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## Reorganizing Corrections: Revisiting the Recommendations of the National Advisory Commission

N. E. Schafer

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### ***Summary***

In 1973 the National Advisory Commission on Standards and Goals recommended that correctional services be consolidated under a single state agency, arguing that cost efficiencies, improved communication, and greater employee professionalism would result. The National Advisory Commission advocated state rather than local control of probation, and executive rather than judicial branch control of probation services. It encouraged development of regional rather than local jails and recommended that states assume the operation and control of all local detention and correctional functions. This paper examines some of the arguments for consolidation of correctional services and attempts to determine the kinds of reorganization that have occurred since 1973.

**Reorganizing Corrections:  
Revisiting the Recommendations of the National Advisory Commission**

by

N.E. Schafer

Justice Center  
University of Alaska Anchorage

JC # 9404

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**Abstract**

In 1973 the National Advisory Commission on Standards and Goals recommended that correctional services be consolidated under a single state agency, arguing that cost efficiencies, improved communication, and greater employee professionalism would result. The National Advisory Commission advocated state rather than local control of probation, and executive rather than judicial branch control of probation services. They encouraged development of regional rather than local jails and recommended that states assume the operation and control of all local detention and correctional functions. This paper examines some of the arguments for consolidation of correctional services and attempts to determine the kinds of reorganization that have occurred since 1973.

## **Reorganizing Corrections: Revisiting the Recommendations of the National Advisory Commission**

Twenty years ago the National Advisory Commission on Criminal Justice Standards and Goals made a series of recommendations for improving the criminal justice system. The best known of these is probably the recommendation to abolish plea bargaining, a suggestion which has received little support, but in the five volumes produced by the commission there were numerous recommendations which have since been put into place. Many of the recommendations in the *Corrections* volume have been operationalized, but the primary recommendation, the one under which the others would most easily have been achieved, has been little discussed. That is recommendation 16.4, which called for the reorganization of all state corrections systems through the unification of all correctional facilities and programs under a single state agency.

It is the purpose of this paper to discuss the commission's recommendations and their history, to examine the reorganization of state corrections systems in the light of these recommendations, and to present some of the arguments for and against consolidation in 1993.

### **BACKGROUND**

In the media, in public meetings, and in classrooms, discussions of *the* criminal justice system imply a uniform and identifiable entity. Textbooks break the system into three parts: law enforcement, the judiciary, and corrections. But these are abstract components of an abstract system, and each component is fragmented by governmental level and jurisdiction, with the organization of the component parts varying greatly from state to state. The organization and administration of corrections vary considerably among states and may be related to function as well as governmental level and jurisdiction.

Incarceration is a primary responsibility of corrections but the function of the incarceration can determine the governmental level responsible. In all states the confinement of felons is a state level responsibility, while the confinement of misdemeanants may be a local or state or shared responsibility and the confinement of pre-trial offenders is local in 45 states. Parole usually operates at the state level, while probation is, in some states, administered locally and in others at the state level. In some states probation may be the responsibility of the executive branch of government, and in others the judicial branch. A further complication is that organizing for delivery of correctional services may differ in the same state depending upon whether the services are intended for adults or juveniles. Clearly there is no system to *the* system.

Consolidation of correctional services in order to achieve effective, efficient results is a worthy goal. It was not, however, original with the 1973 Commission. Previous national commissions had recommended at least some consolidation of some corrections functions in state systems. To gain perspective on the history of such recommendations, three commission reports will be discussed: the 1931 National Commission on Law Observance and Enforcement (the Wickersham Commission), the 1967 President's Commission on Law Enforcement and Administration of Justice (President's Commission), and the 1973 National Advisory Commission on Criminal Justice Standards and Goals (National Advisory Commission). Only the National Advisory Commission recommended state level consolidation of all correctional functions and services, but even they recommended early in the volume on corrections that specific locally delivered services be consolidated.

Each commission recognized three major correctional components—institutions, parole, and probation—and each recommended at least some degree of centralized authority at the state level.

## **Reorganizing Institutional Corrections**

Three themes recur in the commissions' discussions of institutional corrections: consolidation of independent prisons; state operation and control of misdemeanor institutions; and unification of separate adult and juvenile systems.

