A Review of
The Jail Overcrowding Situation in the
Commonwealth of the Northern Marianas Islands

TECHNICAL ASSISTANCE REPORT

Bureau of Justice Assistance
CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
A Joint Program of the Bureau of Justice Assistance, U.S. Department of Justice, and American University School of Public Affairs
A Review of
The Jail Overcrowding Situation in the
Commonwealth of the Northern Marianas Islands

Sitework:
September 1987

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Prepared Under BJA Cooperative Agreement No. 87-DD-CX-K061
ASSIGNMENT DATA SHEET

Technical Assistance No.: 32-A
Requesting Jurisdiction: Commonwealth of the Northern Marianas Islands
Requesting Agency: CNMI Criminal Justice Planning Agency
Requesting Official: Mr. Eddie C. DeLeon-Guerrero, Acting Director, CJPA
Dates of On-Site Study: September 24-26, 1987
Consultants Assigned: Walter H. Busher, Peter Haynes, Hon. Edward King, Howard Messing
Central Focus of Study: Review of Jail Overcrowding Situation and Recommendations for Improvement

This report was prepared in conjunction with the EMT Adjudication Technical Assistance Project, under a Cooperative Agreement with the Bureau of Justice Assistance of the U.S. Department of Justice.

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I. INTRODUCTION

A. The Origin of the Request for Technical Assistance

On September 8, 1986, the then Acting Director of the Criminal Justice Planning Agency (CJPA) for the Commonwealth of the Northern Marianas Islands (CNMI), wrote to the Bureau of Justice Assistance (BJA), U.S. Department of Justice regarding "...Technical Assistance available from your office with particular emphasis on alleviating jail/prison overcrowding. Furthermore, any assistance you can render to the proposed criminal justice automation process will be appreciated." Following telephone discussions and an exchange of correspondence with Acting Director and with representatives of the U.S Department of the Interior, the Adjudication Technical Assistance Project (ATAP) deployed a four-person team of consultants to Saipan, CNMI during the period of September 24-30, 1987. This report contains the principal observations, findings and recommendations of the ATAP team.

B. Organizational Relationships

The Adjudication Technical Assistance Project (ATAP) is operated by the EMT Group, Inc. of Sacramento, California. ATAP is authorized and funded by the Bureau of Justice Assistance of the U.S. Department of Justice pursuant to provisions of the Justice Assistance Act of 1984. Under the terms of its contract with the Bureau of Justice Assistance (BJA), the EMT Group, Inc. is required to respond to and assist state and local units of government seeking to deal with existing or potential overcrowding of their penal institutions.

ATAP's effort for the CNMI (and immediately prior thereto for Guam) was co-sponsored and co-funded by the U.S. Departments of Justice and Interior. The Department of the Interior designated staff to provide liaison between the ATAP team and CNMI (and Guam) officials during the team's on-site study.

C. The Different Missions of the ATAP and National Institute of Corrections Teams

Immediately preceding the ATAP team's arrival on Saipan and immediately following the ATAP team's on-site work on Guam, three top officials of the U.S. Department of Justice's National Institute of Corrections (NIC) were in the CNMI and Guam. These officials came to Guam in response to criticisms leveled against the Guam Penitentiary by the Civil Rights Division of the U.S. Department of Justice. While in the Marianas, the team extended its trip to include CNMI where it met with CNMI Department of Public Safety officials and inspected the CNMI prison and its programs.
The focus of the NIC team's study was the CNMI Correctional Facility and its staff training, inmate classification program and other aspects of the institution's administration and operation. While cognizant of the Institution's crowding, the NIC team did not focus on the factors within the CNMI's justice operation which were contributing to the population management problem.

The ATAP team's focus was different than that of NIC's team. Any examination of actual or potential crowding must be concerned with all factors which can impact an institution's admissions and length-of-stay. As these factors are influenced by all criminal justice agencies, ATAP team members sought to meet with all officials whose decisions create the demand for available detention space. Because the supply of available space is within the decision-making realm of CNMI's Executive and Legislative authorities, the ATAP team also sought to meet with the Governor and his key aides, as well as with members of the CNMI Legislature with special responsibilities relative to the administration of justice.

