

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5679 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES 83

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

BILL NO: CSHB 538

DATE: March 15, 1990

TITLE: An Act directing the Office of Public Advocacy to establish a child visitation mediation project, and providing for an effective date

CONTACT: Barbara Miklos 465-4356

DEPARTMENT OF PUBLIC SAFETY



CS for HB 538 (HESS) directs the Office of Public Advocacy to establish a child visitation mediation project. The Council has some concerns about some of the provisions in this bill.

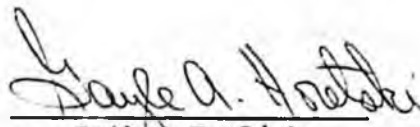
Mediation can be very harmful to victims of domestic violence or sexual assault. Violence distorts the balance of power in a relationship. Violent men physically and psychologically coerce women, by domination and intimidation. Women who are severely intimidated and frightened of violence are not able to make independent decisions in their own best interests or the best interests of their children. Domestic violence and sexual assault occur much more frequently than may be suspected. A study by Stockholm and Helms, which surveyed women in Alaska on the extent of abuse of women by their spouses or live-in partners, found that 26% of the women had been abused as adults. It is important to note that studies show domestic violence occurs at least at the same rate after a separation as before a separation. In fact, violence is often escalated following a separation and, therefore, the danger to the victim is increased.

We recommend that subsection (b), Section 1, lines 25 - 26, page 1, be changed to delete the requirement that a report of domestic violence must be made to a public agency before a domestic violence case can be excluded from mediation. There are several problems with this requirement. Many victims of domestic violence will not have made a report to a public agency. It is only recently that arrests or prosecutions of domestic violence assaults have been vigorously pursued, thus there was previously little advantage to the victims in reporting domestic violence assaults. Reports to DFYS are confidential. If a victim sought services from a non-profit domestic violence program, that would not be a public agency, and those records are also required to be confidential. In most rural areas, services are simply unavailable, and so this provision is of particular concern for people who have lived in rural areas. We recommend that the wording be changed as follows: "The Agency or court may not refer a dispute for mediation if there has been an indication [A PARTY TO A DISPUTE HAS BEEN ACCUSED] of domestic violence, as defined in AS 18.66.900. [IN A REPORT TO OR BY A PUBLIC AGENCY]." The Council on Domestic Violence and Sexual Assault also feels it is important to have someone who has expertise in the field of family violence on the Child Visitation Mediation Council.

The Council on Domestic Violence and Sexual Assault agrees that participation in mediation should be voluntary, as provided for in subsection (c), and that a person's refusal to participate may not be used against the

person in another proceeding. Mediation is most likely to fail where there are truly irreconcilable differences, no common interests, and where both parties are not committed to the process. Research on conflict resolution also indicates that, to the extent that one or both parties feels coerced, negotiations will be deadlocked or agreements that are reached are likely to fail to be implemented.

Generally, the Council is neutral regarding the establishment of this voluntary child visitation mediation project. We strongly feel that no victims of domestic violence should be directed into this process.


for Arthur English
Commissioner



Alaska State Legislature

Please enter into the record my testimony to the House H.F. 55
 committee name
 committee on 538/539, dated 3-7-90
 bill/subject

I am in support of this bill because not all cases of denied visitation are because of D.V. and because of the cost of going to court to get visitation restarted. I have been denied visitation on many holidays and birthdays, if you call the police, there is nothing that can be done to help. In court each parent is made out to be a bad person by each others lawyers. My hope is that someday parents woldn't be bad guys who do not have custody of their children, but just moms or dads who can freely be a part of their childrens life. This bill is a step in the right direction. Don't let the hope of a better way to solve visitation die!

Signed: Mabel H Ramsay
 Testifier

Representing (Optional)

POB 874691 wasilla AK 99687

Address

892-7163

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE HESS
committee name

committee on HB 538/539 , dated MARCH 7, 1990
bill/subject

As a member of Alaska Family Support Group and an advocate of children's rights I am testifying in favor of HB 583 and 539. Section b) should be amended to include self referral by either custodial or non-custodial parents ^{and} direct access in addition to court or CSED referral. Having experienced visitation difficulties for extended periods, ~~during parenting~~ ^{as} actively seeking assistance from the troopers and the court system, in retrospect I can see ~~that~~ mediation as a much more timely + efficient process for the kids benefit than ~~the~~ law enforcement or the judiciary. This ~~mediation~~ would be mediation not to discredit either parent as is customary in the court process of litigation + ^{custody} dispute, but rather to gain access of kids to moms + dads.

Signed:

Jim Travis
Testifier

JIM TRAVIS

member - Alaska Family Support Group
Representing (Optional)

581 MULGNATNA #4
Address

Address

376-2219
Phone No.

Phone No.

From: Tina Martini
Box 900203
Fairbanks, Ak. 99775

To: Rep. Johnny Ellis and Mark Boyer
Alaska State Legislature
Box V (MS 3100)
Juneau, AK. 99811

Dear Representatives,

I am very sorry I was unable to make it for testimony on March 7th's teleconference. My child was very sick. I hope that this letter will suffice.

I next want to thank Johnny Ellis for introducing House bills 538 and 539.

Finally, I am writing my testimony that was to be heard on the 7th. I have had the experience as a child of being separated from my father. When my parents were divorced, my mother gained custody of 4 children. I love my mother dearly and feel that she raised us well. One thing that I still feel bothers me is that when she gained that custody, visitation with my father was non-existent. Just because my mother didn't get along with him, we weren't to like him either. Countless times when he would call us, we would get upset and begin missing him and wanting to see him. All of us were denied to see him or even to write to him. When my step-father stepped into the picture, my father's efforts to see us diminished. Being a teenager then, it was hard for me to accept this new person as my Dad. His attitude was that if he was paying to raise us, we were to show him the

Page 2

respect by calling him Dad and we weren't allowed to even mention our natural father's name. My whole teenage life was traumatic. I needed to know where my Dad was and at times I needed the support of his love and tenderness.

When I turned 20, I went on a mission to find out where my father lived. I had finally found him in California. I still love him, write to him and visit him. I understand / that the feelings of my step-father were crushed for seeing my natural father, but no amount of money can replace or destroy the love I had for my Dad. I am also not saying that I didn't appreciate the work and let-downs my step-father had to go through, but I feel my feelings weren't even considered. If I would have known that I wasn't going to see my Dad for over 8 years, I wouldn't have agreed to be adopted by my Step-father. I am speaking for the kids that are denied their natural parents love. It is damaging to the growth of a child.

I am still in awe that the courts consistently decide in favor of one parent having control over the rearing of children. I believe that my Dad couldn't get along with my mother, but that didn't mean that I had the same problem. I'd like to see the legislature look at the real situation and try to make the laws fair for all of humankind. We voted you guys in office believing that great things would get done. I still have faith.

Thanks for listening to me.

Sincerely Yours,

Jina Martini

ATTENTION: HOUSE H.E.S.S.

H.B. 472 I strongly support this bill. This Bill will put the child support award system in to the democratic process.

In my opinion it is good policy for parents and elected officials to be directly involved in formulating child support laws.

H.B. 571 I strongly support this bill so that obligors will be notified when a duty of support begins accruing.

H.B. 538 and 539 I strongly support these bills. I believe that children have the right to have access to both parents and both parents have the right to access their children. This visitation project will benefit families and children by providing mediation for visitation problems.

I am a member of the Alaska Support Group.

^
FAMILY

Paul A. L. Nelson

Paul A. L. Nelson

March 6, 1990

Rhona L. Miels

Rhona L. Miels Non-member

Original sponsor(s): REP. ELLIS, Menard, Ulmer

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 CS FOR HOUSE BILL NO. 538 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act directing the office of public advocacy to
7 establish a child visitation mediation project; and
8 providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. CHILD VISITATION MEDIATION PROJECT. (a) The office of
11 public advocacy shall establish a regional child visitation mediation
12 demonstration project. Based on the advice of the council established
13 under (d) of this section, the office shall select a contractor who will
14 mediate child visitation disputes that are referred to the office by a
15 court or by the child support enforcement agency in the Department of
16 Revenue. The contractor shall bear all costs of the project other than the
17 expenses of the advisory council established under (d) of this section and
18 the office's administrative costs incurred in processing referrals and
19 applications for mediation. The goal of mediation under the project is to
20 serve the best interest of the child or children whose visitation is the
21 subject of the mediation.

22 (b) The child support enforcement agency or a court may refer a
23 dispute concerning child visitation issues to the office of public advocacy
24 for mediation under this section. The agency or court may not refer a
25 dispute for mediation if a party to the dispute has been accused of domes-
26 tic violence, as defined in AS 18.66.900, in a report to or by a public
27 agency.

28 (c) Participation in mediation under this section is voluntary for
29 all parties. A person's refusal to participate may not be used against the

1 person in another proceeding.

2 (d) There is established in the office of public advocacy an advisory
3 council to advise the office concerning the demonstration project author-
4 ized under this section. Before the contractor selected under (a) of this
5 section begins offering services under the project, the council shall make
6 recommendations to the office concerning the location and implementation of
7 the project, how the success of the project should be measured, and crite-
8 ria that should be used for the contractor and the client services. The
9 advisory council consists of

10 (1) a representative of the judicial branch, appointed by the
11 chief justice of the supreme court;

12 (2) a person who is experienced as a mediator, appointed by the
13 governor;

14 (3) a legislator, appointed by the Alaska Legislative Council;
15 and

16 (4) four parents, two of whom are custodial parents and two of
17 whom have visitation rights to their children who are in the custody of the
18 other parent, appointed by the governor.

19 (e) Members of the advisory council serve without compensation, but
20 are entitled to per diem and travel expenses authorized for members of
21 boards and commissions under AS 39.20.180 for attendance at scheduled
22 meetings of the advisory council.

23 (f) The office of public advocacy shall report to the legislature by
24 January 30, 1992, concerning the operation of the demonstration project
25 authorized under this section and its recommendations whether the proj-
26 ect should be expanded to other areas of the state.

27 * Sec. 2. This Act takes effect July 1, 1990.
28
29

6-2238H
Chenoweth
3/21/90

Original sponsor(s): REP ELLIS, Menard, Ulmer

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 538 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Alaska Court System to estab-
7 lish and evaluate a child visitation mediation demon-
8 stration project; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. CHILD VISITATION MEDIATION DEMONSTRATION PROJECT. (a) To
12 better enable persons having custody of and rights of visitation for a
13 minor child to reach voluntary agreements relating to child visitations
14 that are in the best interests of the child, the Alaska Court System may

15 (1) create a child visitation mediation demonstration project
16 using a court mediator in Anchorage and Fairbanks to mediate child visita-
17 tion disputes; and

18 (2) evaluate the project created under (1) of this subsection
19 for its ability to promote and serve the best interests of the child, as
20 well as for efficiency and economy.

21 (b) In establishing the demonstration project under (a) of this
22 section, the Alaska Court System shall

23 (1) exclude from the scope of the project cases involving domes-
24 tic violence on any family members; and

25 (2) inform all parties of their rights and the scope and purpose
26 of the demonstration project before mediation begins.

27 (c) Mediation under the child visitation mediation demonstration
28 project shall be conducted informally and shall be conducted as a confer-
29 ence or series of conferences. Counsel for the parties may attend each

1 conference.

2 (d) Participation in mediation under the child visitation mediation
3 demonstration project is voluntary. A person's refusal to participate may
4 not be used against the person in another proceeding.

5 (e) Mediation conferences under the child visitation mediation demon-
6 stration project are confidential. The mediator may not submit recommenda-
7 tions to a court about the disposition of the controversy.

8 * Sec. 2. If an evaluation is completed under sec. 1(a)(2) of this Act,
9 the Alaska Court System shall report the evaluation to the legislature by
10 February 1, 1992.

11 * Sec. 3. This Act is repealed February 1, 1992.

12 * Sec. 4. This Act takes effect July 1, 1990.

Original sponsor(s): REP. ELLIS, Menard, Ulmer

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 CS FOR HOUSE BILL NO. 538 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Alaska Judicial Council to
7 establish and evaluate a child visitation mediation
8 project and establishing an advisory council to
9 provide advice concerning the project; and providing
10 for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. FINDING. The legislature finds that it is in the best
13 interests of a child to have reasonable access to both of the child's
14 parents unless there are circumstances in which that access would be detri-
15 mental to the child.

16 * Sec. 2. CHILD VISITATION MEDIATION PROJECT. (a) To better enable
17 persons having either custody of or rights of visitation for a minor child
18 to reach voluntary agreements relating to child visitations that are in the
19 best interests of the child, the Alaska Judicial Council may

20 (1) create a child visitation mediation project using mediators
21 to mediate child visitation disputes; the mediation project shall be locat-
22 ed in and serve residents of the judicial district of the state determined
23 by the Alaska Judicial Council to have the greatest caseload relating to
24 court-ordered child visitations; and

25 (2) evaluate the project created under (1) of this subsection;
26 the evaluation must measure the success of the project in terms of its
27 ability to promote and serve the best interests of the child, the project's
28 efficiency, and the project's economy.

29 (b) In establishing the project under (a) of this section, the Alaska

1 Judicial Council shall

2 (1) exclude from the scope of the project cases in which there
3 has been an indication of domestic violence as defined in AS 18.66.900; and

4 (2) develop a curriculum for the initial mediation session that
5 informs all parties of their visitation rights and the scope and purpose of
6 the project before mediation begins.

7 (c) Except as provided in (d) of this section, mediation under the
8 child visitation mediation project shall be conducted informally and may be
9 conducted as a conference or series of conferences, by telephone or in
10 person. The parties need not be present in the same location. Counsel for
11 the parties may attend each conference.

12 (d) A party who is involved in mediation under the child visitation
13 mediation project must attend a mediation orientation session. After the
14 mediation orientation session, either party may choose to withdraw from
15 mediation. A party's refusal to participate may not be used against the
16 party in another proceeding.

17 (e) Mediation conferences under the child visitation mediation proj-
18 ect are confidential. The mediator may not submit recommendations to a
19 court about the disposition of the dispute.

