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Abstract

From the 1931 Wickersham Commission through the 1967 President's Commission and the 1973 National Advisory Commission, criminal justice experts and observers have recommended that state governments assume responsibility for jail operations. Currently six states operate jails: Alaska, Connecticut, Delaware, Hawaii, Rhode Island and Vermont. An examination of jail operations in these states shows that history and tradition as well as geography and politics form the impetus for state assumption of jail operations.

STATE OPERATED JAILS: HOW AND WHY

The assumption by state governments of the operation of jails is, in this country, a relatively recent phenomenon. Although state operation was urged over sixty years ago by the 1931 Wickersham Commission and iterated by both the President's Commission on Law Enforcement and the Administration of Justice (1967) and the National Advisory Commission on Criminal Justice Standards and Goals (1973), only six states have operationalized this recommendation and they did so prior to publication of the two most recent of these commissions. These six states—Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont—do not have county jails as such, and all facilities which house what would be in other states county jail inmates are run by a state agency.

It is the purpose of this paper to examine the rationale for developing state-operated jails, to determine what the six states have in common which enabled them to assume a traditional county function, and to describe and assess the organization of corrections in the six states which have no county jails.

For the purposes of this paper, a county jail is defined as a local correctional facility, usually administered by an elected sheriff, which holds people awaiting trial or other court hearings and persons sentenced to short periods of incarceration (misdemeanants).

County jails in the United States have traditionally performed these two functions and the pattern of holding the sheriff responsible for the appearance of the accused came to the colonies from the mother country. England had placed the responsibility on the sheriffs since before the twelfth century.

It must be noted that states other than the six discussed here do operate facilities for sentenced misdemeanants (see Table 1). In many states a minimum misdemeanor sentence is established for transfer to the state facility. Offenders serving less than the transfer minimum remain in the county jail. The states which assume part or even full responsibility for this county jail function are not included in this paper. The six states discussed here perform both of the traditional county jail functions—operating facilities for pre-trial detention and for short periods of incarceration.

BACKGROUND

Although state-operated jails are of relatively recent origin, recommendations that jails be state-operated have been made for over sixty years. Many correctional experts and observers have urged the consolidation of all correctional services under a single state agency (Wickersham Commission, 1931; President's Commission, 1967; National Advisory CommissIon, 1973). A central state agency would include field services (both probation and parole), misdemeanant and felony institutions, pre-trial detention and holding facilities, and, according to all three commissions, combine adult and juvenile corrections services. This last is no longer recommended and, indeed, the trend nationally has been to administratively separate adult and juvenile corrections in those states which had previously combined them. The National Advisory Commission (1973) strongly recommended administrative consolidation of adult and juvenile corrections and reported that 23 states separated the two in 1973 (p. 560). Today 39 states separately administer adult and juvenile corrections.

The consolidation of adult correctional services continues to be viewed as desirable. The commissions cited presented arguments for unification which continue to be valid. All of the commissions advocated state control of misdemeanant corrections which, in most states, had been a local responsibility. The most recent commission (National Advisory Commission, 1973) made the strongest recommendation for state control of pre-trial detention as well. The primary rationale for state assumption of county jails on all three commissions was cost: many counties do not have adequate resources for providing needed programs. Another important consideration was that county facilities were administered by sheriffs and staffed by law enforcement personnel who were unlikely to have either interest or expertise in corrections.

Two possible avenues for state assumption were suggested by the Wickersham Commission's Advisory Committee: "combining county jails into district jails is one . . . and the development of State farms for short-term offenders is another" (1931: 296). Similar suggestions were made forty years later.

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

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

The National Advisory Commission's recommendation that states assume operation and control of county jails (both pre-trial and post-conviction incarceration), reiterated the recommendations of 40 years earlier vis a vis misdemeanant corrections. Today Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont operate state jails and have care of both pre-trial detention and misdemeanant corrections. Several other states operate facilities for misdemeanants, relieving at least some of the population pressures in county jails.

Table 1. State Authority Over Misdemeanants

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

* Minimum sentence requirement.

Source of data: American Correctional Association, *Directory: Juvenile and Adult Correctional Departments—Institutions, Agencies and Paroling Authorities*, 1993.

