

Report of
The Special Committee on the
Correctional System

Representative Carl Twidwell, Chairman
Senator Rodger Randle, Vice Chairman

Members

Representative Ron Sheppard
Representative Jerry Smith
Representative Jerry Steward
Representative Mick Thompson
Senator Jeff Johnston
Senator Don Kilpatrick
Senator Kenneth Landis
Senator John McCune

June 7, 1979

Ron Kreiter, Legal Services
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ACQUISITIONS

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INTRODUCTION

The Special Committee on the Correctional System was created on April 12, 1979, as a result of House Joint Resolution No. 1034. The Resolution directed the Committee to conduct a comprehensive investigation into the "operation, procedures, policies, rules, regulations, financing needs and other matters relating to the Department of Corrections and its Director, Dr. Ned Benton, the State Board of Corrections, and any institutions, facilities, programs or other entities or matters related to or under the jurisdiction or control of the Department, the Director or the Board, including, but not limited to, any and all matters related to the prison overcrowding problem, the budgeting of all funds for the alleviation of such problems, and the general administration, management and personnel actions of the Director and the Department."

The Committee was given the authority to issue subpoenas and to have transcribed the testimony of witnesses who appeared during the investigation. Also, the Committee received, and entered into the record, exhibits in the form of personal papers, records, files and reports from the Committee staff and those Committee members who were involved in special aspects of the investigation. Although all meetings of the Committee took place at the State Capitol, some members spent a day at the McAlester State Prison in order to ascertain the extent of proposed construction and renovation projects. In addition, on April 27, 1979, the Committee sent one of its members, and two staff members,

to Tulsa to consult with Murray Jones Murray, Inc., the architects, and obtain copies of the company's files relating to the Corrections' project.

Prior to the creation of the Special Committee, the leadership in the House of Representatives was seriously concerned about the amount of funds requested by the Department and its Director, Dr. Ned Benton, for the construction and renovation of those projects required by the Federal Court Order in the case of Battle v. Anderson. Cost estimates for the projects were the result of inspections of Department of Corrections' institutions by the firms of Moyer and Associates, correctional consultants, and Murray Jones Murray, Inc., architects. In a preliminary review of these projects, it was felt by the leadership that the standards referred to by the court, and on which the projects were based, were interpreted in a manner so stringent that the costs necessary to meet them would be prohibitive to the state. Also, the cost estimates themselves appeared to be excessive when compared with known square foot construction costs and current prices for building materials.

At the time of these deliberations, the Deputy Director of Community Services of the Department of Corrections, Dr. Paul Inbody, was terminated from his position by Dr. Benton. Since Dr. Inbody had been in contact with the Legislature concerning his view of certain decisions on the part of Dr. Benton, and his opinion of a number of the proposed projects and amount of funds requested in order to meet the requirements of the court, it was felt that his meeting with the leadership might have

been responsible for his dismissal. As a result, the Committee was also requested to review the circumstances surrounding the dismissal of Dr. Inbody.

In the process of investigating these two separate topics of legislative concern, the Committee questioned the application of certain standards to the problems faced by the Oklahoma corrections system as applied by both the court and the consultants, and did not approve the Department's application for accreditation with the American Correctional Association. The Committee also looked into the functioning of the Oklahoma State Board of Corrections and the role it assumed in the selection of consultants and architects as well as the basis for the Board's approval of funds requested and expended by the Department of Corrections.

On April 24, the Committee began its inquiry with testimony by Dr. Benton. Following this session, there were 11 days of meetings, some days with two sessions, at which a total of 17 witnesses testified and were examined by Committee members. Major subject areas investigated, in the order in which they appear in this report, were: I. The Dismissal of Dr. Paul Inbody, II. Consultant's and Architects' Selection and Their Inspections and Estimates, III. The State Board of Corrections, and IV. Statements and Actions of Dr. Ned Benton with regard to the Supplemental Appropriation and the Legislature.