D. The Composition of the ATAP Team

The ATAP team aggregated a broad range of experience and expertise. Edward King, Chief Justice of the Federated States of Micronesia, contributed to the team's perspective an appreciation of the history, culture, political priorities and legal structure and traditions of Western Pacific societies in general, and of the Marianas in particular. Peter Haynes, Professor of Justice Studies at the Arizona State University and Executive Director of the Arizona Criminal Justice Commission brought to the team knowledge and insight into issues and problems inherent in criminal justice planning and administration, as well as an awareness of federal resources currently available to criminal justice agencies for financing and programming improvements in service. Howard Messing, Professor of Law at Nova University, recently Fellow at the National Institute of Justice and Federal Master for the Broward County (FL) Jail, assured the team an acute perception of operational and legal issues attending prosecutorial, judicial and detention performance. Walter Busher, team leader, has contributed his perspective on overcrowding remedial strategies gained from ten years of field work in local jurisdictions with acute jail population and capacity management problems.
II. HOW THE ASSIGNMENT WAS CONDUCTED

A. Initial Briefing

The BJA/ATAP team arrived in the CNMI in the afternoon of Thursday, September 24, 1987, and was met by representatives of the Criminal Justice Planning Agency staff. The team was briefed by the CJPA Acting Director on arrangements which were in place.

On Friday morning, 9/25, the team attended a breakfast meeting hosted by the Chairman of the Northern Marianas Council for the Improvement of the Criminal Justice System and attended by representatives of ten criminal justice agencies and courts. The meeting afforded the team and CNMI officials to meet and brief each other and to initiate arrangements for later individual interviews.

B. Persons Interviewed

Eddie C. DeLeon-Guerrero, Acting Director, Criminal Justice Planning Agency
Hon. Pedro P. Tenorio, Governor
Edward Manibusu, Director of Public Safety
Ray Buso, Assistant Attorney General
Brian McMahon, Public Defender
Marty Taylor, Assistant Public Defender
Hon. Jose De la Cruz, Judge, CNMI Trial Court
Hon. Ramon Villagomez, Judge, CNMI Trial Court
Jane Mack, Micronesian Legal Services (MLS)
Herb Whitaker, Staff Attorney, (MLS)
Richard Keatley, Consultant, Department of Public Safety
Jeff Schorr, Representative, Department of the Interior
Maggie O. Taitano, Administrator, DYS
Karmina Okamura, Acting Supervisor, JCI
Brenda Tenorio, Technical Assistance Coordinator
James Ripple, Special Assistant, Planning and Budgeting Affairs Office (PBAO)
Office of the Governor
Congressman Juan Torres, Chairman, Appropriations Committee
Gregorio Sablan, Probation Officer, Trial Court
Senator Benjamin Manglona, Chairman, Fiscal Affairs Committee
Rex Palacios, Executive Director, Commonwealth Development Authority (CDA)

Although not subsequently interviewed, the team met and briefly heard from the Hon. Alfred Laureta, District Court and Charles Calvo, Chief, Office of Immigration.

Jeff Schorr, ranking U.S. Department of the Interior official in the CNMI, assisted the team with its logistics and its fact-finding activities.
III. OBSERVATIONS AND FINDINGS

A. Introduction

In its attempt to understand the CNMI's adult detention circumstances, the ATAP team focused its attention on the following questions:

1) What factors influence the number and kinds of admissions to the institutions supervised by the Department of Public Safety?
2) What factors influence inmate length-of-stay in institutions?
3) What factors influence the amount of confinement capacity available to the Commonwealth?

The first two questions relate to the extent of demand placed on available confinement capacity by the criminal justice officials and the third question relates to the supply of confinement capacity made available to the criminal justice system through the action of the CNMI's Executive and Legislative arms of government.

B. The Prison: Its Capacity and Level of Use

The Department of Public Safety (DPS) operates two facilities on Saipan. One is a minimum security dormitory housed in a building provided by the U.S. Government in the wake of a recent typhoon. This facility is used primarily, if not exclusively, for men charged with and/or convicted of alcohol-related offenses, primarily driving under the influence.

The second facility is the Commonwealth Prison proper, constructed at the Susupe Civic Center in 1981. It was originally designed to hold 32 men in 16 2-man cells. Today, this cell block is augmented by two smaller cell blocks each with 3 2-bed cells built initially for detaining women and juveniles. Currently then, the prison has available a total of 22 cells. Each cell contains approximately 45 square feet of space.

The non-cell block areas of the prison and their limitations are best described by a DPS staff person who, in July 1987, wrote as follows:

"There are no programs available to inmates for rehabilitation or corrections. This is due to a lack of space to house prison industries or recreational activities. No counseling office or medical/healthcare unit is available, and visiting is limited to a few minutes per week due to a lack of a proper visitation room. The Commonwealth, due to a lack of funds necessary to
provide rehabilitative program, merely houses prisoners without providing the programs necessary to return them to the community as productive citizens. Incarceration stress symptoms manifest themselves due to a total lack of activity and rehabilitative programs."

The prison proper has many design deficiencies which compromise its capacity to provide physical security within its walls and perimeter fences. Staff supervision of inmates in the building is complicated by the linear design of the cell block areas. In actual operation, the prison provides a level of security approaching minimum more than maximum.