In the 1930s and, to a lesser extent, in the 1960s, there was concern over integrating essentially autonomous institutions in the same jurisdiction in order to achieve uniformity of policies and practices. In many states the warden of the first and only felony institution was appointed by and reported directly to the governor. In any new facilities the same chain of command was replicated and each warden operated without consultation with the others. Rules and regulations, standards, even personnel policies might differ among prisons in a single state, a situation the Wickersham Commission strongly felt should be corrected. All three commissions advocated state control of misdemeanor corrections which, in most states, has traditionally been a local function. The 1973 Commission made the strongest recommendation for consolidation of local facilities to include state responsibility for pre-trial detention as well as misdemeanor sentences. The primary rationale for unifying misdemeanor and felony corrections for all three commissions was cost: Many counties do not have adequate resources for providing needed programs. Another important consideration was that county facilities were usually the responsibility of sheriffs and were staffed by law enforcement officers who were unlikely to have either interest or expertise in corrections.

An underlying rationale for combining adult and juvenile institutions under a single state authority was explicitly stated by the 1967 President's Commission, which argued that progressive programs were appropriate for both adult and juvenile offenders and that the centralization of expertise would make such programs more readily available on both levels.

## *Prisons*

The Wickersham Commission and the President's Commission 35 years later expressed concern about autonomous prisons in which all policies, practices, and programs were essentially decided "in-house." In 1931 the Advisory Committee to the Wickersham commission provided extensive information about the newly created (in 1930) Federal Bureau of Prisons, under which the formerly autonomous federal facilities would be organized. The Bureau would "have charge of all Federal penal and correctional institutions and be responsible for the safe-keeping, care, protection, instruction and discipline of all persons charged with or convicted of [federal] offenses" (1931: 282). It was the belief of the Advisory Committee that information about the consolidation of federal prisons would be instructive for the states. The President's Commission, in the Corrections Task Force Report, noted that the prevailing organizational pattern for adult institutions during the first third of the twentieth century had been the autonomous prison whose warden reported directly to the governor. Such a pattern made it "difficult to organize an integrated institutional system providing diversity of custody and treatment" (*Corrections*, 1967: 179). Both commissions favored centralized uniform state administration of institutions for adult felons.

## *Misdemeanant Corrections*

The National Advisory Commission did not deal with the question of autonomous prisons, which seems to have been resolved by 1973, but it reiterated the recommendation of the Wickersham Commission and the President's Commission that states should assume responsibility for misdemeanor corrections. Two possible avenues were suggested by the Wickersham Commission's Advisory Committee: "combining county jails into district jails is one . . . and the development of State

farms for short-term offenders is another” (1931: 296). Similar suggestions were made forty years later.

The 1967 President’s Commission, concerned that local jails were usually (and inappropriately) operated by law enforcement personnel, recommended that “Local jails and misdemeanor institutions should be integrated into State correctional systems” (1967: 178). In the commission’s Corrections Task Force Report, transfer of jails from law enforcement to correctional control was discussed, the purpose of the change being “to integrate [them] with the total corrections network, to upgrade them, and to use them in close coordination with [other] correctional services” (Corrections, 1967: 79). However, the Task Force did not view state operation as essential: “In some instances, misdemeanor facilities might best be incorporated into a unified local corrections agency” (p. 80).

The National Advisory Commission went further than either earlier commission. Standard 9.2, “State Operation and Control of Local Institutions,” states unequivocally, “All local detention and correctional functions, both pre- and post conviction, should be incorporated within the appropriate state system by 1982” (1973: 292).

### *Juvenile Facilities*

The Wickersham Commission did not address juvenile facilities and, except for a quoted passage on women’s institutions in the Advisory Committee Report, discussed only the problems of and programs for incarcerated men. The President’s Commission recommended separate detention facilities for juveniles but intermingled discussion of juvenile training schools and prisons in various sections of the report. Though no express recommendation was made, the President’s Commission did regret the division of correctional responsibility

not only among levels of government, but also within single jurisdictions. . . . Today, progressive programs for adults resemble progressive programs for juveniles, but more often than not they are administered separately *to the detriment of overall planning and of continuity of programming for offenders.* (1967: 162; emphasis added)

The National Advisory Commission included juvenile institutions in Standard 16.4, which recommended unification of *all* correctional programs, although the standard included a caveat: “This standard should be regarded as a statement of principle. . . . It is recognized that exceptions may exist . . . where juvenile and adult corrections . . . may operate on a separated basis” (1973: 560).

### **Reorganizing Probation**

In 1931 the Wickersham Commission recommended that probation be more broadly used. At that time some states had no felony probation and some permitted probation only for juveniles. Nevertheless, their recommendations about the organization of probation services addressed the same themes as the National Advisory Commission’s forty years afterwards: centralization at the state level and the location of probation administration in the executive rather than the judicial branch of government.

