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BY THE COMPTROLLER GENERAL

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Report To The Congress

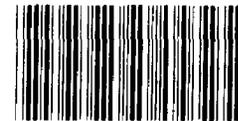
OF THE UNITED STATES

The Department Of Justice Can Do More To Help Improve Conditions At State And Local Correctional Facilities

Many State prisons and local jails are unsafe, unsanitary, and endanger the health and well-being of inmates, correctional staff, and visitors.

Correctional officials maintain that inadequate funding and the lack of public attention to correctional institutions have been an impediment to providing adequate facilities. However, a number of other problems--poor maintenance, inappropriate materials used in construction and furnishings, inadequate safety devices, and inadequately trained correctional personnel--need to be corrected. Unless attention is given to these problems, additional funding would provide only temporary improvements.

GAO found that five Department of Justice agencies are in a position to assist willing State and local officials in improving conditions in their correctional institutions. The Department of Justice agreed with GAO's assessment of conditions in these institutions and said its agencies plan to make a concerted effort to provide more assistance.



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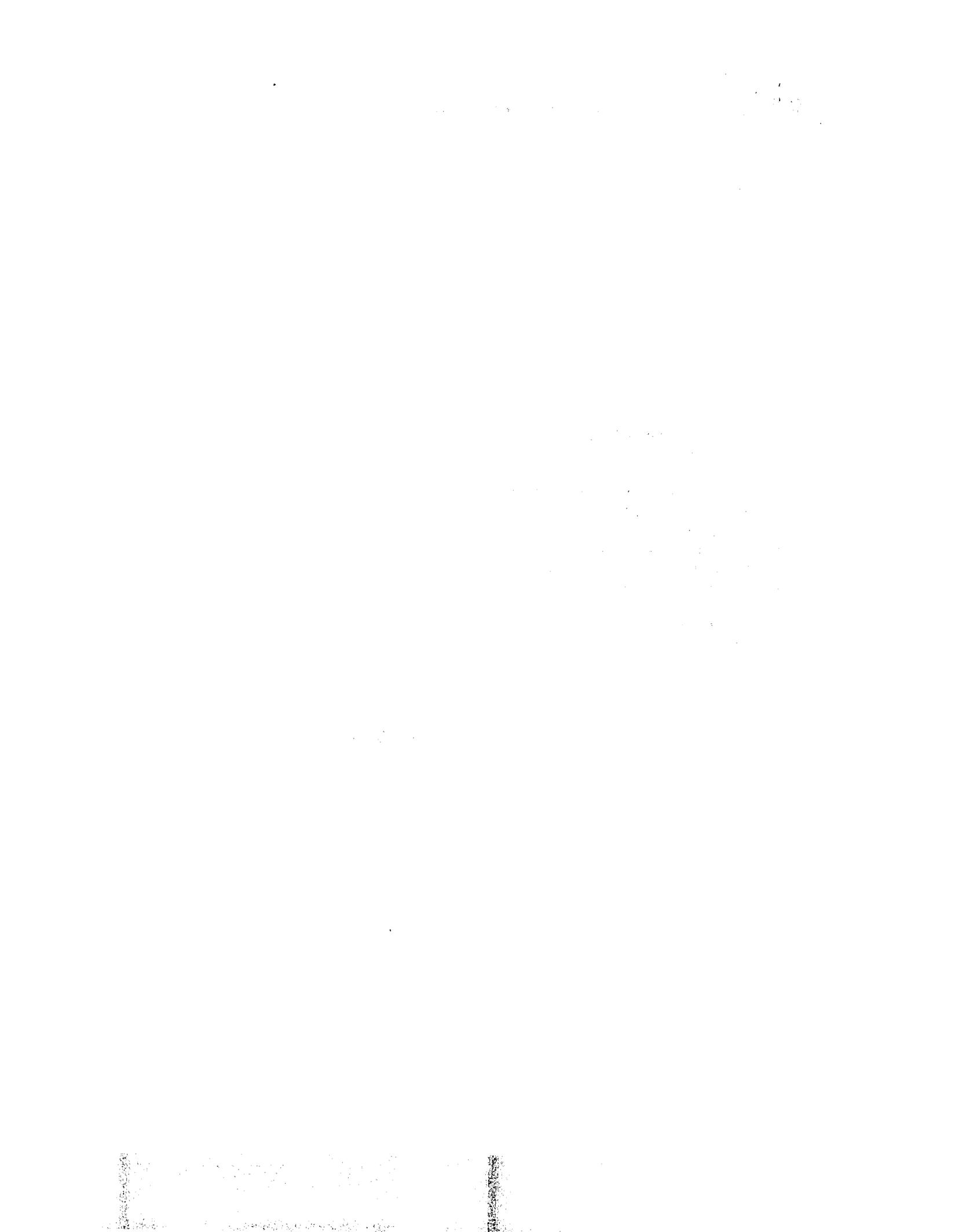
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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the problems State and local prison and jail administrators are having in providing safe and humane environments for inmates. It also discusses the progress some States and localities have made in improving environmental health conditions and recommends ways for Federal agencies to assist.

We are sending copies of this report to the Director, Office of Management and Budget; and the Attorney General.

James A. Stairs
Comptroller General
of the United States



COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

DEPARTMENT OF JUSTICE
CAN DO MORE TO HELP
IMPROVE CONDITIONS
AT STATE AND LOCAL
CORRECTIONAL FACILITIES

D I G E S T

Unsafe, insanitary conditions in many State prisons and local jails endanger the health and well-being of inmates, correctional staff, and visitors.

Although inadequate funding has been a significant cause of these conditions, improvements involve more than increased funding. Correctional institutions need adequate maintenance programs, trained personnel, and inspection programs which can detect deficiencies and ensure that they are corrected.

The responsibility for improving conditions at State and local correctional facilities rests primarily with State and local governments, and some are making improvements. Officials making changes recognize their responsibilities but, at the same time, see the need for increased Federal participation.

Safety and sanitation, sometimes referred to as environmental health, include areas such as fire prevention, food preparation and storage, accident prevention, hygiene, temperature and light levels, pest control, and air quality.

ENVIRONMENTAL DEFICIENCIES

Federal and State courts have found that many State and local correctional institutions violate protections afforded by the Constitution as well as State laws. Courts have ruled that substandard conditions can constitute "cruel and unusual punishment." Court intervention can improve conditions, but relying on it to identify and remedy substandard conditions on a widespread basis has serious drawbacks.

State and local inspection agencies frequently have found deficiencies in prisons and jails. Some deficiencies they have noted: leaking, inoperative

plumbing; bedding made from materials which generate toxic smoke when on fire; inadequate ventilation, lighting, and heating; inoperative, unreliable locks; exposed electrical wiring; dirty, peeling floors and walls; inadequate fire safety training; missing or inoperative smoke and fire detection and control systems; no second means of exit; and cross-connections of potable water supplies to sewage lines.

Inspection agencies have not been effective in obtaining improvements. Further, correctional institution staffs frequently have lacked the necessary training to contribute to institutional safety and sanitation. GAO visited 46 prisons and jails in 6 States and found many of the deficiencies noted by inspection agencies. (See Ch. 2.)

THE DEPARTMENT OF JUSTICE COULD OFFER MORE ASSISTANCE

Five Department of Justice agencies are involved with conditions in prisons and jails--the Civil Rights Division, the Marshals Service, the Bureau of Prisons, the Law Enforcement Assistance Administration, and the National Institute of Corrections.

The Attorney General, through the Civil Rights Division, investigates complaints about violations of inmate constitutional rights. The recently enacted Civil Rights of Institutionalized Persons Act provides the Attorney General explicit authority to initiate or intervene in civil actions to secure inmate rights. The legislation requires the Attorney General, before initiating such action, to advise State and local officials of actions he believes would remedy conditions and of the Federal assistance available. The Civil Rights Division could provide advice and assistance not only to institutions with deficiencies severe enough to warrant civil action, but also to other institutions needing help. (See p. 23.)

Inspectors from the Marshals Service, the only Federal agency with an extensive jail inspection program, visit and provide technical assistance to about 800 jails under contract to the Service. This inspection system has some deficiencies, but if they are corrected, the Service could do much to assist State and local jail administrators and inspectors. (See p. 25.)

The Bureau of Prisons has much experience dealing with environmental health problems in a correctional environment and has much to share with State and local officials, but until now, the Bureau's technical assistance has not been safety and sanitation oriented. (See p. 28.)

The Law Enforcement Assistance Administration provides financial and technical support to State and local criminal justice systems, but few of its efforts have addressed safety and sanitation problems. It supports the development of correctional institution standards and encourages compliance with them. However, for the most part, these standards give limited consideration to safety and sanitation and little specific guidance on how to implement the standards. The Law Enforcement Assistance Administration could show its support for improving conditions and serve an important function if it sponsored the development of maintenance standards and specific guidelines on implementing environmental health-related standards. (See p. 29.)

The National Institute of Corrections, a small Federal agency devoted to improving the corrections system in this country, has sponsored a series of fire safety training programs for corrections officials. This program, however, reaches a small number of officials annually. The Institute could expand its training to other environmental health issues. Additionally, the Institute could disseminate information on maintenance and materials obtained from a number of Federal agencies with experience in facility operation or with the expertise to develop performance standards and test materials for acceptability. (See p. 31.)

RECOMMENDATIONS

GAO recommends that the Attorney General examine the Department of Justice's approach for dealing with safety and sanitation deficiencies in State and local prisons and jails and develop a strategy for assisting in the improvement of environmental health conditions. As part of this strategy, the Attorney General should:

- Expand the role of the Civil Rights Division so that it assists troubled institutions desiring assistance in solving environmental health problems, even though the conditions encountered do not warrant civil action.

- Upgrade the Marshals Service's jail inspection services program, by including better training, using its resources and expertise to assist jail administrators and inspectors in improving their effectiveness, and exploring the possibilities of increased coordination and cooperation with State and local inspection agencies.
- Direct the Bureau of Prisons to work with the National Institute of Corrections to set up a mechanism for disseminating information on its environmental health experiences to correctional officials at all types of institutions and for opening more Bureau training to State and local officials.
- Encourage and assist State and local officials to develop maintenance programs by directing LEAA to support the development of maintenance standards to be used as models by correctional officials and of detailed guidelines which will assist administrators in implementing plans to meet the standards.
- Establish a program within the National Institute of Corrections for disseminating information regarding equipment and materials suitable for correctional facilities. This information could be obtained from the Bureau of Prisons and other Federal agencies with knowledge of maintenance, equipment, and materials, such as the Bureau of Standards, the Department of Defense, and the General Services Administration.
- Encourage the National Institute of Corrections to expand its environmental health training programs to reach a larger number of correctional officials and include a wider range of safety and sanitation programs. This program should utilize available State and local agencies involved with health, fire safety, and occupational safety, as well as Federal organizations with such expertise, including the U.S. Fire Administration

AGENCY COMMENTS

The Department of Justice agreed that many State and local prisons and jails have unsafe and insanitary conditions. Although the Department expressed concern about the availability of resources, it said a concerted effort will be made to assist States and localities in improving conditions in their correctional facilities. (See app. I.)

The Department also said that all of its affected agencies agreed to maintain a close working inter-relationship and to develop coordinated strategies.

In addition, the individual agencies plan to provide the following assistance to States and localities in response to GAO's recommendations.

- The Civil Rights Division will use the Civil Rights of Institutionalized Persons Act as a vehicle for systematically providing prospective defendants with information concerning available sources of Federal assistance which may aid in correcting violations of the law.
- The Marshals Service is developing programs to provide training, technical and financial assistance, and excess Federal property to substandard jails with which it contracts to house Federal prisoners.
- The National Institute of Corrections plans to continue providing technical assistance and training to States for the purposes of developing, revising, implementing, or monitoring environmental standards.
- The Bureau of Prisons, in conjunction with the Institute, will continue inviting State representatives to its Environmental Health and Safety Course for Correctional Institutions and will continue participating in the Institute's assistance programs. (See pp. 35 and 36.)



