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REPORT OF THE SPECIAL SUBCOMMITTEE
OF THE ASSEMBLY COUNTY GOVERNMENT COMMITTEE
ON NEW JERSEY'S COUNTY PENAL FACILITIES

STATE OF NEW JERSEY
REPORT TO THE ASSEMBLY COUNTY GOVERNMENT COMMITTEE
DECEMBER 4, 1978

REPORT OF THE BOARD OF DIRECTORS
OF THE NATIONAL ASSOCIATION OF
STATE BAR ASSOCIATIONS

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1931-1932

December 4, 1978

The Honorable Members of the Assembly County Government Committee

Ladies and Gentlemen:

The Special Subcommittee created to study county penal institutions to make recommendations thereon herewith respectfully submits its report.


CHARLES HARDWICK
Chairman of the Subcommittee


PAUL J. CONTILLO
Chairman
Assembly County Government Committee


JOHN A. GIRGENTI

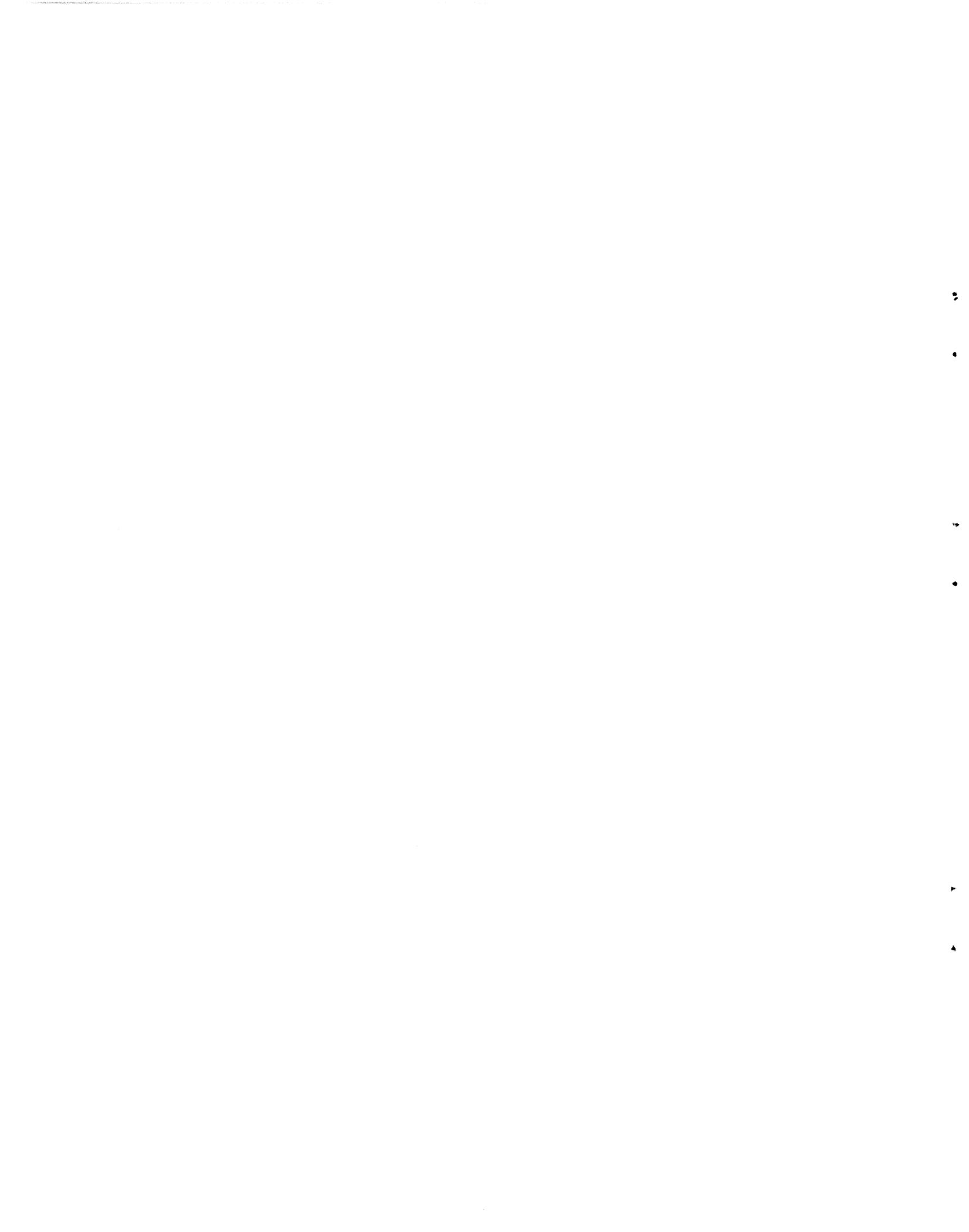
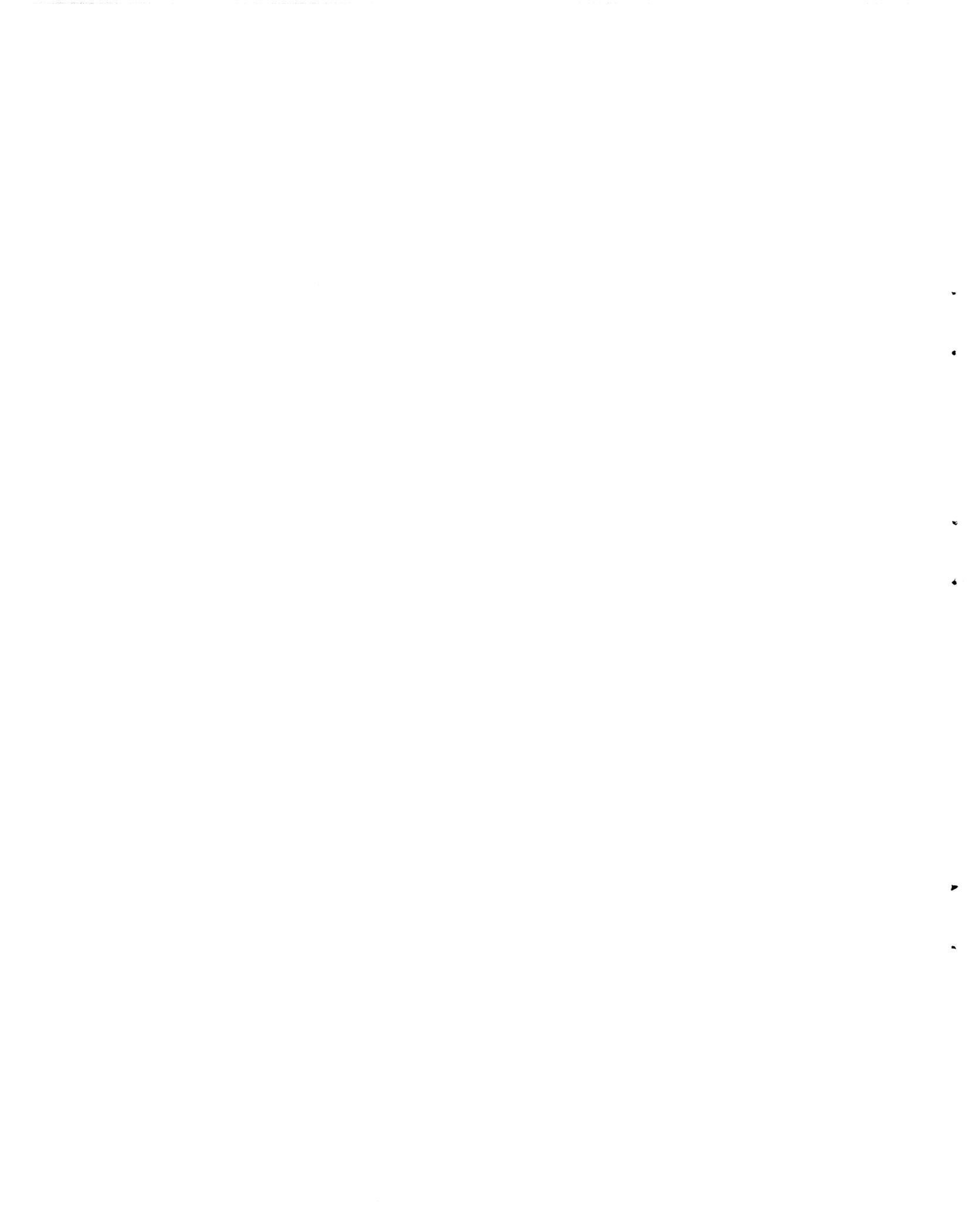


