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CIVIL AND HUMAN RIGHTS IN OREGON STATE PRISONS

A report of the Oregon Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Oregon Advisory Committee.

January 1976

C I V I L A N D H U M A N R I G H T S
I N O R E G O N S T A T E P R I S O N S

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Advisory Committee to the U.S.
Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Oregon Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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*Judge Deiz was Chairperson of the Oregon Advisory Committee at the time of this study.

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LETTER OF TRANSMITTAL

OREGON ADVISORY COMMITTEE TO THE
U. S. COMMISSION ON CIVIL RIGHTS
December 1975

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Sirs and Madam:

The Oregon Advisory Committee submits this report of its study of Oregon prisons as a part of its responsibility to advise the Commission on civil rights issues within this State.

The Advisory Committee began this study in the fall of 1973 as a part of the Commission's national prison project. During an open meeting in Salem, February 15 and 16, 1974, we focused on prison disciplinary procedures, academic and vocational programs, work opportunities, communications, and staff recruitment and training.

The Oregon corrections system is progressive. We found the prisons often meeting or surpassing minimal standards in civil and human rights as established by the National Advisory Commission on Criminal Justice Standards and Goals and those proposed standards in the Commission's working baseline.

We identified some problems, however, which impinge on the rights of inmates, especially minorities and women. There is need for a greater understanding of and sensitivity to minority cultures and languages. There are relatively few minority and women staff in policy level positions. Female inmates have limited educational and vocational training opportunities.

The problem most often raised by prisoners, and verified by our findings, is the need for open and unambiguous communications. The Oregon prisons were in the process of defining rules and procedures for discipline, work release, mail, and correspondence. These procedures should help eliminate arbitrariness, a commendable goal in prisons. We are recommending that similar procedures and guidelines be developed in areas such as visiting, family counseling services, and confidentiality of inmate records.

The Advisory Committee is making recommendations to State officials and to the Corrections Division. We urge you to support these recommendations, and are confident that this report will be a useful contribution to the Commission's national study.

Respectfully,

/s/

CAMPBELL RICHARDSON
Chairperson

ACKNOWLEDGMENTS

The Advisory Committee wishes to thank the staff of the Commission's Western Regional Office, Los Angeles, Calif., for its help in the preparation of this report. This report was written by Sally E. James. Editing assistance was provided by Thomas V. Pilla and legal review was provided by Ramona L. Godoy, with support from Irene B. Garcia. Western Regional Office staff worked under the supervision of Philip Montez, Regional Director, and Joseph T. Brooks, Acting Regional Director.

Final edit and review was conducted in the Commission's Office of Field Operations, Washington, D.C., by editor Laura Chin, assisted by Mary Frances Newman and Bruce E. Newman. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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I. PREFACE

The Oregon State Constitution, Article I, Section 15, provides that laws for the punishment of crime shall be founded on the principle of reformation and not vindictive justice. The philosophy of the State's Corrections Division echoes this principle, maintaining that offenders are citizens of the State who should have the opportunity and assistance necessary for eventual reintegration into the majority society.¹

Both prisoners and those responsible for maintaining the prison system questioned whether such a principle was implemented behind prison walls. William Knight, a prisoner of 4 years at Oregon State Penitentiary (OSP), told the Oregon Advisory Committee:

Regardless of the ideal that penitentiaries are into the business of rehabilitation, the pound of flesh still must be extracted in certain cases. Whether a man demonstrates conduct over a period of 6 months to a year, that he is in fact a reasonable risk to be returned to society, doesn't have near the bearing as to whether or not this man has served sufficient time for the crime.²

Another prisoner at OSP, Steve Chochrek, echoed these sentiments when he told the Advisory Committee:

1. State of Oregon, Law Enforcement Council, Oregon Priorities for Criminal Justice (Salem, Oregon: 1973), p. 77.

2. Oregon Advisory Committee Open Meeting Transcript, Feb. 15-16, 1974. Unless otherwise noted, all direct quotations in this report are derived from this transcript.

A lot of programs are merely what you might call tokens to take up a man's time. That's what prison is all about--just to take up your time doing something that looks productive to the public.

Some prison staff agreed that there is a discrepancy between a prison's policy and practice, but perceived that the majority society does not understand the realities of incarceration. Dr. Rex Newton, psychologist at OSP, challenged the Advisory Committee on this point:

There is an attitude that seems to be with the [Advisory Committee], and it's also an attitude that is with a lot of judges, and it's an attitude that probably permeates the legal system....Something that says doing time in a penitentiary is therapeutic. To me this is a contradiction in terms. It's impossible; it doesn't happen.

Amos Reed, administrator of the Corrections Division, said that the community has responsibility for the realities of prison life:

As a society, we have tended to cast out those who offend us. It seems to be so much easier, but it really isn't, because we pay many times over for doing this. Get them out of sight, get them into an institution, get them away, and assume that everything is going well....The time is past in our society that we can function in boxes and little compartments and pass people back and forth like toys or ping-pong balls being batted around our agencies.

The difference between the philosophy and reality of prisons is not a new phenomenon. It is a national dilemma. The National Advisory Committee on Criminal Justice Standards and Goals wrote in its 1973 report:

[Prison] institutions do succeed in punishing, but they do not deter. They protect the community, but that protection is only temporary. They relieve that community of responsibility by removing the offender, but they make successful reintegration into the community unlikely.

They change the committed offender, but the change is more likely to be negative than positive.³

Oregon prisons are no exception to this reality. The findings of this study suggest that Oregon legislators, corrections administrators, and other concerned individuals have confronted the paradox of prisons responsibly and sought positive changes. Yet rehabilitation remains an illusive goal. Neither in Oregon nor elsewhere has society confronted the broader issue of the very existence of prisons.

Although this Advisory Committee clearly advocates improvements within prisons as they exist today, we urge exploration of alternatives to the present concept of prisons. A step in this direction would be the greater use of community centers, halfway houses, and work release centers.

3. National Advisory Commission on Criminal Justice and Goals, Corrections (1973), p. 1 (hereafter cited as Corrections).

II. INTRODUCTION

Purpose of the Study

Traditionally, our free citizenry has ignored its prisons and prisoners. The riots at Attica prison, New York, in 1972 and other prisons throughout the country brought public attention to the civil and human rights demanded by prisoners. In some instances, these voices have been heard and plans for change have been formulated.

In early 1973 the National Advisory Commission on Criminal Justice Standards and Goals issued a lengthy review of the criminal justice system and detailed standards for every aspect of the system. One volume of this six-volume report dealt specifically with standards for corrections.⁴ These standards covered many of the concerns expressed by prisoners in the preceding 2 years, such as minimum standards for housing, medical care, disciplinary procedures, legal assistance, visiting procedures, and access to the media.

Shortly after the Attica riot, the U.S. Commission on Civil Rights began to examine the basic rights afforded prisoners and to assess the need for minimum standards. By statute, the Commission may study information on the denial of equal protection in the administration of justice.⁵

4. See Corrections.

5. Such studies need not be limited to matters involving discrimination because of race, color, religion, national origin or sex. 42 U.S.C.A. §1975(b) (1972), amending 42 U.S.C. §1975(b) (1970).

The goals of the Commission's national prison study are: 1) to develop information on the need for a set of basic rights of adults denied freedom for alleged or convicted criminal activity; 2) to develop information on the extent to which subgroups of the prison population--specifically women and racial and ethnic minorities--are denied (because of race or sex) opportunities, advantages, or rights afforded to the general prison population; and 3) to develop sufficient evidence or support for such minimum rights in order to recommend the adoption of a model set of protected prisoner rights.

The Oregon Advisory Committee to the Commission is one of more than a dozen such Committees to participate in the national study. Individual reports on State prison systems, as well as reports on four Federal prisons, are planned for inclusion in the Commission's statutory report.

To assess Oregon's corrections system, the Advisory Committee and Western Regional Office staff referred to a working baseline prepared for the Commission by Donald Goff, expert consultant to the U.S. Commission on Civil Rights and former general secretary of the New York Correctional Association. The rights incorporated in this baseline, Minimum Civil and Human Rights for Sentenced Inmates in Correctional Institutions, were derived from principles established by the courts; from models designed by such organizations as the American Correctional Association, the United Nations, and the National Advisory Commission on Criminal Justice and Goals; and from Mr. Goff's own experience.

The proposed standards cover 16 major areas directly affecting the daily life of a prisoner: 1) personal, civil and human rights, 2) housing, 3) work, 4) medical, 5) visits, 6) mail, 7) news media, 8) radio and television, 9) outside contacts, 10) disciplinary procedures, 11) religion, 12) legal services, 13) education, 14) recreation, 15) commissary, and 16) inmate body.⁶

6. Copies of the U.S. Commission on Civil Rights' draft minimal standards are available in the Western Regional Office, Los Angeles, Calif.

Commission staff began this study of the Oregon State prison system in the fall of 1973. Staff collected data and interviewed 105 people including prisoners; prison administrators and other correctional staff; State Department of Justice staff; public defender's office and legal aid attorneys; American Civil Liberties Union members; prisoner assistance project attorneys of the University of Oregon; families of prisoners; Oregon Law Enforcement Council staff; news media persons; concerned members of black, Mexican American, and Native American communities; and representatives of women's groups.

The Oregon Advisory Committee conducted an open meeting February 15 and 16, 1974, in Salem to collect public testimony on the status of the adult prison system and to receive suggestions and recommendations for improving the State's corrections system. The Advisory Committee and Western Regional Office staff wish to emphasize that everyone contacted on this project cooperated fully and openly. There was a cooperative spirit among the many diverse groups and individuals concerned with penal reform in Oregon. Although disagreements existed over specific policies or practices, the Advisory Committee found a willingness to negotiate and compromise, a willingness to consider new positions and methods.

Oregon Population and Rate of Crime

In 1970 the U.S. Bureau of the Census reported Oregon's population as 2,091,385. Ninety-five point five (95.5) percent of the population were white, 0.6 percent Asian American, 0.6 percent Native American, 1.3 percent black, and 1.7 percent were of Spanish speaking background.⁷ In 1974 the State prison population reflected a disproportionately high percentage of black (13.2 percent) and Native American (2.2 percent) inmates relative to their percentages in the general population (See Table I).

7. The U.S. Commission on Civil Rights prefers to use "Spanish speaking background" to identify persons of Spanish heritage or descent.

TABLE I

STATE AND PRISONER POPULATIONS
BY ETHNIC AND RACIAL GROUP

	<u>1970 Oregon Population</u>		<u>1972 Prisoner Population</u>		<u>1974 Prisoner Population</u>	
	Number	(%)	Number	(%)	Number	(%)
White	1,997,502	(95.5)	1,813	(83.0)	1,503	(82.4)
Spanish Surnamed	34,577	(1.7)	33	(1.5)	35	(1.9)
Black	26,308	(1.3)	269	(12.3)	241	(13.2)
Native American	13,510	(0.6)	62	(2.8)	41	(2.2)
Asian American	13,290	(0.6)	8	(0.4)	4	(0.2)
Other	6,198	(0.3)				
TOTALS:	<u>2,091,385</u>	<u>100.0</u>	<u>2,185</u>	<u>100.0</u>	<u>1,824</u>	<u>99.9¹</u>

¹Does not sum to 100.0 due to rounding.

SOURCES:

U.S., Bureau of the Census, Census of Population: 1970 Vol. I, Characteristics of the Population Part 39, Oregon, Table 17, p. 39-45.

U.S., Bureau of the Census, Census of Population: 1970, Persons of Spanish Ancestry, Supplementary Report PC(S1)-30 (February 1973), Table 3, p. 9.

State of Oregon, Corrections Division, "Statistical Data" (Mimeograph, Oct. 10, 1973), p. 9.

U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

The Portland Standard Metropolitan Statistical Area (SMSA), which includes the counties of Multnomah, Clackamas, and Washington in Oregon, contains 1,009,129 inhabitants. Racial and ethnic minorities account for approximately 3 percent of the Portland SMSA.⁸

Each year the Federal Bureau of Investigation (FBI) tabulates crime rates for each State and for metropolitan areas within each State. In 1966 the crime index rate for the United States was 1,671 crimes per 100,000 population; for Oregon in that year the rate was 1,624. In 1968 Oregon's rate equaled the national crime index rate of 2,234. In 1972 the rate per 100,000 population for the United States was 2,830; for Oregon the rate had risen to 3,443. The rate for the Portland SMSA in 1972 was 4,197 per 100,000 population.⁹

The Corrections Division estimated that in 1971, 350,653 criminal cases were known to Oregon policing authorities; during this same year 91,534 cases resulted in arrests; 5,418 of these cases were tried in circuit courts.¹⁰ Also in 1971, 67,637 serious crimes were reported. Serious crimes, as identified by the FBI Uniform Crime Report, include: murder and non-negligent manslaughter; forcible rape; robbery; aggravated assault; burglary; larceny, \$50 and over; and auto theft. The Portland SMSA had 61 percent of the serious crimes in the State.¹¹

Of all arrests made in Oregon in 1971, 1,009 or 1.1 percent resulted in felony commitments to adult prisons.¹² The Advisory Committee focused its study on the rights afforded adult prisoners.

8. U.S., Department of Commerce, Bureau of the Census, 1970 Census of Population, General Population Characteristics, Final Report PC(1)-B39, Oregon.

9. State of Oregon, Law Enforcement Council, Oregon's Priorities for Criminal Justice, 1974 Comprehensive Plan, pp. 3-6 (hereafter cited as Oregon's Priorities for Criminal Justice). Since 1972 the crime index rate has included larceny theft under \$50.

10. State of Oregon, Corrections Division, "Statistical Data" (Oct. 10, 1973), p. 3 (hereafter cited as "Statistical Data").

11. Oregon's Priorities for Criminal Justice, p. 9.

12. "Statistical Data," p. 3.

III. OREGON PRISONS

Oregon Corrections Division

In July 1971 the Oregon Legislature authorized the placement of the Corrections Division within the State's Department of Human Resources. (Ore. Rev. Stat. §184.750 (1974)). From the time of its creation in 1966 until 1971, the Corrections Division had been an independent agency reporting directly to the Governor. By consolidating under the umbrella of the human resources department, each division could be mutually supportive. The Corrections Division administrator reports to the director of human resources, who meets monthly with the administrators of all divisions within the department. Amos Reed became division administrator in 1971. He had been in corrections more than 29 years including work in both juvenile and adult fields.

