



WILLIAM H. FAUVER
COMMISSIONER

STATE OF NEW JERSEY
DEPARTMENT OF CORRECTIONS
P. O. Box 7387
TRENTON, N. J. 08628

January 20, 1982

M E M O R A N D U M

TO: The Honorable Thomas Kean
Governor

FROM: William H. Fauver
Commissioner *William H. Fauver*

RE: Executive Orders No. 106 and 108
Department of Corrections Summary Report
on Implementation

On June 19, 1981, in response to serious overcrowding in both State and county correctional facilities, Governor Byrne signed Executive Order No. 106 which, in essence, authorized the Commissioner of Corrections to designate as a place of confinement any available, suitable and appropriate institution or facility for the confinement of inmates housed in State and/or county correctional facilities. The major exception was that no county prisoner could be housed in a State operated institution. The Order was effective for ninety days, after which it was renewed by virtue of the signing of Executive Order No. 108.

At the time the first Order was signed, all adult male correctional institutions operated by the State were at or over their rated capacities and the back-up of State inmates in the county jails was 425.

Meetings With County Representatives

Immediately upon receipt of the Order, arrangements were made to meet with representatives from the 21 county facilities. Meetings were scheduled over a period of two days and were held at the Department Central Office. Department representation

included the Commissioner, Deputy Commissioner, Assistant Commissioner for Adult Institutions, Deputy Director for Adult Institutions and a Deputy Attorney General. County representation included, for the most part, Wardens, Deputy Wardens, Sheriffs and Undersheriffs. The purpose of the meetings was to review the terms of the Order, answer questions and attempt to assure the jail administrators that the Order would not be used as a means to unload State problems on the county jails.

Search For Space

Immediately subsequent to the meetings, Department representatives visited all 21 county jails and related facilities in an effort to identify which counties, if any, had underutilized cell space which could be used for the temporary housing of State inmates. Despite reports to the contrary, it was found that almost every county was operating at or over their rated capacities. Where vacant cell space was found, it was uninhabitable and the time and cost estimates for repairs were too exorbitant to be feasible.

There were two counties with which we were able to make arrangements for the housing of State inmates. These were Sussex and Mercer which agreed to house 32 and 28 inmates respectively. //

Sites Rejected or Unavailable

Among the sites which were evaluated and rejected on the basis of exorbitant repair estimates were the Newark Street Jail, the Camden Jail Annex, and the Jersey City Municipal Lock-Up. Also rejected as totally unworkable as a possible construction site was a parcel of land known as Duck Island which, in essence, is a combination garbage dump and swamp with only one access road.

In addition to the foregoing, contact was made with General Menard relative to the possible use of armories or similar facilities under the auspices of the National Guard. Unfortunately, no such facilities were available.

Increased Bedspace--Internal

The Department increased its internal bedspace by 370 through the use of trailers at Rahway, Yardville and Bordentown; the use of a Quonset hut at Annandale; and the use of trailers plus converted classrooms at Leesburg. //

Currently, site work is in progress for the installation of additional trailers at Annandale and Leesburg which will provide space for 48 more inmates at each of those two institutions. This will result in a total increase of 466 beds at adult male facilities within the Department.

Increased Bedspace--External

As previously mentioned, arrangements were made to house 32 State-sentenced inmates in the Sussex County Jail and 28 such inmates at the Mercer County Correction Center on a continuing basis. Further, we were able to acquire an additional 40 beds in a wing at Trenton Psychiatric Hospital and we increased, by 25, the number of inmates residing in community-based facilities.

Increased Bedspace--Counties

As of this writing, four counties have acquired additional bedspace through the installation of trailers. These include Bergen (48), Essex (48), Middlesex (32) and Ocean (32). It is anticipated that this will provide some measure of relief for the counties in question.

Projected Increased Bedspace

Per tentative agreements worked out with the counties of Mercer, Gloucester, Middlesex, Passaic, Union and Camden, and through the acquisition of County Assistance monies for renovation and construction, we eventually will be able to house 50 State inmates at each of those county facilities plus 20 at Gloucester. This will mean a total gain of 270 bedspaces. It should be noted, however, that some of the renovations and/or construction will not be completed for more than a year.