C O N T E N T S

| | | <u>Page</u> |
|---------|---|-------------|
| DIGEST | | i |
| CHAPTER | | |
| 1 | INTRODUCTION | 1 |
| | Why should correctional facilities protect inmates from health and safety hazards? | 1 |
| | Federal agencies are involved with non-Federal prisons and jails | 2 |
| 2 | ENVIRONMENTAL CONDITIONS IN PRISONS AND JAILS ARE DEFICIENT, BUT SOME IMPROVEMENTS ARE BEING MADE | 4 |
| | Prisons and jails have significant safety and sanitation problems | 5 |
| | Prisons and jails have suffered from many years of neglect | 12 |
| | Improvements are being made in some States | 18 |
| | Conclusions | 22 |
| 3 | THE DEPARTMENT OF JUSTICE COULD DO MORE TO ASSIST STATES AND LOCALITIES IN MAKING NEEDED IMPROVEMENTS | 23 |
| | The Civil Rights Division's efforts could be expanded | 23 |
| | The Marshals Service is in a unique position to aid in improving local jails | 25 |
| | The Bureau of Prisons' expertise and experience could be valuable to State and local agencies | 28 |
| | LEAA should promote the development of maintenance standards | 29 |
| | Opportunities exist for the National Institute of Corrections to become more involved in environmental health | 31 |
| | Conclusions | 35 |
| | Recommendations | 35 |
| | Agency Comments | 36 |
| 4 | SCOPE OF REVIEW | 39 |

APPENDIX

Letter dated July 15, 1980, from
the Department of Justice

ABBREVIATIONS

ACA
BOP
GAO
LEAA

American Correctional Association
Bureau of Prisons
General Accounting Office
Law Enforcement Assistance
Administration

CHAPTER 1

INTRODUCTION

States and localities operate over 4,000 prisons and jails housing about 450,000 prisoners each day. Many of these institutions have suffered from a number of problems, including inadequate safety and sanitation. This report discusses institutional safety and sanitation problems as well as the progress some States and localities have made in improving environmental health conditions. It also identifies ways in which Federal agencies can more effectively assist State and local authorities in making such improvements.

As used in this report, safety and sanitation refers to a number of health and life safety issues frequently used synonymously with the expression "environmental health." Included are fire prevention, protection, and control; occupational accident and disease prevention; food preparation and handling; personal and institutional hygiene; and other environmental conditions, such as ventilation, sound and light levels, temperature control, and air and water quality.

WHY SHOULD CORRECTIONAL FACILITIES PROTECT INMATES FROM HEALTH AND SAFETY HAZARDS?

Inmates should be protected from environmental health hazards not only for humanitarian reasons, but also because such protection is required by law and professional standards. Federal and State courts have ruled that severe environmental health shortcomings can violate inmate rights guaranteed by the U.S. Constitution as well as by various State constitutions, laws, and regulations.

Although we found few studies on the extent to which physical and mental harm results from environmental deficiencies in confined areas such as prisons and jails, such deficiencies expose inmates, staff, and even visitors to the risk of illness, injury, or death. For example, when fires break out in correctional institutions, prisoner behavior, as well as the security aspects of confinement, compounds the problem of inmate evacuation and makes it difficult to avoid injuries. In 1930, a fire at the Ohio State Prison at Columbus killed 320 prisoners, and a 1967 fire at a Florida prison roadcamp claimed 37 lives. More recently, 3 1977 fires in the U.S. and Canada killed 68 inmates and visitors, and a December 1979 fire in South Carolina

claimed 10 inmates. The problem of prison fires is further compounded by the fact that many are started by inmates who, among other things, want to increase their chances of escape or cause malicious damage. Thus, fire prevention involves not only eliminating hazards which could in themselves cause a fire, such as faulty wiring, but also keeping inmates away from materials which could be used to ignite one.

Other environmental health deficiencies could result in contaminated food supplies, spread of infectious diseases, or polluted water supplies. It should also be noted that studies have shown that the spread of disease is accelerated in confined areas.

A number of professional organizations, including the American Correctional Association, American Bar Association, American Public Health Association, and National Sheriffs' Association, have developed minimum operational guidelines for correctional institutions. These standards are considered to be a means to improve correctional services, avoid litigation, protect offenders' rights, and enhance prospects for Federal assistance to local programs. The standards include a wide variety of topics, including fiscal management, planning, research, security, inmate rights, and educational training. Environmental health issues generally fall into two broad categories--physical plant and sanitation, and safety and hygiene. These standards call for compliance with a variety of conditions, including specific lighting and sound levels, available toilet and bath facilities, maintenance and evacuation plans, periodic inspection by health agencies, and a trained fire fighting team.

Although standards exist, they have not yet been widely implemented. Some of the standards are new and unfamiliar to administrators or cannot be implemented with existing facilities or personnel. Others are not specific and are difficult to implement without environmental health expertise.

FEDERAL AGENCIES ARE INVOLVED WITH NON-FEDERAL PRISONS AND JAILS

The Federal Government has no direct role in operating State and local prisons and jails, but several Federal agencies are involved with the conditions of confinement within such facilities. These agencies, all within the Department of Justice, include the Bureau of Prisons, the U.S. Marshals Service, the Law Enforcement Assistance Administration, the National Institute of Corrections, and the Civil Rights Division.

- The Bureau of Prisons and the U.S. Marshals Service have responsibility for sentenced and presentenced Federal prisoners, respectively. These agencies often contract with State and local correctional facilities to house Federal prisoners.

- The Law Enforcement Assistance Administration and the National Institute of Corrections can assist State and local correctional officials with a broad range of issues, including administrative procedures, health care, security, and training. Their assistance is provided primarily through grants and technical assistance.

- The Attorney General, through the Civil Rights Division, investigates complaints of inmate rights violations in State and local correctional institutions and has been involved in court actions dealing with conditions of confinement.

CHAPTER 2
ENVIRONMENTAL CONDITIONS
IN PRISONS AND JAILS ARE
DEFICIENT, BUT SOME IMPROVEMENTS
ARE BEING MADE

Our examination of inspection reports prepared by State health and safety inspection agencies, visits to institutions to observe conditions, and discussions with health and safety inspection officials, correctional administrators and others, revealed that serious environmental health problems exist in State prisons and local jails. Further evidence of the grim conditions inside correctional facilities has surfaced in Federal and State courts. A large number of conditions of confinement cases have been filed, and the courts have frequently found that conditions have presented significant health and safety risks to inmates and staff alike.

Correctional officials maintain that the public has paid little attention to corrections and that, over time, inadequate funding has been an impediment to providing adequate facilities. However, a number of other problems have also contributed to the deterioration of safety and sanitation within State and local facilities. Inspection programs have not been used to maintain or improve conditions, maintenance has been neglected, and correctional personnel have not been adequately trained. Unless attention is given to these problems, even the infusion of significant amounts of money to upgrade facilities would provide only temporary improvements.

However, the situation is not entirely bleak, for in addition to problems, we found improvements. Court orders and actions by some health and safety agencies have forced some State and local officials to improve the environmental conditions in their institutions, while others have voluntarily made improvements. Although officials have used different approaches to solving their problems, certain commonalities existed: willingness to make changes, knowledgeable health and safety advisors, cooperation among agencies, and availability of funds.

PRISONS AND JAILS HAVE SIGNIFICANT
SAFETY AND SANITATION PROBLEMS

Significant safety and sanitation problems existed in prisons and jails in 10 of the 11 States we visited. Inspection reports, discussions with correctional officials and others, recent court cases, and visits to correctional facilities in 6 States confirmed the continuing existence of such problems.

State inspections have shown
a variety of deficiencies

In 1978, one State corrections department, as part of a State-wide study, inspected all local jails and concluded that 43 (37 percent) should be totally renovated or replaced by new structures. The department found many deficiencies, including

- 53 percent of the jails did not comply with the State plumbing code,
- 51 percent did not comply with State electrical standards (89 percent of those built prior to 1900 did not comply),
- 34 percent had inoperative locking systems, and
- 20 percent had substandard ventilation.

The following is an example of the conditions found by State health and fire safety inspectors during 1977 and 1979 in one county jail in this State:

- Sewage was leaking from the top floor into the dining room and the juvenile section.
- Ventilation in the maximum security section and the confinement unit for intoxicated prisoners was inadequate.
- Dining room windows were broken and had no screens.
- There was no second means of exit or fire alarm system.
- Electrical wiring was exposed.

--Mattresses were used which contained a substance that generates toxic fumes when ignited.

--Floors, walls, ceilings, lavatories, and showers were dirty and needed repairs.

In 1979, an agency in a second State found that many jails were not in compliance with fire safety standards. In a survey of 54 facilities, the agency found that

--33 (61 percent) had no second means of exit from housing areas;

--15 (28 percent) had no self-contained breathing apparatus needed in rescue, evacuation, and firefighting efforts;

--15 (28 percent) had no fire and smoke alarm or detection system;

--18 (33 percent) had no standpipe system to provide water for fighting fires;

--22 (41 percent) conducted no fire drills; and

--17 (31 percent) had no staff fire safety training.

In a third State, six of the eight State prisons were in litigation for overcrowded, unsafe, and insanitary conditions, and we were not allowed access to these facilities. However, inspection reports for county and local jails cited many deficiencies. In one case, a county fire inspector found such adverse fire safety conditions in the county jail that he considered condemning the jail. However, he declined to prepare an official report since the county would have to close its jail and would have had no place to house prisoners.

The Department of Corrections in a fourth State inspected all county jails and concluded that 11 of the 18 did not comply with fire safety standards. Many violations were considered serious. The public health agency in the same State declared the State's maximum security institution to be "unfit for human habitation" and reported the following deficiencies in both State prisons and county jails:

--Problems with plumbing, wiring, lighting, and ventilation.

- Poor food handling and generally inadequate sanitation.
- Lack of maintenance and repair.
- Inadequate exit and emergency procedures, fire and smoke detection, and fire fighting equipment.

Conditions similar to those previously noted also existed in other States. For example, a fire marshal in one State cited fire safety deficiencies at its maximum security prison on two occasions. Fire inspectors found many cell areas with overloaded electrical outlets and multiple extension cords. They also cited the absence of required second exits. This institution was also troubled with excessive combustibles in inmate cells. Fire inspectors had not been successful in getting institution administrators to correct the situation. In the same State, the State jail inspector closed two jails for severe fire safety violations.

In another State, we spoke with officials regarding the State prison, which had been involved in a 1977 conditions of confinement suit. They told us that State agencies, after being asked to determine if conditions were as alleged in the suit, found numerous deficiencies needing attention, including:

- Cross-connections of potable water supplies to sewage lines creating the potential for contamination of the drinking and bath water.
- Inadequate evacuation plans in the event of an emergency.
- Inadequate fire and smoke separations between building wings.
- Inadequate vertical floor separation.
- Inadequate protection against fire spread in hazardous areas.

- Excessive combustibles in cell blocks.
- Inadequate emergency lighting.
- Outside window screens blocked with dirt and bird nests.
- Numerous leaky pipes.

Inspectors from one agency--the State occupational safety and health agency--identified 26 major violations as well as over 300 lesser ones. This agency had never previously inspected the prison and subsequent to inspection ordered immediate correction of some defects and phased correction of others.

We visited 46 correctional facilities, 8 prisons and 38 jails, which had been previously inspected by health or safety agencies. In 39 of the 46, safety and sanitation deficiencies still existed. Some deficiencies we noted had not been reported in recent inspections.

