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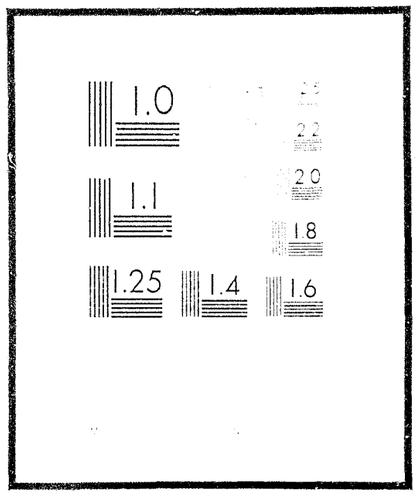


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LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
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Date filmed

# STANDARDS AND GOALS COMPARISON PROJECT

## *FINAL REPORT*

## VOLUME II

*Criminal Justice System*

30830
DUP

Prepared for the Ohio Criminal Justice Supervisory Commission and
The Department of Economic and Community Development,
The Administration of Justice Division

THE
OHIO
STATE
UNIVERSITY

***PROGRAM FOR THE STUDY OF CRIME AND DELINQUENCY***

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STANDARDS AND GOALS
COMPARISON PROJECT-

Final Report, v 2, part 1

~~VOLUME II~~

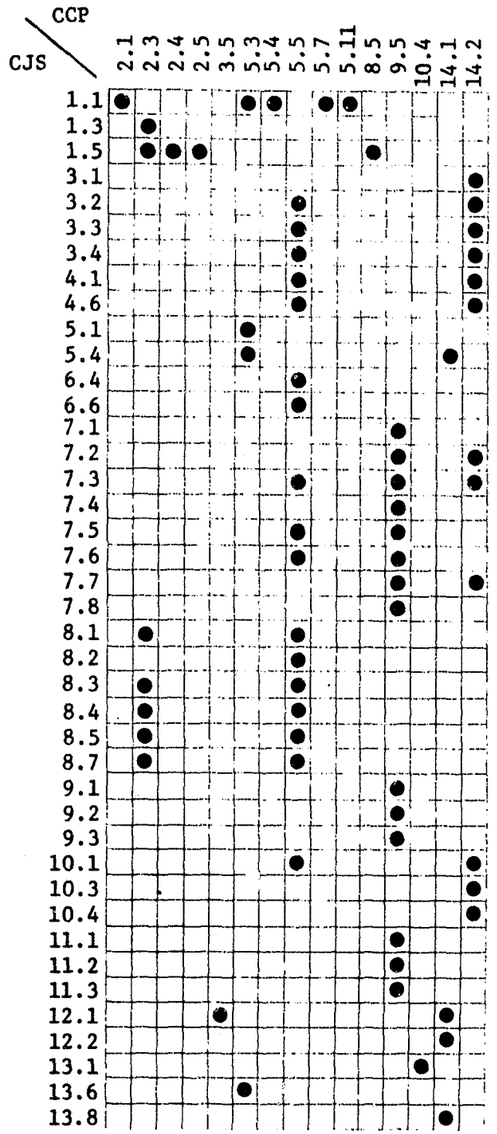
Criminal Justice System

Program for the Study of Crime and Delinquency
1314 Kinnear Road
Columbus, Ohio
43212

TABLE OF CONTENTS

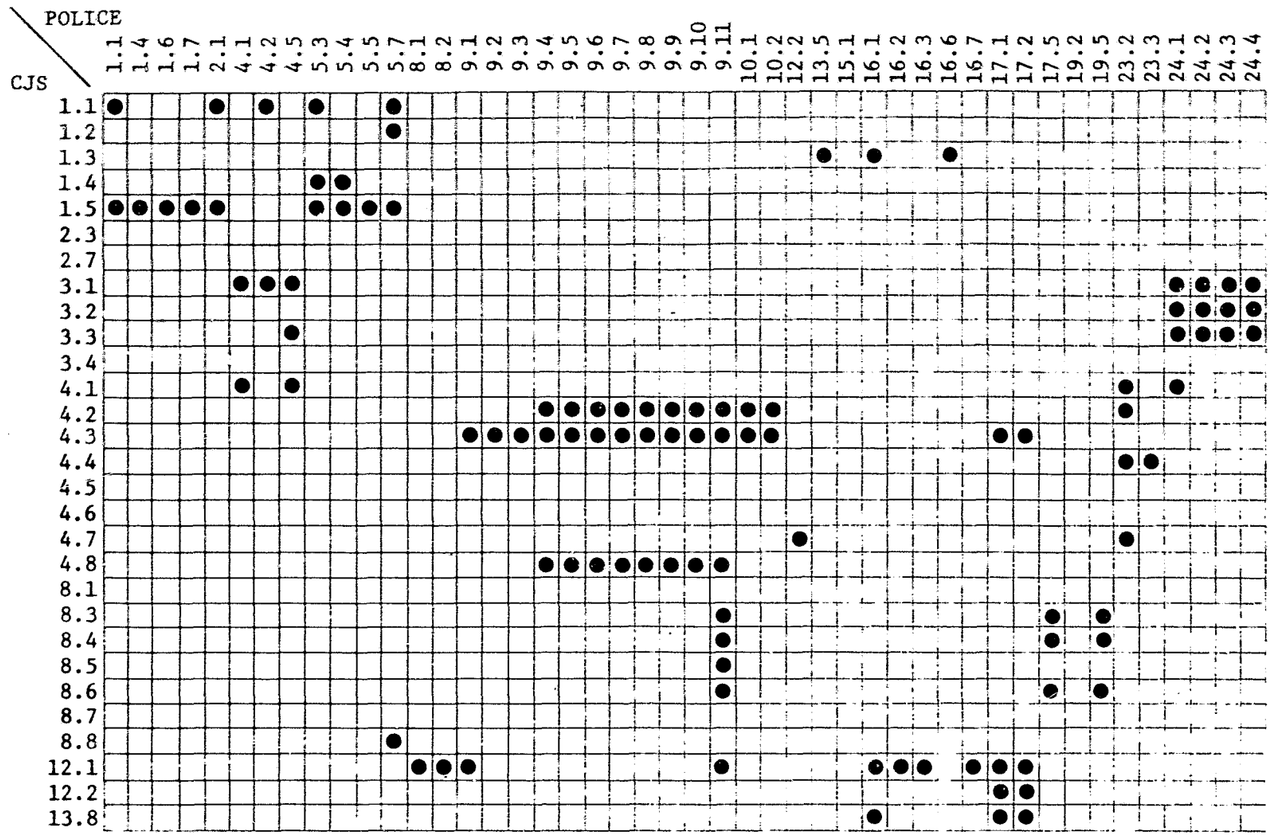
## INTERRELATED STANDARDS

Criminal Justice System -- Community Crime Prevention



## INTERRELATED STANDARDS

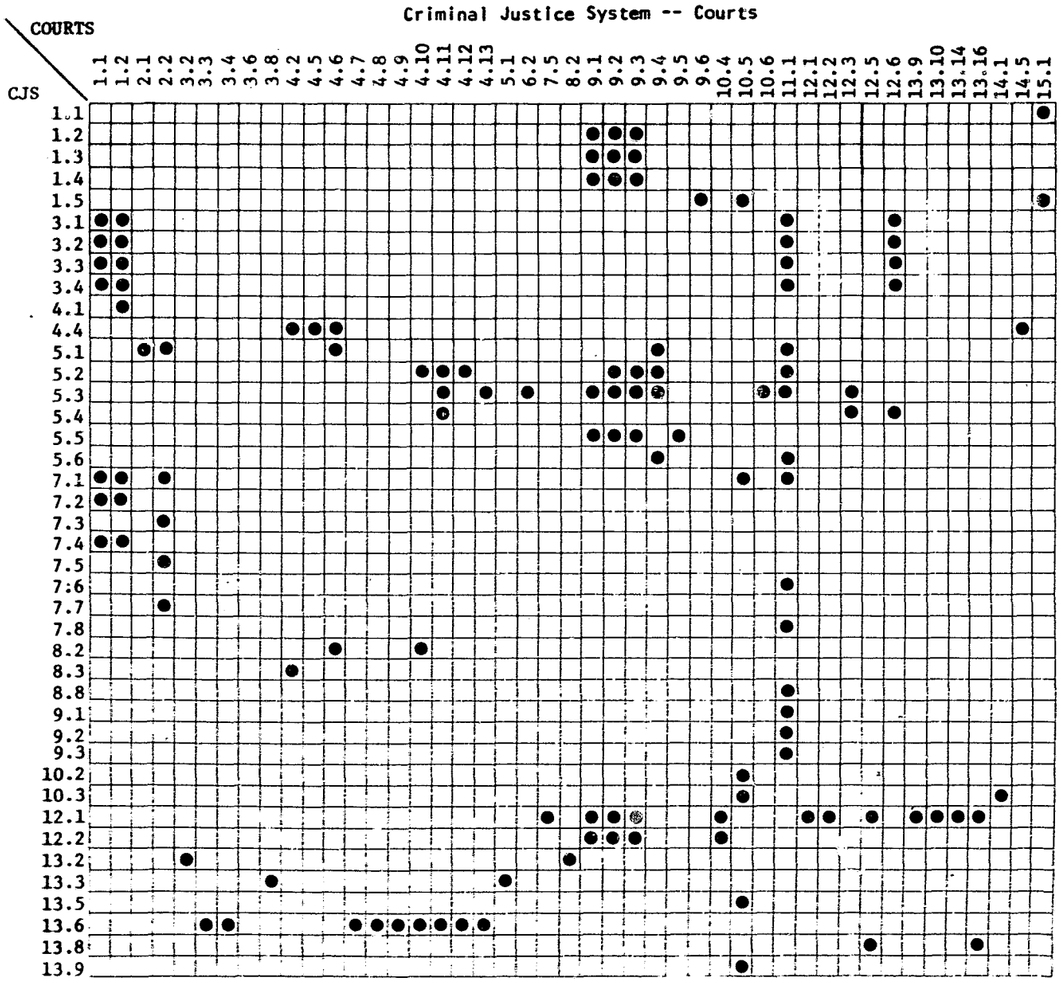
### Criminal Justice System -- Police

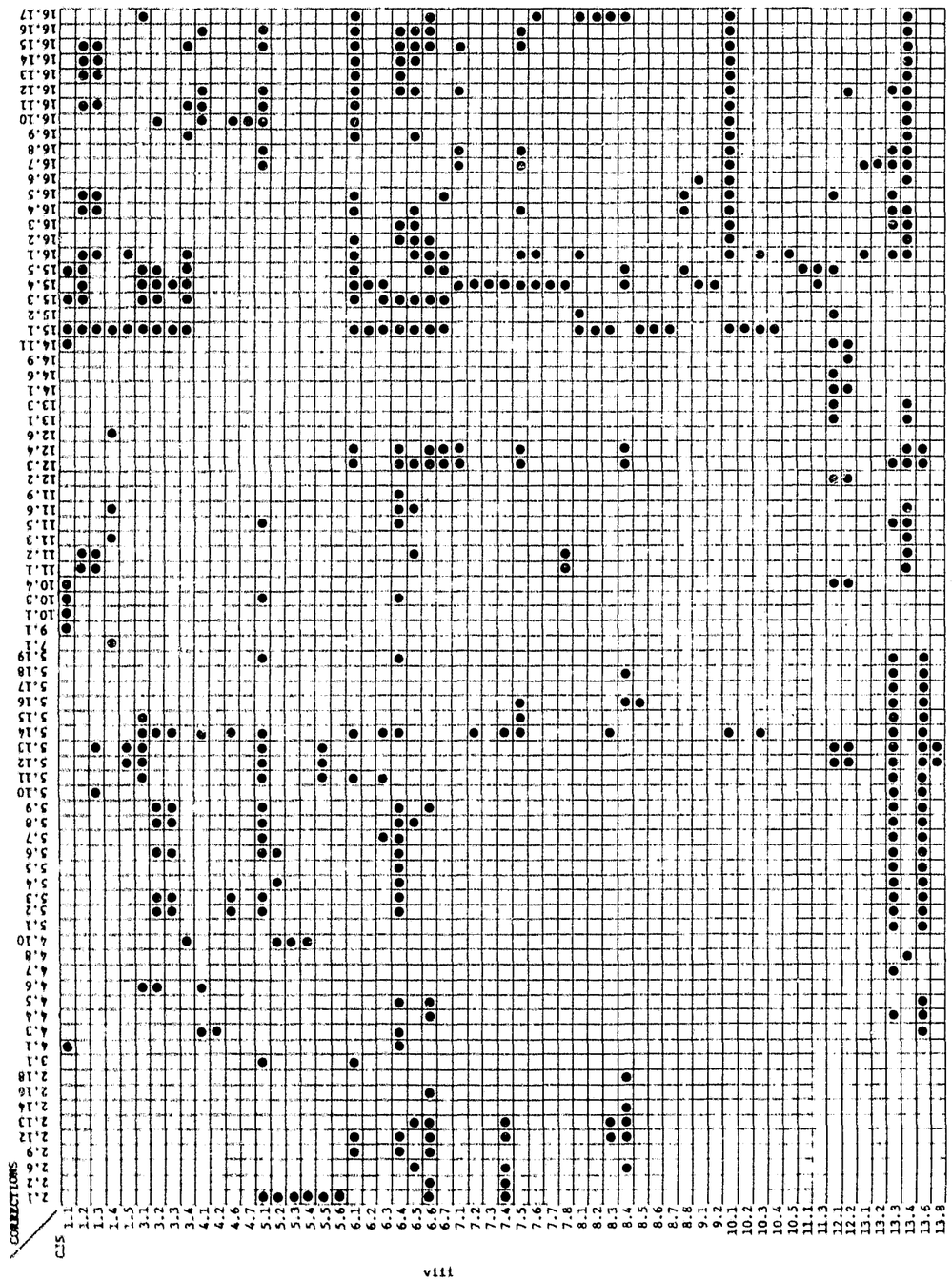





## INTERRELATED STANDARDS

### Criminal Justice System -- Courts








## CHAPTER 1 - PLANNING FOR CRIME REDUCTION

### Standard 1.1 CRIME-ORIENTED PLANNING

Every criminal justice planning agency and coordinating council should:

1. Analyze the crime problems in its jurisdiction;
2. Identify specific crimes deserving priority attention;
3. Establish quantifiable and time phased goals for the reduction of priority crimes;
4. Evaluate and select alternative strategies and programs for reducing priority crimes;
5. Allocate its own funds and staff resources in accordance with the crime goals, strategies, and programs chosen;
6. Maintain close working relationships with criminal justice and other public agencies to implement crime reduction goals and objectives; and
7. Assume responsibility for the effective evaluation of its planning and funding decisions, and the use of evaluation results to refine goals, strategies, and programs.

I. Officially Known Endorsements and Objections

This Standard provides an underlying theory for all criminal justice planning. It calls for setting priorities and objectives for reduction of crime, the selection and implementation of strategies, and the continued evaluation of programs. Moreover, this Standard suggests the overriding theme of criminal justice planning might be to reduce the incidence of crime in our society rather than analyze the criminal justice system.

The COUNCIL OF STATE GOVERNMENTS endorses, in general, effective state planning. The Council enumerates four objectives of planning that correspond with some of the recommendations set forth in this Standard.

> "1. Identify public goals and objectives and assist policy makers in their formulation.
> "2. Propose long-range plans to reach those goals and objectives.
> "3. Provide factual data, projections, and analysis to assist policy makers in the selection of programs and the establishment of priorities.
> "4. Look across the narrow functional program lines."[1]

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION (ICMA) also delineates five principles of planning that correspond with this Standard. The ICMA indicates that effective planning is achieved by defining objectives, setting priorities, developing action programs, implementing action programs and evaluating and revising the plans.[2] It appears that most planning principles have applicability to all problem areas, including the criminal justice system.

More specifically, the ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS has set out what the responsibilities are of a state planning agency in the criminal justice system. These responsibilities are to evaluate law enforcement problems, develop and coordinate programs, set priorities, encourage local planning and evaluate the total state effort.[3]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY (NCCD) recommends that plans be drawn up for conducting research in the criminal justice system in order to implement scientific and technological advances in law enforcement. Also, the NCCD feels that to apply research findings, strategies and programs should be developed.[4]

Feeling that a national strategy to reduce crime is needed rather than a state-by-state approach, the COMMITTEE FOR ECONOMIC DEVELOPMENT advocates that a federal agency be established. That agency should develop strategic plans and priorities, evaluate performance of ongoing programs, and provide advisory service to state and local agencies.[5] Another role of the federal agency would be to collect dependable and comprehensive data covering every aspect of criminal justice.[6]

The CHAMBER OF COMMERCE OF THE UNITED STATES in Marshaling Citizen Power Against Crime calls for the setting up of private committees to study the crime problem in each locality. The steps to be taken by each committee in planning for crime reduction are: 1) discover what the problems are, 2) select the problem areas most in need of remedial action, and 3) select and implement action programs to achieve the goal of crime reduction.[7] This procedure for private crime-oriented planning seems to parallel most recommendations for the public approach to the problem.

The NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS in 1972 set ten minimum standards for state planning agencies. Standard 10 sets forth the general responsibilities of a state planning agency with the goal being to "oversee the development of the State's annual criminal justice improvements plan."[8] This goal seems to fall into the trap alluded to in Standard 1.1; the emphasis is on "systems and planning" rather than crime reduction. However, in Standard 3 the NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS focuses on "Evaluation [of] whether the project or program accomplished its objective, in terms of either preventing, controlling or reducing crime or delinquency...."[9]

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[1]Council of State Governments, State Planning and Federal Grants (Chicago, IL: Public Administration Service, 1969), p. 23.

[2]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), pp. 241-42.

[3]Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System (Washington, DC: Government Printing Office, 1971), p. 245.

[4]National Council on Crime and Delinquency, Goals and Recommendations (New York, NY: National Council on Crime and Delinquency, 1967), pp. 34-36.

[5]Committee for Economic Development, Reducing Crime and Assuring Justice (New York, NY: Committee for Economic Development, 1972), pp. 69-71.

[6]Ibid.

[7]Chamber of Commerce of the United States, Marshaling Citizen Power Against Crime (Washington, DC: Chamber of Commerce of the United States, 1970), pp. 81-86.

[8]National Conference of State Criminal Justice Planning Administrators, Minimum Standards (Washington, DC: National Advisory Commission on Criminal Justice Standards and Goals—Criminal Justice System, 1973), p. 260.

[9]Ibid., at p. 259.

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Standard 1.2 IMPROVING THE LINKAGE BETWEEN PLANNING AND BUDGETING

State and local governments should develop mechanisms for introducing the analyses and recommendations of criminal justice planning agencies into their budgetary processes. These mechanisms may include formal integration of planning and budgeting efforts through program budgeting systems, the institution of planning and budgeting staff coordination procedures, and the development of detailed master plans for specific areas of criminal justice operations.

1. By 1978, State criminal justice planning agencies should develop a general system of multiyear planning that takes into account all funds directed to crime control activities within the State. This would include all sources of Federal funds; State, general, and capital funds; State subsidy funds to local government; local government funds; and private donations, endorsements, and contributions. Where available, the relevant State program budgeting format should be employed. Substate criminal justice planning agencies and councils should establish congruent and supportive systems of multiyear planning to those established by the State.

2. Planning and budgeting units should immediately adopt additional coordinating mechanisms such as joint staff teams on special problems and planning staff participation budget hearings.

3. Detailed "master plans" should be developed where appropriate for those specific areas of criminal justice operations that require forecasts of long-term problems and needs. Assuming continuous evaluation and update, such plans should serve as a basis for annual budgeting and appropriations decisions. Although either operating agencies or criminal justice planning agencies may provide and direct staff effort, both should be directly involved in the development of master plans.

I. Officially Known Endorsements and Objections

This Standard emphasizes the coordination of planning and budgeting operations. Planning agencies should develop master plans and multiyear plans based on the total projected amount of funding. More specifically, agencies should adopt program budgeting systems as a means of building recommendations into the budgeting operation.

National organizations that comment on criminal justice planning seem to ignore the budgeting aspect of planning. The only straight forward endorsements of a close link between planning and budgeting come from groups concerned with governmental planning in general.

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION (ICMA) recommends that planning agencies be placed under the general supervision of the chief budget officer. This is because "...the budget officer should be the principal administrative planning aide..., coordinating the studies and recommendations of the analysis and planning staff with the fiscal and operating aspects of programming and budgeting."[1] The ICMA also endorses the adoption of a Planning-Programming-Budgeting System (PPBS).[2] PPBS is a relatively new concept which is an effort to link planning (determining agency goals and purposes) and budgeting (assigning financial resources) through programs. After objectives are accepted, programs to achieve the objectives are identified and implemented. Then they are analyzed in terms of the extent to which they are achieving the objective and with what effectiveness.[3] The purpose of the system is to subject the budget process to hard questions and intensive systematic analysis which should produce the most appropriate program mix to achieve community goals.[4]

The COUNCIL OF STATE GOVERNMENTS also speaks of the use of PPBS. It notes that many improvements in administration can be expected to flow from the use of PPBS but that "...it is unlikely that any single emphasis, approach or design will prove adequate to bring about quickly sophisticated management or planning in all state environments."[5] The Council notes, however, that PPBS is a step in the right direction and that improved coordination between planning and budgeting is essential.[6]



The COMMITTEE ON STATE PLANNING OF THE NATIONAL GOVERNORS' CONFERENCE in 1967 recognized the importance of budgetary considerations in state planning. It recommended that planning and research agencies set up to report to the governor, or the legislature should determine the cost of all alternatives when developing goals and strategies.[7]

II. Special Considerations

In a "Planning Advisory Service Report" published by the AMERICAN SOCIETY OF PLANNING OFFICIALS, the author characterizes planning and budgeting as "strange bedfellows" which must coexist under one roof. The need for competent planners to link the planning and budgeting functions is especially noted.[8]

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[1]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), p.289.

[2]Ibid., p. 370.

[3]Ibid., p. 371.

[4]Ibid.

[5]Council of State Governments, State Planning and Federal Grants (Chicago, IL: Public Administration Service, 1969), p. 22.

[6]Ibid.

[7]Ibid., p. 48.

[8]Mark Hoffman, Criminal Justice Planning (Chicago, IL: American Society of Planning Officials, 1972), p. 22.

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Standard 1.3 SETTING MINIMUM STATEWIDE STANDARDS FOR RECIPIENTS OF GRANTS AND SUBGRANTS

Every State criminal justice planning agency should establish minimum standards for making grants and subgrants from all funds under its control to criminal justice and related public and private agencies. Grants and subgrants to specific agencies should be contingent upon the agency's adoption of established minimum standards.

1. Standard-setting efforts should be limited to those human resources, physical resources, and management and operations requirements that are clearly essential to the achievement of the goals of the criminal justice system.

2. Where existing State bodies have established standards, such standards should be considered controlling, and State planning agencies should use them as minimum standards for funding.

3. Standards should be adopted by State criminal justice planning agencies only after a thorough effort has been made to notify all interested and affected parties and to solicit their opinions.

4. State criminal justice planning agencies in their standard-setting efforts should refer to and consider major national studies on standards, such as the National Advisory Commission on Criminal Justice Standards and Goals, and the standards of major professional associations.

5. Continuous evaluation of the usefulness of adopted standards in meeting established goals should be undertaken by every State planning agency.

I. Officially Known Endorsements and Objections

This Standard requires two steps to be taken by state planning agencies: (1) establish minimum standards for the administration of criminal justice, and (2) condition grants to public and private agencies upon their adoption of those standards. There have been a few direct endorsements for this type of an approach; it represents a novel concept in criminal justice grant administration.

The Omnibus Crime Control and Safe Streets Act provided each state planning agency utilize 40% of all planning funds for local or regional use. No requirement of compliance to a set of minimum standards is required by the Act.[1] The ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (ACIR) appears to endorse the continuation of this "no strings attached" method of funding. The ACIR

> "...endorsed the manner in which subgrants are being distributed to counties, cities, and areawide bodies but urged that no state plan be approved unless the Law Enforcement Assistance Administration finds that it provides an adequate allocation of funds to areas of high crime incidence."[2]

Conspicuous by its absence is any requirement that the subgrantees adhere to a set of minimum standards.

The NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS, in setting out a recommendation for the expeditious flow of federal grants, also did not mention any contingency upon which the grants should depend.[3] The inference is that the organization is content with the "no strings attached" approach.

The strongest endorsement for the setting of minimum standards and the conditioning of the receipt of grants on compliance with the standards comes from the COMMITTEE FOR ECONOMIC DEVELOPMENT (CED). The CED sharply critizes the Law Enforcement Assistance Administration (LEAA) for its failure to define objectives and goals, to prescribe priorities, and to enforce standards.[4] The CED recognizes the NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS as a "con-

structive" effort but claims it has "no real power."[5] The CED then recommends that a federal agency be established to promulgate criminal justice standards and to administer funds. Disbursement would be conditional upon fundamental reform at state and local levels along the lines of the standard set forth.[6]

Additionally, the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, in its 1967 report The Challenge of Crime in a Free Society, advocates the setting of minimum standards in at least one area of criminal justice. The Commission recommends:

> "Police standards commissions should be established in every state, and empowered to set mandatory requirements and to give financial aid to governmental units for the implementation of standards."[7]

II. Special Considerations

In the Planning Advisory Service Report put out by the AMERICAN SOCIETY OF PLANNING OFFICIALS, the author also attacks the LEAA for being "painfully slow in developing national standards, and the state planning agencies for being equally disappointing in their own right."[8] The report advocates the need for such standards and, thereafter, the need for rigid enforcement.[9]

The enforcement and compliance with accepted standards is a highly problematic subject area.

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[1]Mark Hoffman, Planning Advisory Service Report - Criminal Justice Planning (Chicago, IL: American Society of Planning Officials, 1972), p. 10.

[2]Advisory Commission on Intergovernmental Relations, State-Local Relations in Criminal Justice System (Washington, DC: Government Printing Office, 1971), pp. 245-46.

[3]National Conference of State Criminal Justice Planning Administrators, Minimum Standards (Washington, DC: National Advisory Commission on Criminal Justice Standards and Goals - Criminal Justice System (Washington, DC: Government Printing Office, 1973), p. 260.

[4]Committee for Economic Development, Reducing Crime and Assuring Justice (New York, NY : Committee for Economic Development, 1972), pp. 68-70.

[5]Ibid.

[6]Ibid.

[7]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 123.

[8]Mark Hoffman, Planning Advisory Service Report - Criminal Justice Planning (Chicago, IL: American Society of Planning Officials, 1972), p. 24.

[9]Ibid.

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Standard 1.4 DEVELOPING PLANNING CAPABILITIES

State and local governments should provide support for planning capabilities at the several major levels of decisionmaking: agency, local, and State.

1. States should, by statute, establish permanent State criminal justice planning agencies.

2. Cities and counties should establish criminal justice coordinating councils under the leadership of local chief executives.

3. Every city with a population over 250,000 and every county with a population over 500,000 should establish a criminal justice planning office with a minimum of one position for a professional planner to aid the chief executive and the Criminal Justice Coordinating Council (CJCC) in the development of priorities and programs for the jurisdiction.

4. Metropolitan cities and counties should be encouraged to consolidate criminal justice planning operations, and should not be penalized for doing so through restrictions of funds or loss of representation on State criminal justice policy boards.

5. Large and medium-sized operating agencies of law enforcement and criminal justice should establish separate planning sections. In smaller agencies, the performance of the planning function should be done either by the senior executive or by staff on a part-time basis.

6. The administration of grants should be subordinate to planning efforts at all levels and should not be permitted to dominate agency operations.

7. Planners at all levels should be placed on the staff of the chief executive and should have open and free access to him.

I. Officially Known Endorsements and Objections

The main thrust of this Standard is that at the state level a permanent planning agency should be established by legislation; that at the local level a criminal justice coordinating council should be established; and that at all levels criminal justice planning should be conducted in an efficient and coordinated manner. Although there is substantial agreement on the need for criminal justice planning, the organization for that planning has sometimes come under attack.



The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE in 1967 called for the establishment of a planning agency in every city and state.[1] As a result, in 1968 the Omnibus Crime Control and Safe Streets Act provided federal money to be funneled to the states under the Law Enforcement Assistance Administration. This block grant of federal money was conditioned on the state formulating a comprehensive plan for use of the funds. The state planning agency, in turn, was obligated to provide 40 percent of all planning funds to local or regional use.[2] Such a scheme for planning has received both endorsements and objections.

The ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (ACIR) endorses the present system for criminal justice planning, but recommends that more emphasis be put on the development of local criminal justice coordinating councils.[3] The ACIR recommends that the state legislature create a permanent committee to provide continuing study and review of the criminal justice system. Also, a heavy emphasis is put on coordination of all criminal justice planning.[4] Although the ACIR argues that local criminal justice planning should be emphasized, it contends that the work of regional planning agencies can supplement local councils and, therefore, the existence of both is warranted.[5]

The COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE strongly urges state planning agencies take the lead in criminal justice planning and establish full-time criminal justice offices in major metropolitan areas.[6] Coordination with all other planning agencies is also recommended.

Standards prepared by the NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS emphasize a strong, permanent state planning agency with the bulk of its time being spent on planning rather than grant administration.[7]

The COMMITTEE FOR ECONOMIC DEVELOPMENT (CED) in its report Reducing Crime and Assuring Justice came out strongly against the existence of planning through permanent state agencies. The Committee doubted the ability of the state agencies to administer federal grants and critized the use of state agencies to funnel money to local governments.[8] The CED recommends that a federal "super-agency" be established to administer all criminal justice programs and to set and enforce criminal justice standards.[9]

The COUNCIL OF STATE GOVERNMENTS, on the other hand, recommends a reduction of federal dictates in the administration of planning programs. The Council would allow each state to organize in the way that it determines is most efficient.[10]

In its Survey of Criminal Justice Planning, the NATIONAL LEAGUE OF CITIES AND U.S. CONFERENCE OF MAYORS observed that dividing responsibility for criminal justice planning created a tremendous barrier to unified, coordinated planning.[11] The Survey specifically noticed that planning was less effective where there existed a local planning unit and a regional planning unit covering the same geographic area.[12] These findings could be viewed as implying a need for more centralized planning at either the state or federal level.

Finally, the management series of the INTERNATIONAL CITY MANAGEMENT ASSOCIATION entitled Managing the Modern City recommends some general structure for all urban planning. The agency should be essentially a managerial one with a single head rather than an administrative board or commission. However, liberal use should be made of advisory committees; furthermore, the budget officer should be the principal administrative planning aide.[13]

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[1]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 280.

[2]Mark Hoffman, Criminal Justice Planning (Chicago, IL: American Society of Planning Officials, 1972), p. 7-8.

[3]Advisory Commission on Intergovernmental Relations, State-Local Relations in Criminal Justice System (Washington, DC: Government Printing Office, 1971), p. 63.

[4]Ibid., p. 64.

[5]Ibid., p. 63.

[6]Ibid., p. 249.

[7]National Conference of State Criminal Justice Planning Administrators, Minimum Standards (Washington, DC: National Advisory Commission on Criminal Justice Standards and Goals; Criminal Justice System, 1973), p. 260.

[8]Committee for Economic Development, Reducing Crime and Assuring Justice (New York, NY: Committee for Economic Development, 1972), pp. 68-70.

[9]Ibid.

[10]The Council of State Governments, State Planning and Federal Grants (Chicago, IL: Public Administration Service, 1969), p. 43.

[11]National League of Cities and United States Conference of Mayors, Survey of Local Criminal Justice Planning (Washington, DC: National League of Cities and United States Conference of Mayors, 1973), p. 8.

[12]Ibid.

[13]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), pp. 289-290.