Table 1 provides only a rough estimate of the number of states which administer misdemeanant corrections. The information was gleaned from the 1993 American Correctional Association Directory. Where introductory material on the state mentioned misdemeanants, the state was placed on the list. A quick examination of the entries for individual facilities was made for all states where misdemeanants were not mentioned in the introductory material. (Most of the entries indicate whether the prison serves felons or misdemeanants or both.) If any facility

in a state mentioned misdemeanants, that state was included in the table. If neither felons nor misdemeanants were included in any entries the state was not included, although the omission of either label might have meant that the facility housed misdemeanants. The table is a rough estimate only.

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

An alternative recommendation for both misdemeanants and pre-trial detainees made by both the Wickersham Commission in 1931 and the National Advisory Commission in 1973 was the development of regional jails to serve several counties in a single state. Regionalization has occurred in several states. Funding for construction of such facilities is often supplied, at least in part, by the state, while funding for operation is shared by the participating counties. An example is Virginia, which has encouraged regionalization. Enabling legislation in Virginia permits any combination of county or city governments to establish a regional jail. If three governmental units participate, the state will fund up to half of the construction of the facility. Today twelve regional jails in Virginia serve 35 counties and municipalities (Leibowitz, 1991).

While regionalization does seem to be a growing solution to the problems of local jails, at the present time no information is readily available about the development of regional jails or their relationships with state government. In some states, counties have hesitated to become involved in regionalization because they do not want to give up any services they have historically controlled.

Since jail operation traditionally has been a function of county government, the political strength of the counties is related to the ability of the state to assume this function. In states where county government is strong, the political advantages to county officials of maintaining control over all county services make them reluctant to part with any. This is particularly true of the county jail. Because it is administered by an elected county official (the sheriff) it has, in the past, provided extensive opportunities for patronage related to jobs and contracts. This control of patronage can increase the sheriff's political power base and enhance his or her likelihood for re-election. In recent years federal court orders to bring jails into conformance with national standards have offset some of these political advantages and increased the likelihood that county officials will begin to welcome the idea of regional facilities or even of full state operation.

THE SIX STATES

States that operate jails are either eastern states (Connecticut, Delaware, Rhode Island, and Vermont) or they are not part of the contiguous 48 (Alaska and Hawaii). They are either very old states or very new ones: the eastern states were among the original thirteen and Alaska and Hawaii were the 49th and 50th to join the union.

History and geography play important role in the development of local government and thus in a state's assumption of jail operations. The historical foundation of county government organization and its development over time tend to have regional similarities, although modern county government can vary greatly from state to state. Therefore, the "new" geographically separate states will be discussed separately from the "old" eastern states.

The Eastern States

The county as a governmental unit was brought to the New World from the mother country where counties, townships, and boroughs were "thriving institutions of English local government" (Alderfer, 1955: 250), but these units and the officials whose titles were also imported early did not develop in the same way. In the southern colonies, for example, the county rapidly became the chief unit of local government primarily because of the South's rural, agrarian nature and the political strength of plantation owners.

In contrast, the New England colonies placed more importance on town government. Towns in New England were more than small cities; they became "both governmental and geographical units which, in most New England States, exhaust the entire area of the state." The towns perform all the functions of local government which "almost obviates the necessity for counties" (Mars, 1956: 121).

Three of the eastern states which have assumed jail operations (Connecticut, Rhode Island, and Vermont) are in New England and have a history of weak or even nonexistent county government, while one (Delaware) is essentially a mid-Atlantic state, where local government developed as a township/county combination. Delaware is something of a special case, however, because it had no state correctional facilities until very recently.

Rhode Island

Rhode Island was the first state to fully and formally assume responsibility for pre-trial detention as well as misdemeanant detention, doing so through the Unification Act of 1956.

Historically, state government had been involved in the operation of jails since colonial times, in part because Rhode Island was, according to Mars, "frequently cited as the only state in the Union without real county government" (1956: 121).

Colonial history shows that the jails had relations with the whole colony, not just the towns in which they were located. The first "gaol" in the colony was built at Portsmouth in 1638 and also served the town of Newport, which was founded in 1639, until Newport needed a facility of its own. Although other jails were proposed, none was established for many years and the enlarged Newport jail served the entire colony. A jail in Providence was build in 1698, burned to the ground six years later, and was replaced by "a combined jail-courthouse at a cost of 664 pounds" (Rhode Island Department of Corrections, n.d.: 30). This facility was funded by the General Assembly (of the colony, not the town of Providence). In the 1830s a state prison was built and a "Providence County Jail was constructed on the east side of the prison [containing] 14 cells . . . and 4 rooms for the detention of poor debtors" (p.3).

