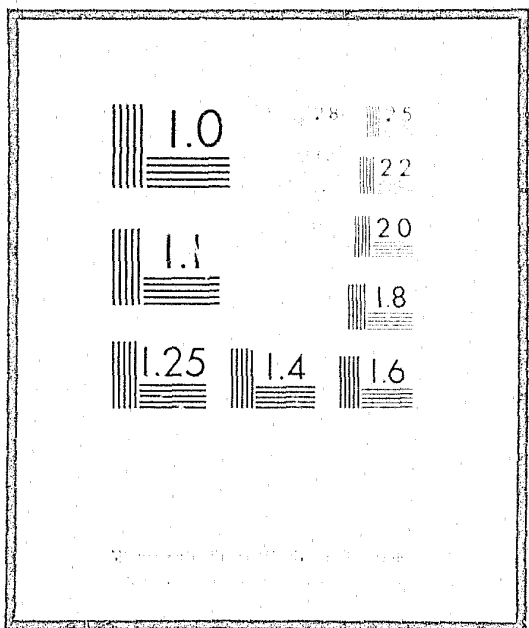


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NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

10/26/76

J a s e r i l m e d



## STATE OF NEW YORK COMMISSION OF INVESTIGATION

REPORT OF THE NEW YORK STATE COMMISSION  
OF INVESTIGATION CONCERNING THE STATE  
COMMISSION OF CORRECTION

28932

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## INTRODUCTION

On April 23, 1975, pursuant to his statutory authority, Governor Hugh L. Carey directed this Commission "to investigate the affairs of the State Commission of Correction." Included in this directive was the request that this Commission inquire into the conduct of the State Correction Commissioners and staff in relation to the performance of their official duties for the purpose of assisting the Governor in the exercise of his statutory responsibilities. The Governor also requested that this Commission inquire into the acts or omissions of such officers and employees concerning information communicated to them regarding the Dutchess County Jail since January 1, 1974.

This Commission, in response to the Governor's directive, undertook the investigation expeditiously. All pertinent books, records, minutes, reports and documents of the State Commission of Correction (hereinafter referred to as "SCC") were examined. The SCC Commissioners, a former Commissioner, the Administrator, and key members of its staff were examined at private hearings and at conferences in New York City and Albany; persons having material information regarding this matter were interviewed in the field, including the Dutchess County Jail, and at this Commission's offices. In addition, the transcripts of the public hearings on the SCC conducted in Albany on April 21 and April 28, 1975, by the New York State Senate Standing Committee on Crime and Correction, of which Senator Ralph J. Marino is Chairman

("Marino Committee"), were studied. Conferences were also held with Senator Marino and his staff, as well as with Assemblyman Stanley Fink, Chairman of the Assembly Committee on Codes, and with members of his staff.

In view of the fact that the Marino Committee has issued a report of its inquiry and remedial legislation is pending, this Commission had decided that it should inform the Governor as soon as possible what its investigation has disclosed.

#### CONCLUSIONS

The powerful provisions of the statute which restructured the SCC in 1974 and gave it independence were not self-executing. They required dynamic implementation and imaginative appreciation of the opportunity they provided the SCC to do something meaningful in the correctional institutions of the state. Receiving neither, the statute became nothing more than a meaningless and ignored document.

It is quite apparent from this Commission's investigation that the incumbent State Correction Commissioners failed to fulfill their statutory obligations. They have attempted to explain away this failure by claiming their role was only as a citizens board -- despite statutory language to the contrary. It would appear to this Commission that such a misconception of their role arose for reasons of convenience rather than conviction. Furthermore, using their own standard of acting as a

citizens board, the incumbent Commissioners even failed to satisfy the lesser demands of this more modest role. Whether or not new legislation is enacted, clearly the circumstances require that the remaining incumbent Commissioners be asked to resign.

It is true we are a government of laws, not men, but we should not lose sight of the fact that men and women holding positions of grave responsibility must be held accountable for the faithful execution of those laws.

#### HISTORY AND BACKGROUND

The State Commission of Correction is the statutory successor to the Commission of Prisons which was created in 1907 as an independent body charged with visiting and inspecting institutions for the detention of sane adults and authorized to investigate the management of such institutions to ensure their efficient and humane operation.

The Commission of Prisons comprised seven Commissioners, appointed by the Governor with the advice and consent of the Senate. Meetings were to be held at least once a month and a Commissioner's absence from three consecutive meetings, unless excused, constituted a resignation. The Commission was granted power to subpoena, to examine persons under oath, and power to obtain a Supreme Court order to compel compliance with the Commission's directives to prison officials.

In 1929, New York's Correction Law was enacted and incorporated therein as Article 3 were the 1907 provisions regarding the Commission of Prisons, its name now changed to the State Commission of Correction, and the Commissioner of Correction becoming its ex officio Chairman. The Commission was also given a new weapon: the power to close any of the local correctional institutions\* found to be unsafe, unsanitary, or inadequate to provide for the separation and classification of prisoners as required by law.

In 1965, the Commission was granted a new and significant duty: to promulgate rules and regulations establishing minimum standards for the care, custody and treatment of all inmates of local correctional facilities. It was also authorized to close any local correctional institution which did not adhere to the Commission's rules and regulations. 1970 witnessed the enactment of the last major amendment to the 1929 provisions, a measure which established a basic correctional training program for local correctional personnel to be operated by the Commission with certain powers of exemption.