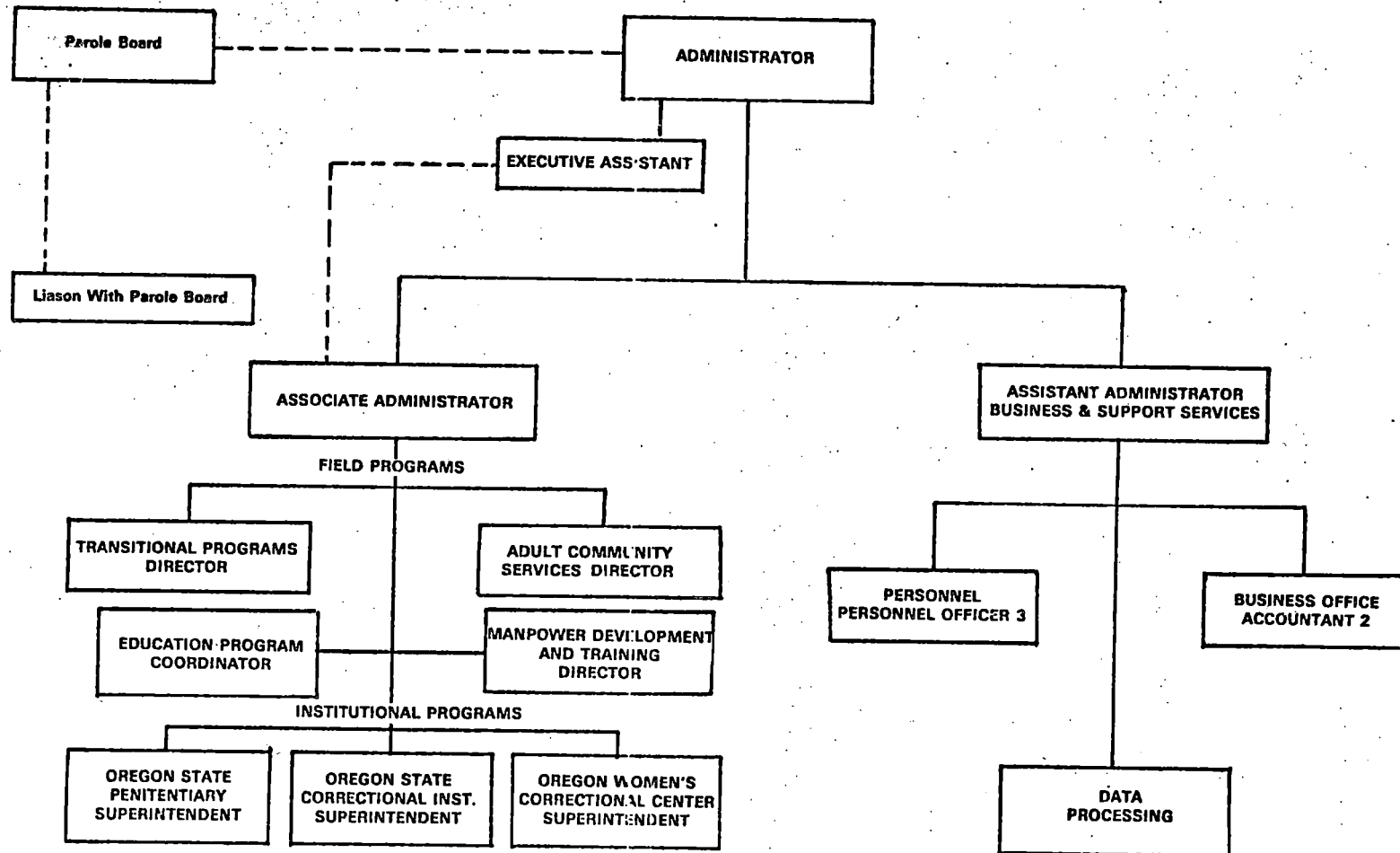
The Corrections Division has responsibility for adult prisons, parole and probation (adult field services), and transitional services such as community centers and work and education release programs. Chart I shows the organization of the Corrections Division.

In early 1974 the division had approximately 8,600 clients, of whom approximately 1,600 were in the three State prisons: Oregon State Penitentiary (OSP), Oregon State Correctional Institution (OSCI), and Oregon Women's Correctional Center (OWCC).¹³ The Advisory

13. "Statistical Data," p. 6; U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (January 1974) (hereafter cited as "USCCR Questionnaire").

Chart I

OREGON CORRECTIONS DIVISION



Source: State of Oregon, Law Enforcement Council, Oregon's Priorities for Criminal Justice, 1974 Comprehensive Plan,

Committee limited its investigation to these three institutions. The Committee reviewed the responsibilities of the division only as they related to the treatment of prisoners.¹⁴

The Corrections Division receives the majority of its funds from the State legislature. For the 1973-75 biennium, the division had a proposed budget of \$36,146,651; \$5,302,837 of this budget was channeled from Federal funds. The remainder were derived from various State resources including the prison industries.¹⁵ An additional \$300,000 for staff training was pending before the interim legislature at the time of this investigation.¹⁶

Budgeted per capita daily costs for each prison in January 1974 were as follows: OSP, \$16.13; OSCI, \$19.83; and OWCC, \$17.24. In comparison, the transitional programs, such as work release, expended an average \$14.34 per capita daily and the parole probation program an average of \$0.76.¹⁷

The headquarters staff of the Corrections Division was small, with an operating budget for the 1973-75 biennium of \$1,625,666 or 4.2 percent of the total division budget. Of these funds, 17.3 percent were expended on developing and implementing training programs for personnel throughout the division.¹⁸

Oregon State Penitentiary (OSP)

OSP is located near downtown Salem.¹⁹ Originally built in the mid-1800s, this facility for male felons was extensively remodeled and expanded after rioters in 1968 gutted the main building. The prison is a maximum

14. The term "prisoners" in this report is used for incarcerated adults. In some cases prisoners are called "inmates" by themselves or by staff; in other cases they are called "residents." These three terms are interchangeable. Similarly, the term for warden in Oregon is superintendent, and the term for guard is correctional officer.

15. "Statistical Data," p. 17.

16. Ibid.

17. Interview with George Sullivan, superintendent, OSCI, January 1974.

18. "Statistical Data," p. 17.

19. Descriptions based on: State of Oregon, Corrections Division, Oregon Corrections Division (hereafter cited Oregon Corrections Divisions); Oregon Priorities for Criminal Justice; Commission staff interviews with superintendents and onsite visits, January 1974.

security facility with a single-cell capacity for 1,101 inmates. The 22-acre compound is surrounded by a 25-foot, reinforced concrete wall. There are four major housing units or cellblocks, vocational training classrooms, isolation and recreation buildings and grass and asphalt recreation areas within the compound. Immediately outside the compound are buildings housing two of the six prison industries. Several homes for staff are nearby.

In addition to these facilities, OSP operates a farm annex 5 miles outside of Salem and a forest camp 80 miles northwest of Salem. In January 1974 the total prison population of these 3 facilities was 1,294; 173 of these inmates were on work or school release. Table II shows the prison population by race and ethnicity.

The average length of stay in OSP in 1973 was 16.3 months, with 50 percent of the inmate population serving sentences in excess of 5 years. Of the total inmate population, approximately 50 percent were serving sentences for violent crimes.²⁰

Because this was a maximum security institution, all inmates had to have passes to move from one area to another. Prisoners were locked in their cells when not pursuing a specific activity.

The major corridors had been painted by the prisoners in bright colors and modern designs. Cellblocks were painted cream-color. Although there were many windows, the light was diffused by several layers of bars and screens. The work and classroom areas were modern and well lighted and ventilated. There were closed circuit television cameras in the visiting rooms, major hallways, and stairwells. The only visible guns were in the eight guard towers.

OSP had four major cellblocks, a segregation and isolation unit, and a psychiatric security unit. There were less than 1,000 prisoners at OSP in January 1974, and all prisoners had their own cell. Cellblocks D and E on three tiers had barred doors. The two remaining cellblocks, A and B, had doors with small windows in them; these cells were honor units. Prisoners in cellblock A had keys to open their own doors during daylight hours. Television sets were available for viewing by the prisoners in cellblocks D and E on alternate nights in dayrooms above the cafeteria. Honor blocks had their own television sets.

20. "Statistical Data," p. 15.

TABLE II

OREGON STATE PENITENTIARY POPULATION--PRISONERS
AND STAFF BY RACE AND ETHNICITY--1974

	Prisoners		Staff		
	Number	Percent	Percent	Number	
White	1,005	80.9	97.1	396	White
Spanish Surnamed	25	2.0	1.5	6	Spanish Surnamed
Black	178	14.3	0.5	2	Black
Native American	34	2.7	0.7	3	Native American
Asian American and Other	0	0.0	0.2	1	Asian American and Other
TOTAL	<u>1,242¹</u>	<u>99.9²</u>	<u>100.0</u>	<u>408</u>	

¹Total population was identified as 1,294 by Oregon State Prison staff; the difference in totals was noted as "variations in totals because of lag in computer input."

²Does not sum to 100.0 percent due to rounding.

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

Above one of the honor units was the psychiatric security unit (PSU). Totally separated from the general prison population, prisoners living in this unit slept, ate, and received treatment there. They had individual rooms with windowed doors, a living area, and a separate dining room. One padded cell was under construction at the time of the onsite visit.

The segregation and isolation unit was located in a building separate from the main complex. Cells had barred doors. Five of the 15 cells in the isolation section had solid doors with windows which may be closed to completely isolate a prisoner. A separate exercise yard was located next to this building.

All cells had beds, toilets, and sinks. Except for cells in the isolation unit, all cells had chest/desks to store personal belongings. At the time of our study, boards were being installed above the cell doors to increase book storage space.

Lights in the cells could be turned on and off by each prisoner, but heating was centrally controlled. Radio earphones were provided each prisoner and could be played 24 hours a day.

Guards wore uniforms; other staff wore street clothes. Prisoners were provided uniform blue denim shirts and slacks and a variety of street shoes. Street clothes were provided prisoners for trips outside the institution.

All three institutions served meals cafeteria style three times a day. At OSP meals were served in two shifts; the other two prisons could accommodate their entire inmate populations in one shift.

Hoyt Cupp became superintendent of OSP following the riot in 1968. Prior to this assignment he had been assistant superintendent and a captain at OSCI and a guard at OSP. He was president of the Western Wardens Association in 1974 and has spent more than 25 years in corrections.

Oregon State Correctional Institution (OSCI)

OSCI is located 3 miles east of Salem. Opened in 1959, the facility has a housing capacity of 476. Convicted male felons under 27 years of age who have not served a previous imprisonment in an adult prison and have not been convicted of murder, forcible rape, or treason are assigned to OSCI. Occasionally, a prisoner from OSP is housed at OSCI for personal safety reasons; there were five such prisoners at OSCI in January 1974. In July 1973 the prison had a total population

of 536, only 454 of whom were physically present in the facility. Other inmates were detailed to OSP, on work release, school release, or temporary leave. The average length of stay was 15.4 months in 1973.²¹ Table III shows the prison population by race and ethnicity.

The prison is situated amid open fields and small forests. The compound is surrounded by two wire fences with rolled barbed wire on the tops of both fences. Guard towers are placed around the compound and at the main entrance.

The buildings were freshly painted. Modern designs in bright colors along major corridors were designed and painted by prisoners. Classrooms, housing units, dayrooms, and main living areas were well ventilated and lighted. The segregation and isolation unit was well lighted with the exception of the six-cell isolation area, which had diffused lighting.

There were two types of housing for the general prison population--dormitory and single cell. As in OSP, each cell had a bed, chest/desk, toilet, and sink. In the dormitory blocks, prisoners had footlockers for storage; bathroom facilities were at one end of each cellblock. Prisoners interviewed by Commission staff said that assignment to single cells or dormitory blocks usually conformed to prisoner preference.

The segregation and isolation unit was part of the main building but was not accessible to the general population. One of four sections in this unit housed transferees from OSP; two other sections were used for segregation, and a fourth section was used for isolation. All cells in the unit had a bed, sink, and toilet.

Lights in the single cells could be turned off and on by the prisoner; heating was centrally controlled. Radio earphones were available to each prisoner and could be played 24 hours a day.

Guards as well as other staff wore street clothes; prisoners wore State-issued clothing which resembled street clothes. Prisoners had a choice of a variety of shirt and slacks colors.

During the day inmates could move freely from one area to another with the exception of the business and counselor offices. Passes were issued for entry into these areas.

21. Ibid.

TABLE III

OREGON STATE CORRECTIONAL INSTITUTION
POPULATION--PRISONERS AND STAFF BY RACE AND ETHNICITY--1974

	Prisoners		Staff		
	Number	Percent	Percent	Number	
White	449	86.5	98.5	199	White
Spanish Surnamed	10	1.9	0.0	0	Spanish Surnamed
Black	53	10.2	1.5	3	Black
Native American	5	1.0	0.0	0	Native American
Asian American and Other	2	0.4	0.0	0	Asian American and Other
TOTALS:	<u>519</u>	<u>100.0</u>	<u>100.0</u>	<u>202</u>	

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

George Sullivan, superintendent of OSCI since 1969, has been in corrections more than 20 years. He was assistant superintendent at OSCI for several years and deputy warden at OSP for 5 years. He had also spent 7 years as a counselor at OSP.

Oregon Women's Correctional Center (OWCC)

Opened in January 1965 at its present location next to OSP, the center is a maximum security, one-story facility for female felons. A single wire fence topped with barbed wire surrounds the area. Three of OSP's guard towers oversee the grounds. The center has a housing capacity of 74. During the 1971-73 biennium, the average daily population was 60. The average age of the inmate was 28 years; the average sentence length was 4 years; and the average length of stay was less than 1 year.²² Table IV shows the prison population by race and ethnicity.

The prison building was clean, freshly painted in a variety of colors--greens, blues, whites, pinks. Each room was well lighted and ventilated. With the exception of the reception lobby and the superintendent's office, the prisoners could walk freely throughout living quarters, offices, and classrooms during the day. A central glassed-in control room had visibility of all four hallways. The activities of inmates were monitored by prison staff from this control room. A closed-circuit television in the control room viewed persons entering and leaving at the entrance gate. Visitors must pass by the main OSP control tower to reach the OWCC parking lot.

Each prisoner had a private cell with a small, windowed door. A curtain could be used to cover the window only during waking hours. Rooms could be decorated to the occupant's taste; material for curtains and bedspreads were provided by the State. Each cell had a bed, closet, desk/dressing table, and sink. Prisoners had keys to their rooms for use during the day.

Four segregation cells were located at the end of one of the housing wings. These cells were the same size as the other housing units and had the same basic furnishings. At the time of the Advisory Committee's study, three of the segregation units were being used for storage.

22. Ibid.

TABLE IV

OREGON WOMEN'S CORRECTIONAL CENTER
POPULATION--PRISONERS AND STAFF
BY RACE AND ETHNICITY--1974

	Prisoners		Staff		
	Number	Percent	Percent	Number	
White	49	77.8	96.6	28	White
Spanish Surnamed	1	1.6	0.0	0	Spanish Surnamed
Black	10	15.9	3.4	1	Black
Native American	3	4.8	0.0	0	Native American
Asian American and Other	0	0.0	0.0	0	Asian American and Other
TOTALS:	63	100.1 ¹	100.0	29 ²	

¹Does not sum to 100.0 percent due to rounding.