This prison was attacked as obsolete soon after it opened, and in 1874 construction of a new facility was begun on a site in Cranston, Rhode Island. One side of the facility was the new Providence County Jail. Until the 1960s the sign in front of the building read "Rhode Island State Prison and Providence County Jail."

The Unification Act passed by the legislature in 1956 resulted in the closing of three county jails and the creation of a state entity as a division of the Department of Social Welfare known as the Adult Correctional Institutions. This state-level division included the State Prison, the Reformatory for Men, and the Providence County Jail, all in the complex in Cranston. The Newport County Jail was modernized and renamed the Newport Facility of the Adult Correctional Institutions.

In part as a reaction to a federal lawsuit (*Morris v. Travisono*, 1970), the legislature removed adult correctional services from the parent department and created the Rhode Island Department of Corrections on July 1, 1972. The Department is fully unified at the state level and includes all adult correctional facilities from pre-trial detention to probation and parole and even includes responsibility for court lockups (Marshals became DOC employees in 1976).

In 1982 an Intake Services facility opened at the state complex in Cranston. This facility was intended to hold all male pre-trial detainees as well as performing for the courts and the Department many of the duties of what are known as Reception and Diagnostic Centers in other states. In FY 1989-90 the average number of Intake Center inmates awaiting trial was 494.4—more than twice the average for FY87. On the date of my visit in 1993 the day's population was 756.

Because of crowding in the facilities for sentenced prisoners, the Intake Center has been holding sentenced prisoners awaiting transfer for longer periods. Today the facility is crowded and expansion is underway.

It is important to iterate that the history of local government in Rhode Island did not include county officials and it is also important to note that Rhode Island is our smallest state. Its geography makes transfer of prisoners from local police departments to the Intake Services Center a fairly smooth process. No point in the state is more than a two-hour drive from the complex in Cranston. The size of the state appears to have some relevance to the practicality of state-operated jails.

Connecticut

The 1959 session of the General Assembly of the State of Connecticut, with the urging of the governor, abolished county government effective October 1, 1960. This action seems high-handed to residents of states with strong county governments, but Connecticut had very weak county government which had no direct taxing authority and had no exclusive authority over any specific function or activity (with the possible exception of the county jail). There were no county seats and no elected county boards or commissions.

The office of county commissioner was established by statute and the commissioners of each county were appointed by the general assembly. Each "county delegation" in the assembly (those elected from towns and districts in the county) met every other year to approve county budgets and levy taxes. The delegations also recommended the appointment of county commissioners to their respective counties (Mars, 1956; Levenson, 1966). Thus, one's elected representatives or senators in the state legislature were the nearest thing to elected local legislators (Mars, 1956).

The only county official directly elected by the voters of the county was the High Sheriff who was, for all intents and purposes, an arm of state government, which paid his or her salary. He could be removed from his post by the General Assembly and the vacancy filled by the governor (*Connecticut Constitution* 4(24)). The office of High Sheriff was established by the Constitution but the functions and salaries of the sheriffs were set by statute and were therefore amenable to legislative action—an important consideration vis a vis abolishment.

With some minor (and usually pro forma) oversight by the county commissioners, the High Sheriff had primary responsibility for the management of the county jail. Levenson (1966)

argues that the need for reform of the county jails was a major impetus for the abolition of county government. Jail conditions in the decade prior to abolition were scandalous. All the jails were old; one (Middlesex County Jail) had been built ten years after the signing of the Declaration of Independence. The newest (Bridgeport) had been built in 1859. Some did not have in-cell sanitary facilities and used the "bucket system" (Levenson, 1966).

The poor conditions in the jails were not a secret. Several boards and commissions appointed over three decades to investigate the jails had underscored the problems in the jails and most recommended state operation as the best cure. In the 1950s one highly-publicized jail scandal (a trusty molested a four-year-old girl) and three jailbreaks helped to focus on the problems of the jails, as did the reports of two more commissions appointed to study the problem. These pointed out lax security, extreme fire hazards, poorly paid and untrained staff, and conditions of confinement violative of the Eighth Amendment.

These criticisms of the jails, the operation of which was the primary administrative responsibility in the counties (and, indeed, the primary reason that county government was established) were added to the nearly decade-long call for change in county government. Although the legislature reviewed the issue several times during the 1950s, they took no action until 1960.

