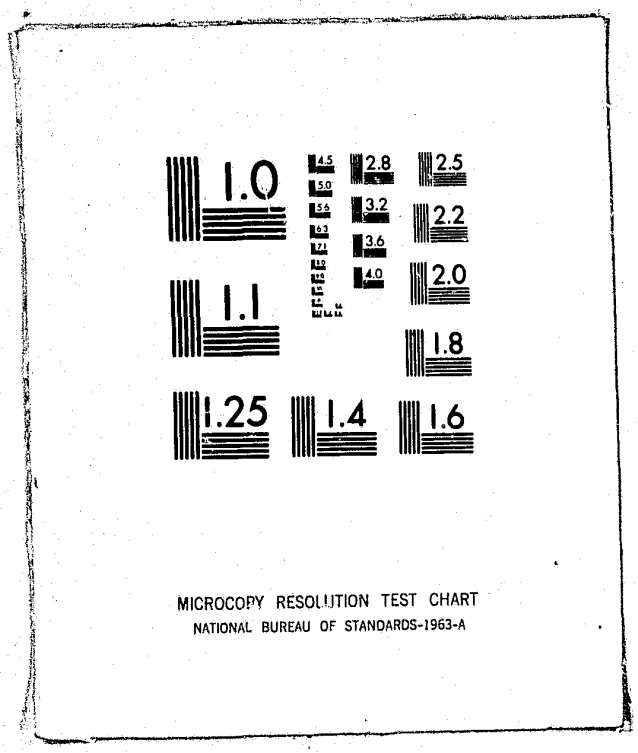

Goals for Virginia's Justice System

Goals for Virginia's Criminal Justice System

Report of the Task Force on Criminal Justice Goals and Objectives

March 1977

A Joint Project of the
Virginia Council on Criminal Justice
and the
Virginia State Crime Commission

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Points of view stated in this document do not necessarily represent the official position or policies of LEAA, the Virginia Council on Criminal Justice or the Virginia State Crime Commission.

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Introduction

The Virginia Task Force on Criminal Justice Goals and Objectives was formed in the summer of 1975 to establish goals, objectives and priorities for Virginia's criminal justice system. The task force was a joint project of the Virginia State Crime Commission and the Council on Criminal Justice and was funded by a grant from the federal government's Law Enforcement Assistance Administration (LEAA) and matching funds from the Commonwealth.

The task force continued on the state and local level much of the work performed at the national level by the National Advisory Commission on Criminal Justice Standards and Goals (NAC) and the American Bar Association (ABA). Both the NAC and the ABA formulated a set of national standards and goals for the improvement of the criminal justice system.

These national standards and goals were never intended or expected to be accepted and implemented verbatim by all states and local communities. The purpose of the national standards was to prompt study and discussion which would lead to each jurisdiction adopting, amending or rejecting any specific standard. To emphasize the advisory nature of this study process and to dispel any misimpression that mandatory standards were being formulated, Virginia has deleted all references to the word standards and has used exclusively, the terms goals and objectives.

The study and discussion process began in Virginia when the Virginia State Crime Commission and the Council on Criminal Justice formed a Joint

Executive Committee to select task force members and set policy and procedure for the operation of the task force. Recognizing that the rising crime rate is of concern to all Virginians, the Joint Executive Committee selected task force members from the three branches of state and local government, as well as from industry, education and citizens groups. To the extent possible the Joint Executive Committee also endeavored to select task force members from all geographic areas of Virginia.

It was also recognized that the criminal justice system has become so complex and contains so many separate components (e.g., state police, municipal police, sheriffs, corrections officials, judges, prosecutors, defense counsel, etc.) that frequently these separate components are unaware of, or unwilling to consider the needs of the other elements of the criminal justice system. The Joint Executive Committee concluded that the diverse membership of the task force would encourage an inter-disciplinary approach to the criminal justice system. A staff of criminal justice professionals was employed to assist the task force, but task force membership was not restricted to criminal justice professionals. The Joint Executive Committee designed the task force to bring together and promote interaction between criminal justice professionals and other elements of society.

When the task force and staff were selected, the task force began its work by studying a comparison of the national standards with existing Virginia law and practice. Under the direction of the Division of Justice and Crime Prevention (DJCP) comparative analyses were prepared in the specific areas of courts, police and corrections. In addition DJCP prepared

a general volume comparing all ABA standards with existing Virginia law and practice. These four volumes of comparative analyses served as the basic working documents for the task force. For the most part the comparative analyses did not make judgments but merely attempted to factually report any differences between the criminal justice system in Virginia and the national standards.

The task force was charged with making the judgments as to which national standards should be adopted as desirable practice in Virginia. The task force was instructed to give due deference to the NAC and ABA standards as reflecting the views of many distinguished experts, but the task force was cautioned to analyze the national standards from a Virginia perspective, and to adopt only those goals which were appropriate for the Virginia criminal justice system.

The task force was also instructed to select desirable goals for Virginia, assuming that the necessary financial resources were available. Thus the task force did not conduct a detailed financial analysis, nor did the task force necessarily spell out the specific methods of achieving every goal. Some goals are quite specific and recommend amendment of particular statutes and regulations. However, other goals merely set the general direction for the Virginia criminal justice system and leave the specifics to be worked out in the future. The task force recognized that most criminal justice professionals are necessarily involved with day-to-day operations and frequently cannot afford the time to plan for "the long run." Freed from responsibility for the daily operation of the present criminal justice system, the task force endeavored to concern

itself with the direction of the Virginia criminal justice system in the future.

The actual formulation of goals for Virginia's criminal justice system began in the summer of 1975 when the task force was divided into three separate task forces concentrating on the areas of Courts, Police and Corrections. Although there was communication between the three task forces, ultimately each task force functioned independently in that only members of the Courts task force voted on the Courts goals; only members of the Police task force voted on the Police goals; and only members of the Corrections task force voted on the Corrections goals. Thus it is important to note that the goals adopted by each task force reflect only the views of that task force. The goals adopted by one task force are not necessarily approved or disapproved by the other task forces. The only exception to the independent functioning of the task forces occurred when a goal of one task force was found to be in conflict with the goal of another task force. In such cases the conflict was resolved by the vote of all task forces.

The independence of the task forces is also reflected in the scope and tenor of their reports. Each task force approached its subject from a slightly different perspective and thus tailored its goals to reflect this perspective. While it is hoped that this report may be considered as a whole and can be seen as addressing the entire criminal justice system, an understanding of the Courts, Police and Corrections goals can best be achieved by keeping in mind the basic approach of each group, as set out below.

COURTS

Upon examination of the functioning of Virginia Courts, the Courts task force concluded that Virginia was indeed fortunate in that it does not experience lengthy delays and the crisis atmosphere that accompanies the trial and appeal process in many other states. Since the Virginia courts were found to be functioning well, the task force found no need for major restructuring or broad innovative suggestions. The task force contented itself with proposing minor adjustments and improvements in what was already a well-functioning system. This approach accounts for the small number and limited scope of the Courts goals.

POLICE

The Police task force was concerned with all aspects of law enforcement, and the term "police" is used in a generic sense to encompass all law enforcement agencies having personnel with general peace officer powers. The term police chief executive is also used broadly to identify the key individual at the head of every law enforcement agency, such individual having administrative responsibility for the policies and performance of the agency. Thus the term "police chief executive" includes those individuals who may have the official title of chief of police, sheriff, superintendant, colonel or commissioner.

In Virginia, law enforcement is primarily the responsibility of local government, thus there is not the same uniformity of procedure in law enforcement as exists in the state courts. The Police task force was aware that many of the goals adopted are already existing practice in some localities. The task force made no attempt to ascertain whether a

goal was already the existing practice in 10%, 50% or 90% of the localities. The police task force's perspective was to propose goals that should be considered by all localities. The task force attempted to draft a report that could be examined by every police chief executive as the task force's view on how a law enforcement agency could best function. Thus unlike the Courts task force's approach of minor improvements to the existing system, the police goals are intended as a comprehensive "how to do it" manual.

CORRECTIONS

The Corrections task force did not confine itself to a limited examination of major institutions or the functioning of the Virginia Department of Corrections. The task force was concerned with the broad range of the community's possible reactions (e.g., parole, probation, confinement, etc.) to a convicted offender. Like the Police task force, and unlike the Courts task force, the Corrections task force did not confine itself to minor adjustments to the existing system. Rather, the task force engaged in a broad examination of the concept of punishment and corrections. This broad approach is perhaps best typified by the initial goal of the Corrections report which calls for "total system" planning.

Working independently, each task force held meetings from October, 1975 to September 1976. The interim goals adopted at these meetings were reported by the Task Force Reporter, a newsletter distributed to criminal justice professionals and interested citizens. Each task force met in September, 1976 for final consideration of its goals and to acquaint itself with the goals adopted by the other task forces. A final joint meeting of

the three task forces was held in October, 1976 to resolve any conflict between the goals and to continue the educational process of acquainting each task force member with the work of the other task forces. The minutes of all task force meetings are available for examination by the public and will be published in a separate volume entitled "Working Papers of the Virginia Task Force on Criminal Justice Goals and Objectives."

Upon final adoption of the goals at the October meeting, the task force concerned itself with preparing minority reports and setting priorities for consideration of the goals. With the publication of this report, and its distribution to the Governor, Supreme Court of Virginia, General Assembly, local government officials and the general public, the work of the task force is completed.

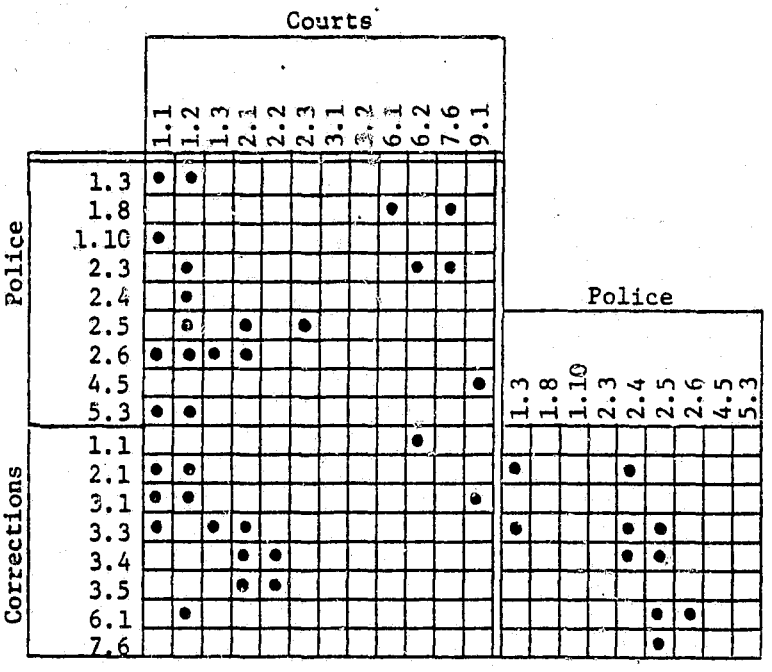
It must be noted that the task force served in an advisory capacity and had no power to implement any of the goals adopted. The next phase of considering the implementation of these goals will begin in the spring of 1977 when the goals will be presented in regional public forums to be held throughout the Commonwealth. All interested individuals are urged to attend the forums and discuss the substance of the goals. A summary of these forums will be published as a supplement to the report.

Armed with this report, the working papers of the task force, and the results of the public forums, it is hoped that the individuals with responsibility for the operation of Virginia's criminal justice system will give due consideration to goals adopted by the task force.

Ronald J. Bacigal

Interrelated Goals

A number of important subjects are addressed by more than one goal. Readers are urged to examine all of the goals to gain a full understanding of the overall contents of this report. This matrix shows the interrelationship of goals in the courts, police and corrections areas. An interrelationship exists when the same subject matter is dealt with by two or more goals. This matrix is not exhaustive and does not contain every goal that bears in some way on the subject matter addressed by other goals.



The Report of the Courts Task Force

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Chapter 1
Screening, Diversion and Plea Negotiation

Goal 1.1
Screening

It is the constitutional duty of every Commonwealth's attorney to exercise discretion in screening. Whether to adopt formal guidelines for the exercise of that discretion is a decision for the individual Commonwealth's attorney.

Commentary

Screening, in the meaning of this goal, is the discretionary decision to stop formal proceedings against a person who has become involved in the criminal justice system. The decision to screen a case out of the criminal justice system is normally based on the following considerations:

1. Further proceedings would be fruitless because there is insufficient evidence to obtain a conviction;

2. The alleged crime is a minor one, and the available resources necessitate that the prosecutor concentrate on only the most serious crimes;

3. Further proceedings will not serve the ends of justice (this involves the prosecutor's assessment of such factors as the youthfulness of the offender, the value of further proceedings in preventing future

offenses by the defendant or other persons, the degree of seriousness of the offense, etc.).

The task force recognizes that the power and duty to screen cases is inherent in the office of the Commonwealth's attorney. Because this exercise of such discretionary power is subject to abuse, critics of the screening process have called for guidelines limiting the prosecutor's power or formalizing the process whereby he exercises such power. The task force is not aware of any evidence that Commonwealth's attorneys have abused their discretionary powers, and the task force believes that the Virginia criminal justice system presently contains safeguards against any potential abuses. Commonwealth's attorneys are guided by statutes, their oath of office and the Code of Professional Responsibility. As an elected official, the Commonwealth's attorney should reflect in screening policies the sentiments and mores of the locality. Any abuse of power by a Commonwealth's attorney will ultimately be dealt with by the electorate.

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1. National Advisory Commission Report on Courts, Standards 1.1 and 1.2, pp. 20-26.
2. American Bar Association, Standards Relating to the Prosecution Function, Standards 3.4 and 3.9, New York, 1967.
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Goal 1.2
Diversion

In appropriate cases, consideration should be given to diverting offenders into non-criminal programs before trial or conviction.

Commentary

Diversion involves a discretionary decision by the Commonwealth's attorney that there is a more appropriate method for dealing with an offender than to prosecute him. Diversion suspends, before conviction, the formal criminal proceedings against the accused. Unlike screening (Goal 1.1), this suspension is normally contingent upon the defendant's agreement to do something in return. For example, a defendant may agree to participate in a rehabilitation program or make restitution to the victim of the crime.

Diverting an individual from the criminal justice system can have several benefits. By taking the offender out of the criminal justice process before he is convicted, diversion eliminates the stigma of conviction, thus presumably furthering rehabilitation by easing the offender's efforts to take a normal position in society.

A second benefit is economy. Since diversion can take place early in the criminal justice process, it eliminates the economically costly process of formal adjudication (e.g., pretrial hearings, trial, appeal, etc.).

The task force feels that in each individual case the benefits of diversion must be balanced against the benefits of traditional methods of prosecution. For example, serious consideration must be given to what impact diversion will have on the utilization of punishment as a deterrent to future misconduct.

With these concerns in mind, the task force endorses the concept of diversion but cautions that the success or failure of the concept varies according to the specifics of a particular program.

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2. American Bar Association, Standards Relating to the Prosecution Function, Standard 3.8, New York, 1967.
3. Va. Code § 18.2-251 (Repl. Vol. 1975).
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Goal 1.3
The Negotiated Plea

Where a negotiated guilty plea is offered, the agreement upon which it is based should be presented to the judge in open court for his acceptance or rejection. In each felony case in which such a plea is offered, the record should contain a full statement of the terms of the underlying agreement.

Commentary

Critics of the negotiated plea assert that it has two major inequities:

1. Since plea negotiations are conducted in private between the prosecutor and defense counsel, the negotiations may be conducted on the basis of questionable, if not improper, factors. For example, the prosecutor may "overcharge" to strengthen his bargaining position, while defense counsel may negotiate merely because he lacks the time to represent his client adequately. These practices are unfair to both the defendant and the public.

2. The private nature of plea negotiations precludes or hinders review of the case by other interested parties. A negotiated plea affects not only the defendant and prosecutor, but also the victim who has suffered at the hands of the offender; the police who have accumulated evidence of guilt; and the public who demand protection against future offenses. When the court record reflects only the plea of guilty and does not reflect the existence or terms of an underlying agreement, the public is left to speculate on the propriety of the process whereby the case was resolved. Thus, the appearance of justice is affected even when there have been no improprieties in the negotiating process.

The task force rejected suggestions to completely abolish the negotiated plea because the task force concluded that negotiated pleas have been and should continue to be an acceptable practice in the Virginia criminal justice system. The task force believes that actual abuses of the plea negotiation process can be remedied by strict adherence to existing provisions of the Code of Professional Responsibility.

As to the appearance of justice, the task force agrees that it is desirable to heighten the (public) visibility of the plea negotiation process. Accordingly, the task force recommends that the plea agreement be presented to the judge in open court, and that the agreement be made a part of the court record in felony cases. Such disclosure should help to dispel suspicions that the plea bargaining process is an improper extra-legal procedure.

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3. Johnson v. Commonwealth, 214 Va. 515, 201 S.E.2d 594 (1974).
4. Commonwealth's Attorneys Handbook Committee, Commonwealth Attorney's Handbook, Richmond, June 1972, pp. 197-201.
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Goal 1.4
Acceptability of a Negotiated Guilty Plea

The court should not participate in plea negotiations. It should, however, inquire as to the existence of any agreement whenever a plea of guilty is offered and carefully review any negotiated plea agreement underlying an offered guilty plea. It should make specific determinations relating to the acceptability of a plea before accepting it.

The review of the guilty plea and its underlying negotiated agreement should be comprehensive. If any of the following circumstances is found and cannot be corrected by the court, the court should refuse to accept the plea or afford the defendant the opportunity to withdraw the plea:

1. The defendant is not competent or does not understand the nature of the charges and proceedings against him;

2. The defendant does not know that upon his guilty plea the following constitutional rights are waived:

a. Right to the privilege against compulsory self-incrimination (which includes the right to plead not guilty);

b. Right to trial in which the Commonwealth must prove the defendant's guilt beyond a reasonable doubt;

c. Right to a jury trial;

d. Right to confrontation of one's accusers;

e. Right to compulsory process to obtain favorable witnesses; and

f. Right to effective assistance of counsel at a trial on the merits.

3. The defendant did not know at the time he entered into the agreement the mandatory minimum sentence, if any, and the maximum sentence that may be imposed for the offense to which he pleads, or the defendant was not aware of these facts at the time the plea was offered.

Commentary

Court participation in plea discussions may create the appearance that the judge is acting in less than an independent judicial capacity. The task force feels that plea negotiations should be a matter between the prosecution and defense and that the judiciary should remain apart from actual negotiations. However, the task force recognizes that the trial court should make a full inquiry into the existence and content of any guilty plea agreement that is offered to the court. This inquiry should insure that the plea is offered with full understanding of its consequences and with the volition of the defendant.

The task force feels that the sample questions presented in Form 8, Part 3A, of the Virginia Rules of Court are useful guidelines as to how to conduct the inquiry. However, the goal recommends that the inquiry encompass the following additional matters:

1. The defendant's competency to understand the nature of the charges and proceedings against him;

2. The defendant's awareness of certain constitutional rights and the implications of their waiver; and

3. The defendant's understanding of the sentence (minimum and maximum) which may be imposed.

References

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3. Rules of the Supreme Court of Virginia, Rule 3A:11(a) and Form 8 of Part 3A.

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8. Brown v. Peyton, 435 F.2d 1352 (4th Cir. 1970).

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Chapter 2
The Litigated Case

Goal 2.1
Summons in Lieu of Arrest

Upon the apprehension, or following the charging of a person for a misdemeanor, a summons should be used in lieu of taking the person into custody.

All law enforcement officers and all judicial officers should be authorized to issue a summons in lieu of arrest or continued custody in all misdemeanor cases in which a complaint, information or indictment is filed or returned against a person not already in custody.

Summons should be served upon the accused in the same manner as a civil summons.

1. Situations in which a summons is not appropriate
   The use of a summons would not be appropriate under the following situations:

   a. The behavior or past conduct of the accused indicated that his release presents a danger to individuals or to the community;

   b. The accused is under lawful arrest and fails to identify himself satisfactorily;

c. The accused refuses to sign the summons;

d. The accused has no ties to the jurisdiction reasonably sufficient to assure his appearance; or

e. The accused has previously failed to appear in response to a summons.

2. Procedure for issuance and content of a summons
Whether issued by a law enforcement officer or a court, a summons should:

a. Inform the accused of the offense with which he is charged:

b. Specify the date, time, and exact location of trials in misdemeanors.

Commentary

A summons issued by a magistrate or a police officer does not direct that a person be taken into physical custody. Rather, it simply notifies the named person that he is ordered to appear in court at a specified time and place.

The Virginia Code allows for the issuance of a summons in lieu of physical arrest for most misdemeanor violations (Va. Code §§ 19.2-74 and 46.1-178). Effective utilization of the summons process would result in a considerable savings of time and money for the criminal justice system. Issuance of a summons in lieu of arrest eliminates the need for a booking process, a pretrial release hearing, and a possible inquiry into the indigency of the arrested suspect. Accordingly, the task force endorses the current Virginia practice of utilizing a summons in lieu of arrest and urges police and magistrates to make use of the summons. The goal sets out the only situations in which a summons is not appropriate.

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1. National Advisory Commission Report on Courts, Standard 4.2, pp. 70-72.
2. National Advisory Commission Report on Police, Standard 4.4, pp. 83-85.
3. American Bar Association, Standards Relating to Pretrial Release, Standards 2.1 - 2.3, 3.1 - 3.4.
4. Va. Code §§ 19.2-71, -74, 46.1-178.
5. Bacigal, R., Virginia Magistrates' Manual, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, June 1974, pp. 25-30.
6. Berger, M., "Police Field Citations in New Haven," Wisconsin Law Review, 1972, p. 382.
7. Charlottesville Citizens Task Force on Crime, Report of the Subcommittee on Courts and Corrections, Part I, Charlottesville, Va., November 30, 1975, pp. 40-45.

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Goal 2.2
Pretrial Release

In order to determine if there are desirable alternatives to the present Virginia bail system, it is recommended that a pilot "ten per cent" bail project or projects be instituted in the Commonwealth.

Commentary

Virginia's 1973 bail reform legislation established alternatives to the traditional money-bond oriented system of pretrial release. Despite the 1973 legislation, the task force feels that there continues to be some abuse of the Commonwealth's bail bond system. (See: An Effectiveness Study of 1973 Bail Reform Legislation in Virginia, below.)

The National Advisory Commission has suggested that abuse of the bail bond system can best be remedied by eliminating private bondsmen from the criminal justice system. The task force is not currently disposed to recommend such a drastic remedy, but the task force does strongly endorse study of and experimentation with the Illinois ten per cent plan. Under such a concept, a bail deposit is given to the court clerk as security for pretrial release. Provided the defendant complies with the provisions of the pretrial release, a certain per cent of the bail deposit is retained as an administrative charge, while the remainder of the sum may be returned to the defendant or applied toward counsel fees in cases where the court appoints counsel for the defense.

Aside from the question of whether private bondsmen should remain a part of the Virginia criminal justice system, the "ten per cent plan" may prove to be another form of pretrial release which results in a financial savings to the defendant. The "ten per cent plan" has had some success in other states and in the federal system. The goal merely calls for pilot projects to determine if the plan would work well in Virginia. The task force recommends no change in the present Virginia system until the results of the pilot projects can be studied.

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5. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond, Va.: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 47-50.
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Goal 2.3
Nonappearance After Pretrial Release

The criminal justice system should deal severely with offenders who fail to appear for criminal proceedings. Nonappearance for trial or other proceedings should be discouraged in the following manner:

1. Every law enforcement agency should place special emphasis on expeditiously serving all outstanding arrest warrants obtained by the agency, particularly those issued due to a defendant's failure to appear at court proceedings.

2. The General Assembly should amend Code § 19.2-259 to allow the trial of a felony to take place in the absence of the defendant, when the defendant (after arraignment) has wilfully failed to appear in

accordance with the condition of his bail or recognizance.

Commentary

The failure of defendants released prior to trial to appear for trial or other proceedings can be a critical factor in the delay of criminal litigation. Efforts to increase the number of defendants released pending trial must be balanced by measures designed to insure appearance. Thus, the success of pretrial release programs depends, to some extent, upon the potential penalties for failure to appear in court.

Under present Virginia law (Code § 19.2-128), failure to appear for a felony court appearance subjects the defendant to the following possible punishments:

1. The defendant may be held in contempt of court and punished accordingly.

2. The defendant may incur a forfeiture of any security which was given or pledged for his release.

3. In addition to any forfeiture the defendant may be found guilty of a Class I misdemeanor and punished accordingly.

While these existing possible punishments are desirable and should be retained the task force feels that the additional provisions of this goal will further deter wilful nonappearance. Virginia should adopt a uniform procedure for the scheduling of arraignment.

References

1. National Advisory Commission Report on Courts, Standard 4.7, pp. 85-86.
2. American Bar Association, Standards Relating to Pretrial Release, Standard 3.1, New York, 1968.
3. Va. Code § 19.2-128 (Repl. Vol. 1975).
4. Taylor v. United States, 414 U.S. 17 (1973).
5. United States v. Moretto, 518 F.2d 681 (9th Cir. 1974).
6. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis. Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 50-51.
7. Report of the Board of Governors of the Section on Criminal Law of the Virginia State Bar, An Effectiveness Study of 1973 Bail Reform Legislation in Virginia, Richmond, January 1975.
8. United States Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, Bail and its Reform: A National Survey Summary Report, Washington, D.C.: U.S. Government Printing Office, October 1973.

9. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, p. II-2.

Goal 2.4
Pretrial Discovery

In order to provide adequate information for informed pleas, expedite trials, minimize surprise, afford opportunity for effective cross-examination and meet the requirements of due process, discovery prior to trial should be as full and free as possible, consistent with protection of persons, effective law enforcement, the adversary system and national security.

Commentary

The task force did not wish to deal with specific rules of mandatory discovery since these can best be developed by the Supreme Court of Virginia. However, the goal does set out in general terms the proper role of discovery in the criminal justice system. The task force believes that regardless of the extent of mandatory discovery, prosecution and defense counsel, consistent with their duties under the adversary system, should willingly participate in voluntary discovery.

Only through the initiative and cooperation of counsel can criminal cases be fairly and timely disposed of, as justice requires. Surprise witnesses, witholding evidence to heighten the dramatic effect and similar tactics are a form of gamesmanship which are out of place in a proceeding determining life, liberty, and protection of communities from crime. The task force does not mean to discount the adversary system, but rather its excesses when surprise and gamesmanship obfuscate the issues.

References

1. National Advisory Commission Report on Courts, Standard 4.9, pp. 90-92.
2. American Bar Association, Standards Relating to Discovery and Procedure Before Trial, New York, 1970.
3. Rules of the Supreme Court of Virginia, Rule 3A:14.
4. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 53-56.
5. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, pp. IV 2-3.

Goal 2.5
Jury Selection

Questioning of prospective jurors should be conducted exclusively by the trial judge. His examination should cover all matters relevant to their qualifications to sit as jurors in the case on trial. Attorneys for the prosecution and defense should be permitted to submit questions to the judge to be asked of the jurors concerning matters not covered by the judge in his examination. The judge shall put such questions to the jurors unless they are irrelevant, repetitive, or beyond the scope of proper juror examination.

Commentary

While the questioning of prospective jurors should be a fair and impartial process, it should not cause unnecessary delay. In some instances juror questioning has become so time consuming that it has been referred to as the judicial counterpart of the filibuster. Cases in some areas of the country have consumed months in the jury selection process.

In addition to time considerations, the questioning of prospective jurors can be used for improper purposes. In some jurisdictions, counsel view the questioning of prospective jurors as an opportunity to argue the anticipated issues of the case and attempt to discover how the juror is presently inclined to vote on those issues. A defendant is entitled to an unbiased jury; he is not entitled to a jury biased in his favor.

The task force believes that requiring the judge to question jurors as to their qualification for service and restricting questions submitted by counsel to those issues not covered by the court will restore the process to its appropriately limited function and provide a substantial timesaving.

References

1. National Advisory Commission Report on Courts, Standard 4.13, pp. 99-100.
2. American Bar Association, Standards Relating to Trial by Jury, Standard 2.4, New York, 1968.
3. Va. Code § 8-208.28 (Cum. Supp. 1975).
4. Rules of the Supreme Court of Virginia, Rule 3A:20(c).
5. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 61-62.
6. Report of the Commission on Speedy Trials in Criminal Cases to the Governor and to the General Assembly, Richmond, January 1976.
7. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, pp. XI-6.

Goal 2.6
Trial of Criminal Cases

Ultimate responsibility for the management and movement of cases should rest with the judges of the trial court. Measures should be taken to insure that cases listed on the calendar are disposed of as promptly as circumstances permit.

As far as is practicable, standardized instructions should be utilized in all criminal trials.

Commentary

Although much of the delay in criminal proceedings is caused by pretrial procedures, time also can be wasted during the actual trial of the case. An unnecessarily long trial ties up needed court facilities and personnel, rendering them unavailable to try other cases, and at the same time, prolongs final disposition of the case on trial.

In addition to actual operating efficiency, the trial judge must be aware of the general public's concern over delay in criminal proceedings. It has been observed that public dissatisfaction with our system of justice tends to overlook many factors and to focus upon the organization of our courts and how they manage their business. When dockets are crowded and prompt justice is jeopardized, public respect for the courts diminishes. The task force recognizes that many factors beyond the control of the judge can determine whether the court docket is crowded. But the task force feels that each judge should reaffirm his ethical responsibility to "dispose promptly of the business of the court," and should make every effort to avoid delays, continuances and extended recesses, except for good cause. The judge should require punctuality and optimum use of working time from all persons engaged in a criminal case, and should set the example in such matters.

The task force also views the use of standardized jury instructions in the Commonwealth's courts as a positive step in providing equitable and efficient justice. While the task force believes such instructions should be clear, concise, accurate and impartial statements of the law, written in understandable language, it recognizes that preparation of these instructions requires skilled draftsmanship. Therefore, the task force endorses the current undertaking by the Office of the Executive Secretary for the Supreme Court of Virginia to research and draft a set of pattern jury instructions for criminal cases.

References

1. National Advisory Commission Report on Courts, Standard 4.15, pp. 103-105.

2. American Bar Association, Standards Relating to Trial by Jury, Standard 4.6, New York, 1968.

3. Va. Code § 19.2-265 (Repl. Vol. 1975).

4. Baker Mathews Lumber Company v. Lincoln Furniture Manufacturing Company, 148 Va. 413 (1927).

5. Office of the Executive Secretary, Supreme Court of Virginia, Model Jury Instructions for Civil and Criminal Cases Project, under grant from Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974-1977.

6. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 64-66.

7. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, p. IX-10.

Goal 2.7
Use of Videotape in the Administration of Justice

The use of videotape in the administration of justice should be studied and pilot projects should be established and funded by federal, state and local governments.

Commentary

Experimental usage of videotape in the criminal justice process has produced significant results in terms of time and cost savings as well as in the improvement of judicial administration. Videotaped presentation of evidence permits the trial to move along rapidly since all delays and interruptions have been edited out. Video equipment has also been used to take expert witness testimony, gather evidence in drunken driving cases and orient jurors to their duties prior to trial.

The task force believes that the videotaping of criminal trials raises serious constitutional questions which need to be decided by the courts. However, the membership strongly recommends that videotape be used in experimental projects involving:

1. Juror orientation;

2. Judicial education; and

3. The taking of depositions from witnesses and experts.

References

1. National Advisory Commission Report on Courts, Recommendation 4.2, pp. 107-108.

2. Office of the Executive Secretary, Supreme Court of Virginia, Videotape Equipment Purchase Project, under grant from Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975-1976.

3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 67-68.

4. "The Videotape Jury Trial," The Judge's Journal, Vol. 11, July 1972.

5. "The Videotape Tangle," Judicature, Vol. 59, December 1975, pp. 222-240.

Chapter 3
Sentencing

Goal 3.1
Judicial Visits to Institutions

Court systems should adopt immediately, and correctional agencies should cooperate fully in the implementation of, a policy and practice to acquaint judges with the correctional facilities and programs to which they sentence offenders, so that the judges may obtain firsthand knowledge of the consequences of their sentencing decisions. It is recommended that:

1. During the first year of his tenure, a judge should visit all correctional facilities within his jurisdiction or to which he regularly sentences offenders;

2. Thereafter, he should make annual, unannounced visits to all such correctional facilities and should converse with both correctional staff and committed offenders; and

3. No judge should be excluded from visiting and inspecting any part of any facility at any time or from talking in private to any person inside the facility, whether offender or staff.

Commentary

The task force believes there can be little disagreement with the desirability of judicial visits to correctional facilities. The sentencing judge is faced with sentencing alternatives which range from probation to confinement in maximum security institutions. The judge should seek to learn as much as possible about the nature of each sentencing alternative.

In today's social climate when one group contends that prisons are horribly cruel and destructive places, while another group argues that society coddles criminals in "country clubs," it is especially important for the judge to have firsthand knowledge of correctional facilities. The task force feels that firsthand knowledge can best be derived from annual, unannounced visits, and the judge should avoid participating in "show" tours which hamper his ability to assess the normal day-to-day situation.

References

1. National Advisory Commission Report on Corrections, Standard 5.10, pp. 175-176.

2. American Bar Association, Standards Relating to Sentencing Alternatives and Procedures, Standard 7.4, New York, 1968.

Goal 3.2
Sentencing Institutes

The following provisions for sentencing institutes should be extended to all district and circuit court judges through the administration of the Judicial Conference of Virginia:

1. A biennial sentencing institute should be conducted to provide judges with the background of information they need to fulfill their sentencing responsibilities knowledgeably;

2. All sentencing judges should be eligible to attend the sentencing institute without cost or expense;

3. Each judge who has been elected since the convening of the last sentencing institute should be required to attend the institute in order to acquaint himself further with sentencing alternatives available;

4. The institute should concern itself with all aspects of sentencing, among which should be establishment of more detailed sentencing criteria, alternatives to incarceration and re-examination of sentencing procedures;

5. Defense counsel, prosecutors, police, correctional administrators, and interested members of the bar and other professions should be encouraged to attend. A stipend for at least some persons, including students, should be established; and

6. To the extent possible, sentencing institutes should be held in a maximum or medium security penal institution in the state.

Commentary

Sentencing institutes provide an opportunity for judges to communicate among themselves about sentencing policies and specific sentencing procedures. Such institutes could also provide a forum for discussions with all those concerned with corrections and convicted offenders (e.g., correctional officials, social workers, psychologists, psychiatrists, prosecutors, defense counsel and police.)

The agenda of such institutes should include discussions of the purposes of sentencing and how these purposes might best be served; the kinds of dispositions for various types of offenders; alternative dispositions that should be available to the courts; resources that the courts may use in obtaining additional information needed to make appropriate dispositions; the relative effectiveness of alternative types of corrections programs; procedures for minimizing pretrial detention; evaluation of corrections programs observed through judicial visitations; recommendation for penal code revisions; rights of offenders throughout the correctional process; comparative sentencing practice in the United States; and many related issues. Nationally recognized experts in fields of knowledge related to sentencing and corrections may be invited to attend institutes as resource persons.

The task force strongly urges the creation of sentencing institutes and suggests that the Judicial Conference of Virginia assume responsiblity for the development of the curriculum and the administration of these institutes. The task force notes that the institutes could be held within the framework of the already established judicial conferences.

References

1. National Advisory Commission Report on Corrections, Standard 5.12, pp. 180-181.

2. American Bar Association, Standards Relating to Sentencing Alternatives and Procedures, Standard 7.2, New York, 1968.

Chapter 4
Review of the Trial Court Proceedings

Goal 4.1
The Time Frame for Appellate Review

The time period in which a criminal case reaches the Supreme Court of Virginia can be shortened with no loss of rights to a person convicted of a crime, and without unduly burdening the Commonwealth.

The applicable statutes and Rules of Court should be amended to provide:

1. The time period in which a notice of appeal must be filed shall be reduced from thirty (30) days to fifteen (15) days.

2. The time period for submission of a petition for appeal, writ of error, or supersedeas shall be reduced from four (4) months to ninety (90) days, with the court having leave to grant a thirty (30) day extension for good cause shown.

Commentary

This goal adopts the recommendation of two other bodies which have studied the appellate process in Virginia: The Commission on Speedy Trials in Criminal Cases (January 1976), and the Report of the Appellate

Justice Project of the National Center for State Courts (1973-74).

The task force concluded that Virginia is fortunate in that it does not experience lengthy delays and the crisis atmosphere that accompanies the appellate process in many other states. Observers of the Virginia process have concluded that: "The Virginia system is simple, uncomplicated, effectively suited to its caseload" and that "no problem appears to exist in obtaining a reasonably prompt hearing and decision in cases appealed to the Supreme Court of Virginia."

The task force was aware that the interest of both society and the defendant are served by providing for as prompt an appellate review as justice permits. Accordingly, the task force considered a number of proposals to drastically alter the appellate structure to provide for a swifter appellate process. But the task force concluded that this goal, which will shorten the time for appeal by forty-five days, is the only realistic change that can be made without experimenting with major revisions to an appellate process which appears to be working quite well at the present time.

References

1. National Center for State Courts, A Report of the Appellate Justice Project of the National Center for State Courts 1973-1974 Second Year of the Project, Denver, October 1975.

2. The Commission on Speedy Trials in Criminal Cases, Report of the Commission on Speedy Trials in Criminal Cases to the Governor and the General Assembly, Richmond, January 1976.

Goal 4.2
The Commonwealth's Statement or Brief

Rule 5:27 (entitled Brief in Opposition) of the Rules of the Supreme Court of Virginia should be amended to read:

> In a criminal case, the Commonwealth's attorney shall, within twenty-one (21) days after the date a copy of the petition is mailed or delivered to him, file a statement favoring the grant of appeal, a statement opposing the grant of appeal, or, a Brief. If a Justice of the Court determines that a Brief rather than a statement should be filed, the Commonwealth's attorney shall file a Brief within fourteen (14) days of being so notified.

Commentary

Under current Virginia practice, the filing of a brief in opposition is mandatory in criminal cases. While some briefs in opposition are helpful in framing the factual and legal framework of a case, a substantial number of cases are so simple that the brief is superfluous. The difficulty is that preparation of even a cursory brief in opposition can be a time-consuming process, and this time is largely wasted if the brief is not truly helpful to the court.

Permitting a "statement" in lieu of a brief could relieve prosecutors of a significant amount of unnecessary work and thus allow them to focus their energies on more important tasks. The goal preserves the court's right to require a brief in complex cases where a brief is necessary.

Reference

National Center for State Courts, A Report of the Appellate Justice Project of the National Center for State Courts 1973-1974 Second Year of the Project, Denver, October 1975.

Chapter 5
The Judiciary and Court Administration

Goal 5.1
Judicial Selection

The selection of judges should be based on merit qualifications for judicial office. A selection process should aggressively seek out the best potential judicial candidates through the participation of the bench, the organized bar, law schools and the lay public.

