

# *SOUTHERN CENTER for HUMAN RIGHTS*

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**CONFIDENTIAL**

October 6, 1993

Mr. Arthur Peabody  
Chief of Special Litigation  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 664000  
Washington, D.C. 20035

Rooks & U.S. v. Herring



JC-AL-007-007

re: *Rooks v. Thigpen*, CA No. 92-0316AH-M

Dear Mr. Peabody:

As we discussed on the phone today, I am requesting assistance from your division with this case involving the Conecuh County Jail in Evergreen, Alabama. The *Rooks* case challenges the conditions, practices and policies at the Conecuh County Jail. The suit has been filed in the Southern District of Alabama in federal court and has been assigned to Judge Alex Howard. The case has not been set for trial but we do have a discovery cut-off of December 30, 1993. Let me briefly outline the problems in the jail and what assistance we would like to have from your office.

*Description of the jail:* Attached is the complaint and its amendments along with a report completed by the National Institute of Corrections on the jail that set out in detail the problems in the jail. The facility has 45 beds. The number of inmates housed there goes above that number from time to time. The facility itself is in very poor condition, with a roof that has been leaking for several years causing fire safety and health problems. The jail has two sides neither of which is visible from the jailer's office. The few staff members the jail has, do not patrol the jail and are untrained. There have been shifts when no guards have been on duty. No searches are conducted of inmates or visitors to the jail. Weapons, drugs and alcohol flow freely into the jail. One of our clients remarked that is easier to buy drugs in the jail than it is on the streets. There have been numerous escapes from the jail. Our clients have told us that some staff at the jail participate in the use of drugs and alcohol in the jail. Many hint at the involvement of the sheriff in the drug trade in the county, though no one is willing to speak directly about his involvement. This description just gives you a flavor of what this jail is like.

*The purpose of our lawsuit:* We would like to see the jail closed down. If the court orders that a new jail is to be built, we want it to be put into receivership as we do not believe the present county officials are capable of running a safe or humane jail..

*Reasons for our request for assistance:* Our office has handled numerous jail conditions suits over the years. This jail is one of the most dangerous we have encountered. The defendants are unwilling to settle the case, even though privately the sheriff and the jailers acknowledge that jail is unsafe and needs to be closed. The commissioners have acknowledged publicly that a new jail is needed, but state that the taxpayers won't vote for the taxes needed. Our sense of the community is that they lack faith in the county commission's ability to properly handle any taxes imposed to build a new jail. Our hope is that a report from the Justice Department will push the county to make the hard decision to close the jail or at a minimum bolster our case if we go to trial.

*Outline of our requests for assistance:* First, we would like to have your division do an evaluation of this jail and the practices and policies of the people who run and maintain the jail. Second, we request that your office issue a report which sets out clearly the severity of these problems and the consequences to the county if the problems are not addressed. Third, we would like assistance obtaining immunity for any witnesses who may have participated in the use of drugs in the jail so that they can testify freely about the severity and extent of these problems. We are approaching your office with this particular request because we have reason to believe that if this request is made initially at the local level (i.e in Alabama) confidentiality will not be maintained. Fourth, we would like assistance bringing this jail into receivership.

We understand that generally your involvement consists of intervening in and litigating the case. At this point, we are hoping that your limited involvement, which we described above in our request, would be sufficient to get the results we want. We know that your resources are limited and wish to request only the assistance we need. Because of the December 30, 1993 discovery cut-off, we are hoping that we will be able to discuss this further with you soon. Your consideration of this request is greatly appreciated.

Sincerely,



Nancy E. Ortega  
Henry Brewster  
Plaintiffs' counsel

**TECHNICAL ASSISTANCE REPORT**

**THE NATIONAL INSTITUTE OF CORRECTIONS JAIL CENTER  
PLANNING OF NEW INSTITUTIONS**

**LOCAL SYSTEM ASSESSMENT  
AND  
PHASE ONE COMMUNITY MEETING**

**CONECUH COUNTY, ALABAMA  
MARCH 9 - 11, 1992**

**DAVID DUPREE AND MARK KELLAR  
TECHNICAL ASSISTANCE CONSULTANTS**

**NIC TA NO. 92-J1114**

**THE NATIONAL INSTITUTE OF CORRECTIONS JAIL CENTER  
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*This technical assistance activity was funded by the National Institute of Corrections Jails Division. NIC is a federal agency that provides assistance to state and local correctional agencies in their efforts to improve their operations by making them more effective, humane and safe.*

*The Consultants, Messrs. David Dupree and Mark Kellar, provided technical assistance on a contractual basis at the request of the Conecub County (Alabama) Commission and through the coordination of NIC. The assistance and this report are intended to assist Conecub County in addressing the issues outlined in the original request.*

*The contents of this document reflect the views of Messrs. Dupree and Kellar. The contents do not necessarily reflect official NIC views or policies.*

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## INTRODUCTION

On December 18, 1991, Judge Sue Bell Cobb, Chairperson of the Courthouse/Jail Task Force, formally requested technical assistance from the National Institute of Corrections (NIC) in the planning of a new local detention facility for Conecuh County, Alabama.