When the state assumed operation of the county jails in 1960, the jails were not placed under the aegis of the department responsible for state felony corrections, but were organized separately under a state jail administrator, who set policy for all jails and had authority to transfer prisoners to under-utilized rural jails from crowded jails in urban counties. Three jails were designated to house women inmates, rather than all jails requiring a women's department, and better supervision of women inmates resulted.

Jail personnel were at last provided with fringe benefits and no longer worked 48 to 72 hours a week. More jail employees were hired after state assumption to accommodate this reduction to 40 hours per week. The state also improved the jail facilities. However, the separate administrative structure was not efficient and contradicted the notion of unified correctional treatment. However, the separate administrative structure was not efficient and contradicted the notion of unified correctional treatment. The structure was changed in 1967 when the legislature created the Connecticut Department of Correction with authority over state jail administration, adult long-term correctional institutions, and parole field services. Since that date a number of jails have been closed and have been replaced by corrections centers and detention centers.

The Connecticut Department of Corrections is, today, organized into five regions, each with four to six correctional institutions. Many of the institutions hold both pre-trial detainees and sentenced prisoners, and the sentenced prisoners may be felons as well as misdemeanants. Some have a considerably larger percentage than others of accused prisoners and perform the traditional jail function, seeing to it that residents attend their scheduled court appearances.

The Bridgeport State Jail-Bridgeport Correctional Center is one of the latter. The original Bridgeport Jail was severely damaged by fire in 1991. All inmates were evacuated. One section of the jail is awaiting demolishing; the other, though no longer safe for housing, can be used for storage and some offices. The new addition to the jail has a capacity of 911 but frequently houses more than one thousand prisoners. On November 1, 1993, the facility held a total of 1022 prisoners. Of these, 502 were accused, 317 were sentenced, 194 were sentenced but awaiting hearings or dispositions on other charges, and nine were federal prisoners.

The Connecticut legislature recently (1992) removed parole field services from the Department of Corrections, giving the Parole Board administrative control of parole supervision.

The Department was never unified to the extent that Rhode Island is, but it now has responsibility for only institutionalized offenders.

Connecticut's small size and weak county government, as well as the historical role of the state in county operations, made the state's assumption of jail operations logical and the transition easy. Explosive growth in the corrections population has led to management problems which have moved the state away from unification. In this, Connecticut differs from the other eastern states and from the states of Alaska and Hawaii.

Vermont

Another New England state with minimal governmental organization at the county level, Vermont state government early assumed some fiscal responsibility for jail operations, although the county jails were managed by elected sheriffs. State-level administration of correctional services had a long history but unification of these services was gradual. Probation, for example, was a state executive branch function from its earliest inception, but it was administered by the state Board of Charities and Probation (created in 1917), a unit totally separate from state-operated institutions which included mental hospitals and facilities for the "feeble-minded," as well as prisons for men and women and juvenile industrial schools.

To a greater degree than any other state in the nation, Vermont's decision to reorganize correctional services was impelled by philosophical considerations (although fiscal considerations played a role). In the 1966 legislative session the legislature created a Department of Corrections within the Agency of Human Services. In Act 24 the legislature established a clear statement of

purpose for the new department: "the disciplined preparation of violators for their responsible roles in the open community." The act included a policy statement:

> based upon the cumulative experience of modern correctional practice which undertakes to build sound correctional programs to square with the facts that, first, almost all criminal violators do return to the open society, and second, that traditional institutional prisons not only fail to reform [but also] increase the risk of continued criminal acts following release. It is recognized that sole or even primary reliance upon closed, custodial institutions is self-defeating also results in wasteful high costs to the taxpayers of the state. (*Acts and Resolved Passed by the General Assembly of the State of Vermont of the Forty-Ninth Biennial Session*, 1967, as quoted by Morrissey, 1980: 8-9)

One legislator proudly commented that Vermont was the first state to establish a program around which institutions would be built, rather than building institutions and then figuring out programs (Morrissey, 1980: 9).

In the legislation the Department of Corrections was required to develop programs which covered the gamut from residence-centered instruments to non-residential methods in the open community (Perry, 1990: 10). Over the next two years enabling legislation was passed for work release programs, funding was approved for building halfway houses, and a new Juvenile Procedure Act was written. A study of the county jails was funded.

In 1968 the legislature passed Act 345, which authorized the takeover of four county jails as regional correctional centers, allowed release on recognizance for misdemeanants, and transferred funds for prisoner care from the sheriffs to the department.