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Standard 1.5 PARTICIPATION IN THE PLANNING PROCESS

Criminal justice planning agencies and coordinating councils should seek the participation of criminal justice operating agencies, governmental departments, and private citizens and groups in the planning process. Coordinating mechanisms include the following:

1. Where supervisory boards are established for planning agencies, at least one-third of their membership should be from non-criminal-justice agencies and private citizens. Meetings of boards should be publicized and open to the public.

2. Criminal justice planning agencies and councils should request direct written communication from operating agencies to assist them in defining the jurisdiction's needs, problems, and priorities.

3. The results of planning agency studies and activities should be communicated through the public dissemination of planning documents, newsletters, sponsorship of intergovernmental conferences, and formal and informal briefings.

4. Temporary exchanges of personnel between criminal justice planning agencies and councils — and operating agencies—should be undertaken on a regularized basis.

I. Officially Known Endorsements and Objections

This Standard calls for the assimilation of three major groups into the criminal justice planning process: 1) criminal justice operating agencies, 2) governmental departments and 3) private citizens. It also suggests three means of assimilation: 1) establish one-third membership of supervisory boards from private citizens or governmental agencies, 2) communicate ideas and studies to the public and open up the lines for an interchange of ideas and 3) establish temporary exchanges of personnel between criminal justice planning agencies and councils.

The LAW ENFORCEMENT ASSISTANCE ADMINISTRATION (LEAA) has established guidelines for the balanced representation requirement on the supervisory boards of state planning agencies. To meet these guidelines the boards

> "...must include representation from State law enforcement agencies; elected policy-making or executive officials of units of general local government; law enforcement officials or administrators from local units of government; each major law enforcement function - police, corrections and court systems, plus, where appropriate, representation identified with the Act's special emphasis areas, such as organized crime and riots and civil disorders; the juvenile delinquency and adult crime control fields; and community or citizen interests."[1]

This Standard indicates that a 1971 internal LEAA survey showed that 22 states had over one-third of their board membership from non-criminal justice sources.

Notwithstanding the survey of the 22 states, the representation on supervisory boards has been criticized. The NATIONAL URBAN COALITION has charged that state planning agencies suffer from an across-the-board shortage of representatives from public and private social service agencies as well as from citizen and community interests.[2] They recommend that the board include individuals who have been products of the system - parolees, reformed alcoholics and ex-convicts.[3]

The NATIONAL LEAGUE OF CITIES AND U.S. CONFERENCE OF MAYORS note that membership lacks elected local government officials.[4] Also, in a study published by the AMERICAN SOCIETY OF PLANNING OFFICIALS the author recognizes the lack of proper and suitable representation on regional and statewide boards. He argues for a careful mix of criminal justice professionals, elected officials, minority representatives, laymen, ex-convicts, and other groups.[5]

Several groups endorse, in general, the concept of balanced representation on supervisory boards. The UNITED STATES CHAMBER OF COMMERCE recommends that:

> "...membership on, or participation with, the criminal justice committee or task force that is ultimately established by the organization should include those representing a cross-section of the citizen leadership of the communities within the designated region."[6]

The ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS endorses the present representation on supervisory boards saying that the representation is balanced and that local governments are adequately represented.[7]

Several other organizations, while not directly addressing the representation on supervisory boards, endorse citizen participation, the exchange of ideas, and interchange of personnel. The COMMITTEE FOR ECONOMIC DEVELOPMENT has encouraged businessmen not only to seek membership on criminal justice planning boards, but also to provide input of ideas and facts into the system. A high level of communication between the private sector and planning agencies should be maintained.[8] The ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS encourages the day-to-day exchange of ideas with the public including discussion of common problems and encouragement of joint ventures and studies.[9]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE recommends the participation of industry, religious institutions and other private groups. Each of these organizations can provide help by offering their special expertise in the fight against crime.[10]

Finally, the INTERNATIONAL CITY MANAGEMENT ASSOCIATION points out that a planning agency should serve as a clearinghouse for all the analysis and planning done by other agencies, private groups and governmental departments. Advisory committees should be set up to aid the planning process.[11] Also, a public relations campaign should be started so as to disseminate information to the public and thereby stimulate response.[12]

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[1]Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System (Washington, DC: Government Printing Office, 1971), p. 245.

[2]National Urban Coalition, Law and Disorder II: State Planning Under Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Washington, DC: National Urban Coalition, 1970), p. 5.

[3]Ibid.

[4]National League of Cities and U.S. Conference of Mayors, Survey of Local Criminal Justice Planning (Washington, DC: National League of Cities and U.S. Conference of Mayors, 1973), p. 10.

[5]Mark Hoffman, Criminal Justice Planning (Chicago, IL: American Society of Planning Officials, 1972), p. 22.

[6]United States Chamber of Commerce, Marshaling Citizen Power Against Crime (Washington, DC: United States Chamber of Commerce, 1970), p. 78.

[7]Advisory Commission on Intergovernmental Relations, Making the Safe Streets Act Work (Washington, DC: Government Printing Office, 1970), p. viii.

[8]Committee for Economic Development, Reducing Crime and Assuring Justice (New York, NY: Committee for Economic Development, 1972), p. 63.

[9]Advisory Commission on Intergovernmental Relations, State-Local Relations, p. 246.

[10]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), pp. 289-90.

[11]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), p. 289.

[12]Ibid., p. 377.

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Recommendation 1.1 FEDERAL CRIMINAL JUSTICE PLANNING

Although this report has concentrated upon standards for State and local agencies, the Commission recognizes that Federal, State, and local efforts are inextricably linked. The Commission urges the Federal Government to apply, where appropriate, the principles contained in the standards previously discussed.

Recommendation 1.1 urges the federal government to apply the Standards of Chapter 1. Inasmuch as it calls only for federal action, it does not directly concern agencies within Ohio and is, therefore, beyond the scope of this project.

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# CHAPTER 2 - REQUIREMENTS FOR CRIMINAL JUSTICE INFORMATION

This Chapter contains no Standards.

## CHAPTER 3 - JURISDICTIONAL RESPONSIBILITY

### Standard 3.1 COORDINATION OF INFORMATION SYSTEMS DEVELOPMENT

Each State should create an organizational structure for coordinating the development of information systems and for making maximum use of collected data in support of criminal justice management by taking the following steps:

1. Establish a criminal justice information planning and analysis unit that will coordinate the development of an integrated network of information systems in the State and will satisfy information needs of management decisionmaking for State and local criminal justice agencies as well as satisfying established Federal requirements for information.

2. While making provisions for continued review and refinement, prepare a master plan for the development of an integrated network of criminal justice information systems (including the production of data needed for statistical purposes) specifying organizational roles and timetables.

3. Provide technical assistance and training to all jurisdiction levels and agencies in data collection methods, system concept development, and related areas.

4. Arrange for system audit and inspection to insure the maintenance of maximum quality in each operating system.

I. Officially Known Endorsements and Objections

This broad, vaguely-defined Standard sets the general outline for a major, centralized information system to be shared by the various components of the criminal justice system (courts, corrections, police). An unstated but implicit portion of the recommendation is that the system is computer-based. This Standard, being quite general, is detailed portion by portion in Chapters 4-11 of the Criminal Justice System. While this paper will deal only with similarly broad statements about the need for an information system, later Standards will discuss sub-points more fully.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE has spoken extensively about the need for the type of information system recommended in this Standard. In the overview volume The Challenge of Crime in a Free Society, the Commission suggests that:

> An integrated national information system is needed to serve the combined needs at the National, State, regional and metropolitan or county levels of the police, courts, and correction agencies, and of the public and the research community.[1]

While this particular portion speaks of the need for a national system, other references suggest that many information system activities are best performed at other levels. When a function is best performed at the state level, the state should have primary responsibilities for that function.[2]

In addition to the recommendations in the master volume, several of the Task Force reports for the Commission, especially those on police, courts, science and technology and corrections have recommendations calling for a centralized information system. The Task Force Report: Science and Technology most extensively discusses this issue. The Task Force suggested that

> "criminal justice could benefit dramatically from computer-based information systems, and the development of a network designed specifically for its operations could start immediately."[3]

The report went on to suggest guidelines for such a system.[4]

An early response to The Challenge of Crime in a Free Society came from the NATIONAL COUNCIL ON CRIME AND DELINQUENCY (NCCD). In the organization's Goals and Recommendations, wholehearted endorsement was given to the development of "an integrated national information system" to meet the needs of criminal justice agencies. The NCCD said states should play an important, although subsidiary, role in the management of such a system.[5]

Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) is a federally-funded, interstate group committed to investigating criminal justice information systems and recommending standards for development of those systems. As would be expected they strongly support the creation of such systems; also they suggest the state is often the best level for such activity.[6] Further, the project goes on to suggest necessary tools for a state to effectively run an information system. These include power over technical standards[7] and rigorous quality control of data in the system.[8]

The NATIONAL GOVERNORS'CONFERENCE 1972, passed the following resolution which, while lacking in detail, includes most functions included in this Standard. The state should provide for:

> Development of mandatory statistical data collection and analysis for all components of the criminal justice system including police administration, court caseload, correctional data, and expenditures by state and local governments for criminal justice institutions.[9]

A final recommendation in this area is the AMERICAN BAR ASSOCIATION's (ABA) Uniform Criminal Statistics Act. In this suggested legislation, the ABA suggests that each state create a Bureau of Criminal Statistics responsible for collection

of criminal justice data from all agencies. The Bureau would have responsibility for tabulating, analyzing, and interpreting this data. The Bureau is given the power to audit the information-gathering process and to set standards on the level and quality of information produced in each agency.[10] This recommendation assigns to this Bureau only some of the information system functions recommended by the Standard. Nonetheless, the powers given to the Bureau match those suggested by the Standard.

It should be especially noted that this ABA recommendation was passed in 1946. However, Project SEARCH, probably the most recent and authoritative body in this field, suggests that it is completely appropriate to our time.

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[1]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 267.

[2]Ibid., pp. 266-8.

[3]President's Commission, Task Force Report: Science and Technology, p. 68.

[4]Ibid., pp. 68-79.

[5]National Council on Crime and Delinquency, Goals and Recommendations: Response to Challenge of Crime in a Free Society (Washington, DC: National Council on Crime and Delinqency, 1968), pp. 3-4.

[6]Project SEARCH, Technical Report #3, Designing Statewide Criminal Justice Statistics Systems - The Demonstration of a Prototype (Sacramento, CA: Crime Technological Research Foundation, 1970), p. I-104.

[7]Ibid., p. 5-2.

[8]Ibid., pp. 5-4.

[9]National Governors' Conference, 1972, Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. X-130.

[10]American Bar Association, Model Crime Statistics Act, in Project SEARCH, Technical Report #3, p. A1-A19.

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Standard 3.2 STATE ROLE IN CRIMINAL JUSTICE INFORMATION AND STATISTICS

Each State should establish a criminal justice information system that provides the following services:

1. On-line files fulfilling a common need of all criminal justice agencies, including wanted persons (felony and misdemeanor), and identifiable stolen items;

2. Computerized criminal history files for persons arrested for an NCIC-qualified offense, with on-line availability of at least a summary of criminal activity and current status of offenders;

3. Access by computer interface to vehicle and driver files, if computerized and maintained separately by another State agency;

4. A high-speed interface with NCIC providing access to all NCIC files;

5. All necessary telecommunications media and terminals for providing access to local users, either by computer-to-computer interface or direct terminal access;

6. The computerized switching of agency-to-agency messages for all intrastate users and routing (formating) of messages to and from qualified agencies in other States;

7. The collection, processing, and reporting of Uniform Crime Reports (UCR) from all law enforcement agencies in the State with report generation for the Federal Government agencies, appropriate State agencies, and contributors;

8. In conjunction with criminal history files, the collection and storage of additional data elements and other features to support offender-based transaction statistics;

9. Entry and updating of data to a national index of criminal offenders as envisioned in the NCIC Computerized Criminal History files; and

10. Reporting offender-based transaction statistics to the Federal Government.

I. Officially Known Endorsements and Objections

Standard 3.1 broadly specifies that each state should develop a criminal justice information system, and defines the character of that system. The Standard recommends that each state should develop a criminal justice information system that provides a single data source (implicitly computer based) for such information as is necessary for the operation of more than one criminal justice agency. The state system should also coordinate with a national and/or regional system in sharing such data as may be useful. Broad categories of these data include some state administration files, criminal case histories, and those additional data necessary to develop a comprehensive criminal justice statistics system. Each standard in the subsequent chapters details each point more fully.

This is an extremely broad Standard. Few organizations have called for so broad a set of activities to be assigned to a criminal justice information system; typically each organization recommends that part of the system most closely aligned to their interests.

One group speaking broadly and inclusively in recommending the requirements of this system is the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE. While it speaks primarily of a national system which, for optimal efficiency, should be administratively centered at the state and local level, there would be no major difference in the actual operation of the two systems. The Commission duplicates the Standard in suggesting that such an information system should provide instant access to state files, such as car registration, retain unified criminal case histories for all criminal justice agencies, and considerable information on incidents in the criminal justice system that would serve as a basis for research.[1] These recommendations are more fully developed in the Task Force Report: Science and Technology.[2]

Another group makes suggestions in the area of criminal justice information systems that correlate with the Standard; Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) is especially concerned with information systems applications in criminal justice. A series of recent publications detail their recommendations for criminal justice information systems. They also recommend comprehensive state-run criminal justice information systems that interface with a national system and with each other. They have a heavy emphasis on a coordinated system between different components of the criminal justice system. This coordinated information system is especially designed for statistical analysis, but the project recognizes that comprehensive and accurate criminal case histories are required to develop the desired statistical data.[3] The project says little about tie-ins with state administrative files.

Other groups are less broad in their recommendations. The NATIONAL COUNCIL ON CRIME AND DELINQUENCY makes several recommendations in their 1967 publication Goals and Recommendations: A Response to The Challenge of Crime in a Free Society. These recommendations, however, revolve around the concept of better crime reporting and statistical analysis; the emphasis is primarily on a national system, although they specify that some functions should be dealt with at the state level.[4]

The 1972 NATIONAL GOVERNORS' CONFERENCE calls for an exhaustive criminal justice information system in each state, with a statistics analysis capability as a critical part of the system. Other capabilities they call for should meet the working needs of various criminal justice agencies. Thus by implication the system is envisioned as more than just a statistics system and would presumably include other key points recommended in this Standard.[5]

Several groups interested in corrections make recommendations for corrections information systems that would tie into broader informations systems. An example of such a group is the ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS. The Commission recommends that the state Department of Corrections carry out full research and statistics analysis on those activities which concern the department. They also should retain full criminal case histories and records of behavior on all offenders. Thus, from the perspective of corrections, some recommendations partially aligned with the Standard can be seen.

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[1]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), pp. 266-269.

[2]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), pp. 68-80.

[3]Project SEARCH, Technical Report #3: Designing Statewide Criminal Justice Statistics Systems - The Demonstration of a Prototype (Sacramento, CA: Crime Technological Research Foundation, 1970), passim.

[4]National Council on Crime and Delinquency, Goals and Recommendations: A Response to "The Challenge of Crime in a Free Society" (New York, NY: National Council on Crime and Delinquency, 1960), pp. 3-4, 23, 36.

[5]National Governors' Conference, 1972 in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. X-130.

[6]Advisory Commission on Intergovernmental Relations, "State Department of Correction Act," in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. I-15-16.

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Standard 3.3 LOCAL CRIMINAL JUSTICE INFORMATION SYSTEMS

Every locality should be serviced by a local criminal justice information system which supports the needs of criminal justice agencies.

1. The local criminal justice information system (LCJIS) as defined in the commentary should contain information concerning every person arrested within that locality from the time of arrest until no further criminal justice transactions can be expected within the locality concerning that arrest.

2. The LCJIS should contain a record of every local agency transaction pertaining to a criminal offense concerning such persons, the reason for the transaction, and the result of each such transaction. A transaction is defined as a formal and public activity of a criminal justice agency, the results of which are a matter

of a public record.

3. The LCJIS should contain the present criminal justice status for each individual under the cognizance of criminal justice agencies.

4. The LCJIS should provide prompt response to inquiries from criminal justice agencies that have provided information to the data base of LCJIS.

5. If the LCJIS covers a geographical area containing contiguous jurisdictions, it should provide investigative field support to police agencies within this total area.

6. LCJIS should provide a master name index of persons of interest to the criminal justice agencies in its jurisdiction. This index should include identifying information concerning persons within the locality under the cognizance of criminal justice agencies.

7. The LCJIS should provide to the proper State agencies all information concerning post-arrest offender statistical data as required.

8. The LCJIS should provide to the proper State agencies all post-arrest data necessary to maintain a current criminal history record on persons arrested and processed within a locality.

9. If automated, LCJIS should provide telecommunications interface between the State CJIS and criminal justice agencies within its locality.

I. Status in Ohio

In Ohio, the Administration of Justice Division (AJD) is developing a statewide criminal justice system, and has addressed the issue of how the local criminal justice systems should be structured.[1] AJD's requirements for the local subsystem are in accord with Standard 3.3.

II. Background

AJD has specified that any local or regional efforts must not duplicate the state's efforts in the development of the Comprehensive Criminal Histories (CCH) and Offender-Based Tracking System (OBTS). However, the local subsystem must furnish data to the State's CCH and OBTS. In furnishing this information to the state, the locality insures that this information is available not only to itself, but also to other localities, the state, and the National Crime Information Center.[2] In terms of Standard 3.3, all necessary information is available to the locality.

In regard to users of the system, in order to effectuate the State CCH and OBTS, informational input is necessary from all criminal justice agencies within a locality (i.e., police, courts, corrections). Standard 3.3 requires that access to the LCJIS be given to all agencies which have provided information to the data base. Thus, because all agencies contributed to the data base, these agencies are assured of access. The requirement of a master name index presents no problem; development of an appropriate software program could elicit this information which is already stored in the data bank.

Standard 3.3 specifies that the LCJIS should be capable of providing investigative field support to the police. The LCJIS will have the information needed (such as warrants outstanding, parole status, bail status) to assist police in their investigation and decision making in the field. Problems in this area will be in terms of adequate police capability to obtain the information. That is, the police in the field must have access to a line and terminal that links to the information system. Rather than being a consideration of the LCJIS, this is within the province of the law enforcement agencies, and necessitates improvement of radio communications.

Finally, AJD has mandated that local information systems must be capable of interfacing with the state system.[3]

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[1]Directives For Criminal Justice Planning FY 1974 (Columbus, OH: Administration of Justice Division, 1973), p. 42.

[2]Ibid.

[3]Ibid.

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Standard 3.4 CRIMINAL JUSTICE COMPONENT INFORMATION SYSTEMS

Every component agency of the criminal justice system (police, courts, corrections) should be served by an information system which supports its intraagency needs.

1. The component information system (CIS) should provide the rationale for the internal allocation of personnel and other resources of the agency.

2. The CIS should provide a rational basis for scheduling of events, cases, and transactions within the agency.

3. The CIS should provide the agency administrator with clear indications of changes in workload and workload composition, and provide the means of distinguishing between short-term variations (e.g., seasonal variations) and long-term trends.

4. The CIS should provide data required for the proper functioning of other systems as appropriate, and should retain only that data required for its own specific purposes.

5. The CIS should provide the interface between LCJIS and individual users within its own agency. This interface provision should include telecommunications facilities as necessary.

6. The CIS should create and provide access to files needed by its users that are not provided by the State or local criminal justice information systems to which it is interfaced.

7. The CIS should support the conduct of research and program evaluation to serve agency managers.

I. Officially Known Endorsements and Objections

This Standard suggests that every component agency (police, courts, corrections) of the criminal justice system should be served by an information system which supports its unique intra-agency needs. Such a system would facilitate those activities which support the agency mission but are not reasonably handled by a regional or state information system. Often such systems fall into the "management information" category.

There are two levels at which this Standard is supported. The first level is that of a broad, general statement suggesting that diverse agencies each need their own supporting information system. The second level is that of a series of recommendations saying that for particular types of component agencies, e.g., police, certain functions should be supported by an information system unique to the agency. In both types of recommendations, the use of computers is implied where such computers are cost-effective.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE is the primary group that speaks on all agencies generally. The Task Force on Science and Technology most clearly addresses this subject. They suggest:

> The basic criminal justice operations occur at the local level, and computers can help managers in their day-to-day decisions. Since these functions vary so widely, it is difficult to describe in complete detail specific systems that would be applicable to more than a few localities.[1]

They go on to detail specific tasks that do not need to be centralized, but will help an agency to function more effectively. They emphasize that, "even where there is a state system, certain routine tasks might be implemented locally."[2]

Most other statements in this area suggest ways in which information systems can provide management information for particular agency activities. The Science and Technology Task Force, for example, suggests that police,[3] courts,[4] and corrections[5] each have activities that need not be centralized but by implication, would be much more effective if supported by computer.

Other groups echo this sentiment. Within the area of corrections, the AMERICAN CORRECTION ASSOCIATION (ACA), in its Manual of Correctional Standards, suggests that:

> "Electronic data processing equipment readily lends itself to the management function of controlling and accounting for equipment. Lists of equipment can be prepared with a minimum of effort through the use of a punched card-system."[6]

The ACA lists several other functions that might be facilitated in the same way.

Police have several activities, whose performance can be enhanced by a smooth, effective information system. The AMERICAN BAR ASSOCIATION (ABA), for example, in its Standards Relating to the Urban Police Function, talks of this problem. They suggest that systematic analysis of information and operations has led to a more efficient allocation of patrol strength, certainly a police activity.[7]

In the area of courts, an example of computer-based information system application is to be found in calendar management. The Special Committee on Electronic Data Retrieval, a committee of the ABA, suggests particular applications and guidelines for the application of information systems in this area.[8]

This is not an exhaustive account of endorsements for the suggestions of this Standard, but rather a selected group to indicate the strong consensus which exists regarding the merits of these suggestions.

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 77.

[2]Ibid., p. 74.

[3]Ibid., Task Force Report: Police, p. 57.

[4]Ibid., Task Force Report: Science and Technology, p. 78.

[5]Ibid., p. 77.

[6]American Correctional Association, Manual of Correctional Standards (Washington, DC: American Correctional Association, 1966), p. 203.

[7]American Bar Association, Standards Relating to the Urban Police Function (Chicago, IL: American Bar Association, 1972), p. 237.

[8]Special Committee on Electronic Data Retrieval, Computers and the Law, by Robert P. Bigelow, Chairman (Chicago, IL: American Bar Association, 1966), p. 72.

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## CHAPTER 4 - POLICE INFORMATION SYSTEMS

### Standard 4.1 POLICE INFORMATION SYSTEMS

Every police agency should have a well-defined information system. Proper functions of such a system include:

1. Dispatch information, including the generation of data describing the dispatch operation and data useful in the dispatching process;

2. Event information, including the generation and analysis of data on incidents and crimes;

3. Case information, including data needed during followup until police disposition of the case is completed;

4. Reporting and access to other systems which provide required data for operational or statistical purposes; and

5. Patrol or investigative support data not provided by external systems, such as misdemeanor want/warrant data, traffic and citation reporting, and local property data.

### I. Officially Known Endorsements and Objections

This Standard states that every police agency should have a multi-purpose, well-defined information system capable of providing the police department with information necessary for operations and management.

Information systems, as it is used in this Standard, implies the use of computers. Computers are not explicitly recommended because the Advisory Commission recognizes the obvious fiscal infeasibility of all criminal justice system units using computers. In some senses, therefore, the Standard can be discussed either in terms of formal, computer-based information systems or at the level of regularized procedures for processing data for such functions as record-retention or research.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE speaks extensively about the subject of this Standard. Some commentary from Task Force Report: Science and Technology follows:

> Criminal justice could benefit dramatically from computer-based information systems, and development of a network designed specifically for its operations could start immediately. Such systems can aid in the following functions:
>
> Police patrol.—Enabling a police officer to check rapidly the identification of people and property against a central "wanted" file.
>
> Crime investigation.—Providing a police officer or detective with supporting information files such as crime patterns, modus operandi, criminal associates, and perhaps in the future, the ability to match latent fingerprints from a crime scene against a central fingerprint file.
>
> Police deployment.—Altering police deployment in response to changing patterns of crime on an hourly, daily, seasonal or emergency basis.
>
> Budgeting.—Collecting uniform statistics on agency operations and workloads, providing a basis for estimating personnel needs and for optimum allocation of men and dollars.
>
> Research.—Providing a collection of anonymous criminal histories to find out how best to interrupt a developing criminal career and to achieve a better understanding of how to control crime.[1]

These suggestions are repeated in other volumes of the Commission's report.[2]

Other groups do not speak as specifically in regard to police information systems. The AMERICAN BAR ASSOCIATION, in its Standards Relating to the Urban Police Function emphasizes the role of the police research function as a tool to improve police service. As written, it closely ties in with the information system suggested in this Standard, although it is not as extensive.[3]

The 1972 NATIONAL GOVERNORS' CONFERENCE passed a recommendation relating to this Standard. They recommend that there be "mandatory statistical data collection and analysis for all components of the criminal justice system including police administration."[4] Again, this especially relates to the research activities of the information system.

Additionally, this Standard is similar to the recommendations of Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) for a statewide statistics and information system for criminal justice. Such a system would be especially helpful in the areas of research and quick data retrieval for criminal apprehension.[5]

The volume Municipal Police Administration, a publication of the INTERNATIONAL CITY MANAGEMENT ASSOCIATION, deals extensively with the need for, and structure of, an efficient police records system,[6] and in addition, the planning and research function based on those records.[7]

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[1] President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 68.

[2]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, p. 57, and The Challenge of Crime in a Free Society, pp. 266-268.

[3]American Bar Association, Standards Relating to the Urban Police Function (Chicago, IL: American Bar Association, 1972), pp. 236-238.

[4]National Governors' Conference, 1972, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. X-130.

[5]Project SEARCH, Technical Report #3: Designing Statewide Criminal Justice Statistics Systems-The Demonstration of a Prototype (Sacramento, CA: Crime Technological Research Foundation, 1970), p. V.

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Standard 4.2 CRIME ANALYSIS CAPABILITY

Every police department should improve its crime analysis capability by utilizing information provided by its information system within the department. Crime analysis may include the utilization of the following:

1. Methods of operation of individual criminals;
2. Pattern recognition;
3. Field interrogation and arrest data;
4. Crime report data;
5. Incident report information;
6. Dispatch information; and
7. Traffic reports, both accidents and citations.

These elements must be carefully screened for information that should be routinely recorded for crime analysis.

I. Officially Known Endorsements and Objections

The emphasis of this Standard is that police departments should regularly perform research activities. Even a regular analysis of the common police report data would greatly enhance police efficiency.

There is a wide consensus strongly supporting this Standard. It is quite generally believed that there has not been nearly enough research performed on basic crime patterns. An increase of research in this area should result in considerable dividends.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE speaks extensively on this topic. Generally, they emphasize the need for police research and suggest possible areas in which police research might be beneficial.[1] To allow specialized research in particular areas they recommend that each large department have a research unit.[2]

Several of the Commission's subcommittees also speak to this topic. One subcommittee, in Task Force Report: The Police, duplicates the Standard by calling for the analysis of common police data to identify problems.[3] The Task Force Report: Science and Technology also makes recommendations for particular computer applications to research.[4]

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION, in the volume Municipal Police Administration, has an extended section on research for police. They suggest several activities for police research:

> 1 Activity and Crime Analysis. A comprehensive review of time, incident, and location data of criminal actions to note such things as frequency, type, patterns, and so forth. This information can be used to lay out patrol patterns, to identify high crime areas, and to assist in identifying criminal suspects.[5]

Other groups make pertinent, but less detailed recommendations in this area. For example, the 1972 NATIONAL GOVERNORS' CONFERENCE, issued a concise series of recommendations on the criminal justice system. One of these dealt with crime data collection and analysis and the governors recommended that this kind of analysis be mandatory for all components of the criminal justice system, including police.[6]

Additionally, the AMERICAN BAR ASSOCIATION, in its Standards Relating to the Urban Police Function, says this about the growing trend in police research:

> Within the past decade, many police agencies have established planning and research units. These units have concerned themselves primarily with the allocation of police manpower, with the streamlining of record-keeping procedures, with the reorganization of operating units, and with the preparation of plans for the handling of major events. On the whole, they have made significant contribution toward improving the operating efficiency of police agencies.[7]

They go on to suggest that the role of police research units should be expanded to include not just research into the efficient means of accomplishing the given goal, but also some critical evaluation of those goals themselves.

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[1]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), pp. 166-8.

[2]Ibid., p. 275.



[3]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police (Washington, DC: Government Printing Office, 1967), p. 25.

[4]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 68.

[5]George D. and Esther M. Eastman, editors, Municipal Police Administration (Washington, DC: International City Management Association, 1969), p. 216.

[6]National Governors' Conference, 1972, Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. x-130.

[7]American Bar Association, Standards Relating to the Urban Police Function (Chicago, IL: American Bar Association, 1972), pp. 236-8.

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Standard 4.3 MANPOWER RESOURCE ALLOCATION AND CONTROL

Every police agency should develop a manpower resource allocation and control system that will support major efforts to:

1. Identify through empirical means the need for manpower within the department;
2. Provide planning for maximum utilization of available resources;
3. Provide information for the allocation and instruction of patrol officers and specialist officers; and
4. Provide for the evaluation of the adopted plan.

I. Officially Known Endorsements and Objections

This Standard suggests that every police agency should develop an empirically-based manpower resource allocation and control system that will maximize the effectiveness of the agency. Evaluation and adjustment of the manpower distribution should be routine, that is not infrequent.

Broad consensus exists regarding the recommendations of this Standard. The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE clearly supports the Standard. In The Challenge of Crime in a Free Society the Commission suggests that the new computer-based information systems should facilitate allocation of manpower. They say:

> "such systems can aid in the following functions: police deployment - altering police deployment in response to changing patterns of crime on an hourly, daily, seasonal, or emergency basis."[1]

Such alterations in deployment would enhance police efficiency.

A subcommittee of the President's Commission concurs with the Commission's view on manpower allocation. In their expanded discussion of this issue, they list "distributing available field officers according to the need for their services" as the first step toward maximum utilization of field personnel. They go on, then, to suggest some of the recent techniques for determining needs and, consequently, allocation of manpower.[2]

Approaching the issue slightly less directly is Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories). The emphasis of this group is on testing the degree to which computer based information systems can effectively be utilized in the criminal justice area. One of their views is that increased and rigorous statistical efforts will yield the most efficient allocation of resources; this would include allocation for such activities as workload.[3]

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION, in Municipal Police Administration calls for systematic research analysis by the police. The consequency of activity of this sort is:

> "information (which) can be used to lay out patrol patterns, to identify high crime areas and to assist in identifying criminal suspects."[4]

Finally the AMERICAN BAR ASSOCIATION in Standards Relating to the Urban Police Function states that each police department should have a research capacity to assist the administrator in systematically formulating and evaluating police policies and procedures. An important activity of this group, they suggest, should be allocation of police manpower.[5]

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[1]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 266.

[2]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police (Washington, DC: Government Printing Office, 1967), p. 52.

[3]Project SEARCH, Technical Report #3: Designing Statewide Criminal Justice Information Systems - The Demonstration of a Prototype (Sacramento, CA: California Crime Technological Research Foundation, 1970), p. I-4.

[4]George D. and Esther M. Eastman, eds., Municipal Police Administration (Washington, DC: International City Management Association, 1969), p. 216.

[5]American Bar Association, Standards Relating to the Urban Police Function (Chicago, IL: American Bar Association, 1972), p. 237.

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Standard 4.4 POLICE INFORMATION SYSTEM RESPONSE TIME

Information should be provided to users in sufficient time to affect the outcome of their decisions. The maximum allowable delay for information delivery, measured from initiation of the request to the delivery of a response, varies according to user type.

1. For users engaged in unpredictable field activity of high potential danger (e.g., vehicle stop) the maximum delay should be 120 seconds.