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SUMMARY OF RECOMMENDATIONS

Listed below is a summary of the Commission's recommendations which are discussed in detail within this report.

*** The Subcommittee recommends that the Department of Corrections make more active use of the regulatory powers it now has over county penal facilities.

*** The Subcommittee recommends that the Department of Corrections be empowered to prohibit a county penal facility from taking new admissions until it corrects deficiencies cited by the Department and that any county which is so ordered shall be responsible for absorbing the total cost of housing inmates sent to other penal institutions.

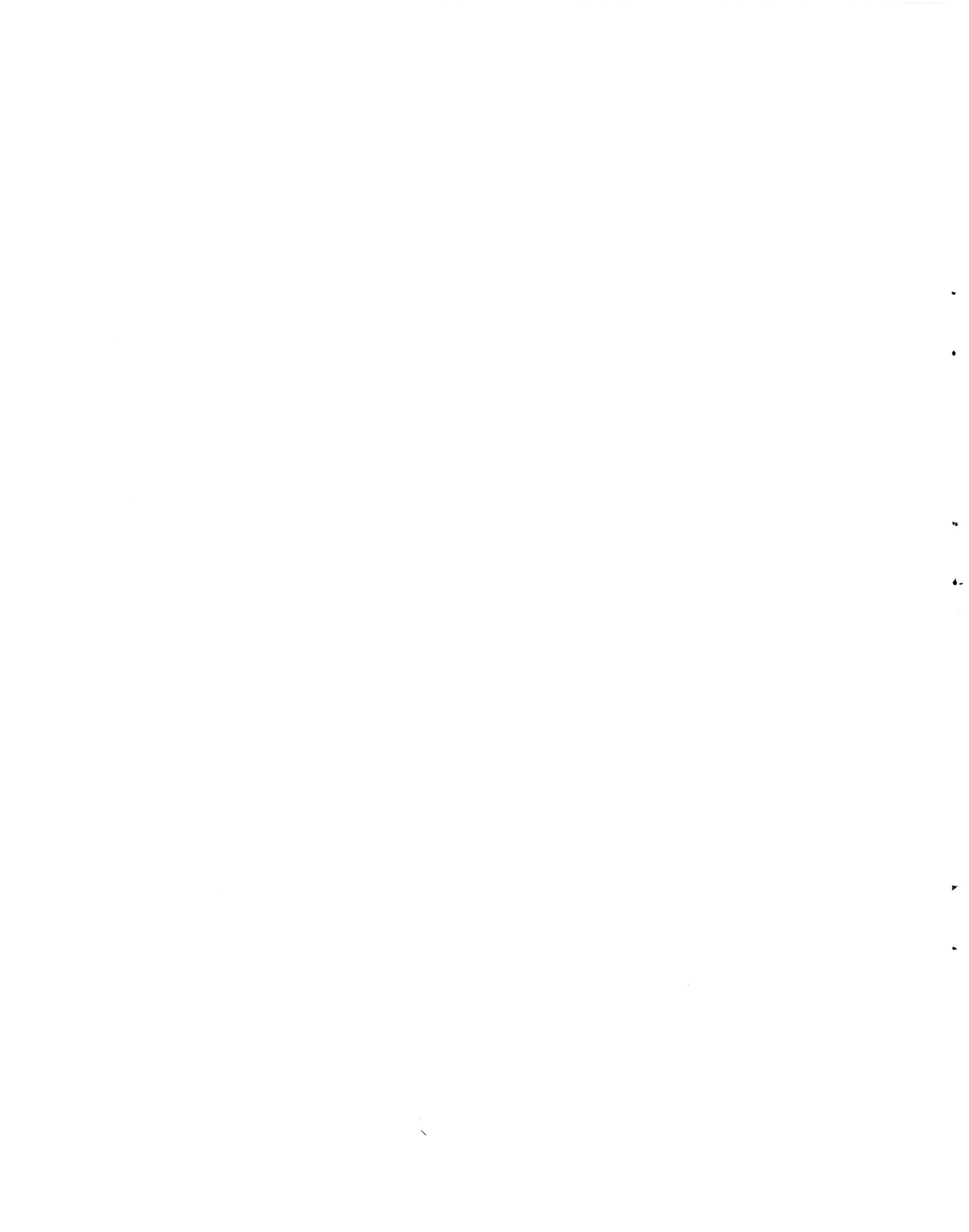
*** The Department of Corrections should immediately promulgate new minimum standards for county penal facilities and such standards should be drafted with the cooperation of officials charged with running county penal facilities and representatives of groups concerned with such facilities.

*** The Subcommittee recommends that both the Department of Corrections and the Department of the Public Advocate request the Attorney General to issue a formal opinion as to which federal, State and local court decisions apply to New Jersey's county penal facilities.

*** The Subcommittee recommends that the Legislature begin an indepth examination of the New Jersey Correctional Master Plan so that it can provide for the future development of State and county penal institutions.

*** The Subcommittee recommends that the State issue bonds for the purpose of providing financial assistance to counties for the construction, renovation and improvement of county penal facilities upon the completion of a survey to determine the capital construction needs of county penal facilities.

*** The Subcommittee recommends that the governing body of a county exercise its right to take direct control of county penal facilities whenever it deems such an action advisable.



INTRODUCTION

The Special Subcommittee to study county penal institutions was established by Assemblyman Paul Contillo, Chairman of the Assembly County Government Committee, in April of 1978. Chaired by Assemblyman Chuck Hardwick, the Subcommittee was directed to: (1) investigate the existing regulatory relationship between the State government and county penal facilities; (2) examine the conditions of county penal institutions; and (3) make recommendations to the Assembly County Government Committee on how to improve such institutions and plan their future development. The Subcommittee was also asked to assess the findings and recommendations of the County Penal System Study Commission which was established by the Legislature in 1973, and which issued its Report in January of this year.

Beginning its work in May, 1978, the Subcommittee conducted a series of four public meetings and hearings and heard testimony from State officials concerned with local penal facilities, individuals charged with supervising and running county penal institutions and with members of the public interested in the subject. A preliminary public meeting was held on May 16, 1978, to help the Subcommittee familiarize itself with New Jersey's county penal facilities and to define basic areas of concern. There followed three formal public hearings on June 27, July 18, and August 29, 1978.

The Subcommittee realized from the outset that it would be

impossible to assess all aspects of New Jersey's county penal facilities and, while it was and remains concerned with the entire gamut of issues raised by people involved with and concerned about such facilities, it determined that many were beyond the jurisdiction of the Assembly County Government Committee. The Subcommittee, an arm of the Assembly County Government Committee, therefore, focused on the relationship between the State government and county penal facilities and devoted the bulk of its time and energies to exploring the issue of whether county penal institutions were being adequately supervised by other government agencies. Specifically, the Subcommittee was concerned with determining if the Department of Corrections, the Office of Inmate Advocacy of the Department of the Public Advocate and county governing bodies had sufficient regulatory power over local penal facilities, and if such power existed, whether or not it was being effectively utilized. In those cases where the Subcommittee was given information which it deemed significant and worthy of further scrutiny, but beyond its jurisdiction, letters were sent to the Chairman of standing reference committees better able to review such issues. For example, the Subcommittee heard testimony concerning inadequate treatment of inmates with psychological problems and this information was forwarded to the Assembly Institutions, Health and Welfare Committee.

BACKGROUND

New Jersey's county penal facilities have a long history.

Indeed, the maintenance of such institutions was among the earliest functions performed by county government. Local penal facilities were established during a period when local government had a far greater degree of autonomy than exists today - a fact which contributes to their relative freedom from State regulation. Statutes governing county penal institutions are in general permissive and the State imposes only rudimentary regulations concerning the administration of these units. In addition, the State provides the counties with virtually no direct financial assistance to operate their penal facilities.