The Department of Corrections took control of four jails and assumed supervisory responsibilities over the remaining ten, some of which would be designated as 72-hour holding facilities, others of which would be closed.

The four regional correctional centers were not only intended to hold pre-trial detainees and offenders sentenced to less than one year—both traditional jail functions—but also to serve as pre-

release centers and as centers for probation and parole counseling and treatment. These regional centers are located in or near the larger cities in the state which are high "catchment" areas of the state. This gives ready access to many arresting officers who bring their prisoners directly to the facility. The locations also provide better access to those services (medical, dental, mental health, education, etc.) necessary to the mandated continuum of treatment, including employment opportunities for pre-release inmates. Each of the regional centers has a mixed-custody population which includes close, medium, minimum, and community levels. Because of crowding, the centers have contracted with some sheriffs to house inmates who would normally be assigned to the regional centers (Martineau, 1991).

Vermont's is a totally unified system which includes probation as well as detention. Since it closed its old maximum security prison on August 7, 1975, the state has continued to focus on reintegration and, in its operation of the jails, views detention as part of the treatment continuum.

Vermont, though larger in area than either Rhode Island or Connecticut, is a small state. The four state-operated regional jails can serve essentially the entire state. It also has a relatively low population, and this too was related to its ability to develop a unified correctional system.

Delaware

The State of Delaware was for many years unique among the forty-eight states in that it had no state-operated correctional institutions until 1955. In effect, Delaware's three counties each had its own independently operated and maintained penal facility (jail and prison combined).

The Newcastle County Workhouse, established in 1899, was intended to house prisoners from the entire state in a single institution where prisoners could engage in productive labor. The workhouse was financed in part by fees from the other counties of $1.00 per prisoner per day. But in 1933 the politically stronger rural southern counties, unhappy with these charges, prevailed upon the legislature to enable them to keep most of their prisoners in their own jails. The resulting Act provided that "all prisoners convicted in Kent and Sussex Counties and sentenced to ten years or less were to be committed to the jails of those counties." This Act, according to Caldwell, "did more than merely retard, it actually reversed Delaware's penal development" (1942: 29).

The idea that the workhouse ought to be a state institution was raised for more than fifty years. The Prisoners' Aid Committee of Delaware (which became the Prisoners' Aid Society) were studying this proposition in the early 1930s. In 1935 a Commission on Prison Industries also examined the penal system and recommended state assumption. In the 1940s the idea gained ground, spearheaded in part by the Prisoners' Aid Society. After an escape at Newcastle, the Federal Bureau of Prisons was asked to study the workhouse; their report recommended a state-operated prison system (Federal Bureau of Prisons, 1949).

The Prisoners' Aid Society, asked for input by the Commission on Reorganization of State Government, developed a plan for such a system in 1950. They began with a strong statement of purpose:

> The ultimate purpose of the correctional services of this state . . . is the protection of society. Since nearly all who are confined in institutions for violations of our laws eventually are released to become members of the free community, *it is imperative that the people of this State provide the facilities and personnel which will most effectively and efficiently reconstruct and restore these offenders* and return them to the community as useful law abiding citizens. (Prisoners' Aid Society of Delaware, 1950: 1; emphasis added)

The plan promoted by the Society was in essence the one ultimately adopted. It called for the state to "acquire, at reasonable compensation, the three institutions now maintained by the counties" (Prisoners' Aid Society of Delaware, 1950: 2) and organize them under a Board of Correction which would establish policy for the operation of the facilities, assure that the policies were carried out, and report annually to the governor.

Although the proposed plan appeared before the legislature in 1951, it was not passed until 1955 and required the efforts of a Citizens' Committee which was appointed in 1954 to study the issue and make recommendations. Their report, along with strong public opinion in favor of a state system, saw the proposal on the state platforms of both political parties in 1955.

After some politicking to make sure that the current warden of Newcastle was the only person who could meet the requirements for the director's position, the measure was passed with an effective date of July 26, 1955. There would be a Board which would supervise the operation of the facilities and to which the Director of Corrections would report.

However, the assumption of jail operations still left the three former county facilities intact and they still were not suitable for long-term confinement. Delaware's tradition of commission-style government did not work well in corrections, since the Board focused on the system in existence and the Director had no experience which would permit him to suggest changes. The reorganization was directed solely toward institutional corrections: probation continued as a function of the courts and was understaffed, underfunded, and probably underutilized (although data were not routinely compiled). There was only one parole officer for the state.