Virginia should establish a Judiciary Nominations Commission which shall be charged with studying, initiating, examining and submitting to the appointing or electing authority, the names of no more than three (3) qualified persons for consideration to fill a vacancy in the office of Supreme Court justice, circuit court judge, or district court judge.

Commentary

No procedures or court systems can be any better than the judges who administer the procedures and render the decisions. The objective of a judicial selection process should be to secure high quality persons for judicial office.

References

1. National Advisory Commission Report on Courts, Standard 7.1, pp. 147-149.

2. American Bar Association, Standards Relating to Court Organization, Standard 1.21, New York, 1974.

3. General Assembly of Virginia, Senate Bill No. 220, "A Bill to Create a Judiciary Nominations Commission," February 2, 1976, carried over in Senate.

4. American Judicature Society, Materials from National Conference on Judicial Selection and Tenure, Chicago, July 1974.

Goal 5.2
Presiding Judge and Administrative Policy of the Trial Court

Within guidelines established by the Virginia Supreme Court, local administrative policy for the operation of each court should be established. Forums should be established on the appropriate level, such as the circuit or district level, whereby the judges could meet on a regular schedule to consider and resolve administrative problems facing the courts and to set policy for the operation of the court.

Commentary

The task force recognizes that the chief judge of each judicial circuit is bound by statute to insure that the system of justice in his circuit operates smoothly and efficiently. However, the statutory language of "smooth and efficient operation" is extremely vague, and many chief judges are reluctant to exercise their administrative powers because of the traditional respect for the independence of the judiciary.

The task force recognizes that each judge is in many respects independent. But as a member of a larger organization, such as a district or circuit, he is expected to relinquish some of his autonomy to the needs of the organization. The task force believes that the balance between autonomy and administrative coordination can best be achieved in a participatory process where the judges operate as a unit to coordinate their activities.

Judges sitting in concert can reach basic policy decisions about working hours, vacation policies, assignment of special functions and defining responsibility. This forum for improved communication and cooperation should reduce the administrative burden on the chief judge of the circuit.

References

1. National Advisory Commission Report on Courts, Standard 9.2, pp. 180-182.
2. American Bar Association, Standards Relating to Court Organization, Standard 1.12, New York, 1974.
3. American Bar Association, Standards Relating to Trial Courts, Standard 2.33, New York, 1975.
4. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 138-141.

Goal 5.3
Public Input Into Court Administration

The courts should welcome community input to court administration. A forum for interchange between judicial and nonjudicial members of the courts staff and interested lay groups should be established on an informal basis without formal invitation to the forum by the presiding judge.

Commentary

This goal does not address the broad area of court-community relations (see Goal 6.1), nor does the goal contemplate public input as to substantive or procedural aspects of the court system. This goal is limited to the public's participation in court administration.

There are a number of administrative matters, such as witness and juror facilities, information dissemination and courthouse physical facilities, which could be discussed in a forum of judicial and lay persons. By training and by necessity, judges are primarily concerned with the legal aspects of proceedings. Many judges are unaware of the inconveniences encountered by participants in the trial. The President's Commission on Law Enforcement and Administration of Justice observed that "sensitivity to the needs of witnesses who are required to return to court again and again, often at considerable personal sacrifice, is usually lacking."

While a pleasant and adequate waiting room for witnesses may not be a major concern of the court system, it is, nonetheless, a legitimate aspect of effective management. Participants in the judicial system have a right to some consideration of making their contact with the system as pleasant and convenient as possible. The task force does not suggest that the judge would necessarily have the power to act upon all of the input he receives from this forum. This goal merely suggest that a forum for public input might alert the judge to problems he was unaware of, and which can be remedied through court administration.

Virginia's juvenile and domestic relations courts have had some experience with citizen advisory groups (Va. Code § 16.1-157). Although these groups are concerned with more than court administration, the task force believes that, given a proper forum, the public can make a valuable contribution to the administration of the Commonwealth's court system.

References

1. National Advisory Commission Report on Courts, Standard 9.6, p. 91.
2. American Bar Association, Standards Relating to Trial Courts, Standard 2.43, New York, 1975.
3. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts, Washington, D.C.: U.S. Government Printing Office, 1967.
4. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 146-147.

Chapter 6
Court-Community Relations

Goal 6.1
Court Information and Service Facilities

Facilities and procedures should be established to provide information concerning court processes to the public.

Commentary

In the words of the National Advisory Commission: "court-community relations cannot -- and should not -- be avoided." Court-community relations are not simply a matter of superficial image building. The quality of these relations has an important impact upon the court's ability to perform effectively. A law-abiding atmosphere is fostered by public respect for the court process. The perception the community has of the court system also may have a direct impact on court processes, as when it affects the willingness of members of the community to appear as witnesses, serve as jurors, or support efforts to provide courts with adequate resources.

Unfortunately, recent public opinion surveys suggest that the general public is alienated from, or at best, suspicious of the criminal court system. Cynicism is replacing respect for the courts. While some of the criticism of the court system is well taken, much of the criticism stems from a lack of information. The task force believes that if the public is educated to understand the processes followed by the courts, there will be increased support for the judicial system.

The education of the public is obviously a broad project which should involve the general bar, law schools, and other concerned organizations. The goal suggests that the court can take specific steps to deal with the lack of information services in the courthouse itself.

A lack of information in the courthouse frequently makes participation in the criminal justice process, whether by a witness, juror or defendant, a confusing and traumatic experience that leaves the participant with an unfavorable impression of the system. Defendants and witnesses may experience difficulty locating the site of trials at which they are to appear. No provision generally is made for answering basic questions concerning rights and responsibilities of participants, or the meaning of various parts of the process. Or worse yet, the public may request information from busy and harried court personnel, who may respond abruptly or rudely. This type of treatment will obviously have an adverse effect on the general attitudes of the community toward the judicial process. The task force feels that consideration should be given to the dissemination of information in the courthouse. This could consist of the placing of information desks in an accessible location; access to a daily calendar showing courtrooms and case assignments; and furnishing juror and witness handbooks.

References

1. National Advisory Commission Report on Courts, Standard 10.2, pp. 198-201.

2. Cannavale, F., et al., Witness Cooperation, Lexington, Mass.: Institute for Law and Social Research, 1976.

3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 149-150.

4. Quayle, Plesser and Company, Inc., A Survey of Public Attitudes Toward Crime and the Criminal Justice System in the State of Virginia, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975.

Goal 6.2
Participation in Criminal Justice Planning

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

Commentary

Mr. Justice Tom Clark (ret.) has observed that "the criminal justice system must be given constant maintenance and periodic overhaul to enable it to more adequately fulfill the needs of an expanding society." The task force feels that all judges and court personnel have an obligation to participate actively in criminal justice planning activities. The necessity for the court to preserve its independence to adjudicate disputed issues of fact, does not require that judges and other court personnel avoid direct involvement in criminal justice planning.

A lack of court participation in planning can create resentment on the part of the other agencies involved in the planning process. It can also create a misimpression on the part of the general public that the courts are either disinterested or unsympathetic with the goals and programs of other agencies, such as the police and correctional authorities.

Although the task force does not suggest that participation be mandatory, it does urge that each judge voluntarily contribute his experience and expertise to the planning process.

References

1. National Advisory Commission Report on Courts, Standard 10.5, p. 207.

2. Irving, J., et al., Report of the Special Study Team on L.E.A.A. Support of the State Courts, Washington, D.C.: Criminal Courts Technical Assistance Project, The American University, 1975.

3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 151-152.

4. Clark, T., "American Bar Association Minimum Standards for Criminal Justice," Louisiana Law Review, Vol. 33, 1973, p. 541.

Goal 6.3
Automated Legal Research

Automated legal research services should be made available to judges, prosecutors and defense attorneys on an experimental basis in those jurisdictions where there is available a full-text data bank of all statutes and decisions relevant to the court's workload, and where the service provides interactive terminals.

The data bank necessary for such services should be developed by a public agency or a regulated or supervised private entity.

Commentary

The term "automated legal research" includes all legal research done with the aid of a computer facility. All or most of the material relevant to the resolution of legal problems can be placed in a central data bank by typing these documents into the computer word-for-word. Queries into this data bank can be made via a telephone terminal from any location.

The ability to interact with the data base is a major advancement that can markedly accelerate the research process. It can make entire libraries available to the researcher without his leaving his office and can supply such a library where it is otherwise unavailable.

The task force urges that experimental automated legal research projects be set up in the Commonwealth, and they endorse the preliminary efforts of the Virginia State Bar to create a research data base, and the proposed project whereby the United States Department of Justice's Law Enforcement Assistance Administration would make use of Virginia as a test and evaluation site for various automated research systems.

References

1. National Advisory Commission Report on Courts, Standard 11.2, pp. 222-225.

2. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 158-159.

Chapter 7
The Prosecution

Goal 7.1
Professional Standards for the Commonwealth's Attorney

It is desirable that Virginia Commonwealth's attorneys should be full-time prosecutors.

Commentary

In Virginia, the chief prosecuting officers are Commonwealth's attorneys who are elected every four years. Under the current system, most Commonwealth's attorneys are employed on a part-time basis and generally retain an outside legal practice to supplement their salaries. In cities with a population of over 90,000, the law now prohibits the outside practice of law and requires that Commonwealth's attorneys serve full-time (Virginia Code § 15.1-821). However, this provision applies to fewer than ten localities.

The problem raised by part-time prosecution services are several:

1. Since the salary of the part-time Commonwealth's attorney is fixed, his total income will depend upon what he earns from his outside practice. Thus, there is a continuing temptation to emphasize outside practice.

2. Conflicts of interest, or at least the appearance of a conflict, arise when the Commonwealth's attorney accepts criminal defense work in another jurisdiction [see Yates v. Peyton, 207 Va. 91 (1966)].

3. Conflicts of interest may arise when the Commonwealth's attorney represents a client in a civil proceeding, while that same client is somehow involved in the criminal justice system [see Ganger v. Peyton, 379 F.2d 709 (4th Cir. 1967)].

4. Part-time law practice is inconsistent with the type of commitment the community has a right to expect from its prosecutor. The complexity of today's criminal law practice requires that all prosecutors devote their full efforts to their prosecutor roles.

In calling for the establishment of full-time prosecutors, the task force is aware that at present a large number of rural Virginia jurisdictions would not support a full-time Commonwealth's attorney. The creation of full-time prosecutor's offices throughout the state will require some form of consolidation or reorganization. Present law (Virginia Code § 15-40.1 and § 15-40.2) permits political subdivisions to combine in order to obtain an appropriate size for efficient administration, but such an approach would be piecemeal and unlikely to achieve the establishment of full-time prosecutors throughout the state. An alternative method for providing full-time prosecution services would be reorganization structured around the newly established system of judicial districts. A district Commonwealth's attorney office would be large enough to support the range of personnel and facilities now available only to the largest metropolitan offices.

The task force does not suggest that the procedures of consolidation or reorganization on the district level are the only methods of achieving the goal of full-time prosecutors. The method of implementation properly rests with the General Assembly, but the task force recommends that the goal be given serious consideration, and suggests that a target date of 1980 might be appropriate since this coincides with the final phase of the court reorganization plan.

References

1. National Advisory Commission Report on Courts, Standard 12.1, pp. 229-233.

2. American Bar Association, Standards Relating to the Prosecution Function and the Defense Function, Standards 2.1, 2.2(a) and (b) defense function) and 2.3 (prosecution function), New York, 1971.

Goal 7.2
Professional Standards for Assistant Commonwealth's Attorneys

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

The position of assistant Commonwealth's attorney should be a full-time occupation, and assistants should be prohibited from engaging in outside practice of law. The starting salaries for assistants should be no less than those paid by private law firms in the jurisdiction, 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 personnel.

The caseload for each assistant should be limited to permit the proper preparation of cases at every level of the criminal proceedings. Assistants 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 investigation when necessary.

The trial division of each Commonwealth's attorney's office should have a sufficient number of staff attorneys and appropriate facilities to perform adequately the duties of the office.

Commentary

The task force's consideration of the need for full-time Commonwealth's attorneys is set out in Goal 7.1, and the task force feels the considerations apply equally to assistant Commonwealth's attorneys. In addition, this goal addresses the problem of the high turnover rate in the office of assistant Commonwealth's attorney (a recent survey indicated that the average length of employment for an assistant is between eighteen months and two years).

In an effort to recruit the most competent of lawyers in competition with private law firms, prosecution offices have used the incentive of greater opportunities for trial exprrience afforded by spending a few years in an assistant prosecutor position. It is true that a young lawyer

can acquire a wide trial experience in a relatively short time period within a prosecutor's office. However, there is a limit to how much "turnover" of personnel is consistent with effective prosecution. The frequent phenomenon of bright young attorneys moving in and out of the office in order to gain trial experience undermines the efficiency of the office and detracts from the professionalism which should mark prosecutorial services.

In addition, the caseload of each assistant should allow for the proper preparation of cases, including adequate time for interviews with witnesses, necessary legal research and supplemental investigations before trial.

An important step in achieving the goal of professional performance is to make the position of assistant Commonwealth's attorney full-time and prohibit the outside practice of law. In determining equitable levels of compensation for assistants, local bar associations should be encouraged to assist in surveying the salaries of attorney associates in private firms falling within the jurisdiction of the prosecution office. The development of median or average salaries for the general locality could serve as a benchmark for setting assistants' salaries.

This goal also calls for proper funding to adequately maintain supporting staffs and facilities in the Commonwealth's attorneys' offices. This may include secretarial, paraprofessional, and clerical staffs, modern office equipment and space, and legal research materials.

References

1. National Advisory Commission Report on Courts, Standards 12.2 and 12.3, pp. 232-236.

2. American Bar Association, Standards Relating to the Prosecution Function, Standards 2.3 and 2.4(b), New York, 1971.

3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 165-168.

4. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, pp. IX 3-4.

Goal 7.3
Funding Assistance for Organization of Commonwealth's Attorneys

There should be a state-level organization consisting of local Commonwealth's attorneys. The agency and its program should be funded by the Commonwealth through the executive budget. It should have officers and a governing board elected by the membership; the Attorney General of the Commonwealth should be an ex-officio member of the governing board. A full-time executive director should be provided to administer the agency and its programs.

Commentary

Currently, Virginia has an association for its Commonwealth's attorneys which provides significant assistance to the prosecutors of the Commonwealth by distributing legal newsletters, arranging educational seminars and collecting legal research materials.

Much of the existing financial support of the Virginia Association of Commonwealth's Attorneys is provided by the United States Department of Justice's Law Enforcement Assistance Administration. The task force recommends that the state provide the financial assistance necessary to support the Association of Commonwealth's Attorneys. With state funding, the association's work can be expanded and continued without being contingent upon the availability of federal money. The task force wishes to emphasize that state level funding does not mean that the state will control or direct the activities of the Association of Commonwealth's Attorneys. Local prosecutors should continue to determine the role and function of the association.

References

1. National Advisory Commission Report on Courts, Standard 12.4, pp. 237-238.
2. American Bar Association, Standards Relating to the Prosecution Function, Standards 2.2 (c, d, e), New York, 1971.
3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 168-169.
4. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, p. IX-3.

Goal 7.4
Education of Professional Personnel

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

Commentary

The task force believes that continuing legal education is essential for effective prosecutorial services. The task force urges all Commonwealth's attorneys to attend annually at least one of the following educational programs: the Commonwealth's Attorneys' Institute; the annual meeting of the Virginia Association of Commonwealth's Attorneys; seminars in criminal law offered by the Virginia State Bar; state, regional or national educational seminars.

The task force also suggests that all newly elected Commonwealth's attorneys or appointed assistants receive some preliminary training before assuming office. Too often the new Commonwealth's attorney learns by doing, and his performance is likely to suffer, at least temporarily. The new Commonwealth's attorney's initial performance could be greatly improved if he had the benefit of a short orientation course conducted at the state, regional or national level.

References

1. National Advisory Commission Report on Courts, Standard 12.5, pp. 239-240.

2. American Bar Association, Standards Relating to the Prosecution Function, Standard 12.6, New York, 1971.

3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 168-169.

4. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, pp. IX 4-5.

Goal 7.5
Filing Procedures and Statistical Systems

Each Commonwealth's attorney's office should have a file control system capable of locating any case file in not more than thirty minutes after demand, and a statistical system, either automated or manual, sufficient to permit the Commonwealth's attorney to evaluate and monitor the performance of his office.

There is a need to formulate a uniform case load reporting system for all of Virginia's prosecutorial offices and steps should be taken to study and implement such a system.

Commentary

Like many other business and government offices, the Commonwealth's attorney's office is a complex operation requiring efficient management procedures and practices for the day-to-day work flow. One facet of this work flow is accurate record-keeping.

Since the case file is frequently the only record which the prosecution keeps for the trial of a criminal case, it is important to effective justice that these files are up to date and accurately maintained. In addition, the files should be easily accessible to the prosecutor and his staff and it is suggested that a well-designed case file system should provide for location of a file within thirty minutes of demand.

Also critical to efficient office management is the gathering and maintenance of statistical information on the number and types of cases which pass through the prosecutor's office. Generally, court or police-based statistics do not meet the needs of the prosecution, and therefore, the prosecution should take the responsibility of collecting its own data. Since the prosecutor is a vital link in any criminal justice information system, his statistical records should be capable of integration with other criminal justice information systems. The types of data which might be collected by the prosecutor include the number of cases disposed of per day, the number of calendared cases disposed of per year, the number of court appearances made per case, or the duration of certain types of cases. This information would be useful in management of time and resources as well as providing useful indicators for future planning of staff and facilities.

The current practice of most Commonwealth's attorneys is to keep some type of file system with a cross-index and locator cards. Most offices do not keep statistical information on case loads and workflow. Currently,

the Commonwealth does not require that its prosecutors report any statistics or case load information. It is recommended that each Commonwealth's attorney's office keep case load statistics for internal office use and that steps be taken to formulate a state-wide program for uniform statistics collection and reporting.

References

1. National Advisory Commission Report on Courts, Standard 12.6, pp. 241-242.

2. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 172-173.

Goal 7.6
Commonwealth's Attorney 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 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.

Commentary

The policies and practices of the prosecutor's office can have a great effect on other agencies of the criminal justice system. The concepts of procedural due process and the exclusionary rule have altered fundamentally the duties and powers of the police. Consequently, the need of the police for legal advice has increased greatly in recent years.

To meet this need, the prosecutor should establish and maintain a relationship of mutual confidence and cooperation with the police.

Prosecution policies also can have a significant impact on correctional programs. Plea negotiation and diversion practices often determine not only whether an offender will be placed in a correctional program but also the circumstances -- such as length of possible confinement -- under which he will participate in it. Moreover, the offender's perception of how fairly he was dealt with by the prosecutor may affect significantly his attitude towards correctional programs. It is important that the prosecutor be aware of the impact of his policies and practices and of the need to ease the correctional task.

The goal also recognizes the importance of two-way communication between the public and the prosecutor on important issues and problems affecting the criminal justice system. The goal is addressed to general issues and does not deal with the question of the amount of pretrial information to be released on individual cases.

References

1. National Advisory Commission Report on Courts, Standard 12.9, pp. 247-249.

2. American Bar Association, Standards Relating to the Prosecution Function, Standards 2.8, 2.9, New York, 1971.

3. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 175-177.

4. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, p. IX-6.

Chapter 8
The Defense

Goal 8.1
Payment for Public Representation

The Commonwealth should develop a system for partial payment by an indigent offender who is represented by public counsel.

Commentary

The task force believes that the current system for providing counsel to indigent offenders is working effectively in Virginia. However, there is a need to develop procedures for dealing with the cases of partially indigent defendants who may be able to afford only part of the costs in defending their cases.

Therefore, the task force concludes that provision of legal representation at public expense need not be an all-or-nothing arrangement. If an individual can afford to contribute some amount of money toward the cost of his defense, but cannot finance it entirely, he should be provided with representation and be required to reimburse the Commonwealth to the extent he is able. Virginia is encouraged to adopt such a system.

References

1. National Advisory Commission Report on Courts, Standard 13.2, pp. 257-258.

2. American Bar Association, Standards Relating to the Defense Function, Standards 6.1, 6.2, and 6.4, New York, 1971

3. National Legal Aid and Defender Association's National Study Commission on Defense Services, Draft Report and Guidelines for the Defense of Eligible Persons, Chicago, January 7, 1976, pp. 1-165.

4. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 185-187.

5. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, pp. VII 6-7.

Goal 8.2
Method for Delivering Defense Services

Based on the current cost and case load figures available from the Commonwealth's public defender projects, public defender representation is an effective and efficient method of delivering defense services for indigent offenders and the program should be expanded to other Virginia localities.

It is recommended that the Commonwealth of Virginia Public Defender Commission, the group charged with supervision of the public defender projects, consider the standards promulgated by the National Advisory Commission when future expansion of the program is contemplated.

Commentary

Virginia employs two distinct methods of providing defense services to legally indigent defendants. One of these involves the appointment of counsel by the court, such appointments generally being made from a list of attorneys compiled by the local bar associations and the court. The second method is the establishment of public defender offices, where attorneys are employed at public expense to represent indigent defendants.

The courts task force finds that Virginia's pilot public defender system has effectively delivered legal services to indigent defendants and endorses the expansion of the project. Since a number of the National Advisory Commission standards dealing with defense services specifically address policy issues such as salary, recruitment and training for defenders and procedures for office policy, the task force recommends Standards 13.5 - 13.6 to the Public Defender Commission when future planning for the defender system is contemplated.

References

1. National Advisory Commission Report on Courts, Standard 13.5, pp. 263-264.

2. American Bar Association, Standards Relating to the Defense Function, Standards 1.4, 2.1, 2.2, 2.3 and 3.2, New York, 1971.

3. National Legal Aid and Defender Association's National Study Commission on Defense Services, Draft Report and Guidelines for the Defense of Eligible Persons, Chicago, January 7, 1976, pp. 230-269.

4. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 193-199.

5. Walck, R., et al., Comparative Analysis of American Bar Association Standards for Criminal Justice with Virginia Laws, Rules and Legal Practice, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973, pp. VII 1-4.

Chapter 9
Mass Disorders

Goal 9.1
Planning for the Administration of Justice During Mass Disorders

Each comprehensive plan for the administration of justice in a mass disorder situation should contain a section on court processing dealing in detail with court operations and the defense and prosecution functions required to maintain the adversary process during an emergency.

Responsibility for developing a comprehensive plan should rest with the criminal justice planner in the planning districts. The plan should be reviewed by the local judiciary and updated periodically.

It is recommended that any locality contemplating development of a mass disorder plan should consider the following:

Subject Matter of the Court Plan

The court plan should be concerned with both judicial policy matters and court management matters. The council of judges should develop the judicial policy aspects of the plan. The court management aspects also should be developed by the council of judges, unless the community has an adequate court management operation to which such planning may be delegated.

1. Judicial Policy Matters. Generally, the following policies should be developed and enunciated. Provision should be made for their institutionalization by the judicial planning body in its mass disorder plan:

   a. The court plan, to the extent possible, should be made public and disseminated widely to insure the community and individual arrestees that their security and rights are being protected. Portions of the plan that contain sensitive information should not be made public.

   b. Provision should be made for pretrial release procedures normally available to remain available during a disorder.

   c. The adversary process should function as in normal times and to this end the defense and prosecution functions should be performed adequately.

   d. Persons coming before the bench should be informed of all their rights as in normal times.

   e. Arrested persons should be assured speedy presentation before a judicial officer and a speedy trial.

   f. Sentencing growing out of a mass disorder should be deferred until the conclusion of the disorder, with the exception of sentencing to time served in pretrial detention or a minimal affordable fine.

2. Management Considerations. Generally, the following management considerations should be contained in the court component of the mass disorder plan:

   a. To insure prompt execution of the plan in the event of a mass disorder, responsibility for its activation should be vested in a single member of the council of judges. An alternate also should be designated, and he should have activation responsibility in the event that the first member is unavailable. Deactivation should take place under the direction of the same council member.

b. The plan should be designed to be activated in phases scaled to the precise degree required by the disorder at hand. In order to activate to the precise degree, a basic processing module formula for both initial appearance and trial should be developed and used.

c. The normal business of the courts should proceed during a disorder unless the disorder is of such a magnitude that sufficient personnel and facilities are unavailable. In that event, normal business should be postponed and rescheduled for the earliest possible time.

d. Plans should be made for the identification, recruitment, and assignment of sufficient judicial personnel from all courts within the municipality and, when necessary, from neighboring municipalities or even neighboring states. The requisite intrajurisdictional and interjurisdictional compacts should be entered into, and where necessary, legislation or constitutional amendment should be enacted in conjunction with the planning process.

e. Plans should be made for the identification, recruitment and assignment of sufficient court administrative and clerical personnel for all purposes, drawing such personnel, if necessary, from nonjudicial governmental departments within the municipality or from the entire metropolitan area. Such auxiliary personnel should be identified and recruited as part of the planning process for potential call-up in the event they are needed. The list of such personnel should be updated periodically.

f. Court papers should be designed to conform as nearly as possible to the paper forms employed by the police and the prosecution. Sufficient quantities of such forms should be produced in advance so that they will be available in the event of a mass disorder.

g. Attention should be given to the problem of paper flow and mechanical and electronic data flow, to the end that papers and mechanically and electronically retrieved information move smoothly from the police to prosecutors and defense counsel and to the court.

h. Arrangements should be made to identify and secure facilities within the municipality or metropolitan area suitable for potential use as court, prosecutorial and defense facilities. Such facilities should be used in the event that the usual facilities become insufficient. Other governmental buildings suitable for such use should be considered first, and, if this is inadequate, arrangements should be made for the use of other facilities.

i. Arrangements should be made for sufficient clerical supplies and equipment to be available for use in processing arrestees during a mass disorder. Material should include sufficient business machinery, office machinery, computers, and the like.

j. Provision should be made to maintain adequate security in the regular courthouses and in any other facilities that may be utilized for court purposes. Alternate facilities should be available in the event the regular courthouse is in the disorder zone and security would be difficult or impossible to maintain.

k. Techniques should be developed to pinpoint the location of detained persons during a disorder and to insure that they can be brought before the court on demand and that their attorneys can establish physical contact when required.

At least yearly a simulated implementation of the plan should be attempted, so that deficiencies in it can be identified and corrected.

Defense Services

The plan for providing defense services during a mass disorder should generally be developed initially under the auspices of the local public defender. If the general plan encompasses several public defender offices, a board of public defenders should be established and given responsibility for proposing a defense plan. All public defender offices within the area should be represented on this board.

In the event that the community's primary system for defense of the indigent is assigned counsel, the organized bar within the community should develop the plan for providing defense services during a mass disorder.

1. Policy Considerations. The following policy considerations should be included in the plan:

   a. Any person arrested during a mass disorder or charged with any offense as a result of such a disorder should have a right to be represented by a publicly provided attorney if the arrestee meets the criteria for the appointment of counsel normally applied or if, because of the nature of the mass disorder situation, he is unable to obtain other representation.

   b. Arrested persons should be informed of their rights, including their right to representation at the earliest possible time after arrest. Counsel should be available to the arrestee as soon after arrest as is required to protect the arrestee's rights, including the right not to be unnecessarily detained prior to charging.

   c. Each attorney should represent only one arrestee at a time before a judicial officer or judge unless the case is of such a nature that it is not in the best interests of the defendants to be so represented.

2. Management considerations. The following management considerations should be included in the defense plan:

   a. Provision should be made for the identification, recruitment, and assignment of sufficient defense counsel, utilizing the public defender staff and assigned counsel lists where available. If this will not

provide sufficient personnel, private attorneys from within the jurisdiction who have indicated a willingness to represent defendants during a mass disorder should be included.

Members of the bar of other states should be permitted to serve as counsel during a mass disorder if necessary; provision should be made for admission on motion. Provision should be made for periodically updating the recruitment list.

b. Law students should be employed in the defense function in conformity with rules for utilizing law students during normal times.

c. Special training programs should be conducted for attorneys on the list of those who will provide defense services during a mass disorder.

d. Plans should be made for the identification, recruitment, and assignment of sufficient administrative, investigatory, and clerical personnel to serve, if needed, as backup to defense counsel. Such personnel should be drawn from governmental of nongovernmental departments within the municipality or the metropolitan area. Provision should be made for periodically updating the recruitment list.

e. Arrangements should be made for sufficient space, clerical materials and equipment to be available for use in processing the anticipated caseload in the event of a mass disorder. This includes sufficient business machinery, office equipment, telephones, duplicating equipment and computer facilities.

Commentary

A plan for the administration of justice during a mass disorder emergency should cover all the agencies within the criminal justice process and should strive to maintain the adversary process no matter how serious or chaotic the situation.

In terms of the content of the plan, it should address all communication and cooperation problems which might arise among police, corrections and courts as well as between defense and prosecution. The plan should develop a procedure for processing defendants efficiently and swiftly. The plan should also be phased so that adequate resources and manpower can be obtained relative to the seriousness of the disturbance.

Concerning defense services, the plan should receive input from both court-appointed counsel and the public defender's office. The plan should make counsel available at the earliest possible point in the proceedings against the defendant. Mass justice, where more than one defendant is represented by the same counsel, should be avoided and representation of only one defendant at a time in court should be a goal. Finally, the use of law students and paraprofessionals should be a part of the plan as these individuals can serve as valuable support assistance during an emergency disorder.

References

1. National Advisory Commission Report on Courts, Standards 15.1, 15.2, and 15.4, pp. 308-313 and pp. 317-318.

2. Bicentennial Criminal Justice Steering Committee of Philadelphia, Emergency Bicentennial Disorder Plan for Philadelphia's Criminal Justice Agencies, March 1976.

3. Commonwealth of Virginia, Division of Justice and Crime Prevention, Guidelines for Civil Disturbances and Riot Control Planning, Richmond: 1970.

4. Redden, K., et al., Judicial Administration of Criminal Justice in Virginia: A Comparative Analysis, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1975, pp. 254-257.

Priorities

The Courts task force members were asked to identify and rank the ten goals they deemed most important to the improvement of Virginia's criminal justice system. The selected goals and the relative weight accorded each are listed below in descending order. (The most important goal is listed first.)

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
1	5.1	Judicial Selection	58
2	7.1	Professional Standards for the Commonwealth's Attorney	35
3	2.1	Summons in Lieu of Arrest	34
4	3.2	Sentencing Institutes	32
5	1.2	Diversion	31
6	7.2	Professional Standards for Assistant Commonwealth's Attorneys	26
7	1.3	The Negotiated Plea	25
8	4.1	The Time Frame for Appellate Review	25
9	2.2	Pretrial Release	24
10	5.2	Presiding Judge and Administrative Policy of the Trial Court	22
11	2.5	Jury Selection	21
12	2.6	Trial of Criminal Cases	21
13	8.2	Method for Delivering Defense Services	18
14	2.4	Pretrial Discovery	16
15	8.1	Payment for Public Representation	15
16	1.1	Screening	14

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
17	2.3	Nonappearance After Pretrial Release	11
18	1.4	Acceptability of a Negotiated Guilty Plea	10
19	6.1	Court Information and Service Facilities	10
20	3.1	Judicial Visits to Institutions	8
21	7.3	Funding Assistance for Organization of Commonwealth's Attorneys	7
22	7.4	Education of Professional Personnel	6
23	2.7	Use of Videotape in the Administration of Justice	4
24	4.2	The Commonwealth's Statement or Brief	4
25	6.2	Participation in Criminal Justice Planning	3
26	7.6	Commonwealth's Attorney Relationships with the Public and with Other Agencies of the Criminal Justice System	3
27	6.3	Automated Legal Research	2

Implementing Authorities

COURTS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
1.1	Screening	Commonwealth's attorneys
1.2	Diversion	Commonwealth's attorneys, circuit court judges, local governments (boards of supervisors, mayors, county and city managers, etc.)
1.3	The Negotiated Plea	Circuit court judges
1.4	Acceptability of a Negotiated Plea	Circuit court judges
2.1	Summons in Lieu of Arrest	Magistrates
2.2	Pretrial Release	General Assembly, local governments
2.3	Nonappearance After Pretrial Release	General Assembly
2.4	Pretrial Discovery	General Assembly, Supreme Court
2.5	Jury Selection	Circuit court judges
2.6	Trial of Criminal Cases	Circuit court judges
2.7	Use of Videotape in the Administration of Justice	General Assembly, Supreme Court, local governments
3.1	Judicial Visits to Institutions	Circuit court judges, Department of Corrections
3.2	Sentencing Institutes	Judicial Conference; Supreme Court, Office of the Executive Secretary

COURTS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
4.1	Time Frame for Appellate Review	General Assembly, Supreme Court
4.2	Commonwealth's Statement or Brief	Supreme Court
5.1	Judicial Selection	General Assembly
5.2	Presiding Judge and Administrative Policy of the Trial Court	Circuit and district court judges
5.3	Public Input into Court Administration	Circuit and district court judges
6.1	Court Information and Service Facilities	Circuit and district court judges
6.2	Participation in Criminal Justice Planning	Circuit and district court judges
6.3	Automated Legal Research	Virginia State Bar; Virginia Supreme Court, Office of the Executive Secretary
7.1	Professional Standards for the Commonwealth's Attorney	General Assembly
7.2	Professional Standards for Assistant Commonwealth's Attorneys	General Assembly, Commonwealth's attorneys
7.3	Funding Assistance for Organization of Commonwealth's Attorneys	General Assembly
7.4	Education of Professional Personnel	Commonwealth's attorneys

COURTS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
7.5	Filing Procedures and Statistical Systems	General Assembly, Commonwealth's attorneys
7.6	Commonwealth's Attorney Relationships with the Public and with Other Agencies of the Criminal Justice System	Commonwealth's attorneys
8.1	Payment for Public Representation	General Assembly
8.2	Method for Delivering Defense Services	General Assembly, Public Defender Commission
9.1	Planning for Administration of Justice During Mass Disorders	Planning district commissions, circuit and district court judges (review of plan).

	Goal	A	AA	S	DC	DNR	DFS	R	RP
1.1 Criteria for Screening	1.1			X					
1.2 Procedure for Screening								X	
2.1 General Criteria for Diversion	1.2			X					
2.2 Procedure for Diversion Programs								X	
* 3.1 Abolition of Plea Negotiation								X	
* 3.2 Record of Plea and Agreement	1.3		X						
* 3.3 Uniform Plea Negotiation Policies and Practices								X	
* 3.4 Time Limit on Plea Negotiations						X			
* 3.5 Representation by Counsel During Plea Negotiations					X				
* 3.6 Prohibited Prosecutorial Inducements to Enter a Plea of Guilty					X				
* 3.7 Acceptability of a Negotiated Guilty Plea	1.4			X					

* The Criminal Law Section of the Virginia State Bar is studying all aspects of the plea negotiation process.

Key

A Adopted
AA Adopted with minor amendment
S Substitute goal or adopted with major amendment (incl. deletion of major provisions of the standard)
DC Deleted as adequately covered by Va. law or practice
DNR Deleted as not relevant to Va.
DFS Deleted as being studied by another group
R Rejected in theory -- Va. current practice preferred
RP Rejected as impractical for implementation in Va.

(Note: Minutes of the meetings are included in the working papers of the task force and contain complete discussion on NAC Standards.)

		Goal	A	AA	S	DC	DNR	DFS	R	RP
* 3.8	Effect of the Method of Disposition on Sentence (*See note on previous page)								X	
4.1	Time Frame for Prompt Processing of Criminal Cases					X				
4.2	Citation and Summons in Lieu of Arrest	2.1		X						
4.3	Procedure in Misdemeanor Prosecutions					X				
4.4	Limitations of Grand Jury Functions								X	
4.5	Presentation Before Judicial Officer Following Arrest					X				
4.6	Pretrial Release	2.2			X					
4.7	Non-appearance After Pretrial Release	2.3			X					
4.8	Preliminary Hearing and Arraignment					X				
4.9	Pretrial Discovery	2.4			X					
4.10	Pretrial Motions and Conference									X
4.11	Priority Case Scheduling					X				

Key

A Adopted
AA Adopted with minor amendment
S Substitute goal or adopted with major amendment (incl. deletion of major provisions of the standard)
DC Deleted as adequately covered by Va. law or practice
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	Goal	A	AA	S	DC	DNR	DFS	R	RP
4.12 Continuances					X				
4.13 Jury Selection	2.5		X						
4.14 Jury Size and Composition					X				
4.15 Trial of Criminal Cases	2.6			X					
Recommendation 4.1 Study of the Exclusionary Rule								X	
Recommendation 4.2 Use of Videotaped Trials in Criminal Cases	2.7		X						
5.1 The Sentencing Agency (Corrections Report)								X	
5.1 The Courts' Role in Sentencing (Courts Report)								X	
5.2 Sentencing the Non-dangerous Offender (Corrections Report)					X				
5.3 Sentencing to Extended Terms (Corrections Report)					X				
5.4 Probation (Corrections Report)					X				
5.5 Fines (Corrections Report)					X				

Key

A Adopted
AA Adopted with minor amendment
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	Goal	A	AA	S	DC	DNR	DFS	R	RP
5.6 Multiple Sentences (Corrections Report)					X				
5.7 Effect of Guilty Plea in Sentencing (Corrections Report)								X	
5.8 Credit for Time Served (Corrections Report)								X	
5.9 Continuing Jurisdiction of Sentencing Court (Corrections Report)								X	
5.10 Judicial Visits to Institutions (Corrections Report)	3.1	X							
5.11 Sentencing Equality (Corrections Report)								X	
5.12 Sentencing Institutes (Corrections Report)	3.2			X					
5.13 Sentencing Councils (Corrections Report)								X	
5.14 Requirements for Presentence Report and Content Specification (Corrections Report)					X				
5.15 Preparation of Presentence Report Prior to Adjudication (Corrections Report)					X				
5.16 Disclosure of Presentence Report (Corrections Report)					X				
5.17 Sentencing Hearing - Rights of Defendant (Corrections Report)								X	

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
5.18 Sentencing Hearing - Role of Counsel (Corrections Report)					X				
5.19 Imposition of Sentence (Corrections Report)					X				
6.1 Unified Review Proceeding									X
6.2 Professional Staff									X
6.3 Flexible Review Procedures									X
6.4 Dispositional Time in Reviewing Court									X
6.5 Exceptional Circumstances Justifying Further Review									X
6.6 Further Review Within the Same Court System: Prior Adjudication									X
6.7 Further Review in State or Federal Court: Prior Factual Determinations									X
6.8 Further Review in State or Federal Court: Claim not Asserted Previously									X
6.9 Stating Reasons for Decisions and Limiting Publication of Opinions									X
Recommendation 6.1 Transcript Preparation									X

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
Recommendation 6.2 Problems Outside the Courts									X
Recommendation 6.3 Advisory Council for Appellate Justice									X
* See Note	4.1			X					
* See Note	4.2			X					
7.1 Judicial Selection	5.1			X					
7.2 Judicial Tenure					X				
7.3 Judicial Compensation					X				
7.4 Judicial Discipline and Removal					X				
7.5 Judicial Education					X				
8.1 Unification of the State Court System								X	
8.2 Administrative Disposition of Certain Matters Now Treated as Criminal Offenses								X	

* Goals 4.1 and 4.2 are derived from the report of the Commission on Speedy Trials in Criminal Cases and the Appellate Justice Project of the National Center for State Courts.