For example, we visited nine State and county institutions in one State and observed a number of problems:

- One prison had no running water in the cells and had portable chemical commodes placed on the cell floors--both of these conditions violated State health department regulations along with various professional standards. The institution had no standpipes, sprinklers, or alarm systems, and cell floors were made of 100-year-old wood. The cells contained many combustible items. Cell doors were individually locked, and the locks were over 100 years old.
- Another prison had 50-man dormitories which were unstaffed from 11 pm. to 7 am. Roving guard patrols checked inside periodically. The dormitories had no telephone system, inoperative emergency lights, and a fire alarm system that had not worked in years. The institution fire safety officer informed us that the correctional officer fire brigade was unable to practice using fire hoses or perform preventive maintenance on hydrants. The hydrants are connected to the normal water system, and using the hydrants disables many institution toilets.

--One county jail with sections built around 1838 and 1896 had only two entrances--one pedestrian, one vehicular. The vehicular entrance was so small that air had to be released from the tires of local fire equipment to enable the engines to enter the facility.

In a second State, we noted the following deficiencies at two facilities:

- Broken cell locks replaced with padlocks.
- Exposed wiring.
- Broken lighting fixtures.
- Use of dangerous polyurethane mattresses.
- No second means of exit.
- No fire alarm.
- No emergency evacuation plans.
- No emergency lighting or smoke detection devices.
- Unenclosed stairwells (allowing for the spread of smoke and flames).

The following observations of conditions at a facility in a third State were also indicative of many jails we visited:

- Exposed wiring and open electrical boxes throughout the facility.
- No lavatory facilities in some cells.
- No drinking water in the cells.
- No second means of exit.
- No fire alarm, emergency lighting, or smoke detection systems.
- No emergency evacuation plan.

During a tour of a facility in a fourth State, we observed

- areas littered with paper and other debris;
- wood construction in the administrative offices at the front of the jail;
- unlocked electrical junction box in a basement hallway;
- only one means of exit from each tier of cells; and
- two main means of egress from the jail--one through the wooden administrative building and the other through the library into an enclosed exercise area.

Another facility in the same State had underpressurized fire extinguishers, broken panes of glass in doors, bird nests inside several windows in living areas, and polyurethane mattresses in some inmates' cells.

Experts and officials have confirmed the existence of these problems

Officials of various State and local inspection agencies, corrections administrators, officials of professional and public interest groups, safety and sanitation experts, and others concurred that environmental health conditions in prisons and jails are deficient.

Two District of Columbia environmental health officials frequently used as experts and consultants by the Department of Justice advised us that between them they had inspected prisons and jails in over 20 States. They stated that they have found violations of the most basic safety and sanitation standards and practices in correctional facilities throughout the country.

Some State officials who had been involved in litigation regarding State institutions stated that the condition of county institutions was worse than their own State institutions and that very little is being done. Officials of agencies responsible for inspecting prisons and jails in three States made similar statements.

Federal and State court cases
have provided additional evidence
of environmental health deficiencies

Many conditions of confinement cases have been filed in Federal and State courts. In them, prisoners claim that conditions of confinement, including inadequate safety and sanitation, violate their constitutional rights. The courts have frequently found conditions which presented significant health and safety risks to inmates and staff alike. The courts have responded in ways ranging from ordering minor improvements to closing institutions.

Environmental health is frequently an issue in such suits. Inadequate plumbing and electrical systems, heating and ventilation, and hygiene and sanitation practices frequently surface as environmental health issues. Plaintiffs cite malfunctioning fire alarm systems, the need for smoke detectors, and the lack of fire exits, among other things, as fire safety issues. After hearing expert testimony and visiting the facilities, judges have ruled that health and safety risks do exist and, in severe cases, have ruled that the conditions violated inmate rights. Most frequently cited is the violation of inmates' Federal and State constitutional protections against "cruel and unusual punishment."

A case in point is the Rhode Island Adult Correctional Institution. Experts in corrections, environmental health and sanitation, and correctional psychology testified that problems abounded. Many of these problems involved safety and sanitation issues.

- Porous stone walls were impossible to keep clean and encrusted with literally decades of dirt and grime.
- Extensive trash littered floors and cells.
- Cockroaches, mice, and rats had massively infested the maximum security building.
- Roof leaks were causing tiles to fall.
- Pipes did not have vacuum breakers, creating the danger of wastewater backing up into the system, even in the food preparation area.

After hearing testimony and visiting the prison, the Federal District Court Judge ruled that conditions at the prison created a total environment where debilitation was inevitable. He described the prison as unfit for human habitation and shocking to the conscience of a reasonably civilized person.

In another case, a Tennessee judge cited the State corrections system for allowing health and safety hazards that not only violated prisoners' Federal and State constitutional rights, but State statutes as well. The court found that prisoners were housed in insanitary and poorly lit, heated, and ventilated facilities which fell far below minimum public health standards and presented serious fire and safety hazards that threatened the health of the plaintiffs.

Local jails as well as State facilities have been involved in conditions of confinement litigation. The District of Columbia jail, for example, was cited by a Federal District Court Judge for violating numerous building, plumbing, and fire codes as well as housing, health, and food regulations. Courts have drawn similar conclusions about other jails.

The courts have taken stringent steps to eliminate unconstitutional conditions. In Mississippi, for example, a Federal Judge ordered the Department of Corrections to close two camps at the State penitentiary. The Department was required to have the entire institution inspected quarterly by the State Board of Health, the State Fire Marshal's Office, and the State Building Commissioner. The warden was directed to improve preventive maintenance, sanitation, food service, and other aspects of the prison's operation. In Alabama, a Federal court assumed nearly complete control over the State system, making many major decisions. Only after the State agreed to remedy major deficiencies did the court release the institutions from its control.

PRISONS AND JAILS HAVE SUFFERED
FROM MANY YEARS OF NEGLECT

Correctional institutions over the years have been vulnerable to inadequate public support and significant budget cutting. Correctional officials advised us that governing bodies have traditionally responded to the public's demand for services at the expense of prisons and jails. They expressed

the view that much of the public has had no direct contact with correctional institutions, and that it has been indifferent to improving the living conditions of those confined. Further, they stated that only small constituencies have advocated greater support for correctional institutions.

Administrators of institutions which had been involved in litigation over conditions, informed us that court action had a positive effect by forcing communities to provide for increased funding for institutions. The administrator of one large jail we visited stated he hoped his institution would be sued over conditions. The administrator thought litigation would get him needed support, since the county commissioners had not provided adequate funds. The chairman of the county commissioners concurred with the administrator's position. He advised us court intervention was about the only way the institution--built over 100 years ago--would receive necessary funds, since public interest was not sufficient to warrant more funding. During our review this administrator initiated legal action against the State and courts to stop additional prisoners from being sent to the institution.

Although insufficient funding has been a major problem and may be the most frequently cited cause, other problems have contributed to and compounded the situation. Failure to deal with them would handicap any efforts to make permanent improvement.

Correctional facilities have lacked adequate maintenance programs

Inadequate maintenance has resulted in decay of correctional facilities and unsafe and insanitary conditions in many prisons and jails. Maintenance includes all actions taken to keep buildings and equipment in a serviceable condition and those preventive measures designed to detect and correct failures before they occur or develop into major defects. The effects of inadequate maintenance can easily be seen--inoperative plumbing and lighting, exposed electrical circuitry, peeling and worn paint, inoperative alarms, broken screens and windows, and rotting firehoses.

Other than inmate housekeeping and emergency repairs, little routine or preventive maintenance was done at most of the institutions we visited. Further, State and local officials informed us that this situation was not unusual. In this regard, Department of Justice environmental health

consultants informed us that inadequate maintenance was a major cause of the safety and sanitation deficiencies. They noted that the need for an adequate maintenance program is heightened by the overcrowded condition of many correctional institutions.

The consultants further advised that comprehensive maintenance extends the useful life of equipment and facilities and decreases their lifecycle costs. They were familiar with facilities that faced replacement rather than less expensive rehabilitation because of the lack of maintenance. They indicated that even though preventive maintenance has been proven to reduce equipment failure and facility deterioration, rudimentary programs do not exist in many correctional institutions. One cited the following reasons for inadequate maintenance:

- Correctional administrators are frequently unaware of the benefits of preventive maintenance.
- Few institutions have someone capable of developing a comprehensive maintenance program.
- Institutions do not receive adequate financial support for maintenance activities.

The consultant added that the effects of the latter --insufficient funds--can be diminished if the prior two causes are addressed.

Other officials have also commented on the need for maintenance. For example, a U.S. District Court Judge found that a State institution was "in dire need of being constantly surveyed and kept under scrutiny by environmental specialists able to identify priorities for public health needs and having competent personnel to achieve compliance with minimum standards ^{1/} of public health and safety applicable to penal institutions." Officials of one State, whose major prison had been involved in a conditions of confinement suit, also confirmed that maintenance was a major problem at the institution prior to litigation. The institution had no formal, organized maintenance program prior to litigation and was forced into a program by court action. The institution hired an experienced maintenance manager who developed a maintenance program within existing resources and who was responsible for significantly improving facility conditions.

^{1/}This State has health and safety standards which apply to correctional institutions.

Previously, maintenance was handled by former correctional officers without sufficient expertise or training. The institution, however, has been unable to obtain additional funds needed to expand its maintenance program. The institution, with 1,900 inmates, had only 16 electricians, plumbers, carpenters, and other tradesmen to support itself and several smaller satellite institutions scattered throughout the State.

The State Commissioner of Corrections informed us that the legislature routinely cut the institution's maintenance requests, and he blamed the cuts on a lack of understanding of institutional maintenance requirements. He also stated that the legislature expects unskilled inmates to perform much of the maintenance--something which cannot be done if lasting results are expected. The Commissioner fears a new \$30 million prison may be unfit or unuseable in 10 to 20 years if this attitude continues. The Department of Justice consultants indicated that the Commissioner's fears were not unfounded. They were familiar with another major institution which had fallen into total disrepair and became almost uninhabitable within 5 years because of the lack of proper maintenance.

In another institution, maintenance problems extended beyond just the lack of a maintenance program or insufficient funds. Prior to litigation, this institution had no maintenance program. After litigation it set up a program and was able to obtain more adequate funding for both routine and preventive maintenance. This institution, however, is having other types of problems developing an effective program. The institution's facility manager has had difficulty in identifying materials and equipment durable enough for use in correctional facilities. The facility manager indicated that he was significantly handicapped by the lack of reliable information. He has had to rely on businessmen and trade correspondence for much information on materials and equipment. He had often been misled and has occasionally bought unsatisfactory equipment and materials which had to be replaced, diverting funds from other necessary projects.

The sheriff of a county with over one million residents also told us that he has had problems identifying proper equipment and materials. He had difficulty identifying paints, wall coverings, and furniture appropriate for jail use. Fortunately, he had sufficient resources to hire consultants and to test equipment and materials. He saw a much bleaker situation for most other jail administrators who lacked the resources to be able to get such help.

Confinement facilities have unusual equipment and material problems. Plumbing and electrical apparatus and fixtures need to be protected against destructive inmates. Paints, bedding, finishes, and flooring must be highly fire resistive as well as durable. Locks and doors must be secure enough to restrain inmates but also reliable enough to guarantee opening during emergencies.

The latter points were graphically illustrated during the July 1977 fire at the Danbury Federal Correctional Institution, (see GAO Report GGD-78-82, Aug. 4, 1978, for details), and the June 1977 fire at the Maury County Jail (Columbia, Tennessee). At the Danbury institution, inappropriate wall coverings developed an acrid, dense smoke, and an unreliable door hindered rescue efforts. At Maury County Jail, where 42 people died, the National Fire Protection Association reported that the polyurethane mattresses generated fatal smoke.

Inspection programs have not been used to improve conditions

As illustrated earlier in this chapter, inspection agencies have documented serious safety and health hazards in many correctional facilities. State and local safety and health inspection agencies could make a valuable contribution to improving environmental conditions by identifying deficiencies, alerting corrections administrators to dangerous conditions, and enforcing health and safety standards. However, variations in State and local laws, inadequate agency resources, and low interest in prisons and jails have kept inspection agencies from providing these valuable services.

