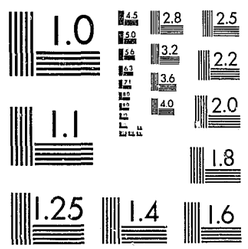


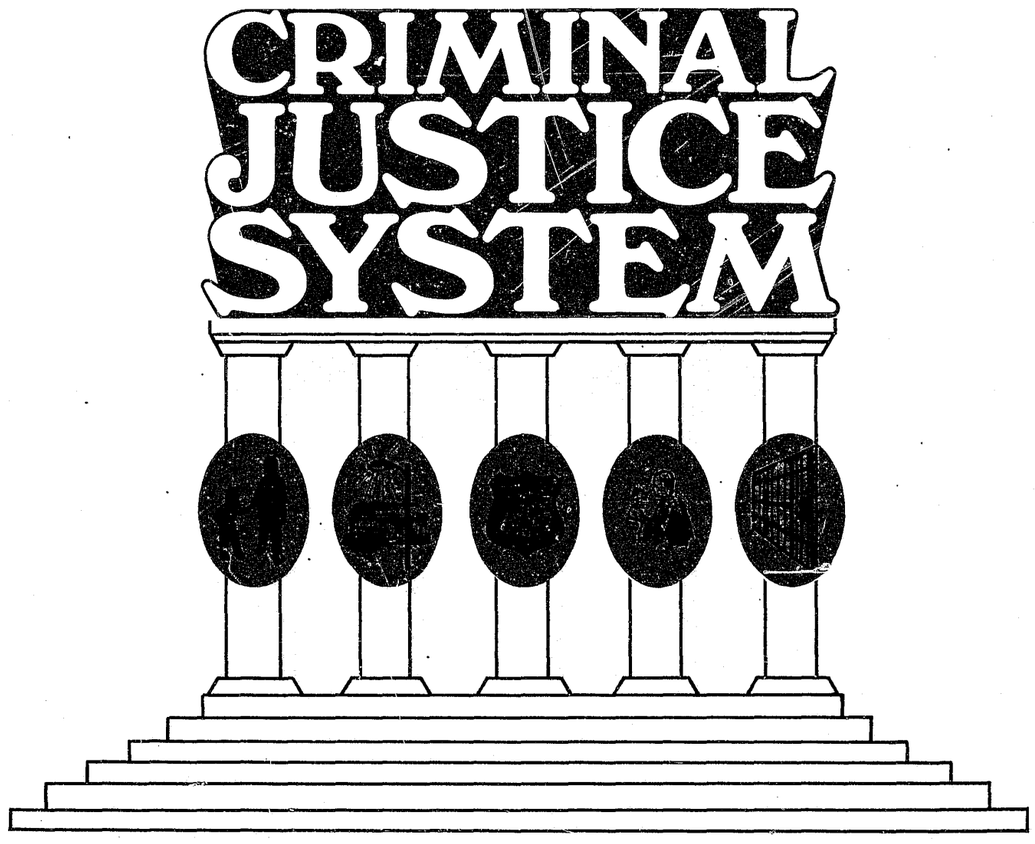
National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice
Washington, D.C. 20531

DATE FILMED

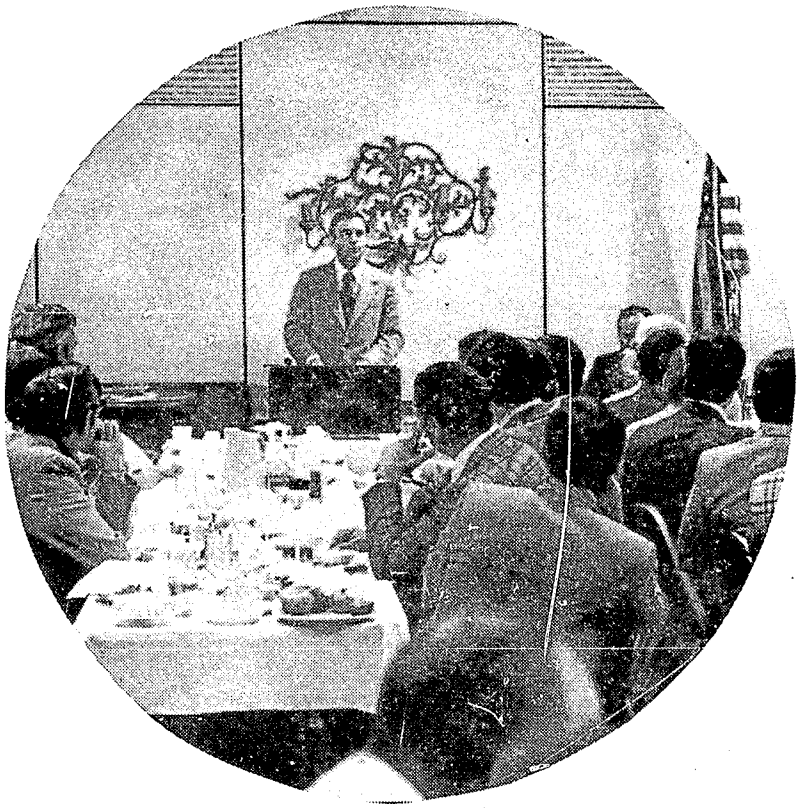
MAY 12, 1980

STANDARDS AND GOALS FOR THE ARKANSAS

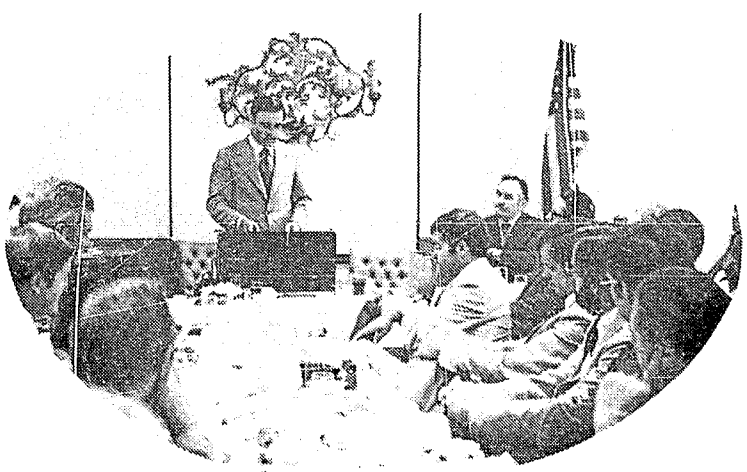
CRIMINAL JUSTICE SYSTEM



"The Ounce of Prevention Effort"



Governor David Pryor
addresses the Ounce of Prevention Task Forces
in Little Rock
on Friday, September 12, 1976.



DAVID PRYOR
GOVERNOR

STATE OF ARKANSAS
OFFICE OF THE GOVERNOR
LITTLE ROCK

June 11, 1976

To The People of Arkansas:

We have a challenge of maintaining the quality of life which we desire for our children and grandchildren. This challenge is to control or reduce the increasing crime rate throughout our state.

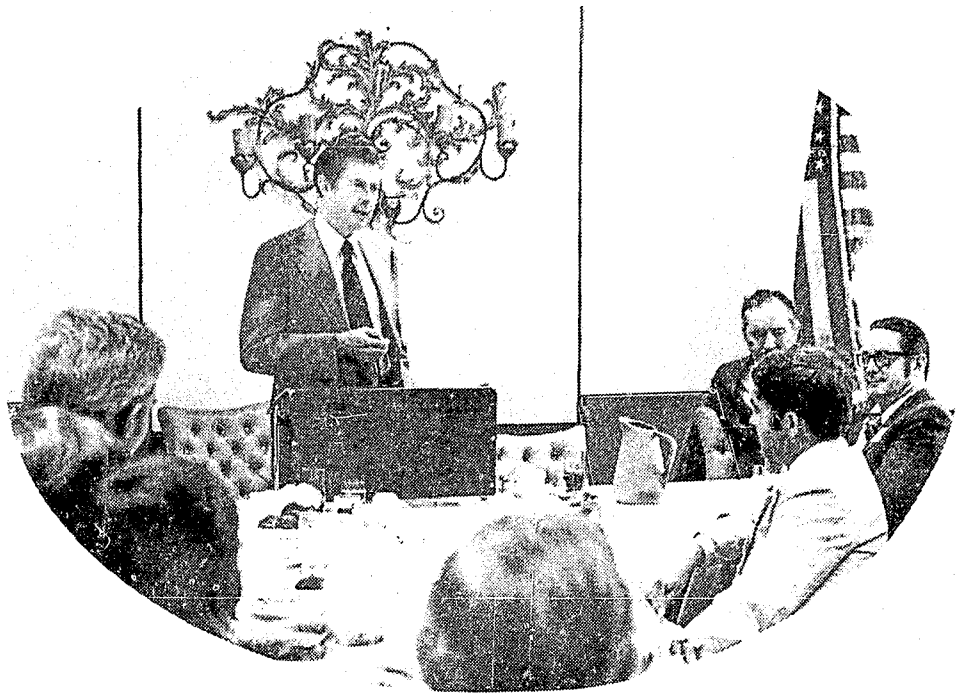
The "Ounce of Prevention" effort has helped us by analyzing our criminal justice problems and providing proposed recommendations to resolving these problems in the areas of juvenile justice, crime prevention, law enforcement, adjudication and corrections.

The next objective is to implement these recommendations by legislation, court rules, executive orders and the voluntary compliance of local and state criminal justice agencies. This workbook can serve as a tool for all Arkansans who want to assist in making the changes necessary for improvements in the administration of criminal justice. The responsibility for cooperation in achieving this objective rests on all our shoulders.

Sincerely,

David Pryor

"The Ounce of Prevention Effort"



Gerald W. Johnson, Executive Director, Governor's Commission on Crime and Law Enforcement speaks to the Task Force Members in September, 1975 and February, 1976.

STATE OF ARKANSAS
OFFICE OF THE GOVERNOR
COMMISSION ON CRIME AND LAW ENFORCEMENT

DAVID PRYOR
GOVERNOR

GERALD W. JOHNSON
EXECUTIVE DIRECTOR

June 9, 1976

TO: The Supervisory Board Members

This workbook has been compiled from the research and findings of the five task forces appointed in July, 1975, to define Arkansas' criminal justice problems, set priorities and recommend proposed standards and goals to assist in resolving these problems.

The underlying principles in the development of this workbook were: (1) The standards, goals and priorities should be aids to state, county and city planning offices for more effective planning, budgeting and allocation of resources; (2) the standards, goals, and priorities should be subject to continual review and revision year after year; (3) the format should be concise and readable by all persons; (4) the standards should become a blueprint for implementation of changes for the reduction of crime and for the improvement of the criminal justice system.

We believe this is a good beginning and that the "Ounce of Prevention" effort will always represent what is best for Arkansas in the improvement of the administration of criminal justice. We appreciate the assistance of the task force members and the work of the staff members who gave a year of their time to serve in this important endeavor.

Sincerely,

Gerald W. Johnson
Executive Director

1000 University Tower Building Little Rock, Arkansas 72204

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Adjudication
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Joe Parker
Liaison, LEAA
Dallas Regional Office

"The Ounce of Prevention Effort"

Judge Randall Williams, Chairman of the Governor's Commission on Crime and Law Enforcement visits with Ken Russell, Regional Planner at Warren during Regional Planning Meeting, 1975.

SECTION 1

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SECTION 2

CRIME PREVENTION

SECTION 3

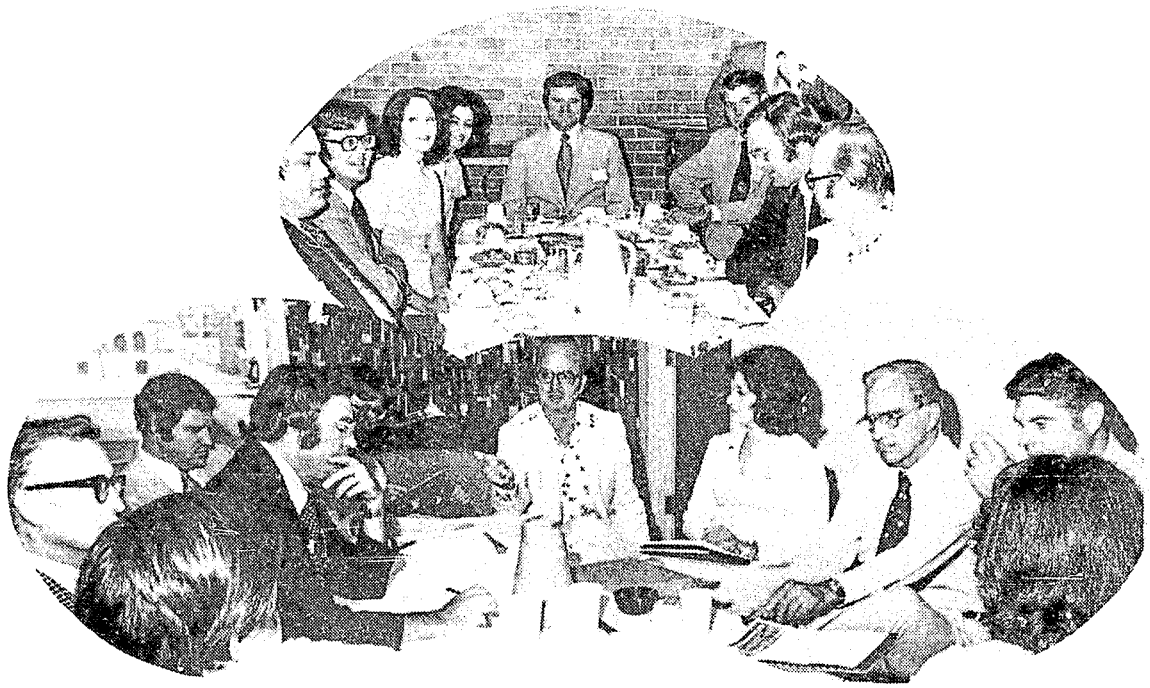
LAW ENFORCEMENT

SECTION 4

ADJUDICATION

"The Ounce of Prevention Effort"

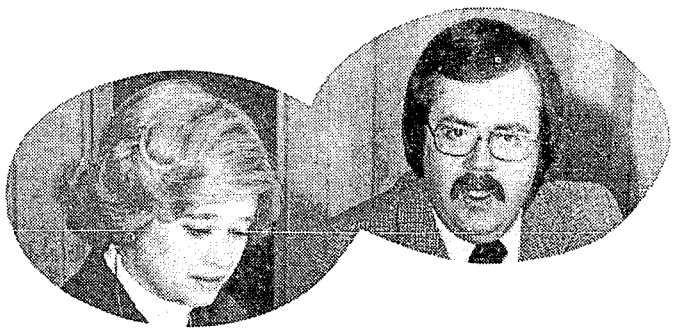
Juvenile Justice



Sam Peck Hotel, September 12, 1975

Coachman's Inn
Little Rock, February 25, 1976

County Judges
Dale Shelton, Stuttgart
Frank Dean, Harrisburg



Terry Kirk Patrick, Assistant Attorney General
Fred Davis, Chief Deputy, Prosecuting Attorney, Pine Bluff.

Representative Carolyn Pollan, Fort Smith

Ken Moody,
North Little Rock Recreational Director
Carl Haley,
Probation Officer, Sherwood

TASK FORCE ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

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Carl Haley
Juvenile Probation Officer
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Municipal Judge
Juvenile Referee
Texarkana

Ellen Wingfield
Task Force Director
Little Rock

SECTION 1

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

CHAPTER 1 COMMUNITY RESOURCES

STANDARD 1.1.1. EXPANSION OF JOB OPPORTUNITIES FOR YOUTH

A. The task force recommends that employers and unions institute or accelerate efforts to expand job or membership opportunities to economically and educationally disadvantaged youth. These efforts should include the elimination of arbitrary personnel selection criteria and exclusionary policies based on such factors as minimum age requirements and bonding procedures.

B. Employers and unions should support actions to remove unnecessary or outdated state and federal labor restrictions on employing young people.

C. Employers should institute or expand training programs to sensitize management and supervisors to the special problems young people may bring to their jobs.

D. Each community should broaden its after-school and summer employment programs for youth, including the 14 and 15 year olds who may have been excluded from such programs in the past. These programs may be sponsored by governmental or private groups, but should include such elements as recruitment from a variety of community resources, selection on the basis of economic need, and a sufficient reservoir of job possibilities. The youth involved should have the benefit of an adequate orientation period with pay, and an equitable wage.

E. Local child labor regulations must be changed wherever possible to broaden employment opportunities for youth. Nonhazardous jobs with real career potential should be the goal of any legislation in this area.

F. Employers should maximize the use of on-the-job training and apprenticeship programs for unskilled youth.

G. Employers should cooperate with schools to the fullest extent in conducting work-study and vocational-technical training for students.

Commentary and Implementation

Unemployment statistics in Arkansas for 1974 reveal that the unemployment rate for those persons under 21 years of age was 275% greater than the over 21 group. The task force does not advocate providing jobs for all youth; that would be an economic impossibility. Their major concern was for those youth who are delinquent or predelinquent, need to work and are willing to work. The ability to secure employment can serve as a powerful tool in prevention efforts in these cases where a professional counselor or probation officer feels that employment is the best mode of rehabilitation.

Individual employers, unions, Retail Merchants Associations, Chambers of Commerce, etc., should be made aware of the special job needs of youth in their area. One way to increase this awareness would be through the appointment of a juvenile service worker to each of the Ancillary Manpower Boards that administer youth programs under the Comprehensive Employment and Training Act of 1973, as amended. During 1976, over a million and a half dollars will be available for youth programs operating under CETA. Every effort should be made to employ or train those youth identified as delinquent or predelinquent.

Also, the creation of a Citizens Advisory Committee to the Juvenile Court, including members of the business community, can help match up the employment needs of youth with the needs of the business community.

STANDARD 1.1.2. THE HOME AS A LEARNING ENVIRONMENT

The task force recommends that educational authorities propose and adopt experimental and pilot projects to encourage selected neighborhood parents to become trained, qualified, and employed as teachers in the home. Such projects should be carefully monitored and evaluated, and emphasis should be placed on reaching those youth who might benefit most from this type program, based upon needs identification of the child. The following methods should be considered:

A. Legislation to enable the establishment and continuation of home environment education as a permanent accessory to exisisting educational system.

B. Programs designed to determine the most effective utilization of parents in educational projects in the home setting. A logical departure point for such projects would be to increase the level of a active involvement of selected neighborhood parents in formal school operations. A carefully designed program of this sort would also benefit preschool children in the home.

C. The development of short-term and follow through programs by teacher-training institutions to prepare parents for instructing their children.

D. The joint development by parents and school staffs of techniques and methods for using the home as a learning environment.

E. School district and state educational programs to train parents to use situations and materials in the home as a means of reinforcing the efforts of formal schooling.

F. Provision of instructional materials by school districts for use in home-teaching programs.

G. The expansion of programs to train and use parents as aides, assistants, and tutors in regular school classrooms.

H. The employment of family-school liaison personnel to aid in developing rapport with parents of potentially delinquent youth, so that the family can be dealt with as a unit with primary responsibility for the youth's emotional welfare.

I. The provision of services to families who need counseling in the areas of nutrition, money management, health care, family life education, drug or alcohol abuse, where no other services exist in the community to meet this need.

Commentary and Implementation

The Juvenile Justice and Delinquency Prevention Task Force felt that a close working relationship between the student's home and school was of utmost importance. The demise of the neighborhood school has served to further widen the gap between home and school, creating a whole new set of problems.

The key statement here is that ways be found to use the home "as a means of reinforcing the efforts of formal schooling". Conversely, schools can add a positive dimension to the life of those students whose home situation is counterproductive. Essential to implementation is the recruitment and training of selected parents as well as liaison personnel in the schools. Interaction and communication is necessary.

It should be noted that "experimental and pilot projects" are recommended. The design of the programs is left to the individual districts. The use of graduate students should be considered as a means of augmenting the school staff and for purposes of monitering and evaluation. The schools should also work closely with existing social service agencies in securing whatever family assistance may be necessary.

STANDARD 1.1.3. ALTERNATIVE EDUCATIONAL EXPERIENCES

A. Schools must acknowledge that a considerable number of students do not learn in ways or through experiences that are suitable for the majority of individuals.

B. It must be recognized that alternatives previously provided through the criminal justice system for students considered errant or uneducable should be returned to the schools as an educational responsibility.

C. School personnel should be trained in early identification of those students for whom all or parts of the regular school program are inappropriate.

D. Alternative educational experiences should be designed that are compatible with the individual learning objectives of each student identified as a potential client of these services.

E. Special emphasis should be placed on programs that keep expulsions and drop-outs to a minimum, and return the child to regular class activities, if appropriate, at the earliest possible time.

Commentary and Implementation

Act 102 of 1973 required that handicapped children (including children with emotional or learning problems) be afforded equal educational opportunities. Some programs designed to meet this goal have been started; however, full funding has never been achieved. It is imperative that the necessary appropriation be made. In addition, school districts must provide means for the earliest possible needs assessment identification of these students, preferably in kindergarten, with periodic follow-up assessments.

Alternative schools for delinquent or predelinquent youth in Fayetteville and Pine Bluff are being primarily funded with LEAA dollars, and these should be absorbed into the regular school system.

State colleges and universities offering degrees leading to teacher certification should review and revise their curriculum to include a adequate instruction in the early identification of learning disabilities including emotional and social adjustment problems. Retraining should be mandatory for existing teaching personnel through state-sponsored workshops or in conjunction with state colleges and universities.

STANDARD 1.1.4. USE OF SCHOOL FACILITIES FOR COMMUNITY PROGRAMS

A. School facilities should be made available to the entire community as centers for human resource and adult education programs.

B. The use of cafeterias, libraries, vehicles, equipment, buildings (including gymnasiums and auditoriums) should be extended to all members of the community for recreational, educational, vocational or cultural projects.

C. School facilities should be utilized on a 12-month, 7-day a week basis.

D. Budgeting for school districts should include provisions for extended use of facilities, utilities, and liability insurance. Supplemental sources of revenue to share this burden should be sought from units of government and private sources. As many programs as possible should be self-supporting, generating revenue for the school district, (e.g. selling refreshments).

Commentary and Implementation

The State Board of Education should adopt as policy the requirement that school facilities be made available to the community, and particularly to its youth under proper supervision. The greatest obstacle to implementing this standard is lack of funds to pay for increased costs for insurance, utilities, and maintenance. However, this should not act as a complete barrier to the usage of school facilities after hours. Subsection D suggests securing supplemental sources of revenue as well as the creation of after-school programs that actually generate revenue. Also many outdoor activites conducted with the use of volunteers would cost very little, if anything, to operate.

STANDARD 1.1.5. REALITY-BASED CURRICULA

The task force recommends that schools develop programs which give meaning and relevance to otherwise abstract subject matter, through a teaching/learning process that would simultaneously insure career preparation for every student in either an entry level job or an advanced program of studies, regardless of the time he leaves the formal school setting. Any method or procedure established to meet this goal must provide affirmative steps to protect against any form of discrimination based upon sex of the student.

A variety of methods and procedures should be established to meet this goal. Among these are the following:

A. Adoption of the basic concepts, philosophy, and components of career education, as proposed by the Office of Education;

B. Use of the microsociety model in the middle grades. Where this model is adopted, it will be important to realize that its central purpose is to create a climate in which learning is enhanced by underlining its relevance to the larger society outside the school;

C. Awareness, through experiences, observations, and study in grades kindergarten through 6, of the total range of occupations and careers;

D. Exploration of selected occupational clusters in the junior high school;

E. Specialization in a single career cluster or a single occupation during the 10th and 11th grades;

F. Guarantee of preparation for placement in entry-level occupation or continued preparation for a higher level of placement, at any time the student chooses to leave the regular school setting after age 16;

G. Use of community business, industrial, and professional facilities as well as the regular school for career education purposes;

H. Provision of work-study programs, interternships, and on-the-job training;

I. Enrichment of related academic instruction communication, the arts, math, and science through its relevance to career exploration; and

J. Acceptance of responsibility by the school for students after they leave, to assist them in the next move upward, or to reenroll them for more preparation.

K. Provision of a wide variety of vocational technical opportunities, that are consistent with job market demands and projected future trends. Vocational-technical training should be an integral part of the educational system and not delegated to a peripheral role.

L. The inclusion in the curriculum at the junior high level courses in the role of law in society and elements of the criminal justice system. These courses should include field trips to law enforcement agencies, court trials, and discussions with panels of community leaders on current issues in the criminal justice system.

M. The inclusion in the curriculum at the secondary level instruction on family life and related matters, including birth control, nutrition and health, money management, and child-rearing philosophies, all aimed at increasing the feeling of parental responsibility for the emotional climate of the home.

N. Career guidance based on outdated sex stereotyped roles must be discontinued.

Commentary and Implementation

These standards should be reviewed carefully by the State Board of Education and the individaul school districts. It is recognized that in many districts, some of these recommendations have already become an accepted part of the curriculum. However, vast expansion is necessary. What is called for here is not so much the addition of new courses and extra revenue (although some will be necessary), but a drastic change in teaching philosophies and methods. Traditional subjects must be taught in a manner that adds relevance and meaning to otherwise abstract subject matter. Career preparation must be ensured and students be allowed to explore a variety of possible careers. Vocational-technical training must be incorporated into the mainstream of education so that it is not perceived as only being for students who are regarded as poor achievers. Schools should involve community resources to a greater extent, utilizing business leaders and public officers to augment the teaching staff. Subsections L and M are of vital importance in preparing students to become more responsible citizens in a society of ever-increasing complexity.

STANDARD 1.1.6. COUNSELING SERVICES IN THE SCHOOL

A. School counselors should be freed from the many routine administrative tasks they are required to perform, leaving more time to counsel students on a one-to-one basis.

B. Greater emphasis should be placed on counseling and human development services in the primary and middle grades.

C. Personnel who are otherwise qualified but lack official credentials or licenses should, in some instances, be considered employable as human development specialists, counselors, or family-school liaison personnel.

D. Public schools and colleges and universities should cooperate in providing counseling services to students by utilizing senior or graduate students in social sciences on an intern basis.

E. School counselors should provide their services in such a manner that no stigma attaches when a student is referred or voluntarily seeks guidance.

F. School counselors should be aware of other supportive services in the community -- health, legal placement, recreational and employment sources -- and work closely with these agencies for the best welfare of the students.

Commentary and Implementation

Professional counseling services should be made available from levels K-12. It is unrealistic to expect the regular teaching staff to also serve an adequate counseling function. The breadth of public school counseling services can be augmented by the hiring of non-professionals to perform clerical and administrative tasks and through the utilization of graduate students. A student/counselor ratio should be established and maintained throughout each school district. The school counselor's job description should require that person to keep an up-to-date listing of community referral and other resources. All public school counselors should be knowledgeable in the area of delinquency prevention techniques, and retraining may be required for existing counseling personnel through state-sponsored workshops or in conjunction with state colleges and universities.

STANDARD 1.1.7. USE OF RECREATION TO PREVENT DELINQUENCY

A. Recreation programs should be created or expanded to serve the total youth community, with particular attention devoted to special needs arising from poor family relationships, school failure, limited opportunities, and strong social pressures to participate in gang behavior.

B. Activities that involve risk-taking and excitement and have particular appeal to youth should be a recognized part of any program that attempts to reach and involve young people.

C. Municipal recreation programs should expand to include outreach services involving roving recreation workers in order to recruit youths who might otherwise not be reached and for whom recreation opportunities may provide a deterrent to delinquency.

D. Youths who exhibit disruptive behavior should not be automatically excluded from participation in a recreational program; such behavior should be anticipated and incorporated into the overall goals of the program.

E. Counseling services should be made available, either as part of the recreation program or on a referral basis to allied agencies in the community, for youths who require additional attention.

F. Recreation programs should allow participants to decide what type of recreation they desire, regardless of sex.

G. Existing recreational programs, both public and private, should reexamine their entrance requirements, including, payment of fees or dues, academic achievement, and transportation needs, and wherever possible redefine them to include disadvantaged youth. Volunteer sponsorship should be sought for the provision of transportation and/or the payment of necessary fees.

H. Individual needs rather than mass group programs should be considered in recreation planning.

I. Communities should be encouraged to seek out sources of special funding and to utilize existing facilities and volunteer personnel to develop their own recreational programs with appropriate guidance from recreational advisors.

J. Personnel selected as recreation leaders should have intelligent and realistic points of view concerning the goals of recreation and its potential to help socialize youth and prevent delinquency.

K. Recreation leaders should be required to learn preventive and constructive methods of dealing with disruptive behavior, and they should recognize that an individual can satisfy his recreational needs in many environments. Leaders should assume responsibility for mobilizing resources and helping people find personally satisfying experiences suited to their individual needs.

L. Decisionmaking, planning, and organization for recreation services should be shared with those for whom the programs are intended.

M. Continual evaluation to determine whether youth are being diverted from delinquent acts should be a part of all recreation programs.

N. Parents should be encouraged to participate in leisure activities with their children.

O. Maximum use should be made of existing recreational facilities - in the afternoons and evenings, on weekends, and throughout the summer. Where existing recreational facilities are inadequate, other community agencies should be encouraged to provide facilities at minimal cost, or at no cost where feasible.

Commentary and Implementation

Unfortunately, recreation has not received a very high priority in most communities. In some areas there is not a single facility, either public or private, where youth can participate in organized constructive activity. Often programs aimed at disadvantaged youth do not reach their target because of lack of transportation or the inability to pay the necessary fees.

The consensus of the many organizations contacted was that they would do more if they could secure additional funds and strong leadership. Sponsorship is an ideal way of financing a recreational program, and recreational leaders should seek to expand their programs to zero in on delinquent or pre-delinquent youths. The juvenile probation officer or school counselor is an ideal person to rely on for referrals.

Concerned communities can accomplish a great deal with a minimum investment through use of volunteers, donation of facilities, equipment, etc. The use of school facilities is also recommended. The task force strongly believed that keeping youths busy and happy can help reduce the rate of juvenile delinquency.

CHAPTER 2 PROSECUTORIAL FUNCTION IN JUVENILE PROCESSING

STANDARD 1.2.1. POLICY AND PROCEDURES

A. The prosecutive authority shall act as the chief law enforcement officer in any jurisdiction and in that capacity should be responsible for developing, in conjunction with the police agencies and juvenile courts, policies and procedures regarding the processing of juvenile cases.

B. It is the duty of the prosecutive authority to ensure that the policies and procedures reflect the intent of juvenile laws in the state and are designed in a manner that most efficiently processes juvenile cases in the best interest of society and of the youth involved.

C. The prosecutive authority should periodically review policies and procedures and continually update them as necessary. The prosecutive authority should meet with court and police personnel on a regular basis in order to promote the highest degree of coordination among the agencies.

Commentary and Implementation

The task force felt the prosecuting attorney was the person most likely to be in a position to ensure uniformity and coordination in the processing of juveniles within his jurisdiction. As an elected official and chief law enforcement officer, the prosecuting attorney holds a respected office with broad policy-making power. The prosecutors should work collectively and individually to develop written policies and procedures embodying these standards. The office of the Prosecutor-Coordinator should lend whatever assistance may be necessary to aid the prosecutors in promulgating internal policies regarding diversion at the screening level. It is further recommended that the office of the coordinator be funded as an independent agency outside the Attorney General's office.

STANDARD 1.2.2. DIVERSION

A. Whenever a diversion decision is made by the prosecutor's office, the staff member making it should specify in writing the basis for the decision of whether the defendant is diverted. These statements, as well as those made in cases not requiring a formal agreement for diversion, should be collected and subjected to periodic review by the prosecutor's office to ensure that diversion programs are operating as intended.

B. The prosecutor should be involved in all delinquency proceedings. The intake unit of the court should consult with the prosecutor in making the decision of accepting or rejecting a delinquency petition.

C. It should be the responsibility of the court intake unit to review the social implications of the decision and the prosecuting attorney should have the responsibility for reviewing the legal implications.

Commentary and Implementation

Refer to Commentary in 1.2.1.

STANDARD 1.2.3. SPECIAL ASSISTANCE, TRAINING AND EXPERTISE

A. Funds should be provided to enable a prosecutive authority to appoint special assistants when needed for the prosecution or diversion of juvenile cases.

B. Funds should be provided to the prosecutive authority for the employment of supportive services for juveniles in operating diversion programs, especially in those areas where few such programs exist. This should include investigative and counseling personnel sufficient to handle the caseload of the jurisdiction.

C. All personnel employed by a prosecutive authority who deal with juvenile cases should receive special training both in-house and through seminars and other professional sessions to ensure the highest possible degree of professional competence.

