

REPORT AND RECOMMENDATIONS
OF THE
COUNTY PENAL SYSTEM STUDY COMMISSION
Constituted under Joint Resolution No. 3 of 1973



JANUARY 5, 1978

REPORT OF THE COMMISSIONERS

OF THE

STATE BOARD OF EDUCATION

FOR THE YEAR ENDING JUNE 30, 1913

ALBANY, N. Y. 1913



State of New Jersey

COUNTY PENAL SYSTEM STUDY COMMISSION
JOINT RESOLUTION NO. 3, 1973

JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625
TELEPHONE
(609) 292-5526

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

DOUGLAS COOK
SECRETARY

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.
Thomas G. Dunn

January, 1978

TO: The Hon. Brendan Byrne
Governor of New Jersey

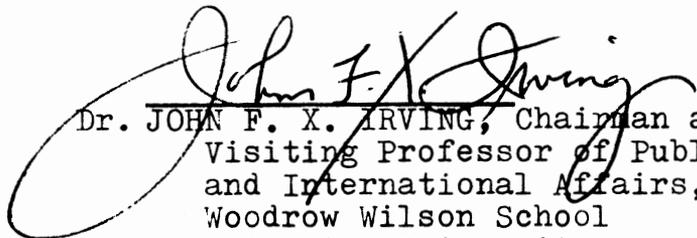
The Hon. Matthew Feldman
President of the State Senate

The Hon. William Hamilton
Speaker, New Jersey Assembly

I am pleased to submit the attached Report of the County Penal System Study Commission and I urge your serious attention to its Findings and Recommendations.

The Report has the support of the majority of the members of the Commission and their names appear below. Dissenting views are appended and appear in the Appendix.

Very truly yours,


Dr. JOHN F. X. IRVING, Chairman and
Visiting Professor of Public
and International Affairs,
Woodrow Wilson School
Princeton University

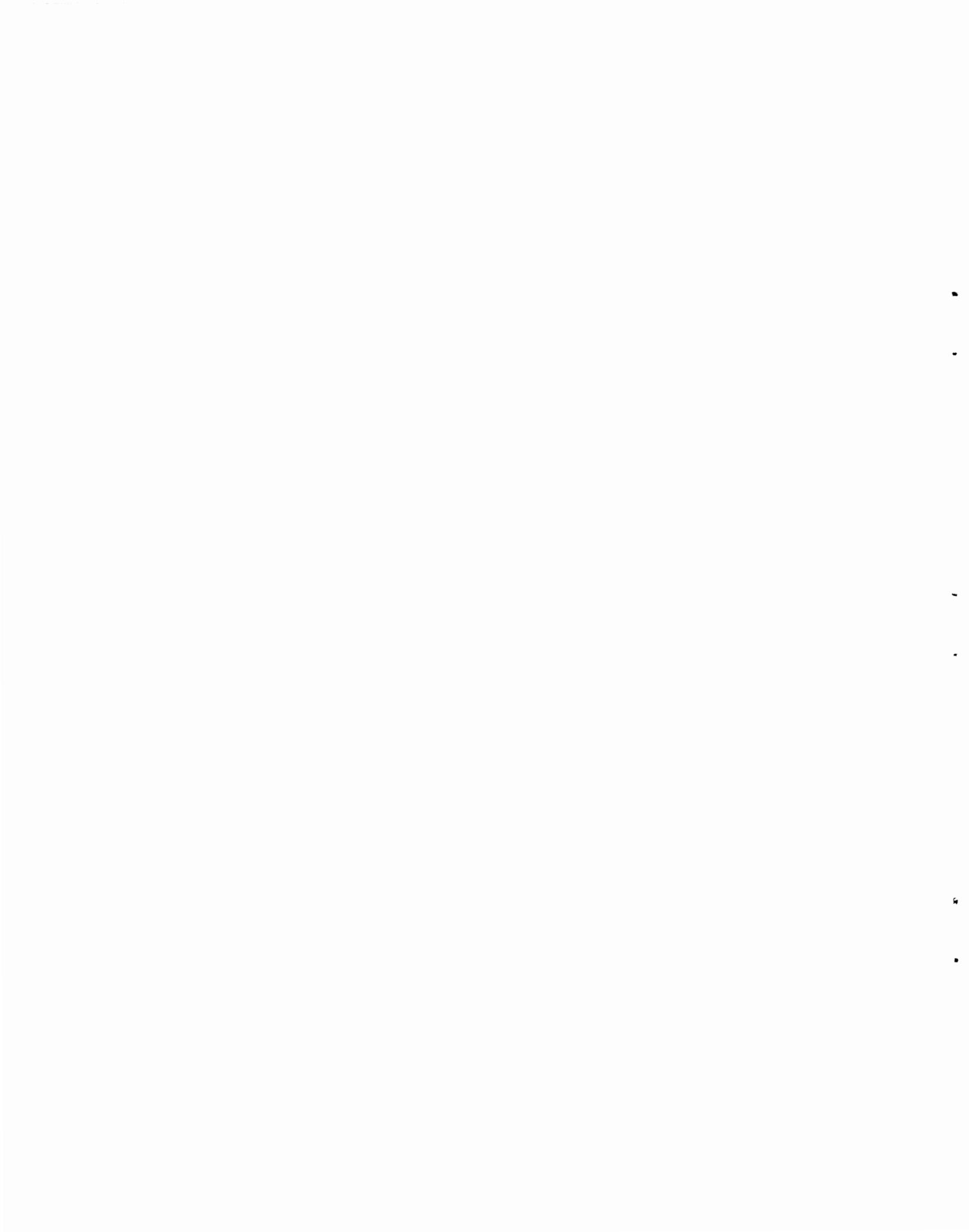
Gerard A Del Tufo
Vice Chairman

Joseph DeMarino,
Sheriff, Middlesex County

Thomas G. Dunn,
Mayor of Elizabeth

Martin McKernan, Jr.
City Attorney, Camden

Bessie G. Hicks
Community Relations Specialist

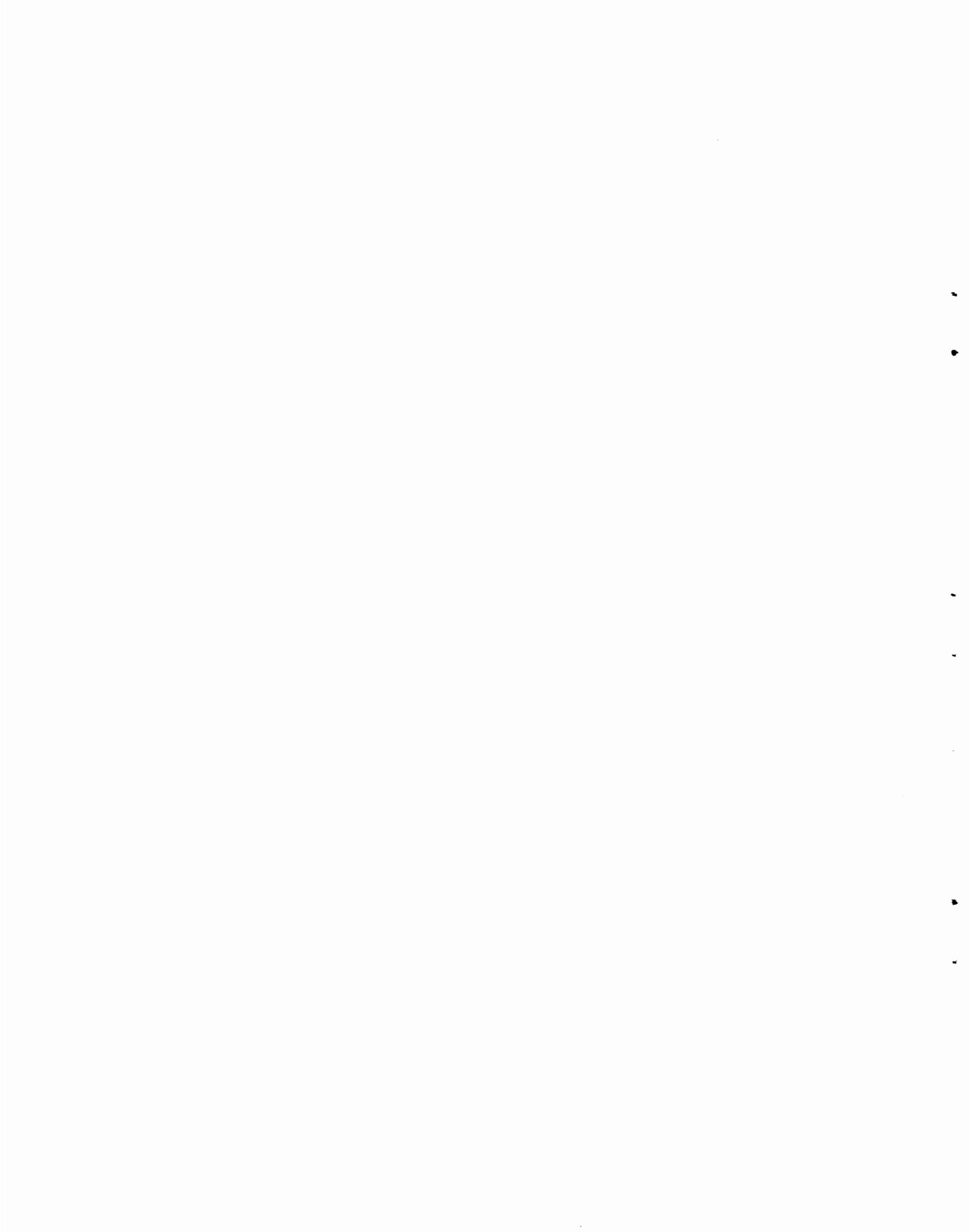


THE COUNTY JAILS IN NEW JERSEY

Report of the County Penal
System Study Commission

January, 1978

Dr. John F. X. Irving,
Chairman



". . . Those charge with articulating society's attitude toward offenders must be gratified to see signs of a new awakening in correctional reform. Perhaps we are approaching the point of bringing our correctional practices up to our knowledge of what is needed. It is not the rhetoric of prison reform, but the moral and political commitment expressed in concrete ways that move and change a modern democratic society. High in this scale is the translation of sound standards into statutory and administrative reality . . . "

Warren E. Burger
Chief Justice of the
United States

ACKNOWLEDGMENT

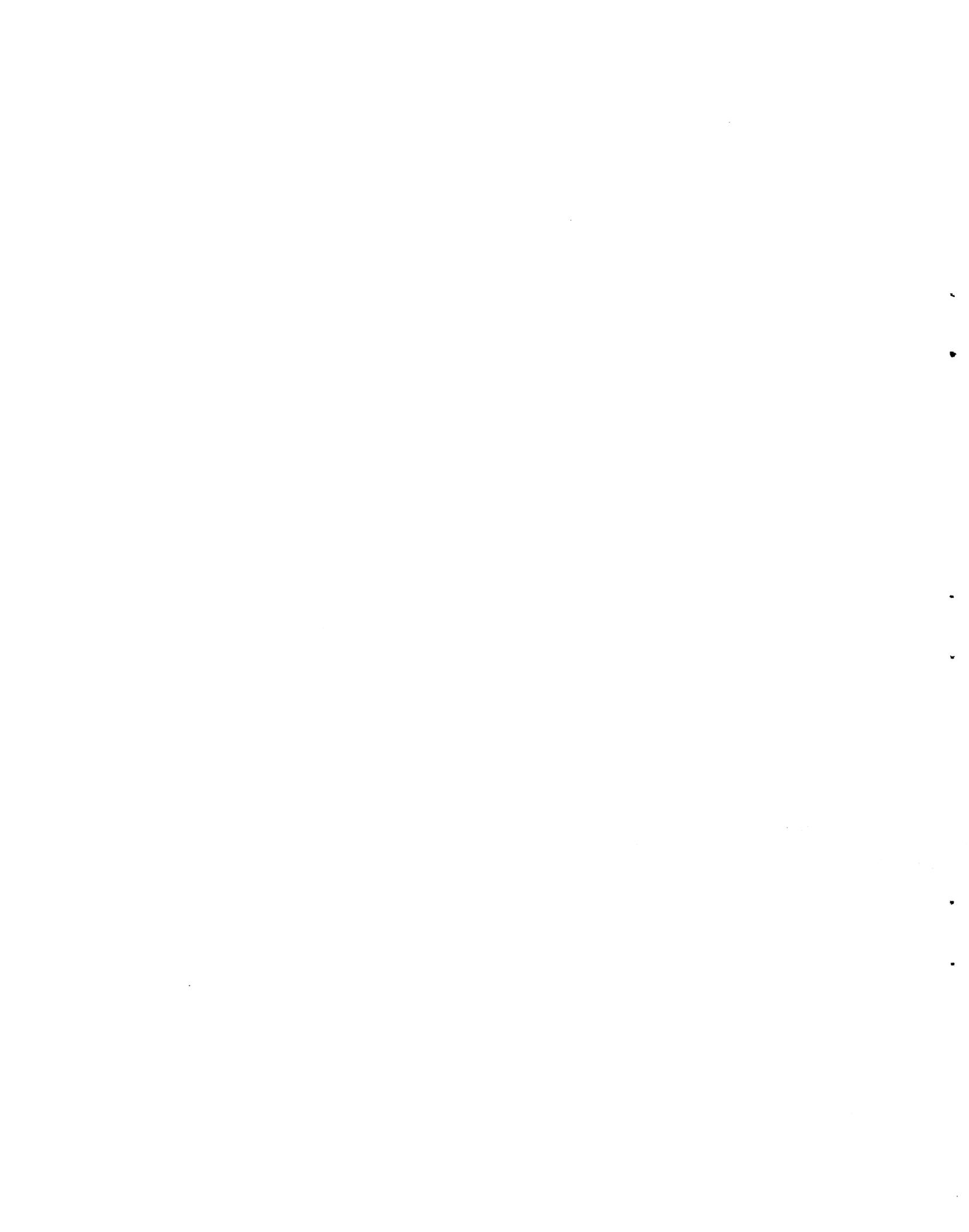
It was encouraging to encounter many dedicated men and women in the county correctional systems. The inmates know who they are because they extend themselves to offer a word of encouragement, to provide intensive help, or to make the jail as humane as possible within the constraints of an unsuitable structure.

Some came forward at great personal risk to testify about abuses or shortcomings. Morale and pay are generally low; the resources are severely limited and leadership and training are in short supply.

The recommendations in this Report will therefore be at least as helpful to the custodial personnel as to the inmates because the recommendations will induce a sense of professionalism in which all employees can take some measure of pride.

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	F. STATEMENT - Commissioner Arthur F. Brown



INTRODUCTION

By way of Prefix to the Report and to convey a feeling of the frustrations and counterproductivity of the county jails, the following comments of inmates were gathered during the course of this study:

ON BASIC RIGHTS

(Excerpt from a Petition sent to Mayor Kenneth Gibson from inmates at the Essex County Jail)

Dear Sir:

This petition has been drawn up by the undersigned to bring attention to the inhumane and deplorable conditions of the inmates. . . . We believe the conditions could be greatly improved, therefore knowing you are responsible for this institution, we have come to you with these changes

We want fast and speedy trials also required by the Constitution of the United States. The Constitution states that a person accused of crime is innocent until proven guilty, however when a public defender comes to see an inmate, he comes with efforts to obtain a copout. This approach must stop!

We want the county to supply us with law books so that we can prepare ourselves to what is going on in the courts. Too many times an inmate is sold out with knowledge of what is going on by the public defender and the courts

We want social workers and counselors that can help us with some of our problems. We also want someone to be available to get in touch with people to help us . . .