Thirty-two States have inspection programs for correctional institutions. Jails are included in all 32 but State institutions were included in only 15. Also, the programs varied in inspection frequency, enforcement power, and type of assistance provided administrators.

Many jail inspectors were not qualified to perform safety and sanitation inspections. Although inspectors may have had experience in jail operations or attended jail operations training courses, almost none had any safety and sanitation training. Officials in charge of State inspection programs told us that they were using unqualified personnel to perform environmental health inspections and that the inspectors were primarily using common sense to identify as many problems as they could. Additionally, they lacked

the basic equipment needed to measure critical areas, such as air and water temperature and air flow. Further, they often lacked the enforcement power to do anything about deficiencies, or they hesitated to take action because of local political concerns.

Agencies such as State and local fire marshals and health departments sometimes inspected prisons and/or jails as a normal part of the agency's general inspection program. However, the coverage afforded was inconsistent and irregular with rarely any significant impact on conditions. These agencies were often handicapped by the lack of specific standards for dealing with the unique circumstances surrounding correctional institutions. For example, locked doors and confined movement create unique problems, but many agencies used general standards which did not address such constraints.

State agencies did not coordinate their inspection programs to insure that correctional institutions were adequately covered. At times health and safety officials were not authorized to either inspect prisons and jails or to enforce compliance with their standards.

The following examples illustrate some of the inspection problems noted in the States that we visited:

--The Corrections Department of one State conducts comprehensive inspections of jails, although inspectors had little environmental health training or background. The State Fire Marshal's Office had not inspected 69 of 119 county jails because of the low priority given such facilities--just below pool halls. Inspection coverage is not uniform because the State has no specific regulations for penal institutions, and inspectors decide what is allowable as they go along. Health officials had not inspected 49 jails, even though department regulations pertaining to confinement facilities had been issued. Neither the Fire Marshal nor Health Department routinely follows up on deficiencies noted during inspections of county institutions. They both question the extent of their enforcement power since the facilities are publicly operated and are kept open despite adverse findings.

--In another State, the Department of Correction inspects county jails for conditions of confinement, including safety and sanitation. The Department has not exercised its enforcement power and is hesitant to do so for fear of aggravating county officials. Neither the State Fire Marshal nor the occupational health and safety agency has jurisdiction in State or local correctional institutions. The State Department of Public Health has the jurisdiction to inspect and regularly inspects county and State institutions. However, the Department claims to lack enforcement power and is often ignored.

When inspection practices are incomplete, infrequent, or do not include followup procedures or enforcement power, deficiencies remain unexposed or uncorrected. As noted earlier, a Federal Court judge ordered one State to close two camps at its penitentiary and required State agencies to inspect quarterly. Until the Court ordered these inspections, the State Fire Marshal, the State Health Department, and the State Building Commission had only a general mandate to inspect the prison which resulted in infrequent inspections, no follow-up and no enforcement.

Correctional personnel have not been adequately trained

The lack of training for institution staff has been another major safety and sanitation deficiency within prisons and jails. Staff can contribute significantly to improving health and safety conditions. Knowledgeable, aware officers can routinely check fire extinguishers for proper pressure, inspect fire hoses for indications of rot and tampering, and identify safety hazards, such as blocked fire exits, excessive flammables, unsafe wiring, rodent activity, poorly lighted cells and work areas, and leaky pipes. More importantly, however, staff is expected to assume important roles during the identification of fires, the evacuation of occupied areas, the rescue of trapped individuals, and the control and suppression of fires.

Many correctional facilities have provided staff with little or no training in how to detect hazards and how to react in dangerous situations. The staff and, therefore, the institutions are poorly prepared to deal with potential emergencies.

Some officials do not recognize the potential that staff

has to improve environmental conditions when trained to identify safety and health deficiencies and react to dangers. Other officials who recognize the need for training, frequently state that budget limitations preclude funding for environmental health training. However, officials who have trained their staffs in safety and sanitation and safety experts have concluded that the training needed is minimal and inexpensive when compared to its potential for improving conditions.

IMPROVEMENTS ARE BEING MADE IN SOME STATES

Although unsafe and insanitary conditions persist in many prisons and jails, some officials have taken action to correct the deficiencies and eliminate health and safety risks. Court orders and actions by health and safety agencies have forced some State and local officials to improve environmental conditions, while other officials have voluntarily made improvements.

Although officials have taken different approaches in making improvements, certain similarities existed in those efforts that appeared to be succeeding: officials decided to make changes; health and safety agencies were active in identifying problems and enforcing corrective action; agencies cooperated with one another and, where needed, funds were made available. However, it should also be noted that officials previously involved in conditions of confinement suits indicated that, although changes were being made, increased Federal assistance would have helped in making improvements.

Connecticut has been aggressive in improving conditions

In about 1970 the State of Connecticut assumed control of the county detention centers (jails). The State has begun to replace or upgrade several of those facilities (some dating back as far as the early 1800s) and has also begun to upgrade its State prisons.

By making comprehensive inspections, State health and safety inspection agencies have helped insure that safety and sanitation are satisfactory. The agencies enforce their recommendations for improvements through followup visits, interagency coordination, and even penalties. The Department of Corrections has cooperated with these agencies and has used their expertise in identifying problems.

The State Department of Health has inspected institutional food services at least quarterly and entire institutions annually. Inspection reports have been sent to the Commissioner of Corrections as well as to institution administrators. Administrators were required to promptly correct deficiencies. The Health Department performed followup compliance inspections, and failure to correct was reported to the Commissioner of Corrections as well as the Governor's Office.

Prior to 1977, the State Fire Marshal had not inspected correctional facilities for a number of years. After the fatal Danbury Federal Correctional Institution fire, the Fire Marshal inspected every institution and identified numerous deficiencies. Detailed inspection reports were sent to the Commissioner, institution administrators, and the Governor's Office. The Fire Marshal required replies from the Department and institution detailing plans for corrective action, and the Governor's Office was notified of the responses. The Fire Marshal monitored the corrective actions. Further, the Fire Marshal assisted the Department of Corrections in incorporating fire prevention and control procedures into correctional officer training programs.

The State Occupational Safety and Health Division began inspecting State correctional institutions in 1975. This agency not only identified deficiencies and verified deficiency elimination but also fined the Department of Corrections for significant safety violations. This procedure is the same one used to deal with industrial violators.

The Department of Corrections has given high priority to the elimination of health and safety deficiencies identified by other agencies. A review of the Department's capital outlay budget revealed that environmental improvements topped the list of construction projects. For example, in Fiscal Period 1979-80 the number one priority was the demolition of unsafe buildings, the second priority was making fire safety improvements to one institution (a direct result of the Fire Marshal's inspection and a rash of prison fires nationally), number three was replacement of an antiquated facility, and the fifth priority was a general improvement of fire safety throughout all institutions.

The Department also assigned a headquarters unit responsibility for systemwide maintenance. This unit has helped individual institutions develop routine maintenance programs. The unit also periodically inspects institutions to verify program implementation and was in the process of developing

more comprehensive maintenance programs, including specific and detailed preventive measures for individual institutions.

Connecticut was aware of the potential for safety and sanitation problems and has worked hard to improve the environmental health conditions in its correctional institutions. The State has removed some of those obstacles hindering cleanup of its correctional institutions and has made progress.

Maine has taken action against unsafe county institutions

Maine has addressed safety conditions in its correctional facilities. The State Jail Inspector, during routine inspections of county jails, has identified unsatisfactory fire safety conditions. The State Fire Marshal does not routinely inspect jails, but rather he relies on the Jail Inspector to identify problems. The Fire Marshal has ordered two counties to close their jails. One was allowed to reopen after the county improved fire safety. A third jail was closed by Court order, and a new jail was built. Several other Maine counties have built new jails or renovated existing ones. At least one county did so because it feared action by the State.

The State Jail Inspector also routinely evaluates sanitary conditions at county institutions, but he felt unqualified to do a thorough job. He advised us he did not have the training or expertise needed to do more than a very rudimentary job; however, he stated he would request assistance from other State inspectors, including the Health Department, when confronted with problems in areas in which he had no expertise.

Utah has taken a close look at its State Prison and has done something about it

The State of Utah was sued in 1977 over a number of conditions at the State prison. Significant among the alleged substandard conditions were major safety and sanitation violations.

The Department of Corrections and State Attorney General requested several State health and safety inspection agencies to comprehensively inspect the State prison and either verify or disprove the allegations. Previous testimony by Department of Justice experts had alleged substandard conditions but had not aided the State in identifying specific problems. The State inspectors found hundreds of State code or standards

violations, some serious, many of which were unknown to the prison administration.

State officials realized that the conditions needed to be improved and that it would be fruitless to further contest the suit. They agreed to undertake immediate changes.

Since then the Department, in cooperation with the other State agencies, has worked to correct the deficiencies. A comprehensive maintenance program has been initiated, repairs made, and State inspections continued. Also, the State plans to completely upgrade the institution.

Increased Federal assistance
would have been helpful

Officials from several States previously involved in conditions of confinement suits, as well as some local administrators in similar positions, indicated that direct Federal assistance would have expedited cleanup in their facilities. In those cases where the Department of Justice was involved, its participation was primarily adversarial--fact-finding for the court or working with the plaintiff.

The officials believed the Department could have assisted them in identifying problems, determining the areas of greatest need, and directing technical and financial assistance from internal agencies and other Departments to these institutions. Further, they felt that assistance would have expedited the correction of deficient conditions and made the institutions inhabitable sooner.

CONCLUSIONS

The solution to improving deficient environmental conditions that exist in State prisons and local jails involves more than increased funding. Correctional institutions need adequate maintenance programs, trained correctional personnel, and inspection programs capable of detecting deficiencies and ensuring their correction.

The responsibility for improving State and local correctional facilities rests primarily with State and local governments, and some action is being taken. Officials making the changes recognize their responsibilities but, at the same time, see the need for increased Federal participation to aid them in making improvements. A more detailed discussion of this matter is presented in the following chapter.

CHAPTER 3

THE DEPARTMENT OF JUSTICE COULD DO MORE

TO ASSIST STATES AND LOCALITIES

IN MAKING NEEDED IMPROVEMENTS

Five organizations within the Department of Justice are actively involved with the conditions of confinement within prisons and jails--the Civil Rights Division, the Marshals Service, the Bureau of Prisons, the Law Enforcement Assistance Administration, and the National Institute of Corrections. Their activities include litigation of conditions of confinement, boarding Federal prisoners in State and local correctional institutions, operating Federal institutions, and providing financial and technical assistance to States and localities.

None of these agencies has the authority to require State and local correctional institutions to improve their environmental health conditions, nor do they have the financial resources to fully subsidize needed improvements. But, collectively, these agencies can provide a considerable amount of information and assistance to States and localities which are interested in improving their situations.

THE CIVIL RIGHTS DIVISION'S EFFORTS COULD BE EXPANDED

The Department of Justice's Civil Rights Division is charged with protection of individuals' civil rights as guaranteed by the U.S. Constitution and other laws. The Division's involvement with conditions of confinement in prisons and jails has primarily taken the form of participation in litigation. The Division has been involved in a number of cases concerning correctional institutions, but because of limited staffing it has restricted its correctional institution efforts to only the most major cases--usually involving State institutions or very large county jails. The Division hopes that participation in such cases will maximize its impact by aiding the greatest number of confined individuals. Further, it hopes the actions against major institutions will persuade smaller ones to comply. The Division has met with some success in obtaining correction of conditions. However, the Division could do more to help institutions that are trying to improve.