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
9.1 State Court Administrator									X
9.2 Presiding Judge and Administrative Policy of the Court	5.2			X					
9.3 Local and Regional Trial Court Administrators									X
9.4 Caseflow Management (language added to Goal 2.6)	2.6		X						
9.5 Coordinating Councils								X	
9.6 Public Input into Court Administration	5.3			X					
10.1 Courthouse Physical Facilities									X
10.2 Court Information and Service Facilities	6.1			X					
10.3 Court Public Information and Education Programs								X	
10.4 Representativeness of Court Personnel								X	
10.5 Participation in Criminal Justice Planning	6.2		X						
10.6 Production of Witnesses								X	

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
10.7 Compensation of Witnesses								X	
11.1 Court Administration									X
11.2 Automated Legal Research	6.3	X							
Recommendation 11.1 Instruction in Automated Legal Research Systems									X
12.1 Professional Standards for Chief Prosecuting Officer	7.1			X					
12.2 Professional Standards for Assistant Prosecutors	7.2			X					
12.3 Supporting Staff and Facilities	7.2			X					
12.4 Statewide Organization of Prosecutors	7.3			X					
12.5 Education of Professional Personnel	7.4	X							
12.6 Filing Procedures and Statistical Systems	7.5	X							
12.7 Development and Review of Office Policies								X	
12.8 The Prosecutor's Investigative Role								X	

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		Goal	A	AA	S	DC	DNR	DFS	R	RP
12.9	Prosecutor Relationships with the Public and Other Agencies of the Criminal Justice System	7.6			X					
13.1	Availability of Publicy Financed Representation in Criminal Cases								X	
13.2	Payment for Public Representation	8.1			X					
13.3	Initial Contact With Client								X	
13.4	Public Representation of Convicted Offenders								X	
* 13.5	Method for Delivering Defense Services	8.2			X					
13.6	Financing of Defense Services							X		
13.7	Defender to be Full Time and Adequately Compensated							X		
13.8	Selection of Public Defenders							X		
13.9	Performance of Public Defender Function							X		
13.10	Selection and Retention of Attorney Staff Members							X		

* The task force requested that the Public Defender Commission take NAC Standards 13.5 - 13.16 under advisement.

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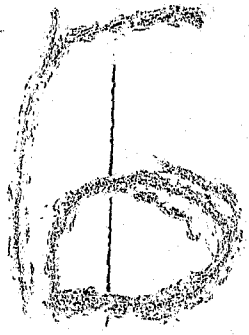
1 OF



	Goal	A	AA	S	DC	DNR	DFS	R	RP
13.11 Salaries for Defender Attorneys							X		
13.12 Workload of Public Defenders							X		
13.13 Community Relations							X		
13.14 Supporting Personnel and Facilities							X		
13.15 Providing Assigned Counsel							X		
13.16 Training and Education of Defenders							X		
14.1 - 14.5 The task force did not deal with the Virginia juvenile justice system									
15.1 The Court Component and Responsibility for its Development	9.1		X						
15.2 Subject Matter of the Court Plan	9.1			X					
15.3 Prosecution Services								X	
15.4 Defense Services	9.1				X				

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2

The Report of the Police Task Force

Members

Chairman - Robert F. Horan, Jr.

Vice Chairman - G. Robert House

Harold W. Burgess
John H. Carey
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Chapter 1
The Police Role

Goal 1.1
The Police Function

Every police chief executive immediately should develop written policy, based on policies of the governing body that provides formal authority for the police function, and should set forth the objectives and priorities that will guide the agency's delivery of police services. Agency policy should articulate the role of the agency in the protection of constitutional guarantees, the enforcement of the law, and the provision of services designed to reduce and combat crime to maintain public order and to respond to the needs of the community.

1. Every police chief executive should acknowledge that the basic purpose of the police is the maintenance of public order and the control of conduct legislatively defined as crime. The basic purpose may not limit the police role, but should be central to its full definition.

2. Every police chief executive should identify those crimes on which police resources will be concentrated. In the allocation of resources, those crimes that are most serious, stimulate the greatest fear and cause the greatest economic losses should be afforded the highest priority.

3. Every police chief executive should recognize that some government services that are not essentially a police function are, under some circumstances, appropriately performed by the police. Such services include those provided in the interest of effective government or in response to established community needs. A chief executive:

   a. Should determine if the service to be provided has a relationship to the objectives established by the police agency. If not, the chief executive should resist that service becoming a duty of the agency;

   b. Should determine the budgetary cost of the service; and

   c. Should inform the public and its representatives of the projected effect that provision of the service by the police will have on the ability of the agency to continue the present level of enforcement services.

   d. If the service must be provided by the police agency, it should be placed in perspective with all other agency services and it should be considered when establishing priorities for the delivery of all police services.

   e. The service should be made a part of the agency's police role until such time as it is no longer necessary for the police agency to perform the service.

4. In connection with the preparation of their budgets, all police agencies should study and revise annually the objectives and priorities which have been established for the enforcement of laws and the delivery of services.

5. Every police agency should determine the scope and availability of other government services and public and private social services, and develop its ability to make effective referrals to those services.

Commentary

In formulating objectives and priorities for a law enforcement agency the police chief executive must perform two functions: (1) he must provide information and analysis to the governing body; (2) he must exercise discretionary decision-making powers in certain areas.

Information and analysis. By law or tradition police agencies in some communities provide many services which are not designed to reduce and combat crime (e.g., providing ambulance service, handling stray animals, licensing bicycles, and the like). The task force feels that the basic purpose of the police is the maintenance of public order and the control of crime. Any additional services provided by the police may detract from this basic purpose, unless the governing body provides adequate resources to provide for the additional services.

The police chief executive should identify all services provided by the police which are not related to reducing and combating crime, and determine the cost of such services. The governing body should be informed of the cost of such services so that the governing body can determine whether the police should continue to provide such services, and whether an adjustment in the police agency budget is appropriate. The goal does not suggest that it is inappropriate for police agencies to provide services not related to crime reduction. Rather the goal merely suggests that such services be analyzed in terms of financial costs and in terms of the effect on police efforts to reduce and combat crime.

Discretionary decision-making. The task force wishes to clarify its position on police discretion by distinguishing between a practice of selective enforcement, and a process of identifying those laws which warrant high priority enforcement efforts. The task force defines selective enforcement as a policy decision by a police chief executive that selected laws will not be enforced in a given jurisdiction. The task force views such a practice as improper, as Virginia law enforcement officers are obligated to enforce all of the state's criminal and traffic laws. Arguments that certain laws are unjust or unenforceable are properly addressed to the legislature, not to police agencies.

The task force feels that the chief executive properly exercises discretion, not in selecting which laws to enforce, but in identifying those laws which warrant concentrated enforcement efforts. Because of the limited resources available to law enforcement agencies, priorities must be established. Certainly no citizen would want the police to delay responding to a bank robbery because the officer was already engaged in issuing a parking ticket. The priorities established should reflect the desires of the local community, but the goal suggests that special consideration be given to those crimes which are most serious, stimulate the greatest fear and cause the greatest economic loss.

This goal deals with the exercise of discretion in the broad area of establishing objectives and priorities for the law enforcement agency. The exercise of discretion by police personnel in conducting law enforcement functions is addressed in Goal 1.3.

References

1. National Advisory Commission Report on Police, Standard 1.1, pp. 12-16.

2. Davis, K., Police Discretion, St. Paul, Minn.: West Publishing Co., 1975.

3. Kamisar, Y., et al., Basic Criminal Procedure, St. Paul, Minn.: West Publishing Co., 1974, pp. 162-169.

4. Niederhoffer, A., and A. Blumberg, The Ambivalent Force: Perspectives on the Police, Waltham, Mass.: Xerox College Publishing, 1970.

5. Saunders, C., Jr., Upgrading the American Police, Washington, D.C.: The Brookings Institution, 1970.

Goal 1.2
Limits of Authority

Every police chief executive immediately should establish and disseminate to the public and to every agency employee written policy acknowledging that police effectiveness depends upon public approval and acceptance of police authority. This policy at least:

1. Should acknowledge that the limits of police authority are strictly prescribed by law and that there can be no situation which justifies extralegal police practices;

2. Should acknowledge that there are times when force must be used in the performance of police tasks, but that there can be no situation which justifies the use of unreasonable force;

3. Should acknowledge that in their exercise of authority the police must be accountable to the community by providing formal procedures for receiving both commendations and complaints from the public regarding individual officer performance. These procedures at least should stipulate that:

    a. There will be appropriate publicity to inform the public that complaints and commendations

will be received and acted upon by the police agency;

b. Every person who commends the performance of an individual officer in writing will receive a personal letter of acknowledgement; and

c. Every allegation of misconduct will be investigated fully and impartially by the police agency and the results as to whether the complaint was justified or unfounded will be made known to the complainant or the alleged victim of police misconduct.

4. Should provide for immediate adoption of formal procedures to respond to complaints, suggestions and requests regarding police services and formulation of policies. These procedures at least should stipulate that:

a. There will be appropriate notice to the public acknowledging that the police agency desires community involvement;

b. The public will be involved in the development of formal procedures as well as in the policies that result from their establishment; and

c. Periodic public surveys will be made to elicit evaluations of police service and to determine the law enforcement needs and expectations of the community.

Commentary

This goal represents a written statement of what is to a large extent the existing law and practice in Virginia. The task force feels that local law enforcement agencies should formulate written policies defining the limits of their authority. It was felt that a written policy affirming the limitations upon the power of law enforcement agencies would be beneficial in light of the current public concern over possible abuses of power by national agencies such as the Central Intelligence Agency and the Federal Bureau of Investigation.

The task force feels that the only controversial aspect of this goal concerned the duty of the law enforcement agency to disclose in-

formation relating to a complaint of police misconduct. The task force recognized that disclosing the nature and extent of any disciplinary measures taken against an officer might cause embarrassment to the officer, and/or constitute an invasion of his privacy. However, in the interest of encouraging public support and understanding, the task force feels that as a minimum, the complainant should be made aware of the agency's determination that the original complaint was justified or unjustified. The terms "justified" or "unjustified" are not the only appropriate terms to be used in making a determination on a complaint. The police agency is to communicate the determination in whatever language the agency feels is appropriate. The task force notes that in addition to "unjustified" the terms "unfounded," "unsupported" or "unwarranted" would be appropriate in certain situations.

References

1. National Advisory Commission Report on Police, Standard 1.2, pp. 17-20.

2. Goldstein, H., "Administrative Problems in Controlling the Exercise of Police Authority," Journal of Criminal Law, Criminology and Police Science, Vol. 48, 1967, pp. 160-172.

3. Reiss, A., The Police and the Public, New Haven: Yale University Press, 1971.

Goal 1.3
Police Discretion

Every police agency should acknowledge the existence of the broad range of administrative and operational discretion that is exercised by all police agencies and individual officers. That acknowledgement should take the form of comprehensive policy statements that establish the limits of discretion, that provide guidelines for its exercise within those limits and that eliminate discriminatory enforcement of the law.

1. Every police chief executive should have the authority to establish his agency's fundamental objectives and priorities and to implement them through discretionary allocation and control of agency resources. In the exercise of his authority, every police chief executive:

   a. Should review all existing criminal statutes, determine the ability of the agency to en-

force these statutes effectively and advise the legislature of the statutes' practicality from an enforcement standpoint; and

b. Should advise the legislature of the practicality of each proposed criminal statute from an enforcement standpoint, and the impact of such proposed statutes on the ability of the agency to maintain the existing level of police services.

2. Every police chief executive should establish policy that guides the exercise of discretion by police personnel in using arrest alternatives. This policy:

   a. Should establish criteria for the selection of appropriate enforcement alternatives;

   b. Should require enforcement action to be taken in all situations where all elements of a crime are present and all policy criteria are satisfied;

   c. Should be jurisdiction wide in both scope and application; and

   d. Specifically should exclude offender lack of cooperation, or disrespect toward police personnel, as a factor in arrest determination unless such conduct constitutes a separate crime.

3. Every police chief executive should establish policy that limits the exercise of discretion by police personnel in conducting investigations, and that provides guidelines for the exercise of discretion within those limits. This policy:

   a. Should be based on codified laws, judicial decisions, public policy and police experience in investigating criminal conduct;

   b. Should identify situations where there can be no investigative discretion; and

c. Should establish guidelines for situations requiring the exercise of investigative discretion.

4. Every police chief executive should establish policy that governs the exercise of discretion by police personnel in providing routine peacekeeping and other police services that, because of their frequent recurrence, lend themselves to the development of a uniform agency response.

5. Every police chief executive should formalize procedures for developing and implementing the foregoing written agency policy.

6. Every police chief executive immediately should adopt inspection and control procedures to insure that officers exercise their discretion in a manner consistent with agency policy.

Commentary

As was noted in the commentary to Goal 1.1, the task force does not approve of "selective enforcement," whereby the police chief executive makes a policy decision that certain laws are unenforceable and therefore no attempt will be made to enforce them in a given jurisdiction. Such decisions are beyond the proper authority of law enforcement agencies, and must be made by the legislature when determining whether to enact, amend or repeal any statute. The police agency's role is confined to advising the legislature of a statute's practicality from an enforcement standpoint.

Recognizing that every Virginia law enforcement officer is committed to a policy of enforcing all of the state's criminal laws, there is nonetheless room for police discretion in deciding when to investigate or arrest for suspected violations of the law in specific situations. Crime does not look the same on the street as it does in a legislative chamber, and it is impossible to draft a criminal code which sets out specific instructions covering the infinite variety of situations which confront the police. When a police officer is confronted with a specific factual situation he will always have to select from among a number of possible sources of action. For example, if an officer is confronted with a person making a public speech which may be fomenting violence in the audience, the officer must decide whether to: (1) protect the first amendment rights of the speaker; (2) disperse the crowd; (3) arrest the speaker; or (4) do nothing.

In the absence of any guidelines from the police agency, the officer must select his course of action based on his personal evaluation of the situation. Such an evaluation may be based on a misunderstanding of the law, or based on improper factors such as race, religion or political preferences. Even if the personal evaluation is based wholly on proper considerations; as a personal evaluation it remains essentially invisible, and leaves the public to speculate on what factors prompted the officer to select a certain course of action. The possible consideration of improper factors may be an inherent risk in the exercise of discretion, but consideration of such factors can be discouraged if the law enforcement agency guides the individual officer's decision by informing him of what factors can properly be considered and what factors should not properly affect his decision.

Until such time as society elects inflexibly to enforce all laws in all situations, the task force recognizes that it is inherent in our criminal justice system that police agencies and individual officers will exercise administrative and operational discretion. Written guidelines for the exercise of that discretion will: (1) eliminate the appearance of, and/or actual discriminatory or arbitrary enforcement policies; and (2) assist the individual officer in handling the complex situations he confronts on a daily basis.

References

1. National Advisory Commission Report on Police, Standard 1.3, pp. 21-27.

2. Burger, W., "Address to Graduates of the FBI National Academy," FBI Law Enforcement Bulletin, January 1972.

3. Davis, K., Police Discretion, St. Paul, Minn.: West Publishing Co., 1975.

4. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971.

Goal 1.4 Communicating with the Public

Every police agency should recognize the importance of bilateral communication with the public and should constantly seek to improve its ability to determine the needs and expectations of the public, to act upon those needs and expectations and to inform the public of the resulting policies developed to improve delivery of police services.

1. Every police agency should immediately adopt policies and procedures that provide for effective communication with the public through agency employees. Those policies and procedures should insure:

   a. That every employee with duties involving public contact has sufficient information with which to respond to questions regarding agency policies; and

   b. That information he receives is transmitted through the chain of command and acted upon at the appropriate level.

2. Every police agency that has racial and ethnic minority groups of significant size within its jurisdiction should recognize their police needs and should, where appropriate, develop means to insure effective communication with such groups.

3. Every police agency with a substantial non-English-speaking population in its jurisdiction should provide readily available bilingual employees to answer requests for police services. In addition, existing agency programs should be adapted to insure adequate communication between non-English-speaking groups and the police agency.

4. Every police agency with more than 200 sworn personnel should establish a specialized unit responsible for maintaining communication with the community. In smaller agencies, this responsibility should be the chief executive's, using whatever agency resources are necessary and appropriate to accomplish the task.

   a. The unit should establish lines of communication between the agency and recognized community leaders and should elicit information from the citizen on the street who may feel that he has little voice in government or in the provision of its services.

   b. The unit should identify impediments to communications with the community, research and devise methods to overcome those impediments, and develop programs which facilitate communication between the agency and the community.

c. The unit should conduct constant evaluations of all programs intended to improve communications and should recommend discontinuance of programs when their objectives have been achieved or when another program might more beneficially achieve the identified functional objective.

Commentary

Although the police service is a formal element of state and local government, it is responsible to the people in a more direct way. The goals and priorities which the police establish within the limits of their legislatively granted authority are determined to a large extent by community desires. This goal recognizes the importance of two-way communications between law enforcement agencies and the public in order to identify the needs and expectations of the public.

The goal recommends that every law enforcement agency in Virginia formulate policies and procedures designed to foster effective bilateral communications. In some localities special procedures are needed to communicate with certain sectors of the public. Racial, ethnic and non-English speaking minorities are not the only groups which may present special communications problems. Police agencies should constantly strive to upgrade communications with all sectors of the public, and specific programs should be designed to meet the needs of the local community. For example, the Alexandria Police Department has had success with a program designed to meet the special problems of communicating with the deaf.

The task force feels, as a practical matter, that an agency with 200 sworn personnel is of sufficient size to justify a special unit responsible for maintaining communication with all segments of the community. The position of the special unit in the agency hierarchy is left to the discretion of the individual agencies.

References

1. National Advisory Commission Report on Police, Standard 1.4, pp. 29-33.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971.

3. Havlick, J., Police-Community Relations Programs, Washington, D.C.: International City Management Association, 1967.

Goal 1.5
Police Understanding of Their Role

Every police agency immediately should take steps to insure that every officer has an understanding of his role, and an awareness of the culture of the community where he works.

1. The procedure for developing policy regarding the police role should involve officers of the basic rank, first line supervisors and middle managers. Every police employee should receive written policy defining the police role.

2. Explicit instruction in the police role and community culture should be provided in all recruit and in-service training.

3. The philosophy behind the defined police role should be a part of all instruction and direction given to officers.

4. Middle managers and first line supervisors should receive training in the police role and thereafter continually reinforce those principles by example and by direction of those they supervise.

5. Methods of routinely evaluating individual officer performance should take into account all activities performed within the context of the defined role. Promotion and other incentives should be based on total performance within the defined role, rather than on any isolated aspect of that role.

Commentary

Some people hold that the only proper role for a police officer is the efficient enforcement of the law and nothing else. Others believe that an officer should not only enforce the law, but as a government employee he should also provide social services to the community. These conflicting views of the police role should be reconciled by the police agency, not by individual officers. If an officer is not given a clear understanding of what the police agency expects of him, he must make a

personal choice as to his proper role. His personal view of the police role may be inconsistent with the view of the police agency.

Once the law enforcement agency has defined the role of the officer, steps must be taken to persuade the officer that the official concept of his role is a proper one. In these times when employee groups representing officers are becoming increasingly aggressive, the officer's acceptance of his role cannot be mandated merely by administrative decree. The police agency should educate the officer by providing recruit and in-service training on the police role, and should develop incentives to encourage each officer to adopt that role.

In addition to understanding the police role, the goal suggests that each officer be trained or educated to understand the culture of the community where he works. Police officers are recruited predominantly from among the middle class. Most of them have lived in a single neighborhood where they were not exposed to varying life styles. For example, a young man raised in a rural community or in a city's suburbs, may not be prepared to deal with the culture of its inner city. Many Virginia law enforcement agencies now offer training in police-community relations, ethics and human relations. The task force feels such training is important and should be offered wherever it is economically feasible.

References

1. National Advisory Commission Report on Police, Standard 1.5, pp. 34-37.
2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971.
3. Grimes, J., et al., Readings on Productivity in Policing, Washington, D.C.: Police Foundation, 1975.
4. Reiss, A., The Police and the Public, New Haven: Yale Univ. Press, 1971.
5. Sterling, J., Changes in Role Concepts of Police Officers, Washington, D.C.: International Association of Chiefs of Police, 1972.

Goal 1.6
Public Understanding of the Police Role

Every police or sheriff's agency should develop programs which are designed to inform the public of the agency's defined police role. The

programs developed will depend upon the agency's resources and the cooperation of local groups. The following programs are recommended for consideration:

1. Periodic classroom presentations to be made at elementary schools within each jurisdiction by uniformed officers. The presentations could include a basic description of the defined police role -- but at a level that can be understood by elementary school students.

2. Police or sheriff's agencies consisting of more than 200 sworn employees could consider the assignment of a full-time officer to each secondary school or to a group of schools in its jurisdiction, provided:

   a. The school system desires such an assignment;

   b. The benefits of such an assignment warrant its continuation; and

   c. The agency has personnel who are qualified to serve as both an enforcement officer and a teacher and counselor.

3. Police or sheriff's agencies could consider participating in community sanctioned youth activities. This may be accomplished by the development of programs within the agency or by joining with other civic groups. The programs should be designed to:

   a. Better acquaint the officers with community youth; and

   b. Better acquaint community youth with the defined police role.

4. To assist the public further in understanding the police role, the police or sheriff's agencies could consider providing officers as speakers when requested for business and civic meetings.

5. Police and sheriff's agencies could provide tours and an "open house" in order to enhance public awareness of the police role.

Commentary

The public's conception of proper police action is not merely a matter of public relations; it can have practical consequences as well. In the 1960's when some sectors of the public were openly hostile to the police, routine police action such as the public arrest of a suspect, provided the catalyst touching off a number of riots. Although the political and social climate has changed in the 1970's, it is still not uncommon for bystanders to sympathize with persons being interrogated or arrested, and regard such persons as the victims of police harassment.

While most people have a fair understanding of what the police do, many people also have misconceptions of the police role. Movies, television and popular books frequently distort the public's view of the police. Since the arresting officers do not have the time or opportunity to explain their actions to bystanders, general educational programs are needed to give the public a basis for understanding police action.

The task force recognizes that educating the public regarding the police role is a responsibility of all of society. Parents, schools, churches and similar groups should all play a part in this educational process. But the police should not ignore opportunities to play their part in the educational process.

The task force notes that many Virginia law enforcement agencies currently have programs to enhance public understanding of the police role. One program in Chesapeake involved creation of a Youth Services Unit whereby six police officers were assigned to city high and junior high schools. The program appears to have been a success, and one high school principal observed that the police officer serves "as a humanizing aspect of the police department." On the other hand the Suffolk School Board considered but rejected such a program for Suffolk schools. The task force does not endorse any specific program but encourages all communities to examine the programs listed in the goal to determine which if any programs will foster better community understanding of the police role.

References

1. National Advisory Commission Report on Police, Standard 1.6, pp. 38-39.

2. American Bar Association, Standards Relating to the Urban Police Function, Standards 1.1 and 1.2, New York, 1972.

3. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 159-162.

Goal 1.7
News Media Relations

Every police chief executive immediately should acknowledge in written policy statements the important role of the news media and the need for the police agency to be open in its relations with the media. The agency should promote a policy of presenting public information rather than merely responding to occasional inquiries.

1. The news media relations policy should be included in the agency training curricula, and copies of it provided to all agency personnel, media representatives and the public. This policy should acknowledge:

   a. The right of the press to obtain information for dissemination to the public;

   b. The agency's responsibility to respond to inquiries from the media, subject to legal restraints and the necessity to preserve evidence, to prevent interference with police investigations and other operations and to protect the constitutional rights of persons accused of crimes;

   c. The mutual benefits to the police agency and the media when relations between the two are characterized by candor, cooperation and mutual respect.

2. The news media relations program should provide regular liaison between the agency and the media through an officer or unit, depending upon the size of the agency and the nature and frequency of local news media demands.

3. Every police chief executive should establish a means of accreditation of legitimate news media representatives or of recognizing accreditation by other agencies to assist media representatives in receiving police cooperation.

4. Every police chief executive, in cooperation with the media, should prepare a written policy establishing the relationship between his agency and the news media during unusual occurrences.

Commentary

The relationship between the police and the news media in a democratic society requires consideration of complementary and conflicting interests. The news media have an obligation to report on news of significance to the public, and the operation of the criminal justice system is news in the truest sense. As was noted in Goal 1.6, the police also have an interest in informing the public about the nature of police tasks and problems. The news media offer the police an excellent channel for communicating with the public, and this goal suggests that police agencies take the initiative in disseminating information rather than merely responding to media inquiries. In this area the interests of the police and the news media are complementary, and each can assist the other in achieving the common goal of informing the public.

On the other hand, there are times when the news media's need for information about police activities conflicts with the police agency's responsibility to safeguard certain types of information. This is particularly true when the premature release of information would jeopardize an investigation, endanger the physical safety of individuals or damage the reputation of a citizen.

This goal does not propose an answer as to how to resolve every situation where the interests of the police and the news media conflict. The goal does suggest that such situations can best be approached in an atmosphere where the police agency acknowledges the conflicting interests and seeks to strike a balance between legitimate news media interests and legitimate police interests.

References

1. National Advisory Commission Report on Police, Standard 1.7, pp. 44-46.

2. Davis, E., "A Press Relations Guide for Peace Officers," Police Chief, Vol. 39, No. 3, March 1972.

Goal 1.8
Victim Assistance

Every agency of the criminal justice system should immediately recognize that the rights of victims must be afforded priority and special attention by all personnel in the criminal justice process. This recognition should manifest itself in policies and procedures designed

to minimize victim inconvenience.

Each agency should designate a representative to consult with citizens when they are victimized by crime. The Commonwealth's attorney should serve as general coordinator of the victim assistance services offered by all agencies within his jurisdiction. The representative should provide the following services:

1. Refer the victim to appropriate social agencies which may provide needed assistance;

2. Explain in general terms how the criminal justice system will deal with the case, and the victim's role in this process; and

3. Provide continuing advice and assistance as long as the victim is involved in the criminal justice system.

Commentary

Patrick V. Murphy, former New York City police commissioner observed that: "The way crime victims are treated in many jurisdictions from their first contact with the police to their final hours in the courtroom is often insensitive. Rarely are their needs considered to any degree."

This goal recognizes the need for each element of the criminal justice system to recognize its responsibility to the victims of crime. As a minimum the criminal justice system should stand ready to explain its functioning and the role that the victim will play in the determination of the defendant's possible guilt and punishment. Also each element of the criminal justice system must be able to advise the victim of his rights and advise him of the type of assistance he may receive.

The goal does not suggest that the criminal justice system provide direct assistance to the victim in the form of financial or medical help. But the victim will most likely come in closest contact with the various criminal justice agencies and these agencies should be able to refer the victim to the appropriate social agencies.

References

1. Americans for Effective Law Enforcement, Prospectus and Annual Report 1974-75, Evanston, Ill.: Americans for Effective Law Enforcement, Inc.

2. McDonald, W., "Towards a Bicentennial Revolution in Criminal

Justice: The Return of the Victim," American Criminal Law Review, Vol. 13, 1976, pp. 649-673.

3. Murphy, P., "New and Continuing Projects Listed in Police Foundation Grants," Crime Control Digest, March 25, 1974, p. 7.

Goal 1.9
Development of Goals and Objectives

Every police agency immediately should develop short- and long-range goals and objectives to guide agency functions. To assist in this development, every unit commander should review and put into writing the principal goals and objectives of his unit.

1. Every police agency and every unit within the agency should insure that its goals and objectives are:

   a. Consistent with the role of the police as defined by the agency's chief executive;

   b. Responsive to community needs;

   c. Reasonably attainable;

   d. Sufficiently flexible to permit change as needed; and

   e. Quantifiable and measurable where possible.

2. Every police agency should provide for maximum input both within and outside the agency in the development of its goals and objectives. It should:

   a. Create an atmosphere that encourages unrestricted submission of ideas by all employees regardless of rank; and

   b. Establish methods to obtain ideas from a variety of organizations and individuals outside the agency.

3. Every police agency and every unit within each agency should publish and disseminate its goals and objectives to provide uniform direction of employee efforts.

4. Every police chief executive should require every unit commander to make a periodic review of unit goals and objectives and submit a written evaluation of the progress made toward the attainment of these goals. Annually, in conjunction with the budget preparation, every police chief executive should provide for review and evaluation of all agency goals and objectives and for revisions where appropriate.

Commentary

The task force recognizes that there is considerable overlap between this goal and the material contained in Goals 1.1 through 1.7. Nonetheless, the task force concluded that any redundancy was not harmful and that this goal differed from Goals 1.1 through 1.7 in some areas, or at least placed a different emphasis on certain matters.

For instance, this goal stresses that the goals and objectives of the police agency should be "quantifiable and measurable where possible," whereas Goals 1.1 through 1.7 appear to emphasize more general goals and objectives based on long range policy decisions.

The task force wished to give special emphasis to that portion of the goal which suggests that police agencies "create an atmosphere that encourages unrestricted submission of ideas by all employees regardless of rank." It was recognized that lower ranking police officers are often reluctant to convey ideas and suggestions to their superiors. The task force felt that the police agency must take affirmative action to overcome this natural reluctance, and to encourage lower ranking police officers to freely communicate their suggestions to superiors.

References

1. National Advisory Commission Report on Police, Standard 2.1, pp. 49-52.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 1.2, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971.

4. Erickson, J., "The Criminal Justice Planner and You," Police Chief, Vol. 43, No. 1, January 1976, p. 60.

5. National Advisory Commission Report on Civil Disorders, Washington, D.C.: U.S. Government Printing Office, 1968, p. 157.

6. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, October 1974, pp. 61-64.

Goal 1.10
Establishment of Policy

Every police chief executive immediately should establish written policies in those areas of operations in which guidance is needed to direct agency employees toward the attainment of agency goals and objectives.

1. Every police chief executive should promulgate policy that provides clear direction without necessarily limiting employees' exercise of discretion.

2. Every police chief executive should provide for maximum participation in the policy formulation process. This participation should include at least:

   a. Input from all levels within the agency--from the level of execution to that of management--through informal meetings between the police chief executive and members of the basic rank, idea incentive programs and any other methods that will promote the upward flow of communication; and

   b. Input from outside the agency as appropriate--from other government agencies, community organizations and the specific community affected.

3. Every police chief executive should provide written policies in those areas in which direction is needed, including:

   a. General goals and objectives of the agency;

   b. Administrative matters;

   c. Community relations;

d. Public and press relations;

e. Personnel procedures and relations;

f. Personal conduct of employees;

g. Specific law enforcement operations with emphasis on such sensitive areas as the use of force, the use of lethal and non-lethal weapons, and arrest and custody; and

h. Use of support services.

Commentary

The task force recognizes that there is considerable overlap between this goal and the material contained in Goals 1.1 through 1.7. It was felt that any redundancy was harmless, and that this goal does present an overall view of the areas that are dealt with more specifically in Goals 1.1 through 1.7.

References

1. National Advisory Commission Report on Police, Standard 2.2, pp. 53-56.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 4.3, New York, 1973.

3. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971, p. 31.

4. Davis, K., Police Discretion, St. Paul, Minn.: West Publishing Co., 1975, pp. 32-46.

5. Jones, H., An Introduction to the Study of Public Policy, Belmont, Calif.: Wadsworth Publishing Co., 1970.

6. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 194.

Goal 1.11
Inspections

It appeared to the task force that the existing practice in Virginia regarding inspections has worked satisfactorily. This goal is recommended as a comprehensive plan for conducting inspections, and should be considered by those police agencies which desire to reconsider their existing practice.

Every police agency should immediately establish a formal inspection system to provide the police chief executive with the information he needs to evaluate the efficiency and effectiveness of agency operations.

1. Every police agency should require ongoing line inspections. Every police chief executive should give every manager and supervisor the responsibility and the authority to hold inspections and:

   a. To conduct continual inspections of all personnel subordinate and directly responsible to him through any level of the chain of command and to inspect the equipment used and the operations performed by such subordinate personnel; and

   b. To take immediate action indicated by the results of such inspections: commendation for exemplary performance and correction of deficiencies.

2. Every police chief executive should implement routine scheduled and unscheduled inspections of all personnel, material and operations. When the police chief executive personally cannot conduct these inspections often enough, he should provide for staff inspections to meet these needs.

   a. Every police agency with 200 or more personnel should establish a unit staffed with at least one employee whose full-time responsibility is staff inspection. The size and organization of the inspection unit should correspond to the size of the agency and the complexity of the inspections task;

b. Every police agency with at least 75 but fewer than 200 personnel should, where necessary, establish an inspection unit or assign an employee whose full-time responsibility is staff inspection. If a full-time assignment is not justified, staff inspections should be assigned to an employee who performs related duties but is neither responsible to supervisors of the units being inspected nor responsible for the operations of such units;

c. Every police agency with fewer than 75 personnel, and in which the chief executive cannot conduct his own inspections, should assign responsibility for staff inspections to an employee who performs related duties but is neither responsible to supervisors of the units being inspected nor responsible for the operations of such units;

d. Staff inspections should include inspection of materials, facilities, personnel, procedures and operations. A written report of the findings of the inspection should be forwarded to the chief executive; and

e. Where possible, the rank of the employee responsible for staff inspections or that of the employee in charge of the inspections unit should be no lower than the rank of the employee in charge of the unit being inspected. There should be no more than one person between the inspecting employee and the chief executive in the chain of command. The person conducting a staff inspection should be a direct representative of the police chief executive.

Commentary

Properly conducted inspections provide information which enables the police executive to evaluate the agency's operational efficiency and effectiveness. Although infractions uncovered during the process of inspection should be handled according to agency policy, inspection

procedure should not be viewed as a disciplinary process. It should be a fair, impartial and honest appraisal of employee efforts. The inspection procedure should help those inspected to do their job better. The inspector or inspection party should have a positive, constructive attitude; they should not instill fear and distrust in the inspection process.

The task force concludes that existing inspection procedures in Virginia are functioning effectively. However, the task force feels that Virginia police agencies should strive continually to upgrade their inspection procedures, and this goal is recommended as one approach to upgrading the system of inspections.

References

1. National Advisory Commission Report on Police, Standard 2.3, pp. 57-60.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 1.2, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1969, p. 202.

4. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, Washington, D.C.: U.S. Government Printing Office, 1967, p. 49.

5. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, October 1974, pp. 66-71.

6. Wilson, J., Varieties of Police Behavior, New York: Atheneum, 1975, pp. 16-57.

Chapter 2
Relations with the Community and within the Criminal Justice System

Goal 2.1
Crime Problem Identification and Resource Development

Every police agency should insure that parolmen and members of the public are brought together to identify crime problems and potential solutions on a local basis. Police agencies should immediately adopt programs to insure joint participation in crime problem identification.

Commentary

The task force realized that the police would benefit from the support of the public in identifying crime problems and potential solutions. The task force also recognized that there are elements of society which do not trust the police, and would be suspicious of any effort to cooperate with the police. The goal places the burden on the police to initiate programs in an attempt to enlist the support of all sectors of the public. It is felt that police agencies and members of the public should be brought together on a local basis to identify the crime problems of primary concern to the local populace. It is hoped that dialogue between the police and local citizens will help dispel any distrust of the police and foster an approach of all groups working together toward the common goal of reducing crime.

The type of specific program to be utilized to promote joint participation is left to the discretion of the local police agency. The task force has deliberately drafted the goal in general terms, so that each police agency retains the flexibility to identify the type of program that would be successful in any given community.

References

1. National Advisory Commission Report on Police, Standard 3.1, pp. 63-65.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 1.2, New York, 1973.

3. Fink, J., and L. Sealy, The Community and the Police -- Conflict or Cooperation?, New York: John Wiley and Sons, 1974.

4. National Advisory Commission Report on Community Crime Prevention, Washington, D.C.: U.S. Government Printing Office, 1973, pp. 91-110.

5. National Council on Crime and Delinquency, Goals and Recommendations, New York, 1967, pp. 13-14.

6. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 118.

Goal 2.2
Crime Prevention

Every police agency should immediately establish programs that encourage members of the public to take an active role in preventing crime, that provide information leading to the arrest and conviction of criminal offenders, that facilitate the identification and recovery of stolen property and that increase liaison with private industry in security efforts.

1. Every police agency should assist actively in the establishment of volunteer neighborhood security programs that involve the public in neighborhood crime prevention and reduction.

2. Every police agency should establish or assist programs that involve trade, business, industry and community participation in preventing and reducing commercial crimes.

3. Every police agency should conduct, upon request, security inspections of businesses and residences and recommend measures to avoid being victimized by crime.

4. Every police agency should provide support services to, and jurisdiction wide coordination of, the agency's crime prevention programs; however, such programs should operationally decentralize whenever possible.

Commentary

Crime is not only a police problem; it is a social problem that can never be resolved by the police or the criminal justice system alone. Crime will continue to plague the Commonwealth unless individual members of society assume greater responsibility. Informed private citizens, playing a variety of roles, can make a decisive difference in the prevention, detection and prosecution of crime.

This goal recommends that every police agency encourage members of the public to take an active role in preventing crime. However, to avoid any possible misimpression that the public is being encouraged to form "vigilante groups" or "take the law in their own hands," the goal recommends that the police agency participate in the organization of any proper crime prevention project. For example police agencies in Norfolk, Portsmouth, Virginia Beach and Chesapeake recently launched an area-wide anti-crime program utilizing citizens with two-way radio vehicles and taxicab drivers. Participants in the program were trained on how to report crimes and will serve as the "eyes and ears of the law enforcement agencies." The watchful public spirited citizen, with his two-way communications equipment, will be in an ideal position to report accidents and crimes, and alert police officers where assistance is needed.

Police can also establish programs which educate citizens on how to make themselves less vulnerable to crime. Norfolk recently participated in a Pilot Crime Resistance Program which concentrated on crimes against women. As a result of the project an educational program is being developed to alert women to the instances in which rape is most likely to occur and to instruct them in methods by which they can avoid becoming rape victims.

The goal also suggests that specific attention be given to commercial crimes. Local businessmen should be given assistance in the form of security inspections and recommended measures on how to avoid being

victimized by crime. Many police agencies in Virginia currently conduct security inspections of residential and commercial buildings and offer suggestions on the appropriate type of door lock or other security devices. The task force feels that such programs have been successful and that all police agencies should strive to provide such services.