D. The prosecutor and/or his assistant should be familiar with the resources of social agencies which can assist in the evaluation of cases for diversion from the criminal process.

E. The prosecutive authority and/or his assistants should lend support and coordination to as many community efforts as possible aimed at delinquency prevention, including programs for schools and civic groups.

Commentary and Implementation

In those jurisdictions where there is insufficient staff to adequately understand and process the juvenile cases, funds should be made available through the state legislature to enable the hiring of an attorney or counselor, as the need may be. These positions will not be necessary in every jurisdiction; some professionals already have an excellent referral process and community resources which somewhat alleviate this need. The office of the Prosecutor Coordinator should be expanded so that a limited number of personnel with special expertise could be hired and dispatched to any prosecutor in the state needing assistance.

CHAPTER 3 DIVERSION

STANDARD 1.3.1. DIVERSION

A. In appropriate cases, offenders should be diverted into non-criminal programs before formal trial or conviction. Such diversion is appropriate where there is substantial likelihood that a conviction could be obtained but society would benefit from channeling an offender into an available non-criminal diversion program. The limited contact a diverted offender has with the criminal justice system may have the desire deterrent effect.

B. Guidelines for making diversion decisions should be established and made public. Where it is contemplated that the diversion decision will be made by police officers or similiar individual the guideline should be promulgated by the police or other agency concerned after consultation with the prosecutor and after giving all suggestions due considerations whether the diversion decision is to be made by the prosecutor's office the guidelines should be promulgated by that office.

C. In all cases guidelines for making diversion decisions by the police or by the prosecutor should be made cooperatively with other criminal justice agencies, schools, representatives of public and private youth service agencies under the leadership and guidance of the court.

D. The decision to divert should be made as soon as adequate information can be obtained.

E. Written statements of the facts of and the reasons for the diversion decision should be made by all juvenile justice agencies.

F. Among the factors that should be considered favorable to the diversion are:

1. The relative youth of the offender.
2. The willingness of the victim to have no conviction sought.
3. Any likelihood that the offender suffers from a mental illness, mental retardation or psychological abnormality which was related to his crime and for which treatment is available.

4. Any likelihood that the crime was significantly related to any other condition or situation, such as unemployment or family problems, that would be subject to change by participation in a diversion program.
5. The likelihood of the accused to except voluntary service.
6. The availability of an adequate diversion program and
7. School and family strengths.

G. Among the factors that should be considered unfavorable to diversion are:

1. Any history of the use of physical violence toward another and/or other prior offenses.
2. Involvement with organized crime.
3. A history of anti-social conduct indicating that such conduct has become an ingrained part of the defendant's life style and would be particularly resistant to change.
4. The unavailability of diversion treatment.

H. If the decision to divert appears to jeopardize the offender's rights, the court must be informed of the diversion agreement.

I. Where the diversion program involves significant deprivation of a offender's liberty, diversion should be permitted only under a court approved diversion agreement providing for suspension of criminal proceedings on the condition that the defendant participate in a diversion program. It should be emphasized that acceptance of the diversion program is voluntary on the part of the juvenile and that adjudication may be requested at any time. The following procedure should be observed:

1. Emphasis should be placed on the offender's right to be represented by counsel during negotiations for diversion and entry and approval of the agreement.
2. Suspension of criminal prosecution for longer than one year should not be permitted.
3. An agreement that provides for substantial period of institutionalization should not be approved unless the court specifically finds that the defendant is subject to non-voluntary detention in the institution under non-criminal statutory authorization for such institutionalization.
4. The diversion agreement submitted to the court should contain a full statement of those things expected of the defendant and the reason for diverting the defendant.
5. The court should approve an offered agreement only if it would be approved under the applicable criteria if it were a negotiated plea of guilty.
6. Upon expiration of the agreement the court should dismiss the prosecution and no further prosecution based on the conduct underlying the initial charge should be permitted.

7. For the duration of the agreement the prosecutor should have the discretionary authority to determine whether the offender is performing his duties adequately under the agreement and if he determined that the offender is not, to reinstate the prosecution.

Commentary and Implementation

Diversion, or the channeling of an offender out of the criminal justice system, occurs at various levels within the system and also in widely varying degrees, depending on the jurisdiction. These diversion criteria are offered as a means of introducing some measure of uniformity into the diversion process. Also, criminal justice personnel should find the guidelines helpful in decision-making when applied in individual cases. Every emphasis is placed on safe-guarding the individual's rights, and decisions to divert and the reasons therefor should be maintained in writing.

These guidelines should be reviewed and adopted by the Prosecuting Attorneys' Association, the Law Enforcements Officers' Association, Juvenile Correctional Officers' Association, and other concerned groups. These recommendations should be adapted for inclusion in written policies and procedures by affected agencies. Refer also to Standards 1.2.1., 1.2.2., 1.4.1, and 1.5.10.

CHAPTER 4 POLICE FUNCTION IN JUVENILE PROCESSING

STANDARD 1.4.1. POLICIES AND PROCEDURES

A. The chief executive of every police agency immediately should develop written policy governing his agency's involvement in the detection, deterrence and prevention of delinquent behavior and juvenile crime.

B. Every police agency should establish in cooperation with the courts and prosecutive authority written policies and procedures governing agency action in juvenile matters. These policies and procedures should stipulate:

1. The specific form of agency cooperation with other governmental agencies concerned with delinquent behavior, abandonment, neglect, and juvenile crime;
2. The specific form of agency cooperation with non-governmental agencies and organizations where assistance in juvenile matters may be obtained;
3. The procedures for release of juveniles into parental custody; and,
4. The procedures for the detention of juveniles.

Commentary and Implementation

Individual police chiefs and sheriffs must take the initiative in developing written policies governing the internal processing of juveniles. They should also work co-operatively with their respective prosecutors and juvenile judges in arriving at a systems approach to processing juveniles. The implementation of this standard does not require a formal, academic product but merely a set of clearly-worded, concise statements of policy that may be easily understood and followed by police officers.

STANDARD 1.4.2. INTAKE AND DETENTION

A. Police agencies should establish written policies and guidelines to support police discretionary authority, at the point of first contact at the police station, to divert juveniles to alternative community-based programs and human resource agencies outside the juvenile justice system, when the safety of the community is not jeopardized.

B. Police should not have discretionary authority to make detention decisions. This responsibility rests with the court, which should assume control over admissions on a 24-hour basis.

C. When police have taken custody of a minor, the following guidelines should be observed:

1. Under the provisions of Gault and Miranda, police should first warn juveniles of their right to counsel and to remain silent while under custodial questioning. Police must refrain from eliciting self-incriminating statement from juveniles when not represented by counsel.
2. The second act after apprehending a minor should be the notification of his parents.
3. Juveniles should not be fingerprinted or photographed or otherwise routed through the usual adult booking process.
4. Juvenile records should be maintained physically separate from adult case records and should not be open for public inspection.

Commentary and Implementation

Refer to Standard 1.4.1.

STANDARD 1.4.3. MANPOWER AND TRAINING

A. All police agencies having over twelve (12) police officers should have one full-time officer designated as a juvenile officer, where feasible.

B. Those police agencies having fewer than twelve (12) police officers should have at least one officer with extensive training in juvenile procedures, investigation, diversion policies, etc.

C. This police officer, whether full-time or part-time, should be assigned responsibility for conducting as many juvenile investigations as practicable, assisting field officers in juvenile matters, maintaining liaison with other agencies and organizations interested in juvenile matters, or other duties based upon the particular juvenile problems within the community.

D. In addition, the juvenile police officer should lend support and coordination to as many community efforts as possible aimed at delinquency prevention.

E. Every police agency should provide all its police officers with specific training in concepts of delinquency prevention and juvenile crime trends.

1. In all pre-service training courses required of police officers, a section dealing with juvenile laws, procedures and policies, and delinquency theory should be included.
2. Periodic in-service courses should be established, including a review of the functions and purposes as well as the responsibilities of patrol officers in situations involving juveniles. These courses should be offered as often as changes in law or procedure demand a review.

Commentary and Implementation

The concept of juvenile police officers is now well established; however, the amount of instruction available in the state is inadequate to provide the training necessary for these officers. The Law Enforcement Training Academy should expand its juvenile curriculum for all officers to six hours, and establish a 40-hour block of instruction for designated juvenile officers to be offered semi-annually. Police agencies should be encouraged in their efforts to provide in-house training, with larger police agencies assisting smaller ones. Until such time as the state is able to provide comprehensive training in the juvenile area, funds should be made available for officers to receive limited or specialized out-of-state training.

CHAPTER 5 JUDICIAL PROCESSING OF JUVENILE CASES

STANDARD 1.5.1. FAMILY COURT: JURISDICTION

A. The court having jurisdiction over juvenile matters should be a division of the highest court of general trial jurisdiction.

B. Jurisdiction over juveniles should be placed within a family court structure. Family court jurisdiction should include: juvenile delinquency, domestic legal relations, adoptions, custody and guardianship, civil commitments, families in need of services, concurrent jurisdiction over intra-family crimes, contributing to the delinquency of a juvenile, criminal non-support, criminal neglect, child abuse, and interstate compact on juveniles and Uniform Reciprocal Support Act.

C. The family court should encourage cooperation between itself and those judicial officers responsible for traffic offenses, especially in those instances where remedial measures other than traffic fine and court costs may be indicated.

STANDARD 1.5.2. JURISDICTION: STATUS OFFENSES

A. Family courts should have jurisdiction over truancy -- the accumulation of 10 or more days of unauthorized absences from school during any school year by any juvenile who is subject to the compulsory education law of the state.

B. Family courts should have jurisdiction over disobedience to parents -- the repeated disobedience or willful disregard of the lawful demands of the juveniles parents or legal guardian which are reasonably designed to assure the order and discipline of the family unit or which are reasonably designed to assure the protection of the juvenile's welfare.

C. Family courts should have jurisdiction over runaways -- a juvenile's unauthorized absence for more than twenty-four hours from the place of residence approved for the juvenile by the juvenile's parents or legal gaurdian. An unauthorized absence is one which has not been consented to by the juvenile's parents or legal gaurdian or by an adult under whose supervision the juvenile has been temporarily placed by the juvenile's parent or gaurdian.

D. Family courts should have jurisdiction over the use of intoxicating beverages: The possession and/or consumption of intoxicating beverages by juveniles.

E. In exercising jurisdiction over any of the behavior described in Standards A-D, the family court should be required to determine whether the juveniles' behavior was reasonable under the circumstances by evaluating the behavior of the school staff or the juvenile's parents or gaurdian, as appropriate, in conjunction with the behavior of the juvenile, and if the juveniles behavior was reasonable, then family court should refrain from exercising jurisdiction.

STANDARD 1.5.3. FAMILY COURT JUDGES: QUALIFICATIONS

A. All judicial proceedings relating to juveniles including, but not limited to detention, shelter, waiver, arraignment, adjudicatory, and dispositional hearings should be heard only by a judge.

B. Family court judges should be lawyers who possess a keen and demonstrated interest in the needs and problems of children. Family court judges should participate in professional training programs. Family court judges should be elected for a length of term consistent with that of other judges of general jurisdiction.

C. The judicial officer should possess familiarity with the major characteristics of juvenile/family problems and resources.

D. Until such time that family court judges are elected, and are subject to appointment or assignment, such appointment or assignment should be made without regard to seniority, political or personal considerations or any other factors which detract from the objective evaluation of an individuals competence to serve in this capacity.

E. Judges of the family court should be subject to the same rules of discipline and removal as are all other trial judges within the state.

STANDARD 1.5.4. FAMILY COURT JUDGES: PRE-SERVICE TRAINING

A. The state should maintain a year-round training program for all new judges and require attendance as a prerequisite to ascending the bench. When such training program cannot be made available on a continuous basis, out-of-state intensive training should be provided. The curriculum should include instruction and manuals on case law, state law, rules of court, judicial philosophy, mock trials, forms, the criminal justice process for juveniles, the progress for families in need of services, juvenile justice and family agencies, sentencing and placement alternatives and their utilization, theories of delinquency prevention, and other subject areas found especially relevant to hearing juvenile and family matters.

B. The state legislature should appropriate funds for such training, to be administered by the Judicial Department or other designated agency.

STANDARD 1.5.5. FAMILY COURT JUDGES: CONTINUING EDUCATION

A. The state should maintain an ongoing continuing education program for family court judges. The curriculum should deal with recent developments in the areas covered in the orientation program as well as new and innovative ideas and programs. Attendance at continuing education programs should be mandatory on at least a one-week-per year basis. Family court judges should also be required to participate in selected national training programs on a basis consistent with the resources and needs of each jurisdiction.

B. The state legislature should appropriate funds for such training, to be administered by the Judicial Department or other designated agency.

Commentary and Implementation

Standards 1.5.1. through 1.5.5.

In re Gault (1967) and subsequent decisions have drastically changed the nature of the proceedings in juvenile court. The parens patriae doctrine is continually losing ground to more formal due process proceedings, which due to their very nature, should be presided over by a judicial officer.

Arkansas is handicapped by an antiquated constitution which vests jurisdiction over juveniles with the county judge. The term "judge" here is a misnomer, since county judges are administrators, not judicial officers. The interpretation of Article 7, Section 28, by the Arkansas Supreme Court, in 1919, does not permit the vesting of juvenile jurisdiction with any other court, although the county judge may appoint a referee to assume the judicial functions of juvenile court.

The Arkansas Juvenile Code of 1975 went a step further and required that all referees appointed after the effective date of the act be licensed attorneys. However, nothing in the Act prohibited "a person who is not an attorney, and who is serving as a juvenile referee...from being appointed or reappointed to serve as such referee".

There are several cases now pending in federal courts around the country which challenge the constitutionality of trying delinquency cases before a non-judicial officer. It seems but a matter of time before this is construed by the courts as denial of due process. Arkansas badly needs a new judicial article to the Constitution which unifies the court system and creates a family court.

Pre-service training and continuing education for family court judges should be developed within the state. Funds now available for out-of-state training for juvenile judges do not replace the need for year-round in-state programs, since they do not reach all judges, nor are they sufficient to cover all subject areas.

All standards relating to family courts and family court judges, qualifications, training, etc., which are not currently in conflict with the laws of Arkansas, should be interpreted to apply to judges under the present referee system for juvenile court until appropriate legislation or constitutional amendments are passed.

STANDARD 1.5.6. ADJUDICATORY HEARINGS IN DELINQUENCY CASES

A. The adjudicatory hearing should be distinct and separate from the dispositional hearing.

B. The juvenile alleged to be delinquent should be afforded all of the rights except trial by jury given a defendant in an adult criminal prosecution. The formal rules of evidence should apply in adjudicatory hearings.

C. In all delinquency cases a legal officer representing the people should be present in court to present evidence supporting the allegation of delinquency.

D. All juveniles must be represented by counsel regardless of whether the parents have their own counsel. Defense counsel should use all methods permissible in a criminal prosecution to prevent a determination that the juvenile is delinquent. He should function as the advocate for the juvenile, and his performance should be unaffected by any belief he might have that a finding of delinquency might be in the best interest of the juvenile. As advocate for the juvenile alleged to be delinquent counsel's action should not be affected by the wishes of the juvenile's parents or guardians if those differ from the wishes of the juvenile.

E. An adjudication of delinquency should be made only when a juvenile has committed an act which would be a crime if committed by an adult and has been found beyond a reasonable doubt to have committed the alleged act.

Commentary and Implementation

Subsections A, B and E are reiterated here for emphasis, although these are already provided for by law. Subsections C and D, however, are a major departure from current practice. Adjudicatory hearings are necessarily becoming adversarial proceedings, and both sides should be represented by competent counsel. In some jurisdictions, prosecutive officers have actually been barred from the adjudicatory hearing, whereas some appear only at the request of the judge. The task force felt that as a matter of practice, an officer representing the people should be present at all adjudicatory hearings in delinquency cases. This may require an additional deputy prosecuting attorney or city attorney in some jurisdictions.

The Arkansas Juvenile Code of 1975 requires that counsel be appointed for a juvenile when it appears that his interests conflict with those of his parents. Subsection D is much more sweeping in implication. The task force could not envision a case where a juvenile's rights and interests would not be better protected by independent counsel. Hence, the recommendation that counsel be present to represent the juvenile in all cases, regardless of whether an attorney is present on behalf of or at the request of the parents. Most jurisdictions will have a difficult time in complying with this standard. Creation or expansion of public defender services are recommended means of implementation, as this is working effectively in Pulaski County.

STANDARD 1.5.7. DETENTION AND DISPOSITION OF JUVENILES

A. Juveniles should not be detained in jails, lockups or other facilities used for housing adults accused or convicted of crimes. However, when it is necessary to detain juveniles in the same facility juveniles must be detained in a separate cell outside the hearing and sight of adult offenders.

B. Criteria for detention prior to adjudication of delinquency matters should include the following:

1. Detention should be considered as a last resort where no other reasonable alternative is available.
2. Detention should be used only where the juvenile has no parents, guardian, custodian or other person able to provide adequate supervision and care for him and able to assure his presence at subsequent judicial hearing.
3. Detention decisions should be made only by court or intake personnel.
4. Predetention screening of children and youths referred for court action should take place in their parent's home, a shelter or non-secure residential care facility for as many youngsters as may be consistent with their needs and the safety of the community.
5. The juvenile should be afforded due process including an attorney during the time when the intake unit is considering the question of detention. If the juvenile is placed in detention or shelter care and no formal petition is filed with the court in twenty-four hours, the juvenile should be released. A juvenile placed in detention or shelter care should have the opportunity for judicial determination of the propriety of continued placement in the facility at the earliest possible time, but no later than forty-eight hours after placement.

C. A child should be released into custody of his or her parents or parent, guardian or custodian, except in case of the following situations:

1. Those whose home conditions make immediate removal necessary.
2. Those whose offenses are so serious that release would endanger public safety.
3. Runaways for whom all other alternatives have been exhausted.

D. Juveniles who are held in detention or shelter facility, whenever possible, should be separated into the following groups:

1. Status offender juveniles
2. Neglected or dependent youths
3. Delinquents having committed adult type offenses

Commentary and Implementation

Since the original adoption of these standards, the Criminal Detention Facilities Board had independently promulgated jail standards which address the requirements for detention of juveniles. Efforts are being made in the state to comply with these regulations. LEAA funding guidelines also specify conditions which must be met. It is important that dependent-neglected youth and status offenders be housed away from incarcerated adults and juveniles who are charged with committing crimes. Construction of new regional detention facilities along with renovation of existing structures will be necessary.

The criteria for detention and disposition are similar in nature to those of diversion (see Standard 1.3.1.) As guidelines, they should be helpful when applied in individual cases.

STANDARD 1.5.8. PROCESSING CERTAIN DELINQUENCY CASES AS ADULT CRIMINAL PROSECUTIONS

A. The family court should have the authority to order certain delinquency cases, where a felonious offense is charged, to be processed as if the alleged delinquent was above the maximum age for family court delinquency jurisdiction. After such action, the juvenile should be subject to being charged, tried and (if convicted) sentenced as an adult.

B. The following criteria must be considered before an order is entered directing that a specific case be processed as an adult:

1. The juvenile involved is above fourteen years of age.
2. The court shall determine if there is probable cause to believe that the child has committed an offense which if committed by an adult would be a felony, and
3. Upon a showing of probable cause the court shall proceed to conduct a full investigation to determine whether or not the interest of the child and the public would best be served by granting a waiver of jurisdication to the criminal court. In making such a determination the following criteria should be considered:

   a. The prior record and character of the juvenile, his/her physical and mental maturity, and his/her pattern of living; and
   b. The seriousness of offense; and
   c. Even though less serious if the offense is part of a repetitive pattern of offenses which would lead to a determination that the child may be beyond rehabilitation under the regular statutory juvenile procedures; and
   d. The relative suitability of programs and facilities available to the juvenile and criminal courts for the child; and
   e. Where it is found to be in the best interest of the public welfare and for the protection of public security that said juvenile be required to stand trial as an adult offender.

C. If an order is entered directing the processing of the case as an adult criminal prosecution, the juvenile should be permitted to assert the impropriety of the order or the procedure by which the decision to enter the order was made in a full and fair hearing on the merits of the case.

D. The juvenile must be represented by counsel at such a hearing on the merits of the case, and when requested by the juvenile, should make every effort on the behalf of the juvenile to prevent the case from being processed as an adult criminal prosecution.

Commentary and Implementation

The applicable laws now governing the transfer of delinquency cases to another court having jurisdiction give judges unquestioned discretion. The recommended standards do not affect the adult court's ability to transfer a case to juvenile court, but do place a greater burden on the juvenile court by establishing criteria to be followed when transferring a case to a court having power to invoke a more severe sentence. The basic requirements are:

1. *A determination of probable cause;*
2. *An investigation to determine the best interests of the child and society; and*
3. *The right of the juvenile to challenge a transfer in a hearing on the merits of the case.*

While not required by the Arkansas Juvenile Code of 1975, the task force recommends that legislation be passed revising Section 20 of the code to reflect these procedures.

STANDARD 1.5.9. DISPOSITIONAL HEARINGS IN DELINQUENCY CASES

A. The dispositional hearings in delinquency cases should be separate and distinct from the adjudicatory hearing.

B. The dispositional hearings should be held no longer than two weeks after the adjudicatory hearing if the juvenile is detained and four weeks if he is not detained.

C. The juvenile should have the right to counsel at the dispositional hearing and should be so informed by the family court judge. Counsel should be allowed to challenge evidence introduced against the juvenile and present evidence in his favor, or call witnesses where parts of the social study are disputed in order to establish the true facts.

D. The least confining treatment alternative that is consistent with public safety should be selected as the appropriate disposition for a juvenile. The court should impose one of the following alternatives that will reasonably protect the public safety and assure the best interest of the child:

1. Release from wardship;
2. Conditional Release;
3. A fine;
4. Release under supervision in the community;
5. Sentence to an alternative service program;
6. Sentence to a halfway house or other residential facility located in the community;
7. Sentence to partial confinement with liberty to work or participate in training or education during all but leisure time or;
8. Commitment to a correctional facility for treatment;
9. Total confinement in a correctional facility.

E. The court should refrain from the use of confinement unless affirmative justification is shown on the record. For example, the following situations would justify confinement:

1. There is undue risk that the defender will commit another crime if not confined.
2. The defender is in need of correctional services that can be provided effectively only in an institutional setting and such services are reasonably available.

F. The following criteria should be considered in favor of withholding a disposition of incarceration:

1. The offender's criminal conduct neither caused nor actually threatened serious harm to persons or property.
2. The offender did not contemplate or intend that his criminal conduct would cause or threaten serious harm.
3. The offender acted under strong provocation.
4. There were substantial grounds tending to excuse or justify the offender's criminal conduct through failing to establish a defense.
5. The offender had lead a law-abiding life for a substantial period of time before commission of the present crime.
6. The offender is likely to respond affirmatively to probationary or other community supervision.
7. A victim of the crime induced or facilitated his commission.
8. The offender had made or will make restitution or reparation to the victim of his crime for the damage or injury which was sustained.
9. The offender's conduct was the result of circumstances unlikely to recur.
10. The character history and attitudes of the offender indicate that he is unlikely to commit another crime.
11. The correctional programs within the institutions to which the offender would be sent are inappropriate to his particular needs or would not likely benefit him, and,
12. The family can provide proper guidance for the offender at home.

Commentary and Implementation

The Arkansas Juvenile Code of 1975 provides that "the court shall make such disposition as appears in the best interest of society and the welfare of the juvenile". These standards attempt to identify many of the criteria that should be considered by the judge when trying to decide on the most appropriate disposition. Basically, total confinement is not recommended except in extreme cases. Every attempt should be made to identify the needs of the child before imposing disposition so that all treatment alternatives may be considered. The criteria outlined in these standards should be helpful when applied in individual cases.

STANDARD 1.5.10. INTAKE

A. Each juvenile court jurisdiction immediately should take action to establish within the court an organized intake unit. This unit should include screening and referral services intended to identify and meet the needs of the youth through diversion to community agencies.

B. Intake personnel should have the authority and responsibility to make initial decisions in the following manner:

1. To conduct whenever possible an intake interview with the parties involved in order to bring about informal resolution of the complaint in as many cases as practicable.
2. Dismissal of a complaint when the matter does not fall within the delinquency jurisdiction of the court or if so minor or the circumstances are such that no intervention is required.
3. The dismissal of complaints which seem arbitrary, vindictive or against the best interest of the child.
4. The diversion of youngsters to alternative programs such as mental health and family services, public welfare agencies, youth service bureaus and similar public and private agencies.
5. The lending of assistance to the proper prosecuting authority in the filing of a petition alleging delinquency.
6. Conducting the investigation to determine whether or not the interest of the child and the public would best be served by processing a delinquency case as an adult criminal prosecution.

C. Intake personnel should seek informal service disposition for as many cases as possible, provided the safety of the child and of the community are not endangered. Informal service denotes any provisions for continuing efforts on the part of the court without filing a petition alleging delinquency. Informal service disposition should have the following characteristics:

1. The juvenile and his parents should be advised of their right to counsel.
2. Participation by all concerned must be voluntary.
3. The major facts of the case should be undisputed.

4. Participants should be advised of their right to formal adjudication at any time during the informal disposition.
5. Any statement made during the informal process should be excluded from any subsequent formal proceedings on the original complaint.
6. A reasonable time limit (3 to 6 weeks) should be adhered to between the date of complaint and date of the informal agreement.

Commentary and Implementation

Effective July 1, 1975, a new function was added to Arkansas' juvenile court--intake. The primary duties of an intake unit are screening and referral. The intake officer serves an important role since he can recommend that no judicial action take place, and often, in juvenile cases, the more limited the court contact, the better.

Some courts will need a full-time intake officer, while for others part-time may be sufficient. In some instances, a probation officer can also serve the intake function. It is vitally important that intake personnel understand the scope of their poweres, their purpose, and the way their job provides for greater co-ordination of services with other agencies.

Quorum courts in the various counties should repriortize their budgets to allow for the inclusion of intake personnel for the juvenile court.

CHAPTER 6 DELIVERY OF JUVENILE SERVICES

STANDARD 1.6.1. ORGANIZATION OF YOUTH SERVICES AT THE STATE LEVEL

Juvenile services are currently operated by juvenile courts, public and private community agencies and the state. The services are fragmented and do not always offer an equitable service system. In order to offer improved services to all juveniles, the state should set minimum standards for the delivery of all services. Local counties and juvenile courts should operate treatment programs including probation and community based facilities provided they meet minimum standards and should receive adequate state grants-in-aid to operate locally these programs. The state should operate alternative programs if the local programs do not meet minimum standards.

A. The responsibilities of the Office of Youth Services should be expanded to include the following:

1. To provide all state institutional treatment and care for state wards when committed to the state's institutions by local juvenile courts;
2. To set minimum standards for all state, local, private and public facilities, probation and aftercare programs for delinquent, dependent or neglected children.
3. To require the licensing of all facilities used for the housing of troubled youth, whether public or private; to monitor and evaluate the compliance of the facilities with minimum standards, and make recommendations to the board, when licenses should be

revoked.

4. To lend whatever assistance may be necessary at the local level to ensure that such programs correct any deficiencies which may be found to exist, including technical assistance, financial planning, training and coordination of youth workers (including volunteers), or other service requested by the local government.
5. To require the registration of all juvenile services in the state with a central office, regardless of the nature of the service or whether it is publicly or privately funded.
6. To develop a statewide volunteer program.

B. A Youth Services Board should be appointed by the Governor with overlapping terms for its members. It should be the duty of the board to review all matters of policy relating to the delivery of services to youth, including budget recommendations. The Youth Services Board should absorb the functions of the Training School Advisory Board, which should be abolished. The Governor should appoint as many members to the board as necessary to achieve a balance of expertise and philosophy. At least one fourth of the membership should be comprised of persons under the age of 26.

C. A director for the Office of Youth Services should be appointed by the Governor for a four year term with confirmation of the Youth Services Board. The director should be subject to removal by two-thirds vote of the board.

STANDARD 1.6.2. OFFICE OF YOUTH SERVICES: INTERNAL ORGANIZATION

A. The duties of every person now employed by the state in a youth services capacity should be reevaluated and realigned to bring them under the direct control of the director of the Office of Youth Services.

B. Existing personnel functions should be reorganized along functional lines which require the fewest number of administrative and supervisory personnel. The director of the Office of Youth Services should employ a minimum support staff whose responsibility should include all administrative task such as payroll and purchasing of equipment and supplies.

C. The Office of Youth Services should consist of three divisions:

1. Research, Planning and Evaluation
2. Training
3. Treatment

An assistant director should be hired for each of these divisions, and each should report directly to the director of the Office of Youth Services. It sould be the duty of the director to oversee and coordinate the activities of the respective assistant directors.

Commentary and Implementation

Standards 1.6.1. and 1.6.2.

One of the greatest handicaps to an effective statewide delivery of juvenile services in Arkansas has been the duplication and fragmentation of efforts. In the absence of clear-cut delineation of responsibilities and powers, services have sprung up at both the state and local level in a manner that has resulted in what has best been termed an "unsystem". This has caused much ill-feeling among the units of government as well as huge wastes of valuable resources.

It is recommended that the legislative branch of state government launch a serious, in-depth study of juvenile services in the state to determine:

1. *What role the state should occupy in providing juvenile services;*
2. *How the state can exert the most influence and leadership in upgrading the quality of services;*
3. *The specific means of co-operation and interaction among governmental units;*
4. *Specific instances of duplication and fragmentation so that they may be corrected;*
5. *Staffing patterns or management policies that lead to inefficient use of revenues; and*
6. *Any other practice that might come to the attention of the study group during the course of their investigation.*

The task force members felt the standards outlined here comprise one strategy aimed at solving the problems of duplication and fragmentation. Undoubtedly, there are other strategies equally as sound. The primary goal of the strategy chosen and the necessary enabling legislation should be to ensure the most effective and efficient use of taxpayers' money for the benefit of all youth.

STANDARD 1.6.3. ORGANIZATION OF YOUTH SERVICES: LOCAL LEVEL

A. The counties in the state should immediately review their existing services for juveniles and wherever necessary, begin to anticipate requirements for correcting existing deficiencies and for future needs.

B. Every county should employ sufficient personnel to handle the following juvenile court functions:

   1. Intake screening
   2. Judicial processing
   3. Probationary services

C. The population of many counties does not warrant a full-time person in one or more of the above functions, and in these instances, two or more contiguous counties should combine their financial resources to hire one person full-time to serve all the needs of the counties relating to that function. The respective counties should determine the number of hours per week spent in service to each county and allocate funds for that portion of the person's salary and travel expenses.

STANDARD 1.6.4. STAFFING PATTERNS: COURT PERSONNEL

The counties in the state should recognize their responsibility to provide funding for adequate court personnel. The following guidelines should be considered in assessing the staffing requirements of the juvenile court:

A. Every county should begin to phase out those juvenile court referees who do not possess law degrees and recruit competent lawyers possessing the qualifications set out for family court judges (Standard 1.5.3.).

B. Salaries for juvenile court referees should be based on the number of hours per week spent in service to court, with a maximum annual salary for full-time referees of $18,000 in 1976. Provisions should be made for periodic raises by appropriation of the Quorum Court.

C. One full-time probation officer should be provided per 20,000 population, except in unusual circumstances. The following criteria should be considered in determining the number of probationary personnel required:

1. The amount of time the probation officer will be required to travel in serving a large county or a multi-county region;
2. The availability of other support services from volunteers, public or private agencies;
3. The number of juvenile arrests and court caseload;
4. The extent to which the probation officer performs services for referral agencies other than the court, e.g. the school;
5. The concentration of youth in the area, based on the most recent federal census.
6. Other special conditions such as high number of transient youths, high drop-out rate from school, unusual drug or alcohol problems, etc.

D. Salaries for probation officers should be based on degree of education and experience and on salaries for similar positions within the State Merit System. Part-time salaries should be computed on the basis of number of hours per week spent in service to the juvenile court.

E. Probation officers should have a minimum of a Bachelor's Degree in Sociology or related field or equivalent thereof. A college degree may be waived based upon documentation of other educational experiences, training and experience and ability to work with juvenile in a counseling environment.

F. The following salary range for probationary personnel is recommended for 1976:

1. $7,020 for person without college degree and minimal experience;
2. $8,476 for person with Bachelor's degree and minimal or no experience;
3. An additional $500 per year for each year's directly related experience, not to exceed the maximum set by state law.

G. In counties requiring more than one probation officer, one may be designated Chief Probation Officer. The Chief Probation Officer should have at least two years experience in probation or counseling field and some supervisory experience.