There are at present 27 county penal facilities in the State. Most of these are jails, but several counties also operate workhouses and penitentiaries. A majority of these units are run by sheriffs, but in several counties boards of chosen freeholders have assumed direct administrative responsibility for their penal facilities. County penal facilities do not house prisoners sentenced to long terms. The majority of counties can only hold offenders sentenced up to a year, while Essex, Hudson, Bergen, Mercer, and Middlesex are authorized to take prisoners serving terms not exceeding eighteen months. While the vast majority of prisoners in county penal facilities remain in such units for relatively brief periods of time, it is not uncommon for prisoners to remain longer than one year. Occasionally, the time required for trial and sentencing necessitates that an inmate stay in a county penal facility for as long as 18 months to two years.

This situation has been compounded in the past by the fact that the State has been forced to house its prisoners in county facilities because of overcrowding in its penal institutions. It should be noted, however, that the State government has made a successful effort to reduce the number of its prisoners in county facilities and this is no longer a major problem.

County penal facilities hold more inmates who are pre-trial detainees, and thus legally innocent, than any other classification of prisoners. In 1975, 53% of all inmates in county penal facilities were pre-trial detainees and many such individuals are required to spend substantial time in such units. According to the New Jersey Correctional Master Plan only seven out of the 27 county facilities are able to fully separate pre-trial inmates from those serving sentences.

New Jersey's county penal facilities have been the subject of widespread criticism by advocates of prison reform. During recent years, there have been numerous investigations, exposes, grand jury probes, court cases and newspaper reports focusing on inadequate conditions and mistreatment of prisoners in such facilities. According to the New Jersey Correctional Master Plan:

Local correctional facilities across the nation are characterized by a transient and heterogeneous inmate population and a multitude of sometimes incompatible functions. Typically, local jails are overutilized and overcrowded, yet understaffed and underfinanced. Unfortunately, the jails in New Jersey do not significantly differ from this pattern.

The recent Report of the County Penal System Study Commission,

which stimulated a good deal of publicity and which provoked an intense response among county jail administrators, is but the latest manifestation of dissatisfaction with this State's local correctional units.

As the State Master Plan asserts the conditions at New Jersey's county penal facilities appear not to differ dramatically from those across the nation. Equally, the high degree of autonomy granted to county penal facilities by the State is not unique to New Jersey. However, within recent years there appears to be a growing trend toward increasing State regulatory power over local penal facilities. Maryland, Texas, New York and Minnesota have enacted statutes which permit the State to close local facilities which do not conform to certain minimum standards. It should be noted that granting State correctional authorities the power to close county penal facilities which are substandard is not a panacea for reducing problems which exist in such institutions. It appears that state authorities are extremely reluctant to close a local penal facility. A member of Maryland's Prisoners Aid Association claims that: "Only twice in many years has a county or local jail been closed by the State [Maryland] for not meeting minimum standards. The law exists but has never been adequately used."

A different and more novel approach was recently adopted by the State of Washington. That State has agreed to pay for all capital construction costs for county penal facilities. In return

the State can both promulgate minimum standards for local correctional facilities and force local units to comply with them.

Other States have totally circumvented the issue of regulation by adopting unified correction systems in which all penal facilities are funded and operated by the State. For example, in 1959, Connecticut abolished county government, and one of the major reasons given for that action was the State's desire to absorb county-controlled penal facilities into a unified system.

CURRENT CONDITION OF NEW JERSEY COUNTY PENAL FACILITIES

The Subcommittee heard from a substantial number of witnesses who offered assessments of particular county penal facilities and of county institutions in general and found that it is very difficult to make any generalizations about all such units. Critics of such facilities deplored prevailing conditions, citing innumerable problems, while local officials vehemently denied them or contended that they lacked the funds to correct deficiencies. The Subcommittee concluded that New Jersey's county jails do vary in quality from county to county, and this is in part, due to the fact that they are relatively free from outside supervision. Certain counties appear to maintain institutions which can be regarded highly, while others, unfortunately, run facilities which seem to conform to views offered by critics.

Notwithstanding the difficulty of generalizing about all county penal facilities in New Jersey, the Subcommittee believes that there are several factors of essentially equal importance which play a substantial role in determining their quality. The first of these is money. Most county facilities operate under

severe financial restraints and simply lack the funds to correct problems. The Subcommittee is acutely aware that the absence of funds precludes reform and that many jail administrators as well as other county officials have long struggled for increased funding. Cape May County, for example, cannot use the dining room in its newly-constructed jail because it lacks the funds to supervise communal eating. One of the most repeated criticisms of county penal facilities is that prisoners must spend the vast majority of their time in their cells because many facilities lack common areas for eating and recreation.

The second factor which the Subcommittee deems significant is the age of the facility. The older the jail the less likely it is to be able to conform to standards suggested by the State or by various professional associations concerned with correctional facilities. Bergen County provides an interesting example of how the age of a facility can effect the quality of a jail. The Bergen County Jail, which is no longer used on a regular basis, had been repeatedly cited for grossly inadequate conditions and other problems. Yet, the County's new jail annex has been labeled a model institution by the most outspoken critics of this State's county jails. This does not mean, however, that all old jails are bad jails. There are certain counties which, despite the burden of old facilities, make every effort to bring their facilities into compliance with modern standards. Union County whose penal facility is over half a century old has recently initiated an effort to upgrade the quality of its physical plant.