In response to Judge Cobb's request, Mr. David Dupree, Criminal Justice Consultant, and Mr. Mark Kellar, Harris County (Texas) Sheriff's Department, visited Conecuh County on March 9 - 11, 1992. The purpose of the Consultants' visit was to evaluate the current physical plant and operations of the Conecuh County Detention Facility; assess the impact of the local criminal justice system on the operations of the detention facility; and conduct a Planning Of New Institutions (PONI) Phase I Community Meeting. Toward the accomplishment of these objectives, the Consultants undertook the following activities during their site visit.

### TASK FORCE MEETING

On March 9, 1992, the Consultants attended a meeting of the Conecuh County Courthouse/Jail Task Force.

The purpose of the meeting was to review the alternatives proposed by the architects retained by the county to conduct a feasibility study; and finalize the Task Force's formal recommendation to the Conecuh County Commission regarding the placement of a measure on the June, 1992 ballot for an *ad valorem* tax increase of 13.5 mils to finance the construction of a new local detention facility and the construction of a new county courthouse or the renovation of the existing structure.

During the course of the meeting, the Consultants explained to the Task Force the role of NIC in providing technical assistance to local jurisdictions, and the purpose of the assessment and community meeting.

### COMMISSION MEETING

On March 9, 1992, the Consultants also attended a meeting of the Conecuh County Commission, during which the Task Force formally recommended and the Commission approved the place-

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ment of the measure noted above on the June, 1992 ballot. In addition, the Consultants met privately with the Commission to discuss the members' perceptions of the need for a new local detention facility.

**FACILITY INSPECTION**

On March 9, 1992, the Consultants met with Sheriff Edwin Booker to inspect the existing local detention facility and review the facility's operations.

**CRIMINAL JUSTICE  
SYSTEM INTERVIEWS**

On March 9, 1992, the Consultants met with representatives of the local courts to explore the pre-trial release and sentencing practices of the court system, and to determine the potential impact of those practices on the capacity and operations of a new local detention facility.

On the morning of March 10, 1992, the Consultants interviewed representatives of those law enforcement agencies which utilize the existing local detention facility in order to obtain information regarding the nature and level of criminal activity within the county, and determine the impact of current arrest practices on the capacity and operations of a new local detention facility.

The Consultants also met with local adult and juvenile probation officers to discuss the degree to which probation and other programs are utilized as alternatives to incarceration.

**COMMUNITY MEETING**

On the evening of March 10, 1992, the Consultants conducted an abbreviated Phase I Community Meeting, during which they discussed their perceptions of the physical plant and operations of the existing detention facility, the history of judicial intervention in corrections, and the role of data collection in the planning process.

In addition, On March 11, 1992, the Consultants conducted a meeting for those individuals who will be involved in the planning of the new detention facility to discuss the rationale for and implementation of the Total Systems Planning Model.

The Consultants wish to thank Judge Cobb for her invaluable assistance in the completion of this technical assistance activity, and her most gracious hospitality.

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## LOCAL SYSTEM ASSESSMENT

### THE COUNTY

Conecuh County is an 854 square mile, rural county located in the south west region of the state of Alabama. The County is comprised of three (3) incorporated municipalities - Evergreen, Repton and Castleberry - and several unincorporated townships. The City of Evergreen, the largest of the incorporated municipalities, serves as the county seat.

The current county population approximates 14,200 residents. No significant growth in population has occurred within the past ten years, and no growth is anticipated within the foreseeable future. Timber and dried flower processing are the principal industries within the county. While accurate statistics were not readily available, it is estimated that unemployment within the county exceeds ten (10) percent. As would be expected, unemployment among the county's young adult male population, which comprises the largest percentage of the detention facility's inmate population, is significantly higher.

As a result of the lack of population growth, the level of unemployment, and a relatively low state-mandated property tax base, Conecuh County is currently experiencing severe fiscal difficulties which could jeopardize the Commission's ability to fully fund the operations of a new local detention facility.

### THE LOCAL DETENTION FACILITY

#### PHYSICAL PLANT

The existing Conecuh County Detention Facility is a single story structure, constructed in 1958, on the third floor of the Courthouse Annex in the City of Evergreen. The facility, which is of traditional linear design, can accommodate a total of forty-two (42) adult male and fe-

male inmates. It must be noted that the facility does not house juveniles on either a pre-trial or sentenced basis.

