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FLORIDA'S NEW PENAL AND CORRECTIONAL PROGRAM

WILLIAM C. MERRITT*

Florida's archaic penal system, considered by many the most sordid aspect of our state government,¹ seems finally destined for a complete overhaul. The legislature at its last session enacted five major proposals,² together with appropriation bills totaling well over eighteen million dollars,³ designed to completely revise and properly finance a new concept in peno-correctional administration and treatment for our state.

This penal and correctional program was sponsored in part by the Governor,⁴ the Legislative Council,⁵ and the Senate Committee on prisons

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1. DOYLE, LAIRD, AND WEISS: *THE GOVERNMENT AND ADMINISTRATION OF FLORIDA*, c. 12 (1954).

2. "The Correctional Program," as the bills with mixed emotion were referred to, were introduced as companion bills in each chamber. The program was introduced in the Senate by Senator J. B. Rodgers, of Orlando, and the Senate Committee on Prisons and Convicts as committee proposals. The Legislative Council introduced in its own name (by special House rules) House Bill 188 creating the Division of Corrections. The remainder of the program was introduced in the House by Representative James Moody, Hillsborough County, Chairman of the Legislative Council's Select Committee on Corrections. The "program" consists of: S. B. 252-H. B. 188, Laws of Florida 57-213, creating the Division of Corrections; S. B. 250-H. B. 604, Laws of Florida 57-121, 1957 Correctional Code; S. B. 253-H. B. 603, Laws of Florida 57-366, providing for the indeterminate sentencing of non-capital felonies; S. B. 254-H. B. 602, Laws of Florida 57-313, offenses relating to prisons and prisoners; and S. B. 255-H. B. 600, Laws of Florida 57-314, creating the Industrial Trust Fund.

Note—The Secretary of State has adopted a new method of assigning chapter numbers to the laws of Florida. The "57" prefixing the chapter assignment number indicates the year of passage, thus eliminating the necessity of including a year indication in the citation.

3. The Budget Commission recommended ten million dollars for capital outlay and renovations of the prison system generally. The appropriation for the operation of the penal institutions and the Division of Corrections varied between the Senate and House appropriations bills; the conference committee's proposal was well over eight million dollars. Governor Collins, in his message to the legislature, stated:

I fully concur in the Budget Commission's recommendation that you provide ten million dollars for new buildings in this (the prison) system. This will only take care of about half the need, but I do not think it wise to try to accomplish more in the two-year period ahead. We can finish the job in the following two years.

4. In his message to the legislature, Governor Collins, in part, stated:

I recommend the enactment of measures along the lines approved by your Legislative Council. We should provide, with proper safeguards against infringement on private industry, for the establishment of state prison industries—so essential if we are to do the job of rehabilitation which in the past has been sadly neglected. It is likewise essential that we provide for expert classification of prisoners and that we continue adequate financing of the Parole Commission. Deterioration, overcrowding, and filth make the condition of some of our physical plants in the penal system a disgrace

and convicts⁶ and had the endorsement of the Commissioner of Agriculture, the State Road Department and the Cabinet, together with a large segment of the Florida press and public. This heterogenous support reflected the general attitude that the reorganization of Florida's penal system has been long overdue.

A recitation of the historical factors responsible for the status quo or the laying of official blame for the overcrowding and deterioration of our penal institutions, their insufficient financing or the former decentralized administrative structure, serves no useful purpose. Our penal system presented but another example, perhaps more emotional but hardly less cogent, that the state administrative systems which served so well the lethargic Florida of pre-war years could not by piece-meal remodelling or patch-work revision be geared to the needs of the highly complex industrialized Florida of today.

The legislative program provided for the creation of a division of corrections to be vested with centralized authority over the entire state penal system,⁷ the codification and clarification of our present penal laws,⁸ including the augmenting of offenses relating to prisons and prisoners,⁹ and provided for an indeterminate method of sentencing non-capital felons.¹⁰

FLORIDA'S PRESENT PENAL SYSTEM

The Florida Penal System consists of four adult institutions: the Florida State Prison for Men at Raiford, a medium security institution with a maximum security unit; the Florida State Prison Farm at Belle Glade, a medium security prison farm; the Apalachee Correctional Institution, a medium security institution for youthful male first offenders; the Florida Correctional Institution for Women at Lowell, which is the primary institution for adult female offenders.¹¹

Florida also operates thirty-six convict road camps throughout the state, where adult, male prisoners are maintained for work on the public highways, and three prison camps where prisoners are quartered on the grounds of state institutions and engage in maintenance, construction and farming activities for the Florida Farm Colony, the Florida State Hospital

to the state. We must proceed to make our whole correctional system second to none—no small cost is involved. Among other things there is required complete replacement of inmate housing at Raiford. Governor's Message, 1957.

5. The Legislative Council introduced, unsuccessfully in 1955 a bill similar to H. B. 188 which passed the House but died on the Senate calendar. JOURNALS, HOUSE AND SENATE (1955).

6. See note 2. *Supra*.

7. Laws of Florida. c. 57-213.

8. Laws of Florida. c. 57-121.

9. FLA. STAT. §§ 944.41-944.47 (1957).

10. FLA. STAT. §§ 921.17-921.23 (1957).

11. DEPARTMENT OF AGRICULTURE, STATE OF FLORIDA, PRISON DIVISION 34TH BIENNIAL REPORT (1956).

at Chattahoochee, and the Florida Industrial School for Girls at Ocala.¹² The new division of corrections has also acquired the former federal prison farm at Avon Park for a temporary minimum security camp to relieve the overcrowding at the Florida State Prison for Men at Raiford, pending the constructing of additional housing units.