#### *Centralization of Probation Services*

In the 1930s many states were still considering legislation permitting the suspension of sentences to incarceration and imposition of a period of probation instead. The Wickersham Commission believed firmly that probation should be broadly available for those offenders for whom a prison stay was inappropriate. The commission argued that probation was imposed by state courts and was therefore a state rather than a local function. In addition, “[s]tate supervision, guidance and control are needed for the setting of statewide standards, for the laying down of conditions of appointment, for criticism, investigation and evaluation” (1931: 159).

The Wickersham Commission's Advisory Committee report stated strongly that local control of policies, personnel, and methods of supervision was "one of the main causes of the ineffective and uneven development of probation in the United States" (1931: 200). The committee continued, "We see no reason why probation is not, in an ultimate analysis, very much a part of the State's responsibility just as incarceration is" (p. 201).

The National Advisory Commission in 1973 argued that uniformity can only be achieved under a state-administered system. Many of the reasons they put forth in favor of state administration were echoes of the Wickersham Commission's:

*Political interference*

- 1931 There is more opportunity for political influence when the unit of administration is small. (203)
- 1973 A State-administered system can more easily [fulfill needs] without having to consider political impediments. (315)

*Standardization*

- 1931 . . . [T]he State should get into probation with zeal and a determination to see that this essential means of handling criminals should be raised to high standards. (201)
- 1973 A State [system] provides greater assurance that goals and objectives can be met and that uniform policies and procedures can be developed. (315)

*Expanded financial base*

- 1931 . . . [I]t has been clearly demonstrated, in our opinion, that . . . most counties will not pay (or have not paid) for competent probation service. (203).
- Aside from salaries probation is in other ways underfinanced. (95)
- 1973 More coordinated and effective program budgeting as well as increased ability to negotiate fully in the resource allocation becomes possible. (332)

While the President's Commission (1967) did not specifically recommend state operation and control of probation, they did make a case for state financial support of

locally operated probation and for granting and withholding monies based on adherence to state standards. The Corrections Task Force Report suggested that state governments might either finance or operate probation as a statewide program or set standards for localities and “supply overall supervision and financial support” (Corrections, 1967: 171).

### *Executive Branch Administration*

Both the 1931 and the 1973 commissions recommended that probation be placed under the jurisdiction of the executive rather than the judicial branch of state government. Both commissions noted that probation served the courts in the decision to place an offender on probation, but that supervision of convicted offenders was a corrections (or penological) function which the judge was not prepared to administer.

The Wickersham Commission argued that probation was another way of handling convicted offenders, and since judges do not control the conditions of incarceration they ought not to control the conditions of probation. In addition, “[The judge] would not think of issuing orders to, or appointing, or fixing the salary of the warden of the institution; why should he possess authority in respect to these same matters over the probation officer?” (1931:204)

The National Advisory Commission (1973) argued as well that other court dispositions are carried out by the executive branch. They also argued that placement of probation with other correctional subsystems would yield professionalization through improved officer training, enhanced job mobility, and better salaries. Executive branch placement “would facilitate a more rational allocation of staff services, increase interaction and . . . coordination [not only] with corrections [but also] with allied human services, increase access to the budget process . . . and remove the courts from an inappropriate role” (p. 314).

The President's Commission did not address this issue, although the Corrections Task Force noted the variation among jurisdictions regarding administrative responsibility and presented some of the arguments for and against judicial authority. More than the other commissions, the President's Commission's Task Force focused on juveniles and noted the differences in authority between adult and juvenile probation systems.

### **Reorganizing Parole**

As does probation, parole involves two functions: the parole decision (who will be paroled) and parole supervision (how those paroled will be supervised in the community). Since 1973 a substantial number of states have revised their penal codes to make the decision moot: prisoners are released after a specific portion of their sentences are served and may or may not be supervised after release. However, all three commissions were concerned with the fairness of the decision process and the qualifications and obligations of the decision makers.

Parole field services were minimal in 1931, when some states had no parole officers and attempted to have local law enforcement officers undertake supervision duties. The Wickersham Commission argued that every state needed parole officers; its advisory committee listed some of the problems which existed in 1930: no supervision, only written communications; no follow-up of written statements; untrained and incompetent officers; large caseloads; automatic release from parole; inadequacy of administrative and financial support for the parole service.