2. For users engaged in field activity without direct exposure to high potential danger (e.g., checking parked vehicles) the maximum delay should be 5 minutes.

3. For users engaged in investigatory activity without personal contact (e.g., developing suspect lists), the maximum delay should be 8 hours.

4. For users engaged in postapprehension identification and criminal history determinations, the maximum delay should be 4 hours.

I. Officially Known Endorsements and Objections

This Standard argues that key information should be provided to police in sufficient time to affect the outcome of their decisions. The maximum allowable delay for information delivery varies according to the type situation. Patrolmen, for example, need the quickest response.

This Standard does not mention the use of computers, but is meaningless apart from that obvious implication. Another detail of the Standard is that it specifies the maximum response time for various situations. No group has made such detailed recommendations; only one has even suggested vague time intervals.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE has addressed this concept directly. This is most evident in the Task Force Report: Science and Technology, where several pages detail a "response inquiry" system.[1]

The Task Force even recommends vague time maximums for information response to given circumstances. They suggest informational support for the patrolman should be available between a one to five minute maximum.[2] (The Standard recommends 120 seconds.) Other types of police activities, the Commission says, should receive information from centralized state, or national, files within hours or in a maximum of one or two days.[3]

The inquiry system is also discussed by the Task Force Report: The Police. It focuses on the need for such a system and its possible uses, rather than dealing with response times.[4] The full Commission also centers its attention at this level, discussing the need for, and possible uses of, information systems touching only briefly on response times for police.[5]

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION (ICMA), in its publication, Municipal Police Management, does not speak of computerized information systems, nor, consequently, information system response times. Yet the association's position can be inferred from the "Records and Communications" chapter; it emphasizes the way in which speed of communication can enhance police effectiveness.[6] Tied in with this, is the need for well-defined information storage and processing, procedures. Without this, it is suggested, information will take increasingly longer periods to retrieve and use, reducing departmental efficiency.[7] In a concluding paragraph the ICMA speaks quite favorably of the development of centralized computer information systems as an informational aid to the resolution of problems in police functions. Such centralized systems would make more information available, and make it available more quickly.[8]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), pp. 71-74.

[2]Ibid., p. 71.

[3]Ibid., p. 72.

[4]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police (Washington, DC: Government Printing Office, 1967), p. 57.

[5]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), pp. 266-9.

[6]George D. and Esther Eastman, eds. Municipal Police Administration (Washington, DC: International City Management Association, 1969), p. 250.

[7]Ibid., p. 265.

[8]Ibid., p. 274.

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Standard 4.5 UCR PARTICIPATION

Every police agency should, as a minimum, participate fully in the Uniform Crime Reporting program.

I. Officially Known Endorsements and Objections

The emphasis of this Standard ("Every police agency should, as a minimum, participate fully in the Uniform Crime Reporting system") is that if a police agency participates in no other statistics reporting system, they should at least participate in this very minimal system. Obviously any group recommending participation in a broader, more comprehensive statistics information system would at the same time be encompassing the goal of this Standard.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE makes two recommendations which match this Standard. First, the Commission recommends statistical reporting and a criminal justice information system that tie in closely with the Federal Bureau of Investigation Uniform Crime Reports.[1] More importantly, they make strong recommendations for the development of a complete, more detailed information system for criminal justice that would be far superior to the Uniform Crime Reports.[2]

The FBI did not develop the Uniform Crime Report program independently. Indeed, it was done originally by the International Association of Chiefs of Police. While it cannot be assumed that they suggest requiring participation, it seems likely that they would strongly encourage such participation.[3]

As suggested above, no other group specifically recommends participation in the Uniform Crime Report. Several, however, do recommend universal participation in a more comprehensive statistics system. Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories), for example, details several pages of information that should be required in a minimum criminal justice information system.[4]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY makes several recommendations to "promote uniform procedures for comprehensive crime reporting," including "mandatory uniform reporting within the states."[5]

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[1]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), pp. 286-287.

[2]Ibid., pp. 267-269.

[3]Federal Bureau of Investigation, Uniform Crime Reporting Handbook (Washington, DC: Government Printing Office, 1966), p. 1.

[4]Project SEARCH, Technical Report #4: Implementing Statewide Criminal Justice Systems - The Model and Implementation Environment (Sacramento, CA: Crime Technological Research Foundation, 1972), pp. 16-25.

[5]National Council on Crime and Delinquency, Goals and Recommendations: A Response to "The Challenge of Crime in a Free Society" (New York, NY: National Council on Crime and Delinquency, 1967), p. 1.

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Standard 4.6 EXPANDED CRIME DATA

For use at the local level, or for State and regional planning evaluation, data collected concerning an incident regarded as a crime should include as a minimum:

1. Incident definition, including criminal statute violated and UCR offense classification;
2. Time, including time of day, day of week, month, and year;
3. Location, including coded geographical location and type of location;
4. Incident characteristics, including type of weapon used, method of entry (if applicable), and degree of intimidation or force used;
5. Incident consequences, including type and value of property stolen, destroyed, or recovered, and personal injury suffered;
6. Offender characteristics (each offender), including relationship to victim, age, race, sex, residency, prior criminal record, criminal justice status (on parole, etc.), employment and educational status, apparent intent, and alcohol/narcotics usage history;
7. Type of arrest (on view, etc.); and
8. Witnesses and evidence.

The data should be obtained at least for murder, forcible rape, robbery, aggravated assault, and burglary (both residential and commercial).

I. Status in Ohio

Given the diversity of data suggested by this Standard, it is not surprising that there is great variation in the extent to which these elements are, or will be, implemented in the Ohio Criminal Justice Information System (CJIS). The Ohio CJIS, fully operative by 1975,[1] will have data elements sufficient to guarantee the availability of elements one and most of element six.

Most of the other elements suggested are items that would normally appear on some written report in the criminal justice system. Both the time and place of an incident should be in the initial police investigation; police typically include incident characteristics in their investigation. Certainly the prosecutor knows the witnesses and evidence. As for the type of arrest, if not regularly gathered such data could easily be accumulated.

Since most of the suggested data are available in Ohio (and in most parts of the nation), the critical portion of the Standard is the ready accessibility of this data for research and planning.

II. Avenues and Costs of Implementation

While the implicit thrust of the standards in Chapter 4 is the computerization of various criminal justice tasks, research could be accomplished without computers.

Several basic police textbooks suggest forms

and procedures which, if followed consistently, will gather, process, and group the data suggested in the Standard for easy analysis. Examples are V.A. Leonard's The Police Records System,[2] O. W. Wilson's Police Administration,[3] and Wilson's Police Records and Their Installation.[4] Adopting one of the systems outlined in these works would not necessarily involve significant costs. The only cost would be that of adapting present records to the new format.

Some police departments choose to develop their own forms and procedures in light of their own analysis of data requirements. Often this is done through systems analysis, hoping to increase efficiency of data processing and accuracy of data collection. Recent studies of this type have invariably been connected with the computerization of several police functions.

Cincinnati and Kansas City, Missouri are recent examples of two agencies in which both the report forms and the processing of those forms have been revamped as part of a new computer package. It is impossible to isolate the cost of the form changes from cost of the entire computer package.[5] In both cases the systems are considered exemplary, both generally and more specifically in terms of research capacity. Both systems are several million dollar projects.

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[1]Administration of Justice Division, Toward a Safer More Just Society: Ohio's 1974 Comprehensive Criminal Justice Plan (Columbus, OH: Administration of Justice Division, 1973), p. D-90.

[2]V. A. Leonard, The Police Records System (Springfield, IL: Thomas, 1970).

[3]O. W. Wilson and Roy C. McLaren, Police Administration 3rd Ed. (New York, NY: McGraw-Hill, 1972).

[4]O. W. Wilson, Police Records and Their Installation (Public Administration Service, 1951).

[5]Law Enforcement Assistance Administration, Directory of Automated Criminal Justice Information Systems (Washington, DC: Government Printing Office, 1973), pp. 434-609.

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Standard 4.7 QUALITY CONTROL OF CRIME DATA

Every police agency should make provision for an independent audit of incident and arrest reporting. The audit should verify that:

1. Crime reports are being generated when appropriate;
2. Incidents are being properly classified; and
3. Reports are being properly prepared and submitted.

To establish an "audit trail" and to provide the basic documentation needed by management, the following key characteristics or records should be adopted:

1. The police response made to every call for police service should be recorded, regardless of whether a unit is dispatched. Dispatch records should be numbered and timed; if the service leads to a complaint, the complaint should be registered on a numbered crime report, and that number also be shown on the dispatch record.

2. All dispatches should be recorded, indicating time of dispatch and arrival on scene.

3. Dispatch records should show the field unit disposition of the event, and should be numbered in such a way as to link dispatches to arrest reports or other event disposition reports.

4. All self-initiated calls should be recorded in the same manner as citizen calls for service.

I. Officially Known Endorsements and Objections

This Standard suggests that every police agency should make provision for an independent audit of incident and arrest reporting. The audit should first verify that crime reports are being generated when appropriate and then that the data supplied to the information system are both accurate and adequate.

This rather common concept in accounting and information science has only infrequently been suggested to have direct applicability to the criminal justice system, at least by official groups. One group that has done so is the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE. They suggest, in Task Force Report: Science and Technology, the need to guarantee the accuracy of data in the criminal justice system. They suggest that a regular monthly audit by an outside agency is the best way to meet this goal.[1]

Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) also makes recommendations regarding quality control over crime data. At one point the group recommends that a state statistical agency have the power to inspect all incoming records, presumably for purposes of quality control.[2] SEARCH's subcommittee on privacy and security echoes the recommendation for quality control of data. In the subcommittee's view data auditing and verification are mandatory in guaranteeing the personal liberties of all citizens.[3]

In the field of information science there is authoritative support for the quality control of information being gathered by any information system. Not unreasonably such generalizations can be applied to more particular cases such as, for example, control over crime data being gathered for police. The CODASYL (Conference on Data Systems Language) systems committee speaks to this issue in its recommended Feature Analysis of Generalized Data Base Management Systems, emphasizing technical aspects. They speak of an "audit trail," a report "designed for study by the data administrator so that he can scrutinize events that have taken place during a period of processing." A full auditing analysis will also include analysis of the input data.[4]

II. Special Considerations

Other noted authorities in police work agree with the need to oversee and control the accuracy of information-gathering. In Police Administration, (3rd edition) O. W. Wilson emphasizes the need for some type of inspection and review process as a control on police reporting system.[5]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 75.

[2]Project SEARCH, Technical Report #3: Designing Statewide Criminal Justice Statistics Systems - The Demonstration of a Prototype (Sacramento, CA: California Crime Technological Research Foundation, 1970), pp. 5-7.

[3]Committee on Security and Privacy, Project SEARCH, Technical Memorandum #3: A Model State Act For Criminal Offender Record Information (Sacramento, CA: California Crime Technological Research Foundation, 1971), p. 19.

[4]The Conference on Data Systems Language Systems Committee, Feature Analysis of Data Base Management Systems (New York, NY: Association For Computing Machinery, 1971), p. 450.

[5]O. W. Wilson & Roy C. McClaren, Police Administration, 3rd Ed. (New York, NY: McGraw-Hill Book Company, 1971), p. 198.

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Standard 4.8 GEOCODING

Where practical, police should establish a geographical coding system that allows addresses to be located on a coordinate system as a basis for collecting crime incidence statistics by beat, district, census tract, and by other "zoning" systems such as schools, planning zones, and zip codes.

I. Officially Known Endorsements and Objections

A Geographic Base File (GBF) can provide data in geographic detail. It provides a useful tool in determining day to day allocation of patrol manpower and provides cause and effect for crime analysis and investigative efforts. Such a detailed level of geocoding is necessary for program evaluation or experimentation.

One of the first major attempts to apply a computer analysis of crime incidence rate for the purpose of manpower allocation is under way in Washington, D.C. The Metropolitan Police Department under a grant from the Law Enforcement Assistance Administration (LEAA) under contract with MATHEMATICA, Inc., is developing a system of computerized police dispatching based upon coding of the city by individual city (surveyor) block. These coordinates are derived from census files. The city blocks are grouped to form a set of beats. The geographic location to which the police unit responds will be aggregated by city block providing a calls-for-service per block[1] ratio. A computerized long-range planning technique is also being used by the Kansas City, Missouri, Police Department. A program known as Computer Oriented Police Planning System (COPPS) has been developed to assist the development of computerized planning systems. One of the sub-routines of COPPS is for patrol car allocation. In Dayton, Ohio a system has been developed to "draw" every beat using a computer so that each beat will have an equal work load. In St. Louis, IBM Corporation has put together a computer program package known as LEMRAS (Law Enforcement Manpower Resource Allocation System). The procedure determines the minimum number of units required for each beat so that all objectives are filled.[2]

The success of these programs has not been conclusively established as yet. However, there is a "strong suspicion" that a correlation exists, for example, between a 5% reduction in traffic accidents in Kansas City (using fewer number of men on traffic patrol) and the selective enforcement resulting from the COPPS computerized manpower allocation.[3]

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[1]Project SEARCH, International Symposium on Criminal Justice Information and Statistics Systems (Law Enforcement Assistance Administration, 1972), pp. 167-175.

[2]Ibid., p. 151.

[3]Ibid., p. 155.

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## CHAPTER 5 - COURTS INFORMATION SYSTEMS

### Standard 5.1 DECISIONMAKING IN INDIVIDUAL CASES

A Court information system should provide information unique to the defendant and to the case. Required information includes:

1. Defendant background data and other characteristics needed in decisionmaking such as defendant's family status, employment, residence, education, past history, indigency information relative to appointment of counsel, and such data as might be determined by a bail agency interview.

2. Current case history stating the proceedings already completed, the length of time between proceedings, continuances (by reason and source), representation, and other participants.

I. Officially Known Endorsements and Objections

The particular emphasis of this Standard is that certain types of information should be available to help judges make decisions before and during trial. The information should emphasize defendant background data and a complete case history. Two implications of this Standard are: first, the information is to be computer based; second, the information is to be part of pooled data used by police, courts and possibly corrections.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, in their document Task Force Report: The Courts, emphasizes early fact-finding for the courts to aid judges in making informed decisions on such matters as release-on-recognizance and trial continuances.[1] Since most of this information is already available in the criminal justice system, it would be redundant and more costly to completely duplicate the research to generate this information. A coordinated information system should save money.

The AMERICAN BAR ASSOCIATION'S (ABA) Standards Relating to Court Organization emphasizes the need to collect data required for adequate judicial and administrative decisions.[2] In the appendix to this work the ABA suggests that computers can be used to retain case histories, previous actions of the court, and data relating to each defendant.[3]

According to the AMERICAN LAW INSTITUTE'S Model Code of Pre-Arraignment Procedure, some of the data in question which relates to case histories should be made available to the courts by the police.[4]

The pre-trial personal data also overlaps to a very great degree with the suggested elements of pre-sentence reports required after a defendant is found guilty. Pooled data will both speed criminal justice and reduce the costs incurred by duplicating information at several points in the criminal justice system.[5]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts (Washington, DC: Government Printing Office, 1967), pp. 41-2.

[2]American Bar Association, Standards Relating to Court Organization (Chicago, IL: American Bar Assoication, 1973), pp. 95-97.

[3]Ibid., p. 106.

[4]American Law Institute, Model Code of Pre-Arraignment Procedure (Philadelphia, PA: American Law Institute, 1966), p. 40.

[5]American Bar Association, Standards Relating to Probation (Chicago, IL: American Bar Association, 1970), pp. 34-35.

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### Standard 5.2 CALENDAR MANAGEMENT IN THE COURTS

Criminal courts should be provided with sufficient information on case flow to permit efficient calendar management. Basic data to support this activity include the following:

1. Periodic disposition rates by proceedings; these statistics can be used to formulate and adjust calendar caseload limits;
2. An attorney and police witness schedule which can be used to minimize scheduling conflicts;
3. Judge and courtroom schedule;
4. Range of time which proceedings consume;
5. An age index of all cases in pretrial or awaiting trial (by type of trial requested) to determine if special attention is required or the speedy trial rule endangered;
6. An index relating scheduled cases to whether the defendant is confined, released, rearrested, at large, or undergoing adjudication on a separate offense;
7. A recapitulation of offenders booked in jail but not released, to determine if special attention is required;
8. An index of multiple cases pending against individual defendants, to permit consolidation;
9. An index of information on possible or existing case consolidations; and
10. An index of defendants whose existing probation may be affected by the outcome of current court action.

I. Officially Known Endorsements and Objections

The AMERICAN BAR ASSOCIATION'S Commission on Standards of Judicial Administration notes the importance of case flow information to assist in calendar management. The Commission endorses the use of data elements as outlined by this Standard, finding them essential to caseflow and calendar administration.[1]

The CONGRESSIONAL COMMITTEE ON THE DISTRICT OF COLUMBIA observed in its Court-Management

Study that continuances and overset calendars were both the cause and effect of congestion and delay in the trial courts.[2] The committee recommends:

> "The trial courts in the District of Columbia should develop calendar management programs for...criminal cases which include...an effective information system which will enable the courts to measure their performance against the established norms and to evaluate new policies and procedures."[3]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE in the Task Force Report: The Courts, reports that crowded, badly congested urban courts could no longer monitor and schedule cases on their calendar on a case by case basis. The report concludes that improved caseflow and transactional information capabilities are needed to form a basis for effective calendar management.[4]

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[1]American Bar Association, Standard's Relating to Court Organization (American Bar Association, 1973), pp. 106-7.

[2]U.S. Senate, Congressional Committee on the District of Columbia, Court Management Study, (Summary) (Washington, DC: Government Printing Office, 1970), p. 46.

[3]Ibid., p. 55.

[4]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts (Washington, DC: Government Printing Office, 1967), p. 89.

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Standard 5.3 COURT MANAGEMENT DATA

For effective court administration, criminal courts must have the capability to determine monthly case flow and judicial personnel workload patterns. This capability requires the following statistical data for both in misdemeanors and felonies:

1. Filing and dispositions—number of cases filed and the number of defendants disposed of by offense categories;
2. Monthly backlog—cases in pretrial or preliminary hearing stage; cases scheduled for trial (by type of trial) or preliminary hearing; and cases scheduled for sentencing, with delay since previous step in adjudication;
3. Status of cases on pretrial, settlement, or trial calendars—number and percent of cases sent to judges; continued (listed by reason and source), settled, placed off-calendar; nolle prosequi, bench warrants; terminated by trial (according to type of trial);
4. Time periods between major steps in adjudication, including length of trial proceedings by type of trial;



5. Judges' weighted workload—number of cases disposed of by type of disposition and type of proceeding or calendar;
6. Prosecutor/defense counsel workload—number of cases disposed of by type of disposition and type of proceeding or calendar according to prosecutor appointed defense counsel, or private defense counsel representation;
7. Jury utilization—number of individuals called, placed on panels, excused, and seated on criminal or civil juries;
8. Number of defendants admitted to bail, released on their own recongizance, or retained in custody, listed by most serious offense charged;
9. Number of witnessess called at hearings on serious felonies, other felonies, and misdemeanors; and
10. Courtroom utilization record.

I. Officially Known Endorsements and Objections

A Staff report to the NATIONAL COMMISSION OF THE CAUSE AND PREVENTION OF VIOLENCE endorsed, by implication, the use of a court data system in their recommendations to the commission, and emphasized centralized control and sophisticated management personnel as prerequisites for the use of data covering the entire spectrum of courtroom activity. The following programs were included in their recommendations for improving court management:

.Establish single, unified state court systems subject to central administrative management within the judiciary.
.Establish timetables for the completion of various stages of criminal cases.
.Use professional court administrators and business efficiency experts to assist judges in their management functions.[1]

As early as 1966, commissions investigating crime in urban areas recognized the importance of a systematized approach.

> "A basic tool for improvement in the administration of criminal justice is the management survey...We must look beyond the usual management time study to the broader methods of Systems Analysis."[2]

Other studies emphasize the importance of centralizing the administration of justice into a central administrative body which would make optimum use of the case monitoring and scheduling made possible by advanced data and information systems. The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, Task Force Report: The Courts feels that the administrative body receiving this information must be given the statutory authority to implement the changes and improvements suggested by the information.[3]

II. Special Considerations

The Standing Committee on Law and Technology in Automated Law Research takes the position that:

> "Those who plan computer systems for tomorrow's courts should concentrate on ways the computer can analyze judicial data for managerial purposes. The aim should be to create justice information systmes, or multipurpose, multicourt data service centers. Serving metropolitan regions. These Data Centers would automate all civil and criminal dockets in the region."[4]

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[1]Staff Report to the National Commission on the Causes and Prevention of Violence, Crimes of Violence (Washington, DC: Government Printing Office, 1969), p. 838.

[2]President's Commission on Crime in the District of Columbia (Washington, DC: Government Printing Office, 1966), p. 353.

[3]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts (Washington, DC: Government Printing Office, 1967), p. 82.

[4]Standing Committee on Law and Technology, Automated Law Research by David T. Link, Chairman (Chicago, IL: American Bar Association, 1973), p. 83.

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Standard 5.4 CASE MANAGEMENT FOR PROSECUTORS

For the purpose of case management, prosecutors shall be provided with the data and statistics to support charge determination and case handling. This capability shall include, as appropriate, the following:

1. A means of weighting cases according to prosecution priority, policy and the probability of sucess;
2. Time periods between major steps in adjudication;
3. Daily calendar workloads and dispositions;
4. Age of cases in pretrial or awaiting trial (by type of trial) to determine in part whether the right to a speedy trial is enforced;
5. Case schedule index listing police witnesses, expert witnesses, defense counsel, assigned prosecutor, and type of hearing;
6. Record of continuances by case, number, and party requesting;
7. Selection criteria for witnesses at court hearings; and
8. Criteria for rating adequacy of investigation and legality of procedure by each police unit.

I. Officially Known Endorsements and Objections

A study by the AMERICAN BAR ASSOCIATION (ABA) on the prosecutor's function emphasized the power of the prosecutor to influence caseflow in the courts.



> "....The power of the prosecutor to institute criminal prosecutions vests in him an authority in the administration of criminal justice at least as sweeping as, and perhaps greater than, criminal cases..."[1]

The prosecutor also has an advisory function, and is consulted on questions of criminal procedure, most often by police and court officials.[2]

The NATIONAL DISTRICT ATTORNEY'S ASSOCIATION noting the importance of the prosecuting attorney's function, conducted a study into ways prosecutors could improve their case management. One conclusion of the study was that:

> "....the management of the records and files of the prosecutor's office becomes a basic factor in its effectiveness and efficiency as an element in the criminal justice system."[3]

The study recommended the establishment of case file management systems to aid the district attorney in carrying out his legal function.[4]

A study conducted by the Research Operations Division of the NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE emphasized the importance of having prosecutors evaluate cases on the basis of an objective, systematic approach, applying established criteria to control dispositions of cases.[5] The criteria suggested by the study are analgous to those listed in this Standard, and are to be used to aid the prosecutor in his screening and special case selection processes.[6]

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[1]American Bar Association, Standards Relating to the Prosecution Function, Tentative Draft (Chicago, IL: American Bar Association, 1970), p. 15.

[2]National Association of Attorneys General, Report on the Office of Attorney General (February 1971), p. 115.

[3]National District Attorneys Association, National Center for Prosecution Management, Managing Case Files in the Prosecutor's Office (National District Attorneys Association, Chicago, IL: 1973), p. 37.

[4]Ibid., p. 43.

[5]National Institute of Law Enforcement and Criminal Justice, Case Screening and Selected Case Processing in Prosecutor's Offices (Washington, DC: Government Printing Office, 1973), p. 34.

[6]Ibid., p. 46.

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Standard 5.5 RESEARCH AND EVALUATION IN THE COURTS

To create the capability for continued research and evaluation, courts should participate in or adopt for their own use a minimum set of data on the transactions between defendants and various court agencies, including the outcome of such transactions. A recommended minimum set of data elements are those related to court processes as presented in Project SEARCH, Implementing Statewide Criminal Justice Statistics Systems--The Model and Implementation Environment, Technical Report No. 4.

I. Officially Known Endorsements and Objections

This Standard suggests the value of gathering information earmarked for extrinsic evaluation of the court system, through data analysis and more particularly with computer simulation. The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, in its Task Force Report: Science and Technology included a simulation of the District of Columbia's system for processing felonies in its studies of court management.[1] The study emphasized the value of a system of evaluation which could be used without disrupting the operating courts.[2] The Task Force concluded that "simulation appears to be an effective tool for examining reallocation of existing resources or efficient allocation of additional resources."[3]

The AMERICAN BAR ASSOCIATION'S Commission on Standards of Judicial Administration, emphasized the importance of detailed evaluations of existing court systems before the institution of advanced computer systems.[4] The Commission also noted the benefits of routine evaluations.

> "A court system and each subordinate unit within it, should make periodic evaluations of its information systems...The purpose of such evaluations is to determine whether adjustments could be made that would improve the quality or efficiency of the existing systems and whether major innovations might be required.[5]

Noting that the results of statistical analysis and simulation may be incomprehensible to present court officials, the CONGRESSIONAL COMMITTEE ON THE DISTRICT OF COLUMBIA, in its Court-Management Study, cautioned:

> "The objective should not be to produce an avalanche of statistical reports with a plethora or undecipherable data. The detailed data must be filtered and analyzed so that the chief judge and the court executive are presented with the most relevant information in comprehensible form."[6]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), pp. 37-44.

[2]Ibid., p. 37.



[3]Ibid., p. 44.

[4]American Bar Association, Court Organization, Tentative Draft (American Bar Association, 1973), p. 99.

[5]Ibid., p. 98.

[6]U.S. Senate, Committee on the District of Columbia, Court Management Study, Summary, 90th Congress 2nd Session (Washington, DC: Government Printing Office, 1970), p. 97.

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Standard 5.6 CASE COUNTING

Transactional and Event Data Elements shall be recorded for counting purposes as follows:

1. Data elements using indivdual defendants as the basic statistical unit shall record action taken in regard to one individual and one distinct offense. The term "distinct offense" refers to those sets of related criminal activities for which, under State law, only one conviction is possible, plus conspiracy.

Under this standard, if two men are charged for the same criminal activities, this is reported as two defendant cases. If two charges for which an individual might receive two separate convictions are consolidated at one trial, it is to be reported as two trials. If a jury trial is held for three men on the same crime, the event should be reported as three jury trials.

2. Data elements that describe events occurring in the criminal justice system shall record the number of events, regardless of the number of defendant transactions involved. Those data elements may report the number of individual transactions as an additional explanatory item.

Under this standard, if two men are charged for the same criminal activities, this is reported as one charge or one charge with two defendants. If two charges are consolidated at one trial, it is to be reported as one trial or one trial on two charges. If a jury trial is held for three men for the same crime, the event should be reported as one jury trial or one jury trial for three defendants.

I. Officially Known Endorsements and Objections

The Court Management Study conducted by the Congressional Committee on the District of Columbia, found transactional and event data crucial to an integrated system of court management and notably deficient in the jurisdiction studied:

> "Our study revealed that the information systems of the courts are seriously deficient. Information and/or analysis of such key performance indicators as the number and type of incoming and pending cases, the manner of disposition of cases, continuance rates, time intervals between each significant step in the case processing system and the productivity of the judges, were either lacking or not available on a timely basis."[1]

This standard advocates the de-emphasis of recording actions as they relate to individual defendants, and the use of cases or events instead for recording and counting purposes.

The Staff Report to the NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE clearly concurrs with this position. Included in its recommendations to the Commission is this commentary:

> "Statistics of court decisions are not statistics of criminals (persons); the two concepts should be clearly separated. In assessments of court work the number of persons involved in the decisions may be important, but the main factor must be the number of decisions... New data, on decisions are therefore essential."[2]

The AMERICAN BAR ASSOCIATION'S Commission on Standards of Judicial Administration, found that transactional and event recording were basic functions for an automated data processing system, advocating the recording of the following data:

1. Changes in the status of a case, by decision, or lapse of time, or non-happening of an event.
2. The preparation of inventories of cases.
3. The making of case counts and statistical summaries.[3]

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[1]U. S. Congress, Senate, Committee on the District of Columbia, Court Management Study, Summary, 90th Congress, 2nd Session (Washington, DC: Government Printing Office, 1970), p. 3.

[2]Staff Report to the National Commission on the Causes and Prevention of Violence, Crimes of Violence (Washington, DC: Government Printing Office, 1969), p. 826.

[3]American Bar Association, Court Organization, Tentative Draft (n.p.: American Bar Association, 1973), p. 104.

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## CHAPTER 6 - CORRECTIONS INFORMATION SYSTEMS

### Standard 6.1 DEVELOPMENT OF A CORRECTIONS INFORMATION SYSTEM

A corrections information system must satisfy the following requirements:

1. The information/statistics functions of offender accounting, administrative decisionmaking, ongoing research, and rapid response to questions should be supported.
2. The information now used or needed by corrections personnel at each decision point in the corrections system should be ascertained before the information system is designed.
3. The requirements of other criminal justice information systems for corrections data should be considered in the data base design. Interface between the corrections system and other criminal justice information systems should be developed.

I. Officially Known Endorsements and Objections

The Standard makes three major recommendations for the development of a corrections information system. First, all information needs should be met. Second, the needs should be determined before the system is designed. Third, coordination of information systems among various criminal justice elements should be maximized.

In the first area, the primary concern is that information necessary to decision-making as regards inmate treatment and discipline be available. While few sources explicitly recommend a computer-based information system, several do suggest the minimum information necessary for adequate decision-making.

One of these groups is the AMERICAN CORRECTIONAL ASSOCIATION (ACA), which in its Manual of Correctional Standards lists eleven categories of information that should be available for each inmate when other elements of the criminal justice system transfer him to corrections. If the information is not available, it should be developed immediately.[1]

Another group, the AMERICAN LAW INSTITUTE, suggests similar standards in its Model Penal Code.[2] Some variation is suggested in a more limited set of information requirements for short-term prisoners.[3] However, in general, the requirements are similar to those of the ACA.

The ADVISORY COMMISSION ON INTER-GOVERNMENTAL RELATIONS, in its model State Department of Corrections Act, also suggests necessary decision-making data to be retained. The emphasis, however, is on a record of the inmate while under correctional jurisdiction. Within this limit the suggestions do not appear to very significantly from either of the above groups.[4]

As a general summary, it should be noted that the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE speaks most directly to this part of the Standard. The Commission suggests that information on individuals is often not available for decision-making.[5] There is a major need, they suggested, for procedures to gather facts on which to base fair decisions.[6]

The second portion of the standard obviously implies development of a computer-based information system but fails to state this explicitly. Here again, only the President's Commission deals with the thrust of this part of the Standard.

The suggestions of the sources cited above address in part the second section of the Standard. These sources have, in effect, determined minimum needs that should be met in designing a system.

The third portion of the Standard suggests cooperation for the purposes of information gathering among elements of the criminal justice system. The President's Commission in Task Force Report: Courts suggests this concept because of the need to provide more rapid and reliable access to records.[7] This suggestion is echoed by the 1972 NATIONAL GOVERNOR'S CONFERENCE which called for "mandatory statistical data collection and analysis for all components of the criminal justice system including... correctional data."[8]

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[1]American Correctional Association, Manual of Correctional Standards, 3rd Ed. (Washington, DC: American Correctional Association, 1966), p. 356.

[2]American Law Institute, Model Penal Code in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. IV-39.

[3]Ibid., pp. IV-23.

[4]Advisory Commission on Intergovernmental Relations, State Department of Corrections Act, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. I-15.

[5]President's Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 179.

[6]Ibid., p. 181.

[7]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Courts (Washington, DC: Government Printing Office, 1967), p. 19.

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### Standard 6.2 UNIFORM CLASSIFICATION OF DATA

Uniform definitions should apply to all like data in all institutions and divisions of the corrections system. Standard procedures should be established and clearly outlined for recording,

collecting, and processing each item of statistical data.