The strikingly poor administrative feature of the former Florida Correctional System was that the responsibility for its administration was not centralized, but was divided among three state agencies, to-wit: the Commissioner of Agriculture, the Board of Commissioners of State Institutions, and the State Road Department. The constitution provides that the Commissioner of Agriculture shall have the supervision of the State Prison,¹³ but the statutes gave the Board of Commissioners of State Institutions,¹⁴ of which the Commissioner of Agriculture is a member, general powers over the entire correctional system.¹⁵ The Cabinet appointed the state prison inspectors who are charged with the responsibility of inspecting state, county and municipal jails, prisons and correctional institutions;¹⁶ however, these prison inspectors were under the supervision of the Commissioner of Agriculture.¹⁷ The Commissioner of Agriculture supervised the state convict road camps; but the State Road Department made assignments, and for all practical purposes, supervised the prisoners in these camps.¹⁸

The Commissioners of State Institutions in actual practice determined the general policies, appointed the key personnel, dispersed the funds made available by appropriations, and were generally responsible for the care and treatment of prisoners. The Department of Agriculture through its Prison Division was charged with the responsibilities of safe-guarding original commitment and sentence papers and the handling of papers of extradition.¹⁹

Thus, the serious and difficult business of maintaining the state's penal and correctional system was jointly administered by three state agencies, Agriculture, Institutions and the Road Department. The Commissioner of Agriculture and the State Road Department had primary responsibilities in fields which are completely unrelated to corrections,²⁰ while the Cabinet is burdened with manifold duties embracing the entire panorama

12. FLORIDA LEGISLATIVE COUNCIL, *THE FLORIDA CORRECTIONAL SYSTEM, REPORT OF THE SELECT COMMITTEE ON CORRECTIONS* (1955).

13. FLA. CONST. art. IV, § 26.

14. FLA. STAT. § 954:10 (1955); See Generally FLA. STAT. c. 952 and 954 (1955), and FLA. CONST. art. IV, § 17 and 20.

15. *Ibid.*

16. FLA. STAT. § 952.02 (1957).

17. Working practice of the cabinet acting as the Board of Commissioners of State Institutions.

18. FLA. STAT. §§ 954.45; 952.21; 952.07; 952.17; 952.20 (1955).

19. See generally FLA. STAT. c. 952 and 954 (1955).

20. The prison division of the Department of Agriculture is one of seventeen such divisions within that department. See note 11. *Supra.*

of state government.²¹ This decentralized administrative structure had caused the institutions to be operated throughout the years under a system of conflicting authority and overlapping directives.²² The institutional plants have grown in a haphazard fashion, while crowding²³ and idleness²⁴ among prisoners have contributed directly to inmate unrest, serious disturbances and even violence.²⁵ It was noted on January 1st of this year by R. O. Culver, the new Director of Penal and Correctional Institutions,²⁶ that "as there has been no effective administrative leadership in this vital program of human welfare, so also has there been no central philosophy of inmate training and treatment. The absence of such philosophy can only lead to

21. The members of the cabinet, in addition to their individual activities and duties, serve on some twenty-three other ex officio boards and commissions. The Governor, in his message to the Legislature, commented:

At the very heart of the executive department of Florida's government is the elective cabinet system. The cabinet exercises many duties which in other states are entrusted to the Governor. I do not complain about this, in fact, there is great good in the tools it has needed to keep up with its responsibility. It is charged with directly supervising a large number of state institutions, but, with the multitudinous duties each cabinet member has in his own department, the members have had little opportunity to visit the institutions under their charge. It was not that way in 1885 but it is now.

22. J. V. BENNETT, THE FLORIDA STATE CORRECTIONAL SYSTEM, REPORT TO THE GOVERNOR, (1946).

23. The Florida Correctional Institution for Women at Lowell, near Ocala, was built for normal capacity of 180 prisoners and was opened on April 23, 1956. In June of that same year there were 262 inmates confined at the institution as such; the institution was overcrowded as soon as it was occupied.

The Florida State Prison at Raiford, opened in 1913, has a normal capacity of 1,400. This institution has been extremely overcrowded for the last four years. On April 30, 1956, there were 2,506 prisoners incarcerated there. On May 17, 1956 the acuteness of this situation was emphasized by a riot. Although the riot was brought under control within the day and only one life was lost, it became apparent that immediate action would have to be taken to relieve the overcrowding. Emergency measures were undertaken to transfer prisoners to other institutions and by August 31, 1956 the number of prisoners had been reduced to 2,242—a net reduction of 264 prisoners in four months. However, this reduction in population was not sufficient to eliminate the overcrowding at the institution. As of April 1, 1957 there were 2,467 prisoners at that institution—or some 39 less than at the time of the riot the year previously. FLA. LEGISLATIVE COUNCIL, DEVELOPMENTS IN FLORIDA'S CORRECTIONAL SYSTEM, (1955-57 biennial Supp.) See Note 12 *supra*.

24. "Between two and three hundred physically handicapped prisoners at the Florida State Prison for Men have no regular employment whatsoever." R. O. CULVER, STRENGTHENING THE PENAL AND CORRECTIONAL PROGRAM OF THE STATE OF FLORIDA, REPORT TO THE CABINET, Jan. 1957.

25. Florida's riot occurred on May 17, 1956. See note 23 *supra*. It is interesting to note the American Prison Association in its *Manual of Correctional Standards* p. 273 (1954) stated: "The enforced idleness of a substantial percentage of able bodied adult men and women in our prisons is one of the greatest anomalies of modern prison administration. It militates against every constructive objective in a prison program. It is one of the direct causes of the tensions which burst forth in riot and disorder."

26. The alarming facts brought to light by the Legislative Council's report, and the events of the above mentioned prisoner riot, motivated the Cabinet to take emergency action on their own initiative. By resolution the Cabinet, on January 3, 1957, created the position of Director and Coordinator of Penal and Correctional Institutions employing Mr. R. O. Culver, the former Warden of the Federal Reformatory in Petersburg, Virginia, who had recently retired from 27 years of Federal prison service. The Board delegated broad general powers to Mr. Culver for the supervision of the adult correctional system and advisory authority in the field of juvenile corrections—pending the anticipated legislative formalization of a Division of Corrections. BOARD OF COMMISSIONERS OF STATE INSTITUTIONS, RESOLUTION Jan. 23, 1957.

repeated failure of men and women returned to society and the added burdens to the taxpayer of a spiraling curve of prison commitments."²⁷ The former laws relating to the administration of our penal system were last codified in 1889,²⁸ and in 1957 over half of those original sections had remained unchanged.²⁹ Since that time, Florida has developed into a highly complex industrial state; new institutions have been opened and the prison population has increased from two hundred and fifty³⁰ to well over five thousand.³¹ The strengthening of Florida's Correctional System and the need for a strong centralized administration was first brought to official attention in 1946 by Mr. James V. Bennett, Director of the Federal Bureau of Prisons, who was invited by Governor Millard Caldwell to survey the Florida Prison System.³² In November of 1954, the Legislative Council instructed its research arm, the Legislative Reference Bureau, to survey the Florida Correctional System and submit to the legislature in 1955 its report, together with such recommendations as it found necessary for modernizing Florida's Correctional System.³³ These reports served as the basis for much of the new legislation.³⁴

ADMINISTRATION UNDER THE NEW CODE

The new correctional code provides for the creation of the Division of Corrections under the control of the Board of Commissioners of State Institutions.³⁵ The Division is to be administered by a Director who is to be given broad general authority over the adult correctional system.³⁶ The

27. See note 24, *supra*.

28. Laws of Florida, 1889, c. 3885.

This chapter was written to guide the administration of a proposed state prison authorized at that time; however, the Florida State Prison Farm was not opened until 1913.