Although parole field services were still problematic in some states, and administrative responsibility was not uniform from state to state, the situation had greatly improved by the time of the President's Commission. In the majority of states adult parole field services were under the jurisdiction of the Parole Board, and in the

others they were in a consolidated department which had responsibility for other correctional services (Corrections, 1967: 70).

This commission noted the disarray of juvenile aftercare services, some of which echoed the 1930s regarding adult parole: In ten states there were *no* aftercare programs, and welfare departments or probation officers were relied upon. Information from these states could not be assessed because of intermingling of probation with welfare cases or because of missing paperwork (Corrections, 1967: 70).

The National Advisory Commission (1973) noted with approval the trend toward consolidation of parole field services into “expanding departments of correction” and recommended that all correctional services including parole be consolidated into a single state agency. This commission found the same serious flaws in juvenile aftercare that were noted six years earlier. The report stated, “Statewide juvenile correctional services embracing both institutions and . . . aftercare represent an established trend that should be supported” (1973: 408) and in Standard 12.5 call for consolidation of institutional and parole field services, adding that “[j]uvenile and adult correctional services may be part of the same parent agency but should be maintained as autonomous program units within it” (1973: 428).

The National Advisory Commission went on to advocate in Standard 16.4 a central state corrections agency which would house all aspects of both adult and juvenile corrections—including detention, misdemeanor corrections, both probation and parole services, and other community-based programs—even though these might be separate divisions within the parent corrections agency. The extent to which this has been accomplished is the subject of the next section of this paper.

## **REORGANIZATION OF CORRECTIONAL SERVICES**

States have reorganized (and re-reorganized) their correctional systems in the last twenty years. The extent to which these changes were influenced by any or all of

the commissions discussed above is not clear, but in at least some states many of the commissions' recommendations are now in effect. A 1977 study of the reorganization of state corrections conducted by the Council of State Governments included both a review of state organization and case studies of nine states which reorganized in the decade 1965–1975. The council suggested that the arguments in favor of consolidation of correctional services were related to the recommendations of the President's Commission and the National Advisory Commission as well as major studies of state and federal bureaucratic organization. Their study identified three primary goals for reorganization of corrections: political accountability, managerial control, and programmatic improvement (1977: ix).

### **Institutional Reorganization**

The reorganization of corrections in the nine states studied by the council is presented in Table 1. Some of the changes were part of a total executive branch reorganization in the state; the remainder were changes specific to correctional services. Six of the nine states organized adult corrections into a separate cabinet-level department; only three of the states combined adult and juvenile corrections, although a fourth—Colorado—combined them in one year and separated them in the next.

#### *Adult and Juvenile Facilities*

Although all three of the commissions advocated uniting adult and juvenile corrections (at least institutional corrections), this organizational pattern was not universally approved. In a 1967 article Harmon argued that juvenile services (institutional probation and aftercare) should be consolidated, but under no circumstances should they be administered by the same agency that governed adult corrections services.

**Table 1. Correctional Reorganization in Nine States, 1965–1975**

State	Year	Services involved	Old locations	New location
Arizona	1969	Adult institutions	Independent board	} Department of Corrections
		Adult community	Independent board	
		Juvenile services	Independent board	
Colorado	1974	Adult services } Juvenile services }	Separate divisions in Department of Institutions	} Single division in Department of Institutions
	1975	Adult services } Juvenile services }	Single division in Department of Institutions	} Separate divisions in Department of Institutions
Delaware	1970*	Adult services } Juvenile services }	Independent board Independent commission	} Department of Human Resources
	1975	Adult services } Juvenile services }	Separate divisions in Department of Human Resources	} Department of Corrections
Florida	1969*	Adult institutions } Juvenile services }	Independent board Independent agency	} Department of Human Resources
	1975	Adult institutions } Adult community }	Department of Human Resources	Department of Corrections
Georgia	1972*	Adult institutions } Adult community } Juvenile services }	Independent agency Independent agency Department of Family Services	} Department of Human Resources
Illinois	1970	Adult services } Juvenile services }	Department of Public Safety Independent agency	} Department of Corrections
Maryland	1967	Juvenile services	Department of Welfare	Department of Youth Services
	1969/70*	Juvenile services } Adult institutions } Adult community } Parole board }	Department of Youth Services Independent agency Independent agency Independent board	Department of Health } Department of Public Safety
Ohio	1971	Adult services	Department of Health	Department of Corrections
Oregon	1971*	Adult services } Adult community }	Corrections Agency	Department of Human Resources

\* Change is part of general reorganization of all state executive branch agencies..

Adapted from Council of State Governments, 1977.