On the day the ATAP team visited the prison, it held 45 inmates. As many as 75 inmates have been held during the 12-month period ending 6/3/87. That number would represent a population of 170% in excess of the 44-bed capacity -- assuming all 44 beds were available for occupancy.

Early in 1987, the prison became the subject of a grievance action filed by the Micronesian Legal Services Corporation. Citing many deficiencies, including overall overcrowding, the MLSC proposed that the DFS limit the prison population to a maximum of 38 inmates -- in 16 double-bunked cells and 6 single-bunked cells.

It is the ATAP team's conclusion that by any definition the Commonwealth prison has chronic overcrowding. Substantially more inmates are housed than the capacity allows for, placing inmates, staff and the Commonwealth itself at substantial risk.

C. Criminal Justice Processing Practices: Arrest Through Trial

Members of the team spoke with two of the three judges and official decision-makers in every criminal justice agency. From what was learned, the team concluded that, in general, cases involving formal charges move from arrest to disposition without serious delays. The team learned nothing which would suggest overcharging or frivolous prosecution. In short, there appeared to be little reason to suppose that prior to dismissal, acquittal or conviction, slow case processing was contributing significantly to a buildup of the prison's population.

D. Criminal Justice Processing: Sentencing

Many factors determine the sentencing patterns employed in any jurisdiction. Some relate to philosophical concerns of judges, prosecutors and other officials. Other factors are related to officials' reading of, and desire to, accommodate public opinion. Still
other factors involve the private agendas and political concerns of justice system decisionmakers. The team recognizes these realities, understand in part the impact such factors can have on the size and character of a jurisdiction's penal institutions and regards them as beyond the area of its professional concern and judgment.

There is one factor which can impact sentencing that the team feels is appropriate for its professional attention. That factor is the availability of sentencing options available to the Court to consider and its relationship to prison overcrowding.

It was the team's consensus that the CNMI courts have few creditable alternatives to sentencing convicted defendants to the prison. A probation department consisting of one officer, who also has parole responsibilities, is in no position to provide the courts with the quality of information most judges are entitled to in presentence investigation reports. Judges cannot be criticized for using confinement in lieu of release on probation when they lack adequate verified information and competent analysis concerning a defendant to be sentenced. Nor can sentencing judges be faulted for not granting probation to a defendant, who may be regarded as a suitable subject, when release on probation offers no assurance that the probationer would be rigorously supervised to ensure compliance with any conditions of probation.

As administered on Saipan, work release has serious deficiencies which limits its value to sentencing judges. Like probation, work release can be expected to be used sparingly by judges when its use carries little promise that defendants assigned to the program will be held accountable when the program's rules and requirements are not complied with.

The team heard little that suggested any other options were available or being developed which the courts could consider as adequate alternatives to long-term confinement in the prison. The team could only conclude that the absence of viable sentencing alternatives could be a contributing factor to CNMI's prison population size.

The DPS facilities serve the functions of both a local jail and a state prison. Therefore, it is difficult to make an assessment of the CNMI's rate of confinement based on comparison with mainland jurisdictions. It is worth noting, however, that during roughly the same time when the CNMI was averaging around forty-five inmates in its prison, Truk, with a population of 45,000, compared with CNMI's population of 25,000, had fewer than 30 prisoners in its jail; Kosrae, with a population of 6,000, had 2 persons in jail; and Pohnpei, with a larger population than CNMI, was holding only 35 prisoners.
While the foregoing figures are too limited to justify any firm conclusion that CNMI's incarceration rate is based on different sentencing policies than those in force in the other Pacific jurisdictions, they do give rise to an interesting question, especially in light of indications that the CNMI's incarceration rate far more closely approximates that of Guam. That question is "To what extent is CNMI's relatively heavy use of prison sentences related to judicial attitudes, to the absence of sentencing alternatives and to the characteristics of the jurisdiction's population?"

E. Population Factors

Demographic data compiled by the CJPA reveals that since 1980 the indigenous population of the Commonwealth increased by approximately 30%. During the same period, the number of registered aliens increased by about 125%. In 1980, the indigenous population constituted about 80% of the Commonwealth's total population; in 1987 it made up only about 62% of the population. Data suggests that the number of registered aliens will continue to increase at a faster rate than the indigenous population.

The growth pattern reflected in the above figures support an assumption that the social structure of the CNMI is undergoing important changes. It would be surprising if these changes were not introducing stress as large numbers of new arrivals seek to share in the economic, social and cultural life of the Commonwealth dominated by long established residents. The sociology of the situation suggests that some of the newcomers will succeed in their adjustment while others will not. Those who fail to find a satisfying niche could well constitute a high risk group for criminality, alcoholism, mental illness and chronic poverty.