29. See history notes; FLA. STAT. c. 952 and 954 (1955).

30. SENATE JOURNAL, REPORT THE COMMISSIONER OF AGRICULTURE, 1891.

31. See note 23, *supra*.

32. J. V. BENNETT, THE FLORIDA STATE CORRECTIONAL SYSTEM. A SURVEY AND RECOMMENDATIONS, (1946). Although the administrative recommendations of this report were to go unheeded for over ten years, the report did encourage the legislature to build two new correctional institutions—the Apalachee Correctional Institution for youthful male first offenders and the Women's Prison at Lowell. See note 1, *supra*.

33. Florida Legislative Council, Florida's Correctional System, (1955). This excellent, well documented report, together with the personal inspection trips it necessitated, assisted greatly in generating the enthusiasm for the present correctional reform movement. The Reference Bureau's able director, Mr. S. Sherman Weiss, and the Council's Select Committee on Correction deserve special commendation for their outstanding contribution. See note 12, *supra*.

34. Governor Collins, in his message to the legislature, specifically recommended the enactment of "a measure along the lines approved by your (the) Legislative Council," H. B. 188 - S. B. 252.

35. FLA. STAT. § 945.02 (1957).

The legislature for the most part formalized the action of the Board of Commissioners of State Institutions on their resolution creating the position of Director and Coordinator of Penal and Correctional Institutions.

Cf. See Governor's message, 1957. See also AMERICAN PRISON ASSOCIATION: MODEL STATE PLAN, 1946 and note 156 *infra*.

36. *Id.* § 3.

Division is to be directly responsible to the Board of Commissioners for the inmates, and shall have the supervisory and protective care, custody and control of all the buildings, grounds, labor and all property and matters connected with the adult correctional system.³⁷ The Director and the Division are to succeed to the duties formerly vested in the Commissioner of Agriculture, insofar as they relate to the state, county or municipal correctional institutions.³⁸ The Division is also to succeed to the duties vested in the Prison Division of the State Road Department, including the personal property, appurtenances and interest in realty in the thirty-six prison camps throughout the state.³⁹

The new code does not give the Division jurisdiction over the juvenile training schools, although this was a feature in earlier proposals which provided for a Division of Youth Services as an integral part of the Division.⁴⁰ This feature found intense opposition from the Children's Commission and other kindred groups who were apprehensive of including juvenile offenders within the administrative structure of an adult correctional system.⁴¹

Under the former statutes, the authority for the administration of the various institutions was vested solely in the superintendents, officers and guards of the institutions,⁴² for the purpose of working the inmates, enforcing prison discipline,⁴³ keeping records⁴⁴ and enforcing all orders of

37. Cf: Note 26 *supra*.

38. FLA. STAT. §§ 944.31-944.33 (1957).

39. *Id.* § 7. This section provides the transfer shall be made upon the advice of the Director that the Department is so organized and properly financed to assume the responsibility. Upon the transfer, all personnel employed by the State Road Department are to become provisional employees of the Department of Corrections. This is the first step in removing the unsightly convict road gangs from our public highways. Due to the necessary time lag between the effective date of the correctional program (July 1, 1957) and the time the department is properly organized and financed to assume responsibility for road camps, provision is being made (FLA. STAT. § 944.51 (1957)) that the necessary authority remain with the State Road Department until, in fact, the department assumes the operation of the road camps.

40. The ill-fated measure presented in 1955 creating the Division of Corrections by the Legislative Council. See note 5 *supra*.

41. Another measure adopted by the legislature (Laws of Florida c. 57-317) creates a division of youth services under the Board of Commissioners to embrace the juvenile training schools, including the school for the deaf and blind, the industrial schools, the institutions for the retarded.

Mr. Arthur Dozier, able superintendent of the Florida Industrial School for Boys, has been appointed director by the Cabinet. Thus it appears the children's institutions will be able to avoid the problems now confronting the adult penal system.

The inefficiency of the cabinet, acting as an ex officio board (Board of Commissioners of State Institutions) in administering state institutions originally brought to light by the evaluation of our correctional institutions, soon spread to a general re-evaluation of our state institutional structure. See note 21 *supra*.

The Governor, in addition to recommending the creation of a Division of Corrections and a Department of Youth Services, recommended a division to include the state mental hospitals and the Alcoholic Rehabilitation Center and a new department to include the state tuberculosis hospitals, noting: "This administrative plan, I believe, will insure improved efficiency in servicing our people and avoid wasteful duplication and confusion. The administrative cost will be negligible compared with our investment in the institutions involved and the resulting savings."

42. FLA. STAT. § 954.05 (1955).

43. FLA. STAT. § 954.29 (1955).

44. FLA. STAT. § 954.39 (1955).

the Commissioner of Agriculture and the Cabinet.⁴⁵ The new code leaves the duties with the superintendents for the actual administration of their institutions but makes them subject to the orders, policies, and regulations established by the Division and the Board.⁴⁶

Due to the fact that penal and correctional statutes are seldom amended, the new code is designed to give to the Division broad general authority to promulgate rules and regulations for the actual administration of the correctional system.⁴⁷ For example, the new code provides that all state prisoners will be maintained and worked under administrative rules of the Division and the Board,⁴⁸ whereas former statutes set forth the number of hours,⁴⁹ working conditions,⁵⁰ and specific authority of the most detailed aspects of administration. Several sections of our present law set forth in great detail provisions for the separation of the races,⁵¹ whereas the new code would simply provide that the Board "shall prescribe such rules and regulations relating to classification, segregation, and separation of prisoners as to sex, temperament, and for other reasons as it shall deem advisable and proper."⁵²

The antiquated nature of the former law is perhaps best pointed out in the section which provides what was to be furnished a prisoner upon discharge. Former section 954.33, Florida Statutes (1955), provided that each convict who has served a sentence at hard labor⁵³ in the state penitentiary shall be furnished, when discharged, one good suit of clothes, etc., and five dollars, to provide the necessities of life until he can procure work.⁵⁴ Undoubtedly five dollars in 1889 was a monetary bonanza—however, today when a prisoner committed from perhaps Key West is released (placed outside the confines of the institution) with five dollars in his pocket, he could scarcely be expected to return home and adjust to the society which he left.⁵⁵ To solve this problem, the new code recognizes that any amount adequate today would be, with our present inflationary trends, inadequate all too soon; therefore, simply provides that the Board of Commissioners by administrative regulations shall provide for "release payments to and

45. FLA. STAT. § 954.38 (1955).

46. FLA. STAT. § 944.14 (1957).

47. *Id.* § 7.