The governor, recognizing that corrections was not improving, appointed a Committee for Correctional Programs in 1962. The committee contracted with the National Council on Crime and Delinquency to conduct a thorough study of Delaware corrections. Their report in three

volumes, submitted to the governor in December 1962, strongly recommended organization of a state-level Department of Corrections, headed by a professional in the field of corrections, which would have responsibility for all correctional services in the state (both adult and juvenile).

Legislation creating this department was passed in 1966. The act not only established the department but also revised sentencing, probation, parole, and pardoning procedures and authorized capital funding for construction of a new adult facility, for remodeling the former Kent and Sussex County jails, and for new juvenile facilities (Cobin, 1967). This legislation marks the true entry of the state into modern state-operated corrections.

Responsibility for juvenile corrections was transferred to a social services agency in 1984. Today the Delaware Department of Corrections is a unified one which exercises authority over the entire spectrum of adult corrections in the state from pre-trial detention through probation and parole field services.

The department has been innovative. The Multi-Purpose Criminal Justice Facility was opened in Wilmington in 1982. This facility, known as Gander Hill, had a prisoner population of 1199 in autumn 1993; nearly half were pre-trial detainees. The facility houses an office of the prosecutor and a small modern courtroom where bail hearings and arraignments are held. A court employee is assigned full-time to Gander Hill and judges hold a variety of hearings on the premises.

In contrast with the other eastern states, Delaware did not meld county jails into an existing state correctional system; in effect, the county jails *were* state corrections. The state assumed fiscal and supervisory control over the only correctional institutions in Delaware. The development into a comprehensive Department of Corrections occurred afterwards.

Our Newest States

Alaska and Hawaii have been states for only thirty-five years. They did not have the long association with England that the eastern states had had, and their histories are very different from those states' and from one another's. Both had long periods of time as United States territories and both took over existing territorial jails upon gaining statehood.

Alaska

The State of Alaska is the largest state in the Union, but it has the second smallest population. Although more than 60 percent of the Alaskan people live in the southcentral area of the state, the remainder are broadly scattered across a vast land area with no roads from one community to the next. These communities do not have a large tax base and the governmental functions they perform are frequently subsidized by the state.

Alaska did not become a territory until 1912. After its purchase in 1867 it was made a customs district and was "governed" by the U.S. Navy and some officials of the Department of the Treasury. The military used stockades and even revenue cutters as places of detention for erring Alaska residents.

In 1884 Congress passed the First Organic Act, which established Alaska as a civil and judicial district and provided rudimentary government in the form of a governor, a judge, a marshal, and a district attorney. Federal officials were empowered to enforce mining laws and to provide education for Alaska residents. The laws of the State of Oregon were assigned to the District of Alaska. The marshal and his five deputies were the law for the entire region and the

problems of geography and climate meant that there was little ongoing law enforcement anywhere in Alaska. The mining camps police themselves and isolated Alaska Native communities continued to function according to their own traditions.

The Alaska gold rush created so much upheaval in the region that Congress was obligated to provide more governmental structure. In 1900 Alaska was divided into three judicial districts (a fourth was added in 1909), each with a judge, a clerk, an attorney and a marshal. These districts were subdivided into recording districts headed by commissioners who served as magistrates, recorders, justices of the peace and probate judges. They did not earn wages, but were paid from the fees charged for their services—an arrangement which invited abuse.

In 1912 the Second Organic Act made Alaska a territory and provided for an elected legislature, but law enforcement and the administration of justice remained under federal control until the legislature created a highway patrol in 1941. Although long-term sentenced prisoners were sent to institutions in the "Lower 48," the marshals were responsible for the operation of jails in the larger communities of the territory and for detaining prisoners however they could in the smaller communities. Some small villages and towns had jails or lockups which were used infrequently. Where there were no facilities the marshals used a variety of detention places, including community buildings and their own homes. In one cast, detainees were handcuffed to a fire truck in the fire/safety building. In these rural communities the marshals did not staff the jails and lockups, but charged a per diem for guard hire when they had a prisoner. This practice continued in revised form and is still used today.

The jails that existed were usually attached to a federal building. The Fairbanks jail, for example, was on the second floor of the post office, but most were in court buildings. When, in 1953, the Federal Bureau of Prison's Jail Inspection Division assumed authority over the jails

they found them staffed by untrained and uninterested deputy U.S. Marshals and in deplorable structural condition. The federal jail in Anchorage had to replace rotted flooring and foundations after a hole appeared in the floor of the jail (Keve, 1992).