References

1. National Advisory Commission Report on Police, Standard 3.2, pp. 63-65.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 1.2, New York, 1973.

3. Fink, J., and L. Sealy, The Community and the Police -- Conflict or Cooperation?, New York: John Wiley and Sons, 1974.

4. National Advisory Commission Report on Community Crime Prevention, Washington, D.C.: U.S. Government Printing Office, 1973, pp. 91-110.

5. National Council on Crime and Delinquency, Goals and Recommendations, New York, 1967, pp. 13-14.

6. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 118.

Goal 2.3
Cooperation and Coordination

Every police 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 of the criminal justice system. Where appropriate, this planning might encompass the formation of a criminal justice coordinating council with members representative of law enforcement, other criminal justice agencies and local government.

Commentary

"Fragmented," "divided," "splintered," and "decentralized" are the adjectives most commonly used to describe the present system of criminal justice. The causes of crime and potential solutions are frequently the subject of intense disagreement among police, courts and correctional

personnel. This is not surprising in light of the fact that patrolmen, corrections officers and attorneys frequently have quite different on-the-job experiences, constitutional responsibilities, educational backgrounds and social class origins. Yet it must be realized that criminal justice agencies are highly dependent upon one another. What particular law enforcement, courts and corrections agencies do in handling offenders and processing information affects all the rest.

The task force recommends that each police agency make a commitment to promote understanding and cooperation between the agency and all other elements of the criminal justice system. While a certain amount of cooperation obviously takes place on a day to day working level, the goal suggests that some attention be devoted to the larger view of the overall interrelationship of all elements of the criminal justice system.

One specific form of coordination is set out in Goal 2.6 and another possibility is the general concept of criminal justice coordinating councils. Such councils bring together, formally or informally, all elements of the criminal justice system and local government, to consider any existing or potential problems. Such coordinating councils have been utilized in some localities in Virginia (e.g., Norfolk and Roanoke) and have proved to be beneficial.

References

1. National Advisory Commission Report on Police, Standard 4.1, pp. 73-76.
2. American Bar Association, Standards Relating to the Urban Police Function, Standard 8.1, New York, 1973.
3. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971.
4. Saunders, C., Upgrading the American Police, Washington, D.C.: The Brookings Institution, 1970.

Goal 2.4
Diversion

Every police agency should cooperate in any diversionary programs established by law. All diversion dispositions should be made pursuant to written agency policy that insures fairness and uniformity of treatment. Such policies and procedures should be prepared in cooperation with other elements of the criminal justice system.

Commentary

The task force concluded that the police should not take a position on the desirability of diversionary programs. It was believed to be pointless to discuss the abstract concept of diversion because the success or failure of the concept varies according to the specifics of a particular program. One significant aspect of any diversionary program is the question of adequate funding. The task force felt that the decision to create and fund a diversionary program rests with the state or local government and not with the police.

The task force feels that the only functions of the police in the area of diversion are to cooperate in diversionary programs that are established by law, and to insure that the police participation is in a manner that promotes fairness and uniformity of treatment.

References

1. National Advisory Commission Report on Police, Standard 4.3, pp. 80-83.
2. American Bar Association, Standards Relating to the Urban Police Function, Standard 8.1, New York, 1973.
3. Collingwood, T., et al., "Juvenile Diversion: The Dallas Police Department Youth Services Program," Federal Probation, Vol. 40, No. 3, 1976, p. 23.
4. Davis, K., Police Discretion, St. Paul, Minn.: West Publishing Co., 1975, pp. 52-95.
5. Eldefenso, E., Law Enforcement and the Youthful Offenders: Juvenile Procedures, New York: John Wiley and Sons, 1966.
6. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 91-93.
7. Skolnick, J., Justice Without Trial: Law Enforcement in Democratic Society, New York: John Wiley and Sons, 1966.
8. Wilson, J., Team Policing, Washington, D.C.: Police Foundation, 1973.
9. Wilson, J., Varieities of Police Behavior, New York: Atheneum, 1975, pp. 140-200.

Goal 2.5
Summons and Release on Own Recognizance

Every police agency should insure that all enforcement officers are familiar with, and make maximum use of, Virginia Code sections 19.2-74 and 46.1-178 in that these code sections provide for issuance of a summons and release on a person's own recognizance rather than physical arrest. Every police agency should also cooperate in programs that permit arraigned defendants to be released on their own recognizance in lieu of money or property bail in appropriate cases.

1. Every police agency should adopt written policies and procedure that provide guidelines for the exercise of individual officer's discretion in the use of Virginia Code sections 19.2-74 and 46.1-178. Written policy and procedure should indicate that a summons is not appropriate in the following situations:

   a. The behavior or past conduct of the accused indicates that his release presents a danger to individuals or to the community;

   b. The accused is under lawful arrest and fails to identify himself satisfactorily;

   c. The accused refuses to sign the summons;

   d. The accused has no ties to the jurisdiction reasonably sufficient to assure his appearance; and

   e. The accuesed has previously failed to appear in response to a summons.

2. Every police agency should take all available steps to insure that at the time arraigned defendants are considered for pretrial release, their previous criminal history or present conditional release status, if any, is documented and evaluated by the court in determining whether the defendants are released or confined pending trial.

3. Every police agency should place special emphasis on expeditiously serving all outstanding arrest warrants obtained by the agency, particularly those issued due to a defendant's failure to appear at court proceedings.

Commentary

The Virginia Code allows for the issuance of a summons in lieu of physical arrest for most misdemeanor violations (Va. Code §§ 19.2-74 and 46.1-178). Effective utilization of the summons process would result in a considerable savings of time and money for the criminal justice system. Issuance of a summons in lieu of arrest eliminates the need for a booking process, a pretrial release hearing and a possible inquiry into the indigency of the arrested suspect. Every police agency should promote the full utilization of the summons process, by adopting policies and procedures which provide guidelines for and encourage the exercise of the individual officer's authority.

The task force recognizes that the concept of pretrial release on the defendant's own recognizance is a function of the judicial branch. However, the goal suggests that the police can assist the judicial officer who makes the pretrial release decision by providing all current information the police possess regarding the defendant.

The goal also recognizes that the police can help make pretrial release programs more effective by endeavoring to expeditiously serve all outstanding arrest warrants issued for failure to appear in court. Such a policy on the part of the police would serve as a deterrent to those who contemplate absenting themselves from court appearances.

References

1. National Advisory Commission Report on Police, Standard 4.4, pp. 83-85.
2. American Bar Association, Standards Relating to Pretrial Release, Standard 8.1, New York, 1968.
3. Va. Code § 19.2-73 (Repl. Vol. 1975).
4. Va. Code § 19.2-74 (Repl. Vol. 1975).
5. Va. Code § 19.2-123 (Repl. Vol. 1975).
6. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 133.
7. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1977, pp. 73-76.

Goal 2.6
Criminal Case Follow-up

Every police agency immediately should develop policies and procedures to follow-up on the disposition of selected criminal cases. The follow-up should be done in cooperation with local courts and prosecuting agencies, and should include the following:

1. Identification of criminal cases which require special attention by the prosecuting agency;

2. Maintenance of liaison with the prosecutor regarding the selected case; and

3. Attendance by a police representative at open judicial proceedings related to such cases where appropriate.

Every police agency should review administratively any apparent trend in which a certain type of case is dismissed or in which prosecuting agencies decline to prosecute. That review should result in a conference with the concerned officer and/or the prosecuting attorney to correct any deficiency which may have weakened the case.

Every police agency should encourage courts and prosecuting agencies routinely to evaluate investigations, case preparation and the courtroom demeanor and testimony of police officers and to inform the police agency of those evaluations. Police supervisors should also conduct such evaluations and recognize the need to educate and train police officers to perform properly as witnesses in court.

Every police 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 crime resulting from the defendant's presence in the community.

Commentary

This goal recognizes that the police agency's responsibility should not necessarily end with the arrest of an individual. The

concept of a criminal justice system requires that the police take an interest in the overall process, and not merely serve as the system's intake point. In selected cases the police could provide information which would help the prosecutor place the case in its proper perspective. For example the police might inform the prosecutor that the case is especially significant because of: (1) the substantial resources expended to solve the crime, (2) the defendant's alleged responsibility for a considerable number of crimes, (3) the situation in the particular area where the crime occurred such as a rash of muggings in a certain location.

The goal also recognized the need for communication between the police and the prosecutor regarding any category of cases which have not or cannot successfully be prosecuted. Police arrests in cases in which there is little likelihood of prosecution, or dismissals of cases because of erroneous police procedures, result in wasted criminal justice resources and contribute to the inefficiency and ineffectiveness in the system. Communication between the police and the prosecutor may result in a determination of why certain cases have not been successfully prosecuted, and identification of any deficiencies that may be corrected in the future.

The goal further suggests that other elements of the criminal justice system consider the police perspective when disposing of criminal cases. This does not question the continued independence of the courts in determining guilt and appropriate sentencing alternatives nor the discretion of prosecutors in individual cases. The goal merely suggests that it is proper for the police to advise others of the police positions in individual cases and, by policy, in classes of cases. Among the elements of the criminal justice system, the police are in the best position to observe the tangible effects of crime, its victims, and the resulting disruption of public order. The police should be consulted regarding decisions on plea negotiations, diversion, sentencing, probation or parole.

References

1. National Advisory Commission Report on Police, Standard 4.5, pp. 86-89.

2. American Bar Association, Standards Relating to Fair Trial and Free Press, New York, 1968.

3. American Bar Association, Standards Relating to Pretrial Release, Standard 8.1, New York, 1968.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 95-99.

5. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 266-269.

Goal 2.7
Court Supervised Electronic Surveillance

Virginia law should be amended to:

1. Authorize electronic surveillance (in accordance with Code §§ 19.2-61 through 19.2-70) whenever such surveillance may reasonably be expected to provide evidence of the commission of the offense of illegal gambling.

2. Authorize the use or disclosure of facts contained in an overheard or recorded communication, relating to a felony other than the offense under investigation. The use or disclosure of such facts should be governed by the same rules applicable to facts relating to an offense covered by Code §§ 19.2-61 through 19.2-70.

Commentary

The task force shares the view of many experts that illegal gambling is one of the largest sources of revenue for organized crime. Huge profits derived from illegal gambling are frequently used to support other criminal activity. Under existing Virginia law persons engaged in illegal gambling can utilize telephones with the knowledge that Virginia authorities cannot intercept such communications. The task force believes that authorizing electronic surveillance in this area would substantially reduce the operations of illegal gamblers.

Existing Code § 19.2-67(5) makes it a misdemeanor for the police to use or disclose overheard or recorded communications not relating to offenses specified in § 19.2-66 (extortion, bribery, controlled drugs). The task force recommends that Code § 19.2-67(5) be repealed and language similar to paragraph 2 of the goal be enacted as law. Such a change in law would permit the police to properly utilize evidence relating to any felony which comes to light during a lawful

electronic surveillance.

The task force is well aware of the potential threat to privacy raised by extensive use of electronic surveillance. However, the task force believes that existing procedures adequately safeguard the right to privacy. Since the enactment of Virginia's electronic surveillance legislation, its use has been rigidly controlled, resulting in only six authorized instances of electronic surveillance. The task force concluded that existing safeguards of the right to privacy will not be lessened by adding illegal gambling to the list of offenses for which electronic surveillance is authorized, and by authorizing the proper use of all evidence discovered while conducting lawful electronic surveillance.

References

1. National Advisory Commission Report on Police, Recommendation 4.3, pp. 97-99.

2. American Bar Association, Standards Relating to Electronic Surveillance, Standard 3.3, New York, 1968.

3. Omnibus Crime Control and Safe Streets Acts, 18 U.S.C.§§ 2510 et seq. (1968).

4. Va. Code § 19.2-62 (Repl. Vol. 1975).

5. Va. Code § 19.2-63 (Repl. Vol. 1975).

6. Va. Code § 19.2-66 (Repl. Vol. 1975).

7. Va. Code § 19.2-68 (Repl. Vol. 1975).

8. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 99-104.

Chapter 3
Planning and Organizing

Goal 3.1
Responsibility for Police Service

The Commonwealth and local governments immediately should provide complete and competent police service through an organizational structure that most effectively and efficiently meets its responsibility. The government responsible for this service should provide for a police organization that performs the duties described as the police role.

1. Every police agency should provide for access to police service and response to police emergency situations 24 hours a day.

2. Every local government unable to support a police agency and provide 24-hour-a-day services should arrange immediately for the necessary services by mutual agreement with an agency that can provide them.

3. Every police chief executive should establish an organizational structure that will best insure effective and efficient performance of the police functions necessary to fulfill

the agency's role within the community. Every police chief executive:

a. Should, in conjunction with the annual budget preparation, review the agency's organizational structure in view of modern management practices and provide for necessary changes.

b. Should insure that the organizational structure facilitates the rendering of direct assistance and service to the people by line elements. Command of line elements should be as close as practical to the people.

c. Should organize the agency's staff elements to insure that the organizational structure provides for direct assistance and service to line elements.

d. Should limit functional units, recognizing that they increase the need for coordination, create impediments to horizontal communications and increase the danger of functional objectives superseding agency goals.

e. Should establish only those levels of management necessary to provide adequate direction and control.

f. Should define the lines of authority and insure that responsibility is placed at every level with commensurate authority to carry out assigned responsibility.

g. Should not be encumbered by traditional principles of organization if the agency goals can best be achieved by less formal means.

Commentary

The goal states that every police agency should be organized and structured in a manner which promotes maximum efficiency in the provision of police services to meet the needs of the community. While a call for efficient management is obviously a non-controversial cliché, the goal does deal with the following specifics:

1. Responsibility for efficient operation rests with the police chief executive who should review the agency's organization annually. Many agencies do not operate according to their theoretical or authorized organizational structure, but operate according to day-to-day modifications, and an annual review of the existing organization is necessary.

2. The ultimate purpose of a police agency is to render direct assistance and service to the public by line elements. Staff elements and specialized units complicate operations and communications, and should be kept to a minimum. The police chief executive should be cognizant of the apparent universal tendancy of bureaucracies to grow and perpetuate themselves. On an annual basis he should reexamine whether a staff element is in fact efficiently assisting line elements in providing police services to the public.

The goal also recognized that it is the responsibility of every police agency to provide 24-hour-a-day service to the community. The task force recognized that this may create a problem in small communities with limited resources, but feels that 24-hour police service is a desirable and realistic goal. Small agencies unable to provide 24-hour services should arrange for the necessary services by mutual agreement with an agency that can provide them. This may require an agreement between towns, a town-county agreement, or even a town-state agreement.

References

1. National Advisory Commission Report on Police, Standard 5.1, pp. 104-107.

2. American Bar Association, Standards Relating to the Urban Police Function, Standards 2.3 and 7.10, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Admin-

istration, Washington, D.C.: International City Management Association, 1971.

4. Germann, A., et al., Introduction to Law Enforcement and Criminal Justice, Springfield, Ill.: Charles C. Thomas Co., 1971, pp. 253-256.

5. Wilson, O., Police Administration, New York: McGraw-Hill, 1950.

Goal 3.2
Combined Police Services

The Commonwealth, local governments and every police agency should provide police services by the most effective and efficient organizational means available to it. In determining this means, each should acknowledge that the police organization (and any functional unit within it) should be large enough to be effective but small enough to be responsive to the people. If the most effective and efficient police service can be provided through mutual agreement or joint participation with other criminal justice agencies, the governmental entity or the police agency immediately should enter into the appropriate agreement or joint operation. Police agencies with limited manpower should consider consolidation or contractual police services, for improved efficiency and effectiveness. Cooperation between all police agencies is necessary to achieve these ends.

1. Virginia should amend Code § 15.1-131.3 or enact new legislation enabling local governments to enter into agreements with the state police, whereby the state police would provide certain police services.

2. Every local government should take whatever other actions are necessary to provide police services through mutual agreement or joint participation where such services can be provided most effectively.

3. No state or local government or police agency should enter into any agreement for or participate in any police service that would not

be responsive to the needs of its jurisdiction and that does not at least:

a. Maintain the current level of a service at a reduced cost;

b. Improve the current level of a service either at the same cost or at an increased cost if justified; or

c. Provide an additional service at least as effectively and economically as it could be provided by the agency alone.

4. Virginia, in cooperation with all police agencies within it, should develop a comprehensive, statewide mutual aid plan to provide for mutual aid in civil disorders, natural disaster, and other contingencies where manpower or material requirements might exceed the response capability of single agencies.

5. The Commonwealth should provide, at no cost to all police agencies within the state, those staff services such as laboratory services, information systems and intelligence and communications systems, which would not be economical or effective for a single agency to provide for itself.

6. Every local government and every local police agency should study possibilities for combined and contract police services, and where appropriate, implement such services. Combined and contract services programs may include:

a. Total consolidation of local government services: the merging of two city governments, or city-county governments;

b. Total consolidation of police services: the merging of two or more police agencies or of all police agencies (i.e., regional consolidation) in a given geographic

area;

c. Partial consolidation of police services: the merging of specific functional units of two or more agencies;

d. Regionalization of specific police services: the combination of personnel and material resources to provide specific police services on a geographic rather than jurisdictional basis;

e. Metropolitanization: the provision of public services (including police) through a single government to the communities within a metropolitan area;

f. Contracting for total police services: the provision of all police service by contract with another government (city with city, city with county, county with city, or city or county with state);

g. Contracting for specific police services: the provision of limited or special police services by contract with another police or criminal justice agency;

h. Service sharing: the sharing of support services by two or more agencies; and

i. Facilities and equipment sharing: e.g., helicopters, firing ranges, training facilities and mobile crime labs.

7. Every police agency should immediately, and annually thereafter, evaluate its staff services to determine if they are adequate and cost effective, where these services would meet operational needs more effectively or efficiently if they were combined with those of other

police or criminal justice agencies, or if agency staff services were secured from another agency by mutual agreement.

8. Every policy agency that maintains cost-effective staff service should offer the services to other agencies if by so doing it can increase the cost-effectiveness of the staff service.

9. Every police chief executive should identify those line operations of his agency that might be more effective and efficient in preventing, deterring or investigating multijurisdictional criminal activity if combined with like operations of other agencies. Having identified these operations, he should:

   a. Confer regularly with all other chief executives within his area, exchange information about regional criminal activity and jointly develop and maintain the best organizational means for regional control of this activity; and

   b. Cooperate in planning, organizing and implementing regional law enforcement efforts where such efforts will directly or indirectly benefit the jurisdiction he serves.

Commentary

The task force concluded that existing Virginia law permits most, if not all, of the forms of interagency cooperation suggested by the goal. The purpose of adopting such a goal is not to change current law or practice, but to encourage every police agency to become familiar with the various programs for interagency cooperation and to participate in such programs wherever such programs would improve the efficiency or effectiveness of providing police services. On the state level the Division of Justice and Crime Prevention is available to assist local agencies in planning for the delivery of police services.

The appropriateness of interagency cooperation or consolidation is a decision for the local community. The task force specifically rejects that portion of NAC Standard 5.2 which calls for the consolidation of all police agencies that employ fewer than 10

sworn employees. The task force does not feel that the quality of police service is necessarily related to the size of the police agency.

This goal does recommend one specific change to existing law, in regard to cooperation between local police agencies and the state police. Code § 15.1-131.3 authorizes counties, cities and towns to enter into reciprocal agreements for the furnishing of police services, but does not authorize local communities to enter into such agreements with the state police. The task force believes that the state police should be authorized to provide police services where the state police and the local community agree that such a practice is desirable.

References

1. National Advisory Commission Report on Police, Standard 5.2, pp. 108-116.
2. Va. Code § 15.1-131-3 (Repl. Vol. 1973).
3. Va. Code § 15.1-131.5 (Cum. Supp. 1975).
4. Baugh, R., "Professional News COPsules -- Contract Law Enforcement," Police Chief, Vol. 38, No. 2, Feb. 1971, p. 12.
5. Bonamarte, M., and A. Principe, "Training a Task Force of Evidence Technicians," Police Chief, Vol. 37, No. 6, June 1970, pp. 48-53.
6. Carson, D. and D. Brown, "Law Enforcement Consolidation for Greater Efficiency," FBI Law Enforcement Bulletin, Vol. 39, No. 10, Oct. 1970, pp. 11-15.
7. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971.

Goal 3.3
Commitment to Planning

Every police agency should develop planning processes which will anticipate short- and long-term problems and suggest alternative solutions to them. Policy should be written to guide all employees toward effective administrative and operational planning decisions. Every policy agency should adopt procedures immediately to assure the planning competency of its personnel through the establishment of qualifications for selection and training.

1. Every police agency should establish written policy setting out specific goals and objectives of the planning effort, quantified and measurable where possible, which at least include the following:

   a. To develop and suggest plans that will improve police service in furthering the goals of the agency;

   b. To review existing agency plans to ascertain their suitability, to determine any weaknesses, to update or devise improvement when needed and to assure they are suitably recorded;

   c. To gather and organize into usable format information needed for agency planning.

2. Every police agency should stress the necessity for continual planning in all areas throughout the agency, to include at least:

   a. Within administrative planning: long range, fiscal and management plans;

   b. Within operational planning: specific operational, procedural and tactical plans;

   c. Extra-departmental plans; and

   d. Research and development.

3. Every police agency should establish written qualifications for employees assigned specifically to planning activities.

4. Every police agency should provide training necessary for all personnel to carry out their planning responsibilities.

5. If there are planning needs that cannot be satisfied by agency personnel, the police agency should satisfy these needs through an appropriate

arrangement with another police agency, another governmental agency or a private consultant.

Commentary

Because of the nature of police work a police agency must be prepared for anything; that means it must plan for everything. The decision a police agency must make is not whether to plan, but rather how much to plan, in what detail and how far ahead. A police agency that fails to plan ahead is forced to operate from day to day, adjusting to new demands as they arise, but never undertaking long range projects to upgrade police services.

The task force, while acknowledging that each agency has its own character, its own problems, and its own potential, feels that sound management practices makes it incumbent upon police chief executives to plan for the short and long term. The goal encourages the police chief executive to recognize the need for planning, and suggests procedures to make such planning effective and efficient.

References

1. National Advisory Commission Report on Police, Standard 5.3, pp. 117-121.
2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.10, New York, 1973.
3. Flippo, E., Management: A Behavioral Approach, 2d Edition, Boston: Allyn and Bacon, 1970.
4. Koontz, H., and C. O'Donnell, Principles of Management, 3d Edition, New York: McGraw-Hill, 1955.
5. Grimes, J., et al., Readings on Productivity in Policing, Washington, D.C.: Police Foundation, 1975.
6. Whisenand, P., and R. Ferguson, The Managing of Police Organizations, Englewood Cliffs, N.J.: Prentice-Hall, 1973.
7. Wilson, O., Police Administration, New York: McGraw-Hill, 1950.

Goal 3.4
Police-Community Physical Planning

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

1. Every government entity should seek police participation with public and private agencies and organizations involved in community physical planning within the jurisdiction.

2. Every police agency should assist in planning with public and private organizations involved in police-related community physical planning. This assistance should at least include planning involving:

   a. Industrial area development;

   b. Business and commercial area development;

   c. Residential area development, both low rise and high rise;

   d. Governmental or health facility complex development;

   e. Open area development, both park and other recreation;

   f. Redevelopment projects such as urban renewal; and

   g. Building requirements (target hardening), both residential and commercial.

Commentary

Governmental involvement with physical and environmental planning has traditionally been limited to building codes or zoning laws which concentrate on structural soundness, economics of land use, aesthetic values and ecology. Concern for public safety has generally been limited to fire safety, and has largely ignored the effect that physical conditions can have on crime prevention.

An experienced police officer can identify high crime risk locations by noting such factors as poor lighting, weak points of entry to potential crime targets, isolated points of entry, physical layouts providing areas of concealment and the inaccessibility of the area to police patrol. The goal suggests that planners take advantage of this police expertise and include in

physical planning an analysis of how the proposed physical environment may encourage or discourage the commission of crime.

The goal suggests that as a minimum the police stand ready to provide such information. Whether the police should take the initiative in placing this information before physical planners is left to the discretion of the local community.

References

1. National Adivsory Commission Report on Police, Standard 5.5, pp. 129-131.
2. National Advisory Commission Report on Community Crime Prevention, Chapter 9, "Programs for Reduction of Criminal Opportunity," Washington, D.C.: U.S. Government Printing Office, 1973, pp. 194-204.
3. Newman, O., Defensible Space, New York: MacMillan, 1972.

Goal 3.5
Fiscal Management

Every local government maintaining a police agency should immediately assign responsibility for fiscal management to the police chief executive.

1. The police chief executive's fiscal management responsibility should include fiscal planning, budget preparation and presentation, and fiscal control.

2. Every police chief executive should develop the fiscal controls necessary for the agency to stay within funding restrictions, to ensure that funds are being spent for authorized purposes, to account properly for moneys received, and to alert local government to possible fiscal problems requiring remedial action. This function should also include developing policy and procedures for highly flexible interaccount transfers as changing needs arise during budget years.

3. Every police agency should consider various forms of systems budgeting. If the value of systems will offset the simplicity and convenience of line item or other modified budgeting methods already in use, the agency should consider adoption of such a system.

Commentary

A police chief executive is not simply a crime fighter or a policeman of special or superior rank. He is also a business manager who should accept full responsibility for fiscal management of his agency. The goal recognized fiscal management as an integral part of basic management principles, and urges local governments to accord the police chief executive the authority and responsibility to manage the financial side of law enforcement.

The task force recognizes that the budgeting system utilized by the police agency must be approved by the governing body. Within this limitation, however, the task force suggests that police chief executives consider various forms of systems budgeting, such as the Planning-Programming-Budgeting System (PPBS) which combines budget planning and budget execution with an emphasis upon the identification of long-range goals and problems identification.

References

1. National Advisory Commission Report on Police, Standards 5.6-5.7, pp. 132-142.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.8, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971.

4. Flippo, E., Management: A Behavior Approach, 2d Edition, Boston: Allyn and Bacon, 1970.

5. Koontz, H., and C. O'Donnell, Principles of Management, 3d Edition, New York: McGraw-Hill, 1955.

Goal 3.6
Funding

Every police chief executive and every police fiscal affairs officer should be thoroughly familiar with all means by which the agency can derive all the benefits possible from local funding, city-state-federal revenue sharing, grants and grantsmanship, and the use of bonds. They should understand the implications of each and use these means to provide funding for agency programs.

1. No police agency should enforce local ordinances for the sole or primary purpose of raising revenue, and no income arising from enforcement action should be earmarked specifically for any single enforcement agency.

2. Every police agency should use grants under explicit conditions to fund planning and experimentation in all phases of police service.

    a. Functional responsibility for the procurement of grants from federal and state agencies and foundations should be made the specific responsibility of a police agency employee designated by the chief executive.

    b. Any employee assigned to grant procurement should be given appropriate training.

Commentary

The goal recognizes that sound management practice requires that the police chief executive be thoroughly familiar with all the means by which his agency may obtain funding. In the present economic situation, public revenues are decreasing while the pressures for public services continue to mount. The police chief executive cannot accurately ascertain what portion of public revenue should be apportioned to his agency, unless he is aware of the total revenues available for police services and for all other public

services.

The goal does not suggest that the police chief executives should become involved in the raising of public funds, and the goal specifically cautions against ever having enforcement policy influenced by revenue producing considerations; e.g., stricter enforcement of parking regulations should never be ordered because the increased collection of fines will provide additional revenue for the police agency. Crime control and regulatory functions are the prime concern of police agencies, and any revenues derived from law enforcement are incidental only.

The task force feels that the use of grant funds presents special problems that must be addressed. For the most part, grants are designed to support experimental and short-range programs where certain objectives can be achieved within a limited period of time. Normally, grant funds will not support long-range programs, and no jurisdiction should initiate a long-range program unless it is willing to continue the program, if it is successful, even when outside funding is terminated.

References

1. National Advisory Commission report on Police, Standard 5.8, pp. 143-145.

2. American Bar Association, "Standards: The Urban Police Function," Police Chief, Vol. 40, No. 5, May 1973, pp. S1-S8.

Chapter 4
Unusual Occurrences

Goal 4.1
Command and Control Planning

The chief executive of every municipality should have ultimate responsibility for developing plans for coordination of all government and private agencies involved in unusual occurrence control activities. Every police chief executive should develop plans immediately for the effective command and control of police resources during mass disorders and natural disasters. These plans should be developed and applied in cooperation with allied local, state and federal agencies and should be directed toward restoring normal conditions as rapidly as possible.

1. Every police agency should develop intra-agency command and control plans to activate the resources of the agency rapidly to control any unusual occurrence that may occur within its jurisdiction. These plans should provide for:

    a. Liaison with other organizations to include the participation of those organizations in quickly restoring normal order;

b. Mutual sssistance agreements with other local law enforcement agencies and with state and federal authorities, where effective control resources may be limited by agency size; and

c. The participation of other government and private agencies.

2. Every police agency should insure that every employee is familiar with command and control plans that relate to any function the employee might be called upon to perform, or any function that might relate to his performance.

Commentary

This goal is designed to dispel the view that unusual occurrences such as riots or natural disasters, are merely transitory phenomena outside the mainstream of police work. Police have the greatest responsibility in most disasters, expecially in riots or in situations in which widespread lawlessness poses a threat. In every emergency the police must move to protect the community through rapid, appropriate and effective action. Spontaneous response to an emergency after it occurs, or action pursuant to improvised last minute plans are a poor substitute for genuine preparedness. An emergency plan is the key to a quick and effective response which may mean the difference between lives being lost or saved.

The task force recognizes that a police agency cannot create, by itself, a successful plan for disaster control. Too many other agencies are involved -- civil defense, fire departments, hospitals, and the Red Cross. Therefore, local government must share the lead and require all agencies to participate in a unified unusual occurrence plan. However, since the police have prime responsibility for maintaining control and restoring order, the police agency should take the initiative in formulating an emergency plan.

References

1. National Advisory Commission Report on Police, Standard 7.1, p. 166.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 2.2, New York, 1973.

3. National Advisory Commission Report on Civil Disorders, Washington, D.C.: U.S. Government Printing Office, 1968.

4. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967.

5. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, p. 145.

Goal 4.2
Executive Responsibility

Every police chief executive should be given responsibility immediately to command all police resources involved in controlling unusual occurrences within his jurisdiction. This authority should be preempted only when a state of emergency is declared by the governor, local authority breaks down or command authority is transferred by prior agreement. In carrying out this responsibility, the police chief executive should direct all police activities within the affected area, and he should insure that at least minimum services are provided to the remainder of the jurisdiction.

1. Every local government should provide by law that the police chief executive be responsible for all law enforcement resources used to control unusual occurrences within the jurisdiction. The police chief executive immediately should establish a system designating executive command in his absence.

    a. A system of succession of command should be established; and

    b. A senior officer should be designated the acting chief executive in the absence of the chief executive.

2. The chief executive or his delegate should be available to assume command without delay at all times. This individual should:

    a. Assess the agency's needs in the involved area and in the remainder of the jurisdiction;

b. Make decisions based on available information, and issue appropriate instructions to the agency to insure coordinated and effective deployment of personnel and equipment for control of the occurrence and for effective minimum policing of the remainder of the agency's jurisdiction;

c. Insure that all actions taken by law enforcement personnel deployed in the affected area are supervised and directed; and

d. Apply control measures according to established command and control plans and predetermined strategies.

Commentary

This goal, to a large extent, states what is the existing practice in most Virginia localities. All law enforcement personnel who assist another jurisdiction are commanded by the police chief executive of the locality receiving assistance. The local police chief executive retains command until the governor declares a state of emergency and supplants local authority with state or military forces, or until his authority is transferred by agreement to another police agency. Such agreements may be advisable in the case of small agencies that arrange for mutual aid assistance from larger police agencies.

The task force notes that some communities legally identify the local Commonwealth's attorney as the chief law enforcement officer for the jurisdiction. The task force wishes to make it clear that in regard to this goal, it is the police chief executive who should have authority to command all police resources. During an unusual occurrence, the police executive must exercise command in a highly charged atmosphere. Immediate decisions must be made and executive advisors may not be at hand. In exercising his authority during a riot or disaster, the police chief executive should not be hampered by technical questions of who is the chief law enforcement officer for the jurisdiction.

References

1. National Advisory Commission Report on Police, Standard 7.2, pp. 169-171.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.8, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1969, pp. 230-237.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, p. 148.

5. Turner, C., "Planning and Training for Civil Disorders," Police Chief, Vol. 38, No. 5, May 1968, p. 24.

Goal 4.3
Organizing for Control

Police chief executives should plan the manner in which the following services will be provided:

1. Establishment of a control center to act as the agency command post and responsible for:

   a. Coordinating all agency unusual occurrence control activities;

   b. Obtaining all resources and assistance required for the field forces from agency and outside sources;

   c. Maintaining chronological logs and preparing periodic reports concerning the unusual occurrence situation; and

   d. Collecting and disseminating information from field forces, agency sources and outside agencies.

2. Establishment of an intelligence organization responsible for the collection, evaluation and dissemination of information. This intelligence function should be performed by:

a. Field units;

b. A coordinating unit located at the agency control center; and

c. Outside agencies contributing intelligence through the coordinating unit.

3. Establishment of a personnel unit. This unit's responsibility is to:

a. Activate a predetermined personnel call-up system;

b. Maintain current personnel availability information and a continuous accounting of all agency personnel;

c. Anticipate the personnel needs of the field forces and provide for them;

d. Advise the agency commanding officer of the availability of personnel when the number of officers committed to the unusual occurrence indicates the need for partial or total mobilization, or a request for mutual aid or military assistance; and

e. Make proper and timely notifications of deaths and injuries of agency personnel.

4. Establishment of a logistics unit to:

a. Procure the needed vehicles, maintenance, supplies and equipment;

b. Account for the disruption of all vehicles, supplies and equipment deployed in the unusual occurrence;

c. Determine appropriate staging areas and maintain a current list of them;

d. Receive and safeguard evidence and property for the field forces; and

e. Provide for feeding of field forces, when necessary.

5. Establishment of a field command post staffed with personnel to support the field commander. This post should be staffed and organized to enable the field commander to:

   a. Direct the operations necessary to control the unusual occurrence;

   b. Assemble and assign agency resources;

   c. Collect, evaluate and disseminate intelligence concerning the incident;

   d. Communicate with concerned task force officers and units;

   e. Apply the strategy and tactics necessary to accomplish the police mission;

   f. Gather, record and preserve evidence; and

   g. Maintain appropriate records of field operations.

6. Establishment of a casualty information center staffed with qualified personnel to:

   a. Gather, record and disseminate all information concerning dead, injured, missing and lost persons;

   b. Establish liaison with relief agencies to obtain information on evacuees and evacuation centers;

   c. Establish liaison with the medical examiner or coroner;

   d. Deploy personnel, as needed, to hospitals, first aid stations and morgues; and

   e. Prepare casualty statistical reports periodically for the

agency commanding officer.

Commentary

The task force feels that this goal could be utilized by police agencies in Virginia as a type of checklist to facilitate organizing for control of unusual occurrences.

The goal sets out the services which should be provided in any emergency situation. The police chief executive should either plan how his organization will provide the services, or he should make the necessary arrangements to have other agencies provide services which are beyond his capabilities. For example, the police agency should establish and maintain liaison with agencies that will assist the police in taking care of any casualties that might occur during the unusual occurrence, e.g., American Red Cross.

References

1. National Advisory Commission Report on Police, Standard 7.3, p. 172.

2. Eastman, G. and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1969, pp. 230-237.

3. Guidelines for Civil Disturbance and Riot Control Planning, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention.

4. National Advisory Commission Report on Civil Disorders, Washington, D.C.: U.S. Government Printing Office, 1968, p. 268.

5. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 150-154.

Goal 4.4
Training for Unusual Occurrences

Every police chief executive should immediately establish formal training programs in unusual occurrence control administration, strategy, tactics, resources and standard operating procedures. This training should be given to selected personnel at all levels within the agency, personnel from other agencies in the

criminal justice system, and from other related public and private agencies. It should be given frequently enough to maintain proficiency between training sessions, and should be routinely scheduled during periods of peak personnel strength. Otherwise, it should be scheduled in advance of anticipated events.

An unusual occurrence control training program should include both formal instruction and practical exercise.

1. Formal instruction should be implemented through:

    a. Frequent inservice training, such as roll-call training to serve as a refresher course, to practice techniques, or to introduce new procedures;

    b. Periodic agency-conducted schools to familiarize personnel with agency unusual occurrence control procedures and organizational structure;

    c. Regional or federal courses, particularly when agency size does not permit development of local schools; and

    d. A regional training institute to train instructors for local agencies.

2. Practical exercises should be conducted periodically to develop proficiency and teamwork among personnel through:

    a. Field exercises for operational personnel to practice tactics and procedures;

    b. Command post exercises for formulating strategy and evaluating existing and new procedures;

    c. Regional exercises for familiarizing command personnel with mutual aid procedures and developing coordination between other local control agencies and nonlaw enforcement agencies; and

    d. Criminal justice system exercises to develop coordinated participation of all interrelated criminal justice and noncriminal justice agencies.

3. The training curriculum and the subjects for practice should be directed to:

   a. Administrative level personnel to familiarize them with agency and criminal justice system emergency organizational structure and procedures for requesting additional personnel and equipment from the military or through mutual aid; and

   b. Operational personnel to familiarize them with strategy, tactics and standard operating procedures. The emphasis should be placed on a coordinated effort rather than individual action; use of chemical agents, communications equipment and other specialized equipment; applicable laws; human relations training; and procedures for procuring logistical support.

Commentary

In order for police agencies to be in a postion to respond quickly and efficiently, it is essential that personnel be trained in handling unusual occurrences. Planning without training is futile. The National Advisory Commission on Civil Disorders noted that lack of riot control training is "the most critical deficiency of all."

The goal suggests that the training program should include classroom instruction (as part of the basic training and inservice training) and practical exercises whereby operational personnel can put into practice prior classroom training in tactics and procedure. These practical exercises can be mock demonstrations, or the agency can make training a part of its preparedness for specific anticipated occurrences. While some occurrences are not predictable, a number of occurrences, such as planned mass demonstrations, rock festivals, VIP visits and labor disputes, come to the attention of the police with sufficient advance notice to permit at least a dry run of procedures.

References

1. National Advisory Commission Report on Police, Standard 7.6, pp. 184-188.
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3. President's Commission on Law Enforcement, and Administration of Justice, Task Force Report: The Police, Washington, D.C.: U. S. Government Printing Office, 1967, p. 193.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, p. 167.

Goal 4.5
Mass Processing of Arrestees

Every police agency should develop a system for the arrest, processing, transportation and detention under sanitary conditions, of large numbers of persons. The primary aims of such a system should be:

1. To restore order in the community. The mass arrest system should recognize that although Va. Code § 19.2-74 states conditions under which a summons is to be issued in lieu of arrest, if the police officer reasonably believes that allowing the individual to remain at the scene of a disturbance would constitute a danger to individuals or the community, the officer is authorized to arrest the individual and immediately remove him from the scene.