48. *Ibid.*

49. FLA. STAT. § 952.08 (1955).

50. FLA. STAT. § 952.07 (1955).

51. FLA. STAT. §§ 952.15, 954.31 (1955).

52. FLA. STAT. § 944.09 (1957).

53. Also see FLA. STAT. § 954.01 (1955). The purpose of imprisonment and the methods set forth in these sections are completely incompatible with the modern concept of rehabilitation.

54. The Board of Commissioners by resolution have generously increased this amount to \$10.00.

55. However, a person is not returned to the place of his original commitment upon release under the former law.

transportation of inmates."⁵⁶ This section further authorizes the Board and the Division to adopt and promulgate regulations relating to:

- (a) Conduct to be observed by prisoners
- (b) Punishment of prisoners
- (c) Gain time for good conduct
- (d) Uniforms for inmates and custodial personnel
- (e) Rules of conduct of custodial and other personnel
- (f) Classification of personnel and duties assigned thereto
- (g) Credits for confinement prior to commitment to the Division
- (h) Payments to prisoners for work performed
- (i) Visiting hours and privileges
- (j) Mail to and from inmates
- (k) The operation of canteens and the participation in canteen funds
- (l) The feeding of prisoners

The Board and Division are further authorized to adopt and promulgate such other regulations as in their opinion may be necessary for the efficient operation and management of the Division and the Correctional System. Such regulations are to be adopted pursuant to resolution of the Board and filed with the Secretary of State as provided in Chapter 120 of the Florida Statutes. This new concept of the legislative delegation of administrative authority in the field of corrections will provide the much needed flexibility of operation.⁵⁷

THE ADVISORY COUNCIL ON ADULT CORRECTIONS AND PRISON INDUSTRIES

Since prisons and their administrators have never been held in particularly high esteem by the public at large, the new code seeks to bring to Florida's Corrections System a distinguished panel of citizens to represent the public in guiding their correctional program.⁵⁸ This provision calls for the appointment by the Cabinet of an advisory council to assist the Division in planning its industrial program by creating a lay panel of citizens to act as a sounding board for the new concepts and ideas in the field of peno-correctional treatment.⁵⁹ By virtue of background experience and interests, the council will be composed of five members; representing management, labor, agriculture, education and the medical profession respectively, and two members whose interests are in the field of adult corrections gen-

56. FLA. STAT. § 945.21 (2) (1957).

57. *Id.* § 15 (2); see generally: *Cf.* 10 MIAMI L.Q. 129 (1956).

58. This advisory council would be similar in scope and activity to the Federal Prison Industries, Inc. and the California Advisory Council. See generally TAPPAN, *CONTEMPORARY CORRECTION*, 238 (1951).

59. FLA. STAT. § 945.05 (1) (1957).

crally.⁶⁰ The members of the Council are to receive no compensation except per diem reimbursement for their expense in attending meetings.⁶¹ The Council upon consultation with the Director and Board is to make recommendations to the Division to establish a diversified system of prison industries and to provide industrial and vocational training for the inmates in the various institutions.⁶² They are further charged with the responsibility of accomplishing this necessary task without significant competition to private industry.⁶³ The Council is to make recommendations concerning the type, design, and quantity of articles to be manufactured, and no program contrary to these recommendations can be installed in any institution. To implement the Council's recommendations the Board of Commissioners is authorized to put into effect an industrial program to manufacture such items as are practical and adaptable for prison industries, for use by state institutions and agencies.⁶⁴ This section, to provide a market for these products, requires state institutions and agencies under the control of the Cabinet to purchase the items manufactured by the Division. The purchasing authority of these institutions and agencies is given the power to make reasonable determinations as to needs, price and quality of prison-made goods. Any dispute as to the reasonableness of such determination is to be referred to the Cabinet, whose decision will be final.⁶⁵

In addition to the mandatory use of "Division-made" goods by the state institutions and agencies under the control of the Cabinet, other public institutions such as cities, counties, boards of public instruction, etc., may upon their request be furnished items of school and office furniture, clay products and other items not manufactured by private industry in the state as of April 1, 1957.⁶⁶ This prison industries program has the twofold purpose of protecting private industry from excessive competition from prison-made goods, while at the same time giving the Division the necessary authority to correct the most demoralizing aspect of institutional confinement—idleness.⁶⁷ By this program prisoners can be returned to society with the skills and abilities requisite to obtaining gainful employment.

To finance the operation of this industrial work program a five hundred thousand dollar industrial trust fund was established for the Division.⁶⁸ To

60. *Id.* § 5 (2).

61. *Id.* § 5 (3).

62. *Id.* § 5 (4).

63. This provision proved to be the most controversial proposal in the entire program. Industry and labor were in the beginning bitterly opposed to any program which would place prison made goods in competition with private industry for the lucrative state institutional business. The provision as was finally presented represents considerable compromise by all concerned, especially as to the limitations on the use by cities, counties, and other political subdivisions of prison made goods.

64. Note 59 at § 13 (1) (1957).

65. *Id.* § 13(2).

66. *Id.* § 13.

67. See note 24 *supra*.

68. FLA. STAT. § 945.17 (1957).

this revolving trust fund, all income, receipts, earnings and profits of such prison industries shall be added.⁶⁹ The fund is to include the complete operating costs of the industrial work program including the purchasing of materials, the payment of personnel whose time is devoted to its operation, and the cost of capital outlay; this provision prohibits the commingling of industrial funds with the operational funds of the Division or the institutions.⁷⁰ The new code also amends the provisions of former Chapter 959, Florida Statutes, relating to industrial plants of state institutions, by omitting any reference to particular institutions, by granting the Board of Commissioners general authority to establish industrial plants where needed to be operated under their administrative regulations.⁷¹

THE 1957 CORRECTIONS CODE

An integral part of the overall program for expanding the state's correctional system was the complete revision and codification of all statutes relating to adult prisoners and penal institutions.⁷² The former law has not been revised in its entirety since 1889 and was thus insufficient to guide the operation of the new Division of Corrections.⁷³ Moreover, these statutes were enacted to guide the administration of a single state prison farm, then contemplated, which was not in fact opened until 1913. This has caused the other prisons constructed since that time to be considered a branch of the state prison farm wherever possible.⁷⁴ The only reference in the statutes to other institutions was added in 1947: "a branch of the said prison farm is also established in Marion County for the purposes of care and maintenance of female convicts."⁷⁵ All other state correctional institutions have been created by appropriation measures without legislative reference to their existence, purpose or commitment procedure.⁷⁶ Such haphazard and piecemeal penal enactments are for the first time consolidated in the new code.