The Bureau established a prison camp on Elmendorf Air Force Base and requested funds to replace the Nome, Anchorage and Fairbanks jails.

Alaska achieved statehood in 1959. In order to deliver justice services efficiently to a small population scattered over a very large area, the Alaska Constitution centralized the justice system at the state level. Corrections became a division of the Department of Health and Social Services. The Division did not immediately assume control of the jails—the process was a gradual one complicated by the jails' locations on federal property. The takeover date was set for 1960.

After statehood several communities built jails which were run by local police agencies. The federal jail in Anchorage was taken over by the state and used for state prisoners, but the City of Anchorage built a jail as part of the police department to house violators of city laws. Because it had many problems the state took over its operation in the 1970s. In most communities the correctional facilities run by the state Division of Corrections were multi-purpose facilities housing not only pre-trial detainees and sentenced misdemeanants, but also long-term felons. The large facilities in Fairbanks and Juneau, built in the 1960s, were of this type, serving as regional jails as well as housing sentenced felones.

When the Corrections Division of the Department of Health and Social Services became a state-level Department in 1984, some old jails were replaced by new multi-purpose facilities. Jails were constructed in Bethel and Nome and operate as regional facilities, accepting transferred

prisoners from surrounding villages. In Anchorage the old territorial jail was replaced by a large pre-trial facility.

However, many small Alaska cities have police-operated jails (and some villages have police-operated lockups). In the tradition begun by the Marshals, these underutilized facilities charge the state a per diem rate for each prisoner for both prisoner maintenance and guard hire. Thus, the state continued the territorial tradition of a two-tiered jail system. Depending on their size there are limits placed on the length of time prisoners can be incarcerated in these small facilities (three to thirty days). Prisoners are transferred to regional jails to await felony trials or to serve sentences of more than thirty days. When corrections was the responsibility of the Department of Health and Social Services the responsibility for paying guard hires was also lodged there. When corrections became a separate department in 1984, the responsibility was transferred by the legislature to the Department of Public Safety under the theory that the state troopers were the most likely agency to use them and should exercise oversight. These facilities are known as contract jails because they operate under a contract with the state (in the person of the Department of Public Safety).

When the contract jails were placed under the management of the Department of Public Safety in 1984, they number six. Today there are 18 contract jails. In the fall of 1993 a Contract Jail Commission was appointed by the governor to evaluate the program and to determine whether responsibility should be transferred to the Department of Corrections, which is otherwise a unified department with responsibility for adult pre-trial detention, misdemeanor and felony incarceration, and probation and parole field services.

Hawaii

The history of Hawaii prior to statehood is different from that of any other state. Its long history as a kingdom and a republic before U.S. annexation is unique. Most states other than the original thirteen were frontier territories prior to their admission to the Union, as was Alaska. Hawaii, in contrast, was a fully functioning, densely populated modern territory whose people were politically aware and accustomed to government services provided by a mature, complex and skilled territorial administration.

The Hawaii state constitution required that, upon statehood, the executive branch of government be organized into no more twenty departments. The territorial government had had nearly one hundred administrative agencies which the new legislature had to reorganize under state administration. The territory had had, and the new state continued, highly centralized services primarily provided by the state, with some delegated to the counties. Local government is by county only—there are no other local political divisions. There are four counties: the City-County of Honolulu (the island of Oahu and other unincoporated islands), Maui County (the islands of Maui, Lanai, Molokai, and Kahoolawe), Hawaii County (the island of Hawaii), and Kauai county (Kauai and Nuhau).

During territorial days, jails holding both pre-trial detainees and sentenced misdemeanants were administered by the counties. In the Outer Islands these facilities were under the jurisdiction of the police, while in Honolulu they were administered by the city and county sheriff. Territorial control was possible, though little exercised.

Boards of prison inspection, appointed by the territorial governor, had the authority to supervise the administration of county jails in the Outer Islands, and the Director of Institutions

had the same authority over the city and county of Honolulu. The territorial legislature mandated that the facilities be inspected at least three times yearly, but there is some doubt that these inspections were completed with any regularity.