We the undersigned do not want to play word games. We are aware of the fact that you and the courts have heard those complaints for years, however we want something done about our complaints "

ON OVERCROWDING

(From a then inmate at the Passaic County Jail)

"Fifty percent of the inmates should not be there. Drunks, young drug addicts should be put in hospitals or other helpful agencies. Men with \$50. or \$100. bails unable to raise the money are languishing in jail, bitter, lack of the English language, lack of help from the guards, waiting for financial or legal help . . . and I know if you were good going in, you have to be bad coming out "

ON INSTITUTIONALIZATION

(From an inmate at Trenton State Prison)

" . . . once he is removed from his community, it's ever so difficult to put him back and so we are building a permanently jail-oriented society. . . . Remove a child from the community and send him to a juvenily center such as Jamesburg, with no matter what it has or doesn't have, and he is on his way. . . . Isn't it easier to help a kid to stay and live in the community than to take him out of it, condition him to an institutional way of life, then wonder how to untrain the institutional way and retrain him in the community way, and all that money spent in between ?"

ON CREATING A DRUG DEPENDENCY

(This excerpt is from the sworn testimony of the male nurse at the Camden County Jail in response to questions posed by the Chairman of this Study Commission.)

- Q. We have heard testimony in one other county that indicated that some people got into the county jail who did not have a drug-related problem, but that when they leave the county jail, they do have a drug-related problem. Does that happen in the Camden County Jail?
- A. That is true in our jail and I think every jail in the United States. Yes, that's an extremely bad situation that should be reversed. We do create drug dependent people, yes, we do create that.
- Q. So that the extraordinary testimony then before this Commission in two counties indicates that one of the agencies which is creating drug dependency among numerous residents is government.
- A. Yes, we are very guilty of that. "

THE SUBJECT OF OUR STUDY

Each county in New Jersey operates a county jail. There is also a Correctional Center in both Bergen and Essex Counties, a workhouse in Middlesex and a penitentiary in Hudson. The Commission's attention focused primarily on the jails.

As our questionnaire indicates, most of the jails are turn of the century structures and were created to accommodate the nineteenth century philosophy to "lock 'em up and throw the key away". Basic human rights articulated by the courts of this century and reinforced by the standards of the American Correctional Association and others, simply cannot be realized in these Victorian bastilles.

Some counties are taking the necessary steps to restructure or replace these facilities. Cape May County, e.g., has completed a new building. All counties however need a blueprint of future direction and this Report begins to fill that need. New buildings of course are not the complete answer because the problems of our county jails run the gamut of administration organization and day-to-day operation. One other word: the significance of the county jails in New Jersey should not be underestimated. More offenders are housed in any one/~~year~~^{year at} the county level than in our state prisons. Equally important is the reality that the county jail is often the first penal institution an offender enters. If he is not helped there, he may graduate to the state prison. This suggests

that the county jail is society's first hope for straightening the early offender out, for stopping a career in crime.

Are the state prisons then, to a large extent, testaments to the failure of the county correctional systems?

CHAPTER 1.

ORIGIN OF THE COMMISSION

On February 27, 1973, the Legislature of New Jersey passed Resolution #3 creating the County Penal System Study Commission. (A copy of the Resolution appears in the Appendix.) For the first time in its history, New Jersey was officially to look at the operation, needs and shortcomings of its county-run penal institutions. The study, long overdue, resulted from recurrent tensions at these jails, public pressures and the nation-wide movement toward penal reform.

Five years before, the federal government had initiated a national war on crime with the passage of the Omnibus Crime Control and Safe Streets Act of 1968. Crime had become a menace to the stability of society and offenders had usurped the freedom of the streets; violated the safety of the home; and threatened the lives and property of many of our citizens. More often than not, these criminals were recidivists who had gone through a corrections system that did not correct and through reformatories that did not reform.

The nation therefore began to turn attention to the criminal justice systems of the fifty states. It quickly became apparent that the system was ineffective and even counter-productive. Corrections, retarded from decades of fiscal and administrative neglect, was seen as often aggravating the problem of crime by its ineptness or insensitivity or by engendering new hostility among sullen inmates assigned to it for "rehabilitation".

The deficiencies in corrections in fact were so open and notorious nationwide that the Safe Streets Act was soon amended to provide specific federal funding in this field. The federal support was intended to dramatize the need and to prod state action. New Jersey reacted and this Study Commission was one response.

Furthermore, pressure for change was building within the state. Legislators were receiving complaints of overcrowding, brutality and other problems at the county jail level and disturbances within several of the facilities prompted more than an occasional story in the local press. Reports of suicides, rapes and the mingling of juveniles with adults created increasing pressure for an evaluation.

Under the terms of the enabling Resolution, the then New Jersey Governor, William Cahill, was authorized to appoint three members to the Commission, and to name the Chairman. Each of the two houses of the Legislature also appointed three persons each. The present membership of the Commission consists of the following persons:

John F.X. Irving, ^{former} Dean, Seton Hall University Law Center, as Chairman, and Visiting Professor of Public and International Affairs, Woodrow Wilson School, Princeton Univ. Gerald A. DelTufo, Esq., Matawan, N.J. as Vice-Chairman.

Senator Garrett W. Hagedorn, Midland Park, N.J.

^{former} Senator Thomas Dunn, Elizabeth, N.J.

Sheriff Joseph DeMarino, New Brunswick, N.J.

Alan J. Cornblatt, Esq., Bricktown, N.J.

Martin McKernan, Jr., Esq., Camden, N.J.

Bessie G. Hicks, Newark, N.J.

Undersheriff Arthur F. Brown, Brick Township, N.J.

The Resolution gives broad authority to the Commission as seen in the range of subjects it was authorized to study. It was obvious that years of neglect were sought to be remedied in one study by the nine volunteers who served as Commissioners. This was unrealistic.

The Chairman called an initial meeting after realizing that the State provided no assistance in getting a new Commission into action. Except for that initiative, the Commission may never have met. The lack of staff during the early months and the absence of a budget accentuated the need of the Commission to limit its focus. Therefore, the members unanimously agreed that only the county jails and workhouses would be studied. Other important areas of community based corrections are commented upon by the Chairman in the Epilog.

At the request of the Chairman, the Legislative Research Bureau released two of its staff, Carl E. Moore and Douglas Cook, who gave substantial help for more than a year. The State Legislature approved a budget of \$15,000 for the second year of operation and this permitted the part time hiring of Arthur C. Richardson, an expert in community based corrections. As Hearing Officer, the Commission had the voluntary services of Kenneth Ginsburg, at the time a member of the Law Review Board at the Seton Hall Law Center. Upon graduation he was succeeded by David Ruhnke, also a Seton Hall law student. Other law students assisted the Commission in interviewing witnesses, the taking of affidavits, and doing important research. Particular mention should be made of Robert Berman and Walter Kropowski. For the writeup

phase of the Commission's work, Seton Hall Law School has given a research grant to Dr. Roger Huber, who is both a distinguished Presbyterian minister and a law student.

To all these aides the people of New Jersey owe a considerable debt. It should be encouraging for the tax payer to observe that talented people will donate generous amounts of personal time to such public service. With the squeeze on the tax dollar, New Jersey will need to make increasing use of those adults and students who want to help make government work. They are a rich supply of talent to match the demands that exist for research, investigation and evaluation into every phase of public services.

METHODOLOGY

The Commission undertook its work at three levels: research, site visits and public hearings. More specifically, the Commission did the following:

RESEARCH. Reports of the county jails done each year by the Department of Institutions and Agencies were studied for institutional evaluations and for common needs that might be systemic and chronic. National standards were scrutinized for possible applicability and they are identified in the Chapter on Recommendations. Also, custodial guards, jail administrators, lay observers and present and former inmates were invited to give insights and suggestions.

The Commission also met with state representatives, with various specialists and with citizen representatives. Special mention is made of the meetings with Mr. William Fauver of the Department of Institutions and Agencies; Philip Showell, then executive director, New Jersey Association on Corrections, Sydney Kellner, American Jewish Committee, and top administrators in the field of mental health.

SITE VISITS. The Commissioners toured the jails in the five counties in which public hearings were to be held. Additionally, visits were made to the facilities in Middlesex (both jail and workhouse), Morris and Ocean counties. Individual members and staff visited jails in other counties. On such tours the Commission was guided by an official of the jail and was joined usually by one or more members of the press corps. The tours invariably presented opportunities for discussions with inmates and custodial personnel.

PUBLIC HEARINGS. The Commission held public hearings in Essex, Atlantic, Camden, Passaic and Bergen Counties, respectively. A careful search of the testimony resulting from these hearings is essential for a grasp of the county jails in New Jersey. They also give substance to the Findings and Recommendations in the following chapters. The volumes are therefore made an official part of this Report. Copies of the hearings are being placed in the State Library for public scrutiny and for study by students and corrections practitioners.

ITINERARY. The Commission held its first public hearing in Essex County at the State Office Building in Newark on March 27; thereafter on April 3 and April 23, 1974. So much testimony was offered by inmates and corrections guards that the hearings extended over three days. Thereafter, hearings were held in Atlantic County on May 28 and 29, 1974; Camden on October 11 and 15, 1974; Passaic on May 20, 1974; and Bergen on June 25, 1975.

Two comments are in order about this itinerary; first, preparation for an effective public hearing is extremely time-consuming and delicate. We expected that inmates would complain about such items as the institutional food and we were seeking to get at more pervasive problems, if in fact any existed.

Second, the work of the Commission was made more difficult by a climate of fear that intimidated inmates and corrections personnel alike in more than one county. We learned how vulnerable county employees felt knowing that the Commission would come and go but that they had to exist day after day within their current political systems. Cooperation with the Commission for a one-day hearing might mean months and years of harassment thereafter.

Following the public hearings in those five counties, the following occurred:

- a) In two counties, Essex and Bergen, the Commission's evidence was presented to grand juries and in each county, a presentment was issued.

- b) In Camden County, the New Jersey Association on Corrections urged the calling of a Grand Jury to investigate the testimony before the Commission. A proposed \$8 million jail annex was delayed following the Commission's unanimous resolution urging postponement.
- c) In Essex County, the administration of the jail was transferred from the Sheriff to the Board of Freeholders but this may be only a cosmetic change, and
- d) In Atlantic County, the freeholders promised to review the easy dispensing of drugs and the local press undertook a campaign to improve the jail. A citizen's group moved to create a correctional authority that would administer the jail in a professional fashion.

Other positive results occurred, some of them intangible. Commission members smiled at the number of "wet paint" signs that were evident on their visits. The facilities were spruced up in preparation for our tours and the administrative personnel were sensitized to the interests of the state in their facilities. A question to the Sheriff in Bergen County, e.g., repeated until a response came, caused him to remove a paper on the wall that concealed an unsatisfactory health notice on the condition of the kitchen. Such notices are to be posted and be clearly visible.

From these experiences, the observations should be made that periodic checks by one branch of government or another are indispensable.

The presence of the Commission proved to have a healthy -- although temporary -- impact on every jail visited. The recommendations in this Report will, if implemented, provide for a continuing check by the state on the county correctional institutions.

FIELD TESTING. The New Jersey Correctional Master Plan was finalized in 1976 by the Department of Institutions and Agencies. Our Commission awaited release of that umbrella document before finalizing its recommendations. This also allowed time to field test some basic ideas for initial reactions.

CHAPTER TWO

SUMMARY OF FINDINGS

1. The State of New Jersey is in violation of its Constitution through neglect of citizens who are incarcerated in the county jails.

Article 1, Paragraph 1 of the Constitution reads "All persons ... have certain unalienable rights, among which are ... obtaining safety..."

The right of the individual to "obtain safety" creates the obligation of the state to provide it. No exceptions are listed in the Constitution for those who have lost their freedom and are incarcerated in a county jail. In fact, when government has taken away a man's freedom of movement so that he cannot provide for his own mental and physical health and safety, the responsibility of government to provide for him increases.

2. The Safety and Health of Inmates in County Jails are not only often unprotected but in fact deteriorate.

Case after case reveals that county government puts citizens in jails (many are awaiting trial and are legally innocent) where they are assaulted, homosexually raped, become drug dependent or contact lice or a communicable disease. Testimony before the Commission indicates that pregnant women have lost their babies, men have lost their minds and others have committed new crimes while in these "correctional centers". Unsuspecting young inmates are frequently introduced in this state-enforced environment to their first violent homosexual experiences.

In many of the older jails, inmates are confined in their cells for 20 hours a day. Overcrowding, idleness and the lack of professional

help, in the small counties especially, induce mental and physical deterioration and generate new hostilities. The counties then return to society these inmates who are an increased danger to themselves and to others. The county jail therefore is part of the problem of crime in our state and not part of the answer.

An established psychiatrist who is informed about conditions in the Camden County Jail was asked by the Commission to give his professional judgment about the significance of those conditions and made the following statement:

"A person entering the Camden County Jail will emerge worse than when he entered. The atmosphere is depressing. It would outrage the individual and encourage one to be deviant and/or devious. The way a person is dealt with is the way he will respond. And the environment of the place determines the behavior. It is not unlikely that an adult who goes into the Camden County Jail will come out prone to commit a crime. Many people are not equipped to deal with anger and will take out this outrage on the society which places them in such conditions."

3. In some Counties, Government is a Drug Pusher.

Sworn testimony in two counties indicates that the easy dispensing of drugs develops a drug dependency among inmates. The testimony of the male nurse at the Camden County Jail, for example, appears in the prefix of this Report. The cycle develops this way: a new inmate rests all day on his bunk bed because there are no other outlets for him. At night he is not tired and soon begins to ask for sleeping pills. (To keep the inmates quiet, pills are the path of least resistance). During the day the inmate becomes

jittery and "stir crazy". He begins to get tranquilizers during his waking hours (or other drugs) and after six months, many such inmates have a drug dependency.

This is another instance in which, by making offenders drug dependent, at least some of the county jails complicate, rather than reduce, the dimensions of the current crime wave in New Jersey.

4. There is no agreement on the goals or programs at the county jails. Consequently, the nature of the punishment for crime varies from jurisdiction to jurisdiction although the laws are intended to apply equally. Disparity of treatment violates federal constitutional rights and case decisions.

Some jail officials do not believe in "mass feeding" and are content to have food passed into individual cells; more enlightened county personnel recognize the danger in caging a man for long periods of time and they recognize meal hours are a proper time for social contact among the inmates. Some officials disagree on the usefulness of skill training and remedial education at the county jails. Many recognize the inmate is there as punishment; some guards believe he is there for punishment and believe loss of freedom is not sufficient penalty, that solitary confinement, censorship and even brutality are in order. In some jails, work release is encouraged and inmates can visit their families before returning to the jail at night; in other counties, such programs are frowned upon.

The Commission finds the disparity in such philosophy and treatment from county to county an intolerable violation of each inmate's right to "equal protection of the laws".

In other instances, counties are violating the law. Censoring of mail; lack of contact visits; arbitrary prohibitions against seeing one's children; inadequate classification of offenders; lack of disciplinary procedures; sporadic medical care and the absence of physical exercise - all these are violations of federal or state court decisions that are found repeatedly in the county jails. Although not every jail violates all the inmates' rights, the Commission could not find one county jail that could claim to be free of violations. Present state standards and inspections are inadequate to cope with the litany of shortcomings.

5. The county jail is a dumping ground for a wide range of troubled and troublesome people.

Even a cursory visit to a county jail will reveal the presence of a distressing range of offenders. The alcoholic who despite new legislation is still being admitted in some counties as a disorderly person; the man who refuses to pay alimony; the vagrant; the mentally disturbed; the numbers runner; the serious anti-social offender; the convicted and those awaiting trial or being held as material witnesses - all tend to be thrown together in the same facility.