I. THE DISMISSAL OF DR. PAUL INBODY

The Committee investigation opened with a general statement by Dr. Benton and then concentrated on the subject of the dismissal of Dr. Paul Inbody, Deputy Director of Community Services of the Department. After hearing four days of testimony from Dr. Benton, Dr. Inbody, and Department of Corrections' staff concerning Dr. Inbody's personnel record, performance evaluations, travel claims, use of departmental secretarial services, and involvement in the Tulsa County District Attorney's Alcohol Abuse Program, the Committee was satisfied that Dr. Inbody had knowingly abused his position with the Department of Corrections. The members of the Committee, however, felt that Dr. Benton was clearly at fault for having allowed Dr. Inbody to continue those practices which Dr. Benton had questioned earlier in his personnel evaluation of Dr. Inbody. Although the evaluation appeared to be complete, it lacked force and direction in dealing with this issue. Dr. Benton made little attempt to keep a check on Dr. Inbody's activities and failed to terminate his employment when there was sufficient evidence to warrant termination. Because of this, Dr. Benton's motivation in the timing of Dr. Inbody's dismissal is seriously questioned by the Committee.

In the process of reviewing the dismissal of Dr. Inbody, the Committee became aware that it was departmental policy to allow employees who may have committed a crime in the course of their employment, to resign rather than to terminate or have criminal charges filed against them. Such a policy was viewed by the Committee as an undesirable procedure.

FINDINGS

Regarding the dismissal of Dr. Paul Inbody, the Committee finds:

- A. Dr. Inbody abused his position with the Department of Corrections by appropriating Department personnel, material, and transportation for his personal use. For this reason the Committee finds that the termination of Dr. Inbody from employment with the Department of Corrections was justified.

- B. After Dr. Inbody's activities became suspect, Dr. Benton did not maintain closer supervision of his work nor did he dismiss Dr. Inbody at a time when circumstances clearly warranted termination.

- C. The performance evaluation by Dr. Benton was not sufficiently forceful in requiring Dr. Inbody to cease any activity or practice that was not job related.

- D. The timing of Dr. Inbody's dismissal, leads the Committee to question the motives of Dr. Benton. The timing of the firing would suggest that such dismissal had been prompted by a desire to discredit Dr. Inbody's statements to the Legislature.

- E. Employees of the Department who may have committed a crime within the course of performing their duties have been allowed the option of resigning rather than to be dismissed

or to have evidence of possible criminal violations be given to the appropriate investigating agency or prosecuting authority.

II. CONSULTANT'S AND ARCHITECTS' SELECTION AND THEIR INSPECTIONS AND ESTIMATES

Much of the Committee's efforts centered around the selection and estimates of the architects who drew up the figures which were eventually submitted to the Legislature in the form of the Supplemental Appropriation.

The Committee was concerned because the architects who were chosen included Fred Moyer, a corrections consultant, who had been Dr. Ned Benton's supervisor. Moyer had previously testified against the State of Oklahoma in the Federal Court trial which mandated changes in the Department of Corrections. The Board of Corrections, without guidelines for architectural needs or expertise in the architectural area, selected Murray Jones Murray, Inc. The Committee feels that the Board and the Department should have acquired in-house expertise or developed guidelines prior to the architectural selection process.

The Committee reviewed the estimates relying upon individual estimating experience within the Committee and the employment of an independent estimator and found many discrepancies in the original estimations.

The Committee made the following findings after reviewing numerous items admitted into evidence and after hearing sworn testimony from Murray Jones Murray, Inc. personnel, Fred Moyer, Henry Criswell of the State Fire Marshal's office and Department of Corrections' personnel who were familiar with the estimates and project work.

FINDINGS

- A. The Committee finds that the selection of the joint venture of Murray Jones Murray, Inc./Moyer and Associates was suspect and that the Board of Corrections lacked expertise and guidelines in choosing an architectural firm for this particular project.

- B. The Committee finds that the estimated costs of the Supplemental Appropriations by Murray Jones Murray, Inc./Moyer and Associates are inaccurate and in some instances, grossly inflated.

- C. The Committee finds that there is no complete current audit of the Department of Corrections and its correctional institutions.

III. THE STATE BOARD OF CORRECTIONS

The Committee, as part of its investigation, examined the Board of Corrections review procedures for the Department of Corrections

appropriations and construction projects. As a result of the sworn testimony of certain Board members, it became apparent that the Board was not totally fulfilling its statutory and regulatory duties regarding appropriations and construction projects. The Committee feels that the lack of knowledge on the part of Board members as to this situation only increased the problems that were prevalent with the Supplemental Appropriation and may have also affected other projects and appropriations.