Since 1971, the Attorney General, through the Civil Rights Division, has participated as an intervenor of the court in over 25 civil actions seeking to redress violations of constitutional and Federal statutory rights of persons residing in State institutions. Four years ago, the Attorney General initiated two conditions of confinement suits to protect the rights of institutionalized persons. Since the suits did not seek relief on the basis of discrimination or denial of equal protection on account of race, religion, color, sex, or national origin, the Department could not base its authority to sue on Titles III or IX of the Civil Rights Act (42 U.S.C. 2000b, 2000h - 2). The Fourth and Ninth Circuit Courts of Appeals held that the Attorney General, in the absence of explicit statutory authority, lacked standing to challenge the constitutionality of conditions of confinement in State and local institutions.

Responding to these decisions, recently passed legislation provided the Attorney General express statutory authority to initiate and intervene in civil actions involving institutionalized persons. 1/ Prior to such action, the Attorney General must, among other things, provide 49 days notice to State and local officials of alleged substandard conditions, ways those conditions may be remedied, and information about financial, technical, or other assistance that may be available from the United States.

The Civil Rights Division had not routinely provided such information to institutions it believed to be violating inmate rights. Although it had, at various times, informally provided such assistance, the decision to provide it was made on a case-by-case basis.

While court intervention can improve conditions and is necessary in some instances, it may not be the most desirable solution for every case. Successful conditions of confinement cases usually result in some form of court order directed to and binding upon only the parties to the lawsuit. Penal systems and institutions not parties to the litigation generally are not bound by court orders. This is a major drawback to relying upon litigation to identify and remedy substandard conditions on a broad scale.

Litigation is by its nature reactive--that is, it generally deals with existing conditions that are severe enough to warrant court action. Condition of confinement cases ordinarily are not filed to prevent the development of

1/ Civil Rights of Institutionalized Persons Act, Pub. L. No. 96-247 (42 U.S.C. 1997 et seq.).

substandard conditions. Further, litigation is sometimes ineffective because the substandard conditions involved, though serious, may not be severe enough to violate law or the Constitution in the view of the court hearing the case.

Additionally, litigation can be expensive and slow-- it is not uncommon for the final disposition to take several years. Until the case is resolved, unacceptable conditions may continue to exist.

The Civil Rights Division is in a position to assist in developing quicker solutions. Because of the investigative nature of its early contact with suspect correctional institutions, the Division may be the first Federal agency aware of an institution's safety and sanitation problems. Since the Division utilizes experts with the ability to both identify deficiencies and map out strategies for dealing with them, it should be able to put those institutions with environmental health problems in contact with Federal agencies that could assist them.

The new legislation only directs the Attorney General to provide advice and assistance to institutions against whom he plans to initiate civil action. However, the Division could routinely provide similar advice and assistance to all institutions it comes into contact with that have condition of confinement problems, regardless of whether or not civil action is warranted. This approach could lead to quicker solutions to complicated problems.

THE MARSHALS SERVICE IS IN A UNIQUE POSITION TO AID IN IMPROVING LOCAL JAILS

The United States Marshals Service is responsible for the care and custody of Federal prisoners awaiting trial, sentencing, or transfer to a Federal facility. The Service contracts with about 800 local jails for the care of Federal prisoners. Service personnel inspect the contract jails at least annually and attempt to assist jail administrators with upgrading their facilities to meet professional standards.

In response to poor conditions in many contract jails, the Service initiated a Facility Improvement Program to improve the physical conditions in contract facilities, using excess funds from the inmate support appropriation. The program included direct financial and technical assistance, and referrals for assistance to other agencies and organizations, including the National Institute of Corrections, the Bureau of Prisons, and the American Medical Association. Additionally, the Service transferred surplus Federal property to contract facilities needing it. The Service gave priority for assistance to institutions with substantial Federal use,

outstanding court orders for improvements, and unfavorable health and safety inspection reports.

In June 1979, the Office of Legal Counsel, Department of Justice, ruled that there was no authority for use of the prisoners support appropriation for a Facility Improvement Program. The program was terminated until specific statutory authority was enacted and funds appropriated. Legislation is pending which would grant the Service such authority.

The General Services Administration informed the Marshals Service that it opposed the Service's transfer of surplus Government property if it was not to be used exclusively for Federal prisoners. As a result, the Service has cut back on its property distribution.

The Marshals Service has provided services to prisons and jails and could further assist in improving jail conditions. The Service could provide both technical assistance to jail administrators and help in upgrading the capability and coverage of State inspection agencies. However, the following problems limit the Service's ability to provide such assistance.

Marshals Service enforcement specialists have limited training

Deputy U.S. Marshals, called enforcement specialists, are responsible for identifying jails needed to hold Federal prisoners, evaluating jail conditions and operations, negotiating contracts with jail administrators, and day-to-day administering of jail contracts, including inspections.

Enforcement specialists perform three types of inspections on contract jails:

- Preliminary, a quick assessment of a facility before contract negotiations begin.
- Pre-award, a detailed assessment of a facility before a contract is signed.
- Standard comprehensive annual reviews of institution conditions (as well as any interim inspections deemed necessary).

Jail inspections encompass a number of areas, including the evaluation of environmental health conditions. The specialists advise jail administrators on facility improvements needed, including safety and sanitation.

When the Marshals Service assumed responsibility for the prisoner program in 1978, the Service initiated an 80-hour training course including 20 hours on jail inspection and standards, so that the specialists could evaluate local jails.

The standards training includes 1-hour sessions in:

- Physical plant.
- Emergency plans.
- Sanitation, health, and hygiene; and
- Food services.

The service had requested funds to provide 84 hours of inspection training, but the Justice Department approved only 20 hours. Service officials recognize the limitations, especially in the safety and sanitation areas, of the jail inspector training. However, the specialists are encouraged to continue their efforts and seek expert help when needed and available. Specialists are encouraged to refer jail administrators with problems to the National Institute of Corrections for assistance.

Environmental health experts informed us that 20 hours of training was inadequate, as were 1-hour programs in the above. They believed an inspector so trained might be able to identify only the most obvious and gross problems and would not be able to provide worthwhile information on many potentially dangerous environmental conditions.

Enforcement specialists also lack equipment needed for thorough environmental health inspections. As with many State inspectors, the Federal inspectors have no devices for measuring temperatures, air flow, or light levels.

Coordination with State
jail inspectors needed

Thirty-two States have jail inspection programs which provide for inspection of local jails, and many of the 800

contract jails are in States with jail inspection programs. The Service has no policy regarding coordination or cooperation between Federal and State inspectors to share information or avoid duplication of effort. The degree to which individual enforcement specialists contact their State counterparts is unknown.

A Service official stated that overseeing Federal jail contracts and inspecting facilities is the Marshals Service's responsibility, and he did not believe it could be shared with or delegated to others. Further, he stated that since the Service had no specific authority to assist State inspection agencies, and the Service could not replace its own efforts with those of State agencies, he saw no real need for cooperation and coordination. We view this to be a rather shortsighted approach to resolving mutual problems.

THE BUREAU OF PRISONS' EXPERTISE
AND EXPERIENCE COULD BE VALUABLE
TO STATE AND LOCAL AGENCIES

The Bureau of Prisons is one of the country's largest correctional systems, with 49 institutions and about 23,000 inmates. It has extensive experience in institution operation, including maintenance and safety and sanitation in institutions of various sizes and types. Much of this experience could be valuable to many other institutions.

The Bureau has provided, on request, some technical assistance to non-Federal corrections institutions, either directly or through the National Institute of Corrections, primarily on topics such as institutional security and classification. Further, the Bureau recently opened its own National environmental health training program to State correctional officials--response to date has been sparse.

The Bureau does not routinely disseminate safety, sanitation, and maintenance information to non-Federal institutions so that those facilities could benefit from those lessons learned by others. An example of this situation occurred subsequent to the Danbury fire of 1977. One problem encountered during the fire by potential rescuers was a jammed door. The force of trapped inmates pressing on the door caused the door to be inoperative. After the fire, the Bureau worked with the lock manufacturer to develop an inexpensive modification which reduced the effects of the pressing. The Bureau circulated this information only to its institutions and not to other institutions that might face similar problems.

In another situation, however, the Bureau did circulate important safety information to other correctional officials through the American Correctional Association (ACA). Subsequent to a gas explosion at its Leavenworth facility, the Bureau discovered flaws in its safety program regarding gas transmission line inspection procedures and requested ACA to disseminate such information to members.

While the Bureau should be given credit for informing others of this lesson learned, this practice should not be limited to a few isolated pieces of information. Rather, the Bureau should routinely disseminate a variety of lessons learned regarding safety and sanitation.

Additionally, the Bureau's assistance to State and local correctional officials could be expanded to include the safety and sanitation area. The Bureau has extensive experience in safety and sanitation it could share with others. The Bureau could open some of its institutional safety training for correctional officers to non-Federal corrections officers and conduct seminars and workshops at locations in the field, including at its own facilities.

Bureau officials advised us that they envisioned no problem with disseminating maintenance, material, and safety information to State and local corrections officials as long as some mechanism for disseminating existed. Much of the information needed already exists in Bureau policy and procedure statements. They indicated that the National Institute of Corrections and the American Correctional Association were probably the most likely organizations for such a mechanism.

LEAA SHOULD PROMOTE THE DEVELOPMENT OF MAINTENANCE STANDARDS

LEAA provides funds to State and local governments to improve their criminal justice efforts, including corrections programs. Limited funds and numerous demands for those funds have prevented LEAA from providing substantial assistance to deal with conditions of confinement, including safety and sanitation. However, it has taken several actions to assist corrections administrators in improving the environmental conditions within institutions. The agency has financially supported the development of correctional standards both by professional organizations, such as ACA, and State agencies. Additionally, it has funded the startup of some State jail inspection programs.

Currently, LEAA is funding a project designed to have 11 States adopt ACA standards for their State institutions and has an initiative underway to assist local facilities in reducing overcrowding. The project involves improving the system for classifying prisoners so those not requiring confinement prior to trial can be released.

LEAA should expand its standards development into maintenance

Although it does not seem likely that LEAA, in view of the varying demands on its resources, will be able to make a major financial commitment to improving environmental health conditions in prisons and jails, it can be helpful in promoting such improvements. LEAA can show its concern and interest in improving substandard conditions and be a catalyst for State action. A useful way of demonstrating such interest would be to support the development of maintenance standards and a guide for implementing both the maintenance standards and the general professional standards that have been developed.

Maintenance standards could be developed utilizing the skills and expertise of the Bureau of Prisons, as well as other Federal agencies with extensive experience maintaining property, such as the Department of Defense and General Services Administration; and professionals in the environmental health and maintenance fields. Department of Justice consultants believe that such standards would not be expensive to develop and would provide corrections administrators with a valuable tool to use as

- a guide for developing institutional maintenance programs,
- criteria for measuring institutional performance and conditions, and
- a basis for realistically informing funding officials of the resources needed to adequately maintain facilities.

Further, more specific guidance to correctional administrators is needed on how to develop institutional maintenance and environmental health programs which respond to the standards. The individuals in the position to develop and implement such programs are usually correctional professionals and are not specialists in either environmental health or maintenance.

They require specific guidance, especially in technical issues. LEAA has contracted with the American Medical Association to provide similar implementation guidance for health care standards. Although such assistance will not eliminate the need for environmental health specialists, it will make correctional officials more selfsufficient in the area.

An LEAA official advised us that the agency had not planned to participate in the development of maintenance standards or implementation guidelines. It had planned to bow out of the standards area with the completion of its current project. LEAA believed the accreditation process would help solve environmental health and maintenance problems, and it considered the introduction of additional standards as a source of potential confusion and aggravation for corrections practitioners. The official agreed with us, however, that accreditation in the near future, especially for smaller institutions, is unlikely.

Although the rapid proliferation of standards could be a source of confusion and aggravation, the need for immediate improvements in maintenance is clear. Additionally, improvements in institutional environmental health would assist institutions in preparing for future accreditation.