The mingling of those who are innocent and waiting trial with those convicted, is a particularly disturbing and frequent reality. More than one federal court has found such practices unconstitutional. Those awaiting trial generally should be kept under only such restrictions as are necessary to guarantee their court appearance. Maximum security

for such persons is often an unnecessary and counter-productive measure.

One unfortunate dilemma results from the crowding of the jails with persons who are not a threat to the safety of others and with persons whose real crime is mental illness. The tendency is for the courts to put on probation more people when the jails are overcrowded. Dangerous offenders therefore walk the streets when the jails are a dumping ground for all society's ills.

6. Females are almost invariably treated worse than male inmates.

Denied work release because they are promiscuous, many females are in a hopeless situation. Prostitution is their only skill when admitted and is their only skill on release. In many jails there are so few women inmates that no program is designed for them and they are in a degree of unintended isolation. With neither the skill nor the resources to develop normal social contacts among male and female inmates, the jails unwittingly encourage homosexual experimentation. Wherever work furloughs and other opportunities to rejoin family and friends are denied, society must expect homosexual activity. New Jersey has in fact created such an environment in its county jails that taxpayers must realize they are supporting institutions where homosexuality is common.

7. Custodial Personnel are as likely to be victimized as the Inmates.

Every study has shown that a jail setting has a profound impact on the custodial personnel. Their self-perception is blurred and they feel they are also imprisoned during their working hours. Testimony indicates a strong need for imaginative and interdisciplinary training

as well as training in the fundamentals of first aid, riot control and the use of firearms. Such training will raise morale and improve both the efficiency and humaneness of the operation.

The guards and other personnel live in a very political world. The inmates may see favoritism; the collecting of political campaign contributions, or other abuses among the jail personnel and they naturally conclude that "everyone is working an angle" but they happened to get caught. Low salaries and the need for certain working hours in order to maintain other employment outside the institution keep many men vulnerable to corruption. That many have resisted and try to do an honest job is encouraging but a new environment is needed that will foster professionalism.

8. Political realities are in constant confrontation with emerging professional performance.

The first need of the sheriff is to survive, i.e. to be re-elected every four years. Hiring temporary employees who serve at his pleasure; dispensing choice assignments; and other techniques build an organization of workers at the jail who will make "voluntary" contributions to re-election campaigns and support the political structure. As long as control of the jail remains with an elected official, professionalism among the custodial personnel will be thwarted.

Further, a sheriff need have no specific job qualifications.

He may therefore have neither the leadership potential nor the sensitivity to help staff achieve their potential. He may not know the legal rights of inmates and therefore cannot be reasonably expected to protect them. He may know little, and care less, about running an acceptable institution.

Some sheriffs are trying to do a proper job and more than one warden has developed genuine awareness and appreciation of the field of corrections. The present political arrangements however leave the quality of inmate care to chance, to the toss of the political wheel and that is unsatisfactory. The sheriff cannot excel both at law enforcement and penology.

We believe these are the most significant findings in our assessment of the county jails. Others not identified will be addressed if the Recommendations in the next Chapter are implemented.

CHAPTER III.

Jurisdiction of The Jails

The facts already presented in Chapter 2 of the Report have made it clear that many prevailing conditions in our county jails call for widespread change. Confronted by that urgent necessity, the central questions - not only for the Commission, but also for the legislators and the citizens of New Jersey -- are those of accountability: Who is responsible for our county jails? By what persons, or groups, acting under what authority, can the needed changes be brought about? To whom are those decision-makers accountable?

The Commission is acutely aware that these are not simple questions -- especially when they are asked in the context of our Recommendation that each County in New Jersey should, by action of its Freeholders, create a County Correctional Authority. We have said there that each such Authority should employ a professional administrator whose direct line of accountability would be to the County Correctional Authority, and whose responsibility would be to run what our Report calls "a civilized and humane jail."

In making such a far-reaching recommendation The Commission's purpose is not to attack any persons currently involved in the administration of the County Jails. Rather, our goal is to move beyond personalities and to recognize the complex legal, political and historical dimensions of a profoundly systemic problem. Any less comprehensive effort would be simplistic and would fail to help solve the desperate problems now so prevalent in our County Jails.

The authority of the Sheriff in the administration of our County Jails

is deeply rooted in the history of New Jersey. Even during the Colonial Period of our nation's growth the County Jails were the basis of the penal system and they were controlled by Sheriffs. Generally, those jails were the only effective penal institutions available, although some of the large towns also had their local jails. As early as March, 1683, an act was passed in East Jersey which authorized the appointment, by the governor, of a Sheriff¹ for each of the four counties, and of a High Sheriff for the province. The duties of the Sheriffs included the direct supervision of the County Jails. After the union of East and West Jersey in 1702, and on through the Colonial Period, the Sheriffs and their deputies, the Undersheriffs, continued to exercise daily control of the County Jails. Thirteen counties in New Jersey maintained such jails at the end of the Colonial Period.

The Commission makes this brief allusion to New Jersey history in order to recognize the genuinely historic roots of the Sheriff's role in the development of our County Jail system. We are aware of this long, important tradition. Nor are we insensitive to the fact that New Jersey also has a long record of attempts at penal reform. This Commission's work is now a major part.

It is, for example, both humbling and discouraging to realize that before the Civil War, the New Jersey Prison Reform Association made, on January 25, 1850,

1. New Jersey Archives, Vol. XIII, pp. 10-12,24

a report to the New Jersey Legislature; "Memorial In Relation To The Improvement of County Jails." Some of the findings in that 126-year-old report relate directly to the questions of accountability which the Commission raises again^{1.} in 1978. All New Jersey citizens should be alarmed, and moved to action, by the knowledge that many evils in the County Jails which were clearly identified in 1850 remain uncorrected more than a century later.

The Commission also notes that our county jails have not grown and developed according to any rational plan, nor have they developed in response to any particular understanding of their purpose as correctional institutions. Rather, the dynamic of their growth has been one of largely disorganized reaction to the pressures of the moment and the practical need to deal with an ever-increasing number of offenders. Built over a period of many years, our New Jersey jails reveal no consistent evidence of comprehensive planning or programming on a statewide basis. With notable exceptions the history of their development has been one of unplanned and sometimes chaotic effort to arrive at the easiest, or the most politically feasible resolution of institutional problems, rather than the most humane ones. The result, as our Commission sees it, is a current complex of facility and management inadequacies

1. "Memorial Of The New Jersey Prison Reform Association In Relation To The Improvement Of County Jails," communicated to the Legislature and ordered to be printed, January 25, 1850; Barnes, H.E. A History Of The Penal, Reformatory, and Correctional Institutions Of New Jersey, Arno Press, New York, 1974, pp. 636-39.

In relevant part, the Report says: "There seem to be four evils conspicuous in our present system, which can by judicious regulations be remedied, and for which the enactment of a general law, applicable throughout the state, would be necessary. These are the want of employment among the prisoners, the absence of any classification of criminals, inattention to the cleanliness and comfort of those confined, and the neglect of all moral discipline."

which have been made more difficult by historical factors.

Awareness of such historical considerations has helped focus the attention of the Commission on what is an ultimately jurisdictional question: namely, where should the power to control the County Jails come to rest? We have related that focal enquiry not only to its source in the history of the jails, and to the current evidence produced by our public hearings, but also to New Jersey case law, New Jersey statutes, to our State Constitution and to the New Jersey Correctional Master Plan.

We are aware of the tension between the authority of a Sheriff and that of a Board of Chosen Freeholders, with respect to responsibility for the administration of a County Jail. But we believe that the law on this matter is clear. Any Board of Chosen Freeholders may remove control of a County Jail from the Office of the Sheriff and itself assume such control, or control the Jail -- as this Report recommends -- through the establishment of a County Correctional Authority. The basis for this is found in N.J.S.A. 30: 8-19, which states:

"It shall be lawful for the Board of Chosen Freeholders of any county in the state to assume control and thereafter to exercise the custody, rule, keeping and charge of the county jails in their respective counties, and of the prisoners therein, whenever any such board shall decide by the affirmative votes of two-third of all its members, so to do, and shall file a certificate of such decision attested by the director and the clerk of such board, in the Office of the Secretary of State. When such certificate shall have been so filed, the custody, rule, keeping and charge of the county jail in such county shall be no longer in the sheriff of that county, but in the Board of Chosen Freeholders, thereof, and in such jailer, keeper, warden as they shall appoint for that purpose."

The Supreme Court of New Jersey, in a recent case in which a Sheriff contended that his office was constitutionally protected from legislative change, addressed itself directly to that issue:

"Initially we note that the office of sheriff is not a constitutional office in the sense that some provision in the constitution protects it from legislative change. Rather, the legislature is entirely at liberty to increase, decrease or modify the power and duties incident to this position."

There is statutory, constitutional, and case law authority for an alternative system in which the jails would be managed by County Correctional Authorities and their principal administrators. The law permits such a Recommendation which is made in the next chapter of this Report and we believe that history enforces it. For our understanding of the history of the jails is that during the Colonial Period, "as the concept of confinement as punishment became widely accepted, persons convicted of minor offenses which called for relatively short periods of confinement were held in local jails. Thus the jail served, and continues to serve, a dual function -- detention and correction. Jail administrators found themselves heading an institution which had not only two purposes but two conflicting purposes. The conflict has not been resolved to this day." (Jail Administration, National Sheriffs' Association, 1974, pp. 8-9.) The Commission believes that conflict must and can be substantially resolved.

It is to the resolution of that counter-productive conflict between detention and correction that our Recommendation for the creation of County Correctional Authorities is addressed. The currently prevailing system deepens the conflict by placing responsibility for corrections too largely in the hands of those who

do not have the time, the training, or the freedom properly to assume it. We believe that our recommendation, implemented, will help measurably to resolve that conflict creatively by placing corrections responsibility in the hands of those best equipped to carry it.

Moreover, the proper functioning of each County Correctional Authority and its principal administrator will release the Sheriffs to assume more of their much needed authority in the field of law enforcement, street crime and supportive services to local communities. Thus, the adoption and implementation of this alternative to the present system will help the jails of New Jersey become centers of rehabilitation and, at the same time, strengthen the role of Sheriffs as law enforcers. New dimensions of social responsibility and cohesion will be added to the lives of all New Jersey citizens, both inside and outside our county jails, for the basic question with which this Chapter of our Report began -- the question of accountability -- will have been responsibly faced and answered.

It is in the light of all the foregoing considerations -- historical, political, legislative, and constitutional -- that the Commission has attempted to make all recommendations in the chapter which follows, but especially those which deal with the ultimate questions of power and control in the county jails.

One further comment: There is widespread agreement among correctional personnel that society has not yet learned how to "rehabilitate" an offender and the U.S. Attorney General, Griffin Bell, among others, is urging determinate prison sentences for serious criminals rather than leave

any discretion for the timing of their release up to a parole board or to the superintendent of the penal institution. Rehabilitation is being abandoned as a goal and detention will remain the sole purpose of our penal institutions if such thinking controls.

At the county jail level, many institutional personnel are also quick to point out that the average inmate stays only a short period of time - as little as 15 days. And they argue that nothing can be done for such inmates but to let them vegetate until release. (There is no parole from county institutions.)

The upshot of such arguments is to accept the reality that our county jails are - and will continue to be - human warehouses where inmates who invariably need a range of remedial and counseling services will simply be stored away, deteriorating mentally and physically, until turned loose on society.

This strikes us as an untenable posture for government at any level. We have not found the cure for cancer despite investment of large sums of public and private money but we do not dare terminate cancer research. Similarly, we should not terminate our efforts to rehabilitate, to teach remedial reading and writing, to develop basic job skills, to motivate and to provide counselling.

The alternative is totally self-defeating. Many humans turn to crime because they are unemployable. Either they lack basic skills in language, arithmetic, manual dexterity or other elementary talents or they have behavioral problems. Unless these shortcomings are corrected, the offenders of necessity return to crime. We must begin to break that anti-social cycle and although time is short and our ability limited, we dare not give up the effort.

Further, in considering averages, such as the "average stay", we may fail to consider the individual offender as a human rather than a statistic. Many offenders complete a full statutory sentence of a year or more in the county jail. Others return to jail repeatedly. As this report is being written, many state prisoners are also backed up in the county jails and they face long years of confinement.

The hard fact is therefore, that although there are statistical averages on offenders, there is no average offender. Each has individual human needs, failings and potential. The basic thrust of this Report is that all offenders must be dealt with in a civilized and humane fashion. This means we cannot stop efforts to turn their anti-social behavior to socially acceptable goals. Warehousing of humans is Dachau understated, the slow but certain destruction of the human spirit and it is intolerable in an enlightened society.

CHAPTER 4

RECOMMENDATIONS

The recommendations of this Commission appear in this Chapter. They are based not only on the testimony developed in public hearings throughout the State of New Jersey but also on careful evaluation of model acts, standards and penal code provisions which are being used across the nation. Particular reliance has been placed on the findings and recommendations of five major national study commissions which have, in recent years, addressed themselves to correctional problems closely related to those we have identified in the county jails of New Jersey. These nationally oriented bodies are:

- 1) The President's Commission On Law Enforcement and Administration of Justice (1967)
- 2) The Advisory Commission on Intergovernmental Relations (1971)
- 3) The Joint Commission on Correctional Manpower and Training (1969)
- 4) The President's Task Force on Prisoner Rehabilitation (1970)
- 5) The National Advisory Commission on Criminal Justice Standards and Goals (1974)

Our recommendations are also undergirded in important ways by the research facilities and Staffs of The American Bar Association's Commission on Correctional Facilities, The National Sheriff's Association, The American Correctional Association, The Education Commission of the States, The National Council on Crime and Delinquency, and The National Criminal Justice Reference Service of The United States Department of

Justice. The voluminous materials shared with us by these correctional agencies include programs, statutes, evaluations and reports of county jail studies from nearly every State in the Union; moreover, we believe that our recommendations are fully consonant with what other States have found to be maximally helpful and politically viable. In relying on this vast body of experience, however, we wish to stress again the central importance of those facts about New Jersey's county jails which are produced in our public hearings and other investigations. Each of the following recommendations is made in the context of those hard facts, not in the context of some idealistic vacuum.

A final comment preparatory to the statement of our recommendations is that we find premature any suggestion that the State should take control of the county jails. However, if the standards and recommendations proposed herein are not met, that is, if home rule continues to be home misrule, then the State should take control, relying on the analogy of the Attorney General's power to appoint a Special Prosecutor in county litigation, superceding the County Prosecutor, and similarly allowing the Commissioner of Corrections to appoint a supervisor for any county jail that limps along in a substandard manner.

It is in such a framework of comprehensiveness, practicality and urgency that the Commission makes the following recommendations.

RECOMMENDATION ONE

The State of New Jersey should develop rigid standards for the administration and operation of the county jails and provide technical assistance and financial support to meet these standards.

Mechanisms must be developed along the lines of the recommendations which follow, always with the purpose of insuring that the standards will be consistently applied and enforced. Federal funds are available to help under the Crime Control Act of 1976. In making this recommendation we affirm the American Correctional Association's statement:

"One of the marks of maturity of a profession is the establishment of standards by which the work of its members can be evaluated. Nearly all other professions and disciplines concerned with man and his behavior have long since established standards. Those standards are concerned with both training and experience. This is true of law, medicine, education, engineering and religion...."

(Manual of Correctional Standards, American Correctional Association, 3rd Edition, p. 601). Professional maturity must become reality in our county jails.