The new code sets forth the existence, location and purpose of each correctional institution of the state.⁷⁷ It provides uniform commitments by the courts to the custody of the new Division,⁷⁸ delivery to a reception and classification center provided by the Division for the purposes of receiving

69. *Id.* § 1(3).

70. *Ibid.*

71. FLA. STAT. § 959.01 (1955), authorized industrial plants only at the Florida State Prison Farm at Raiford.

72. Laws of Florida c. 57-121.

73. FLA. STAT., c. 952 and 954, were repealed in their entirety, with certain sections and provisions being carried forward in the new codification.

74. Especially as to commitments, FLA. STAT. § 954.23 (1955).

75. FLA. STAT. § 954.02 (1955).

76. These institutions are: Florida State Prison Farm at Belle Glade; the Apalachee Correctional Institution; the Forest Hills School for Negro Girls at Ocala. See note 1 *supra*.

77. FLA. STAT. §§ 944.03, 944.04, 944.05, 944.06 (1957).

78. *Ibid.* § 15 and Laws of Florida 57-213, § 9. Existing statutes call for commitment only to the Florida State Prison Farm at Raiford. See note 74 *supra*.

new prisoners for classification,⁷⁹ and assignment to an appropriate institution for confinement.⁸⁰ The Director is given authority to transfer prisoners from one institution to another within the correctional system⁸¹ or to other institutions outside the system for treatment, training⁸² or for other necessary reasons as he deems appropriate.⁸³ The Director is specifically authorized to transfer to other appropriate institutions for treatment, drug addicts committed under Section 398.18 of the Florida Statutes to the hospital of the state prison farm at Raiford,⁸⁴ these transfers to be made by agreement between the Board of Commissioners and the controlling authority of the treating agencies. These agreements provide for reimbursement by the Division for the cost of such care and treatment. The custodial responsibility in these agreements is to remain with the Division.⁸⁵ When, in the opinion of the superintendent of the treating institution, the transferred prisoner has been cured or will no longer benefit from treatment, the prisoner is to be reconveyed to an appropriate classification center for reclassification into the correctional system.⁸⁶

The new Code, in addition to codifying the administrative and procedural sections of the former law to meet the needs of the new Division of Corrections, also contains several noteworthy additions to the substantive law relating to peno-correctional administration and treatment.

Among these additions which reflect the new concept of Florida corrections,⁸⁷ the new code contains, for the first time, references to academic

79. FLA. STAT. § 945.09 (1957).

80. The only classification provided under the former law is a grading by the prison physician into two classes; Class One—all able bodied male convicts capable of doing a reasonable day's work at manual labor; and Class Two—all female convicts and all male convicts which shall not have been placed in Class One. FLA. STAT. § 954.45 (1955).

The only statutory provisions for assignment were that all Class One prisoners will be transferred to the State Road Department Prison Camps except 75 who will be retained at the Florida State Prison Farm for maintenance work. Note there are 2,467 men at this institution. STATE DEPARTMENT OF AGRICULTURE, PRISON DIVISION, REPORT (Ap. 1957).

The new statute provides for institutional assignment on the basis of individual correctional needs, by a classification committee of the department. FLA. STAT. §§ 921.21, 945.09 (1957).

81. LAWS OF FLORIDA c. 57-213, § 9.

82. *Id.* § 12.

83. FLA. STAT. § 944.24 (1957), provides that any woman inmate who gives birth to a child during her term of confinement may be temporarily taken to a hospital outside the correctional system for the purposes of childbirth or medical care.

84. The persons so committed are classified as narcotic patients rather than prisoners at the institution. The Legislative Council in 1955 in its report to the Legislature candidly stated: "There are no facilities at Raiford for the treatment for drug addicts other than the operation of an inadequate prison hospital." *Supra* note 12 at 19.

85. FLA. STAT. §§ 945.02, 945.03 (1957).

86. *Id.* § 4.

87. The old concept of Florida Corrections is reflected in the fact that at the largest correctional institution—the Florida State Prison for Men at Raiford, having 181 employees, only one person is assigned to duties of an educational nature. Note 12 at 77 *supra*.

education for adult prisoners,⁸⁸ by providing that the Board of Commissioners shall establish educational programs for the prisoners by utilizing personnel of the Division, or by arranging for instruction to be given by public or private educational agencies.⁸⁹ The Division is instructed to cooperate with the County Boards of Public Instruction and the State Department of Education in establishing and maintaining classes for the prisoners to provide for instruction of a vocational or academic nature to meet their needs.⁹⁰ The State Department of Education or the County Boards of Public Instruction are authorized to extend funds available to them either from local sources or through the Minimum Foundation Program of the state for said purpose.⁹¹

Another significant innovation of the proposed statute is the provision relating to the employment of prisoners in the work program of the Division. This section requires of each able-bodied prisoner as many hours of faithful labor in each day as the Division shall prescribe.⁹² Each prisoner engaged in this work program may receive for his work such compensation as the Director with the approval of the Board shall determine.⁹³ This determination is to be made by a schedule based on the quality and quantity of the work performed and the skill required for its performance. Any amount so earned shall be credited to the account of the prisoner.⁹⁴ These amounts are paid from the Industrial Trust Fund of the Division and are to be considered part of the unit cost of the items produced by this program.⁹⁵ This section authorizes the Director to provide small incentive payments to prisoners of approximately ten to fifteen cents per hour, which would be credited to the prisoners' accounts subject to restrictions on the use of the funds by the classification committee of the Division.⁹⁶ A prisoner, without

88. FLA. STAT. § 944.02 (1957).

89. *Id.* § 2.