I. Officially Known Endorsements and Objections

The recommendation in this case is this: throughout the corrections system there should be standardization of information classification and of information processing procedures. Several groups support this recommendation, some directly, some by implication.

The AMERICAN CORRECTIONAL ASSOCIATION supports the standard in its volume Manual of Correctional Standards. Chapter twelve, "Statistics and Records," details the need for a centralized (statewide), uniform classification of correctional information. Procedures for the collection of information are also outlined. The suggestions clearly support the Standard.[1]

Other statements are not as direct, but also support the Standard. The AMERICAN LAW INSTITUTE, in its Model Penal Code, calls for statewide centralization of the correctional function. The Director is to be responsible for standards of management, operation, and programs in all institutions; this will include statistics and records activities.[3] The Division of Records and Training is to maintain and preserve a central prisoner file.[4] It can be reasonably assumed that such a centralized system would use only a single basic code of classification.

The COMMITTEE FOR ECONOMIC DEVELOPMENT, in its publication Reducing Crime and Assuring Justice, calls for the complete centralization in the state government of all corrections functions.[5] It can be assumed that this envelopes uniform data classification and standardized information-processing procedures.

Similar to this, although in some ways broader, is the recommendation of the 1972 NATIONAL GOVERNORS CONFERENCE. They suggest a unified data collection and analysis program for all elements of the criminal justice system.[6] Presumably this would require uniformity within each component, including corrections.

Additionally, the ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, in its State Department of Corrections Act, suggests uniform, centralized classification of the research, planning, and statistics functions. Again by implication, it seems likely that a suggestion of a centralized system carries with it a requirement of uniform classification of data throughout that system.[7]

Finally, the NATIONAL COUNCIL ON CRIME AND DELINQUENCY (NCCD) echoes the above suggestions in calling for a state Department of Corrections with unified control of activities. NCCD recommends specifically authorizing the director to develop a program of classification, a suggestion quite similar to that of this Standard.[8]

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[1]American Correctional Association, Manual of Correctional Standards, 3rd Ed. (Washington, DC: American Correctional Association, 1966), pp. 215-222.

[2]American Law Institute, Model Penal Code in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-38.

[3]Ibid., p. I-39.

[4]Ibid., p. I-44.

[5]Committee for Economic Development, Reducing Crime and Assuring Justice (New York, NY: Committee for Economic Development Research and Policy Committee, 1972), p. 66.

[6]National Governor's Conference, 1972, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. X-130.

[7]Advisory Commission on Intergovernmental Relations, State Department of Corrections Act, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-15.

[8]National Council on Crime and Delinquency, Standard Act for State Correctional Services, in Compendium for Model Correction Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-27.

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Standard 6.3 EXPANSION OF CORRECTIONS DATA BASE

The corrections information/statistics system should be flexible enough to allow for expansion of the data base and to meet new information needs. A modular system should be designed and implemented to provide this flexibility. Techniques should be established for testing new modules without disrupting the ongoing operation of the system. Interaction with planners and administrators should take place before the data base is expanded or new techniques are introduced.

I. Officially Known Endorsements and Objections

This Standard suggests that the corrections information system should be designed to allow for expanded or revised information needs. This Standard, far more than most others, is not meaningful unless it is viewed in the context of a computer-based information system.

The Standard seems to have its primary origin not in the suggestions of other national groups, but instead in common sense. It is simply a reminder that when one is dealing with systems, the cost of change is high. Potential major savings in money and effort can result from foresighted planning.

Few groups deal, even tangentially, with the planning of expendability in a data base for criminal justice information systems. The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE suggests that the design of criminal justice information systems should be based on the expected information needs.[1] An effective planner would probably understand this to include leaving room for the possibility of expanded or revised data needs; however, the recommendation does not make this explicit.

Moving from the criminal justice sector, the CODASYL (CONFERENCE OF DATA SYSTEMS LANGUAGES) Systems Committee makes some recommendations about elements in the general, ideal information system. Since the language is rather technical, a summary follows. They suggest that in developing self-contained capacities in the information system (that is, designing a system which will allow for a minimum need to redo the basic data bank in order that some new task might be performed), programming flexibility and facility are enhanced.[2]

II. Special Considerations

Few sources in information science develop broad generalities on the ideal information system. One group of authors is nearly unique in the comprehensiveness of their recommendations, although, since they try to draw generalities applicable to an extreme diversity of types of systems, they lack specificity. Nonetheless, in their Management Information Systems Handbook they make this recommendation in reference to general development requirements and constraints. "Expandability: Expansion needs for program growth should be specified with quantitative references to space, features, or file reservations."[3] This recommendation duplicates the intent of the Standard.

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 69.

[2]CODASYL Systems Committee, Feature Analysis of Generalized Data Base Management Systems (New York, NY: Association for Computing Machinery, 1971), Section 4-2, p. 3.

[3]W. Hartman, H. Matthes, A. Proeme, Management Information Systems Handbook (New York, NY: McGraw-Hill, 1968), pp. I-7.

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Standard 6.4 OFFENDER STATISTICAL DATA

The following types of corrections data about the offender should be collected. Minimum requirements are:

1. Official data, including data of entry into the correctional system, offenses and sentences, concurrent or consecutive sentences, recommendations of the court, conditions of work release or assignment to halfway houses or other community supervision, and county (court) of commitment or entry into the correctional system;

2. Personal data, including age, race, and sex; marital/family status; intelligence classification; military experience; classification category; other test and evaluative information, job placement, housing arrangements, and diagnostic data; and

3. Historical data, including family background, educational background, occupational record, alcohol and drug use background, and prior criminal history.

The correctional system may not need all of the information described above for persons involved in short-term custody. Each system should make a careful determination of its information needs concerning short-term detainees.

I. Officially Known Endorsements and Objections

This Standard suggests that a correctional information system should supply a criminal case history for each offender, detailing both the offender's previous experience in the criminal justice system and personal data about the offender. The personal data section should include the offender's background, personal characteristics, and diagnostic summaries.

As might be expected, the AMERICAN CORRECTIONAL ASSOCIATION, in its extensive Manual of Correctional Standards, matches the suggestions of this standard most completely. In a statement about the admission summary, the ACA suggests various categories of information that an offender's file should include. If the data are not previously available, they should be researched at the time of the offender's entry into the institution. Virtually all the information requirements of the Standard are included in the admission summary.[1] The only exception is the offender's diagnostic summary for the period while incarcerated. As an alternate to such a summary, the Manual recommends up-to-date progress and diagnostic reports.[2]

The AMERICAN LAW INSTITUTE in its Model Penal Code also has a strong recommendation in the area of this Standard. Section 304.3 is included.

> Each prisoner's file shall include: (a) his admission summary; (b) his presentence investigation report; (c) the report and recommendation of the Reception Classification Board; (d) the official records of his conviction and commitment as well as earlier criminal records, if any; (e) progress reports and admission-orientation reports from treatment and custodial staff; (f) reports of his disciplinary infractions and of their disposition; (g) his parole plan; and (h) other pertinent data concerning his background, conduct, associations, and family relationships.[3]

There are not other group recommendations known that so exhaustively match this Standard. Several groups, however, address part of the suggestions of the Standard. For example, the NATIONAL COUNCIL ON CRIME AND DELINQUENCY, in its model Standard Act For State Correctional Services, specifies the need for offender records on treatment[4] and discipline.[5]

Also, the ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS recommends that a comprehensive record be kept on each offender, emphasizing the need for information on his behavior, accomplishments, progress toward rehabilitation, and his disciplinary record.[6]

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[1]American Correctional Association, Manual of Correctional Standards, 3rd ed. (Washington, DC: American Correctional Association, 1966), p. 356.

[2]Ibid., pp. 357-8.

[3]American Law Institute, Model Penal Code in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. IV-39.

[4]National Council on Crime and Delinquency, Standard Act For State Correctional Services, in Compendium For Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-28.

[5]Ibid., p. I-31.

[6]Advisory Commission on Intergovernmental Relations, State Department of Corrections Act in Compendium of Model Correctional Legislation (Chicago, IL: American Bar Association, 1972), p. I-16.

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Standard 6.5 CORRECTIONS POPULATION AND MOVEMENT

The corrections information and statistics system should account for the number of offenders in each corrections program and the daily changes in those numbers. Offenders should be identified by the institution or jail in which they are incarcerated or the probation, parole, or other community program to which they are assigned.

Movement of an individual from one institution or program to another should be recorded in the corrections information system as soon as possible. Assignment to special status such as work release or weekend furlough also should be recorded to enable the system to account for all persons under supervision. Sufficient information must be recorded to identify the offender and the reason for movement. Each agency should record admissions and departures and give the reasons for each.

I. Officially Known Endorsements and Objections

The thrust of this Standard, that the corrections information and statistics system should account for the numbers of offenders in each corrections program and the daily changes in those numbers, leans strongly on the implicit assumption of a centralized automated data processing system. With this as a backdrop, several groups make recommendations pertinent to this Standard.

The only group that specifically addresses this Standard is the AMERICAN CORRECTIONAL ASSOCIATION (ACA) in its Manual of Correctional Standards. They recommend that "(d)aily reports of population in movements should be submitted by institutions to the central statistical office."[1]

The ACA also sets the content for other organizational recommendations when they suggest that a continually updated listing of program involvement would almost certainly require automated data processing.

> It is rather difficult to maintain a current record of the status of an individual in all phases of his program while he is in the institution. His custodial status may be changed from time to time, his work program, and many other assignments frequently change through classification procedures. An information system utilizing punch card, magnetic tape, or random access devices, facilitates the ease of record keeping and provides administrators with more facts for decision making.[2]

Several groups recommend collection of data items from which a continually updated report would be available. For example, the ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, in its State Department of Corrections Act, suggests that for each individual a complete record be kept of his involvement in various programs.[3] The AMERICAN LAW INSTITUTE, in its Model Penal Code, suggests the retention of offender records at least as comprehensive as suggested above.[4]

Other groups also call for comprehensive personnel records. The NATIONAL COUNCIL ON CRIME AND DELINQUENCY, in its Standard Act for State Correctional Services, recommends full records on offenders as part of its research statistics and planning function.[5]

In an automated system which includes data of this sort, only minimal effort would be needed to develop reports geared to the recommendations of this Standard.

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[1]American Correctional Association, Manual of Correctional Standards, 3rd ed. (Washington, DC: American Correctional Association, 1966), p. 214.

[2]Ibid., p. 221.



[3]Advisory Commission on Intergovernmental Relations, State Department of Corrections Act, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. I-16.

[4]American Law Institute, Model Penal Code in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. I-39.

[5]National Council on Crime and Delinquency, Standard Act for State Correctional Services, in Compendium for Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), pp. 27, 31.

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Standard 6.6 CORRECTIONS EXPERIENCE DATA

Prior to the release of the offender, data describing his corrections experiences should be added to his statistical record. When associated with postrelease outcomes, these data can be particularly valuable in evaluating correctional programs. Such data should include:

1. Summary of work and training experience, attitude, job placement, salary, etc.;
2. Summary of educational experience and accomplishments;
3. Participation in counseling or other specialized programs;
4. Participation in treatment for drug addiction or alcoholism;
5. Participation in special organizations (self-help groups, civic associations);
6. Frequency of contacts with corrections staff, attempts to match offenders with corrections personnel, and direct services provided by the staff;
7. Services provided by other agencies outside the corrections system;
8. Summary of disciplinary infractions in an institution or violations of probation or parole; and
9. Special program exposure.

Much of this information will not be applicable to persons involved in short-term custody. Each system should make an appropriate determination of its information needs concerning short-term detainees.

I. Officially Known Endorsements and Objections

This Standard suggests that prior to the release of an offender, his record should be updated to describe his correctional experience in such areas as training and experience, staff counseling and special programs, and discipline. This function will be quite valuable in evaluation of correctional activities.

This concept is strongly supported by a large number of national groups. One of these groups is the AMERICAN CORRECTIONAL ASSOCIATION. In its Manual of Correctional Standards the ACA recommends this practice in two different sections. First, the chapter on offender classification specifies that their recommended categories in offender information be regularly updated.[1] Then the chapter on statistics and records affirms the need to update each offender's record immediately before his release.[2]

The AMERICAN LAW INSTITUTE'S (ALI) Model Penal Code also has recommendations pertinent to this Standard. In a section on the prisoner's record file, the ALI recommends that it should be regularly updated. It should include information on the prisoner's disciplinary record, his treatment program, and progressive reports.[3]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, while more general, speaks about the issue. The Commission's emphasis is that this kind of record-keeping should be done for each offender.[4] The purpose, however, is primarily that comprehensive records will allow large-scale analysis of programs.[5]

There are other similar recommendations with the emphasis on record-keeping as a data-base for research. The NATIONAL COUNCIL ON CRIME AND DELINQUENCY, in its suggested Standard Act For State Correctional Services, recommends records which are updated while the prisoner is being held.[6] The ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, in its State Department of Correction Act duplicates the recommendation. In both cases the groups base their recommendation on the need to have these records as a foundation for research into the effectiveness of various correctional programs.[7]

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[1]American Correctional Association, Manual of Correctional Standards, 3rd Ed. (Washington, DC: American Correctional Association, 1966), p. 219.

[2]Ibid., p. 357.

[3]American Law Institute, Model Penal Code, in Compendium of Model Correctional Standards and Legislation (Chicago, IL: American Bar Association, 1972), p. IV-39.

[4]The President's Commission On Law Enforcement and Administration of Justice, Task Force Report: Corrections (Washington, DC: Government Printing Office, 1967), p. 13.

[5]The President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 180.

[6]National Council on Crime and Delinquency, Standard Act For State Correctional Services, in Compendium of Model Correctional Standards and Legislation (Chicago, IL: American Bar Association, 1972), p. I-28.

[7]Advisory Commission on Intergovernmental Relations, State Department of Corrections Act, in Compendium of Model Correctional Standards Legislation (Chicago, IL: American Bar Association, 1972), p. I-15.

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Standard 6.7 EVALUATING THE PERFORMANCE OF THE SYSTEM

An information system for corrections should provide performance measures that serve as a basis for evaluation on two levels—overall performance or system reviews as measured by recidivism and other performance measures, and program reviews that emphasize more immediate program goal achievement.

I. Officially Known Endorsements and Objections

This Standard suggests that the correctional information system should provide performance measures for evaluating the entire correctional activity and also for evaluating the effectiveness of particular correctional programs. While no group has specifically addressed the development of performance measures, the idea is strongly implied by several suggested recommendations for developing extensive data-based research programs.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, Task Force Report: Corrections, suggests the need for accurate data and extensive research to analyze techniques of correctional treatment.[1] In Task Force Report: Science and Technology, the Commission reiterates the recommendation, suggesting the need for statistical analysis for large numbers of criminal career histories for the purpose of treatment evaluation.[2]

Several other groups make recommendations in this area. The AMERICAN LAW INSTITUTE, in its Model Penal Code, suggests the use of offender data, especially concerning sentencing and treatment, as a basis for research and treatment development.[3] The ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, in its model State Development of Corrections Act, suggests several research, statistics, and planning activities, including evaluation of the performance of various functions (programs) and of the generalized effectiveness of treatment.[4]

Other groups suggesting models in the area of this Standard include the NATIONAL COUNCIL ON CRIME AND DELINQUENCY. They suggest, in their Standard Act For State Correctional Services, that a research statistics operation be developed. One main emphases of the research would be to evaluate the performance of the various treatment programs for offenders.[5]

Finally, the NATIONAL GOVERNOR'S CONFERENCE of 1972 suggests mandatory data collection and analysis for all components of the criminal justice system. This was to include several correctionally-based data research efforts.[6]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections (Washington, DC: Government Printing Office, 1967), p. 13.

[2]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 47.

[3]American Law Institute, Model Penal Code, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-44.

[4]Advisory Commission on Intergovernmental Relations, State Department of Corrections Act, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-15.

[5]National Council on Crime and Delinquency, Standard Act For State Correctional Services, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. I-28.

[6]National Governor's Conference, 1972, in Compendium of Model Correctional Legislation and Standards (Chicago, IL: American Bar Association, 1972), p. X-130.

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CHAPTER 7 - OPERATIONS

Standard 7.1 DATA ELEMENTS FOR OFFENDER-BASED TRANSACTION STATISTICS AND COMPUTERIZED CRIMINAL HISTORY RECORDS

Identical data elements should be used to satisfy requirements for similar information to be developed from either an OBTS or CCH system over all areas of the criminal justice system.

Advisory committees determining the designs of both systems should have some membership in common to assure data element compatibility. Before completion of the data element list for both systems, conferees from both advisory committees should meet to confirm data element conformity.

The coding structure of all overlapping data elements should be developed to guarantee that both statistical and operational information will be available and comparable. Where national specifications and requirements for data element structure exist, they should be considered the minimum acceptable.

I. Officially Known Endorsements and Objections

As early as 1946, the NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS in the Uniform Criminal Statistics Act (UCSA), noted that two different and equally valid approaches to criminal statistics were being used by criminal justice agencies. Some agencies reported data on the criminal history of offenders while others focused upon transactions within their systems. While not wishing to interfere with the autonomy of state systems, the Commission felt constrained to impose requirements that certain specific data elements be reproduced identically by all systems. These data elements would then be common to all state systems and readily employable in a national system.[1]

Project SEARCH's STEERING COMMITTEE has endorsed all of the objectives of the UCSA. Whether a state adopts the Computerized Criminal History System, (CCH) or the Offender Based Transaction Statistics System, (OBTS), the Committee believes that the systems must include sufficient identical data elements to insure compatibility with other state systems and national networks. To this end, the Committee has recommended a list of data elements which should be common to any CCH or OBTS systems adopted by the states. However, the SEARCH Committee also noted:

> "No state should be constrained by the data elements that are indicated in SEARCH Technical Report No. 4; these should be considered a minimum to which additional information should be added."[3]

The NATIONAL ACADEMY OF SCIENCES in its project on computer databanks reported that the National Information Center had limited its data requirements to the most basic of data elements, personal identification and transactional data of only the major steps in felony prosecutions. The study observed that state and local agencies should, at the very least, be prepared to receive and transmit these common data elements to the NCIC.[4]

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[1]National Conference of Commissioners on Uniform State Laws, Uniform Criminal Statistics Act (Chicago, IL: National Conference of Commissioners, 1946), Section 5.

[2]Project SEARCH Statistical Steering Committee, Implementing Statewide Criminal Justice Statistics Systems (Sacramento, CA: Project SEARCH, 1972), pp. 18-24.

[3]Ibid., Technical Report No. 5, p. 44.

[4]National Academy of Sciences, Databanks in a Free Society (New York, NY: Quadrangle Books, 1972), pp. 22-23.

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Standard 7.2 CRIMINAL JUSTICE AGENCY COLLECTION OF OBTS-CCH DATA

The collection of data required to satisfy both the OBTS and CCH systems should be gathered from operating criminal justice agencies in a single collection. Forms and procedures should be designed to assure that data coded by agency personnel meets all requirements of the information and statistics systems, and that no duplication of data is requested.

I. Officially Known Endorsements and Objections

This Standard emphasizes the importance of a single data collection for both Offender Based Transaction Statistics System and Computerized Criminal History systems integrated with the normal operations of criminal justice agencies. The goal of the collection process should be to minimize the imposition made upon the normal operation of the agency, avoiding duplication and wasted effort.

Project SEARCH's Statistical Steering Committee reporting on the data collection function of state agencies reached a similar conclusion.

> "We strongly endorse the concept that statistical information on state crime which is developed for a national crime statistics system should be collected and maintained by state level agencies as a part of their own ongoing operations."[1]

The Committee stressed the importance of a single reporting of local agencies to state collecting agencies in the form of common data base elements from which statistics for all systems could be developed. This process would eliminate

much duplication of effort, for the committee found that "too often the local agencies are required to re-report the same information to various departments of state governments."[2]

A study conducted for the U.S. Department of Commerce by the Air Force Office of Scientific Research involved designing a basic configuration for a national system of interlinking networks. The study found that each individual use-unit, (in this case, each local criminal justice agency), should organize their normal input information into a standard format for transmission to Information Centers. Then a single collection from each use-unit will provide information in a form which the Centers can effectively analyze and prepare for further use by related systems and other use-units.[3]

The FEDERAL BUREAU OF INVESTIGATION (FBI) prescribes information collection techniques for local criminal justice agencies in its Handbook for Uniform Crime Reporting. The reason for this publication was to insure that local agencies produced uniform criminal data in their daily operation which would be readily transmittable to national agencies such as the National Crime Information Center. The FBI concluded that this requirement of uniformity would prevent the unnecessary waste of effort and duplication caused by preparing separate data for each system.[4]

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[1]Project SEARCH Statistical Steering Committee, Designing Statewide Criminal Justice Statistics Systems (Sacramento, CA: Project SEARCH, 1972), Technical Report 5, p. 63.

[2]Project SEARCH, Report 4, p. 45.

[3]Air Force Office of Scientific Research, A Proposed Basic Configuration for a National System of Interlinking Information Retrieval Networks (Washington, DC: Department of Commerce, 1964), pp. 55-57.

[4]Federal Bureau of Investigation, Uniform Crime Reporting Handbook (Washington, DC: Department of Justice, 1966), pp. 1-2.

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Standard 7.3 OBTS-CCH FILE CREATION

Files created as data bases for OBTS and CCH systems, because of their common data elements and their common data input from operating agencies, should be developed simultaneously and maintained as much as possible within a single activity.

Juvenile record information should not be entered into adult criminal history files.

I. Officially Known Endorsements and Objections

Project SEARCH's Statistical Steering Committee noted the importance of implementing information collection processes which would gather at one time all data required for both Offender Based Transaction System and Computerized Criminal History systems.[1] The committee recommended a common data base of criminal activity maintained by the state, to allow statistics for all systems to be derived in a single operation. The committee concluded that instituting this single operation is the most important implementation point, avoiding duplication at all levels of the system.[2]

A project by the NATIONAL COUNCIL ON CRIME AND DELINQUENCY, designed to develop a foundation for a national system of parole reporting, observed that any national information network must have certain data capabilities. The data collection computer must have the ability to retrieve history data as well as to provide data for comparison and analysis.[3] This goal is consistent with the recommendation in this Standard that both OBTS and CCH data be developed and maintained in a single activity.

Studies on the content of interstate and national criminal justice systems uniformly advocate the exclusion of juvenile records from adult criminal history files. For example, the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE in the Task Force Report: Science and Technology recommended that only personal information about adults with criminal records be included in information transmitted to systems centers.[4] While the Task Force noted the importance of maintaining systems for the processing of juvenile records, the report indicated that these records should be excluded from interlinking national systems.[5]

Project SEARCH'S Committee on Security and Privacy in its report on such consideration in criminal history information systems stated:

> "First, Project SEARCH excludes information concerning juvenile offenders, by which is meant the subject was by reason of his age (and not the age of any victim, co-defendant, or other relevant party) tried in a juvenile or family court. The reasons for this exclusionary rule are essentially those which already render much information concerning juvenile offenses confidential in many states; the widespread belief that this may contribute to the ultimate rehabilitation of the juvenile offender or delinquent."[6]

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[1]Project SEARCH Statistical Steering Committee, Designing Statewide Criminal Justice Systems, I.R. 5 (Sacramento, CA: Project SEARCH, 1972), p. 42.

[2]Ibid., p. 45.

[3]National Council on Crime and Delinquency, A National Uniform Parole Reporting System (Davis, CA: National Probation and Parole Institutes, 1970), p. 28.



[4]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 70.

[5]Ibid., p. 71.

[6]Project SEARCH Committee on Security and Privacy, Security and Privacy Considerations in Criminal History Information Systems (Sacramento, CA: Project SEARCH, 1970), pp. 16-17.

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Standard 7.4 TRIGGERING OF DATA COLLECTION

With the exception of intelligence files, collection of criminal justice information concerning individuals should be triggered only by a formal event in the criminal justice process and contain only verifiable data. In any case where dissemination beyond the originating agency is possible, this standard should be inviolable.

I. Officially Known Endorsements and Objections

Project SEARCH's Committee on Security and Privacy recommends that criminal history data maintained on a state level include only the results of each formal stage of the criminal justice process. These formal steps include the fact, date, and results of arrest, pretrial, trial, sentencing, review, release, pardon, and any other formal termination of contact with the criminal justice process. The only other data collected by the system would be physical and identifying data.[1] The Committee noted these data restrictions would result in a data system that is "limited and relatively hazardless" by reducing error through receiving and disseminating "hard data" that can and should be thoroughly verifiable.[2]

The Security and Confidentiality Committee created by the National Crime Information Center (NCIC) proposed that the NCIC include only information of public record, plus personal identification. Thus NCIC data collection would only be triggered by major steps of an individual's progression through the criminal justice process—arrest, prosecution, trial, imprisonment, and parole. In addition, the Committee recommended that only serious offenses be included in the system.[3]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE concerned itself with the problem of insuring that data disseminated in a national or state system be as error free as possible. The Commission concluded that the most effective way to insure accuracy was to have only the most basic data elements trigger the collection process. Thus, their recommendation was that the network include only formal events in the criminal justice process, plus identifying information. The national or state network would serve as a directory aimed at identifying persons with criminal histories, while more detailed information would be obtainable from local agencies.

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[1]Project SEARCH Committee on Security and Privacy, Security and Privacy Publications (Sacramento, CA: Project SEARCH, 1973), Part I, p. 16.

[2]Ibid., p. 17.

[3]Proposals from the Security and Confidentiality Committee of the NCIC, as summarized in National Academy of Sciences, Data Banks in a Free Society (New York, NY: Quadrangle Books, 1972), pp. 62-3.

[4]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 76.

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Standard 7.5 COMPLETENESS AND ACCURACY OF OFFENDER DATA

Agencies maintaining data or files on persons designated as offenders shall establish methods and procedures to insure the completeness and accuracy of data, including the following:

1. Every item of information should be checked for accuracy and completeness before entry into the system. In no event should inaccurate, incomplete, unclear, or ambiguous data be entered into a criminal justice information system. Data is incomplete, unclear, or ambiguous when it might mislead a reasonable person about the true nature of the information.

2. A system of verification and audit should be instituted. Files must be designated to exclude ambiguous or incomplete data elements. Steps must be taken during the data acquisition process to verify all entries. Systematic audits must be conducted to insure that files have been regularly and accurately updated. Where files are found to be incomplete, all persons who have received misleading information should be immediately notified.

3. The following rules shall apply to purging these records:

   a. General file purging criteria. In addition to inaccurate, incomplete, misleading, unverified, and unverifiable items of information, information that, because of its age or for other reasons, is likely to be an unreliable guide to the subject's present attitudes or behavior should be purged from the system. Files shall be reviewed periodically.

   b. Purging by virtue of lapse of time. Every copy of criminal justice information concerning individuals convicted of a serious crime should be purged from active files 10 years after the date of release from supervision. In the case of less serious offenses the period should be 5 years. Information should be retained where the individual has been convicted of another criminal offense within the United States, where he

is currently under indictment or the subject of an arrest warrant by a U.S. criminal justice agency.

c. Use of purged information. Information that is purged but not returned or destroyed should be held in confidence and should not be made available for review or dissemination by an individual or agency except as follows:

(1) Where necessary for in-house custodial activities of the record-keeping agency or for the regulatory responsibilities of the Security and Private Council (Chapter 8);

(2) Where the information is to be used for statistical compilations or research studies, in which the individual's identity is not disclosed and from which it is not ascertainable;

(3) Where the individual to whom the information relates seeks to exercise rights of access and review of files pertaining to him;

(4) Where necessary to permit the adjudication of any claim by the individual to whom the information relates that it is misleading, inaccurate, or incomplete; or

(5) Where a statute of a State necessitates inquiry into criminal offender record information beyond the 5-and 10-year limitations.

When the information has been purged and the individual involved is subsequently wanted or arrested for a crime, such records should be reopened only for purposes of subsequent investigation, prosecution, and disposition of that offense. If the arrest does not terminate in conviction, the records shall be reclosed. If conviction does result, the records should remain open and available.

Upon proper notice, a criminal justice agency should purge from its criminal justice information system all information about which a challenge has been upheld. Further, information should be purged by operation of statute, administrative regulation or ruling, or court decision, or where the information has been purged from the files of the State which originated the information.

I. Officially Known Endorsements and Objections

An adequate program of data verification ought to possess the following characteristics: First, participating agencies must conduct systematic audits of their files calculated to insure that those files have been regularly and accurately updated. Second, when errors or points of incompleteness are detected, the agency of record should be obliged to notify the customer index and participating agencies of the inaccuracy previously transmitted.[1]

With regard to purging, the first purpose is to simply eliminate information found to be inaccurate or unverifiable. The second purpose is to eliminate information that due to its age is an unreliable guide to the subject's attitude or behavior. The third possible purpose is that society ought to encourage rehabilitation by ignoring relative ancient wrongdoing.[2] Toward this goal, records should be removed when the agency of record indicates that (1) the offender is not under correctional supervision and that no additions have been made to the offenders criminal history for a period of time beyond which the likelihood of recidivism is remote or (2) that purging of every entry on the history has been ordered by competent council or executive authority.[3]

Under the Model State Act proposed by Project System for Electronic Analysis and Retrieval of Crime Histories, SEARCH, the Security and Privacy Council would adopt regulations creating a continuing program of data auditing and verification to assure the completeness and accuracy of offender record information. These regulations would provide for prompt and complete purging of criminal record information when such purging is required by statute or valid administrative regulation, court order, law of another jurisdiction where the data originated, to correct errors, and to improve the efficiency and fair administration of criminal justice.[4]

The administrative regulation recommended by Project SEARCH is that criminal offender record information shall be regarded as closed or expunged upon formal application received from the individual or formal notice from a criminal justice agency that the arrest has legally terminated in favor of the arrestee, unless another criminal action or proceeding is pending or unless there has been a previous conviction. Records should also be closed where the individual has been outside the criminal justice system for five years if the last conviction was a less serious crime and for ten years where the last conviction was a serious crime.[5]

Inaccuracies in data are primarily due to the following management weaknesses:

1. Lack of adequate review procedures.
2. Absence of standards for evaluation of rehabilitation.
3. Ineffective guidance and instruction by higher levels.
4. Inadequate staffing and training of personnel.[6]

It is not surprising that there is little written on this subject since it is a relatively new concept. As yet, few organizations have had opportunity to take a position with respect to purging. It is possible that some might be expected to do so in the near future.

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[1]Project SEARCH, Security and Privacy Considerations in Criminal History Information Systems, Technical Report No. 2, Committee on Security and Privacy (July, 1970), pp. 19-20.



[2]Ibid., pp. 20-21.

[3]Ibid., p. 21.

[4]Project SEARCH, A Model State Act for Criminal Offender Record Information, Committee on Security and Privacy, Technical Memorandum No. 3 (May, 1971), pp. 19-20.

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Standard 7.6 SEPARATION OF COMPUTERIZED FILES

For systems containing criminal offender data, the following protections should apply:

1. All criminal offender record information should be stored in a computer dedicated solely to and controlled by criminal justice agencies.

2. Where existing limitations temporarily prevent the use of a solely dedicated computer, the portion of the computer used by the criminal justice system should be under the management control of a criminal justice agency and should be dedicated in the following manner.

a. Files should be stored on the computer in such a manner that they cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion by non-criminal-justice terminals.

b. The senior criminal justice agency employee in charge of computer operations should write and install, or cause to have written and installed, a program that will prohibit inquiry, record updates or destruction of records from any terminal other than criminal justice system terminals which are so designated.

The destruction of records should be limited to specifically designated terminals under the direct control of the criminal justice agency responsible for maintaining the files.

c. The senior criminal justice agency employee in charge of computer operations should have written and installed a classified program to detect and store for classified output all attempts to penetrate any criminal offender record information system, program, or file.