As the investigation was ending, a possible conflict of interest problem between President of the Board, Bill Thompson, and certain contracting agents was brought to the attention of the Committee. The Committee reviewed records of the transactions and heard sworn testimony from Dr. Benton, Bill Thompson, D. McNatt and Betsy Pain and feels that a conflict does exist and requests that such violations henceforth cease.

FINDINGS

- A. The Committee finds and is appalled at the obvious lack of knowledge on the part of members of the Board of Corrections on matters relative to appropriation bills and construction projects of the Department of Corrections which the Board has voted to adopt.

- B. The Committee finds that Bill Thompson, President of the State Board of Corrections, has breached the spirit of the

Oklahoma Code of Ethics for State Officials and Employees, Sections 1401 et. seq. of Title 74 of the Oklahoma Statutes, by participating as an insurer for the plasmapheresis program in state penal institutions and has established the appearance of impropriety by voting for an increase in insurance coverage for plasmapheresis contracts, when he is providing insurance coverage therefor.

IV. STATEMENTS AND ACTIONS OF DR. NED BENTON

The Department of Corrections submitted some items in the Supplemental Appropriations Bill as necessary to comply with the Federal Court Order which in fact were not necessary. Sworn testimony before the Committee indicated that there were items requested in the Supplemental Appropriation that were already completed or were in the construction stage. Other items were clearly not required or were questionable as being required. The Committee, during approximately one month of investigation, was able to decrease the Supplemental Appropriation Bill from approximately \$13 million to \$6 million. Prior to, and after the creation of the Committee, Dr. Benton had been requested numerous times to determine if any items could be deleted from the Supplemental Appropriation. In every instance, the answer was negative.

All of the above information, having been substantiated by sworn testimony and evidence, has caused the Committee to believe that the Department of Corrections, in order to fulfill its proper functions for the State in the future, must have a Director who is able to establish a sense of trust and credibility with the Legislature.

FINDINGS

- A. The Committee seriously questions Dr. Ned Benton's credibility when he stated that he did not fire Dr. Inbody for discussing Corrections matters with members of the Legislature.

- B. The Committee further finds Dr. Benton's credibility is seriously questioned because of his testimony in relation to his telephone conversation with Mr. D. McNatt relating to the purchase of donar insurance from Mr. Bill Thomsson.

- C. The Committee finds that Dr. Benton used the Federal Court order to request millions of dollars for new construction and renovation which was not required by the Federal Court order.

- D. The Committee finds that Dr. Benton knew, or should have known, that there were items in the Supplemental Appropriation which were already constructed or which had already been funded.

- E. The Committee finds that Dr. Ned Benton failed to answer truthfully and in good faith when questioned by the Speaker of the House of Representatives on whether items could be cut from the Supplemental Appropriation Bill for the Department of Corrections.

RECOMMENDATIONS

I. THE DEPARTMENT OF CORRECTIONS

- A. Department of Corrections' personnel evaluations should clearly delineate any improper conduct on the part of an employee and frequent checks should be made to assure that these deficiencies have been corrected.

- B. When the Department finds evidence that an employee may have committed a crime within the course of performing his duties, that employee should not be allowed the option of resigning, but should be dismissed. In such cases, all evidence of a possible criminal violation should be given to the appropriate investigating agency or prosecuting authority.

II. CONSULTANT'S AND ARCHITECTS' SELECTION AND ESTIMATES - DEPARTMENT OF CORRECTIONS AUDIT

- A. The Board and Department of Corrections should follow the statutory guidelines as established in Sections 61 et. seq. of Title 61 of the Oklahoma Statutes, establish any additional guidelines necessary and develop any in-house expertise available, in selecting architects for future contracts.

- B. After the completion of Phase I and Phase II of Award of Contract No. 9110 to Murray Jones Murray, Inc./Moyer and Associates, no further services should be requested of the above

mentioned architects by the Department of Corrections on this contract.

- C. It is requested that Mr. Tom Daxon, C.P.A., State Auditor and Inspector, make a complete audit of the Department of Corrections and its correctional institutions as soon as possible.
- D. The Legislative Council should employ an Estimator to be assigned to the Fiscal Services Division to work in conjunction with post audit functions and any additional Legislative requests.