2. To identify and charge persons suspected of unlawful acts. The mass arrest system should establish procedures whereby the arresting officer can connect the arrestee with the charged offense and any relevant evidence. This procedure could involve photographing the arresting officer with the arrestee while holding a card bearing a booking number and the arrestee's name. If any evidence is to be booked to the arrestee it should appear in the photograph.

3. To return a maximum number of police officers to duty in the shortest period of time. In planning the mass arrest system every police

agency should consider establishing temporary booking facilities at the scene of the disturbance, and the possibility of bringing the magistrate to the scene. In addition the General Assembly should consider amending Va. Code § 19.2-72 to provide an emergency procedure whereby the arresting officer could affirm in an affidavit under penalty of perjury, the relevant facts and charges upon which an arrest is based. Such an affidavit would be used in lieu of the appearance of the arresting officer at the first appearance before a magistrate.

4. To protect the constitutional rights of all persons arrested. As soon as adequate security is provided, consultation with defense counsel should be permitted. Liaison should be established with the criminal bar in order to secure a sufficient number of attorneys.

Commentary

Every police agency should seek acceptable alternatives to making mass arrests, but once it is determined that mass arrests are necessary the agency must be prepared for the problems inherent in arresting, processing and detaining large numbers of persons. This goal recognizes some of the problems inherent in such a situation and seeks to strike a balance between the need to protect the community and the need to protect the constitutional rights of individuals.

The task force recognizes that the best way for police to handle a disturbance is to take action to prevent the disturbance from getting out of hand. Quick removal of "agitators" from the scene may well prevent a major disturbance and the need to make mass arrests. However, in the initial stages of a disturbance it may be that the "agitator" has committed an offense which only justifies issuance of a summons rather than arrest (Va. Code § 19.2-74). If the "agitator" is issued a summons and allowed to remain at the scene, the police have been denied an effective means of preventing a major disturbance. The task force feels that Va. Code §19.2-74 is sufficiently flexible to allow the police officer to make an arrest in this situation (i.e., when the officer reasonably believes that the individual is likely to cause harm to individuals or the community). If the existing statute is not broad enough to cover such a situation, the task force recommends that Va. Code § 19.2-74 be amended to empower the police officer to arrest in such a situation.

One of the major goals of a mass arrest system should be to return police officers to the scene of the disturbance quickly. However, in their haste to return to field duties the arresting officer may leave an inadequately identified arrestee at the booking facility. The arrestee may be released erroneously or misbooked. When the case comes to court the officer cannot testify from his own recollection that the defendant is the person he arrested. The goal recommends that rapid photo development equipment (e.g., Polariod pictures) be available at the scene so that photographs can be used throughout the booking process. These photographs should be sufficient at least until the arrest reaches a regular booking facility and can be positively identified by fingerprints.

Another method for maintaining maximum police presence at the scene of the disturbance is to bring the magistrate and/or the court to the scene, rather than requiring the police to leave the scene to appear in court. The task force also recommends amendment of Va. Code § 19.2-72 to permit the arresting officer to file an affidavit rather than personally appearing before the magistrate.

Individuals arrested in riot-connected offenses have no less a right to the protection guaranteed by the Constitution than persons accused of committing crimes on any normal day. Consistent with security, provision must be made for the availability of defense counsel. The police agency should establish communications with the organized bar so the bar can respond to the problems inherent in protecting the rights of a large number of arrested persons.

References

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3. International City Managers' Association, Tactical Planning for Crowd and Riot Control, Washingtin, D.C.: International City Managers' Association, August 1966.

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Chapter 5
Patrol

Goal 5.1
Selecting New Concepts

Every law enforcement agency should examine new concepts and organizations, such as team policing, that are designed to develop systems to bring the police and the community closer together.

Commentary

The task force recognizes that in recent years the general public has become increasingly critical of the efforts of the police, and other elements of the criminal justice system, to reduce the rising crime rate. This goal addresses one aspect of the problem -- the possibility that specific police procedures or organizations have played a part in alienating the community from the police. The goal encourages every law enforcement agency to examine concepts such as team policing, with a view to strengthening community support of law enforcement.

The task force devoted a good deal of time to the study of the National Advisory Commission's endorsement of "team policing" as an innovative and desirable approach to law enforcement. Team policing is not easily defined in a few sentences but the task force concluded that the major aspects were: (1) stronger community

relations, (2) more effective use of manpower, and (3) increased responsibility and authority for individual officers.

The task force agreed that many aspects underlying the team policing concept could be of benefit to law enforcement throughout the Commonwealth. It is recognized that some aspects of the concept have already been implemented in Virginia, i.e., many departments have strong community relations programs.

However, the task force concludes that there is a lack of hard statistics to verify the operational effectiveness of team policing. The task force also does not wish to suggest that team policing would be desirable or feasible in all communities, nor does the task force necessarily wish to express a preference for team policing over other concepts such as geographical assignment, work load distribution, hazard factor allocation, etc. Accordingly, each community is urged to consider and select the concept or combination of concepts best suited to the community needs.

References

1. National Advisory Commission Report on Police, Standard 6.1, pp. 156-158.
2. Boydstun, J., and E. Sherry, San Diego Community Profile -- Final Report, Washington, D.C.: Police Foundation, 1975.
3. Charlotte Police Department, Two Years of Team Policing -- A Summary Report, Charlotte, North Carolina: Charlotte Police Department, 1975.
4. Cincinnati Police Division, Community Sector Team Policing -- An Examination of the Model's Operational Components Based Upon Eighteen Months of Experience, Cincinnati: Cincinnati Police Division, 1974.
5. Fink, J., and L. Sealy, The Community and the Police -- Conflict or Cooperation?, New York: John Wiley and Sons, 1974, pp. 149-182.
6. President's Commission of Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967.
7. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 139-142.
8. Public Safety Research, Inc., Full-Service Neighborhood Team Policing: Planning for Implementation, Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1975.
9. The Urban Institute, Evaluation of Cincinnati's Community Sector Team Policing Program -- A Progress Report: After One Year Summary of Major Funding, Cincinnati: Police Foundation, 1975.

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Goal 5.2
Implementation of Team Policing

Every police agency implementing team policing should insure that the system effectively facilitates the agency's efforts to reduce crime, detect and apprehend criminal offenders, improve the quality of police services and enhance police-community cooperation.

1. Every police agency should include agency personnel in the team policing planning and implementation process. Personnel participation should be consistent with the degree of ultimate involvement in the team policing system.

2. Every police agency should provide preparatory and inservice training for all personnel involved in the team policing system. The objectives of the training program should be to acquaint all agency personnel with team policing policy, procedures, objectives and goals, and to provide specific training according to the extent and nature of personnel involvement in the team policing effort.

3. Every police agency should develop programs to encourage community involvement in the agency's team policing system.

Commentary

Team policing in any of its various forms is an attempt to strengthen cooperation and mutual coordination of effort between the police and the public in preventing crime and maintaining order. While this concept can be stated quite simply its effective implementation is complex.

This goal recognizes that a successful team policing program will require the active participation and training of all agency personnel, as well as the direct participation of citizens.

References

1. National Advisory Commission Report on Police, Standard 6.2, pp. 159-161.

2. Public Safety Research Institute, Inc., Full Service Neighborhood Team Policing: Planning for Implementation, Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1975.

Goal 5.3
Establishing the Role of the Patrol Officer

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

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

    a. Should insure that resources are concentrated on fundamental police duties;

    b. Should insure that patrol officers are engaged in tasks that are related to the police function;

    c. Should 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. Urban area response time -- from the time a call is dispatched to the arrival at the scene -- under normal conditions should not exceed 3 minutes for emergency calls, and 20 minutes for nonemergency calls;

d. Should evaluate types of preventive patrol to see if they will reduce the opportunity for criminal activity; and

e. Should provide a procedure for accepting reports of criminal incidents not requiring a field investigation.

2. Every police chief executive should insure that all elements of the agency, especially the patrol and communications elements, know the priority placed upon each request for police service.

3. Every police chief executive should implement a public information program to inform the community of the agency's policies regarding the deliverance of police service. This program should include provisions to involve citizens in crime prevention activities.

Commentary

This goal emphasizes the importance of the patrol officer as each police agency's primary element for the deliverance of police services and prevention of crime. The goal states that there is a need for written policy that defines the role of the patrol officer and establishes operational objectives and priorities that reflect the most effective use of the patrol officer in reducing crime.

The task force considered the Kansas City Preventive Patrol Experiment which questions whether traditional preventive patrol measures (i.e., patrolmen walking or riding through areas and making their presence known) have any appreciable impact on the level of crime or the public's feeling of security. This study concluded that, in Kansas City, the preventive patrol did not have any impact upon the level of crime, and that the noncommitted time of patrol

officers (60 per cent in the experiment) could be used for purposes other than routine patrol without any negative impact on public safety. The task force does not accept or reject the Kansas City report but encourages each police agency in Virginia to evaluate the effectiveness of various types of preventive patrol in reducing crime. If preventive patrol is determined to be ineffective in any jurisdiction, the police department should cut back or eliminate such patrols and better utilize manpower by assigning police officers to specific tasks.

The goal also suggests that police agencies should constantly strive to decrease the time needed to respond to emergency and non-emergency calls. Statistics indicate that after a three minute period, opportunities to apprehend suspects decrease rapidly. Rapid response time also increases community confidence in the police. The task force feels that a response time of 3 minutes for emergencies, and 20 minutes for nonemergencies, is a desirable goal that all Virginia law enforcement agencies should strive to attain.

References

1. National Advisory Commission Report on Police, Standard 8.1, pp. 191-194.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 2.3, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1969.

4. Kelling, G., et al., The Kansas City Preventive Patrol Experiment -- A Summary Report, Washington, D.C.: Police Foundation, 1974.

5. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, Washington, D.C.: U.S. Government Printing Office, 1967.

6. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, p. 171.

Goal 5.4
Enhancing the Role of the Patrol Officer

Every local government and police chief executive, recognizing that the patrol function is the most important element of the police

agency, immediately should adopt policies that attract and retain highly qualified personnel in the patrol force.

1. Every local government should expand its classification and pay system to provide greater advancement opportunities within the patrol ranks. The system should provide:

   a. Multiple pay grades within the basic rank;

   b. Opportunity for advancement within the basic rank to permit equality between patrol officers and investigators;

   c. Parity in top salary step between patrol officers and nonsupervisory officers assigned to other operational functions; and

   d. Proficiency pay for personnel who have demonstrated expertise in specific field activities that contribute to more efficient police service.

2. Every police chief executive should seek continually to enhance the role of the patrol officer by providing status and recognition from the agency and encouraging similar status and recognition from the community. The police chief executive should:

   a. Provide distinctive insignia indicating demonstrated expertise in specific field activities;

   b. Insure that all elements within the agency provide ma imum assistance and cooperation to the patrol officer;

   c. Implement a community information program emphasizing the importance of the patrol officer in the life of the community and encouraging community cooperation in providing police service;

   d. Provide comprehensive initial and in-service training thoroughly to equip the patrol officer for his role;

e. Insure that field supervisory personnel possess the knowledge and skills necessary to guide the patrol officer;

f. Implement procedures to provide agencywide recognition of patrol officers who have consistently performed in an efficient and commendable manner;

g. Encourage suggestions on changes in policies, procedures and other matters that affect the delivery of police services and reduction of crime;

h. Provide deployment flexibility to facilitate various approaches to individual community crime problems;

i. Adopt policies and procedures that allow the patrol officer to conduct the complete investigation of crimes which do not require extensive follow-up investigation, and allow them to close the investigation of those crimes; and

j. Insure that promotional oral examination boards recognize that patrol work provides valuable experience for men seeking promotion to supervisory positions.

Commentary

It has been generally recognized that patrolmen are the "backbone" of the police agency and that there is no more important police function than the day-to-day job of the patrol officer. However, the patrol officer is frequently the lowest paid, least consulted and most taken for granted member of the force. Many agencies make no provision for officers who desire to advance and earn more pay while remaining in the patrol function. As a result, qualified patrol officers often seek promotion to supervisory positions or transfer to other positions in order to obtain greater status and pay.

This goal suggests that the law enforcement agency seek to increase the prestige, recognition and job satisfaction of the patrol officer. One method currently utilized is the "Master Patrolman" program in Alexandria which enables qualified officers

to gain additional recognition and pay. The program is made available to those officers who have been with the department for a certain amount of time and whose supervisors feel that they are qualified for the master patrol officer rating. The officers chosen for this program are given a 5% increase in pay and are recognized by insignia worn on their uniform. In Alexandria, it was noted that officers from every division within the department had applied for this newly created position. This program is felt by the administration of the Alexandria Police Department to keep "good" patrol officers in the patrol division and to also attract officers from the other divisions back to the patrol division if they again desire to work in patrol.

References

1. National Advisory Commission Report on Police, Standard 8.2, pp. 195-198.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.2, New York, 1973.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1959, p. 77.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, p. 175.

Goal 5.5
Deployment of Patrol Officers

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

1. Every police agency should establish a system for the collection and analysis of patrol deployment data according to area and time.

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

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

2. Every police agency should conduct a comprehensive workload study to determine the nature and volume of the demands for police service and the time expended on all activities performed by patrol 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:

   a. To develop operational objectives for patrol personnel;

   b. To establish priorities on the types of activities to be performed by patrol personnel;

   c. To measure the efficiency and effectiveness of the patrol operation in achieving agency goals.

3. Every police agency should implement an allocation system for the geographical and chronological proportionate need distribution of patrol personnel. The allocation system should emphasize agency efforts to reduce crime, increase criminal apprehensions, minimize response time to calls for services and equalize patrol personnel workload. This system should provide for the allocation of personnel to:

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

   b. Shifts;

c. Days of the week;

d. Beats; and

e. Fixed-post and relief assignments.

4. Every police 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

The primary functions of a law enforcement agency are to (1) strive to reduce crime, (2) maintain public order, (3) apprehend criminals, and (4) respond effectively to other legitimate demands for police service. With these things in mind, the police chief executive must insure that his department is capable of maintaining a patrol deployment system that is responsive to the demands for police services and consistent with the effective use of the agency's patrol personnel. The task force feels that this goal is valuable as a guideline in helping the police chief executive determine the appropriate deployment of patrol officers in his community.

References

1. National Advisory Commission Report on Police, Standard 8.3, pp. 199-205.

2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, Washington, D.C.: U.S. Government Printing Office, 1967, p. 52.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, p. 179.

4. Wilson, O., and R. McLaren, Police Administration, New York: McGraw-Hill, 1972, pp. 363-368.

Chapter 6
Use of Personnel

Goal 6.1
Specialized Assignment

Every police agency should use generalists (patrol officers) wherever possible and, before establishing any specialization necessary to improve the delivery of police service, specifically define the problem that may require specialization, determine precisely what forms of specialization are required to cope with this problem and implement only those forms in a manner consistent with available resources and agency priorities.

1. Every police chief executive should define the specific problem in concise written terms and in doing so should consider at least:

   a. Whether the problem requires the action of another public or private organization;

   b. The severity of the problem;

   c. The period of time the problem is expected to exist; and

d. The community's geographic, physical and population conditions that contribute to the problem or which may affect or be affected by the specialization.

2. Every police chief executive should consider community perception of the problem: community awareness, and the attitudes based on that awareness.

3. Every police chief executive should -- based on his definition of the problem, community perception of it and the pertinent legal requirements -- assess all resources and tactical alternatives available to the agency, and in doing so determine at least:

   a. Whether the problem requires specialization;

   b. The degree of specialization required;

   c. The manpower and equipment resources required by specialization;

   d. Which of the needed resources are available within the agency and which are available outside it;

   e. The availability of necessary specialized training;

   f. The expected duration of the need for specialization; and

   g. The organizational changes needed as a result of specialization.

4. Every police chief executive should give special consideration to the impact of specialization on:

   a. The identified problem;

   b. Personnel and fiscal resources;

   c. Community attitudes toward the agency; and

d. The agency's delivery of general police services.

5. Every police agency should develop an operation effectiveness review for each new specialization. This review process should be carried out:

   a. As a goal-oriented activity analysis;

   b. On a specific schedule at least annually for the expected duration of the need; and

   c. With consideration of the cost effectiveness of the specialty, determining whether the current level of resource commitment to the specialty is adequate or warranted.

6. Every police agency should terminate a specialized activity whenever the problem for which it was needed no longer exists, or can be controlled as well or better through other agency operations.

Commentary

The complexity of modern police service sometimes necessitates highly specialized hardware and personnel. Specialization has many advantages, in that it provides for: (1) more precise placing of responsibility for performance of a specific task, (2) more intensive training, (3) concentration of experience to develop and maintain skills, (4) development of a high level of esprit de corps in the specialized unit, and (5) general public or special interest support.

Unfortunately, specialization also has a number of disadvantages, including: (1) The police officer may become so involved in his specialized area that he will work only in this area and neglect his other responsibilities. (2) Specialized units sometimes come to view themselves as "prima donnas" thus creating friction with other members of the department. (3) Police departments are rarely provided with additional resources for the creation of special units, thus manpower and resources must be diverted from the basic patrol force. (4) Specialists tend to generate work in their area and thus become self-perpetuating. (5) Patrol officers may relinquish their own responsibilities in the areas where specialists operate. When a patrol officer stands by at the scene awaiting the arrival of a specialist, the officer's future initiative and self-esteem are likely to suffer.

Upon considering the advantages and disadvantages of specialization, the task force feels that it is preferable to upgrade the entire police department to a level where it is competent to deal with a problem, rather than creating a special unit with sole or prime responsibility for the problem. The task force endorses the recommendation of the International Association of Chiefs of Police to "generalize if you can, specialize if you must."

The task force does not suggest that specialization is never appropriate. Every police chief executive must assess the particular situation, and the goal suggests the questions and procedures the police chief executive should address when considering specialization. The task force urges each police chief executive to keep in mind that specialization should be developed only when clearly demonstrated advantages will accrue from it, and seldom, if ever, at the expense of weakening the basic patrol force operation. Specialization must be a means to an end, not an end in itself.

References

1. National Advisory Commission Report on Police, Standard 9.1, pp. 210-212.
2. Leonard, V., Police Organization and Management, Brooklyn: Foundation Press, 1951.
3. Saunders, C., Upgrading the American Police, Washington, D.C.: The Brookings Institution, 1970.
4. Wilson, O., and R. McLaren, Police Administration, New York: McGraw-Hill, 1972.

Goal 6.2
Selection for Specialized Assignment

Every police agency immediately should establish written policy defining specific criteria for the selection and placement of specialist personnel so that they are effectively matched to the requirements of each specialty.

1. Every police agency should maintain a comprehensive personnel records system from which information is readily retrievable. This system should:

   a. Include all pertinent data on every agency employee;

b. Employ a consistent format on all personnel records; and

c. Include procedures for continual updating.

2. Every police agency should disseminate agencywide written announcements describing anticipated specialist position openings. These announcements should include:

   a. The minimum personnel requirements for each position; and

   b. The specialized skills or other attributes required by the position.

3. Every police agency should establish written minimum requirements for every specialist position. These re- requirements should stipulate the required:

   a. Length and diversity of experience;

   b. Formal education; and

   c. Specialized skills, knowledge and experience.

4. Command personnel within the specialty should interview every candidate for a specialist position. Interviewers should:

   a. Review the pertinent personnel records of every candidate;

   b. Consider the candidate's attitude toward the position as well as his objective qualifications for it; and

   c. Conduct a special personnel investigation where the specific position or candidate requires it.

5. Every police agency should establish written training requirements for each specialty. These requirements may include:

a. Formal preassignment training; and

b. Formal on-the-job training.

6. Every police agency should require satisfactory completion of an internally administered internship in any specialist position before regular assignment to that position.

7. Wherever possible police agencies should use a rotation system for specialists that is designed specifically to enhance personnel development.

8. Every police agency should establish a rotation system that requires specialists to be regularly rotated from positions where potential for officer compromise is high to positions where this potential is low or the criminal "clientele" is different. This rotation system should include:

   a. Identification of all positions including vice, narcotics and all types of undercover assignments -- where potential for officer compromise is high;

   b. Written policies that specifically limit the duration of assignment to any identified position. Because limitations may differ, these policies and procedures should stipulate those for personnel at the supervisory and administrative level and those for personnel at the level of execution;

   c. Provisions for limited extensions with the specific approval of the chief executive; and

   d. Provisions that insure the maintenance of a high level of operational competence within the specialty and throughout the agency.

Commentary

The task force feels that Goal 6.2 is self-explanatory and should serve as a checklist detailing the procedures law enforcement agencies

should follow to identify, select, develop and maintain specialized officers with high levels of proficiency.

References

1. National Advisory Commission Report on Police, Standard 9.2, pp. 213-216.
2. Leonard, V., Police Organization and Management, Brooklyn: Foundation Press, 1951.
3. Wilson, O., and R. McLaren, Police Administration, New York: McGraw-Hill, 1972.

Goal 6.3
State Specialists

Virginia should provide, upon the request of any local police agency in the state, specialists to assist in the investigation of crimes and other incidents that may require extensive or highly specialized investigative resources not otherwise available to the local agency. The state may also fund regional operational specialist activities. The state or regional specialists should not provide everyday needs to local law enforcement.

1. Virginia should provide trained specialists who are properly equipped to assist local police agencies. Where appropriate, the state should provide funds to combine or consolidate local special investigative resources.

2. Virginia should publish and distribute to every local police agency in the state the request procedure for obtaining specialists.

3. Virginia should insure that its specialists pursue the investigation in complete cooperation with and support of the local agency.

Commentary

The scarcity of manpower within many agencies does not permit even parttime specialization and it is virtually impossible to maintain specialists for each contingency. Yet even the smaller

law enforcement agencies should be able to request and obtain assistance to conduct extensive or highly specialized investigations.

The task force recognizes that Virginia does provide extensive assistance to local law enforcement agencies through the Department of State Police, the Division of Consolidated Laboratory Services and the Alcoholic Beverage Control Commission. But many local agencies are not aware of other special assistance that is available, such as arson investigators. The task force feels that continuing efforts should be made to advise every law enforcement agency of the services available and the procedures for obtaining such services.

References

1. National Advisory Commission Report on Police, Standard 9.4, pp. 219-220.

2. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971.

3. Wilson, O., and R. McLaren, Police Administration, New York: McGraw-Hill, 1972.

Goal 6.4
Assignment of Civilian Police Personnel

Every police agency should consider assigning civilian personnel to positions that do not require the exercise of police authority or the application of the special knowledge, skills and aptitudes of the professional peace officer. To determine the proper deployment of civilian and sworn personnel, every agency immediately:

1. Should identify those sworn positions which:

   a. Do not require that the incumbent have peace officer status under local or state statute;

   b. Do not require that the incumbent exercise the full police power and authority normally exercised by a peace officer.

c. Do not require that the incumbent possess expertise which can be acquired only through actual field experience as a sworn police officer; and

d. Do not contribute significantly to the professional development of sworn personnel.

2. Should designate as civilian those positions that can be filled by a civilian employee according to the foregoing criteria;

3. Should staff with qualified civilian personnel all positions designated for civilians;

4. Should provide a continuing audit of all existing and future positions to determine the feasibility of staffing with civilian personnel;

5. Should develop a salary and benefit structure for civilian personnel commensurate with their position classifications;

6. Should insure that an opportunity for career development exists within each civilian position classification where the nature of the position does not limit or bar such opportunity;

7. Should conduct in-depth personal background investigations of civilian applicants for confidential or sensitive positions. These background investigations should be as thorough as those of sworn applicants;

8. Should provide civilian training programs that insure the level of proficiency necessary to perform the duties of each assignment;

9. Should inform all civilian employees of the requirements for sworn police status and interview them to determine their interest or desire to seek such subsequently, and should record all information obtained during such interviews;

10. Should assign those civilian employees who

express a desire to seek sworn status later to positions that will contribute to their professional development as police officers.

Commentary

The task force endorses what has become the trend in Virginia and across the nation -- to employ civilian personnel for all positions which do not require sworn police officer status. The increased employment of civilian personnel results in financial savings and in more effective utilization of sworn police personnel.

Financial Benefits. The task force recognizes that civilian pay scales must be fair and based on the demands of the job. No civilian emoloyee should receive lower pay merely because he is a civilian. When sworn and nonsworn personnel are filling equivalent jobs, pay should be the same. However, many of the support and administrative functions of a law enforcement agency consist of the performance of routine clerical tasks. It is much less expensive to hire a clerk to perform this function, than it is to recruit, select and train a police officer.

Utilization of Sworn Officers. By employing civilian personnel in selected staff and support functions, law enforcement agencies can transfer sworn personnel to assignments where they can have a direct effect on crime reduction. Freed from routine clerical tasks, sworn officers can be more effectively used in line operations to combat crime. Many police officers feel that they are overburdened with paper work, and become bored with routine clerical tasks. Freeing police to concentrate on more challenging work directly related to combating crime should be a positive boost to morale.

The task force cautions against using nonsworn personnel in jobs that require full exercise of police authority or in jobs that provide essential training for police officers. Nor should civilian personnel be used to fill jobs where police insight into problems can improve the operation of the agency. But the task force does urge each law enforcement agency to examine its internal operations and determine where and how civilian personnel can be used in lieu of regular sworn police personnel. The goal outlines the analysis each agency should conduct in making this determination.

References

1. National Advisory Commission Report on Police, Standard 10.1, pp. 258-262.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971,

p. 66.
3. Law Enforcement Assistance Administration, Employing Civilians for Police Work, Washington, D.C.: National Criminal Justice Reference Service, 1976.
4. Hennessy, J., "The Use of Civilians in Police Work," Police Chief, Vol. 43, No. 4, April 1976, pp. 36-38.

Goal 6.5
Use of Professional Expertise

Every police agency should immediately establish liaison with professionals outside the police service who have expertise that can contribute to effective and efficient performance beyond the capabilities of agency employees. At a minimum, this liaison should implement working relationships, as necessary, with:

1. Medical professionals, particularly those with specific expertise in:
   a. Pathology;
   b. Gynecology;
   c. Psychiatry;
   d. Dentistry and orthodontics;
   e. Traumatic injuries;
   f. Medical laboratory technology; and
   g. Pharmacology.
2. Business, trade and industrial professionals, particularly those knowledgeable in:
   a. Banking;
   b. Bookkeeping and accounting:
   c. Labor relations;

d. The local economy; and

e. Local industry, business and trades.

3. Educational professionals, particularly those with expertise in:

a. Elementary, secondary and vocational education;

b. The physical, natural and behavioral sciences; and

c. Research.

4. Behavioral science resources with expertise in:

a. Personnel selection, vocational assessment and career counseling;

b. Teaching, training and educational programming;

c. Research;

d. Management consultation;

e. Personal problem counseling; and

f. Specialist consultation.

5. Members of the clergy.

Commentary

The more complex and sophisticated that society and the criminal element of society become, the more the police are faced with a need for higher technical knowledge (e.g., crimes involving computers or development of new synthetic drugs). It is not realistic to expect a law enforcement agency to possess internally, all of the expertise it will need to deal with myriad complex situations. The truly effective police officer is one who, in addition to possessing a thorough knowledge of his own profession, also knows where to obtain more information and assistance as he might need it. To do his job well, the police officer does not need to be, for example, a chemist: but he does need to know

what the chemist can do that will further a particular investigation. He needs to know where and how he can obtain the services of a chemist.

Too often the tendency is to wait until a situation arises that requires specific technical information before attempting to locate a competent, reliable and willing source for obtaining this information. Unfortunately, such knowledge and skills are not always easy to locate or obtain, particularly within the time frame and and under the pressures so often present in many police actions. The goal suggests that police agencies plan for the utilization of outside expertise by identifying sources of professional expertise and establishing ongoing liaison with these sources.

References

1. National Advisory Commission Report on Police, Standard 11.1, pp. 272-279.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.10, New York, 1973, pp. 235-236.

3. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, p. 66.

Goal 6.6
Legal Assistance

Every police agency should immediately be provided with the legal assistance necessary to insure maximum effectiveness and efficiency in all its operations.

1. Every police agency should make maximum use of the offices of its city attorney or county attorney, the county prosecutor and the state attorney general, to acquire the legal assistance it needs. If it is neceasary to provide legal assistance supplementary to these sources, a police legal adviser should be provided.

2. Every jurisdiction should provide legal assistance in all agency operations where needed. This assistance may include:

   a. Provision of legal counsel to the police chief executive in all phases of administration and operations;

   b. Liaison with the city or county attorney, the county prosecutor, the state attorney general, the United States attorney, the courts and the local bar association;

   c. Review of general orders, training bulletins and other directives to insure legal sufficiency;

   d. Case consultation with arresting officers and review of affidavits in support of arrest and search warrants in cooperation with the prosecutor's office;

   e. Advisory participation in operations where difficult legal problems can be anticipated;

   f. Attendance at major disturbances -- and an oncall status for minor ones to permit rapid consultation regarding legal aspects of the incident;

   g. Participation in training to insure continuing legal training at all levels within the agency;

   h. Drafting of procedural guides for the implementation of recent court decisions and newly enacted legislation; and

i. Provision of legal counsel for ad hoc projects, grant proposal development and special enforcement problems.

3. In every police agency with 200 or more personnel, consideration should be given to the establishment of a police legal unit with at least one attorney as a full-time legal advisor.

   a. The size and composition of the legal unit should be proportionate to the size of the agency and the complexity of the legal assistance task.

   b. One attorney should be designated as the director or administrative head when two or more attorneys are employed.

   c. Adequate secretarial and clerical help should be provided, as well as police officers or law student interns for paralegal work.

   d. Organizationally, the legal unit should be a separate entity, similar to the house counsel of a corporation, reporting directly to the chief executive and readily available to him.

   e. Legal advisers should be civilian attorneys who serve at the request of the police chief executive.

4. Every police agency with fewer than 200 personnel should consider whether the establishment of a police legal unit with at least one full-time attorney legal adviser is justified. When a full-time attorney legal adviser cannot be justified, and adequate legal advice cannot be obtained regularly by enlargement of the prosecutor's or the city or county attorney's role, the agency should obtain needed legal assistance through:

4. a. Employment of part-time and contracted legal advisers; or

   b. Use of the services of a multi-agency or a state police legal unit.

5. Every police agency, in determining the need for a legal unit and the size of its staff, should consider at least the following:

   a. Whether the city or county attorney and the county prosecutor are located near police headquarters;

   b. Whether the staffs of the city or county attorney and the county prosecutor are full-time or part-time, and whether they are permitted to engage in private practice;

   c. Whether the city or county attorney and the county prosecutor have effective legislative programs;

   d. Whether the county prosecutor's office can be consulted routinely on planned enforcement actions prior to arrests;

   e. Whether assistant prosecutors discuss pending cases adequately with arresting officers prior to trial;

   f. Whether the county prosecutor's office will draft affidavits for arrest and search warrants and give other legal assistance whenever needed;

   g. Whether the city or county attorney's staff is willing to answer routine questions; how promptly they respond to requests for written opinions; and how detailed and complete such opinions are;

   h. How willingly the city or county attorney files suits on behalf of the agency; how vigorously he defends suits against the agency and its

members; and how experienced his staff is in matters of criminal law and police liability;

i. The educational level of police agency employees, comprehensiveness of pre-service training given officers, and the quantity and quality of agency inservice training.

6. Every police agency should set firm minimum qualifications for the position of police legal adviser. These qualifications should require that each candidate for this position:

   a. Be a qualified attorney eligible, except for residence requirement, for admission to the Virginia State Bar. He should become licensed in Virginia as soon as possible;

   b. Have a wide breadth of professional and practical experience in criminal justice, preferably in criminal trial work; and

   c. Have attitudes and personality conducive to the development of trust and acceptance by police personnel.

7. Every police agency employing a legal adviser should provide in the assignment of his duties that he not;

   a. Prosecute criminal cases;

   b. Decide what cases are to be prosecuted or what charges are to be brought except by agreement with the prosecutor;

   c. Be assigned tasks unrelated to the legal assistance function that would interfere with performance of that function; nor

   d. Either prosecute infractions of discipline before internal trial boards, or serve as a member of any trial or arbitration board.

8. Every police agency employing a legal adviser who also engages in private practice should insure that he does not represent criminal defendants, bring a claim against a governmental agency he represents, lend his name to or have a financial interest in any law firm that represents criminal defendants, accept private employment that necessitates procuring police officers as witnesses or using police information, conduct private business in an office located in a police station, or represent any police union or agency employee organization.

Commentary

Every phase of the police role is affected by either substantive or procedural law. The police chief executive must administer his agency as mandated by law and within the constraints it imposes. Because of changes and growing complexities within the law, every police agency has a continuing need for legal assistance.

The task force recognizes that it is the responsibility of local government to insure that every law enforcement agency receives necessary legal assistance. The goal urges every law enforcement agency to make maximum use of the offices of city or county attorney, Commonwealth's attorney, and the state attorney general, to acquire the legal assistance it needs. However, the realities of the past decade frequently preclude law enforcement agencies from receiving sufficient legal assistance. The proliferation of judicial decisions affecting police procedural policies, the staggering increase in the crime rate with its resultant increase in the caseloads of Commonwealth's attorneys and, the mounting civil litigation the city or county attorney is confronted with, all tend to reduce drastically the capacity of those officers to advise police agencies.

Accordingly the task force urges every community to examine whether existing personnel are in fact providing the legal assistance the police require. If existing personnel cannot provide the required assistance, additional personnel should be hired. One method to provide assistance is utilized in Norfolk where a designated assistant city attorney functions primarily as an adviser to the police. The goal emphasizes another alternative -- currently utilized by the Alexandria Police Department -- the establishment of a police legal unit.

The task force wishes to emphasize that the function of a police legal unit is to supplement the Commonwealth's attorney and city or county attorney, and not to usurp the duties of either office. A police legal unit should consult frequently with the prosecutor to work out problems and complaints. Police legal advisers are in a

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unique position to represent their agencies and at the same time to appreciate the practical and legal reasons for the prosecutor's policies.

The task force does not endorse any one particular method of providing legal assistance to law enforcement agencies, but urges each community to confront this question realistically and select the best alternative.

References

1. National Advisory Commission Report on Police, Standard 11.2, pp. 280-288.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 1.12, New York, 1973, pp. 238-251.

3. President's Commission of Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 114.

4. Schmidt, W., Guidelines for a Police Legal Unit, Gaithersburg, Md.: International Association of Chiefs of Police, 1972.

Goal 6.7
The Property System

Every police agency immediately should establish a system for the secure and efficient storage, classification, retrieval and disposition of items of evidentiary or other value that come into the custody of the agency.

1. Every police agency should establish a filing system that includes, but is not limited to:

   a. A chronological record of each occasion when property is taken into police custody;

   b. A separate itemized list of all items of property that are taken into custody;

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c. A record that indicates the continuity of the property from its entry into the system to its final disposition. This record should include the name of each person accountable for each item of property at any given time.

2. Every police agency should conduct regular property inventories and property record audits to insure the integrity of the system. Such measures should be performed by personnel who are not charged with the care and custody of the property, and the results should be reported to the police chief executive.

3. Every police agency should publish written procedures governing the function of the property system. All components of a multi-component property system should be governed by the same procedures.

4. Every police agency that uses full-time employees in its property function should assign civilian personnel to all elements of the property system in order to release sworn officers for assignment to those police functions requiring them.

5. Every police agency should assign to the property function only those employees who are trained in the operation of the system.

6. Every police agency should insure that personnel assigned to the property function are not involved in authorizing the booking, release or disposition of property. Such authorization should be provided by the booking officer, the investigating officer or another designated sworn employee.

7. Every police agency should clearly designate the employees responsible for around-the-clock security of the property area and restrict entry of all other personnel into this area.

8. Every police agency should institute close security and control measures to safeguard all money that comes into agency custody.

9. Every police agency should institute procedures to facilitate the removal of property from the system as soon as possible.

   a. All identifiable property should be returned as soon as practicable after the rightful owner is located. Prior to disposition, all such property should be checked against stolen property records and all firearms should be compared with gun records to make certain that no "wants" or "holds" exist for such items.

   b. Personnel assigned to locate the owners of identifiable property should not be involved in the arrest or prosectuion of the persons accused of crimes involving that property.

   c. When property is no longer needed for presentation in court, and the owner cannot be determined, it should be disposed of promptly in accordance with guidelines or regulations set up by the governing body and/or applicable state law.

10. Every police agency should insure that the property room includes:

   a. A sufficient amount of space and facilities for efficient storage of property and records;

   b. Easy access by agency personnel and by the public without lessening security or subjecting property to contamination;

   c. A temporary storage area for perishable property; and

d. An area that provides an extra measure of security for the storage of narcotics and firearms.

Commentary

The task force feels that this goal provides useful guidance to police chief executives on how to establish a system for storage, classification, retrieval and disposition of property which comes into the custody of the agency.

The task force realized that many Virginia law enforcement agencies are confronted with vague or non-existent statutes or regulations dealing with the disposal of property. Accordingly, the appropriate governing body should formulate precise procedures that the police are to follow in legally disposing of property.

References

1. National Advisory Commission Report on Police, Standard 12.3, pp. 309-312.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 270-274.

Chapter 7
Recruitment, Salary and Promotions

Goal 7.1
General Police Recruiting

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

1. The police agency should administer its own recruitment program.

    a. 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;

    b. Agencies without the expertise to recruit police applicants successfully should seek expertise from the central personnel agency at the appropriate level of state or local government, or form co-

operative personnel systems with other police agencies that are likely to benefit from such an association: every policy agency, however, should retain administrative control of its recruitment activities.

2. The police agency should direct recruitment exclusively toward attracting the best qualified candidates.

3. Residency should be eliminated as a pre-employment requirement.

4. The police agency should provide application and testing procedures at decentralized locations in order to facilitate the applicant's access to the selection process.

    a. The initial application form should be a short, simple record of the minimum information necessary to initiate the selection process.

5. The police agency should allow for the completion of minor routine requirements, such as obtaining a valid driver's license, after the initial application but before employment.

6. The police agency, through various incentives, should involve all agency personnel in the recruitment and selection process.

7. The police agency should consider seeking professional assistance -- such as that available in advertising, media and public relations firms -- to research and develop increasingly effective recruitment methods.

8. The police agency should evaluate the effectiveness of all recruitment methods continually so that successful methods may be emphasized and unsuccessful ones discarded.

Commentary

No law enforcement agency can be better than the officers who compose the agency for, in a very real sense, the officers are the

agency.

> Carefully selected police personnel are the foundation upon which successful police administration is built. When a department fails to function properly, the cause is found in its low entrance standards or inferior or improper selection methods. Because of the enormity of the task of policing a community, it is necessary to emphasize the fact that the best human material in the country is none too good for the police force. (City Managers Yearbook, 1931.)