OPPORTUNITIES EXIST FOR THE
NATIONAL INSTITUTE OF CORRECTIONS
TO BECOME MORE INVOLVED IN
ENVIRONMENTAL HEALTH

The National Institute of Corrections, a small Federal agency charged with leading the development of a more effective, humane, and just correctional system, has been aware of the substandard environmental conditions in prisons and jails and has made some effort to deal with the deficiencies. The Institute could, however, improve its effort by using the expertise of other Federal agencies and existing internal mechanisms.

Some effort has been made to deal
with environmental health problems

The Institute, with a budget of about \$10 million, was created to strengthen and improve local correctional agencies and programs. Its mandate is to provide training, technical assistance, research and evaluation, policy and standards formulation, and clearinghouse services.

The Institute relies upon correctional practitioners to assist it in determining the tasks to be undertaken. It

relies heavily upon input and requests of prison and jail officials to assist it in developing overall program emphasis and in establishing the need for specific technical assistance. Because of its limited resources, the Institute has focused on the most commonly identified problems.

Institute officials advised us that they had received few requests for environmental health assistance. They did not believe the lack of requests reflected the lack of a problem and believed safety and sanitation deficiencies to be widespread and serious. However, since the Institute responds primarily to practitioner input before setting up programs and providing technical assistance, it has done little about safety and sanitation.

The Director of the Institute's Jail Center believed that environmental health deficiencies were so common and had existed so long that administrators no longer recognized them as a problem. Additionally, he believed that because inspection agencies were not explaining the significance of deficiencies and their potential for harm, many administrators either felt that their environmental health problems were minimal or that they could handle such problems themselves. The Director stated that correctional administrators preferred aid in technical issues they saw as problems, such as inmate classification.

The Institute has assisted some State and local officials in dealing with some environmental health-related problems. Subsequent to the fatal facility fires of 1977, the Institute contracted with the National Fire Protection Association to develop a fire safety training program for corrections officials. During Fiscal Year 1979, the Association conducted 4 3-day seminars attended by over 150 corrections officials. During Fiscal Year 1980, the Institute plans to sponsor 5 additional seminars, reaching at least another 100 corrections officials.

The Jail Center has assisted several States in developing and implementing standards for jails. As with the professional standards, these are primarily operational and are not oriented to environmental health issues. Also, the Center is encouraging compliance with American Correctional Association standards and national accreditation.

One recent jail grant deals with some aspects of the safety and sanitation issue. The grant will support an evaluation of the physical condition of the facilities, including adequacy of toilets, showers, etc., as they relate to safety and security. Hopefully, the project will develop tools to enable administrators to evaluate the adequacy of a jail's physical environment.

Information is needed on the materials and equipment suitable for prisons and jails

Correctional officials have advised us that they have experienced problems in the selection of equipment and material suitable for use in confinement facilities. (See ch. 2.) The special problems of correctional institutions, such as vandalism, security, and heavy use must be considered along with complexity of fire safety associated with people having little freedom of movement. Such information is not readily available to many administrators. The Institute could provide a valuable service to corrections officials if it made this type of information available.

The Institute can use the expertise of other Federal agencies

Several Federal agencies have the skills and experience that the institute could use to provide information on the adequacy and serviceability of materials and equipment. The Bureau of Prisons, as well as the General Services Administration and Department of Defense, operate a variety of facilities and, as in the case of maintenance, would have extensive experience using materials and equipment. This experience could provide the Institute with much of the basic information useful to State and local correctional officials.

Further, the National Bureau of Standards has resources available to answer correctional officials' equipment and material questions. The Bureau both establishes a wide range of performance standards for equipment and material and evaluates products for compliance with standards. The Bureau has previously cooperated with law enforcement officials in establishing standards and testing equipment such as handcuffs and bullet-proof vests, and officials indicated they were willing to similarly assist corrections officials in evaluating equipment and material.

Regional resource centers could be used to disseminate information

The National Institute of Corrections has established six local jails as regional resource centers available to provide technical assistance to other jails. The Institute and LEAA plan to jointly establish six additional regional resource centers. The resource centers assist other jails with problems

Although none of the centers were selected for safety and sanitation or maintenance expertise, the Institute could use them to disseminate any information they developed concerning the adequacy of material and equipment.

Environmental health
training should be expanded

Significant improvement of the environmental health problems within prisons and jails will require better trained and prepared personnel. It is in this area that the Institute could do more to improve the existing situation. The current fire safety training effort addresses an important need but, more could be done.

Trained correctional personnel can contribute significantly to improving health and safety conditions within prisons and jails. Although correctional officers and other trained staff cannot be expected to do the job of experts in all aspects of environmental health, they can go a long way in augmenting the efforts of these experts. Competently trained resident staff could execute the instructions of environmental health specialists who set up institutional programs and help implement the maintenance standards. This type of support would be particularly valuable in smaller correctional institutions, since they could not support full-time environmental health specialists. Staff in many institutions get little or no safety and sanitation training. Many of the approximately 4,000 jails in this country are small, and their resources are too limited to establish adequate safety and sanitation training.

The National Institute is picking up part of the environmental health training burden by sponsoring its fire safety seminars, but these seminars will only reach a small number of officials and institutions. It is also unlikely that the training will reach officials of the hundreds of very small jails lacking the resources to send personnel to seminars in distant locations, although these officials could well be in the most need of assistance. Fire safety training should be expanded by making it available to a larger number of officials in a larger number of locations. Such expansion may be possible through the resources of other Federal agencies such as the U.S. Fire Administration.

The U.S. Fire Administration, located within the Federal Emergency Management Agency, assists local officials in dealing with the problem of fire. Fire Administration activities include developing and conducting training programs. Currently, the agency is staffing regional offices to increase its accessibility to local officials.

dealing with the problem of fire. Fire Administration activities include developing and conducting training programs. Currently, the agency is staffing regional offices to increase its accessibility to local officials. The Fire Administration has also assisted other Federal agencies in developing standards and training programs oriented toward facilities with special fire safety problems, i.e., nursing homes. Fire Administration officials advised us that their agency would be receptive to requests from the Department of Justice to develop similar fire safety programs for prisons and jails. They also stated that their regional offices could be valuable in bringing training and information to local corrections officials. The officials added that the Fire Administration's ability to respond would of course depend on availability of resources.

Further, the Institute should consider expanding the scope of its training to other aspects of the safety and sanitation problem, including maintenance. Although these programs would not convert correctional officers into environmental health specialists, plumbers, or electricians, they would create awareness within institution staff and leave them with basic skills. Such programs could well be run by State or local health and safety agencies under the oversight of Institute staff and consultants.

CONCLUSIONS

Although various agencies of the Department of Justice have been involved with State and local correctional institutions, more could be done. A more proactive approach to addressing environmental problems could not only assist willing correctional administrators but also serve as an impetus to begin improving environmental health conditions.

RECOMMENDATIONS

We recommend that the Attorney General examine the Department of Justice's approach for dealing with safety and sanitation deficiencies in State and local prisons and jails. The Department should develop a strategy for making better use of existing resources to assist State and local officials in improving environmental health conditions in correctional institutions. As part of this strategy, the Attorney General should:

- Expand the role of the Civil Rights Division so that it assists troubled institutions desiring assistance in solving environmental health problems, even though the conditions encountered do not warrant civil action.

- Upgrade the Marshals Service's jail inspection services program, by including better training, using its resources and expertise to assist jail administrators and inspectors in improving their effectiveness, and exploring the possibilities of increased coordination and cooperation with State and local inspection agencies.
- Direct the Bureau of Prisons to work with the National Institute of Corrections to set up a mechanism for disseminating information on its environmental health experiences to correctional officials at all types of institutions and for opening more Bureau training to State and local officials.
- Encourage and assist State and local officials to develop maintenance programs by directing LEAA to support the development of maintenance standards to be used as models by correctional officials and of detailed guidelines which will assist administrators in implementing plans to meet the standards.
- Establish a program within the National Institute of Corrections for disseminating information regarding equipment and materials suitable for correctional facilities. This information could be obtained from the Bureau of Prisons and other Federal agencies with knowledge of maintenance, equipment, and materials, such as the Bureau of Standards, the Department of Defense and the General Services Administration.
- Encourage the National Institute of Corrections to expand its environmental health training programs to reach a larger number of correctional officials and include a wider range of safety and sanitation programs. This program should utilize available State and local agencies involved with health, fire safety, and occupational safety, as well as Federal organizations with such expertise, including the U.S. Fire Administration.

AGENCY COMMENTS

The Department of Justice commented on a draft of this report by letter dated July 15, 1980. (See app 1.) In summary, the Department agreed that unsafe and insanitary conditions exist in State prisons and local jails and informed us that additional guidance and assistance would be provided.

The Department stated that the report outlined conditions in correctional institutions with considerable accuracy, but it believed that we treated the grassroot causes of such conditions very lightly. We recognized that the causes of the conditions we found are very complex and did not intend to imply that this report contained all the answers for solving them. States and localities need to address the root causes, but doing that without taking into consideration the matters discussed in our report will result in improvements that are only temporary. Also, it is important not only to gain maximum benefit for whatever improvements are made, but also to take action to prevent and/or reduce the further deterioration of existing facilities.

As we pointed out in our report, we found problems, but we also found improvement. We believe the Federal Government should make sure that States and localities that are ready to deal with their problems receive all the Federal technical assistance possible.

The Department included comments pertinent to all of its agencies discussed in this report and was very responsive in providing positive feedback on the actions each planned to take. However, we believe two issues need to be further clarified--the need for additional resources in the Civil Rights Division and the question of availability of funds.

The Department's comments on the Civil Rights Division concluded by stating that given a substantial infusion of funds for the retention of experts, attorneys, and other personnel, the Civil Rights Division could do much more to address the serious problems and conditions of confinement that exist in many of this Nation's correctional institutions. Our recommendation regarding the Civil Rights Division dealt primarily with the Division assuming a more proactive role in the work than it now does by referring States and localities to other agencies within the Department. We did not envision a more active inspection program or an expanded sphere of duties for the Division as suggested by the Department although those options are always a possibility. If the Department decides to provide the Division with increased resources, it should first determine the extent to which these needs can be offset by using the resources already available elsewhere in the Department as well as in other Federal agencies.

Finally, we believe an important correlation needs to be drawn between the Department's comments and the situation discussed in our report. The report contains the view that more than additional funds will be needed to correct the inadequacies in our Nation's correctional institutions. That same position applies to the Department of Justice. Although it is true that more could be done with additional resources,

of the USMS foresaw the Department's legal liability in committing Federal prisoners to contract jails that are known to have substandard conditions of confinement which violate inmates' basic civil rights and may subsequently be harmful to their physical and mental health. As a framework for the Department to provide coordinated assistance to State and local facilities in improving their environmental health conditions, the USMS has a unique program capability to inspect, identify, and undertake both technical assistance and cooperative funding programs for contract jails. The program has been field-tested and is providing successful results. Programs are now being developed to provide training, technical and financial assistance, and excess Federal property to substandard jails so that adequate and acceptable quarters are available for Federal prisoners. The programs being developed incorporate and expand the level of participation and involvement of the National Institute of Corrections and Bureau of Prisons in jail improvement programs by bringing the needs of jails to their attention and by making their training programs available to State and local detention facilities as dictated by the results of USMS field inspections. Although the USMS has limited resources to devote to addressing the needs of non-Federal jails under contract, its program has considerable potential for identifying State and local needs, and accordingly every effort will be made to improve its effectiveness.

The following comments of the USMS relate to specific sections of the report as indicated:

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Page 27, section on "Coordination with State jail inspectors needed." The performance of contract jail inspections by USMS personnel is a mandatory aspect of their contracting responsibility. State or local inspections may augment, but should not be substituted for, USMS compliance inspections. The USMS has always had a policy of encouraging and supporting the exchange of information and resources with State and local inspection officials. The beneficial aspects of such cooperation is highlighted in USMS training courses for field personnel. The extremely

CHAPTER 4

SCOPE OF REVIEW

Our work included extensive detailed analysis of conditions in correctional institutions in six States--Connecticut, Kentucky, Maine, Massachusetts, New York, and Ohio. We visited institutions in five of those States and reviewed summary and individual inspection reports prepared by Federal, State, and local inspectors to support and document unsafe and insanitary conditions.