This program should be known only to the senior criminal justice agency, and the control employee and his immediate assistant, and the records of the program should be kept continuously under maximum security conditions. No other persons, including staff and repair personnel, should be permitted to know this program.

3. Under no circumstances should a criminal justice manual or computerized files be linked to or aggregated with non-criminal-justice files for the purpose of amassing information about a specified individual or specified group of individuals.

I. Officially Known Endorsements and Objections

This Standard touches upon the crucial problem of insuring that data collected for use in criminal justice information systems does not end up being used for other purposes in derogation of the individual's right to privacy. Specifically, the Standard recommends that criminal history information be kept in separate computer files, subject to strict supervision by a senior criminal justice agency.

The NATIONAL ACADEMY OF SCIENCES in its project on computer databanks reported these observations of important protections to be included in the FBI's National Crime Information Center:

"All users of the system would be criminal-justice agencies: police, prosecutors, courts, correction, parole, and special criminal-justice units. Computers and terminals linked to the system would have to be either owned by criminal-justice agencies or, if using a partitioned segment of a multiagency computer center, the partitioned segment using the criminal-record system would have to be under the 'management control' of law-enforcement officials. Criminal-history records would not be stored in databanks also containing non-criminal information, such as welfare, hospital, education, or voting-registration records... Rules for removing information would be based on state or federal laws and controlled by the agency that submitted the original record. A purge of a record would wipe out all personal-identification data in the file, as well as the criminal records."[1]

Project SEARCH'S Committee on Security and Privacy included in its report a model state act regulating the operations of criminal justice systems. The section of the act dealing with systems security limits access to system information to criminal justice agencies, unless another agency receives special authorization for access.[2] In its statements of considerations of privacy in the criminal justice system, the committee included recommendations that strong measures be used to insure information stored in system computers is protected against unauthorized disclosure, use or alteration.[3] The committee also recommended that a senior criminal justice agency be established to institute this regulation of information.[4]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE in the Task Force Report: Science and Technology concluded that the security of information and the separation of criminal history files would be further aided by a decentralization of the collection process. Only the most basic information would be transmitted to nationwide and statewide systems. More complete records would be kept on local levels, and security measures such as absolute separation of files and fingerprint identification access

could be instituted by effectively controlling criminal justice statistic agencies.[5]

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[1]National Academy of Sciences, Databanks in a Free Society (New York, NY: Quadrangle Books, 1973), p. 62.

[2]Project SEARCH Committee on Security and Privacy, Security and Privacy Publications (Sacramento, CA: Project SEARCH, 1973), Part II, p. 20.

[3]Ibid., Part I, p. 41.

[4]Ibid., Part II, p. 16.

[5]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), pp. 74-77.

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Standard 7.7 ESTABLISHMENT OF COMPUTER INTERFACES FOR CRIMINAL JUSTICE INFORMATION SYSTEMS

The establishment of a computer interface to other criminal justice information systems will constitute the acceptance of responsibility for a control unit for those agencies served by the interface.

1. Each computer interface in the criminal justice hierarchy from local criminal justice information systems through the national systems will be considered a control terminal and allowed to interface if all of the identified responsibilities are accepted by that control unit.
2. Each control unit must maintain technical logging procedures and allow for 100 percent audit of all traffic handled by the interface. Criminal history response loss should be maintained for 2 years—others for 1 year.
3. The control unit must maintain backup or duplicate copies of its files in secure locations away from the primary site.
4. All personnel involved in a system are subject to security checks.
5. The control unit must establish a log checking mechanism where machine-generated logs of other than "no record" responses are compared with manual terminal loss and discrepancies between the two resolved.

I. Officially Known Endorsements and Objections

This Standard suggests placing responsibility for data quality and systems security upon control units within the computer systems. Each computer interface between the criminal justice system and local criminal justice agencies will be a control unit. Noting that many local agencies will not have the need for or resources to establish on-line terminals to existing systems, the Standard offers a methodology local agencies can use to interface with the systems while employing the facilities at their command.

Project SEARCH's Statistical Steering Committee emphasizes the importance of effective control at the point where contributing agencies interact. At this point there must exist a means of insuring sufficient control over local units to enable constant review of the status of records and to establish mechanisms for reminding local agencies that data is due, to reduce delay and data loss.[1] The establishment of a control unit of interface points, as suggested by this Standard, is consistent with SEARCH's goals.

A study conducted for the DEPARTMENT OF COMMERCE includes communication centers as key links in its model information retrieval network.[2] The function of the communication center is in many respects analogous to the control unit suggested by the Standard. The communication center would be the unifying link between the local use units and the national network.[3] The center is to be the policy and coordination headquarters for local units, with responsibility for maintaining data consistency and insuring the use of uniform procedures and practices by local use units.[4]

The NATIONAL ACADEMY OF SCIENCES in its project on computer databanks endorsed the goals of this Standard by implication. The study notes that in developing new, large computer networks designers faced problems of requiring local user agencies, with limited information collection capabilities, to keep complete, uniform and up-to-date information. The study approved of systems with control units capable of determining when a report from a local agency was missing or incomplete, and having responsibility for periodic audits, enforcement of security regulations, and resolution of data discrepancies.[5]

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[1]Project SEARCH Statistic Steering Committee, Designing Statewide Criminal Justice Statistics Systems (Sacramento, CA: Project SEARCH, 1972), pp. 14-15.

[2]Air Force Office of Scientific Research, A Proposed Basic Configuration for a National System of Interlinking Information Retrieval Networks (Washington, DC: Department of Commerce, 1964), p. 61.

[3]Ibid., p. 62.

[4]Ibid., p. 66.

[5]National Academy of Sciences, Databanks in a Free Society (New York, NY: Quadrangle Books, 1972), pp. 62-63.

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Standard 7.8 THE AVAILABILITY OF CRIMINAL JUSTICE INFORMATION SYSTEMS

The availability of the information system (the percentage of time when the system is fully operating and can process inquiries) should not be less than 90 percent. This availability must be measured at the output device serving the user and may in fact be several times removed (technically) from the data base providing the information.

I. Status in Ohio

The Ohio Criminal Justice Information System (CJIS), currently being developed, will contain over 600 terminals throughout the state.[1] Availability of the information system will be measured at the output terminals. Projected availability figures suggest a 100 percent functioning rate.[2]

II. Background

In order to attain 100 percent availability rate at the terminals of CJIS, the system would have to be operative (without "down time") 24 hours per day to accommodate any potential user. At the present time, Administration of Justice Division (AJD) plans call for 24 hour availability.[3]

In addition, proper maintenance of the system will minimize the possibility of unavailability due to system breakdown. The contracting firms have indicated that a "firm maintenance policy will be established which will provide the State with maximum responsiveness to terminal failures."[4] Also, spare terminals will be maintained at strategic locations in order to provide a back-up system.

Each terminal will be equipped with an Operations/User Procedures Manual which will provide general terminal operations techniques and a compilation of all message types available in the system. Key items to enter and corrective actions to be taken on errors will be outlined.[5] The existence of this User Procedures Manual will ensure that potential users have access to the system in terms of instructions on operation and entry into the system.

There is no specific information on the critical component in data storage and retrieval, which is the non-operating, maintenance and emergency-stop "down time." It should be borne in mind that 24-hour availability does not mean available use 24 hours a day during the year.

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[1]Proposal to the State of Ohio For The Design and Implementation of the Ohio Criminal Justice Information System, prepared by AMS Incorporated and Battelle's Columbus Laboratories, 1973, p. 32.

[2]James Wogaman, Ohio Administration of Justice Division, interview with Peter Webster, November, 1973.

[3]Ibid., (same interview).

[4]Proposal For The Design and Implementation of the Ohio Criminal Justice Information System, p. 49.

[5]Ibid., pp. 68-69.

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## CHAPTER 8 - PRIVACY AND SECURITY

### Standard 8.1 SECURITY AND PRIVACY ADMINISTRATION

1. State Enabling Act. Each State should adopt enabling legislation for protection of security and privacy in criminal justice information systems. The enabling statute shall establish an administrative structure, minimum standards for protection of security and privacy, and civil and criminal sanction for violation of statutes or rules and regulations adopted under it.

2. Security and Privacy Council. Each State shall establish a Security and Privacy Council. Fifty percent of the members named to the Council shall be private citizens who are unaffiliated with the State's criminal justice system. The remainder shall include representatives of the criminal justice information systems and other appropriate government agencies. The Security and Privacy Council shall be vested with sufficient authority to adopt and administer security and privacy standards for criminal justice information systems.

The Council should further have authority to establish rules and regulations in this field and to sanction agencies which fail to comply with them.

Civil and criminal sanctions should be set forth in the enabling act for violation of the provision of the statute or rules or regulations adopted under it. Penalties should apply to improper collection, storage, access, and dissemination of criminal justice information.

3. Training of System Personnel and Public Education. All persons involved in the direct operation of a criminal justice information system should be required to attend approved courses of instruction concerning the system's proper use and control. Instruction may be offered by any agency or facility, provided that curriculum, materials, and instructors' qualifications have been reviewed and approved by the Council.

Minimum course time should be 10 hours for operators, with 15 hours required of immediate supervisors. Each operator or supervisor shall attend a course of instruction within a reasonable period of time after assignment to the criminal justice information system.

The Council should conduct a program of public education concerning the purposes, proper use, and control of criminal justice information. It may make available upon request facilities, materials, and personnel to educate the public about the purposes, proper use, and control of criminal justice information.

I. Officially Known Endorsements and Objections

Regarding security and privacy for criminal justice information systems being developed in many states, Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) has recommended that each state establish a "Criminal Records Control Committee to regulate the collection, storage, dissemination and usage of criminal offender record information."[1] The model state act further recommended that such a council consist of not more than eight members and a chairman appointed by the governor.[2]

Project SEARCH felt it was necessary for each state to adopt such legislation to:

> "improve the organization, coordination, and control of criminal offender record-keeping... to develop procedures which provide vigorous protection for individual rights of privacy, while at the same time strengthening the record-keeping capabilities of a CJIS. (This will) assure a more credible and useful criminal record-keeping system."[3]

Ohio has taken two steps in this direction. First, Ohio has proclaimed that criminal records and information supplied to the superintendent of the Bureau of Criminal Identification and Investigation "are not public records."[4] Second, Ohio has created a law enforcement communications committee to aid and encourage coordination in the use of data processing facilities in the statewide law enforcement network.[5]

Massachusetts has adopted enabling legislation very similar to that proposed by Project SEARCH's model state act. The Massachusetts legislation is perhaps the most complete that has so far been adopted. It provides for a Criminal History Systems Board,[6] an Advisory Committee,[7] and a Security and Privacy Council.[8] This legislation provides for the listing of agencies and individuals who are authorized access to the information[9] and the protection of the rights of the individuals whose records are being kept.[10]

The need for legislation in this area is apparent. The right of privacy - the "right to be let alone" - has been called by Justice Brandeis the "right most valued by civilized men." An American's right to be let alone - his right to privacy - must be given paramount consideration in the development and use of computerized data systems. The creation of dossiers by means of such systems poses a grave threat to the constitutionally guaranteed rights of each American to express himself and his ideas freely. At the same time, we must recognize the value and legitimacy of properly safeguarded computerized data systems containing limited personal information for limited and specific aims. Americans must be guaranteed that the tonic of high speed information handling does not contain a toxic which will kill privacy.[11]

The implied thrust of this statement is the need for enabling legislation for the protection of security and privacy, to protect the individual from potential abuses of high speed data processing at a large scale magnitude. This is

demonstrative of the need for regulation, supervision, and control of these dossier compiling systems by independent detached agencies who would act on behalf of the citizens and his fundamental right to privacy.

The legislation enacted by Massachusetts also contains sanctions for misuse of the system. It provides criminal penalties for willfully misusing the system by wrongful disclosure or attempting to obtain information wrongfully.[12] The statutes also provide civil redress for those who have been wronged by allowing a tort action for damages and/or injunctive relief as an equitable remedy.[13]

The functions of a supervisory committee have been studied by the House Committee on Government Operations. Their recommendation for a committee to supervise the National Data Center is:

A. Such a supervisory commission should be appointed from non-governmental as well as governmental experts in the fields of data gathering, storage and usage, statistics, law, the social sciences, and civil liberties.

B. The commission should report to the Congress on a regular basis. Its reports should include financial, administrative, and systems summaries. They should also include detailed information on the types and sources of information stored in the system and on the agencies with access to the data. They should list the types of information available to each agency, the purposes for which each type might be used, as well as the justification for and description of each printout from the national data bank.

C. The supervisory commission would be independent of any existing agency or bureau and would be responsible solely for the operation of the national data bank. Various suggestions have previously been advanced to locate the national data bank in, for example, the General Accounting Office, the Library of Congress, the Bureau of the Budget or the Bureau of the Census. It is the feeling of the committee, however, that the creation of a separate and distinct supervisory commission would most adequately resolve the manifold problems contained in the national data bank concept.[14]

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[1]Project SEARCH, A Model State Act for Criminal Offender Record Information (Sacramento, CA: Crime Technology Research Foundation, May, 1971), p. 16.

[2]Ibid., p. 18.

[3]Ibid., p. 28.

[4]Ohio Revised Code, 109.57 (d).

[5]Ohio Revised Code, 109.57.1 (c).

[6]Massachusetts GLC. 6, 168.

[7]Massachusetts GLC. 6, 169.



[8]Ibid., 170.

[9]Ibid., 172, 173.

[10]Ibid., 175, 176.

[11]Committee on Government Operation, Privacy and the National Data Bank Concept, Thirty-Fifth Report (Washington, DC: Committee on Government Operations, August 2, 1968), p. V.

[12]Massachusetts GLC. 6, 178.

[13]Massachusetts GLC. 6, 177.

[14]Committee on Government Operations, Privacy, p. 8.

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Standard 8.2 SCOPE OF FILES

An item of data may be collected and stored in a criminal justice information system only if the potential benefits from its use outweigh the potential injury to privacy and related protected interests.

I. Special Considerations

Regarding the necessity to place limits upon the systematic recording and dissemination of information about individual citizens, in a series of cases during the 1960's, lower federal courts ruled in favor of individuals who sued to have their fingerprints returned and their arrest records expunged when charges against them were dropped, dismissed, or withdrawn.[1] The rationale for restricting the scope of data collection concerning private individuals as suggested by the judiciary in a leading case is that "this is a form of surveillance and control which may easily inhibit freedom to speak, to work, and to move about in this land."[2] The courts have suggested that the mere retention of some records in FBI files were violating individual rights.[3] The courts' reasoning in this case was that "no public good is accomplished by the retention of criminal identification records (after an acquittal). On the other hand, a great imposition is placed upon the citizen.[4] Two subsequent cases have held that data should not be maintained where the state is unable to show a compelling necessity to retain the record sufficient to outweigh the person's fundamental right of privacy.[5] Deciding what personal information ought to be collected or acquired at all has been described as "the broadest challenge to organizational authority and programs and is probably the hardest of the civil liberties interests on which to derive public policy based upon broad national consensus.[6]

The increased sensitivity which has been demonstrated by the courts could lead to stricter supervision of the way major government record systems are operated. However, it does not seem realistic to expect the Supreme Court to strike down major government record systems in the near future on the grounds of privacy. Rather, the court can be expected to scrutinize government record-keeping to demand that legislative and administrative schemes are sufficiently defined that they do not abridge the First Amendment rights....[7]

Two positions in this area may be tenable. The first is to allow general collection of data and satisfy due process by giving individuals notice of reports, a way to learn their contents, and a procedure for challenging them prior to dissemination. The second is to define and limit both the types of information collected, and specific investigative methods that should or should not be used.[8]

For example, arrest-only records should not be circulated unless a case can be made, with solid supporting evidence, that a person arrested but not convicted of a crime is more likely to be a poor employee, misuse his license privileges or engage in misconduct in his work than someone with the same background and supervision who has never been arrested.

This principle of limiting the scope of data files has made itself felt in the U.S. Congress. One of the findings and conclusions of the U.S. Congressional House Committee on Government Operations was:

> "4. Need for Limitation on Types of Data Stored. From testimony presented at the hearings, it is clear that there should be definite limitation on the type of data collected.... There is a natural tendency for more and more data to be requested; and if uncontrolled this process would infringe on individual freedom. Well defined restraint (emphasis added) is necessary on anyone who evolves or operates data systems containing personal information."[9]

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[1]U.S. v. Kalish, 217 F. Supp. 968 (D.P. Rico, 1967); U.S. v. McLeod, 385 F2d 734 (1967); Morrow v. District of Columbia, 417 F.2d 728 (1969); and Wheeler v. Goodman, 306 F. Supp. 58 (W.D.N.C., 1969).

[2]Menard v. Mitchell, 328 F. Supp. 718, 726, (D.DC., 1971).

[3]U.S. v. Kalish, 271 F. Supp. 968, (D.P.R., 1967).

[4]Ibid., 970.

[5]Eddy v. Moore, 487 p. 2d 211 (1971), and Davidson v. Dill, 503 p. 2d 157, (1972).

[6]National Academy of Sciences, Alan F. Westin, Data Banks in a Free Society, Computer, Record Keeping and Privacy, (1972), p. 379.

[7]Ibid., p. 382.

[8]Ibid., p. 383.

[9]Committee on Government Operations, Privacy and the National Data Bank Concept, Thirty-Fifth Report, Committee on Government Operations, August 2, 1968.

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Standard 8.3 ACCESS AND DISSEMINATION

1. General Limits on Access. Information in criminal justice files should be made available only to public agencies which have both a "need to know" and a "right to know." The user agency should demonstrate, in advance, that access to such information will serve a criminal justice purpose.

2. Terminal Access. Criminal justice agencies should be permitted to have terminal access to computerized criminal justice information systems where they have both a need and a right to know. Non-criminal justice agencies having a need or right to know or being authorized by statute to receive criminal justice information should be supplied with such information only through criminal justice agencies.

3. Certification of Non-Criminal-Justice Users. The Security and Privacy Council should receive and review applications from non-criminal-justice government agencies for access to criminal justice information. Each agency which has, by statute, a right to such information or demonstrates a need to know and a right to know in furtherance of a criminal justice purpose should be certified as having access to such information through a designated criminal justice agency.

4. Full and Limited Access to Data. Criminal justice agencies should be entitled to all unpurged data concerning an individual contained in a criminal justice information system. Non-criminal-justice agencies should receive only those portions of the file directly related to the inquiry. Special precautions should be taken to control dissemination to non-criminal-justice agencies of information which might compromise personal privacy including strict enforcement of need to know and right to know criteria.

5. Arrest Without Conviction. All copies of information filed as a result of an arrest that is legally terminated in favor of the arrested individual should be returned to that individual within 60 days of final disposition, if a court order is presented, or upon formal notice from one criminal justice agency to another. Information includes fingerprints and photographs. Such information should not be disseminated outside criminal justice agencies.

However, files may be retained if another criminal action or proceeding is pending against the arrested individual, or if he has previously been convicted in any jurisdiction in the United States of an offense that would be deemed a crime in the State in which the record is being held.

6. Dissemination. Dissemination of personal criminal justice information should be on a need and right to know basis within the government. There should be neither direct nor indirect dissemination of such information to nongovernmental agencies or personnel. Each receiving agency should restrict internal dissemination to those employees with both a need and right to know.

Legislation should be enacted which limits questions about arrests on applications for employment, licenses, and other civil rights and privileges to those arrests where records have not been returned to the arrested individual or purged. Nor shall employers be entitled to know about offenses that have been expunged by virtue of lapse of time (see Standard 7.5).

7. Accountability for Receipt, Use, and Dissemination of Data. Each person and agency that obtains access to criminal justice information should be subject to civil, criminal, and administrative penalties for the improper receipt, use, and dissemination of such information.

The penalties imposed would be those generally applicable to breaches of system rules and regulations as noted earlier.

8. Currency of Information. Each criminal justice agency must ensure that the most current record is used or obtained.

I. Officially Known Endorsements and Objections

The Model State Act for Criminal Offender Record Information developed by Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) recommends that access by criminal offender record information be granted to (1) criminal justice agencies and (2) non-criminal justice agencies, if the latter are authorized by statute to receive such information.[1] The Act strongly recommends that state legislatures carefully evaluate each situation to determine whether such access is necessary and desirable.[2] The Act also limits the accessibility of offender record information for the purpose of research to prevent the violation of individual rights.

The National Crime Information Center (NCIC) Policy Paper proclaims that direct inquiries into NCIC Records will be permitted only for criminal justice agencies in the discharge of their official mandated responsibilities.[3]

NCIC is the agency that processes data for the FBI, Department of Justice, Bureau of Customs, Provost Marshall General of the Army, Naval Investigations, Air Force Office of Investigation, Marine Corps, Secret Service, Postal Investigations, and Bureau of Prisons. The policy paper precludes the dissemination of data for use in connection with licensing or local or state employment, other than with a criminal justice agency, or for other uses, unless such dissemination is pursuant to state and federal statutes.[4]



No information was obtainable from the American Civil Liberties Union concerning this Standard. The ACLU is presently consolidating all its information in an effort to lobby for a proposed Omnibus Privacy Bill and has, therefore, not issued any preliminary policy statements.

In addition, the research on this topic has not produced any information published by the American Bar Association (ABA) on this point. Communication with the Ohio Bar Association only revealed that the ABA and Ohio Bar have recently undertaken the study of this problem by committee and that reports and model legislation will be forthcoming.[5]

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[1]Project SEARCH, A Model State Act for Criminal Offender Record Information (Sacramento, CA: Crime Technology Research Foundation, May, 1971), p. 33.

[2]Ibid., p. 34.

[3]National Crime Information Center, Computerized Criminal History Program Background, Concept and Police, September 20, 1972, n. 1, p. 6, at 12.

[4]Ibid., n. 1, p. 6, at 16.

[5]American Civil Liberties Union, Washington, DC: and Ohio Bar Association, telephone conversation.

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Standard 8.4 INFORMATION REVIEW

1. Right to Review Information. Except for intelligence files, every person should have the right to review criminal justice information relating to him. Each criminal justice agency with custody or control of criminal justice information shall make available convenient facilities and personnel necessary to permit such reviews.

2. Review Procedures.

a. Reviews should occur only within the facilities of a criminal justice agency and only under the supervision and in the presence of a designated employee or agent of a criminal justice agency. The files and records made available to the individual should not be removed from the premises of the criminal justice agency at which the records are being reviewed.

b. At the discretion of each criminal justice agency such reviews may be limited to ordinary daylight business hours.

c. Reviews should be permitted only after verification that the requesting individual is the subject of the criminal justice information which he seeks to review. Each criminal justice agency should require fingerprinting for this purpose. Upon presentation of a sworn authorization from the individual involved, together with proof of identity, an individual's attorney may be permitted to examine the information relating to such individual.

d. A record of such review should be maintained by each criminal justice agency by the completion and preservation of an appropriate form. Each form should be completed and signed by the supervisory employee or agent present at the review. The reviewing individual should be asked, but may not be required, to verify by his signature the accuracy of the criminal justice information he has reviewed. The form should include a recording of the name of the reviewing individual, the date of the review, and whether or not any exception was taken to the accuracy, completeness, or contents of the information reviewed.

e. The reviewing individual may make a written summary or notes in his own handwriting of the information reviewed, and may take with him such copies. Such individuals may not, however, take any copy that might reasonably be confused with the original. Criminal justice agencies are not required to provide equipment for copying.

f. Each reviewing individual should be informed of his rights of challenge. He should be informed that he may submit written exceptions as to the information's contents, completeness or accuracy to the criminal justice agency with custody or control of the information. Should the individual elect to submit such exceptions, he should be furnished with an appropriate form. The individual should record any such exceptions on the form. The form should include an affirmance, signed by the individual or his legal representative, that the exceptions are made in good faith and that they are true to the best of the individual's knowledge and belief. One copy of the form shall be forwarded to the Security and Privacy Council.

g. The criminal justice agency should in each case conduct an audit of the individual's criminal justice information to determine the accuracy of the exceptions. The Council and the individual should be informed in writing of the results of the audit. Should the audit disclose inaccuracies or omissions in the information, the criminal justice agency should cause appropriate alterations or additions to be made to the information, and should cause notice of such alterations or additions to be given to the Council, the individual involved, and any other agencies in this or any other jurisdiction to which the criminal justice information has previously been disseminated.

3. Challenges to Information.

a. Any person who believes that criminal justice information that refers to him is inaccurate, incomplete, or misleading may request any criminal justice agency with custody or control of the information to purge, delete, modify, or supplement that information. Should the agency decline to do so, or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual may request review by the Security and Privacy Council.

b. Such requests to the Council (in writing) should include a concise statement of the alleged deficiencies of the criminal justice information, shall state the date and result of any review by the criminal justice agency, and shall append a sworn verification of the facts alleged in the request signed by the individual or his attorney.

c. Each Council should establish a review procedure for such appeals that incorporates appropriate assurances of due process for the individual. ( A model of procedure in such appeals is contained in detail in Reference Number 1 below.)

I. Officially Known Endorsements and Objections

The Model State Act for Criminal Offender Record Information, System for Electronic Analysis and Retrieval of Crime Histories, (Project SEARCH), states that it is imperative that the rights of access and challenge should be given to those persons whose criminal records are contained in the system. Such rights will help guarantee the accuracy of records and prevent unnecessary injuries to individuals. The Act recommends that no fee be charged for inspection of records or the institution of proceedings to challenge.[1]

The NATIONAL CRIME INFORMATION CENTER POLICY PAPER states "The person's right to see and challenge the contents of his record shall form an integral part of the system with reasonable administrative procedures."[2]

II. Special Considerations

The Supreme Court of the U.S. has addressed this topic. In Greene v. McElroy, Chief Justice Warren said:

> "Certain principles have remained relatively imutable in our jurisprudence. One of these is that where government

action injures an individual, the evidence must be disclosed to the individual so that he has a right to show that it is untrue... not only in criminal cases... but where administrative action (is) under scrutiny."[3]

The growing pressures for the establishment of individual access rights have already produced changes in administrative practice and law. Ensuring individuals access to their records is therefore a major priority for public policy.[4] The concept of access involves three elements of protection for the individual: notice (whether he is informed that a record about him exists); inspection (whether he can learn the contents of the record if he wishes to); and challenge (whether he can obtain a formal hearing and make higher appeals to contest the appropriateness, accuracy, or completeness of the information).[5]

The problem with complying with these principles is that to give notice to all the people about whom records are kept would produce a severe logistical problem for the agencies involved.[6] As an alternative, a Citizen's Guide to Files could be produced containing a list of every government agency specifying the nature and contents of its files, the statutory authority for its maintenance, the class and number of persons covered and the uses to which it is put. This guide would provide the citizen with a thorough, detailed directory of records systems that contain information about him and the general rules under which it is being held and used.[7]

The objection to free inspection is twofold: the need to encourage frankness in reporting, and the need to protect the individual from learning information about his status that could harm him. Access could still be granted in such cases, if not to the individual himself, then at least to his lawyer or other selected representative. Another problem with inspection is that after the file has been reviewed without subsequent challenge, it could be inferred that the individual has "confessed to the information." Such an assumption should be prohibited by policy.[8]

Regarding guidelines for automated processing of information kept on individual citizens, former FBI Director J. Edgar Hoover observed before the Senate Appropriations Committee that "Computers neither enlarge nor restrict the persons and agencies to whom the records are presently available." True to his long-standing position, the Director declared that a person having a record should have no absolute right to see it. However, the FBI has no objections to a declared right of a person, by statute or judicial decision, to learn the content of his identification record and to protest alleged error when it appears that the record is to be used against him in any manner.[9]

Concerning the right to access, the House Committee on Government Operations made their finding,

"The best and most reliable way to assure that erroneous or non-contextual information is not stored... would be to allow each individual access to information concerning him.

"Even with restrictions on the type of data that can go into a data system and provisions for guaranteeing that only proper retrievals be made, procedures should be established to allow an American the right to determine the nature of information that could harm him. (By implication, this would entail Notice, Access and Challenge). Electronic Data Processing need not and should not subvert the constitutional and legal safeguards Americans have the right to expect and demand."[10]

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[1]Model State Act for Criminal Offender Record Information, Project SEARCH, (Sacramento, CA: May, 1971).

[2]National Crime Information Center, Computerized Criminal History Program Background, Concept and Policy Paper, No. 1, September 20, 1972, p. 6 at 17.

[3]Greene v. McElroy, 360 U.S. 747 (1959).

[4]Ibid., p. 357.

[5]Ibid., p. 361.

[6]Ibid., p. 362.

[7]Ibid., p. 363.

[8]Ibid., p. 369.

[9]Ibid., p. 362.

[10]Committee on Government Operations, Privacy and National Data Bank Concept, Thirty-Fifth Report, Committee on Government Operations (Washington, DC: August 2, 1968).

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Standard 8.5 DATA SENSITIVITY CLASSIFICATION

Places and things included in criminal justice information systems should be classified by criminal justice agencies in accordance with the following system:

1. Highly Sensitive—places and things which require maximum special security provisions and particularized privacy protection. Items that should be included in this category include, for example:

   a. Criminal history record information accessed by using other than personal identifying characteristics, i.e., class access;

   b. Criminal justice information disclosing arrest information without conviction disseminated to criminal justice agencies;

   c. Criminal justice information marked as "closed";

   d. Computer, primary, and auxiliary storage devices and physical contents, peripheral hardware, and certain manual storage devices and physical contents;

   e. Security system and backup devices; and

   f. Intelligence files.

   g. Additional items that may be included in this category are: computer programs and system design; communication devices and networks; criminal justice information disseminated to non-criminal-justice agencies; and research and analytical reports derived from identified individual criminal justice information.

2. Confidential—places and things which require a high degree of special security and privacy protection. Items that may be included in this category, for example, are:

   a. Criminal justice information on individuals disseminated to criminal justice agencies;

   b. Documentation concerning the system; and

   c. Research and analytical reports derived from criminal justice information on individuals.

3. Restricted—places and things which require minimum special security consistent with good security and privacy practices. Places that may be included in this category are, for example, areas and spaces that house criminal justice information.

Each criminal justice agency maintaining criminal justice information should establish procedures in order to implement a sensitivity classification system. The general guidelines for this purpose are:

   a. Places and things should be assigned the lowest classification consistent with their proper protection.

   b. Appropriate utilization of classified places and things by qualified users should be encouraged.

   c. Whenever the sensitivity of places or things diminishes or increases it should be reclassified without delay.

   d. In the event that any place or thing previously classified is no longer sensitive and no longer requires special security or privacy protection it should be declassified.

   e. The originator of the classification is wholly responsible for reclassification and declassification.

   f. Overclassification should be considered to be as dysfunctional as underclassification.

It shall be the responsibility of the Security and Privacy Council to assure that appropriate classification systems are implemented, maintained and complied with by criminal justice agencies, within a given State.

I. Special Considerations

A minimal system of classification in the criminal justice information system would determine the security pattern of processing, storage and transmission; the individuals to whom the data may be disseminated, manner in which the data must be protected by the recipient thereof, and the procedures for declassification and/or destruction.

The definition of what is "sensitive" personal information varies considerably among different types of organizations, depending upon the relationship of the individual and the organization, the uses made of the data, and similar factors. Information defined as most sensitive within each organization should not generally go into computer files and instead be kept in manual form.[1]

When moving into computerization, most organizations have pursued the most cost-effective applications, usually the high-volume routine operations. This makes computerization of infrequently used files - generally the more sensitive and subjective ones - a low priority.[2]

A problem in developing this Standard is the lack of uniformity among the agencies. Organizational norms have sometimes designated information as confidential but still specified other agencies with which this information would be shared. Such is frequently the case where sensitive personal information is collected but there is no desire to entirely seal off the data.