20 (f) Unless precluded by (b)(1) of this section, a minor who is at
21 least 13 years of age may refer persons having custody of or rights of
22 visitation for the minor to the child visitation mediation project.

23 (g) In this section, "party" means a person having either custody of
24 or rights of visitation for a minor child.

25 * Sec. 2. PROJECT ADVISORY COUNCIL. (a) There is established an
26 advisory council to advise the Alaska Judicial Council concerning the
27 project authorized by sec. 1 of this Act. Before the Alaska Judicial
28 Council begins offering mediation services under the project, the advisory
29 council shall make recommendations to the Alaska Judicial Council

1 concerning the implementation of the project and how the success of the
2 project should be measured.

3 (b) The advisory council consists of seven members, including

4 (1) a representative of the judicial branch, appointed by the
5 chief justice of the supreme court;

6 (2) a person who is experienced as a mediator, appointed by the
7 governor;

8 (3) a legislator, appointed by the governor;

9 (4) four parents, two of whom are custodial parents and two of
10 whom have visitation rights with their children who are in the custody of
11 the other parent, appointed by the governor.

12 (c) Members of the advisory council appointed under (b) of this
13 section serve without compensation, but are entitled to per diem and travel
14 expenses authorized for boards and commissions under AS 39.20.180 for
15 attendance at scheduled meetings of the advisory council.

16 * Sec. 3. The Alaska Judicial Council shall complete the evaluation re-
17 quired under sec. 2(a)(2) of this Act and report the evaluation to the
18 legislature by February 1, 1992.

19 * Sec. 4. This Act is repealed February 1, 1992.

20 * Sec. 5. This Act takes effect July 1, 1990.
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STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. NESS	3/7/90
H. NESS	3/14/90
H. NESS	3/20/90
H. NESS	4/6/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/6/90

JUDICIARY
FINANCE

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 539

HOUSE BILL NO. 539

APPROP: CHILD VISITATION MEDIATION

"An Act making a special appropriation to the office of public advocacy for a child visitation mediation demonstration project; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with CSHB 539 (HESS) [] the same title
[] have attached amendment(s) [X] a new title
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

J. Ellis
Mark Beyer
W. Schubert

	Do Not Pass	No Rec	Amend
<u>W. Schubert</u>		X	
<u>Cheri Davis</u>		X	

J. Ellis
Chairman's Signature

H B

5 4 4

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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Mary Van Nimwegen

V. NESS

3/14/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/14/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 544

HOUSE BILL NO. 544 PRESUMPTIVE SENTENCING

"An Act authorizing the Department of Corrections to establish alternative sentencing and related programs for prisoners."

RECOMMENDATIONS:

- be replaced with _____ the same title
- _____ a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:
(Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

Mr. Shredley
Stromfahy
Red June

	Do Not Pass	No Rec	Amend
<i>J. Ellis</i>			

J. Ellis
Chairman's Signature

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 10, 1990

SUBJECT: House Bill 544 -- sectional analysis

TO: Representative Niilo Koponen
ATTN: Drena McIntyre

FROM: Jack Chenoweth
Legislative Counsel 

The measure directs the commissioner of corrections to initiate and carry out alternative sentencing practices in lieu of imprisonment and to provide training and counseling programs in addition to those now operated or provided by that department.

The range of alternative sentencing options contemplated by the measure is spelled out in bill section 4, offering a definition of the term. The general characteristics of alternative sentencing involve the prisoner's being free of institutional incarceration as well as the constraints associated with placement in a correctional restitution center or furlough assignment. Suggested alternative sentencing options explicitly identified in this section of the measure include home arrest and enforced detention.

The key alternative sentencing provision is bill section 3, adding a new section to AS 33.30. The section spells out the permissible elements of an alternative sentencing program, allowing the commissioner to establish the program by agency regulation. Under AS 33.30.096(a), to qualify for alternative sentencing, the commissioner must first determine that "with reasonable probability, a prisoner can live under reduced supervision without violating the law" or any conditions imposed to regulate the prisoner's personal conduct. That determination is to be made with reference to the four factors identified in that subsection; before placing the prisoner in an alternative sentencing venue, the commissioner must consider all factors identified in that subsection. Additionally, in allowing assignment to an alternative sentencing venue, AS 33.30.096(b) defines the minimum safeguards that the commissioner must impose.

Representative Niilo Koponen

Page 2

May 10, 1990

One portion of the amendment made by bill section 1 and the amendment made by bill section 2 are technical conforming changes, included in recognition of the alternative sentencing option that are set out in proposed AS 33.30.096.

Bill section 1 also incorporates, as a new duty imposed on the commissioner of corrections, the responsibility to provide training and counseling programs to persons who have been committed to the commissioner's custody.

JC:mi
wkmi6/052

The Complex Case of Costly Corrections

By Julie Lays

One out of every 420 Americans is behind bars today—at a staggering price. Can we afford to be tough on crime?

Julie Lays is an assistant editor of State Legislatures.

After Oklahoma state Senator John McCune, a 20-year legislative veteran, advocated early release of some non-violent inmates to ease the costly prison overcrowding problem in Oklahoma, he was defeated in the next election.

McCune, once the Senate's expert on prisons, acknowledged that support for alternatives to incarceration is viewed by many as being "soft on crime." "It cost me my seat," he said.

Yet the increasingly high costs of corrections are causing prudent lawmakers to realize how "getting tough

on crime" is tough on the state budget. More stringent law enforcement, higher conviction rates and longer sentences are making already crowded prisons and jails even worse. The expense of building new prisons, as well as such operating costs as health care, salaries, food, clothing and security devices, continues to increase.

"The cost of operating the nation's prisons and jails has tripled during the past decade," says James Austin, director of research for the National Council on Crime and Delinquency. "Many states are now seeing that escalating prison budgets threaten to curtail vital services for health, education and transportation. Unless there is a significant reversal in these trends, prisons will continue to be the growth industry for most states. We are simply punishing beyond our means."

Nationwide, the prison and jail population has doubled in the past decade. There are about 600,000 prisoners in state facilities today—that is one of every 420 Americans—the highest rate in the Western world. State spending for corrections continues to grow at a faster rate than total state spending.

According to the Criminal Justice Institute, 68.4 percent of American prisons are operating above capacity, 36.7 percent are operating above 125 percent capacity, 21.7 percent above 150 percent, and 1.7 percent above 200 percent. In fact, at least 37 states are now under court orders to reduce prison overcrowding. This leads many lawmakers to assume the solution lies in building new prisons. But it is an expensive solution.

A new 500-bed prison typically costs between \$15 million and \$20 million. According to the Corrections Compen-



By permission of Johnny Hart and NAS Inc.



dium, depending on the type (low, medium or maximum security) and the location of the prison, new prison beds can cost between \$3,500 and \$116,000 to construct. The average cost is about \$42,000 per bed.

In North Carolina, the largest prison construction program in the state's history is under way—the construction of 2,554 beds and facilities at a cost of \$29.3 million. In Michigan they're building 19 new prisons. "There's no bigger growth industry in the last two years in Michigan than the corrections department," said Senator Jack Welborn. Alabama has spent \$90 million in the last five years for prison construction; that translates into almost \$1,000 per Alabama family per year. "Texas needs to build 25,000 beds immediately," says the mission statement of the Texas Department of Cor-

rections, "and then one prison every eight months to infinity" to keep up with the incarceration rates. And California estimates it will take up to \$6 billion worth of construction to solve its prison and jail crowding crises.

"This is craziness," said Senator Sue Wagner, referring to her state of Nevada, which has the highest incarceration rate in the country. "I can't believe the citizens of my state want to build a new prison every time we legislators get together in Carson City."

While building prisons is costly, keeping them going is even more expensive. Prisons are complete, miniature communities that provide health care, vandal-proof shelter, food, water and sewer, recreation and employment all in a secure environment. "Construction costs are only a traction of the

operating costs of prisons," said Tennessee Senator Bill Richardson. Keeping an inmate in prison usually runs between \$10,000 and \$39,000 a year. In some states costs are far higher.

And if you think more liberal use of the death penalty would save money, think again. According to Jonathan Gradess, executive director of the New York State Defenders Association, the cost of life imprisonment for 40 years is around \$602,000 while the expense of a model New York capital case across the first three levels of review—the trial and penalty phase, the appeal and the review in the U.S. Supreme Court—is about \$1.8 million. He agrees with Justice Thurgood Marshall's statement of 15 years ago: "When all is said and done, there can be no doubt that it costs more to execute a man than to keep him in

Ways to Cut Costs Are Already in Motion

• *Intensive Probation.*

Georgia's intensive probation program, a model for projects in several other states, began in 1982. Costs are controlled by keeping certain non-violent offenders out of state prisons, sentencing them instead to intense probation that requires five face-to-face contacts per week with a surveillance officer, 132 total hours of mandatory community service work, mandatory employment, a weekly check of arrest records, and routine and unannounced alcohol and drug testing. Offenders spend six to 12 months in the program followed by a year on regular probation. Most have committed property or drug-related offenses. The program costs an average of \$1,600 per offender per year compared to \$9,000 to incarcerate one inmate.

• *House Arrest.*

Florida has led the way in this area, but many states are beginning to see the benefits of such programs. The North Carolina General Assembly appropriated \$253,000 last year to expand the electronic house arrest program, whose first-year funding was \$65,000.

Wyoming is experimenting with a house arrest program at a start-up cost of only \$30,000. It's Surveil-

lance and Tracking of Offenders Program (STOP) places non-violent property offenders under house arrest monitored by special electronic devices, allowing them to leave home only to go to work or to pre-approved appointments. Governor Mike Sullivan said the cost of STOP is \$14 a day compared with \$35 a day in the state prison.

• *Sentencing Guidelines.*

Chase Riveland, director of the Washington Department of Corrections, estimates that sentencing guidelines have saved his state the cost of three new prisons. Some \$30 million has also been returned to the general fund. In fact, the guidelines have been so successful in reducing prison populations that Washington can rent cells to other states, housing their inmates for \$60 per day, per cell. The program is expected to bring the state \$20 million between 1987 and 1989.

• *Prison Industries.*

In California the Prison Industry Authority, which employs more than 5,000 inmates, says it saves taxpayers \$17 million annually in housing and program costs. By 1991 this savings is projected to increase to \$55 million.

In Minnesota, between 5 percent

and 10 percent is deducted from inmates' wages if they earn more than \$50 every two weeks, allowing the corrections department to transfer up to \$100,000 each year to the Public Safety Department's Crime Victims Reparations Board. The funds are used to pay such victims' costs as medical bills, counseling expenses, funeral expenses, support for dependents and loss of wages.

In Illinois, prisoners have been trained in the removal of asbestos and have begun to remove the material from correctional facilities. Correctional Industries Superintendent Robert Orr projects the cost of using the inmates for one building at \$150,000, compared to an estimate of \$300,000 to \$500,000 if a private contractor did the work.

Best Western International, a non-profit association of hotel and motel owners, installed and paid for a computerized telephone reservation system in a minimum-security facility near Phoenix, Ariz. The company trains inmates and pays them the same wages as other agents. Prisoners get to keep a third of their pay, a third goes to the state to offset the cost of incarceration, and a third goes to a trust fund set up for inmates being released.

—Julie Lave

Annual Cost of Sentencing Options (Exclusive of Construction Costs)

Option	Annual Cost
Routine probation	\$ 300- 2,000
Intensive probation	\$1,500- 7,000
House arrest	
Without electronics	\$1,350- 7,000
With telephone call-back system	\$2,500- 5,000
With passive electronic monitoring	\$2,500- 6,500
With active electronic monitoring	\$4,500- 8,500
Local jail	\$8,000-12,000
Local detention center	\$5,000-15,000
State prison	\$9,000-20,000

Source: Joan Petersilia in Expanding Options for Criminal Sentencing, Santa Monica, Calif.: The RAND Corporation, November 1987

prison for life."

Prisons are assailing state revenues. In Ohio, the corrections budget increased 16.5 percent last year while the general budget grew only 4 percent. Texas general budget grew by 6.8 percent, its corrections budget by 33.8 percent. California's operating budget for the department of corrections reached \$1.2 billion in 1985 and is expected to hit \$3 billion by 1990. According to Greg Schmidt, chief consultant to the California Senate Judiciary Committee, the department of corrections has become "California's version of the Defense Department."

In 1987, according to the Census Bureau, the 50 states spent more than \$11.7 billion on corrections, including \$9.3 billion for current operations and \$1.4 billion for construction.

One reason corrections costs are taking up a bigger portion of the general state budget is that state aid for local corrections programs is now the fastest growing category of state aid to local government. Total state spending for corrections was \$11.7 billion in 1987; local aid is 8 percent of all state corrections expenditures. In fiscal 1987, states provided \$932.5 million in aid to local governments. This represents nearly four times as much corrections aid as was provided in 1980.

Of course, state corrections aid to local governments varies tremendously from state to state. In five states—Connecticut, Delaware, Hawaii, Rhode Island and Vermont—all corrections expenditures are made by the state government. Nineteen states did not offer local aid in 1987. In the remaining states there are wide differences in how

specific responsibilities are allocated. For example, some states house state prisoners in local jails but in other states they must be housed in state prisons. In many states use local jails to house state prisoners without fully reimbursing the local governments.

"We need to look more strongly at alternatives instead of building more prisons," says Parker Evatt, a member of the South Carolina House of Representatives for 13 years and now the commissioner of the South Carolina Department of Corrections. "Our prison system is growing by about 800 people per year. That's a new prison every year. Let's look at more home arrest, intensive probation, restitution centers, halfway houses and parole and probation. Let's really use electronic monitoring instead of playing with it."

Are these alternative programs cheap? No. Are they cheaper than incarceration? Usually. For example, Georgia has a number of alternative programs—from basic probation to intensive probation and home confinement to "boot camp" for young convicts—that range in daily costs from 75 cents to \$36.50 per person. The cost of keeping an inmate in a Georgia prison is estimated at \$36.85 per day.