On March 9, 1992, the Consultants inspected the facility, and found the following.

- ▶ **Inmate Housing Units** - In the opinion of the Consultants, the multiple occupancy nature of the inmate housing units effectively precludes the implementation of a classification system, and makes the segregation of individual inmates for administrative or disciplinary reasons impossible. Given the multiple occupancy design of the cells and the limited amount of day room space, it is estimated that, excluding bed space, each inmate is afforded approximately seven (7) to ten (10) square feet of living space.
  
- ▶ **Inmate Services and Programs Space** - No space currently exists within the facility for the provision of inmate recreational activities; health care, educational, library and substance abuse counseling services; attorney/client and other criminal justice-related interviewing activities; or the storage of inmate property.

Inmate religious services and family visitation must be conducted in the staff corridors adjacent to each living unit, which creates significant breaches of facility security, and facilitates the introduction of contraband.

Inmate intake activities must be performed in the administrative office, used for the performance of communication services, located in close proximity to the primary entrance (via elevator) to the facility. Given the proximity of the office to the entrance and the absence of a pedestrian "sally port," opportunities for inmate escapes during the intake process are substantial. In addition, there is no space available in the facility for the performance of comprehensive body cavity searches of inmates during intake. In the opinion of the Consultants, the inability to perform body cavity searches because of the absence of a suitable space materially impacts the safety and security of the facility.

- ▶ **Environmental Conditions** - It is clear that, over the years, little attention has been given to the preventative and routine maintenance of the facility, and its systems and equipment. It is equally clear that, with the exception of the facility kitchen, virtually no effort is made to maintain the facility in a clean and sanitary condition.

The Consultants noted that several of the exterior windows of the facility have been retrofitted with metal shields in an attempt to minimize the public's exposure to anti-social inmate behavior and control the introduction of contraband. Unfortu-

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nately, the shields substantially reduce the amount of natural light and restrict the flow of air into the cell blocks.

- ▶ **Emergency Evacuation Systems** - The Consultants were informed that plans are currently being developed to retrofit the facility with an external fire escape. However, the Consultants noted that access to an inmate living unit is controlled via a manual, key-activated locking system. In the opinion of the Consultants, the utilization of such a system is a major impediment to the efficient evacuation of the facility, in the event of a major fire or other disaster.

#### **STAFFING**

The facility is currently staffed by a total of six (6) dispatcher/jailers, none of whom have received formal training in the performance of their inmate supervision responsibilities. Given the physical design of the facility and the limited capacity for electronic surveillance, the Consultants consider the current staffing pattern totally inadequate to insure the security of the facility and the safety of staff, inmates and visitors.

#### **FACILITY OPERATIONS**

Given the previously noted physical plant and staffing deficiencies, it is the opinion of the Consultants that the Conecuh County Detention Facility is little more than an inmate warehousing operation. Following are the Consultants' specific observations.

- ▶ **Facility Policies and Procedures** - The Consultants noted that no written policies, procedures, rules, regulations or job descriptions have been developed to provide direction to the staff in the performance of facility security and inmate supervision activities.
- ▶ **Inmate Supervision** - The Consultants noted that little or no effort is made to actually supervise inmates, and that facility staff rely, primarily, on an inadequate electronic surveillance system to remotely monitor inmate activities. In the opinion of the Consultants, the potential for assaultive behavior by inmates is substantial. In addition, evidence of inmate vandalism to the facility and its equipment is readily apparent.

The Consultants also noted that facility trustys are utilized to perform many operational functions which should be performed by staff, including the control of ac-

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cess to and from the inmate living units. In effect, a system has been institutionalized by which trustys, whose selection is not based on specific criteria, are allowed to exercise undue authority in the operation of the facility.

- ▶ **Inmate Health Care Services** - Currently, the facility does not provide intake medical screening by qualified health care personnel. As a result, facility staff are required to make subjective decisions regarding the physical condition of inmates at intake. In the opinion of the Consultants, the provision of intake medical screening in this manner not only significantly increases the risk, to both staff and inmates, for the transmission of infectious diseases, but constitutes a potential legal liability for the county of major proportions.

In addition, the facility has no internal capacity for the provision of basic health care services for the inmate population. Inmates requiring medical attention must be transported to either a physician's office or the local for-profit hospital for care.

- ▶ **Inmate Recreational and Program Activities** - The facility provides no opportunities for formal inmate recreational and leisure time activities. Indeed, inmates are allowed access to televisions and radios only if they provide their own equipment. Aside from regularly conducted religious services and visitation, the facility provides no program activities for the inmate population. In effect, inmates are placed in a condition of enforced idleness which exacerbates the potential for assaultive behavior and vandalism.
- ▶ **Inmate Food Services** - Inmate meals are prepared internally by part-time food service staff. The Consultants were unable to assess the nutritional value and palatability of inmate meals. However, the Consultants were informed that inmates receive three (3) hot meals daily.