A task as important as the selection of police personnel should be approached positively; police agencies should seek to identify and employ the best candidates available, rather than merely being content with disqualifying the unfit. The task force feels that law enforcement agencies should aggressively recruit qualified applicants. Too frequently the people who possess the necessary qualities for police work do not apply for jobs on their own. They must be recruited. The goal suggests the desirable components of an "aggressive" recruiting policy.

References

1. National Advisory Commission Report on Police, Standard 13.1, pp. 321-325.

2. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967.

3. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, Washington, D.C.: U.S. Government Printing Office, 1967.

4. Wilson, O., Police Planning, Springfield, Ill.: Charles C. Thomas Co., 1972.

Goal 7.2
College Recruiting

Every police agency that seeks qualified applicants having appropriate college backgrounds to fill police officer vacancies as they occur should immediately implement a specialized recruitment program to satisfy this need.

1. This program could contain:

   a. Placement officers and career counselors in colleges and universities within a 50-mile radius of the police facility.

   b. Faculty members and heads of departments that provide a curriculum specifically designed to prepare students for the police service.

2. The police agency could implement a police 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. Police student workers:

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

   b. Should meet the same physical, mental, and character standards required of police officers; appropriate and reasonable exceptions may be made for height and weight in relation to age.

   c. Should be assigned duties that prepare them for their future responsibilities as regular police officers; student workers, however, should not have the authority of a regular police officer or be authorized to carry firearms.

   d. Should, after earning a baccalaureate degree, continue in the cadet program until a vacancy occurs on the regular police force.

   e. Should continue in the cadet program for the period of time required to

earn the baccalaureate degree, if by age 25 they are one academic year away from earning the degree.

3. The police agency should compete actively with other governmental and private sector employers in recruitment efforts at nearby colleges and universities. The opportunity for a police officer to perform a valuable social service, and the opportunity for a progressive career, should be emphasized in college recruiting.

Commentary

This goal does not address the issue of whether law enforcement agencies should recruit college graduates (see Goal 8.1). This goal is addressed to those agencies that have already apssed the threshold question and have decided that they will recruit college graduates.

The goal simply notes that recruiting college graduates will probably require recruiting techniques not normally utilized by police. Private sector employers, and civilian and military agencies of the government, customarily go to college campuses to recruit graduates. To compete in this market, police agencies must also be willing to travel to campuses and to establish liaison with college placement offices. The recruiters must also be prepared to do a certain amount of "selling" of police work. Many college students are unaware of the varied, interesting and challenging assignments and career opportunities that exist within the police service.

The goal also notes another recruiting technique -- the creation of a police student worker program. Such a grogram would serve the dual purpose of providing additional manpower to the agency, and familiarizing the student with actual police work. The task force notes that such programs must be carefully analyzed in terms of cost effectiveness. Some of the cost of such a program can be viewed as a recruiting expense, but the agency should insure that it receives a meaningful return, in terms of productive man hours, on the money allocated to such a program.

References

1. National Advisory Commission Report on Police, Standard 13.2, pp. 326-328.

2. Cohen, B., and J. Chaiken, Police Background Characteristics and Performance: Summary, New York: Rand Institute, 1972.

Goal 7.3
Minority Recruiting

Every police agency immediately should insure that it presents no artificial or arbitrary barriers -- cultural or institutional -- to discourage qualified individuals from seeking employment or from being employed as police officers.

1. Every police agency should engage in positive efforts to employ ethnic minority group members. When a substantial ethnic minority population resides within the jurisdiction, the police agency should take affirmative action to achieve a ratio of minority group employees in approximate proportion to the makeup of the population.

2. Every police agency seeking to employ members of an ethnic minority group should direct recruitment efforts toward attracting large numbers of minority applicants. In establishing selection standards for recruitment, special abilities such as the ability to speak a foreign language, strength and agility, or any other compensating factor should be taken into consideration in addition to height and weight requirements.

3. Every police agency seeking to employ qualified ethnic minority members should research, develop, and implement specialized minority recruitment methods. These methods should include:

    a. Assignment of minority police officers to the specialized recruitment efforts;

    b. Liaison with local minority community leaders to emphasize police sincerity and encourage referral of minority applicants to the police agency;

c. Recruitment advertising and other material that depict minority group police personnel performing the police function;

d. Active cooperation of the minority media as well as the general media in minority recruitment efforts;

e. Emphasis on the community service aspect of police work; and

f. Regular personal contact with the minority applicant from initial application to final determination of employability.

4. Every police chief executive should insure that hiring, assignment and promotion policies and practices do not discriminate against minority group members.

5. Every police agency should evaluate continually the effectiveness of specialized minority recruitment methods so that successful methods are emphasized and unsuccessful ones discarded.

Commentary

The moral objections to racial discrimination, the practical disadvantages of discrimination and the legal prohibitions against discrimination all combine to make it obvious that police agencies must recruit qualified candidates from ethnic minority groups.

Although the need to employ minorities as police officers may be obvious, their employment in many instances has not been appreciable despite the best intentions and diligent efforts of many police administrators. The goal suggests that special recruiting procedures and increased emphasis on recruiting minorities will be necessary in order to attract a sufficient number of qualified minority candidates.

The task force wishes to emphasize that the employment of persons from all ethnic groups within the community should be a recruitment goal, not a personnel policy governing the hiring of police personnel. Primary consideration should be given to employing the best qualified candidates available, regardless of ethnic background. The ethnic makeup of a community should be

viewed as a guide for recruitment policies and procedures, not as a basis for quota hiring. If recruitment procedures fail to attract minority candidates from whom qualified applicants can be selected, there may be a need for new recruitment techniques; however, selection procedures should remain the same.

References

1. National Advisory Commission Report on Police, Standard 13.3, pp. 329-333.

2. National Advisory Commission Report on Civil Disorders, Washington, D.C.: U.S. Government Printing Office, 1968.

3. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967.

4. Wilson, O., Police Planning, Springfield, Ill.: Charles C. Thomas Co., 1972.

Goal 7.4
The Selection Process

Every police agency immediately should employ a formal process for the selection of qualified police applicants. This process should include a written test of mental ability or aptitude, an oral interview, a physical examination, a psychological examination and an in-depth background investigation.

1. Every police agency should measure applicants' mental ability through the use of job-related ability or aptitude tests rather than general aptitude tests. These job-related ability tests should meet the requirements of Federal Equal Employment Opportunities Commission Guidelines.

2. Every police agency should conduct an in-depth background investigation of every police applicant before employment. The policies and procedures governing these investigations at least should insure that:

a. To the extent practicable, investigations are based upon personal interviews with all persons who have valuable knowledge of the applicant;

b. The polygraph examination if used shall not be a substitute for a field investigation;

c. The rejection of police applicants is job related; and

d. Police applicants are not disqualified on the basis of arrest or conviction records alone, without consideration of circumstances and disposition.

3. Every police agency should insure that applicants are promptly notified of the results of each major step in the selection process; and that the selection process is cost effective.

4. Every police agency should direct, into other temporary employment within the agency, qualified police applicants who because of a lack of vacancies cannot be employed immediately in the position for which they have applied.

Commentary

Of all the resources committed to the law enforcement process, manpower is the costliest (over 80 per cent of the average police budget is committed to salaries) and the most important. The need for public trust, respect and confidence in the police and the responsibilities entrusted to police officers preclude employment of the dishonest, the immature, the lazy, the immoral or the unreliable.

The task force feels that every law enforcement agency should operate a selection process which embodies the considerations set out in the goal. The benefits of such a selection process will be seen in a lower rate of personnel turnover, fewer discipline problems, higher morale and better community relations.

References

1. National Advisory Commission Report on Police, Standard 13.5, pp. 337-341.
2. Cohen, B., and J. Chaihen, Police Background Characteristics and Performance: Summary, New York: Rand Institute, 1972.
3. International Association of Chiefs of Police, Police Personnel Entrance Requirements, Washington, D.C.: International Association of Chiefs of Police, 1971.
4. Wilson, O., and R. McLaren, Police Administration, New York: McGraw-Hill, 1972.

Goal 7.5
Employment of Women

Every police agency should immediately insure that there exists no agency policy that discourages qualified women from seeking employment as sworn or civilian personnel or prevents them from realizing their full employment potential. Every police agency should:

1. Institute selection procedures to facilitate the employment of women;

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

3. Immediately abolish all separate organizational entities composed solely of female police officers.

Commentary

The role of women in the police service has been based largely upon traditional and often outmoded ideas concerning "masculine" tasks and "feminine" tasks. Today a large percentage of the nation's female police officers serve exclusively in such "feminine" roles as juvenile justice officers, matrons, sex crime investigators and clerical personnel.

The task force feels that law enforcement agencies must keep abreast of changing social attitudes (and legal requirements) by

reassessing the function of women in the police field. This is not a call to blindly ignore the difference between males and females. Rather the task force cautions the police agency to avoid thinking in terms of "sexist clichés" and objectively to analyze each specific task and determine if a woman can efficiently perform that task.

References

1. National Advisory Commission Report on Police, Standard 13.5, pp. 342-347.

2. Milton, C., Women in Policing, Washington, D.C.: Police Foundation, 1972.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 308-310.

Goal 7.6
Police Salaries

Virginia and its local governments should establish and maintain salaries that attract and retain qualified sworn personnel capable of performing the increasingly complex and demanding functions of police work. Virginia should set minimum entry-level salaries for all state and local police officers and reimburse the employing agency for a portion of the guaranteed salary. Through appropriate legislation, a salary review procedure should be established to insure to the extent possible annual adjustment of police salaries to reflect the prevailing wages in the local economy.

1. Every local government should immediately establish an entry-level sworn police personnel salary that enables the agency to compete successfully with other employers seeking individuals of the same age, intelligence, abilities, integrity and education. The entry-level salary should be at least equal to any minimum entry-level salary set by the state. In setting an entry-level salary which exceeds the state minimum, the following should be considered:

a. The employment standards of the agency;

b. The specific police functions performed by the agency;

c. The economy of the area served by the agency; and

d. The availability of qualified applicants in the local labor market.

2. Every local government should immediately establish a wide salary range within its basic occupational classification, with the maximum salary sufficient to retain qualified personnel by providing them with the opportunity for significant salary advancement without promotion to supervisory or management positions.

3. Every local government should immediately establish a salary review procedure to insure to the extent possible annual adjustment of police salaries to reflect the prevailing wages in the local economy and to meet the competition from other employers. The criteria applied in this annual salary review procedure should not be limited to cost of living increases, average earnings in other occupations or other economic considerations which, applied in isolation, can inhibit effective salary administration.

4. Every local government should immediately establish a sufficient salary separation between job classifications to provide promotional incentives and to retain competent supervisors and managers.

5. Every local government should immediately provide its police agency's chief executive with a salary that is equivalent to that received by the chief executives of other governmental agencies.

6. Every local government should immediately establish within its salary structure a merit system that rewards demonstrated excellence in the

performance of assigned duties.

7. Every local government should immediately establish or maintain a police salary structure separate and distinct from that of any other government agency.

8. Virginia should immediately establish a minimum entry-level salary for all state and local sworn police personnel. The minimum salary should be based on the qualifications required for employment in the police service, and on the recommendations of representatives of local criminal justice elements. It should be reviewed annually.

9. Virginia should reimburse every local police agency which meets the minimum state selection, training and salary requirements for at least 40 per cent of the total funds expended by the agency in payment of all state minimum salary requirements at the entry level.

Commentary

While an adequate salary will not necessarily guarantee an individual's job satisfaction, it will invariably serve to prevent salary-related expressions of discontent. Such expressions of discontent may range from inattention to "sick-ins" to outright corruption. The goal seeks to avoid salary dissatisfaction by outlining the relevant considerations and the evaluation process that every law enforcement agency should utilize in developing an equitable salary structure.

The task force devoted considerable study to the question of whether, and to what extent, the state should reimburse local communities for law enforcement salary expenses. The prime factors considered by the task force were:

1. The provision of law enforcement services is the responsibility of the local government, and the cost of such service must be borne by the local community.

2. Citizens of all areas of Virginia have the right to a certain minimum standard of law enforcement services. Economically poor localities should not be forced to accept a substandard level of police

performance because of economic conditions.

3. Since the goal calls for state mandated selection standards, and since the state currently mandates certain training standards for local law enforcement agencies (e.g., Va. Code § 9-109), the state should provide the revenue to meet such standards (see Goal 8.4).

The task force drafted this goal to reflect what it feels is a proper balancing of the above factors. The goal suggests that the state reimburse the local community for a portion (at least 40 per cent) of the funds expended to comply with state minimum salary requirements. It is felt that such a procedure will continue to emphasize the local community's prime responsibility for law enforcement services, but will also recognize that the state has a responsibility to assist communities in meeting state mandated standards.

References

1. National Advisory Commission Report on Police, Standard 14.1, pp. 354-361.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1969.

3. Herzberg, F., Work and the Nature of Man, Cleveland: World Publishing Co., 1966.

Goal 7.7
Position Classification Plan

Virginia and its local governments should establish immediately a broad police classification plan based upon the principle of merit. The plan should include few position classifications but multiple pay grade levels within each classification to enable the agency's chief executive to exercise flexibility in the assignment of personnel. The plan should also provide, within the basic position classification, sufficient career incentives and opportunities to retain qualified generalists and specialists in nonmanagement positions.

1. Every police agency with more than three levels of classification below the chief executive should consider the adoption of three broad occupational classifications for sworn personnel, to permit mobility within each classification and salary advancement without promotion. The three fundamental classifications should include:

   a. A patrolman-investigator classification for the generalist and specialist as the basic rank level;

   b. A supervisor-manager classification for supervisory and midmanagement personnel; and

   c. A command-staff classification for police executives and administrators.

2. Every agency's classification plan should include, within each position classification, several pay grade levels, each of which requires a certain degree of experience, skill and ability, or which entails the performance of a specialized function. The plan should provide compensation commensurate with the duties and responsibilities of the job performed, and should permit flexibility in the assignment of personnel.

3. Every police agency should provide career paths that allow sworn personnel to progress not only as managers but as generalists and specialists as well. Nonmanagerial career paths should provide the incentive necessary to encourage personnel with proven professional and technical expertise to remain within the functions they choose, while continuing to provide efficient and effective delivery of police service.

   a. Nonmanagerial career paths should incorporate progressive career steps for the generalist and specialist; these steps should be predicated on the completion of appropriate levels of education and training, and the achievement of experience and expertise within a professional-technical area. Progression to the end of a nonmanagerial career path

should bring a salary greater than that for the first level of supervision.

b. Managerial career paths should also incorporate progressive career steps, predicated on the completion of appropriate levels of education and training and the achievement of management skills necessary to function satisfactorily at the next level of management.

4. Every police agency should insure that the merit principle dominates promotions and assignments. Any existing civil service procedure should apply only to retention in, or promotion to, broad position classifications. Movement between pay grade levels within such position classifications should remain free from restrictive civil service procedures, but subject to internal controls, to insure placement and corresponding pay on the basis of merit.

   a. Every classification plan that encourages the practices of a "spoils system," or in which the advancement of personnel is not governed by the merit principle, should be corrected or abolished.

   b. Every agency should insure that no civil service system imposes any restriction on the agency's classification plan that would unnecessarily inhibit flexibility in the assignment of personnel or encourage mediocrity in job performance.

Commentary

The ultimate purpose of a position classification plan is to identify the characteristics of positions, consolidate the positions according to a logical plan, and establish qualifications and equitable salary scales for each group. This goal provides a broad outline of a comprehensive position classification plan.

The task force feels that the main thrust of this goal is to recommend that every law enforcement agency create multiple pay grade levels which are not tied to rank. The task force feels that

ranks should be an indicator of supervisory powers, whereas pay grades should be a reflection of the level of performance in both supervisory and non-supervisory positions.

References

1. National Advisory Commission Report on Police, Standard 14.2, pp. 362-365.

2. Eastman G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1969.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 322-325.

Goal 7.8
Personnel Development for Promotion and Advancement

Every police agency should adopt a policy of promoting to higher ranks and advancing to higher pay grades only those personnel who successfully demonstrate their ability to assume the responsibilities and perform the duties of the position to which they will be promoted or advanced. Personnel who have the potential to assume increased responsibility should be identified and placed in a program that will lead to full development of that potential.

1. Every police agency should screen all personnel in order to identify their individual potential and to guide them toward achieving their full potential. Every employee should be developed to his full potential as an effective patrol officer, a competent detective, a supervisor or manager, or as a specialist capable of handling any of the other tasks within a police agency. This screening should consist of one or more of the following:

    a. Management assessment of past job performance and demonstrated initiative in the pursuit of self-development;

b. Oral interviews; and

c. Job-related mental ability tests.

2. Every police agency should offer comprehensive and individualized programs of education, training and experience designed to develop the potential of every employee who wishes to participate. These individualized development programs should be based on the potential identified through the screening process and the specific development needs of the employee. These individualized programs should consist of one or more of the following:

   a. College seminars and courses;

   b. Directed reading;

   c. In-house and out-of-house training classes;

   d. Job rotation;

   e. Internship; and

   f. The occasional opportunity to perform the duties of the position for which an individual is being developed.

3. Personnel who choose to pursue a course of self development rather than participate in the agency-sponsored development program should be allowed to compete for promotion and advancement.

Commentary

Police agencies should insure that personnel are in fact capable of performing at a higher level of responsibility prior to any advancement or promotion. This is not accomplished by measuring an individual's knowledge against what is assumed to be the requisite level of knowledge for the advanced postion. It is accomplished by the precise identification, through job analyses, of the knowledge and skills the position demands and the methodological development of personnel to insure their qualifications prior to advancement or promotion. The goal lists a number of specific programs for effective personnel development.

References

1. National Advisory Commission Report on Police, Standard 17.1, pp. 423-425.
2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 190-191.
3. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 101-123.

Goal 7.9
Administration of Promotion and Advancement

Every police chief executive, by assuming administrative control of the promotion and advancement system, should insure that only the best qualified personnel are promoted or advanced to positions of greater authority and responsibility in higher pay grades and ranks. Agencies that have not developed competent personnel to assume positions of higher authority should seek qualified personnel from outside the agency rather than promote or advance personnel who are not ready to assume positions of greater responsibility.

1. The police chief executive should oversee all phases of his agency's promotion and advancement system including the testing of personnel and the appointing of personnel to positions of greater responsibility. The police chief executive should make use of the services of a central personnel agency when that personnel agency is competent to develop and administer tests and is responsive to the needs of the police agency.

2. While recognizing that promotion from within the ranks is desirable, the police chief executive should consider recruiting personnel for lateral entry at any level from outside the agency when it is necessary to do so in order to obtain the services of an individual who is qualified for a position or assignment.

Commentary

This goal emphasizes the right and responsibility of the police chief executive to oversee all phases of his agency's promotion and advancement system. The police chief executive must guard against the danger that a central personnel or civil service agency will usurp much of this authority. The task force feels that the proper role of a central personnel agency or civil service body is to provide technical expertise in the management of personnel resources and to insure the preservation of the merit system. But, since the ultimate responsibility for police effectiveness rests with the police chief executive, he must also have the ultimate authority to staff and manage his agency.

The goal also suggests that police chief executives keep an open mind regarding lateral entry. Traditionally Virginia law enforcement agencies have promoted from within. While many police chiefs come from outside of the ranks, lateral entry to other senior positions in Virginia agencies is the exception. The task force feels that the staffing of senior positions within a police agency is best accomplished through the planned development of personnel to fill vacancies as they occur. When qualified personnel are available within the agency, they should be preferred to personnel outside the agency. Any other policy would have a devastating effect on morale. However, if qualified personnel are not available within the agency, lateral entry is a reasonable method of placing competent people in command positions. Lateral entry must be preferred to the promotion of unqualified individuals from within the agency.

References

1. National Advisory Commission Report on Police, Standard 17.4, pp. 437-439.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 171-180.

3. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 67 and 123.

Goal 7.10
Personnel Records

Every police agency immediately should establish a central personnel information system to facilitate management decisionmaking in assignment, promotion, advancement and the identification and selection of individuals for participation in personnel development programs.

1. The personnel information system should contain at least the following personnel information:

   a. Personal history;

   b. Education and training history;

   c. Personnel performance evaluation history;

   d. Law enforcement experience;

   e. Assignment, promotion and advancement history;

   f. Commendation records;

   g. Sustained personnel complaint history;

   h. Medical history;

   i. Occupational skills profile;

   j. Results of special tests; and

   k. Photographs

2. The personnel information system should be protected against unauthorized access; however, employees should have access to agency records concerning them, with the exception of background investigation data.

3. The system should be updated at least semi-annually and, ideally, whenever a significant change in information occurs; and

4. The system should be assigned to facilitate statistical analysis of personnel resources and the identification of individuals with special skills, knowledge or experience.

Commentary

The task force feels that this goal is self-explanatory. There is an obvious need for comprehensive records to form the basis for effective personnel management.

Reference

National Advisory Commission Report on Police, Standard 17.5, pp. 440-441.

Goal 7.11 Personnel Evaluation for Promotion and Advancement

Every police 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 that relate specifically to the responsibilities and duties of the higher position.

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

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

    b. Specific data concerning every employee's job performance, training,

education and experience should support the periodic evaluation for promotion and advancement.

2. Every police agency should use job analyses 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:

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

   b. Oral interviews; and

   c. Job related mental aptitude tests.

3. Every police 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:

   a. Bonus points for seniority;

   b. Bonus points for military service; and

   c. Bonus points for heroism.

4. No agency should use any psychological test as a screening device or evaluation tool in the promotion and advancement process until scientific research confirms a reliable relationship between personality and actual performance.

5. 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 year from the date of promotion or advancement.

Commentary

The task force recognizes that there are state and federal regulations and guidelines which govern personnel evaluations. However, the task force believes that the basic thrust of this goal can be met within most guidelines.

The task force wishes to call special attention to paragraph three relating to "bonus points." It is proposed to discourage the arbitrary, i.e. automatic, awarding of a fixed number of bonus points for experience and achievement not related to the duties of the position for which the individual is being considered. This does not mean that factors such as military service, seniority and heroism are factors which cannot be considered. Every agency should evaluate the individual's specific achievements and experience and determine in each case how much, if any, weight should be given to these factors.

References

1. National Advisory Commission Report on Police, Standard 17.3, pp. 433-435.

2. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 203-226.

Chapter 8
Education and Training

Goal 8.1
Educational Standards for the Selection of Police Officers

Virginia should employ a full-time recruiter to direct efforts designed to attract college graduates to a career in law enforcement.

By 1980, every police agency in Virginia should strive to employ only those individuals who have completed one year of college education in an area related to law enforcement.

By 1982, every police agency in Virginia should strive to employ only those individuals who have completed two years of college education in an area related to law enforcement.

Commentary

More than half of the nation's young people now go to college. In terms of an educational norm, today's undergraduate degree is equivalent in prestige to a high school diploma at the turn of the century. Yet most police agencies have failed to take notice. For many agencies the minimum educational level is still the same as it was 40 years ago -- a high school education.

The task force believes that there is a real need for police officers who are intelligent, articulate, mature and knowledgeable. Upgrading the educational level of police officers is one of the most important challenges facing the service today.

The task force recognizes that to some extent the call for college education rests on a general belief in the value of education, rather than on any hard facts. At present, there is no empirical evidence that higher educational requirements will necessarily lead to a reduction in the crime rate. However, the task force believes that a person who participates in the college experiences:

> . . . has had broader experience with people and new situations; his adaptability has been tested; he has had the opportunity to meet students of many different nationalities, cultural backgrounds, and racial characteristics and, consequently, should have lost much of any previous bias or prejudice he may have had . . . Such men will contribute a great deal to the professionalization of police service.

The task force recognizes that there are exceptional cases where an otherwise highly qualified individual may not possess the desired college education. In such situations the law enforcement agency should be free to employ such an individual. Accordingly the task force feels that the educational requirements of the goal should not be rigidly mandated by statute or administrative regulation. The educational standards of this goal are truly a goal that should be strived for by every law enforcement agency. But the agency should retain the flexibility to deviate from the goal in truly exceptional circumstances.

References

1. National Advisory Commission Report on Police, Standard 15.1, pp. 369-371.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 5.2, New York, 1973.

3. Berkley, G., The Democratic Policeman, Boston: Beacon Press, 1969.

4. Clift, R., A Guide to Modern Police Thinking, Cincinnati: W. H. Anderson Co., 1970, Chapter 32.

5. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime

Prevention, 1974, pp. 327-330.
6. Saunders, C., Upgrading the American Police, Washington, D.C.: The Brookings Institution, 1970.
7. Wilson, J., Varieties of Police Behavior, New York: Atheneum, 1975.
8. Wilson, O., Police Administration, New York: McGraw-Hill, 1963, p. 139.

Goal 8.2
Educational Incentives for Police Officers

Every police agency should immediately adopt a formal program of educational incentives to encourage police officers to achieve a college-level education. Colleges and universities, particularly those providing educational programs expressly for police personnel, should schedule classes at a time when police officers can attend.

1. When it does not interfere with the efficient administration of police personnel, duty and shift assignments should be made to accommodate attendance at local colleges; any shift or duty rotation system should also be designed to facilitate college attendance.

2. Financial assistance to defray the expense of books, materials, tuition and other reasonable expenses should be provided to a police officer when:

   a. He is enrolled in courses or pursuing a degree that will increase, directly or indirectly, his value to the police service; and

   b. His job performance is satisfactory.

3. Incentive pay should be provided for the attainment of specified levels of academic achievement. This pay should be in addition to any other salary incentive.

4. Colleges and universities, particularly those providing educational programs expressly for police personnel, should schedule classes at hours and locations that will facilitate the attendance of police officers.

   a. Classes should be scheduled for presentation during the daytime and evening hours within the same academic period, semester or quarter.

   b. When appropriate, colleges and universities should present classes at locations other than the main campus so police officers can attend more conveniently.

Commentary

The task force feels that it is incumbent upon police agencies in the Commonwealth to offer incentives to those officers that desire to attend college. These incentives might range from scheduling an officer's work shift to accommodate attendance at college to the payment of salary bonuses for specified levels of academic achievement.

Other incentives could include financial assistance for the officer student in meeting his educational expenses, higher starting pay for police recruits with more than a high school degree, and bonus points on promotional examinations for varying levels of academic achievement.

The task force realizes that a large number of officers from an agency attending school can place a hardship on agency administrators. However, it is possible to accommodate even large-scale college attendance without a shortage of manpower by proper scheduling of watch rotations. If shift rotations coincide with the academic cycle of semesters or quarters, officers may well be assured of completing every semester of study that they initiate.

Although it is not within the purview of the task force to suggest policy to educational institutions, it is felt that institutions of higher learning could facilitate college attendance by police officers if classes were offered at both evening and day sessions. Virginia Commonwealth University, Northern Virginia Community College and numerous other community colleges offer both

day and night courses.

References

1. National Advisory Commission Report on Police, Standard 15.2, pp. 372-375.

2. Berkley, G., The Democratic Policemen, Boston: Beacon Press, 1969.

3. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 113.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 330-334.

5. Saunders, C., Upgrading the American Police, Washington, D.C.: The Brookings Institution, 1970.

Goal 8.3
College Credit for the Completion of Police Training Programs

Every police agency should pursue the affiliation of police training programs with academic institutions to upgrade its level of training and to provide incentive for further education.

1. All police training courses for college credit should be academically equivalent to courses that are part of the regular college curriculum.

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

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

b. Police 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

Affiliation of police academics with colleges often upgrades the level of training given to police officers and encourages police personnel to continue the pursuit of a college education.

A large number of police agencies throughout the Commonwealth and the nation have sought to upgrade their basic training programs by incorporating college level courses, for credit, within their training programs. Police officers who graduate from these training programs may earn from 6 to 24 hours of credit at various colleges in Virginia. The Virginia Department of State Police, the Northern Virginia Police Academy, the Norfolk Police Academy and many other police organizations have affiliated themselves with local community colleges so their officers can earn college credits. In addition, the Virginia Consolidated Laboratory offers a course in forensic sciences that allows credits at Virginia Commonwealth University to officers who graduate from the course.

References

1. National Advisory Commission Report on Police, Standard 15.3, pp. 376-377.

2. Pace, D., et al., Law Enforcement Training and the Community College: Alternatives for Affiliation, Washington, D.C.: American Association of Junior Colleges, 1970.

3. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 334-336.

5. U.S. Department of Justice, Police Educational Characteristics and Curricula, Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1975.

Goal 8.4
State Legislation and Fiscal Assistance for Police Training

Virginia should enact legislation establishing mandatory minimum basic training for police, a representative body to develop and administer training standards and programs for police, and financial support for mandated training for police on a continuing basis to provide the public with a common quality of protection and service from police employees throughout the state. Virginia should certify all sworn police employees.

1. Virginia should enact legislation that mandates minimum basic training for every sworn police employee prior to the exercise of authority of his position.

2. Virginia should enact legislation establishing a state commission to develop and administer state standards for the training of police personnel. The majority of this commission should be composed of representatives of local law enforcement agencies. Other members should be from the criminal justice system, local government, and criminal justice education and training centers. The state should provide sufficient funds to enable this commission to meet periodically and to employ a fulltime staff large enough to carry out the basic duties of the commission. In addition to any other duties deemed necessary, this commission should:

   a. Develop minimum curriculum requirements for mandated training for police;

   b. Certify police training centers and institutions that provide training that meets the requirements of the state's police training standards;

   c. Establish minimum police instructor qualifications and certify individuals

to act as police instructors;

d. Inspect and evaluate all police training programs to insure compliance with the state's police training standards;

e. Provide a consulting service for police training and education centers; and

f. Administer the financial support for police training and education.

3. Virginia should reimburse every police agency 100 per cent of the salary or provide appropriate state financed incentives for every police employee's satisfactory completion of any state mandated and approved police training program.

4. Virginia, through the police training body, should certify as qualified to exercise police authority every sworn police employee who satisfactorily completes the state basic police training and meets other entrance requirements.

5. Virginia should establish strategically located criminal justice training centers, including police training academies, to provide training that satisfies state mandated training standards for all police agencies that are unable to provide it themselves or in cooperation with other agencies.

Commentary

The task force concluded that Virginia is presently moving toward this goal through the work of the Criminal Justice Services Commission which has coordinated efforts to insure that adequate training is available to every law enforcement officer in the Commonwealth.

The task force feels that this goal sets the appropriate course for the future of the commission and the task force encourages the state to reimburse local law enforcement agencies for the salaries of those officers who participate in the training courses.

References

1. National Advisory Commission Report on Police, Standard 16.1, pp. 384-387.

2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Police, Washington, D.C.: U.S. Government Printing Office, 1967, p. 217.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia , Division of Justice and Crime Prevention, 1974, pp. 337-339..

4. Criminal Justice Services Commission, Rules Relating to Compulsory Minimum Training Standards for Law Enforcement Officers, Commonwealth of Virginia, 1971.

Goal 8.5
Program Development

Every police training academy and criminal justice training center should immediately develop effective training programs, the length, content and presentation of which will vary according to specific subject matter, participating police employees, and agency and community needs.

1. Every police training academy should insure that the duration and content of its training programs cover the subject every police employee needs to learn to perform acceptably the tasks he will be assigned.

2. Every police training academy should define specific courses according to the performance objective of the course and should specify what the trainee must do to demonstrate achievement of the performance objective.

3. Every police training academy serving more than one police agency should enable the police chief executives of participating agencies to choose for their personnel elective subjects in addition to the minimum mandated training.

4. Every police training academy should insure that its training programs satisfy state standards for police training as well as meet the needs of participating police agencies and that its training is timely and effective. These measures should at least include:

   a. Regular review and evaluation of all training programs by an advisory body composed of police practitioners from participating agencies;

   b. Periodic field observation of the operations of participating police agencies by the training staff; and

   c. Continual critique of training programs through feedback from police employees who have completed the training programs and have subsequently utilized that training in field operations and from their field supervisors.

Commentary

The Criminal Justice Services Commission is responsible for developing police training courses in the Commonwealth, and this goal is recommended for their consideration when formulating basic programs.

The task force would call special attention to paragraph four of the goal which provides for local input on the evaluation of training programs. Recent graduates of police academies are sometimes shocked by the realities they encounter "on the street." They may find that the training they received in the classroom has little relationship to what happens in the field. The task force feels that an advisory body of police practitioners is an effective guard against the possibility that training will become overly theoretical in nature.

References

1. National Advisory Commission Report on Police, Standard 16.2, pp. 388-391.

2. National Institute of Law Enforcement and Criminal Justice, Police Educational Characteristics and Curricula, Washington, D.C.: U.S. Government Printing Office, 1975.

3. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 112.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, pp. 340-341.

Goal 8.6
Preparatory Training

Every police agency should provide preliminary training for every police employee prior to his first assignment within the agency and should insure that the employee serves a minimum of 30 days prior to entering formal basic recruit training.

1. Virginia should require that every sworn police employee satisfactorily complete a minimum of 400 hours of basic police training. In addition to traditional basic police subjects, this training should include:

   a. Instruction in law, psychology and sociology specifically related to interpersonal communication, the police role and the community the police employee will serve;

   b. Assigned activities away from the training academy to enable the employee to gain specific insight into the community, the criminal justice system and local government;

   c. Remedial training for individuals who are deficient in their training performance but who, in the opinion of the training staff and employing agency, demonstrate potential for satisfactory performance; and

d. Additional training by the employing agency in its policies and procedures, if basic police training is not administered by that agency.

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

   a. A minimum of 4 months of field training with a sworn police employee who has been certified as a training coach;

   b. Rotation in field assignments to expose the employee to varying operational and community experiences;

   c. Documentation of employee performance in specific field experiences to assist in evaluating the employee and to provide feedback on training program effectiveness;

   d. Self-paced training material, such as correspondence courses, to assist the employee in acquiring additional job knowledge and in preparing for subsequent formal training;

   e. Periodic meetings between the coach, the employee and the training academy staff to identify additional training needs and to provide feedback on training program effectiveness; and

   f. A minimum of two weeks' additional training at the training academy should be required sometime during the first year's employment in field duties.

3. Every police agency should provide every unsworn police employee with sufficient training to

enable him to perform satisfactorily his specific assignment and to provide him with a general knowledge of the police role and the organization of the police agency.

Commentary

The exact amount of training needed to develop a new recruit into a police officer is not known. Recommended basic police training program lengths are value judgements based on tradition, necessity, common sense and what little analytical information is available.

Several national commissions, including the National Advisory Commission, feel that a minimum of 400 hours of classroom instruction is needed for the employee entering police work. Although the Criminal Justice Services Commission requires a minimum of 164 classroom hours in the basic training curriculum, it is estimated that the average police officer in Virginia receives close to 400 hours of basic training. The task force feels that it is appropriate at this time to formalize general practice by requiring a minimum of 400 hours of training for all law enforcement officers.

The task force also endorses the concept that each recruit spend a minimum of 30 days in the field with a senior officer prior to entering the police training academy. It was the opinion of the membership that this 30-day period would help the recruit in relating his field experience to the classroom lectures that he receives in the academy. Another advantage of this 30-day period is that the recruit is exposed to police work and, if disenchanted, is able to leave the police profession before the agency incurs the expense of formal training.

The task force also endorses a two week "refresher" course to be completed within the first year of employment with an agency. Since this additional formal training builds on previous instruction and field experience, these two week courses can be extremely productive.

References

1. National Advisory Commission Report on Police, Standard 16.3, pp. 392-399.

2. Berkley, G., The Democratic Policeman, Boston: The Beacon Press, 1969.

3. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 112.

4. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 341-349.

5. Saunders, C., Upgrading the American Police, Washington, D.C.: The Brookings Institution, 1970.

Goal 8.7 Interpersonal Communications Training

Every police agency should immediately develop and improve the interpersonal communications skills of all officers. These skills are essential to the productive exchange of information and opinion between the police, other elements of the criminal justice system and the public; their use helps officers to perform their task more effectively.

1. Where appropriate, an outside consultant should be used to advise on program methodology, to develop material, to train sworn officers as instructors and discussion leaders, and to participate to the greatest extent possible in both the presentation of the program and its evaluation.

2. Every recruit training program should include instruction in interpersonal communications, and should make appropriate use of programmed instruction as a supplement to other training.

3. Every police agency should develop programs such as workshops and seminars that bring officers, personnel from other elements of the criminal justice system and the public together to discuss the role of the police and participants' attitudes toward that role.

Commentary

Because police officers deal with people and their problems under circumstances of stress and tension, it is imperative that

the policeman in today's society understand human nature and the dynamics of communication.

Police officers are regularly confronted by violent crime and its victims. They witness the hardships and suffering that accompany crime and disaster and often see humanity at its worst. In the midst of emotional turmoil a police officer must control his own emotions and remain objective. This is not easy to accomplish without training and experience. Many police agencies across the nation have incorporated interpersonal communications training in their training courses. Others have utilized colleges and universities for this type of training for their officers. The task force recognizes the importance of interpersonal communications training and recommends that police agencies throughout the Commonwealth require this type of training in their basic courses or advanced training courses.

References

1. National Advisory Commission Report on Police, Standard 16.4, pp. 401-403.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.4, New York, 1973.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 349-350.

Goal 8.8
In-Service Training

Every police agency should provide for annual and routine training to maintain effective performance throughout every sworn employee's career.

1. Every police agency should provide 40 hours of formal in-service training every two years to sworn police employees. This training should be designed to maintain, update and improve necessary knowledge and skills. Where practicable 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.

2. Every police agency should recognize that formal training cannot satisfy all training needs and should provide for decentralized "day-to-day" training.

3. Every police agency should insure that the information presented during biennial and routine training is included, in part, in promotion examinations and that satisfactory completion of training programs is recorded in the police employee's personnel folder in order to encourage active participation in these training programs.

Commentary

In-service training requires a commitment by the police chief executive to maintain employee effectiveness by providing training to update and improve job knowledge and skills. Such training should take note of the needs of the agency, as well as the individual employee's needs in terms of career development.

The task force feels that the current practice of providing 40 hours of in-service training every two years is adequate for police officers in Virginia. To require more than this amount could very well work a financial hardship on some departments.

References

1. National Advisory Commission Report on Police, Standard 16.5, pp. 404-408.

2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Police, Washington, D.C.: U.S. Government Printing Office, 1967, p. 140.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 350-358.

Goal 8.9
Instruction
Quality Control

Every police training academy and criminal justice training center should develop immediately quality control measures to insure that training performance objectives are met. Every training program should insure that the instructors, presentation methods and training material are the best available.

1. Every police training academy should present all training programs with the greatest emphasis on student-oriented instruction methods to increase trainee receptivity and participation.

2. Every police training academy and every police agency should insure that all its instructors are certified by the state by requiring:

    a. Certification for specific training subjects based on work experience and educational and professional credentials;

    b. Satisfactory completion of a state-certified minimum 80-hour instructor training program; and

    c. Periodic renewal of certification based in part on the evaluation of the police training academy and the police agency.