The National Advisory Commission (1973) strongly recommended consolidation of all corrections, including combining adult and juvenile corrections in a single agency, but the trend since 1973 has been to separate rather than unite adult and juvenile corrections. The commission reported that 23 states separately administered adult and juvenile corrections when their report was written (1973: 560). Today 39 states separate adult and juvenile corrections.

The current organizational status of adult and juvenile corrections is shown in Table 2. The table is divided into three columns: adult only, combined adult and juvenile, and juvenile only. The juvenile column shows that the most common organizational management for juvenile corrections is as a division of a larger *non-*

*correctional* state agency. The arguments for consolidation—efficiency, cost effectiveness, centralization of programmatic expertise, etc.—have clearly been outweighed by the argument that juveniles should be treated differently and that there are traditional philosophical differences between adult and juvenile correctional services, just as there are between adult and juvenile courts.

### *Cabinet-level Departments of Corrections*

Neither the 1931 Wickersham Commission nor the 1967 President’s Commission discussed the level of placement within the government of consolidated adult corrections. Adult institutions were often divisions of a larger cabinet-level state agency. The parent agency might have been a Department of Institutions and Agencies, a Department of Social Services, a Department of Public Safety, etc. The National Advisory Commission (1973) advocated creation of a Department of

**Table 2. Reorganization of Adult and Juvenile Corrections Since 1970**

	Adult	Combined	Juvenile		Adult	Combined	Juvenile
<b>Alabama</b>	Dept		Dept	<b>Montana</b>	Dept		Div (1987)
<b>Alaska</b>	Dept (1984)		Div	<b>Nebraska</b>		Dept	
<b>Arizona</b>	Dept		Dept (1990)	<b>Nevada</b>	Dept		Div
<b>Arkansas</b>	Dept		Div	<b>New Hampshire</b>	Dept (1983)		Div
<b>California</b>		Dept		<b>New Jersey</b>		Dept (1976)	
<b>Colorado</b>	Dept (1977)		Div	<b>New Mexico</b>	Dept (1980)		Div
<b>Connecticut</b>	Dept		Div	<b>New York</b>	Dept		Div
<b>Delaware</b>	Dept (1975)		Div (1984)	<b>North Carolina</b>	Dept		Div
<b>Florida</b>	Dept (1975)		Div (1992)	<b>North Dakota</b>		Dept	
<b>Georgia</b>	Dept (1972)		Div	<b>Ohio</b>	Dept (1971)		Dept (1971)
<b>Hawaii</b>	Div (1990)*		Div	<b>Oklahoma</b>	Dept		Div
<b>Idaho</b>	Dept		Div	<b>Oregon</b>	Dept (1987)		Div
<b>Illinois</b>		Dept (1970)		<b>Pennsylvania</b>	Dept (1980)		Div
<b>Indiana</b>		Dept		<b>Rhode Island</b>	Dept		Div (1980)
<b>Iowa</b>	Dept (1984)		Div	<b>South Carolina</b>	Dept		Div
<b>Kansas</b>	Dept (1977)		Div	<b>South Dakota</b>		Dept (1977)	
<b>Kentucky</b>	Dept (1988)		Div	<b>Tennessee</b>	Dept		Dept (1989)
<b>Louisiana</b>		Div (1985)		<b>Texas</b>	Dept		Dept
<b>Maine</b>		Dept (1981)		<b>Utah</b>	Dept (1983)		Div
<b>Maryland</b>	Div		Dept (1989)	<b>Vermont</b>	Div		Div
<b>Massachusetts</b>	Dept		Div (1992)	<b>Virginia</b>	Dept		Div
<b>Michigan</b>	Dept		Div	<b>Washington</b>	Dept (1981)		Div
<b>Minnesota</b>		Dept		<b>West Virginia</b>		Div	
<b>Mississippi</b>	Dept (1978)		Div	<b>Wisconsin</b>	Dept (1990)		Div
<b>Missouri</b>	Dept (1983)		Div	<b>Wyoming</b>	Dept (1991)		Div

**Note:** The change dates in the adult corrections column and in the combined adult and juvenile column for the most part reflect a move from a consolidated agency to independent status. The change dates in the juvenile column reflect either change to independence or removal from one state agency to another.

\* Hawaii consolidated an independent department under a state Department of Public Safety.