Intensive probation supervision is one alternative being tried in 40 states. Most programs require community service, periodic checks of local arrest records, curfews or house arrest, random drug and alcohol testing, restitution to victims, employment and payment of a probation fee.

Home arrest, often using electronic monitoring devices, is another strategy being used in at least 50 different loca-

tions. Home arrest allows non-violent criminals to be incarcerated in the homes rather than in premium prison cells. If they leave home without permission, the electronic anklets bracelets will report that to the police.

Sentencing guidelines have been used successfully in a couple of states not only to standardize penalties but also to reduce costs. The guidelines are based on a grid that coordinates specific offense with the criminal record. The systems ensure that cost-prison space is reserved for truly dangerous criminals, while the non-violent offenders are subject to a variety of alternative punishments.

Can states save money through inmates' labor? Most states operate prison industries, which can take at least three different forms: production of such things as desks and license plates, for use directly by government; use of prisoner labor for prison maintenance; and private sector jobs with prison walls.

Forty-eight states and the federal prison system have more than 50,000 prisoners working in prison industries producing more than \$860 million annual sales, mainly to federal, state and local governments and non-profit organizations. About 10 percent of inmates work in prison industries.

A major benefit of prison industries is that they are usually self-supporting or even if they are not, they are less expensive than alternative inmate services such as vocational training, basic education. In some states, inmates' wages, which averaged about \$3 a day in 1986, have deductions made to reimburse the corrections department for a portion of the cost of the inmate's incarceration, to contribute to financial support of their families, or to pay into victims' compensation funds. In addition, 16 states have experimented to a lesser degree with private-sector prison industries which inmates work for a private employer operating within the prison. Inmates may earn the minimum wage and contribute relatively large amounts of costs of their incarceration.

With new prisons needed everywhere to keep up with the "lock 'em up" philosophy prevalent today, something is going to have to give. Until public accepts alternatives to incarceration as legitimate punishment, legislators will be faced with tough decisions.

N C C D FOCUS

THE NATIONAL COUNCIL ON CRIME
AND DELINQUENCY

JULY 1988

Ranking the Nation's Most Punitive and Costly States

By James Austin, Ph.D. and Marci Brown

HIGHLIGHTS

This issue of NCCD FOCUS represents the second annual "Ranking the Nation's Most Punitive States." The United States, now with more than 625,000 inmates in prison, has long been recognized as a country that imprisons a large portion of its population. Since 1980, the nation's imprisonment rate has nearly doubled.¹ Presently, over 40 states are under some form of litigation related to crowding or unconstitutional conditions of confinement.

This surge in the number of inmates has been interpreted by some as an indication of a more punitive attitude toward the crime problem that characterizes the politics of contemporary criminal justice. Punitive attitudes have traditionally been cited as the reason certain states and regions have higher imprisonment rates than the nation as a whole.

As states respond to the pressure of overcrowding, more attention is being paid to comparing states in terms of their use of other forms of control in addition to prisons. And, states are also concerned with the high costs of these systems. State and federal prison population data, the most obvious means of calculating comparative imprisonment rates, reflect only a single component of a jurisdiction's correctional system and exclude other far-reaching forms of incarceration and control, including jails, juvenile facilities, and parole and probation.

For these reasons, the domain of prison control must be evaluated in relation to, and in many cases as overlapping with,

the control exercised by other correctional control systems. This has become all the more obvious in recent years, as many states, facing crisis situations in their prisons, have placed many offenders in a wide variety of non-prison correctional settings.

The major findings of this report are:

- The nation's use of prisons, jails, probation and parole continues to grow at record levels. More than one out of every 100 persons are under the control of the criminal justice system.³
- Washington, D.C., ranks number one in all forms of punishment and criminal justice expenditures. Despite an enormous investment in criminal justice agencies, policy makers have recently chosen the nation's capitol as the site for further investment in more incarcerative policies.
- The South continues to have the highest regional imprisonment rate and the highest total control rate. However, the West, fueled by dramatic increases in California, has the highest regional total incarceration rate (including jails and juvenile facilities, as well as prisons).
- In 1987, it cost each man, woman, and child \$211 per year to fund state and local criminal justice systems. This figure compares with \$95 in 1979.
- There is a strong correlation between rates of criminal justice expenditures and crime rates. States that spend the most on criminal justice have the highest crime rates. Despite a continuing increase in expenditures for criminal justice agencies and in the

use of formal punishment, crime rates continue to escalate.

IMPRISONMENT VS. TOTAL INCARCERATION RATES

The most commonly used gauge of the punitive nature of a state or geographic region is the imprisonment rate. This rate typically refers to the number of persons in prison on a given day, per 100,000 state population. Southern states have historically had the highest levels of imprisonment in the country, which has been interpreted by some experts as reflecting the conservative political and social values of that region.

Table 1 shows the rates of imprisonment for the 50 states and Washington, D.C. Among the 15 states with the highest rates of imprisonment, 11 were Southern states (including Washington, D.C.) The table also shows that the Southern region had the highest imprisonment rate followed by the West, Midwest and Northeast. Among the 15 states with the lowest rates of imprisonment, seven states were in the Northeast and six were in the Midwest.

Overall, state rankings for imprisonment varied little from last year's report, which used 1986 data. However, a few states showed significant increases or decreases in their imprisonment rate between 1986 and 1987. Interestingly, Washington, D.C., which has the highest imprisonment rate in the nation, increased its imprisonment rate from 1,078.4 in 1986 to 1,197.4 per 100,000 in 1987. Alaska is second with a rate of 481.5 per 100,000 and replaced

Table 1: Imprisonment vs. Incarceration Rates

Rank	State	1987 Population*	1987 Prisoners	Imprisonment Rate***	Rank	State	1987 Persons in Jails**	Jail Rate***	1987 Juveniles in Custody	Total Incarceration Rate****
1	D.C.	622	7,448	1,197.4	1	D.C.	1,074	269.1	418	1,533.0
2	Alaska	323	2,328	481.5	2	Nevada	1,923	191.1	482	419.1
3	Delaware	864	2,931	435.1	7	Louisiana	10,300	230.8	1,028	598.6
4	Nevada	1,507	6,634	440.3	4	Alaska	0	0	178	513.4
5	South Carolina	1,425	12,664	369.8	5	California	60,802	219.7	24,312	513.1
6	Louisiana	4,461	15,373	344.7	6	Arizona	5,137	151.7	2,038	505.1
7	Arizona	3,386	20,948	323.3	7	South Carolina	1,875	107.2	715	497.9
8	Alabama	4,083	12,837	314.2	8	Florida	24,603	204.6	2,311	493.7
9	Georgia	6,232	18,575	298.5	9	Delaware	0	0	168	481.6
10	Maryland	4,335	13,467	297.0	10	Georgia	9,504	152.7	1,358	473.8
11	Oklahoma	3,272	9,639	294.6	11	Alabama	4,328	105.9	404	459.8
12	Florida	12,023	32,443	269.9	12	Maryland	4,985	109.9	1,032	439.6
13	North Carolina	6,413	17,249	269.0	13	Tennessee	10,314	116.5	1,058	395.0
14	Mississippi	2,823	6,831	242.2	14	Oklahoma	2,734	83.55	446	391.0
15	Michigan	9,200	23,879	259.6	15	Texas	23,433	139.6	2,421	385.3
16	California	27,683	86,975	232.1	16	Virginia	7,738	111.0	1,456	381.4
17	Kansas	2,476	5,881	237.5	17	New Jersey	13,107	170.8	1,997	374.0
18	Connecticut	3,211	7,511	233.9	18	New York	23,694	129.9	2,328	374.3
19	Texas	16,789	38,821	231.2	19	Michigan	8,547	82.90	2,816	365.5
20	New York	17,825	40,842	229.1	20	North Carolina	5,380	83.89	812	362.1
21	Arkansas	2,388	5,463	227.9	21	Kansas	1,914	77.10	474	342.1
22	Virginia	5,904	13,321	225.6	22	Ohio	8,729	80.94	1,126	342.7
23	Ohio	10,784	24,240	224.8	23	Arkansas	1,982	82.99	249	321.4
24	Missouri	5,103	11,357	222.6	24	Oregon	2,488	40.63	592	313.4
25	Hawaii	1,283	1,288	209.4	25	Mississippi	1,038	18.76	335	312.5
26	Oregon	2,724	5,482	201.2	26	Indiana	4,710	85.15	1,320	304.8
27	Indiana	5,331	10,827	195.8	27	New Mexico	1,428	95.2	491	304.5
28	Wyoming	480	440	191.8	28	Wisconsin	377	76.93	179	297.0
29	New Jersey	7,672	13,662	178.1	29	Illinois	12,016	108.9	1,810	294.5
30	New Mexico	1,500	2,648	176.5	30	Missouri	2,834	95.82	815	294.5
31	Illinois	11,382	19,850	171.4	31	Kentucky	4,896	125.9	407	289.1
32	South Dakota	709	1,135	160.1	32	Washington	5,281	118.3	1,134	276.5
33	Tennessee	4,853	7,824	157.0	33	Colorado	3,793	115.0	503	276.2
34	Idaho	998	1,482	148.5	34	Wisconsin	5,750	119.6	484	258.7
35	Kentucky	3,727	5,471	146.8	35	Pennsylvania	19,195	110.3	1,103	256.1
36	Montana	809	1,187	146.7	36	Connecticut	0	0	227	241.0
37	Colorado	3,284	4,808	145.9	37	South Dakota	294	41.86	328	235.8
38	Rhode Island	986	1,429	144.9	38	Montana	412	50.92	117	223.3
39	Vermont	548	759	138.5	39	Idaho	610	63.22	117	223.3
40	Pennsylvania	11,916	16,267	136.3	40	Hawaii	0	0	149	221.2
41	Washington	4,518	6,131	135.1	41	Nebraska	1,174	53.65	274	221.7
42	Nebraska	1,594	2,086	130.9	42	Iowa	2,736	66.54	427	212.6
43	Wisconsin	4,807	6,001	124.8	43	Massachusetts	4,740	83.95	212	191.1
44	Utah	1,880	1,888	112.4	44	Utah	1,088	81.65	217	188.8
45	Maine	1,187	1,328	111.9	45	Maine	48.16	48.16	124	170.3
46	Massachusetts	5,855	6,238	108.5	46	New Hampshire	807	76.34	105	155.4
47	Iowa	1,834	2,063	101.0	47	Rhode Island	0	0	105	146.8
48	New Hampshire	1,257	867	82.0	48	Minnesota	3,106	13.15	381	146.8
49	West Virginia	1,897	1,461	77.0	49	West Virginia	1,134	59.81	141	143.3
50	North Dakota	872	430	64.0	50	Vermont	0	0	15	141.2
51	Minnesota	4,246	2,546	60.0	51	North Dakota	243	36.45	69	120.7
REGION					REGION					
SOUTH		81,885	221,592	264.2	WEST		81,320	87.6	19,945	432.9
WEST		49,694	111,719	224.8	SOUTH		117,735	40.4	13,335	412.8
MIDWEST		39,338	111,093	186.6	NORTHEAST		36,115	11.6	9,225	125.8
NORTHEAST		50,277	88,903	176.8	MIDWEST		52,675	68.5	11,948	293.1
TOTALS		243,189	533,309	219.1	TOTALS		329,845	127.3	53,303	168.6

* Total population in thousands
 ** Average daily jail populations for 1987 are estimates drawn from published reports and phone calls to individual state officials
 *** Per 100,000 total population (1987), as reported in the 1987 UCR
 **** Number of persons in prison, jail, and juvenile facilities per 100,000 total population (1987)
 • In the states of Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont, which maintain combined prison and jail systems, all inmates are accounted for in the prison figures

Nevada as the state with the highest imprisonment rate. However, Alaska's high ranking is misleading as its prison figures include persons awaiting trial or serving short sentences. In most other states these inmates are counted in jail populations.

To correct for this bias, we created a "total incarceration rate" which includes prison and jail populations and juveniles in custody.⁴ When the states are ranked according to this criterion, the West replaces the South as the nation's leader with a rate of 432.7 per 100,000. Nevada reassumes its number one state ranking, and D.C. continues to

have the highest rate of incarceration (four times the national average). California's dramatic increase in prison, jail and juvenile facility populations is the main reason the West has taken the lead in incarceration. Since the previous NCCD report, California added about 6,500 inmates to its prison population, more than 19,000 inmates to its jail population, and 2,100 children to its juvenile facilities.

When the total incarceration measure is compared to the imprisonment rate, significant changes occur among the states with respect to their national ranking. Tennessee, for example, moves from 33

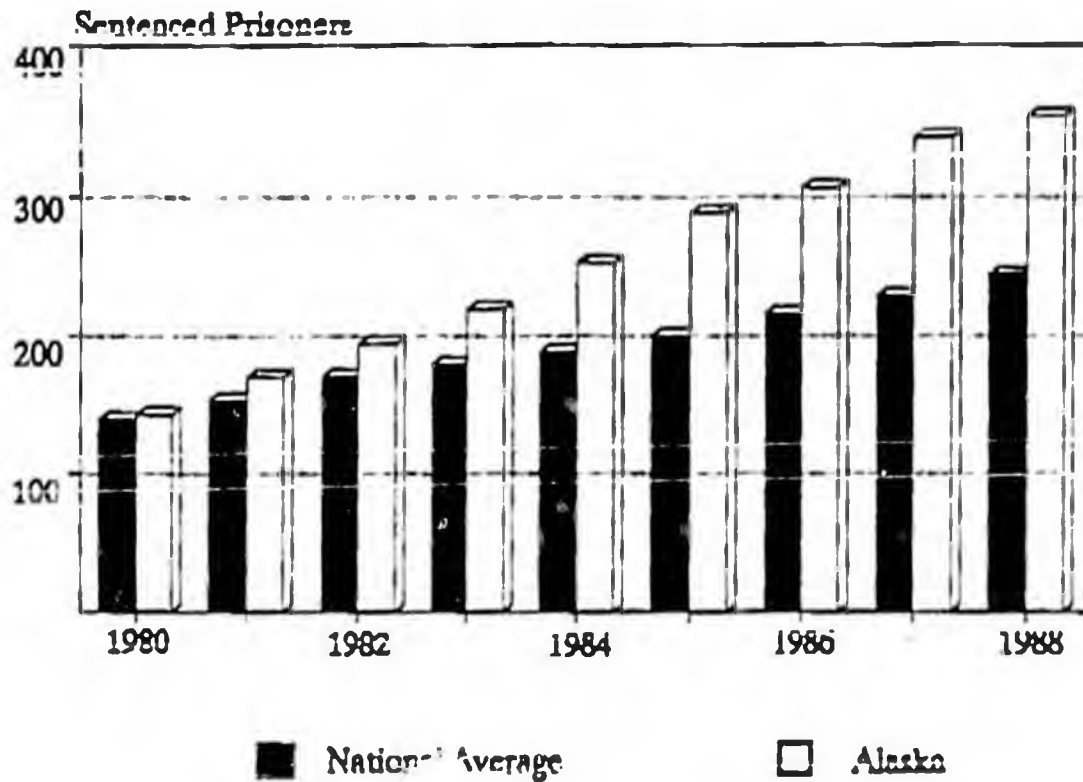
to 13 in total incarceration, in part because the state houses many state prisoners in local jails due to a consent decree restricting prison populations. The same phenomenon also explains increases in rankings for other states including New Jersey, Texas, and Louisiana.