The ATAP team did not observe any effort which was seeking to establish to what extent, if any, the explosive immigration which the Commonwealth is undergoing is having on the criminal justice system's workload in general and the Division of Corrections in particular. Nor did the team learn of any government-sponsored programs aimed at facilitating the integration of newcomers into the mainstream of the Commonwealth's life or minimizing the alienation and isolation of new residents experiencing problems getting established.

F. Criminal Justice Information Gathering and Processing Capabilities

The CNMI Criminal Justice Planning Agency has been compiling Department of Public Safety and other justice agency data on a regular basis since 1983. This information is fed back to all precincts of the criminal justice system and to other
interested parties in regular newsletters and annual reports. The CJPA also periodically collects, updates and distributes all available demographic information. The quality of this data collection and reporting is excellent, exceeds by far what is available in most mainland rural jurisdictions, and would be envied in many urban criminal justice circles.

As useful as this data is, it does not reveal much about what is happening in the Commonwealth’s criminal justice process over time. As yet, the CJPA-managed automated information system does not have the capability of tracking individual cases from arrest through final disposition. Nor does the system have the capacity to compile and process case information to produce management information for agency decisionmakers.

At present, no one knows for sure what is happening at each decision point in the criminal justice process (e.g., how often each option available to decisionmakers is used). No reliable information is available on how long it takes for cases to move from one decision point to the next one. No data is available on the results of decisions taken (e.g., how often persons released prior to trial fail to appear, what kinds of probationers fail to make restitution, the relationship between prior convictions and length of sentences imposed).

Due to lack of credible information of this kind, decision makers are having to depend upon myths, intuition and guesses as they process cases and consider policy formation and operational procedures.

G. Capacity for System Planning and Programming

Many, if not most, criminal justice issues transcend the operational areas of responsibility of any single agency. It is not likely that one agency can unilaterally initiate policy and procedural changes without running the risk of impacting other agencies' operations. Because of this fact, the orderly, effective and efficient administration of criminal justice requires that criminal justice officials (and the Executive and Legislative officials responsible for providing and supporting the criminal justice apparatus) engage in planning, preferably that achieved through consensus. As the dimensions of a prison population are determined by the decisions made in multiple agencies, any effort to prevent or cure overcrowding must involve cooperative action sponsored by all prison-using agencies.

The Northern Marianas Council for the Improvement of the Criminal Justice System (NMC) was the only organization that the ATAP team learned about that possessed the potential for collective problem solving. Its membership is representative of all criminal justice agencies. It has staff services available from the CJPA, a unit of CNMI's
Government's Executive Branch.

It was not at all clear to the team to what extent the NMC was performing as an active vehicle for consensus building and problem solving. Certainly there was no shortage of criminal justice issues which might deserve the active attention of the NMC. The alleviation of the prison’s crowding crisis is obviously one issue. Another issue is the kind of case and management information to be produced by the criminal justice system’s automated information system. Still another issue involves the administration of parole which apparently is subject to political manipulation and interference. A final example of an issue, which could be a subject of the NMC’s attention, would be special programming needs of mentally ill inmates of the prison and defendants convicted of offenses involving drug and alcohol abuse.

As far as the team could determine, these and other issues were being temporized, not confronted and to some degree were left to CJPA staff to struggle with rather than being considered by officials with the authority and prestige to approve and initiate action.

H. System Strengths

The CNMI faces a long, costly and difficult task in ridding itself of its current crowding crisis. Fortunately, in the view of the BJA/ATAP team, there are a number of circumstances present which should make the task easier. The team sees the following as strengths to be capitalized on:

- The administration of the DPS, and the staff of the Division of Corrections already recognize the fact that if inmates are to be at least no worse off when they are released than they were when they arrived, the prison must have the capability to program as well as to simply safely and humanely house.
- Prison staff recognize their need for training and supervision, which suggests that qualifications other than political connections are playing a role in staff selection.
- There are relatively few criminal justice agencies, they are small and intimately associated with one another and their day-to-day interactions are not impeded by turf wars.
- The Judiciary does not stand aloof from participation with other criminal justice officials in forums concerned with inter-agency problems and practice.
- There is an appreciation on the part of most officials for the value of accurate and useful information and, therefore, the likelihood that an automated information system will develop.
Public opposition to siting new construction does not appear to be a likely barrier to action.

Among CNMI government officials outside the criminal justice system, there appears to be not only an awareness of the prison crowding problem, but an appreciation of the need to assign a high priority to it in terms of allocating Commonwealth funds.