## **THE LOCAL CRIMINAL JUSTICE SYSTEM**

As previously noted, the Consultants conducted interviews of local judicial, prosecutorial, law enforcement and probation officials on March 9 and 10, 1992. As a result of those interviews the Consultants were able to identify several issues of importance to the facility planning process.

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**INMATE PROFILE**

The Consultants found a significant diversity of opinion regarding the average daily population of the Conecuh County Detention Facility, with estimates ranging from twenty-two (22), as reflected in the Local System Assessment application, to thirty-five (35), as reflected in the recently completed feasibility study. At the time of the Local System Assessment, twenty-nine (29) individuals were incarcerated in the facility. Local residents comprise approximately ninety (90) percent of the inmate population. As reflected in the Local System Assessment application, adult males constitute ninety-five (95) percent of the inmate population, while adult females constitute the remaining five (5) percent.

A clear consensus exists among those individuals interviewed regarding the necessity for bed space within the local detention facility for the incarceration of juvenile offenders. Currently, juveniles requiring incarceration must be transported approximately eighty-five (85) miles, one-way, to a facility in Selma, Alabama, where one bed is available to the county on a contractual basis.

**ARREST PRACTICES**

As would be expected, the Evergreen Police Department, which provides law enforcement services for the county's largest municipality, is responsible for the majority of arrests. The Consultants obtained anecdotal information from those law enforcement officials interviewed which suggests that drug-related property crimes, domestic violence, and alcohol-related vehicular offenses represent the majority of the arrests made by law enforcement agencies. However, it also appears that law enforcement agencies continue to incarcerate individuals charged with minor misdemeanor offenses in lieu of implementing a cite and release program.

**PRE-TRIAL RELEASE PRACTICES**

Based on discussions with local judicial and prosecutorial officials, it appears that, in response to the general perception of a severely unconstitutional detention facility, an informal system has been implemented which facilitates the pre-trial release of county residents, either on bail or on their own recognizance, charged with minor felony offenses. While statistics were not available, local officials agree that the failure to appear rate is relatively low.

**SENTENCING PRACTICES** As reflected in the Local System Assessment application, sentenced inmates represent approximately fifty-five (55) percent of the inmate population of the Conecuh County Detention Facility. However, the overwhelming majority of the sentenced population are inmates awaiting transport to state facilities. It must be noted that the back-up of state sentenced inmates in local detention facilities is occurring throughout the State of Alabama, because of a chronic shortage of state facilities.

Given the relatively small number of individuals who are actually sentenced to the Conecuh County Detention Facility, it is clear that the impact of the implementation of post-trial alternatives to incarceration on the population of the facility would be negligible.

## **THE NEW FACILITY PLANNING PROCESS**

In recognition of the substantial deficiencies associated with its existing detention facility, Conecuh County has, within the past eight (8) months, initiated a planning process for the design and construction of a new facility.

In September, 1991, a fifteen (15) member Courthouse/Jail Task Force was established to develop comprehensive recommendations regarding the future utilization of the existing detention facility and courthouse. In January, 1992, the architectural firm of Watson and Rutland was retained by the County Commission to conduct a feasibility study. As a result of the study, four (4) alternatives were proposed by the project architects. It must be noted that all four (4) alternatives include the construction of a new detention facility. On March 9, 1992, the Task Force recommended to the Conecuh County Commission that a measure be placed on the June, 1992 ballot for a 13.5 mil *ad valorem* tax increase for the construction of a new detention facility, and the construction of a new county courthouse or the renovation of the existing structure.

It is anticipated that, for the immediate future, the Task Force will focus its attention on the development and implementation of a public relations campaign to obtain voter support for the tax increase. No further action will be taken toward the performance of pre-architectural planning activities until financing for the project has been secured.

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## RECOMMENDATIONS

Without doubt, the potential for successful inmate initiated litigation regarding the current conditions of incarceration associated with the Conecuh County Detention Facility is substantial. The Conecuh County Commission, Courthouse/Jail Task Force and the local criminal justice system must be commended for their efforts to preclude such litigation through the initiation of the facility planning process.

To assist Conecuh County in the successful completion of the planning process, the Consultants offer the following recommendations.

### ESTABLISH PLANNING PROCESS

The Consultants recommend that, once funding for the project has been obtained, the Conecuh County Commission and Courthouse/Jail Task formally establish a structured, systematic process for the planning and design of a new local detention facility. The Consultants recommend the adoption of the Total Systems Planning Model, discussed with local officials on March 11, 1992 and summarized in this report.