In making this recommendation The Commission directs attention to The American Bar Association's Statewide Jail Standards and Inspection Systems Project. This exhaustive effort to help States prescribe and enforce minimum standards for the construction, maintenance and operation of local correctional facilities and for the general upgrading of professional behavior among jail personnel has already produced much data which can help solve the problems we have identified in New Jersey's jails. Of particular importance is an understanding of the processes

by which jail standards and inspection systems legislation were enacted in the past three years in Arkansas (1973), Oregon (1974), Nebraska (1975), Texas (1975), and Tennessee (1975).

"New legislation is, of course, only an initial step toward the ultimate goal of an effective 'Quality Control' system for local detention facilities. . . .Nevertheless, public policy starts with legislative mandate and responsibility and the story of how that hurdle was met in the states profiled in this Bulletin carries an encouraging message for all concerned with the acute deficiencies of American jails."

(Statewide Jail Standards Legislation, Developmental Profiles in Four States, American Bar Association Commission on Correctional Facilities and Services, Jail; Standards Clearinghouse Bulletin #10, August 1975, p.31).

With regard to the attainment of what our Report calls "professional maturity", the Commission specifically recommends strict adherence to Standard 9.6 of the National Advisory Commission on Criminal Justice Standards and Goals, "Staffing Patterns"; we strongly affirm that portion of the NAC's Commentary on Standard 9.6 which says:

"Current patterns of jail staffing are sadly deficient. Amelioration of the basic ills requires immediate action to provide enough trained and qualified staff oriented to corrections rather than law enforcement. As this is accomplished, staff roles must be restructured. The State should provide preservice training and ongoing staff development and participatory management programs . . . A new and significant treatment role for the correctional workers who will replace traditional jailers is envisioned."

RECOMMENDATION TWO

Each county in New Jersey should create a County Correctional Authority whose basic responsibility would be to hire the chief administrator of the jail and workhouse and to assist him in policy development and implementation.

The State should develop a standard for the qualifications of this principal administrator, experience and education in penology being essential facets of such a standard. This administrator would be primarily accountable to the Correctional Authority for running a civilized and humane jail and meeting state standards.

The proposed County Correctional Authority itself should be created by each Board of Chosen Freeholders. We note the fact that the Atlantic County Criminal Justice Planning Department has developed such a concept. Each County Correctional Authority should consist of persons representing local service organizations, those with experience in criminal justice and other concerned citizens. They would serve as a resource for the proposed administrator and guard him against undue pressures.

This recommendation for the establishment of County Correctional Authorities breaks new ground while, at the same time, meeting the standards of professionalism endorsed by the American Correctional Association (Manual of Correctional Standards, Chapter 9, "Central Organization" and Chapter 10, "Personnel Management"), The National Advisory Commission on Criminal Justice Standards and Goals (Standards 13.1, 13.2, 13.3, 13.4, 14.1, 14.2, 14.6, 14.11), and the National Sheriff's Association (Handbook

On Jail Administration, Chapter 2, "Personnel" and Chapter 4, "Management of The Jail"). Because our recommendation breaks new ground model statutes are unavailable. Typical of the responses to our efforts to find a model statute are letters from the American Bar Association Commission on Correctional Facilities and Services, whose Staff Director informed the Commission: "We must advise that we know of no model act outlining the structure for a local or county corrections department." (Letter to the Commission, August 16, 1976). A similar response came from the Program Manager, Criminal Justice Program, National Association of Counties, who said: "I know of no model legislative acts for corrections at the County level," (Letter to the Commission, August 9, 1976). The Reference Service of the National Institute of Law Enforcement and Criminal Justice of the United States Department of Justice, through its computerized organization of all literature on county jails was also unable to furnish a model statute for a County Correctional Authority.

In spite of this practical difficulty the Commission confidently accepts the challenge and responsibility for breaking new ground because we believe this recommendation is vitally related to the solution of many of the most critical problems in our county jails. We also know that good model material for the creation of State Corrections Departments exists and that it could be readily used in developing the needed county model for New Jersey. Such material includes the State Department of Corrections Act (Advisory Commission on Intergovernmental Relations, 1971), The Standard Act for State Correctional Services (National Council on Crime and Delinquency and American Correctional Association, 1966), and the Model Penal Code-Part IV, Organization and Correction (American Law Institute, 1962).

Aware that this recommendation is decisive for our work as a study commission, that it does open new doors, that it involves important historical and political problems, and that the proposed County Correctional Authorities raise uniquely jurisdictional problems, the Commission has chosen to deal more comprehensively with this recommendation in Chapter 3 of this Report: "The Jurisdiction of The County Jails". The reader is therefore urged to study Chapter 3 with reference to the background and rationale underlying this recommendation.

Modelled after the Board of Visitors used to set policy at prisons in Great Britian, the Authority will give the sustained attention to the jails that Sewerage Authorities give to sewers and Park Commissioners give to our verdant areas. The justification is persuasive.

RECOMMENDATION THREE

In order to provide psychiatric care as required, the Commission recommends that one jail in the northern part of the state, one in the central counties, and one in the southern section of New Jersey should be identified as Regional Psychiatric Holding and Treatment Centers. The State should fund the costs of providing these services and each jail administrator should be permitted and encouraged to transfer any inmates needing such care to the Regional facility.

The Regional facility would allot at least a tier of its building for this specialized use. Because congestion is already a problem, it may be necessary for the host institution to transfer one of its inmates in exchange for acceptance of a psychiatrically disturbed inmate. The costs of feeding would then be somewhat equalized between the two counties.

There is a precedent for this recommendation; a Sheriff will frequently transfer an inmate to the jail of a neighboring county when there is some fear for his life. If there is fear for his mental health, similar transfers ought to be required.

The Commission directs special attention in this matter to the National Advisory Commission on Criminal Justice Standards and Goals, Standard 9.7, "Internal Policies", and the American Correctional Association's Manual of Correctional Standards, Chapter 3, Standard 2. Also of fundamental importance in our thinking are the even broader affirmations of The National Sheriffs' Association about the imperative need for regionalization of county jails, in which the Sheriffs remind us all that "regionalization should always be considered and possibilities explored prior to extensive and expensive renovation of existing jails or construction of new ones No extensive commitment of resources should be made without area-wide planning and a cost/benefit study. Regionalization should be considered when there are not enough offenders or funds within a multi-jurisdictional area to justify separate programs or facilities. Careful consideration will involve a total system planning effort, which means that all jurisdictions concerned participate in furnishing information and making decisions Planning for regionalization should involve all areas of the criminal justice system." (Jail Administration, National Sheriffs' Association, 1974, p. 12).

Our Commission notes the fact that the Sheriffs of Atlantic County and Burlington County were members of the Jail Administration Committee of the National Sheriffs' Association and that the Sheriff of Bergen County

was a member of the Detentions/Corrections Committee of NSA when this important set of standards was created and published.

RECOMMENDATION FOUR

The Commission recognizes that there will inevitably be a period of time between the Presentation of this Report and its full implementation. During that interim the Commission recommends strict adherence to the National Sheriffs' Association's standards and guidelines for jail administration, jail security, classification and discipline, jail architecture, jail programs, food service in jails, sanitation in jails, and inmates' legal rights. Without denigrating in any degree the importance of other Standards and Guidelines mentioned in this Report our Commission strongly affirms the work of NSA not only because their Standards are comprehensively relevant to the solution of problems in New Jersey County Jails but also because their very existence demonstrates that many Sheriffs are sensitive to and concerned about jail deficiencies and have taken initiative to correct them. Moreover, our Commission recognizes that when the NSA undertook to create these Standards in 1971, with the cooperation of the Law Enforcement Assistance Administration of the United States Department of Justice, there was then, as there is now, "a feeling among sheriffs that if guidelines were needed and if they were to be workable in jails, then the sheriffs had better have a hand in producing them. A pooling of experience could produce a document that sheriffs could live with and

one that would satisfy the requirements for an acceptable jail program for the 1970's." (Guidelines for Jail Operations, National Sheriffs' Association, 1972, p. 5). We also note that one member of this Commission, Undersheriff Arthur Brown of Ocean County, served as a member of the national Review Committee for the entire project, the result of which is the publication of the seven books to which we have referred above. In addition to the Sheriffs, others, who participated actively in the creation of these Standards include representatives from the Federal Bureau of Prisons, the National Clearinghouse for Criminal Justice Planning and Architecture, the American Bar Association and The American Medical Association and our Commission believes that their participation adds measurably to the validity of the total effort, even as it strengthens the relevance of the resulting Standards to the problems in New Jersey's county jails.

RECOMMENDATION FIVE

The Commission recommends that in each county of New Jersey there be appointed, by the Governor, an Ombudsman who will be responsible to the State Office of The Public Advocate. The Ombudsman's responsibilities would include investigation, on complaint or his own initiative, of any action of the proposed County Correctional Authorities; prescription of methods by which inmate complaints are to be made, reviewed and acted upon; determination of the scope and manner of investigations to be made; requisition of information necessary to the discharge of his responsibilities. The Ombudsman shall authorize any person to appear, give testimony, or produce

documentary evidence deemed relevant to any matter under inquiry by him.

The Commission especially commends careful scrutiny of the Ombudsman-Grievance Procedure Mechanism now in force in the State of Minnesota (The Minnesota Correctional Ombudsman, Resource Center on Correctional Law and Legal Services, Ombudsman/Grievance Mechanism Profile No. 1, American Bar Association Commission on Correctional Facilities and Services). Also worthy of study are the mechanisms now in force in Maryland and South Carolina (Maryland Inmate Grievance Commission and South Carolina Correctional Ombudsman, American Bar Association, Profiles No. 2, No. 3).

In making this recommendation the Commission is aware that several New Jersey County jails now have Ombudsmen. But we feel they cannot be effective because they are responsible to the jail administrators and therefore lack both independence and authority. This is a serious deficiency, for "the viability as well as the credibility of his position is dependent upon his ability to remain independent, otherwise, his effectiveness is lost." (S. Krantz, et al., Model Rules and Regulations On Prisoners' Rights and Responsibilities, West Publishing Co., 1973, pp. 204-205.)

Although courts in recent years have been increasingly willing to consider on the merits inmates' petitions involving grievances, our Commission recognizes the practical limits beyond which courts cannot guarantee fair and humane treatment to those who are incarcerated. We believe that one way to create just, effective review of inmate

grievances and at the same time reduce the necessity of court intervention would be the appointment of the County Jail Ombudsman. Our Commission sees the Ombudsman not as an adversary but rather as an intermediary and mediator between inmate and jail staff, and we believe that his proper functioning would result in a considerable reduction of tension among inmates through the creation of an atmosphere of fairness and humanity in the County Jails.

RECOMMENDATION SIX

The Commission recommends the establishment, in each County Jail, of a Rehabilitation Services Component, staffed by Corrections professionals. These persons would be responsible to the proposed County Superintendent of Corrections. Their responsibilities would focus on acting as the inmates' counselors in matters of family crisis intervention, emotional disturbance, addiction therapy, education and vocational training, employment, and the general reestablishment of social ties to the communities in which the inmates will resume their lives. The critical significance of such a department lies in the fact that line corrections officials cannot simultaneously act as keepers of offenders and as agents of rehabilitation.

We draw special attention to the American Correctional Association's Manual of Correctional Standards (1972), Chapter 19. "The Administrative Organization of an Institution". One of its basic principles is that "the institution should be managed by organizing like functions under

major administrative subdivisions". Chapter 25 of the same document, "Counseling, Casework and Clinical Services," stresses the importance that a staff of professionally trained counselors can have in a correctional setting where the disciplines of psychiatry, psychology, and social case work have provided the tools which are useful in stimulating a change from the older penal approaches to the present emphasis on human growth and development.

RECOMMENDATION SEVEN

The Commission recommends strict adherence, in each County Jail, to Standard 2.5, "Healthful Surroundings", and to Standard 2.6, "Medical Care", as established by The National Advisory Commission on Criminal Justice Standards and Goals (1973). We also direct attention to the most complete available compilation of standards and materials relating to medical and health care in jails: Medical and Health Care In Jails, Prisons and Other Correctional Facilities (American Bar Association, Commission on Correctional Facilities and Services, in conjunction with American Medical Association, Division of Medical Practice, 1974, 315 pp.). This document, because of its importance, is made an official part of this Report.

The urgent necessity for implementation of this recommendation is alluded to in Chapter 2 of this Report, "Summary of Findings", and is repeatedly confirmed in the volumes of sworn testimony taken at our public hearings. That testimony necessitates this Recommendation and is an integral part of this Report, for it vividly reveals the reality of grossly inadequate medical care and treatment in jails where inmates

cannot provide for their own health and welfare.

The Commission recognizes that the foregoing seven Recommendations cannot be implemented immediately. However, we do believe that they constitute the cornerstone for a broad spectrum of procedures and programs which should be uniformly applied, and which can be immediately implemented in all the counties of New Jersey. The following Recommendations are based on immediate need to fill the legal and service voids that now exist in New Jersey's county jails, and are supported by the correctional standards of the National Advisory Commission on Criminal Justice Standards & Goals, as noted.

RECOMMENDATION EIGHT

Intake (Reception)

NACCJS&G, Standards 9.4, 9.8

Standard practice is to have an I.D. officer or "intake" officer who is on the shift when the client is received take a cursory social and criminal history, a medical review of diseases and operations and at the same time fail fully to explain institutional rules and regulations. Therefore, the Commission recommends that a Rehabilitation Services Counselor be assigned to each shift to take immediately a thorough social and criminal history, and to review with the new entrant (sentenced or unsentenced) the rules and regulations. We also recommend that a Registered Nurse assigned to each shift be authorized to secure a more complete medical and psychological history prior to placing each entrant in quarantine for a minimum 48 hour period.

The Commission found that this procedure does not exist in any of the 21 counties of the State. Most offenders are promptly placed in the main population of each jail without a prior medical examination or blood test having been taken. The chances of spreading a communicable disease to others are high. In most cases a mental disorder or a withdrawal symptom will not be determined until the client exhibits the behavior while living within the main population of the jail. Testimony from all our public hearings substantiated this Recommendation.

RECOMMENDATION NINE

Classification

NACCJS&G, Standards 6.1, 6.2, 9.8

The Commission recommends that within 72 hours of reception all entrants should meet with the Classification Committee to set a time goal for potential release, or for work release/parole consideration. Further purposes of this initial meeting should be: to determine work and housing assignments; to review educational and employment needs; to review standards of conduct within the institution; and to set the tone for a dialogue between client and staff which will help avoid such grievances and misunderstandings as now exist. Concerning Workhouses and Penitentiaries, clients with sentences longer than one year should be guaranteed a periodic review of progress. The Committee reviewing such matters might be composed of a Deputy Warden or Captain, the Staff Assignments Officer, a social worker, a Rehabilitation Counselor and a staff psychologist.

RECOMMENDATION TEN

Housing

NACCJS&G, Standards 6.2, 9.8

The Commission recommends that living quarters assignments should be based on relevant facts, not arbitrarily on the basis of where an empty bed exists. First offenders should not be placed with repeaters. Addicted individuals, homosexuals, transvestites, the emotionally disturbed and potentially assaultive clients need special attention and should, whenever possible, be placed in separate quarters. Ample living space should always be made available by the Warden or Sheriff. Having people sleep on floors (as seen in Camden County Jail) should never be permitted or tolerated. The nature of the client's crime should also be a determining factor in the making of all housing assignments.

RECOMMENDATION ELEVEN

Counseling

NACCJS&G, Standards 9.8, 11.2

The Commission recommends that a social work counselor be immediately available to the client during the intake process, on a 24 hour basis. The social work counselor should be there to help handle the family crisis situations which arise from the incarceration of an adult who may suffer impending loss of employment, need to locate and return an automobile to relatives or friends, or simply wants to notify loved ones of his or her whereabouts.

