE TO COUNTIES

Each participating county will be charged a sum equal to the per diem cost of confinement of those juveniles committed to the commissioner after August 1, 1973, and confined in a state correctional facility. Provided, however, that the amount charged a participating county for the costs of confinement shall not exceed the amount of subsidy to which the county is eligible and provided further that the counties of commitment shall also pay the per diem herein provided for all persons convicted of a felony for which the penalty provided by law does not exceed five years and confined in a state correctional facility prior to January 1, 1981. The commissioner shall annually determine costs and deduct them from the subsidy due and payable to the respective participating counties; making necessary adjustments to reflect the actual costs of confinement. However, in no case shall the percentage increase in the amount charged to the counties exceed the percentage by which the appropriation for the purposes of sections 401.01 to 401.16 was increased over the preceding biennium. All charges shall be a charge upon the county of commitment.

401.14 PAYMENT OF SUBSIDY

Subdivision 1

Upon compliance by a county or group of counties with the prerequisites for participation in the subsidy prescribed by sections 401.01 to 401.16, and approval of the comprehensive plan by the commissioner, the commissioner shall determine whether funds exist for the payment of the subsidy and proceed to pay same in accordance with applicable rules and regulations.

Subdivision 2

Based upon the comprehensive plan as approved, the commissioner may estimate the amount to be expended in furnishing the required correctional services during each calendar quarter and cause the estimated amount to be remitted to the counties entitled thereto in the manner provided in section 401.15, subdivision 1.

401.15 PROCEDURE FOR DETERMINATION AND PAYMENT OF AMOUNT; BIENNIAL REVIEW

Subdivision 1

On or before the end of each calendar quarter, participating counties which have received the payments authorized by section 401.14 shall submit to the commissioner certified statements detailing the amounts expended and costs incurred in furnishing the correctional services provided in sections 401.01 to 401.16. Upon receipt of certified statement, the commissioner shall, in the manner provided in sections 401.10 and 401.12, determine the amount each, participating county is entitled to receive, making any adjustments necessary to rectify any disparity between the amounts received pursuant to the estimate provided in section 401.14 and the amounts actually expended. If the amount received pursuant to the estimate is greater than the amount actually expended during the quarter, the commissioner may withhold the difference from any subsequent quarterly payments made pursuant to section 401.14. Upon certification by the commissioner of the amount a participating county is entitled to receive under the provisions of section 401.14 or this subdivision the commissioner of financie shall thereupon issue a State warrant to the chief fiscal officer of each participating county for the amount together with a copy of the certificate prepared by the commissioner.

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