3. Every police training academy should distribute instructional assignments efficiently and continually update all training materials. These measures should include:

    a. Periodic monitoring of the presentations of every police training instructor to assist him in evaluating the effectiveness of his methods and the

value of his materials;

b. Rotation of police training instructors through operational assignments or periodic assignment to field observation tours of duty;

c. Use of outside instructors whenever their expertise and presentation methods would be beneficial to the training objective;

d. Continual assessment of the workload of every police training instructor; and

e. Administrative flexibility to insure efficient use of the training academy staff during periods of fluctuation in trainee enrollment.

4. Every police agency and police training academy should review all training materials at least annually to determine their current value and to alter or replace them where necessary.

Commentary

The goal is largely self-explanatory and simply urges a commitment to providing the best instruction available. This requires an examination of the quality of instructors and the method of instruction.

The task force feels that the goal's emphasis on "student-oriented instruction methods" is significant. Research by the Federal Bureau of Investigation reveals that participating students learn more effectively than nonparticipating students. Many police agencies are providing participatory experience through role playing and situation simulation techniques. While not all inclusive the task force feels the following methods of "student-oriented instruction" should be utilized whenever possible:

1. Active student involvement in training through instruction techniques such as role playing, situation simulation, group discussions, reading and research projects, and utilization of individual trainee response systems;

passive student training such as the lecture presentation should be minimized;

2. Where appropriate, team teaching by a police training instructor and a sworn police employee assigned to field duty;

3. The use of audiovisual aids to add realism and impact to training presentations;

4. Preconditioning materials, such as correspondence courses and assigned readings, made available prior to formal training sessions;

5. Self-paced, individualized instruction methods for appropriate subject matter; and

6. Where appropriate, computer assistance in the delivery of instructional material.

References

1. National Advisory Commission Report on Police, Standard 16.6, pp. 409-416.

2. American Bar Association, Standards Relating to the Urban Police Function, New York: Standard 7.4, p. 210.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 358-360.

Chapter 9
Employee Relations and Discipline

Goal 9.1
The Police Executive and Employee Relations

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

1. Every police chief executive should actively participate in seeking reasonable personnel benefits for all police employees.

2. Every police 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.

3. Every police chief executive should develop methods to obtain advisory information from police employees--who have daily contact with operational problems--to assist him in reaching decisions on personal and operational matters.

4. Every police chief executive should provide a grievance procedure for all police employees.

5. Every police chief executive should have employee relations specialists available to provide assistance in:

   a. Developing employee relations programs and procedures; and

   b. Providing general or specific training in management-employee relations;

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

7. Every police chief executive should acknowledge the right of police employees to join or not join employee organizations that represent their employment interests.

Commentary

This goal simply states some rather basic principles of employer-employee relations that should be considered by all police chief executives. The goal calls for the effective exchange of information within the agency. The police chief executive should know what his employees want and how they feel, and he should act on this information.

It may well be that certain issues are beyond the chief executive's authority if they are controlled by statute or civil service regulations. In such cases the police chief executive can inform the employees of the relevant statute or regulations, and the employees may then address their comments to the appropriate authorities. This two-way exchange of information between employer and employee can minimize rumors and help dispel the impression that "no one is listening" to the employee.

References

1. National Advisory Commission Report on Police, Standard 18.1, pp. 447-453.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 195-197.

3. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 203-226.

Goal 9.2
Foundation for Internal Discipline

Every police agency immediately should formalize policies, procedures and rules in written form for the administration of internal discipline. The internal discipline system should be based on essential fairness, but not bound by formal procedures or proceedings such as are used in criminal trials.

1. Every police agency immediately should establish formal written procedures for the administration of internal discipline and an appropriate summary of those procedures should be made public.

2. The chief executive of every police agency should have ultimate responsibility for the administration of internal discipline.

3. Every employee at the time of employment should be given written rules for conduct and appearance. They should be stated in brief, understandable language.

   In addition to other rules that may be drafted with assistance from employee participants, one prohibiting a general classification of misconduct, traditionally known as "conduct unbecoming an officer," should be included. This rule should prohibit conduct that may tend to reflect unfavorably upon the

employee or the agency.

Commentary

The goal of internal discipline is internal order and individual employee accountability. As in law, the administration of internal discipline must be based on a solid, formal, written foundation. It must provide sanctions for proven misconduct and protection from false accusations. The discovery of truth is of paramount importance in these proceedings; the administration of internal discipline should instill confidence in all parties involved.

The task force feels that this goal provides highly desirable criteria for establishing an equitable foundation for the conduct of an effective disciplinary process.

References

1. National Advisory Commission Report on Police, Standard 19.1, pp. 474-476.
2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 191-195.

Goal 9.3 Complaint Reception Procedures

Every police agency immediately should implement procedures to facilitate the making of a complaint alleging employee misconduct, whether that complaint is initiated internally or externally.

1. The making of a complaint should not be accompanied by fear of reprisal or harassment. Every person making a complaint should receive verification that his complaint is being processed by the police agency. This receipt should contain a general description of the investigative process and appeal provisions.

2. Every police agency, on a continuing basis, should inform the public of its complaint reception and investigation procedures.

3. All persons who file a complaint should be notified of its final disposition; personal discussion regarding this disposition should be encouraged.

4. Every police agency should develop procedures that will insure that all complaints, whether from an external or internal source, are permanently and chronologically recorded in a central record. The procedure should insure that the agency's chief executive or his assistant is made aware of every complaint without delay.

5. Complete records of complaint reception, investigation and adjudication should be maintained. Statistical summaries based on these records should be published regularly for all police personnel and should be available to the public.

Commentary

In order to generate public cooperation, procedures to insure that complaints will be received and acted upon must be established by every police agency. In addition, efficient complaint reception procedures provide the police chief executive with a valuable tool for gauging employee performance quality and in measuring public-police rapport.

The task force feels that the only controversial aspect of this goal is paragraph three which concerns the duty of the law enforcement agency to disclose information relating to a complaint of police misconduct. The task force recognized that disclosing the nature and extent of any disciplinary measures taken against an officer might cause embarrassment to the other officer, and/or constitute an invasion of his privacy. However, in the interest of encouraging public support and understanding, the task force feels that as a minimum, the complainant should be made aware of the agency's determination that the original complaint was justified or unjustified. The terms "justified" or "unjustified" are not the only appropriate terms to be used in making a determination on a complaint. The police agency is to communicate the determination in whatever language the agency feels

is appropriate. The task force noted that in addition to "unjustified" the terms "unfounded," "unsupported" or "unwarranted" would be appropriate in certain situations.

References

1. National Advisory Commission Report on Police, Standard 19.2, pp. 477-479.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, p. 238.

3. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 190, 193.

Goal 9.4
Investigative Responsibility

The chief executive of every police agency immediately should insure that the investigation of all complaints from the public, and all allegations of criminal conduct and serious internal misconduct, are conducted by a specialized individual or unit of the involved police agency. This person or unit should be responsible directly to the agency's chief executive or the assistant chief executive. Minor internal misconduct may be investigated by first-line supervisors, and these investigations should be subject to internal review.

1. The existence or size of this specialized unit should be consistent with the demands of the work load.

2. Police agencies should obtain the assistance of prosecuting agencies during investigations of criminal allegations and other cases where the police chief executive concludes that the public interest would best be served by such participation.

3. Specialized units for complaint investigation should employ a strict rotation policy limiting assignments to 18 months.

4. Every police agency should deploy the majority of its complaint investigators during the hours consistent with complaint incidence, public convenience and agency needs.

Commentary

The public's respect for a police agency hinges on its preservation of internal discipline. Because the police chief executive is accountable for the conduct of all police agency employees, he should direct the administration of internal discipline personally. For this reason, all major internal investigations of employee misconduct should be conducted by a person or unit directly responsible to the chief executive or the assistant chief executive. Investigations into minor violations could well be conducted by first line supervisors, subject to internal review.

The task force realizes that the majority of public complaints against police officers fall into two categories: use of excessive force and conduct unbecoming an officer. These are serious allegations and of patent concern to the public and should be investigated thoroughly. A specialized investigation unit is more likely to have the time and expertise to achieve this objective.

Reference

National Advisory Commission Report on Police, Standard 19.3, pp. 480-482.

Goal 9.5
Investigation Procedures

Every police agency immediately should insure that internal discipline complaint investigations are performed with the greatest possible skill. The investigative effort expended on all internal discipline complaints should be at least equal to the effort expended in the investigation of felony crimes where a suspect is known.

1. All personnel assigned to investigate internal discipline complaints should be given specific training in this task and should be provided with written investigative procedures.

2. Every police agency should establish formal procedures for investigating minor internal misconduct allegations. These procedures should be designed to insure swift, fair and efficient correction of minor disciplinary problems.

3. Every investigator of internal discipline complaints should conduct investigations in a manner that best reveals the facts while preserving the dignity of all persons and maintaining the confidential nature of the investigation.

4. Every police agency should provide--at the time of employment and again upon notification that an investigation is being conducted--all its employees with a written statement of their duties and rights when they are the subject of an internal discipline investigation.

5. Every police chief executive should have legal authority during an internal discipline investigation to relieve police employees from their duties when it is in the interests of the public and the police agency.

6. Investigators should use all available investigative tools that can reasonably be used to determine the facts and secure necessary evidence during an internal discipline investigation. The polygraph should be administered to employees only at the expressed approval of the police chief executive.

7. All internal discipline investigations should be handled expeditiously.

Commentary

The reasons for investigating complaints of misconduct are:

1. To maintain police agency integrity;

2. To protect the public from police misconduct;

3. To retrain and correct employees guilty of misconduct and remove those whose transgressions make them unacceptable for futher police service;

4. To protect innocent police employees.

To achieve these aims the investigation process must be swift, certain and fair. The efforts expended in these investigations at least should be equal to the efforts expended in the investigation of crime.

The task force suggests that police agencies throughout Virginia closely monitor the investigative process and promulgate guidelines in accordance with this goal.

References

1. National Advisory Commission Report on Police, Standard 19.4, pp. 483-386.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 203-204.

3. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 191-193.

Goal 9.6
Adjudication of Complaints

Every police agency immediately should insure that provisions are established to allow the police chief executive ultimate authority in the adjudication of internal discipline complaints, subject only to appeal through the courts or established civil service bodies and review by responsible legal and governmental entities.

1. A complaint disposition should be classified as founded or unfounded.

2. Disciplinary action should take into consideration the recommendations of the involved employee's immediate supervisor.

3. An administrative fact-finding trial board should be available to all police agencies to assist in the adjudication phase. It should be activated when necessary in the interests of the police agency, the public or the accused employee, and should be available at the direction of the chief executive or upon the request of any employee who is to be penalized in any manner that exceeds verbal or written

reprimand. The chief executive of the agency should review the recommendations of the trail board and decide on the penalty.

4. The accused employee should be entitled to representation and logistical support equal to that afforded the person representing the agency in a trial board proceeding.

5. Police employees should be allowed to appeal a chief executive's decision. The police agency should not provide the resources or funds for appeal.

6. The chief executive of every police agency should establish written policy on the retention of internal discipline complaint investigation reports. Only the reports of well-founded and -- if appealed -- upheld investigations should become a part of the accused employee's personnel folder. All disciplinary investigations should be kept confidential.

7. Administrative adjudication of internal discipline complaints involving a violation of law should neither depend on nor curtial criminal prosecution. Regardless of the administrative adjudication, every police agency should refer all complaints that involve violations of law to the prosecuting agency for the decision to prosecute criminally. Police employees should not be treated differently from other members of the community in cases involving violations of law.

Commentary

To insure that the disposition of complaints enlists the confidence of the public and agency employees, it is essential that the adjudication process provide the police chief executive with sufficient data. The adjudication of each complaint will have an effect on subsequent internal discipline investigation and on the agency's entire system; therefore, all parties involved in the incident should feel they have had an opportunity to be heard.

The adjudication phase of internal discipline proceedings includes an evaluation of the overall conduct and performance level of the officer, and the agency should include the accused employee's immediate supervisor for consultation and recommendation. More than anyone else the immediate supervisor should be able to provide relevant information.

As was noted in Goals 1.2 and 9.3, the terms founded and unfounded in paragraph one of this goal are not the only appropriate terms to reflect the final adjudication. The task force does not purport to limit the adjudication to a set formula of "magic words." The police agency is to communicate the adjudication in whatever language the agency feels is appropriate.

In regard to paragraph six of the goal, the task force notes that while only well-founded complaints should be placed in the officer's personnel folder, the task force is not recommending expungement of all records of unfounded complaints. While such unfounded complaints should not be considered during the adjudication process, these previous complaints should be available to the police agency during the investigation process. For example, a number of complaints of police brutality might well alert the investigators that a problem exists and a more detailed investigation is warranted. Also the record of unfounded complaints could assist the agency in training officers to avoid even the appearance of misconduct (see Goal 9.7).

References

1. National Advisory Commission Report on Police, Standard 19.5, pp. 487-491.
2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: International City Management Association, 1971, pp. 204-207.
3. Stahl, O., and R. Staufenberger, eds., Police Personnel Administration, Washington, D.C.: Police Foundation, 1974, pp. 193-199.

Goal 9.7
Positive Prevention of Police Misconduct

The chief executive of every police agency immediately should seek and develop programs and techniques that will minimize the

potential for employee misconduct. The chief executive should insure that there is a general atmosphere that rewards self-discipline within the police agency.

> Every police chief executive should implement, where possible, positive programs and techniques to prevent employee misconduct and encourage self-discipline. These may include:
>
> a. Analysis of the causes of employee misconduct through special interviews with employees involved in misconduct incidents and study of the performance records of selected employees;
>
> b. General training in the avoidance of misconduct incidents for all employees and special training for employees experiencing special problems;
>
> c. Referral to psychologists, psychiatrists, clergy, and other professionals whose expertise may be valuable; and
>
> d. Application of peer group influence.

Commentary

The investigation and adjudication of police misconduct is expensive in terms of money, time, manpower and the effect on police morale. Obviously the public, the police agency and police employees will benefit if police misconduct is prevented or minimized.

In the past, internal discipline in police agencies has often been crisis oriented. Many agencies simply react after there has been an allegation of misconduct. Although the agencies have usually done a good job in the investigation of past misconduct, the goal suggests that they agency focus on developing measures which will prevent or minimize misconduct in the future.

Reference

National Advisory Commission Report on Police, Standard 19.6, pp. 492-494.

Chapter 10
Health Care, Retirement and Employee Services

Goal 10.1
Entry-Level Physical and Psychological Examinations

Every police agency should require all applicants for police officer positions to undergo thorough entry-level physical and psychological examinations to insure detection of conditions that might prevent maximum performance under rigorous physical or mental stress. Every agency should furnish, and require, as a condition of employment, that each applicant pass a thorough physical examination and take a thorough psychological examination. This examination should:

1. Be designed to detect conditions that are likely to cause non-job related illnesses, inefficiency, unnecessary industrial accidents and premature retirement;

2. Be conducted under the supervisor of a licensed physician; and

3. Include a psychological evaluation conducted under the supervision of a licensed psychologist or psychiatrist.

Commentary

Police officers are frequently subjected to a broad range of physical and mental stress under hazardous conditions. An officer's physical or mental inability to react appropriately to hazardous conditions can be fatal to himself or others.

While an applicant's capability to respond properly under continual stress cannot be predicted with complete reliability, it is possible with appropriate tests to identify with some accuracy those individuals who are unsuited for the demands of police service. The need for entry-level physical examinations has long been recognized by most police agencies. The same is not true for psychological examinations.

The task force feels that psychological testing is as important as physical examinations. The emotional stability to withstand the stresses of police work is a primary requisite of police personnel. Officers must cope rationally with violence, verbal abuse, resentment and emergencies. The emotionally unfit cannot withstand these stresses.

While the task force recognizes that psychological tests do not offer an infallible guide to who will make a good policemen, it does recommend that such tests be used to help eliminate applicants who are psychologically unfit for police work.

References

1. National Advisory Commission Report on Police, Standard 20.1, pp. 498-500.

2. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 110-111.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 423-426.

Goal 10.2
Continuing Physical Fitness

Every police agency should establish physical fitness standards that will insure every officer's physical fitness and satisfactory job performance throughout his entire career.

1. Every agency should immediately establish realistic weight standards that take into account each officer's height, body build and age.

2. Every agency should require that each officer take a periodic physical examination to determine the officer's level of physical fitness.

Commentary

Although many police agencies have minimum physical standards at the entry-level, few have adequate physical conditioning and weight control programs beyond the recruit level.

In many occupations the daily level of physical exertion is predictable. Unfortunately, a police officer cannot predict his physical activity. For many days he may operate at a minimal level, then suddenly be faced with a situation requiring fast pursuit and physical struggle to apprehend a suspect. If the officer is physically unfit, he may not only fail to catch the suspect, but he may further endanger himself or the public. According to medical studies a person in poor physical condition who attempts sudden strenuous physical activity runs a relatively high risk of injury, strain or heart attack.

The task force, in recognizing the importance of this standard for law enforcement officers, recommends that every police agency in the Commonwealth require its officers to take a periodic physical examination to determine the officer's level of physical fitness.

References

1. National Advisory Commission, Report on Police, Standard 20.2, pp. 498-500.
2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.3, New York, 1972.
3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, October 1974, pp. 427-429.
4. Shanahan, M., "A Factor for Survival: Police Officer Physical Efficiency," Police Chief, Vol. 43, No. 2, February 1967, pp. 58-60.

Goal 10.3
Employee Services

Every jurisdiction should, by 1978, establish or provide for an employee services unit to assist all employees in obtaining the various employment benefits to which they and their dependents are entitled. The employee services unit should be responsible for at least the following specific employee service functions:

a. Employee services unit personnel thoroughly informed on employee benefits should inform fellow agency employees of these benefits and the means for taking advantage of them.

b. In the event an officer is injured, the employee services unit should insure that the resulting needs of the officer and his family are cared for, with a minimum of inconvenience to the officer or his family.

c. In the event an officer is killed, the employee services unit should assist survivors in settling the officer's affairs.

Commentary

A sound employee benefits program is needed by every police agency to insure that employees understand the benefits available

to them, can take advantage of benefits with a minimum of effort; and, in case of illness, injury or death, have their needs or those of their families attended by persons skilled in dealing with such matters.

The task force felt that employee services in Virginia normally are handled by the local government. In such situations the services unit serves all the government workers of each government entity and there is no need for the law enforcement agency to create its own employee services unit.

However, the task force feels that provision of these services plays an important part in agency morale, thus the police chief executive should be familiar with the local services unit and insure that police employees are receiving the necessary assistance.

References

1. National Advisory Commission Report on Police, Standard 20.3, pp. 504-506.

2. Eastman, G., and E. Eastman, Municipal Police Administration, Washington, D.C.: Police Foundation, 1974, pp. 193-199.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 429-431.

Goal 10.4
Health Insurance

Every jurisdiction should, by 1978, 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.

1. Every jurisdiction should establish a health care program that provides for the particular health care needs of its employees and their immediate families.

a. 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 dental and vision care; (10) hospital room; and (11) income protection.

b. Every jurisdiction 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.

2. Every jurisdiction should insure than 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 change under these circumstances are reasonable.

Commentary

As with the previous goal (10.3) the task force recognizes that this area is handled by the local government and that police officers receive the same health insurance as do other local government employees.

However, the task force again cautions police chief executives against regarding this subject as "someone else's business."

Health insurance, like all employee benefits, plays a part in agency morale and is thus a legitimate concern of the police chief executive.

References

1. National Advisory Commission Report on Police, Standard 20.4, pp. 507-509.

2. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971, p. 171.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 431-433.

Goal 10.5
State Retirement Plan

Virginia should, by 1982, provide an actuarily sound statewide police retirement system for all sworn personnel employed within the state. This system should be designed to facilitate lateral entry.

1. The system should require a minimum of 25 years of service or 55 years of age for normal retirement and a mandatory retirement age of 60. There may be exceptions to mandatory retirement requirements for certain positions within the department.

2. Reciprocal agreements should be mandated among independent, local and state pension systems to allow any police officer to accept any law enforcement position available and still retain his accrued retirement benefits.

Commentary

At present there are a number of retirement plans available to law enforcement officers in Virginia. But the decision on which plan to utilize is made by the local government, and not

by the individual officer or the law enforcement agency. Some localities have their own retirement systems, while others are members of the Virginia Supplemental Retirement System or the Department of State Police Retirement System.

The prime drawback of the current situation is that there is little possibility of lateral entry from one retirement system to another. Thus an officer who wishes to move to another law enforcement agency usually is unable to carry with him his accrued retirement benefits. The task force has given a limited endorsement to lateral entry (see Goal 7.9) and believes this barrier to lateral entry should be removed. The task force strongly recommends that the state devise a retirement system which will allow a police officer to accept any law enforcement position and still retain his accrued retirement benefits.

References

1. National Advisory Commission Report on Police, Standard 20.5, pp. 510-512.

2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Police. Washington, D.C.: U.S. Government Printing Office, 1967, pp. 111-112.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 433-435.

4. Public Assistance Corporation, Law Enforcement in Virginia, A Legislative Plan of Action, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 21-32.

Goal 10.6
Police Officer Benefits for Duty-Connected Injury, Disease and Death

Virginia should join with other states in recommending that Congress extend the benefits of Title 5, Section 8191, of the United States Code to every federal, state and local law enforcement officer who in the performance of any police duty is killed, injured or contracts a sustaining disease.

Commentary

Title 5, Section 8191 of the United States Code currently provides benefits for non-federal law enforcement officers killed, injured or sustaining disease only under the following conditions:

1. While engaged in the apprehension of any person:

   a. Who has committed a crime against the United States, or

   b. Who at that time was accused by a law enforcement authority of the United States of the commission of a crime against the United States, or

   c. Who at that time was sought as a material witness in a criminal proceeding instituted by the United States.

2. While engaged in protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such a crime; or

3. While engaged in the lawful prevention of, or a lawful attempt to prevent, the commission of a crime against the United States.

Benefits include medical care, compensation for temporary, total and permanent disability, and monthly compensation for an officer's survivors.

Present benefits for non-federal law enforcement officers killed, injured or contracting disease in the performance of police duties having no connection with federal jurisdiction are, in many cases, severly restricted. Frequently, officers rendering assistance to other nearby jurisdictions lose their eligibility for local benefits by merely crossing their own city or county lines. Smaller communities often lack the financial resources to provide a reasonable level of service-connected death, injury and illness benefits. Extending the benefits of Section 8191 of Title 5 of the United States Code to all law enforcement officers -- irrespective of jurisdictional considerations -- should be given high priority Congressional attention.

References

1. National Advisory Commission Report on Police, Recommendation 20.1, p. 513.

2. Public Safety Officers' Benefits Act of 1976, Pub. L. No. 94-430 (September 29, 1976).

Chapter 11
Equipment

Goal 11.1
Police Uniforms

Every police 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 police officer. To deter criminal activity, uniformed police 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.

1. Every police chief executive should consider seasonal changes and climate when developing the agency's standard police uniform.

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

3. Every police executive should insure that

the uniforms of agency employees other than police officers -- such as civilian traffic control, parking control and security officers -- are, by color, design and items of identification, plainly distinguishable from those of police officers.

4. Every state should enact legislation fixing the color and style of uniforms worn by private patrolmen or security guards to insure that they are readily distinguishable from police uniforms.

5. Every police 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. Every jurisdiction should provide a uniform maintenance allowance for each police officer.

Commentary

Although many variables may influence the design and selection of police uniforms, the fundamental purpose of any uniform -- to identify the role or function of the individual wearing it -- must always be given primary consideration. Ease of identification is particularly important with police apparel. A distinctive uniform not only identifies a police officer to those who need his services, but also provides a high level of police visibility that offers some degree of deterrence of crime.

The task force feels that law enforcement agencies in Virginia are in basic compliance with this goal. However, the task force noted at present that each individual officer is responsible for the care and maintenance of his uniform. The task force recommends that each locality provide a uniform maintenance allowance for every police officer and that the Commonwealth provide a maintenance allowance to the state police.

References

1. National Advisory Commission Report on Police, Standard 21.1, pp. 516-518.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.10, New York, 1972.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 437-439.

Goal 11.2
Firearms and Auxiliary Equipment

Every police chief executive should immediately specify the type of firearms, ammunition and auxiliary equipment to be used by the agency's police officers. To enhance police efficiency, personal equipment items should be interchangeable among all officers of the agency. Once established, these specified standards should be maintained by frequent, periodic inspections and appropriate disciplinary action when agency regulations are violated.

1. Every police agency should establish written specifications for agency-approved sidearms and ammunition to be carried by officers on uniformed duty, or plainclothes duty, or off duty. The specifications should include the type, caliber, barrel length, finish, and style of the sidearms, and the specific type of ammunition.

2. Every police agency should insure that the officers of every automobile patrol unit are equipped with a shotgun and appropriate ammunition. An easily accessible shotgun receptacle that can be locked should be permanantly installed in every vehicle.

3. Every police agency should designate all items of auxiliary equipment to be worn or carried by its uniformed officers. To insure intra-agency informity, the approved type, size, weight, color, style and other relevant variables of each auxiliary equipment item, along with the position on the uniform or belt where it is to be worn or carried, should be specified in writing.

4. Every police agency should initiate a program of frequent, regular equipment inspections to insure that personal equipment items conform to agency specifications and are maintained in a presentable and serviceable condition. To insure that each officer's weapon functions properly, firearm practice should be required for all officers at least semi-annually and all firearms should be examined at regular intervals by a qualified armorer.

5. To insure shooting competency, every agency's policy relative to firearms practice should require each officer to maintain a minimum qualifying score in the firearms practice course adopted by the agency.

Commentary

The amount and variety of equipment manufactured for police use has increased tremendously in the past decade. Much of this equipment has been designed specifically to assist in resolving problems confronting contemporary law enforcement (e.g., riot control). Consequently, today's police executive, when selecting the personal equipment to be used by the officers of his agency, has a broader choice than his predecessor of a few years ago. As a result, he must be familiar with the varied equipment that can best suit the needs of his agency.

Once an item of equipment is selected, it should be the only type authorized for agency use. Interchangeability of firearms, ammunition, hand-cuffs and keys, and other equipment reduces agency purchasing and maintenance costs, simplifies training and facilitates field operations, especially in emergencies.

The task force considered several proposals to prohibit the use of hollow point or "dum-dum" bullets. However, the task force concludes that the type of ammunition used by law enforcement agencies should be determined by the individual police chief executive.

References

1. National Advisory Commission Report on Police, Standard 21.2, pp. 519-520.

2. International City Management Association, Municipal Police Administration, Washington, D.C.: International City

Management Association, 1969, p. 285.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 439-443.

Goal 11.3
Agency Provision of Uniforms and Equipment

Every police agency should immediately acquire the funds necessary to provide and maintain a full uniform and equipment complement for every police officer. This will facilitate the agency's efforts to insure conformance to uniform and equipment standards.

1. Every police agency should determine the minimum uniform requirements for its police officers, including alternate items of apparel for warm, cold and foul weather. The agency should furnish all required items at no cost to officers. Continuing conformity to uniform standards and appearance should be insured by regular replacement of uniforms or a uniform allowance.

2. Every police agency should furnish and replace at no cost to officers the sidearm, ammunition and auxiliary personal equipment specified by the agency.

Commentary

Local government and the public that supports it should acknowledge the importance of uniforms, weapons and other equipment used by police in preventing crime. When the agency furnishes and maintains uniforms and equipment for its personnel, the possibility that officers will wear or use unauthorized items is minimized. The agency's control over the officer's appearance is enhanced, as is the justification for inspections and mandatory replacement or repair.

The individual police officer should no more have to bear the cost of purchasing and maintaining uniforms than he should pay the cost of his police training.

References

1. National Advisory Commission Report on Police, Standard 21.3, pp. 522-523.

2. American Bar Association, Standards Relating to the Urban Police Function, Standard 7.10, New York, 1973.

3. Public Assistance Corporation, Law Enforcement, A Comparative Analysis of Virginia Practices and Procedures, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1974, pp. 444-447.

Goal 11.4
Driver Education and Vehicle Safety

Every police agency should implement a program to insure the safety of its employees and the public, minimize unnecessary expenditure of public funds and increase agency efficiency.

1. Every safety program should include:

    a. A driver training program for all employees who operate agency vehicles;

    b. Procedures for problem-driver detection and retraining;

    c. Procedures insuring employee inspection of agency vehicles prior to use;

    d. A maintenance program which will minimize the hazard of malfunctioning equipment; and

    e. Procedures for high-speed operations under emergency conditions.

2. Every safety program should emphasize the personal involvement of employees in meeting the objectives of the program through:

   a. Peer group involvement in the classification of employee accidents;

   b. Recognition for safe driving; and

   c. An education program with emphasis on the personal benefits to be derived from safe driving.

Commentary

A comprehensive safety program is needed to insure the safety of police employees and the public. Such programs will also reduce unnecessary expenditures of public funds for hospitalization, salaries to injured officers, damaged equipment, pensions and higher insurance premiums. Also a successful program will increase an agency's efficiency because more men and equipment will be available while agency costs are reduced.

The task force noted that while most serious accidents occur during high speed emergency situations, few agencies offer the type of training which would be helpful to drivers of emergency vehicles. The task force recommends that every law enforcement agency provide programs (such as the one offered by the Henrico County Police Department) which offer training in attitudes and driving skills for all employees who drive police vehicles.

Reference

National Advisory Commission Report on Police, Standard 22.3, pp. 537-539.

Goal 11.5
Police Telecommunications

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.

1. Every police agency should develop and maintain access to existing local, state and federal law enforcement telecommunications networks.

2. Every agency operating a full-time communications center and employing 15 or more persons should install 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

As the National Advisory Commission has noted:

> A basic obstacle to effective police action at the national, state, and local levels lies in the decentratization of huge volumes of valuable police information in local manual files and the impossibility of making such information available to other agencies which have a need for it.

In today's world, law enforcement agencies need a communications network that will facilitate rapid and massive movement of information. Yet many agencies are still grappling with the problem of cumbersome manual files.

Even those agencies which have some type of information retrieval and data transmission system frequently are unable to tie in with the systems utilized by other agencies. No single network provides interfacing for all law enforcement agencies.

The task force recognizes that establishing a law enforcement telecommunication network will be expensive, but believes that this expense will be justified. As such a system is created the task force suggests that every effort be made to make each system compatible with existing systems at the local, state and federal level.

References

1. National Advisory Commission Report on Police, Standard 23.1, pp. 581-582.

2. Blumstein, A., "Science and Technology," Police Chief, December 1969.

Priorities

The police task force members were asked to identify and rank the ten goals they deemed most important to the improvement of Virginia's criminal justice system. The selected goals and the relative weight accorded each are listed below in descending order. (The most important goal is listed first.)

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
1	7.6	Police Salaries	46
2	7.4	The Selection Process	44
3	7.1	General Police Recruiting	34
4	2.7	Court Supervised Electronic Surveillance	24
5	2.1 & 2.2*	Crime Problem Identification and Resource Development and Crime Prevention	22
6	1.1	The Police Function	20
7	1.9	Development of Goals and Objectives	20
8	1.6	Public Understanding of the Police Role	17
9	5.2	Implementation of Team Policing	17
10	8.2	Educational Incentives for Police Officers	17
11	2.3	Cooperation and Coordination	16
12	5.3	Establishing the Role of the Patrol Officer	15
13	6.6	Legal Assistance	15
14	8.4	State Legislation and Fiscal Assistance for Police Training	15
15	1.8	Victim Assistance	12

*Goals 2.1 and 2.2 were felt to be so closely related that they were regarded as one goal.

RANK	GOAL NO.	GOAL TITLE	REALTIVE WEIGHT
16	10.5	State Retirement Plan	11
17	2.5	Summons in Lieu of Arrest	10
18	8.5	Program Development	10
19	8.8	In-Service Training	10
20	7.8	Personnel Development for Promotion and Advancement	10
21	9.3	Complaint Reception Procedures	10
22	3.1	Responsibility for Police Service	9
23	3.2	Combined Police Services	9
24	4.2	Executive Responsibility	9
25	5.4	Enhancing the Role of the Patrol Officer	9
26	5.1	Selecting New Concepts	8
27	4.4	Training for Unusual Occurrences	8
28	7.2	College Recruiting	77
29	8.7	Interpersonal Communications Training	7
30	1.10	Establishment of Policy	6
31	7.3	Minority Recruiting	6
32	8.1	Educational Standards for the Selection of Police Officers	6
33	9.7	Positive Prevention of Police Misconduct	6
34	11.5	Police Telecommunications	6
35	4.5	Mass Processing of Arrestees	5
36	8.6	Preparatory Training	5

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
37	1.2	Limits of Authority	4
38	1.5	Police Understanding of Their Role	4
39	1.7	News Media Relations	4
40	7.5	Employment of Women	4
41	9.2	Foundation for Internal Discipline	4
42	11.1	Police Uniforms	4
43	11.4	Driver Education and Vehicle Safety	4
44	1.3	Police Discretion	3
45	1.4	Communicating with the Public	3
46	6.1	Specialized Assignment	3
47	10.1	Entry-Level Physical and Psychological Examinations	3
48	11.2	Firearms and Auxiliary Equipment	3
49	5.5	Deployment of Patrol	2
50	6.5	Use of Professional Expertise	2
51	9.1	The Police Executive and Employee Relations	2
52	9.6	Adjudication of Complaints	2
53	7.9	Administration of Promotion and Advancement	1

Implementing Authorities

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
1.1	The Police Function	Police chief executives, sheriffs, local government
1.2	Limits of Authority	Police chief executives, sheriffs
1.3	Police Discretion	Police chief executives, sheriffs
1.4	Communicating with the Public	Police chief executives, sheriffs
1.5	Police Understanding of Their Role	Police chief executives, sheriffs
1.6	Public Understanding of the Police Role	Police chief executives, sheriffs, local government
1.7	News Media Relations	Police chief executives, sheriffs
1.8	Victim Assistance	Police chief executives, sheriffs, Commonwealth's attorneys
1.9	Development of Goals and Objectives	Police chief executives, sheriffs
1.10	Establishment of Policy	Police chief executives, sheriffs
1.11	Inspections	Police chief executives, sheriffs
2.1	Crime Problem Identification and Resource Development	Police chief executives, sheriffs, local government, State Office on Volunteerism
2.2	Crime Prevention	Police chief executives, sheriffs
2.3	Cooperation and Coordination	Police chief executives, sheriffs

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
2.4	Diversion	Police chief executives, sheriffs, Commonwealth's attorneys
2.5	Summons and Release on Own Recognizance	Police chief executives, sheriffs
2.6	Criminal Case Follow-Up	Police chief executives, sheriffs
2.7	Court Supervised Electronic Surveillance	General Assembly
3.1	Responsibility for Police Service	Police chief executives, sheriffs, local government
3.2	Combined Police Services	Police chief executives, sheriffs, local government, General Assembly
3.3	Commitment to Planning	Police chief executives, sheriffs, planning district commissions
3.4	Police-Community Physical Planning	Police chief executives, sheriffs, local government, planning district commissions
3.5	Fiscal Management	Police chief executives, sheriffs, local government
3.6	Funding	Police chief executives, sheriffs, planning district commissions
4.1	Command and Control Planning	Police chief executives, sheriffs
4.2	Executive Responsibility	Police chief executives, sheriffs

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
4.3	Organizing for Control	Police chief executives, sheriffs
4.4	Training for Unusual Occurrences	Police chief executives, sheriffs, Criminal Justice Services Commission
4.5	Mass Processing of Arrestees	Police chief executives, sheriffs
5.1	Selecting New Concepts	Police chief executives, sheriffs, planning district commissions
5.2	Implementation of Team Policing	Police chief executives, sheriffs
5.3	Establishing the Role of the Patrol Officer	Police chief executives, sheriffs
5.4	Enhancing the Role of the Patrol Officer	Police chief executives, sheriffs
5.5	Deployment of Patrol Officers	Police chief executives, sheriffs
6.1	Specialized Assignment	Police chief executives, sheriffs
6.2	Selection for Specialized Assignment	Police chief executives, sheriffs
6.3	State Specialists	State police, Division of Consolidated Laboratory Services, Alcoholic Beverage Control Commission
6.4	Assignment of Civilian Police Personnel	Police chief executives, sheriffs, local government

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
6.5	Use of Professional Expertise	Police chief executives, sheriffs, local government
6.6	Legal Assistance	Police chief executives, sheriffs, Commonwealth's attorneys, local government
6.7	The Property System	Police chief executives, sheriffs, local government
7.1	General Police Recruiting	Police chief executives, sheriffs
7.2	College Recruiting	Police chief executives, sheriffs
7.3	Minority Recruiting	Police chief executives, sheriffs
7.4	The Selection Process	Police chief executives, sheriffs
7.5	Employment of Women	Police chief executives, sheriffs, State Commission on the Status of Women (advisory role)
7.6	Police Salaries	General Assembly, local government
7.7	Position Classification Plan	Local government, State Compensation Board, sheriffs
7.8	Personnel Development for Promotion and Advancement	Police chief executives, sheriffs
7.9	Administration of Promotion and Advancement	Police chief executives, sheriffs
7.10	Personnel Records	Police chief executives, sheriffs
7.11	Personnel Evaluation for Promotion and Advancement	Police chief executives, sheriffs

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
8.1	Educational Standards for the Selection of Police Officers	Police chief executives, sheriffs
8.2	Educational Incentives for Police Officers	Police chief executives, sheriffs, local government
8.3	College Credit for Completion of Police Training Programs	Police chief executives, sheriffs, State Council of Higher Education
8.4	State Legislation and Fiscal Assistance for Police Training	General Assembly
8.5	Program Development	Criminal Justice Services Commission
8.6	Preparatory Training	Police chief executives, sheriffs, Criminal Justice Services Commission
8.7	Interpersonal Communications Training	Police chief executives, sheriffs, Criminal Justice Services Commission
8.8	In-Service Training	Police chief executives, sheriffs, Criminal Justice Services Commission
8.9	Instruction Quality Control	Criminal Justice Services Commission
9.1	The Police Executive and Employee Relations	Police chief executives, sheriffs, local government
9.2	Foundation for Internal Discipline	Police chief executives, sheriffs
9.3	Complaint Reception Procedures	Police chief executives, sheriffs

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
9.4	Investigative Responsibility	Police chief executives, sheriffs
9.5	Investigation Procedures	Police chief executives, sheriffs
9.6	Adjudication of Complaints	Police chief executives, sheriffs
9.7	Positive Prevention of Police Misconduct	Police chief executives, sheriffs
10.1	Entry Level Physical and Psychological Examinations	Police chief executives, sheriffs, Criminal Justice Services Commission
10.2	Continuing Physical Fitness	Police chief executives, sheriffs, Criminal Services Commission
10.3	Employee Services	Local government
10.4	Health Insurance	Local government
10.5	State Retirement Plan	General Assembly
10.6	Police Officer Benefits for Duty-Connected Injury, Disease and Death	Federal legislation
11.1	Police Uniforms	Police chief executives, sheriffs
11.2	Firearms and Auxiliary Equipment	Police chief executives, sheriffs

POLICE GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
11.3	Agency Provision of Uniforms and Equipment	Police chief executives, sheriffs, local government
11.4	Driver Education and Vehicle Safety	Police chief executives, sheriffs, Criminal Justice Services Commission
11.5	Police Telecommunications	Police chief executives, sheriffs

Disposition of the National Advisory Commission Standards

	Goal	A	AA	S	DC	DNR	DFS	R	RP
1.1 The Police Function	1.1		X						
1.2 Limits of Authority	1.2		X						
1.3 Police Discretion	1.3		X						
1.4 Communicating With the Public	1.4		X						
1.5 Police Understanding of Their Role	1.5	X							
1.6 Public Understanding of the Police Role	1.6			X					
1.7 News Media Relations	1.7		X						
2.1 Development of Goals and Objectives	1.9	X							
2.2 Establishment of Policy	1.10	X							
2.3 Inspections	1.11		X						
3.1 Crime Problem Identification and Resource Development	2.1			X					
3.2 Crime Prevention				X					

Key

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CONTINUED

3 OF

	Goal	A	AA	S	DC	DNR	DFS	R	RP
4.1 Cooperation and Coordination	2.3			X					
4.2 Police Operational Effectiveness Within the Criminal Justice System					X				
4.3 Diversion	2.4			X					
4.4 Citation and Release on Own Recognizance	2.5			X					
4.5 Criminal Case Followup	2.6			X					
Recommendation 4.1 Alcohol and Drug Abuse Centers								X	
Recommendation 4.2 Telephonic Search Warrants								X	
Recommendation 4.3 Court Supervised Electronic Surveillance	2.7			X					
5.1 Responsibility for Police Service	3.1	X							
5.2 Combined Police Services	3.2		X						
5.3 Commitment to Planning	3.3	X							
5.4 Agency and Jurisdictional Planning								X	

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
5.5 Police-Community Physical Planning	3.4	X							
5.6 Responsibility for Fiscal Management	3.5			X					
5.7 Fiscal Management Procedures	3.5			X					
5.8 Funding	3.6			X					
Recommendation 5.1 Interrelationship of Public and Private Police Agencies					X				
Recommendation 5.2 National Institute of Law Enforcement and Criminal Justice Advisory Committee									X
Recommendation 5.3 Measures of Effectiveness									X
6.1 Selecting a Team Policing Plan	5.1			X					
6.2 Implementation of Team Policing	5.2	X							
7.1 Command and Control Planning	4.1	X							
7.2 Executive Responsibility	4.2	X							
7.3 Organizing for Control	4.3	X							

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
7.4 Mass Processing of Arrestees	4.5			X					
7.5 Legal Considerations	4.5			X					
7.6 Training for Unusual Occurrences	4.4	X							
8.1 Establishing the Role of the Patrol Officer	5.3		X						
8.2 Enhancing the Role of the Patrol Officer	5.4	X							
8.3 Deployment of Patrol Officers	5.5	X							
9.1 Specialized Assignment	6.1		X						
9.2 Selection for Specialized Assignment	6.2		X						
9.3 Annual Review of Agency Specialization	6.1			X					
9.4 State Specialists	6.3	X							
9.5 Juvenile Operations								X	
9.6 Traffic Operations								X	

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
9.7 Criminal Investigation								X	
9.8 Special Crime Tactical Forces								X	
9.10 Vice Operations								X	
9.11 Narcotic and Drug Investigations								X	
9.12 Intelligence Operations								X	
10.1 Assignment of Civilian Police Personnel	6.4	X							
10.2 Selection and Assignment of Reserve Police Officers								X	
11.1 Use of Professional Expertise	6.5	X							
11.2 Legal Assistance	6.6		X						
11.3 Management Consultation and Technical Assistance									X
12.1 The Evidence Technician					X				
12.2 The Crime Laboratory					X				

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
12.3 The Property System	6.7		X						
12.4 The Detention System					X				
Recommendation 12.1 Certification of Crime Laboratories						X			
13.1 General Police Recruiting	7.1		X						
13.2 College Recruiting	7.2		X						
13.3 Minority Recruiting	7.3	X		—					
*13.4 State Mandated Minimum Standards for the Selection of Police Officers	7.3						X		
13.5 The Selection Process	7.4			X					
13.6 Employment of Women	7.5			X					
Recommendation 13.1 Job-Related Ability and Personality Inventory Tests for Police Applicants						X			
Recommendation 13.2 Development and Validation of a Selection Scoring System						X			

*Minimum standards for the selection of police officers is the subject of a study by C.W. Woodson, Jr. for the Criminal Justice Services Commission - distributed in Fall of 1976.