RECOMMENDATION TWELVE

Educational Services

NACCJS&G, Standards 2.9, 9.8

The Commission recommends the immediate development of educational and vocational programs in all the County Jails of New Jersey. The Syracuse University Research Corporation, as recently as November 1973, has documented that "between 20 and 50 percent of the approximately half-million adults incarcerated in American prisons can neither read nor write; at least 50 percent of those in custody over 18 years of age have less than an eighth grade education". (SURC footnote).

The New Jersey State Law Enforcement Planning Agency has strongly supported basic adult education programs for jails and has funded a small number of projects. The Commission feels such efforts, though well-intentioned, have not provided a thorough approach to basic educational needs and deficiencies of the offender. It, therefore, proposes a three-phase program pivoted about the Adult Basic Education concept. Remedial reading, GED preparation and post-secondary studies should be initiated through the auspices of the local county colleges and supplemented by the expertise of the Rutgers University Graduate Reading Center. Project Newgate, as developed through the U.S. Office of Economic Opportunity, 1973, is offered as an established and workable model.

RECOMMENDATION THIRTEEN

Pre-release Preparation

NACCJS&G, Standard 9.8

The Commission recognizes that all offenders confined to county jails, penitentiaries and corrections centers return to the community within a relatively short period of time from the date of sentence. Few of the County jails are responsive to providing promptly for the offender's smooth transition back to society. The client returns to his former environment in much the same state of mind as when excised by the courts. Therefore the Commission strongly recommends the establishment of special orientation programs from within each jail which would incorporate motivational training, career counseling and job grooming, employment assistance via the Work Release concept as well as pre-release interviews with the appropriate representatives of the employment, housing and educational communities. Decisional counseling is a program of merit which offers the client the gradual opportunity to exercise decision making. At the core of this Recommendation is the ultimate goal of changing the jail from a degrading and dehumanizing experience to a safe, positive environment in which the client has a chance to express his feelings, develop his abilities and determine an attainable future.

The Commission intends through these Recommendations to alert laymen and corrections professionals alike to the present illegitimacy of the statement: "Jail serves as punishment and not for punishment".

EPILOG -

A WORD FROM THE CHAIRMAN

I have great enthusiasm for the introduction into this country of the concept of a county correctional authority as recommended in this Report. It can however, be misunderstood as was evident when field-testing it. Therefore, a more complete description is in order.

Not an advisory committee, the County Correctional Authority is a policy setting body. Not a new level of bureaucracy, the Authority will fill a void. Not a mere appendage to the existing county jails, the Authority will move local corrections into broad new horizons. It will be the missing "think tank" to conceive of new sources of funding (it should have the power to float bonds, for example); develop alternatives to incarceration in sub-standard or overcrowded facilities; create new relationships with other community resources for availability to the inmates; and similar remedial matters.

The Board of Visitors in the British penal system is the model. There, the Board sets policy for the prison, hears disputes and inmate grievances, and serves as a bridge between the institution and the community. Except for dispute and grievance resolution, the Authority would have the same role in the counties of New Jersey.

The County Correctional Authority affords the people of New Jersey the following advantages:

1. For the first time in our history, each county would have an interdisciplinary, board of local citizens who can provide a sustained and creative approach to community corrections;
2. The Authority will engage the top staff administrator to run the jail and any related programs that the Authority sets up;
3. The patronage and favoritism that have been destructive of staff morale and that have retarded progress will be eliminated; and
4. The Authority will fill a public educational function, a woefully lacking need throughout the State. Public apathy and even hostility

have been major obstacles to improvement to jail reform. The Authority will interpret to the community the realities of a progressive correctional philosophy.

There is reason for optimism. Thinking people recognize that change must come and that we should not wait until we are forced by court order to remove the last vestiges of barbarism from county corrections. Also, the Office of Inmate Advocacy within the Department of Public Advocate has been instrumental in fostering some improvements in several county jails. Career staff at the institutions are generally receptive to training opportunities and to new approaches. Other changes are slowly occurring.

But the biggest voids persist and it to those voids that our Recommendations are essentially addressed: Standard setting; organizational restructuring; training and programming - in a word, professionalization.

Finally, I urge the Legislature to create other Commissions to study those aspects of corrections that we were simply unable to undertake: juvenile detention homes; municipal jails and police lock-ups; and our fragmented systems of probation and parole.

It has been an honor for me to serve the people of New Jersey as Chairman of this vital effort and I'm grateful for the association with the other members of the Commission. It has been especially reassuring to discover the many strengths and resources at the county level waiting to be marshalled to corrections reform, to an era of humane and effective community corrections. I pray that this Report is the clarion call.

APPENDIX

T. K. ... Assembly A

JR 3-1

JOINT RESOLUTION 3, *approved February 27, 1973*

1972 Senate Joint Resolution No. 17

A JOINT RESOLUTION creating a commission to recommend improvements in the county penal system of New Jersey.

- 1 WHEREAS, There are a number of archaic physical plants in the
- 2 county penal system; and
- 3 WHEREAS, Overcrowded conditions in county jails are aggravated
- 4 by the necessity for a physical facility for the holding of dan-
- 5 gerous prisoners who are awaiting trial; and
- 6 WHEREAS, The present facilities and programs provide inadequate
- 7 rehabilitation programs; and
- 8 WHEREAS, Because of lack of space first offenders are intermingled
- 9 with chronic repeaters; and
- 10 WHEREAS, Short-term prisoners need special institutions, such as
- 11 farms, camps and workhouses, which can provide full time em-
- 12 ployment and remedial services; and
- 13 WHEREAS, Financial limitations may make such facilities in each
- 14 county impractical; now, therefore

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

- 1 1. There is hereby created a commission known as the County
- 2 Penal System Study Commission consisting of nine members, three
- 3 to be appointed by the President of the Senate, three to be appointed
- 4 by the Speaker of the General Assembly, and three to be appointed
- 5 from the citizenry of the State at large by the Governor, no more
- 6 than two of any such group of three shall be of the same political
- 7 party. The Governor shall designate one of the nine members as
- 8 Chairman. Vacancies in the membership of the commission shall be
- 9 filled in the same manner as the original appointments made.
- 1 2. The commission shall organize as soon as may be after the
- 2 appointment of its members and may select a vice chairman from

3 among its members and a secretary who need not be a member of
4 the commission.

1 3. It shall be the duty of the commission:

2 (a) To study the subject of county prisons and to evaluate the
3 physical conditions and programs presently existing therein;

4 (b) To inquire specifically into the adequacy of and location
5 of present facilities;

6 (c) To review security regulations and procedures;

7 (d) To study the advisability of an expanded program of State
8 inspection and technical assistance and increased use of existing
9 community resources for rehabilitation programming such as work
10 and study release;

11 (e) To make recommendations as to the possibility of state and
12 intercounty cooperation and sharing of facilities;

13 (f) To evaluate the classification procedures used to segregate
14 different types of prisoners; and

15 (g) To study all such other matters relating to the subject of
16 county prisons as the commission may deem appropriate and to
17 evaluate the financial impact of any recommendations it shall make.

1 4. The commission shall be entitled to call to its assistance and
2 avail itself of the services of such employees of any State, county
3 or municipal department, board, bureau, commission or agency as
4 it may require and as may be available to it for said purpose, and
5 to employ such stenographic, clerical, technical and expert assist-
6 ance and incur such traveling and other miscellaneous expenses
7 as it may deem necessary, in order to perform its duties and as may
8 be within the limits of funds appropriated or otherwise made avail-
9 able to it for said purposes.

1 5. The commission may meet and hold hearings at such place or
2 places as it shall designate during the sessions or recesses of the
3 Legislature and shall report its findings and recommendations to the
4 Governor and the Legislature, as soon as may be, accompanying the
5 same with any legislative bills which it may desire to recommend
6 for adoption by the Legislature.

1 6. This joint resolution shall take effect immediately.



OFFICE OF THE SHERIFF

COUNTY OF MIDDLESEX

NEW BRUNSWICK, N. J.

JOSEPH DE MARINO, Sheriff
STANLEY R. MARCINCZYK, Undersheriff

TELEPHONE 246-6366

August 29, 1977

County Penal System Study Commission
John F. X. Irving, Chairman
State House Room 221
Trenton, New Jersey 08625

Re: Report of Our Commission - June '77

Dear Mr. Irving:

After reading the Report of Our Commission and the Recommendations submitted by the Commission, I unanimously support the entire Report and also agree with all 13 Recommendations.

I want to commend you, as Chairman of this Commission for your effort in a job well done. It was certainly gratifying for me to have the opportunity to work with you on this commission.

If I am needed in the future whether pertaining to this Commission Report or for any other service do not hesitate to call upon me.

Respectfully Submitted,


Joseph DeMarino, Sheriff

JDeM:kmk

AUG 26 1977



NEW JERSEY SENATE

THOMAS G. DUNN

SENATOR, 21ST DISTRICT

ELIZABETH, LINDEN, WINFIELD & CARTERET)

1120 APPLGATE AVENUE

ELIZABETH, NEW JERSEY 07202

201-353-3866

AUGUST 24, 1977

TO: JOHN F. X. IRVING, CHAIRMAN
COUNTY PENAL SYSTEM STUDY COMMISSION

FROM: THOMAS G. DUNN, MEMBER
COUNTY PENAL SYSTEM STUDY COMMISSION

RE: REPORT OF COMMISSION

* * * * *

PLEASE BE ADVISED THAT I APPROVE THE REPORT OF THE
PENAL SYSTEM STUDY COMMISSION AS PRINTED AND
SUBMITTED BY JOHN F. X. IRVING, CHAIRMAN.

THOMAS G. DUNN
STATE SENATOR
21ST LEGISLATIVE DISTRICT



CITY OF CAMDEN
DEPARTMENT OF LAW
THE CITY HALL
CAMDEN, NEW JERSEY 08101

MARTIN F. MCKERNAN, JR.
CITY ATTORNEY

SAMUEL T. FRENCH, JR.
FIRST ASSISTANT CITY ATTORNEY

LOUIS A. VARGAS
SENIOR ASSISTANT CITY ATTORNEY

MARY E. COLALILLO
MICHAEL J. DiCOLA
LAURENCE E. ROSOFF
VINCENT J. SAITTA
ASSISTANT CITY ATTORNEYS

August 9, 1977

In reply please refer to
File #

John F. X. Irving, Esquire, Chairman
The County Penal System Study Commission
The State House-Room 221
Trenton, New Jersey 08625

Dear Dean Irving:

Thank you for sending me a copy of the draft Report on the work of our Commission. I am extremely impressed by the Report and it demonstrates a great deal of diligent effort on your part and on the part of the staff.

I am enclosing my only objection which is in the format suggested in your letter and deals with Recommendation three. This is the only objection which I have at this time; but I am sure you will understand my wish to refrain from final approval until I have seen chapter five and the Appendix.

With all good wishes, please allow me to remain.

Very truly yours,

MARTIN F. MCKERNAN, JR.
City Attorney

MFM:tc

Recommendation Three

This recommendation was not approved, in its entirety, by Commissioner McKernan. He feels that the power to transfer an inmate to a regional psychiatric center ought not to be left to the unfettered judgment of the jail administrator but feels, rather, that such a decision ought to be made within the parameters of fairly restrictive guidelines and only upon the recommendation of a psychiatrist. Commissioner McKernan feels that, absent such protection, such transfers could be used as a form of punishment with resultant harmful consequences to both the transferee and those inmates already confined at the regional psychiatric center.



State of New Jersey

COUNTY PENAL SYSTEM STUDY COMMISSION

JOINT RESOLUTION NO. 3, 1973

STATE HOUSE ROOM 221

TRENTON, NEW JERSEY 08625

TELEPHONE

(609) 292-5526

JOHN F. X. IRVING
CHAIRMAN

GERARD A. DEL TUFO
VICE-CHAIRMAN

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

CARL E. MOORE
RESEARCH DIRECTOR

DOUGLAS COOK
SECRETARY

September 25, 1977

Dean John F. X. Irving
Seton Hall University School of Law
1095 Raymond Boulevard
Newark, New Jersey 07102

Dear Dean Irving:

I have reviewed the draft report of the County Penal Study Commission.

I regret that I cannot agree with a great deal of the report.

With respect to Chapter I.

My comments as to Chapter I are incorporated in other portions of this opinion.

With respect to Chapter II:

FINDINGS OF FACT

Initially, the suggestion that the State, as an impersonal entity, has violated it's Constitution is, at best, an overstatement. At worst, it is an absurdity. In any event, it is not borne out by the testimony. I cannot agree that this is a finding by the Committee;

I have made independent findings, as follows:

1. I find, as a fact, that there is a need to improve inmate's health care, established by the testimony before the Committee. Beyond that, I cannot agree with the draftsmen's findings. The credible testimony, I believe, supports my position;

2. I find, as a fact, that there are numerous persons with drug habits in the County Penal Institutions. I am unable to conclude that any significant drug dependency has resulted from incarceration: I find a paucity of evidence which would support such a position;



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GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625
TELEPHONE
(609) 292-5526

CARL E. MOORE
RESEARCH DIRECTOR

DOUGLAS COOK
SECRETARY

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3. I find as a fact that the philosophy governing the various County Penal Institutions varies in accordance with the predilections of the official in charge. The testimony established that the various Sheriffs, Under Sheriffs, and Wardens, have differing philosophies of penology. I found no clear "wrong" direction expressed as official policy of any institution studied. Properly, the minds of reasonable Wardens may differ.

I submit that the suggestion of violation of the Constitutional right to equal protection of the Laws is an opinion of Law, and, hardly, a finding of fact. Consequently, I submit that it should be deleted;

4. I find, as a fact, that the County jail is a dumping ground for a wide range of troubled, and troublesome people, and people in trouble.

I am delighted to have found a point of agreement with the scrivener. I am not in agreement with his supplemental comments--such people exist, and must be placed, by the society, somewhere. R O R programs have been widely expanded, thus curing many of the faults cited;

5. I cannot find, as a fact, from the credible evidence, that female inmates are "almost invariably treated worse than male inmates."

They may be. There was some testimony from some female inmates who are of that opinion. I was not impressed with the caliber of that testimony.

I earnestly solicit deletion of the phrase, "denied work release because they are promiscuous,...". This is a sexist overstatement, for which the Committee would be, justifiably, criticised;

6. I find as a fact that custodial personnel are not given adequate training.

This was established by a broad spectrum of testimony;

7. I find as a fact that the County Sheriff is an appropriate official to superintend the County Penal Institution.

The draftsman objects to control by an elected official. The basis for his objection is the allegation, supported by testimony before the Commission, that there are violations of existent Civil



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JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625
TELEPHONE
(609) 292-5526

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

DOUGLAS COOK
SECRETARY

GARRETT W. HAGEDORN
ARTHUR F. BROWN
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Service and Penal Statutes. To the extent that these allegations are based in fact, enforcement of existing laws and regulations would cure the ill.

It is correct that a Sheriff need have no specific job qualifications. Neither has a Mayor, a Senator, or the President of the United States. In fact, considering the enormity of their task, most County Sheriffs have performed in a credible manner, as is borne out by the testimony before the Committee. Those who do not are not re-elected; where justified, they are indicted.

With respect to Chapter III.

JURISDICTION OF THE JAILS

The facts presented to the Committee indicate that there are difficulties in some County Penal Institutions, at various times. I cannot agree that there is an "urgent necessity," for "widespread change."

There is no question of accountability: The Sheriff is responsible for the jails and answerable to the electorate.

I disagree with the concept of a County Correctional Authority for reasons which will be set forth later in this opinion.