90. The apparent need for this educational program is perhaps best pointed out in statistical form: Of the 2,273 commitments to correctional institutions in 1956, (1,346 white and 930 negroes), 2,087 persons have less than a high school education. By tests, the average grade for white prisoners to be 8.3; the average grade for negro prisoner was 5.1. This information coupled with the average age of the prisoners, 17%, 20 years or younger; 19% 20-25; 18% 25-30; 15% 30-35; and with only 31% being over 35; points out the fertile educational potential in our correctional institutions. PRISON DIVISION BIENNIAL REPORT, DEPARTMENT OF AGRICULTURE, (1956).

91. FLA. STAT. §§ 944.03 and 944.04 (1957).

92. *Id.* § 39 (1).

93. *Id.* § 39 (2).

In addition to the work program of the department, Laws of Florida c. 57-213, § 11, authorized the Board of Commissioners of State Institutions to enter into agreements with any state institution or agency for the use of prisoners of the department to be supervised by employees of the department. The only restrictions on these agreements are that such services will not be detrimental to the welfare of the prisoners or the interest of the Department in its rehabilitation program. See c. 952, FLA. STAT. §§ 10, 12, 13, 22, 23, and 24 (1955) relating to use of state convicts for specific purposes.

94. FLA. STAT. § 944.49(2) (1957).

95. *Id.* § 39 (3).

96. By administrative regulations of the department and the board as provided in FLA. STAT. 944.49(2) (1957).

outside funds, would be required to hold a reserve in his account to supplement any release payments by the State at the time of his final discharge. Other prisoners, who, upon discharge, might have special needs such as tools, union initiation fees, etc., would be required to accumulate sufficient amounts to provide these essentials. The Division would also be authorized to require prisoners with needy dependents to contribute a percentage of their earnings toward their support.⁹⁷

Provision is made for the forfeiture of a prisoner's earnings for willful violation of the terms of his employment or the administrative regulations of the Division. Such forfeited funds are to revert to the Industrial Trust Fund.⁹⁸ These provisions move Florida into the sphere of the most advanced thinking on inmate training and treatment. The American Prison Association in its *Manual of Correctional Standards* stated in part:

If the state is to attempt to rehabilitate the prisoner, and if it is morally or otherwise responsible for the welfare of his family, then why not provide the best solution so far discovered; put the prisoner through continuous constructive work. Make him contribute something tangible toward the expense of his confinement. Offer him some definite remuneration and see that a suitable portion of this remuneration is used for the support of his family, or, if he has no such obligation, retain by the state until such time as he is released.⁹⁹

Another section of the new Code creates an Inmate Welfare Fund of the Division.¹⁰⁰ Present law contains no reference to, or provisions for any of the canteen funds at the various institutions. The new Welfare Fund will combine all such funds now in existence in the correctional system that are held for the benefit and use of the prisoners. This new consolidated fund is to be used for the general welfare of the prisoners, including the operation of canteens, hobby shops, recreational or entertainment facilities, or other like facilities or programs at any of the institutions.¹⁰¹ All proceeds from the operation of these facilities and any monies which may be assigned to the fund by prisoners shall be deposited to this fund to be held by the Division as a trust for the prisoners' general welfare. This section also provides that any confiscated contraband found upon any prisoner or within any correctional institution will be liquidated and the proceeds deposited to the fund.¹⁰² The Director is authorized to deposit any monies not needed

97. Of the 2,273 new prisoners received by the department in 1956, 1,042 left families and 120 prisoners had five or more children. See note 11, *supra*.

98. FLA. STAT. § 944.49(4) (1957).

99. AMERICAN PRISONERS ASS'N. MANUAL OF CORRECTIONAL STANDARDS, 274 (1954).

100. FLA. STAT. § 944.20 (1957).

101. *Id.* § 18(2).

102. The operation of inmate canteens to be by administrative regulations of the department. See note 47 *supra*.

for immediate use in an appropriate bank or savings institution, the interest to be added to the fund.¹⁰³ The Director may also deposit any prisoner's personal funds now held by the Division in any bank in the state or invest the same in United States Bonds, depositing the interest or increment to the general Inmate Welfare Fund of the Division.¹⁰⁴

PERSONNEL AND MERIT SYSTEM PROVISIONS

The lack of centralized authority for the overall administration of the correctional system under the former law was particularly reflected in the personnel practices of the various penal institutions. The report of the Legislative Council in 1955 concluded that there was "a complete lack of a uniform policy in regard to qualifications, duties, salaries, tenure, or in-service training of employees."¹⁰⁵ To remedy this situation the proposed law authorizes the Board of Commissioners to establish a system of employees selection and to provide for the employment of personnel pursuant to examination on the basis of minimum qualifications established by Board regulations.¹⁰⁶ The Board of Commissioners are further instructed to provide regulations for the removal, suspension or demotion of employees for cause and to establish a classification plan and salary schedule to include provisions for promotion and recognition of merit, leave and in-service training.¹⁰⁷ The new statute provides for the provisional appointment of employees for reasonable periods to be terminated with either dismissal or the granting of permanent status. These provisional employees are subject at any time to removal by administrative regulations of the Division.¹⁰⁸ In lieu of the foregoing provisions, the Board is authorized to place the Director and all employees of the Division under the general State Merit System as provided in Chapter 110 of the Florida Statutes.¹⁰⁹

ORDER, PUNISHMENT AND PRISON OFFENSES

The provisions of the proposed Code relating to the treatment of prisoners, institutional offenses, and the maintenance of order retains all the sections of the former law but with increased penalties, in addition to adding several new sections designed to meet the problems presented by the current riot situations with increased controls on weapons and contraband. The present sections relating to confinement and punishment,¹¹⁰ treatment of

103. FLA. STAT. § 944.21 (1957).

104. *Id.* § 20.

105. Legislative Council, see note 12 *supra*.

106. FLA. STAT. § 945.22 (1957).

107. *Id.* § 15 (3) (4) (5).

108. *Id.* § 15 (2).

109. *Id.* § 15 (5).