III. THE STATE BOARD OF CORRECTIONS

The Committee recommends to the Board of Corrections that the following be accomplished:

- A. That the Board henceforth scrutinize thoroughly any and all appropriation bills or construction projects of the Department of Corrections.
- B. That any members of the Board who currently sell, offer to sell or cause to be sold, either as individuals or through any business enterprise in which they hold substantial financial interest, goods or services, shall cease doing business with the Department of Corrections or any business which operates as the result of or whose requirements for operation are established by, a vote of the State Board of Corrections.

IV. DIRECTOR OF THE DEPARTMENT OF CORRECTIONS

- A. The Committee recommends that the Board of Corrections immediately terminate Dr. Ned Benton from employment as Director of the Department of Corrections.

V. REQUEST FOR LEGISLATION

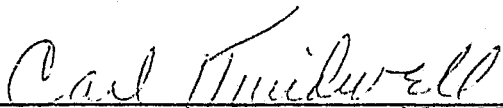
The Committee recommends the legislative implementation of the following:

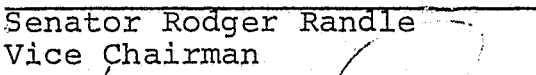
- A. That a concurrent resolution be drafted to state that at this time the Committee believes that the State of Oklahoma and the Department of Corrections shall not seek American Correctional Association (ACA) accreditation without full Legislative approval.

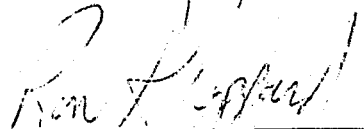
STATE CAPITOL
OKLAHOMA CITY, OKLAHOMA


June 6, 1979


The Final Report of the Special Committee on the Correctional System of the State of Oklahoma and recommendations contained therein, are hereby submitted to the Speaker of the House of Representatives, President Pro Tempore of the Senate, and the First Session of the 37th. Legislature, by the following committee members:

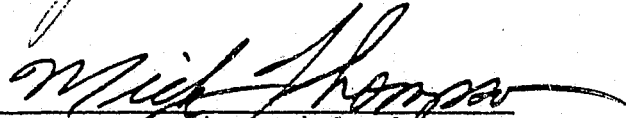

Representative Carl Twidwell
Chairman

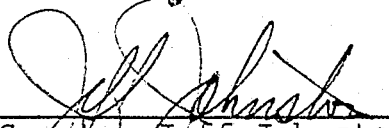

Senator Rodger Randle
Vice Chairman

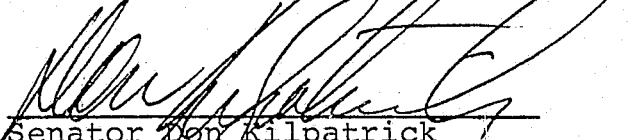

Representative Ron Sheppard
Committee Member

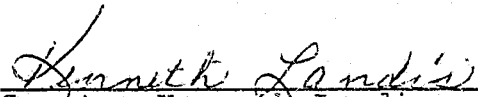

Representative Jerry Smith
Committee Member

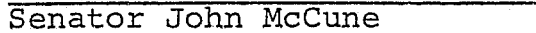

Representative Jerry Steward
Committee Member


Representative Mick Thompson
Committee Member


Senator Jeff Johnston
Committee Member


Senator Don Kilpatrick
Committee Member


Senator Kenneth Landis
Committee Member


Senator John McCune
Committee Member

APPENDIX

A. EXHIBITS ENTERED INTO EVIDENCE

1. Oklahoma Department of Corrections, An Evaluation of Selected Facilities, Volume I.
2. Oklahoma Department of Corrections, An Evaluation of Selected Facilities, Volume II.
3. Oklahoma Department of Corrections, An Evaluation of Selected Facilities, Capitol Budget Requirements.
4. Copy of Case, Battle v. Anderson, 376 F. Supp. 402 through 437, dated May 30, 1974, (36 pages).
5. Copy of Case, Battle v. Anderson, No. 77-1554, United States Court of Appeals, Tenth Circuit filed October 26, 1977, (31 pages).
6. Copy of Order in Battle v. Anderson, Civil Action No. 72-95, United States District Court for the Eastern District of Oklahoma, filed September 11, 1978, (4 pages).
7. Copy of Memorandum Opinion, Battle v. Anderson, Civil Action No. 72-95, United States District Court for the Eastern District of Oklahoma, dated September 11, 1978, (29 pages).
8. Resolution of the Department of Corrections on Statement of Approval of the FY80 Board of Corrections Budget Proposal to the Governor, dated September 2, 1978, (5 pages).
9. Memorandum to all state agencies from D. W. Way, Director of State Finance on the Budget Request Proposals for FY80 dated June 28, 1978, (1 page).
10. Request from F. Warren Benton to Amalija Hodgins to appeal the Battle v. Anderson case, dated September 14, 1978, (5 pages).
11. Request from F. Warren Benton to architectural firms for employment, dated September 15, 1978, (4 pages).
12. Letter from F. Warren Benton to Paul McElvaney requesting the services of Joe Wilkinson, dated September 25, 1978, (1 page).
13. Reply letter from F. Warren Benton to architectural firms regarding employment, dated October 2, 1978, (1 page).