Connecticut, on the other hand, moves down to a rank of 36 for total incarceration compared to a rank of 16 for imprisonment. Similar declines for other states, such as Hawaii, Rhode Island and Vermont, simply reflect that they also have consolidated jail and prison systems.

Alaska Department of Corrections

Trends in Alaska Corrections

Rates of Incarceration * National Average vs Alaska



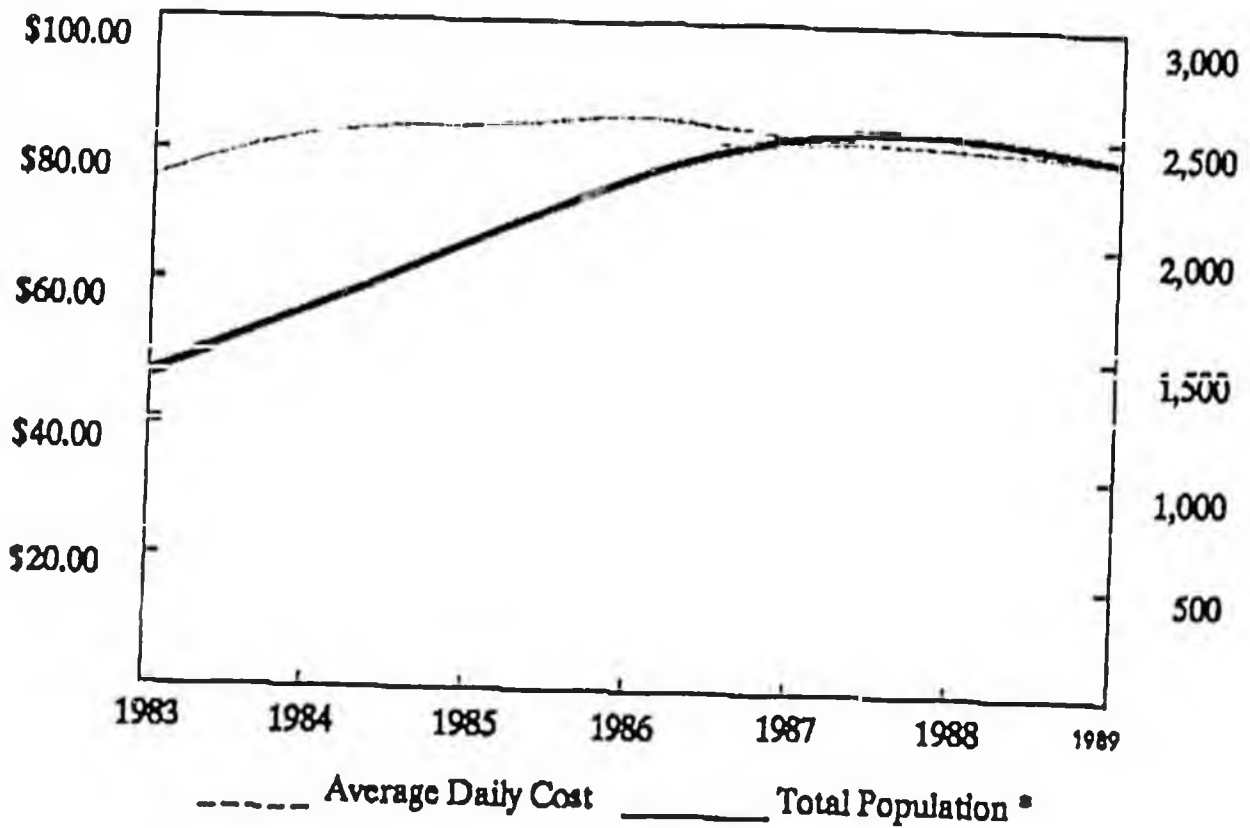
* Rate per 100,000 resident population
Figures from Bureau of Justice Statistics, U.S.
Department of Justice

Department of Corrections

	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
Number of Inmates	2,027	2,340	2,491	2,541	2,603	2,846
Number of Employees	993	1,003	999	1,150	1,269	1,277
Operating Budget	\$71,497.2	\$78,470.6	\$78,291.4	\$84,935.2	\$94,624.3	\$96,759.9

Trends in Alaska Corrections

Population vs Cost of Supervision
Fiscal Year 1983 - 1989



* Total population on December 31st of each year

HB

5 4 5

STATE OF ALASKA
THE LEGISLATURE

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Mary Van Nimwegen

N NESS

3/24/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/14/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 545

HOUSE BILL NO, 545 SENTENCING/REHABILITATION/PAROLE

"An Act relating to sentencing practices and procedures; expanding the circumstances in which a sentence may require participation in an appropriate rehabilitation or treatment program; redefining eligibility for discretionary parole; adding a related mitigating factor in the determination of presumptive sentences; and providing for an effective date."

RECOMMENDATIONS:
[] be replaced with _____ [] the same title
[] a new title

[] have attached amendment(s)

[X] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

[] zero with analysis _____

[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

J. Ellis
Mr. L. ...
George ...
Bite ...

	Do Not Pass	No Rec	Amend

J. Ellis
Chairman's Signature

STATE OF ALASKA
THE LEGISLATURE

FOURTH STATE CAPITOL
JUNEAU ALASKA 99801
907-465-1100


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 10, 1990

SUBJECT: House Bill 545 -- sectional analysis

TO: Representative Niilo Koponen
ATTN: Drena McIntyre

FROM: Jack Chenoweth
Legislative Counsel 

As the title notes, the measure is intended to modify current state sentencing practices and procedures, as follows:

- the measure broadens the opportunity for the court to impose participation in a rehabilitation or treatment program as an element of its sentence;
- it permits certain prisoners sentenced under presumptive sentences to be eligible for discretionary parole; and
- it adds a factor to the list of mitigating factors that apply during a court's formulation of a sentence.

Each is more fully discussed in turn.

Bill section 1, reenacting AS 12.55.015(d), extends the court's authority to require participation in an appropriate training or rehabilitation program (1) as a condition of probation, (2) as a condition of suspended execution of sentence, or (3) as a condition of a suspended imposition of sentence. The re-enactment makes clear that, while time spent in participating in a rehabilitation or treatment program is to be counted as part of the defendant's sentence, that time does not reduce a mandatory minimum sentence imposed on the defendant.

Taken together, bill sections 2 and 4 permit a person who has been sentenced for a minimum term under a presumptive sentence and who has not been previously convicted of a felony eligible for consideration for discretionary parole during the minimum term by the state's Parole Board. The de-

Representative Niilo Koponen
Page 2
March 10, 1990

fendant's eligibility would be gauged on the same basis as a prisoner not serving a minimum term applying under a presumptive sentence.

The change made by bill section 3 adds "[demonstrating] . . . a strong potential for successful rehabilitation" as a mitigating element that shall be considered by the court in setting a sentence.

Bill section 5 makes the provisions authorizing discretionary parole to certain prisoners under presumptive sentences retroactive to persons sentenced since January 1, 1980.

The bill is given an immediate effective date by bill section 6.

JBC:mi
wkmi6/053

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

STEVE COWPER, GOVERNOR

REPLY TO:

P.O. BOX 7
JUNEAU, ALASKA 99811-2000
PHONE (907) 465-3376

March 13, 1990

The Honorable Niilo Koponen
Alaska State Legislature
P.O. Box V
Juneau, AK 99811
Niilo

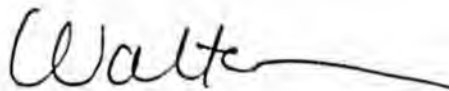
Dear Representative Koponen:

In response to your request, I have enclosed a copy of the chapter from Retraining Adult Sex Offenders: Methods and Models by Fay Honey Knopp that addresses the Oregon state program developed by Rob Freeman-Longo.

Mr. Freeman-Longo is currently under contract with our department to assist us in developing a more standardized approach to treating and managing sex offenders. As we discussed, I would be happy to arrange for Mr. Freeman-Longo to either meet with you or to address one of the legislative committees when he is in Juneau on April 2-3.

Please contact me so that we can make specific arrangements and provide you with any additional information you may need.

Sincerely,



Walter Majoros
Director, Statewide Programs

Enclosure

WM:lc

cc: Susan Humphrey-Barnett
Commissioner
Bill Parker, Special Assistant

RETRAINING ADULT SEX OFFENDERS:
METHODS & MODELS
By
Fay Honey Knopp
for
The Safer Society Program
of the
New York State Council of Churches

Order from:

*Safer Society Press
Shoreham Depot Road
Orwell, Vermont 05760*

(802) 897-7541

\$20 prepaid

THE SEX OFFENDER UNIT & THE SOCIAL SKILLS UNIT

**OREGON STATE HOSPITAL
SALEM, OREGON**

Multimodal evaluation and treatment programs for adult and for low-functioning sex offenders in a state hospital

CHAPTER 10
THE SEX OFFENDER UNIT & THE SOCIAL SKILLS UNIT
CORRECTIONAL TREATMENT PROGRAMS

*Oregon State Hospital
2600 Center Street N.E.
Salem, Oregon 97310*

The Sex Offender Unit (SOU) at Oregon State Hospital (OSH), modeled on the sex-offender program at Western State Hospital described in the preceding chapter, provides the widest range of sex-offender treatment modalities in any single residential setting in the United States. SOU, a voluntary program offered to imprisoned sex offenders during the last two and one-half to three years of their sentences, is one of three residential programs provided to sentenced sex offenders through the unique administrative structure of OSH's Correctional Treatment Programs (CTP). The two other specialized programs are residential groups for two traditionally neglected populations: (1) the Social Skills Unit (SSU), for sex offenders classified as "low-intellectual-functioning"; and (2) the MED unit, for sex offenders diagnosed as "mentally and emotionally disturbed." Each operates on a therapeutic format and is semiautonomous, with treatment programs tailored to its specific population. Though each unit evaluates its own residents, there is a broad and fruitful interprogram exchange of treatment and technological expertise.

CTP also offers, within Oregon State Penitentiary and Oregon State Correctional Institution, part-time treatment programs for sex offenders who do not qualify for or do not choose to be treated in the SOU.

In this chapter, we will focus on three unique and innovative areas of the CTP: (1) the rare cooperative effort between the corrections and mental health divisions of the state of Oregon, an effort that facilitates therapeutic programming; (2) the Sex Offender Unit's eclectic treatment repertoire; and (3) the Social Skills Unit, which treats sentenced sex offenders who have educational levels below fourth grade and/or serious deficiencies in adaptive behaviors.

THE CORRECTIONAL TREATMENT PROGRAMS (CTP)

In 1975, the Corrections Division and the Mental Health Division of the State of Oregon joined cooperatively to develop, operate, and maintain mental health services for clients of the Corrections Division.¹ Because the funding appropriation involved both mental health and corrections, two professions that traditionally do not work well together, the legislature requested a cooperative board be formed to assure the development of mutually acceptable rules and regulations. To further interagency cooperation, the legislature provided funds for this effort to the Department of Corrections' budget for transfer to the Department of Mental Health on a quarterly basis.

By early 1976, the Mental Health Programs in Corrections Policy Board was formed.² Its tasks were (1) to develop a cooperative agreement in which terms and conditions of treating mutual clients were outlined and (2) to develop the administrative rules of transfer for determining the clinical background of residents who would be eligible for the programs; the time frames for transfers; custody levels; and, finally, the terms under which an individual who volunteered for treatment could be terminated from the program and returned to the prison.

In 1978 the CTP was formally established at OSH with the hiring of Director Roger C. Smith, a criminologist and social worker by training. Smith, who reports directly to the OSH superintendent, contends the detailed policies governing the rules of operation contribute greatly to the smooth, cooperative nature of the programs.

Smith describes these residential programs as "transitional," since they serve people in the last few years of their incarceration.

Though this wasn't the model we originally envisioned, it seemed to me we had a limited number of beds and the most effective approach would be to catch people a few years before they were to be released, provide intensive residential treatment, and phase them slowly into the community. Since I come from the field of corrections, I know what the recidivism curve looks like when men go right from prison to the community, particularly for people who have poor social skills, few community support systems, and often problems with alcohol and drug abuse. [Smith, 1983]

1. In 1975, Oregon law provided for an alcohol and drug abuse program for prisoners at the OSH. That program, Cornerstone, was established in 1976 and incorporated into the CTP in 1978.
2. The board was composed of assistant administrators of both divisions, institutional superintendents, representatives from Field Services and Community Corrections, and a representative from the state's Community Mental Health Programs Director's Association.

A fourth CTP unit, the Correctional Institution Treatment Services (CITS),³ provides sex-offender treatment to the men imprisoned at Oregon State Penitentiary and Oregon State Correctional Institution.⁴ CITS contracts with up to 18 professional, part-time, outside consultants in an effort to furnish specialized and accountable services to the imprisoned. "From the prisoners' perspective," Smith says, "they are dealing with someone where there is a higher trust level than with a correctional staff member. From a therapeutic perspective, you can contract for the specific expertise which may not be available from regular staff. From an administrator's point of view, most importantly, you avoid staff "burnout" (Smith, 1983).