I. Opportunity for Innovation

The members of the team were intrigued by a CNMI asset which its officials should not overlook. As a developing political entity with geographical and cultural isolation from mainland U.S., the Commonwealth may have a unique opportunity, along with the freedom to experiment with new ways of doing things, and should not be obligated to adopt mainland practices solely out of habit or respect for traditional practice.

For example, the team believes that CNMI should seek to exploit the circumstances of its geography and weather to its advantage as it considers its needs for sentencing options and prison construction. Because Saipan is a small island, it should be possible to think of maximum, medium and minimum security in different terms than in Kansas and Pennsylvania. One wonders whether on Saipan it might be possible to combine the kind of security inherent in the island's size and location with a system of intensive professional services and supervision and to substitute the product for at least some additional prison capacity. A great deal of creative programming can be purchased for what it costs to build and staff a six- or ten-bed addition to a conventional prison, and the risks incurred by the community in having persons outside the walls need not be significantly greater.

One wonders, also, how much the CNMI might benefit if, after deciding on its actual prison space needs, it were to engage the services of architects and builders who were more attuned to the climatic realities of the Marianas than to traditional penal construction models. With some creativity, and a familiarity with the climate and culture, some construction might evolve which, while providing the requisite security and criminal sanction, might also prove uplifting and comfortable for staff and inmates and far more immune to the ravages of the weather on mechanical and electronic installations than has been the case elsewhere in the Pacific.
IV. AN ASSESSMENT

It is the team's assessment that the CNMI officials with responsibility for operating and funding the criminal justice system have three questions to resolve:

1) What role(s) should the penal institutions play in the administration of justice?
2) How much and what kind of institutional capacity will be needed to accommodate the role(s) agreed upon?
3) How will the construction, remodeling and operational costs for acquiring and programming additional capacity be financed?

It was the ATAP team's strong impression that far more concern is being focused on the third question than on the other two. Given the existence of a crisis situation, which poses serious risks to everyone involved and the potential for the situation to worsen before additional prison capacity can be made available, it is understandable why construction and its financing are on center stage. The team has no quarrel with and considerable sympathy for those who are now pressing hard for increasing the capacity of the Corrections division's institutions. However, the immediate crisis, as well as the need to save the Commonwealth the economic burden of having to solve future crises, must include immediate and deliberate attention to the first two questions.

The team saw little evidence that anyone is seriously questioning the Commonwealth's apparently strong dependence on long prison terms as a means of imposing a criminal sanction. Also, the team learned little that suggested much serious consideration is being given to the questions of whether or not strengthening probation, parole and work release options could reduce the amount and length of time convicted defendants needed to be in prison. Nor did the team find much indication that such correctional program strategies as community service, shock probation, use of volunteers for providing supervision, public works assignment, electronic monitoring and required participation in drug and alcohol education classes were being considered as ways of augmenting and/or substituting for confinement dispositions.

Until and unless the Commonwealth's criminal justice and Executive and Legislative branch decisionmakers begin addressing the extent to which alternatives to prison confinement can be and should be employed, it is not only possible, but probable, that the Commonwealth will find itself committed to a building program over time larger than it may need or actually use.
In the team’s judgment, CNMI has the talent and the capacity to deal with these kinds of issues. If the process were to begin immediately, it is conceivable that the products of the process could help define what additional prison capacity is needed now and how much of what at this moment seems necessary might be deferred pending more thorough study.
V. RECOMMENDATIONS

Introduction

It would be surprising, if, during its brief involvement with the CNMI's Criminal Justice Operation the ATAP team observed any condition or circumstance which CNMI's criminal justice operating agency officials and planning staff have not been aware of for years, studied extensively and sought to modify. It would be just as surprising if the team were to recommend any courses of action which have not been considered, at least in some quarters. Criminal justice officials and planners are too well informed, forward looking and action oriented to allow problems to go unnoticed, ignored or addressed to less than whatever extent consensus and resources would allow.

The team appreciates the fact that while the CNMI's financial circumstances may not be as limiting as is the case in other Pacific jurisdictions, they nevertheless have been a factor in preventing the Commonwealth's justice machinery from keeping pace with its growing workload. This can be accepted as the reason why at least some of the measures recommended by CNMI staff over recent years have yet to be implemented.

However, the team believes that the lack of funds is only part of the problem. As indicated earlier in this report, the team strongly suspects that also contributing to the gap between identified need and its satisfaction is the fact that the critical nature of the need has not been fully appreciated as yet outside the criminal justice community itself. The very fact that criminal justice personnel have been able to prevent problems from exploding into crises requiring emergency action by the Governor and Legislature may be a mixed blessing.

The team's recommendations have two focuses: several of the recommendations address primarily needs which can and should be dealt with in the short run. If implemented, they could begin relieving some pressure on the prison in a relatively short period of time. These measures introduce no concepts not previously considered and the modest cost of their implementation should be viewed against the potentiality of far greater costs which could arise out of inmate-initiated violence or legal action.