I suggest that the appropriate function of the County Penal Institution is to be a penal (i.e., instrument of punishment) institution; not a correctional institution. Rehabilitation, however desirable, is unlikely to result from the relatively short period of incarceration at these institutions. What rehabilitation may be, follows from a desire not to return to the institution. Hopefully, the punitive effect of the incarceration will provide sufficient incentive for the inmate to avoid further incarceration, by avoiding further unlawful activity. It is not unreasonable to suggest that the County Jail should be, within humane guidelines, so uncomfortable that the desire not to return outweighs the desire for instant gratification.

It should be remembered that the County Jail developed as a humane alternative to other punishments utilized by the society. Samuel Johnson summarized the antecedences of our system when he remarked, "we have different modes of restraining evil: stocks for the men, a ducking stool for women and a pound for beasts." The pillary, whipping post, and branding iron were habitually utilized



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JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

TELEPHONE
(609) 292-5526

DOUGLAS COOK
SECRETARY

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

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at common law. Ears were cropped and nostrils slit. By comparison, punishment by incarceration is moderate and reasonable.

"Punishment" is not a malevolent word. Punishment is a natural part of everyone's learning history. A child learns to walk, in part, to avoid the pain of falling down. Everyone learns to avoid doing those things that result in pain.

It follows that the function of the jail is unilateral-detention as punishment. To expect the Jails to serve an expanded social purpose, however desirable, is to ignore the facts and dwell in fantasy.

With respect to Chapter IV.

RECOMMENDATIONS

Preliminarily, I am particularly troubled by the inference that, in some fashion, the County Penal Institutions would be better run if the State were to take control. This concept permeates the Draft Committee Report. I disagree. It has not been demonstrated that the State Penal Institutions are better run than, or even run as well as, most of the County Institutions, with all of their imperfections. The Committee took testimony from high ranking staff members of the Marlboro Psychiatric Hospital, a State Institution. The funds and facilities provided to the facility were, as I recall the testimony, so inadequate so as to be shocking.

Further, it has been axiomatic in the political structure of this society that power should vest at the lowest level capable of exercising it effectively. This results in increased accountability to an enlightened electorate.

This is not to say that the State ought not to serve a role with respect to the County Penal Institutions. I believe that the scope of that role is delineated by recommendation One of the draft, with which I agree.

As to recommendation One:

It is completely appropriate that the State of New Jersey develop standards and provide support and assistance in order that those standards might be met. Once such assistance and



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JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625
TELEPHONE

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

(609) 292-5526

DOUGLAS COOK
SECRETARY

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GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

support is provided, compliance with the standards should be insured by frequent inspection. This would provide the maximum desirable State impact upon the County Institutions.

Parenthetically, within the scope of such inspection, might be included a critique of those released most recently from County Penal Institutions, by a state official. The, now former, inmate, would have opportunity to voice his observations concerning the institution, without fear of reprisal.

As to recommendation Two:

I disagree. The recommendation replaces the County Sheriff who is answerable to both the Freeholders and the electorate, with an administrator, who is answerable to an authority, which is, in turn, answerable to the Freeholders. The logic of this recommendation is questionable; it's benefits are speculative.

The suggestion is made that the proposed Committee would be modeled after the British Board of Visitors. Perhaps the author is unaware of the provisions of N.J.S.A. 30:1-15, establishing a State Board of Institutional Trustees, or of the existence of the State Office of Inmate Advocacy as part of the Department of the Public Advocate. Both exist; with increased funding, they could, between them, serve the function of insuring compliance with State standards.

I am unable to find justification for substituting a bureaucrat in place of an elected official as suggested by the draft report.

As to recommendation Three:

The State has the obligation to provide for the treatment of the mentally ill. Such treatment is outside the scope of the County Penal Institutions, and, consequently, outside the purview of this Committee. Nevertheless, the testimony before the Committee clearly showed a problem encountered, universally, in the jails, in coping with the mentally ill inmate.

I am unable to agree or disagree with the recommendation in it's present form, based on the data which was presented to the Committee. I disagree with the suggestion that three jails be



State of New Jersey

COUNTY PENAL SYSTEM STUDY COMMISSION

JOINT RESOLUTION NO. 3, 1973

STATE HOUSE ROOM 221

TRENTON, NEW JERSEY 08625

TELEPHONE

(609) 292-5526

JOHN F. X. IRVING
CHAIRMAN

GERARD A. DEL TUFO
VICE-CHAIRMAN

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

CARL E. MOORE
RESEARCH DIRECTOR

DOUGLAS COOK
SECRETARY

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utilized to become "regional psychiatric holding and treatment centers." Jails are not hospitals. Changing the title of the institution does not change it's function. The extent to which existing mental institutions might be utilized to provide the, unquestioned, need for psychiatric care, hinges on the willingness of the State to provide adequate funding.

In part, such funding must be provided for the purpose of securing whatever mental treatment facilities are ultimately created. There was substantial testimony before the Committee relating to the lack of security in these institutions as they are presently constituted. This results in frequent escapes. Persons who are not responsible, in the legal sense, are then loose.

Additionally, by reason of the limited internal security at the mental institutions, the County Sheriff is often required to provide security for an inmate housed at a mental institution. This is wasteful and expensive.

As to recommendation Four:

I agree, generally, that the County jails ought to adhere to the National Sheriff's Association's standards and guidelines. The Commission must, however, recognize that compliance depends upon funding. I suggest that it is appropriate that the final draft report of the Commission recognize the relationship between funding and performance, and call upon the State to supplement County spending for this purpose.

As to recommendation Five:

I am opposed to the appointment of additional bureaucrats being appointed, as suggested. The "ombudsman" would duplicate the function of the State Board of Institutional Trustees, and, apparently, the function of the Office of Inmate Advocacy of the Department of the Public Advocate. No testimony was presented before the Commission indicating that these entities were, in fact, not functional.

As to recommendation Six:

I cannot agree with recommendation six as drafted, although I am in agreement with the concept. I have two problems with the



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JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625
TELEPHONE
(609) 292-5526

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

DOUGLAS COOK
SECRETARY

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

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draft. First, the inmate is not incarcerated for any significant period of time; as a result the impact of counseling while he is in the County Penal Institution is likely to be minimal. Second, there are no correction professionals "available to deal with the broad scope of human difficulties referred to in recommendation six." This suggestion may make sense in the context of a State prison, which has the opportunity to work with the individual over a protracted period of time, however, I cannot accept its relevance in terms of the County jail.

As to recommendation Seven:

I agree that there should be adequate medical facilities available to inmates at the County jail. The testimony before the Committee indicated, after allowing for exaggeration, that there are problems in this area. Funding is crucial to the resolution of this problem.

Testimony was taken before the Commission, by competent authority, of the proposition that many of the ills occurring in the jails might be treated by para-medical personnel. The military has utilized this concept for a considerable period of time. The use of para-medics, coupled with expanded use of registered nurses and para-dental technicians, would, undoubtedly, enable the County jails to provide an upgraded quantum of service at a reduced cost. Legislation would probably be required as a condition precedent to the implementation of this suggestion.

Parenthetically, I must reject that portion of recommendation seven which refers to an alleged, "reality of grossly inadequate medical care and treatment in jails...". The testimony which I heard, and the transcripts which I read, indicate that the medical care given to persons in jail is, probably, not at the level expected by middle class Americans. To raise the level of care to that standard is desirable and a goal worth attaining. Nevertheless, before using such phrases as "grossly inadequate" the author should be aware that the level of medical care which many inmates receive while in the County jail is, demonstrably, greater than the level of care which he or she received while living outside of custody. I submit that the Commission report should reflect reality, and expect the attainable.



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STATE HOUSE ROOM 221

TRENTON, NEW JERSEY 08625

TELEPHONE

(609) 292-5526

CARL E. MOORE
RESEARCH DIRECTOR

DOUGLAS COOK
SECRETARY

JOHN F. X. IRVING
CHAIRMAN

GERARD A. DEL TUFO
VICE-CHAIRMAN

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
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As to recommendation Eight:

This is an exercise in semantics. Changing the name of the "intake" officer to "rehabilitation services counsellor" is not a recommendation which is worthy of this Commission.

The testimony taken established a need for custodial personnel to receive more adequate training. This is true of the "intake" officer as well as of other correctional officers.

The procedures relating to reception are within the purview of standards to be set by the State; see my comments with respect to recommendation one.

As to recommendation Nine:

I must disagree for numerous reasons. Again, the author of the draft confuses the function of the County jail with that of the State Penal Institutions. Parole is not permitted, as such, from the County jails. By the time the proposed Committee met, most sentences would be served. The inmate would be long gone. Insofar as the draft refers to persons having sentences longer than one year, they are generally, with little exception, outside of the scope of this Commission. Further, no testimony was taken which would justify any conclusions or recommendations relating to those serving long-term penal sentences.

The use of the word "client" is significant, and should be deleted. We have not yet reached the point where the inmate in a penal institution, who has violated the criminal laws, is to be treated as if he were the client of a social agency. There is, perhaps, argument in support of this position, however, it has not been presented to this Commission. I disagree with the attempt to insinuate this concept into the draft commission report.

As to recommendations Ten, Eleven and Twelve:

The above, dealing with counselling, educational services and pre-release preparation, represent areas which must be considered by the Commission; as drafted, they are partially acceptable to me.

Rather than take issue with the draft as written, I would prefer to submit the following thoughts with respect to each of these categories:



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STATE HOUSE ROOM 221

TRENTON, NEW JERSEY 08625

TELEPHONE

(609) 292-5526

JOHN F. X. IRVING
CHAIRMAN

GERARD A. DEL TUFO
VICE-CHAIRMAN

GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
MARTIN MCKERNAN, JR.

CARL E. MOORE
RESEARCH DIRECTOR

DOUGLAS COOK
SECRETARY

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1. As to housing. Security is, of paramount concern. To some extent, prisoners can be segregated by the security risk which each represents, and put into a minimal security institution. The civil offender, or the violator of traffic regulations, is unlikely to require maximum security care. A World War II type Army barracks, on a fenced acre in each County, would probably be sufficient. In turn, bed space would be available in the primary, maximum security, institution.

The cost of such facilities would be minimal. The expense of operation would be greatly lessened at such a facility as fewer guards and controls would be required.

2. As to counseling and educational services: these are recommendations eleven and twelve and I must treat them as part of the same. The difficulty with the suggestions made by the draftsman are that they are totally unrealistic. We must operate within an institutional framework. Desire, however well motivated, does not change fact. This does not mean, however, that there cannot be counseling, educational services and pre-release preparation. What is required is a blend of the existing resources and their utilization in, perhaps, some imaginative fashion. I find an analogy with the practices at the English Heroin-Treatment Clinics, with which I have some familiarity.

The British, in the course of coping with the heroin problem, provide heroin to the addict at a cost to him. That cost, broadly expressed, is that he comply with certain guidelines which are deemed socially desirable. He must obtain employment, or make a bona fide attempt to obtain employment. He must attend schooling and counselling where these are appropriate. The British go beyond treatment of the individual and provide qualified social workers to work with the addict's family in the hope of modifying his social environment.

I have previously postulated that extended social services, schooling, and the like is beyond the purview of the county penal institution. I continue to be of that opinion. This does not mean that such services cannot be made available, with the help of an enlightened judiciary, to persons incarcerated in the county institutions.



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JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

TELEPHONE
(609) 292-5526

DOUGLAS COOK
SECRETARY

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GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
JOSEPH DEMARINO
BESSIE G. HICKS
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Most offenses provide for alternative sentencing procedures. For example, disorderly persons violations, which constitute a high percentage of the inmates in the County penal institutions, generally provide for incarceration of up to six months and a period of probation up to three years. Imaginative use of the probation department makes recommendations eleven, twelve and thirteen viable. The key is structuring programs which might be continued after the jail sentence.

Remedial reading, for example, might be necessary if the inmate is going to function in the society. Initiating such a program in jail is, as has been demonstrated, worthless. Making, however, such a program, a condition of probation, provides the kind of alternative sentencing procedure which should be a part of every Judge's repertoire.

The facility for counselling exists under present social service agencies. These facilities are often ignored by persons who ultimately are incarcerated. Making utilization of these facilities a condition of probation is within the power of Judges, without the need to change any of the rules presently governing the Courts.

All of this is, of course, predicated upon:

1. The willingness and ability of the probation officer making a pre-sentencing report to correctly identify problems which might be solved by appropriate programs;
 2. The willingness of the sentencing Judge to impose such programs as a condition of probation;
 3. The willingness of the Judge to impose sanctions by way of incarceration for failure to meet the conditions of probation;
 4. The willingness of the inmate to comply with such programs by reason of his desire not to return to the penal institution.
- At that juncture, the County jail is serving an appropriate penal purpose, i.e., it is such an undesirable place to be that the inmate complies with the condition of his probation rather than return.

The British accomplish this result by providing the addict with pleasure-heroin, at nominal cost. The County jail can provide this result by the imposition of pain-the threat of incarceration under unpleasant conditions.



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JOHN F. X. IRVING
CHAIRMAN

STATE HOUSE ROOM 221
TRENTON, NEW JERSEY 08625
TELEPHONE
(609) 292-5526

CARL E. MOORE
RESEARCH DIRECTOR

GERARD A. DEL TUFO
VICE-CHAIRMAN

DOUGLAS COOK
SECRETARY

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GARRETT W. HAGEDORN
ARTHUR F. BROWN
ALAN J. CORNBLATT
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This threat is particularly viable where the inmate has served a short term and has a suspended sentence remaining. He is in the institution just long enough to find it uncomfortable, but not long enough to adapt.

The suggestions set forth above will work if the various State and County Agencies which presently are charged with providing these programs, including the Probation and Welfare Departments in each County, are able to work together and perform their functions. The coercive force which provides the "client" is the pain of incarceration for a short time, coupled with the certainty of further incarceration for he who does not comply.

No additional cost is required; utilization of existing facilities should be sufficient.

In addition to the above, the testimony indicated that there are numerous persons presently institutionalized who have difficulty in functioning in an unstructured environment. There is a great need for half way houses for these people. Such facilities can be provided at a fraction of the cost of keeping an inmate in a penal institution.

Rehabilitation remains a desirable goal. Perhaps, as the level of research continues, rehabilitation techniques may be developed which are applicable to the realities of existence in the County jails. At the moment, such techniques simply do not exist.

I have attempted to stay within the format of the draft report. I believe that the report, in it's present form, ought not to be submitted to the Legislature.

I am forwarding a copy of these thoughts to all members of the Commission.

Respectfully yours,


ALAN J. CORNBLATT

REPORT and FINDINGS of Arthur F. Brown

Subject: County Penal Study Commission

As a member of the County Penal Study Commission appointed June 19, 1973, by Governor William Cahill, I feel a report put together in haste is worse than no report at all. To date, it has been almost two years since the entire body of commissioners has met. There has been no information forthcoming nor any up to date activity reports received since the last progress report of January 20, 1976, until this document called "REPORT OF OUR COMMISSION" was received with a postal date of July 26, 1977. I would have to assume this document is the result of the labor of one member; also, that the philosophy is the byproduct of one member's thinking.

At this particular point in time I am not certain that the commission, as originally constituted in 1973, has the legal authority under state law to release a report. Some of the information obtained from direct conversation with inmates would be barred from a court of law under the statutes of limitations. Through experience, I am reluctant to place too much credence in inmates' stories, as I have learned that they express opinions related to jail matters in a manner tending to tell a story of what one wants to hear.