Regardless of the model adopted, it is essential that, early in the process, those responsible for planning undertake a comprehensive identification of the specific problems and issues which must be addressed; identify the criminal justice agencies which will utilize the new facility and obtain the formal commitment of appropriate governmental and funding authorities to participate in the project; and develop an action plan which details the activities, responsible personnel and schedule associated with the accomplishment of critical planning tasks.

### COLLECT AND ANALYZE DATA

The Consultants recommend that a comprehensive effort be initiated to collect and analyze relevant statistical data regarding the inmate population and the local criminal justice system. The Consultants recommend that, at a minimum, the following information be collected.

#### INMATE PROFILE DATA

- ▶ Legal status;
  - ▶ Charge status;
  - ▶ Charge category;
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- ▶ Age;
- ▶ Ethnicity;
- ▶ Education;
- ▶ Employment/vocational skills;
- ▶ Family ties and residence;
- ▶ Physical, emotional and mental health status;
- ▶ Substance abuse status; and
- ▶ Means of release.

#### **INMATE POPULATION DATA**

- ▶ Average daily population;
- ▶ Length of stay;
- ▶ Jail days;
- ▶ Total bookings;
- ▶ Net bookings;
- ▶ Felony and misdemeanor inmates;
- ▶ Pre-trial and sentences inmates; and
- ▶ Male and female inmates.

#### **LAW ENFORCEMENT DATA**

- ▶ Arrest practices;
- ▶ Summons and citation practices;
- ▶ Traffic-related arrests; and
- ▶ Alcohol-related arrests.

**COURTS DATA**

- ▶ Bonding practices;
- ▶ Failure-to-appear rate;
- ▶ Types of offenses for which jail sentences are given;
- ▶ Average length of sentence served - by offense;
- ▶ Percent released after first appearance; and
- ▶ Percent held for pre-trial detention and released upon completion of court processes.

In addition to the collection of statistical data, discussions must be held with all criminal justice agencies which will utilize the new facility to collect empirical data regarding their long-term incarceration needs.

**HIRE ADDITIONAL STAFF**      Regardless of the method(s) utilized to design and construct a new local detention facility, it is clear that the incarceration needs of Conecuh County will require the continued operation of the existing facility for some time to come. The Consultants, therefore, recommend that, in order to positively impact the conditions associated with incarceration in the existing facility, the Conecuh County Commission and Sheriff's Department begin immediately to enhance the safety and security of the facility through the hiring of additional staff, and the training of all staff in appropriate security and inmate supervision techniques. In addition, the Consultants recommend that written policies and procedures be developed to provide guidance to staff in the performance of their responsibilities.

**APPLY FOR PONI PHASE II**      Once funding for the construction of a new local detention facility has been secured, the Consultants recommend that Conecuh County apply for participation in Phase II of the National Institute of Corrections' PONI Program.

## PHASE I COMMUNITY MEETING

On March 10, 1992, the Consultants conducted an abbreviated PONI Phase I Community Meeting at the Conecuh County Courthouse in Evergreen, Alabama. Approximately sixty-five (65) governmental, criminal justice system and community representatives attended the meeting. In addition, on March 11, 1992, the Consultants conducted a meeting for those individuals who will be directly involved in the planning of the new local detention facility to discuss the Total Systems Planning Model.

Following is a summary of the significant issues discussed by the Consultants.

### LEGAL ISSUES

David Dupree provided the participants with a history of judicial involvement in corrections, and discussed the major issues associated with the operation of corrections facilities with which the courts have been concerned over the past several decades.

Mr. Dupree informed the participants that, prior to the 1960's, the courts refused to involve themselves in the operations of jails and prisons for the following reasons:

- ▶ The issue of the separation of powers associated with the executive, legislative and judicial branches of government;
- ▶ Lack of judicial expertise in correctional operations;
- ▶ An unwillingness to undermine institutional security and discipline; and
- ▶ A basic belief that incarceration brings about a loss of rights and privileges.

Mr. Dupree cited the following cases associated with the "Hands-Off Era."

- ▶ *Price vs. Jobnson (1948)* - The court ruled that, "Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system."
- ▶ *Pickens vs. Alaska (1951)* - The court agreed that conditions in the jail were deplorable but refused to rule on behalf of the plaintiff because, in the court's opinion, solving the problem was beyond the authority of the jail; additional funding for operational improvements had been solicited but had not been granted; the jail was the only holding facility near the place of trial; and the conditions imposed would not be deemed cruel and unusual punishment in every civilized society.

During the 1960's and early 1970's, the courts began to involve themselves in cases which they considered were associated with basic prisoner rights including:

- ▶ The rights of pre-trial detainees;
- ▶ Freedom from crude brutality; and
- ▶ The right of inmates to take legal action without interference from prison and state officials.

Mr. Dupree cited the following cases associated with this period of limited judicial involvement.