Article 3 of the Correction Law was redrafted in 1973, and as the result of a 1973 constitutional amendment which became effective on January 1, 1974, the Commission of Correction was

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\* Local correctional institutions are those operated by a County or other local governmental unit as distinguished from State facilities.



once again made independent of the Commissioner of Correctional Services, and one of the Commission's own seven members was to be designated Chairman by the Governor. The resignation-by-absence feature of the old law was eliminated.

The powers, functions and duties of the Commission were expanded in several respects. The Commission was given an advisory role with respect to the Governor (to aid in developing plans, policies and programs to improve the administration, effectiveness, etc. of correctional facilities), and directed to make similar recommendations to the administrators of correctional facilities. Also added was a direction to establish effective inmate grievance procedures in local institutions and the duty to issue an Annual Report and special reports, as necessary. The statute retained the Commission's important duties with regard to promulgating minimum standards, the training of correctional employees and the SCC's power to close local facilities. The additional resort to court order was now made available to remedy violations of the SCC's minimum standards in addition to violations of law in the care and custody of inmates.

This statutory history of the SCC evidences the Legislature's intention that it be an active Commission. Its history, however, has proven otherwise.

## THE COMMISSIONERS

The SCC consists of seven Commissioners charged by statute with meeting "at least once a month,"\* a full-time Administrator, appointed by the Commissioners, and staff. At the time of the SIC's investigation, the seven Commissioners included three attorneys, one businessman, one union official, one school superintendent and a retired penologist. This Commission interviewed, or examined under oath, five of these seven Commissioners,\*\* all of whom had held office at the time of the restructuring of the SCC in 1973.

One Commissioner, appointed by Governor Dewey in 1950, was told that the position would not take him away from his job and he was expected to visit institutions only when it did not conflict with his job. Another Commissioner stated that his County Chairman had contacted him in 1968 when a vacancy occurred on the Commission because of a death, and asked him to take the position because he felt it "belonged" to his County. No one said "here's the law" or told him "anything," and his SCC indoctrination was a "do it yourself program." He thought the job was akin to being a member of a Board of Directors. The Chairman,

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\* Section 42 (6) Correction Law. This section also authorized payment to the Commissioners of \$100 for each day's attendance at meetings or while engaged in any other SCC business, with an annual maximum of \$5,000. (§42 (5)). Thus it was contemplated that a Commissioner could have devoted almost one day a week to SCC business and be compensated by the State.

\*\* One had retired and declined to meet with the Commission. The other resigned on the day she was to appear before the Commission. One of the Commissioners who did appear and who testified under oath has also submitted his resignation.

appointed in 1972, stated that when he agreed to take the position, it was his understanding that the SCC was to function as "a citizen's commission."

All the Commissioners interviewed by this Commission stated that they expected that the actual operation of the Commission would be handled by staff. The Commissioners were to meet once a month, visit institutions when they had time, act upon decisions as they were presented to them, and read reports. A number of the Commissioners stated that they would not have accepted their positions had they been informed that more time was necessary. However, when the SCC was restructured in 1973, they realized that their agency was supposed to do more, and as one Commissioner put it, "it was like going from a corner store to running a supermarket." One Commissioner stated that there were usually about 50 matters from different institutions which they had to consider at their monthly meeting. Nevertheless, they still adhered to their "Board of Directors" concept, remained in their posts, and continued to meet only once a month for three hours or so. Although they claimed that there were inadequate funds to hire more staff, they made little effort themselves to obtain such funds but simply delegated to their Administrator the task of negotiating with Budget and Civil Service.

The SCC office is in the Alfred E. Smith Building in Albany. Its staff operates out of that office and all its files



and records are there. In 1974, two of the Commissioners asked to "kill" the Albany meetings because it was "inconvenient" and an "imposition" to travel there. The other Commissioners agreed. Accordingly, there were only four meetings in their office in Albany in 1974 and the remaining eight were held at various meeting locations in New York City.\* When this Commission asked about their Albany office, one Commissioner was uncertain on what floor of the Alfred E. Smith Building it was located. The Commissioners delegated to their Administrator all aspects of hiring staff personnel and never interviewed or met new members of the staff. The Commissioners rarely called their professional people to meetings for advice or to discuss matters on which they were working and on which the Commission was asked to act. Indeed, the Chairman conceded the following point during his private hearing examination:

"Q Would it be fair to say that you probably have a good percentage of your professional staff there who would not even recognize what the Commissioners looked like?

A Definitely so. There is no question about it." (237)\*\*

An examination of the verbatim minutes of Commission meetings reveals an indifference toward their jobs and responsibilities. During 1974, when one would have expected the SCC to be working diligently in response to their new mandate, the

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\* All the 1975 monthly meetings have been held in New York City.

\*\* Page reference to Private Hearing testimony.

meetings were not well attended. At one meeting, a Commissioner conceding that "I do not know what these projects are all about" then moved to approve them. On another occasion, they discussed a request they had received from the New York City Board of Corrections, suggesting a meeting. When the Chairman asked his fellow Commissioners how he should respond to this request for a meeting, one Commissioner stated "Tell them they can't add a blessed thing to our problems," and another suggested "Let them drift."