H. The following salary range for Chief Probation Officer is recommended for 1976:

1. $8,476 for person without college degree and two years experience;
2. $9,600 for person with Bachelor's degree and two years experience;
3. An additional $500 per year for each years supervisory experience; and
4. An additional $250 per year for each years counseling or probation experience, not to exceed the maximum set by state law.

I. The standards relating to probationary personnel should also apply to intake officers, case counselors, social workers, or any other personnel retained by the court to work directly with juveniles in a counseling or screening capacity.

J. The probation officer should also be designated as intake officers in those counties whose caseloads do not warrant full-time positions.

Commentary and Implementation

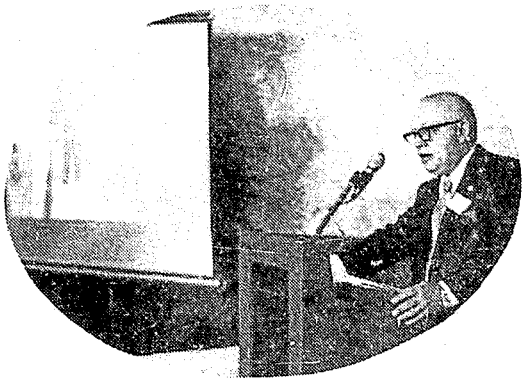
Standards 1.6.3. and 1.6.4.

The main thrusts of the recommendations for local courts are: (1) the hiring of sufficient qualified personnel, and (2) the combining of resources of smaller jurisdictions who could not otherwise afford the necessary staff.

Salary ranges and qualifications requirements varied so dramatically in the 75 counties, an attempt was made to fairly assess what the salaries and qualifications should typically be in comparison to similar jobs covered by the state merit system. Offered here are averages, which will necessarily vary according to locale and the county's ability to recruit and maintain adequate staff. Generally, existing salaries as well as minimum qualifications requirements are lower than recommended, so that a general upgrading is necessary.

"The Ounce of Prevention Effort"

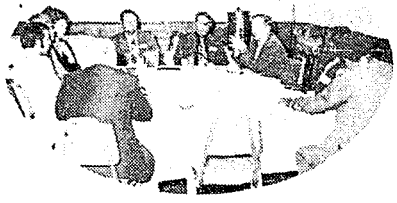
Crime Prevention



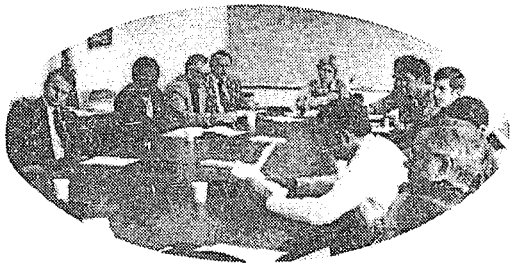
Glen Halliburton explaining material which is available from the Crime Prevention Program, Coachman's Inn, February 25, 1976.

Sam Peck Hotel
September 12, 1975
Bill Reinhart, Mayor's Office, Hot Springs
Bob Dudley, Chancellor, Pocahontas
Richard Bird, Attorney, Pine Bluff

Mayor James Jordan, Monticello
Jack Cole, Director of Security, Wal-Mart Stores, Bentonville



In Session, February 25, 1976



Law Enforcement, Crime Prevention Units meet at Crime Commission, Nov. 15, 1975.

Reverend Norman McDonald, West Memphis

Fort Smith members: Charles Hines, Sears, Margaret Brown, Brown Enterprises

Milas Hale, Municipal Judge, Sherwood

TASK FORCE ON CRIME PREVENTION

Richard Byrd
Attorney, Municipal Judge
Pine Bluff

Jack Cole
Director of Security, Wal Mart
Bentonville

Milas Hale
Municipal Judge
Attorney
Sherwood

James Jordan
Mayor
Monticello

Cal Ledbetter
State Representative, Dist. 4
Little Rock

Robert May
Sheriff
Lee County
Marianna

Bill Reinhardt
Asst. to Mayor
Hot Springs

R.N. "Butch" Wade
Wade Insurance Agency
Paris

Bill Walmsley
State Senator, Dist. 22
Batesville

Margaret S. Brown
Brown Enterprises
Fort Smtih

Norman McDonald
Minister
West Memphis

Mrs. Richard Caldwell
Citizen
Proctor

Charles Hines
Credit Manager-Sears
Fort Smith

Laron Tucker
Teacher
Monticello Junior High
Monticello

Glenn Halliburton
Task Force Director
North Little Rock

SECTION 2 CRIME PREVENTION

CHAPTER 1. CITIZEN INVOLVEMENT AND GOVERNMENT RESPONSIVENESS IN THE DELIVERY OF SERVICES

Recommendation 2.1.1. ESTABLISHMENT OF CRIME PREVENTION COUNCILS

A. The task force recommends that the state enact necessary legislation requiring that a crime prevention council be permanently established at the state level to operate as an advisory group under the Commission on Crime and Law Enforcement and that a crime prevention council be required and established in all 1st and 2nd class cities in Arkansas;

a. The task force further recommends that each municipal council be encouraged to prepare and carry-out a crime prevention plan and program within its area of jurisdiction.

b. The task force further recommends that each municipal council shall be composed of not less than seven nor more than ten members and the membership shall include (1) a minority group member, (2) a ministerial alliance member, (3) a municipal court or juvenile judge, (4) two teen-age student members, (5) the mayor, and (6) the police chief or his designated representative;

c. The task force recommends that the state council meet quarterly and provide any guidance or assistance requested, within its capabilities, to municipal councils, individual communities, or private individuals expressing a desire for assistance. The task force further recommends that two teen-age students be included among the general membership on the state council.

Recommendation 2.1.2 GOVERNMENTAL SUPPORT FOR CITIZEN CRIME PREVENTION EFFORTS.

The task force recommends that all governmental units at all levels within the state undertake appropriate action to encourage maximum citizen involvement in crime prevention efforts.

Commentary and Implementation

The Crime Prevention Task Force is convinced that the area of community crime prevention deserves the primary attention of officials and citizens in all state and local communities attempting to deal with the short and long-range problem of crime. The problems of crime can only be solved if there is considerably more public commitment to the provision of services, and the provision of adequate resources to segments of the criminal justice system.

Prompt and effective assistance for persons in need helps create public trust in government. Consequently, a strong effort should be made to ascertain the means to effect and increase public confidence in local and state governments, criminal justice agencies and practices, and to increase individuals' ability to take affirmative steps to protect their persons and property from criminal intrusions. This can be accomplished through the establishment of the aforementioned crime prevention councils and adequate support rendered thereto.

Upon establishment, each council should take immediate steps to increase the general publics' awareness of the problems of crime, the operation of the criminal justice system and the role the general citizen can and should play, both in preventing crime and in assisting those persons, both victims and offenders, who have become involved in the criminal justice system. Through close cooperation with their local law enforcement agencies, the councils should attempt to analyze the degree of criminal activity present in their community through the use of reported crime statistics and alternative research techniques identifying non-reported crime incidences. Comprehensive crime analysis should also reflect geographic, demographic and economic factors pertinent to the community and should be considered an integral component in all short- and long-range community planning. Strong emphasis should be placed on the development of crime prevention (both crime specific and juvenile delinquency prevention) in those areas or among those groups most severely affected by crime incidence and criminal activity.

To supplement and support each crime prevention council, local elected officials, chief executives, and units of government should urge the establishment of, and actively support, neighborhood advisory groups throughout their area of community jurisdiction. These advisory groups should be composed of interested citizens and should be urged to participate in the development and review of public policy decisions in the areas of community planning, criminal justice, social services, and economic policy affecting their communities. Adequate and efficient crime prevention efforts can contribute not only to the resolution of problems relating to specific crimes, but can also contribute to the improvement of other existing social institutions and the community as a whole.

Recommendation 2.1.3. PARENTAL LIABILITY FOR JUVENILE DELINQUENCY

The task force recommends that the state enact necessary legislation making parents civilly liable for all unlawful acts of their minor children and that the law passed relative thereto be strictly enforced. The legislation established should include the provision that in any instance whereby a juvenile must appear in court as a defendant, his/her parents shall be required to accompany him/her and if found guilty of any offense, the parents be required to attend sessions with a qualified counselor.

Commentary and Implementation

The home is the critical location where initial patterns of development will be imprinted. Actions of parents will seriously influence a child's understanding of rewards and punishment, the system of rules and controls he/she will encounter, his/her learning style, his/her sense of past and future, and even his/her ethics. However, the typical juvenile is at an impressionable age where he/she is particularly susceptible to any deviant influences of those

with whom he associates and therefore the necessity for closer home and parental guidance and concern is even more important with regard to the juvenile's activities outside the home and in the community. Measures must be put into effect which will lend to closer parental concern, custody, and control where such does not already exist.

Refer to Arkansas Juvenile Law and Procedures, January, 1976, (Act 451 of 1975), and to Arkansas Statutes Annotated, 1947, Sec. 41-1136.

Recommendation 2.1.4. ESTABLISHMENT OF STANDARDS FOR PROBATIONAL AND COUNSELING PERSONNEL

The task force recommends that the Arkansas Commission on Crime and Law Enforcement establish and require minimum educational standards for probational and counseling personnel employed and funded with LEAA funds in Arkansas as a basis for employment with a further recommendation that minimum salary standards be set to equitably conform with the Educational Standards Act.

Commentary and Implementation

Refer to Juvenile Justice and Delinquency Prevention Standard 1.18- Staffing Patterns: Court Personnel

CHAPTER 2. YOUTH SERVICE BUREAUS- A MODEL FOR THE DELIVERY OF SERVICES

Recommendation 2.2.1 ESTABLISHMENT OF YOUTH SERVICE BUREAUS.

The task force recommends that youth service bureaus should be established to focus on the special problems of youth in the community.

Commentary and Implementation

Youth Service Bureaus could provide a wide variety of services in each community and the services provided should depend on the needs of the population in the area being serviced. The goals of the Youth Service Bureau may include diversion of juveniles from the criminal justice system; provision of a wide range of services to youth through advocacy and brokerage, offering crises intervention and conflict management as needed; modification of the system through program coordination and advocacy; and youth development. Priority among goals should be locally set and should be based on a careful analysis of the community. The basic, primary goal in any community is to keep young children from becoming involved with the justice system with additional goals to reduce home, school, and community pressures to which children react with anti-social behavior. Objectives should be measurable, and progress toward them should be scrutinized by evaluative research. Strong emphasis should be placed on the provision of:

1. *Coordination of private and public services for youth;*
2. *Development of mechanisms providing advocacy for youth in a variety of social settings; and*
3. *Development of mechanisms to increase the sense of community and improve the home and school environments in which children must live.*

Youth Service Bureaus should, whenever possible, utilize existing services for youth through referral, systematic follow-up, and individual advocacy. Bureaus should develop and provide services on an on-going basis only where these services are unavailable to the youth in the community or are inappropriately delivered. Services should be confidential, and should be available

immediately to respond skillfully to each youth in crisis. Youth Service Bureaus should establish and maintain close cooperation with the State Office of Youth Services, Department of Social and Rehabilitative Services.

CHAPTER 3. PROGRAMS FOR EDUCATION

Recommendation 2.3.1. THE SCHOOL AS A MODEL OF JUSTICE

The task force recommends that school authorities adopt policies and practices to insure that schools and classrooms reflect the best examples of justice and democracy in their organization and operation, and in the rules and regulations governing student conduct. It is further recommended that the state enact necessary legislation authorizing individual school teachers to determine the need for discipling individual students, the type of discipline to be rendered within legal sanctions, and the authority to initiate and effect same without school board consent.

Commentary and Implementation

We are doing very little in the schools as a direct, intentional effort to discourage young people from criminal careers. Schools can and should exert a strong crime prevention influence on their students through improvement in the learning environment and constructive changes which will contribute to the prevention of juvenile delinquency and crime.

Many individuals contend that part of the reason for the high crime rate among young people may be because they have been given little or no real opportunity to understand the law and how it affects them. A series of courses on the role of Law in Society should be structured and utilized in the public schools to develop concepts of justice, law, and good citizenship.

At present, there is an almost complete absence in school organization and procedures of deliberated examples of justice, respect for privacy, redress of grievances and other democratic processes. Opportunities should exist and provisions should be made for the involvement and participation of students in planning and decision making, the exercise of authority and discipline in the schools, and a minimal active involvement of students in the teaching-learning structure.

While wisdom, restraint, and justice should characterize our schools' pursuit of order, swift and positive action should be taken against student misconduct. Teachers should be required to learn preventive and constructive methods of dealing with disruptive behavior but if misbehavior perists or is sufficient in itself to justify punishment, then legal, appropriate punishment should be administered at the time and place the offense is committed and, in most instances, before the offenders' peers, if the offense was committed in their presence. Penalties should not be imposed without examining the facts and overpunishment should not be tolerated, with teachers' being held accountable in the event such occurs.

School facilities should be made available in the evenings, on weekends, and throughout the summer to the entire community as centers for Human Resource and Adult Education Programs with maximum utilization of same.

CHAPTER 4. PROGRAMS FOR EMPLOYMENT.

Recommendation 2.4.1. INITIATION AND EXPANSION OF EMPLOYMENT OPPORTUNITIES

The task force recommends that employers and unions institute or accelerate efforts to expand job or membership opportunities to economically and educationally disadvantaged youth and to offenders, ex-offenders, and others traditionally shut out of the job market. Each community should especially broaden its after-school and summer employment programs for youth, including the lower income minority group members who may have been excluded in the past.

Commentary and Implementation

Public and private employers and unions should institute and accelerate efforts to expand job opportunities for youth, offenders, ex-offenders, and others traditionally shut out of the job market, especially lower income minority group members. These should be rewarding jobs and meaningful job opportunities that provide genuine efforts to develop or utilize skills that will lead to future advancement (and rehabilitation in some instances) rather than dead-end make-work assignments. Special emphasis should be placed on increasing after-school and summer employment opportunities for youth.

Adequate training should be provided to assist individuals in procuring satisfactory employment. Employers should be prepared to provide special guidance services to aid new youthful employees in areas such as hygiene, health, good work habits, and money management. Employers should also be required to provide training programs that educate managers, supervisors, and personnel officers about the special problems that individuals may bring to their jobs.

Procedures for processing applications by youths, offenders, or ex-offenders should be evaluated by public and private employers and unions to ensure they do not intentionally or unintentionally discriminate against these persons. No individual should be deprived of any right or priviledge, including employment, solely because of his/her youth, if of legal age for employment, or because of a past criminal offense.

CHAPTER 5. PROGRAMS FOR RECREATION

Recommendation 2.5.1. RECREATION PROGRAMS FOR DELINQUENCY DETERRANCE AND CRIME REDUCTION

The task force recommends that each community broaden its after-school and summer recreation programs for youth, including the lower income minority group members who may have been excluded in the past. Efforts should be made to provide full-time, rewarding activity for all youth to deter delinquency and for adults to off-set depression created by inactivity.

Commentary and Implementation

Recreation programs should be created or expanded to serve the total community with special emphasis on service to youth. Recreation should be recognized as an integral part of an intervention strategy aimed at preventing delinquency and at reducing crime; it should not be relegated to a peripheral role. Recreation as a prevention strategy should involve more than giving youth and adults something to do. It should

provide job training and placement, education, and other services for mobilizing resources and helping people find personally satisfying experiences suited to their individual needs. Recreation programs should be created or expanded to totally serve both the adult and youth community. Adults because of a need for time-comsuming activity in this day and time when we are faced with considerable periods of inactivity and youth because of the same situation coupled with special additional needs arising from poor family relationships, school failure, limited opportunities, and strong social pressures to participate in gang behavior.

Maximum use should be made of existing recreational facilities--in the morning, afternoons and evenings, on weekends, and throughout the entire year but especially during the summer when youth has excessive free time on their hands and often little school, church, or parental supervision. Where existing recreational facilities are inadequate, other community agencies and organizations should be encouraged to provide facilities at minimal cost, and at no cost where feasible.

CHAPTER 6. PROGRAMS FOR RELIGION

Recommendation 2.6.1. RELIGIOUS SUPPORT AND PROMOTION OF COMMUNITY INVOLVEMENT IN CRIME PREVENTION

The task force recommends that the religious community support and promote private and public efforts to recruit citizens who are concerned about crime for volunteer work in criminal justice programs.

Commentary and Implementation

The church has always had concerns for human dignity and justice and can be instrumental in building a law abiding and peaceful society. The religious community's response to crime prevention can be an effective part of the total society's strategy for fighting crime.

Religious institutions should use their influence and credibility in all communities to create a climate of trust and furnish a neutral setting for expanded communication on crime and criminal justice. Churches can lend invaluable assistance in initiating programs to aid in crime prevention, to deal with particular crime problems, and to assist in rehabilitation efforts. A greater involvement of citizens is required to combat crime and the church is a moving force. The religious community should actively participate in and support the operations of the local criminal justice system. Providing adult, family, and juvenile counseling, assisting probation services, voluntary participation in programs designed to promote better police and community relations, and periodic visits to correctional facilities are practical examples of the type of community involvement that results in more accountability and better performance by the system.

Religious and lay leaders in all congregations should educate their constituencies about the crime problem, so that citizens can respond more effectively. The urge to become fully informed about the functional problems in the criminal justice system and to join others in creating a more modern and effective system for the reduction and the control of crime should be instilled in each church member and should be a priority task in each congregation. Religious congregations should also fully utilize their buildings, facilities, and equipment for community programs, especially for children and youth, and utilization of same should not be restricted to members of a particular congregation only.

CHAPTER 7. PROGRAMS FOR REDUCTION OF CRIMINAL OPPORTUNITY

Recommendation 2.7.1. CRIME PREVENTION AND LAW ENFORCEMENT AGENCIES

The task force recommends that every law enforcement agency establish a crime prevention program and actively work with and inform interested citizens of measures that can be taken to protect themselves, their families, and their property.

Commentary and Implementation

The task force strongly endorses the National Advisory Commission position that all police departments should place as a primary goal, involvement of citizens within their jurisdiction in programs designed to protect their persons and property, and programs designed to provide police with information about suspicious circumstances and/or criminal activity. Additionally, programs designed to facilitate communication between law enforcement agencies and neighborhood groups should be encouraged, and citizens who have been of assistance to the police in identifying and apprehending criminal offenders should be personally acknowledged by the police department.

The traditional police role within the community has neglected to provide individual citizens with viable opportunities to participate in the police function. Crime prevention efforts are worthless without strong citizen support and input and the impact upon crime is greater when large numbers of citizens are involved in a crime prevention program, rather than when individuals take crime prevention steps seperately.

All state and local criminal justice agencies and commissions involved in developing policy and programs relative to criminal justice problems should take affirmative action intended to involve the public in their planning and decision making processes. All Arkansas law enforcement and criminal justice agencies should establish programs to encourage members of the public to take an active role in preventing crime; to provide information leading to the arrest and conviction of criminal offenders; to facilitate the identification and recovery of stolen property; and to increase liaison with private industry and other security efforts. Arkansas law enforcement and criminal justice agencies should assist actively in the establishment of neighborhood security programs that include the public in neighborhood crime prevention and reduction with particular emphasis on the following steps:

(1) *The concerned agencies should provide the community with information and assistance regarding means to avoid being victimized by crime and should make every effort to inform neighborhoods of developing crime trends that may affect their area;*
(2) *The concerned agencies should also instruct neighborhood participants to notify the police in suspicious situations;*
(3) *Persons participating in crime prevention should always be instructed not to take enforcement action themselves; and*
(4) *Arrest resulting from information supplied by citizens participating in crime prevention programs should be noted, and the citizens providing the information, when identified, should be informed. No individual should be required to identify himself/herself, however, when furnishing any type of information if they decline to do so and lack of identification of the source of information should not deter positive action on the part of the police agency.*

Recommendation 2.7.2. SHOPLIFTING AND EMPLOYEE THEFT PREVENTION PROGRAMS

The task force recommends that all business establishments take immediate and effective measures to prevent shoplifting and internal theft.

Commentary and Implementation

All state and local law enforcement and criminal justice agencies should establish or assist programs that involve trade, business, industry, and community participation in preventing and reducing commercial crimes. It is important for all such agencies to work actively with local retail merchants and commercial establishments to ensure that adequate security measures and programs are provided. Law enforcement officials should be available to assist merchants in determining what security systems are necessary, and should also be available to those merchants in high crime areas to assist on the deployment of monitoring or surveillance equipment during peak periods. The task force does not, however, feel that it is appropriate for either state, local, or federal law enforcement resources to be expended on the provision of permanent security systems for individual merchants or corporations. State and local agencies should be able to provide technical assistance in determining what adequate systems should be, but should not be involved in provision or installation of those systems.

Recommendation 2.7.3. USE OF BUILDING DESIGN TO REDUCE CRIME

The task force recommends that agencies and professions involved in building design and construction actively consult with and seek the advice of law enforcement agencies in physical design to reduce the opportunity for the commission of crime.

Commentary and Implementation

Proper design and construction can play a significant role in reducing the opportunities for crime. Individual residences, residential complexes, and commercial establishments can be designed to deter burglary, robbery, and vandalism, and other types of crime. The design of private residences, the grouping of dwelling units, the definition of grounds, the landscaping of grounds, the provision of natural surveillance opportunities, the design of public interior areas, and the positioning of routes can significantly discourage criminal action. The residents and business employees can help survey and control any criminal activity taking place within their residential areas or business facilities. Physical design can create potent feelings of territoriality which, in turn, can lead individuals to engage in the effective self policing of their homes, buildings, surroundings and streets.

The Arkansas task force is in agreement with the National Advisory Council recommendation that communities, local units of government, criminal justice professionals and environmental planners should work cooperatively in attempting to plan environments which are not conducive to criminal behavior.

Every police agency should participate with local planning agencies and organizations, public and private, in community physical planning that affects the rate on nature of crime or the fear of crime. Technical assistance and in-

formation on reducing criminal opportunity through building design and spatial arrangement should be provided to officials and other individuals responsible for neighborhood and community planning. City and county planning units, zoning boards, engineering departments, transportation officials, and architects throughout the state should be provided with and should jointly utilize the knowledge of how to incorporate crime prevention and security considerations into their planning processes. The purpose of such joint planning should be both to remove opportunities for crime and to improve the ability of the police and the public to detect crime.

Recommendation 2.7.4. SECURITY REQUIREMENTS FOR BUILDING CODES

The task force recommends that the state and units of local government establish and include security requirements within existing and future building codes.

Commentary and Implementation

Minimum security standards to safeguard property and public welfare by regulating the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures should be provided for in state and local building codes and ordinances which reflect a commitment on the part of government for building designs and construction requirements which would insure minimum security standards. All too frequently, private construction of residential and commercial facilities is conducted without the consultation of local law enforcement agencies, urban planners, and other criminal justice related professionals with an end-result that security is minimal or is not provided for whatsoever. The establishment of adequate building codes and ordinances properly regulated and enforced through inspections by operational police or other state or local agency personnel would provide for minimum or better security of our citizens.

Recommendation 2.7.5. STREET LIGHTING PROGRAMS FOR HIGH CRIME AREAS

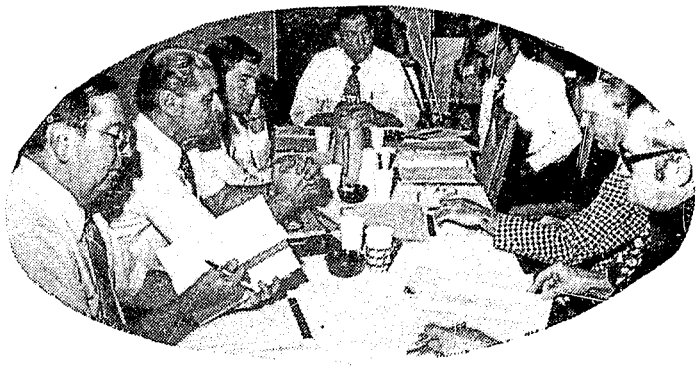
The task force recommends that units of local governments consider the establishment of improved street lighting programs in high crime areas.

Commentary and Implementation

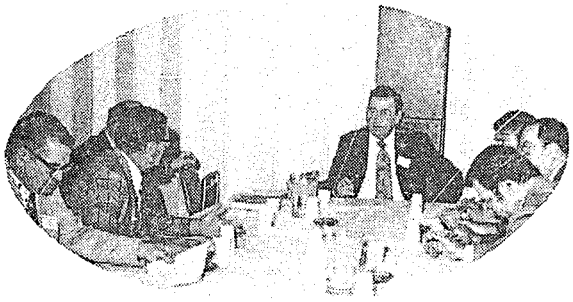
As a general rule, humans tend to be highly fearful of darkness and in what they cannot see therein. The notion that good lighting is a prerequisite for safety is as old as civilization. Crimes of violence, which breed in dark places, ill-lighted streets, and alleys, such as murder, rape, assault and armed robbery, can never exist to any great degree where the darkness has been banished. Carefully developed planning and layouts for safety and security lighting systems for individuals, property, buildings and their contents, should be given high priority in every community. In the scheme of community affairs, lighting is not only beneficial as a deterrant to aggression, but it also has value in that a deterred crime incurs no cause for police action, no cause for prosecution, and no cause for corrections. Every police agency should participate with local planning agencies, and organizations, both public and private, and commercial establishments in community physical planning for increased and improved lighting, especially in high density crime areas.

"The Ounce of Prevention Effort"

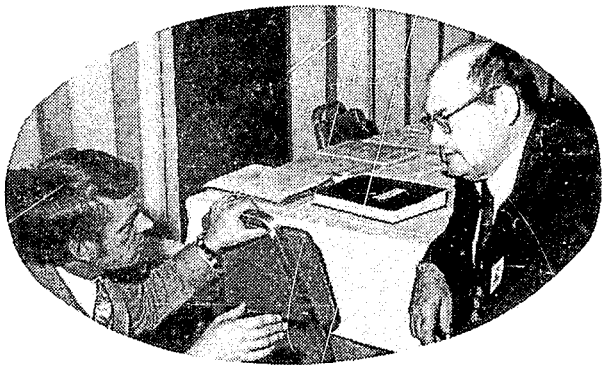
Law Enforcement



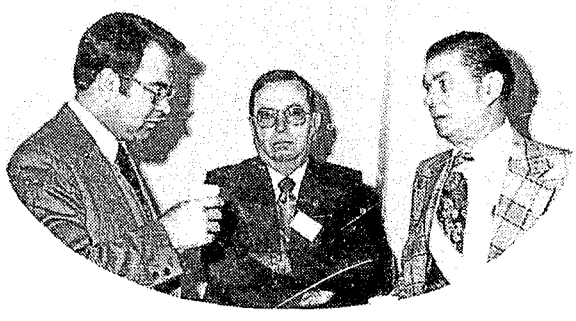
First Meeting—9/12/75
Little Rock



Conference at Coachman's Inn
2/25/76



Gary Swearingen,
Springdale Police Department
Jim Pearson,
Sheriff, Benton County
2/25/76



Doug Harp
Director, Arkansas State Police
Cleddie Shock
Chief, Pine Bluff Police Department
President, Arkansas Police Chiefs Association
Carl Beyer
Chief, Fort Smith Police Department
2/25/76

TASK FORCE ON LAW ENFORCEMENT

David Bentley
Chief of Police
Camden

Carl Beyer
Chief of Police
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Eugene "Bud" Canada
State Senator, Dist. 15
Hot Springs

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Chief of Police
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Director of Arkansas
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Little Rock

Dick Herget
Cobb, Atkins, Boyd &
Eggleston, Inc.
Little Rock

Charles Honey
State Representative
District 19
Prescott

Jim Pearson
Sheriff
Benton County
Bentonville

Cleddie Shock
Chief of Police
Pine Bluff

Delane Wright
Sheriff
Cleburne County
Heber Springs

Robert Tucker
North Little Rock
Police Department
North Little Rock

Ed Etheridge
President, Arkansas
Municipal Police Assoc.
Little Rock

Gary Swearingen
Springdale Police Department
Springdale

Leon Southern
Task Force Director
Jacksonville

SECTION 3 LAW ENFORCEMENT

CHAPTER 1. THE LAW ENFORCEMENT ROLE

STANDARD 3.1.1. ESTABLISHING THE ROLE OF THE LAW ENFORCEMENT OFFICER

A. Every law enforcement chief executive immediately should develop a written policy that defines the role of the law enforcement officer, and should establish operational objectives and priorities that reflect the most effective use of the law enforcement officer in reducing crime.

B. Every law enforcement chief executive should acknowledge that the law enforcement officer is the agency's primary element for the deliverance of law enforcement services and prevention of criminal activity.

C. Every law enforcement chief executive should insure maximum efficiency in the deliverance of law enforcement services by setting out in written policy the objectives and priorities governing these services. This policy should:

1. Insure that resources are concentrated on fundamental law enforcement duties;

2. Insure that law enforcement officers are engaged in tasks that are related to the law enforcement function;

3. Require immediate response to incidents where there is an immediate threat to the safety of an individual, a crime in progress, or a crime committed and the apprehension of the suspected offender is likely.

4. Emphasize the need for preventive patrol to reduce the opportunity for criminal activity; and

5. Provide a procedure for accepting reports of criminal incidents not requiring a field investigation.

D. Every law enforcement chief executive should implement a public information program to inform the community of the agency's policies regarding the deliverance of law enforvement services. This program should include provisions to involve citizens in crime prevention activities.

Commentary and Implementation

Examples of the inefficient use of personnel have been recognized in departments throughout Arkansas. These examples are activities far removed from those normally associated with the traditional and accepted roles of maintaining the peace, protecting property and crime prevention. When law enforcement agencies have clarified their role in written policies for their employees and the general public, a better understanding can exist for the law enforcement and crime prevention role of the agency. Each

law enforcement department should communicate its purpose and objectives to the community it serves. Through public speeches and presentations to civic organizations and schools, these policies can be made known.

The community relations units and/or crime prevention units can assist the law enforcement chief executive in implementing this standard in each local department and state agency.

All law enforcement agencies should have a goal of meeting with at least two civic or school groups each month to explain the law enforcement role in a positive manner.

STANDARD 3.1.2. OPERATIONAL EFFECTIVENESS WITHIN THE CRIMINAL JUSTICE SYSTEM

A. Every law enforcement agency immediately should insure its operational effectiveness in dealing with other elements of the criminal justice system.

B. Every law enforcement agency should develop procedures in cooperation with local courts and prosecutors to allow on-duty officers to be on call when subpoenaed to testify in criminal matters.

C. Every law enforcement agency should develop and maintain liaison with:

1. Local courts and prosecutors to facilitate the timely issuance of arrest and search warrants, issuance of criminal complaints, and arraignment of prisoners;

2. Juvenile courts to divert, in appropriate circumstances, juveniles from the juvenile justice system and to preserve confidentiality of proceedings to the greatest extent possible;

3. Correction agencies, including probation and parole, in order to exchange information on the status and activities of released persons who are still under sentence; and

4. Other federal, state, and local law enforcement agencies in order to arrange for the arrest and return of fugitives, to exchange information in criminal investigations, to establish joint plans for dealing with criminal conduct, and to share statistical and support services.

D. Every law enforcement agency should cooperate in the establishment of task force efforts with other criminal justice agencies and federal, state, and local law enforcement agencies, where appropriate, to deal with major crime problems.

Commentary and Implementation

Every law enforcement agency at the local, state and federal level can take the lead in implementation. Statewide associations in different criminal justice areas can schedule more opportunities to meet together to improve cooperation.

Each law enforcement agency should have a liaison officer appointed to work with these courts. This officer could improve the communication between the courts and the agency and assist in scheduling testimony by officers on duty time rather than on their own time.

CHAPTER 2. PLANNING AND ORGANIZING

STANDARD 3.2.1. DEPLOYMENT OF LAW ENFORCEMENT OFFICERS

A. Every law enforcement agency immediately should develop a law enforcement deployment system that is responsive to the demands for the law enforcement services and consistent with the effective use of the agency's law enforcement personnel. The deployment system should include collecting and analyzing required data, conducting a workload study, and allocating personnel to patrol assignments within the agency.

B. Every law enforcement agency should establish a system for the collection and analysis of law enforcement deployment data according to area and time.