Because the governor also appointed the police commissions in the Outer Islands, he had another potential avenue for control of county jails, but this was not a factor of the appointment process. In point of fact there was little oversight of county jail operations before statehood. With statehood came a major reorganization of governmental functions. Ultimately the responsibility for jails was added to the corrections responsibility of the Director of Social Services. In 1973 the legislature directed that community correctional centers be established in each county. These would:

1) Provide residential detention for persons awaiting judicial disposition who have not been conditionally released.
2) Provide residential custody and correctional care for committed misdemeanants and for felony offenders committed to indeterminate sentences. (*Hawaii Revised Statutes*, 1985 Replacement 20.353-1.1)

The Legislature also mandated creation of an intake service center for each of the counties which would provide diagnostic services, evaluations, pre-sentence investigations, referrals, etc., and provide programs and services for pre-trial detainees.

In 1987 this section of the code was revised to reflect the removal of corrections from Social Services and the creation of the Department of Public Safety. Community Corrections Centers and Intake Services Centers became part of the new department's responsibilities.

Although the Intake Services Center provides services to the courts through pre-trial assessments and arrests in preparation of pre-sentence investigations, the Department of Corrections does not administer probation field services. Thus Hawaii, although unifying all correctional institutions, does not have a unified correctional system.

DISCUSSION

History made it possible and geography made it practical for six states to operate jails. Jails had been the responsibility of the counties in Connecticut and Vermont, but these responsibilities could be statutorily changed. Connecticut's county government organization was weak and was dependent on the state for support of the few government functions performed by the counties and for the appointment of county commissioners to oversee these functions. By abolishing counties the state changed the process by which these services were delivered, but did not change any representative government since Connecticut counties did not elect county commissioners.

A tradition of state support of county functions was present in Vermont and assumption merely changed the process. Rhode Island's counties were geographic units rather than governmental units. The "county jails" in Newport and Providence already served the whole state and consolidating them administratively was a logical consequence of a search for efficiency in Rhode Island corrections.

Delaware used its three county jails as prisons before consolidation, created a state-level unit for adult institutional corrections, and drew the three facilities into the state unit.

In the eastern states geography played an important role in state assumption. All of the states are small. Rhode Island, the smallest state in the Union, can operate comfortably with one jail (the Intake Services Center) to which prisoners can be transferred quickly and easily from local police lockups. Vermont maintains jails in different regions of the state with the same results. And Delaware has a similar management and is small enough so that the majority of pre-trial detainees are housed in two facilities.

In Alaska, our largest state, geography also played an important role in the development of centralized correctional services, but it was its large size that made consolidation practical. (The North Slope Borough of Alaska is itself larger than the state of Delaware.)

Because it depended for so many years on federal agencies for the administration of justice in the Alaska Territory, it was natural for the new state to develop strong central control of justice agencies. There was, in the vast state, no tradition of local government operations, except at the city level, and no established local political divisions that could perform government functions as counties did elsewhere. Thus its vast size contributed to centralization. Small communities, scattered over a large area and without an organized tax base, could not provide adequate local services without the state's assistance. It was more efficient for the state to provide corrections services directly in most cases, or to subsidize them in others. Hawaii also had a strong history of centralized governmental functions which furthered the idea of state operation of the jails.

Philosophically, state operation of jails is tied to the orderly and efficient integration of all corrections functions. The three commissions cited earlier in this paper offered as a rationale for state assumption greater access to a variety of mental health, legal, and medical services offered by related agencies and the greater likelihood of cooperation throughout the corrections continuum. These philosophical bases are clearly rehabilitative. Pre-trial efforts complement efforts in probation or in incarceration or even in parole, because of the ease of communication when all of these efforts are administratively combined.

State operation was to be, according to all three commissions, one part of the consolidation of all correctional services under a single state-level agency. Only four of the six states which operate jails have fully unified correctional systems: Alaska, Delaware, Rhode Island and

Vermont. Among them only Vermont did so on philosophical grounds, even going so far as to close its state prison. The others found unification both more suitable and more cost efficient than fragmentation. This is not to say that philosophical considerations didn't play a role: certainly they did in Delaware, for example.

In Connecticut and Hawaii, probation has always been a function of the judiciary branch of government and no effort has been made to transfer this function to the executive branch in order to improve communication as the offender moved through the corrections "treatment" continuum. In 1992 the Connecticut legislature further fragmented corrections by removing a traditional Department of Corrections function from the management of the Connecticut department. Parole supervision has been placed under the administration of the Connecticut Parole Board. The Connecticut Department of Corrections now has responsibility only for incarcerated persons—pre-trial detainees included—an outcome tied to poor management, not to a cohesive corrections philosophy.

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