**Dept** = Cabinet-level department; **Div** = Division of larger state agency

Corrections, which seems to be the current trend. Table 2 shows that, since 1970, 18 states have removed adult corrections from a parent agency and made it a cabinet-level department. Four states have established cabinet-level departments which include both adult and juvenile institutions. Hawaii reversed the trend, going from a Department of Corrections (established in 1987) to a Corrections Division of a Department of Public Safety in 1990. Today 45 of the 50 states have independent cabinet-level Departments of Corrections. Nine of these combine adult and juvenile institutions in this department. For a comparison, Heyns (1967) identified 16 states with independent departments.

The trend toward independent cabinet-level status is very probably a result of growth in the number of prisoners and in the number of facilities constructed to house them. The growth of the prison population in the last 20 years has made corrections as large as or larger than the parent agency in terms of budget, personnel, and administrative responsibility. Direct expenditures for state corrections were \$1,812,529 in 1974 and \$19,954,487 in 1990 (Bureau of Justice Statistics, 1977, 1991), while the population of prisoners rose from 187,982 to 633,739 during the same period. The 1977 *Sourcebook of Criminal Justice Statistics* provided information on the number of state institutions (of all types)—592—but the 1991 *Sourcebook* did not include this information. The newer issue did include the number of wardens/superintendents, which should provide a reasonable estimate of the number of institutions in 1990—1063 (Bureau of Justice Statistics, 1977, 1991). This kind of growth does suggest that corrections has become large enough to warrant an independent place in state operating budgets.

#### *Misdemeanant Corrections*

The National Advisory Commission also recommended that states assume operation and control of county jails (both pre-trial and post-conviction

incarceration), reiterating the recommendations of 40 years earlier vis a vis misdemeanor corrections. Today Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont operate state jails and have care of both pre-trial detention and misdemeanor corrections. Several other states operate facilities for misdemeanants, relieving at least some of the population pressures in county jails.

Table 3 provides only a rough estimate of the number of states which administer misdemeanor corrections. The information was gleaned from the 1993 American Correctional Association Directory. Where introductory material on the state mentioned misdemeanants, the state was placed on the list. A quick examination of the entries for individual facilities was made for all states where misdemeanants were not mentioned in the introductory material. (Most of the entries indicate whether the prison serves felons or misdemeanants or both.) If any facility in a state mentioned misdemeanants, that state was included in the table. If neither felons nor misdemeanants were included in any entries the state was *not* included, although the omission of either label might have meant that the facility housed misdemeanants. The table is a rough estimate only.

Some of these states house misdemeanants only if their sentences are longer than three (or six) months. Most of the arrangements to house misdemeanants under state authority predated the publication of the National Advisory Commission's report and cannot be assumed to have been influenced by it.

**Table 3. State Authority Over Misdemeanants**

State-operated jails (pre- and post-conviction facilities)	Misdemeanant corrections	
Alaska	Georgia*	North Dakota
Connecticut	Indiana	Ohio
Delaware	Iowa	Pennsylvania
Hawaii	Maryland*	South Carolina
Rhode Island	Massachusetts	Utah
Vermont	North Carolina	West Virginia

\* Minimum sentence requirement.

An alternative recommendation for both misdemeanants and pre-trial detainees made by both the Wickersham Commission in 1931 and the National Advisory Commission in 1973 was the development of regional jails to serve several counties in a single state. Regionalization has occurred in several states. Funding for construction of such facilities is often supplied in part by the state, while funding for operation is shared by the participating counties. An example is Virginia, which has encouraged regionalization. Enabling legislation in Virginia permits any combination of county or city governments to establish a regional jail. If three governmental units participate, the state will fund up to half of the construction of the facility. Today twelve regional jails in Virginia serve 35 counties and municipalities (Leibowitz, 1991: 42-45). While regionalization does seem to be a growing solution to the problems of local jails, at the present time no information is readily available about the number of states with regional jails.

### **Reorganization of Probation**

The National Advisory Commission made two recommendations about probation: It should be under state rather than local authority and it should be part of the executive rather than the judicial branch of government. The latter of these recommendations will be discussed here.

Using information in the *1992-1994 Probation and Parole Directory* (American Correctional Association, 1992), I have constructed a table of organization for both adult and juvenile probation. The table is split because of the great variance between the delivery of adult and juvenile services. Executive branch jurisdiction is the dominant pattern for adult probation, although in many states misdemeanor probation continues to be a court function. In only 15 states is adult probation a function of the courts.