Confinement Unit at Fort Dix

The signing of contracts which will enable the use of the Confinement Unit at Fort Dix appears to be imminent. Negotiations have been ongoing for a number of weeks and cost estimates for repairs and renovations are nearly complete. Acquisition of this facility will mean a gain of 416 beds.

Other Bedspace Possibilities

At present, our Juvenile Medium Security Unit is located within the Youth Correctional Institution at Yardville. An ability to

acquire the Yepsen Unit at the Johnstone Training and Research Center would enable us to transfer the Juvenile Unit from Yardville to Yepsen. This in turn, would free up 100 adult bedspaces at Yardville. In exchange for the use of the Yepsen Unit we had offered Johnstone the use of our Guidance Unit at the Training School at Jamesburg. This move was contingent upon Johnstone's ability to reduce its Yepsen population from approximately 60 to 28. Unfortunately, Johnstone has been unable to reduce its Yepsen population. Moreover, even if the population could be reduced, the administration at Johnstone feels that our Guidance Unit is unsatisfactory for their residents primarily in terms of its physical construction and layout.

Another possibility was the acquisition of an additional wing at the Trenton Psychiatric Hospital which could have provided another 80 beds. This wing is underutilized and a request was made that the patients housed therein be relocated to other units in the Hospital. As was the case with Johnstone, we were advised that such a relocation was not possible. */// Ched*

Disturbances

As a direct result of overcrowding in the county jails, disturbances or threatened disturbances occurred in Bergen, Camden, Hudson, Passaic and Union counties. In an effort to assist these counties, the Department sent observer/consultants to help with the situation in some instances and, in all instances, intake was increased for those counties even though it necessitated the housing of incoming inmates in disciplinary segregation cells at Trenton Prison and the Youth Correctional Institutions at Yardville and Bordentown. *///*

Classification Teams

Shortly after the implementation of the Order, a "traveling" Classification Team was initiated for the purpose of visiting the county jails, photographing and fingerprinting the State inmates located therein and answering questions and obtaining information relative to the establishment of parole eligibility dates. Additionally, staff members from various State correctional facilities periodically travel to the counties which are most overcrowded where they identify inmates for direct transfer into existing State vacancies.

Back-Up--Admissions--Paroles

At the time Executive Order No. 106 went into effect, the back-up of State-sentenced inmates in the county jails was 425. *///*

Six months later, on December 31, 1981, despite a Departmental increase of 495 bedspaces, the back-up had more than doubled and had reached a dangerous 945.

As of today, January 20, 1982, the back-up is 1,000:

During the six-month time period from July 1, 1981 through December 31, 1981, 1,936 adult males were admitted to our prisons and youth correctional institutions. Paroles for the same time period totaled only 1,436. This means that admissions exceeded paroles by 500 or 35%.

Fiscal Impact of Back-Up

At the rate of \$40.00 a day per inmate, it has been costing the State approximately \$38,000 a day to reimburse the counties for the housing of State-sentenced inmates.

Executive Order Challenged

Shortly after its implementation, Atlantic County challenged the statutory and constitutional validity of the Executive Order and claimed that prison overcrowding was not an emergency under the Disaster Control Act. The case was decided by the Supreme Court on January 6, 1982. Justice Pashman, writing for the Court, said in pertinent part:

"Executive Orders 106 and 108 are authorized by the Disaster Control Act. They do not violate the state constitutional doctrine of separation of powers. The Commissioner's actions pursuant to the Orders were not arbitrary and capricious."

A copy of the decision is attached for your convenience.

Should you have questions with respect to any of the foregoing, I shall be happy to respond at your convenience.

WHF:gem
Attachment

cc: ✓ The Honorable Lewis Thurston
Chief of Staff
The Honorable Carey Edwards
Counsel to the Governor
The Honorable Irwin Kimmelman
Attorney General