Under American law and practice, much personal data is considered public information accessible to the press and any person with "legitimate interest." There is also sharing of information which is done informally under the "information buddy system" hinging upon personal relations. This sharing is not generally known to the public and is in direct violation of formal confidentiality rules.[3]

The thrust of sharing data is that classification of data as to sensitivity alone is insufficient unless the rules for disclosure to other users would require them to have the same standards of confidentiality. Adequate sanctions need to be provided to prevent unauthorized sharing. Direct violation of formal confidentiality rules is difficult to expose and is a substantial aspect of organizational life.

One solution proposed to provide for rigid standards of confidentiality is the establishment of special agencies for sensitive data, or information trust agencies. This would be appropriate where there are many participating users in a data system having different institutional and social interests and where the misuse of data could result in serious harm to the individual. This is particularly true in law enforcement.

A practicing agency such as the FBI cannot be wholly disinterested. Its format for classification may meet police needs but may not be fully responsive to what courts, correctional agencies, the legal profession and students of criminal justice systems desire in a criminal justice statistical service. An independent trust agency would not have ongoing responsibilities which would conflict with its responsiveness to the interests of various users.[4]

In support of developing a systematic classification of data, the HOUSE COMMITTEE ON GOVERNMENT OPERATIONS recommended that prior to the National Data Center entertaining a request for data, it should request each agency to provide its subaggregate according to a uniform classification system (emphasis added) so that the center itself would only total and transmit the necessary aggregate desired. In the cases where variables from more than one agency must be correlated, other agencies involved should send their data to the agency contributing the most sensitive data for processing.[5]

Concerning the planning and development of information systems, the excerpt from "Privacy and Freedom" by Alan F. Westin,[6] cited by the HOUSE COMMITTEE ON GOVERNMENT OPERATIONS in its Thirty-Fifth Report, recommended that the input to systems be set up to limit those who are allowed to put information in, to have the machine reject tainted information, and to classify all information according to a sensitivity code from public-record to top-sensitive.[7]

The sensitivity classification recommended by Project SEARCH (Systems for Electronic Analysis and Retrieval of Criminal Histories) is: 1) Highly Sensitive for those places and things requiring maximum security provisions 2) Confidential for those places and things requiring a high degree of special security and privacy protection and 3) Restricted for those places and things requiring minimum protection.[8]

The specific guidelines for applying these classifications recommended by SEARCH are too lengthy and detailed to be reproduced here.

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[1]National Academy of Sciences, Alan F. Westin, Data Banks in a Free Society, Computer, Record Keeping and Privacy, (1972), p. 249.

[2]Ibid., p. 250.

[3]Ibid., p. 253.

[4]Ibid., p. 401.

[5]Committee on Government Operations, Privacy and the National Data Bank Concept, Thirty-Fifth Report, Committee on Government Operations, August 2, 1968.

[6]Ibid.

[7]Committee on Government Operations, Privacy Report, p. 27.

[8]Committee on Security and Privacy and Security, Project SEARCH, Model Administrative Regulation for Criminal Offender Record Information, Memorandum No. 4, March, 1972.

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Standard 8.6 SYSTEM SECURITY

1. Protection from Accidental Loss. Information system operators should institute procedures for protection of information from environmental hazards including fire, flood, and power failure. Appropriate elements should include:
   a. Adequate fire detection and quenching systems;
   b. Watertight facilities;
   c. Protection against water and smoke damage;
   d. Liaison with local fire and public safety officials;
   e. Fire resistant materials on walls and floors;
   f. Air conditioning systems;
   g. Emergency power sources; and
   h. Backup files.

2. Intentional Damage to System. Agencies administering criminal justice information systems should adopt security procedures which limit access to information files. These procedures should include use of guards, keys, badges, passwords, access restrictions, sign-in logs, or like controls.

All facilities which house criminal justice information files should be so designed and constructed as to reduce the possibility of physical damage to the information. Appropriate steps in this regard include: physical limitations on access; security storage for information media; heavy duty, non-exposed walls; perimeter barriers; adequate lighting; detection and warning devices, and closed circuit television.

3. Unauthorized Access. Criminal justice information systems should maintain controls over access to information by requiring identification, authorization, and authentication of system users and their need and right to know. Processing restrictions, threat monitoring, privacy transformations (e.g., scrambling, encoding/decoding), and integrity management should be employed to ensure system security.

4. Personnel Security.
   a. Preemployment Screening: Applicants for employment in information systems should be expected to consent to an investigation of their character, habits, previous employment, and other matters necessary to establish their good moral character, reputation, and honesty. Giving false information of a substantial nature should disqualify an applicant from employment.



Investigation should be designed to develop sufficient information to enable the appropriate officials to determine employability and fitness of persons entering critical/sensitive positions. Whenever practicable, investigations should be conducted on a preemployment basis and the resulting reports used as a personnel selection device.

b. Clearance, Annual Review, Security Manual, and In-Service Training: System personnel including terminal operators in remote locations, as well as programmers, computer operators, and others working at, or near the central processor, should be assigned appropriate security clearances and should have their clearances renewed annually after investigation and review.

Each criminal justice information system should prepare a security manual listing the rules and regulations applicable to maintenance of system security. Each person working with or having access to criminal justice information files should know the contents of the manual. To this end, each employee should receive not less than 10 hours of training each year concerning system security.

c. System Discipline: The management of each criminal justice information system should establish sanctions for accidental or intentional violation of system security standards. Supervisory personnel should be delegated adequate authority and responsibility to enforce the system's security standards.

Any violations of the provisions of these standards by any employee or officer of any public agency, in addition to any applicable criminal or civil penalties, shall be punished by suspension, discharge, reduction in grade, transfer, or such other administrative penalties as are deemed by the criminal justice agency to be appropriate.

Where any public agency is found by the Security and Privacy Council willfully or repeatedly to have violated the requirements of the standard (act), the Council may, where other statutory provisions permit, prohibit the dissemination of criminal history record information to that agency, for such periods and on such conditions as the Council deems appropriate.

I. Special Considerations

It is exceedingly difficult to attempt to set a minimum set of technological safeguards in the abstract for computerized files. According to the National Academy of Sciences, the level of protection required will always depend on the nature of the organization, its mission, policies, and structure and on the specific manual and computerized elements which comprise its data processing system. Without this knowledge it is like designing a safe craft without knowing what medium it will travel in, its intended speed, its passenger load, and whether the principal risks it will face are snow storms or guided missiles. It would hardly advance civil liberties in this country if government agencies were to adopt the authoritarian environments and intrusive personnel policies used by defense and intelligence agencies to safeguard their information systems.[1]

On the other hand, the Academy recognizes the need for system safeguards. They feel that, "Information security involves an organization's efforts to ensure that only authorized persons obtain access to secret or confidential files and partakes of the larger problem of providing system security, preventing the loss, alteration or compromise of data through natural disaster, machine failure, deliberate destruction, fraud, theft, or accidental human error."[2] The problem with developing adequate safeguards is convincing the organization that unauthorized persons want their information about persons badly enough to try to get it without permission.[3]

The important areas which Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) believes require the most emphasis are: (1) Unintentional errors, (2) Misuse of data, where information could be used out of context by unauthorized persons, and (3) Intentional data change.[4] They recommend as a Policy Statement that: (1) The input, modification, cancellation, or retrieval of information from the system will be limited to authorized agency terminals. (2) Disclosure of information from the system through terminals will be limited to authorized final users. (3) Information in the system will be protected from unauthorized use. (4) Information in the system will be protected against unauthorized alteration. (5) Information in the system will be protected against loss. (6) System security is a live responsibility equal in importance to system performance.[5]

Project SEARCH further recommends that:

> "It shall be the responsibility of each criminal justice agency to formulate methods and procedures to assure the continuing security of criminal offender record information in its custody or under its control."[6]

Project SEARCH recommended the establishment of a Security and Privacy Council in their Model State Act. SEARCH's approach to security, in large, is to have this committee adopt regulations to assure the security of record information from unauthorized disclosures at all levels of operation within the state.[7]

Areas to be guarded against in a resource-sharing computer system would include theft, unauthorized copying of files, unauthorized access to different levels of sensitivity where files

are stored, operator error which would allow unauthorized "ins" to the system, "bugging" of equipment, cross-talk between communication systems, improperly identified users and the right of the user to access, and software vulnerabilities. The seriousness of these problems depends upon the sensitivity of the information being handled, the class of user, the operating environment, and the skill with which the network was designed.[8]

No information was obtainable from the American Civil Liberties Union (ACLU) concerning this Standard. The ACLU is presently consolidating all its information in an effort to lobby for a proposed Omnibus Privacy Bill and has therefore not issued any preliminary policy statements.

In addition, the research on this topic has not produced any information published by the American Bar Association (ABA) on this point. Communication with the Ohio Bar Association only revealed that the ABA and Ohio Bar have recently undertaken the study of this problem by committee and that reports and model legislation will be forthcoming.[9]

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[1]National Academy of Sciences, Alan F. Westin, Data Banks in a Free Society, Computer, Record-Keeping and Privacy, (1972), p. 393.

[2]Ibid., p. 303.

[3]Ibid., p. 315.

[4]Project SEARCH, Security and Privacy Considerations in Criminal History Information Systems, Technical Report No. 2, (July, 1970).

[5]Ibid., pp. 40-43.

[6]Project SEARCH, Model Administrative Regulations for Criminal Offender Record Information, Technical Memorandum No. 4, (March, 1972), p. 9.

[7]Project SEARCH, A Model State Act for Criminal Offender Record Information, Technical Memorandum No. 3, (May, 1971), p. 20.

[8]Willis H. Ware, Security and Privacy in Computer Systems, Rand Corporation for Defense Documentation Center, (April. 1967).

[9]Information provided by Mr. William Moore, Ohio Bar Representative, telephone conversation, 13 December 1973.

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Standard 8.7 PERSONNEL CLEARANCES

1. The Security and Privacy Council shall also have the responsibility of assuring that a personnel clearance system is implemented and complied with by criminal justice agencies within the State.

2. Personnel shall be granted clearances for access to sensitive places and things in accordance with strict right to know and need to know principles.

3. In no event may any person who does not possess a valid sensitivity clearance indicating right to know have access to any classified places or things, and in no event may any person have access to places or things of a higher sensitivity classification than the highest valid clearance held by that person.

4. The possession of a valid clearance indicating right to know does not warrant unconditional access to all places and things of the sensitivity classification for which the person holds clearance. In appropriate cases such persons may be denied access because of absence of need to know.

5. In appropriate cases, all persons in a certain category may be granted blanket right to know clearance for access to places and things classified as restricted or confidential.

6. Right to know clearances for highly sensitive places and things shall be granted on a selective and individual basis only and must be based upon the strictest of personnel investigations.

7. Clearances shall be granted by the head of the agency concerned and shall be binding only upon the criminal justice agency itself, except that right to know clearances for members of the Council shall be granted and shall be valid for all purposes where a need to know exists.

8. Clearances granted by one agency may be given full faith and credit by another agency; however, ultimate responsibility for the integrity of the persons granted right to know clearances remains at all times with the agency granting the clearance.

9. Right to know clearances are executory and may be revoked or reduced to a lower sensitivity classification at the will of the grantor. Adequate notice must be given of the reduction or revocation to all other agencies that previously relied upon such clearances.

10. It shall be the responsibility of the criminal justice agency with custody and control of classified places and things to prevent compromise of such places and things by prohibiting access to persons without clearances or with inadequate clearance status.

11. The Council shall carefully audit the granting of clearances to assure that they are valid in all respects, and that the categories of personnel clearances are consistent with right to know and need to know criteria.

12. Criminal justice agencies shall be cognizant at all times of the need periodically to review personnel clearances so as to be certain that the lowest possible clearance is accorded consistent with the individual's responsibilities.

13. To provide evidence of a person's sensitivity classification clearance, the grantor of such clearance may provide an authenticated card or certificate. Responsibility for control of the issuance, adjustment, or revocation of such documents rests with the grantor. In any event, all such documents must have an automatic expiration date requiring affirmative renewal after a reasonable period of time.

I. Officially Known Endorsements and Objections

In Technical Memorandum No. 4, Project SEARCH noted that from the standpoint of system design the most difficult problem was the identification and control of persons and agencies that should be given access to system data.[1] SEARCH advocates a solution of Security and Privacy Committee to manage and control access to the system. Although the Standard does not include provisions for offender access to criminal justice data, SEARCH "strongly believes" that provisions for such access should be an "integral part" of any future system.[2] Included in the Model Administrative Regulations for SEARCH's system, is a detailed enumeration of the agencies which should have access to the system and the extent of that access, which would define the focus of the Supervisory Council.[3]

The NATIONAL ACADEMY OF SCIENCES, in its Project on Computer Data Banks, endorsed the idea of information trust agencies whose function would be to manage bodies of particularly sensitive information, controlling access to data which had been collected, for example, for purposes of law enforcement.[4] The Academy objected to the political appointment of members of these agencies, noting that personnel clearance might end up being granted without adequate regard of personal liberties.[5]

A study conducted by the UCLA LAW SCHOOL and reprinted by the AMERICAN BAR ASSOCIATION cited technical alternatives to personnel clearance controlled by a supervisory council. Examples of these technical alternatives were the inclusion of security data within the computer system itself or voice-prints, or fingerprints or code numbers programmed into the system to identify personnel authorized to receive information.[6]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, in the Task Force Report: Science and Technology, while noting the existence of technical means of controlling access to criminal justice systems, concluded that no technical means could guarantee that computer information would not be misused. The Commission endorsed the use of technical means coupled with an organization analogous to the Security and Privacy Council, to manage and control information, to keep a permanent record of and audit inquiries, and to keep a running check on the security of the system.[7]

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[1]Project SEARCH Committee on Security and Privacy, Technical Memorandum 2 (Sacramento, CA: Project SEARCH Staff, 1972), p. 23.

[2]Ibid., p. 28.

[3]Ibid., Technical Memorandum 4, p. 9.

[4]National Academy of the Sciences Project on Computer Databanks, Databanks in a Free Society (New York, NY: Quadrangle Books, 1972), p. 400.

[5]Ibid., p. 351.

[6]UCLA Law Review Research Project, American Bar Foundation, Sponsor, Computerization of Government Files (Chicago, IL: American Bar Foundation, 1968), p. 1408.

[7]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 75.

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Standard 8.8 INFORMATION FOR RESEARCH

1. Research Design and Access to Information. Researchers who wish to use criminal justice information should submit to the agency holding the information a completed research design that guarantees adequate protection of security and privacy. Authorization to use criminal justice information should only be given when the benefits reasonably anticipated from the project outweigh the potential harm to security or privacy.

2. Limits on Criminal Justice Research. Research should preserve the anonymity of all subjects to the maximum extent possible. In no case should criminal justice research be used to the detriment of persons to whom information relates nor for any purposes other than those specified in the research proposal. Each person having access to criminal justice information should execute a binding nondisclosure agreement with penalties for violation.

3. Role of Security and Privacy Council. The Security and Privacy Council should establish uniform criteria for protection of security and privacy in research programs. If a researcher or an agency is in doubt about the security or privacy aspects of particular research projects or activities the advice of the Council should be sought. The Council should maintain general oversight of all research projects using criminal justice information.

4. Duties and Responsibilities of the Holding Agency. Criminal justice agencies should retain and exercise the authority to approve in advance, monitor, and audit all research using criminal justice information. All data generated by the research program should be examined and verified. Data should not be released for any purposes if material errors or omissions have occurred which would affect security and privacy.

I. Special Considerations

Provisions need to be made for secondary usage of criminal justice information files.

There are numerous people who do not meet the criteria for direct access to files, yet granting them access would seem socially desirable. There has been strong interest, for the benefit of the criminal justice system, in making available as much of the data in criminal justice information files as possible to qualified social and behavioral science researchers.

Reasonable steps to safeguard the privacy interests of the subject would be: (1) each participating agency and every proposed program of research should explicitly acknowledge a fundamental commitment to respect privacy interests in the conduct of their research; (2) no program of research should be initiated unless an advisory council has fully investigated the proposed program; (3) the identification of individual subjects should be divorced as fully and as effectually as possible from data; (4) the research data should be shielded by a security system which is comparable to that which ordinarily safeguards the systems data; (5) any code which identifies individuals should be destroyed as soon as possible; (6) data obtained for one research project should not be subsequently used for another project without prior, specific, written permission of authorized representatives of the system; (7) these requirements should be included in any research contract or agreement.[1]

Along these lines, model legislation has been proposed by the System for Electronic Analysis and Retrieval of Crime Histories(Project SEARCH)which would allow for research consistent with this Standard. SEARCH recommended that: Research involving criminal offender record information should be closely monitored to prevent any violation of individual privacy rights. The Security and Privacy Committee should promulgate regulations that would (1) preserve the anonymity of the record's subject, (2) shield research data by stringent security system, (3) require non-disclosure forms, (4) limit the use of criminal officer records to legitimate qualified researchers engaged in verified projects.[2] Particular research programs should be permitted access to criminal offender record information only if it is found that threats to privacy have (1) been minimized by methods and procedures reasonably calculated to prevent injury or embarrassment to individuals and (2) are clearly outweighed by the advantage for the criminal justice system that may reasonably be expected to result if the program is permitted.[3]

There is some support for the proposition that researchers have a "right" to this information akin to the rights of newsmen. This right, as the right of newsmen, is not unqualified. Paul Nejelski, Director of the Institute of Judicial Administration, explored this relationship in an article "The Prosecutor and the Researcher: Present and Prospective Variations of the Supreme Court's Branzburg decision." The Standards proposed by Nejelski would call for: documentation of the value of research and the importance of confidentiality; establish a clearinghouse to collect information on the problem; develop models for regulation of prosecutorial discretion; and develop research agreements that guarantee the deserved protection and even a boycott of research for a particular government agency. Nejelski expressed the view that Standard 8.8

> "allows for substantial abuse on the part of the agencies being studied or having records because it gives them a veto power over the researcher and his product. I would prefer to establish protection for the researcher regardless of where he obtains the data."[4]

No information was obtainable from the American Civil Liberties Union concerning this Standard. The ACLU is presently consolidating all its information in an effort to lobby for a proposed Omnibus Privacy Bill and has therefore not issued any preliminary policy statements.

In addition, the research on this topic has not produced any information published by the American Bar Association (ABA) on this point. Communication with the Ohio Bar Association only revealed that the ABA and Ohio Bar have recently undertaken the study of this problem by committee and that reports and model legislation will be forthcoming.

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[1]Project SEARCH, Security and Privacy Considerations in Criminal History Information Systems, Technical Report No. 2 (Sacramento, CA: July, 1970), p. 31.

[2]Project SEARCH, A Model State Act for Criminal Offender Record Information, Technical Memorandum No. 3, May, 1971, Committee on Security and Privacy (May, 1971), p. 35.

[3]Project SEARCH, Model Administrative R- tions for Criminal Offender Record Informatic Technical Memorandum No. 4, Committee on Secur and Privacy (March, 1972), pp. 14-17.

[4]Criminal Justice Newsletter NCCO, Vol. 4, No. 22 (November 12, 1973), p. 6.

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## CHAPTER 9 - TECHNICAL SYSTEM DESIGN

### Standard 9.1 STANDARDIZED TERMINOLOGY

To establish appropriate communications among local, State, and Federal criminal justice agencies, the data elements for identification, offense category and disposition on each offender shall be consistent with specifications prescribed in the NCIC operating manual, or if not covered in NCIC, the Project SEARCH Implementing Statewide Criminal Justice Statistics Systems—The Model and Implementation Environment Technical Report No. 4 and the National Criminal Justice Information and Statistics Service Comprehensive Data System guidelines. There may be a need for additional or translated equivalents of the standard data elements at individual agencies; if so, it shall be the responsibility of that agency to assure that the basic requirements of this standard are met.

I. Officially Known Endorsements and Objections

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE in the Task Force Report: Science and Technology, notes that the different levels of government (law enforcement agencies, state, federal, and local) have different informational needs.[1] For a national criminal justice system, the report advocated using only the most serious of criminal contacts as data elements in the system, and in addition strictly limiting access to the system.

> There should be a national law enforcement directory that records an individual's arrest for felonies and serious misdemeanors, the disposition of each case, and all subsequent formal contacts with criminal justice agencies related to those arrests. Access should be limited to criminal justice agencies.[2]

Project SEARCH in Technical Memorandum No. 2 endorsed the use of these limited elements for a national system. Having systems data which is marked and "readily identifiable" as data from the network would promote efficient use and prevent misuse of network information.[3]

II. Special Considerations

In a study funded by the AMERICAN BAR ASSOCIATION on the impact of computerization of government files in general reports that the Bureau of the Budget turned over the process of standardization of its systems to the National Bureau of Standards.

> The technical aspects of the coordinated management program are assigned to the NBS. Its primary function, which portend tremendous change in the Federal Statistical System, is the promotion of compatibility and standardization. Standardization involves creating identical machine elements for all government machines; compatibility involves making existdifferent elements capable of working together.[4]

The study concludes that the need for standardization caries over to any national data system including a criminal justice information system.[5]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 74.

[2]Ibid., p. 76.

[3]Project SEARCH, Technical Memorandum 2, (Sacramento, CA: Project SEARCH Staff, 1972), p. 32.

[4]American Bar Foundation Research Project, "Computerization of Government Files," UCLA Law Review (Chicago, IL: American Bar Foundation, 1968), p. 1395.

[5]Ibid., p. 1396.

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### Standard 9.2 PROGRAMING LANGUAGES

Every agency contemplating the implementation of computerized information systems should insure that specific programing language requirements are established prior to the initiation of any programing effort. The controlling agency should provide the direction concerning programing language requirements already in force, or establish the requirements based on current or projected hardware installation and programing needs (especially from a system standpoint) of present and potential users.

I. Officially Known Endorsements and Objections

This Standard f- ses on the importance of having local agen- s, contemplating the implementation of a c mputer system, use language in the system tha will insure compatibility with higher level governmental agencies. As early as 1946, the problem of the lack of uniformity and compatibility of statistical information gathered by various state and local agencies was isole- in the commentary to the Uniform Criminal Statistics Act.[1] Project SEARCH's Technical Memorandum on the design of statewide criminal justice data systems has urged that the information elements of computerized information systems include input output statistics reconcilable between various user agencies.[2]

The importance of having local agencies seeking to implement computerized systems establish, at the outset, programming language common to other systems was recognized by the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE.

> One major information problem in the criminal justice system is the dispersion of information with no ready means of communicating even its existence to agencies

requiring the information. Thus, the first step in establishing a remote-access information system to service criminal justice agencies is the development of the basic communication networks which tie together the various users and repositories of information. The communications may take the form of voice radio, digital data links, written reports, and the mail.

Central to this communication foundation is the need for common definitions and coding and format standards. This requirement is frequently overlooked, leading to fragmented systems incapable of communicating with each other.[3]

II. Special Considerations

A project funded by the AMERICAN BAR FOUNDATION and conducted by the UCLA Law Review on the computerization of government files, noted that laying a proper groundwork for Automated Data Processing Systems was essential. The study included the task of providing for common programming languages as one of the most important elements of the foundation of an information system.[4]

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[1]National Conference of Commissioners on Uniform State Laws, Uniform Criminal Statistics Act (Chicago, IL: National Conference, 1946), Section 1, comment.

[2]Project SEARCH Statistical Advisory Committee, Technical Report No. 2 (Sacramento, CA: Project SEARCH Staff, 1970), pp. 5-2.

[3]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: U.S. Government Printing Office, 1967), p. 78.

[4]UCLA Law Review Research Project, American Bar Foundation, Sponsor, Computerization of Government Files (Chicago, IL: American Bar Foundation, 1968), p. 1408.

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Standard 9.3 TELEPROCESSING

During the design phase of the development of information and statistics systems, each agency must provide sufficient resources to assure adequate teleprocessing capability to satisfy the intra- and inter-agency communications requirements. Attention should be given to other criminal justice information systems (planned or in operation) at the national, State and local levels to insure the design includes provision for interfacing with other systems as appropriate. Additionally, the specific requirements for internal communications must be included in the technical system design.

I. Officially Known Endorsements and Objections

The importance of designing new computer systems capable of inter-relating with existing programs has been generally acknowledged by major groups studying criminal justice systems and data systems. For example, Project SEARCH's Statistical Steering Committee, in its examination of prototype computer based information systems, endorsed the use of two teleprocessing techniques.

The availability of current information can be further enhanced by two technical aspects of the teletype network design. One is the circuit switching capability of the communications portion of the system; this permits communication between the various "subscribers" of the system, although updates, changes, and additions can only be made from the originating terminal. The other is the network ability to make use of computer-to-computer ties. Such ties include at present NCIC, NCIC-CCH, and the state vehicle and license computer.[1]

While acknowledging the importance of designing new systems with the technical ability to communicate with other agencies and more broadly based computer networks, THE NATIONAL ACADEMY OF SCIENCES has objected to the imposition of standardized teleprocessing information ability, before local agencies have properly assessed their individual needs.

> "In welfare departments, police departments, and many other governmental agencies, it is by no means clear what factors about individuals or events are the critical ones for predicting future needs or helping determine what organizational policies ought to be."[2]

As late as 1972 the project personnel observed that many potential user agencies were still years away from being able to correlate local information requirements with data which could be integrated with national systems.[3]

However, the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE reached a different conclusion as to design priorities. The Commission concluded that:

> "... the first step in establishing a remote access information system to service criminal justice agencies is the development of the basic communication networks which tie together the various users and repositories of information."[4]

II. Special Considerations

In its study of the computerization of government files, the UCLA Law Review emphasized the advantage of interrelating different computer systems.

> "Another important advantage of computerized filing is the ability to interface with other units over connecting communications lines. No one agency has in its files all of the information that it would like to have for every phase of its operations. Thus interconnection of computer banks offers the important possibility of a large pool of governmental information from which each agency may draw."[5]

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[1]Project SEARCH Statistical Steering Commitee, Designing Statewide Criminal Justice Systems (Sacramento, CA: Project SEARCH, 1972), p. 60.

[2]National Academy of Sciences, Databanks in a Free Society (New York, NY: Quadrangle Books, 1972), p. 238.

[3]Ibid., p. 239.

[4]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 78.

[5]UCLA Law Review Research Project, American Bar Foundation, Sponsor, Computerization of Government Files (Chicago, IL: American Bar Foundation, 1968), p. 1384.

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## CHAPTER 10 - STRATEGY FOR IMPLEMENTING STANDARDS

### Standard 10.1 LEGISLATIVE ACTIONS

To provide a solid basis for the development of systems supporting criminal justice, at least three legislative actions are needed:

1. Statutory authority should be established for planning, developing, and operating State level information and statistical systems.

2. States should establish, by statute, mandatory reporting of data necessary to operate the authorized systems.

3. Statutes should be enacted to establish security and confidentiality controls on all systems.

I. Officially Known Endorsements and Objections

Project SEARCH'S Statistical Steering Committee is in complete agreement with the objectives of this Standard.

> "Regardless of the overall approach selected or the sophistication or amount of resources available for the implementation of an offender-based transaction statistics system, the most important prerequisite is the legislation which enables the collection of criminal justice data. The more comprehensive the statute, the clearer the mandate and the more likely that creation of the statistics activity can proceed constrained only by resources and criminal justice policies."[1]

The NATIONAL ACADEMY OF SCIENCES, in its project on computer data banks, reports that city and county governments attempting to institute local data systems have frequently failed due to a lack of resources or their inability to take an overall view of what information should be included. The study would endorse a strong state legislative plan structured to insure compatibility with existing information systems as well as serve statewide information requirements.[2]

II. Special Considerations

The UCLA Law Review in a study funded by the American Bar Foundation noted the importance of carefully structuring plans for the institution of automated data processing systems. The study reached this conclusion:

> "Without a well-defined state ADP (Automated Data Processing) policy and long range plan there is no standard by which departmental systems can be made compatible. The groundwork of standardization had to be laid. . . ."[3]

The study advocates legislation to provide for standardization of system data, to insure that all participating agencies make their systems compatible with the statewide system, and to require security safeguards in the system. The report concludes ". . . if continued progress is to be made, it will be necessary to implement a binding master plan of statewide ADP. . . ."[4]

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[1]Project SEARCH Statistical Steering Committee, Implementing Statewide Criminal Justice Statistics Systems (Sacramento, CA: Project SEARCH, 1972), p. 65.

[2]National Academy of Sciences, Data Banks in a Free Society (New York, NY: Quadrangle Books, 1972), p. 236.

[3]UCLA Law Review Research Project, American Bar Foundation, Sponsor, Computerization of Government Files (Chicago, IL: American Bar Foundation, 1968), p. 1408.

[4]Ibid., p. 1410.

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### Standard 10.2 THE ESTABLISHMENT OF CRIMINAL JUSTICE USER GROUPS

All criminal justice information systems, regardless of the level at which they operate, must establish user groups. These groups should, depending on the particular system, have considerable influence over the operation of the system, its continuing development, and modifications to it.

1. A user group should be established from representatives of all agencies who receive service from the criminal justice information system.

2. The user group should be considered as a board of directors assisting in establishing the operating policy for the criminal justice information system.

3. The user group should also be responsible for encouraging utilization of the system in all agencies and should be directly concerned with training provided by both their own staff and the central agency.

4. Membership in the user group should include the officials who are actually responsible for the various agencies within the criminal justice system.

5. Technical representation on the user group should be of an advisory nature, should assist in providing information to the user group but should not be a voting or full member of the user group.

I. Officially Known Endorsements and Objections

This Standard suggests the establishment of a policy-making and advisory unit composed of representatives of all agencies who receive service from the criminal justice system. The group's function would be to work for cooperation and communication between user agencies in order to reduce the duplication that currently exists in criminal justice systems.

Project SEARCH concluded that such user groups should be established. The Statistical Steering Committee reported:

> "The offender-based transaction statistics system must be responsive to the needs of all criminal justice agencies and supporting government organizations. These users and suppliers of information and data should participate in the system's development. This participation can best be accomplished through the establishment of an advisory committee composed of criminal justice decision makers.
>
> "A committee made up of criminal justice decision makers is in a position to formulate policy and commit their respective agencies. Such a group has another important function. It is a communications medium for disseminating policy throughout the criminal justice system. Agreement on goals, purpose, and direction, becomes a commitment of the criminal justice system to act in a prescribed way."[1]

In its proposed configuration for a national information retrieval network, the AIR FORCE OFFICE OF SCIENTIFIC RESEARCH included the formation of a communication center. The function of this center would be to draft system policies and coordinate information activities within the center's segment of the system. The Center would not perform administrative or financial management activities, but would be concerned with maintaining levels of consistency and cooperation between the individual user units. Members of the communication center would include representatives of independent users and user units served by the centers. They would have the responsibility and authority to implement group policies on a local level.[2]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY, in its study on a National parole reporting system, noted that the only way new systems could be instituted with the ability to maintain cooperation and coordination between individual user agencies, was to place operating policy and utilization responsibility in the hands of administrators and officials of the various user agencies.[3]

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[1]Project SEARCH Statistical Steering Committee, Designing Statewide Criminal Justice Statistics Systems (Sacramento, CA: Project SEARCH, 1972), Technical Report 5, p. 9.

[2]Air Force Office of Scientific Research, A Proposed Basic Configuration for a National System of Interlinking Information Retrieval Networks (Washington, DC: U.S. Department of Commerce, 1964), pp. 61-2.

[3]National Council on Crime and Delinquency A National Uniform Parole Reporting System (Davis, CA: National Probation and Parole Institute, 1970), p. 17.



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Standard 10.3 SYSTEM PLANNING

Each State should establish a plan for the development of information and statistical systems at State and local levels. Critical elements of the plan are as follows:

1. The plan should specify system objectives and services to be provided, including:

   a. Jurisdictional (State, local) responsibilities;
   b. Organizational responsibilities at the State level;
   c. Scope of each system; and
   d. Priorities for development.