²OWCC reported staff as 28 1/2. For ethnic identification purposes, the one-half staff was converted to 1.

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

Prisoners controlled the lights within their own cells; heating was centrally controlled. Radio earphones were in each cell. During the Advisory Committee's study, radio programs were broadcast only from 6:00 a.m. to midnight. According to the superintendent, the broadcasting time had been cut back from 24 hours a day because of the energy crisis.

Prisoners and staff wore street clothes. Prisoners could order street clothes from the State if they did not have personal clothing.

Tom Toombs, superintendent of OWCC since Fall 1972, has been in corrections for 11 years. He was assistant superintendent of OSCI for 3 years and has served as a counselor, acting deputy warden, and executive assistant at OSP.

Staff Training and Recruitment

I think we have to recognize in a penal institution that we [staff] need various types of training, but primarily we need training to keep a resident within that prison, to provide a good, safe working condition for staff and...other inmates, to protect the violent resident, or to protect the average resident from the small percentage who may inflict harm upon him.

W. Wayne Eatherly
Correctional officer, OSCI

What they're [prison staff] paid for is to keep us there; that's a function of that institution and they do it very well.

Peter Brent Zauer
Prisoner, OSP

Prison employees complained to legislators that prisoners were receiving many beneficial programs, but that corrections staff were being ignored. As a result of their complaints, the Corrections Division was authorized \$161,916 from the State General Fund and \$119,750 from Federal funds for training programs in the 1973-75 biennium. This amount was up 754.1 percent from the 1971-73 authorization.²³ (See Table V).

23. State of Oregon, Corrections Division, Comments on the Oregon Advisory Committee Report to the U.S. Commission on Civil Rights, "Civil and Human Rights in Oregon State Prisons." (Aug. 1, 1975 draft) (hereafter referred to as "Comments"). The draft of this report was submitted to the Corrections Division for their review and comments.

TABLE V
 TRAINING STATISTICS by FUNDING SOURCES,
 PROGRAM, NUMBER of TRAINEES, and
 MANHOURS of TRAINING (1971-1973)

TRAINING PROGRAM	Number of Trainees	Training No.hrs./ Trainee	Total Manhours of Training
* <u>\$25,000 In-Service Training Grant (Fiscal 1972)</u>			
a. Day-to-day Understanding and Working With Offenders	360	12	4,320
b. Work Planning and Performance Appraisal	135	24	3,240
SUB TOTAL	495	--	7,560
* <u>\$30,000 In-Service Training Grant (Fiscal 1972)</u>			
a. Emergency Security and Riot Control	192	Variable	2,916
b. NICD* Conference	121	8	968
SUB TOTAL	313	--	3,884
<u>\$4,200 General Fund Dollars (Covering Period: July 1, 1971 to March 1, 1973)</u>			
a. Work Planning and Performance Appraisal	20	8	160
b. Counseling by Objectives	80	40	3,200
c. Policies and Procedures (OWCC)	12	Variable	100
SUB TOTAL	112	--	3,460
* <u>\$60,000 Corrections and Jail Training Grant (Fiscal 73, commencing March 1, 1973)</u>			
a. Induction-orientation (days 1 & 2)	53	16	840
b. Induction-orientation (days 3,4, & 5)	41	24	984
c. Induction-orientation (days 6-10)	29	40	1,174
d. Counseling by Objectives	16	24	384
e. Human Relations Training (OWCC)	11	6	68
f. Work Planning and Performance Appraisal	13	16	208
g. Conferences, workshops, and other training	2	24	48
SUB TOTAL	165	--	3,706
GRAND TOTAL ALL TRAINING	1,085	--	18,610
* LEAA STATE BLOCK FUNDS			

Source: Manpower Development and Training Section, Oregon Corrections Division,
 Department of Human Resources, 1971-73 Training Report, August 1973.

During the 1971-73 biennium, training money from all sources was used for training in day-to-day working with offenders, conference attendance, security and riot control, counseling, corrections orientation for new staff, work planning, and appraisals. Table V shows the total number of participants and manhours for training coordinated by the Corrections Division.

The bulk of the training funds went for the "induction-oriented program" for all new or recently hired employees. This program was 2 weeks long. Days 1 through 2 of the first week were for all new employees and focused on personnel information, such as insurance, benefits, and responsibilities, with an overview of the criminal justice system. Days 3 through 5 presented more specific information on the characteristics of the clients (prisoners, parolees, and probationers) for new staff with direct service responsibilities, such as correctional officers, counselors, and teachers. This segment of the training included a half day on racial and ethnic awareness.

The second week of training was primarily for correctional officers. The course content focused on security concerns such as first aid, drug detection, use of restraints, self-defense, and weaponry.

A second major training program, emergency security and riot control, was provided for correctional officers in fiscal year 1972. Participation in this training had been voluntary but was made mandatory following the fatal stabbing of a lieutenant at OSP.²⁴

In addition to the training provided by the Corrections Division, officers were encouraged to continue or complete their college education. An estimated 30 officers at OSCI and 50 at OSP were in college at the time of this study.²⁵

24. State of Oregon, Department of Human Resources, Corrections Division, Manpower Development and Training Section, "1971-73 Training Report" (August 1973), p. 3 (hereafter cited as "1971-73 Training Report"); See also "Comments," p. 2.

25. Interviews with W. Wayne Eatherly, correctional officer, OSCI, and Hoyt Cupp, superintendent, OSP, January 1974.

Administrators, staff, and prisoners agreed that more training was necessary for prison employees, but there were differing opinions on what kind of training would be most beneficial. Mr. Eatherly told the Advisory Committee that it would be helpful to receive more human relations training, but he felt there was a greater need for emergency training in riot control and self-defense. He added:

We do feel--because emergency situations do arise, riots do occur, major disturbances do occur--that we need that kind of training.... The policeman on the street deals mostly with traffic citations and minor disturbances as such, but he never knows when he'll have to respond to a holdup...or self-defense may be involved. We would like that type of emergency training also.

Sgt. Ed Goode, president of the correctional officers union at OSP, did not agree with Mr. Eatherly's training priorities. He told the Advisory Committee:

I think we need more training, if in any area, to give us an understanding of the wishes of the Corrections Division, the policy and procedure.

He continued:

I think that probably there should be more training for the older officers so that [they] could be more familiar with the new goals of the penitentiary, the new procedures, [and] the new policy.

All three prisons instituted sessions in the fall of 1973 on new rules and regulations. At OSCI these sessions were not mandatory and were poorly attended, according to Mr. Eatherly.

In delineating training needs, correctional officers suggested some of the qualities they believed made a good correctional officer. Mr. Goode told the Advisory Committee that "probably experience is the only thing that would really make a good correctional officer." He added:

I think that to be a good correctional officer a person is probably the same type of a person that he's guarding...that they're not a heck of a lot of different than a lot of the inmates.

It takes a person that can relate to the inmate to be a good correctional officer, and to relate, you're going to have to be alike.

Repeatedly, prisoners and staff mentioned the importance of the relationship between the guards and the inmates. Mr. Eatherly stated this relationship in terms of consistency: "Regardless of whether he tends to be a more strict correctional officer in terms of enforcement of rules, he should be consistent so that the resident knows how to deal with him."

Complaints about correctional officers by prisoners more often than not emanated from alleged inconsistencies and lack of rapport. Black, Mexican American, and Native American prisoners at OSP and OSCI complained to the Advisory Committee and Commission staff that few staff members could relate to them. They said that not only should more minorities be hired but also that existing staff needed sensitizing to cultural differences.

Mr. Eatherly adamantly denied that racism existed between the staff and prisoners at OSCI, but he conceded that some of the older correctional officers might have biases from past experiences:

Some of our best officers are older officers, but you take a man who's been in the [prison] business for several years, he has seen most of the minorities coming to us being uneducated.

Now in this day and age we have a black who comes to us, [and] despite the fact that he's a criminal...[is] a brilliant criminal. Yes, I think there's an initial distrust there.

Hoyt Cupp perceived the situation somewhat differently at OSP. Racial biases exist inside the prisons about the same as they exist on the outside, he told the Advisory Committee.

Although a greater need for staff training in human relations was recognized in OSP and OSCI, only 5,372 out of 18,610 man-hours of training by the Corrections Division during the 1971-73 biennium related to human relations and understanding; less than 1,000 hours related to minority concerns.²⁶

26. "1971-73 Training Report," p. 3.

Similar complaints, however, were not received from prisoners at OWCC. Prison staff and prisoners attributed this situation to the small number of minority prisoners and to monthly staff discussions on human relations problems and concerns.²⁷

Tom Toombs, superintendent of OWCC, summarized for the Advisory Committee the problems affecting training, including the need for adequate research to develop and maintain relevant programs:

Research, like training, typically gets cut off in terms of budget appropriations. It tends to be viewed as something that's sort of icing on the cake.

Recognizing the inadequacies of past training programs, the Corrections Division claimed that "training was the number one priority for the 1973-75 biennium."²⁸

Recruitment

Both Hoyt Cupp and George Sullivan agreed that minority staff and cultural awareness training should be increased. Several reasons for the difficulty in hiring blacks were proposed by them to the Advisory Committee. One, blacks with qualifications are readily hired by other agencies offering greater financial incentives. Two, blacks have been hesitant to leave Portland, which has a large black population, to move to Salem, which has a negligible black population. Third, civil service regulations make it difficult to select racial or ethnic minorities from the competitive lists since relatively few apply.

Despite these difficulties, both OSP and OSCI managed to hire several blacks while Commission staff was investigating the prison system. Mr. Sullivan told Commission staff that a Spanish speaking background employee was the highest priority for OSCI hiring.

OWCC had begun to use male and female staff as correctional officers. Both prisoners and OWCC staff said that this innovation was satisfactory. Women staff in the men's prisons were restricted, however, to traditional roles such as teacher, nurse, and clerk.

27. Interviews with Tom Toombs, superintendent of OWCC, and OWCC prisoners, January 1974.

28. "1971-73 Training Report," p. 3.

IV. PRISONERS' RIGHTS

Three basic program placements are available to prisoners upon entering the prisons: education, vocational training, or work. In the Oregon system, unit teams of those staff closest to a prisoner--counselor and correctional officer--meet with the prisoner, review records, preferences and program availability, and make placement recommendations.²⁹ These recommendations and any subsequent modification in programming are reviewed and approved by senior prison administrators.

Education and Vocational Training

Education

Upon admission to the prison system, prisoners take group tests for academic level and intelligence quotient (I.Q.). In October 1973 the mean-tested (average) academic levels of the prisoners were: OSP, 8.6 years of education; OWCC, 9.2 years; and OSCI, 8.7 years.³⁰ The mean-tested I.Q. at admission was 97 for all three institutions.³¹

According to Hoyt Cupp, full-time educational assignments at OSP were equivalent to full-time work assignments, but there was almost no monetary compensation available for attending school. Mr. Cupp stated that anyone who tested below a fifth-grade education level had to attend school, and one-to-one instruction was available for illiterate or non-English-speaking prisoners. For inmates above

29. At OWCC placement is handled by the program committee consisting of five staff members.

30. "Statistical Data," p. 10.

31. Ibid.

these levels, the educational programs were voluntary, he said.³² As of January 21, 1974, 116 prisoners at OSP were enrolled in remedial and high school programs, 64 were in vocational training, and 30 were on education release. An additional 44 prisoners were enrolled in a college program operating within the prison.³³ College classes were also offered in the evenings on a part-time basis for prisoners who had other assignments during the day. Table VI shows the proportion of minorities represented in various education and training programs at OSP.

Generally, ethnic and racial minority inmates at OSP exceeded their proportionate prison population in remedial and high school programs. In vocational training classes, however, all minority groups were underrepresented compared with their percentage in the total prison population. College level programs seemed to be equitably available for black and white prisoners.

At the time of this study, OSP had a full-time educational staff of 12, all white males. There was also a full-time, all-male, vocational training staff of 25; 24 were white and 1 was black.³⁴ College courses offered in the evenings were staffed by volunteers from nearby colleges and universities.³⁵

OWCC had minimal facilities to provide educational programs for its prisoners, but inmates were allowed to participate in programs at OSP.³⁶ As of January 22, 1974, 10 prisoners were taking business education courses. These courses were conducted in a temporary

32. Interview with Hoyt Cupp, superintendent, OSP, January 1974.

33. "USCCR Questionnaire." As of January 1, 1974, the Corrections Division had assumed funding responsibility for a collegiate program. Prior to this time, collegiate studies, called Project Newgate, were federally funded and administered by grant recipients at local colleges and universities. See "Comments," p. 1. During staff interviews with prisoners the collegiate program was still called "Project Newgate."

34. "USCCR Questionnaire."

35. Interview with Hoyt Cupp, superintendent, OSP, January 1974.

36. The 1973 legislature funded the construction of an 8,000 square foot multipurpose building, which would include three classrooms, a library, an arts and crafts room, a multipurpose recreation area, and visiting facilities. The building was completed and put into operation during November 1974. "Comments," p. 3.

TABLE VI

OREGON STATE PENITENTIARY
EDUCATION AND TRAINING ASSIGNMENTS BY RACE AND ETHNICITY - 1974

<u>Assignment</u>	White (80%)*		Black (14%)*		Spanish Surnamed (2%)*		Native American (3%)*	
	#	% of total	#	% of total	#	% of total	#	% of total
Remedial	22	61%	12	33%	2	6%	-	-
High School	43	54%	30	38%	5	6%	2	2%
Vocational Training	59	92%	4	6%	-	-	1	2%
Education Release	21	70%	8	27%	1	3%	-	-
Newgate	37	84%	6	14%	-	-	1	2%

*Percentage of total prison population within each assignment.

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

mobile trailer and in the dining area. Five inmates were being trained at OSP in computer programming, keypunch, drafting, and electronics. Three prisoners were participating in the college program at OSP, and four were on educational release. In January 1974, 26 of the 63 prisoners at OWCC were participating in educational and vocational training programs. Table VII shows the education and training assignments by race and ethnicity.

Female prisoners as a group had a higher tested academic level (9.2 years) than male prisoners (8.7 years). The percentage of female inmates taking high school and college courses (9.5 percent) was almost the same as the men's at OSP (9.6 percent).