1. A census tract, reporting area, or permanent grid system should be developed to determine geographical distribution of data; and

2. Seasonal, daily, and hourly variations should be considered in determining chronological distribution of data.

C. Every law enforcement agency should conduct a comprehensive workload study to determine the nature and volume of the demands for law enforcement service and the time expended on all activities performed by the law enforcement personnel. The workload study should be the first step in developing a deployment data base and should be conducted at least annually thereafter. Information obtained from the workload study should be used:

1. To develop operational objectives for law enforcement personnel;

2. To establish priorities on the types of activities to be performed by law enforcement personnel; and

3. To measure the efficiency and effectiveness of the law enforcement operation in achieving agency goals.

D. Every law enforcement agency should implement an allocation system for the geographical and chronological, proportionate-need distribution of law enforcement personnel. The allocation system should emphasize agency efforts to reduce crime, in-

crease criminal apprehensions, minimize response time to calls for services, and equalize law enforcement personnel workload. This system should provide for the allocation of personnel to:

1. Divisions or precincts in those agencies which are geographically decentralized;

2. Shifts;

3. Days of the week;

4. Beats; and

5. Fixed-post and relief assignments.

E. Every law enforcement agency should establish procedures for the implementation, operation, and periodic evaluation and revision of the agency's deployment system. These procedures should include provisions to insure the active participation and willing cooperation of all agency personnel.

Commentary and Implementation

Practically every law enforcement problem can be systematically analyized. This approach involves:

(1) The discovery of the problem

(2) The isolation and clarification of the problem

(3) The collection and analysis of pertinent data and opinions, and

(4) The identification and evaluation of alternatives.

To assist in this analysis, departments should seek the technical assistance offered by larger departments in their region, the law enforcement training academy, the Governor's Commission on Crime and Law Enforcement or the federal agencies: F.B.I, A.T.F.-Treasury, Drug Enforcement Authority.

STANDARD 3.2.2. COOPERATION AND COORDINATION

A. Every law enforcement agency immediately should act to insure understanding and cooperation between the agency and all other elements of the criminal justice system, and should immediately plan and implement appropriate coordination of its efforts with those of other elements in the criminal justice system.

B. Every law enforcement agency should cooperate with other elements of the criminal justice system in processing criminal cases from arrest to trial within 60 days.

C. Every law enforcement agency should consider and where appropriate seek the formation of a criminal justice coordinating council with members representative of law enforcement, other criminal justice agencies.

The council:

1. Should have as its overall objective the fair and effective disposition of all criminal cases and other specific goals and activities related to crime prevention and reduction; and

2. Should develop policy and institute planning and coordination programs that serve to achieve its objective.

D. Every law enforcement agency should support training programs that promote understanding and cooperation through the development of unified interdisciplinary training for all elements of the criminal justice system.

Those programs should:

1. Provide for the instruction of law enforcement personnel in the functions of all criminal justice agencies in order to place the law enforcement role in perspective;

2. Encourage, where appropriate, the participation of other criminal justice agencies in law enforcement training; and

3. Encourage, where appropriate, law enforcement participation in training given to members of other criminal justice agencies.

Commentary and Implementation

All law enforcement chief executives should take the lead in this implementation. Improved liaison with prosecutors and courts can upgrade criminal investigations and keep attention on cases which should not be delayed any longer than constitutionally necessary.

STANDARD 3.2.3. CRIMINAL CASE FOLLOWUP

A. Every law enforcement agency immediately should develop policies and procedures to follow up on the disposition of criminal cases initiated by the agency. This should be done in cooperation with local courts and prosecuting attorneys.

B. Every law enforcement agency, in cooperation with local courts and prosecuting attorneys, should provide for the administrative followup of selected criminal cases. Policies and procedures should be developed.

1. To identify criminal cases which, because of extenuating circumstances or the defendant's criminal history, require special attention by the prosecuting agency; and

2. To require a law enforcement representative to attend, personally, all open judicial proceedings related to these cases, and to maintain close personal liaison with assigned prosecutors.

C. Every law enforcement agency should review administratively all major criminal cases in which prosecuting agencies decline to prosecute or later cause to be dismissed. This review should:

1. Result in a referral of each case to the prosecuting attorney for his action to correct any deficiencies which had weakened the case by the Law Enforcement Officers.

2. Result in a referral of each case to the prosecuting attorney for his action to correct any deficiencies for which the prosecutor may have been responsible.

D. Every law enforcement agency should encourage courts and prosecuting agencies routinely to evaluate investigations, case preparation, the courtroom demeanor and testimony of law enforcement officers and to inform the law enforcement agency of those evaluations.

E. Every law enforcement agency formally should make information from its files available to other criminal justice agencies and to the courts for reference in making diversion, sentencing, probation, and parole determinations. In addition to records of past contacts with the defendant, useful information might include the effect the crime had on the victim and the likelihood of future problems resulting from defendant's presence in the community.

Commentary and Implementation

The prosecuting attorney should take the lead in this implementation. Reasons for case delay and dismissal should be explained to avoid similiar problems in the future.

Each law enforcement agency should be represented at open judicial proceedings and maintain close liaison with the assigned prosecutors.

CHAPTER 3 RECRUITMENT AND SELECTION

STANDARD 3.3.1. GENERAL LAW ENFORCEMENT RECRUITING

A. Every law enforcement agency should insure the availability of qualified applicants to fill law enforcement officer vacancies by aggressively recruiting applicants when qualified candidates are not readily available.

B. The law enforcement agency should administer its own recruitment program.

1. The agency should assign to specialized recruitment activities employees who are thoroughly familiar with the policies and procedures of the agency and with the ideals and practices of professional law enforcement;

2. Agencies without the expertise to recruit law enforcement applicants should seek assistance from other agencies in state or local government, or form cooperative personnel systems with other law enforcement agencies; every law enforcement agency, however, should retain administrative control of its recruitment activities.

C. The law enforcement agency should direct recruitment exclusively toward attracting the best qualified candidates and:

Should concentrate recruitment resources according to the agency's need for personnel from varied ethnic backgrounds.

Commentary and Implementation

Recruitment is the process of attracting candidates who have the minimum qualifications to be eligible for the selection process. Selection, on the other hand, is concerned with screening undesirable candidates after they have applied and appointing only the best qualified applicant. Retention involves many variables which effect the careers of officers who stay on the job. The process of recruitment, selection and retention are influential upon each other.

The Civil Service Commission can provide more leadership in recruiting of personnel and cadet programs can be expanded to attract potential law enforcement officers earlier into the department.

Where Civil Service Commissions do not exist, efforts should be made by local officials to pass legislation establishing a commission.

STANDARD 3.3.2. COLLEGE RECRUITING

A. Every law enforcement agency that does not have a sufficient number of qualified applicants having appropriate college backgrounds to fill law enforcement officer vacancies should immediately implement a specialized recruitment program to satisfy this need.

B. The law enforcement agency should establish permanent liaison with:

1. Placement officers and career counselors in colleges and universities within a 50 mile radius of the law enforcement agency.

2. The faculty members and heads of departments that provide a curriculum specifically designed to prepare students for the law enforcement service.

C. The law enforcement agency could implement a law enforcement student worker program that provides part-time employment for college students between the ages of 17 and 25 who have shown a sincere interest in a law enforcement career. Law enforcement student workers should:

1. Be full-time students carrying a study load of at least 12 units per semester and should work for the law enforcement agency no more than 20 hours per week; during school vacations, full-time employment may be appropriate.

2. Meet the same physical, mental, and character standards required of law enforcement officers; appropriate and reasonable exceptions may be made for the height and weight in relation to age.

Commentary and Implementation

The two and four year college institutions in Arkansas can assist in implementing this standard. Courses and instruction relevant to local law enforcement needs should be made available. Law enforcement agencies should encourage personnel to improve their education with college credits. An educational incentive program could assist departments in recruiting new personnel and improving the quality of the personnel.

STANDARD 3.3.3. EMPLOYMENT OF WOMEN

A. Every law enforcement agency should immediately insure that no agency policy discourage qualified women from seeking employment as sworn or civilian personnel or prevents them from realizing their full employment potential. Every law enforcement agency should:

B. Institute selection procedures to facilitate the employment of women; no agency, however, should alter selection standards solely to employ female personnel;

C. Insure recruitment, selection, training, and salary policies neither favor nor discriminate against women;

D. Provide career paths for women allowing each individual to attain a position classification comensurate with her particular degree of experience, skill, and ability; and

E. Immediately abolish all separate organizational entities composed solely of law enforcement women except those which are identified by function or objective, such as a female jail facility within a multi-unit law enforcement organization.

Commentary and Implementation

The demand for female officers will probably increase in all law enforcement departments. The crime statistics show an increasing number of female offenders. Departments will need to develop sufficient procedures for the handling and detention of female offenders.

STANDARD 3.3.4. THE SELECTION OF LAW ENFORCEMENT OFFICERS

A. The Arkansas Law Enforcement Standards Commission was created by Act 452 of 1975. It was created to develop and enforce minimum mandatory standards for the selection of law enforcement officers by all departments in Arkansas.

B. The Commission adopted hiring standards in May, 1976, and these standards are available in the publication entitled "Standards for Arkansas Law Enforcement Officers".

C. The General Assembly should provide sufficient funds to enable the commission to employ a full-time executive director and a sufficient staff to carry out the legislatively mandated responsibilities.

Commentary and Implementation

The Commission has adopted hiring standards and should have the administrative support necessary to enforce these standards. Assistance from the governor's emergency fund could provide a beginning for a staff in 1976 with the passage of an appropriation in the 1977 General Assembly.

CHAPTER 4. PROMOTION AND ADVANCEMENT

STANDARD 3.4.1. PERSONNEL EVALUATION FOR PROMOTION AND ADVANCEMENT

A. Every law enforcement agency should immediately begin a periodic evaluation of all personnel in terms of their potential to fill positions of greater responsibility. The selection of personnel for promotion and advancement should be based on criteria which relates specifically to the responsibilities and duties of the higher position.

B. Every agency periodically should evaluate the potential of every employee to perform at the next higher level of responsibility.

1. This evaluation should form a part of the regular performance evaluation that should be completed at least semiannually.

2. Specific data concerning every employee's job performance, training, education, and experience should support the periodic evaluation for promotion and advancement.

C. Every law enforcement agency should use job analysis in the development of job related tests and other criteria for the selection of personnel for promotion and advancement. Selection devices should consist of one or more of the following:

1. Management assessment of past job performance, performance in individualized development program, and demonstrated initiative in the pursuit of self development;

2. Oral interviews; and

3. Job related mental aptitude tests

D. Every law enforcement agency should disallow the arbitrary awarding of bonus points for experience and achievement not related to the duties of the position for which the individual is being considered. Arbitrary awards include:

1. Bonus points for military service

2. Bonus points for heroism

E. No agency should use any psychological tests as screening devices or evaluation tools in the promotion and advancement process until scientific research confirms a reliable relationship between personality and actual performance.

F. Every agency should require that personnel demonstrate the ability to assume greater responsibility prior to promotion or advancement and should continue to observe employee performance closely during a probationary period of at least one (1) year from date of promotion or advancement.

Commentary and Implementation

If law enforcement departments upgrade personnel practices to provide employees with effective and fair promotion systems, then communications can be improved within the agency, and positive programs for avoiding law enforcement misconduct can be established and departmental morale can be improved.

Each law enforcement agency should provide a written review of the present criteria used and agencies with 75 or more sworn personnel should provide or allow special opportunities for employees to improve their promotion credentials, and develop special procedures to regulate promotions to specialist positions.

CHAPTER 5 EDUCATION

STANDARD 3.5.1. COLLEGE CREDIT FOR THE COMPLETION OF LAW ENFORCEMENT TRAINING PROGRAMS

A. Every law enforcement agency should pursue the affliation of law enforcement training programs with academic institutions to up-grade its level of training and to provide incentives for additional education.

B. All law enforcement training courses for college credit should be academically equivalent to courses that are part of the regular college curriculum.

C. Every member of the faculty who teaches any course for credit in the law enforcement training curriculum should be specifically qualified to teach that course.

1. The instructor in a law enforcement training course, for which an affiliated college is granting credit, should be academically qualified to teach that course.

2. Law enforcement personnel not academically qualified to teach a course in the regular college curriculum may, if otherwise qualified, serve as teaching assistants under the supervision of an academically qualified instructor.

Commentary and Implementation

All law enforcement agencies should become affiliated with two and four year institutions in the development of training programs and the development of incentives for addition of undergraduate education. See Regulation 1004 in the Arkansas Law Enforcement Standards and Training Manual.

CHAPTER 6 TRAINING

STANDARD 3.6.1. PREPARATORY, INSERVICE AND REGIONAL TRAINING

A. The rules and regulations adopted in May, 1976, by the Arkansas Executive Commission on Law Enforcement Standards and Training should be followed by all Arkansas law enforcement officials.

B. During the first year of employment with a law enforcement agency, and in addition to the minimum basic law enforcement training, every law enforcement agency should provide full-time sworn law enforcement agency employees with additional formal training, coached field training, and supervised field experience through methods that include at least:

1. A minimum of 3 months of field training with a sworn law enforcement employee who has been certified as a Field Training Officer;
2. Rotation in field assignments to expose the employee to varying operational and community experiences;
3. Documentation of employee performance in specific field experiences to assist in evaluating the employee and to provide feedback on training program effectiveness;
4. Self-paced training material, such as correspondence courses, to assist the employee in acquiring additional job knowledge and in preparing for subsequent formal training;

C. Every law enforcement agency should provide every unsworn law enforcement employee sufficient training to enable him to perform satisfactorily his specific assignment and to provide him with a general knowledge of the law enforcement role and the organization of the law enforcement agency.

D. Every law enforcement agency should provide each newly assigned employee the specific training he needs to enable him to perform the task.

E. Every law enforcement agency should provide sufficient training to enable every newly promoted employee to perform the intended assignment satisfactorily.

F. Every law enforcement agency should by 1978, provide for annual and routine training to maintain effective performance throughout every sworn employee's career.

G. Every law enforcement agency should provide 40 hours of formal inservice training annually to sworn law enforcement employees up to and including captain or its equivalent. This training should be designed to maintain, update, and improve necessary knowledge and skills. Where practical and beneficial, employees should receive training with persons employed in other parts of the criminal justice system, local government, and private business when there is a common interest and need.

H. Every law enforcement agency should recognize that formal training cannot satisfy all training needs and should provide for decentralized training. To meet these day-to-day training needs, every law enforcement agency should provide:

1. As soon as possible, but in no event later than 1978, a minimum of one law enforcement employee who is a certified training instructor;
2. Audio-visual equipment compatible with training material available to the law enforcement agency;
3. Home study materials available to all law enforcement employees; and
4. Periodic 1-day on-duty training programs directed at the specific needs of the law enforcement employees.

I. The law enforcement training academy should assist in establishing regional training programs to provide effective training programs which will vary according to specific needs of participating law enforcement employees and community needs by 1978.

Commentary and Implementation

"The goal of the Executive Commission on Law Enforcement Standards is to establish the role of the law enforcement officer as a profession, thereby presenting the citizens of the state of Arkansas with officers who have the knowledge and skill to prevent and reduce crime." The Rules and Regulation Manual, (Act 452 of 1975).

In sections B,C,D, and E, the task force recommends steps local departments can take in compling with the new standards.

CHAPTER 7 EMPLOYEE RELATIONS

STANDARD 3.7.1. THE LAW ENFORCEMENT EXECUTIVE AND EMPLOYEE RELATIONS

A. Every law enforcement chief executive should immediately acknowledge his responsibility to maintain effective employee relations and should develop policies and procedures to fulfill this responsibility.

B. Every law enforcement chief executive should actively participate in seeking reasonable personnel benefits for all law enforcement employees.

C. Every law enforcement chief executive should provide an internal two-way communication network to facilitate the effective exchange of information within the agency and to provide himself with an information feedback device.

D. Every law enforcement chief executive should develop methods to obtain advisory information from law enforcement employees who have daily contact with operational problems to assist him in reaching decisions on personnel and operational matters.

E. Every law enforcement chief executive should provide a grievance procedure for all law enforcement employees.

F. Every law enforcement chief executive should have employee relations specialists available to provide assistance in:

1. Developing employee relations programs and procedures;
2. Providing general or specific training in management employee relations; and
3. Collective negotiations.

G. Recognizing that law enforcement employees have a right, subject to certain limitations, to engage in political and other activities protected by the first amendment, every law enforcement agency should promulgate written policy that acknowledges this right and specifies proper or improper employee conduct in these activities.

H. Every law enforcement employee organization should immediately formalize written policies, rules, and procedures that will protect the rights of all members and insure that they can remain responsible to their oath of office.

I. Every law enforcement employee organization should place in writing the scope of its activities to inform members of the organization's programs and representatives. Included should be:

1. Provisions to protect members in their relations with the law enforcement employee organization;
2. Standards and safeguards for periodic elections;
3. Identification of the responsibilities of the law enforcement organization officers;
4. Provisions for maintenance of accounting and fiscal controls, including regular financial reports;
5. Provisions for disclosure of financial reports and other appropriate documents to members, regulating agencies, and the public; and
6. Acknowledgement of responsibility to the governmental entity legally charged with regulation of such employee organizations.

Commentary and Implementation

Current organizations which have begun providing some of these services are the Arkansas Municipal Police Association - Fraternal Order of Police and the Arkansas Peace Officers Association. The Municipal Police Association was requested to investigate more cases in 1975 than in any previous year.

CHAPTER 8 EMPLOYEE SERVICES

STANDARD 3.8.1. HEALTH INSURANCE

A. Every law enforcement agency should, by 1980, make available a complete health care program for its officers and their immediate families to insure adequate health care at minimum cost to the agency and the employee.

B. Every law enforcement agency should establish a health care program that provides for the particular health care needs of its employees and their immediate families.

1. The health care program should provide at least (1) surgery and related services; (2) diagnostic services; (3) emergency medical care; (4) continuing medical care for pulmonary tuberculosis, mental disorders, drug addiction, alcoholism, and childbirth; (5) radiation, inhalation, and physical therapy; (6) ambulance service; (7) nursing care; (8) prescribed medication and medical appliances; (9) complete mental and vision care; (10) hospital room; and (11) income protection.
2. Every agency should pay all or a major portion of the cost of the health care program to insure that the expense to employees, if any, is as small as possible. The agency should establish controls to insure that the highest available quality and quantity of medical services are provided under its plan. These controls should include a system of record handling that facilitates swift, efficient provision of services and feedback of employee reaction to the program.

C. Every law enforcement agency should insure that an officer or his beneficiaries are allowed to continue as members of the health care program after the officer's retirement, and that benefit and cost changes under those circumstances are reasonable.

Commentary and Implementation

A few cities and counties are providing this fringe benefit for law enforcement employees. More local governments need to consider providing health care programs in 1977. Benefits of this nature will assist in recruiting the best individuals for law enforcement agencies.

CHAPTER 9 OPERATIONS SPECIALIZATION

STANDARD 3.9.1. NARCOTIC AND DRUG INVESTIGATIONS

A. Every law enforcement agency should acknowledge the direct relationship between narcotic and drug offenses and other criminal activity, and should have available a narcotic and drug investigation capability based on that acknowledgment.

B. Every law enforcement agency should provide fundamental narcotic and drug investigation training to every officer during basic training.

C. Every law enforcement agency should cooperate in and, where necessary, establish narcotic and drug abuse public awareness programs such as school system educational programs, civic group programs, multi-agency community programs, and Alcoholics Anonymous programs.

D. Every law enforcement agency employing more than 75 personnel should have a full-time narcotic and drug investigation capability. Personnel in smaller agencies may be assigned where justified by local problem.

1. The number of personnel assigned to the narcotic and drug operation should be determined by the local problem.
2. Where appropriate in agencies with 75 or less personnel, drug and narcotic operations may be consolidated with vice operations.
3. Drug and narcotic operations should be decentralized. However, a central drug and narcotic unit should be maintained to coordinate the decentralized operations.

E. Every law enforcement agency should insure coordination and the continual exchange of information between officers, assigned to narcotic and drug enforcement, vice enforcement, intelligence, and uniformed patrol.

F. Every chief executive should establish written policies and procedures requiring that every narcotic and drug complaint will be reported in writing and thoroughly investigated. These policies and procedures should provide:

1. All narcotic and drug complaints be distributed to the chief executive or his delegate, and to the central narcotic and drug unit;
2. A written followup report of every open drug or narcotic investigation be prepared every 30 days to indicate the progress of the investigation;
3. Individual, team, and unit narcotic and drug investigation reports and activity summaries be inspected and reviewed continually;
4. Individual, team, and unit performance measures continually be applied to drug and narcotic operations. These measures should include arrests and dispositions; number of purchases by type of drug or narcotic, quantity and quality of seized

narcotics and drugs, other crimes cleared, and working caseload.

G. Every law enforcement agency should provide narcotic operations with special funds and specialized equipment such as vehicles, electronic equipment, and vision devices necessary to conduct effective narcotic drug operations.

Commentary and Implementation

The capability of law enforcement agencies to deal with the drug problem should be improved annually. Arkansas is a good location for the distribution and sale of narcotics through interstate transactions. Law enforcement officers must be trained and the public made aware of methods of reporting drug trafficking.

CHAPTER 10 INFORMATION SYSTEMS

STANDARD 3.10.1. DATA RETRIEVAL

A. Every law enforcement agency should establish a cost-effective, compatible information system to collect, store, and retrieve information moving through the agency. The use of such a system should be directed toward crime reduction without sacrificing local autonomy.

B. Every law enforcement agency should, by 1978, have the capability to retrieve statewide criminal information and provide it to field personnel within 3 minutes of the time requested for noncomputerized systems and within 30 seconds for computerized systems. The capability should at least include information on:

1. Individuals who are the subject of an arrest warrant for a felony or serious misdemeanor;
2. Individuals known to have been armed, considered dangerous, or known to have resisted arrest.
3. Unrecovered stolen vehicles;
4. Vehicles wanted in connection with the investigation of felonies or serious misdemeanors;
5. Unrecovered stolen Vehicle Information Number plates and serially identified engines and transmissions;
6. Unrecovered stolen or missing license plates;
7. Serially-identified stolen or lost weapons; and
8. Serially-numbered stolen property items.

C. Every law enforcement agency using, or planning to use, a computer-based information system should take immediate steps to insure the primary objective of such a system is rapid response to the information needs of field units. Agencies developing or operating a computer-based information system should immediately identify critical information groups and assign priorities to them according to the requirements of the system user. Critical information groups should include at least:

1. Information on wanted persons;
2. Abstract data on criminal convictions, parole status, penitentiary releases, and vital criminal record information;

3. Information that forewarns an officer of persons known to have been armed, and other potential dangers; and
4. Information on stolen property and vehicles.

STANDARD 3.10.2. INTRA-AGENCY DATA ACCESS

A. Every agency should coordinate its information system with those of other local, regional, state, and federal law enforcement agencies to facilitate the exchange of information.

B. Every law enforcement agency should develop and maintain, by 1980, immediate access to existing local, state, and federal law enforcement telecommunication networks.

C. Every agency operating a full-time communications center and employing 15 or more persons should install, by 1980, a basic telecommunications terminal capable of transmitting to and receiving from established national, state, and local criminal justice information systems. The telecommunications network should provide network switching compatible with computer-based information systems.

Commentary and Implementation

Standards 3.10.1. and 3.10.2.

The accuracy and volume of crime reporting will probably continue to improve as it has in the last few years. The accuracy of the reports is essential when released by all agencies through public relations efforts. Law enforcement departments will need additional "hard core" data to justify budget increases before local governing authorities as the demand for both local and state tax dollars becomes more competitive.

CHAPTER 11 SUPPORT SERVICES

STANDARD 3.11.1. THE EVIDENCE TECHNICIAN

A. The state of Arkansas and every law enforcement agency should acknowledge the importance of efficient identification, collection, and preservation of physical evidence; its accurate and speedy analysis; and its proper presentation in criminal investigation, increased clearance of criminal cases, and ultimately, the reduction of crime. Every agency should insure the deployment of specially training personnel to gather physical evidence 24 hours a day.

B. Every law enforcement agency immediately should consider the use of specially trained regular law enforcement officers to devote a maximum of 25 percent of their regular duty time to the location, collection, and preservation of physical evidence.

C. Every law enforcement agency with 24 or more personnel should consider immediately the use of specially trained evidence technicians to locate, collect, and preserve physical evidence at crime scenes to to deliver such evidence to the appropriate laboratory facility. These technicians may partially or entirely eliminate the need for deployment of specially trained regular law enforcement officers in gathering physical evidence.

D. Every law enforcement agency should immediately provide for all incoming sworn personnel a formalized basic training course in evidence-gathering techniques to develop the agency's capacity to retrieve and use any physical evidence at the scene of a criminal investigation. Every sworn officer should then be held responsible for evidence collection in cases where an evidence technician or a specially trained law enforcement officer is not available.

STANDARD 3.11.2. THE STATE CRIME LABORATORY

A. Arkansas, by 1980, should establish a consolidated criminal laboratory system composed of local, regional, or state facilities capable of providing the most advanced forensic science services to law enforcement agencies.

B. Every law enforcement agency should immediately insure that it has access to a laboratory facility capable of timely and efficient processing of physical evidence and should consider use of each of the following:

1. A laboratory that provides analysis for high volume, routine cases involving substances such as narcotics, alcohol, and urine; routine analysis and processing of most evidence within 24 hours of its delivery; immediate analysis of certain types of evidence, such as narcotics, where the detention or release of a subject depends upon the analysis; and qualitative field tests and quantitative follow-up tests of narcotics or dangerous drugs.
2. A laboratory that can process or analyze evidence within 24 hours of its delivery, and is staffed with trained teams of evidence technicians, to assist in complex investigations beyond the scope of local agencies.

C. Every law enforcement agency should provide an idividual who is responsible for the marking, packing and delivery of evidence to the laboratory.

D. In maintaining a staff of formally qualified personnel who can provide efficient and reliable assistance in criminal investigations, the crime laboratory should provide:

1. Every employee responsible for the completion of scientific analyses or testing hold at least a baccalaureate degree in chemistry, criminalistics, or closely related field from an accredited institution, and have a thorough working knowledge of laboratory procedures;
2. Every employee performing supervised basic scientific tests or duties of a nonscientific nature meet the agency's requirements for the employment of regular sworn or civilian personnel;
3. All laboratory personnel be adequately trained and experienced in court procedures;

4. Civilian personnel be used regularly so sworn personnel may be more appropriately deployed in other assignments, but provide qualified sworn personnel be used when their abilities or expertise cannot be found elsewhere;
5. The working staff be sufficient to meet the demands of the laboratory caseload;
6. Salaries commensurate with the specialized duties and qualifications of each position to attract and maintain well-qualified personnel.
7. Promotional and career paths for laboratory personnel result in salaries at least equal to those employed in other equivalent laboratories; and
8. A clerical pool capable of handling all the clerical needs of the laboratory be maintained.

E. When more than 10 non-clerical personnel are employed by the laboratory, at least one reserach position should be established for solving specific laboratory problems and developing new laboratory techniques.

F. Every law enforcement chief executive should insure that the law enforcement laboratory function recieves appropriate fiscal support for the adequancy of its annual budget; the laboratory director should be able to assess and control the amount, type and quality of evidence received by the laboratory.

G. The crime laboratory director should, by 1980, design and implement a reporting system that provides data relative to its involvement in:

1. Reported crimes;
2. Investigated crimes;
3. Suspects identified or located;
4. Suspects cleared;
5. Suspects charges;
6. Prosecutions;
7. Acquittals; and
8. Convictions.

H. The crime laboratory should establish close liaison immediately with:

1. All other elements of the criminal justice system to insure that laboratory findings are consistent with law enforcement needs and are being effectively used as investigative tools;
2. The scientific and academic establishments, to insure use of the latest techniques and devices available to the law enforcement agencies.

Commentary and Implementation

Present efforts being made to centralize forensic science services in Arkansas should be endorsed by all law enforcement agencies to accomplish the goal by 1980.

STANDARD 3.11.3. LAW ENFORCEMENT FACILITIES AND EQUIPMENT

A. Law enforcement agencies should have the resources to renovate existing administrative and/or training facilities, e.g., squad rooms, classrooms, record facilities, etc; to remodel interior space for existing facilities, including but not limited to: (1) installing new partitioning, replacing worn or broken fixtures, or renovating floors, walls, and ceilings; (2) installing or relocating plumbing and sanitary fixtures, including the replacement of worn or broken fixtures; (3) installing or relocating electrical wiring conduit; (4) repairing or installing heating or air conditioning units.

B. Were existing space is inadequate, agencies should have the resources to make additions to any present structure and/or construct new facilities.

C. Law Enforcement agencies should have the equipment which is "essential" to better administration, training, and crime analysis. This equipment should include and not be limited to: filing cabinets, typewriters, desks, chairs, training aids, record systems, multi-channel recording devices, photographic and crime laboratory equipment.

D. Where additional facilities are needed, surveys should be made to determine the feasibility of converting unused buildings for law enforcement purposes.

Commentary and Implementation

The local law enforcement agency should have equipment and facilities which assist in promoting a positive and effective image of authority in the community.

STANDARD 3.11.4. COMPLIANCE WITH MINIMUM JAIL STANDARDS

A. Every law enforcement agency currently operating a detention facility should immediately insure professionalism in its jail management and provide adequate detention services. Every municipal law enforcement agency should, as soon as practical, turn over its detention and correctional facilities to an appropriate county, regional or state agency, and should continue to maintain only those facilities necessary for short term processing of prisoners immediately following arrest.

B. Every law enforcement agency that anticipates the need for full-time detention employees should immediately hire and train civilian personnel to perform its jail functions.

C. Every municipal law enforcement agency currently operating its own detention facility should immediately consider using an easily accessible state or county facility for all the transfer of arrestees from initial processing detention to arraignment detention.

Commentary and Implementation

The complete text of the jail standards is available from the Detention Facilities Board at the Department of Correction in Pine Bluff. Voluntary efforts to combine facilities can assist in providing better detention services regardless of the lack of funds to build or renovate.

CHAPTER 12 PERSONAL EQUIPMENT

STANDARD 3.12.1. LAW ENFORCEMENT

A. Every law enforcement chief executive should immediately develop and designate complete standard specifications for apparel and equipment to be worn by every agency employee when performing the duties of a uniformed law enforcement officer. To deter criminal activity, uniformed law enforcement officers should be highly visible, easily identifiable and readily distinguishable from other uniformed persons. Every officer's appearance should reflect favorably on his agency and profession; however, to insure maximum efficiency, this should not be accomplished at the expense of physical comfort.

B. Every law enforcement chief executive should consider seasonal changes and climate when developing the agency's standard law enforcement uniform.

C. Every law enforcement chief executive should insure that the agency's law enforcement uniform identifies the wearer by name and agency, and makes him plainly recognizable as a law enforcement officer. Such items should be visible at all times.

D. Every law enforcement executive should insure that the uniforms of the agency employees other than law enforcement officers - such as civilian traffic control, parking control, and security officers - are by color, design, and items of identification, plainly distinguishable from those of law enforcement officers.

E. The state should enact legislation fixing the color and stype of uniforms worn by private patrolmen or security guards to insure that they are readily distinguishable from law enforcement uniforms.

F. Every law enforcement agency should conduct daily uniform inspections to insure that every officer's appearance conforms to agency specifications and reflects favorably on the agency and the law enforcement profession.

Commentary and Implementation

To insure law enforcement personnel are not hampered in their duties by insufficient or improper uniforms and equipment, each law enforcement agency should designate and provide to officers all required items. This could be another incentive for employment with law enforcement agencies.

"An Ounce of Prevention"
Adjudication

First Meeting,
9/12/76
Sam Peck Hotel

Hugh Lookadoo
Circuit Judge
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SECTION 4 ADJUDICATION

CHAPTER 1 DELAY

STANDARD 4.1.1. DELAY IN THE ADJUDICATION SYSTEM

A. Time Frame for Prompt Processing of Criminal Cases

The period from arrest to the beginning of trial of a felony prosecution generally should not be longer than 90 days. In a misdemeanor prosecution, the period from arrest to trial generally should be 30 days or less in a lower court.

B. Continuances

Continuances should not be granted except upon verified and written motion and a showing of good cause and only when a definite date is set at the same time.

C. Caseflow Management

Ultimate responsibility for the management and movement of cases should rest with the judges of the trial court. In discharging this responsibility, the following steps should be taken:

1. Scheduling of cases should be delegated to nonjudicial personnel, but care should be taken that defense attorneys and prosecutors do not exercise an improper influence on scheduling.

2. Record keeping should be delegated to nonjudicial personnel.

3. Subject-in-process statistics, focusing upon the offender at each stage of the criminal process, should be developed to provide information concerning elapsed time between events in the flow of cases, recirculations (multiple actions concerning the same defendant), and defendant released at various stages of the court process.

4. The flow of cases should be constantly monitored by the presiding judge, and the status of the court calendar should be reported to the presiding judge at least once each month.

5. A central source of information concerning all participants in each case including defense counsel and the prosecuting attorney assigned to the case should be maintained. This should be used to identify as early as possible conflicts in the schedules of the participants to minimize the need for later continuances because of schedule conflicts.