The balance of the recommendations seek to address more basic and longer range needs: the need to develop a consensus as to how much and what kind of confinement capability will be needed and should be planned for, and the need to include (to a greater extent than is now apparent) Executive and Legislative officials and community leaders in generating a consensus concerning needs, courses of action and priorities.
Recommendation Number 1:

It is recommended that early consideration be given to the employment of at least one additional probation officer, and possibly two, to enable the courts to receive more comprehensive pre-sentence investigation reports and greater assurance that persons admitted to probation will be more closely supervised.

Rationale:

The ends of justice can be rationally served for some convicted defendants by a disposition involving release on probation instead of a period of confinement in an institution. A task of judges is determining which defendants are suitable for probation and which ones are not.

This determination is facilitated when judges have available to them the services of a competent probation staff that can investigate the background and circumstances of defendants and provide the court with verified information and a recommendation based on the information.

But information gained from presentence investigation reports, instructive as it may be, is only one consideration for judges. Another is whether or not the court's probation service has the capability of providing the quality and intensity of supervision which a person released on probation is deemed to require in order to reduce the risk to the community to an acceptable level.

Given the present inadequacies of the probation (and parole) office, judges are not likely to receive either the quality of information concerning defendants, or the level of assurance of the availability of adequate supervision that they need to assess suitability for employing the probation option. When probation cannot be established as a supportable option, judges have no reasonable alternative to relying on confinement in order to provide a disposition with an acceptable risk level.

One benefit which would result from building a more competent probation service would be less pressure on the prison. Were the judges to feel justified in placing more defendants on probation, fewer men would be sentenced to the prison. This would reduce the demand for a scarce supply of beds and enable the full use of the penitentiary for defendants who are deemed unsuitable for other dispositions.

The same principles apply with respect to parole -- with the Parole Board substituting for judges as the decision-making authority. Parole is not likely to be a much used option when the Parole Board must make decisions in the absence of adequate information and supportable recommendations and the knowledge that a parole order will insure a reasonable level of supervision. For every day a person cannot be paroled, the
prison must operate with one less bed available to persons for whom probation or parole is not an option.

If the Court's probation arm is augmented as recommended, it is important that additional personnel be selected on the basis of professional qualifications and provided a work environment protected from political meddling by citizens and office holders alike. A strengthened probation/parole office would increase the likelihood that court-ordered fines, restitution and child support would be collected to a greater degree than is done at present.

**Recommendation Number 2:**

It is recommended that the Director of Public Safety and the Commonwealth's judges together explore ways and means of expanding the use of work release as a sentencing option, a correctional institution graduated release measure, or both.

**Rationale:**

There is an obvious need to conserve the prison's current limited supply of beds for use by persons for whom no option but secure custody exists. Competent pre-sentence investigations can identify persons who require some measure of restriction of their personal freedom but who do not need to be totally immobilized. If a well-run work release program were in existence -- a program providing good staff, operational discipline and the requirement that at least part of the participants' earnings be diverted to family support, payment of restitution and reimbursement for basic care costs--sentencing judges would have an additional option to consider.

In some jurisdictions, work release is not treated as a sentencing option available to the Court but as an option available to corrections authorities to use as a graduated release measure. Under such an arrangement, an institution inmate who has fulfilled certain obligations and is determined to be suitable for work release is granted that privilege by the corrections administrator.

Although in most mainland and Pacific jurisdictions work release eligibility, suitability and acceptability are determined either by a judge or by a corrections administrator, there is no reason why a jurisdiction could not authorize both options. Regardless of the authorizing official, the program itself should be administered by a correctional agency.
Island jurisdictions are uniquely situated to make full use of work release, as other Pacific jurisdictions have successfully demonstrated. Geography, the intimacy of community life and the ease of providing supervision all argue in favor of making maximum use of this correctional strategy.

Work release like probation and parole, must not be an exercise in leniency. All three must be adequately staffed and be tightly and fairly administered. Participants must be held to high levels of performance and failure to perform must result in termination of privileges -- in the interest of the programs' integrity and their participants' interests.

If the CNMI elects to upgrade its work release program, it should seek technical assistance in developing eligibility criteria and operational procedures.

**Recommendation Number 3:**

It is recommended that the Director of the Criminal Justice Planning Agency acquaint himself with the methodology used in developing the data base needed in order for a prison population management plan to be prepared in the event such a data base is requested by the NMC.