2. The plan should indicate the appropriate funding source both for development and operation of the various systems.

3. The plan should provide mechanisms for obtaining user acceptance and involvement.

I. Status in Ohio

The Administration of Justice Division (AJD) Directives for Criminal Justice Planning FY 1974, outlines a plan for the development of information and statistical systems at the State and local levels.[1]

II. Background

In regard to jurisdictional responsibilities, the State is responsible for development of a Comprehensive Criminal Histories and Offender-based Tracking System. Also, local units and the state voluntarily collect the necessary data for the Uniform Crime Reports. The local subsystems must provide data to the State's centralized Comprehensive Criminal History and Offender-based Tracking Systems, Uniform Crime Reports and any necessary management statistics. Any matters of purely local concern are within the jurisdiction of the local sub-system. This includes crime clearance rates, manpower allocation, dispatching, and court scheduling.[2]

At the State level, the organization responsible for the development of the Statewide criminal justice information system is the AJD. On the local level, planning and development is carried out by the Regional Planning Units.

The criminal justice information system at the State level will encompass law enforcement, courts, and correctional agencies across the state. Additionally, it will provide a tie-in to appropriate federal systems, such as the Uniform Crime Reports and the National Crime Information Center. On the local level, the local sub-systems will correspond to the geographical area of the Regional Planning Units or Administration Planning District, whichever is appropriate. The local subsystem information system will provide service to the criminal justice agencies within these districts.

Priorities have been established for the development of the criminal justice information system in 1974. The Ohio Criminal Justice Supervisory Commission established these priorities to inform the Regional Planning Units and the Administrative Planning Districts of the type of programs which would be funded in 1974. These priorities are specifically enumerated in Directives for Criminal Justice Planning for Year 1974.[3] Annual updates will occur.

In summary, the necessary elements of system planning, as suggested by this Standard, are contained in the Administration of Justice Division's publication, Directives for Criminal Justice Planning FY 1974.

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[1]Directives for Criminal Justice Planning FY 1974, by David C. Sweet, Director (Columbus, OH: Administration of Justice Division, 1973), p. 42.

[2]Ibid., pp. 42-43.

[3]Ibid., p. 41.

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Standard 10.4 CONSOLIDATION AND SURROGATE SERVICE

In those cases where it is not economically feasible to provide the information support functions described in Chapter 3 at the organizational level specified, these services should be provided through consolidation of adjacent units at the organizational level specified, or by the establishment of a "surrogate" at the next higher organizational level.

1. Agency support should be provided within the agency requiring the support. When economically unfeasible, such services should be provided by a consortium of nearby agencies of similar type (e.g., two nearby police departments). Alternatively, such services can be provided by the local CJIS on a "service bureau" basis.

2. Local criminal justice information system services, if economically unjustified for an individual locality, should be provided by a regional CJIS composed of adjacent localities. Alternatively, such services can be provided by the State CJIS on a service bureau basis.

3. State CJIS functions, if economically unjustified for an individual State, should be provided on a regional basis by the collective action of several States. Provision of these services by the next higher (Federal) level of CJIS is not appropriate.

4. Financial responsibility for the provision of services in cases where consolidation or surrogate provisions are carried out should remain at the organizational levels specified in this chapter. The basis for establishing the costs of such service, and the quality of performance deemed adequate for the provision of each individual service rendered should be expressed in contractual terms and agreed to by all parties to the consolidation or surrogate relationship.

5. In cases of consolidation or surrogate relationships, a strong voice in the policies and general procedures of the information system should be vested in a users group in which all users of the system are represented.

6. If at all practical, surrogate agencies should provide the same level of data that would be provided if the lower level agencies had their own systems.

I. Status in Ohio

The National Advisory Commission on Criminal Justice Standards and Goals has cited two Ohio programs, CIRCLE and Project CLEAR, as references in formulating this particular standard.

Project CLEAR/Criminal Justice Information System is an example of a regional Criminal Justice Information System (CJIS) composed of adjacent localities. This system serves 43 independent law enforcement departments on the city, township, county, and regional federal level in Cincinnati and Hamilton County.[1] The CLEAR/CJIS system is financed by a county tax levy and was designed by a user group composed of all the criminal justice agencies served by the system.[2] The Regional Computer Center of Hamilton and the City of Cincinnati, Ohio, operate the shared facilities on a contractual basis.[3]

Project CIRCLE is a regional system serving the Montgomery County area. It was designed to satisfy at a minimum all priority needs of the Montgomery County criminal justice agencies.[4] The implementation of the system has been planned in successive stages until the optimum level is reached. When this final

stage is implemented, the needs of all the criminal justice agencies should be satisfied, and thus the level of data provided should be as extensive as if the agencies had their own systems.[5] Project CIRCLE is funded through the local Regional Planning Unit (RPU), and Law Enforcement Assistance Administration (LEAA) grants have been sought.[6] A system of allocating operating costs over time and among the use agencies has not yet been settled.[7]

Another regional criminal justice information system has been planned for the Toledo-Lucas-Wood County area. In the planning stage, this project has the goal of consolidation and organization of the information needs of the various departments within the criminal justice system.[8] At present, the level of data supplied and the allocation of the funding have not yet been determined.

In summary, in the development of criminal justice information systems, Ohio has made use of the principle of consolidation and surrogate services. The Administration of Justice Division has specifically undertaken consolidation of services as a goal in system development.[9]

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[1]California Crime Technological Research Foundation, Proceedings of the International Symposium on Criminal Justice Information and Statistics System (New Orleans, LA: Project SEARCH, 1972), p. 355.

[2]Ibid., pp. 355-357.

[3]Ibid., p. 355.

[4]Ibid., p. 315.

[5]Ibid., p. 316.

[6]Ibid., p. 318.

[7]Ibid., p. 319.

[8]Toledo-Lucas County 1974 Comprehensive Criminal Justice Plan, Andy Devine, Chairman (Toledo, OH: Toledo-Lucas County Criminal Justice Regional Planning Unit, 1973), p. 385.

[9]Directives For Criminal Justice Planning FY 1974, David C. Sweet, Director (Columbus, OH: The Administration of Justice Division, 1973), p. 43.

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Standard 10.5 SYSTEMS ANALYSIS AND DESIGN

Any individual systems covered under the plan described above, funded by Safe Streets Act moneys or other State grant programs, should be predicated on a system analysis and design consistent with the standards in this report.

1. Officially Known Endorsements and Objections

This Standard deals primarily with the funding of projects under the Omnibus Crime Control and Safe Streets Act. The Standard says that information systems for which funding is sought under the Safe Streets Act should generally be influenced by the standards of the Criminal Justice Systems Report of the National Advisory Commission on Criminal Justice Standards and Goals. At this point no group has issued a formal response to this particular Standard.



CHAPTER 11 - EVALUATION STRATEGY

Standard 11.1 PREIMPLEMENTATION MONITORING

Preimplementation monitoring should consist of a continuous review, analysis, and assessment of available documentation and milestone achievement covering system analysis, design, development, and initial steps leading toward actual implementation. All items should be monitored relative to costs (both dollars and man-hours); milestone accomplishment (time); and quality (response time, scope, sophistication, and accuracy). Both intra- and interagency considerations should be included, particularly with respect to consistency with other planned or operational information and statistical systems.

The following items should be considered in this monitoring standard:

1. System Analyses Documentation.
2. System Recruitment Documentation.
3. System Design Documentation.
   a. Functional specifications;
   b. Component flow charts;
   c. Data base design (or administration);
   d. Groupings of files;
   e. Structure of data in files;
   f. File maintenance
   g. File capacity;
   h. Timeliness of data inputs to file;
   i. Data standards;
   j. Module interfaces/data links;
   k. Edit criteria;
   l. Output reports; and
   m. Response time requirements.
4. System Development Documentation
   a. Module description;
   b. Component description;
   c. User manuals;
   d. Operations description;
   e. Data base description; and
   f. Procession modes description (manual, computer-based batch, on-line, real-time).
5. System Implementation Documentation.
   a. Component implementation report;
   b. Data base implementation report;
   c. Test plan report;
   d. Hardware requirements report;
   e. Software requirements report;
   f. Physical site report;
   g. Data security and confidentiality report;
   h. Implementation monitoring report;
   i. Impact evaluation report; and
   j. System training report.

I. Officially Known Endorsements and Objections

This Standard is concerned with technical evaluation of data processing systems leading toward actual implementation. It recommends review and analysis of design, development and milestone achievement. Due to the very technical nature of the Standard, direct endorsements or objections are scarce. However, some organizations have commented generally on preimplementation evaluation.

The COUNCIL OF STATE GOVERNMENTS recommends that preliminary to the invitation for bids (RFPs) on data processing equipment, comprehensive and detailed systems planning and design should be performed. This planning should include a feasibility study of the design specifications and implementation standards.[1]

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION (ICMA) points out that planning for the implementation of a computer cuts across the entire system of an organization:

> "To take advantage of the capacity of the computer it is necessary to redesign carefully the entire system, including the activities to be performed by each position, the methods and procedures to be used by people as well as the computer...."[2]

THe ICMA also notes that system development should include a detailed definition of its objectives, specification of limitations such as cost and time, and the design of a complete computer based system which will meet the objectives within the specified limitations.[3]

Project SEARCH indicates that improved monitoring techniques for data processing systems are essential.[4] Although Project SEARCH does not distinguish between preimplementation monitoring and implementation monitoring, it notes that monitoring is needed to introduce quality control concepts into computer management.[5]

Finally, the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE recognizes the need for data collection, statistical analysis and planning. It recommends that a user survey be made to determine what information is critical so that the implementation of a computer system can be built around these priorities.[6]

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[1]Council of State Governments, Automated Data Processing in State Government (Chicago, IL: Public Administration Service, 1965), p. 29.

[2]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), pp. 224-25.

[3]Ibid.

[4]Project SEARCH, Implementing Statewide Criminal Justice Statistics Systems - Technical Report No. 4 (Sacramento, CA: Project SEARCH, 1972), p. 12.

[5]Ibid.

[6]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Crime and Its Impact - An Assessment (Washington, DC: Government Printing Office, 1967), p. 136.

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Standard 11.2 IMPLEMENTATION MONITORING

A key consideration in implementing systems is providing maximum assurance that the eventual operating system meets the design objectives. Implementation monitoring should employ a specific series of quantifiable measuring instruments that report on the cost and performance of component parts and the total system. The cost/performance monitoring of an operating or recently developed system should focus on: man-machine interaction, software (computer and/or manual processes ), and hardware (computer and/or nonautomated equipment).

I. Officially Known Endorsements and Objections

Although this Standard speaks in technical terms and makes specific technical recommendations, its general thrust may be simplified. The Standard recommends that there be some assurance that the eventual operating system will meet the design objective. More specifically, a monitoring plan should develop consistency in measuring the cost-benefit associated with the implementation of new and improved syatems.

Project SEARCH directly addresses this Standard. It notes that evaluation, including techniques of cost-benefit analysis, is becoming a byword in criminal justice administration and research.[1] Project SEARCH also recognizes the concept of program budgeting and says that with such a concept a set of statistical information is absolutely essential to making predictions or measuring outcomes.[2] Furthermore, Project SEARCH indicates the goal of adequate implementation monitoring:

> "The costs associated with the development of an offender-based transaction approach to statistics, in terms of initial expenses, data collection, processing and analysis, can be justified only if the resultant information can be translated into better management which, in turn, returns at least an equal value in benefit."[3]

The COUNCIL OF STATE GOVERNMENTS makes two specific recommmendations for implementation monitoring. First, reports should be required on the use and cost of existing computer installations and second, uniformity should exist among computer installations in systems design, programming conventions, and standards in documentation, classifications, codes and data elements.[4] These two requirements would insure the comprehensive evaluation of the system and its ability to meet the desired objectives.

The INTERNATIONAL CITY MANAGEMENT ASSOCIATION recommends the monitoring of existing systems:

> "Regular evaluation of each new system should be planned and carried out to be sure that the system continues to meet organizational requirements and continues to conform to the criteria initially established when the requirements were defined."[5]

It notes that without regular review, computerized systems may not be modified to keep up with changes either in the work to be performed or in the organization served.[6]

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE has recommended implementation monitoring. It notes that keeping abreast of changing reuqirements should be a major function of a computerized statistics center. This requires periodic use surveys, the use of special studies on requirements, the development of new indicators for new crime problems, and the development of better methods of presentation.[7]

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[1]Project SEARCH, Implementing Statewide Criminal Justice Statistics Systems - Technical Report No. 4 (Sacramento, CA: Project SEARCH, 1972), p. 11.

[2]Ibid.

[3]Ibid., p. 9.

[4]Council of State Governments, Automated Data Processiong in State Government (Chicago, IL: Public Administration Service, 1965), p. 29.

[5]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), p. 236.

[6]Ibid.

[7]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Crime and its Impact - An Assessment (Washington, DC: Government Printing Office, 1967), p. 136.

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Standard 11.3 IMPACT EVALUATION

Impact evaluation should begin with an investigation of system outputs at the component level. Once individual components have been assessed as to their capability for supporting users, impact analyses should be conducted for larger aggregations made up first of multiple and then total components. This process permits criminal justice agencies to draw conclusions about the immediate and long-range effects of various inputs.

In general, an impact evaluation should determine: (1) what information, communciation and decision processes in a criminal justice agency exhibit the greatest positive and negative impact due to the information and statistic system; and (2) what relationships exist between specific features of the system and the benefits to the user.

Impact evaluation should adhere to the following criteria:

1. Installation of the impact plan. Operation of each component of the system should be evaluated. Quantifiable data that is needed to evaluate an investigative file/data base includes:
   a. Number of inquiries or file searches per specified period;
   b. Number of investigative leads or clues provided per specified period;
   c. Number of accurate versus erroneous suspects identified;
   d. Number of arrests as a result of identification by the system;
   e. Number of criminal cases cleared as a result of an arrest and/or conviction; and
   f. Dollar value of property recovered.

   This should be computed on a per capita basis and cost ratio with the system. Similar formal evaluation should be undertaken of such files as traffic citations, calls for service, case reporting, in-custody, want/warrant, court scheduling, criminal histories, and so forth.

2. Analyses of operational impacts over time. Each component of the system as well as the entire system should be regularly analyzed. These evaluations should include the more significant data suggested above and should be focused on how much more effectively an agency is attaining its goals and objectives. For information systems serving multiple agencies, the evaluations should focus on achieving integrated criminal justice system goals.

3. Analysis of attitudinal and behavioral impacts over time. The entire system should be assessed for a change in the attitudes and behavior of the users. This is a relatively subjective evaluation but can be quantified by appropriate, periodic user surveys.

4. Analysis of management and planning capabilities. The system should be evaluated to learn if it aids criminal justice managers and planners in achieving coordination of resources. For example, how many cirminal justice managers used the system and how often? What degree of support did the system provide the manager? In retrospect, how accurate was the system in planning? Was it accurate, for example, in predicting the calls for service in a reporting district over the subsequent 12 months? Or how effectively was a court calendar scheduled?

5. Analysis of management decisions as they relate to the cost of criminal justice operations. The system should be designed to report on the ratio of its cost to the expenses of overall agency operations. Cost centers should be established and the expense of the system reported by user and organizational unit. Costs should also be determined for criminal justice programs and processes (e.g., public relations programs, probation programs, the prevention/suppression process, etc.) on regional bases (county, area, State, country) as well as on a user or agency basis.

6. Analysis of technology or equipment. The cost of hardware should be subjected to a trade-off analysis. For example, if a rotating filing cabinet were installed, what would be the monetary savings and user advantages in terms of more rapid access to warrants or prisoner records, accuracy of filing, and ease of file maintenance Similarly, for computer systems: What are the savings and advantages? Will the information be available and helpful to more people? Are there some other uses for the equipment which would affect the net cost of the system?

7. Analysis of program and policy change. All programmatic and policy changes within the criminal justice agency should be related to the influence that the information and statistical system may exert on them.

8. Evaluation of achievement. Criminal justice personnel, management, and citizens in need of service are best qualified to measure how effectively the system aids accomplishment of the agency's goals. By far, the most challenging requirement is to assess the "worth" of an information system as it relates to a particular set of goals. To illustrate: Does the information system reduce police response time from 4 minutes to 2 on an average per call for service? Or, does the system aid in rehabilitation by predicting effective treatment methods for individual offenders? This analysis will necessarily be more subjective than others.

I. Officially Known Endorsements and Objections

This Standard focuses on measuring the external impact of a computer system rather than on the evaluation of the system itself. Although the Standard is concerned with a highly technical evaluation of the system output, its main thrust is to look to the defined objectives of the system and determine if those objectives are being accomplished.

The PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE recognizes the basic need for data processing systems in order to achieve the objective of reducing crime in our society.[1] The impact of such a system would be to answer some basic questions that are operationally relevant to criminal justice planning:

> "1. The effects upon court and correctional costs of a given percentage increase in police clearance rates.
> 2. The effects upon courts and correctional costs and workloads of providing free counsel to all arrestees.
> 3. The projected workload and operating costs of police, courts and corrections for a given number of years.
> 4. The effects upon recidivism and associated costs of statistical techniques which permit sentencing judges to prescribe optimum treatment programs."[2]

The President's Commission notes that continued evaluation of the output of such an infor-

mation system is essential.[3]

Project SEARCH recommends the evaluation of statistical systems impact. It notes that:

> "This kind of capability would enable decision makers to evaluate alternative policies at various points in the system, and assist in assessing total cost implications."[4]

Impact evaluation may also be accomplished by approximating the relationships between components: simulating changes in one part of the system and projecting the impact on other parts.[5]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY views impact evaluation in somewhat different terms:

> "Perhaps the most significant impact of the program can be to help increase agency concern to seek empirical confirmation or refutation of testable hypotheses..."[6]

The COUNCIL OF STATE GOVERNMENTS recommends that in evaluating the impact of a computer system, the review should include major functional areas having common or overlapping informational sources. Effort should be made to coordinate these areas so as not to duplicate efforts.[7] Also, priorities should be set for the extension of the computer system into new areas.[8]

Finally, the INTERNATIONAL CITY MANAGEMENT ASSOCIATION recommends that the entire data processing system be continually reviewed and evaluated to insure that it is meeting organizational requirements and conforming to the defined objectives.[9]

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[1]President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, DC: Government Printing Office, 1967), p. 65.

[2]Ibid.

[3]Ibid., pp. 65-67.

[4]Project SEARCH, Implementing Statewide Criminal Justice Statistics Systems - Technical Report No. 4 (Sacramento, CA: Project SEARCH, 1972), p. 12.

[5]Ibid.

[6]National Council on Crime and Delinquency, A National Uniform Parole Reporting System (New York, NY: National Council on Crime and Delinquency, 1970), pp. 27-29.

[7]Council of State Governments, Automated Data Processing in State Government (Chicago, IL: Public Administration Service, 1965), p. 30.

[8]Ibid.



[9]International City Management Association, Managing the Modern City (Washington, DC: International City Management Association, 1971), p. 236.

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## CHAPTER 12 - DEVELOPMENT, IMPLEMENTATION, AND EVALUATION OF EDUCATION CURRICULA AND TRAINING PROGRAMS FOR CRIMINAL JUSTICE PERSONNEL

### Standard 12.1 DEVELOPMENT, IMPLEMENTATION, AND EVALUATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING PROGRAMS

In selecting and placing personnel with the necessary skill and knowledge to fulfill efficiently and effectively the objectives of the criminal justice system, criminal justice agencies, and agencies of education should undertake the following activities:

1. Identify specific and detailed roles, tasks, and performance objectives for each criminal justice position in agencies of various jurisdiction, size, and locale and in relation to other positions in the criminal justice system and the public. These perceptions should be compared with actual practice, and an acceptable level of expected behavior established.

2. Establish clearly the knowledge and skill requirements of all criminal justice positions at the operational, support, and management level on the basis of roles, tasks, and performance objectives identified for each position.

3. Develop educational curricula and training programs only on the basis of identified knowledge and skill requirements; terminate all unnecessary programs.

4. Develop implementation plans that recognize priorities and constraints and use the most effective learning techniques for these education and training programs.

5. Develop and implement techniques and plans for evaluating the effectiveness of education and training programs as they relate to on-the-job performance.

6. Develop for all criminal justice positions recruitment and selection criteria that incorporate the appropriate knowledge and skill requirements.

7. Develop techniques for a continuous assessment of education and training needs as they relate to changes in social trends and public needs on a national and local basis.

8. Require all criminal justice personnel to possess the requisite knowledge and skills prior to being authorized to function independently. Require personnel already employed in these positions to obtain the requisite knowledge and skills within a specified period of time as a condition of continued employment.

I. Officially Known Endorsements and Objections

The emphasis of this statement is not to require education and training for criminal justice employees. Instead, the emphasis is on analysis of the job requirements and development of training, education, and entrance standards that will result in recruitment of people able to meet those job requirements.

While many organizations have suggested training and education requirements necessary to fill positions in the criminal justice system, few of these recommendations have been tied in with a call for a rigorous evaluation of the duties involved in the jobs to be filled. The Challenge of Crime in A Free Society is by far the strongest advocate of such a position. It indicates that there is little substantial knowledge of job requirements; consequently, training lacks appropriateness.[1] However, this report goes on to recommend many training and educational standards that have little assured connection to the duties to be performed. Two earlier publications by the American Prison Association (now American Correctional Association) setting up recommended college curricula[2] and in-service training programs[3] make rudimentary efforts to analyze job tasks before defining the education and training required, however, there are few Standards available for comparison in this area.

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[1]The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police (Washington, DC: U.S. Government Printing Office, 1967), pp. 20-21.

[2]American Prison Association, Suggested College Curricula as Preparation for Correctional Service (New York, NY: American Prison Association, 1954), pp. 14-18.

[3]American Prison Association, In-Service Training Standards for Prison Custodial Officers (New York, NY: American Prison Association, 1951), pp. 24-27.

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### Standard 12.2 CRIMINAL JUSTICE SYSTEM CURRICULUM

Criminal justice system curricula and programs should be established by agencies of higher education to unify the body of knowledge in criminology, social science, law, public administration, and corrections, and to serve as a basis for preparing persons to work in the criminal justice system.

The following factors should be included in the development of curricula and programs:

1. A range of associate arts programs through graduate offerings should be established as rapidly as possible.
2. Care should be taken to separate the academic nature of the curricula from training content and functions best performed by police, courts, and corrections agencies.
3. Liaison should be established with criminal justice agencies to insure that

theoretical content keeps pace with rapid new developments in the field.

I. Officially Known Endorsements and Objections

In the early 1950's, the American Prison Association (APA), (now American Correctional Association) suggested model curricula for those interested in corrections. The emphasis generally was on social studies, with some courses dealing with corrections. No courses were specifically oriented toward training lower level personnel for their tasks.[1]

In 1971, the American Association of Junior Colleges prepared a suggested law enforcement curriculum for the Associate of Arts degree. For a sixty-four hour program they recommended eight 3-hour courses in law enforcement, including introductory courses titled Introduction to Law Enforcement, Police Administration, Police Operations, Police Role in Crime and Delinquency, and others. The other hours are primarily in the social sciences and the humanities.[2]

II. Special Considerations

There are few official organizational positions taken on criminal justice curricula. To say this is not to say that there is no interest in the topic. Indeed, interest is considerable. A search of primary literature in the field indicates that there are two distinct positions.

First, there is the traditional view that police and other criminal justice personnel primarily are interested in, and need, job related information and training.[3] The emphasis, it is suggested, should be on the "practices, techniques, needs, and milieu of police work."[4] This is a very specific job related information primarily oriented toward immediate, direct applicability. Academic material, when it can be shown to have that same direct applicability (e.g., study of juvenile delinquency), is favored. Charles W. Tenney in Higher Education in Law Enforcement and Criminal Justice Education suggests that curricula of this type are essentially "training" oriented.[5]

Tenney suggests that other types of criminal justice higher education programs can be subdivided into "professional" and "social science" groupings.[6] Both types of programs, however, follow more traditionally academic curricula, often emphasizing criminal justice or social science courses. For simplicity, both "professional" and "social science groupings" will be analyzed here as one "academic" category.

The underlying assumption on which "academic" programs are based, an assumption shared by the President's Commission on Law Enforcement and Administration of Justice, is that the dynamic forces of change in society and in criminal justice activities require a diverse, adaptable man to meet the challenge effectively. Thus, training courses alone are of comparatively little value. Instead, supporters of the "academic" oriented programs usually encourage a solid education in the liberal arts with an emphasis in criminal justice related social studies, for both a two year (A.A.) or four year (B.A.) program.[7] They recommend that training be done by the agencies and not by colleges and universities.[8]

One survey of 30 criminal justice experts suggested six courses as basic in a criminal justice curriculum: Legal Aspects of Law Enforcement, Human Relations Skills, Philosophy and History of Law Enforcement, Principles of Administration, Psychology, and Juvenile Delinquency. It was suggested that this should be about one-fourth the credits required for a baccalaureate degree. These courses would be supplemented with others in the major and with liberal arts offerings.[9]

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[1]American Prison Association, Suggested College Curricula Preparation for Correctional Service (New York, NY: American Prison Association, 1954), pp. 14-18.

[2]American Association of Junior Colleges, Guidelines for Law Enforcement Education Programs in Community and Junior Colleges (Washington, DC: American Association of Junior Colleges, 1971), p. 6.

[3]George A. Lankes, "How Should We Educate The Police," Journal of Criminal Law, Criminology, and Police Science 61 (December, 1970):588.

[4]Robert S. Prout, "An Analysis of Associate Degree Programs in Law Enforcement," Journal of Criminal Law, Criminology, and Police Science 63 (December, 1972): 589.

[5]Charles W. Tenney, Jr., Higher Education in Law Enforcement and Criminal Justice Education (Washington, DC: Law Enforcement Assistance Administration, 1971), pp. 9-14.

[6]Ibid., p. 43.

[7]A. F. Brandstetter, "Career Concept for Police," Journal of Criminal Law, Criminology, and Police Science 61 (September, 1970): 440.

[8]Leo C. Loughrey and Herbert C. Friese, Jr., "Curriculum Development for a Police Science Program," Journal of Criminal Law, Criminology, and Police Science 60 (June, 1969): 270.

[9]Richard F. Marsh and W. Hugh Stickler, "College-University Curriculum for Law Enforcement Personnel," Journal of Criminal Law, Criminology, and Police Science 63 (June, 1972): 300-303.

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## CHAPTER 13 - CRIMINAL CODE REVISION

### Standard 13.1 CRIMINAL CODE REVISION

Any State that has not revised its substantive criminal law within the past decade should begin revision immediately. Federal or State funds should be provided as appropriate.

I. Officially Known Endorsements and Objections

The need for criminal code revision appears to have almost universal acceptance. The AMERICAN LAW INSTITUTE (ALI) began to draft a model for criminal code revision that culminated in the Model Penal Code of 1962.[1] Even organizations of educators and businessmen such as the COMMITTEE FOR ECONOMIC DEVELOPMENT include in their general reports on criminal justice a recommendation for revising criminal laws.[2] In the thirty or more states which have either completed and enacted new substantive criminal codes or are at some stage of the revision process,[3] the local bar associations have provided assistance and impetus to the process.[4] The only objections to revision seem to be based on the manner of the revision rather than the need for updating the criminal statutes.[5]

It is significant that the time period chosen by the standard for characterizing criminal codes as obsolete is ten years. The ALI's Model Penal Code was published in 1962 and the Standard indicates that it is the "greatest single force behind...new revisions." States which have revised their criminal statutes have testified to the Model Penal Code's utility as a guide in both organizational and substantive aspects.[6]

Although the M.P.C. has been lauded as a tool for criminal code revision, the literature does not discuss or emphasize a ten year dividing line for revision of criminal statutes. This is probably due to the nature of the problem. In many states criminal codes had not been revised for nearly a century or more. The discussion in the literature seems to focus on the need to update the more obsolete codes.[7]

The 109th General Assembly passed a comprehensive revision of Ohio's substantive criminal laws which was signed into law by the Governor on December 12, 1972. The new law became effective on January 1, 1974.[8]

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[1]American Law Institute, Model Penal Code - Proposed Official Draft (Philadelphia, PA: American Law Institute, 1962).

[2]Committee for Economic Development, Reducing Crime and Assuring Justice (New York, NY: Committee for Economic Development, 1972), p. 14.

[3]President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, DC: Government Printing Office, 1967), p. 126.

[4]"Symposium: Recodification of the Criminal Laws," 4 Journal of Law Reform 425 (1971).

[5]National District Attorneys Association, The Role of the Local Prosecutor in a Changing Society: A Confrontation with the Major Issues of the Seventies (Chicago, IL: National District Attorneys Association, 1973), p. 13.

[6]"Symposium: Recodification of the Criminal Laws," pp. 429-42.

[7]Ibid., p. 461.

[8]Ohio Legislative Service Commission, Summary of Am. Sub. H.B. 511, The New Ohio Criminal Code (Columbus, OH: Ohio Legislative Service Commission, 1973), p. V.

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### Standard 13.2 COMPLETENESS OF CODE REVISION

Substantive code revision should be complete rather than partial; should include general doctrines as well as specific definitions of crime; and should arrange those definitions functionally according to the harms proscribed, rather than alphabetically.

General code provisions, including those on sentencing, should apply to criminal statutes outside the criminal code itself when practical considerations mandate the continuation of special criminal statutes elsewhere in the State's laws. To the maximum extent possible, inherited statutory crimes that are unenforced, or can be enforced only randomly or discriminatorily, should be eliminated, whether or not they involve identifiable victims.

I. Officially Known Endorsements and Objections

Widespread endorsement of this Standard's requirements of completeness, functional arrangement, and generality can readily be inferred from the recent criminal code revisions in many states. The AMERICAN LAW INSTITUTE's Model Penal Code (M.P.C.) substantially takes the approach suggested in the Standard.[1] Many states have patterned their new codes directly after the organization of the M.P.C. including California, Massachusetts, Delaware and Illnois.[2]

No national standard setting organizations have commented upon the form of criminal law drafting. Rather, an inference as to what form is preferable must be drawn from the style of the model acts themselves. For example, model legislation mostly concerning corrections drafted by the NATIONAL COUNCIL ON CRIME AND DELINQUENCY adopts the principles of drafting enumerated in the Standard.[3]

A controversial aspect of this Standard is its requirement of eliminating laws which are unenforced or can be enforced only randomly or discriminately. These laws include what are traditionally known as "victimless" crimes (prostitution, pornography and homosexual activity) and also crimes which indicate "illness" (alcoholism and drug abuse). The M.P.C. excludes from the scope of criminality some offenses such as consensual heterosexual and homosexual relations but refuses to absolve other "victimless" conduct such as prostitution.[4] Each state that has recently revised its criminal code has had to wrestle with this problem and the final result has usually been a political compromise.[5] Organizations such as the ADVISORY COUNCIL OF JUDGES OF THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY[6] and the ALLIANCE FOR A SAFER NEW YORK[7] have recommended a decriminalization of certain drug offenses and victimless crimes. On the other hand, wholesale abolition of criminal sanctions for victimless crimes is opposed by many law enforcement officials.

II. Special Considerations

The new Ohio Criminal Code which became effective January 1, 1974 is organized substantially as the Standard suggests. There are both general doctrines and specific difinitions of crimes with each chapter being arranged functionally according to the degree of harm inflicted.

The new Ohio Code deals, to some extent, with the problem of victimless crimes. For example, in Chapter 2907 on sexual offenses, the new code does not criminalize fornication, adultery or sodomy in the context of consensual, private adult relations. On the other hand, prostitution is retained as a crime.[8]

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[1]American Law Institute, Model Penal Code - Proposed Official Draft (Philadelphia, PA: American Law Institute, 1962).

[2]"Symposium: Recodification of the Criminal Laws," 4 Journal of Law Reform 425 (1971): 429, 443, 461, 476.