D. When Time Commences to Run

The time for trial should commence running, without demand by the defendant, as follows:

1. From the date of arrest or taken into custody, except that if the defendant has been continuously held in custody or on bail or recognizance until that date to answer for the same crime or a crime based on the same crime or a crime based on the same conduct or arising from the same criminal episode, then the time for trial should commence running from the date he was held to answer;

2. If the charge was dismissed upon motion of the defendant and thereafter the defendant was taken into custody or arrested from the date the defendant was held to answer or charged, as above; or

3. If the defendant is to be tried again following a mistrial, an order for a new trial, or an appeal or collateral attack, from the date of the mistrial, order granting a new trial, or remand.

E. Priorities in Scheduling Criminal Cases

To effectuate the right of the accused to a speedy trial and the interest of the public in prompt disposition of criminal cases, insofar as is practicable:

1. The trial of criminal cases should be given preference over civil cases; and

2. The trial of defendants in custody and defendants whose pretrial liberty is reasonably believed to present unusual risks to the public should be given preference over other criminal cases.

3. The prosecutor should report to the judge any incarcerated defendant that trial has not been set.

4. A weekly report from each jailer of the people incarcerated and a preference given them in trial.

Commentary and Implementation

The task force endorses the concept of speedy trial that provides a system of swift, competent and consistent justice without subverting individual or social rights from arrest through final criminal disposition. It was felt by the task force that the method of "terms of court" as a time frame was unrealistic. The task force was in agreement that the time frame should be in months or days.

A problem arises in the fact that Arkansas is divided into nineteen judicial circuits, many having four or more counties. This would require a judge to spend more time in travel than is now being spent. However, the task force feels that the benefits derived from a 90-day goal outweigh its deficiencies.

A person's right to a speedy trial guaranteed by the 16th Amendment of the U.S. Constitution, Article 2, Section 10 of the Arkansas Constitution and governed by the provisions of Arkansas Statutes Annotated, Sections 43-1708 and 1709 (REPL. 1964).

> Section 43-1708 Time Accused May Be Kept In Jail. If any person indicted for any offense, and committed to prison, shall not be brought to trial before the end of the second term of the court having jurisdiction of the offense, which shall be held after the findings of such indictment, he shall be discharged sofar as relates to the offense for which he was committed, unless the delay shall happen on the application of the prisoner.
>
> Section 43-1709 Time Accused May Be Kept On Bail. If any person indicted for any offense, and held to bail shall not be brought to trial before the end of the third term of the court in which such is pending, which shall be held after the finding of such indictment, he shall be discharged, sofar as relates to such offense, unless the delay happened on his application.

The new rules of Criminal Procedure have amended Section 43-1708, Time Accused May Be Kept In Jail, to read, "Any defendant charged with an offense in circuit court and committed to a jail or prison in this state shall be brought to trial before the end of the second full term of the court, but not to exceed nine (9) months".

In cases in which a person is incarcerated in another state (with the exception of Alabama, Alaska, Louisiana, Mississippi, Oklahoma, Rhode Island, or Texas) or a federal penitentiary at the time he is charged with an offense in Arkansas, the interstate agreement on Detainers Act becomes applicable. The text of this Act appears in Arkansas' Statutes Annotated, Section 43-3201 et. seq. (supp. 1973). Arkansas Statutes Annotated, Section 43-1709 are not applicable in cases governed by Section 43-3201.

The task force realizes that if the time frame is kept as it is, it would not be necessary to repeal the existing law that relates to speedy trial or necessary to hire additional personnel to see this time frame carried out. But the disadvantages that occur from keeping the time frame as it is result in excessive delay, difficulty in determining the time frame for prompt disposition, and poor representation of the interest of the public. If the task force's concept of a 90-day speedy trial rule is adopted the advantages that might occur would be a swift determination of guilt or innocence, deterrent value of swift punishment, prompt processing of society's interest in incapacitating those who have committed crimes, easing of the task of pretrial detention, reduction of the tension upon defendants, and fostering of community confidence in the criminal justice system. The disadvantages that may occur are that it would require more travel time for judges, and it might be necessary to add both judicial and nonjudicial personnel to some degree.

Other states have adopted a similiar rule to Arkansas or one with a shorter time frame. For example, the Idaho Governor's Council on Criminal Justice set its time frame at 60 days for felony prosecutions, and 30 days in misdemeanor prosecutions. The Texas Governor's Conference on Standards and Goals set its time frame for prompt processing of criminal cases at 90 days for felony prosectutions, 30 days in misdemeanors.

The task force feels that the 90-day rule is speedy enough to give a fair and impartial trial while also satisfying society's quest for swift and certain punishment. The President's Commission on Law Enforcement and Administration of Justice recommended a normal period of four months (President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society 155 (1967). The National Advisory Commission Task Force on the courts recommended a period of 60 days. This period is significantly shorter than many other proposals that were found. The American Bar Association's project on standards for criminal justice recommended that it should be measured in days or months, but left the length of time discretionary.

The Arkansas Supreme Court should take the initiative in implementation of these standards. It will require the repealing of Arkansas Statutes Annotated, Section 43-1708 and 1709. They will require the replacement of those sections with legislation which embodies the task force recommendations. This standard should be implemented by January 1, 1979.

CHAPTER 2 INFORMATION AND EDUCATION

STANDARD 4.2.1. LACK OF KNOWLEDGE AND UNDERSTANDING BY ARKANSAS CITIZENS OF THE ROLE OF THE COURTS.

A. Court Public Information and Education Programs

The court, the news media, the public, and the bar should have coordinate responsibility for informing and educating the public concerning the functioning of the courts. The court should pursue an active role in the process:

1. The State Judicial Department should appoint a public information officer to provide liaison between courts and the legislature. The public information officer should:
   a. Prepare releases, approved by the court, regarding case dispositions of public interest;
   b. Prepare releases describing items of court operation and administration that may be of interest to the public;
   c. Answer inquiries from the news media.

2. The State Judicial Department should have an office specifically and prominently identified as the office for receiving complaints, suggestions, and reactions of members of the public concerning the court process. All communications made to this office should be given attention. Each person communicating with this office should be notified concerning what response, if any, has or will be made to this communication.

3. The State Judicial Department should take affirmative action to educate and inform the public of the function and activities of the court. This should include:

a. The issuance of periodic reports concerning the court's workload, accomplishments, and changes in procedures;
b. The issuance of handbooks for court employees concerning their function;
c. Preparation of educational pamphlets describing the functions of the court for the general public, and for use in schools;
d. Organization of tours of the court; and
e. Personal participation by the judges and court personnel in community activities.

These functions should be performed by the court information officer or by the court administrator's office, by associations of judges, or by individual judges.

4. The court should encourage citizen groups to inform themselves of the functions and activities of the courts and in turn share this information with other members of the public.

5. The court should work together with bar associations to educate the public regarding law and the courts. The judiciary and the bar should cooperate by arranging joint and individual speaking programs and by preparing written materials for public dissemination.

B. Court Information and Service Facilities

Facilities and procedures in metropolitan areas should be established to provide information concerning court processes to the public and to participate in the criminal justice system:

1. There should be information desks strategically placed in public areas of the courthouse and manned where necessary by bilingual personnel to direct defendants (and their friends and relatives), witnesses, jurors, and spectators to their destinations. In metropolitan courthouses, visual screens should be installed to identify the proceedings currently in progress in each courtroom and other proceedings scheduled that day for each courtroom.

2. The information service should include personnel who are familiar with the local criminal justice system and the agencies serving that system. These persons should be under the supervision of the public defender or legal aid office. Their role should be to answer questions concerning the agencies of the system and the procedures to be followed by those involved in the system.

3. The prosecution and the court should establish procedures whereby anyone requesting information relating to cases or court appearances in which they are involved may do so by telephone.

4. To assist the prosecution and the court in responding to telephone inquiries from anyone involved in a case, a wallet size card should be provided giving a phone number to call for information.

5. The judge should instruct each jury panel prior to the jurors sitting in any case, regarding responsibilities, conduct, and the proceedings of a criminal trial. Each juror should be given a handbook that restates these matters.

C. Services

To maintain and disseminate a list of services provided within the state by both public and private agencies that are available to the courts.

D. Participation in Criminal Justice Planning

Judges and court personnel should participate in criminal justice planning activities as a means of disseminating information concerning the courts system in furthering the objective of coordination among agencies of the criminal justice system.

Commentary and Implementation

A vigorous and well-planned court-community relations program is needed to help citizens understand the complexities of their judicial system. A need exists for high quality court-community relations because of the important impact of these relations upon the courts, and their ability to perform their functions effectively.

There exists no statutory or constitutional authority granting the state judiciary the authority to prepare and present court public information and education programs. The court, however, could invoke such authorization through the Inherent Power Doctrine of the court. For example, "The courts under our constitution have certain inherent rights and powers which do not depend solely upon expressed constitutional or legislature grants". Smith v. Gallagher, 408 Pa. 551, 185 A. 2d 135, 182 (1962).

The American Bar Association's Commission on Standards of Judicial Administration states, "The court's maintenance of public confidence and support depends not only on discharging its responsibilities in the administration of justice but upon effectively communicating the fact that it is doing so". The task force believes that this lack of favorable court-community relations is resulting in distrust of the court system by the public, lowering of public respect for the courts, and no focused responsibility within the court system for dissemination of informational and educational materials. The task force believes that providing these informational and educational programs would result in increased interest in crime and criminals, a law abiding atmosphere fostered by public respect for the court process, and increased willingness of members of the community to appear as witnesses, serve as jurors, or support efforts to provide courts with adequate resources.

The Arkansas Judicial Department should be the agency that takes the initiative in asking the Legislature for additional personnel slots and funds to implement the standards on court information and education programs. The standards should be implemented by January 1, 1978.

STANDARD 4.3.1. LOWER COURT SYSTEM LACKS UNIFORMITY THROUGHOUT THE STATE

A. Definition of a Unified Court

The definition of a unified court system is:

1. An integrated structure with all courts being contained within the state judicial system.

2. The jurisdiction of the various courts of the system defined in a uniform way.

3. A single policy-making body to:

   a. Promulgate courtroom procedure and general court administrative rules and policies.
   b. Establish all financial policy for courts within the state.
   c. Develop policies relating to the allocation of manpower and the size and geographic shape of all jurisdictions within the state.
   d. Develop other relevant policies and procedures as needed in the system.

4. A single administrative office to effect the policies set by the policy-making body and to supply essential support services.

5. State funding.

6. A single class of trial judges and subsidiary judicial officers to handle the judicial functions of the trial courts.

B. Unification of the State Court System

State courts should be organized into a unified judicial system financed by the state and administered through a statewide court administrator under the supervision of the judicial council.

All trial courts should be unified into a single trial court with general criminal and civil jurisdiction. Criminal jurisdiction now in courts of limited jurisdiction should be placed in these unified trial courts of general jurisdiction, with the exception of certain traffic violations. The state judicial council should promulgate uniform rules for the conduct of minor and major criminal prosecutions.

All judicial functions in the trial courts should be performed by full-time judges. All judges should possess law degrees and be members of the bar.

A transcription or other records of the pretrial court proceedings and the trial should be kept in all criminal cases.

The appeal procedure should be the same for all cases.

Pretrial release services, probation services, and other rehabilitative services should be available in all prosecutions within the jurisdiction of the unified trial court.

C. Systematic Plan

The Arkansas Judicial System should begin immediately to analyze its needs, resources, and gaps in service, and to develop by 1980 a systematic plan with time table and scheme for implementing a unified court system. The plan should specify the structure that would benefit the Arkansas Court System, both organizationally and administratively. The plan should be developed within the framework of total system planning.

Minimum changes in structure to be included in the plan should be the following:

1. County-wide municipal court as the lower court;
2. A lawyer-judge in every court;
3. Uniform charges;
4. Courts of common pleas, police courts, city courts, and all such similar local, limited or special courts, with the exception of municipal courts, should be abolished;
5. The municipal court should be accorded county-wide jurisdiction and should be vested with jurisdiction over all matters (except family matters) formerly handled by all of the special and local courts; and the civil jurisdiction of the municipal or county-wide court should be increased;
6. The county judge and justice of the peace should be relieved of all judicial functions;
7. A domestic court should be created with jurisdiction over all probate, divorce, juvenile, and domestic relations matters, which court would be staffed with or have availability to, supporting social service personnel with adequate specialized knowledge to advise the judge of the court in connection with such problems.
8. Trial court would take over all equity matters now handled by chancery court.

D. Compensation

Judges should be compensated at a rate that adequately reflects their judicial responsibilities. Where appropriate, salaries and benefits should be increased during a judge's term of office.

E. Retirement of Judges for Disability

The state should make appropriate provision for the prompt retirement on equitable terms of judges who become physically or mentally disabled from the proper fulfillment of the ordinary obligations of the judicial office.

F. Discipline or Removal of Judges

A judge should be subject to discipline or removal for permanent physical or mental disability seriously interferring with the performance of judicial duties, willful misconduct in office, willful and persistent failure to perform judicial duties, habitual intemperance, or conduct prejudicial to the administration of justice.

A judicial conduct commission should be created, composed of judges elected by the judicial conference, lawyers elected by the bar, and at least two laymen, of different political persuasions, appointed by the Governor. Whatever the size of the Commission, no more than one third should be members of the judiciary. The commission should be empowered to investigate charges bearing on the judge's competence to continue on the bench and present the findings to the Supreme Court for a judicial determination and appropriate action.

G. Preliminary Hearing and Arraignment

If a preliminary hearing is held, it should be held within two weeks following arrest. Evidence received at the preliminary hearing should be limited to that which is relevant to a determination that there is probable cause to believe that a crime was committed and that the defendant committed it.

H. Pretrial Motions and Conference

All pretrial motions should be filed at least seven days prior to the preliminary hearing or trial.

No case should proceed to trial until a pretrial conference has been held, unless the trial judge determines that such a conference would serve no useful purpose. If pretrial motions have been made, this conference should not be held until the issues raised by these motions have been resolved. At this conference, maximum effort should be made to narrow the issues to be litigated at the trial.

I. Jury Size and Composition

Juries in criminal prosecutions for offenses not punishable by life imprisonment may be composed of less than 12 but of at least six persons. If a 12-member jury has been seated, a reduction in jury size during the course of a trial to not less than 10 members should be permitted where a jury member has died or is discharged for illness or other good cause unless stipulated to by all parties.

Commentary and Implementation

The Arkansas Court System has two basic objectives. Its primary objective is to determine the matters committed to its jurisdiction. This would require the processing of cases to be as simple and orderly as possible, that each case be fairly considered, and that all cases be heard promptly and economically. The secondary objective of our court system is the maintenance of itself as an independent and respected branch of government.

The Arkansas Judicial System was established by the Constitution of 1874 to meet the needs of a totally rural and sparsely populated state. The time and circumstances have changed, and it is only by the dedicated effort of the participants in the court system that its capable performance has been competent and effective. The task force feels that it is necessary to reevaluate and revise the outmoded aspects of the system to promote the effective administration of justice. In an attempt to revise the judicial system in 1965, the Citizens Advisory Conference in the Arkansas Judicial System recommended a unified court system with definite supervisory and rule making powers vested in our Supreme Court to provide economical operation of our courts. The Conference recommended that the steps should be initiated at the proper time to provide the voters an opportunity to vote on constitutional amendments improving and modernizing our judicial system.

The proposed constitution of 1970 under Article 5, Section 1, vested the judicial power in the judicial branch. This would have revised Article 7, Section 1, of the 1874 constitution by placing the judicial power in a judicial branch rather than in specifically named courts.

The task force believes that to maintain the present court system the disadvantages would far outweigh the advantages. Under the present system, the disparity and non-uniformity would be continued, neglect of our lower court systems, high volume caseload, assembly-line justice, lack of funding, and non-lawyer judges. The advantages of a revised and unified judicial department would be uniform justice, simple jurisdictional divisions, uniform standards of justice, consistent administration of policy, clearly vested policy-making authority, and clearly established administrative authority. The Adjudication Task Force realizes that certain disadvantages would result from a move to a unified system, namely: A new judicial article would be required, repealing of present constitutional amendments, more authority and responsibility for the judiciary, and the abolition of our present lower court system.

Nine states (Connecticut, Flordia, Ohio, Massachusetts, Minnesota, Nebraska, South Dakota, Virginia, and West Virginia) have reorganized their court systems. The judicial article of the state constitution was amended in seven of these states, and new statutes were passed in the remaining two states. In eight of the nine states, the objective of the reorganization was to stream line the judicial system, primarily by eliminating all or some of the limited and special jurisdicational courts.

All of the lower courts were abolished in Iowa and South Dakota, and their functions were absorbed by the general jurisdiction courts, bringing to four (Idaho and Illinois) the number of states having a single level trial court (National Survey of Court Organization - 1975 Supplement).

The Arkansas Legislature should take the initiative to draft a new judicial article. It should seek the advice of several groups including the Supreme Court, the State Judicial Council, the Judicial Department and other interested groups. This article should be presented to the citizens of the State of Arkansas for their approval by 1980.

CHAPTER 4 APPORTIONMENT

STANDARD 4.4.1. DISPARITY IN THE WORKOAD AMONG JUDGES IN THE VARIOUS JUDICIAL DISTRICTS

A. Court Organization

1. Geographical districts. The court of original proceedings should be administered as a single unit unless it has so many judges or is geographically so dispersed that this is impractical. Where it is necessary to organize the trial court into separate geographical units, the following principles should be adhered to:

   a. Administrative efficiency. Geographical districts should be established on the bases of administrative efficiency, including consideration of the source of cases coming into court. As a matter of convenience the boundaries of court districts should ordinarily follow county boundaries, but should not be limited by them or required to correspond to provisions concerning venue.

   b. Whenever possible a judicial district should be designed on the basis of population, caseload, and other relevant factors.

Commentary and Implementation

The task force recommends that a permanent standing committee for judicial apportionment be established. The temporary State Board of Apportionment established under Act 325 of 1975 could be the vehicle for an on-going apportionment process. The Board is authorized and directed to reapportion the existing judicial circuits and chancery circuits of this state on or before January 1, 1977.

Arkansas is not the only state plagued by reapportionment woes. The Iowa legislature developed a formula giving equal weight to caseload and population by authorizing one judgeship for each 450 civil and criminal cases, and 40,000 people or major fraction thereof. California has developed a weighted caseload formula that relates the length of time in judicial minutes needed to adjudicate all types of cases to the amount of judicial time available to each judgeship in determining whether new judgeships are needed.

The Arkansas Judiciary has come to the point where it needs to develop a formula that relates such factors as: administrative efficiency, caseload, population, and travel time to guide the authrization of additional judgeships.

Legislative amendment of Act 325 to delete the word "temporary" and replace with the word "permanent" is necessary for implementation of the standards.

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STANDARD 4.5.1: LACK OF ADEQUATE SUPPORT PERSONNEL TO CARRY OUT THE EFFECTIVE ADMINISTRATION OF THE COURTS

A. Adequacy in a Courtroom Facility and Supporting Staff

The trial judge should be provided with court facilities which are dignified and functional and adequate to discharge his responsibilities. There should be adequate supporting staff to assure the prompt and fair administration of justice.

B. Trial Courts Obligation to Seek or Compel Adequate Support

1. Trial court has an obligation to seek the cooperation of the executive and legislative department to provide judicial manpower, supporting staff, fiscal facilities and budget adequate to obtain the objective set forth in Standard 4.5.1.A.

2. Trial court should be familiar with the nature and extent of the inherent power of the judiciary to compel other agencies of government to provide for staff, facilities, and funds to obtain these objectives. If the cooperation under sub-section A, is sought and not obtained, trial court should exercise this inherent power.

C. Trial Court Staff Services

The trial court should have staff services necessary to facilitate efficient performance of the court's adjudicative, investigatory, supervisory, and administrative responsibilities. The trial court staff should serve under the management of a professional court executive, and should be selected, evaluated for promotion, and compensated as provided in Standards 4.5.1.D and F.

1. Administrative jurisdiction. All functions of the clerk of court, courtroom clerks, bailiffs, court reporters, law clerks, and secretaries should be performed by staff employed by the court. Services involving investigations, evaluations, or diagnosis on which the court may rely in making judicial determinations (including such matters as pre-sentence investigations, child custody evaluations, conciliation evaluations in domestic relations matters, and diagnosis of mental condition) should be performed by staff or consultants employed or retained directly by the court, except where the workload is so small that it does not justify a fulltime staff person or regular consultant and where such services may be provided more competently and efficiently through another agency acting in cooperation with the court. Other services related to the work of the court should be provided by outside agencies except where the court can administer the service more efficiently.

2. Guidelines and Procedures. The operation of all supporting services, whether under the court's direct administration or supplied by a cooperating agency, should be governed by policy and procedural guidelines. Where outside agencies provide the service or are regularly involved in a service administered by the court, the guidelines should be established through consultation with such agencies. The guidelines should define the goals and priorities of the service, the qualifications and responsibilities of the staff members who provide it, the procedures to be followed in providing the service, and the channels of communication between the judges and administrative staff of the court. In addition, procedures should be established for periodically orienting the judges and the service staff to each others' duties and functions and for evaluating the effectiveness of the service and the working relationships between the service's personnel and the judges involved.

3. Administration and Liaison. The court's administrative office under the supervision of the presiding judge, should be responsible for all services operated by the court and for maintaining liaison with outside agencies.

D. Court Administrative Services

General Principle. The court system should have a central administrative service unit to facilitate the making and implementation of administrative policy, including budgeting, management of auxiliary services, monitoring of court operations through records and statistics, and planning for future needs.

E. Non-Judicial Personnel of Court System

1. Governing regulations. Non-judicial personnel of the court system should be selected, supervised, retained and promoted by the court system, in accordance with regulations. The regulations should provide for:

   a. A uniform system of position classification and levels of compensation.
   b. Appointment of new employees should reflect the special requirements of each type of position in regard to education, professional certification, experience, proficiency, and performance of confidential functions. Employment should be made without discrimination on the basis of race or ethnic identity, age, sex, or religious or political affiliation, and should be administered to encourage members of minority or disadvantaged groups to seek employment in the court system.
   c. Uniform procedures for making periodic evaluation of employee performance and decisions concerning retention and promotion.
   d. Requirements that discipline or discharge be based on good cause and be subject to appropriate review.
   e. Compatibility, so far as possible, with the employment system in the executive department. Transfer

of individuals from one system to the other, without impairment of compensation, seniority, or fringe benefits should be facilitated.

2. Auxiliary staff classifications. Regulations governing non-judicial employees of the court system should reflect the differences in duties and responsibilities of various types of non-judicial personnel including the following:

   a. Administrative personnel. Administrative personnel, such as the executive director of the administrative office, court executives of subordinate court units, and their principal deputies, should perform duties requiring managerial skills and discretion. Administration personnel should have qualifications that include general education, appropriate professional experience, and education, and training in court management or public administration. The principle deputies of the executive director should be appointed by him and hold office at his pleasure, and a corresponding arrangement should apply to the principal deputies of court executives of subordinate court units.
   b. Professional personnel. Professional personnel include persons such as examining physicians, psychological and social diagnosticians, appraisers, and accountants, whose duties require advanced education, specialized technical knowledge, and the basis of their competence within their own profession and adaptability to the working environment of the court system. The procedure for evaluating potential appointees to professional positions should include participation by persons of recognized standing in the professional discipline involved.
   c. Confidential employees. Confidential employees include secretaries, law clerks, probation, presentence officers, and other persons whose duties require them to work on a personal and confidential basis with individual judges, judicial officers, administrative officials, and professional personnel. Confidential employees should meet qualifications prescribed in regulations adopted pursuant to Standard 4.5F, but their appointment and tenure should be at the pleasure of the person for whom they work.
   d. Technical and clerical employees. All other employees should be appointed by the chief administrative official of the administrative office in which they are employed.

F. Compensation and Retirement of Non-Judicial Personnel

Levels of compensation of non-judicial personnel should be sufficient to attract and retain highly competent staff. The level of compensation of the executive director of the administrative office should be not less than that of a judge of the trial court of general jurisdiction. Employees should be reimbursed for expenses incurred in activities incidental to their employment. Full time employees should be covered by medical insurance and, where employed on a permanent basis, by a retirement system that substantially corresponds to that in effect for employees of the executive department. All non-judicial employees should be required to retire at age 65.

G. Continuing Education for Court Staff

All staff members of the court system should maintain and improve their professional competence through continuing education. Court systems should operate or support programs of orientation for new court staff and refresher and developmental programs for experienced staff. Where greater convenience and economy can be achieved, such programs should be operated jointly by several court systems, or regionally or nationally.

H. Duty to Have Staff Properly Trained

Trial judges have a duty to have the courtroom personnel properly instructed in the performance of their duties, and to support them in the proper exercise of their authority.

I. State Court Administrator

Subject to the control of the Judicial Council the state court administrator should establish policy for the administration of Arkansas courts. He also should establish and implement guidelines for the execution of these policies, and for monitoring and reporting their execution. Specifically, the state court administrator should establish policy and guidelines dealing with the following:

1. Budget - A budget for the operation of the entire court system of the state should be prepared by the state court administrator.

2. Personnel Policies - The state court administrator should establish uniform personnel policies and procedures governing recruitment, hiring, removal, compensation, and training of all non-judicial employees of the courts.

3. Information, compilation and Dissemination - State court administrator should develop a statewide information system. This system should include both satistics and narrative regarding the operation of the entire state court system. At least yearly, the state court administrator should issue an official report to the public and legislature, containing information regarding

the operation of the court.

4. Control of Fiscal Operation - State court administrator should be responsible for policies and guidelines relating to accounting and auditing, as well as procurement and disbursement for the entire statewide court system.

5. Liaison Duties - State court administrator should maintain liaison with government and private organizations and should handle public relations.

6. Continuing Evaluation and Recommendations - State court administrator should continually evaluate the effectiveness of the court system and recommend needed changes.

7. Assignment of Judges- State court administrator, under the direction of the chief justice, should assign judges on a statewide basis when required and upon payment of expenses incurred by the assignment.

J. Local and Regional Trial Court Administrators

Each Judicial District should have a full-time local court administrator. Local trial court administrators should be appointed by the state court administrator with consent and approval of the trial judges. Local and regional court administrators may perform the following:

1. Implementation of policies set by the state court administrators;
2. Assistance to the state court administrator in setting statewide policies;
3. Preparation and submission of the budget for the court or courts with which he is concerned;
4. Recruiting, hiring, training, evaluating, monitoring personnel with the court or courts with which he is concerned;
5. Management of space, equipment, and facilities of the court or courts of which he is concerned;
6. Dissemination of information concerning the court or courts with which he is concerned;
7. Procurement of supplies and services for the court or courts with which he is concerned;
8. Custody and disbursement of funds for the court or courts with which he is concerned;
9. Preparation of reports concerning the court or courts with which he is concerned;
10. Juror management;
11. Study and improvement of case flow, time standard, calendaring; and
12. Research and development of effective methods of court functioning, especially the mechanization and computerization of court operations.

The local court administrators should discharge their function within the guidelines set by the state court administrator and upon the consent and approval of the trial court judges.

Commentary and Implementation

The Arkansas Judicial System is restricted in its ability to manage its own affairs. The management rights of the courts has been infringed by the subjection of the appointment of supporting personnel to approval by a county board.

The task force recommends through the standards developed on support personnel that the judicial system be allowed to manage its own affairs. The courts should be allowed to staff the services necessary to facilitate efficient performance of the courts' adjudication, investigatory, supervisory, and administrative responsibilities within the restrictions set forth by these standards.

The task force uses as authority two recent court cases: Courts have the inherent and constitutional authority to employ necessary personnel to perform inherent constitutional functions, to fix the salaries of these employees, within reasonable standards, and to require appropriations for the payment of their salaries. Noble County Council v. State 234 Ind. 172, 125 N.E. 2d 709, 713, (1955). "The inherent power of the court is non-adjudicatory. It does not deal with justiciable matters. It relates to the administration of the business of the court". Judges for Third Judicial v. Wayne County, 172 N.W. 2d 436, 440 (Mich. 1969).

The advantages to the judicial system would be adequate staff services, greater judicial independence, more efficient performance, applicable guidelines to attract and retain highly competent staff, and better training. The disadvantages would be increased funding and additional personnel slots.

Other states are beginning to move in this direction. For example, Alabama's new judicial article requires court personnel to become employees of the state. The employees become subject to the same benefits and regulations as other state employees. The Colorado office of the State Court Administrator has gone even further, requiring a very detailed judicial personnel plan comprising all of the non-judicial positions in a state court system.

To implement these standards, the legislature needs to enact greater administrative control to the Supreme Court and the State Judicial Department for the execution of support personnel policies and guidelines by January 1, 1978.

STANDARD 4.6.1. LACK OF COORDINATION AND MEANINGFUL COMMUNICATION BETWEEN PUBLIC AGENCIES AND THE COURTS

A. Participation in Criminal Justice Planning

Judges and court personnel should participate in criminal justice planning activities as a means of disseminating information concerning the courts system in furthering the objective of coordination among agencies of the criminal justice system.

B. Additional Services

1. The sentencing decision is of such complexity that each sentencing court must have available to it a broad range of services and facilities from which it can obtain more complete information about the defendant's mental, emotional and physical condition that can be afforded in a presentence report. The court should be able to employ such services in any case in which more detailed information of this type is desired as the basis for a sentence.

2. Need for such additional services can and should be met by a combination of local services or facilities, such as by authority to employ local physician or clinics on a case by case basis, and of regional, statewide or nationwide services or facilities, such as a central reception in a diagnostic center.

3. There is an urgent need for the various disciplines which are in a position to provide such services to develop professional standards of which high quality can be assured.

4. Reports which result from the use of such services or facilities should be subject to the same disclosure and verification provisions of those which govern presentence reports.

C. Discretion as to Non-Criminal Disposition

1. The prosecutor should explore the availability of non-criminal dispostion, including programs of rehabilitation, formal or informal, in deciding whether to press criminal charges; especially in the case of a first offender, the nature of the offense may warrant non-criminal disposition.

2. Prosecutors should be familiar with the resources of social agencies which can assist in the evaluation of cases for diversion from the criminal process.

D. Use of Diversion

Each local jurisdiction, in cooperation with related state agencies, should develop and implement by 1977 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

1. The planning process and the identification of diversion services to be provided should follow generally and be associated with "total system planning".

   a. With planning data available, the responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of responsibility, courses of procedure, and other policies to serve as guidelines to its use.
   b. Mechanisms for review and evaluation of policies and practices should be established.
   c. Criminal justice agencies should seek the cooperation and resources of other community agencies to which persons can be diverted for services relating to their problems and needs.

2. Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines specify:

   a. The objectives of the program and the types of cases to which it is to apply.
   b. The means to be used to evaluate the outcome of diversion decisions.
   c. A requirement that the official making the diversion decision state in writing the basis for his determination denying or approving diversion in the case of each offender.
   d. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decisionmakers.

3. The factors to be used in determining whether an offender, following arrest but prior to adjudication, should be selected for diversion to a noncriminal program, should include the following:

   a. Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his criminal acts.
   b. Services to meet the offender's needs and problems are unavailable within the criminal justice system or may be provided more effectively outside the system.

c. The arrest has already served as a desired deterrent.
d. The needs and interest of the victim and society are served better by diversion than by official processing.
e. The offender does not present a substantial danger to others.
f. The offender voluntarily accepts the offered alternative to further justice system processing.
g. The facts of the case sufficiently establish that the defendant committed the alleged act.

Commentary and Implementation

The task force recognizes the fact that services are available to the judicial system from public and private agencies, but due to a very low level of coordination and communication they are not used to their full potential.

The Arkansas Local Court Judges Manual stresses certain agencies and programs concerning social problems: "Utilization of public and private agencies may assist in implementing the court function in many areas; Welfare, Corrections and Health Department, Highway and Public Safety Department, school boards, Alcoholics Anonymous, religious services, and drug abuse."

With this in mind, the Judicial Department should take the initiative in formulating a booklet of available services, their methods and programs with copies available to all judges and prosecutors and defense attorneys in those jurisdictions by January 1, 1978.

CHAPTER 7A PROSECUTION

STANDARD 4.7A.1. THE COMPLEXITIES OF THE CRIMINAL LAW REQUIRE FULL-TIME PROSECUTORIAL SERVICES

A. Professional Standards for the Chief Prosecuting Attorney

The complexities and demands of the prosecution function require that the prosecutor be a full-time skilled professional selected on the basis of demonstrated ability and high personal integrity. The prosecutor should be authorized to serve a minimum term of four years at an annual salary no less than that of the presiding judge of the trial court of general jurisdiction.