The third factor which most directly affects the operation of a county penal facility is the particular philosophy of the officials charged with operating such institutions. The Subcommittee heard from certain jail administrators who appeared to be either ignorant of modern penal management practices, or who simply disagree with them. Out of all the major variables discussed in this section, the Subcommittee believes this should be the easiest to correct, but it requires both education and the willingness of the Department of Corrections and the boards of chosen freeholders of certain counties to exercise the permissive regulatory power that they have long had over such penal facilities.

The Subcommittee again wants to emphasize the difficulty of generalizing about all county penal facilities. Many of the witnesses who appeared before the Subcommittee complained that one of the major problems found in the Report of the County Penal System Study Commission was its tendency to generalize about the conditions of all county penal facilities. The vast majority of the sheriffs and other local jails administrators who spoke to the Subcommittee denied that conditions described in the Report applied to their institutions. The Subcommittee believes that the County Penal System Study Commission produced a Report which contains both valuable information and suggestions but that some of the criticisms of the Report made by witnesses during the course of the hearings appear to have merit. A more detailed analysis of the conditions and problems of county penal facilities can be

found in the New Jersey Correctional Master Plan.

EXISTING STATE AUTHORITY OVER COUNTY PENAL FACILITIES

While most State statutes concerning county penal facilities are permissive, there are two State departments which have been granted certain powers to regulate such units. At present, the Department of Corrections has the authority to promulgate minimum standards for the operation of county penal facilities, but it lacks the statutory authority to insure that such standards are implemented without resorting to law suits. It also has the power to inspect county penal facilities and issue reports describing them. Inspections are generally held annually and the Department has recently increased the number of people assigned to make such tours. It has also begun to adopt a system whereby inspectors return to facilities to determine if cited problems have been corrected. Again, the Department lacks the direct authority to force counties to correct problems cited by inspectors or made in reports.

The Department of Corrections does have some regulatory powers, which it, unfortunately, to date, has been unwilling to use. R.S. 30:1-16 permits the Department to institute a civil suit against counties which it believes are maintaining grossly inadequate jails or when it determines that inmates are being mistreated or denied their constitutional rights. In addition, R.S. 30:1-17 allows the Department to transmit information on inferior conditions and mistreatment of inmates to county prosecutors, who are empowered to make an inquiry and take legal action. The Subcommittee believes that the Department's refusal to use these powers provides

one of the major explanations for the persistence of substandard conditions in certain county penal facilities.

In addition to the Department of Corrections, the Office of Inmate Advocacy in the Department of the Public Advocate has been granted statutory authority to insure that the rights of inmates in county penal facilities are not being denied. The Office has the right to represent the interests of inmates as a class in negotiation and litigation with county officials. When first established, the Office received money directly from the State, but since July 1, 1976, it has been funded by a grant from the State Law Enforcement Planning Agency to conduct a County-Municipal Inmate Advocacy Pilot Program. Under this grant, the Office has conducted an ongoing program in the counties, including inspections, investigation of inmate complaints, negotiations with county officials and in one instance, a class-action suit in federal court.

Unlike the Department of Corrections, the Office has evinced a willingness to bring suit when necessary. It has tried, however, to use more informal methods whenever possible to correct problems which it believes to exist in certain facilities. The work of the Office has made it quite controversial. Many local jail administrators who testified before the Subcommittee credited the Office with helping to improve conditions at their facilities and consult with it on a regular basis. Others, however, were highly critical, claiming that the Office was unnecessarily intrusive, made inaccurate accusations, and exceeded its statutory authority.

SUMMARY

When the Subcommittee began its work, it was aware that it was not the first group to look into the New Jersey's local correctional facilities. It had no intention of becoming a party to the ongoing round of accusations and denials which have become the central feature of debate about this State's county penal facilities. Nor was the Subcommittee prepared to make recommendations which would prove impossible to implement. The Subcommittee, after carefully reviewing all the testimony, believes that county penal facilities are beset by numerous problems and that certain jails can be characterized as substandard. It also holds that other facilities are well managed and make every effort to conform to or even exceed minimum standards.

The Subcommittee would like to see procedures established that will provide for immediate corrections of persistent problems which appear at county jails. In addition, the Subcommittee wants to insure that those counties which appear to condone inferior conditions will be forced to rectify them. It believes that existing laws, in part, provide the means to correct such problems, but the real issue is that the authorities which have regulatory powers have not used them.

The Subcommittee took note that almost all of the witnesses who spoke at the hearing endorsed the idea of having the Department of Corrections promulgate enforceable minimum standards for county penal facilities. This endorsement came from both well known critics of such facilities and from county administrators charged

with running such units. The Subcommittee believes, however, that the real problem is not the absence of standards but the unwillingness of all concerned parties to act unless they are under severe pressure. Action is rarely initiated without a public expose or an investigation.

Those charged with regulating county penal facilities generally appear to accept the status quo. If the Department of Corrections and the governing bodies of various counties rigorously exercised the powers they have, the worst problems found at county jails could be corrected. A more aggressive regulatory stance would also lead to a dramatic decrease in the number of incidents which create the impression that all local penal facilities are substandard. When there is little pressure placed on jail administrators to run their facilities according to certain standards, such officials will have little incentive to upgrade their facilities or experiment with new programs. This is particularly true when improvements necessitate the expenditure of tax dollars.