14. Copies of the Oklahoma Statutes, Sections 61 et. seq. of Title 61, (3 pages).
15. Monthly Penal Facilities Report dated October, 1978, and November, 1978, (4 pages).
16. Resolution of the Department of Corrections, Amendment to the Official Board of Corrections Budget Proposal to Fund Compliance with the Battle v. Anderson Order of September 11, 1978, dated October 26, 1978, (4 pages).
17. Required information on the selection of an architect by the Department of Corrections which was submitted to Governor Boren, dated November 8, 1978, (46 pages).
18. Material from the Department of Corrections to Governor Boren on Supplemental Appropriations dated October 27, 1978, (11 pages).
19. Material submitted by the Department of Corrections to the Special Overview Committee of the Oklahoma Legislature, February 7, 1979, (40 pages).
20. Letter from Ned Benton to Senator Rodger Randle, Representative Carl Twidwell, and Mr. David Hood regarding strategy to defer Granite Reformatory Construction Expenditures dated February 15, 1979, (3 pages).
21. Portion of transcript concerning correctional standards, (2 pages).
22. Life Safety Code 1976 from the National Fire Protection Association, (272 pages).
23. Manual of Standards for Adult Correctional Institutions sponsored by the American Correctional Association, dated August, 1977, (95 pages).
24. Standards for Health Services in Correctional Institutions, an official report of the American Public Health Association, copyrighted 1976, (121 pages).
25. Letter from the Board of Corrections to Paul McElvaney relating to Penal Facilities dated November 7, 1978, (4 pages).
26. Notice of Award of Contract and Contract of the Department of Corrections to Moyer Associates, Inc./Murray Jones Murray, Inc. dated November 29, 1978, (9 pages).
27. Memorandum to Representative Ron Sheppard from Suzanne Snowden dated April 23, 1979, regarding cost of construction for Department of Corrections' dormitories, (2 pages).

28. Manual of Standards for Adult Community Residential Services, Commission on Accreditation for Corrections, April, 1977, (46 pages).
29. Oklahoma Corrections Master Plan. National Clearinghouse for Criminal Justice Planning and Architecture, 1974, (131 pages).
30. Department of Corrections Audit/Report/Design. Project I, Institutional Facilities. Project II, Community Treatment Centers. Moyer Associates, Incorporated/Murray Jones Murray, Inc., a Joint-Venture, October 24, 1978, (80 pages).
31. Letter to Dr. F. Warren Benton from Winston Lee Watson, Murray Jones Murray, Inc., dated October 6, 1978, regarding Oklahoma Department of Corrections' architectural bid request, (two pages), and attached brochure regarding the firms of Murray Jones Murray, Inc. and Moyer Associates, Incorporated, (126 pages).
32. Folder of background information on Murray Jones Murray, Inc. stamped "Received October 11, 1978" by the State Board of Public Affairs, (22 pages).
33. Oklahoma Department of Corrections, Alternatives to Prisons Post Trial, Survey/Proposal, prepared by Staff, Division of Community Services, February, 1979, (38 pages).
34. Dr. Paul Inbody's home and car copy of the Oklahoma Department of Corrections' Community Treatment Program Emergency Plans, (107 pages).
35. Notice of Drug Education Orientation Class conducted by Dr. Paul Inbody, October 25, 1978, (1 page).
36. Folder with notes and comments by Dr. Paul Inbody regarding the audit of Community Treatment Centers' and other institutions, (20 pages).
37. Judgment and sentence records of Steven Keith Millikin and Michael Joyce Germany, CRM 77-2048, CRF 79-67 and 68, and CRF 77-1202, filed respectively January 23, 1978, March 2, 1979, and July 8, 1977, (5 pages).
38. Letter from Paul W. Inbody to Morris Lookout, dated December 1, 1978, referring to a Drug Education class, (5 pages).
39. Letter from Paul W. Inbody to Morris Lookout, dated February 2, 1979, referring to drug classes, (1 page).
40. Letter from Paul Inbody to Joy Baker, dated February 23, 1979, referring to formation of a corporation. Accompanying materials are letters, Articles of Incorporation, Constitution and Bylaws of Human Resources, Inc., dated approximately the same time, (31 pages).