- ▶ *Monroe vs. Pape (1961)* - The court eliminated the restrictions on Section 1983 of the Civil Rights Act of 1871 by allowing individuals direct access to federal courts. Section 1983 states, "Any person who, under color of any statute, ordinance, regulation custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."
- ▶ *Robinson vs. California (1962)* - The court ruled that the eighth amendment to the Constitution, which addresses cruel and unusual punishment, applies to the states through the fourteenth amendment, which provides equal protection under the law.
- ▶ *Copper vs. Pate (1964)* - The Supreme Court confirmed a prisoner's right to utilize Section 1983 to sue prison officials.
- ▶ *Wright vs. McMann (1967)* - The court ruled that inmates have the right to file suit based on the eighth amendment because of an earlier case (*Trop vs. Dulles (1958)*) which stated, "The amendment must draw its meaning from the evolving standards that mark the progress of a maturing society."

- ▶ *Jackson vs. Bishop (1968)* - The court banned the use of corporal punishment as a disciplinary measure.

During the 1970's, problems at Folsom, San Quentin, Attica, McAlester and other prisons and jails throughout the United States precipitated wholesale judicial intervention in correctional operations. By the mid-1980's, one (1) out of every seven (7) cases heard in the federal district courts involved inmate rights issues. Mr. Dupree informed participants such cases are generally based on one (1) or more of the following constitutional amendments.

- ▶ First Amendment - Freedom of religion, and access to mail and library;
- ▶ Fifth Amendment - Due Process;
- ▶ Sixth Amendment - Right to counsel;
- ▶ Eighth Amendment - Cruel and unusual punishment;
- ▶ Fourteenth Amendment - Due process, and equal protection under the law.

The following cases were cited by Mr. Dupree.

- ▶ *Newman vs. Alabama (1972)* - The court ruled that confinement in the Alabama prison system was, in and of itself, cruel and unusual punishment. One (1) of the long-term effects of this landmark case is the current back-up of state prisoners in local detention facilities throughout the state.
- ▶ *Williams vs. Edwards (1977)* - The court ruled that the lack of funds was not a valid defense for inadequate facilities and operations.
- ▶ *Smith vs. Sullivan (1977)* - The court ruled that inmates are entitled to adequate staff supervision, and assistance from staff.
- ▶ *Finney vs. Arkansas (1978)* - In this case, which was affirmed as *Hutto vs. Finney*, the court ruled that if a state chooses to operate prison facilities, those facilities must be constitutional. In addition, the court ruled that the "budgetary defense" is an invalid defense.

Mr. Dupree informed the participants that court rulings vary from district to district based on the political philosophies of the judicial officials involved. However, it is clear that the courts have chosen to involve themselves in virtually every facet of correctional operations including the following:

- ▶ Staffing;
- ▶ Access to courts and counsel;
- ▶ Access to mail and telephones;
- ▶ Availability of libraries and particularly law libraries;
- ▶ Availability of reading materials;
- ▶ Religious services;
- ▶ Visitation including media visits;
- ▶ Provision of medical care;
- ▶ Enforced idleness and the provision of recreational activities;
- ▶ Food service;
- ▶ Provision of educational and vocational opportunities;
- ▶ The utilization of behavior modification techniques;
- ▶ Inmate classification systems and segregation procedures; and
- ▶ Inmate discipline, administrative due process and grievance procedures.

Finally, Mr. Dupree stated that the courts have established four (4) basic requirements for the determination of liability:

- ▶ An affirmative duty must exist;
- ▶ The official(s) involved knew or should have known;
- ▶ A pattern of gross abuse exists or the occurrence of a single brutal incident was foreseeable; and
- ▶ The official(s) involved knew of the pattern or incident but took no action.

However, the courts have also established the following criteria to determine the validity of defenses against charges of liability:

- ▶ Timely action(s) are taken in good faith which are appropriate to remedy the injury, are initiated prior to litigation and are within the scope of the official(s)' responsibility and authority;
- ▶ The official(s) have begun an acceptable course of action; or
- ▶ The official(s) have made a reasonable offer of settlement.

Mr. Dupree stated that, given the current conditions associated with incarceration in the local detention facility, Conecuh County must make a concerted, long-term commitment to the establishment of a physical plant and operations which comply with applicable corrections standards and constitutional mandates if the community wishes to maintain full control of local corrections.

#### **WHAT IS THE JAIL FOR?**

Mark Kellar initiated the discussion by asking participants to articulate their perceptions of the reasons why the Conecuh County Detention Facility exists. The reasons given by the participants included the long-term incarceration of individuals committing serious criminal acts; protection of the community and law-abiding citizens; and the rehabilitation of offenders.