In order to meet these standards the jurisdiction of every prosecutor's office should be designed so the population, caseload and other relevant factors warrant at least one full-time prosecutor.

B. Assuring High Standards of Professional Skill

1. The function of public prosecution requires highly developed professional skills. This objective can be achieved by promoting continuity of service and broad experience in all phases of the prosecution function.

2. Wherever feasible, the offices of chief prosecutor and his staff should be full-time occupations.

3. Professional competence should be the only basis for selection for prosecutorial office. Prosecutors should select their staffs on the basis of professional competence without regard to partisan political influence.

4. In order to achieve the objective of professionalism and to encourage competent lawyers to accept such offices, compensation for prosecutors and their staffs should be commensurate with the high responsibilities of the office.

C. The Prosecutor's Investigative Role

The prosecutor's primary function should be to represent the state in court. He should cooperate with the police in their investigation of crime. Each prosecutor also should have investigatorial resources at his disposal to assist him in case preparation to supplement the results of police investigation, and, in a limited number of situations, to undertake an initial investigation of possible violations of the law.

The prosecutor should be given the power, subject to appropriate safeguards, to issue subpoenas requiring potential witnesses in criminal cases to appear for questioning or to respond to specific questions.

The office of the prosecutor should review all applications for search and arrest warrants prior to their submission by law enforcement officers to a judge for approval.

D. Discretion as to Non-Criminal Disposition

1. The prosecutor should explore the availability of non criminal disposition, including programs of rehabilitation, formal or informal, in deciding whether to press criminal charges; especially in the case of a first offender, the nature of the offense may warrant non-criminal disposition.

2. Prosecutors should be familiar with the resources of social agencies which can assist in the evaluation of cases for diversion from the criminal process.

E. Case Management for Prosecutors.

The prosecutor's office should have a file control system capable of readily locating any case file upon demand, and a statistical system either automated or manual, sufficient to permit the prosecutor to evaluate and monitor the performance of his office.

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 success;
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.

F. Prompt Disposition of Criminal Charges

1. A prosecutor should not intentionally use procedural devices for delay for which there is no legitimate basis.

2. The prosecution function should be so organized and supported with staff and facilities as to enable it to dispose of all criminal charges promptly. The prosecutor should be punctual in attendance in court and in the submission of all motions, briefs and other papers. He should emphasize to all witnesses the importance of punctuality in attendance in court.

3. It is unprofessional conduct intentionally to misrepresent facts or otherwise mislead the court in order to obtain a continuance.

G. Supersession and Substitution of Prosecutor

1. Procedures should be established by appropriate legislation for the governor to be empowered by law to appoint a special prosecutor after a judicial finding, with reasonable notice and hearing, that the prosecutor is incapable of fulfilling the duties of his office.

H. Professional Standards for Assistant Prosecutors.

The primary basis for the selection and retention of assistant prosecutors should be demonstrated legal ability. Care should be taken to recruit lawyers from all segments of the population. The prosecutor should undertake programs, such as legal internships for law students, designed to attract able young lawyers to careers in prosecution.

The position of assistant prosecutor should be a full-time occupation. The starting salaries for assistant prosecutors should be commensurate with the high responsibilities of the office and the prosecutor should have the authority to increase periodically the salaries for assistant prosecutors to a level that will encourage the retention of able and experienced prosecutors, subject to approval of the legislature.

The caseload for each assistant prosecutor should be limited to permit the proper preparation of cases at every level of the criminal proceedings. Assistant prosecutors should be assigned cases sufficiently in advance of the court date in order to enable them to interview every prosecution witness, and to conduct supplemental investigations when necessary.

I. Supporting Staff and Facilities

The office of the prosecutor should have a supporting staff necessary to carry out his official duties. Prosecutors whose offices serve metropolitan jurisdictions should appoint an office manager with the responsibility for program planning and budget management, procurement of equipment and supplies, and selection and supervision of nonlegal personnel. Paraprofessionals should be utilized for law related tasks that do not require prosecutorial experience and training. There should be adequate secretarial help for all staff attorneys. Special efforts should be made to recruit members of the supporting staff from all segments of the community served by the office.

The office of the prosecutor should have physical facilities necessary to carry out his prosecutorial duties. There should be at least one conference room and one lounge for staff attorneys, and a public waiting area separate from the offices of the staff.

The prosecutor and his staff should have immediate access to a library sufficiently extensive to fulfill the research needs of the office. Staff attorneys should be supplied with personal copies of books, such as the state criminal code, needed for their daily duties.

The basic library available to a prosecutor's office should include the following: the annotated laws of the state, the state code of criminal procedure, the municipal code, the United States Code annotated, the state appellate reports, the United States Supreme Court reports, citators covering all reports and statutes in the library, digests for state and federal cases, a legal reference work digesting law in general, a form book of approved jury charges, legal treatises on evidence and criminal law, criminal law and United States Supreme Court case reporters published weekly, looseleaf services related to criminal law, and, if available, an index to the state appellate brief bank.

J. Maintaining Integrity in the Local Prosecutor's Office

1. The state should redefine the judicial districts to combine smaller jurisdiction into districts having sufficient workload to support at least one full-time district attorney.

2. The state should devise training standards for prosecution service, and should provide prosecutors' salaries that will attract the best qualified personnel.

3. All local prosecutors and their staff attorneys should be prohibited from engaging in partisan political activity. Local prosecutors who are elected should be elected in nonpartisan elections.

4. All local prosecutors should have and make available to the public information detailing the deployment of personnel and resources during the preceding reporting period. Such reports should disclose the number of cases pending, hours spent in court and before the grand jury, and other details cataloging the number and kinds of cases handled by the prosecutor and the status at the time of reporting. Reports should be available for public inspection.

K. Prosecutor's Handbook; Policy Guidelines and Procedures

1. Each prosecutor's office should develop a statement of (i) general policies to guide the exercise of prosecutorial discretion and (ii) procedures of the office. The objectives of these policies as to discretion and procedures should be to achieve a fair, efficient and effective enforcement of the criminal law.

2. In the interest of continuity and clarity, such statement of policies and procedures should be maintained in a handbook of internal policies of the office.

L. Education of Professional Personnel

Education programs should be utilized to assure that prosecutors and their assistants have the highest possible professional competence. All elected prosecutors should attend prosecutors' training course prior to taking office, and in-house training programs for new assistant prosecutors should be available in all metropolitan prosecution offices. All prosecutors and assistants should attend a formal prosecutors training course each year, in addition to the regular in-house training.

M. Inter-Relationship of Prosecution Offices Within State

1. Local authority and responsibility for prosecution is properly vested in a district, county or city attorney. Wherever possible, a unit of prosecution should be designed on the basis of population, caseload and other relevant factors sufficient to warrant at least one full-time prosecutor and the supporting staff necessary to effective prosecution.

2. In all states there should be coordination of the prosecution policies of local prosecution offices to improve the administration of justice and assure the maximum practicable uniformity in the enforcement of the criminal law throughout the state.

3. In cases where questions of law of statewide interest or concern arise which may create important precedents, the prosecutor should consult and advise with the attorney general of the state.

4. A central pool of supporting resources and manpower, including laboratories, investigators, accountants, special counsel and other experts, to the extent needed should be maintained by the state government and should be available to all local prosecutors.

N. Statewide Association of Prosecutors

There should be a state level entity whose objectives are:

1. To establish a coordinator's office funded by the state which should function as a clearinghouse for all training, both pre-service and in-service, for prosecutors; aid in coordination of prosecutorial activities; function as a liaison agency between resource agencies and the various prosecutor's offices needing legal advice and research.

2. To provide pertinent information on new cases, points of law, and other related data to prosecutors through a monthly newsletter.

3. To upgrade the role and image of prosecution through establishment of a "professional" organization.

4. To disseminate updated sections of the prosecutors' handbook and new reference sections of the index/cross reference of the penal code.

5. To further professionalize prosecution through advancement of prosecution as a career and through correspondingly increased salaries.

6. To aid in legislative transactions for prosecutors.

7. To give assistance in developing innovative prosecution programs.

This entity should provide at least two seminars of two or three days duration each year and cover topics within the law enforcement system, the duties and responsibilities of the prosecutor, trial strategy and evidentiary duties, general problems in prosecution, and recent statutory enactments and court decisions.

The statewide organization should have a full-time administrator who should set the tone for the rest of the state's prosecutors; his pay should be commensurate with other prosecutors; he should have no private practice; and he should work full-time in his position. He should have an assistant director and whatever support staff is needed for the completion of his duties.

The statewide organization should develop guidelines for all prosecutor's offices, and these should be included as part of the prosecutors' handbook.

O. Prosecutor Relationships with the Public and with Other Agencies of the Criminal Justice System

The prosecutor should be aware of the importance of the function of his office for other agencies of the criminal justice system and for the public at large. He should maintain relationships that encourage interchange of views and information and that maximize coordination of the various agencies of the criminal justice system.

The prosecutor should maintain regular liaison with law enforcement and other investigative agencies in order to provide legal advice to these agencies, to identify mutual problems and to develop solutions to those problems. He should participace in law enforcement training programs and keep law enforcement informed about current developments in law enforcement, such as significant court decisions. He should develop and maintain a liaison with the law enforcement legal adviser in those areas relating to law enforcement prosecutor relationships.

The prosecutor should develop for the use of law enforcement and other investigative agencies a basic police report form that includes all relevant information about the offense and the offender necessary for charging, plea negotiations, and trial. The completed form should be routinely forwarded to the prosecutor's office after the offender has been processed by law enforcement. Law enforcement and other investigative agencies should be informed by the prosecutor of the disposition of any case with which they were involved and the reason for the disposition.

The relationship between the prosecutor and the court and defense bar should be characterized by professionalism, mutual respect and integrity.

The prosecutor should establish regular communications with correctional as well as health and rehabilitative agencies for the purpose of determining the effect of his practices upon correctional programs. The need to maximize the effectiveness of such programs should be given significant weight in the formulation of practices for the conduct of the prosecutor function.

The prosecutor should regularly inform the public about the activities of his office and of other law enforcement agencies and should communicate his views to the public on important issues and problems affecting the criminal justice system. The prosecutor should encourage the expression of views by members of the public concerning his office and its practices, and such views should be taken into account in determining office policy.

P. Special Assistants, Investigative Resources, Experts

1. Funds should be provided to enable a prosecutor to appoint special assistants from among the trial bar experienced in criminal cases, as needed for the prosecution of a particular case or to assist generally.

2. Funds should be provided to the prosecutor for the employment of a regular staff or professional investigative personnel and other necessary supporting personnel, under his direct control, to the extent warranted by the responsibilities and scope of his office; he should also be provided with funds for the employment of qualified experts as needed for particular cases.

Q. Restrictions on Private Practice

In so far as conditions permit, the prosecutor's office should be staffed with full-time personnel. All full-time personnel should be prohibited from engaging in the private practice of law, part-time personnel should be prohibited from engaging in a private practice of law in criminal cases.

Commentary and Implementation

The task force recommends that, due to the critical position the prosecutor occupies in the criminal justice system, the effectiveness and efficiency of the prosecutorial function should be increased and his resources and facilities enhanced.

The ever-increasing crime rate puts complex demands on the prosecutor and the criminal justice system. The personnel policies, size, and organization of many prosecutors' offices need improvement to aid in the promotion of an effective response to these demands. With these thoughts in mind, the task force recommends standards relating to salaries, size of offices, terms of office, and other relevant criteria of a prosecution office.

Many of the activities of section "N" above have been undertaken by the "Prosecutor-Coordinator" who works for the Arkansas Prosecuting Attorney's Association. The publication of the "Informant" newsletter has been beneficial to prosecution and law enforcement agencies throughout the state. New activities of the association should be directed toward the needed legislative and constitutional enactments suggested in this standard by January 1, 1978.

CHAPTER 7B DEFENSE SERVICES

STANDARD 4.7B.1. THE COMPLEXITIES OF THE CRIMINAL LAW REQUIRE COMPETENT DEFENSE SERVICES.

A. Objective

The objective of the bar should be to insure the provision of competent counsel to all persons who need representation in criminal proceedings and to educate the public to the importance of this objective.

B. Systems

Counsel should be provided in a systematic manner in accordance with a widely publicized plan employing a defender or assigned counsel system or a combination of these.

C. Availability of Publicly Financed Representation in Criminal Cases

Public representation should be made available to eligible defendants in all criminal cases at their request, or at the request of someone acting for them, beginning at the time the individual is either arrested or is requested to participate in an investigation that is focused upon him as a likely suspect. The representation should continue during trial court proceedings and through the exhaustion of all avenues of relief from conviction.

D. Determination of Eligibility

A preliminary and tentative determination of eligibility should be made as soon as feasible after a person is taken into custody. Formal determination of eligibility should be made by the judge or an officer of the court selected by him. A questionnaire should be used to determine the nature and extent of the financial resources available for obtaining representation. If at any subsequent stage of the proceedings new information concerning eligibility becomes available, eligibility should be redetermined.

E. Payment for Public Representation

An individual provided public representation should be required to pay any portion of the cost of the representation that he is able to pay at the time. Such payment should be nor more than an amount that can be paid without causing substantial hardship to the individual or his family. Where any payment would cause substantial hardship to the individual or his family, such representation should be provided without cost.

The test to determine the ability of the payment should be a flexible one that considers such factors as the amount of income, bank account, ownership of a home, car, or other tangible or intangible property, number of dependents, and cost of subsistance for the defendant and to those he owes a legal duty of support. In applying this test the following criteria and qualifications should govern:

1. Counsel should not be denied to any person merely because his friends or relatives have resources adequate to retain counsel, because he is posted, or is capable of posting bond.

2. Whether a private attorney would be interested in representing the defendent in his present economic circumstances should be considered.

3. The defendant on bail had been unable to continue employment following his arrest should not be determinative of his ability to employ private counsel.

4. The defendant's own assessment of his financial ability or inability to obtain representation without substantial hardship to himself or family should be considered.

F. Reimbursement

Reimbursement of counsel of the organization or governmental unit providing counsel should not be required, except on the ground of fraud in obtaining the determination of eligibility.

G. Partial Eligibility

The ability to pay part of the cost of adequate representation should not preclude eligibility. The provision of counsel may be made under the condition that the funds available for the purpose be contributed to the system pursuant to an established method of collection.

H. Local Options

By statute each jurisdiction should require the appropriate local sub-division to adopt a plan for the provision of counsel. Statutes should permit the local sub-division to choose from the full range of systems as a method of providing counsel which is suited to its needs and consistent with these standards and should allow local sub-divisions to act jointly in establishing such a plan.

I. Method of Delivering Defense Services

Services of a full-time public defender organization, and coordinated assigned counsel system involving substantial participation of the private bar, should be available in each jurisdiction to supply attorney services to indigents accused of crime. Cases should be divided between a public defender and an assigned counsel in a manner that will encourage significant

participation by the private bar in the criminal justice system.

J. Financing of Defense Services

Defender services should be organized and administered in a manner consistent with the needs of the local jurisdiction. Financing of defender services should be provided by the state. Administration and organization should be provided locally, regionally, or statewide.

K. Professional Independence

The plan should be designed to guarantee the integrity of the relationship between lawyer and client. The plan and the lawyers serving under it should be free from political influence and should be subject to judicial supervision only in the same manner and to the same extent as are lawyers in private practice. One means for assuring this independence, regardless of the type of system adopted, is to place the ultimate authority and responsibility for the operation of the plan in a board of trustees. Where an assigned counsel system is selected, it should be governed by such a board. The board should have the power to establish general policy of the operation of the plan, consistent with these standards and in keeping with the standards of professional conduct. The board should be precluded from interfering in the conduct of particular cases.

L. Supporting Services

The plan should provide for investigatory, expert and other services necessary to an adequate defense. These should include not only those services and facilities needed for an effective defense at trial, but also those that are required for effective defense participation in every phase of the process, including determinations on pre-trial release, competency to stand trial and disposition following conviction.

M. Supporting personnel and Facilities

Public defender officers should have adequate supportive services, including secretarial, investigation, social work assistance. In rural areas (and other areas where necessary) units of local government should combine to establish regional defenders' offices that will service a sufficient population and case load to justify a supporting organization that meets the requirements of this standard.

The budget of a public defender for operational expenses other than the cost of personnel should be substantially equivalent to and, certainly not less than that provided for other conponents of the justice system with whom the public defender must interact, such as the courts, prosecution, the private bar, and the police. The budget should include:

1. Sufficient funds to provide quarters, facilities, copying equipment, and communications comparable to those available to private counsel handling a comparable law practice.

2. Funds to provide tape recording, photographic and other investigative equipment of an sufficient quality, and versatility to permit preservation of evidence under all circumstances.

3. Funds for the employment of experts and specialists, such as psychiatrists, forensic pathologist, and other scientific experts in all cases in which they may be of assistance to the defense.

4. Sufficient funds and means of transportation to commit the office personnel to fulfill their travel needs in preparing cases for trial and in attending court or professional meetings.

Each defender lawyer should have his own office that will insure absolute privacy for consultation with the client.

N. Career Service

A defender plan should be designed to create a career service. Selection of the chief defender and staff should be made on the basis of merit and should be free from political, racial, religious, ethnic and other considerations, extraneous to professional competence. The tenure of the defender and the staff should be protected similarly. The defender and staff should be compensated at a rate commensurate with their experience and skill, sufficient to attract career personnel, and comparable to that provided for their counterparts in prosecutorial offices.

O. Defender to be Full-time and Adequately Compensated

The office of public defender should be a full-time occupation. State or local units of government should create regional public defenders serving more than one local unit of government if this is necessary to create a caseload of sufficient size to justify a full-time public defender. The public defender should be compensated at a rate not less than that of the presiding judge of the trial court of general jurisdiction.

P. Selections and Retention of Attorney Staff Members

Hiring, retention, promotion policy regarding public defenders staff attorneys should be based upon merit. Staff attorneys, however, should not have civil service status.

Q. Restrictions on Private Practice

In so far as local conditions permit, the defender office should be staffed with full-time personnel. All full-time personnel should be prohibited from engaging in the private practice of law, part-time personnel should be prohibited from engaging in a private practice of law in criminal cases.

R. Facilities; Library

Every defender office should be located in a place convenient to courts and be furnished in a manner appropriate to the dignity of the legal profession. A library of sufficient size, considering the needs of the office and the accessability of other law libraries, and other necessary facilities and equipment should be provided.

S. Community Relation

The public defender should be sensitive to all of the problems of his client community. He should be particularly sensitive to the difficulty often experienced by the members of that community in understanding his role. In response:

1. He should seek, by all possible and ethical means, to interpret the process of plea negotiation and the public defender's role in it to the crime community.

2. He should, where possible, seek office locations that will not cause the public defender's office to be excessively identified with judicial law enforcement components of the criminal justice system, and should make every effort to have a office or offices within the neighborhoods where crime predominately occurs.

3. He should be available to schools and organizations to educate members of the community as to their rights and duties related to criminal justice.

Commentary and Implementation

The task force approached this problem with two systems in mind: publicly financed and appointive. The State of Arkansas has both systems in effect with proponents for and against each method. The task force recommended that the local jurisdiction make its own decision on which system to implement. A study of the proportion of defendants actually represented at public expense tends to support the localities selecting their own method. The study of several Arkansas counties found that the percent of felony defendants represented by appointed counsel ranged from 18.2 percent to 59.5 percent. (Gitelman, The Relative Importance of Appointed and Retained Counsel in Arkansas Felony Cases- An Emperical Study, 24 Ark. L. Rev. 442 1971). The task force feels that the public defender system is much more effective and efficient in providing defense counsel to indigents, even though considered more costly.

Act 996 of 1975 entitled the "Public Defender Act" is legislation that provides the Constitutional guarantees of counsel for needy persons accused of serious crimes. It establishes a method whereby a jurisdiction with an appointive method may move to a public defender system. The Adjudication Task Force, not willing to develop standards only for one system, developed standards for both appointive and publicly financed indigent defense systems.

The Supreme Court through the Judicial Department should insure that defender services are adequately funded and meet the standards provided herein by January 1, 1978.

STANDARD 4.8.1. PRESENT BAIL-BOND AND PRETRIAL RELEASE PROCEDURES ARE DISCRIMINATORY AGAINST INDIGENTS

A. Commission of Serious Crime While Awaiting Trial

Where it is shown that a competent court or grand jury has found probable cause to believe that a defendant has committed a serious crime while released pending adjudication of a prior charge, the court which initially released him should be authorized, after appropriate hearing, to review and revise the conditions of his release or to revoke his release where indicated. In cases in which bond is denied, the case should be tried as soon as possible.

B. Prohibition of Compensated Sureties

No person should be allowed to act as a surety for compensation. In any action to enforce an indemity agreement between a principal and a surety on a bail bond should be a complete defense that the surety acted for compensation. No attorney should be permitted to act as surety on a bail bond.

C. Comprehensive Pretrial Process Planning

Each criminal justice jurisdiction immediately should begin to develop a comprehensive plan for improving the pretrial process. In the planning process, the following information should be collected:

1. The extent of pretrial detention, including the number of detainees, the number of man-days of detention, and the range of detention by time periods.
2. The cost of pretrial release programs and detention.
3. The disposition of persons awaiting trial, including the number released on bail, released on non-financial conditions and detained.
4. The disposition of such persons after trial including, for each form of pretrial release or detention, the number of persons who were convicted, who were sentenced to the various available sentencing alternatives, and whose cases were dismissed.
5. Effectiveness of pretrial conditions, including the number of releasees who (a) failed to appear, (b) violated conditions of their release, (c) were arrested during the period of their release, or (d) were convicted during the period of their release.
6. Conditions of local detention facilities, including the extent to which they meet the standards recommended by law.
7. Conditions of treatment of and rules governing persons awaiting trial.

8. The need for and availability of resources that could be effectively utilized for persons awaiting trial, including the number of arrested persons suffering from problems relating to alcohol, narcotic addiction, or physical or mental disease or defects, and the extent to which community treatment programs are available.
9. The length of time required for bringing a criminal case to trial and, where such delay is found to be excessive the factors causing such delay.

The comprehensive plan for the pretrial process should include the following:

1. Assessment of the status of programs and facilities relating to pretrial release and detention.
2. A plan for improving the programs and facilities relating to pretrial release and detention, including priorities for implementation.
3. A means of implementing the plan and of discouraging the expenditure of funds for, or the continuation of, programs inconsistent with it.
4. A method of evaluating the extent and success of implementation of the improvements.
5. A strategy for processing large numbers of persons awaiting trial during mass disturbances, including a means of utilizing additional resources on a temporary basis.

The comprehensive plan for the pretrial process should be conducted by a group representing all major components of the criminal justice system that operate in the pretrial area. Included should be representatives of the police, sheriffs, prosecution, public defender, private defense bar, judiciary, court management, probation, corrections, and the community, under the director of the Governor's Commission on Crime and Law Enforcement.

Commentary and Implementation

Typically, the objective of bail is twofold: to prevent punishment of the accused before conviction and to secure his attendance at trial. However, bail has been used for other measures in the past. It has been used as a punitive measure with bail set at a high level in the belief that the defendant has committed the crime and deserves detention. Bail has been set at an amount which is beyond the economic means of defendants in order to protect society from those who would, in the judge's view, commit crimes while free during the pretrial period. Bail has also been imposed for rehabilitative purposes, particularly in connection with youthful first offenders.

The Arkansas Criminal Code Revision Commission realized the inequities and discrimination involved with money bail, particularly against people of the lower social economic strata, and developed alternatives to money bail. Some of these covered in the rules are: The 10 percent plan whereby the defendant pays 10 percent of the bond directly to the court and recovers 90 percent of this deposit if he appears in court as scheduled; property bonds, whereby the defendant or others offer property as bail in lieu of cash; conditions of release, as requiring the defendant to return to work or school, to avoid certain individuals or areas of the city, or to subject himself to tests for drug addiction; personal bond is another method of release, which may be referred to as personal surety, nominal bond, or release on own recognizance. It is used when a judge determines that the defendant is sufficiently motivated to show up for his scheduled court appearance and can be released on his own signature without bail.

The Revised Rules of Criminal Procedure require that the judicial officer shall set money bail only after he determines that no other conditions will reasonably ensure the appearance of the defendant in court. The commentary to Rule 9.2 states, "Money bail in any form ought to be a last resort and should be used only to assure the defendant's appearance. It is believed that damage to the integrity of the legal process will best be avoided by limiting bail to its lawful function".

With the adoption of the revised rules of criminal procedure, the task force was relieved of the task of considering most of the standards gathered. The rules embodied most of the ideas and standards about which the task force members were concerned. The one standard that the task force felt was overlooked in the rules was one concerning compensated sureties or bail bondsmen. The task force considered the fact that the rules set out methods of pretrial release with the setting of money bail as a last resort. With the court more involved in pretrial release, the business of bail bondsmen should decline drastically. Therefore, the task force recommended prohibition of compensated surities.

The Supreme Court, acting through the Judicial Department, should undertake a study to see whether the judicial circuits are following the rules of criminal procedure pertaining to pretrial release. Also, the Supreme Court should initiate legislation calling for funds to set up bail reform projects by January 1, 1978.

CHAPTER 9

FUNDING

STANDARD 4.9.1. LACK OF AVAILABILITY AND UNIFORMITY IN FUNDING FOR COURTS AND COURT SUPPORT PERSONNEL

A. Unification of the State Court System

State courts should be organized into a unified judicial system financed by the state and administered through a state wide court administrator under the supervision of the chief justice of the state supreme court.

B. Court System Financing and Budgeting

General Principle. Responsibility for the financial support of the Arkansas court system should be assumed by state government. Where this is not practicable at once, a program should be adopted for gradual assumption of this responsibility in the course of time. The court system should receive financial support sufficient to permit effective performance of its responsibilities as a coordinate branch of government. The level of support should include adequate salaries for judicial and non-judicial personnel, necessary operating supplies and purchased services, and provision as needed for capital expenditures for facilities and new equipment. The financial operations of the court system should be administered through a unified budget in which all revenues and expenditures for all activities of all courts in the system are presented and supervised.

C. Responsibilities in Budget Preparation, Presentation, and Approval

1. Preparation. The court system budget should be prepared by the administrative office of the courts, acting under the supervision of the chief justice and a standing committee of judges, drawn from the judicial council. Advice and consultation of principal auxiliary staff personnel throughout the court system should also be obtained through regular procedures of inquiry and referral.

2. Presentation. Presentation of a unified budget and request for appropriations to the legislature should be made by the chief justice, assisted by the judges on the budget committee and by the staff of the administrative office. Presentation of budget requests to units of local government should be made by the judge who presides over the unit of the court system for which the appropriation is sought, with assistance from other judges and from staff. The executive department should be authorized to comment on and make recommendations concerning the budget for the court system, or court unit as the case may be, but should not be authorized to eliminate or reduce budget requests made to the legislature.

3. Approval. Approval of the court budget should constitute authorization for the courts to spend the amount approved without limitation by "line item" or similar categorical restrictions. Within the funds thus provided,the courts should allocate expenditures according to needs and priorities established by the court system itself.

D. Financial Planning and Budget Administration

The budget for the court system should ordinarily be established on a fiscal year corresponding to that employed in the financing of other departments of government. In addition, the court system through the administrative office, should:

1. Establish projections of court operations and corresponding financial requirements for longer periods, up to five years or so ahead. Procedures should be established by which to review and revise such projections and estimates in light of evolving experience. Special attention should be given to the projection of anticipated major capital expenditures.

2. Establish procedures for fiscal administration. These procedures should include uniform systems for payroll accounting and disbursement; billing and presentation of vouchers for purchased equipment and services; receipt, deposit, and account for money paid into court; and regular, preferably monthly, recapitulations of current financial operations of current financial operations. So far as practicable, financial management should be centralized and handled through automated data processing.

3. Be subject to prompt and regular audit of its accounts following the close of each fiscal year by an auditing agency that is independent of the court system.

E. Revenues from Fines

The purpose of fines and other exactions imposed through judicial proceedings is to enforce the law and not to provide financial support for the courts or other agencies of government.

A study of the finances of the Arkansas court system should be made with the intent to provide a formula that distributes fees, fines, and forfeitures in an equitable manner to the governmental entity that bears the brunt of the cost of a unified judicial system.

Commentary and Implementation

The Arkansas Judicial System, as in most states, is caught in a financial squeeze. The system has growing demands, due to increased caseloads, for more courtrooms, equipment and personnel. While the operating expenses of courts continue to grow, the primary sources of court funding--local taxing units--are already overburdened with the conflicting financial demands of other local governmental services. It has been the instance, all too often, in the allocation process of tax resources by those who control the public "purse strings", to slight the judicial system in order to fund roads and services.

The funds necessary to pay state court expenses, other than judges' and prosecuting attorneys' salaries, are controlled by county quorum courts which combine both legislative and executive functions at the local level. Most of these local court members have usually been elected on campaign promises of cutting expenditures and thus saving the tax payers' money. This is indeed a worthy goal, but there is disagreement sometimes regarding which branch of government's budget should be cut. The prime target in Arkansas has been the judicial budget, for judges have an attitude of judicial self-restraint and wield little political power. The quorum courts in the past have assumed, correctly enough, that judges will lean over backward to avoid encroaching on the legislative branches power of the "purse" even if the "purse strings" are drawn so taut as to strangle judicial effectiveness.

The task force recommends the standards on state financing of the court system as a step toward loosening the taut "purse strings" and thus increasing the efficiency of the courts that the taxpayers demand and deserve.

Constitutional and legislative revision of the method of court financing is necessary to implement these standards on court financing. The Supreme Court should induce the legislature to adopt a program of court finance that would assume the gradual responsibility of financing the court system by January 1, 1980.

STANDARD 4.10.1. JUDGES DO NOT HAVE THE NECESSARY GUIDELINES AND ASSISTANCE TO AID IN DETERMINING THE APPROPRIATE SENTENCE AND THE PROPER EXECUTION OF THE SENTENCE.

A. Presentence Report: General Principles

1. The legislature should supply all courts trying criminal cases with the resources and supporting staff to permit a presentence investigation and a written report of its results in every case.

2. The court should explicitly be authorized by statute to call for such an investigation and report in every case. The statute should also provide that such an investigation and report should be made in every case where incarceration for one year or more is a possible disposition, where the defendant is less than 21 years old, or where the defendant is a first offender, unless the court specifically orders to the contary in a particular case.

B. Requirements for Presentence Report and Content Specification

Sentencing courts immediately should develop standards for determining when a presentence report should be required and the kind and quantity of information needed to insure more equitable and correctionally appropriate dispositions. The guidelines should reflect the following:

1. A presentence report should be presented to the court in every case where there is a potential sentencing disposition involving felonies or minors.

2. Gradations of presentence should be developed between a full report and a short-form report for screening offenders to determine whether more information is desirable or for use where a full report is unnecessary.

3. A full presentence report should be prepared where the court determines it to be necessary, and without exception in every case where incarceration for more than five years is a possible disposition. A short-form report should be prepared for all other cases.

4. In the event that an offender is sentenced, either initially or on revocation of a less confining sentence, to either community supervision or total incarceration, the presentence report should be made a part of his official file.

5. The full presentence report should contain a complete file on the offender, his background, his prospects of reform, and details of the crime for which he has been convicted. Specifically the full report should contain at least the following items:

a. Complete description of the situation surrounding the criminal activity with which the offender has been charged, including a full synoposis of the trial transcript, if any, the offender's version of the criminal act, and his explanation for the act.
b. The offender's education background.
c. The offender's employment background, including any military records, his present employment status, and capabilities.
d. The offender's social history, including family relationships, martial status, interests, and activities.
e. Residence history of the offender.
f. The offender's medical history and, if desirable, a psychological or psychiatric report.
g. Information about environments to which the offender might return or to which he could be sent should a sentence of nonincarceration or community supervision be imposed.
h. Information about any resources available to assist the offender, such as treatment centers, residential facilities, vocational training services, special educational facilities, rehabilitative programs of various institutions and similar programs.
i. Views of the person preparing the report as to the offender's motivations and ambitions, and an assessment of the offender's explanations for his criminal activity.
j. A full description of defendant's criminal record, including his version of the offense, and his explanation for them.
k. A recommendation as to disposition.

6. The short-form report should contain the information required in sections 5a,c,d,e,h,i, and k.

7. All information in the presentence report should be factual and verified to the extent possible by the preparer of the report. On examination of the sentencing hearing, the preparer of the report, if challenged on the issue of verification, should bear the burden of explaining why it was impossible to verify the challenged information. Failure to do so should result in the refusal of the court to consider the information.