The Subcommittee is aware, and this point was continuously reinforced by the witnesses at the hearings, that solutions to most problems which beset local penal facilities cannot be accomplished without new funding. It does, however, believe that many of the issues raised at the hearings can be resolved without the expenditure of large sums of money, if existing policies of neglect and drift were replaced by aggressive enforcement.

The Subcommittee, therefore, makes the following recommendations.

RECOMMENDATIONS

The Subcommittee recommends that the Department of Corrections make more active use of the regulatory powers it now has over county penal facilities.

County penal facilities are funded by the counties, and the Subcommittee believes that unless the Legislature begins to move toward a unified correctional system, which would entail a total reorganization of all New Jersey penal facilities, local jails should be run by the counties. Unless the State is willing to assume the burden of funding local penal facilities, it should not have full control over such units.

The Subcommittee strongly believes, however, that the Department of Corrections is not properly using the regulatory authority it now has. The Department, while acknowledging that it has the power to bring county penal authorities into court to correct abuses and also has the right to pass information on to county prosecutors, seems to have adopted no policy on how and when to use these powers. William Fauver, Commissioner of the Department of Corrections, indicated at the Subcommittee's hearings that the Department would both use these powers and that it would not. For the most part, it appears that the Department would prefer to have the Department of the Public Advocate or other concerned parties initiate actions against counties which maintain inferior penal facilities.

This position is, unfortunately, not new. In fact, when the Department of Corrections was a division in the Department of Institutions and Agencies it appears to have been fundamentally opposed to taking any role in regulating county penal facilities.

In 1974, a group of inmates from various county penal facilities brought a class action suit against the Department of Institutions and Agencies alleging that their constitutional rights had been denied and that the State should impose minimum standards on local penal units. The Superior Court, Appellate Division, in MacNeil v. Ann Klein (1976) held that the Commissioner did not have the obligation to do so. The position presented by the Department during the proceedings, however, was intriguing; it exhibited no interest in expanding its power over county penal facilities and indeed argued that it should not be ordered to do so.

The newly established Department of Corrections appears to be somewhat more willing to take a more active approach. It has increased the number of investigators who visit local facilities, improved its inspection process, and taken new steps to help counties train corrections officers. Yet, to date, it seems unwilling to go any further. To a certain extent, the lack of a more aggressive policy may be a result of the Department's recent creation and the fact that Commissioner Fauver is a new appointee. It has been suggested, however, that the Department's reluctance to act is connected to the fact that it is terribly wary of criticizing county penal facilities when State institutions have been attacked as substandard. The Subcommittee believes that the conditions of State penal institutions should not deter the Department from attempting to upgrade county facilities.

The Subcommittee strongly urges the Department of Corrections to adopt a policy which will permit it to make full use of the

regulatory powers it now possesses. The Subcommittee is aware that bringing counties into court is not an ideal solution, but nonetheless maintains that in instances where a county reveals a willful and continuous disregard of Department recommendations such action is necessary. It is doubtful that if the Department evinced a willingness to take counties into court it would continually have to exercise this option. An awareness at the county level that the Department will go to court when necessary would undoubtedly provide an incentive to comply with Department recommendations.

The Subcommittee heard from a rather large number of local administrators charged with running county penal facilities and most of them indicated their support for increased regulation of their facilities. Undersheriff Arthur Brown of Ocean County, who runs that county's jail and who was a member of the County Penal System Study Commission, presented the Subcommittee with the strongest recommendation for increased State regulatory power that it heard throughout the hearings.

Commissioner Fauver suggested that assignment judges be granted the power to mandate that county penal facilities conform to State minimum standards and correct abuses cited by the Department. The Subcommittee respectfully rejects that suggestion on the grounds that it is unnecessary to place a third party into such situations. The Department is already responsible for promulgating standards, inspections, and reports and there is no reason that it should

not exercise its existing authority to insure that county penal facilities are decently run, and that prisoners are accorded their constitutional rights.

The Subcommittee is concerned about the Department's unwillingness to use the regulatory powers already granted by statute. For this reason the Subcommittee will continue to monitor the activities of the Department in this area and to make, in the future, additional recommendations, aside from the one made below, to require the Department to take a more aggressive role in regulating county penal facilities.

The Subcommittee recommends that the Department of Corrections be empowered to prohibit a county penal facility from taking new admissions until it corrects deficiencies cited by the Department and that any county which is so ordered shall be responsible for absorbing the total cost of housing inmates sent to other penal institutions.

The Department of Corrections now has the option of either ignoring the failure of county penal authorities to correct repeatedly cited problems or bringing a court suit against them. The Subcommittee believes that it would benefit both the Department of Corrections and the county penal facilities, if the Department had a less drastic and more direct method of compelling local penal institutions to correct problems. Therefore, the Subcommittee recommends that the Department of Corrections be granted the statutory power to order a county penal facility to stop taking new inmates.

Prisoners sent to an institution which cannot take new admissions shall be sent to other county and state penal institutions as designated by the Department of Corrections. A county penal facility under such an order shall be prohibited from accepting new prisoners until the Department has determined that cited problems have been corrected. The total cost of housing prisoners and pre-trial detainees in other county and state facilities shall be borne by the governing body of the county whose facility has been prohibited from taking new admissions. It is the Subcommittee's belief that the costs incurred by such a governing body will be much higher than if the jail was operating normally and will provide the incentive to correct problems.