Their record of visits and inspections of correctional institutions left much to be desired. This Commission asked the SCC to compile a list of such visits and inspections by Commissioners for the years 1973 and 1974. This compilation, based upon their own records,\* reveals the following number of such visits and inspections:

Chairman Albert Berkowitz	- 2	(1 in 1973 and 1 in 1974)
Vice-Chairman James J. Beha	- 10	(3 in 1973; 7 in 1974)
Commissioner Thomas G. Young	- 2	(1974)
Commissioner Marguerite N. Stumpf	- 2	(1974)
Commissioner John F. Karl	- 5	(1974)
Commissioner Carmen Rodriguez	- 2	(1974)
Commissioner Edward Cass	- 32	(7 in 1973; 25 in 1974)

Thus, it appears that the only Commissioner who actively pursued the SCC's statutory obligation to "visit and

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\* Based upon vouchers submitted by the Commissioners.

inspect" correctional facilities was Commissioner Cass, a retired penologist.

Although three of the seven Commissioners, including the Chairman and Vice-Chairman were attorneys, they had obviously not familiarized themselves with their own statute and did not appreciate their powers and duties. In October 1974, the SCC met with the Ulster County Jail Citizen's Committee concerning problems at the Ulster County Jail. The spokesman for the citizen's group asked that the SCC consider going to the Supreme Court to seek a court order directing the jail administration to comply with the SCC's regulations. The spokesman for the citizen's group correctly cited the appropriate section of the SCC statute (§50 (4) of the Correction Law) which authorizes such action. The Commissioners did not realize the SCC had the authority to do this, and spoke only of its authority to close a jail. The meeting concluded with the Vice-Chairman -- who was a lawyer -- asking that one of the members of this private citizen's group familiarize himself with the law during the next few days and "to tell us what he thinks we can do under the Correction Law."

The Chairman was asked about this at his private hearing before the State Commission of Investigation:

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\* Section 48 (3), Correction Law.

"Q Do you think that your agency should be asking citizens to research your power and to tell you what you can do?

A You have answered the question by asking it." (254)

During the same meeting with the Ulster County citizen's group referred to above, a clergyman asked whether the SCC had the power "to remove or recommend the removal of the sheriff" and the Chairman of the SCC (an attorney), replied: "It is beyond our power to recommend his removal." When the Chairman was questioned about this during his private hearing before the Commission on June 9, 1975, he conceded that his agency probably had the inherent power to make such a recommendation to the Governor, and perhaps should have exercised it, but never did (248).

The Administrator, who is not a lawyer, testified that when his agency issued citations to close a jail, he personally researched the law and drew up the citation "from an old one that somebody thought up twenty years ago." He did this himself because his agency did not have a staff attorney. When asked why he did not seek help from any of the three Commissioners who were attorneys, he stated "they are not conversant with Correction Law too much" and also conceded that he felt they would have been unwilling to devote the time to doing the work because they were part-time (212-13).

The statute creating the SCC invests that agency with broad powers over correctional institutions. A very important power granted to the Commission, referred to earlier, is the power under §50 (4) to obtain a Supreme Court order compelling a sheriff or other jail administrator to comply with the regulations of the SCC. This power has never been utilized. It is appropriate to emphasize that the seven-member SCC consists of members who had served on the Commission for many years,\* three of whom are practicing attorneys. It is also appropriate to point out that in October 1974 private citizens had specifically directed the SCC's attention to this provision of their own statute. Still, the SCC operated on the mistaken assumption that all they could do was close a jail. Not only private citizens, but even inmates, apparently knew more about legal opportunities than did the SCC. In the Dutchess County Jail, the inmates brought a class action in Federal Court in 1973 to compel the Sheriff to abide by the SCC's regulations.

The Commission also failed to exercise the power to promulgate minimum standards for correctional personnel.\*\* The SCC has had evidence for a number of years that there were individuals working in correctional institutions who were not qualified. In one institution, the SCC received a report from

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\* One was appointed in 1936, another in 1950 and a third in 1955.

\*\* §48 (6).

their inspectors that there were individuals working in the local jail with criminal records, including assault, indecent exposure, driving while intoxicated and alleged illicit involvement with a minor. The Commission's response to this revelation was to issue a public statement that the SCC had received evidence of "mismanagement by the jail administration," that the SCC's regulations had been violated and many of its recommendations ignored by the Sheriff, and that "The Commission will give further consideration to the matter and will take such steps as it deems necessary to correct the situation." The "steps" taken by the SCC were to wait. This pattern of deferring decisions from one monthly meeting to the next, and of finally apparently doing nothing, was characteristic of the SCC.

If matters were not postponed, they were often just not acted upon. The verbatim minutes of the SCC's monthly meetings contain references to reports of unusual incidents which include deaths, assaults, suicides, escapes, etc. In many such instances, the report concludes with the notation "no action." For example, at the March 1974 meeting referred to above, the Commission reviewed reports from various institutions showing five attempted hangings, three assaults, eight cases of self-inflicted injuries by inmates, five escapes, two inmates observed under the influence of drugs, marijuana found in possession of the same inmate on two different occasions and in the pipe of another at another time, one fraudulent release from a state institution and two suicides. Except for the two



deaths which were referred to the Medical Review Board,\* the SCC's own minutes report the Commission's decision on each of the other incidents: "No action."