41. Memorandum on the Board of Corrections Standards for Decision Making and Monitoring of the Operations of the Department of Corrections dated February 24, 1977, (3 pages).
42. Memorandum from Britt Embry of Murray Jones Murray, Inc. to Ned Benton dated March 15, 1979, referring to the evaluation of a facility for a Tulsa Community Treatment Center, (1 page).
43. Original Personnel Records of Dr. Paul W. Inbody, (95 pages).
44. Travel Log of Dr. Paul Inbody from August 1, 1978, to August 31, 1978, (1 page).
45. Consultant Agreement between Dr. Paul Inbody and the Osage Nation Administration for a project on alcohol abuse and alcoholism dated May 19, 1978, (51 pages).
46. Form letter from Dr. Paul Inbody with attached mailing list, regarding family and marriage counseling, undated, (2 pages).
47. Evaluation paper and answer sheet, undated, (2 pages).
48. Letters from Paul Inbody to Bill Nash, dated January 17, 1977, referring to a loan; from Paul Inbody to Dr. Barson, Dr. Frank James and W. C. Bieber dated respectively January 24, 1978, November 21, 1978, and October 25, 1978, referring to available occupational positions, full and part time; from Paul Inbody to his landlord dated March 8, 1977; from Paul Inbody to Darrell Whitby dated July 25, 1978, referring to family driving records for auto insurance purposes, (6 pages).
49. Travel Status Report and Calendars dated 1978, (7 pages).
50. Memorandum from Paul Inbody, John Grider and Earl Brewer to all department heads, wardens, superintendents and district supervisors dated November 27, 1978, referring to membership in the Southern States Correctional Association, (1 page).
51. Memorandum and Letters of Murray Jones Murray, Inc., from October 30, 1978, to April 9, 1979, (181 pages).
52. Letters and Memoranda referring to Paul Inbody dated April and May, 1978, also referred to as the "Keating Material," (67 pages).
53. Collection of leave record of Earl Brewer, evaluations of John Grider and Jim Gleason and material considered in the discharge of Paul Inbody. (25 pages)
54. Collections of letters and memoranda from Smith Denman's files. (59 pages)

55. Information compiled by Representative Ron Sheppard as the result of a letter from Britt Embry, dated April 20, 1979, (56 pages).
56. Letter and associated material from Ned Benton to the Inquiry Committee, dated May 7, 1979, referring to ACA accreditation. (41 pages)
57. Memorandum from Richard Wells, dated April 27, 1979, concerning the CTC evaluation. (3 pages)
58. Letter from Louis Bullock to Representative Carl Twidwell, dated April 12, 1979. (2 pages)
59. Copy of the Budget for the fiscal year ending June 30, 1980, as submitted by Governor Nigh. Dr. Benton specifically marked pages 216 and 217. (391 pages)
60. Memorandum from Britt Embry, Murray Jones Murray, Inc. to Ned Benton, dated March 15, 1979, regarding the evaluation of a facility for John 3:16 CTC. (1 page)
61. Contract and attachments of the Department of Corrections with the Commission on Accreditation for Corrections dated October 13, 1978, (21 pages)
62. Estimates of new laundries at McLeod and Stringtown and a pipe run project at Stringtown as estimated by G. T. Tyner, Jr. in May, 1979, (3 pages).
63. Comparison study of House Bill 1319 as introduced and the Engrossed House Bill 1319, (13 pages).
64. Letters to and from the Landmark Management Corporation dated February 12 and 13, 1979 and Minutes of Meetings of the Board of Corrections dated January 29, February 22, and March 29, 1979, (29 pages).

B. OUTSIDE COST OF INQUIRY

Metroplex Reporters	\$4,234.15
Consultation-G.T. Tyner	100.00
Total	<u>\$4,334.15</u>

END