Smith (1983) cites the issue of aftercare as the most intense struggle that occurred between the mental health and correctional divisions:

Did we, the parole officer, or the community health or corrections agencies provide aftercare? We argued that our clients had been involved in specialized kinds of treatment and that there needed to be continuity. It wasn't simply a matter of shifting them smoothly from one system to the next, but a matter of the content of their treatment being consistent. Because they had compulsive forms of behavior, the patterns that aftercare had to be aware of were the same in the community as they were in the program, and we wanted to insure that continuity. It was a major battle for us.

Presently, the arrangement allows CTP to work very closely with specially trained parole officers and the community corrections staff. "We set up the aftercare contracts, and our therapists do the supervision in the community. We work hand-in-glove. It is very satisfactory," says Smith (1983).

3. CITS originally was funded by the 1975 legislature to provide alcohol and mental health services to the imprisoned. The 1977 legislature expanded these services to include mental and emotional disturbance services (including treatment for sex offenders) and Native American alcohol and drug abuse services. The 1979 legislature specifically authorized the CITS program to provide a "dangerous sex offender" program for offenders sentenced under ORS 426.670. Until 1980 CITS was operated out of the Mental Health Division's central office. OSH also provides sex-offender treatment in two other program areas: the Child and Adolescent Treatment Program and the Forensic Psychiatry Program. The latter determines "sexual dangerousness" of offenders for the courts and incarcerates those found "not guilty by reason of insanity." The program utilizes almost all of the SOU methodologies. The behavior of psychotic sex offenders is controlled with drugs.

4. In addition, CITS provides other mental health and diagnostic services to these men, as well as the women imprisoned at the Oregon Women's Correctional Center.

THE SEX OFFENDER UNIT: OVERVIEW

The SOU is unique for the range of treatment modalities offered to the 33 men who voluntarily enter the program during the last few years of their sentences at Oregon's two prisons (Oregon State Penitentiary, a maximum-security institution, and Oregon State Correctional Institution, a maximum-security institution for first offenders).⁵ With the recent availability of Depo-Provera, the SOU's treatment agenda includes all methodologies being utilized in other residential and community-based sex-offender treatment programs.

After a 60-day evaluation and observation period, if the sex offender is accepted into the program,⁶ he can expect to spend 24 to 30 months in treatment in the SOU's secure ward setting,⁷ three to six months on community release, and 18 months in comprehensive and intensive outpatient treatment.

Because release dates are set by the parole board within a few months of the offender entering prison, treatment in the SOU does not shorten the men's period of incarceration. "As a matter of fact," says Robert Freeman-Longo, Director of the SOU, "currently about half the men have written to the board and asked for an extension of their release dates so they can complete treatment. This program is tough, hard work for the offender, and the only reward for being in it is self-improvement" (Freeman-Longo, 1983).

Like the WSH program, the SOU is a self-help, peer-run therapeutic community with 10 steps of progress⁸ that the men must work through before graduating. As done in the parent program, SOU staff also will conduct psychiatric and psychological evaluations in the first 60 days, take an in-depth social and sexual history of the offender, and have him write a lengthy autobiography. The offender's sexual arousal patterns and fantasies will be physiologically monitored and behavioral techniques will be an integral part of his treatment plan for the remainder of his stay in the SOU. These

5. Oregon has a determinate sentence structure. Once a person is sentenced, within a few months of his entering prison the Parole Board reviews a number of predetermined factors and comes up with a parole-release date. However, if a person acts out while imprisoned, he can lose his good time, he may have another parole hearing, and the parole release date can be changed or the parole supervision period extended.
6. Persons are placed on a waiting list and usually are selected on the basis of the least amount of time left to serve on their sentences.
7. The hospital is classified as medium security, but the SOU ward is locked, with TV surveillance of critical areas. The psychiatric security aides have dual responsibilities for security and custody. As at the WSH program, staff perceive the program's best security as rooted in the values of the therapeutic community.
8. For a list of the 10 steps of progress, see Appendix L.

techniques range from what the program perceives as "the least intrusive" to the "most intrusive" forms. Treatment becomes progressively more intrusive if the offender's deviant sexual arousal fails to decrease.

Like at WSH, the group process at the SOU is the central feature of the program. Each resident spends a minimum of 26 hours a week in guided self-help group therapy sessions that meet twice each day. He also is exposed to a variety of educational modules.⁹ Unlike WSH, these include an ongoing learning process derived from Yochelson and Samenow's¹⁰ philosophy of "thinking errors."

If all else fails to control the offender's deviant fantasies, the use of Depo-Provera, recently added to the SOU repertoire, is an option. As with other SOU behavioral procedures and use of the penile plethysmograph, the injection of this drug requires that the offender sign a specific consent form.¹¹ The form stipulates that the men can withdraw their consent at any time during treatment.

SOU TREATMENT MODALITIES

We now will describe briefly the range of behavioral techniques employed in the program, the SOU's perspectives on the appropriate use of Depo-Provera, and the teaching concepts involved in the reporting of "thinking errors."

Behavioral Techniques

Ron Wall, SOU's Chief Behavioral Therapist, conducts assessments for the residents upon entrance to the program. Most of the men have been found to be "untreatable" in a community setting because their deviant behaviors are considered to be quite compulsive and deeply ingrained. Approximately half were sentenced for offenses involving rape and half for some form of child sexual abuse.

A variety of techniques are used to determine the nature and depth of the offender's deviancy. The plethysmograph measures his penile responses

9. For a brief listing of the educational modules, see Appendix M.

10. The authors believe that the "criminal personality" is radically different from the "non-criminal personality." Among other approaches, they identify "thinking errors" in patterns of thought that lead to criminal behavior. "By 'thinking errors' we mean mental processes required by the criminal to live his kind of life. They are 'errors' solely from the standpoint of society, and not from that of the criminal" (Yochelson & Samenow, 1977, Vol. I, p. 359).

11. For sample procedure and consent forms, see Appendices N, O, and P.

to tapes and slides, and he is asked to self-report on a sorting task of 260 cards depicting various sexual scenes. The offender is assessed for his deviant arousal to all themes. "Although he may come in as a rapist or child molester, he is assessed for arousal to male and female children, teens, and adults; as well as rape, child molestation, incest, and certain aggressive themes," says Freeman-Longo. "Often a man may have a history of rape but may be sexually aroused to children as well. We wait for six months before we have a complete psychosocial and psychosexual history. We are constantly updating during that period because, as more trust builds with the therapist who does the report, we get more accurate information" (Freeman-Longo, 1983).

Covert Sensitization. After assessment, a therapeutic regime is determined for each resident. Covert sensitization is usually the first behavioral technique employed, serving as a steppingstone into other types of aversion therapy. As now utilized by the SOU, covert sensitization involves the covert pairing of the offender's preassault or antecedent behaviors with an aversive scene that is a natural or social consequence of his deviant behavior. The offender develops these pairings by himself and records them on audio tape for the therapist or group to critique for content and compliance with instructions. "This teaches the offender to intervene early in his deviant-cycle behavior," says Wall (1983).

These aversive scenes also can be utilized when the offender has a deviant fantasy on the ward. For instance, if he is watching a TV program and sees a child on the screen and begins to fantasize, he is to remove himself from the situation and use one of his aversive scenes to intervene with his deviant fantasy.

Masturbatory Satiation. Covert sensitization is a less powerful therapy that is suited better to intervening with the preassault or antecedent behavior phase than the sexual assault phase, according to Wall. Thus, after many sessions with covert sensitization, the offender automatically moves on to masturbatory satiation. "We generally proceed to this kind of therapy without waiting for the arousal to decrease to 20 percent or less," he reports (1983).

In masturbatory satiation, the offender first masturbates for five to 10 minutes to an appropriate, adult, mutually consenting fantasy. After achieving orgasm the offender switches to a very short segment or phrase from his deviant fantasy. He will continue to ruminate on this phrase aloud

and into a tape recorder for 50 to 55 minutes while continuing to masturbate. The therapist and group may critique the tape and the process used.

If the offender is unable or unwilling to masturbate, the procedure is varied by having the offender simply ruminate and verbalize without masturbating. This variation also precludes using the initial period for appropriate masturbation. Wall perceives the former method as more effective.

Olfactory Aversion. Both covert sensitization and masturbatory satiation are self-administered therapies, depending on the individual offender for control. Since a sex offender may be very compulsive in his deviancy, the SOU moves next into olfactory aversion, a more intrusive method used to control and reduce deviancy. "It is very difficult for an individual to create his own phobia," says Wall, "so we feel olfactory aversion provides him an opportunity to attain a phobic response" (Wall, 1983).

Pharmaceutical-strength ammonia fumes, administered through a nasal cannula, have been the primary agent used in olfactory aversion in the SOU. Placenta-culture fumes also are used on occasion.

A few physical problems have been noted as a result of offenders being exposed to ammonia fumes, particularly among residents inhaling them for more than the average 25 sessions of use. Says Wall,

We have developed a self-report form and periodic examinations by our doctor to be sure there are no medical problems. A few people have experienced some labored breathing after 100 or more sessions with ammonia, but they have been examined and there haven't been many medical problems. Nevertheless, we want to be careful in the use of it because it is a caustic odor. We have a checklist for reporting any serious nosebleeds, headaches, watering eyes, or pain in the nasal tract so we can keep a handle on it. [Wall, 1983]

Wall reports that, after about 25 sessions of olfactory conditioning, generally the individual reduces his arousal to significantly under 20 percent. However, as a result of spending excessive amounts of time in fantasy reinforced by masturbation, about 20 percent of the men in the program do not respond adequately to olfactory conditioning.

Aversive Galvanic Stimulation. Those men whose results with olfactory conditioning are inadequate then are recommended for AGS, or aversive galvanic stimulation. AGS is a term coined at OSH for electric shock aversion. It is sometimes used in conjunction with ammonia fumes. The AGS device has a small, centralized electrode that fits either on the forearm, thigh, or calf. It can be placed on any of these areas and be changed around.

Wall explains:

We hope that will add to the anxiety--not knowing where it will next be placed on their body. The shock is in the level of milliampers so it is a very small amount, but still we take precautions. It is a flashlight-battery-operated device. We are careful about crossing wires or having bare metal exposed where it could be accidentally touched. We have headphones that are rubber-insulated, so there is no chance of any transient current going anywhere else. It has worked very well and reduces arousal significantly. [Wall, 1983]

Masturbatory Reconditioning. SOU finds using masturbatory reconditioning alone as the least promising behavioral technique. This is true particularly for child molesters, who have high arousals to deviant themes and low arousals to appropriate themes. Wall reports that, after about 20 or 30 sessions of training the child molester to masturbate to appropriate themes, his arousal will increase to those themes but his deviant arousal does not decrease accordingly.

There doesn't appear to be anything happening to decrease the excitement of deviant themes, particularly with those individuals who are still working on their social, assertiveness, and empathy skills. Until they are very successful in being assertive, communicative, and empathic, I don't think the deviant arousal will decrease much. Generally we employ masturbatory reconditioning, sensate focus, and systematic desensitization with offenders who do not have sufficient appropriate sexual arousal. It is necessary to increase any deficits in appropriate sexuality to provide a healthy outlet for the offender and to replace the high excitement he formerly got to deviancy. [Wall, 1983]

Freeman-Longo notes that rapists also can lack arousal to appropriate sexual themes. When measured on the plethysmograph, at least two rapists' appropriate arousal registered in the 20 percentile range, while their deviant arousal registered at 100 percent. "We are involving them in more exercises and are considering using video," he says (Freeman-Longo, 1983).

Depo-Provera

If all of the aforementioned behavioral techniques fail to reduce the offender's deviant arousal sufficiently, the SOU offers the hormonal drug, Depo-Provera, as a "last-resort" treatment.¹² "Before we use Depo-Provera,"

12. The Behavioral Modification and Ethics Committee that approves all procedures used in the program gave permission for the use of this hormonal drug. See Appendices P and Q for a copy of procedural and consent request forms for using Depo-Provera (MPA--Methylprogesterone Acetate).

says Freeman-Longo (1983). "every man goes through a careful screening. It is a totally voluntary participation in this as well as all adjunctive or behavioral therapies."

As of January 1984, four of the 33 men in the program were receiving injections of Depo-Provera. Once each week, they are given full-dosage injections (400 mg/cc) to reduce their testosterone "to that of a prepubertal male," according to Smith (Manzano, 1984).

One of the offenders receiving the hormone is serving a second sentence for sex abuse and a first for attempted rape, though he admits to attempting to rape 20 to 25 women and abusing some 200 victims. Before receiving Depo-Provera he had 16 to 20 deviant fantasies each day and now reports only one or two per week.

A second offender receiving the drug had molested children and exposed himself to several thousand women victims. He reports he is now able to look at women and not fantasize about their bodies and has noticed a marked decrease in the amount of time he spends fantasizing.

A third sex offender, despite 28 years behind bars and almost three years of intensive therapy in SOU, still had strong sexual urges toward children. He had admitted to committing his first forcible rape of two girls at age 11. He also confessed to molesting boys until he was 20, at which point he was sentenced for kidnapping a seven-year-old boy. Now 48, after receiving injections of Depo-Provera, he states that his desire for such acts is ending and he no longer is hanging on to the notion that someday he would get out and have sexual contact with a child.

The history of the fourth offender who recently began receiving the drug involves a number of violent crimes. He murdered his mother, raped numerous victims, and reported almost continuous fantasizing during his waking hours. "One fantasy seemed to lead into another and I spent more time in fantasy than out," he said. Though on Depo-Provera only a short time, he already reports an almost total absence of deviant fantasies.

"These four offenders, however, even after receiving Depo-Provera," cautions Wall, "continue to have high deviant sexual arousal as measured during plethysmograph assessments."¹³ Only after combined use of the drug

13. See Chapter 2, pp. 46 to 47 for comments on the effect of Depo-Provera on the physiological measurement of these clients' deviant arousal patterns.

with behavioral treatment methods have significant reductions in their deviant arousal been noted" (Wall, 1984).