Although the educational and vocational training programs offered to OWCC prisoners are limited, opportunities have improved considerably since 1972. In 1972 a State advisory group found OWCC educational and vocational opportunities below acceptable levels.³⁷ At that time, only sewing and beautician training were available within the institution. Since those findings, efforts have been made by the Corrections Division, and specifically the OWCC superintendent and staff, to upgrade opportunities.³⁸

Two women, both white, worked full time at OWCC on the education staff.³⁹ Additional educational resources included OSP instructors and volunteers from universities and colleges. At the time of the investigation, OWCC staff were discussing plans for a contract with a local community college to provide additional vocational training within the institution. Mr. Toombs told the Advisory Committee that every effort was being made to take advantage of resources which already existed, such as the community college and other divisions of the Department of Human Resources.⁴⁰

37. "Oregon Women's Correctional Center Advisory Committee Report and Recommendations" (Mimeograph, July 21, 1972).

38. Interviews with Bob Watson, deputy administrator, Corrections Division, and Tom Toombs, superintendent, OWCC, January 1974.

39. "USCCR Questionnaire."

40. OWCC obtained full-time staff from the children services division and the vocational rehabilitation division to supplement its own staff. Mr. Toombs refers to this effort as "integrated services project."

TABLE VII

OREGON WOMEN'S CORRECTIONAL CENTER
EDUCATION AND TRAINING ASSIGNMENTS BY RACE AND ETHNICITY - 1974

Assignment	White (76.6%)*		Black (15.6%)*		Spanish Surnamed (1.6%)*		Native American (4.7%)*	
	#	% of total	#	% of total	#	% of total	#	% of total
High School	2	50%	1	25%	-	-	1	25%
Vocational Training	2	40%	2	40%	1	20%	-	-
Education Release	3	75%	1	25%	-	-	-	-
Newgate	2	67%	1	33%	-	-	-	-
Business Education	6	60%	4	40%	-	-	-	-

*Percentage of total prison population within each assignment.

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

The criteria for placement at OSCI included first-time felons under 26 years of age. Because of their youth, these prisoners tended to have less education and work experience than prisoners at the other facilities. Superintendent Sullivan estimated that 90 percent of the prisoners at OSCI had not completed high school. As of January 10, 1974, 70 prisoners were enrolled in remedial elementary and high school classes; 172 were in vocational training; 6 in tutorial programs; 19 in intermediate (between elementary and high school) courses; and 14 on educational release. An additional 67 were taking college courses in the evenings; there was no full-time college program such as Project Newgate during the day. Unlike the women at OWCC, residents of OSCI could not participate in the OSP college program. Table VIII shows the proportion of minority inmates in various programs in OSCI.

The remedial/elementary, high school, and tutorial programs show a disproportionately high percentage of blacks. The intermediate program shows a disproportionately low percentage of blacks. The relatively few numbers of Spanish speaking background (10), Native American (5), and Asian American inmates (Japanese--1 and Hawaiian--1) made it difficult to ascertain the accessibility of these programs for minorities other than blacks.

OSCI had 8 full-time educational staff members, 7 white males and 1 white female, and a full-time vocational training staff of 19 white males.⁴¹ Volunteer instructors from nearby colleges taught college courses in the evenings.

Prisoners interviewed in all three prisons by Commission staff saw the educational programs as a positive step toward release. However, prisoners said that there were difficulties in getting into the programs, that the numbers and variety of course offerings were limited, and that there were problems in the overall coordination with outside educational systems.

Men and women prisoners complained that it was difficult to be accepted for the college program at OSP. Gaylord Drew, a prisoner at OSP and president of the Black Culture Club, told the Advisory Committee:

41. "USCCR Questionnaire."

TABLE VIII

OREGON STATE CORRECTIONAL INSTITUTION
EDUCATION AND TRAINING ASSIGNMENTS BY RACE AND ETHNICITY - 1974

Assignment	White (86.5%)*		Black (10.2%)*		Spanish Surnamed (1.9%)*		Native American (0.96%)*	
	#	% of total	#	% of total	#	% of total	#	% of total
Remedial/ Elementary	6	60%	4	40%	-	-	-	-
Intermediate	18	95%	1	5%	-	-	-	-
High School	48	80%	11	18%	1	2%	-	-
Tutorial	5	83%	1	17%	-	-	-	-
Vocational Training	142	83%	23	13%	5	3%	2	1%
Education Release	12	86%	1	7%	-	-	1	7%
College	59	88%	7	10%	-	-	1	1%

*Percentage of total prison population within each assignment.

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

I had put in for Newgate [college program] something like six times and I've been locked up 3 years now. They take into account the length of your parole sentence. There is no set criteria [for acceptance in Newgate]. They say to some people that you have too much time to the parole board; [to] others they say that it's not a realistic program for you.

Another OSP prisoner, Peter Brent Zauner, reflected on how a prisoner's "jacket" (personal file) containing erroneous or contradictory information might hamper his or her efforts to obtain an education. He said:

I attempted to get into Project Newgate myself since its inception. I applied some 16 times [but] these records--they're very faulty. When I applied the last time... they had my educational level listed as the ninth grade, [but] at that time I had over 30 hours of four-point college credit.... They had my I.Q. listed 102 but in my pre-trial investigation it was listed as 136.

Neither OSP nor OSCI had precise placement guidelines.⁴² Unit teams weighed several factors in making placement decisions. George Sullivan, superintendent of OSCI, wrote:

Limiting factors include program availability, the resident's motivation, aptitudes and interests, and prerequisites of individual programs....If no space is available in the program selected, the individual's name is placed on a waiting list; individuals are assigned to active training in projected release date priority.⁴³

42. According to the Corrections Division, participation in Project Newgate was controlled by grant recipients. Since January 1, 1974, the division has maintained the collegiate program and controlled enrollment. The division claimed that the variety of courses had expanded and the number of participants had increased, but it did not state to what degree. See "Comments," p. 1.

43. George Sullivan, superintendent, OSCI, "Program Participation at OSCI by Ethnic Groupings" (undated mimeograph), p. 2.

Hoyt Cupp, superintendent of OSP, told Commission staff that he was aware that verbal or written feedback on placement decisions did not always reach the prisoners.

Since 1972 OWCC prisoners have been able to consider college placement as a program option. Tom Toombs, superintendent of OWCC, told Commission staff that the number of women able to participate in Project Newgate was limited and that they were not able to participate in evening college classes. Bobbette Lawrence, a prisoner in OWCC, told the Advisory Committee:

You have a total college curriculum in Newgate at OSP; at OWCC there are three of us going to college this term....It would be nice if there was some way the administration could extend a little trust and maybe let more women be involved to take advantage of these classes.

On the other hand, both staff and inmates at OWCC indicated that the backgrounds of many of the women prisoners were not academically oriented. Beverly Scott, counselor at OWCC, told the Advisory Committee that many of the women held traditional views of their roles. It was difficult for staff to encourage the women to take advantage of educational opportunities, she said. Furthermore, according to Ms. Scott, many of the women served relatively short terms (an average of 9 months) which diminished interest in educational programs. The college program was long range, she said, and did not provide immediate skills for potential employment upon release.

Marilyn Owens, an OWCC prisoner, conceded that she initially rejected the OWCC planning committee's suggestion that she enroll in Project Newgate courses. She found, however, that once she enrolled the courses seemed beneficial and her career goals were broadened.

OSCI inmate Steven Mobley told the Advisory Committee that he had accumulated college credits from the evening courses offered at the prison, but that there were a limited number of courses. At the time of the Committee's study, only 10 courses were being offered at OSCI.

OWCC inmate Bobbette Lawrence said that several of the college course offerings were relevant to her career goal, but that she took other courses "just to have something to do."⁴⁴

44. Prisoner interviews are confidential. Only testimony from the public open meeting is attributed to an individual.

In 1974 the Corrections Division requested that the State legislature consider a plan for all educational functions of the State to be administered by the State Department of Education. The purposes of such a plan were to eliminate duplication of effort, consolidate resources, and make more professional educators available to the prisons in planning and instruction. Such a plan would also free prison staff from educational programming so they could be utilized in other aspects of the prison system. At the time of the Advisory Committee investigation, the interim legislature committee was not favorable toward such a plan.⁴⁵

Vocational Training

A far greater percentage of prisoners at all three institutions participated in vocational training rather than education programs.⁴⁶ Staff and prisoners agreed that some of the training programs were beneficial. Prisoners interviewed at OSP by Commission staff felt that the auto repair training program not only provided sound training, but also assured job placement upon release. Similar positive comments about the auto and printing courses at OSCI were voiced by Mr. Sullivan and OSCI prisoners. OWCC was in the process of obtaining more modern and complex business machines for training purposes in their business education courses.

Despite these positive views of prison vocational training, problems with the program surfaced during the investigation. According to Superintendent Sullivan, the business machines repair course was inadequate because the equipment was outmoded.⁴⁷ A frequent complaint from prisoners at the three prisons was that several vocational courses were outdated and irrelevant. William Bishop, a prisoner at OSCI, described his experience in the business machines course:

45. Interview with Bob Watson, deputy administrator, Corrections Division, January 1974.

46. In this discussion of vocational training, business education at OWCC is included as preliminary vocational training.

47. Interview with George Sullivan, superintendent, OSCI, January 1974.

My instructor informed me that I knew very little about the subject. I spent 1,014 hours but all it would do is give you [a] little better chance than a guy that knows nothing about it.

Unrealistic placement in vocational courses was another complaint of the prisoners. The following exchange occurred between an Advisory Committee member and Mr. Bishop:

Advisory Committee:

Would you like to learn [business machines repair] in much more depth? Are you interested in repairing business machines?

Mr. Bishop:

No...I'd like to be self-sufficient to the point of owning my own business....I'd like to pursue something like heavy equipment operation.

Other inmates complained that even when they indicated their preferences for certain training courses, they were often assigned elsewhere or placed on a waiting list for the course of their choice. Steven Chochrek, who had been a prisoner at both OSP and OSCI, described his perception of vocational training placement at OSCI:

Everytime I'd ask my case manager...why my programming was the way it was, like I'd taken all nine aptitude tests and I wanted to go into printing [or] graphic arts, they wanted to put me in what we [the prisoners] deemed 'weeds and seeds,' which, in fact, was working out on the lawn and picking weeds and mowing the grass. This was called vocational training [landscaping].

Lack of followup on training courses was another prisoner complaint which highlighted an ongoing dilemma for prison administrators: programming for prisoners with long sentences. According to Hoyt Cupp, superintendent of OSP, administrators have two choices in such cases. One, a prisoner may begin a particular vocational program immediately upon entering the prison. Many programs last 9 to 10 months; few exceed 18 months. Upon completion of a program, a prisoner would be assigned to a job or another training program. Skills acquired during the training, however, may be lost over time, he said. Two, administrators may delay placement until a prisoner is within a reasonable time of release.

The latter choice often frustrated prisoners who remained on waiting lists interminably. As one prisoner told Commission staff:

I completed a training course 9 months ago.
I've been assigned to kitchen duty every since,
just waiting for word on a parole date.⁴⁸

Mr. Cupp acknowledged this dilemma:

The reality of the situation is that for some individuals we're in the warehousing business, and I'm afraid it will always be that way as long as we have maximum security prisons....Fortunately, there are few people in this category, but there are [some of] those.

OSCI had the most varied vocational training courses of the three prisons, offering both dated and up-to-date courses. Courses included electrical repair (household appliances), metal and wood refinishing, business machines repair, landscaping, carpentry and cabinetmaking, cooking, body and fender repair, auto mechanics, bricklaying, drafting, radio and television repair, meat cutting, barbering, small engine repair, building maintenance, and graphic arts.⁴⁹ OSCI also had facilities for a welding course but was seeking an instructor at the time of the investigation.⁵⁰

OSP listed only eight vocational training courses, including auto mechanics, body and fender, baking, carpentry, drafting, electronics, welding, and computer programming and maintenance.⁵¹ Perhaps because there was an older and more experienced inmate population at OSP, more prisoners in this institution worked in jobs rather than training programs.

48. Interview with OSCI prisoner, January 1974.

49. Oregon Corrections Division, "OSCI," p. 1.

50. Interview with George Sullivan, superintendent, OSCI, January 1974.

51. Oregon Corrections Division, "OSP," p. 3.

In addition to the business education training at OWCC, female prisoners could participate in the computer programming course at OSP. To some degree, work release opportunities for OWCC prisoners included apprenticeship programs. However, OWCC counselor Beverly Scott conceded that it had been difficult to place women in nontraditional apprenticeships such as barbering.⁵²

Although the Corrections Division and each prison have attempted to provide adequate educational and vocational programs, opportunities and facilities in each prison need broadening or refurbishing. Opportunities for OWCC prisoners seemed minimal at best. The selection and assignment process to programs at all prisons was unclear, raising questions about the objectivity of placement decisions.

Work

In the draft baseline prepared by Donald Goff, expert consultant to the Commission, it states that "all inmates should have the right to work in the institution at meaningful employment under healthful and safe conditions with adequate remuneration."⁵³ It also cites the 1970 Report of the President's Task Force on Prisoner Rehabilitation, which states that inmate work experience "should be the heart of the correctional process."

As with the educational and vocational programs, OWCC prisoners had fewer meaningful job opportunities than prisoners in OSP and OSCI. At the time of the Advisory Committee investigation, full- or part-time jobs for OWCC prisoners included culinary, OSP reception and business offices, clothes room orderly, library clerk, maintenance, and landscaping. Twenty-three prisoners had full time jobs (18 whites and 5 blacks) and 20 prisoners had part-time jobs (16 whites and 4 blacks).⁵⁴ Only 23 of the prisoners received pay for their work, ranging from a low of \$.25 a day to a maximum by State law of \$3.00 a day (Ore. Rev. Stat. §421.408(1974)). Six whites, one black, and one Native American were on work release.

52. Interview with Beverly Scott, counselor, OWCC, January 1974.

53. "Minimum Civil and Human Rights for Sentenced Inmates in Correctional Institutions" prepared by Donald H. Goff for the U.S. Commission on Civil Rights (Second Revision, Aug. 18, 1973).

54. "OWCC Daily Population Report" (Mimeograph, Jan. 22, 1974).

In addition to limited work opportunities, OWCC prisoners complained about inadequate placement procedures. Although the planning committee reviewed each prisoner's potential program and other staff provided informal counseling, prisoners believed that this was inadequate for their needs. OWCC counselor Beverly Scott agreed that staffing was inadequate; not only was she assigned to counsel on vocational, educational, and personal matters, but she also had committee assignments including disciplinary concerns. Only one counselor was available at OWCC; no counselor was available in the evenings or on weekends.

Prisoners complained to Commission staff that some inmates received pay while others did not for similar jobs. Mr. Toombs acknowledged this practice and told the Advisory Committee that limited funds precluded paying everyone. In most cases, he said, pay was based on seniority and type of job.

Beverly Scott told the Advisory Committee that priority for paying jobs went to those inmates who could not leave the institution during the day and had no source of income. At the time of the Advisory Committee study, 16 of 46 OWCC prisoners were unable to leave each day for jobs or school.