The SCC's failure to exercise its statutory duties, as for example, by not prescribing minimum standards for correctional personnel, may have had tragic consequences. In one institution, an inmate committed suicide by hanging himself. Upon investigation, it was discovered that the jailer on duty in that tier that evening, had corrected vision of 20/150 in one eye and 20/200 in the other. The Administrator of the SCC, when questioned about this at the Commission's private hearing of June 3, 1975, said "This man should never have been on this job" and conceded that the SCC "certainly" has a responsibility to see that such an individual is not employed in a correctional institution. The Administrator was asked whether the SCC had ever done anything to establish such minimum standards for employment in jails:

"A We have not established it.

Q Not yet, in all this time, Mr. Van Hoesen?

A In all this time - in one year.

Q Did you have the authority to set those standards prior to 1974?

A They may have had the authority but they never established them." (28)

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\* The Medical Review Board is a unit within the SCC charged with investigating inmate deaths.

It is interesting to note that when the State Commission of Investigation questioned SCC Commissioners about this on June 9 and 10 of this year, some still were not sure they had this authority, thanked the Commission for bringing it to their attention, and said it was something to think about.

Another statutory power which the SCC had previously not utilized is the power of subpoena.\* A few weeks prior to his private hearing before the Commission, an SCC Commissioner was advised by members of one Sheriff's Department that if served with subpoenas compelling them to testify, they would have much to say concerning the administration of a county jail. The Commissioner told them to see their County Attorney. This information was brought to our attention and the SCC Commissioner was questioned about this at his private hearing on June 9. The very next day, the SCC served subpoenas on five members of that Sheriff's department.

A major failure of the SCC is that it does not investigate inmate grievances. Although the statute clearly and specifically mandates that the SCC "establish procedures to assure effective investigation" of grievances of inmates of local correctional facilities,\*\* the SCC has not done so.

The SCC is also charged by statute\*\*\* with the duty of advising and assisting the Governor in developing plans and

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\* §50 (2).

\*\* §48 (4).

\*\*\* §48 (1) of the Correction Law.

programs to improve the administration and effectiveness of correctional facilities, but it has never done so. No research work has been undertaken, and no program has been devised for the improvement of medical care in correctional institutions, although SCC files contain sufficient indications of medical deficiencies. In this connection, the Administrator of the SCC, in testifying before this Commission on June 3, 1975, conceded that it was his impression that the SCC, even after it was restructured in 1974, "was designed to be a low keyed Commission which was not supposed to rock the boat and not to make waves" (121).

A notable exception to this indifference and lack of appreciation of the duties and responsibilities of being a Commissioner, was Burton Schoenbach. Mr. Schoenbach was appointed as a Commissioner of the SCC in January 1973 and immediately went to work. He inspected institutions, met and talked to staff personnel, went into the communities seeking their participation, worked towards improving medical care in correctional facilities and attempted to correct inmate grievances and improve conditions in the institutions. It was his position that the SCC had an important ombudsman role to fulfill and he did not regard his position on the SCC as merely membership in a "prestigious club." Mr. Schoenbach began to make waves. On September 1, 1973, when the SCC was restructured by statute, Mr. Schoenbach was the only one of the seven Commissioners who was not reappointed.

### THE ADMINISTRATOR

Because the Commissioners were part-time, met only once a month, and took little interest in the SCC's routine operations, the burden of running the State Commission of Correction fell upon the Administrator.

The Administrator came to the old SCC as a Correction Specialist in 1967, became its secretary in December 1971, and assumed the title of Administrator when the SCC was restructured in September 1973. His background was in Corrections work, and he knew many of the Sheriffs as a result of his many years of experience in the field, and his activities with the SCC.

It is significant in understanding the operations of the SCC, to refer to a meeting of the Sheriffs Association which the Administrator attended in early 1975. At that meeting, he made a "commitment" to the Sheriffs that his office would conduct no investigations of jails without first advising them.\* It was the Administrator's position, candidly acknowledged when he appeared before this Commission at a private hearing on June 3, 1975, that the Sheriffs should run their own show. This deference to the Sheriffs by the Administrator and the SCC resulted in some questionable concessions. In one institution, the SCC had information

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\* The Administrator reported this to the SCC at their monthly meeting of February 11, 1975, and it is reported in the Verbatim Minutes of that meeting.

alleging that one or two officers working in the jail were involved in bringing contraband into the jail. The SCC did some preliminary investigation, and had given the District Attorney of that County some of its information. At one point however, the SCC decided to terminate its investigation and met with the Sheriff. The Administrator then turned over to the Sheriff all the information it had, including the names of the officers allegedly involved. The Administrator emphasized to the Sheriff that the SCC had not initiated the investigation but had responded to allegations it had received, and then informed the Sheriff that the SCC was terminating its investigation. In other words, the Sheriff was permitted to investigate his own jail and his own men. This information was given to the Sheriff apparently without advising the District Attorney, and with no directive to the Sheriff that he advise the SCC of the results of his investigation and the action he was taking.

Subsequently the Sheriff informed the SCC that the allegations were unfounded but that he had discharged one of the officers allegedly involved, a contradiction at least on its face, which neither the Administrator nor the SCC elected to pursue. The Administrator testified before the Commission on June 3, 1975 that he did not get a report from the Sheriff about these allegations of possible involvement by officers in drug traffic and never asked for one (81-2). The Administrator

also acknowledged that he did not know why one of the officers allegedly involved was discharged, nor did he know whether he was working in another County institution (82). The Administrator was asked what his policy was where the SCC had information of possible wrongdoing by a Sheriff's own men:

"A It's up to the Sheriff.