110. FLA. STAT. § 954.12 (1955).

prisoners,¹¹¹ escapes,¹¹² and the prohibition of corporal punishment¹¹³ are retained in the new law.¹¹⁴

Sections were added to prohibit the acceptance of unauthorized compensation by any employee or officer of the Division from or on behalf of any prisoner.¹¹⁵ This section also provides for the dismissal of any officer or employee of the Division who accepts unauthorized compensation from any contractor, or is personally interested in any contract for or on behalf of the Division, or who deals and barbers with any prisoner. Any contractor or agent who is a party to such unauthorized compensation is to be expelled from the correctional system and not again retained as such.¹¹⁶

The present statute providing a penalty for interference with county prisoners is expanded in the new code to include interference with state prisoners, the maximum penalty being six months confinement plus a fine of two hundred dollars.¹¹⁷

Other provisions of the new Code modify our present law on aggravated assault¹¹⁸ as it relates to prisoners and correctional institutions. The new section provides that any prisoner sentenced for life who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury shall not be eligible for parole for a period of time beginning from his conviction for twenty years, if the offense occurred with less than five years served on his life sentence; for fifteen years if the inmate had served more than five years but less than ten years, and a prisoner who had served more than ten years would not be eligible for parole for ten years.¹¹⁹ The maximum period of imprisonment for aggravated assault by other than life prisoners is increased from five¹²⁰ to ten years in the new Code.¹²¹

Additional felonies are created for the possession of weapons by prisoners;¹²² instigating, assisting or conspiring to cause mutinies, riots or strikes in defiance of official orders;¹²³ and the holding of persons as hostages within correctional institutions.¹²⁴ These felonious offenses are punishable by an additional maximum term of ten years imprisonment to be served consecutively to any former sentence being served by such convicted prisoner.¹²⁵

111. FLA. STAT. § 952.14 (1955).

112. FLA. STAT. § 954.30 (1955).

113. FLA. STAT. § 952.05 (1955).

114. FLA. STAT. §§ 944.34, 944.35, 944.36, 944.40 (1957).

115. *Id.* § 35.

116. *Id.* § 36.

117. FLA. STAT. § 951.19 (1957).

118. Note 115, § 37 *supra*.

119. FLA. STAT. § 784.04 (1957).

120. FLA. STAT. § 944.41 (1957).

121. Note 118 *supra*.

122. Note 119, § 2 *supra*.

123. FLA. STAT. § 944.43 (1957).

124. *Id.* § 5.

125. *Id.* § 4.

Our present general criminal statute dealing with an accessory after the fact¹²⁶ is enhanced in the new Code by a section relating exclusively to the harboring, concealing or aiding of escaped prisoners by including blood kindred and relatives of an escapee within its scope.¹²⁷ The proposed Code substantially sets forth the Federal Contraband Statute,¹²⁸ which prohibits the introduction of anything into any institution contrary to the administrative regulations of the Division or the Board of Commissioners.¹²⁹

CRIMINAL JUSTICE

The focusing of official attention on the inadequacies of our penal system with a view to its general overhaul inherently pointed up other inconsistencies of our criminal law and the sentencing problem. Noteworthy of these collateral considerations was the appointment of an advisory committee on criminal justice by Governor Collins.¹³⁰

This committee was given as its objective the study of Florida law to determine where and how substantial legal reform could be made to achieve a sound system of punishment, confinement, rehabilitation, probation and parole.¹³¹ The committee was also asked to consider the adoption of a guiding philosophy for our correctional program.¹³² A meeting of the committee was held in Tallahassee just prior to the legislative session¹³³ at which time recommendations were submitted to the Governor which "would materially aid in the overcoming and correcting of certain inadequacies which now exist in the criminal law and procedure in the state."¹³⁴

126. *Id.* § 8.

127. FLA. STAT. § 776.03 (1957).

128. Note 126, § 6 *supra*. This section is the same as our accessory after the fact statute but it is limited in its effect to the harboring of escaped prisoners, *ibid.*

129. 18 U. S. C. § 1791 (1952).

130. Note 127, § 7 *supra*.

131. This committee consisted of William A. Hallows, State Attorney 4th Judicial Circuit, Jacksonville, Chairman; Clyde C. Adkinson, Jr., Attorney, Gainesville; Reeves Bowe, Assistant Attorney General, Tallahassee; J. Rolph Davis, Former Mayor of Orlando; State Senator Joe Eaton, Miami; Mayor Sterlin Hall, Bradenton; Tom Leonard, Milton, Editor of the Press Gazette; James M. McEwen, State Attorney, 13th Judicial Circuit, Tampa; State Representative Richard O. Mitchell, Tallahassee, Attorney; and Mayor D. Lee Powell, Miami Beach.

132. It is interesting to note that the first recommendation of the appointment of such a committee was made in 1946 by Mr. James V. Bennett, Director of the Federal Bureau of Prisons. See note 22 *supra*.

133. Statement of Governor Collins of the appointment of the committee. The committee met on March 14, 1957, and the legislature convened April 2, 1957.

134. The committee recommended the passing of the following four measures:

1. The distinction between accessory before the fact and principal be abolished to make principals of all parties to the crime; providing that whoever commits an offense against the state or aids, abets, counsels, commands, procures, induces, or causes the commission of an offense is a principal, whether he is present or not present at the commission of the offense. This measure was adopted, Laws of Florida c. 57-310.
2. The committee recommended the broadening of our present immunity statute along the lines of the Model State Witness Immunity Act recommended by the Council of State Governments which would apply to all felonies and require court order after written application by the prosecuting

As the committee was appointed but a few weeks prior to the convening of the legislative session with only a single meeting having been held, sufficient time was not available to consider its rather broad original objectives. In fact, the committee considered proposals concerning only the pressing and present inadequacies in our criminal law,¹³⁵ the Governor recommending these to the legislature in his official message.¹³⁶

More significant than the recommendations made by the committee is the very fact that the committee was appointed to consider the broad scope of criminal justice. With sufficient time and proper administrative guidance, this committee can be expected to provide an important foundation for future progress in our more basic problems of peno-correctional treatment and the criminal law.

Another significant proposal resulting from the penal reform activity provides an additional method of sentencing non-capital felons.¹³⁷ The Governor, as part of his legislative program, recommended the adoption of an optional indeterminate method of sentencing non-capital felons, whereby the court could sentence a convicted felon merely to the custody of the Division of Corrections for a term of from six months to the maximum period provided by law for the particular offense committed.¹³⁸ The actual

attorney and notice to the witness, before a person can be compelled to give self-incriminating testimony and thereby acquire immunity. This measure has been introduced as S.B. 564, but was not adopted.

3. The committee also recommended a constitutional amendment which would have the effect of adopting the common law "admissibility" rule which provides evidence offered against an accused in a criminal case, if relevant to an issue in a case, shall not be rendered inadmissible by reason of the fact that it may have been obtained by unreasonable or unlawful search and seizure. This in effect would repeal the present exclusionary rule now followed by the supreme court.
4. The committee also recommended that a provision be enacted to permit the state to appeal from an order made before trial quashing a search warrant or suppressing evidence gained by searches and seizure; the case being stayed until the appeal is determined with the defendant released on his recognizance if in custody, or if his bond continued. This measure has been introduced as S. B. 544, but not adopted.