The Subcommittee believes that the Department should utilize this power only when it confronts a willful and continuous disregard of established minimum standards or specific recommendations. It does, however, believe that such a power should be used when necessary. The Subcommittee has indicated throughout this report that a major fact in explaining the existence of substandard conditions in certain county penal facilities is the unwillingness of those charged with regulating such facilities to use the powers available to them. It is hoped that by providing the Department of Corrections with a new regulatory mechanism which is easier to implement it will begin to regulate.

The Department of Corrections should immediately promulgate new minimum standards for county penal facilities and such standards

should be drafted with the cooperation of officials charged with running county penal facilities and representatives of groups concerned with such facilities.

The Department of Corrections has the power to establish minimum standards for county penal facilities. The most recent standards were promulgated in 1974, when the Department was still a part of the Department of Institutions and Agencies. The 1974 standards are both dated and overly descriptive. In the ensuing years, several professional organizations have issued model standards and the Subcommittee urges the Department of Corrections to utilize these models when drafting their own. Specifically relevant are the Manual of Standards for Adult Local Detention Facilities drafted by the Commission on Accreditation for Corrections of the American Correctional Association, and the standards promulgated by the National Sheriff's Association. Although the Subcommittee is not drafting actual standards, testimony taken during its hearings was convincing that particular attention needs to be focused on promulgating standards for the classification of new prisoners, medical and psychiatric screening of inmates at the time of admission and upgrading methods of selection and training for county correction officers.

Commissioner Fauver, in his testimony before the Subcommittee, indicated that the Department was anxious to begin drafting new standards and would shortly form a committee of county penal authorities to assist in that effort. The Subcommittee strongly endorses this course of action.

The Subcommittee also believes that any standards promulgated by the Department must conform to the reality of New Jersey's county penal facilities. Many county jails are old and cannot be easily replaced. Standards promulgated by the Department must reflect the fact that penal facilities constructed over half a century ago cannot possibly conform to minimum standards suggested for new facilities. In light of these facts, the Subcommittee recommends that the Department develop standards which can be realistically adopted by counties which have old institutions but that newer institutions conform to standards more commensurate to their facilities and capacities.

The Subcommittee maintains, however, that many of the standards promulgated by professional associations and which have been adopted by the State for its facilities do not entail major funding to implement and should be immediately adopted by all county facilities. Again, the mere promulgation of standards is inadequate, if the Department refuses to take action against counties which willfully and continuously ignore such criteria.

The Subcommittee recommends that both the Department of Corrections and the Department of the Public Advocate request the Attorney General to issue a formal opinion as to which federal, State and local court decisions apply to New Jersey's county penal facilities.

Within the last decade, courts at all levels of jurisdiction have handed down a substantial number of decisions regarding the rights of prisoners and pre-trial detainees, and the physical

conditions of correctional facilities. During the course of its hearings, the Subcommittee was made aware of the fact that a disagreement exists as to which court decisions apply to New Jersey's county penal institutions. Both the Department of Corrections and the Office of Inmate Advocacy contend that many decisions which they believe relevant to local penal facilities are being ignored by county authorities. Representatives of the counties held that either they had never heard of such decisions or that they were not applicable to their institutions. The Department of Corrections, for example, continuously recommends that counties establish disciplinary committees to handle infractions of rules and regulations by prisoners. It does so on the basis of a State court decision which mandated the creation of such committees in State institutions. Representatives from county penal facilities denied that the decision was relevant to them. Equally, some county jail administrators denied that court cases prohibiting newspaper and magazine censorship need to be implemented at their facilities. Both the Department of Corrections and the Office of Inmate Advocacy held the reverse.

The Subcommittee neither advocates or opposes either interpretation, but it believes that county penal institutions should conform with court mandates. It believes that the best way to end this confusion is for the Attorney General to issue an opinion on the matter.

The Subcommittee recommends that the Legislature begin an indepth examination of the New Jersey Correctional Master Plan

so that it can provide for the future development of State and county penal institutions.

In 1974, the Department of Institutions and Agencies began the preparation of a master plan for all correctional facilities in the State and the Department of Corrections issued that plan in 1977. To date, the recommendations made in the master plan have not been considered by the Legislature. The master plan calls for substantial changes in State and local correctional facilities. The adoption of the major provisions of the State's master plan would fundamentally change penal facilities and substantially alleviate many of the problems brought to the Subcommittee's attention during the course of the hearings.

The need for careful consideration of the master plan becomes more imperative now that the Legislature has passed the new penal code, which may increase the size of the inmate population in New Jersey's correctional facilities. Commissioner Fauver, in his testimony to the Subcommittee, indicated that the State would experience difficulty in absorbing an increase and would, in all probability, be forced to send State prisoners to county facilities. County penal facilities are not prepared to handle this influx. If the State is to avoid drastic overcrowding in its own facilities and those maintained by counties, it must begin to plan for the future development of its penal system.

The Subcommittee recommends that the State issue bonds for the purpose of providing financial assistance to counties for the construction, renovation and improvement of county penal facilities

upon the completion of a survey to determine the capital construction needs of county penal facilities.

Many counties need funds to improve and rehabilitate existing penal institutions and to construct new facilities. At the present time, there is little money available for such purposes. The Subcommittee believes that the Legislature should authorize the placing of a bond issue for county penal facilities on the ballot for voter approval. Disbursement of funds raised through the sale of such bonds should be made by the Department of Corrections following a careful analysis of the needs of the counties.

Not only will the allocation of such revenues permit a much needed upgrading of county penal facilities but it will also give the Department of Corrections considerable influence over such institutions. State absorption of capital construction costs will enable the Department of Corrections to insure that counties conform to the minimum standards established by the Department.