Q The Sheriff should investigate whether anyone in his jail is bringing in contraband?

A Who else would? I definitely think it is the Sheriff's responsibility.

Q To have an investigation of his own men?

A Why certainly. It's his department. He is the law enforcement agency . . . ." (67-8)

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COMMISSIONER RUSKIN: . . .  
Are you suggesting that in every instance where you were to get allegations that contraband was being brought into a jail by officers within that jail, that it would be the proper role of the Sheriff, the boss of those officers, to conduct an investigation to see if his men were engaged in that sort of misconduct?

THE WITNESS: Yes, sir." (70-71)

The Administrator explained that in his opinion there is no Sheriff anywhere in the State "who countenances corruption or criminal activity" in his jail and therefore he felt they would always conduct a fair investigation even if it means investigating his own prison (71; 75).



This policy of permitting the Sheriff to run his own show, and of the SCC looking the other way, was seen in other cases. The Administrator admitted that he had heard an allegation that a correction officer was discharged from a state institution because of misappropriation of funds and was now working at a local jail. He never bothered to check (although it merely required a telephone call or two) and he was not particularly interested, and did not regard that as a violation of the SCC's minimum standards (84-5; 134).

An extremely important responsibility of the SCC is its training programs which are mandated for corrections personnel. The Administrator admitted receiving allegations from his training staff that officers had advised them that they had been instructed by their Sheriffs to ignore this training upon their return to the jails. The Administrator never bothered to investigate those charges (207).

The eagerness to accommodate Sheriffs took many other forms. Where there was an allegation of narcotics in one jail, the Administrator's decision was to permit the Sheriff to make the search (53). Sheriffs were asked for reports of certain unusual incidents, but the Administrator could not say, when questioned by this Commission, whether the Sheriffs complied (15). Where the SCC made certain recommendations to the Sheriff, the Administrator was satisfied to rely upon the Sheriff advising

the SCC whether he had complied rather than having SCC inspectors confirm compliance (53). In one institution, the Administrator apparently notified the jail personnel in advance on what day an investigation was to be made and acceded to the Sheriff's request that certain SCC inspectors not be given that assignment. On more than one occasion the SCC learned of unusual incidents in a jail through newspaper accounts and it was obvious that the Sheriff involved was defying the SCC's reporting requirements. Nevertheless, the Administrator readily accepted the explanation that the Sheriff forgot to report or did not have sufficient time to do so.

With regard to state institutions, the SCC apparently refused to exert its authority at all, and merely accepted whatever information the state institution was willing to report to it, or else hoped that a friend inside the institution would report. The Administrator acknowledged this when questioned by this Commission on June 3, 1975:

"Q You are saying you had to rely on someone friendly to you tipping you off, isn't that right?

A Exactly right; or the newspapers." (16)

## THE PROFESSIONAL STAFF

The professional staff of the SCC performs the agency's functions of inspections, training of corrections personnel, and related matters.\* These professionals include a number of persons with prior experience in the corrections field as well as other individuals with less traditional ties and thinking.

This Commission interviewed present and past members of the professional staff and reviewed their reports, memoranda and other SCC records. It is clear that many of the SCC's professionals were dissatisfied with their agency's passive role, and communicated this dissatisfaction to their superiors and to the Administrator.

One inspector, interviewed by this Commission on June 12, 1975, stated that he felt so frustrated and ineffective as an inspector because his recommendations were not followed, that he requested transfer to the Training Academy. Other inspectors also complained to this Commission that the recommendation they made upon completion of their inspections of correctional institutions, and which were included in their inspectional reports, were not implemented by their agency. These inspectors described their agency's reluctance to take affirmative action which might embarrass or antagonize sheriffs, or otherwise cause

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\* There is also the Medical Review Board which investigates inmate deaths.

a confrontation, and most agreed that the SCC just did not want to "rock the boat." Interestingly, such criticism of their agency's complacency was not limited to the new employees, but was expressed by other staff members as well. Thus, one inspector, who had worked as a Correctional Officer before coming up to the SCC in 1972, testified at a hearing before this Commission on June 9, 1975, that it was understood among the staff that the Commissioners wanted to maintain the "status quo" and the "consensus" among the inspectors was that "unless the Commission moves, we are not going to move" (354; 356-7).

The professional staff criticized many of its agency's operating procedures. For example, inspectors were told to "stick to the minimum standards"\* in inspecting a jail although it was obvious that these standards were outdated and woefully deficient, and that conformance by an institution to these standards meant nothing. One experienced inspector, who had many years in the correctional field before joining the SCC pointed out that his agency's minimum standards for supervision merely requires at least two jailers inside the institution:

"A . . . at least two jailers inside the institution at all times and this doesn't say whether there are two jailers for every 20 men or two jailers for 200 inmates.

Q That's just two jailers per jail, regardless of the size of the institution?

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\* These minimum standards covered the physical facilities, extent of supervision over inmates and other jail procedures. As previously noted, there were no minimum standards covering qualifications for personnel working in such institutions.

A Right.

I mean, this just isn't supervision. I can go through the minimum standards and if you are familiar with any kind of correction work, it can make you sick to your stomach.

I know why there is suicide. I know why there is attempted suicide. I know why suicides are successful.