Both OSCI and OSP had a variety of jobs available to the prisoners. Prisoners indicated their preferences for certain jobs and both superintendents claimed that placement attempted to concur with preference whenever possible.⁵⁵ The Advisory Committee could not determine the extent to which an inmate's preference was met. Job assignments by race are indicated in Tables IX and X.

55. Interviews with Hoyt Cupp, superintendent, OSP, and George Sullivan, superintendent, OSCI, January 1974.

TABLE IX

OREGON STATE PENITENTIARY
JOB ASSIGNMENTS BY RACE AND ETHNICITY - 1974

Job Assignment	White		Black		Spanish Surnamed		Native American		Other	
	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total
Clerical	59	88	6	9	2	3	-	-	-	-
Farm/Forest										
Camp	51	74	16	23	1	1	1	1	-	-
Food Service	71	85	9	11	2	2	2	2	-	-
Sanitation	36	67	18	33	-	-	-	-	-	-
Medical/										
Hospital	17	89	2	11	-	-	-	-	-	-
Barber Shop	5	71	2	29	-	-	-	-	-	-
Plumbing Shop	7	100	-	-	-	-	-	-	-	-
Laundry	58	73	14	18	3	4	3	4	1	1
Paint Shop	18	95	1	5	-	-	-	-	-	-
Electric Shop	5	100	-	-	-	-	-	-	-	-
Carpenter Shop	13	100	-	-	-	-	-	-	-	-
Steel Shop	27	100	-	-	-	-	-	-	-	-
Power House	5	83	1	17	-	-	-	-	-	-
Commissary	3	100	-	-	-	-	-	-	-	-
Others (Misc.)	15	56	8	30	3	11	1	4	-	-
Industries										
Furniture	76	92	5	6	-	-	2	2	-	-
Upholstery	22	96	1	4	-	-	-	-	-	-
Garage	11	69	3	19	1	6	1	6	-	-
Misc.	24	69	6	17	4	11	1	3	-	-

Source: U.S. Commission on Civil Rights, "Questionnaire, Prison Racial Data" (Mimeograph, January 1974).

TABLE X

OREGON STATE CORRECTIONAL INSTITUTION
JOB ASSIGNMENTS BY RACE AND ETHNICITY - 1974

Job Assignments	White		Black		Spanish Surnamed		Native American		Other	
	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total
Clerical	23	92	1	4	-	-	1	4	-	-
Runners	1	100	-	-	-	-	-	-	-	-
Food Service	51	88	5	9	2	3	-	-	-	-
Orderlies	49	92	4	8	-	-	-	-	-	-
Plumbing	1	33	2	67	-	-	-	-	-	-
Clothing Room	12	100	-	-	-	-	-	-	-	-
Faint Shop	4	100	-	-	-	-	-	-	-	-
Electric Shop	1	50	1	50	-	-	-	-	-	-
Carpenter Shop	3	100	-	-	-	-	-	-	-	-
General Repair	4	100	-	-	-	-	-	-	-	-
Boiler Plant	2	67	1	33	-	-	-	-	-	-
Lawns & Gardens	13	81	1	6	-	-	1	6	1	6
Landscape Detail	34	87	4	10	1	3	-	-	-	-
Salvage Shed	1	100	-	-	-	-	-	-	-	-
Auto Shop	6	100	-	-	-	-	-	-	-	-
Equipment Operators	5	100	-	-	-	-	-	-	-	-
Fairview Hospital Aides	12	86	2	14	-	-	-	-	-	-
Farm	1	100	-	-	-	-	-	-	-	-

Source: U.S. Commission on Civil Rights, "Questionnaire,
Prison Racial Data" (Mimeograph, January 1974).

At OSP 512 prisoners received pay ranging from \$.25 per day to the maximum by State law of \$3.00 per day.⁵⁶ White inmates were 411 (80.0%) of this group; blacks, 67 (13.0%); Native Americans, 18 (3.5%); Spanish speaking background, 15 (3.0%); and Asians, 1 (less than 1.0%).⁵⁷ White inmates received the highest average pay per day (\$1.31) in the industries and the lowest (\$0.37) in the physical plant jobs. Blacks and Native Americans earned an average of \$.42 and \$.43, respectively, in farmwork compared with the average \$.51 and \$1.50 earned by whites and Spanish speaking background inmates, respectively. Black and Native American inmates also earned the highest average pay of \$1.22 and \$1.50, respectively, in the culinary jobs, and \$1.18 and \$1.52 in prison industries. Two Native Americans, one in rehabilitation services and the other in a physical plant job, earned \$2.00 and \$2.50, respectively. Despite complaints from several prisoners, the Advisory Committee did not find major inequities in salaries among different ethnic or racial groups.

At OSCI and OWCC, there were no prison industries and wages could be earned only through meritorious pay. According to George Sullivan, superintendent of OSCI, meritorious pay was distributed to prisoners at OSCI who performed "above and beyond the call of duty." Staff in each living unit recommended one or two prisoners who would merit such pay.

At OSCI in January 1974, 54 prisoners were receiving meritorious pay: 50 (92.5%) were white, 3 (5.5%) were black, and 1 (1.8%) was of Spanish speaking background. The 50 whites receiving meritorious pay represented 11 percent of all white prisoners; the 3 blacks represented 5.7 percent of all black prisoners. Five of the 54 prisoners earned \$1.00 a day; the remainder earned \$.25 to a \$1.00 a day.⁵⁸

About twice as many white inmates than blacks were receiving meritorious pay in January 1974. A study conducted by OSCI in 1972 showed a similar pattern of meritorious pay distribution. Of the 32

56. Ore. Rev. Stat. §421.408 (1974).

57. "USCCR Questionnaire."

58. Interview with George Sullivan, superintendent, OSCI, January 1974.

inmates receiving meritorious pay at that time, 24 were white (75%), 7 were black (21.9%), and 1 was Asian American (3.1%).⁵⁹

Many of the jobs at the three prisons related to maintenance. Such jobs included orderlies, clothing room, food service, general repair, lawns and gardens, laundry, powerhouse, and sanitation. The extent to which prisoners continued working in similar employment upon release was not known. Other jobs provided a potential for meaningful employment, such as the industries at OSP, and carpentry, plumbing, electric, clerical, and hospital aides at both OSP and OSCI.

The prisons had a policy that the auto and carpentry shops could do work for State employees. Such work was charged at rates comparable to wholesale rates outside a prison, and the prisoners performing such work received pay comparable to meritorious pay.⁶⁰

Minority inmates, especially Native Americans and Mexican Americans at OSP and OSCI, raised an issue regarding work in prison which affected their potential for obtaining meaningful employment upon release. According to these inmates, Mexican Americans and Native Americans as groups tended to have less education upon entering prison than whites. In many cases, they said, furthering their education or training within prison precluded earning even minimal pay; obtaining an education was not perceived as a valuable goal within some of their cultural backgrounds. Peter Brent Zauner, a member of the La Kota Club--a group whose membership is primarily Native American--told the Advisory Committee:

Indians, Chicanos, and blacks come into the institution and don't have a high school education; don't have a grade school education in some cases. There is a program available for them.

59. Sullivan, "Program Participation at OSCI by Ethnic Groupings," p. 4.

60. Interview with George Sullivan, superintendent, OSCI, January 1974.

But people in this category...don't have funds...that's why they're in prison in many cases. To get even the minor luxury items of tailor-made cigarettes, they need funds. So they have to go to work in the industries....

There is no pay available for a school program....Now [OSP has] a meritorious pay program that reaches only one-third of the population, if that....The legislature set that program up in such a way that if you are going to school you are prevented from getting any of those funds. [Yet] that's probably the most meritorious thing they could do.

Hoyt Cupp, superintendent of OSP, told Commission staff that less than 10 prisoners were given meritorious pay for attending school rather than working; limited funds precluded expanding this program.⁶¹ OSCI Superintendent Sullivan told Commission staff that all necessities, including cigarettes, were provided at OSCI so that spending money was a pure luxury within the prison.⁶²

More than half of all prisoners worked in jobs of primary benefit to the institution and more than half worked for no pay. The Advisory Committee did not identify any overt discrimination against minorities in accessibility to available jobs, however, women prisoners had less access to meaningful employment than men. Minorities, particularly Mexican Americans and Native Americans, tended to avoid opportunities other than unskilled employment since the merits of educational and vocational programs were often not made clear to them.

Work and School Release

The Advisory Committee reviewed the work and school release programs to the extent they affected the lives of those incarcerated. Legal Aid attorney Charles Hilke told the Advisory Committee:

Work release is an integral part of the program in order to be discharged [or] to receive parole. Work release fits into [a program] after a prisoner

61. Interview with Hoyt Cupp, superintendent, OSP, January 1974.

62. Interview with George Sullivan, superintendent, OSCI, January 1974.

has minimum custody status....So it's like one of the four, five, six steps that you have to go through in order to go on parole.

Work release is not a prerequisite for parole. George Sullivan told the Advisory Committee, however, that the parole board was requesting it in a growing number of cases.

Prisoners complained about application procedures for the work and school release programs. One inmate told Commission staff that application procedures were called the "Salem shuffle" or the "six weeks shuffle" because they were vague and time consuming. Prisoners at OSP complained to Commission staff that the application procedures, evaluation criteria, and decisionmaking process were vague. Furthermore, they said, some inmates seldom, if ever, received reasons for application denial.

Prisoners at OSCI and OWCC had similar complaints but to a lesser degree. William Bishop, OSCI prisoner whose family lived in California, told the Advisory Committee that the route to work release seemed particularly difficult if a prisoner was from out-of-State.

OWCC prisoners complained that space in halfway houses was minimal so fewer could be placed. In January 1974 work and school release facilities for women were in only two sites, Portland and Eugene. Prison administrators hoped to expand facilities for both men and women inmates if funds were approved by the State legislature.⁶³

In March 1974 following the Advisory Committee open meeting, new work release procedures were approved in accordance with the Administrative Procedures Act (APA). These procedures included details of the application process. Both prison administrators and outside attorneys hoped that these new procedures would minimize tensions, misunderstandings, and resentments created by the old methods.⁶⁴

63. Interview with Bob Watson, deputy administrator, Corrections Division, January 1974.

64. State of Oregon, Corrections Division, "Procedural Rules for the Work Release Program" (Mimeograph, Mar. 11, 1974).

Disciplinary Procedures and Access to the Judicial System

Disciplinary Procedures

Prison disciplinary procedures are the most direct control prison administrators have over prisoners, and are probably the most controversial aspect of prison life throughout the nation. It is not different in Oregon. Traditionally, the courts have maintained a "hands off" attitude toward prison administrators' internal management. The argument was that administrators must have full discretionary powers to maintain the security of the prisons.

In 1944 the U.S. Sixth Circuit Court stated that "a prisoner retains all the rights of an ordinary citizen except those expressly or by necessary implication taken from him by the law."⁶⁵ Since disciplinary action could result in the denial of privileges (access to the general prison population) or rights (freedom from cruel and unusual punishment), the courts have recognized the applicability of the due process clause of the 14th Amendment to procedures which may deprive a prisoner of privileges or rights.

In 1971 the Oregon Legislature revised the State's Administrative Procedures Act (APA).⁶⁶ This act included provisions on how all State agencies must make their own rules; that is, it was a rulemaking act. The 1971 revision was ambiguous as to whether the Corrections Division and its rules governing prisoner discipline were subject to the APA.

In 1973 the APA was revised again. Under the second revision the Corrections Division was exempted from statutory provisions related to contested cases before an agency, but it was included under the rulemaking provisions of the act.⁶⁷ Critical to prison disciplinary procedures was the requirement that APA rulemaking be followed for rules which resulted in: a) placement in segregation or isolation status in excess of 7 days; b) institutional transfer or other transfer to secure confinement status for disciplinary

65. *Coffin v. Reichard*, 143 F. 2d 443, 445 (6th Cir. 1944), cert. denied, 325 U.S. 887 (1945).

66. Ore. Rev. Stat. § 183.310 to 183.500 (1971), as amended, Ore. Rev. Stat. §§ 183.310, 183.315 (1974).

67. Ore. Rev. Stat. § 183.315 (1974), amending Ore. Rev. Stat. §183.315 (1971).

reasons; c) noncertification to the Governor of a deduction from the term of sentence (loss of "good time"); and d) disciplinary procedures adopted pursuant to §421.180.⁶⁸ The first three disciplinary actions (a through c) were later defined as "major sanctions" by the State's Office of the Attorney General; all other sanctions were defined as "minor" and subject to the internal management of prison administrators.⁶⁹

The Oregon Legislature also passed Senate Bill 467 in 1973, which added sections to Oregon Laws governing discipline of persons committed to physical and legal custody.⁷⁰ Three important procedures in this bill were:

1. An inmate shall be entitled to assistance and representation under terms and conditions established by the division.⁷¹
2. Evidence may be received at disciplinary hearings....The [Corrections] division shall establish procedures to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to afford the inmate a reasonable opportunity for a fair hearing.⁷²
3. [If a prisoner is disciplined with a major sanction, the disciplinary] order and the proceedings underlying the order are subject to review by the Court of Appeals....The Court may affirm, reverse, or remand the order on [whether it is 'supported by reliable, probative and substantial evidence in the whole record'⁷³].⁷⁴

68. Ore. Rev. Stat. § 183.310(7)(e) (1974), amending Ore. Rev. Stat. §183.310(7) (1971).

69. Interview with Scott McAlister, assistant attorney general, Office of the Attorney General, January 1974.

70. Ch. 421 §§ 4-7 (1973) Oregon Legislative Assembly, 57th Regular Session (now Ore. Rev. Stat. §§ 421.180 to 421.195 (1974)).

71. Ore. Rev. Stat. § 421.185 (1974).

72. Ore. Rev. Stat. § 421.190 (1974).

73. Ore. Rev. Stat. § 183.480(7)(d) (1974).

74. Ore. Rev. Stat. § 421.195 (1974).

As counsel for the Corrections Division, the State attorney general's office drafted rules of conduct based on the probable sanction imposed. If a rule infraction could incur a major sanction, it was defined as a major rule; all other rules and sanctions were defined as minor. One prisoner told the Advisory Committee, "I call these rules 'felonies' and 'misdemeanors'; it's the same thing."

After consultation with prison officials, Scott McAlister, assistant attorney general, established the following 17 major rules of conduct for use uniformly by the three prisons:

1. Riot

The public advocacy, encouragement, promotion or participation in a group disturbance within the institution.

2. Major Disruptive Behavior

Any action which has a serious adverse effect upon the discipline and/or programs of the institution.

3. Present in Unauthorized Area

Being in or at any location not designated by assignment, programmed activity, call-out, or staff directive.

4. Assault

Fighting or the intentional physical injury of another.