Says the third offender, "I look at Depo-Provera as a tool, an aid to a lot of other things. The one thing I don't believe is that Depo-Provera is a magic panacea. And I guess I have a little bit of fear that it is going to end up like methadone or antabuse.... I don't want to see the drug used that way because I think there are too many kids out there that are going to get hurt" (Manzano, 1984).

Smith concurs: "We don't have a new miracle drug. We have a valuable new tool which, when used with other methods, has great promise in reducing sexual problems" (Manzano, 1984).

Cognitive Restructuring: "Thinking Errors"

One of the ongoing therapeutic modules in the 16 offered in SOU is designed to teach the residents to recognize and change cognitive distortions or "irresponsible" thinking. The goal is to alter thinking patterns drastically in pursuit of facilitating responsible decision making. Program content is derived from the premises and strategies set forth in Yochelson and Samenow's *The Criminal Personality* (1977) and from Samenow's training sessions with CTP staff. Perspectives include notions that, from childhood, the "criminal personality" is radically different from the "noncriminal personality." The search for power, control, and "high-voltage excitement," derived by doing the forbidden, are perceived as elements of a criminal (illegal) lifestyle. The "criminal" is thought to see himself as superior to other people, with his entire thinking structure based on illogical considerations that promote this view of himself and permit him to attempt to get whatever he wants. He is described as "superoptimistic" in believing he will never get caught. "Thinking errors" are identified as patterns of thought that lead to criminal behavior.¹⁴

Estelle Caldwell, Educational Coordinator/Trainer for the SOU, teaches the men to track their thinking in great detail and to report it. When someone does a phenomenological or "thinking report," it is as though "he turns on a movie camera inside his brain," says Caldwell, "and can see every thought go by on the reel of film. He reports it either verbally or in

14. See Yochelson and Samenow (1977), Vol. 1, pp. 251-453.

writing. I prefer that he write it down, because that gives me a much better tracking system for following what is going on and I don't miss as much" (Caldwell, 1983).

Ideally, Caldwell would like to have the men write all their thinking down; however, she is one of only three staff members who review the 35 to 40 reports per week. The number of reports per person varies from three per day to one per week. These limitations do not inhibit staff from telling a resident who is experiencing difficulties that he needs to write a report so he can find out what is going on in his thinking. In addition, each resident carries with him a "thinking log" in which he daily records his thinking. These logs are reviewed in therapy groups, and feedback is given by peers.

Part of Caldwell's work is teaching the discipline of tracking thinking. She helps the offender do a step-by-step analysis on how a particular piece of thinking builds into behavior. "Emotions are not something separate and apart," she says. "We approach it in a very cognitive fashion." She tells the offender, "If you track your thinking and pay attention to what you are thinking, the harm and damage you do to other people and to yourself can be circumvented long before the deviant thought becomes a behavior, or even long before it becomes a fantasy" (Caldwell, 1983).

Caldwell reviews the written reports and analyzes the men's thinking. She pencil-underlines key sentences or phrases, points out the patterns they are revealing, and helps interpret the meaning. For instance, consider the following sample of an initial thinking report:

I woke up this morning at 6 A.M. I was the wake-up man and had the clock set for 5 A.M. It rang at 5 A.M., I turned it off and went back to sleep. Jim wanted me to wake up at 5:30 A.M., but it didn't happen. I was embarrassed. I felt like an ass. I said to myself, "Shit, Jim is really going to be pissed at me." I wanted to hide from him. I didn't want to face what I did. Jim was counting on me and I let him down.

Caldwell's first comment might be, "The first step in the thinking is typical of your pattern of avoiding discomfort and being unwilling to be accountable in your behavior." Then, where the offender writes, "Jim was counting on me and I let him down," Caldwell might point out a second thinking error: "This is sentimentality, his fear of looking bad, more than it is true concern about letting Jim down." Three or four reports down the line, she might ask him to show her where he is repeating these same basic patterns. "The basic patterns are similar for everybody here," says Caldwell, "especially in regard

to looking bad and avoiding discomfort, the way anger is expressed, and the excitement experienced in terms of setting somebody up perhaps just to have an argument because they hope they are going to win" (Caldwell, 1983).

The most common "foundation" thinking errors (the elements of the belief system through which the person filters all information) among the sex-offender population, according to Caldwell, are fear, anger, concrete and rigid thinking (the inability/unwillingness to think conceptually), fragmentation (radical shift in mood and intention),¹⁵ sentimentality, minimization, and the comfort orientation (wanting to feel good all the time). "I have them pay attention to their tiniest thinking errors, because it may be their red alert," says Caldwell. "Once somebody gets to the point where they will identify the pattern and acknowledge it and say, 'Yes, this is what is going on in my thinking,' it does wonders to break through their denial system, which has a tendency to flip-flop" (Caldwell, 1983).

Caldwell understands sex offenders' thinking patterns because they are similar to those of addicts and other offenders, with whom she has worked for many years.

When addicts get uncomfortable they will do anything they can to avoid feeling that discomfort. They are what I call "comfort-oriented folks." They will fluctuate back and forth between two sets of feelings. One set of feelings is what Samenow calls the "zero state," which I call the "state of immobilization." They feel like they are nothing, the lowest thing on earth and nothing can ever be different. They have a tendency at that point to see themselves as a victim--what I call being a "victim of the cosmos." They feel there is nothing they can do about anything and it immobilizes them. However, I would like to emphasize that sex offenders are not very different from any criminal in their thinking. Even the incest offender, who may have no other recorded criminal activity, has basic thinking error patterns. His crimes reveal themselves in his thinking as more "nonarrestable" type crimes, but crimes against others, nonetheless. [Caldwell, 1983, 1984]

Because sex offenders are so power- and control-oriented, they have a tendency to fantasize or start doing something to create an excitement so

15. An example of fragmented thinking is where a resident might say, "Today I know I am not going to have any deviant fantasies about female staff," and he means it. However, in a short time he may feel bored. He sees a female staff person and goes right into his fantasy structure. This is not the same as lying or manipulating, because when he makes the initial statement he means it. His sincerity is shortlived, however. It is a foreign experience for him and corrodes quickly (Caldwell, 1984).

they can swing back into the other set of feelings--the state of feeling powerful. Samenow calls this being "superoptimistic." Caldwell candidly labels it "the state of 'I have the world by the ass and I can do anything I want to do and nothing bad will ever happen to me and my life is going to be wonderful'" (Caldwell, 1983).

When I do my teaching with the men, we make them very aware of what part of the pendulum swing they are in at the moment. We ask them what is going on and where they are headed in their thinking. Their denial system is very intact. Even after they acknowledge that they did a creepy, horrid thing to another human being, the tendency is to flip-flop back and forth in that denial, depending on the level of discomfort they feel. Once their pattern is identified, they cannot deny they are going off into their cycle, because you have the information they gave you. [Caldwell, 1983]

When the thinking pattern is identified, it is used in the change process. Caldwell notes how the sex offender's superoptimism manifests itself when he "decides" he will change. "He will say, 'I'm going to change; therefore, I have changed!' He does not pay attention to the steps necessary in between 'I want' and 'I have actually done it'" (Caldwell, 1984).

The men learn to differentiate between what it means to adapt to their environment and actually change their thinking and behavior. With Caldwell, each person designs some form of intervention in his thought process. Other SOU modules on Rational Emotive Therapy (RET) and anger management contribute new insights and techniques:

A lot of our men have been victimized as kids or adolescents, or during imprisonment. They have a very difficult time differentiating between their actual victimization and feigned victimization. I do a great deal of work with them on how you tell the difference, for instance, between the anger you have toward your stepfather who molested you from the time you were six until you were 14, and the anger you have translated over to the staff person who is telling you that you can't do something you want to do. I am trying to teach him that this is not a very rational comparison to make and how to differentiate. I then talk to him about rational comparisons and use RET in a very practical fashion. [Caldwell, 1983]

RET teaches the men to recognize that their emotions are created from their thinking. Ron Reitman, a RET instructor, focuses on each person's series of beliefs and values and, in terms of reality testing, helps them to identify which are mistaken.

In identifying commonalities among sex offenders, such as anger,

power-thrusting, and control, the SOU staff find that many, in fact, feel emotionally and mentally very much out of control:

Their tendency is to want to control everything and everyone around them to create the illusion they are in control and that they do have power. The issue is tied up with pride, saving face, and not wanting to look stupid. Their fears are enormous and very disproportionate in terms of reality. That is one of the reasons why these men are so frightened of emotions. They don't understand emotion. It goes back to the pendulum swing: They are either totally devastated and everything is just too overwhelming, or they are totally wonderful and everything is going to be just fine--hearts and flowers and sentimentality to the maximum. They don't understand about being responsibly concerned about someone or confronting a person openly about negative behavior. They don't do that because there is that fear of looking bad, a fear of making a mistake. That is why anger is such a big issue. To them, to be angry is to be rageful and vengeful. To be angry is to be very powerful. [Caldwell, 1983]

Caldwell teaches the sex offenders about the psychology of anger and the physiology of excitement and how similar they are. She believes these two issues have a great deal to do with why their crimes get so violent:

With the excitement and the adrenalin starting to pump, they get revved up. Immediately they translate that into anger and don't recognize those feelings can happen from other things besides being angry. They have been culturally conditioned that anger is a man's emotion and that it is OK to be angry. But, once they get angry, they are out of control; they go into a rage, and there is an incredible amount of force in their anger, which they use as a threat around here. I find myself saying to them, "So you are angry, so what? Millions of people are walking around feeling angry but that doesn't mean they hurt somebody or act like a fool. Your emotion is no bigger than mine. I can get 10 times as angry with you as you are with me, but that doesn't mean I can put my hands on you." [Caldwell, 1983]

Wall trains the men in the techniques of anger management, control, and reduction¹⁶ and teaches them that anger can be a positive stimulus for changing a behavior or a situation. Anger is usually the sex offender's most frequently expressed emotion, while other important feelings remain unexpressed. Thus he is taught both to express his anger appropriately and to deal with his other repressed emotions as well. For the occasions when his anger borders on the extreme, he is taught to use simple relaxation techniques before expressing himself to others. Covert rehearsal and

16. An example of a treatment team anger plan for a SOU resident can be found in Appendix S.

role plays are practiced by the offenders to increase their skills. The therapy supervisors monitor the design of the formal "anger plan." Thus the offenders get the same message from everyone on staff and are less able to ignore or minimize the information.

The men record their sexual and other fantasies in weekly "thoughts/urges" reports. The behavioral therapists and therapy supervisors review the information and, if it is too vague, ask the men to repeat the process for another week until the patterns are identified. Other staff are consulted about various ways to intervene with the deviant or violent fantasies. After three months of prescribed interventions, additional fantasy reports are requested and examined.

Staff also examine in great detail the thinking that precedes or occurs during the fantasies. Caldwell has discovered that the men use the same set of thinking errors in their fantasies that they use in their regular thinking. She contends that these fantasies eventually corrode reality-testing abilities to the point where they cut off the person's perceptions of the consequences and the fantasies easily can become realities.

The men identify and record their deviant behaviors, their deviant behavioral cycles, and their basic patterns and foundation errors on big flip-charts. They present them to the class before posting them on the walls of the therapy room. "This exercise increases their knowledge that other people have similar patterns and increases their stamina for getting feedback in front of other people," says Caldwell. "What we are trying to understand are the thinking patterns *before* these cycles occur, before there is any noticeable behavior" (Caldwell, 1983). (See box on next page for samples of sex offenders' charts, taken from those on the walls of the two group therapy rooms.)

Preassault thought and action processes are categorized and recorded in great detail in each sex offender's file and also appear on his discharge contract,¹⁷ which each person signs before release. This insures that the sex offender is clearly aware that his sexual assault is not spontaneous and only rarely situational. It also provides him and his parole officer with a valuable tool for helping to identify the early thinking and behavioral signs that precede his sexual assaults.

17. For an example of a discharge contract using preassault information, see Appendix I.

CHARTS WRITTEN BY SOU RESIDENTS
OUTLINING DEVIANT AROUSALS, CYCLES, AND THOUGHT PROCESSES

<p>My deviant arousal is pedophilia, girls and boys ages 5-14, rape and oral sodomy. I rub my penis on vagina, fellatio performed on me, fondling, attempted intercourse, mutual masturbation. I use coercion and manipulation on my victims.</p> <p><u>My observable behaviors are:</u></p> <p>I become silent, sullen, avoid others. Face and ears become red. Mouth becomes a slash. Hands and feet agitate. Arms and legs crossed. Replies to questions will be short. Voice tone will lower, become monotone. Won't hold eye contact. Stare at floor, stare off or fixed stare. Rigid neck. Hunched shoulders.</p> <p><u>The thought process:</u></p> <p>I don't think others really care about me. I want to give up. I think I'm in a rut. I get angry with myself. I generate revengeful thoughts. I think others are attacking me when confronting my behaviors. I think of things being catastrophic, making them into a major issue.</p>	<p>My deviant arousal is pedophilia, boys and girls 14-16. I perform fellatio and cunnilingus on victims and fellatio on me by victims, fondle and masturbate victims, fetish with women's underclothes, rape females 16.</p> <p><u>My observable behaviors are:</u></p> <p>My face will turn red. My eyes turn red, watery and downcast. I cross my arms. I will talk almost to a whisper. I isolate myself from others. I will give short, sarcastic answers to questions. I will glare at people. I put others down with sarcasm. I ignore others when they speak to me. I begin clenching my jaw when angry. I walk slow with my head down. I hesitate answering questions by bowed head. I blink my eyes.</p> <p><u>The thought process:</u></p> <p>I think I am superior to others. I think I have less ability than others, so why try? I think one cares for me. I think I must prove that I am right all the time. I don't think others can be trustworthy. I place high expectations upon others and myself.</p>
<p>My deviant arousal is pedophilia, girls 8-17, rape women 17 and on, intercourse, I will threaten my victims with a weapon.</p> <p><u>My observable behaviors are:</u></p> <p>My face and ears turn red and I pull on my chin. I spend a lot of time by myself. I give sharp, sarcastic answers. Agitate my hands. I cross my arms and legs tightly. I take a right and wrong stance verbally. I justify my behavior when confronted. I become forgetful. I avoid those I have conflicts with. I isolate by reading personal books.</p> <p><u>The thought process:</u></p> <p>I think I am inadequate sexually and incompetent socially. I think others will reject me. I think people don't care about me. I get angry at myself. I think about giving up. I catastrophize situations. I think I will fail and be rejected. I think I can never do anything right.</p>	<p>My deviant arousal is intimidating girls ages 14-17 and women ages 18-21 to commit fellatio on me and into copulation.</p> <p><u>My observable behaviors are:</u></p> <p>I show anger inappropriately. I swear at people. I walk away from people, shake my head, no, I don't agree. Face gets red. Body gets tight. Legs crossed. I complain of being sick, fast heartbeat, more than from the norm. I push issues in confrontations.</p> <p><u>The thought process:</u></p> <p>I feel set up by others, I feel inadequate, I feel people don't care. I fantasize hurting people. I assume at times no one cares to help me when they are busy. I feel people are always criticizing me. I feel at times people are fools. I catastrophize things using big words, making a small issue into a big issue.</p>

Caldwell finds the thinking errors of child molesters and rapists very similar. One noted difference is the way child molesters perceive themselves as victims. "The child molesters have a tendency to go immediately into the zero state, to be more passive-aggressive. The whole world is against them and they are helpless. To generalize, the rapists seem to be more extroverted with their aggression, and their feelings about loss of face are much more in tune with Samenow's standard view of criminal pride, being a man, and being macho" (Caldwell, 1983).