**Table 4. Organization of Adult and Juvenile Probation**

Adult Probation		Juvenile Probation		
Executive	Judiciary	Executive	Mixed	Judiciary
Alabama	Arizona	Alaska	Georgia	Alabama
Alaska	Arkansas	Delaware	West Virginia	Arizona
Delaware	California	Florida		Arkansas
Florida	Colorado	Idaho		California
Georgia	Connecticut	Louisiana		Colorado
Idaho	Hawaii	Maine		Connecticut
Iowa	Illinois	Maryland		Hawaii
Kentucky	Indiana	Minnesota		Illinois
Louisiana	Kansas	Mississippi		Indiana
Maine	Massachusetts	Nebraska		Iowa
Maryland	Nebraska	New Hampshire		Kansas
Michigan	New Jersey	New Mexico		Kentucky
Minnesota <sup>1</sup>	Ohio <sup>1</sup>	New York		Massachusetts
Mississippi	South Dakota	North Dakota		Michigan
Missouri	Texas	Oklahoma		Missouri
Montana	West Virginia	Rhode Island		Montana
Nevada		South Carolina		Nevada
New Hampshire		Tennessee		New Jersey
New Mexico		Vermont		North Carolina
New York		Virginia		Ohio <sup>1</sup>
North Carolina		Wisconsin		Oregon
North Dakota		Wyoming		Pennsylvania
Ohio <sup>1</sup>				South Dakota
Oklahoma				Texas
Oregon				Utah
Pennsylvania <sup>1</sup>				Washington
Rhode Island				
South Carolina				
Tennessee				
Utah				
Vermont				
Virginia				
Washington				
Wisconsin				
Wyoming				

1. Varies by county.

The dominant pattern for juvenile probation is the reverse, with 26 states placing juvenile probation under the courts. The executive branch has jurisdiction over juvenile probation in 22 states, while two have a mixture of authority with an executive branch agency providing services in some counties and courts providing them in others. Although the origin of organization under executive or judicial branch jurisdiction is not clear in the literature, these patterns do predate the National Advisory Commission.

### **Reorganization of Parole**

The three commissions whose recommendations have been discussed above seemed more interested in the organization of adult parole decision-making than in

the organization of adult parole field services. In most states where legislation has not made release on parole mandatory at a specific point in the sentence, an independent parole board or commission appears to be the norm. In some states this board also has jurisdiction over adult parole field services (Alabama, Georgia, Massachusetts, South Dakota, and Tennessee).

In other states field services are conducted under the authority of the Department of Corrections, and in several adult parole and probation field services are combined. This last arrangement would have been applauded by the National Advisory Commission, which argued that the expertise needed for the supervision of offenders in the community was similar regardless of the legal status of the people supervised and that combining field services under the state executive branch would improve efficiency, increase access to programs for special needs offenders, and make career opportunities available to a larger number of probation and parole officers.

Organizational variance continues to characterize juvenile aftercare. In some states there is no formal means of delivering aftercare services (e.g., Alaska). In many, the courts are responsible for both juvenile probation and juvenile parole, and in some of these the availability of aftercare varies from county to county. Unraveling the wide variance in both the availability of services for, and jurisdiction over, juveniles released from institutions is beyond the scope of this paper.

## **THE FUTURE OF CORRECTIONAL REORGANIZATION**

The fragmentation of correctional services in the states was a concern sixty years ago and twenty years ago and is still a concern today. In the 1930s prisons in a single state might have been separate autonomous institutions whose wardens reported to the governor. Today institutions in a single state have been united under a single agency, and correctional policies and procedures in each state are uniform. The impetus for this consolidation in the last twenty years has been the growth in prison

populations, more than the recommendations of the commissions discussed above. The number of states with independent corrections departments suggests that this is an organizational arrangement that is unlikely to change. Although states may, as part of total executive branch reorganization, move adult corrections from department to division and back again, correctional expertise will continue to be centralized in a single agency. This centralization will, in most states, include parole field services for adult felons.

Although felony incarceration and post-incarceration corrections have been unified at the state level in most states, other correctional services for adults are still fragmented. Misdemeanant corrections continue to be a local responsibility in most states and pre-incarceration correctional services for both felons and misdemeanants may be delivered locally and by a different branch of the government. Adult corrections is, then, still fragmented in most of the fifty states; it is not surprising that the call to unite it with juvenile corrections has not been heeded.

### **Juvenile Corrections**

The trend since 1973 to separate juvenile and adult correctional services rather than to consolidate them is likely to continue in spite of the recommendations of the commissions. Today more states separate them than did so twenty years ago. This separation has been based on philosophical and historical, rather than political, grounds.