5. Menacing

Placing another person in fear of serious physical injury or death.

6. Coercion

The compelling or inducing of another person to engage in conduct from which he has a right to abstain, or to abstain from conduct in which he has a right to engage by instilling fear in him.

7. Theft

The taking of property from another with intent to deprive the owner thereof or to appropriate property for himself or for a third person.

8. Destruction of Property

Willful destruction, alteration, tampering with, abuse, or unauthorized use, or wasting of materials or property.

9. Possession or Manufacture of Dangerous Contraband

Possession or manufacture of

- a. Weapons
- b. Narcotics or narcotics paraphernalia
- c. Intoxicants
- d. Escape devices
- e. Monies
- f. Gambling proceeds

10. Sexual Activity

Sexually stimulating activity by or between inmates, including sexual intercourse, carressing, kissing, fondling, and manipulation of the person and private parts.

11. Disrespect to Staff

Actions and communications directed by inmates to institutional personnel which indicate hostility and/or personal animosity.

12. Disobedience of a Direct Order

Failure to comply with a direct order from any staff member in a prompt manner.

13. False Statements to Staff Members

Willful false statements to institutional personnel in regard to material matters.

14. Gambling

Staking or risking something of value upon the outcome of a contest, or game of chance, or a future contingent event upon an agreement or understanding that the inmate or someone else will receive something of value in the event of a certain outcome.

15. Attempt to Commit a Major Violation

Intentionally engaging in conduct which constitutes a substantial step toward the commission of a major rule violation.

16. Conspiracy to Commit a Major Violation

Entering into an agreement with one or more persons to engage in or cause a major violation, or aiding and abetting another person or persons in concealing the commission of a major rule violation.

17. Repeated Minor Violations

The cumulative effect of a series of minor violations may be used to impose a major disciplinary sanction upon a finding of the disciplinary committee that the series of violations demonstrate a substantial attitude of disregard for institutional rules.⁷⁵

The minor rules of conduct varied slightly from prison to prison. All three prisons included some form of the following rules:

1. Possession or manufacture of minor contraband: such contraband is identified as not purchased at the commissary, not issued by a staff member, not received in authorized mail delivery, exceeds authorized limits of any item, or has been altered from its original state.

75. State of Oregon, Department of Human Resources, Corrections Division, "Procedures for Disciplinary Action Within Correctional Institutions and Major Rules of Conduct" (Mimeograph) (hereafter cited as "Procedures for Disciplinary Action").

2. Unauthorized selling, trading, loaning, or giving away of State or personal property.
3. Failure to report at places and times designated.
4. Unsatisfactory performance on assignments.
5. Smoking in unauthorized areas.
6. Tattooing or otherwise altering identity.
7. Loitering.
8. Failure to comply with safety and sanitation standards.
9. Misuse of property by alteration, tampering, or wasting.
10. Under the influence of alcohol, marijuana, narcotics, or any unprescribed medication.⁷⁶

The major and minor rules and sanctions were mimeographed and distributed to new prisoners at the three prisons, according to prison administrators. Additional copies were placed in each prison library.

One complaint by prisoners about the rules was that they were vague and ambiguous. "What," asked one prisoner of Commission staff, "constituted personal animosity toward staff?"

Prison administrators agreed that the rules were general in nature. They believed it was better to retain flexibility. "I hate to see every little disciplinary thing become a big issue," Amos Reed, administrator for the Corrections Division, told the Advisory Committee. He continued:

I think this is mischievous, and if we get it so legalized and so stiff and brittle in structure, I am fearful we may lose some of this interpersonal human stuff....How we can get the best of the two worlds is the challenge that we have.

76. State of Oregon, Department of Human Resources, Corrections Division, "Minor Rules of Conduct" (Mimeograph, November 1973).

On the other hand, Herbert Titus, professor of law at the University of Oregon, Eugene, told the Advisory Committee at the open meeting that vague, ambiguous rules were conducive to administrative abuse. "What we are attempting to eliminate," he said, "are the unchecked discretionary powers traditionally given prison officials."

Robert Cannon, deputy public defender in Oregon's Office of Public Defender, commented on the lack of specific sanctions for each rule infraction:

When a man goes up to be asked whether he pleads guilty to the charge, [they should] tell him how much time he's going to get if he pleads guilty.

One Advisory Committee member asked:

In other words, there's not comparable statutory maximum for any institutional offense?

Mr. Cannon replied:

No, they could put him in [segregation] permanently.

Prisoners and staff alike conceded that it was difficult to assess the effectiveness of the new rules and procedures. Modifications and adjustments were still being made during the Advisory Committee investigation. At that time, the disciplinary procedure began when a staff member identified alleged misconduct. If the violation was not resolved through informal discussion or verbal reprimand, the staff member would write a misconduct report. A copy of this report would then be forwarded to the disciplinary committee (adjustment committee at OWCC and OSCI) and a copy given to the prisoner, usually within 8 hours but no longer than 2 days.⁷⁷

A hearing would be scheduled for not more than 14 days from the filing of the report, unless a prisoner was being held in segregation; then the hearing had to be held within 5 days. The hearing could be

77. This discussion on the disciplinary procedures was summarized from "Procedures for Disciplinary Action."

postponed for not more than 4 days if the prisoner requested additional time for preparation.

The hearing body is composed of at least three but not more than five members. During the investigation, OSP had hired a State civil service hearing officer as full-time chairperson of that prison's disciplinary committee. Two additional members included one from the treatment staff and one from the custodial staff. OSCI's disciplinary committee consisted of three staff members, with representation from both custodial and treatment staffs, and a hearing officer selected from the existing OSCI custodial staff. OWCC's adjustment committee consisted of five persons, at least one each from the security, counseling, and educational staffs.

Prisoners complained that although guards were represented on the disciplinary committee, inmates were not. According to Mr. McAlister, the Corrections Division's position was that prisoners should not be on disciplinary committees because: 1) the information was confidential, 2) such representation could create power blocks, and 3) prisoner representatives would be vulnerable to peer group pressures. Several prisoners stated that "the same could be said for the guards."

With regard to the new law allowing representation for a prisoner, Mr. McAlister said that the Corrections Division decided this would be possible only under two conditions: 1) if there was a language barrier, and 2) if the prisoner was incapable of defending himself. A prisoner representative could be either a staff member or a prisoner volunteer under such circumstances.

Professor Herbert Titus disagreed with the division's interpretation of the law. He told the Advisory Committee that the law reads, "An inmate shall be entitled to assistance and representation under terms and conditions established by the division." He commented:

The way the division has read that is that they can afford representation in those instances where they think that's necessary and in those in which it's not.

I read that statute as saying [the prisoners] shall be entitled to assistance and representation. The only question is who is eligible to represent the inmate, [and] what are the rules governing the representation and assistance.

Now there's disagreement over that....It's continued disagreement which seems to me to be one which illustrates...when we're talking about checking the discretion of the prison authorities.

In March 1974 following the Advisory Committee investigation, the State court of appeals ruled in favor of the Corrections Division's interpretation,⁷⁸ and in June 1974 the U.S. Supreme Court ruled that every disciplinary case did not require representation and confrontation.⁷⁹

Prisoners could submit questions to be asked by the committee of any relevant witnesses, but they could not ask questions themselves. The chairperson could recess a hearing and request an investigation for additional facts. At OSCI the ombudsman (newly appointed at the time of the study) or another designated staff person would act as an investigator. No investigator was specifically designated at OWCC.

Upon conclusion of the hearing, the committee would inform the prisoner in writing of its decision. The prisoner had to be present when and if sanctions were imposed.

The Advisory Committee heard repeatedly during its open meeting about the effects of two additions to the new disciplinary procedures. First, a complete record of the procedures must be kept for use in appeal if necessary. Committee hearings are maintained on tapes for at least 30 days.⁸⁰ OSP hearing officer, Walter Shaw, told Commission staff that four or five of the taped proceedings had been requested for review during his 3-month tenure. Professor Herbert Titus felt that the best part of the new procedures was that records of proceedings were now required.⁸¹ However, he added, in many cases the major part of the record was confidential and not available for review by the prisoner. There was no way information in the confidential file could be refuted by the prisoner, he said.

78. Bonney v. OSP, 16 Ore. App. 509, 526 P.2d 1020 (1974).

79. Wolff v. McDonnell, 418 U.S. 539 (1974).

80. Interview with Walter Shaw, hearing officer, OSP, January 1974.

81. Interview with Herbert Titus, professor of law, University of Oregon, February 1974.

Second, major sanctions imposed by disciplinary committees become subject to judicial review. Once a disciplinary committee issues a major or minor decision, the superintendent reviews each case. The superintendent can affirm, modify, or deny the committee's decision. Petitions for review of major sanctions must be filed with the State Court of Appeals within 30 days after the superintendent's review. The judicial review does not decide a case's merit; rather, it determines whether the procedures were properly executed.⁸²

Robert Cannon told the Advisory Committee that it had taken more than 6 months to get one review (Moore v. OSP) through the court of appeals.⁸³ The public defender's office had an additional 26 cases pending. Only one other case (Bonney v. OSP), focusing on the right to representation issue, had reached the court of appeals after 6 months. Conceding that the appeal system was lengthy, Mr. McAlister said that the process would probably take 2 1/2 months "when the system shakes down" from the time the charge is made.

For a 1-month period beginning in January 1974, a record was kept by the attorney general's office on the number of major violations written up in each prison and the disposition of each writeup. Since OWCC reported only six minor violations, OWCC was not included in the findings presented to the Advisory Committee. According to OWCC Superintendent Toombs, only two major sanctions had been imposed at OWCC since he became superintendent in mid-1972; both of those required isolation status for arson.

OSP reported 125 writeups with a total of 141 major offenses for the month. It was the practice at OSP to include more than one violation, if applicable, on each writeup. At OSCI each violation was written up separately even when violations occurred at the same time.

82. Ore. Rev. Stat. §§ 421.195, 183.480(7)(a) to (d) (1974).

83. Moore v. OSP, 16 Ore. App. 536, 519 P. 2d 389 (1974). The court of appeals issued decisions on this case and Bonney v. OSP, Mar. 4, 1974.

Of the 141 major offenses at OSP, 41 of these received major sanctions. Prisoners pleaded not guilty to 116 offenses and guilty to 25. The discipline committee found 83 of those offenses to which prisoners pleaded not guilty as valid writeups. One offense out of the 25 to which prisoners pleaded guilty was found to be invalid.⁸⁴ These figures indicate that despite prisoner complaints that the disciplinary committee was a "kangaroo court," not everyone who went before it was automatically found guilty.

Because similar data were not kept on disciplinary actions prior to the institution of the new procedures, it was impossible to assess whether the new disciplinary procedures provided a greater opportunity for a fair and objective hearing.

For January 1974 OSCI reported 192 writeups. Ninety of these were major violations and 102 were minor violations. OSCI prisoners complained to Commission staff that since the new procedures went into effect, formal writeups had increased.

Superintendent Hoyt Cupp acknowledged that a similar rise in the numbers of writeups had occurred at OSP. He noted, however, that staff overzealousness had diminished somewhat after several staff meetings had been held.

Of the 90 major violations at OSCI, 9 major sanctions were imposed. In 41 non-guilty pleas, 36 were found guilty; of the 49 guilty pleas, all were found guilty.

At OSP, the superintendent rejected 7 of 125 disciplinary orders; at OSCI, the superintendent approved all of the 192 orders.

Both OSP and OSCI had similar patterns in major rules most frequently violated. Rules 2 (major disruptive behavior), 3 (present in unauthorized area), 11 (disrespect to staff), and 12 (disobedience of a direct order) accounted for over three-fourths of all violations at both facilities (see Table XI). OSCI also recorded 22 violations of rule 4 (assault). The four rules most frequently cited were also those most often identified by prisoners and their attorneys as unclear and ambiguous.⁸⁵

84. The data provided by OSP to Commission staff contained conflicting figures. Major offenses itemized by the rule number violation totaled 141. The total indicated by the institution was 132. Commission staff have used the itemized figures in the above discussion.

85. See especially testimony of Professor Herbert Titus.

TABLE XI

MAJOR RULES MOST FREQUENTLY WRITTEN UP
 OREGON STATE PENITENTIARY AND OREGON STATE
 CORRECTIONAL INSTITUTION - JANUARY 1974

	<u>OSP</u>	<u>OSCI</u>
Rule 2	16	12
Rule 3	30	9
Rule 11	22	11
Rule 12	38	23
<u>Totals</u>	<u>106</u>	<u>55</u>
Total Number of All Violations	141*	90

*OSP violations (141) exceed total number of writeups (125) since more than one violation could occur per writeup.

Source: State of Oregon, Office of the Attorney General, "Oregon State Penitentiary and Oregon State Correctional Institution Final Disciplinary Orders" (Mimeograph).

OSCI prisoners expressed knowledge of the new system but questioned its effectiveness. Inmate William Bishop told the Advisory Committee that despite the written rules, a prisoner still was not sure when he would be written up. He continued:

There are so many [petty rules]. Just one that I feel is a petty writeup...is disrespect to the staff. Because I feel that if the staff presents themselves in a humanly way, then he's not subject to be disrespected. And if he provokes you to disrespect him, then I don't think he's qualified to even give you a writeup.

Mr. Bishop knew that some changes had been made in the disciplinary procedures, "but I still see it as the same staff members....Just a few procedures have been changed, but in the end the ultimate outcome is still the same."

OSCI Superintendent Sullivan countered that:

I read in the paper this morning where one of the men complained about our petty rules. Yes, from their vantage point. However, I do not see it [as] petty.

I do not see it petty that we require these men to maintain their cells in sanitary order. I do not see it petty that we require them to shower at least twice a week. I do not see it petty that we require that they eat all that they take on their tray. This food alone is a very significant cost budget item.

These are the kinds of things that we find men coming to our disciplinary committee for not having complied with. They are either trying to waste food; they're not taking their shower[s] properly; they're not keeping their cells in good order.

Staff and prisoners agreed that problems with the disciplinary system at OSCI frequently reflected individual relationships. "Some guards you just know you should avoid," one prisoner told Commission staff.

W. Wayne Eatherly, correctional officer at OSCI, commented about the new procedures:

We've gone through a transition period in the last 2 years....It's been a learning process for the staff as well as [for] the residents.... I've only had occasion to submit one disciplinary report in the last 6 months, and I felt I received a satisfactory consideration on it.... We're in a new ballgame now, and it's difficult for me to predict how it's going to be.

Spanish speaking background prisoners at both OSP and OSCI complained that there was a lack of Spanish speaking staff and that rules and procedures were not in Spanish. At OWCC prisoners told Commission staff during the investigation that there were no non-English-speaking inmates, although there had been several in the past.