In some States we were unable to make a detailed analysis of the conditions within State institutions. These institutions were involved in litigation regarding conditions, and State officials were concerned that our efforts could compromise their position in court.

Our review also included more limited work in five States--Mississippi, New Hampshire, Rhode Island, Tennessee, and Utah. In those States, as well as in the other six, we spoke to various officials, including institution administrators, elected officials, and safety and sanitation inspectors; reviewed background material, legal cases, legislation; and, in one, we visited institutions.

The States were selected on the basis of their geographical location and size and were not considered to be better or worse than those not selected. Because the focus of this report is on identifying ways in which the Federal Government can assist States and localities rather than on identifying the specific problems of individual States, we generally have not identified States unless they seemed to be making headway in solving certain problems. This was done so that other States might be able to contact them to obtain additional information.

Additionally, we examined court decisions, literature, pending legislation, and laws and regulations in effect in some States. We spoke to representatives of professional and public organizations, including the American Correctional Association, American Civil Liberties Union, National Sheriffs' Association, and National Fire Protection Association.

To determine the efforts of Federal agencies to deal with the conditions and problems identified, we reviewed documents and spoke to officials at the Bureau of Prisons, Law Enforcement Assistance Administration, the National Institute of Corrections, the U.S. Marshals Service, Civil Rights Division (U.S. Department of Justice), and the National Bureau of Standards. We also spoke to State criminal justice planning agency

officials responsible for executing a large part of the LEAA program at the State and local levels.

We conducted our review in 11 States, 46 correctional facilities, and at Federal agencies within the Department of Justice, primarily between April and November 1979.



U.S. Department of Justice

JUL 15 1980

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter is in response to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "The Department Of Justice Can Do More To Aid States And Localities In Improving Conditions In Correctional Institutions."

The Department agrees that many State and local prisons and jails suffer from unsafe and unsanitary conditions and that additional Federal guidance and assistance can be given the administrators of these facilities to improve environmental health conditions for inmates. However, one of the major concerns of the Department is the fact that the providing of sustained and meaningful aid to States and localities by the five Departmental agencies mentioned in the report requires the application of substantial resources. Nonetheless, the Department recognizes the importance of its role and a concerted effort will be made to assist States and localities in improving the environmental conditions of their correctional facilities.

Overall, the report outlines the conditions in correctional institutions with considerable accuracy. While the report clearly makes its point that State and local prisons and jails lack (1) adequate standards, maintenance programs, and detailed guidelines, (2) State and local funding, (3) appropriately trained personnel, and (4) inspections, the principal grass-root causes which contributed to the above problems and needs are treated very lightly. While the deficiencies cited above are closely allied to the recommendations and contributed to the conditions found, the grass-root causes are important to point out because they signify continuous, long-term, rather than one-time, needs.

The grass-root causes are complex and greatly influenced by the following:

- massive population increases over the past 7 years.
- wide disparities in State and local resource commitments.
- varying perceptions and expectations with regard to the purposes of confinement sanctions.

- a generally uninformed public.
- the age of facilities in which inmates are confined.
- variations in expectational norms for the conditions of confinement and methods for measuring those conditions.

Between 1972 and 1978, the population of State correctional facilities increased nearly 48 percent. This increase represented an unprecedented rise in population in such a compressed time frame and, obviously, placed increased strain upon both staff and facilities to accommodate such changes. It is equally obvious that such high levels of demand for confinement occurred in the context of a relatively stable supply of beds and facilities, since new construction often takes many years between initial planning and occupancy. Present estimates are that for the period 1978-1982, capital spending programs by State and local correctional authorities will approach \$3 billion, primarily for additions to existing physical capacity, not replacement or renovation. With the likely growth of operating cost from \$2.5 billion in 1978 to nearly \$5.5 billion by 1982, the total cost of confinement (capital plus operation) is likely to be staggering. The willingness to confine, even at these high costs, appears to be steadily increasing and is likely to continue to place pressure and first priority on the management of populations as opposed to the remediation of environmental conditions. It should be pointed out that estimates for merely complying with the American Correctional Association standard of 60 square feet per inmate for the 1978 population are likely to be on the order of \$8-10 billion. This estimate does not take into account the kinds of problems noted in the GAO report. The addition of local jails to this estimate would produce a figure of incredible proportions. In any case, the GAO report fails to take into account these massive population pressures on facilities, the resources already being applied to grapple with this problem nationally, and the likely costs of remediating some of the most basic problems. While maintenance guides will be useful, emphasis must be placed on the control of population size as a first priority.

A second point relates to the distribution of resources. In 1977, direct current expenditures per inmate ranged from \$2,241 in Texas to nearly \$15,000 in Massachusetts. Obviously, States and localities are differentially willing and able to pay for confinement. Questions such as, How will Federal entreaties to do more to maintain facilities affect such wide variation in commitment to spend? How do the conditions in correctional facilities correspond to the conditions in other public facilities for non-offenders? What should the priorities be? need to be addressed.

A third problem not given sufficient recognition in the report concerns variable expectations for the use of confinement. As mental hospitals empty, prisons fill up. While local jail confinement rates have remained stable since 1970, prison intake continues apace. To what extent, due to pressures to minimize social control locally and in other sanction systems, are prisons the recipients of populations normally handled in other ways? To understand the confinement environment, such shifting of social control priorities needs to be explored. If, for example, greater

numbers of emotionally disturbed and retarded are flowing to prisons, new resource demands and expectations are placed on the correctional facilities handling these demands.

Aside from these issues is the realization that there are roughly 559 adult correctional facilities in the United States, approximately 250 of which were built prior to 1950. Twenty-two percent of the Nation's prison inmates live in facilities with populations of more than 1,000 constructed prior to 1925 and classified as maximum security. The GAO report needs to deal with the simple reality that many inmates are housed in very old facilities which are probably incapable of being sufficiently renovated to meet even the minimum standards considered essential in an environment deeply concerned with moral issues and the fear of a "revolving door" correctional system.

All of the Departmental agencies agree that the best use of existing resources to assist State and local officials can be achieved through close working interrelationships. To the extent common interrelationships do exist and coordinated strategies can be developed, this approach will be used. Since the report refers to specific Departmental agencies and addresses recommendations to them, each has provided comments on those portions of the report pertaining to their role of assistance to States and localities.

CIVIL RIGHTS DIVISION

Page 24 of the draft report states that the Civil Rights Division has not routinely provided information to institutions with regard to the manner in which violations of statutory and/or constitutional rights of institutionalized persons could be remedied and information about financial, technical, or other assistance available from the United States to State and local officials. However, the report recognizes that such information has been provided to such officials informally on a case-by-case basis. This is essentially accurate, but the Civil Rights Division believes additional elaboration on this aspect of its work would prove helpful.

The Civil Rights Division has at all times offered to discuss possible settlement of any cases filed by the Division with defendants. Where there has been an expressed willingness to pursue such negotiations by defendants, the Division has shared specific proposals with them to redress the violations and has in some instances made experts and/or their reports and other assistance available to defendants in order to elucidate the Division's views. This procedure has in several instances resulted in the resolution of such cases by Consent Decree without trial and attendant expense, and at the same time has provided the Division a meaningful mechanism to ensure compliance with agreed-upon remedial measures.

Where the Civil Rights Division has investigated an institution and determined not to pursue litigation, investigative files may be and have, in some instances, been obtained by State and local officials pursuant to the Freedom of Information Act as required by Departmental regulations. The Division, however, cannot always release all of its files to such

-4-

officials, since in many instances Privacy Act concerns are implicated and information has been made available to Division staff members by complainants upon the condition that it not be disclosed in view of their fears, real or imagined, of retaliation.

To the extent the draft report suggests that the Civil Rights Division undertake to render advice to institutions which are not the subject of litigation, the Department suggests that such an undertaking may not be appropriate to a litigating Division. The Department is not currently authorized to render legal opinions to State or local officials or to the public at large. Moreover, while the Department acknowledges that litigation is by its nature reactive and not, in many instances, proactive, it is also true that frequently, in the course of litigation, new violations and problems are discovered which can be addressed through the litigation process effectively. Furthermore, to the extent that the judicial process may be utilized to define broad parameters with respect to what conditions of confinement are minimally required by the Constitution and laws of the United States, litigation certainly does serve to provide constructive notice to State and local officials who are not subject to suit, but who possess a commitment to compliance with the law as to its requirements. In the Department's experience, such officials are all too often quite well aware of the types of grossly inadequate and inhumane conditions in their correctional institutions. Many possess the expertise to make needed changes, and many institutions against which the Department has litigated are already receiving Federal funds. The problem has been that the Federal funds and assistance available are, of necessity, somewhat limited, and State and local legislative bodies have been unable or unwilling, absent the compulsion of a court order, to make funds available to initiate expeditious and immediate change.

On May 23, 1980, President Jimmy Carter signed Public Law 96-247, the "Civil Rights of Institutionalized Persons Act" (42 U.S.C. 1997 et seq.). This law clarifies the authority of the Attorney General of the United States to initiate or intervene in cases, inter alia, involving persons in jails, prisons, or other correctional facilities for redress of deprivation of rights secured to such persons by the Constitution of the United States. The bill sets forth extensive prefiling certification requirements. With respect to original actions by the United States, Section 4(a)(2)(A) requires the Attorney General to certify that prior to commencement of an action under Section 3:

He has made a reasonable good faith effort to consult with the Governor or chief executive official and attorney general or chief legal officer of the appropriate State or political division of the institution, or their designees, regarding financial, technical, or other assistance which may be available from the United States and which he believes may assist in the correction of such conditions and pattern or practice of resistance. . .

Other provisions of the Act require the Attorney General of the United States to give notice to prospective defendants of the commencement of an investigation and to provide them with an analysis of any investigative findings which, in the opinion of the Attorney General, warrant correction. Prior to filing, the Attorney General of the United States must also endeavor to conciliate the case and certify that those efforts have been unsuccessful.

This Act should provide a vehicle for the systematic provision of information concerning available sources of Federal financial assistance which may aid in correcting found violations of the law. The Civil Rights Division contemplates developing close working relationships with Federal funding agencies to ensure that every appropriate consideration is given to the provision of financial assistance to correct established violations. To this extent, the Act will formalize the Civil Rights Division's practices and should assist prospective defendants in securing Federal financial assistance. However, it must be noted that Section 9 of the Act provides:

It is the intent of Congress that deplorable conditions in institutions covered by this Act amounting to deprivations of rights protected by the Constitution or laws of the United States be corrected, not only by litigation as contemplated in this Act, but also by the voluntary good faith efforts of agencies of Federal, State and local governments. It is the further intention of Congress that where Federal funds are available for use in improving such institutions, priority should be given to the correction or elimination of such unconstitutional or illegal conditions which may exist. It is not the intent of this provision to require the redirection of funds from one program to another or from one State to another.

In conclusion, the Department agrees that, given a substantial infusion of funds for the retention of experts, attorneys, and other personnel, the Civil Rights Division could do much more in addressing the serious problems and conditions of confinement extant in many of this nation's correctional institutions. While every effort will be made to provide further assistance to the States and localities, given the broad enforcement mandate of the Civil Rights Division and the multiplicity of competing civil rights enforcement problems with which the Division must be concerned, any enhanced effort in the correctional institution reform effort can only be undertaken when and if additional resources are made available.