135. See note 133 *supra*.

136. "The suppression of crime requires not only strict law enforcement, but also vigorous and effective prosecution. Justice is served by the conviction and punishment of the guilty; just as it is served by the acquittal and release of the innocent. With this in mind, I have appointed an advisory committee on criminal justice to carefully review inadequacies in our laws. The committee has made certain recommendations for plugging loopholes, including those growing out of searches and seizures. These proposals have been submitted to you and I recommend the law reform thus indicated." Governor's Message—Criminal Justice, 1957.

137. FLA. STAT. § 921.19 (1957).

138. "As a part of our effort to improve the penal and correctional system, I also recommend a measure to provide for indeterminate sentencing of convicted persons. Our present system of sentencing leads to a wide disparity and handicaps efforts to rationalize the treatment of offenders. Under the proposed law, a judge would have the option of sentencing a convicted person to a definite sentence, as now, or if he saw fit, to an indeterminate sentence, leaving to the parole and other authorities the power of determining the time of detention, based upon a competent study." Governor's Message—Criminal Justice (1957).

term of confinement of a person so sentenced would be determined and concluded by the Parole Commission and the Division of Corrections through its Classification Committee.¹³⁹

By using this indeterminate method of sentencing, a judge would be able to tailor a sentence to the particular correctional needs of the convicted person; such sentence could be individualized to the offender and each convicted person could be released and returned to society, when in fact a rehabilitation had been accomplished based upon the actual progress and response of each offender to his correctional treatment.¹⁴⁰ Although today some thirty-five states have an indeterminate sentence law applicable to at least some offenders,¹⁴¹ there was some contention that an indeterminate sentencing procedure was not needed in Florida due to our extremely liberal parole laws.¹⁴² It was pointed out that since any convicted felon is eligible for parole at the end of six months, the Parole Commission could adjust any disparity or inequality of sentences between the various courts and, therefore, there was no general need for an indeterminate sentence law. This contention, however, omitted reference to one of the fundamental purposes of this type of sentencing. In addition to releasing men prior to an unreasonable definite sentence meted out by the court (which in Florida is provided by extremely liberal parole laws), the indeterminate method of sentencing goes to the very core of the sentencing problem by giving the correctional authorities the power to retain a person longer than his definite sentence would have been if it is decided, upon competent analysis, that the prisoner's return to society would be unwise or short-lived.¹⁴³ Consider the example of felon "X", a first offender sentenced to five years for assault to commit a felony. Under present sentencing law he could be released after having served six months of his sentence by being placed on parole,¹⁴⁴ but if the prisoner had placed himself outside the purview of parole through his own prison conduct, the correctional authorities would be powerless to retain him longer than his definite sentence.¹⁴⁵ This same person sentenced under the indeterminate sentencing provisions of the new statute, from six months to a maximum provided by law¹⁴⁶ (in this case twenty years),¹⁴⁷

139. FLA. STAT. § 921.21 (1957).

140. For an excellent discussion of this problem, see: Glueck, *The Sentencing Problem*, FED. PROB. 15 (1956).

141. ILL. LEGISLATIVE COUNCIL, *INDETERMINATE SENTENCE AND PAROLE LAWS*, Pub. 105 (1950). The states which do not have an indeterminate sentence provision are: Florida, Alabama, Montana, Oklahoma, Rhode Island, South Carolina and Virginia, *Ibid.*

142. FLA. STAT. § 947.16 (1955).

143. As to the operation of indeterminate sentence laws, generally, see: McGuire and Holtzoff, *The Problem of Sentencing in the Criminal Law*, 20 B.U.L. REV. 423 (1940); Caudet, *The Sentencing Behavior of Judges*, ENCY. OF CRIMINOLOGY, p. 449 (1949) and the *Adolescence of Peno-Correctional Legislation*, 50 HARV. L. REV. 677 (1937).

144. FLA. STAT. c. 947 (1951).

145. *Ibid.*

146. FLA. STAT. §§ 921.17-921.23 (1957).

147. FLA. STAT. § 784.06 (1957).

would be returned to society only after a thorough case study had been made and the person had been subjected to the full range of punitive, corrective, psychiatric or social measures best suited to solve his individual set of problems, thus reducing the probability of his committing crimes in the future. Perhaps the judge observing the defendant before the bench, or on the basis of pre-sentence investigation¹⁴⁸ might correctly determine the time necessary to accomplish this prisoner's rehabilitation, in which case the prisoner would be released at the same time. However, if at the end of what would have been his definite sentence, the offender perhaps had refused vocational or academic training, or simply had not made sufficient progress in the course of his rehabilitation to be graduated back to society, then he could be retained for the maximum period or until such time as his rehabilitation had been accomplished.¹⁴⁹

CONCLUSION

By enacting the new penal and correctional program, Florida joins the ranks of the most progressive jurisdictions in peno-correctional administration.¹⁵⁰ The centralization of state penal authority in the new Division of Corrections is expected to yield vast improvements in terms of operating efficiency and prisoner rehabilitation. The consolidation of ultimate governmental responsibility for the penal system solely in the Board of Commissioners of State Institutions is expected to aid in initiating changes which might be needed in the future by making the penal system, through this consolidation, more responsive to the public. Through the Industrial Work Program the penal system itself as well as other state institutions stand to benefit by monetary savings in the acquisition of a large field of manufactured products. The indeterminable sentence proposals should lighten the burden of the courts in sentencing convicted criminals as well as provide sentences responsive to the correctional needs of the convicted.

With continued financial support from the legislature to realize the potential of these reforms, Florida will move from the mud sills of punitive confinement alone to a penal program of social rehabilitation consistent with our general economic and social growth of the past decade.

148. Present law calls for a presentence investigation to be made only by court order. Reports are now submitted in approximately 50% of the cases. FLORIDA PAROLE COMMISSION, 16TH ANNUAL REPORT (1957).

149. FLA. STAT. §§ 921.17-921.23 (1957).

150. Florida's proposed code incorporates the outstanding features of the administration of a state correctional program as outlined in the American Prison Association's *Manual of Correctional Standards*, 13 (1954). See also TAPPAN CONTEMPORARY CORRECTION (1951). A. L. I. MODEL PENAL CODE, 136-172, (Tentative Draft No. 5), and Warren and Daniels, *California's New Penal and Correctional Law*, 32 CALIF. L. REV. 229 (1944).