There were six Spanish speaking background staff at OSP; there were none at OSCI. Mr. Sullivan told Commission staff that he was recruiting a Spanish speaking staff member, but because the Spanish speaking prisoner population had been relatively small, recruitment had not been a high priority.

Robert Cannon of the public defender's office told the Advisory Committee that he had represented a prisoner at OSCI who spoke very little English. He obtained an interpreter for the prisoner through informal means since there was none available at the prison. The following exchange occurred at the open meeting:

Question:

Was the Chicano [Mexican American] aware of the minor and the major writeups?

Mr. Cannon:

He spent most of his time in the 'hole' [isolation or segregation].

Question:

Did you ask him if he was ever explained these [rules], since they're in English? Did anyone ever get an interpreter for him to explain the rules and regulations?

Mr. Cannon:

No, the counselor told me that they weren't having any problems with that.

Access to the Judicial System

In 1969 the U.S. Supreme Court ruled in Johnson v. Avery that prisoners should have full access to the judiciary system.⁸⁶ A subsequent ruling expanded this access to guaranteed availability of adequate law library facilities.⁸⁷ In Wolff v. McDonnell the Court affirmed the right to legal assistance for civil rights as well as habeas corpus matters.⁸⁸

The Corrections Division provided Commission staff with a list of legal services available to all prisoners. In the division's opinion, the requirements of Johnson and Younger were met if not exceeded by the following: uncensored correspondence with prison ombudsmen, prison superintendents, Corrections Division deputy administrator and administrator, human resources director, State ombudsman, Governor's legal aide, Governor, any attorney, district attorney, judge, legal aid organization, or specialized interest group.⁸⁹ Legal assistance could be provided upon request by: State Public Defender, Marion Polk Legal Aid, Multnomah Legal Aid, Willamette School of Law, University of Oregon School of Law (prisoner assistance program), and the American Civil Liberties Union (ACLU).

86. Johnson v. Avery, 393 U.S. 483 (1969).

87. Younger v. Gilmore, 404 U.S. 15 (1971).

88. Wolff v. McDonnell, 418 U.S. 539 (1974).

89. Typed list of legal service provided by Amos Reed, Corrections Division administrator, September 1973.

The division also noted that prisoners had full access to law libraries within institutions, papers, and typewriters, and that they could use the telephone upon request.⁹⁰

Despite the division's statement, the Advisory Committee identified several areas where legal services were inadequate or incomplete. Prisoners at OSP, OWCC, and OSCI complained that the outside attorneys took weeks to be responsive, partly because there were too few to service the prisons, and that the State public defender's office was available only for criminal appeals and post conviction petitions.

One method for alleviating the scarcity of attorneys was the prisoner assistance program. Mainly servicing OSP, this program utilized new law graduates and students to work on the day-to-day legal concerns of prisoners. At the time of this investigation, the program was working with 50 to 60 prisoners a month on internal prisoner rights issues as well as some external issues of concern to prisoners. Project sponsors estimated that "almost two-thirds of the requests for assistance go beyond the scope of the program."⁹¹

According to Lawrence Slopak, prisoner and law librarian at OSP, access to the OSP library was by appointment and was limited by time. He felt that these restrictions severely limited the usefulness of the library for the prisoners and contradicted the division's claim of "full access." The Corrections Division responded that "initial appointments are scheduled as quickly as possible, usually for relatively short periods of time. Additional time is then scheduled in each case on the basis of probable need."⁹²

90. Ibid.

91. Multnomah County Legal Services, "Prisoner Assistance Project Proposal" (Undated mimeograph).

92. "Comments," p. 3.

According to Superintendent Sullivan, the prisoners of OSCI, who are younger than those at OSP, could not properly utilize a law library. He said that prisoners could seek legal advice from attorneys outside the prison. Although some legal materials were in the prison library, legal training by attorneys was not available on a regular basis.

Mr. Toombs told Commission staff that OWCC prisoners made few requests for legal advice. Prisoners interviewed by staff had little knowledge of legal avenues for redress either within or outside the prison.

The use of ombudsmen at the prisons was relatively new. OSCI hired an ombudsman, a former guard, in January 1974. OSP hired its ombudsman from among the prison's guards less than 3 years before the Advisory Committee's investigation. The OSP ombudsman was supposed to service OWCC. His workload within the men's prison, however, has limited his time for OWCC prisoners.⁹³

A third ombudsman was available in the Governor's office. According to Ted Winters, a former inmate and now assistant ombudsman for the Governor, 12 to 15 percent of all complaints received in his office were from prisoners. He handled the bulk of these prison-related complaints and nearly all of the requests for ombudsman assistance at OWCC. Mr. Winters worked cooperatively with the prison ombudsmen, often referring complaints on internal problems to them.⁹⁴

Each ombudsman at OSP and OSCI was utilized differently. At OSP the ombudsman was generally perceived as a prisoner advocate. Other staff had responsibility for investigations as required by the disciplinary committee. The ombudsman would do disciplinary investigations separately if a prisoner so requested. At OSCI the ombudsman

93. Interviews with prisoners at OWCC, January 1974.

94. Interview with Ted Winters, assistant ombudsman, Office of the Governor, January 1974.

was perceived by Superintendent George Sullivan not as an advocate for prisoners, but as an objective factfinder. He saw the role of investigator and ombudsman as synonymous.

Corrections Division Administrator Amos Reed was reviewing the most appropriate functions and placements for ombudsmen at the time of this study. One decision, he told the Advisory Committee, "is whether or not it's best to have the ombudsman in the prisons reporting to the superintendents; perhaps they should be reporting to me."

Generally, prisoners interviewed by Commission staff perceived the ombudsman program as a positive one. Gaylord Drew, OSP prisoner, told the Advisory Committee that he felt the program probably helped white prisoners, but questioned its effectiveness for minority inmates. This comment reflected minority prisoner complaints that OSP and OSCI had too few minority staff with whom they could relate.

Civil Death

Existing Oregon statutes place prisoners in a status of civil death.⁹⁵ The impact of the civil death statutes was described by Scott McAlister of the State attorney general's office. In Oregon, a convicted felon can never serve on a jury or act as a personal representative in estate proceedings. Felons also face suspension of all civil and political rights, forfeiture of public office, and loss of all private trusts, authority, or power during his or her imprisonment. According to Charles Hilke, staff attorney for Marion Polk Legal Aid, Oregon is 1 of only 13 States with civil death statutes.

In 1973 the legislature revised the civil death statutes.⁹⁶ Mr. McAlister told the Advisory Committee that under the new laws:

[A prisoner] may still make a will; he still may make and acknowledge a sale or conveyance of property; he still may make a power of attorney; he may appear and commence, maintain or defend any civil action that has been started prior to the time of his conviction; and he may marry with the permission of the prison administrator.

95. Ore. Rev. Stat. §§ 137.240, 137.250, 137.260, 137.270 (1974).

96. Ore. Rev. Stat. § 137.240 (1974).

The 1973 legislature had considered a stronger bill to provide convicted felons civil life and civil rights.⁹⁷ Under this bill, the only rights lost would have been the right to run for and hold public office, to hold position of private trust, or to act as a juror. Many concerned persons, including prison administrators, supported this bill. The bill was considered late in the legislative session, but in the rush of closing the legislature failed to pass it.⁹⁸ Amos Reed told the Advisory Committee that the division planned to join with the American Civil Liberties Union and others during the next session to support similar legislation.⁹⁹

Prof. Herbert Titus agreed that the Corrections Division was supportive of such legislation. But, he added, "officials in the Corrections Division are very open and very progressive with respect to proposals that increase civil and human rights, so long as those proposals do not directly affect their relationship with those inmates." For example, he said, in contrast to its position on most civil death statutes, the Corrections Division still feels it should control the consent for a prisoner who wishes to marry.¹⁰⁰

Communications

One of the major concerns in a prisoner's life is the need to know his or her status: How soon can I be released? What do I need to do to obtain work release? Why was I turned down? When may I have visitors? Who makes those decisions which affect me? Inside or outside a prison unambiguous and timely information prevents misunderstandings and relieves tensions. In prison, clear communication affects a prisoners' hope for release. OSP Superintendent Cupp told Commission staff that "without hope, a prisoner will either die, wither away, or rebel."

97. Senate Bill 378, Oregon Legislative Assembly-1973 Regular Session.

98. Interviews with Bob Watson, deputy administrator, Corrections Division, and Stevie Remington, executive director, American Civil Liberties Union, September 1973.

99. Senate Bill 425 containing these provisions passed in the 1975 legislature. It became law Sept. 13, 1975.

100. According to the Corrections Division, it supported legislation in 1975 which would eliminate the division's control over marriages. See "Comments," p. 3.

Several areas of communication have already been discussed: discipline procedures including full disclosure of the limitations on prisoner rights; applying for education, vocational training, and release programs; and correctional officer relationships with prisoners. This section describes the avenues of communication available to prisoners with the free world: mail, visitors, and other outside contacts.

Mail

During the 1973 State legislative session, Senate Bill 380 was introduced to establish procedures for sending and receiving mail by prisoners. According to American Civil Liberties Union Executive Director, Stevie Remington, who negotiated with the Corrections Divisions, this bill was tabled because the Corrections Division felt mail was an administrative responsibility and not a legislative one. The Corrections Division later developed administrative correspondence regulations which governed the prison mail flow. These regulations were drafted and adopted under the APA procedures in the fall of 1973.¹⁰¹

The major rule of these regulations was that "residents will be permitted to send correspondence to and receive correspondence from whomever they desire." Outgoing mail of less than 2 ounces could be sent sealed and uncensored and those more than 2 ounces could be checked for contraband. Contraband includes but is not restricted to weapons, narcotics or narcotics paraphernalia, intoxicants, escape device, and money. All incoming mail could be checked for contraband but could not be read or copied. Incoming letters from any attorney, court or court official, the Governor, a member of the legislature, a member of the U.S. Government, an official of the State Department of Human Resources, or of the State Board of Probation and Parole remain sealed.¹⁰²

101. Corrections Division, "Correspondence Regulations" (Undated mimeograph) (hereafter cited as "Correspondence Regulations").

102. "Correspondence Regulations."

All three prisons used similar methods in checking for contraband. In the main business office, the mail is slit open and shaken for contraband. OWCC mail, which is opened at OSP, is checked onsite a second time for contraband before delivery to individual prisoners.¹⁰³

Despite the clear rules prohibiting censorship of outgoing mail and hearing procedures in the cases where prison administrators deemed censorship or confiscation advisable,¹⁰⁴ prisoners complained to the Advisory Committee that mail was still confiscated or read.

Prison personnel denied these allegations and the Advisory Committee could not verify prisoner allegations. Prison staff conceded, however, that while mail was not read prior to delivery, correctional officers were not prohibited from reading prisoners' mail during cell searches. Any item in the possession of a prisoner was subject to search in the interest of prison security. W. Wayne Eatherly, OSCI correctional officer, doubted whether officers took advantage of this privilege "because it's [the mail] boring most of the time."

According to Assistant Attorney General Scott McAlister, spot checks--opening and reading mail--were made of incoming mail at OSP including those from attorneys after the new procedures were adopted. According to Mr. McAlister, prison administrators wished to see whether information deemed harmful to prison security came through the mails. Because an alleged escape plan was intercepted, modifications in the regulations were being considered subsequent to this study.¹⁰⁵

Visitors

Visitors generally included: 1) persons approved for visits by the prison superintendent at the request of a prisoner; 2) persons providing legal advice or assistance, or representing the media or a governmental agency; and 3) participants, sponsors, or invitees of prison clubs and organizations.

103. Interviews with Hoyt Cupp, George Sullivan, and Tom Toombs, superintendents, January 1974.

104. "Correspondence Regulations."

105. Interview with Scott McAlister, assistant attorney general, Office of the Attorney General, January 1974.

Visiting days at OSP and OSCI were Wednesday through Sunday; visiting hours were from 8 a.m.-11 a.m. and from 1 p.m.-4 p.m. A visit constituted one 3-hour period. Visitors could not leave the prison during the noon break and return in the afternoon, except under extenuating circumstances and with the approval of the superintendent.

Visitors at OWCC were allowed unlimited numbers of visits 7 days a week, but prisoners were cautioned that visiting could not interfere with their prison responsibilities.¹⁰⁶

The first group of visitors usually included family and friends. Spouses at OSP and OSCI were allowed four visits a month; others on a prisoner's list of approved visitors were allowed two visits a month. Former inmates of any prison were prohibited from visiting unless approval was obtained from the superintendent.¹⁰⁷

At all three prisons physical contact was limited to an embrace upon meeting and before leaving. At OSP and OSCI visits were confined to the visitors' rooms.¹⁰⁸ At OWCC prisoners and visitors could meet in the dining room or outside, where some play equipment was available for children. Prisoners at OSCI complained that a park-like area adjacent to the prison had been landscaped by the prisoners for visitations; only prison staff and their families, however, used the area. Superintendent Sullivan said that staff shortages precluded adequate security coverage of the area. He told Commission staff, "We need one more guard."

During 1973 wives of several inmates in OSP met with Superintendent Cupp to discuss the possibility of opening some yard space within the prison walls for visits especially during the hot summer months.¹⁰⁹

106. Interview with Tom Toombs, superintendent, OWCC, January 1974.

107. State of Oregon, Corrections Division, "Visitation Regulations" (Undated mimeograph).

108. During the Advisory Committee study OSCI received legislative approval to expand its visiting facilities and recreational areas.

109. Interview with Phyllis Prickett, former chairperson of Outmates, January 1974.

Mr. Cupp did not grant their request. He told the Advisory Committee that the available space was below one cellblock where prisoners could observe visitors and conceivably abuse them verbally.

Both Mr. Sullivan and Mr. Cupp believed that rather than modifying visitation procedures within the prisons, increasing home leaves could improve visitation rights. Bobbette Lawrence, OWCC prisoner, recommended to the Advisory Committee that women prisoners be allowed to visit their families in a home-like setting, such as halfway houses.

The second group of visitors--media representatives, attorneys, and government officials--could visit on a more flexible basis provided they had approval by the prison administrator. Private rooms off the visiting areas were provided for attorney-client consultation at OSP; private office space was available at OSCI and OWCC. Prison administrators and media representatives told Commission staff that interviews and filming within the prisons had not been restrictive for the media.

Commission staff visited the three prisons on a number of occasions during the course of the investigation and were allowed to visit areas throughout the prisons as requested. Corrections Division Administrator Amos Reed told the Advisory Committee at the open meeting that he believed opening the prisons to outside view and inspection was a healthy practice for both prisoners and the general public.

The third group of visitors was generically referred to as "outside contacts" by prison administrators. All three facilities had prison clubs and organizations. Most of them had outside advisors and sponsors. During weekly or biweekly club meetings, usually held in the visitors' rooms in the evenings, outsiders could participate. Approval for such participation could be obtained from the superintendent or his representative. According to Superintendent Cupp, more than 230 people a month came into OSP to participate in club activities.