Q Why?

A Because of lack of supervision . . . lack of psychiatric care" (382).

This inspector also criticized the fact that inspections are normally made between 8 A.M. to 4 P.M., rather than at surprise off-hour times and that most institutions seem to know when an inspector is coming. He stated that, as an experienced correction officer, he knew that jailers sleep on duty and otherwise do not perform their job and that suicides often occur at such times when supervision is lax. He stated "anybody can walk in and catch them" and described what he found when he made a surprise visit to a county jail:

" . . . I did walk in and they were all playing cards, drinking, drinking coffee and they were supposed to be on the job" (369).

When asked his opinion of his agency, he stated that the Commissioners "didn't care [and] weren't interested," that he had seen his own recommendations repeated "four or five years in a row" with "nothing . . . being done" (375; 379). He felt that if his agency were only willing to "push" and exert the authority it possessed under the law, many of the problems in the jails would be corrected:

" . . . if it was enforced a couple of times on a couple of occasions, you would see these people in these jails squared away . . ." (379)

The criticism expressed by the SCC's professional staff about the ineffectiveness of their agency was brought directly to the attention of the Administrator and the Commissioners. This Commission's investigation disclosed a memorandum from the Administrator to the SCC Commissioners, dated August 8, 1974, reporting his discussions with staff. As a result of these discussions, the Administrator advised the Commissioners that the following should be the first objective of the SCC:

"(1) The Commission of Correction must take a more active role in the improvement of the operations of correctional facilities."

Again, a December 27, 1974 memo from the Assistant Administrator to the Administrator, listed "issues [which] have surfaced from within the agency and from without the agency." These included, among other things,

- (a) The SCC Commissioners should be full-time and should visit correctional facilities;
- (b) the reports released by the SCC do not evaluate the administration of correctional facilities;
- (c) the failure of the agency to conduct research;
- (d) the failure of the agency to investigate inmate grievances;
- (e) the standards for the operation of local correctional institutions are outmoded.



As this report indicates, such warnings went un-  
heeded.

The diversity of background of the professional staff produced certain philosophical and practical divisions, which is unfortunate, for there undoubtedly is a good deal of talent and dedication among these professionals. It is essential that the energies, talents and experience of these people be properly utilized.

In this connection it is appropriate to note that the Vice-Chairman of the SCC, on two occasions, utilized the professional staff for personal reasons. It should also be noted that the SCC devoted a disproportionate amount of time and staff in an effort to determine how certain SCC reports were being disseminated to the press.

#### DUTCHESS COUNTY JAIL

Documents contained in the files of the SCC reflect repeated reminders over the years that serious problems existed in the Dutchess County Jail and that the Sheriff was making no sincere effort to improve matters. There have been Grand Jury investigations and reports, Citizen's Committee reports, special and regular Inspection Reports by SCC staff, complaint letters by inmates, unusual incident reports, newspaper articles, meetings, and in July 1974 - a Federal Court stipulation following a class action by inmates against the Sheriff. Throughout this entire period the SCC believed itself impotent to do anything forceful or constructive, convinced that the only power it could exercise was to close the jail.

On May 25, 1972, an inmate pried open a skylight window and "escaped" by just walking away in what several SCC Commissioners subsequently described as a "ridiculous" caper. The SCC wrote a letter to the Sheriff on June 1 reminding him of the need for "constant and proper supervision of jail inmates." The effect of the letter was evidenced on June 23 - just three weeks later - when another inmate apparently decided he, too, had had enough and also walked away. The inmate surrendered himself on September 6th. One SCC Commissioner recalled that on one occasion when she visited the institution several years earlier, she discovered that the guards had forgotten to close the gate.

Not all "unusual incidents" at Dutchess County Jail however were of this nature. On July 12, 1972, an inmate died

suddenly following minor surgery. Since then the following incidents were reported, or came to the attention of the SCC: two suicides by hanging; three attempted suicides; seven cases of self-inflicted inmate injuries requiring hospitalization; three cases (involving four inmates) of drug overdoses requiring hospitalization; nine additional inmate escapes; five cell fires and mattress burnings, some of which required hospitalization of inmates and officers; four assaults of officers by inmates; three assaults of inmates by other inmates; four alleged homosexual assaults upon inmates; four instances of contraband being discovered in the jail; and eight separate inmate disturbances involving revolts, guards held hostage, possible riots, etc.

In one of the incidents cited above, seven inmates with hand-fashioned weapons stormed the gate, took two guards as hostage and injured three officers. This incident was not reported by the Sheriff to the SCC which learned of the incident by reading about it in the newspapers several days later.

Medical deficiencies at Dutchess County Jail were reported to the SCC over a period of years by their own inspectors, by inmates in letters of complaint, and in other forms. A July-August 1973 Grand Jury Report commented on medical deficiencies at the jail, as did a report in November 1973 by a Citizen's Committee.\*

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\* Report of the Citizen's Committee to Study the Feasibility of Establishing a Department of Correction in Dutchess County.

The Administrator of the SCC was asked about these Grand Jury and Citizen's Committee Reports when he appeared before this Commission on June 3, 1975. He remembered "reading a Grand Jury report" but could not recall its content. He was then asked:

"Q Did you do anything after having read the report?

A In what respect?

Q Seeing that these problems were corrected in the jail?