C. Preparation of Presentence Report Prior to Adjudication

Sentencing courts immediately should develop guidelines as to the preparation of presentence reports prior to adjudication, in order to prevent possible prejudice to the defendant's case and to avoid undue incarceration prior to sentencing. The guidelines should reflect the following:

1. No presentence report should be prepared until the defendant has been adjudicated guilty of the charged offense unless:

   a. The defendant, on advice of counsel, has consented to allow the investigation to proceed before adjudication; and
   b. The defendant presently is incarcerated pending trial; and
   c. Adequate precautions are taken to assure that nothing disclosed by the presentence investigation comes to the attention of the prosecution, the court, or the jury prior to adjudication.

2. Upon a showing that the report has been available to the judge prior to adjudication of guilt, there should be a presumption of prejudice, which the state may rebut at the sentence hearing.

D. Presentence Report: When Prepared

1. Except as authorized in subsection (b), the presentence investigation should not be initiated until there has been an adjudication of guilt.

2. It is appropriate to commence the presentence investigation prior to an adjudication of guilt only if:

   a. The defendant, with the advice of counsel if he so desires, has consented to such action; and
   b. Adequate precautions are taken to assure that nothing disclosed by the presentence investigation comes to the attention of the prosecution, the court, or the jury prior to an adjudication of quilt. The court should be authorized, however, to examine the report prior to the entry of a plea on request of the defense and the prosecution.

E. Presentence Report: Disclosure; General Principles

The presentence report should not be a public record. It should be available only to the following persons or agencies under the conditions stated:

1. The report should be available to the sentencing court for the purpose of assisting it in determining the sentence. The report should also be available to all judges who are to participate in a sentencing council discussion of the defendant

2. The report should be available to persons or agencies having a legitimate professional interest in the information likely to be contained therein. Examples of such persons or agencies would be a physician or psychiatrist appointed to assist the court in sentencing, an examining facility, a correctional institution, or a probation or parole department;

3. The report should be available to reviewing courts where relevant to an issue on which an appeal has been taken;

4. The report should be available to the parties under the conditions stated in section 4.10.1.F.

F. Presentence Report: Disclosure; Parties

1. Fundamental fairness to the defendant requires that the substance of all derogatory information which adversely affects his interests and which has not otherwise been disclosed in open court should be called to the attention of the defendant, his attorney, and others who are acting on his behalf.

2. This principle should be implemented by requiring the sentencing court to permit the defendant's attorney, or the defendant himself if he has no attorney, to inspect the report. The prosecution should also be shown the report if it is shown to the defense. In extraordinary cases, the court should be permitted to except from disclosure parts of the report which are not relevant to a proper sentence, diagnostic opinion which might seriously disrupt a program of rehabilitation, or sources of information which has been obtained on a promise of confidentiality. In all cases where parts of the report are not disclosed under such authority, the court should be required to state for the record, the reason for its action and to inform the defendant and his attorney that information has not been disclosed. The action of the court in excepting information from disclosure should be subject to appellate review.

3. The resolution of any controversy as to the accuracy of the presentence report should be governed by the principles stated in standard 4.10.1.G.

G. Presentence Report: Time of Disclosure; Presentence Conference

1. The information made available to the parties under standard 4.10.1.F. should be disclosed sufficiently prior to the imposition of sentence as to afford reasonable opportunity for verification.

2. In cases where the presentence report has been open to inspection, each party should be required prior to the sentencing proceeding to notify the opposing party and the court of any part of the report which he intends to controvert by the production of evidence. It may then be advisable for the court and the parties to discuss the possibility of avoiding the reception of evidence by a stipulation as to the disputed part of the report. A record of the resolution of any issue at such a conference should be preserved for inclusion in the record of the sentencing proceeding.

H. Continuing Jurisdiction of Sentencing Court

The legislature should authorize in 1977 sentencing courts to exercise continuing jurisdiction over sentenced offenders to insure that the correctional program is consistent with the purpose for which the sentence was imposed. Courts should retain jurisdiction also to determine whether an offender is subjected to conditions, requirements, or authority that are unconstitutional, undesirable, or not rationally related to the purpose of the sentence, when an offender raises these issues.

I. Information on Sentenced Offenders

In order that judges may be in a position to appraise the effects of their sentencing practices, they should be regularly informed of the status of offenders whom they have sentenced, as well as provided with broader statistical information concerning all offenders sentenced in the same state.

J. Who Should Sentence

Authority to determine the sentence should be vested in the trial judge and not in the jury in non-capital felony cases. This report does not deal with whether the death penalty should be an available sentencing alternative and, if so, who should participate in its imposition.

K. Imposition of Sentence

In addition to reaching the conclusions required as a prerequisite to imposition of the sentence selected, when sentence is imposed the court:

1. Should make specific findings on all controverted issues of fact which are relevant to the sentencing decision;

2. Normally should state for the record in the presence of the defendant the reasons for selecting the particular sentence to be imposed. In the exceptional cases where the court deems it in the best interests of the defendant not to state fully in his presence, the reasons for the sentence, the court should prepare such a statement for inclusion in the records;

3. Should assure that the record accurately reflects time already spent in custody for which credit will be given; and

4. Should state with care the precise terms of the sentence which is imposed.

L. General Principle: Judicial Discretion

The sentence imposed in each case should call for the minimum amount of custody or confinement which is consistent with the protection of the public, the gravity of the offense and the rehabililative needs of the defendant.

M. Sentencing Alternatives

By 1977 each state should enact sentencing legislation reflecting the following major provisions:

1. The court should be authorized to utilize a variety of sentencing alternatives including:

   a. Unconditional release.
   b. Conditional release.
   c. A fine payable in installments with a civil remedy for nonpayment.
   d. Release under supervision in the community.
   e. Sentence to a halfway house or other residential facility location in the community.
   f. Sentence to partial confinement with liberty to work or participate in training or education during all but leisure time
   g. Imposition of a maximum sentence of total confinement less than that established by the legislation for the offense.

2. Where the court imposes an extended term and feels that the community requires reassurance as to the continued confinement of the offender, the court should be authorized to:

   a. Recommend to the board of parole that the offender not be paroled until a given period of time has been served.
   b. Impose a minimum sentence to be served prior to eligibility for parole, not to exceed one-third of the maximum sentence imposed or be more than three years.
   c. Allow the parole of an offender sentenced to a minimum term prior to service of the minimum upon the request of the board of parole.

3. The legislation should delineate specific criteria patterned after the Model Penal Code for imposition of the alternative available. Sentencing legislation should not contain:

   a. Mandatory sentences of any kind for any offense.
   b. Ineligibility for alternative dispositions for any offense except murder.

N. Sentences Not Involving Confinement

1. The legislature should authorize the sentencing court in every case to impose a sentence of probation or a similar sentence not involving confinement. It may be appropriate to provide for limited exceptions to this principle, but only for the most serious offense.

2. The following general principle should apply to such sentences:

   a. The court should specify at the time of sentencing the length of any term during which the defendant is to be supervised and during which the court will retain power to revoke the sentence for the violation of specified conditions.
   b. Neither supervision nor the power to revoke should be permitted to extend beyond a legislatively fixed time, which should in no event exceed two years for a misdemeanor or five years for a felony.
   c. The sentences to be imposed in the event of the violation of a condition should not be fixed prior to a finding that a violation has occurred.

3. A sentence not involving confinement is to be preferred to a sentence involving partial or total confinement in the absence of affirmative reasons to the contary.

O. Legislative Responsibility; Administrative Structure

1. Legislative bodies should appropriate sufficient funds so that all trial courts administering criminal justice will have adequate probation services and personnel in order to implement properly the standards developed (in the report).

2. It is appropriate for probation services to be administered at either the state or local level, but in no event should control be vested in an agency having prosecutorial functions.

P. Organization of Probation

The state should take action to place probation organizationally in the judicial branch of state government. The state probation agency should be given responsibility for:

1. Establishing statewide goals, policies, and priorities that can be translated into measurable objectives by those delivering services.

2. Program planning and development of innovative service strategies.

3. Staff development and training.

4. Planning for manpower needs.

5. Collecting statistics, monitoring services, and conducting research and evaluation.

6. Offering consultation to courts, legislative bodies and local executives.

7. Coordinating the activities of separate systems for delivery of services to the courts and to probationers until separate staffs to perform services to the courts are established within the courts system.

During the period when probation is being placed under direct state operation, the state correctional agency should be given authority to supervise local probation and to operate regional units in rural areas where population does not justify creation or continuation of local probation.

In addition to the responsibilities previously listed, the state probation agency should be given responsibility for:

1. Establishing standards relating to personnel, services to courts, services to probationers, and records to be maintained, including format of reports to courts, statistics, and fiscal controls.

2. Consultation to local probation agencies including evaluation of services with recommendations for improvement; assisting local systems to develop uniform record and statistical reporting procedures conforming to state standards; and aiding in local staff development efforts.

3. Assistance in evaluating the number and types of staff needed in each jurisdiction.

4. Financial assistance through reimbursement or subsidy to those probation agencies meeting standards set forth in this chapter.

Q Establishing Minimum Standards

Guidelines of policies for probation services should be formulated and enforced by a centralized probation agency and should be applicable to all probation departments within the state. In addition to the standards recommended in this report, the following general principles are important in developing minimum standards:

1. Supervision of Probationers - There should be a sufficiently low average caseload (35-50 probationers per probation officer) to provide adequate supervision for probationers and to encourage the development of variable caseloads for different types of offenders and assignment techniques which will maximize the benefit of offered supervision. In appropriate cases, supervision should be supplemented by group counseling and therapy programs. Where feasible, branch probation offices should be located in the community in which probationers live so as to meet more effectively the demands of supervision. To complement supervision, helping services should be obtained from community facilities in appropriate cases and, where necessary, probation personnel should actively intervene with such facilities on behalf of their probationers;

2. Research and Statistics - Accurate and uniform records and statistics should be available as a foundation for research into sentencing criteria and department programs. Continuous research and evaluation, involving a cooperative effort among operations and research personnel, should be an integral part of probation departments;

3. Working Conditions - To help achieve the standards recommended in this report, probation personnel should have adequate office space, clerical assistance and conference facilities.

R. Qualifications for Probation Officers; Other Personnel

1. The educational and occupational requirements for probation officers should be possession of a bachelor's degree; or

2. Two years of full-time casework, counseling community or group work experience in a recognized social, community, correctional or juvenile agency dealing with offenders or disadvantaged persons, or its equivalent as determined by the hiring agency.

3. A significant number of probation officers in a department should have graduate degrees in a relevant subject.

4. While the core of any probation department should be professionally educated and trained personnel, it is desirable that the staff include individuals who may lack such professional qualifications but have backgrounds similar to those of the probationers themselves. In addition, in appropriate cases, citizen volunteers should be used to assist probation officers.

S. Probation Manpower

Each state immediately should develop a comprehensive manpower development and training program to recruit, screen, utilize, train, educate, and evaluate a full range of probation personnel, including volunteers, women, and ex-offenders. The program should range from entry level to top level positions and should include the following:

1. Provision should be made for effective utilization of a range of manpower on a full or part-time basis by using a systems approach to identify service objectives and by specifying job tasks and range of personnel necessary to meet the objectives. Jobs should be examined periodically to insure that organizational objectives are being met.

2. In addition to probation officers, there should be new career lines in probation, all built into career ladders.

3. Advancement (salary and status) should be along two tracks: service delivery and administration.

T. Appointment of Probation Personnel

1. Responsibility for appointing chief probation officers in local probation departments should reside solely in the judge of the appointing court. Consideration should be given to the creation of an agency or committee to advise in recruiting and screening probation officers. Such a committee should consist of representives of government, the judiciary, the bar, and the community.

2. Chief probation officers should make all appointments of probation personnel in accordance with a merit system. After a probationary period, tenure should be granted and removal permitted only after a hearing conducted by a civil service commission or other career service organization.

U. Education and Training

1. Fellowships for graduate study should be made available to probation officers and college graduates interested in probation. In addition, probation officer trainee programs combining work and education should be established for high school graduates and college graduates.

2. In-service education and training programs should be jointly planned and developed by appropriate state agencies, universities, and local probation departments. In state and larger local probation departments, implementation of these programs should be made a full-time responsibility.

V. Salaries of Probation Personnel

1. Entry salaries should be competitive with entry salaries offered in related fields such as welfare, education, and community action programs.

2. Salaries should be structured so that promotion to an administrative or supervisory job is not the only means of obtaining a higher salary. Merit pay increases should be available for outstanding job performance, advanced academic achievement, or completion of special in-service training.

W. Collateral Services

In appropriate cases, probation departments should be prepared to provide additional services which may be foreign to the traditional conceptions of providing presentence reports and supervising convicted offenders. Examples of such additional services include the preparation of reports to assist court in making pretrial release decisions and assistance to prosecutors in diverting selected charged individuals to appropriate non-criminal alternatives.

X. Special Facilities

1. It is desirable, both on a local and on a statewide, areawide or nationwide basis, that facilities be developed to provide special treatment for certain types of offenders, particularly the young, and that the court be authorized as a sentencing alternative to employ such facilities in appropriate cases.

2. Employment of such facilities should not result in commitment or supervision for a period longer than would otherwise be authorized for the offense involved. While it may be appropriate to except misdemeanors and other lesser offenses from this general principle, commitment or supervision for a longer period of time should not be authorized unless the following conditions are met:

   a. A presentence report supplemented by a report of the examination of the defendant's mental, emotional and physical condition has been obtained and considered; and
   b. The court finds specifically that a proper treatment program is available and that the defendant will benefit from the program; and
   c. The maximum period for which such commitment or supervision can extend is fixed by a statute at no longer that two years; and

d. At the conclusion of one year the custodial or supervisory authorities are required to review the progress of the defendant and are required to make a showing to the sentencing court to the effect that the contemplated treatment is actually being administered to the defendant and outlining the progress which the defendant has made; and

e. The sentencing court has the authority at any time to terminate the commitment or supervision.

Y. Misdemeanant Probation

The state should develop additional probation manpower and resources to assure that the courts may use probation for persons convicted of misdemeanors in all cases for which this disposition may be appropriate. All standards of this report that apply to probation are intended to cover both misdemeanant and felony probation. Other than the possible length or probation terms, there should be no distinction between misdemeanant and felony probation as to organization, manpower, or services.

Z. Probationers should pay an appropriate portion of the administrative cost of the probation services rendered to them by the state.

Commentary and Implementation

Sentencing is in large part concerned with avoiding future crimes by helping the defendant learn to live productively in the community against which he has offended. Probation proceeds on the theory that the best way to pursue this goal is to orient the criminal sentence toward the community setting in those cases where it is compatible with the other objectives of sentencing. Other things being equal, the odds are that a given defendant will learn how to live successfully in the general community if he is dealt with in that community rather than shipped off to the artificial and atypical environment of an institution of confinement.

This is, of course, not to say that probabation should be used in all cases, or that it will always produce better results. But it is an affirmative correctional tool, when used with the resources necessary to make it effective. A judge with his other duties does not have the time to check an individual's background himself or supervise individuals on probation. He must delegate this authority to others. To do this, he must have the necessary personnel to provide this service.

Arkansas Statutes 43-2801 provides for the Board of Pardons and Parole to supervise individuals on probation, subject to conditions imposed by the court provided such supervision is requested in writing by the courts. Arkansas Statutes 43-2331, 2335, 2813, provides for each judicial circuit to employ one or more probation officers. The salary is agreed upon by each of the county judges of each county served by each probation office. Arkansas Statutes 43-2333 provides for every judicial circuit to employ one or more presentence officers. While the statutes provide for these positions, it is left to the counties for funding. This has resulted in some judicial circuits being able to provide these services while others cannot.

In order to implement these standards, the Supreme Court should initiate legislative action establishing a centralized, state financed, judicially controlled probation and presentence department by January 1, 1978.

"An Ounce of Prevention"

Corrections

In Session, Sam Peck Hotel, 9/12/75

Lynn Wade
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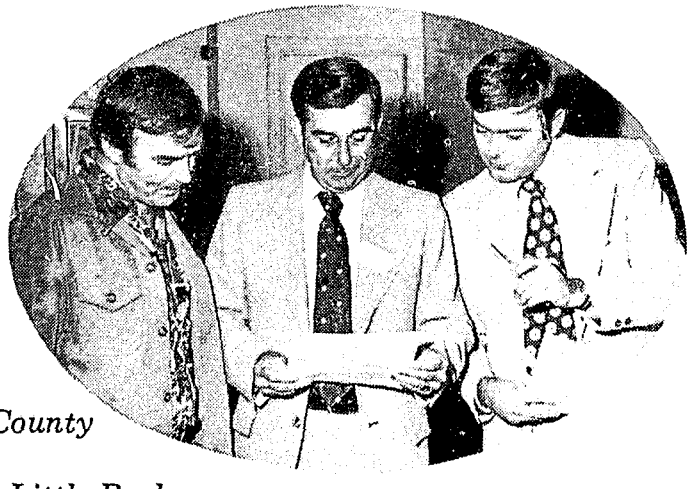

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SECTION 5 CORRECTIONS

CHAPTER 1 CORRECTIONAL PLANNING

STANDARD 5.1.1. PLANNING AND ORGANIZATION

Arkansas should begin immediately to develop an operational, integrated process of long, intermediate, and short-range planning for administrative and operational functions. This should include:

1. An established procedure open to as many employees as possible for establishing and reviewing organizational goals and objectives at least annually.

2. A research capability for adequately identifying the key social, economic, and functional influences impinging on that agency and for predicting the furture impact of each influence.

3. The capability to monitor, at least annually, progress toward previously specified objectives.

4. An administrative capability for properly assessing the future support services required for effective implementation of formulated plans.

These functions should be combined in one organizational unit responsible to the chief executive officer but drawing heavily on objectives, plans, and information from each organizational subunit.

Each agency should have an operating cost accounting system by 1977 which should include the following capabilities:

1. Classification of all offender functions and activities in terms of specific action programs.

2. Allocation of costs to specific action programs.

3. Administrative conduct, through program analysis, of ongoing programmatic analysis for management.

STANDARD 5.1.2. EVALUATING THE PERFORMANCE OF THE CORRECTIONAL SYSTEM

Each correctional agency immediately should begin to make performance measurements on two evaluative levels-overall performance of system reviews as measured by recidivism, and program reviews that emphasize measurement of more immediate program goal achievement. Agencies allocating funds for correctional programs should require such measurements. Measurement and review should reflect these considerations:

1. For system reviews, measurement of recidivism should be the primary evaluative criterion. The following definition of recidivism should be adopted in Arkansas by all correctional agencies to facilitate comparisons among jurisdictions and compilation of national figures:

   Recidivism is measured by

   a. criminal acts that resulted in conviction by a court, when committed by individuals who are under correctional supervision or who have been released from correctional supervision within the previous three years, and by

   b. technical violations of probation or parole in which a sentencing or paroling authority took action that resulted in an adverse change in the offender's legal status.

Technical violations should be maintained separately from data on reconvictions. Also, recidivism should be reported in a manner to discern patterns of change. At a minimum, statistical tables should be prepared every 6 months during the 3 year follow-up period, showing the number of recidivists. Discriminations by age, offense, length of sentence, and disposition should be provided.

2. Program review is a more specific type of evaluation that should entail these five criteria of measurement:

   a. Measurement of effort, in terms of cost, time, and types of personnel employed in the project in question.

   b. Measurement of performance, in terms of whether immediate goals of the program have been achieved.

   c. Determination of adequacy of performance, in terms of the program's value for offenders exposed to it shown by individual follow-up.

   d. Determination of efficiency, assessing effort and performance for various programs to see which are most effective with comparable groups and at what cost.

e. Study of process, to determine the relative contributions of process to goal achievement, such as attributes of the program related to success or failure, recipients of the program who are more or less benefited, conditions affecting program delivery, and effects produced by the program. Program reviews should provide for classification of offenders by relevant types (age, offense, category, base expectancy rating, psychological or type, etc.) Evaluative measurement should be applied to discrete and defined associates. Where recidivism data are to be used, classifications should be related to reconvictions and technical violations of probation or parole as required in systems review.

3. Assertions of system or program success should not be based on unprocessed percentages of offenders not reported in recidivism figures. That is, for individuals to be claimed as successes, their success must be clearly related in some demonstrable way to the program to which they were exposed.

Commentary and Implementation

Standards 5.1.1. and 5.1.2.

Corrections, like many other people handling agencies, does not have any control over the number of people which it must serve. Correctional planning, by corrections alone, can only plan for its future growth based on past trends. If new laws are enacted which alters the length of time a person must serve, plans must be changed. With this in mind, it is recommended an effort be undertaken by all segments of the criminal justice system to explore the net effect and result of any legislation which would adversly effect inmates and the correctional system. If it is determined the correctional system must plan for an unexpected large increase in inmates, it is further recommended that the correctional system be given the means to provide these services and the time required to secure these services or facilities before implementation of the legislation.

The Arkansas Department of Correction, administratively and organizationally, has not changed significantly since its inception in 1968. At that time, most of the efforts expended at the state level related to the farming operation and upgrading its physical facilities. In the past three years, with more emphasis being placed on community corrections, rehabilitation and treatment programs, and the large increase in the overall inmate population, a need now exists for the Department of Correction to re-evaluate its administrative and organizational structure to better serve the interest of the state and the inmate.

STANDARD 5.1.3. STATE CORRECTIONAL INFORMATION SYSTEMS

Each correctional agency by 1978 should develop and maintain, or cooperate with other states in the development and maintenance of, a correctional information system to collect, store, analyze, and display information for planning, operational control, offender tracking, and program review for all state and local correctional programs and agencies.

1. A statewide information system should be implemented for Arkansas. Local and central correctional components (facilities, branch offices, programs) of all sizes should be included in the system.

2. In all cases, the State or regional system should store local data, with access provided through terminals at various points throughout the State. Control of the system should be in the hands of participating agency representatives. Until unifed correctional systems are established, admission to the system should be voluntary, but benefits should be clear enough to encourage membership. A share of the development costs should be borne by the State or regional consortium.

3. The programmers and analysts for the Department of Correction information system should be assigned full-time to it and should be under the complete administration control of the Department of Correction.

4. The department of corrections should be responsible for maintaining the security and privacy of records in its data base and should allow data processing of its records only under its guidance and administrative authority. This should not be construed as prohibitive, as the Department of Correction should encourage research in the correctional system and provide easy access to authorized social science researches. (Only information that would identify individuals should be witheld).

5. The information-statistics function should be placed organizationally to have direct access to the top administrators of the department. The director of the information group should report directly to the agency administrator.

6. The mission of the information-statistics function should be broad enough to assume informational and research support to all divisions within the department of corrections and to support development of an offender-

based transaction system. Priorities of activity undertaken should be established by the top administrators in consultation with the director of the information system.

STANDARD 5.1.4. DESIGN CHARACTERISTICS OF A CORRECTIONAL INFORMATION SYSTEM

Arkansas, in the establishment of its information system should design it to facilitate four distinct functions:

1. Offender accounting.
2. Administrative-management decisionmaking.
3. Ongoing departmental research.
4. Rapid response to ad hoc inquiries.

The design of the correctional information system should insure capability for provision of the following kinds of information and analysis:

1. Point-in-time net results--routine of program status, such as:

   a. Basic population characteristics.
   b. Program definition and participants.
   c. Organization units, if any.
   d. Personnel characteristics.
   e. Fiscal data.

2. Period-in-time reports--a statement of flow and change over a specified period for the same items available in the point-in-time net results report. The following kinds of data should be stored.

   a. Summary of offender events and results of events.
   b. Personnel summaries.
   c. Event summaries by population characteristics.
   d. Event summaries by personnel characteristics.
   e. Fiscal events summarized by programs.

3. Automatic notifications-the system should be designed to generate exception reports for immediate delivery, four kinds of exception reports are basic:

   a. Volume of assignments to programs or units varying from a standard capacity.
   b. Movement of any type that varies from planned movement.
   c. Noncompliance with established decision criteria.
   d. Excessive time in process.

4. Statistical-analytical relationships-reports of correlations between certain variables and outcomes, analysis of statistical results for a particular program or group of offenders, etc.

STANDARD 5.1.5. STAFFING FOR CORRECTIONAL RESEARCH AND INFORMATION SYSTEM

Arkansas, in the implementation of an information system should provide minimum capabilities for analysis and interpretation of information. For all but the largest components (facilities, branch officies, programs), a small information and statistics section capable of periodic reports on the consequences of policy and decisionmaking will suffice. Larger components will benefit from having a professional staff capable of designing and executing special assessment studies to amplify and clarify reports generated by the information system. Staffing for research and information functions should reflect these conditions.

1. Where the component's size is sufficient to support one or more full-time positions, priority should be given to assigning an information manager. The manager should have full responsibility for coordination and supervision of inputs into the system. He also should edit, analyze, the interpret all output material, preparing tables and interpretive reports as indicated.

2. Where the size of the component does not warrant the allocation of full-time positions to information and statistics, one professional staff member should be designed to perform the functions outlined above on a part-time basis.

3. The manager of the State Correctional Information System should use members of his staff as training officers and technical consultants. Where unification has not been achieved, these persons should be responsible for familiarizing county and local correctional administrative and information staff with system requirements and the advantageous use of output.

4. Other steps to achieve effective communication of information include the following:

   a. Researchers and analysis should be given formal training in communication of results to administrators. Such training should include both oral and written communications.

   b. Where feasible, management display centers should be constructed for communication of information to administrators. The center should have facilities for graphic presentation of analyses and other information.

STANDARD 5.1.6. DEVELOPMENT OF A CORRECTIONAL DATA BASE

Arkansas, in the establishment of its information system should design its data base to satisfy the following requirements:

1. The information-statistic function of offender accounting, administrative decisionmaking, ongoing research, and rapid response to questions should be reflected in the design.

2. The data base should allow easy complilation of an annual statistical report, including sections on population characteristics tabulated for given points in time, a recapitulation of population movement for the full year, and an analysis of recidivism by offense and other characteristics.

3. The data base should include all data required at decision points. The information useful to corrections personnel at each decision point in the corrections system should be ascertained in designing the data base.

4. The requirements of other criminal justice information systems for corrections data should be considered in the design, and an interface between the corrections system and other criminal justice information systems developed, including support of offender-based transaction system.

5. All data base records should be individual-based and contain elements that are objectively codable by a clerk.

6. The integrity and quality of data in each record is the responsibility of the information group. Periodic audits should be made and quality control procedures established.

7. The corrections information-statistics system should be designed and implemented modularly to accomodate expansion of the data base. Techniques should be established for pilot testing new modules without disrupting ongoing operations of the system. Interactions with planners and administrators should occur before introduction of innovations.

8. Data bases should be designed for future analysés, recognizing the lag between program implementation and evaluation.

9. The results of policies (in terms of evaluation) should be reported to administrators, and data base content should be responsive to the needs of changing practices and policies to guarantee that the all-important feedback loop will not be broken.

10. The initial design of the corrections data of the corrections data base should recognize that change will be continual. Procedures to assure smooth transistion should be established.

Commentary and Implementation

Standards 5.1.3., 5.1.4., 5.1.5 and 5.1.6.

Historically, one of the correctional administrators largest problems in predicting future needs has been a lack of sufficient data.

Standard 5.1.1. and 5.1.2. relate to correctional planning and organization. In order to properly develop these planning strategies, it will be necessary to further upgrade the state's correctional information system to provide correctional administrators with a sufficient data base for decision making efforts.

Implementation of these standards will require the continued support initiated by LEAA in conjunction with the State Department of Correction.

CHAPTER 2 MANPOWER

STANDARD 5.2.1. STAFF DEVELOPMENT

Correctional agencies immediately should plan and implement a staff development program that prepares and sustains all staff members:

1. Qualified trainers should develop and direct the program.

2. Training should be the responsibility of management and should provide staff with skills and knowledge to fulfill organizational goals and objectives.

3. To the fullest extent possible, training should include all members of the organization, including the clients.

4. Training should be conducted at the organization site and also in community settings reflecting the context of crime and community resources.

    a. All top and middle managers should have at least 40 hours a year of executive development training, including training in the operations of police, courts, prosecution, and defense attorneys.

    b. All new staff members should have at least 40 hours of orientation training during their first week on the job and at least 60 hours additional training during their first year.

    c. All staff members, after their first year, should have at least 40 hours of additional training a year to keep them abreast of the changing nature of their work and introduce them to current issues affecting corrections.

5. Financial support for staff development should continue from the Law Enforcement Assistance Administration, but State and local correctional agencies must assume support as rapidly as possible.

6. Trainers should cooperate with their counterparts in the private sector and draw resources from higher education.

7. Sabbatical leaves should be granted for correctional personnel to teach or attend courses to colleges and universities.

STANDARD 5.2.2. PERSONNEL PRACTICES FOR RETAINING STAFF

Correctional agencies should immediately reexamine and revise personnel practices to create a favorable organizational climate and eliminate legitimate causes of employee dissatisfaction in order to retain capable staff. Policies should be developed that would provide:

1. Salaries for all personnel that are competitive with other parts of the criminal justice system as well as with comparable occupation groups of the private sector of the local economy. An annual cost-of-living adjustment should be mandatory.

2. Opportunities for staff advancement within the system. The system also should be opened to provide opportunities for lateral entry and promotional mobility within jurisdictions and across jurisdictional lines.

3. Elimination of excessive and unnecessary paperwork and chains of command that are too rigidly structured and bureaucratic in function, with the objective of facilitating communication and decisionmaking to encourage innovation and initiative.

4. Appropriate recognition for jobs well done.

5. Workload distribution and schedules based on flexible staffing arrangements. Size of the workload should be only one determinant. Also to be included should be others in the nature of cases, team assignments, and the needs of offenders and the community.

6. A criminal justice career pension system to include investment in an annuity and equity system for each correctional worker. The system should permit movement within elements of the criminal justice system and from one corrections agency to another without loss of benefits.

STANDARD 5.2.3. STAFFING PATTERNS

Every jurisdiction operating locally based correctional institutions and programs should immediately establish these criteria for staff:

1. All personnel should be placed on a merit, civil service, or related status, with all employees except as noted below assigned to the facility on a full-time basis.

2. Correctional personnel should receive salaries equal to those of persons with comparable qualifications and seniority in the jurisdiction's police and fire departments.

3. Law enforcement personnel should not be assigned to the staffs of local correctional centers.

4. Qualifications for correctional staff members should be set at the State level and include requirement of a high school diploma or equivalent.

5. A program of preservice and inservice training and staff development should be given all personnel. Provision of such a program should be a responsibility of the State government. New correctional workers should receive preservice training in the fundamentals of facility operation, correctional programming, and their role in the correctional process. With all workers, responsibilities and salaries should increase with training and experience.

6. Correctional personnel should be responsible for maintenance and security operations as well as for the bulk of the facility's in-house correctional programming for residents.

7. In all instances where correctional personnel engage in counseling and other forms of correctional programming, professionals should serve in a supervisory and advisory capacity. The same professionals should oversee the activities of volunteer workers within the institution. In addition, they should engage in counseling and other activities as needed.

8. Wherever feasible, professional services should be purchased on a contract basis from practitioners in the community or from other governmental agencies. Relevant State agencies should be provided space in the institution to offer services. Similarly, other criminal justice employees should be encouraged to utilize the facility, particularly parole and probation officers.

9. Correctional personnel should be involved in screening and classification of inmates.

10. Every correctional worker should be assigned to a specific aspect of the facility's programming, such as the educational program, recreation activities, or supervision of maintenance tasks.

11. At least one correctional worker should be on the staff for every six inmates in the average daily population with the specific number on duty adjusted to fit the relative requirements for three shifts.

STANDARD 5.2.4. INTERN AND WORK-STUDY PROGRAMS

Correctional agencies should immediately begin to plan, support, and implement internship and work-study programs to attract students to corrections as a career and improve the relationship between educational institutions and the field of practice. These programs should include the following:

1. Recruitment efforts concentrating on minority groups, women, and socially concerned students.

2. Careful linking between the academic component, work assignments, and practical experiences for the students.

3. Collaborative planning for program objectives and execution agreeable to university faculty, student interns, and agency staff.

4. Evaluation of each program.

5. Realistic pay for students.

6. Follow-up with participating students to encourage entrance into correctional work.

STANDARD 5.2.5. EMPLOYMENT OF VOLUNTEERS

Correctional agencies immediately should begin to recruit and use volunteers from all ranks of life as a valuable additional resource in correctional programs and operations, as follows:

1. Volunteers should be recruited from the ranks of minority groups, the poor, inner-city residents, ex-offenders who serve as success models, and professionals who can bring special expertise to the field.

2. Training should be provided volunteers to give them an understanding of the needs and life-styles common among offenders and to acquaint them with the objectives and problems of corrections.