Although the President's Commission (1967) argued for consolidation because the philosophy of rehabilitation in adult corrections was moving prisons closer in purpose to juvenile institutions, recent history has belied this argument. The "nothing works" philosophy has permeated adult corrections, while treatment has remained the primary purpose of juvenile corrections.

The year after the National Advisory Commission report was published Congress passed the Juvenile Justice and Delinquency Prevention Act of 1974, which reiterated the differences between adults and juveniles, raising particularly the issue of status offenses and mandating sight and sound separation of juveniles in adult jails and lockups. The 1984 reauthorization of the act mandated the removal of juveniles from any secure facility which holds adults.

The *parens patriae* philosophy which continues to underlie the separate operation of juvenile/family courts also underlies the separate operation of juvenile corrections. The "get tough" philosophy which has permeated adult corrections is transmuted in juvenile corrections into waivers to adult court. Legislatures have lowered the age of waiver and even made waiver automatic in some instances. The result is that waived juveniles will be incarcerated in adult institutions. Juvenile training schools have not been changed to accommodate the "get tough" policies.

Correctional facilities for juveniles are, however, even more fragmented than those for adults. Training schools are operated by state executive branch agencies, but detention centers are usually local and are often attached to the courts. Juvenile probation may be organized differently within the same state and aftercare (parole) services may be organized at the state or local levels, under the executive or judicial branches of government, and in some states there may be no official aftercare services. There may be calls in some states to bring order to the current disarray of juvenile corrections, but a call to unite juvenile with adult corrections appears unlikely.

### **Adult Probation**

When John Augustus initiated the release of his first "client" in 1842 the arrangement was made with the court, which suspended imposition of sentence for a short period to see what changes Augustus would report. This was, most texts agree,

the origin of probation in the United States. Since placing people on and removing people from probation are court functions, it is not surprising that the supervision of the offender during the period of probation came under the court's authority in many states.

Probation as practiced by Augustus was primarily available to misdemeanants. According to the Wickersham Commission (1931), felony probation was not an option in most states in the early 1930s. The spread of probation may have followed the federal pattern established in the 1920s. Supervision of federal probationers was the responsibility of the Administrative Office of the Courts.

Whatever the origin of its jurisdiction, felony probation field services today are often delivered under the auspices of the courts, and misdemeanor field services are even more likely to be a judicial rather than an executive branch function. Changing what tradition has established is unlikely. Political considerations have colored any effort to change responsibility from one branch of government to the other or from one government level to another. It is possible that probation field services will be centralized at the state level under either branch, since local budgets may make it increasingly difficult to provide these services at the local level. State supplements may be necessary in order to continue service delivery. Financial assistance from the state may ultimately involve state authority to establish supervision requirements, personnel qualifications, salaries, etc. Budget considerations have already been instrumental in changing the political climate vis a vis jurisdiction over misdemeanor corrections.

### **Local Facilities**

In the majority of states county jails (and prisons) are locally funded and locally operated. The county sheriff has administrative responsibility for the county jail, which usually houses both pretrial detainees and sentenced misdemeanants. Local

jails operate under local standards. Traditionally, little money was spent on physical facilities and jails tended to be squalid, vermin-infested, poorly ventilated, unhealthy, and unsafe. Elected sheriffs based jail personnel policies on political patronage, and staff turnover might be 100 percent after an election. In some jails the opportunity to personally profit from the jail was a perquisite of the sheriff's office. By underspending the budget for food and other necessities, and by operating inmate "stores" at a profit, the sheriff could supplement his official salary. Jails were considered, by most observers, as scandalously substandard.

In the 1970s the federal courts began to consider class action suits brought by jail inmates under section 1983 of the Civil Right Act. The suits alleged unconstitutional conditions of confinement and standards of care. Many jails in many states found themselves under court order to improve the conditions of confinement. These court orders required increased budgets. Local officials who controlled the county budget were more interested in the political implications of increased taxes than the advantages of political patronage. Regionalization, particularly where the state participated in construction costs, has been an attractive alternative to local control and local culpability. Currently only six states fully operate jails, but the trend in many states is toward regionalization with a state share in costs. This may ultimately result in state operation.

Conrad (1981) argued that in the age of Proposition 13, county jail budgets would be "especially lean." The "easy solution is the best," he wrote, "if counties cannot pay for probation and the maintenance of decent jails, the state must" (33). Consolidation of correctional services at the state level is likely to continue. Whether this will result in cost efficiency is not clear, but it will result in uniformity of care and greater availability of services.

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