During the latter part of 1975 and early 1976, I personally visited and inspected all jail facilities in New Jersey under the jurisdiction of county government. These facilities were all those under the control of County Boards of Chosen Freeholders and County Sheriffs. My inspection reveals that there are at present 21 county jails in New Jersey and 3 workhouses - Camden County, known as the Camden County Jail Annex located in Lakeland; Mercer County, known as Mercer County Correction Center located in Lambertville; and Middlesex County Workhouse located in North Brunswick. There are also two penitentiaries in New Jersey, one in Essex County and the other in Hudson County. The Essex County Penitentiary is located in Caldwell and referred to as the Essex County Correctional Center. Hudson County's Penitentiary is located in the same building as the county jail in Jersey City. All the foregoing are operated under

the jurisdiction of the county and are funded from county taxes. The following list shows the name of the county, the name designated for use by that county, the type of facility, the holding capacity and the population at the time of my inspection.

NAME	TYPE	CAPACITY	POPULATION
Atlantic County Jail	County Jail	174	189
Bergen County Jail	County Jail	200	82
Bergen County Jail Annex	County Jail	200	86
Burlington County Jail	County Jail	126	183
Camden County Jail	City/County Jail	196	162
Camden County Jail Annex	County Jail(Workhouse)	71	68
Cape May County Jail	County Jail	45	65
Cumberland County Jail	County Jail	136	110
** Essex County Jail	County Jail	645	493
** Essex County Correctional Center	County Penitentiary	712	465
Gloucester County Prison	County Jail	67	57
Gloucester County Correctional Center	County Work Release & Detention Center	40	20
** Hudson County Jail	City/County Jail	302	180
** Hudson County Penitentiary	County Penitentiary	140	118
Hunterdon County Jail	County Jail	45	24
** Mercer County Detention Center	County Jail	138	153
** Mercer County Corrections Center	County Workhouse	200	149
Middlesex County Jail	County Jail	88	66
** Middlesex County Workhouse	County Workhouse	187	101
Monmouth County Correctional Institution	County Jail	315	258
Morris County Jail	County Jail	120	93
Ocean County Jail	County Jail	126	105
Passaic County Jail	County Jail	228	334
Salem County Jail	County Jail	108	73
Somerset County Jail	County Jail	75	27
Sussex County Jail	County Jail	24	16
Union County Jail	County Jail	254	192
Warren County Jail	County Jail	39	41

** The asterisks preceding the left hand column designate those operations directly under the control of the Board of Chosen Freeholders of that county.

Four of the seven facilities under Freeholder control are used primarily to house sentenced prisoners. They must be looked at through an entirely different perspective. Certainly they offer a good potential for meaningful rehabilitation. Essex County Correctional Center is a prime example of what may be done, providing certain factors are combined catalytically: ample space, adequate funds, dedicated administrative guidance, properly trained staff, and acceptance of the programs by the custodial staff.

Page 5 of the "REPORT OF OUR COMMISSION" under the heading of Methodology refers to tours of "five counties in which public hearings were held" and additionally "visits were made to facilities in Middlesex (both jail and workhouse), Morris and Ocean counties". This is a grand total of 9 facilities visited or inspected of the total 28 county institutions available, or approximately 34% of the total inspected by the County Penal Study Commission. This surely is not truly representative, nor is it an adequate random sample.

It must be noted that each county is uniquely different in many facets - type of people, ethnic makeup, type of industry available, economic impact, growth potential, geographic location relative to transportation centers, urban and rural settings, and historical background, have to be considered before a final solution to problems inherent to incarceration at county levels can be resolved. Solutions cannot be found under a common denominator; each case is different. Surely a study of Bordentown Reformatory and the State Prison in Trenton would provide the same responsive data. The basic problems there are undoubtedly the basic problems found in the county system - lack of space, overcrowded conditions and poor salaries for the employees.

There are, of course, other problems. In no place in the world where prisoners are incarcerated will one find utopia. On the other hand, should one be rewarded for doing wrong or breaking the law? Remembering that a majority of prisoners in the county system constitutionally are not guilty until proven such, we must provide basics: custody, control and inmate safety. We must completely forget the victims of the perpetrators of the crimes; forget the mother of the murder victim, the ravaged body of the young girl who was savagely abused, the householder who had his home ransacked and burglarized. We must not lose sight, however, that those not sentenced, which in most cases make up approximately 65% of the population in county jails, have had the advantage of jurisprudence provided by our system, being mindful that these prisoners are in jail because the courts have established bail high enough to keep them off the streets, thus making the streets safer for society, at least temporarily; also being reminded that they would not be in jail if there was not a determination of probable cause.

Further, they are indicted by Grand Juries after establishment of a prima facie case has been made. Thus, this group of inmates must then stand trial for their acts. Unless bail is met, there is no alternative, and the jail becomes the holding agency awaiting the long period before trial.

While I agree that during this period, the jail must provide certain creature comforts, there is nothing mandating that a country club atmosphere be provided at taxpayers' expense. Jails must provide wholesome food and well balanced diets, sanitary washrooms and showers, clean living space, adequate light and a form of physical as well as mental recreation. Excellent medical treatment facilities are a must. Provision must be made to adequately house and treat and/or transfer to a proper facility prisoners who are diagnosed psychotic.

It is most reprehensible to think that "the county jail is society's first hope for straightening the early offender out." In most instances, jail is the next to last step to the final resort. Failure at the county level can be compared to failure at the state level in almost the same frequency. Recidivism is evenly present in both places. The difference is that the state system only holds those prisoners who were sentenced to more than a year. County jails hold those sentenced up to a year and county penitentiaries hold those sentenced up to 18 months duration. County jails also hold those who are waiting pleas, trials and sentencing. These categories are made up of persons accused of a crime who are usually a threat to society and can not post bail. Approximately 90% have experience in the county jail, having been arrested before or served time on a prior conviction.

These prisoners sentenced to the county jail for supposed "straightening out" have had prior opportunities presented to them, allowing them a chance to choose a path in the right direction. Let's consider what happens to the recidivist before he or she is finally sentenced. A first offender may apply for pre-trial intervention prior to indictment, and under special circumstances, after indictment; in neither case is there a guarantee of acceptance into the program. If he is accepted into the program, he must comply with conditions outlined and if he successfully completes the program,

the charges are dropped. If at any time he is in the program he violates the conditions, the case is referred to the Prosecutor for procedure through normal channels. If the recidivist is not on probation, he may apply for pre-trial intervention prior to indictment; he must receive special permission to apply after indictment. AFTER a plea or judgment of guilty, the presentence report is prepared. These same steps are followed when the recidivist is on probation; however, after conviction, he is also charged with violation of probation.

One may also ask if "the state prisons, to a large extent, are testaments to the failure of the county correctional system", then what is the failure of the state system testament to? It was unfortunate that the Commission chose only to focus its attention primarily on jails. It is possible that the answer to some of the problems like overcrowding faced by the counties, and more recently the state, may be found at the penitentiary or county workhouse level.

My inspection of the Essex County Penitentiary was most rewarding and informative. This type of setting offers prisoners a variety of diversified programs, all designed for the prisoner to acquire knowledge, develop skills, and improve ability. Meaningful programs have been developed in education, such as English, a second language, high school equivalency, adult basic education and Essex County College courses, which are offered. Their vocational training school offers courses in auto repair, air conditioning, service station mechanic, auto body repairs, auto mechanics, auto transmission, general maintenance, landscaping, repair of minor and major appliances, small diesel engines and welding. There are also many other trades taught. Besides the programs listed above, the management has instituted another new and innovative program for inmate rehabilitation, called Turning Point, for alcoholics. This program is also in full operation.

The Essex County institution is operated under the supervision of dedicated professional management. Most of the prison appeared to be geared to a relaxed atmosphere where the inmates seemed to enjoy their assignments; for example, those assigned to chicken farming and gardening worked as though they enjoyed their duties. The

interplay of the inmates and custodial officers appeared to be congenial and the officers were dedicated to their particular work functions.

As a Commissioner, I take exception to the statement appearing under the heading "Itinerary", page 6 of the "Report of Our Commission": "Cooperation with the Commission for a one-day hearing might mean months and years of harassment thereafter". This statement infers that the inmates and jail officers who cooperated would be subject to some unrealistic or punitive treatment. To my knowledge, there was no direct testimony that this would be the rule. Without documentary proof or bona fide evidence, I find the statement to be erroneous, unsupported and unrealistic, and should be stricken from the initial report. In my recollection, there may have been one case where one employee suggested this type of treatment, but it was unsupported by direct testimony. It appeared to emanate from one disgruntled employee.

I have read the Bergen County Presentment, and I am not particularly impressed with their findings, after eleven meetings and the testimony of thirty witnesses. Some evidence of the existence of implements that could be turned into knives and many knives were presented to the jury. It must be remembered that the simplest inmate supply of toiletries can be made into a knife or dagger. Toothbrush handles, sharpened by constant rubbing on concrete, produce one of the easiest weapons made. Unfortunately, no substitute has been invented for inmates' use to clean teeth. This goes on in all jails and prisons throughout the country. Fortunately, trained officers confiscate them during tour inspections of the jails. Some jails are unfortunately under-manned, and constant searches are prohibitive. Wardens who work directly for Boards of Freeholders and Sheriffs who operate jails are usually unsuccessful in acquiring additional personnel that would allow them to properly and safely function. As a nation of action after crises, it is not unusual that Sheriffs and wardens receive such lack of financial support until something drastic happens or a Grand Jury makes a presentment. This would happen no matter who was responsible for the operation unless they had an open channel to unlimited funds.

The difficulties cited in the presentment in relation to contraband and

hoarding of prescribed medication by certain inmates is an administrative and operational problem experienced in all county institutions. It may also be noted that this is also common in state systems and can only be controlled by perseverance and persistence, utilizing constant searches and inmate surveillance. This is only possible when adequate personnel is readily available. Changing the system or even responsibility for control and operation actually changes nothing unless freeholders loosen the purse strings and furnish the management of jails with the proper funding as well as adequate personnel.

The Bergen County Grand Jury made specific reference under Section III, page 14, of the DE GROTE ALLEGATIONS. DeGrote was an inmate being held in Bergen County Jail. This inmate appeared before the Grand Jury in the latter part of 1975. He accused the jail officers of selling him drugs, taking bets from other inmates and theft of food. The Grand Jury in its wisdom doubted DeGrote's credibility and placed no credence in his allegations. They also noted that his testimony before them differed from an affidavit he had previously given.

The DeGrote case is a perfect example of what is bound to happen when inmates are allowed to testify without being sworn on their oath, particularly where they know they are involved in WITCH HUNTS. Recorded statements elicited from various inmates at the commission hearings were not taken under oath in all instances. Often, the inmates were promised immunity from incrimination. In some cases inmates were instructed not to touch upon certain subjects that could be harmful to them.

It is my belief that all testimony should be given under oath and no promises of immunity should have been made. Also, all affidavits given should be properly signed by the affiant and witnessed. There remains a legal question as to the authority of the commission to promise immunity. I further request that all statements recorded at the hearings, taken from any witness, should not be made substance of any permanent record and all existing copies and recordings be summarily destroyed to prevent future misuse.

Quoting from Chapter I, page 1, of the Origin of the Commission in the

"Report of Our Commission", I find a statement that echoes the thinking of 'liberalists' and 'do-gooders' as well as that of a large segment of the students of sociology who are constantly preaching change and reform as stated in the report: "More often than not, these criminals were recidivists who had gone through a correction system that did not correct and through reformatories that did not reform." No truer words have been spoken than the above quote. Recidivism is a way of life with most people who wish it so. Sociologists can blame mainstream society for the problem. Reformers blame the system and do-gooders blame anyone. The fact that they, the recidivists, "go through" a system is a mistake in the first instance. If the courts were mindful of their responsibility, recidivists would go nowhere. They would remain in prison where they could harm no one, making society a safer place to work and play. Long sentences with values established on the weight or severity of the crime would also be a deterrent to those planning a life of crime and a preventative for those already apprehended. This definitely would result in larger or expanded prisons, but the result would eventually prove worthwhile. Again, standing examples of long prison terms would prove to be a deterrent by example alone.

County jails were never designed to be CORRECTIONAL FACILITIES. Correction in the county system was introduced into jails only in the last decade, and then on a very limited scale. Work houses and penitentiaries have lived with the word longer and are better designed to cope with meaningful correction; first, because they only handle sentenced prisoners and they are allowed by law to house inmates for a longer period of time. The closest most jails come to the word correction is through the recent title established by the State Civil Service Commission for Correction Officers assigned to work in jails.

I am not diametrically opposed to experimenting with meaningful correction in jails. I do, however, feel it is more difficult to facilitate in jails, due to the types of inmates held, and the very short time they are there. The jail at the county level is merely, and should be by design, the intake system; the system to hold for safe keeping those persons accused of a crime who cannot obtain bail. The jail should be

a processing center to hold those persons awaiting the different steps in the judicial process that eventually lead to sentencing. With this in mind, it would be more meaningful if Civil Service established the title of CUSTODIAL OFFICER. This would keep the systems from being misjudged by those who erroneously think county jails should be deemed rehabilitation centers. Rehabilitation rightly belongs to the state, and should be expanded in the state system. Persons convicted of lesser crimes should be sentenced to a county workhouse or penitentiary. Sentences to county jails should only be the results of sentencing where credit for time served is awarded to the person who spent 30, 60, or 90 days waiting for pleas and/or trials.

Chapter 2, "Summary of Findings", states: 1. "The State of New Jersey is in violation of its constitution through neglect of citizens who are incarcerated in county jails." No concrete proof has yet been shown that this statement is correct. The statement is a supposition not sustained by sworn documented evidence by the Commission. Since it is only an opinion, I do not feel it belongs in the Commission's report. It should be entirely deleted. If it is true and can be supported by evidence, I believe the facts should be given to a special Grand Jury empowered to legally indict the State of New Jersey for violation of its constitution. Such an indictment would necessitate specifics and areas. This would not be like the Commission Report, casting a blanket indictment on all counties. If, in fact, indictment were not needed or required, it would also give a Grand Jury a chance to put blame where it belongs and make proper recommendations in a presentment affecting only those counties in direct violation of the constitution. Certainly a blanket charge against all counties is unreasonable and unfair as the Commission only held hearings in a few areas and inspected only a few facilities.

Also, in Chapter 2 of the Commission Report "Summary of Findings" it states: 2. "The safety and health of inmates in county jails are not only often unprotected but in fact deteriorate." This statement is also an opinion and tends to mislead and influence those persons not directly connected with jail operation. It should be deleted in its entirety or properly documented as fact and not opinion or hearsay.

Also, if it should become proven fact, then the county or counties responsible should be individually named, rather than accuse all 21 counties. Other unproven accusations appear in the Commission Report that are sketchy and unsupported; for example - reference is made that citizens are put in jail by county government "many are awaiting trial and are legally innocent". It has always been my belief that the courts were given the power to decide who is innocent and who is not innocent, notwithstanding the fact the county government does not put them in jail. They put themselves in jail by being caught performing illegal acts. The county only provides the housing facility for them to be legally committed. The following statute, N.J.S.A. 30:8-1, explains the legality: "Sheriffs and jailers shall receive from constables or other persons all persons apprehended by such constables or officers for offenses against this state. A sheriff or jailer refusing to receive any such offenders shall be guilty of a misdemeanor and on conviction shall be fined at the discretion of the court."

The report continues with such aspersions as: Inmates are "assaulted, homosexually raped, become drug dependent, or even contact lice or a communicable disease." Surely if this accusation of assault and rape were true, it would have been brought to the attention of the Prosecutor of that county for investigation and prosecution. Unsanitary conditions and communicable diseases should have been reported to the state health department. I know of no such cases or reports.