Caldwell concludes,

What we're trying to do is to teach people they are 100 percent accountable for their behavior. They may or may not be a product of their environment, but in the long and short of things it really doesn't make a bit of difference. Being a responsible human might not be the most exciting thing they have ever thought about, but in order to survive in the greater community, they are going to have to give up their mistaken ideas about what the world is about and realize that nobody owes them anything. They need to be responsible, but people are not going to stroke them for being responsible. It is an expectation. [Caldwell, 1983]

MONITORING SOU SUCCESS

Since its inception in 1979, the SOU has graduated 20 sex offenders into the aftercare phase of the program. Of the three who have completed their parole, all still are involved voluntarily in aftercare because they view it and SOU as good support systems. Thus far, two of the 20 have reoffended. Both committed thefts, the SOU requested their paroles be violated, and they were returned to prison. "We had some problems with three or four of the men who were the first to go through the program," says Freeman-Longo (1983). "These were the shining stars who went through very quickly, in 15 or 18 months. Some were not completely complying with parts of their discharge contracts and were getting back into their cycles. But we made some changes and our release procedures are now more stringent."

Release from SOU is carefully phased and support for the offender is unending. After completing step 10 (see Appendix L) and achieving minimum custody, the offender receives community passes until he acquires a job. During the first three to six months of work, he returns to the SOU each night. Social passes for up to 48 hours to go home to family or friends or to spend time in town with one of the other aftercare residents are also options during this period. The offender must live and work within 25 miles

of the hospital during the 18 months he is in aftercare and on parole. Staff approve his more permanent living arrangements. However, he still must return to SOU at least twice a week for evening groups (one solely for after-care men and the other with his original therapy group) and monthly for plethysmograph assessments. Failure to participate could be considered a violation of his parole.

A specially trained parole officer works with all SOU graduates. She has copies of their preassault deviant cycles, does home visits and urinalysis, and conducts supervisory meetings, which are purposely longer than a perfunctory 10 minutes. If an offender appears to be reverting to his old patterns, any of the following may happen: (1) he can be pulled out of the community and returned to the SOU, (2) he can have his parole revoked and be returned to prison, or (3) he can be required to spend all free time, outside of sleep and work periods, at the SOU.

Freeman-Longo says the door is always open at the SOU: "At any point in time from now until the day the sex offender dies, as long as this program exists, a graduate can come back here. If he runs into a problem and feels he might reoffend, we will take him in and put him through the treatment again--anything to prevent a reoffense. They know that this is a support system that always will be around as long as the program is funded. They don't have that kind of option elsewhere" (Freeman-Longo, 1983).

THE SOCIAL SKILLS UNIT: OVERVIEW

The 33-bed Social Skills Unit (SSU) provides three separate treatment programs for its population of low-functioning convicted felons with educational levels below fourth grade and/or serious deficiencies in adaptive behaviors.¹⁸ One of these programs is devoted exclusively to the treatment of sex offenders, who comprise roughly one-third of the SSU population. It

18. People diagnosed as "mentally retarded" (below 70 IQ) have first priority for selection, followed by those within the range of the borderline-normal adult. The average IQ in the SSU is the adult borderline range of 78. Occasionally SSU takes persons who are higher functioning but who, due to cultural deprivation and other serious adaptive skills problems, appear to be lower functioning. About 10 percent of the people are mentally ill but are so low functioning they are sent to SSU rather than MED. Others normally would be in the SOU, except that their IQ is below the program's criterion of 90 IQ or above.

is one of a few specialized residential¹⁹ treatment programs in the country serving the long-neglected sex offender who, because of low intellectual capacity, cultural and social deprivation, or deviant lifestyle, lacks the basic skills necessary to function adequately as an independent, productive member of society. As such, its treatment agenda is pioneering, innovative, and somewhat experimental.

James Haaven,²⁰ Director of the SSU, supervises all clinical treatment activities and facilitates the sex-offender group with a female behavioral co-therapist. Haaven finds the low-functioning sex offender²¹ a challenging and complex population to work with but is encouraged about the prognosis:

At first they look so hopeless, but when you start peeling it apart there is much you can do. After you work through the maze you often find a very inadequate person, deficient in heterosocial skills, sexually dysfunctional, and lacking sexual knowledge. These offenders have difficulty in their ability to discriminate sexual from nonsexual behavior, and deviant from nondeviant behavior. These offenders are no less dangerous than the higher-functioning sex offender, but the makeup of the problem is different. I believe there is less anger and aggression directed in a calculated fashion involved in the acts, but more striking out from frustration. That is why the assessment of a low-functioning sex offender is so important in identifying the cause. A great deal of what they are acting out sexually has to do with their inability to manipulate the system to meet their own needs in a socially responsible way and with the frustration and rejection they feel from living in the community. Because they are acting out a generalized frustration, they have a wide range of victims in terms of sex and age. They are less discriminating than the higher-functioning sex offender, who picks and chooses his victims because he has a very ingrained fantasy system that creates his arousal. Because people perceive the low-functioning sex offender as being involved in impulse situational offenses, they feel he is not as dangerous. I don't agree with that at all. He is just as dangerous. The pathology is similar, but the elements that go into it are different. The low-functioning sex offender

19. See the listing of sex-offender treatment programs in Appendix A, which includes the Moderate Security Unit, Princeton, New Jersey, a residential treatment unit with specialized sex-offender groups for males with IQs ranging from the fifties to the sixties. Also see the Special Problems Unit of the Department of Psychiatry, University of Tennessee, a nonresidential sex-offender treatment program that includes retarded adults. Also see Murphy, Coleman, and Haynes (1983), for description of procedures used in the program.
20. Haaven was formerly a sex-offender therapist at WSH and also directed a mentally-ill offender program in a hospital for the criminally insane.
21. The term "low-functioning" is used here to refer to people with mild mental retardation. It is important to note that, while the same term sometimes is used to describe people with severe or moderate retardation, we do not have that intention here. In this section, "low-functioning sex offender" means "mildly retarded or borderline-retarded sex offender."

needs to talk about his thoughts and feelings, and we need to encourage that in an eclectic way. I believe there is a good prognosis with many of them. [Haaven, 1983]

The goals of the SSU's sex-offender treatment program do not differ substantially from the goals of programs serving higher-functioning sex offenders. Broader goals include increasing the offender's level of social coping skills and reducing his criminality. More specific goals are described as (1) providing an environment where residents have an opportunity to witness their own dysfunctional behavior within the limits of the law; (2) increasing the degree to which residents will accept responsibility for their own behavior; (3) helping residents understand how to produce self-change; (4) providing an opportunity for residents to develop basic educational and living skills; and (5) insuring that residents who complete the program receive continued and consistent treatment in the community.

Within the SSU framework is the basic assumption that deviant behavior is learned. Treatment methodologies are similar to the SOU, with the primary difference being in application of these methods.

As with the other CTP units, upon admission the resident enters a 60-day observation and assessment period in which medical, psychological, psychiatric, academic, and social and leisure skills needs are assessed. Additionally, he is assessed for deviant arousal to all themes, using the plethysmograph to measure penile response to tapes and slides. His motivation for self-change and his willingness to invest in the goals and purposes of the treatment program also are evaluated. The program is voluntary, and the resident can be returned to the parent institution if his behavior is too disruptive for the SSU.

In the SSU, there is a residential treatment period of nine to 18 months, followed by a transitional phase of six months during which community-living skills training is heavily emphasized and treatment intensity maintained. The final phase of treatment is a 12-month aftercare period during which residents live in the community and receive ongoing treatment by attending group and individual counseling and following the conditions of their discharge contracts. Their treatment is directed by an aftercare therapist who is a staff member at the SSU.

Assessment of residents admitted to the SSU suggests that the majority, while lacking in social survival and academic skills and possessing considerable learning deficiencies, are not mentally retarded. They have antisocial

traits but don't clearly conform to the antisocial personality type. They tend to be passive and dependent on others for direction, and they lack impulse control. Generally, they are labeled "losers."

SSU TREATMENT MODALITIES

As in all CTP programs, treatment occurs within the context of the therapeutic community and rests on the assumption that the resident is capable of self-help--taking a responsible role in the functioning of the unit and in understanding his own behavior. Says Haaven (1983),

We have developed a milieu therapy approach that maximizes responsibility but also goes one step beyond. We try to facilitate an environment that will increase reasoning skills. This means staff must never do anything for a resident that he can do for himself. It also means that intervention occurs in a way in which the resident is presented with options. He then has to reason his preferred option. We find this has a lot of impact.

The sex offenders work and live in a separate section of the SSU.²² Treatment, both group and individual, is immediate and relevant to each resident's behavior and thinking patterns.

Cognitive Restructuring

Some of the approaches that were described previously as they are used in the SOU, such as Yochelson and Samenow's concept of "thinking errors," needed to be modified to be useful for the low-functioning sex offender. Thus, the SSU has its own innovative cognitive restructuring model called Mistaken Beliefs.²³ This model still is being tested and expanded but appears to be effective, according to Haaven:

The Samenow/Yochelson approach [of "thinking errors"] was the prescribed concept when we first started the program. I questioned its use with our people. I was interested in trying something cognitive, because it is an area that seems to be overlooked with this population, especially since many of them appear not to have the ability to reason. My thought was that, if you can teach them to brush their teeth, you can teach them to reason a little better.

22. While separating sex offenders invites some labeling by other residents, the SSU's community process overcomes such barriers. For instance, the other two SSU programs are invited to the sex-offender group for discussion of such mutual sexual issues as homosexuality and masturbation, or to parties in the sex-offender quarters. At the time of the interview there were eight child molesters and two rapists of adults in the sex-offender group (rapists of children are considered child molesters).

23. See Appendix U for a listing of the Seven Mistaken Beliefs, based on Yochelson and Samenow's (1977) "thinking errors."

There is no reason why cognitive restructuring doesn't have as much of a chance of success as behavioral methods if you put it into behavioral terms.

We thus have developed our own concept, merging the Samenow/Yochelson elements with Rational Emotive Therapy (RET). Our concern was that people who are borderline types of personalities do not fit well into the Samenow/Yochelson framework, which focuses on innate criminality and doesn't reflect the kind of person who reacts to fear of loss of respect and approval. We merged the two together and developed our own concept of "mistaken beliefs." It utilizes cognitive restructuring--identifying some of the scripts you tell yourself and then trying to replace those with disputing thoughts. In teaching this method we use a lot of repetition and labeling, rather than insight training. We've found that, while higher-functioning individuals learn things through different ways of reasoning (like induction, deduction, or logic), mentally retarded or lower-functioning individuals learn by labeling. They label things, the label fits, and they know what it is.

We have used that as our teaching tool. We will take their journals, which they write in daily, underline their thinking, and label it with the mistaken belief it expresses. They may not understand what that really means, but they learn to identify and label their thinking, and we use these labels as our treatment process. Eventually we replace it with a new statement, a disputing thought, a new label. Even though insightfully they don't understand the process, it provides them with a mechanism for identifying "danger signals" in their thinking.

We foster this process of cognitive restructuring in all of our treatment phases and in all of our treatment activities, including activity therapies. This labeling approach was focused on as a key concept of cognitive restructuring, [based on] the information we had gained on the results of our cognitive mapping tests on our residents and from our experiences as typified in the following example: We had a low-functioning sex offender with an IQ of approximately 65. He had lived in the community for over a year, despite a prior history of more than 19 years of incarceration and an inability to control his sexual offenses against children for longer than 30 days at a time. Before he left, I interviewed him constantly as to what his self-talk was when he would happen to see children in the community. He came up with a statement. He would tell himself, "those brats," and it became his cue to get away from the children and leave the area immediately. And evidently that is what he did when he saw little children.