**Rationale:**

If the NMC assumes the responsibility for identifying ways and means by which the prison population's dimensions might be better managed, it will need an accurate and current description of the flow of cases through the criminal justice process. Such a description does not now exist in the CNMI. It can be obtained from utilizing a process developed by LEAA in conjunction with its National Jail Overcrowding Project. The process involves collecting, processing and analyzing information from all or a representative sample of cases recently served by the justice system. Once acquired and analyzed, this information provides planners and decisionmakers with an accurate picture of how the jurisdiction's criminal justice agencies are actually using the system. Once developed, the data base can be continuously updated to reflect effects occurring from changes in practice occurring anywhere in the system.

The CJPA is installing computer hardware which will facilitate the maintenance of the data base. Instruction in the use of the methodology is available at a modest cost which should be well within the capacity of the CJPA's budget.
Recommendation Number 4:

It is recommended that the Northern Marianas Council for the Improvement of the Criminal Justice System (NMC) request the Governor to establish a Commonwealth Study Commission, to be staffed by the CJPA, to examine in depth the impact alien immigration is having on community life and to encourage the development of community strategies for facilitating the integration of new residents as productive and law abiding citizens.

The proposed study commission should be composed of interested citizens and officials representing all parts of the Commonwealth and every major cultural constituency.

Rationale:

Crime and delinquency are partly rooted in the alienation and isolation experienced by minority groups and transients. Although the broad outlines of this problem are known and statistically described by the CJPA, there is undoubtedly much more that could be learned with the help of the alien population itself. The information which would result from the study would be a valuable resource for government agencies, the legislature, the business community, citizen organizations and to the alien population and the leadership of its developing subgroups.

The process of developing the data base could serve to focus citizen and official attention on how the established population can reach out to newer elements in the Commonwealth and hasten their movement into the mainstream of its economic, political and social life.

Recommendation Number 5:

It is recommended that the Governor request that the Northern Marianas Council for the Improvement of the Criminal Justice System (NMC) undertake a formal process to examine how and to what extent the criminal justice system might reduce the amount of pretrial and post-conviction confinement through the greater use of pretrial release and alternatives to prison sentences.

Rationale:

The Commonwealth needs and is in the process of obtaining, financial authorization for added prison capacity. At this time, the only bases for estimating the future space needs are recent population figures. These figures reflect sentencing practices which may change were the courts to have access to new sentencing alternatives that come to enjoy their confidence.
No jurisdiction has ever built itself out of a prison crowding problem for the reason that, in the absence of the development and use of a prison capacity management plan by criminal justice officials, all new prison space will be fully utilized as soon as it becomes available and the overcrowding problem never gets solved.

Prison construction is very costly and its operation in the long run, is even more so. For economic reasons alone, it is irrational to provide maximum security capacity for persons who do not require it.

Some organizational vehicle is required to assume responsibility for studying the question of the criminal justice system's level of demand for prison capacity and arriving at a consensus as to how the demand can be managed.

The only body which presently exists in the CNMI with the expertise and authority to assume this role, is the NMC. It should be formally commissioned by the Governor to actively undertake the role. The NMC should accept this role not on an ad hoc basis, but as a long range undertaking. It should have the staff services of the CJPA to facilitate its meeting schedule, preparation of agendas and minutes and develop and present pertinent data and information requested by the NMC.

Recommendation Number 6:

It is recommended that for the purposes of executing the NMC role set forth in Recommendation Number 5, the membership of the NMC be enlarged to include representation from the Governor's office and the Legislature.

Rationale:

It is the decisions of the criminal justice system officials that combine to determine the number of persons requiring prison space - the demand factor. It is the Legislative and Executive branches which ultimately determine how much prison space can exist at any point in time - the supply factor.

Any effort to bring about a resolution of the current prison crowding crisis and to develop and execute a plan which can prevent the problem from occurring again will require that all officials who can impact the supply and demand equation work together to share responsibility for understanding and acting on the problem.

Recommendation Number 7:

It is recommended that the Northern Marianas Council for the Improvement of the Criminal Justice System sponsor an effort to organize a corps of volunteers that would be available to the corrections division, the court and the probation-parole office for
augmenting the level of supervision and assistance provided to pretrial releasees, probationers, parolees, work releasees, probationers, parolees, work releasees, and institution inmates.

**Rationale:**

The Commonwealth's financial resources allocable to the administration of criminal justice are not likely to provide for more than basic services. Experience in many jurisdictions has adequately demonstrated that basic correctional services can be significantly strengthened when correctional agencies provide their professional staffs with the opportunity to deploy carefully selected, trained volunteers. Agency professionals can assign many tasks to volunteers and thereby increase the amount of time they have to perform duties which volunteers can not be expected to perform. Clients gain because they can be the recipients of an increased level of attention and help. The public gains because the use of volunteers can reduce the risk of client failure and the costs attendant to that outcome. The public also gains because volunteers become a means of quietly building citizen understanding of the criminal justice process and administration and a reservoir of political support for strong criminal justice programming.