Not only did outside sponsors provide cultural and social activities for prisoners, but they also volunteered to help resolve problems and complaints. One group, Chicano and Indian Studies Center of Oregon (CISCO) met regularly with Mexican American and Native American prisoners and prison officials to alleviate prisoner concerns. Santiago Montoya, co-director of CISCO, told the Advisory Committee about communication barriers for Mexican Americans:

Since we've been working with the Indians and the Chicano prisoners, we find that bilingual education is lacking. For example,

a man came to me one time and he asked, 'Do you know how long I'm going to be here?' I said, "Don't you know?" He said, 'Well, they said it in English, and I don't know English and I don't want to act stupid in front of other people and ask them.' So we [CISCO] have to find out his parole date and this and that.

Prison policy precluded spouses and friends on a prisoner's approved visitor list from participating in club activities. Spouses could not attend functions outside the prison when inmates had speaking engagements or work assignments.

Superintendent Cupp told the Advisory Committee the rationale for this policy:

If we did that, we would be providing [a prisoner] with additional visits which other inmates would not be privileged to have. This is not a period set aside for visiting; the setup in the visiting room is not set up to supervise this kind of approach at all. And I'm afraid--I'm a man--if I'd been away from my wife for 2 or 3 years, and I'm sitting right next to her, I don't think I'm going to be too interested in what that toastmaster's talking about.

Families

The importance of a family relationship to a prisoner was a recurring theme during the Advisory Committee's study. Mr. Cupp told the Advisory Committee:

One of the frustrating parts of doing time on the part of the inmate...is the concern for the welfare of his family...[and] the people that really suffer the most are the inmates' families.

Dave Adams, a frequent community volunteer at OSP, told the Advisory Committee that he has often observed that when a man went into prison, family ties were aborted by prison administrators:

Somehow the very thing the man needs--personal relationships with people--are deprived

Dr. Rex Newton, OSP psychologist, told the Advisory Committee that in the year he had worked at the prison, he had altered his view of a prisoner's greatest need. He now perceived family counseling rather than individual counseling as a greater need, with both spouses involved throughout an incarceration period, he said. Unfortunately, he added, staff limitations usually precluded such assistance until shortly before a prisoner's release.

Wives of several prisoners told the Advisory Committee of family difficulties. Phyllis Prickett's husband, released in 1973, was in OSP for 5 years. During that time, she found it difficult to reach him in emergencies, to establish the status of his health when he was ill, and to obtain accurate information on parole denials or release dates, she said. Ms. Prickett was forbidden to see him while he was on work release because she had been told by a prison counselor that "she might be a bad influence."

Echoing many of Ms. Prickett's experiences and concerns was Rhonda Knight, also a wife of an OSP prisoner. She said:

Several parole people have stated that they feel [the family] is the most important factor in a man's ability to return to the community. If that is the most important factor, why is it the most neglected?

When asked by an Advisory Committee member whether the State had an obligation to provide more facilities and services for prisoners' families, Ms. Knight responded:

Unless you want the man back in there, unless you want the woman back in there--if they want to continue the system of reentry and have my son follow his father--it's fine the way it's working....

Yes, I think it is [the State's] responsibility. I think it's going a little bit beyond punishment allowed to say that you have to lose your wife and your child.

Amos Reed concurred that family relationships were the most neglected in the corrections system:

I find it most difficult in my own thinking to accept that this is one area that no State has really addressed.

Women prisoners at OWCC also expressed concern to the Advisory Committee about the family relationship issue. Although family counseling was not available to OWCC inmates on a regular basis, a family planning course was being introduced. A full-time child services division staff at OWCC has helped to alleviate difficulties in temporary placements of prisoners' children.

An Oregon statute allows a court to take a prisoner's child for adoption without his or her consent, if the prisoner is serving a sentence of not less than 3 years.¹¹⁰ In the past, according to Judge Mercedes Deiz, who was chairperson of the Advisory Committee at the time of this study, this statute mainly affected men. Charles Hilke, staff attorney with the Marion Polk Legal Aid, told the Advisory Committee that several cases involving women prisoners had recently come to his attention.

Confidentiality of Prisoners' Records

A file of a prisoner's criminal, educational, familial, psychological, and health history accompanies him or her into prison. Records of a prisoner's routine are also accumulated in the "jacket" (prisoner's file) during incarceration. The file's contents are used to determine placement in education and vocational training programs, job assignments, and custody status. For example, a prisoner sentenced for a violent crime, such as armed robbery, might initially be given maximum security status. School and job evaluations, psychological, psychiatric, and disciplinary reports, and other materials collected in a file are used by prison staff to determine if a prisoner's custody status may be reduced to medium or minimum security.

A prisoner's file is also used to summarize his or her status for parole consideration. Several prisoners told the Advisory Committee that prison policy prohibited prisoners from reviewing the contents of their files, but that the files were available to any staff as needed.

Prisoners alleged that the confidentiality of their files made for potential abuses of their rights. Inaccurate or misleading information could not be corrected or deleted if a prisoner was unaware of its existence, they said. Further, prisoners complained, they could

110. Ore. Rev. Stat. § 109.322 (1974).

not know if they were behaving in a manner conducive to release if staff withheld such information. Administrator Amos Reed responded that no written rules about the confidentiality of files existed and that it was a discretionary matter.

The issue of confidential psychological reports epitomized the prisoners' broader concerns about secret materials in prisons. Each prison had a psychological staff with varied responsibilities including writing of psychological reports. At OSP there were two full-time psychologists and three part-time psychiatrists, all white males. At OSCI there were two full-time psychologists, one full-time psychometrist, and two part-time psychiatrists, all white males. At OWCC there were two part-time psychologists and one part-time psychiatrist; one of the psychologists was a white female, the others were white males.¹¹¹

OSP also had a psychiatric security unit (PSU) for full-time care of prisoners with mental problems. OSCI occasionally referred its prisoners to this unit.¹¹² OWCC prisoners needing similar help were referred to the nearby State mental hospital in Salem.

Prison psychologists and psychiatrists evaluated prisoners' mental stability and maturity prior to changes in custody status. These evaluations were included in prisoners' files, but written copies were not available for the inmates at any prison.

Several prisoners told the Advisory Committee that they should have the right to read their "psych reports" since often their release depended on them. Commission staff obtained a notice to an inmate from the State Parole Board which read in part:

Parole hearing date reset to after three months successful work release experience, or not later than July 1974 with one psychiatric report.¹¹³

111. "USCCR Questionnaire."

112. PSU practices were reviewed by legal aid and prisoner assistance project attorneys in the fall of 1973. Questions of possible drug abuse and use of PSU for disciplinary purposes were raised with prison officials. Agreements were reached to modify the PSU administration between OSP staff and the attorneys. See letters to Superintendent Hoyt Cupp from attorneys Stanley Sitnick, John C. Barrett, and Charles Hilke, Sept. 10 and Nov. 7, 1973. The attorneys planned to continue monitoring PSU practices. Internal memorandum by Stanley Sitnick, dated Jan. 10, 1974.

113. Xeroxed copy of a parole board report on file with the Commission's Western Regional Office, Los Angeles, Calif.

Superintendent Sullivan said that he saw no value in sharing the reports with prisoners. He said, "It is human that we do not accept it when our problems are shared with us." Mr. Sullivan added that since the reports were written in professional jargon, a prisoner could not properly understand their meaning. Since prison staff who were not psychologists had access to these reports, the Advisory Committee asked Mr. Sullivan if problems arose from their interpretations of the reports. He replied:

We ask our professional people, psychiatrists, to frame their reports in lay terms so that the average guy at least knows kind of what he's talking about and not come up with a lot of this psychiatric gobbledygook that no one understands.

On psychologist at OSCI, Dr. Atila Dereli, told the Advisory Committee that individual prisoners should be able to see their own reports, but "we are told these records are not to be available [to the prisoner]." He theorized that the directive not to share reports was based on the logic "that the report will upset [the prisoner] or it will somehow hinder the process of rehabilitation or resocialization or whatever it is."

At OSP, prisoner access to reports was less restricted. Dr. Rex Newton, OSP psychologist, said that he was unaware of any rule restricting the sharing of information with prisoners. In fact, he shared his reports with each prisoner he evaluated, he said. In some cases, he discussed evaluations with family members when appropriate, although he did not show them [family members] the written reports.

Dr. Newton's method was not necessarily followed by other OSP psychologists and psychiatrists. Prisoners told Commission staff that some prison staff were more "open" than others. Superintendent Cupp said that it was up to the individual staff member "whether or not he chooses to share this information with the inmate."

The problem with psychological reports was only symptomatic of the broader issue: the need for accurate, open, and consistent communication between prisoners and prison staff.

V. COMMENTARY

The Advisory Committee found that prison conditions in Oregon met many basic standards: living conditions were clean; work and educational opportunities were generally available; and access to due process hearings and to outside contacts such as community groups, news media, and other governmental bodies were generally unhampered. But we found no benchmark for establishing whether rehabilitation, as a prison goal or as a constitutional right, had occurred. Prison administrators and prisoners ventured that it seldom did. Rehabilitation thus remains an illusive goal.

Recidivism rates, the percentage of released prisoners who return to penal institutions, are frequently used to indicate the failure of rehabilitation. Other indicators are lacking, however. It would be impossible to conclude that prisons cannot rehabilitate since benchmarks or standards for evaluation have not been tested. In Corrections, the National Advisory Commission on Criminal Justice Standards and Goals attempted to establish a rehabilitation standard:

Each correctional agency should immediately develop and implement policies, procedures and practices to fulfill the right of offenders to rehabilitation programs....The correctional authority and the governmental body of which it is a part should give first priority to implementation of statutory specifications or statements of purpose on rehabilitative services. (p. 43)

The final gauge of incarceration must rest on an evaluation of how well prisons do what they purport. In Oregon that purpose is reformation of prisoners, not vindictive justice.

VI. FINDINGS AND RECOMMENDATIONS

Staff Training

1. Less than 30 percent of the Corrections Division's training manhours related to human relations and understanding, with less than 6 percent of the training hours related to minority concerns. The Advisory Committee therefore recommends that staff training be revised with more emphasis on human relations, and that minority and women's concerns receive an equitable percentage of the total staff training program.
2. Minority staffs at all three prisons were minimal. Only the six Spanish speaking background staff at OSP approached a percentage of total staff comparable to the percentage of Spanish speaking background prisoners in that institution (1.5 percent to 2 percent). Therefore, the Advisory Committee recommends that the Corrections Division make increased affirmative efforts to recruit minorities for all job levels, particularly for those jobs which have direct contact with the prisoners.
3. Women staff members held traditional positions at all three prisons and were not found in any policy level jobs. The Advisory Committee recommends that the Corrections Division utilize women in other than traditional jobs and that the division review its promotional policies to insure that women have equitable opportunities for policy and managerial jobs.

Education and Vocational Training Programs

1. Selection and placement criteria for training programs were unspecific, leaving much decisionmaking to the discretion of prison administrators. Neither OSP nor OSCI had precise placement guidelines, and often verbal or written feedback of placement decisions did not reach the inmates. The Advisory Committee recommends that specific guidelines and procedures similar to those promulgated for work release be established by the Corrections Division for the selection and placement of prisoners in education and vocational training programs.
2. In several cases, the vocational training courses at the three institutions were outmoded or irrelevant for meaningful employment upon release. Therefore, the Advisory Committee recommends that the State legislature approve specific appropriations for modernizing vocational training programs.
3. Although educational and vocational training opportunities for women inmates at OWCC have expanded since 1972, they are still limited. Therefore, the Advisory Committee recommends that the Corrections Division increase the opportunities for women at the OSP facilities by allowing women inmates to attend night courses at that institution.
4. The Corrections Division operates its own educational program but does not have access to State Department of Education resources, which are available to all other citizens in the State. In 1974 the division requested that all educational functions be administered by the State education department. This proposal would enable the corrections system to utilize more professional educators and allow prison personnel now in educational programming to be used in other aspects of the prison system. The Advisory Committee recommends that the State legislature approve the division's proposal so that the prison system can expand the educational opportunities for inmates and use its resources more effectively.

Work

1. The maximum pay a prisoner may earn is set by State statute at \$3.00 a day. Such a sum is of questionable "adequate remuneration" for work performed and does not reflect the impact of inflation upon inmates. Therefore, the Advisory Committee recommends that the State legislature consider alternative forms of pay and raise the \$3.00 ceiling by at least \$1.00 a day.

Disciplinary Procedures and Judicial Process

1. Evidence indicates that Spanish speaking background prisoners were unfamiliar with disciplinary rules and procedures and the judicial appeal process. In several cases, these prisoners were non-English-speaking or had a very limited knowledge of the English language. The Advisory Committee therefore recommends that the Corrections Division print prison rules and procedures in Spanish and distribute these materials to Spanish speaking inmates.
2. Several of the major disciplinary rules lacked specificity; specific sanctions for each rule were not delineated. The Advisory Committee therefore recommends that the Corrections Division revise the rules for greater clarity and that minimum and maximum sanctions for each rule be clearly delineated.
3. Prison officials and inmates acknowledged that there was a lack of legal knowledge and sophistication among prisoners at OSCI and OWCC. Many lacked the basic understanding of individual prisoner rights. Therefore, the Advisory Committee recommends that the Corrections Division offer formal and periodic seminars for prisoners in these two institutions on their legal rights and responsibilities.

Communications

1. Both OSP and OSCI had outdoor space which was not being used during visiting periods. At OSCI a park-like area adjacent to the prison had been landscaped by the prisoners for visitation, but only prison staff and their families were permitted to use it. The Advisory Committee recommends that the Corrections Division use these outdoor spaces especially during the summer months for visiting purposes.

2. The need for increased counseling services for prisoners and their families was evident during this investigation. Therefore, the Advisory Committee recommends that the Corrections Division develop plans for an extended family counseling program at the three prisons and request funds from the State legislature specifically to implement this effort.
3. Decisions on maintaining confidentiality of prisoners' records were often arbitrary and inconsistent. Incorrect or misleading information could be maintained in a prisoner's file without his or her knowledge. The Advisory Committee recommends that the Corrections Division develop procedures so that prisoners can review their own records, with appropriate safeguards for material necessarily confidential for the security of individuals.

Rehabilitation

1. Rehabilitation is an illusive goal, lacking clear definition and evaluation. For rehabilitation to be a realistic end of incarceration, the Advisory Committee recommends that the State legislature, with the assistance of the Corrections Division and other concerned parties, establish concrete definitions for prison goals and evaluate results on a periodic basis. We recommend that such an evaluation be conducted biannually during the legislative session.

JAN 29 1976

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