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JOINT FEDERAL/STATE ADMINISTRATION
OF PRISONS

An Exploration of Options

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May 1984

Prepared for the Federal Justice Research Program of the U.S. Department of Justice, under Grant Number 83-NI-AX-0004. Points of view stated in this document are those of the authors and do not necessarily represent the official position or policies of the Department of Justice.

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 United 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 opera-

ting 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.

END