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American Correctional Association

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STATEMENT OF

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BEFORE THE

UNITED STATES SENTENCING COMMISSION

ON

NATIONAL STANDARDS
FOR ADULT CORRECTIONAL INSTITUTIONS

WASHINGTON, D.C.

JUNE 30, 1987

Thank you for the opportunity to appear before the Commission to present the views of the American Correctional Association relating to the work of the Commission and its impact upon correctional programs throughout the United States.

Our review of the new drug law, the special offender law, and the sentencing guidelines issued on April 13, 1987 indicates that the combined effect of the three will be a tremendous increase in the federal prison population as a result of the proposed guidelines.

Based upon statistics recently released by the National Institute of Justice, the United States is incarcerating prisoners at a higher rate than other countries, a condition which will be accelerated with the implementation of guidelines.

We also project that the impact of the new federal laws will be magnified due to the tendency of state and local jurisdictions to adapt state and local practice and/or legislation to follow the pattern set by the new laws. Two examples of that tendency are the widespread local adaptations of the federal parole policy and prisoner classification systems.

The impact of this expanded prisoner population should take into consideration the following facts: (1) Prison construction costs now average over \$50,000 per prisoner, and (2) The average annual operating cost is over \$16,500 per prisoner. If all states follow the new federal laws, and if the projected 90%

increase in prison population occurs, the nation will be faced with an additional outlay of 25 billion dollars for prison construction and an annual increase in the national prisoner care costs of 7 billion dollars.

A major concern of the Association, with the projected explosion of prison populations, is the safety and security of the employees working in the correctional facilities of America. In today's overcrowded prisons, only 670 are in compliance with the national standards and are accredited by the Commission on Accreditation for Corrections.

We urge you to develop a mechanism to require that all jurisdictions utilizing the Commission guidelines must incarcerate the inmates in facilities which are accredited and in compliance with the national standards of the American Correctional Association. These standards have evolved since 1870 when Rutherford B. Hayes first served as the president of our group, and were further refined since 1968 by the leading correctional practitioners throughout the nation. The development of national standards by these correctional professionals have been supported by a wide range of public and private groups, including the National Institute of Justice, the National Institute of Corrections, the Law Enforcement Assistance Administration, and such as the following prestigious private sector organizations:

The Ford Foundation

Alcoa Foundation, Pittsburgh, Pennsylvania

Bristol-Meyers Company, New York, New York
Coe-Peacock, Inc., Rockville, Maryland
International Business Machines Corp., Armonk, New York
Lilly Endowment, Inc., Indianapolis, Indiana
Richard King Mellon Foundation, Pittsburgh, Pennsylvania
United States Chamber of Commerce, Washington, D.C.
United States Steel Foundation, Inc., Pittsburgh,
Pennsylvania
F.W. Woolworth Company, New York, New York

These groups provided financial and technical support to 240 criminal justice groups and individuals in the development and promulgation of the national standards. This effort has continued for 20 years and involved the expenditure of millions of dollars in the development of the most comprehensive set of prison standards in the world.

We urge you to incorporate these standards into your deliberations, for when prisoners are confined in unconstitutional facilities, and employees forced to work in facilities which are unsafe, the courts are prone to intervene. This intervention often results in mandated solutions that impose catastrophic fiscal burdens upon the system. We believe that the use of national correctional standards can ensure the operation of facilities which are safe, secure, and constitutionally adequate.

The following material is submitted to further explain the standards and accreditation movement.

In the development of standards for adult institutions and community agencies, the goal was to prescribe the best possible practices that could be achieved in the United States today, while being both realistic and practical. Members of the American Correctional Association Committee on Standards and Accreditation and members of the Commission on Accreditation for Corrections feel that they have succeeded in providing such standards. Standards were field tested in a minimum of three agencies prior to review and publication by these groups. Adult correctional institution standards, for example, were field tested in six different correctional institutions across the United States. Selected staff, sometimes as many as 30, met with Commission staff and/or consultants at scheduled times over their workday to review standards relating to their specific tasks in the facility. After completion of the field tests, the standards were revised and submitted first to the Commission and then to the American Correctional Association Committee on Standards and Accreditation for approval. Upon joint approval from these groups, the standards were published.