Mr. Kellar then shared with the participants pre-trial release data averaged from 125 communities nation-wide which, in summary, indicated that approximately 66 percent of all pre-trial detainees are released within 24 hours, and that only seven (7) percent of all pre-trial detainees remain in local detention facilities for more than 30 days. Mr. Kellar stated that the data suggest that local detention facilities exist for short-term rather than long-term incarceration, and that, indeed, they may be viewed as "revolving doors" in which population turn-over is quite rapid. Mr. Kellar also stated that the data suggest that rehabilitation may be a viable objective for only that small percentage of inmates who remain in facilities over 30 days.

Mr. Kellar then shared with participants arrest and conviction data which indicated that only four (4) percent of all part one felony offenses reported result in incarceration. Mr. Kellar stated that, as a result, the ability of a local detention facility to protect the community from criminal activity was negligible.

Mr. Kellar informed the participants that one (1) of the major problems associated with the planning of new local detention facilities is that communities have deep-seated perceptions of the role of a detention facility, based on the experiences of individual citizens and media images of the offender population, which bear little semblance to reality, but which, nevertheless, have a substantial impact on decisions regarding the mission, size and design of a facility. Mr. Kellar stated that, in order to plan a facility which

meets the long-term incarceration needs of the community in a cost-effective manner, statistical data which reflects, historically, the size and composition of the inmate population, and the policies and practices of the local criminal justice system must be collected and analyzed.

Mr. Kellar noted that one (1) of the major issues currently being discussed in Conecuh County is the size of the new local detention facility. Currently, opinions range from 50 to 70 beds. Mr. Kellar stated that, unfortunately, local detention facilities are capacity driven. Regardless of the size of the facility constructed, those law enforcement and judicial agencies which utilize the facility will adjust their policies and practices, often unwittingly, to insure that the facility is filled beyond its design capacity. It is, therefore, essential that substantive discussions be held with the key actors in every criminal justice agency which will utilize the facility to identify potential arrest and incarceration trends, and policy and practice changes which will impact the size of the new facility. Based on those discussions, firm policies which mandate how the facility will be utilized must be developed, agreed to by all involved parties, and implemented.

**TOTAL SYSTEMS PLANNING** David Dupree initiated the presentation of the Total System Planning Model by stating that experience has shown that the complexity and expense of making lasting changes in local detention facilities and criminal justice systems make comprehensive planning absolutely imperative. Total Systems Planning is a model recommended for the systematic planning of criminal justice services and facilities. The model involves the basic skills used in making any decision where several related problems must be examined in light of the advantages and disadvantages of alternative solutions. For the sake of clarity, the model is presented sequentially, in six phases, as a logical progression of activities. However, the particular demands of the planning effort sometimes involve an amending or reordering of the activities within each phase. In addition, the process of criminal justice planning frequently requires that assumptions and conclusions reached in the early planning phases be revised in order to properly respond to issues which arise in later phases.

Mr. Dupree proceeded to discuss each phase of the Total Systems Planning Model as follows.

#### **PHASE ONE - IDENTIFY PLANNING TASKS**

The following major activities are associated with the initial phase of the planning model:

- ▶ Establish planning group and representative advisory committee;
- ▶ Identify major issues;

- ▶ Assess need for consultant services (and obtain funding for such services if required);
- ▶ Define and assess the boundaries of the service area including legal and geographical jurisdiction, funding sources, justice agencies, other service agencies, and community support and opposition;
- ▶ Develop project organization, program, operations, facilities and funding goals; and
- ▶ Establish a working timetable for the project.

The primary product associated with the completion of Phase One activities is a written statement of broad project goals which has been approved by both the planning group and advisory committee.

#### **PHASE TWO - GATHER INFORMATION**

The major Phase Two activities are:

- ▶ Initiate information gathering;
- ▶ Conduct research regarding criminal justice system models and programs, and current standards and trends;
- ▶ Develop and conduct surveys regarding the existing local detention facility and its operations, programs and service needs, related justice agencies, and the service area and its resources; and
- ▶ Establish criteria for the analysis of collected data.

The completion of Phase Two activities will result in the availability of raw data regarding the offender population and the local criminal justice system, and the criteria to be utilized in the analysis of that data.

#### **PHASE THREE - ANALYZE INFORMATION**

Phase Three of the planning model focuses exclusively on the analysis of the data collected during Phase Two. The major activities are:

- ▶ Analyze research and survey results;

- ▶ Determine and evaluate the capabilities and deficiencies of the existing local detention facility and criminal justice system;
- ▶ Identify present and future service area needs; and
- ▶ Rank the service area needs, and establish organizational, programmatic, operational, structural and resource requirements.

The completion of Phase Three activities will result in an evaluation of the collected data, and a comprehensive classification of the community's incarceration needs.