We feel this is what we can do. Instead of insight training, we can introduce a label that turns on a light. This can be an impactful technique with this group. We are putting a great deal of emphasis in this area and believe much more can be done with cognitive restructuring as well as increasing reasoning ability. [Haaven, 1983]

Behavioral Techniques and Depo-Provera

The SSU, like the SOU, uses a wide variety of behavioral techniques in its treatment of sex offenders. These include covert sensitization, masturbatory

satiation and reconditioning, olfactory aversion, and aversive galvanic stimulation. Also, the SSU recently established procedures for the use of Depo-Provera. To date there are no hard data to indicate the effectiveness of these various approaches, except for covert sensitization, which has proved ineffective, possibly because it relies too heavily on self-expression and imagery. Haaven notes that, in his experience, behavioral techniques by themselves are not satisfactory interventions with low-functioning sex offenders. That is why he places a great deal of emphasis on cognitive restructuring. The use of the penile plethysmograph also has been incorporated into the cognitive restructuring model and appears to be promising. Haaven is encouraging the sex offenders to develop self-talk, using the plethysmograph for biofeedback. "In this way, we can give the men feedback as to how they can verbally affect their arousal level and then verbally decrease it. Right now it looks as if they are learning from this. They are picking up the terms and [substituting] new labels for old labels as to how this is impacting them. Time will tell, but it looks very exciting" (Haaven, 1983).

SSU CURRICULUM

All three treatment groups in the SSU follow the same intensive, structured schedules and rely on the Social Skills Developmental Change Model as the treatment guideline.²⁴ There is heavy emphasis placed on social skills development, presented in 36 classes grouped into six-week modules. Every six weeks there is a new term and then a break week. Residents must pass these classes, even though it may mean they will have to take them several times. Skills such as conversation, communication, assertiveness training, relaxation, and leisure skills are taught. A great deal of emphasis is placed on the Mistaken Ideas, Disputing Thoughts, Anger Management, and Sexual Education modules. As much as possible, staff design the activity classes to suit the individual resident's specific pathology. Staff try to avoid the traditional classroom setting and instead use more participatory or active instruction, including role playing, video feedback, and so forth. Residents seem to remember learning experiences best when that experience is either fun, bizarre, or dramatic.

24. For a brief outline of the Social Skills Developmental Change Model, see Appendix V.

There appears to be a high correlation between good time-management skills and adapting in the community. Training the low-functioning offender to maintain support systems, leisure skills, communication systems, and time management is valued more than teaching vocational skills in the SSU. "If they can't maintain their temperament in order to keep friends and their jobs," says Haaven (1983), "the vocational skills will do little good."

Haaven feels there is a great deal that can be done to increase academic skills among the lower-functioning sex offenders, through the way the milieu is organized and especially through the technique of journal writing. "Many of our people can't read or write, so we team everybody up. A person who can't read and write is always with someone who can. Everything he has to write, he tells to his literate partner, who writes it down. The non-literate person has to transcribe it from one paper to another, and by this kind of mimicking he learns. Their skills increase dramatically.²⁵ It has been very impressive" (Haaven, 1983).

SSU THERAPY GROUPS

The three separate SSU therapy groups meet simultaneously. Each group meeting has a special topic of emphasis. Initially, the sex-offender group focuses on openness and breaking down the barriers of denial. "We don't put a lot of emphasis on the crime itself," says Haaven (1983). "What we do emphasize is honest disclosure of the thoughts and behaviors of the crime. We know the first treatment plans have been successfully completed when the sex offender has given an accurate detailing that matches all the other reports of the crime we have received."

The sex offenders spend a great deal of time in understanding their own arousal cycle and discussing their past crimes and victimizations. They examine their own experiences as victims of abuse. Generally, low-functioning sex offenders have been institutionalized in a variety of settings for longer periods of time than other sex-offender populations. As a result, a high percentage (approximately 60 percent) were victims of sexual abuse themselves.

MONITORING SSU SUCCESS

Of 30 persons who have completed the SSU program, six were sex offenders.

25. SSU is developing a workbook on cognitive restructuring. It is being written at a fourth-grade level and includes cartoons. It should be available to outside groups by the end of 1984.

None of these have reoffended, and two have been in the community for more than two years.

Haaven points out that the SSU sex-offender population is comprised of people who have had a long history of repetitive crime and an inability to maintain relationships. "Most have not married or even had a close friend. Due to their lack of survival skills, poorly integrated sexual identities, and limited reasoning abilities, the incidence of acting out in an irresponsible way may be higher" (Haaven, 1983).

Nevertheless, Haaven believes low-functioning sex offenders may have a better prognosis of controlling their behaviors in the community than high-functioning sex offenders.

The reason I believe their control capability may be better, is that the variables causing their frustration can be addressed. Our people don't have the higher-functioning sex offenders' sophisticated and ingrained fantasy system or their manipulative system of grooming and arousal--the excitement of the planning of the act--which may be more difficult to address. We are encouraged. We are getting to the point though, that our unit feels as much a research unit as a residential treatment program, because everything we are doing is on a cutting edge. [Haaven, 1983]

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HB

548

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Mary Van Nimwegen

H. NESS

3/28/90

H. NESS

4/5/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

Date of Committee Action: _____

RESOURCES
FINANCE

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 548

HOUSE BILL NO. 548 MENTAL HEALTH TRUST

"An Act relating to the reconstitution and administration of the mental health trust."

RECOMMENDATIONS:

- be replaced with CS HB 548 (HFS) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: _____
(Date/Dept)

- fiscal impact _____
- zero fiscal note DHSS
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not
Pass No Rec Amend

J. Ellis

W. H. ...

Chris ...

Mark ...

<u>W. H. ...</u>		<input checked="" type="checkbox"/>	

J. Ellis
Chairman's Signature

FISCAL NOTE

REQUEST: HB548

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to the reconstitution and administration of the Mental Health Trust BRU: _____
 Sponsor: Rep. Miller Components: _____
 Requestor: Rep. Miller _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

No effect on the FY90 Budget.

Prepared by: Richard Renninger
 Division: Administrative Services

Phone: 465-3331
 Date: March 27, 1990

Approved by Commissioner: *Myla M. Munson*
 Agency: Health & Social Services

Date: 3/27/90

Distribution (by preparer):

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STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 13, 1990

SUBJECT: Mental health trust
(HB 548)

TO: Representative Mike Miller

FROM: Richard A. Bradley 
Legislative Counsel

Gene Therriault has requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill repeals and reenacts AS 37.14.011(c). AS 37.14.010 - 37.14.050 establishes the "Mental Health Trust Income Account; AS 37.14.011 also establishes the "mental health trust income account." The subsection now provides:

(c) The fair market rental value of the land constituting the mental health trust corpus is equal to eight percent of the fair market value of the land. Following the initial determination of the fair market value of the land selected by and patented to the state under sec. 202 of the Alaska Mental Health Enabling Act, the commissioner of natural resources shall redetermine the fair market value of the land constituting the mental health trust corpus at least every five years and provide the redetermined value to the commissioner of revenue and the board established under AS 47.30.661.

As repealed and reenacted (it would not have been possible to "amend" it), the section continues the value at "eight

percent of the fair market value of the land" but it affirmatively establishes a mathematical formula for that valuation. I believe that since that formula is all critical to the definition, it would be inappropriate to recast the language in a "sectional analysis" format and I believe that the four paragraphs of (c) should be read directly. While they are technical, they are understandable.

Section 2 of the bill adds a new subsection (d) to AS 37.-14.011; the subsection directs the commissioner of natural resources to "calculate the redetermined value of the trust under (c) and provide the redetermined value to the commissioner of revenue and the board."

Section 3 of the bill provides for the "reconstitution and administration of mental health land trust." Note that Section 4 of the bill repeals AS 38.05.800, a section with the same caption; in drafting this section, I made the judgement that it was not possible to "amend" existing AS 38.05.800 and hence the suggested approach was taken. In the nature of things, it will be necessary to quote much of the language directly-- and then to comment on it. I do not want to misstate any of the language in this analysis.

Sec. 38.05.801(a) states that the "value of all land selected by or patented to the state under the Alaska Mental Health Enabling Act as of September 7, 1967, is \$2,243,000,000." I do not know the source of the figure but I believe that the date is the effective date of ch. 48, SLA 1987 (CSHB 92 (Fin) am), the Act that responded to the Alaska Supreme Court's decision invalidating the earlier legislative management of the land received under the Alaska Mental Health Enabling Act, P.L. 84- 839, 70 Stat. 709.

Sec. 38.05.801(b) provides that "[a]ll land within legislative designations on the effective date of this Act and all land made subject to legislative designations in the future constitute the corpus of the mental health land trust." As I understand the usage, a "legislative designation" is an Act by the legislature that withdraws land for a particular purpose. The land established for parks, state forests, public use areas, recreational rivers, and so forth, primarily within AS 41 but also within AS 16.20 (sanctuaries, critical habitats, etc.) would be within these "designations."

The term "corpus" is legalese for the "body" or the substance of the trust.

Representative Mike Miller
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Thus, if this section is enacted, the future establishment of land within a "legislative designation" would, by that act, commit the land to the corpus of the trust.

Sec. 38.05.801(c) provides that "[o]n the reconstitution of the trust under this section," the remainder of the land of the state "that is not within legislative designations is removed from trust status." The provision seems self-explanatory.

Sec. 38.05.801(d) provides that the land within the "legislative designations" shall be managed under the provisions of law now governing them. The trust will be compensated under AS 37.14.011; see existing law as amended by Sections 1 and 2 of this bill.

Sec. 38.05.801(e) provides that "[b]efore the state may remove land [from a legislative designation], replacement land equal in value at the time of replacement shall be designated mental health land and added to the trust corpus." What this means is that land may not be withdrawn from a legislative designation (park, state forest, etc.) until equal value land is added to a legislative designation. The latter portion of the section outlines this procedure.

While it seems that there is a Catch 22 here in that when land is established as a legislative designation, by that designation it becomes part of the trust corpus and thus not available for use as replacement land, it seems that there may be an option for the state to establish the new legislative designation conditionally; that is, to create it subject to its use as matching land for land removed from designation. While the legislature has not removed land from a legislative designation very often, the legislature may wish to avail itself of this option prospectively to protect itself and to maintain flexibility.

Section 4 of the bill repeals AS 38.05.800. Note my comments on the repeal under Section 3.

If I may be of further assistance, please advise.

RAB:pl
WKP2/036

ALASKA MENTAL HEALTH BOARD

STEVE COWPER, GOVERNOR
STATE OF ALASKA

ST. ANN'S CENTER
419 6th STREET, SUITE 124
JUNEAU, ALASKA 99801
907-465-3071

March 27, 1990

Health, Education & Social Services Committee
Alaska State House of Representatives
P.O. Box "V"
Juneau, AK 99811

Honorable Representatives,

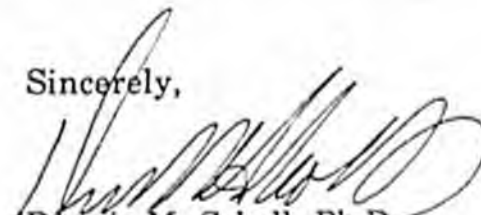
The Alaska Mental Health Board (AMHB) has reviewed HB548, "An Act relating to the reconstitution and administration of the mental health trust." At its meeting in February the AMHB took action in support of the intent of HB548 including that:

- (1) the Legislature recognize the trust value of \$2,243,000,000 established under procedures approved by the Interim Mental Health Trust Commission,
- (2) land and resources in legislatively designated areas be identified as security for the trust corpus, and
- (3) revaluation procedures be established which effectively continue to reflect the value of the original trust lands over time.

In actions related to the AMHB discussion of HB548, the Board re-affirmed its prior action supporting appointment of an independent trustee for the mental health trust and urging the appointment of an interim trustee pending final resolution of issues in the Weiss v. State litigation.

On behalf of the Alaska Mental Health Board I convey their support for the intent of HB548.

Sincerely,



Dennis M. Scholl, Ph.D.
Executive Director

cc.
AMHB
Rep. Miller



Alaska State Legislature

House Education & Social Services

Please enter into the record my testimony to the _____
 committee name

committee on HB 548 , dated April 5, 1990
 bill/subject

Please pass HB 548. It is so important to put the land issue behind us. Those who have been working for years to resolve these issues and those of us who have been waiting for needed services for our loved ones are very discouraged at what appears to be the state's lack of good faith in arriving at a negotiated settlement.

This bill represents a last hope for a fair and equitable reconstitution and administration of the mental health trust.

Thank you for your careful consideration of this bill.

Signed: Frances R. Cater Frances R. Cater
 Testifier

Kodiak Island Mental Health Advisory Board; Kodiak Alliance for the Mentally Ill
 Representing (Optional) Alaska Alliance for the Mentally Ill
 Mailing address: P.O. Box 1472 (st. address: 4254 Cliffside Rd.)

Address
 Kodiak, Alaska 99615-1472 (907) 486-5604

Phone No.

**Senate Resources Committee Briefing: by Alaska Mental
Health Board Lands Committee, February 14, 1990**

- **PURPOSE FOR AMHB APPEARING BEFORE RESOURCE COMMITTEES**
- **STATUS OF THE VALUATION PROCESS & STATUS OF THE LAND**
- **History of the Selections: Multiple Estates for Income Production**
- **A Review and Critique of the Process of Valuation**
- **"The Linking of the Appraisal Process"**
- **The TRUST**
- **Chapter 48 SLA 1987, The Legislature's Settlement Proposal**
- **The Opportunity for Legislative Action**

STATUS OF THE VALUATION PROCESS & STATUS OF THE LAND

- IMHTC Final Approved Procedures, November 7th, 1989
- IMHTC Majority Report, (Final Draft), December 20th, 1989
- Minority Report by Designee Swope, February 1, 1990
- Senate Special Committee on Mental Health Report, January 1990
- Impasse
- Final IMHTC Resolution, January 24, 1990

A Review and Critique of the Process of Valuation

- Envisioned mutuality of purpose: fair market value
- The reality of IMHTC dealing with a matter in litigation

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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**PURPOSE FOR AMHB APPEARING BEFORE RESOURCE
COMMITTEES**

- REVIEW REPORTS FROM THE DEPARTMENT OF NATURAL RESOURCES REGARDING THE VALUATION OF THE MENTAL HEALTH LAND TRUST AND THE STATUS OF MENTAL HEALTH TRUST LAND
- MEET WITH APPROPRIATE LEGISLATIVE COMMITTEES CONCERNING THE BOARD'S ACTIVITIES

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History of the Selections: Multiple Estates for Income Production

- Surface Estate: Municipal Expansion
- Forrest
- Mineral