The Subcommittee is not prepared to recommend how much money should be raised through the sale of bonds. The exact needs of counties have not been determined and the Subcommittee recommends that the Department of Corrections immediately initiate a survey to determine the capital construction needs of county penal facilities.

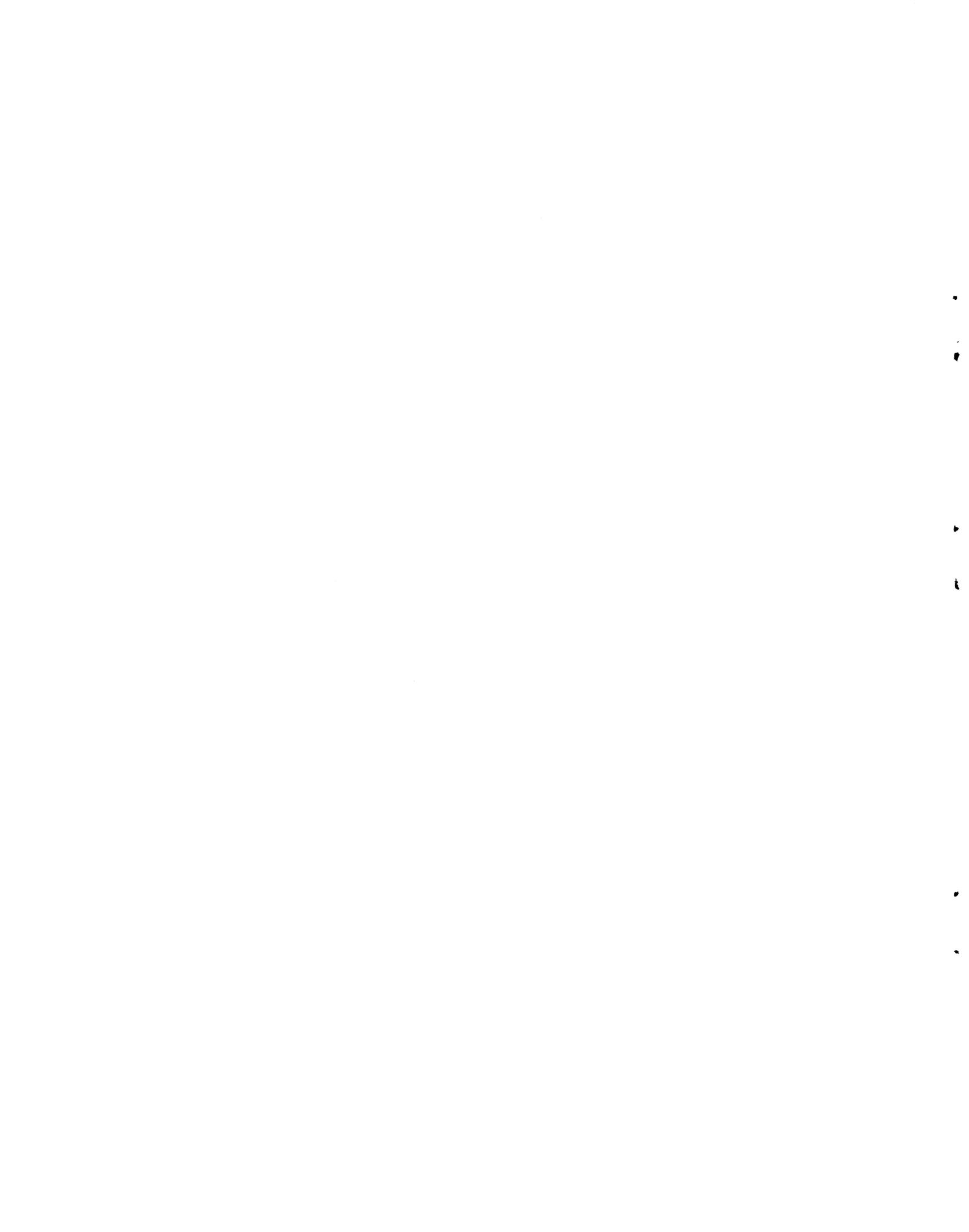
The Subcommittee recommends that the governing body of a county exercise its right to take direct control of county penal facilities whenever it deems such an action advisable.

R.S. 30:8-19 permits the governing body of a county to take control of a county penal facility if the board of chosen freeholders, by a two-thirds affirmative vote, elects to do so.

County governing bodies now administer eight penal facilities in five counties.

The Subcommittee was informed by several witnesses that county penal facilities which are controlled by boards of chosen freeholders are, in general, better managed institutions than those run by sheriffs. This does not mean that many sheriffs are not doing a competent job. Again, as indicated earlier in this report, it is impossible to make generalizations about the quality of county penal facilities and those charged with running them. However, when a county governing body is aware of ongoing problems at a jail, which are not being corrected, it should exercise the authority that it has.

The permissive right of a board of chosen freeholders to take control of a county penal facility is analogous to the permissive right of the Department of Corrections to bring suit against counties whose penal institutions are not up to standard. Both rights are rarely used. Many of the problems cited by critics of local penal facilities could be solved if the authorities exercising discretionary regulatory power would use the options available to them. The mere threat of a county takeover of a jail, workhouse or penitentiary might serve as an inducement to the upgrading of such facilities. Conversely, a continuing unwillingness to act serves only to promote existing practices.



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