A Not that I know of." (151-2)

With regard to the Citizen's Committee Report, the SCC Administrator recalled reading it, and believed he sent it to the staff to review:

"Q What about the Commission?

A I don't remember whether it was sent to the Commission or not.

Q Did you basically ignore it?

A Yes, I would say so." (159)

On November 25, 1973, an inmate wrote a letter to the SCC complaining, among other things, of inadequate medical attention. The SCC replied on December 4, 1973, informing the inmate that it was the Sheriff's responsibility to provide medical care as per the jail physician.

On March 18, 1974, a highly critical Special Report on Dutchess County Jail was submitted to the SCC by two of its new

investigators. This Special Report was much more extensive than the routine SCC Inspection Report, which generally is limited to a check-list review of an institution's physical plant and procedures. The Special Report charged, among other things, inadequate medical care, lack of supervision and discipline, a loss of control, an alleged drug traffic and many other deficiencies. The allegations of inadequate medical care were based on statements by jail personnel and by the jail physician himself, and not merely the complaints of inmates. For example, it was learned that the jail doctor did not examine every inmate claiming to be sick but spoke to them through the bars and then prescribed medication. Both the doctor and the Sergeant in charge of the jail agreed that about 85% of the inmates were on some type of drug.

The charge of lack of supervision, discipline and control were based on statements by several jail officers and guards, actual observations by the SCC officers conducting the inspection and by the Sheriff himself who was quoted in the report as saying "we're sitting on a powder keg and I don't know what to do about it." Jail personnel told the SCC inspectors that the jail "was going to blow," and that they had "lost control" over the running of the jail and the inmate population. One officer stated he knew of no emergency plans of any type and had never been instructed on what to do in case of emergency except "yell." If an unusual incident occurred, the procedure was to summon the Sergeant from his home, 25 miles away. There were other allegations by officers

identified by name in the report, that certain jail personnel gamble with inmates, that corrections officers returning from the SCC's training courses were not allowed to apply their training, etc.

This Special Report was reviewed by the SCC Commissioners at their monthly meetings of March 19 and April 9, 1974. At the March 19th meeting, the Administrator stated:

"We feel that the whole situation is very explosive and we also are quite sure that the only thing that is preventing violent reaction on the part of the inmates is that they anticipate some form of relief to rectify the situation."\*

He further stated, "I don't think this is something that can be delayed at all because at any minute, it can blow up." After reviewing the Special Report, the SCC decided to bring these matters to the Sheriff's attention and permit him an opportunity to correct things. Failing that the SCC would institute proceedings to close the jail.

On April 16, 1974, an SCC inspector was approached by an inmate at Dutchess County Jail who asked to speak with him privately. The inmate then turned over to the inspector an envelope containing approximately 50 assorted pills and stated that other inmates also had such drugs.

On April 17, the Administrator and other SCC staff

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\* According to the records of the SCC covering the period of 1973 and 1974, not one of the seven Commissioners ever visited Dutchess County Jail during those two years.



personnel met with the Sheriff and turned over to him its information concerning the alleged involvement by two of his men in smuggling drugs and other contraband into the jail.

The wisdom of entrusting to the Sheriff the responsibility of doing something about drugs in his jail was evidenced on May 4 when an inmate was taken to the hospital to have his stomach pumped out after ingesting approximately eight tranquilizers. Further evidence of the Sheriff's laxity in operating his jail properly was seen on May 9 with the escape of two inmates who somehow were able to obtain a saw blade. After this happened, the Sheriff stated he was going to institute new search procedures. On May 14 the Sheriff appeared before the SCC in Albany. The Sheriff stated that he had investigated the allegations of improper conduct by his officers and they were "unfounded." He claimed that a search of his jail had disclosed no drugs; denied other charges made by SCC inspectors; and claimed that all SCC rules and regulations were being followed. The SCC then met in executive session and decided to "let the matter rest for another month" and reinspect the facility in June.

On June 13, a different SCC inspector was sent to the Dutchess County Jail. According to his own testimony before this Commission on June 9, 1975, his instructions were "very narrow and very limited" (360). He was not given, nor did he see, the Special Report of March 18 described above, which was the subject of discussion at the SCC's monthly meetings of March and April and which the SCC discussed with the Sheriff on May 14.

The inspector sent to the Dutchess County Jail on June 13 went there to reinspect the facility in order to determine whether the recommendations contained in a different SCC Regular Report were being complied with. The inspector visited the jail and also inspected Ulster County Jail on the same day. Based upon this brief and routine inspection, which did not address itself to the conditions reported in the March 18 Special Report, the SCC decided to give the Dutchess County Jail another reprieve.

Unfortunately, history repeated itself, and the complaints by inmates which the SCC never investigated, plus the warnings which it had received over the years from its own inspectors and other sources concerning, among other things, inadequate supervision, deficient medical care, and ignorance by jail personnel of how to handle emergency situations, resulted in tragic consequences.

The events which took place at Dutchess County Jail subsequent to the SCC's decision to rely, once again, on the Sheriff's willingness to clean his own house, reveal the SCC's persistent and adamant refusal to act affirmatively and the cost of such refusal.

On August 19, 1974, the SCC received a letter from Senator Jacob Javits forwarding a letter signed by 12 inmates of Dutchess County Jail, complaining of their treatment and alleging that the jail officials were denying them certain basic needs. (The files of the SCC reveal that inmates had previously

complained to SCC inspectors about the same matters.) The SCC did not investigate this letter, but merely forwarded it to the Sheriff for comment. The Sheriff responded by saying the complaints were unfounded, and the SCC accepted this response without question.