Description of the Standards

There has long been general agreement that standards are needed to govern correctional policy and practices, and the standards have been well received by the field. In the writing

of standards, it was necessary to achieve a balance between existing court interpretations of constitutional rights and the needs of corrections officials and administrators. This was an easy task. While members of the Commission and the ACA Committee on Standards and Accreditation made every effort to ground their work in relevant court decisions, their foremost concern was with providing high standards of professional practice for use by the correctional field. In attempting to do so, both groups sometimes went beyond case law and the statutes of many jurisdictions. In doing so, they arrived at a set of standards which reduce the discretion and operational latitude of their colleagues in order to provide them with comprehensive, clear, and relevant guidelines for good corrections practice. This effort is also designed to assist the courts, as well as legislators and governors, of the needs of corrections professionals in the conduct of the increasingly complex work of administering safe and humane institutions and sound community programs that provide meaningful services and programs to offenders.

Due Process and Discipline - Perhaps the most important area of concern for corrections administrators is that of discipline--preserving the order and security of the institution--their primary duty. Approximately 30 of the standards deal specifically with inmate rules and discipline. One standard summarizes the salient points of two major Supreme Court decisions -- Wolff v. McDonnell and Baxter v. Palmigiano (4300).

In Wolff, which dealt primarily with loss of "good time," the court laid out specific due process hearing procedures that basically require administrative agencies to impose discipline only after adequate notice and only after an opportunity for a fair hearing. These procedures were further sharpened by severely restricting them and adding no new constitutional requirements to Wolff, thus establishing constitutional requirements for due process in disciplinary hearings. These did not include a right to counsel or to cross-examine or confront witnesses--nor do Commission standards. Commission standards also require 24 hours advance written notice of hearings, allow inmates present documentary evidence in their defense without cross-examination or confrontation where it would produce a hazard to institutional safety or correctional goals, and allow the services of a staff member (counsel substitute) to represent the inmate, if requested. Standards state that hearings are conducted by an impartial officer or panel of officers, and the decision must be based solely on the evidence presented, and the decision must be rendered in writing. The ACA and the Commission have devoted more than 30 standards to conditions for confinement of "Special Management Inmates," i.e., inmates in disciplinary detention or administrative segregation.

Access to the Courts - Consistent with several court rulings, including Johnson v. Avery, (1969), Procunier v. Martinez (1974), and Bounds v. Smith, as recently as 1977, the standards ensure the right of inmates to have access to the courts, attorneys, and

designated counsel substitutes or authorized representatives, and grant inmates access to legal assistance from individuals with legal training or from law library facilities.

Planning and Standards Implementation

As indicated earlier, standards are of little use to the administrator of a corrections agency without a clear statement of the overall goals of the system. Standards do not set the goals of the system; they are be used to ensure that the goals of the overall system and specific related objectives are met. For example, if diversion to community services is a goal, ACA standards for community residential services, and probation and parole services, can assist in reaching that goal. If goals require the renovation of an existing facility, national standards provide guidelines for the planning and operation of the facility. Once the decision is made, standards provide specific and measurable objectives, define tasks to be accomplished in reaching objectives, assist in scheduling and budgeting, and provide direction in the development of specific policies and procedures for the delivery of services. Standards can also assist staff in dividing work into manageable units, and their use can allow administration to more accurately determine personnel needs in order to select staff who can meet the objectives specified in the standards. In the application of the standards to date, they have been useful "checklists" for staff in determining areas of job responsibility and their progress in completing specific tasks. They also assist in motivating staff,

since morale is improved when staff know what is required of them, and they often feel a sense of accomplishment in meeting both agency and national standards for performance. Standards also assist within and between agencies in communicating ideas and information and in coordinating services. When a standard is found difficult to meet, an administrator or manager can communicate clearly what is required and seek assistance from others in meeting the standard.

Finally, standards allow for measurement of effective performance in achieving objectives. Standards are not perfect units of measurement, particularly where program goals require great flexibility in daily operations. Treatment outcomes are difficult to quantify, and many managers will be reluctant to accept an imperfect unit of measurement as a standard against which to evaluate performance. Since there are few "perfect" units of measurement applicable in corrections settings, standards must be used for what they are -- indicators of acceptable performance, no more, no less (Morrisey, 1970). Without them, there is no clear way of knowing whether the stated goals and objectives are being achieved by the agency.

Conclusion

While they do not state all of the objectives of a specific program, ACA and Commission standards make assumptions about critical objectives, including good administration and fiscal controls, adherence to legal criteria, and the provision of basic

program services such as a healthful environment, education and counseling services. Their realization requires participation and involvement from staff at all levels, as well as acceptance by agency administrators, legislators, the courts, and the public. They require fiscal resources and support at all levels of government, and they must be considered in any large scale effort at criminal justice or juvenile justice planning.

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