This section of the report continues and states that "testimony before the Commission indicates that pregnant women have lost their babies, men have lost their minds, and others have committed new crimes while in these 'correctional centers'". Correctional centers, through no choice of their own, house a myriad of persons from all walks of life and ethnic backgrounds, with different values relating to situations in numerous ways, depending on the variables at hand. There is no doubt that, on occasion, females committed are with child. In these instances, it has been my personal experience that it was unexpected and unwanted. Usually the father is unknown and in numerous instances abortion was being sought prior to incarceration. In the case cited to the Commission, there was no medical testimony as to the mother's condition or the cause for

the woman's premature abortion. Again, her testimony was given without benefit of oath and her story was one intended to cast aspersion that the matron and the jail staff refused to assist her in her hour of need. The Commission did not elicit or try to ascertain from jail officials, the matron, or the medical staff any information as to the treatment she received, her medical history preceding the abortion, or any other related information. In fact, the abortion could have been self-induced.

I know of no instance where men have lost their minds due to negligence or deficiencies of jail personnel. I know first hand of numerous cases where persons are committed with a psychosis and are medically judged psychotic and sent to a state mental hospital for supposed treatment that never seemed to be adequately administered. This is a complaint of a major number of wardens - that persons committed from their jails are returned in most instances in a very short period of time. It appears no treatment is given and the inmates often return in worse condition than when they were originally sent. It is an expensive burden for the taxpayers to pay - examining physicians, transportation costs and hospital maintenance fees for this kind of shabby treatment. The Commission would have done well to investigate in depth the revolving door policy established by the state hospitals affecting commitment of prisoners from county jails.

The reference to homosexual experiences alludes to a condition that prevails in every penal institution in the country and in most instances is uncontrollable, as it takes place between consenting partners. It becomes prevalent over a period when longer sentences are imposed; there are cases where homosexuality has been uncovered in the armed services. When normal sex life is denied for a prolonged period, this ugly reality rears its head. Likened to prostitution, it is almost impossible to eradicate. However, where assault is involved or force is used, there is nothing preventing inmates from making the fact known and having the perpetrator removed from the prison population and prosecuted to the full extent of the law.

With regard to overcrowding, I firmly agree that overcrowding is in fact a problem. It is in all instances not the fault of the operating authority. Blame should

rightfully be placed on the funding agency which holds the purse strings of the jail's operation. Boards of Freeholders oftentimes turn deaf ears to repeated requests for expanded facilities. Little help for building programs is received from the state or federal government. The indebtedness of the particular counties sometimes prevents fiscal commitment to expand physical structures to house inmates. In most instances taxpayers are inclined to show a complete disinterest in what happens in jails as long as it does not increase their tax burden. They remain apathetic to the problem. Solving this problem may be one of the most difficult tasks presented to any group and there may really be no solution on the immediate horizon.

I have always advocated programs that involve physical activities for inmates. Few counties have any recreational activities of the outdoor variety. Sports like basketball, hand ball, volley ball, quoits (rubber horseshoes) and other activities certainly would be a tremendous benefit to any jail administrator and his staff. An inmate allowed to exercise properly becomes a person easier to control. It strengthens bodies and minds and stimulates appetites and digestion. Unfortunately, the same standards prevail as cited above in relation to space and funding.

It is unreasonable to state that "the county jail therefore is part of the problem of crime in our state and not part of the answer". Until alternatives are found replacing county jails, problems will prevail as similar problems prevail in state prisons and other penal institutions. The jail, per se, cannot be blamed; the system cannot be blamed; the politician cannot be blamed, nor can the taxpayers who pay the burden of maintaining the jail operation. None of the above can solely shoulder the responsibility. Society equally shares the burden, but with the inmates who are incarcerated through their action and choosing.

In this same section, an established psychiatrist from Camden is referred to; his professional judgment about the conditions in that county's jail is given. Certainly this self-proclaimed expert is entitled to his opinion. I do not believe it is proper to have him publicly in the Commission's Report, as pertinent information was not established in laying a foundation regarding his background, qualification, experi-

ence or other information that would allow him to qualify as an expert witness, particularly when the Commission's Report appears hesitant to document his name. Under these conditions, it would be impossible to stipulate as to his scope of expertise. I therefore request this section be deleted in its entirety or that his experience and association with the subject be completely documented.

Chapter 2, "Summary of Findings", Section 3, states: "Government is a drug pusher." This section opens with, and I quote, "Sworn testimony in two counties indicates that the easy dispensing of drugs develops a drug dependency among inmates. As a Commissioner, I do not remember sworn testimony being given in any instance, although careful perusal of the minutes of our meeting of May 3, 1974, page 2, 4th paragraph, states "Should we swear-in witnesses at the public hearings? This was decided in the affirmative because of the belief that it would eliminate witnesses who were just trying to shock the Commission." However, I cannot remember a single instance during the hearings where testimony was offered where the witness was actually sworn under oath.

The "Summary of Findings" report continues, to explain that sleeping pills are dispensed in Camden County Jail "to keep the inmates quiet, pills are the path of least resistance." This accusation is not fortified or even properly documented as to when, where the incident allegedly took place, in whose presence, and who was affected, who took the sleeping pills (names of inmates), who distributed them, and on whose order of prescription. The state law is explicit on dispensing of medication as well as the authority to prescribe it. Revised State Statutes 45:14-26.1 explains in detail the authority for dispensing drugs and State Statute 24:21-15 is equally explicit for prescribing narcotics.

It is a fact that there are no jails in New Jersey dispensing medication uncontrolled or promiscuously without a licensed physician. No medication, by law, may be prescribed without the approval of the doctor assigned to the jail. It is his sole responsibility. The jail nurse cannot prescribe, and the officers cannot prescribe, nor is medication available to them in any of the county jails I inspected. If a

nurse has orders from a county jail doctor to allow an inmate to receive certain medication, the nurse may dispense it directly or he or she may direct an officer to dispense it under the nurse's supervision.

If it can be proven that officers or nurses indiscriminately prescribe or arrange for medication not legally prescribed by a physician to be given to inmates, it becomes a breach of state law and those responsible should be charged and prosecuted. It is difficult for me to believe that dispensing of medication by a licensed physician would be without full recognition of the medical problem, a complete diagnosis of the inmate's ailment, or a projection of the prognosis depending on the medication prescribed. No doctor will risk his medical license to appease inmates or to make things tranquil for a jail staff by keeping the jail population medically subdued or medically high. If proof is available and doctors are abusing their oaths, then they should be charged and replaced with more competent physicians. In any case, the blame cannot be placed on jail administration or staff as they, in almost all cases, have no control of the medication kept under lock and key and jurisdiction of the jail doctor and registered nurse.

Chapter 2, "Summary of Findings", section 4, states: "There is no agreement on the goals or programs at the county jails." This section of the "Commission Report" seems to be concerned with the feeding of prisoners, censorship of mail, and the philosophy expressed by guards. Jail officers, or so-called guards, are no doubt entitled to opinions. These opinions may differ from jail to jail. Officers or guards in state prisons no doubt have different reference frames from station to station and cell block to cell block within one institution. We cannot place credence in guards' opinions, any more than we should publish opinions of civilians polled on the streets pertaining to jail operation. If minor differences between counties can be cited as a particular "intolerable violation" of each inmate's right to "equal protection of the laws", then the Commission Report should state each proven deficiency, explain the source, location, and the county should be named, but bona fide proof must be obtained before the deficiencies may be cited in the Commission Report. I therefore ask that this section be

completely deleted.

Chapter 2, "Summary of Findings", section 5 of the Commission Report, deals primarily with the alcoholic and cites the various reasons persons are arrested; example, "refused to pay alimony", the vagrant, the mentally disturbed, the numbers runner, the severe anti-social offender, the convicted and those awaiting trial or being a material witness." Section 30:8-1 of the New Jersey Statutes, previously cited, is the authority by which sheriffs and jailers receive offenders. This statute is very explicit and requires that the jail accept some of these persons. However, they must be charged with a crime. The so-called vagrant has probably been found in someone's dining room, loaded with the household silver and other articles. The mentally disturbed was probably charged with incest or rape. The material witness often is the primary suspect of the crime and more often than not, in my experience, I find them ultimately charged with the crime of murder. Consequently the law makes the provision for them to be there and the jails have no alternative but to accept the person who is charged.

Jail administrators admit it is difficult to keep segregation between classifications of inmates. Sometimes physical plant restrictions and construction difficulties deter administrators and staff from stringent and comprehensive segregation. This oftentimes emanates from freeholder funding and failure to allow wardens directly under their jurisdiction and sheriffs from expanding physical plants. So far as it is possible, competent jail administrators and wardens separate and place inmates according to age, commitment standings, crimes, and sex.

Inmates are normally separated by age range - 18 to 20, 21 to 30, 31 to 60, 61 and over, with special consideration being given to those 61 and over. The various commitment standings such as waiting Grand Jury, waiting Plea, waiting Trial, waiting Sentence, Temporary, Sentenced, and Juvenile, allow for still further segregation, conditions permitting. In addition to age and commitment standings, the type of crime is also considered before an inmate is assigned to a section of the jail or to a cell. Class A CIVIL crime would include those held as material witnesses or for

matrimonial matters (support); Class B MINOR crimes includes those held for motor vehicle violations, misdemeanors, and for disorderly charges; Class C MAJOR crimes or high misdemeanors would be kept separated from other classes of inmates at all times. Males are separated from females, as juveniles are separated from adults.

The report continues and relates: "Those awaiting trial generally should be kept under only such restrictions as are necessary to guarantee their court appearance." The Commission Report fails to recognize that those persons awaiting trial in some instances may be charged with heinous crimes - arson, rape and even murder. The jail authorities have no say in establishing bail and by law must keep them until the bail is posted or they are released in their own recognizance when certain conditions are met.

I am certain that jail administrators do not arbitrarily keep persons in maximum security sections of their jails if it is not warranted. To blame the courts for this condition is also unfair. The Commission Report states that it is "THE TENDENCY FOR THE COURTS TO PUT ON PROBATION MORE PEOPLE WHEN THE JAILS ARE OVER-CROWDED. DANGEROUS OFFENDERS THEREFORE WALK THE STREETS WHEN THE JAILS ARE A DUMPING GROUND FOR ALL SOCIETY'S ILLS." The court's alternative is to sentence more of the convicted offenders to state prison. The state should recognize the need for added facilities and plan for bigger and better prisons. The courts usually place persons on probation as a result of studying the probationary and presentence reports on particular inmates. The probation report often makes recommendation of probation for the court to follow. I can't comprehend a court placing someone on probation if that person did not warrant it, or just because the jails were crowded.

Chapter 2, "Summary of Findings", section 6 of the Commission Report states: "Females are almost invariably treated worse than male inmates." It is ridiculous for the report to so state the above, as there is actually no proof of this opinion. County jails offer women the same opportunities as those offered to the male inmates. Work Release is comparatively new in county jails and in some is still in the experimental stage. The labor market is not as open for women as it is

for men. The female sentenced population is very small in comparison to the male population, and in general, Work Release Coordinators place females on work release when prerequisites for the program are met.

Jails do NOT "encourage homosexual experimentation." All jail administrators do everything in their power to discourage homosexuality. Known homosexuals are isolated to protect the normal inmates. Jails and prisons alike are faced with the problem of housing in such a manner that their sexual behavior is restricted. Due to the type of prisoners held in jails, furloughs cannot be arranged before a prisoner is actually sentenced. The alternative to this problem would be to eliminate jails and turn all persons loose in the streets while awaiting trial. We know this cannot become a reality as society recently became enraged to think that New York authorities stated that the Son of Sam met the qualifications to be released pending judicial process. I refuse to believe that the Commission Report recommends bisexual socialization of prisoners. I also feel the report recommends inmate cohabitation. If this is the intent of the Commission Report, I can, in conscience, neither condone nor morally support it.

Chapter 2, "Summary of Findings", section 7 of the Commission Report states that custodial personnel feel they are also imprisoned. Due to the nature of their position, jail officers, in fact, are imprisoned during their tour of duty. Others involved in the jail operation also must suffer this lack of freedom. This affects clerks, nurses, doctors, cooks and administrators who accept this responsibility through individual choice.

I have always been an advocate of training and education, not only for police but for jail officers. Some wardens like myself have influenced Boards of Chosen Freeholders to pay incentive increments to officers who availed themselves of higher education. An added incentive payment of \$750.00 a year is granted to officers who work jail tours; this payment is over and above their normal salary. It is based on the hazard of the position, working in the jail. I would like to see all counties adopt a similar practice to encourage officers to select work in this field, as well

as stay in it as a profession. All officers assigned to work in jails should also be certified to administer first aid and be trained in CPR (cardio-pulmonary resuscitation).

Chapter 2, "Summary of Findings", section 8, states "the first need of the sheriff is to survive, i.e., to be re-elected every four years." To clarify the above erroneous statement, it must be pointed out the sheriff, if he wishes to succeed himself, runs for election every three years. Sheriffs, Surrogates, and County Clerks are, by law, constitutional office holders of the state. Their realm of responsibility is usually defined within county lines of jurisdiction. Sheriffs, like other elected office holders, are not required by law to have specific job qualifications. However, the electorate in latter years has carefully considered education, experience and ability to perform. If a sheriff or any other office holder does not perform, he or she can easily be removed from office through the election process. Lacking prerequisites as outlined in the Commission Report such as "leadership", "potential or sensitivity to help staff achieve their potential", "knowledge of the legal rights of inmates", surely would prohibit any reasonable person from declaring himself a candidate for the position. If this person was successful in acquiring a position on the ballot, I am certain the voting public would pass over him or her as a selection and elect that person with the proper qualifications.

It is a blanket statement and personal opinion to state that "the sheriff cannot excel in both law enforcement and penology." This statement cannot be logically proven and is entirely out of order in the report. Certainly some lawyers excel in criminal and civil law; some excel in corporate and divorce proceedings; some people have the ability to be involved competently in several diversified fields and are financially successful in all areas. There is no proof that the "present political arrangement, however, leaves the quality of inmate care to chance." Sheriffs are dedicated and sworn to do as fine a job as physically possible, once election policies are laid aside. Production and performance become the key issues. Freeholders who assign wardens to administer the jails would be equally vulnerable to political

pressures if political pressure and patronage were prevalent in the jail. If sheriffs or freeholders depended on jail employees for support to be elected or re-elected, I am afraid they wouldn't even be elected dog-catcher, if that position were elective and they were seeking the job. I find, through experience, jail employees become totally involved in their day to day operation and have little time for politics. These are certified Civil Service employees and, in all but a few instances where emergencies exist, are appointed to fill the position from existing certification lists. During the past, some wardens have had difficulty obtaining certified officers from Civil Service lists. This is the fault of the Civil Service Commission and not the fault of the administrator. The alternative to this is appointment of temporary personnel to fill vacancies in the table of organization. This is not an ideal condition but fortunately it is a temporary one. Prior to officers being certified, they are required to take a written qualification examination, must be medically approved, and must participate in a physical performance test, none of which I believe are comprehensively designed to produce the best available. Some counties also require a psychological examination to determine if the candidate is mentally suitable for the position.

It is my opinion that from the inception of the Commission, some members were dedicated to voluminous attacks on the office of Sheriff. There appeared to be a clear, predetermined design to eliminate sheriffs from control of the jails. I personally find nothing constructive in the Commission Report, Chapter 2, "Summary of Findings". This section deals with innuendoes and contains statements of unsworn witnesses given, in some instances, as hearsay. Great care and talent were used to create a sensational report that could make good copy for vulture-like journalists of second class papers. This section can be likened to the McCarthy witch hunt of the 50's. I feel it serves no appreciable purpose and should be stricken in its entirety from the Commission Report.