On December 30, 1974, there was an evaluation of medical procedures at the jail by the Dutchess County Commissioner of Health. Many deficiencies were reported and a number of recommendations were made, none of which were being implemented by jail officials as of that date.

On January 15, 1975, a Dutchess County Jail inmate died, and a subsequent investigation into the circumstances of his death and the medical care he received while at the jail revealed the following facts. The inmate had a diseased liver and two duodenal ulcers. According to the SCC's records, despite his serious medical condition and his history of poor health, he received no special diet. Although this inmate repeatedly coughed up blood, he was afforded no special attention by the jail physician. It was not until he showed jail personnel a sample of his stool laced with blood that he was finally hospitalized. On one occasion when he was brought from the hospital to court, he was clothed only in prison denims and a shirt, without any underwear, and the transporting officers refused to accept a coat and warm clothing which his mother and brother had tried to give him as he was being led down the hospital corridor. The investigation of this case by the SCC

indicated that the lack of care he received at the jail may have hastened his death.

On March 19, 1975, an inmate who had previously written the SCC to complain about conditions at Dutchess County Jail committed suicide by hanging. One letter from this inmate had been received by the SCC on March 7, 1975, and on March 13 the SCC replied to him that an inspection of the jail by SCC staff had revealed conditions at the jail were not as alleged by the inmate and that his complaints, generally, did not appear valid. The letter concluded by advising the inmate that another inspector would shortly visit the jail "and if you are still there he will be talking to you." The inmate committed suicide within days after this letter was sent.

On March 21, 1975, a 19-year old inmate committed suicide in Dutchess County Jail. The guard on duty had corrected vision of 20/150 in one eye and 20/200 in the other eye and was unable to read a sign 10 feet away from him. When the suspended body was discovered, prison officers insisted it be left hanging until the doctor arrived.

On March 22, another inmate attempted suicide by hanging himself with a bed sheet but was saved by fellow inmates who cut him down.

A few days later, there was another attempted suicide by a different inmate, followed, over the next several days by

inmate disturbances and the taking of a guard as hostage. It was not until April of 1975, after a series of newspaper articles critical of the SCC appeared in the Albany press and the initiation of official investigations of the SCC by other governmental agencies that the SCC took some affirmative action. The SCC finally assigned members of its staff to monitor all procedures at the jail, and held a special meeting to review the situation at that institution.

The Dutchess County Jail is but one example of the SCC's failure. It also underscores the principle that the acceptance of public office is the inseparable companion of public responsibility. Undoubtedly the Commissioners of the SCC are decent men and women, but more was required.

## RECOMMENDATIONS

The administration of correctional institutions is one of the most difficult tasks facing government. For this challenge to be met there must be a commitment at all levels of government by those having the responsibility to see to it that correctional institutions are properly administered with due regard for the interests of prisoners, correction staffs and the public.

The role of the Commission of Correction is an extremely important one for it has the responsibility to oversee correctional institutions, develop methods for improving these institutions and take appropriate actions, where necessary, to enforce compliance with SCC standards. Such vast responsibilities suggest that the persons selected as commissioners be persons who have expressed interest in the humane administration of correctional institutions. They should serve on a full-time basis, at a compensation designed to attract the best persons available, and capable of acting independently with full appreciation of their responsibilities and authority. These commissioners, in turn, must select a staff capable of investigating incidents and recognizing potentially troublesome situations which require correction before they become incidents. For the commissioners and their staff to function effectively they must, of course, be given adequate budgetary support

The SCC should establish an effective method for receiving and acting upon allegations of improper administration.

In addition, surprise, unannounced inspections at any hour, should be instituted by the SCC. With respect to State institutions, the SCC's role should be clarified so that both those responsible for State institutions and the Commission know what is required of them.

The SCC should revise and update its minimum standards so that they are suitable to today's needs and environment. Such standards should include not only the physical conditions of the jails, but qualifications and training for personnel employed in these jails. Furthermore, the SCC should develop programs and research with respect to improving medical and psychiatric treatment, recreation and vocational rehabilitation.

Given the wide geographical distribution of correctional facilities, consideration should be given to the need for regional offices of the SCC.

The Commission should not be afraid of using all of its powers to compel those responsible for local institutions to administer them in a lawful and proper manner. In appropriate cases, the SCC should not hesitate to recommend to the Governor the removal of a sheriff who has demonstrated his refusal or inability to discharge his responsibilities.

In addition, the SCC should develop an effective liaison with the Governor's office and the Legislature.

Maintaining these relationships will keep the Executive Chamber and the Legislature well informed about the SCC's problems and will be critical to the implementation of programs considered desirable by the SCC.

The SCC should make greater use of public hearings and the issuance of public reports to enlist public support for needed changes and improvement of conditions in correctional institutions.

Finally, it is suggested that a serious study be undertaken of the current system of county correctional institutions. This study should review the desirability of continuing to entrust to the sheriff the administration of such facilities.

Respectfully submitted,

DAVID W. BROWN, Chairman  
EARL W. BRYDGES, JR.  
FERDINAND J. MONDELLO  
ROBERT K. RUSKIN

June 16, 1975



**END**

7 dollars/minute