UNITED STATES MARSHALS SERVICE (USMS)

The USMS recognized the need for the development and implementation of a coordinated Federal strategy to address the problems relating to overcrowding and substandard conditions of confinement in local jails in 1978, when it was first charged with the responsibility for the contract jail program--a program to house Federal prisoners in local jails. Officials

of the USMS foresaw the Department's legal liability in committing Federal prisoners to contract jails that are known to have substandard conditions of confinement which violate inmates' basic civil rights and may subsequently be harmful to their physical and mental health. As a framework for the Department to provide coordinated assistance to State and local facilities in improving their environmental health conditions, the USMS has a unique program capability to inspect, identify, and undertake both technical assistance and cooperative funding programs for contract jails. The program has been field-tested and is providing successful results. Programs are now being developed to provide training, technical and financial assistance, and excess Federal property to substandard jails so that adequate and acceptable quarters are available for Federal prisoners. The programs being developed incorporate and expand the level of participation and involvement of the National Institute of Corrections and Bureau of Prisons in jail improvement programs by bringing the needs of jails to their attention and by making their training programs available to State and local detention facilities as dictated by the results of USMS field inspections. Although the USMS has limited resources to devote to addressing the needs of non-Federal jails under contract, its program has considerable potential for identifying State and local needs, and accordingly every effort will be made to improve its effectiveness.

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limited resources available for the USMS jail program undoubtedly restricts State and local cooperative efforts, although such efforts would benefit all parties.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION (LEAA)

With respect to the improvement of conditions in State and local jails, the Department considers it important to point out that "improving conditions of detention and confinement in adult and juvenile correctional institutions, as measured by the number of such institutions administering programs meeting acceptable standards" is one of the areas for formula grant programming provided for by the Justice System Improvement Act (Section 401(a)(17)). Section 816(b)(15) requires that the efforts made by institutions to address standards, including standards of sanitation, safety, hygiene, and medical health care services, must be reported to the Congress 3 years following enactment of the Justice System Improvement Act. This is one area which has been explicitly recognized by LEAA during the planning phase for development and submission of the 816(b) report.

As the draft report points out, LEAA has supported the development of correctional institution standards. However, the presentation of many additional efforts directly related to environmental issues such as the National Institute of Justice (NIJ) sponsored study on various aspects of fire safety, as well as a number of LEAA funded projects to improve or correct environmental problems in existing correctional institutions, would have given a more complete portrayal of the commitment of LEAA's assistance to State and local institutions. In addition, a number of NIJ funded program models, prescriptive packages, and exemplary project reports in the environmental area would have served to further reflect LEAA's concern and efforts in providing assistance to States and localities.

While LEAA generally agrees that improved environmental standards could be used as models and detailed guidelines would assist administrators in implementing plans to meet the standards, these alone will do little to improve conditions in correctional institutions. Much relevant material already exists, but needs to be brought together. Given the level of current budget allocations and uncertainty of the future of the LEAA program, efforts in this regard will depend largely on the outcome of future decisions.

BUREAU OF PRISONS AND NATIONAL INSTITUTE OF CORRECTIONS (Institute)

The comments of the Bureau of Prisons and the Institute are combined as one response. Both agree that conditions are deplorable in some of the nation's prisons and jails and that the Department can do more to assist State and local correctional facilities in improving environmental conditions.

The Institute has generally concluded that changes in the field of corrections must come through adequately and properly trained correctional leadership. With over 200,000 correctional workers in the Nation, and a very modest budget, the Institute has had to concentrate its efforts

-8-

including training, on those persons who have the greatest capacity to effect positive change--administrators, senior managers, middle managers and trainers. Even so, the Institute has recognized the necessity to offer specialized training on high-priority issues identified by its field staff. Such issues include labor relations, fire safety, mediation/conflict resolution, training for coordinators of special programs, personnel policy and practices, etc. Through technical assistance efforts, the Institute has assisted local correctional agencies in developing their own internal staff development and training capabilities so as to effectively address special problems such as those identified in this draft report.

To expand the Institute's training beyond its ongoing programs under present staffing and budget constraints would be difficult without abandoning other high and equally important priority training efforts. Even so, approximately ten percent of the Institute's training funds and about five percent of its technical assistance efforts currently are directed at correcting problems described in this report. This fiscal year approximately \$50,000 more will be spent on these efforts.

Last year the second annual Environmental Health and Safety Course for Correctional Institutions was conducted at the University of Minnesota for the Federal Prison System. All State corrections directors were sent notices about the availability of the training. Only three States sent representatives. As a result, this year, the Institute has aggressively sought an improved participation by offering to fund the attendance of one person from each State and territory. A substantially improved response is anticipated.

Within its current resources, the Institute plans to take the following actions on the recommendations of the draft report:

1. Make grants to States for the purpose of developing or revising comprehensive jail standards; encourage and provide guidance to the States to incorporate stronger safety and sanitation standards and adopt a stronger service and enforcement policy and implementation plan.
2. Conduct training programs for State jail inspection personnel each year; incorporate environmental issues into the program with appropriate updated materials given to each participant.
3. Request the New Haven Jail Resource Center to place emphasis in the safety and sanitation area; develop a "how to" information package describing the maintenance program, environmental policy and procedure, the Department's inspection procedure and other related matters; request hosted and direct technical assistance services to include safety and sanitation topics in their assistance programs.
4. Encourage other resource centers to include environmental issues in their total information and assistance packages.

Should additional resources be made available to the Institute, the following initiatives could be undertaken:

1. Develop a series of training materials for use in training jail inspectors, jail line staff, and jail supervisors; introduce and encourage the use of these materials by State training academies, State Sheriffs' Associations, Peace Officers Standards and Training Units and other appropriate training vehicles in the various states. (Fund requirement-\$100,000)
2. Utilize the Institute's Information Service Center to identify information resources (National Bureau of Standards, National Institute of Justice, Department of Defense, Department of Health and Human Services, etc.), collect relevant materials and disseminate the materials to users. (Fund requirement-\$50,000)
3. Develop a series of information materials, including inspection or audit routines, that can be used by institution wardens and supervisors; encourage citizen boards and county commissioners to conduct effective environmental audits; develop model maintenance programs and outline cost advantages of effective maintenance; send equipment and materials advisories to jail inspectors, wardens and sheriffs. (Fund requirement-\$50,000)
4. Develop new materials on environmental issues in more detail and include them in a new project designed to provide training materials and model policies and procedures specifically for those who operate the small, rural jails in the country. (Fund requirement-\$50,000)

The Bureau of Prisons and the Institute are also prepared to assist States and localities through:

- Direct technical assistance, training, and professional association contacts.
- Use of the Institute's clearinghouse activities to obtain specific resources and materials from such Federal agencies as the General Services Administration, National Bureau of Standards, Department of Labor and Department of Justice.
- Participation in the Institute's seminars for key decision-makers which emphasize special problems and encourages State and local officials to work toward the enactment or strengthening of existing State and local health, safety and sanitation laws and regulations, especially as they relate to penal facilities.
- Dissemination of the wealth of training materials and reference materials on safety, sanitation and environmental health available through the National Criminal Justice Reference Service, including the excellent films, slides and videotape materials available from the Federal Prison System that are suitable for training at most State and local correctional facilities.

Other training directly impacting on environmental health issues that have been sponsored by the Institute or are planned in the immediate future include the following:

1. Fire Safety Planning and Training for Correctional Institutions

- a. The Institute has sponsored a series of seminars in fire safety training conducted by the National Fire Protection Association. In fiscal year 1979, 104 correctional workers attended an intensive 3-day seminar. Approximately 125 will be trained in fiscal year 1980.
- b. The Institute recently awarded a grant to the National Fire Protection Association to provide for the development of training materials and manuals on fire safety in correctional facilities. These manuals, one for line staff and one for supervisory personnel, will be used by correctional agency trainers.
- c. A grant was made to the Georgia Department of Offender Rehabilitation in February 1980 to assist in the development of a comprehensive fire safety training and procedures manual which will impact on all institutions State-wide. This project, when completed, will be disseminated through the Institute's clearinghouse for use by other State and local correctional facilities.

2. Environmental Health and Safety Practices for Correctional Institutions

The Division of Environmental Health, School of Public Health of the University of Minnesota, in conjunction with the Federal Prison System, has developed a 5-day course for staff who have administrative or technical responsibilities for the environmental health and safety services of correctional institutions. Program topics include:

- a. Solid and Hazardous Wastes
- b. Incompatible Chemicals
- c. Electrical Safety
- d. Correctional Facilities Standards
- e. Facilities Standards for Health Care and Fire Safety
- f. Food Sanitation
- g. Pesticide Formulation and Application
- h. What's New in the Occupational Safety and Health Administration (OSHA)?
- i. Industry Safety Programs
- j. Fire School Demonstration
- k. Verbal Communications

The Institute's role in the above project has been to personally advise every State correctional administrator in the Nation of the program's

-11-

existence, and encourage participation by the selection of one representative to attend one of the planned three regional seminars this fall with all expenses of each attendee borne by the Institute.

3. Supervisory Safety Training

Negotiations are being finalized with Capitol Communications, Inc., of Crofton, Maryland to convert an existing Federal Prison System Supervisory Safety Training program into a package for use by State and local correctional agencies.

The course consists of several slide/tape presentations with an instructor's guide and offers a range of safety training for potentially all institutional and jail situations. Topics include OSHA, safety attitudes, ladders and scaffolds, machine guards, hand tools and portable power tools, electrical safety, personal protective equipment, fire protection, housekeeping, handling materials, investigating accidents, training for safety, working with metal, woodworking equipment, farm safety, slaughterhouse operations, and food service safety.

Packaging will be flexible so as to permit individual jails and prisons to "customize" the program to their particular activities.

4. Food Service Training Course

Negotiations are being finalized with Capitol Communications, Inc., of Crofton, Maryland to convert an existing Federal Prison System Food Service Training Course into a package for use by State and local correctional agencies. The course consists of a videotape with lesson plans and follow-up questions and is designed to acquaint new cook foremen/supervisors with some of the pressures that they can expect to be confronted with in their first few days and weeks in the food service department of a correctional facility.

5. Legal Issues Training

For the past 4 years, the Institute has sponsored a legal issues training program through the American Correctional Association. The purpose of the program has been to provide practical information to correctional administrators and their legal staffs on current and potential legal issues in corrections. The program stresses the importance of reducing the level of litigation in correctional law through the elimination of those causal factors/conditions currently existing in correctional systems and facilities that clearly fail to meet legal and constitutional requirements. "Conditions of confinement" litigation, which has continued to grow the past several years, is one of the areas of emphasis in this training program.

Approximately 475 individuals have been trained under this program to date, and another 90 will be trained during the course of the next 12 months.

-12-

6. Technical Assistance

The Institute has provided technical assistance to several correctional agencies in the form of consultants on a variety of safety and sanitation issues, but primarily in the areas of fire safety and food service problems. This service will continue.

7. Program Plan for Fiscal Year 1981

Several programs being developed by the Staff Development Branch will be announced in the Fiscal Year 1981 Program Plan that will relate in one way or another to environmental health issues as well as the Institute's general approach to program management. These programs are available to State and local correctional institution administrators and include:

- SD 81-05 Staff Development and Training
- SD 81-06 Correctional Officer Correspondence Course
- SD 81-07 Seminars for Managers of Prison Industries
- SD 81-11 Seminars for Key Decisionmakers in Criminal Justice
- SD 81-TA Short-term Technical Assistance

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The Federal Government is heavily dependent upon the availability of local jail space for housing Federal pretrial detainees. The Department, through its Fiscal Year 1981 Cooperative Program Initiative, will coordinate the combined resources of LEAA, BOP, USMS and the Institute toward the improvement of those contractual facilities which are necessary to support the Federal criminal justice system. Overall, we believe that the actions planned by the above Department organizations clearly indicate a willingness and commitment to provide aid to State and local prisons and correctional facilities despite staffing and budget constraints. To the extent States and localities are interested in improving their situations, the Department will provide as much financial and technical assistance as is possible.

We appreciate the opportunity to comment on the report. Should you desire any additional information, please feel free to contact me.

Sincerely,


 Kevin D. Rooney
 Assistant Attorney General
 for Administration

(182560)



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