[3]National Council on Crime and Delinquency, "Model Sentencing Act," Sentencing Alternatives and Procedures (New York: American Bar Association, 1967).

[4]American Law Institute, Model Penal Code, 1962.

[5]"Symposium," 4 Journal of Law, 1971.

[6]Advisory Council of Judges of the National Council of Crime and Delinquency, Narcotics Law Violations (New York: National Council on Crime and Delinquency, 1964), p. 13.

[7]Alliance for a Safer New York, Crimes With No Victims (New York, NY: Alliance for a Safer New York, 1972), p. 73.

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Standard 13.3 PENALTY STRUCTURES

A revised substantive code should simplify the penalty structure, impose procedural controls on the exercise of discretion in sentencing, and encourage use of probation where circumstances so warrant.

I. Officially Known Endorsements and Objections

This Standard is divided into three distinct recommendations concerning penalty structures; (1) the penalty structure should be simplified, (2) procedural controls should be implemented to govern the exercise of discretion in sentencing and, (3) the use of probation should be encouraged. National groups have commented on each of these recommendations.

Simplification of the penalty structure has been endorsed by the AMERICAN BAR ASSOCIATION (ABA) in its Standards Relating to Sentencing Alternatives and Procedures. The Standards suggest that for purposes of sentencing, crimes should be classified into several categories which reflect the differences in gravity of each offense. Also, the legislature should refrain from specifying a mandatory sentence for any category of offenses; a sentence appropriate for each individual case can then be selected from a range of alternatives.[1]

Expanding further on this plan, the ABA suggests that the legislature set a maximum term permissible for each offense. Then the sentencing court may prescribe a term up to the statutory maximum. The legislature should not set a required minimum that must be served before parole eligibility. The sentencing court may impose a minimum that must be served before parole eligibility. The sentencing court may impose a minimum sentence, but this minimum sentence may not exceed 1/3 of the maximum sentence.[2]

The AMERICAN LAW INSTITUTE, through the Model Penal Code (MPC), has also called for simplification of penalty structures. The MPC defines degrees of harm and attaches a flexible penalty structure to each classification. Both minimum and maximum terms are set within a range established by the legislature.

Procedural controls to govern the discretion of the sentencing court are discussed in several contexts. One of the areas of dispute is whether a judge may impose consecutive or concurrent sentences. The ABA's position is that consecutive sentences are rarely appropriate and can be utilized only in very narrow circumstances - such as finding that the length of confinement is necessary to protect the public from further criminal conduct.[4]

On the other hand, wide discretion is given the sentencing court to reduce felony conviction to a lower category of felony or to a misdemeanor. This reduction is urged, at the court's discretion, whenever the court feels the term would be unduly harsh considering the nature and circumstances of the offense and the history and character of the defendant.[5]

The use of a presentence report acts as a procedural control on judicial discretion by providing information to be used in ascertaining an appropriate sentence in the light of all information concerning the defendant. The ABA recommends that a pre-sentence report be mandatory when a sentence of one year or more is a possible disposition. However, the court should be authorized to obtain a pre-sentence report in every case.[6]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY (NCCD) also calls for the use of a presentence report whenever commitment for one year or more is possible. Likewise, the NCCD also would recommend that the court obtain a pre-sentence report whenever it felt that a report were called for.[7] Furthermore, the Model Penal Code(MPC) Section 7.07 deals with pre-sentence reports. Under the MPC, a pre-sentence report is only mandatory upon a felony conviction or when the sentence will be for an extended term.[8]

As another procedural control, the ABA suggests a mechanism of appellate review for sentences which would operate apart from a review of the conviction. The sentence appeal would be of right, and the reviewing court would have the power to consider the propriety of the sentence in regard to the circumstances of the particular case.[9]

National groups generally endorse the liberal use of probation in sentencing. The ABA calls for all sentencing to be minimal in terms of length of confinement, with probation being the preferred disposition. In this regard, the ABA suggests that the legislature authorize the use of probation in every case. Only the most serious offenses (i.e., murder and treason) would be exempt from this principle.[10]

The NCCD suggests that:

> "non-dangerous offenders be dealt with by probation, suspended sentences or a fine. Dangerous offenders may be sentenced to a term of confinement not to exceed 30 years. However, before a felon can be classified as a 'dangerous offender,' the court must find that the person is suffering from a 'severe mental or emotional disorder indicating a propensity toward continuing dangerous criminal activity.'"[11]

The AMERICAN CORRECTIONAL ASSOCIATION suggests that the court be authorized, by statute, to use probation at its discretion.[12] Furthermore, this would require that statutes, which designate a specific crime or type of offender as non-probationable, be removed from the criminal code.[13]

II. Special Considerations

The new Ohio Criminal Code has substantially adopted the recommendations of this Standard. Penalty structures have been simplified by adopting general classifications of harm and then applying a flexible penalty structure to each class. Guidelines for choosing penalties have been mandated to curb undue discretion on the part of the trial judge. Also, probation weekend sentencing, "split sentencing and concurrent sentences have been provided for.[14]

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[1]American Bar Association, Standards Relating to Sentencing Alternatives and Procedures (New York, NY: American Bar Association, 1976), p. 13.

[2]Ibid., pp. 20-21.

[3]American Law Institute, "Model Penal Code-Sentencing Provisions," Compendium of Model Correctional Legislation and Standards (New York, NY: American Bar Association, 1972), pp. 11-63.

[4]American Bar Association, Standards Relating to Sentencing Alternatives and Procedures, p. 23.

[5]Ibid., p. 26.

[6]Ibid., p. 27.

[7]Advisory Council of Judges of the National Council on Crime and Delinquency, Model Sentencing Act (New York, NY: National Council on Crime and Delinquency, 1963), pp. 1-5.

[8]American Law Institue, "Model Penal Code-Sentencing Provisions," pp. 11-63.

[9]American Bar Association, Appellate Review of Sentences (New York, NY: American Bar Association, 1967), pp. 9-11.

[10]American Bar Association, Standards Relating to Sentencing Alternatives and Procedures, p. 14.

[11]Ibid., pp. 330-331.

[12]American Correctional Association, Manual of Correctional Standards (Washington, DC: n.p., 1966), p. 99.

[13]Ibid., p. xxiii.

[14]Ohio Legislative Service Commission, Summary of Am. Sub. H.B. 511, The New Ohio Criminal Code (Columbus, OH: Legislative Service Commission 1972), p. 63.

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Standard 13.4 CORRECTIONS LAW REVISION

Each State should immediately undertake a complete revision of its corrections laws to pro-

...more effective, fair prison administration, relevant staff and inmate education, and modernized prison industries. The rules should specify prisoners' duties and rights and should establish disciplinary proceedings compatible with administrative due process. Federal or State funds should be provided as appropriate.

To accomplish corrections law revision within the time limits set in this standard, Safe Streets Act funding could, for many States, be the financial basis of the proposed statutory changes needed to complement and to make effective the Act's other crime reduction programs.

I. Officially Known Endorsements and Objections

This standard addresses itself to two areas of corrections reform: (1) the administration of prisons, and (2) prisoner treatment.

The AMERICAN LAW INSTITUTE in 1962 suggested guidelines for the administration of prisons and correction agencies in Part IV of the Model Penal Code. According to the objectives outlined in Article 401, the main thrust of the organization effort should be to consolidate correctional institutions and other correctional services under the supervision of one state department. This department should establish standards for the management, operation, personnel practices and programs of all institutions. The department would also provide a supervisory function to insure that these standards were maintained.[1]

In 1966, the NATIONAL COUNCIL ON CRIME AND DELINQUENCY formulated a model act. The Standard Act for State Correctional Services for use in correction law revision, which has as its purpose the establishment of an agency of the state government which would be responsible for the custody, care, discipline, and treatment of prisoners.[2] Once this consolidation has taken place, the act calls for the development of an administrative structure providing for divisions and special services in order to accomplish the goals and programs of the act.[3]

In 1972 the ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS published the State Department of Correction Act. Under the act, the state department of correction is completely responsible for the maintenance, supervision and administration of all correctional institutions, even those operated by local government are subject to inspection by the state department.[4]

Under the heading of "prisoner treatment" come two related sub-topics: (1) prison industry and programs, and (2) prison discipline and the rights of prisoners. Several national organizations endorse the modernization of prison industries and the application of prisoner's rights and duties.

In Part III of the Model Penal Code, the AMERICAN LAW INSTITUTE has endorsed the concept of prison industry serving the dual purpose of establishing good habits of work and responsibility and also reducing the cost of institutional operation. The prison industry should be directed to production of goods, services, and foodstuffs to maintain the institution for use of the state and its political subdivisions.[5]

The State Department of Corrections Act recommends work experience and vocational training for all prisoners. The Act also calls for compensation to be paid to inmates in order that they might be able to support their dependents. In addition, the Act allows an inmate to leave the prison during necessary and reasonable hours to seek employment, work, conduct his own business or attend an educational institution.[6]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY has adopted the view that the department of corrections should provide employment opportunities to all inmates. Also, the equipment, management practices, and general procedure should reflect normal conditions of employment in private industry.[7]

The specification of prisoner's rights and duties has received endorsement by several groups in addition, an orderly and fair procedure for disciplinary proceedings is strongly endorsed.

In 1966 the AMERICAN CORRECTIONAL ASSOCIATION published the Manual of Correctional Standards. These standards specify that rules must be written and a copy furnished to each inmate. No penalty may be imposed except in accordance with the disciplinary procedure adopted by the department. Additionally, inmates are given access to a method for registering complaints to the corrections administration.[8]

In 1972 the NCCD promulgated the Model Act for Protection of the Rights of Prisoners. Accordingly, all regulations should be published, and a fair and orderly procedure for dealing with violations should be developed. Any punishment that may affect the length of the prisoner's sentence or retention of his good behavior time should not be imposed without a hearing at which the prisoner has a right to be present and represented by council. A grievance procedure is provided by which alleged grievances will be investigated by a person or agency outside the department.[9]

The Model Penal Code provides that any punishment can be made only at the order of the warden and that a detailed record must be kept of all disciplinary proceedings.[10] The NATIONAL SHERIFFS ASSOCIATION's Manual on Jail Administration recommends that a system of discipline for treating inmate misconduct should be specified and formalized. Any disciplinary action should be reasonable and in accordance with the law. A record should be kept of all disciplinary actions.[11]

II. Special Considerations

The new revision of the Ohio Criminal Code does not contain any provisions directly concerning this area of corrections. Therefore,



Ohio's correctional agencies continue to operate under former laws and administrative procedures.

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[1]American Law Institute, "Model Penal Code," Compendium of Model Correctional Legislation and Standards, ed., American Bar Association (New York, NY: n.p., 1972), p. I-37.

[2]National Council on Crime and Delinquency, "Standard Act for State Correctional Services," Compendium of Model Correctional Legislation and Standards (New York, NY: American Bar Association, 1972), p. I-23.

[3]Ibid., pp. I-28.

[4]Advisory Commission on Intergovernmental Relations, "State Department of Correction Act," Compendium of Model Correctional Legislation and Standards (New York, NY: American Bar Association, 1972), pp. I-11.

[5]American Law Institute, pp. iv-30.

[6]Advisory Commission on Intergovernmental Relations, pp. I-17.

[7]National Council on Crime and Delinquency, pp. I-30,31.

[8]American Correctional Association, "Manual of Correctional Standards," Compendium of Model Correctional Legislation and Standards (New York, NY: American Bar Association, 1972), pp. x-24.

[9]National Council on Crime and Delinquency, "Model Act for Protection of Rights of Prisoners," Compendium of Model Correctional Legislation and Standards (New York, NY: American Bar Association, 1972), pp. iv-55.

[10]American Law Institute, pp. IV-28,29.

[11]National Sheriffs Association, "Manual of Jail Administration," Compendium of Model Correctional Legislation and Standards (New York, NY: American Bar Association, 1972), pp. x-54.

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Standard 13.5 ORGANIZATION FOR REVISION

In determining eligibility for funding of criminal law revision projects, a drafting body should be favored that, in the case of substantive and corrections code revision, maintains maximum effective liaison with the legislature or, in the case of procedural revision, maintains liasion with the State supreme court if this court has broad rulemaking powers. An applicant agency should rely either on law faculty members for the preparation of drafts, or should employ qualified full-time committee or commission staff members to prepare drafts and commentaries.

The drafting commission membership, in combination with special advisory committees, should reflect the experience of all branches of the legal profession, corrections, law enforcement, and key community leadership. There are several alternative methods of organization for revision commissions:

1. Legislative Commission;
2. Augmented Legislative Commission;
3. Executive Commission;
4. State Bar Committee; and
5. Judicial Council or Advisory Committee.

I. Officially Known Endorsements and Objections

None of the national organizations which draft model rules or advocate changes in the criminal law comment upon how a revision of criminal laws and rules should be accomplished. Endorsements and objections to a particular way of organizing for revisions can only be inferred from the manner in which the model rules are created. Furthermore, many states have been through criminal code revisions and, as indicated in Standard 13.5 itself, the form of organization chosen by the states indicates which methods have been most successful. Finally, several interest groups concerned with legislative drafting in general have made recommendations as to organization for revision of codes.

An example of how a private group drafting model rules organizes for such a project is found by observing the AMERICAN BAR ASSOCIATION's (ABA) production of Standards for Criminal Justice. The governing body of the ABA authorized funds and commissioned a special committee to turn out the model rules. A full-time director was hired and a central office was set up to administer the project.[1] Significantly, the ABA, which represents a wide range of viewpoints, appointed separate "advisory committees" for each specialized area of the project. Each of those committees was composed of members with experience and expertise in the administration of criminal justice, including appellate and trial judges; prosecuting attorneys, public defenders, and other public officials; criminal law professors, and practicing lawyers. The committees were aided by reporters and consultants drawn from law faculties across the nation and by the resources of interested specialized organizations.[2] The organization set up by the ABA to draft its model rules reflects an endorsement of the ideas set out in Standard 13.5.

The most direct endorsement of organizational methods comes from the states which have completed criminal code revisions. Standard 13.5 lists five different modes of organization and cites which states have used that method in each instance. Also, a review of the authorities referred to by Standard 13.5 indicates that somewhere in the legislative process the opportunity for criticism, input of various viewpoints and political compromise was extended.

The NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS suggests that law revision committees

be set up through the executive branch of government, preferably the chief legal officer in the government. Also, legal personnel only should be involved in drafting the revisions, but non-legal personnel may be used for advice.[1]

II. Special Considerations

Organizations concerned with the general drafting of legislation have made some recommendations for revision of codes. The ILLINOIS COMMISSION ON THE ORGANIZATION OF THE GENERAL ASSEMBLY recommends that more use be made of legislative research bureaus as an arm of legislative committees. Permanent staff and adequate funding should be provided to these service bureaus.[2]

The ohio organization for criminal code revision would most closely resemble the "augmented legislative committee." The Ohio General Assembly adopted a resolution authorizing the Legislative Service Commission to appoint a Technical Committee made up of members of the bench and bar. That committee was assisted by the Legislative Service Commission staff. The committee drafted a proposed code which was introduced into the General Assembly. After hundreds of hours of committee hearings, during which a wide range of viewpoints were heard, and many substantive changes made, the bill was finally enacted into law.[3]

[1]American Bar Association, Standards Relating to the Urban Police Function, Tentative Draft (New York, NY: American Bar Association, 1972), pp. v-vi.

[2]Ibid., p. vii.

[3]National Institute of Municipal Law Officers, Codification of Municipal Ordinances (Washington, DC: National Institute of Municipal Law Officers, 1972), pp. 11-14.

[4]Illinois Commission on the Organization of the General Assembly, Improving the State Legislature (Chicago, IL: University of Illinois Press, 1967), p. 59.

[5]Ohio Legislative Service Commission, Summary of Am. Sub. H.B. 511, The New Ohio Criminal Code (Columbus, OH: Legislative Service Commission, 1973), pp. x-xii.

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Standard 13.6 PERIODICAL LAW REVISION

Concurrently with or immediately after criminal code revision, each State that has not done so within the past decade should thoroughly revise its criminal procedure law, using the same drafting organization or a separate special committee. Federal or State funds should underwrite the expense. The draft rules or code should substantially incorporate the American Bar Association Standards for Criminal Justice and other uniform or model draft statutes on specialized topics.

I. Officially Known Endorsements and Objections

It appears to be an uncontested fact that criminal procedural rules are in need of periodic revision. Endorsements and objections then must be limited to how those rules are revised and what should be the substance of the revision.

By far the greatest impetus behind the revision of rules for criminal procedure is the AMERICAN BAR ASSOCIATION's (ABA) Standards for Criminal Justice. With the announced goal of nationwide implementation, the ABA has promulgated 17 sets of minimum standards for the criminal justice system.[1] As stated by Chief Justice Burger, who was intimately associated with the ABA project before this appointment to the U.S. Supreme Court, the ABA standards are not mandatory guidelines but suggested concepts from which jurisdictions may derive specific rules for their use.[2]

The work of the ABA has not been criticized by any national standard setting organization. This is probably due to the makeup of the ABA committee which drafted the standards. The committee included attorneys and judges representing all sides of the political spectrum.[3] Organizations such as the NATIONAL DISTRICT ATTORNEYS ASSOCIATION have even worked with the ABA committees to adopt standards relating directly to their specific interest.[4]

Endorsement of the ABA standards can be seen from some of the implementation efforts. As of February 1, 1973 the FLORIDA SUPREME COURT adopted most of the ABA standards by incorporating them into the revision of the criminal procedure rules.[5] There is at least some implementation activity in 40 states with some states, such as Colorado, virtually implementing the standards by court decisions.[6]

Other national organizations have also drafted model criminal rules. The AMERICAN LAW INSTITUTE has published A Model Code of Pre-Arraignment Procedure which covers rules of procedure from first police contact through arrest, and also rules concerning search and seizure.[4] The AMERICAN CIVIL LIBERTIES UNION then prepared materials sharply criticizing the Model Code of Pre-Arraignment Procedure for giving law enforcement agencies too much power and thereby endangering individual liberties.[8]

The NATIONAL COUNCIL ON CRIME AND DELINQUENCY has also promulgated Model Rules of Court on Police Action from Arrest to Arraignment. These rules are mainly an attempt to codify the constitutional and practical rules existing at the moment.[9]

II. Special Considerations

The State of Ohio has adopted a total revision of its rules for criminal procedure. The rules became effective July 1, 1973.[10]

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[1]American Bar Association, Annual Report of the Chairman 1971-1972 (Chicago, IL: American Bar Association, 1972), p. 5.

[2]Ibid., pp. 8-9.

[3]American Bar Association, Standards for Criminal Justice (Chicago, IL: American Bar Association, 1972).

[4]Annual Report of the Chairman, 1971-1972, p. 31.

[5]"Symposium: ABA Minimum Standards for Criminal Justice," 33 Louisiana Law Review, 541, 544 (1973).

[6]Ibid., p. 545.

[7]American Law Institute, A Model Code of Pre-Arraignment Procedure, Official Draft No. 1 (Philadelphia, PA: American Law Institute, 1972).

[8]American Civil Liberties Union, Materials Prepared by the A.C.L.U. Concerning Tentative Draft No. 1 of A Model Code of Pre-Arraignment Procedure (New York, NY: American Civil Liberties Union, 1966).

[9]National Council on Crime and Delinquency, Model Rules of Court on Police Action from Arrest to Arraignment (New York, NY: National Council on Crime and Delinquency, 1969).

[10]Lewis, R. Katz, Ohio Rules of Criminal Procedure (Cleveland, OH: Banks-Baldwin Law Publishing Co., 1973).

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Standard 13.7 CODE COMMENTARIES

All interim and final code drafts should be supported by detailed commentaries that show the derivation of language of each section, the relationship of the section to existing State law, and the changes proposed through the draft. A list of statutes to be repealed, amended, or transferred by the effective date of the code also should be sumbitted to the legislature.

I. Officially Known Endorsements and Objections

Endorsements of this Standard are manifested by the nearly unanimous compliance found with its recommendations. Almost all of the states which have revised their criminal codes and procedures and all of the national organizations which have promulgated model rules have included detailed commentaries with their drafts.

The Proposed Amendments of the Rules of Criminal Procedure for the U.S. District Courts illustrates a typical format for procedural law revision. Each amended rule is printed showing the deleted matter stricken through with the new matter put in italics. Following each rule is an "Advisory Committee Note" explaining the basis for the amendment, the effect of the change, and the legal authority underlying the change.[1] The Proposed Oregon Criminal Procedure Code also includes a table showing the disposition of each existing statute as a result of the new code.[2]

The derivation of the language of each new section and proposed interpretation of certain key words may be even more important when a revision is being made of the substantive criminal code. Proposed criminal codes of New York,[3] Minnesota,[4] Pennsylvania,[5] and Missouri,[6] all illustrate the inclusion of such meaningful commentaries. As the Proposed Criminal Code of Massachusetts indicates, the commentary should not only indicate the derivation of particular language but also changes being made in existing law and existing statutes being repealed or amended.[7]

Model acts drafted by national organizations always include explanatory notes and commentaries. Since these organizations are trying to get jurisdictions to adopt their model rules, it is imperative that they indicate the underlying rationale for each rule. For example, such commentaries are found in the AMERICAN BAR ASSOCIATION's Standards for Criminal Justice[8] and in the model rules put forth by the NATIONAL COUNCIL ON CRIME AND DELINQUENCY.[9]

II. Special Considerations

The OHIO LEGISLATIVE SERVICE COMMISSION included comments to each new section in its Summary of Am. Sub. H.B. 511, The New Ohio Criminal Code.[10] The comments were mostly edited versions of the comments of the Technical Committee which drafted the original proposed code. The comments may be used by courts for interpreting legislative intent, but they are not conclusive.[11] The Staff Notes explaining the new Ohio Criminal Rules will be written by the Supreme Court's rules staff and published in the near future.[12]

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[1]Communication from the Chief Justice of the United States, Proposed Amendments to the Rules of Criminal Procedure for the U.S. District Courts (Washington, DC: Government Printing Office, 1972).

[2]Criminal Law Revision Commission, Proposed Oregon Criminal Procedure Code (Salem: Criminal Law Revision Commission, 1972), p. xxxv.

[3]New York State Commission on Revision of the Penal Law and Criminal Code, Proposed New York Penal Law (Brooklyn, NY: Edward Thompson Co., 1964).

[4]Advisory Committee on Revision of the Criminal Law, Proposed Minnesota Criminal Code (St. Paul, MN: West Publishing Co., 1962).

[5]Joint State Government Commission, Proposed Crimes Code for Pennsylvania (Harrisburg, PA: Joint State Government Commission, 1967).

[6]Committee to Draft a Modern Criminal Code, The Proposed Criminal Code for the State of Missouri (St. Paul, MN: West Publishing Co., 1973).

[7]Massachusetts Criminal Law Revision Commission, Proposed Criminal Code of Massachusetts (Rochester, NY: The Lawyers Co-Operative Publishing Co., 1972).

[8]American Bar Association, Standards Relating to Probation (New York, NY: American Bar Association, 1970).

[9]National Council on Crime and Delinquency, Model Sentencing Act (Hackensack, NJ: National Council on Crime and Delinquency, 1972).

[10]Ohio Legislative Service Commission, Summary of Am. Sub. H.B. 511, The New Ohio Criminal Code (Columbus, OH: Legislative Service Commission, 1973).

[11]Ibid., p. VII.

[12]Editor's Note, Anderson's Ohio Criminal Practice and Procedure, (n.p., 1973).

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Standard 13.8 EDUCATION ON THE NEW CODE

After a new code has been enacted and before its effective date, intensive continuing education of bench, bar, prosecution, law enforcement, and citizens is essential to a smooth transition to the new law. Federal or State funds should be allocated to support continuing education programs whenever fees to be charged by continuing education organizations cannot meet the costs of presenting a program series. Subsidy is essential to programs of this nature for judges, prosecutors, and law enforcement officers, because local budgets rarely authorize reimbursement of tuition fees.

I. Officially Known Endorsements and Objections

It is almost automatic that once a new code is adopted, the people affected by it need to be educated as to the code's substance. The group of people affected by a new criminal code include lawyers, judges, prosecutors, police, and citizens. The need to educate these people is not disputed; the funding of such education may be harder to reach agreement on.

In an analogous situation the AMERICAN BAR ASSOCIATION (ABA) has recognized the need to provide educational opportunities when seeking acceptance of its Standards for Criminal Justice. The ABA outlined a five-step procedure for implementing the standards in each state. The fourth step of the process was "Intensive and Continuing Education" which included four maxims:

--Purpose: Implementation necessarily involves an educational process of long-range and saturation proportions.

--Methods: Attention should be given to devising proper educational materials and tools and to participate in proper forums where this educational process can be carried out.

--Tools: Valuable educational materials are available upon request from the Sectional Staff Director...

--News Media: Should be involved at the outset."[1]

The ABA was provided funding for much of the education on its Standards and each year it participates in many conferences and programs dedicated to implementation of the ABA Standards.[2]

In the public area, states which have adopted new criminal codes recognize the need for continuing education. However, it appears that it is usually left up to private organizations to provide the instruction.

II. Special Considerations

Criminal justice plans of many states recommend the "upgrading of law enforcement personnel" in general. The 1973 Criminal Justice Plan for Texas calls for increased police officer training more training equipment, college level instruction, and incentives for higher education.[3] The Criminal Justice Plan for New Jersey 1973 also recommends increased academic training for law enforcement officials.[4] To the extent that these training programs include education on the criminal code, they provide public funding for such education. However, the number of people receiving education is limited and the time lag from enactment of the code to implementation may not be enough to allow these public programs to work.

In the private sector, education on the new code comes in three general ways. First, individual attorneys write and publish books which purport to summarize the new law and explain "how to practice" under the new code.[5] These books are, or course, sold to the public for a price and therefore the funding of the "education" comes from the buyer. A second way the private sector provides education is through the offering of courses and lectures on the new code. These courses are provided by such groups as the American Law Institute,[6] or individual state's organizations for continuing legal education.[7] The tuition for these courses is borne by the interested participants. The third way that education on the new code is provided is through the media. Television and newspapers often run a series on the new law which provides free information.[8] The problem with this method is that it is usually too general in scope to be helpful to anyone but the general public.

Although there are no objections to providing education on the new criminal code, it usually falls on the private sector to provide it. This may be disadvantageous when the cost of the education precludes some participants in the criminal justice system from gaining access to it.

It appears that each concerned interest group in Ohio is providing its own education on the new code. The Ohio Peace Officers Training Manual is used by law enforcement officials for their training.[9] On the other hand, lawyers and law enforcement officials could enroll in a course presented by the Ohio Legal Center Institute which covers the complete criminal code.[10] Also, there are "handbooks" published and written by law professors on the new criminal code.[11]

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[1]American Bar Association, Annual Report of the Chairman 1971-1972 (Chicago, IL: American Bar Association, 1972), p. 54.

[2]American Bar Association, Annual Report of the Chairman 1972-1973 (Chicago, IL: American Bar Association, 1973), pp. 14-16.

[3]Criminal Justice Council, Office of the Governor, 1973 Criminal Justice Plan for Texas (Austin, TX: Criminal Justice Council, Office of the Governor, 1973), p. 169.

[4]State Law Enforcement Planning Agency, Criminal Justice Plan for New Jersey 1973 (Trenton, NJ: State Law Enforcement Planning Agency, 1973), p. 58.

[5]Robert M. Pitler, New York Criminal Practice Under the CPL (New York, NY: Practicing Law Institute, 1972).

[6]Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association, Catalog of Continuing Legal Education Programs in the United States (Philadelphia, PA: American Law Institute, 1972).

[7]Ohio Legal Center Institute, Reference Manual for Continuing Legal Education Program - Criminal Code (Columbus, OH: Ohio Legal Center Institute, 1973).

[8]Ohio State Daily Lantern, January 21, 1974, p. 1.

[9]Ibid.

[10]Ohio Legal Center Institute, Reference Manual for Continuing Legal Education Program - Criminal Code.

[11]Schroeder & Katy, Ohio Criminal Law (Cleveland, OH: Banks Baldwin Publishing Co., 1973).

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Standard 13.9 CONTINUING LAW REVISION

Continuing law revision is required if the achievements of initial code reform are to be maintained. Federal or State funds, therefore, should underwrite the creation of criminal law review commissions, or review functions within existing law revision commissions: (1) to screen all legislative proposals bearing criminal penalties in order to ascertain whether a need for them actually exists; (2) to review the penalties in proposed criminal statutes to insure that they are consonant with the revised criminal code sentencing and penalty structure; (3) to propose draft statutes for legislative consideration whenever functional gaps in criminal law enforcement appear; and (4) to correlate criminal statutes with cognate statutes elsewhere in the body of State statute law. Placement of the review function within the legislative, executive, or judicial branch should be made in view of each State's governmental and political needs.

I. Officially Known Endorsements and Objections

The COUNCIL OF STATE GOVERNMENTS recommends establishing either a separate agency or using the existing legislative service agency to review all new legislation passed during a session. The agency would then report on how the new law would fit into the existing statutory scheme or whether a major revision would be required.[3] The Council also reports that 36 states have a legislative service agency which is responsible for either continuous revision of the code or at least the checking of pending legislation to avoid conflicts with existing statutes.[4]

II. Special Considerations

The references listed at the end of this Standard are primarily reports and critiques of individual states' experiences in revising their criminal laws. The most influential endorsement of continued law revision is the cognizance of the states of the need for such revisions. Regardless of the organizational form chosen by a state to accomplish a complete code revision, some method of continuing evaluation is usually advocated. The 1973 Criminal Justice Plan for Texas advocates continued revisions of legislation and also reform of the constitution.[1] Other states have also recognized in their Criminal Justice Plans the need for continual updating of their criminal laws and procedures.[2]

The Ohio Legislative Service Commission is charged with the job of continuous law revision and also the checking of pending legislation to avoid conflicts with existing statutes. The Commission also brings the form of the statute into conformity with the existing code.[8]

The Michigan Law Revision Commission provides an example of the duties assigned to such a group in that State:

> 1. To examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending

needed reform.
2. To receive and consider proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies.
3. To receive and consider suggestions from justices, judges, legislators, and other public officials, lawyers and the public generally as to defects and anachronisms in the law.
4. To recommend, from time to time, such changes in the law as it deems necessary in order to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state, civil and criminal, into harmony with modern conditions.[5]

The need to establish permanent law revision commissions has been recognized by study groups and scholars. The ILLINOIS COMMISSION ON THE ORGANIZATION OF THE GENERAL ASSEMBLY has recommended increased staff and funding for its Legislative Reference Bureau which performs the duty of continuous law revision.[6] Furthermore, former Chief Justice Traynor of the California Supreme Court has come out strongly for the establishment of permanent law revision commissions.[7]

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[1]Criminal Justice Council, Office of the Governor, 1973 Criminal Justice Plan for Texas (Austin, TX: Criminal Justice Council, Office of the Governor, 1973), p. 119.

[2]State Law Enfrocement Planning Agency, Criminal Justice Plan for New Jersey, 1973 (Trenton, NJ: State Law Enforcement Planning Agency, 1973), p. 59.

[3]Council of State Governments, Legal Services for State Legislatures (Chicago, IL: Council of State Governments, 1960), p. 6.

[4]Ibid., pp. 7-10.

[5]Michigan Law Revision Commission, Fourth Annual Report 1969 (St. Paul, MN: West Publishing Co., 1970), p. 8.

[6]Illinois Commission on the Organization of the General Assembly, Improving the State Legislature (Chicago, IL: University of Illinois Press, 1967), p. 99.

[7]Roger J. Traynor, The Unguarded Affairs of the Semikempt Mistress, 113 U. Pa. L. Rev. 485, 495 (1965).

[8]Council of State Governments, Legal Services for State Legislatures, p. 9.

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CRIMINAL JUSTICE SYSTEMS

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