Responsibility for organizing and directing a volunteer bureau should be assigned to a single operating agency. Ideally, the bureau should be headed by a capable lay person who is experienced in recruiting, training and supervising citizens for volunteer work.

**Recommendation No. 8**

It is recommended that the CNMI embark upon development of a long-range corrections plan, including a facilities construction plan which reflects projections of future needs and which envisions, among other financing alternatives, use of development funds supplied under the U.S. - CNMI covenant.

**Rationale:**

The professionalism of the CNMI justice system leaders and planners is impressive. They are well organized, comfortable with handling data, and cognizant of both the need for long-term corrections planning and the range of funding options potentially available to finance construction. They are well-equipped to manage the on-site planning and competition for financial resources, if assisted with some detailed specialized expertise in correctional planning. [A well-written CNMI application for BJA FY1987 discretionary funds to provide the latter was unsuccessful, but see discussion under Recommendation No. 9, below.]
In sum, the specialized outside expertise necessary for CNMI officials to effectively undertake a long-term corrections plan includes assistance with population projections under a variety of scenarios to permit at least a 25-50 year projection of facility needs; architectural planning assistance to develop a facility plan appropriate for the ultimately chosen site; and assistance with consideration of responses to a wide range of operational issues attendant on the combination of institutional and community-based components incorporated into the long-range plan.

If future requests for BJA discretionary funding for this range of expertise is not available to CNMI, then local funds or equivalent (in substance) technical assistance from a combination of several BJA technical assistance projects, NIC, and the Department of the Interior might be feasible alternatives.

The potential for local funding for a new correctional facility is both more hopeful and more problematic. The optimistic aspect is the potential availability of construction funding from the capital development bond account managed by the CNMI Community Development Agency (CDA) and backed by U.S. funds guaranteed under the U.S.-CNMI covenant (Public Law 94-241).

While there is intense competition for the portion of these funds available for public buildings construction and an obvious desire to utilize these funds for more "positive" projects such as schools, there is also an awareness that adequate correctional facilities play an important role in ensuring that economic development is not threatened by perceptions of an inadequate criminal justice infrastructure in the islands. In addition, both the CNMI Budget Director and the chairpersons of the CNMI House and Senate Appropriations Committees indicated to the team that a Corrections Division application for a share of the public buildings component of the bond funds was feasible.

A major problem that hinders the Corrections Division's access to these funds for prison construction, however, is its lack of the facility plan that the denied BJA discretionary grant application, referenced above, was designed to provide as part of a long-range corrections plan for the CNMI.

It is not apparent to the team how this "Catch-22" situation can be resolved. Beyond the team's consensus that a new facility is needed and that it must be built in the context of a comprehensive, long-term corrections plan, it considers the issue of correctional construction funding outside the scope of both the members' expertise and the scope of this assignment.
In addition, any construction plan will take time to come to fruition and increase the available bed space in the CNMI criminal justice system. What is urgently needed is a contingency plan to cover the transition period, and for this reason the policy and programmatic measures recommended in this report are strongly urged for immediate consideration.

Recommendation Number 9:

It is recommended that the CNMI, through the Department of Public Safety, the Northern Marianas Council for the Improvement of the Criminal Justice System and its Criminal Justice Planning Agency, apply for appropriate federal technical assistance in its efforts to implement any of the measures recommended.

Rationale:

Several of the measures recommended for action involve special technologies and information which it is inappropriate to detail in this report. The National Institute of Corrections and the Bureau of Justice Assistance of the U.S. Department of Justice each have access to a reservoir of experienced consultants’ with expertise in such programming areas as work release, intensive supervision, case tracking/management information systems, organization of volunteer bureaus, and collective action for prison capacity management.

The availability of consultants at no cost to the requesting jurisdiction is a possibility but by no means certain. Increasingly, federal technical assistance administrators look favorably on requests where the applying jurisdiction can and is willing to enter into cost-sharing arrangements.

CNMI's Division of Corrections’ 1987 Application for BJA Prison Capacity Program discretionary funds to assist it in developing a long-term corrections plan was not successful. The case ably set forth in the denied request was subsequently argued by the ATAP team following its return from Saipan but, unfortunately, the unavailability of BJA discretionary funds prevented any tangible response to the team’s advocacy. Nevertheless, these efforts and the on-site studies made in September 1987 by the NIC and ATAP teams have provided NIC and BJA with an enhanced appreciation for the CNMI’s correctional programming needs. Both federal agencies can be expected to have an increased receptivity for future CNMI requests for federal assistance.