#### **PHASE FOUR - DEVELOP POLICY**

Based on the data analysis and the rank ordering of incarceration needs, the following policy development activities should be undertaken during Phase Four:

- ▶ Generate organizational, programmatic and facility alternatives;
- ▶ Evaluate each alternative to determine its efficiency and effectiveness; and
- ▶ Develop cohesive policy statements which reflect the selected alternatives regarding the purpose, organization, operations, structure(s), funding, and required support for the community's incarceration needs, and detailed statements regarding the implementation and on-going monitoring/evaluation of the policy statements.

The completion of Phase Four activities will result in a formal master plan for the new local detention facility.

#### **PHASE FIVE - TRANSLATE POLICY TO PROGRAM**

Phase Five is the stage in the planning process at which most communities wish to begin because it is the first phase at which those responsible for the planning process can see the concrete results of their efforts. However, failure to perform the activities associated with the previous four (4) phases of the process will, in all probability, result in the design of a new facility or renovation project which is cost inefficient and does not meet the incarceration needs of the community.

The following activities are associated with Phase Five:

- ▶ Develop an organizational program which reflects the project goals and objectives, organizational structure, and monitoring, evaluation and feedback network;

- ▶ Develop a service program which defines the client base, staffing requirements, facility operations and the methods by which services will be delivered; and
- ▶ Address architectural design issues including the project concept, site criteria, schematic design, preliminary design and construction documents.

The products of Phase Five are written organizational, service and architectural programs which have been reviewed and approved by the planning group, advisory committee, and appropriate criminal justice, governmental and funding authorities.

### **PHASE SIX - IMPLEMENT PROGRAMS**

Phase Six reflects the point at which the new facility is actually constructed or the existing facility is renovated. Of equal importance, Phase Six also reflects the implementation of the organizational and service programs developed during Phase Five.

The major activities associated with Phase Six are as follows:

- ▶ Implement the organizational and service programs including the organizational structure, monitoring/evaluation and feedback system, client services, staffing pattern, and acquire required equipment and materials;
- ▶ Implement the architectural program which broadly includes awarding the required contract(s), constructing or renovating the facility, and obtaining certification of occupancy;
- ▶ Plan and implement the transition to the new or renovated facility;
- ▶ Maintain and evaluate, on an on-going basis, the organizational, service and architectural programs.

The principal product of the completion of Phase Six activities is the operationalization of a new or renovated local detention facility which satisfies the long-term incarceration needs of the community.

In concluding his presentation on the Total System Planning Model, Mr. Dupree informed the participants that the planning of a new local detention facility requires a considerable investment of money, time, thought and effort. Many communities are more than willing to invest the money, but refuse to invest the time, thought and/or effort. However, failure to make these investments usually results in a wasted financial investment because the new local detention facility fails to address the very problems for which it was designed and constructed.

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## LOCAL SYSTEM ASSESSMENT PARTICIPANTS

The following individuals, representing Conecuh County, Alabama, participated in the various activities associated with the Local System Assessment. It must be noted that because of the number of individuals in attendance, a roster of Phase I Community Meeting participants was not established.

### CONECUH COUNTY COMMISSION

- ▶ Hugh Barrow, Chairperson
- ▶ Jerald Dean
- ▶ Leonard Millender
- ▶ Frank Pate
- ▶ Freddie Stallworth

### CONECUH COUNTY COURTHOUSE/JAIL TASK FORCE

- ▶ Sue Bell Cobb, Chairperson
- ▶ J. E. Alford
- ▶ Alonzo Dukes
- ▶ Johnny Mack Grace, Jr.
- ▶ Ernest Hanks

- ▶ Alton Henderson
- ▶ William F. Howard
- ▶ B. G. Jones
- ▶ Alester McBride
- ▶ William D. Melton
- ▶ Knud Nielsen
- ▶ Palmer Watson
- ▶ Sam Welch

**CRIMINAL JUSTICE SYSTEM OFFICIALS**

- ▶ Vivian Bowen, Adult Probation Officer
- ▶ Tommy Chapman, District Attorney
- ▶ J. Wayne Harrelson, Juvenile Probation Officer
- ▶ David Hyde, Assistant District Attorney
- ▶ Joseph Nix, County Attorney

**LAW ENFORCEMENT OFFICIALS**

- ▶ Kenneth Ausby, Evergreen Police Department
- ▶ Simon Benson, Alabama Bureau of Investigations
- ▶ Edwin L. Booker, Conecuh County Sheriff's Department
- ▶ William Gibson, Repton Police Department
- ▶ Marty Griffin, Alabama Highway Patrol
- ▶ Larry Jackson, Evergreen Police Department

- ▶ David Killingsworth, Alabama Highway Patrol
- ▶ Don Morris, Alabama Highway Patrol