3. A paid volunteer coordinator should be provided for efficient program operation.

4. Administrators should plan for and bring about full participation of volunteers in their programs; volunteers should be included in volunteer program organizational development efforts.

5. Insurance plans should be available to protect the volunteer from any mishaps experienced during participation in the program.

6. Monetary rewards and honorary recognition should be given to volunteers making exceptional contribution to an agency.

STANDARD 5.2.6. COORDINATED STATE PLAN FOR CRIMINAL JUSTICE EDUCATION

Arkansas should establish by 1978 a plan for coordinating criminal justice education to assure a sound academic continuum from an associate of arts through graduate studies in criminal justice, to allocate education resources to sections of the State with defined needs, and to work toward proper placement of persons completing these programs.

1. The State Board of Higher Education should be utilized to formulate and implement the plan.

2. Educational leaders, state planners, and criminal justice staff members should meet to chart current and future statewide distribution and location of academic programs, based on proven needs and resources.

3. Award of Law Enforcement Education Program funds should be based on a sound education plan.

4. Preservice graduates of criminal justice education programs should be assisted in finding proper employment.

The Arkansas Department of Correction should ensure that proper incentives are provided for participation in higher education programs.

1. Inservice graduates of criminal justice education programs should be aided in proper job advancement or reassignment.

2. Rewards (either increased salary or new work assignments) should be provided to encourage inservice staff to pursue these educational opportunities.

Commentary and Implementation

Standards 5.2.1, 5.2.2., 5.2.3., 5.2.4., 5.2.5. and 5.2.6.

It is widely agreed that people are the most effective resource known for helping other people. But, when the people who work in corrections, and the public which employs them, are uncertain as to whether the system is supposed to punish lawbreakers or to rehabilitate them, to protect society or to change social conditions, or to do some or all of these things under varying circumstances, do not have a clear and definite concept of the role of corrections, it is difficult to plan a successful staff training program, or to recruit and retain personnel from specialized disciplines. While correctional employees are generally positive about their jobs, they do feel that there is too much to do, in too little time to do it, for too little compensation, either monetary or otherwise.

One area where corrections can realize the benefits of untapped manpower available for use is intern and work-study programs and volunteer services.

Intern and work-study programs have proven to be an excellant method of recruiting young people to a field which badly needs them. These programs introduce students to the field under real life circumstances, allowing them to confirm or reject corrections as a career choice on the basis of their experience.

Volunteers can contribute much more than their services to correctional programs. Many of those now working as volunteers are "gatekeepers" in the community, persons who can help offenders and ex-offenders secure jobs, schooling and recreation. Perhaps their greatest contribution to corrections lies in demonstrating that offenders are people who can become useful contributors to the community, people with whom it is a satisfaction to work. The volunteer can serve as a bridge between corrections and the free community, a bridge which is sorely needed.

Volunteers require supervision, direction, and guidance, just as other correctional employees do, and paid staff should be provided to manage their programs and activities. The development of volunteer programs, as well as other correctional programs, should be planned with the assistance of volunteers, who have a variety of expertise to offer.

If corrections is to overcome manpower and training shortages, it must be willing to provide adequate compensation for competent personnel while encouraging employees to further their professional training through higher educational programs, and actively recruit and train volunteers in meaningful jobs and positions.

STANDARD 5.3.1. USE OF DIVERSION

Each local jurisdiction, in cooperation with related State agencies, should develop and implement by 1980 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

1. The planning process and the identification of diversion services to be provided should follow generally and be associated with "total system planning", as outlined in Standard 5.3.3.

   a. With planning data available, the responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of responsibility, courses of procedure, and other policies to serve as guidelines to its use.

   b. Mechanisms for review and evaluation of policies and practices should be established.

   c. Criminal Justice agencies should seek the cooperation and resources of other community agencies to which persons can be diverted for services relating to their problems and needs.

2. Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines should specify:

   a. The objectives of the program and the types of cases to which it is to apply.

   b. The means to be used to evaluate the outcome of diversion decisions.

   c. A requirement that the official making the diversion decision state in writing the basis for his determination denying or approving diversion in the case of each offender.

   d. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decisionmakers.

3. The factors to be used in determining whether an offender, following arrest but prior to adjudication, should be selected for diversion to a noncriminal program, should include the following:

   a. Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his criminal acts.

   b. Services to meet the offender's needs and problems

are unavailable within the criminal justice system or may be provided more effectively outside the system.

c. The arrest has already served as a desired deterrent.

d. The needs and interests of the victim and society are served better by diversion than by official processing.

e. The offender does not present a substantial danger to others.

f. The offender voluntarily accepts the offered alternative to further justice system processing.

g. The facts of the case sufficiently establish that the defendant committed the alleged act.

Commentary and Implementation

Alternatives to criminalization should be develped for use from the time an illegal act occurs to adjudication. These procedures should be preferred over traditional preventive measures for those offenders who do not present a serious threat to society.

A number of factors justify noncriminal treatment, counseling, or restitution programs. The existing system, due to overcrowded prison rehabilitation programs, lack of adequate financing, and a multitude of other factors has not been successful in achieving reformation in any large number of cases.

Personal values, costs, and humanitarian interest also contribute to the arguments for diversion.

Recently, there has been a nationwide movement to abandon rehabilitative and diversion programs and incarcerate more people for longer periods of time. This movement is based on the theory that since some people "always" return to prison, rehabilitation has failed. What this theory has failed to note however, is that only a very small percentage of felony offenders have been exposed to rehabilitative programs. Since most rehabilitation programs are expensive, they are usually understaffed and over-crowded.

The Arkansas Department of Correction was created in 1968, and its initial goal was to upgrade its existing facilities to comply with federal court rulings. Only recently has the Department of Correction been in a position to create inovative rehabilitation programs, notably the theraputic communities for character disorders and the alcohol/narcotic treatment programs. The Arkansas legislature in 1975, passed Act 378, the "Youthful Offender Alternative Service Act". If the Department of Correction is to determine, in fact, whether or not rehabilitation works, programs such as these must be supported, for a sufficient length of time, to properly analyze its overall effect on the offenders who participate.

STANDARD 5.3.2. COMPREHENSIVE PRETRIAL PROCESS PLANNING

Each criminal justice jurisdiction immediately should develop, by 1978, a comprehensive plan for improving the pretrial process. In the planning process, the following information should be collected:

1. The extent of pretrial detention, including the number of detainees, the number of man-days of detention, and the range of detention by time periods.

2. The cost of pretrial release programs and detention.

3. The disposition of persons awaiting trial, including the number released on bail, released on non-financial conditions and detained.

4. The disposition of such persons after trial including, for each form of pretrial release or detention, the number of persons who were convicted, who were sentenced to the various available sentencing alternatives, and whose cases were dismissed.

5. Effectiveness of pretrial conditions, including the number of releasees who (a) failed to appear, (b) violated conditions of their release, (c) were arrested during the period of their release, or (d) were convicted during the period of their release.

6. Conditions of local detention facilities, including the extent to which they meet the standards recommended by law.

7. Conditions of treatment of and rules governing persons awaiting trial.

8. The need for and availability of resources that could be effectively utilized for persons awaiting trial, including the number of arrested persons suffering from problems relating to alcohol, narcotic addiction, or physical or mental disease or defects, and the extent to which community treatment programs are available.

9. The length of time required for bringing a criminal case to trial and, where such delay is found to be excessive, the factors causing such delay.

The comprehensive plan for the pretrial process should include the following:

1. Assessment of the status of programs and facilities relating to pretrial release and detention.

2. A plan for improving the programs and facilities relating to pretrial release and detention, including priorities for implementation.

3. A plan for removing the public intoxicant from the criminal justice system.

4. A means of implementing the plan and of discouraging the expenditure of funds for, or the continuation of, programs inconsistent with it.

5. A method of evaluating the extent and success of implementation of the improvements.

6. A strategy for processing large numbers of persons awaiting trial during mass disturbances, including a means of utilizing additional resources on a temporary basis.

The comprehensive plan for the pretrial process should be conducted by a group representing all major components of the criminal justice system that operate in the pretrial area.

Included should be representatives of the police, sheriffs, prosecution, public defender, private defense bar, judiciary, court management, probation, corrections, and the community under the direction of the Governor's Commission on Crime and Law Enforcement.

STANDARD 5.3.3. TOTAL SYSTEM PLANNING FOR COMMUNITY CORRECTIONS

State and local correctional systems and planning agencies should undertake by 1978, on a cooperative basis, planning for community corrections based on a total system concept that encompasses the full range of offenders' needs and the overall goal of crime reduction. Total system planning for a particular area should include the following concepts:

1. While the actual methodology may vary, total system planning should include these phases:

   a. A problem definition phase, including initial demarcation of the specific service area, as determined by the scope of the problem to be addressed. Its identification results in a preliminary statement of the correctional problem.

b. Data survey and analysis designed to obtain comprehensive information on population trends and demography, judicial practices, offender profiles, service area resources, geographic and physical characteristics, and political and governmental composition. Such information is needed to assess service area needs and capability and to determine priorities.

c. A program linkage phase involving examination of various ways to meet the problems identified. The linkages should emphasize service area resources that can be used to provide community based correctional programs as alternatives to incarceration. Identification and development of diversion programs by program linkage will have significant implications for service area's detention capacity and program requirements.

d. A definition and description of the correctional delivery system for the service area developed on the basis of results of the previous phases. Facility and nonfacility program requirements should be included.

e. Program and facility design, which proceed from delivery system definition. The resulting overall community correctional system design will vary with specific service area characteristics, but it should follow either a regional or a network approach.

   1. A network service delivery system should be developed for urban service areas with large offender populations. This system should have dispersed components (programs and facilities) that are integrated operationally and administratively. The network should include all components necessary to meet the needs of clientele and the community. Court intake, social investigation, and pretrial release and detention programs should be located near the courts. Other residential and nonresidential components should be located in the clients' communities or neighborhoods and should use whenever possible existing community resources.

   2. A regionalized service delivery system should be developed for service areas that are sparsely populated and include a number of cities, towns, or villages. Such a system may be city-county or multi-county in composition and scope. Major facility and program components should be consolidated in a central area or municipality. Components should include intake and social investigations services, pretrail release services, pretrial and post-trial residential facilities, special programs, and resource coordination. Extended components, such as pre-release, work/study release, alcoholic and

narcotic addict treatment, and related program coordination units, should be located in smaller population centers with provision for operational and administrative coordination with the centralized components. The centralized system component should be located in close proximity to court services and be accessible to private and public transportation.

2. All correctional planning should include consideration of the physical, social, and aesthetic impact imposed by any facility or network. Such consideration should be based on the National Environmental Policy Act of 1969.

3. All planning efforts should be made in the context of the master plan of the statewide correctional planning body.

4. Individual program needs, such as detention centers, should not be considered apart from the overall correctional service plan or the relevant aspects of social service systems (health, education, public assistance, etc.) that have potential for sharing facilities, resources, and experience.

5. All community correctional planning should give highest priority to diversion from the criminal justice system and utilization of existing community resources.

Commentary and Implementation

Standards 5.3.2. and 5.3.3.

The need for a more coherent approach to correctional programs has long been recognized. Historically, correctional reform has been limited to minor variations on a discordant theme. Seldom have underlying concepts and assumptions been examined critically. "New" community-based programs sometimes are only institution-based activities with minimal ties to the community.

Clearly, a logical, systematic planning approach is needed, one that recognizes changing concepts and changing priorities and provides a means for developing more effective programs and facilities. Total system planning should be undertaken to encompass the entire scope of an area's needs and resources.

The objective of community corrections is to maximize offenders' access to local resources, not as an alternative to incarceration, but as a solution itself. This goal requires more integration of criminal justice components (statewide and within each service area) and coordination with other social service delivery systems.

STANDARD 5.3.4. SENTENCING TO EXTENDED TERMS

State penal code revisions should contain separate provisions for sentencing offenders when, in the interest of public protection, it is considered necessary to incapacitate them for substantial periods of time. The following provisions should be included:

1. Authority for the judicial imposition of an extended term of confinement of not more than 25 years, except for murder, when the court finds the incarceration of the defendant for a term longer than 5 years is required for the protection of the public and that the defendant is (a) a persistent felony offender, (b) a professional criminal, or (c) a dangerous offender.

2. Definition of a persistent felony offender as a person over 21 years of age who stands convicted of a felony for the third time. At least one of the prior felonies should have been committed within the 5 years preceding the commission of the offense for which the offender is being sentenced.

3. Definition of a professional criminal as a person over 21 years of age, who stands convicted of a felony that was committed as part of a continuing illegal business in which he acted in concert with other persons and occupied a position of management, or was an executor of violence. An offender should not be found to be a professional criminal unless the circumstances of the offense for which he stands convicted show that he has knowingly devoted himself to criminal activity as a major source of his livelihood or unless it appears that he has substantial income or resources that do not appear to be from a source other than criminal activity.

4. Definition of a dangerous offender as a person whose criminal conduct it is found by the court to be characterized by: (a) a pattern of repetitive behavior which poses a serious threat to the safety of others, (b) a pattern of persistent aggressive behavior with heedless indifference to the consequences, or (c) a particularly heinous offense involving the threat or infliction of serious bodily injury.

5. Authority for the court to impose a minimum sentence to be served prior to eligibility for parole. The minimum sentence should be limited to those situations in which the community requires reassurance as to the continued confinement of the offender.

6. Authority for the sentencing court to permit the parole of an offender sentenced to a minimum term prior to service of that minimum upon request of the board of parole.

7. Authority for the sentencing court in lieu of the imposition of a minimum to recommend to the board of parole at time of sentencing that the offender not be paroled until a given period of time has been served.

8. Authority for the sentencing court in suitable cases to use "shock" sentences not to exceed thirty days. Upon completion of the total sentence imposed, the offender's felony record be expunged.

Commentary and Implementation

The traditional approach to sentencing legislation has been to establish maximum sentences in contemplation of the most dangerous offender who might commit the offense in question. The result has been sentences authorized and imposed far in excess of what is required to satisfy both the public safety and the offender's needs.

On the other hand, there are some offenders whose aggressive, repetitive, violent, or predatory behavior poses a serious threat to the community. In many instances, these offenders are not responsive to correctional programs. Public safety may demand that they be incapacitated for a period in excess of 5 years. This standard provides different approaches be authorized for such offenders when there is supporting evidence.

Most recividist laws are aimed at removing the potentially dangerous offenders from the society they might harass and damage. But, they perpetrate the idea that all recividist are a danger to society, while the first offender is not. For example, a bad check writer (artist) could hardly be compared to a mass murderer, etc., who has only been arrested once.

This standard also has provisions for early release, or requiring that a minimum sentence be signed upon the recommendation of the sentencing authority.

These provisions have a two-fold effect: (1) To avoid the rigidity of a minimum sentence, and (2) to allow the court to express community feelings without going completely overboard.

Legislation should be adopted by 1979, patterned after this standard, which would effectively remove the dangerous offender from society.

STANDARD 5.4.1. COMMUNITY SERVICES FOR PAROLEES

The state should begin immediately to develop a diverse range of programs to meet the needs of parolees. These services should be drawn to the greatest extent possible from community programs avilable to all citizens, with parole staff providing linkage between services and the parolees needing or desiring them.

1. Stringent review procedures should be adopted, so parolees not requiring supervision are released from supervision immediately and those requiring minimal attention are placed in minimum supervision caseloads.

2. Parole officers should be selected and trained to fulfill the role of community resource manager.

3. Parole staff should participate fully in developing coordinated delivery systems of human services.

4. Arkansas should use, as much as possible, a requirement that offenders have a visible means of support, rather than a promise of a specific job, before authorizing their release on parole.

5. Parole and State employment staffs must develop effective communication systems at the local level. Joint meetings and training sessions need to be undertaken.

6. Each parole agency should have one or more persons attached to act as liaison with major program agencies, such as the Office of Economic Opportunity, Office of Vocational Rehabilitation, and Department of Labor.

7. Institutional vocational training tied directly to specific subsequent job placements should be supported.

8. Small community-based group homes should be available to parole staff for pre and postrelease programs, for crises, and as a substitute to recommitment to an institution in appropriately reviewed cases of parole violation.

9. Funds should be made available to parole staffs to purchase needed community resources for parolees.

10. Special caseloads should be established for offenders with specific types of problems, such as drug abuse.

STANDARD 5.4.2. REDISTRIBUTION OF CORRECTIONAL MANPOWER RESOURCES TO COMMUNITY-BASED PROGRAMS

Correctional and other agencies, implementing the recommendations for reducing the use of major institutions and increasing the use of community resources for correctional purposes, should undertake immediate cooperative studies to determine proper redistribution of manpower from institutional to community-based programs. This plan should include the following:

1. Development of a statewide staff relocated by institutional closure or reassignment of the major facilities role.

2. Proposals for retaining staff relocated by institutional closure or reassignment of the major facilities role.

3. A process of updating information on program effectiveness and needed role changes for correctional staff working in community-based programs.

4. Methods for correctional agencies to cooperate effectively with informal and private correctional efforts in the community. Both should develop collaboratively rather than competitively.

Commentary and Implementation

Standards 5.4.1. and 5.4.2.

Attempts to improve parole outcome by providing all parolees with closer supervision have proved to be quite fruitless. A number of parolees require little supervision, and others none at all. For those requiring supervision, the most recent emphasis has been directed toward finding and using existing community resources.

To obtain these resources parole staffs must gear their attention to other community service agencies and develop greater competence in acting as resource managers as well as counselors. A parole staff has a specific task: to assist parolees in availing themselves of community resources and to counsel them regarding their parole obligation. Parole staff also must take responsibility for finding needed resources for parolees in the community.

Unfortunately, while it may appear that the parole department would be adequately staffed under this proposal, since more emphasis will be placed on utilizing existing programs, the reverse is true. If a parole officer is to adequately meet the needs of the client, parole caseloads must be reduced drastically. Of course, the time when parole staff can function as brokers or resouce managers will be a while in coming. In the near future, parole officers must continue to deal directly with many of the very real problems parolees face. Chief among these is making sure that persons recently released have adequate financial support. There are a number of ways in which this need can be met. Where offenders have been involved in work-release

programs, no major problems should be encountered. For other offenders, however, or for those who have large families or wish to continue education or training, other arrangements may be needed.

Adequate "gate money" should be provided for those who have been involved in programs with no financial rewards. The high correlation between parole failure and the amount of money an offender has during the first months of release makes it clear that these investments would be sound ones.

For those parolees having difficulty finding employment, parole staff must develop working relationships with agencies and organizations in the community whose purpose is to help citizens find jobs and should make arrangements for parolees to continue in educational or training pursuits.

An additional resource for parole personnel is the small, community-based residential facility. Besides serving as the last stage of release for many offenders, such facilities can serve as a place to go during times of crisis for the parolee, whether to engage in activities offered or to live temporarily. These facilities can also be utilized for offenders who have violated their parole and require a brief period of control short of return to an institution. Finally, they can serve as a meeting place for community residents, offenders, and ex-offenders. They make a ideal place to hold group meetings such as team planning sessions or a drug treatment group.

Before acting to secure such needed services in the community, it must be remembered that responsibility of parole personnel begins before an offender formally leaves an institution. They should work with institutional staff to assure that institutional programs are operating to meet the needs of the inmates. If an offender leaves an institution with all his needs yet to be met, the parole officer's task is an almost impossible one. In addition, while community involvement efforts are under way, the parole system may have to purchase services needed by parolees rather than trying to provide all of them directly. Funds for this purpose should be made available. Finally, to make sure that services are being provided which meet the needs of the offeners released, the parole staff must know what those needs are. They may find that needs vary over time and that many of the releasees at any given time have similar problems. Special teams should then be assigned to concentrate on providing services to groups of parolees with like needs.

The Department of Correction should reevaluate the parole department's policy and capabilities in providing services for parolees. Where the parole department and this standard conflict, efforts should be made to adopt this standard as policy. Efforts to develop community services for parolees should also be incorporated in standard 5.3.3., total system planning.

STANDARD 5.5.1. ACCESS TO COURTS

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of persons under correctional supervision to have access to courts to present any issue cognizable therein, including(1) challenging the legality of their conviction or confinement; (2) seeking redress for illegal conditions or treatment while incarcerated or under correctional control; (3) pursuing remedies in connection with civil legal problems; and (4) asserting against correctional or other governmental authority any other rights protected by constitutional or statutory provision or common law.

1. The State should make available to persons under correctional authority for each of the purposes enumerated herein adequate remedies that permit, and are administered to provide, prompt resolution of suits, claims, and petitions. Where adequate remedies already exist, they should be available to offenders, including pretrial detainees on the same basis as to citizens generally. These remedies should be independent of the correctional agency.

2. There should be no necessity for an inmate to wait until termination of confinement for access to the courts.

3. Where complaints are filed against conditions of correctional control or against the administrative actions or treatment by correctional or other governmental authorities, offenders may be required first to seek recourse under established administrative procedures and appeals and to exhaust their administrative remedies./ Administrative remedies should be operative within 30 days and not in a way that would unduly delay or hamper their use by aggrieved offenders. Where no reasonable administrative means is available for presenting and resolving disputes or where past practice demonstrates the futility of such means, the doctrine of exhaustion should apply.

4. Offenders should not be prevented by correctional authority administrative policies or actions from filing timely appeals of convictions or other judgments; from transmitting pleadings and engaging in correspondence with judges, other court officials, and attorneys, or from instituting suits and actions. Nor should they be penalized for so doing.

5. Transportation to and attendance at court proceedings may be subject to reasonable requirements of correctional security and scheduling. Courts dealing with offender matters and suits should cooperate in formulating arrangements to accommodate both offenders and correctional management.

6. Access to legal services and materials appropriate to the kind of action or remedy being pursued should be provided as an integral element of the offender's right to access to the courts. The right of offenders to have access to legal materials was affirmed in Younger v. Gilmore, 404 U.S. 15 (1971).

STANDARD 5.5.2. ACCESS TO LEGAL MATERIALS

Each correctional agency, as part of its responsibility to facilitate access to courts for each person under its custody, should immediately establish policies and procedures to fulfill the right of offenders to have reasonable access to legal materials, as follows:

1. An appropriate law library should be established and maintained at each long term state facility. A plan should be developed and implemented for other reasonable access to an adequate law library.

2. The library should include:

   a. The State constitution and State statutes, State decisions, State prodedural rules and decisions and legal works discussing the foregoing.

   b. Federal case law material.

   c. Court rules and practice treaties.

   d. One or more legal periodicals to facilitate current research.

   e. Appropriate digests and indexes for the above.

STANDARD 5.5.3. PROTECTION AGAINST PERSONAL ABUSE

Each correctional agency should establish immediately policies and procedures to fulfill the right of offenders to be free from personal abuse by correctional staff or other offenders. The following should be prohibited:

1. Corporal punishment.

2. The use of physical force by correctional staff except as necessary for self-defense protection of another person from imminent physical attack, prevention of riot or escape, or prevention of work stopage or disturbance.

3. Any deprivation of clothing, bed and bedding during sleeping hours, light, ventilation, heat, exercise, balanced diet, or hygienic necessities.

4. Any act or lack of care, whether by willful act or neglect, that injures or significantly impairs the health of any offender, except as indicated in number 2. (above)

5. Infliction of mental distress, degradation, or humiliation.

Correctional authorities should:

1. Evaluate their staff periodically to identify persons have been a proper threat to offenders and where such individuals are identified, reassign or discharge them.

2. Develop institutional classification procedures that will identify violence-prone offenders and where such offenders are identified, insure greater supervision.

3. Implement supervision procedures and other techniques that will provide a reasonable measure of safety for offenders from the attacks of other offenders. Technological devices such as closed circuit television should not be exclusively relied upon for such purposes.

STANDARD 5.5.4. MEDICAL CARE

Each correctional agency should take immediate steps to fulfill the right of persons incarcerated to medical care. This should include services guaranteeing physical, mental, and social well-being as well as treatment for specific diseases or infirmities. Such medical care should be comparable in quality and availability to that obtainable by the general public and should include at least the following:

1. A prompt examination by a physician upon commitment to a correctional facility.

2. Medical services performed by persons with appropriate training under the supervision of a licensed physician.

3. Emergency medical treatment on a 24-hour basis.

4. Access to an accredited hospital.

Medical problems requiring special diagnosis, services, or equipment should be met by medical furloughs or purchased services.

A particular offender's need for medical care should be determined by a licensed physician or other appropriately trained person. Correctional personnel should not be authorized or allowed to inhibit an offender's access to medical personnel or to interfere with medical treatment.

Complete and accurate records documenting all medical examinations, medical findings, and medical treatment should be maintained under the supervision of the physician in charge.

The prescription, dispensing, and administration of medication should be under medical supervision, direction, or delegation.

STANDARD 5.5.5. RULES OF CONDUCT

Each correctional agency should immediately promulgate rules of conduct for offenders under its jurisdiction. Such rules should:

1. Be designed to effectuate or protect an important interest of the facility or program for which they are promulgated.

2. Be the least drastic means of achieving that interest.

3. Be specific enough to give offenders adequate notice of what is expected of them.

4. Be accompanied by a statement of the range of sanctions that can be imposed for violations. Such sanctions should be proportionate to the gravity of the rule and the severity of the violation.

5. Be promulgated after appropriate consultation with offenders and other interested parties.

Correctional agencies in promulgating rules of conduct should not attempt generally to duplicate the criminal law. Where an act is covered by administrative rules and statutory law the following standards should govern:

1. Where the State intends to prosecute, disciplinary action should be deferred.

2. Where the State prosecutes and the offender is found not guilty, the correctional authority should not take further punitive action.

STANDARD 5.5.6. NONDISCRIMINATORY TREATMENT

Each correctional agency should immediately develop and implement policies and procedures assuring the right of offenders not to be subjected to discriminatory treatment based on race, religion, nationality, sex, or political beliefs. The policies and procedures should assure:

1. An essential equality of opportunity in being considered for various program options, work assignments, and decisions concerning offender status.

2. An absence of bias is the decision process, either by intent or in result.

3. All remedies available to noninstitutionalized citizens open to prisoners in case of discriminatory treatment.

This standard would not prohibit segregation of juvenile or youthful offenders from mature offenders or male from female offenders in offender management and programming, except where separation of the sexes results in an adverse and discriminatory effect in program availability or institutional conditions.

STANDARD 5.5.7. SOCIAL ENVIRONMENT OF INSTITUTIONS

Each correctional agency operating institutions should undertake immediately to reexamine and revise its policies, procedures, and practices to bring about an institutional social setting that will stimulate offenders to change their behavior and to participate on their own initiative in programs intended to assist them in reintegrating into the community.

1. The institution's organizational structure should permit open communication and provide for maximum input in the decisionmaking process.

   a. A recourse independent of institutional administration should receive and process inmate and staff complaints.

   b. Inmate newspapers and magazines should be supported.

2. The correctional agency and the institution should make explicit their correctional goals and program thrust.

   a. Staff recruitment and training should emphasize attitudes that support these goals.

   b. Performance standard should be developed for programs and staff to measure program effectiveness.

   c. An intensive public relations campaign should make extensive use of media to inform the public of the agency's goals.

   d. The institution administration should be continuously concerned with relevance and change.

3. The institution should adopt policies and practices that will preserve the individual identity of the inmate and normalize institutional settings.

   a. Each offender should be involved in program decisions affecting him.

   b. Offenders should be identified by name rather than prison number, whenever possible or practical.

   c. Rules governing hair length and the wearing of mustaches and beards should be liberalized to reflect respect for individuality and cultural and subcultural trends where possible or practical.

d. Where practical or possible, uniforms should be eliminated and replaced with civilian dress, with reasonable opportunity for individual choice, styles, etc.

e. Institutional visitation should be held in an environment conducive to healthy relationships between offenders and their families and friends.

f. Home furlough should be allowed to offenders custodially qualified to maintain emotional involvement with families.

g. Telephone privileges, including reasonable provisions for long-distance calls, should be extended to all inmates, whenever possible or practical.

h. No limitation should be imposed upon the amount of mail offenders may send or receive.

4. Each institution should make provision for the unique problems faced by minority offenders and take these problems into consideration in practices and procedures.

   a. Subcultural groups should be formally recognized.

   b. Ethnic studies courses should be available.

   c. Staff members representative of minority groups in the institution should be hired and trained.

   d. Minority residents of the community should be involved actively in institution programs.

5. The institution should actively develop the maximum possible interaction between community and institution, including involvement of community members in planning and in intramural and extramural activities.

   a. Institutionally based work-release and study-release programs with an emphasis on community involvement should be used in institutional programs and activities.

   b. Ex-offenders and indigenous paraprofessionals should be used in institutional programs and activities.

   c. Joint programming between the institution and the community should be developed, including such activities as drug counseling sessions, Alcoholics Anonymous meetings, recreation programs, theatre groups, and so on.

   d. Offenders should be able to participate in educational programs in the community, and community members should be able to participate in educational programs in the institution.

e. Police officers should become involved, acquainting offenders with pertinent sections of the law and in general playing a supportive role.

f. Offenders should have opportunities to travel to and participate in worship services of local churches, and representatives of the churches should participate in institutional services whenever possible or practiced.

g. The institution should cultivate active participation of civic groups, and encourage the groups to invite offenders to become members.

h. The institution should arrange for representatives of government agencies to render services to offenders by traveling to the institution or by enabling offenders to appear at agency offices.

i. The institution should obtain the participation of business and labor in intramural and extramural programs and activities.

j. The institution should seek the participation of volunteers in institutional programs and activities.

6. The institution should apply only the minimum amount of security measures, both physical and procedural, that are necessary for the protection of the public, the staff, and inmates, and its disciplinary measures should emphasize rewards for good behavior rather than the threat of punishment for misbehavior.

a. Committed offenders initially should be assigned the least restrictive custodial level possible, as determined by the classification process.

b. Only those mechanical devices absolutely necessary for security purposes should be utilized.

c. Institutional regulations affecting inmate movements and activities should not be so restrictive and burdensome as to discourage participation in program activities and to give offenders a sense of oppression.

d. Standards concerning disciplinary procedures should be adopted, including the promulgation of reasonable rules of conduct and disciplinary hearings and decisions respecting the rights of offenders.

e. An incentive system should be developed to reward positive behavior and to reinforce desired behavioral objectives.

f. Security and disciplinary policies and methods should be geared to support the objective of social

reintegration of the offender rather than simply to maintain order and serve administrative convenience.

Commentary and Implementation

Standards 5.5.1., 5.5.2., 5.5.3., 5.5.4., 5.5.5., 5.5.6., and 5.5.7.

In theory, the corrections profession has accepted the premise that persons are sent to prison as punishment, not for punishment. The American Prison Association in its famous "Declaration of Principles" in 1870, recognized that correctional programs should reflect the fact that offenders were human beings with the need for dignity as well as reformation.

The Correctional Task Force, in reviewing this section, has determined that the requirements stipulated in these standards are in the most part, already being realized. However, the task force feels that these standards represent an area of such importance that they should be restated, and considered hereafter as Arkansas correctional policy. For years federal courts follwed a hands-off doctrine in response to complaints concerning state correctional practices. This meant the federal courts generally refused to be implicated in decisions concerning the propriety and constitutionally of state mehthods for dealing with persons convicted of crimes. The hands-off doctrine had the advantage of leaving decision-making to those most knowlegeable concerning the needs of the correctional system. However, this type of arrangement also left the possibility for abuse.

The recent federal court involvement in the American corrections system has not singled out corrections alone for scrutiny. Society, as well as the federal courts have shown an increasing concern for individual rights which began with the civil rights movement and subsequently affected such areas as student rights, public welfare, mental institutions, and the juvenile court system.

The Arkansas Department of Corrections has, since 1969, been under federal court decree to upgrade all aspects of institutional life and programming. However, in March, 1976, the federal court found that in view of the progress made in the recent past, and considering the programs presently under development, the Arkansas prison system was generally satisfactory, but still requiring minor modifications and improvements.

The Arknasas legislature, in 1973, created the Criminal Detention Facilities Board. This agency is charged with the responsibility for establishing minimum standards of construction, maintenance, and operation for all detention facilities in the state of Arkansas. It is anticipated that many units of local government will require assistance in meeting the proposed minimum detention standards, as well as the standards and goals included herein.

There is an immediate concern at all levels that in order to provide adequate facilities on a long range basis, additional facilities and staff must be secured immediately. There is a growing body of evidence to suggest that the most practical course to follow would be to build and staff, immediately (at the state level), a minimum of two 400 man units, in major metropolitan areas, which could accomodate minimum security long term felons, dangerous felons awaiting trial, and convicted misdemeanants serving a long jail term.

A facility such as this would help local units of government comply with the new minimum detention standards and on the state level, and also provide implemention of the standards relating to community based corrections.

END