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
14.1 Police Salaries	7.6		X						
14.2 Position Classification Plan	7.7	X							
15.1 Educational Standards for the Selection of Police Personnel	8.1			X					
15.2 Educational Incentives for Police Officers	8.2		X						
15.3 College Credit for the Completion of Police Training Courses	8.3	X							
*Recommendation 15.1 Identification of Police Educational Needs							X		
16.1 State Legislation and Fiscal Assistance for Police Training	8.4	X							
16.2 Program Development	8.5	X							
16.3 Preparatory Training	8.6		X						
16.4 Interpersonal Communications Training	8.7	X							
16.5 Inservice Training	8.8		X						

*This NAC Standard recommends a national study of curriculum guidelines for police educational programs.

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		Goal	A	AA	S	DC	DNR	DFS	R	RP
16.6	Instruction Quality Control			X						
16.7	Police Training Academies and Criminal Justice Training Centers	8.4			X					
17.1	Personnel Development for Promotion and Advancement	7.8	X							
17.2	Formal Personnel Development Activities					X				
17.3	Personnel Evaluation for Promotion and Advancement	7.11	X							
17.4	Administration of Promotion and Advancement	7.9	X							
17.5	Personnel Records	7.10	X							
18.1	The Police Executive and Employee Relations	9.1		X						
18.2	Police Employee Organizations								X	
18.3	Collective Negotiation Process								X	
18.4	Work Stoppages and Job Actions								X	
19.1	Foundation for Internal Discipline	9.2	X							

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
19.2 Complaint Reception Procedures	9.3	X							
19.3 Investigative Responsibility	9.4	X							
19.4 Investigation Procedures	9.5		X						
19.5 Adjudication of Complaints	9.6		X						
19.6 Positive Prevention of Police Misconduct	9.7	X							
Recommendation 19.1 Study in Police Corruption						X			
20.1 Entry-Level Physical and Psychological Examinations	10.1		X						
20.2 Continuing Physical Fitness	10.2		X						
20.3 Employee Services	10.3		X						
20.4 Health Insurance	10.4		X						
20.5 State Retirement Plan			X						
Recommendation 20.1 Police Officer Benefits for Duty-Connected Injury, Disease and Death	10.6	X							

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
21.1 Police Uniforms	11.1		X						
21.2 Firearms and Auxiliary Equipment	11.2	X							
21.3 Agency Provision of Uniforms and Equipment	11.3	X							
* 22.1 Transportation Equipment Utility									
* 22.2 Transportation Equipment Acquisition and Maintenance									
22.3 Fleet Safety	11.4		X						
* Recommendation 22.1 Transportation Testing									
* 23.1 Police Use of the Telephone System									
* 23.2 Command and Control Operations									
* 23.3 Radio Communications									
* Recommendation 23.1 Digital Communications System									

* These goals were not considered individually. Members were asked to bring specific goals of interest in Chapters 22, 23, and 24 to the attention of the task force. Goals adopted from these chapters are incorporated into Chapter 11 of this report.

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
* Recommendation 23.2 Standardized Radio Equipment									
* Recommendation 23.3 Frequency Congestion									
* 24.1 Police Reporting									
* 24.2 Basic Police Records									
* 24.3 Data Retrieval									
24.4 Police Telecommunications	11.5		X						

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The Report of the Corrections Task Force

Members

Chairman - Duncan C. Gibb

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Richard M. Bagley
Edward A. Beck
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Chapter 1
Total System Planning

Goal 1.1
Total System Planning

All levels of state and local government which have any responsibility for correctional planning should immediately cooperate in formulating a definitive plan for corrections in Virginia. In this process all feasible and practical correctional alternatives should be explored, and all responsible agencies should unite to implement the alternatives selected. The formulation of this definitive plan should involve the following stages:

1. A problem definition phase which should include division of the Commonwealth into appropriate planning areas based on correctional needs.

2. A data survey and analysis phase 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.

3. A program linkage phase designed to link the resources identified in 2 with the needs defined in 1.

As part of this overall planning effort, the appropriate planning agencies and bodies should investigate the feasibility of:

1. Regionalization of correctional facilities to deal with the correctional needs of specific geographic areas of the state. Such regionalization should apply both to state correctional institutions and local jails. Regionalization should be a logical corollary of the three phases of planning detailed above.

2. Increased use of community-based programming as more fully described in Goals 6.1 - 6.3. In such planning highest priority should be given to diversion from the criminal justice system (Goal 2.1) and use of existing community resources.

3. Increased use of alternatives to pretrial detention to reduce jail overcrowding and achieve greater equity in pretrial procedures (Goals 3.1 - 3.8).

4. More enlightened sentencing procedures (Goal 4.1).

5. State operation and control of local institutions as a means of insuring consistent and appropriate use of those institutions.

Commentary

A goal calling for cooperation between and among all segments of the Commonwealth, including the government of the Commonwealth and its citizens, is one of the most important goals in this entire report. In the past, Virginia has experienced a number of problems including the overcrowding of correctional institutions, the discovery that new institutions cost considerable amounts of money and a general malaise about the work of corrections. Perhaps one of the most appropriate ways to overcome the problems of corrections in Virginia is through a combined effort of all levels of government in the Commonwealth, including the support of the citizenry.

In this connection, meaningful planning must take place. The responsibility for that planning requires either the placement of all planning responsibilities in a single agency, or in a small number of related agencies, or, in the alternative, the coordination and cooperation of the large number of agencies which may have such responsibility. There is no doubt that corrections receives criticism and advice from many corners. Among those who advise corrections are the Crime Commission, the Division of Justice and Crime Prevention, a Virginia Advisory Legislative Council committee, the courts and others. Clearly then, Virginia finds itself in the position in which it has no small number of agencies and entities which have some effect in the areas of corrections. While this can be

good from the standpoint of generating ideas, when there is no coordination in implementing those ideas, the final effect may be divisive and negative. It is this inefficiency and inefficacy that Goal 1.1 addresses and seeks to correct.

There are a number of bases upon which a proper foundation for appropriate comprehensive planning in Virginia corrections may be made. Among these is the "Department of Corrections Comprehensive Action Plan for Fiscal Years 1975-1984" and the State Crime Commission Studies of Corrections and of Local Jails made in recent years. The machinery exists for total system planning; all that is required is that a necessary cooperative state of mind be brought to bear to accomplish the task.

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Chapter 2
Use of Deferred Prosecution (Diversion)

Goal 2.1
Use of Deferred Prosecution (Diversion)

Each local jurisdiction, in cooperation with related state agencies, should develop and implement formally organized programs of deferred prosecution (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 Goal 1.1.

   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. 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.

   b. The arrest has already served as a desired deterrent.

   c. The needs and interests of the victim of the offense and society are served better by diversion than by official processing.

   d. The offender does not present a substantial danger to others.

   e. The offender voluntarily accepts the offered alternative to further justice system processing.

f. The facts of the case sufficiently establish that the defendant committed the alleged act.

Commentary

Deferred prosecution or diversion is generally defined as the suspension, before conviction, of formal criminal proceedings against the accused. This suspension is contingent upon the accused's agreement to do something in return. The National Advisory Commission in its introduction to the chapter on diversion in the Corrections Report, notes that there are three main points at which diversion may occur: prior to public contact, prior to official police processing and prior to official court processing. The truest diversion is, ideally, that alternative most completely divorced from the criminal justice system. In "Diversion Programming in Criminal Justice: The Case of Minnesota," the authors note:

> . . . the contemporary use of the term refers to some form of structured and formal intervention into the criminal justice process as a result of which the individual is referred for treatment or supervision to a community agency which is at least partially outside of traditional criminal justice establishments.

There are several benefits of diversion: by taking the offender out of the criminal justice process before he is convicted, diversion eliminates the stigma of conviction, thus presumably furthering rehabilitation by easing the offender's efforts to take a normal position in society. A second benefit is economy. Since diversion can take place early in the criminal justice process, it eliminates the economically costly process of formal adjudication. Another benefit is that diversion programs are potentially much broader than the sentencing alternatives available to a convicted offender. Because of its flexibility, diversion can embrace a variety of work, education, counseling and related programs operated by both public and private agencies.

The interdisciplinary nature of diversion as a response to the problem of crime can be seen by comparing this goal with Goal 1.2 adopted by the courts task force, and with Goal 2.4 adopted by the police group. Coordination of all aspects of the criminal justice system is necessary if the diverting of those not needing full processing is to become a reality.

That diversion which has been taking place in Virginia has generally been much more informal than Goal 2.1 advocates. An

exception is the recent program implemented in Chesapeake which is geared to divert from the jail alcohol and traffic offenders and various other misdemeanants. This program calls for the use of restitution, weekend sentences, community service projects and detoxification programs as alternatives to jail time for these misdemeanants and could result in a saving of 1.6 million dollars in construction costs over the next five years (see The Virginian-Pilot, 3/11/76). Goal 2.1 is intended to encourage more such planned diversion.

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Chapter 3
Alternatives to Pretrial Detention

Goal 3.1
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 herein.

7. Conditions of treatment of and rules governing persons awaiting trial, including the extent to which such treatment and rules meet the recommendations in Goal 3.8.

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 of the recommendations in this chapter.

3. A means for 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.

Commentary

In Virginia, as in many states, if an individual cannot meet his bail, he must await trial in jail. This has the incongruous result described by Karl Menninger in his book The Crime of Punishment: "It is one of the proudest tenets of American law that any accused person is innocent until proved guilty. Yet each year thousands of Americans who have been charged with a crime but not yet brought to trial spend weeks and sometimes months in jail." The exact number awaiting trial in the nation's jails, according to the 1970 jail census, was 83,000 persons (half of all the adult prisoners and two-thirds of all the juveniles). In some institutions the percentage was much higher -- e.g. in the District of Columbia in 1971, 80 per cent were being held awaiting trial. As of February 1, 1977, a total of 4,530 persons were being held in Virginia's jails. Of these, 2,261, or nearly half, were awaiting trial.

Workable alternatives to the present system of detaining large numbers awaiting trial would certainly have immediate effects on jail overcrowding. In addition there is also significant evidence that pretrial dispositions have a definite effect on an individual's later progress through the criminal justice system. A number of studies have shown that those who are not detained awaiting trial are appreciably less likely to be sentenced to prison at trial. While this may be seen as reflective of no more than the lesser probability of guilt that led to the release of these individuals, subsequent studies aimed at isolating variables concluded that the lesser instance of imprisonment for pretrial releasees was unrelated to favorable factors which may have led to pretrial release (see Rankin, "The Effect of Pretrial Detention" in New York University Law Review, below).

Goal 3.1 advocates a systematic exploration of all possible alternatives to the present system which has resulted in badly overcrowded jails and severe and debilitating inconvenience for those held. This goal is the general overview of all aspects of the system of pretrial alternatives called for in subsequent goals (see 3.2 ff.). Because these subsequent goals more completely deal with specific proposals, discussion will be deferred until dealing with them.

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Goal 3.2
Construction Policy for Pretrial Detention Facilities

Before a jurisdiction constructs a new physical facility for detaining persons awaiting trial, it should:

1. Develop a comprehensive plan in accordance with Goal 3.1;

2. Examine alternative means of handling persons awaiting trial as recommended in Goals 3.3 and 3.4. Such alternative methods of handling such persons should be implemented, adequately funded and properly evaluated;

3. Examine and plan for the constitutional requirements for a pretrial detention facility; and

4. Examine the possibilities of regionalization of pretrial detention facilities.

Commentary

The thrust of this goal is simple and forthright. It seeks to permit the construction of pretrial holding facilities only when there is a real and documented need for them. Until all the alternatives addressed in this chapter have been thoroughly explored, no such need can be demonstrated. It is felt that prior documentation, as required here, is or ought to be necessary in any case from a managerial and fiscal standpoint. This goal seeks to insure proper planning by precluding the construction of more jails unless they are clearly needed.

In Virginia there are no pretrial holding facilities as such. Rather, pretrial detainees await trial in jail and are segregated from convicted offenders to the extent permitted by overcrowding. Goal 3.2 addresses only those portions of jails devoted to holding pretrial detainees. The intent of the goal is to insure proper consideration be given to all viable alternatives to pretrial detention, and their effect on reduction in jail populations, before a jurisdiction embarks upon the construction of a new jail.

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Goal 3.3
Alternatives to Arrest

Each criminal justice jurisdiction, state or local as appropriate, should immediately develop a policy, and seek enabling legislation where necessary, to encourage the use of a summons in lieu of arrest and detention for misdemeanor offenses. This policy should provide:

1. Enumeration of minor offenses for which a police officer should be required to issue a summons in lieu of making an arrest or detaining the accused unless:

   a. The accused fails to identify himself or supply required information;

   b. The accused refuses to sign the summons;

   c. The officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to himself or others;

   d. Arrest and detention are necessary to carry out additional legitimate investigative action;

   e. The accused has no ties to the jurisdiction reasonably sufficient to assure his appearance, and there is a substantial risk that he will refuse to respond to the summons; or

   f. It appears the accused has previously failed to respond to a summons or has violated the conditions of any pretrial release program.

2. Discretionary authority for police officers to issue a summons in lieu of arrest in all cases where the officer has reason to believe that the accused will respond to the summons and does not represent a clear threat to himself or others.

3. Criminal penalties for willful failure to respond to a summons.

4. Authority to make lawful search incident to an arrest where a summons is issued in lieu of arrest.

Similar steps should be taken to establish policy encouraging the

issuance of summons in lieu of arrest warrants where an accused is not in police custody. This policy should provide:

1. An enumeration of minor offenses for which a judicial officer should be required to issue a summons in lieu of an arrest warrant unless he finds that:

   a. The accused has previously willfully failed to respond to a summons or has violated the conditions of any pretrial release program.

   b. The accused has no ties to the community and there is a reasonable likelihood that he will fail to respond to a summons.

   c. The whereabouts of the accused is unknown or the arrest warrant is necessary to subject him to the jurisdiction of the court.

   d. Arrest and detention are necessary to carry out additional legitimate investigative action.

2. Discretionary authority for judicial officers to issue a summons in lieu of an arrest warrant in all cases where the officer has reason to believe that the accused will respond to the summons.

3. Criminal penalties for willful failure to respond to a summons.

To facilitate the use of summons in lieu of arrests, police agencies should:

1. Develop, through administrative rules, specific criteria for police officers for determining whether to request issuance of a summons in lieu of arrest.

2. Develop training programs to instruct their officers in the need for and use of summons in lieu of arrest.

3. Develop a method of quickly verifying factual information given to police officers which if true would justify the issuance of a summons in lieu of arrest.

4. Develop a method of conducting a reasonable investigation concerning the defendant's ties to the community to present to the judicial officer at the time of application for a summons or an arrest warrant.

Commentary

This goal is not intended as a recommendation that Virginia break new ground; rather it should be seen as an exhortation that presently available alternatives to arrest be used to the maximum extent appropriate. Presently the Virginia Code allows for issuance of a summons in lieu of arrest for misdemeanor violations. See Code §§ 19.2-74 and 46.1-178; cf. Rules of the Supreme Court of Virginia, Rule 3A.4. The use of a summons in lieu of an arrest warrant by a judicial officer is also recognized in Virginia. See Code § 19.2-73; Rule 3A:4.

The recommendations of the task force along this line are by no means unique, but rather are congruent with the suggestions developed by a number of other groups including the American Law Institute, the American Bar Association and the National Advisory Commission. In regard to Standard 4.3 in its Corrections Report, the NAC notes that the "strategy for minimizing the detention of persons not yet convicted of a criminal offense must begin at the point of first contact between police officer and accused." The commission further states:

> With the range of activity governed by the criminal code, it is difficult to justify the assumption that the public interest is served by the physical arrest of all criminal law violators. In fact the high economic, social, and human costs of pretrial detention would indicate that the interest of both the public and the accused would be better served by another means of initiating the criminal justice process.

Goal 3.3 is designed to encourage the use of alternatives to arrest in order to minimize at the earliest possible time the number of individuals subject to pretrial detention.

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Goal 3.4
Alternatives to Pretrial Detention

Each criminal justice jurisdiction, state or local as appropriate, should immediately seek enabling legislation and develop, authorize and encourage the use of a variety of alternatives to the detention of persons awaiting trial. The use of these alternatives should be governed by the following:

1. Judicial officers on the basis of information available to them should select from the list of the following alternatives the first one that will reasonably assure the appearance of the accused for trial or, if no single condition gives that assurance, a combination of the following:

   a. Release on recognizance without further conditions.

   b. Release on the execution of an unsecured appearance bond in an amount specified.

   c. Release into the care of a qualified person or organization reasonably capable of assisting the accused to appear at trial.

   d. Release to the supervision of a probation officer or some other public official.

   e. Release with imposition of restrictions on activities, associations, movements and residence reasonably related to securing the appearance of the accused.

f. Release on the basis of financial security to be provided by the accused.

g. Imposition of any other restrictions other than detention reasonably related to securing the appearance of the accused.

h. Detention, with release during certain hours for specified purposes.

i. Release on the basis of financial security provided by a professional bondsman.

j. Detention of the accused.

2. Judicial officers in selecting the form of pretrial release should consider the nature and circumstances of the offense charged, the weight of the evidence against the accused, his ties to the community, his record of convictions, if any, and his record of appearance at court proceedings or of flight to avoid prosecution.

3. Willful failure to appear before any court or judicial officer as required should be made a criminal offense.

Commentary

This goal seeks to provide by legislation for a wide variety of alternatives to pretrial detention, and to encourage the least restrictive alternatives wherever possible. Only as a last resort, after all other possible responses have been deemed inappropriate, does this goal envision detention as a permissible alternative. Only slightly less favored, in the view of the task force, was the release of accused on the security of a private bondsman. There was some controversy among task force members on this point. Some felt that the private or professional bondsman should be eliminated entirely such as has recently been done in Kentucky; others felt that this would result in fewer persons being released and higher bonds for those who were. The result was the compromise in the final formulation of the goal which is represented by its present form: release on the security of a professional bondsman should be utilized but only where the sole remaining alternative is detention. The task force also agreed with Goal 2.2 of the courts task force which recommends that a pilot ten per cent bail project or projects be instituted in Virginia. Under such a system a bail deposit is given to the court clerk rather than to a professional bondsman.

Virginia law as codified comports substantially with the recommendations of this goal. Code § 19.2-120 provides that an accused held in custody pending trial shall be admitted to bail unless there is cause to

believe that he would not appear for trial, or his liberty would constitute an unreasonable danger to himself or the public. However, a report of the Board of Governors of the Criminal Law Section of the Virginia State Bar, issued in January 1975, concluded that this legislation [then Code §§ 19.1-109 through 19.1-109.7] was not being given full effect in the courts. That report concluded:

> In summary, all the data available in this study indicates that the 1973 legislation has had little impact on bail practices in the Commonwealth. With a very few encouraging exceptions, the 1973 legislation has only slightly increased the incidence of release on personal recognizance in misdemeanor cases in no more than one-third of the Judicial Districts in the State. Despite efforts in this study at extensive inquiry of knowledgeable criminal justice professionals throughout the Commonwealth, little other impact can be discerned. The recent amendments do not appear to have had the effect on basic decision-making processes or on substantive results which they were apparently intended to have.

It should be emphasized that this report was made some time ago and some think its conclusions no longer valid. To the extent that they are, however, Goal 3.4 should be seen as a recommendation that Virginia's bail legislation be observed.

In regard to pretrial release programs generally, the exemplary project has probably been the Des Moines Project, which proved so successful that it was absorbed into the Polk County, Iowa, Department of Court Services. Under the project all defendants are interviewed by members of the project staff who subsequently verify and compile the information on individual defendants and make a recommendation on pretrial release. If the court accepts a recommendation to release a defendant, that person signs a performance contract requiring close contact with a counselor while awaiting trial. The contract may also require other measures depending on individual needs. The individual defendant's counselor stays close to the defendant throughout the legal process, attending all court hearings with him and helping to draw up the presentence report. The project's success has been substantial: almost 98 per cent of the project's clients appeared for trial and the evidence is that recidivism has been reduced in those who participated. Also the project has been economical: in 1971 costs were $144,000 while governmental savings realized were $135,000.

Neither Virginia, nor most other jurisdictions, has attempted anything quite so extensive as the Des Moines Project. However, such programs as that presently functioning in the City of Chesapeake (see commentary, Goal 2.1) show the type of innovative use of alternatives to pretrial detention which this goal supports.

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Goal 3.5
Procedures Relating to Pretrial Release and Detention Decisions

Each criminal justice jurisdiction, state or local as appropriate, should immediately develop procedures governing pretrial release and detention decisions, as follows:

1. A person in the physical custody of a law enforcement agency on the basis of an arrest, with or without a warrant, should be taken before a judicial officer without unnecessary delay.

2. When a law enforcement agency decides to take a person accused of crime into custody, it should immediately notify the appropriate judicial officer. An investigation should commence immediately to gather information relevant to the pretrial release or detention decision. The nature of the investigation should be flexible and generally exploratory in nature and should provide information about the accused including:

   a. Current employment status and employment history.

   b. Present residence and length of stay at such address.

   c. Extent and nature of family relationships.

   d. General reputation and character references.

   e. Present charges against the accused and penalties possible upon conviction.

   f. Likelihood of guilt or weight of evidence against the accused.

   g. Prior criminal record.

   h. Prior record of compliance with or violation of pretrial release conditions.

   i. Other facts relevant to the likelihood that he will appear for trial.

3. Pretrial detention or conditions substantially infringing on liberty should not be imposed on a person accused of a crime unless:

   a. The accused is granted a hearing, as soon as possible, before a judicial officer and is accorded the right to be represented by counsel, to present evidence on his own behalf, to subpoena witnesses and to confront and cross-examine the witnesses against him.

   b. The judicial officer finds substantial evidence that confinement or restrictive conditions are necessary to insure the presence of the accused for trial.

4. Where a defendant is detained prior to trial or where conditions substantially infringing on his liberty, are imposed, the defendant should be authorized to seek periodic review of that decision by the judicial officer making the original decision. The defendant also should be authorized to seek appellate review of such a decision.

Commentary

This goal goes further than the previous goals of this section which provide generally for a setting of priorities in favor of pretrial release. Here a definitive procedure is advocated which would govern pretrial release decisions and minimize arbitrary discretion. This procedure would entail: 1. the taking of each person in custody before a judicial officer without unnecessary delay; 2. the immediate gathering of information about the accused from the moment he is taken into custody, with emphasis on factors influencing the likelihood of his appearance for trial; 3. no detention decision without a complete hearing; 4. availability of periodic regular review as well as appellate review of each decision to detain.

Currently in Virginia two sections of the Code control the first appearance of an accused person before a court official or magistrate. Code § 19.2-80 provides that a person arrested under a warrant shall be brought before a court of appropriate jurisdiction without unnecessary delay. In Winston v. Commonwealth the Virginia Supreme Court interpreted the phrase "unnecessary delay" to mean "with such reasonable promptness as the circumstances permit." [See also Rules of the Supreme Court of Virginia, Rule 3A:5 (a) (1).] With regard to a person arrested without a warrant, Code § 19.2-82 provides that such individual shall be brought without delay before the appropriate tribunal for a determination of probable cause. If such determination is made, a warrant will be issued and the subsequent procedure will be as under § 19.2-80. [See also Rule 3A:5 (a) (2).] These procedures substantially comport with the recommendations of this goal.

References

1. National Advisory Commission Report on Corrections, Standard 4.5, pp. 123-125.
2. Va. Code §§ 19.2-80,-82,-124 (Repl. Vol. 1975).
3. Rules of the Supreme Court of Virginia, Rule 3A:5(a).
4. Gerstein v. Pugh, 420 U.S. 103 (1975).
5. Mallory v. United States, 354 U.S. 449 (1957).
6. McNabb v. United States, 318 U.S. 332 (1943).
7. Bowring v. Cox, 334 F. Supp. 334 (W.D. Va. 1971).
8. Battle v. Peyton, 284 F. Supp. 645 (W.D. Va. 1968).
9. Winston v. Commonwealth, 188 Va. 386, 49 S.E.2d 611 (1948).
10. Sands and Co. v. Norvell, 126 Va. 384, 101 S.E. 569 (1919).
11. American Bar Association, Standards Relating to Pretrial Release, Standards 4.1-4.5, 5.1-5.12, New York, 1968.
12. American Law Institute, Model Code of Pre-Arraignment Procedure, Philadelphia, 1966.
13. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Courts, Washington, D.C.: U.S. Government Printing Office, 1967.
14. State of Oregon, Proposed 1980 Standards and Goals (Draft), Oregon Law Enforcement Council, Salem, May 1974, p. 31.

Goal 3.6
Organization of Pretrial Services

Virginia should enact legislation specifically establishing the administrative authority over and responsibllity for persons awaiting trial. Such legislation should provide as follows:

1. The decision to detain a person prior to trial should be made by a judicial officer.

2. Information-gathering services for the judicial officer in making the decision should be provided in the first instance by the law enforcement agency and verified and supplemented by the agency that develops presentence reports.

3. Courts should be authorized to exercise continuing jurisdiction over persons awaiting trial.

Commentary

This goal seeks to make certain that there is no doubt about where responsibility for a pre-trial detainee lies. At present, the status of detention is determined by judicial authorities, and physical custody is maintained by the local sheriff. Any legislation enacted pursuant to this goal should settle full responsibility and authority in a clearly defined manner.

A significant portion of this goal should be a commitment to more thorough and efficient information-gathering services. Informed decisions concerning the disposition of persons accused of crimes cannot be made with insufficient information. With this in mind, Goal 3.6 seeks to provide for supplementing initial records of law enforcement agencies with data compiled by probation staff. This goal does not contemplate that this burden be imposed upon already overworked probation officers. Rather what is contemplated is the creation of another probation staff. While this would involve an initial expense, ultimately the greater numbers of persons who would not have to be detained awaiting trial, because of the more efficient and detailed procedures that resulted in their release, would almost certainly create savings. Another alternative to expanded probation staff is use of trained volunteers, a proposal that is being explored by Offender Aid and Restoration (OAR) in Virginia. (The problems of staffing in the information-gathering aspect of release on recognizance decision-making is discussed in Goal 7.5.)

References

1. National Advisory Commission Report on Corrections, Standard 4.6, pp. 126-128.
2. American Bar Association, Standards Relating to Pretrial Release, Standards 4.5(6), 5.1, 5.2, New York, 1968.
3. American Correctional Association, Manual of Correctional Standards, Washington D.C., 1966, pp. 33-35.
4. National Advisory Commission Report on Criminal Justice System, Standards 4.6, 5.1, 6.4, pp. 62-63, 70, 83-84.
5. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 132.

Goal 3.7
Rights of Pretrial Detainees

Each criminal justice jurisdiction and facility for the detention of adults in Virginia should immediately develop policies and procedures to insure that the rights of persons detained while awaiting trial are observed, as follows:

1. Persons detained awaiting trial should be entitled to the same rights as those persons admitted to bail or other forms of pretrial release except where the nature of confinement requires modification.

2. Where modification of the rights of persons detained awaiting trial is required by the fact of confinement, such modification should be as limited as possible.

3. The duty of showing that custody requires modification of such rights should be upon the detention agency.

4. Persons detained awaiting trial should be accorded the same rights recommended for persons convicted of crime as set forth in Chapter 1 of this report. In addition, the following rules should govern detention of persons not yet convicted of a criminal offense:

   a. Treatment, the conditions of confinement, and the rules of conduct authorized for persons awaiting trial should be reasonably and necessarily related to the interest of the state in assuring the person's presence at trial. Any action or omission of governmental officers deriving from the rationales of punishment, retribution, deterrence or rehabilitation should be prohibited.

   b. The conditions of confinement should be the least restrictive alternative that will give reasonable assurance that the person will be present for his trial.

   c. Persons awaiting trial should be kept separate and apart from convicted and sentenced offenders.

   d. Isolation should be prohibited except where there is clear and convincing evidence of a danger to the staff of the facility, to the detainee or to other detained persons.

5. Administrative cost or convenience should not be considered a justification for failure to comply with any of the above enumerated rights of persons detained awaiting trial.

Commentary

The thrust of this goal is that if substantial rights should be granted convicted offenders (see Goals 11.1-11.18), there are even more compelling reasons for preserving the rights of those awaiting trial who have been convicted of nothing. Any other conclusion is inconsistent with the presumption of innocence which is the touchstone of our system of criminal jurisprudence. This was clearly articulated by an Ohio federal judge:

> It is hard to think of any reason why the conditions of confinement should be permitted for those who are only in jail awaiting trial, and are, according to our law, presumed to be innocent of any wrongdoing. For centuries, under our law, punishment before conviction has been forbidden. The Constitution does not authorize the treatment of a pre-trial detainee as a convict . . . Jones v. Wittenburg, 323 F. Supp. 92 (N.D. Ohio 1971).

It is obvious that one hundered per cent consistency with the presumption of innocence is not possible in the case of the pretrial detainee. The fact of incarceration awaiting trial, even where unaccompanied by other deprivations, is in itself inconsistent with the presumption of innocence. This is an inconsistency, however, that sometimes needs to be maintained. This goal advocates that where detention is mandated, modification of the rights of those detained should be clearly required by the conditions of confinement.

References

1. National Advisory Commission Report on Corrections, Standard 4.8, pp. 133-135.
2. Anderson v. Nosser, 438 F.2d 183 (5th Cir. 1971).
3. Brenneman v. Madigan, 343 F. Supp. 128 (N.D. Cal. 1972).
4. Hamilton v. Love, 328 F. Supp. 1182 (E.D. Ark. 1971).
5. Davis v. Lindsay, 321 F. Supp. 1134 (S.D. N.Y. 1970).
6. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 48, 54.
7. Comment, "Constitutional Limitations on Conditions of Pretrial Confinement," Yale Law Journal, Vol. 79, 1970, p. 941.
8. National Sheriff's Association, Manual on Jail Administration, Washington D.C., 1970, Chapters VII-IX, XI-XV.
9. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 24-25.
10. Rudovsky, D., The Rights of Prisoners - An American Civil Liberties Union Handbook, New York: Avon Books, 1973, pp. 97-103.

Goal 3.8
Programs for Pretrial Detainees

Each criminal justice jurisdiction and agency responsible for the detention of persons awaiting trial in Virginia immediately should develop and implement programs for these persons as follows:

1. Persons awaiting trial in detention should not be required to participate in any program of work, treatment or rehabilitation. The following programs and services should be available on a voluntary basis for persons awaiting trial.

   a. Educational, vocational and recreational programs.

   b. Treatment programs for problems associated with alcoholism, drug addiction and mental or physical disease or defects.

   c. Counseling programs for problems arising from marital, employment, financial or social responsibilities.

2. Participation in voluntary programs should be on a confidential basis, and the fact of participation or statements made during such participation should not be used at trial. Information on participation and progress in such programs should be available to the sentencing judge following conviction for the purpose of determining sentence.

Commentary

Most jail administrators would no doubt agree that one of the biggest problems in jails today is boredom. In his recent book Prisons Inside-Out, Benedict Alper notes:

> In most jails, men spend as much as 22 hours a day by themselves -- alone -- doing absolutely nothing, in their narrow cells. One of the reasons for riots in jails, as in prisons, is boredom, which can arouse to the point where people will kill or take a chance on being killed, if only to have some activity, some excitement, some use of their bodies and minds. Health is adversely affected when the only exercise is walking around in a small enclosed area.

More specifically, the study of Virginia's jails done in 1975 by the State Crime Commission found: 1. at least twenty-nine jails in Virginia had neither a library nor a lending system with a local library; 2. only twelve Virginia jails had a drug abuse counseling program; 3. only fifteen jails had counseling programs for alcoholics; 4. forty-two jails had no recreational facilities; 5. fifty jails had no type of educational, counseling or vocational program. There are ninety-five jails in Virginia. This data represents the eighty-four jails responding to a questionnaire.

Goal 3.8 seeks to remedy this situation by recommending educational, treatment and counseling programs for pretrial detainees. However, two essential safeguards must accompany these programs: 1. they must be voluntary, because a person who has been convicted of no crime should not be forced into any program, and 2. participation in such programs, when it is chosen, must be on a confidential basis so that participation cannot later be used to incriminate the defendant at trial.

References

1. National Advisory Commission Report on Corrections, Standard 4.9, pp. 136-137.
2. Alper, B., Prisons Inside-Out, Cambridge, Mass.: Ballinger Publishing Co., 1974, pp. 43-51.
3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 58-62.
4. National Sheriffs' Association, Manual of Jail Administration, Washington, D.C., 1970, Chapters XXI, XIII.
5. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 25.
6. Virginia State Crime Commission, Report of the Advisory Task Force to Study Local Jails for Virginia State Crime Commission, Richmond, December 15, 1975.

Chapter 4
Sentencing

Goal 4.1
Establishing Sentencing Policy

The task force on corrections is aware of the popular disenchantment with current criminal sentencing, the national reexamination of both the principles, purposes, and practices in criminal sentencing, and the substantial impact that sentencing has on the operation and effectivemess of correctional programs. Virginia should participate in and evaluate the results of this national reexamination. Accordingly, the General Assembly should conduct an in-depth study of and examine:

1. The purpose for which sentences should be imposed.
2. The impact of varying the length of imprisonment on:
   a. the need and utilization of prison facilities, and
   b. the reduction of crime.
3. The impact of disparate sentences on:
   a. the attitude of the offender;
   b. the effectiveness of correctional programs, and

c. the protection of the public.

4. The effectiveness of current sentencing practices in Virginia.

5. The fairness and effectiveness of the procedures by which sentences are imposed.

6. Current proposals for sentencing reform.

Commentary

The task force feels that in recognition of the extensive re-evaluation of sentencing policies and procedures currently being undertaken nationwide, it would be inappropriate and perhaps even presumptuous of it to attempt to articulate a sentencing policy at this time. The group did feel, however, that sentencing was a key aspect of the criminal justice process and particularly significant to corrections. It is, after all, corrections upon which the majority of sentences ultimately impact. Because of this the group declined to accept current sentencing practices unquestioningly. Rather, in Goal 4.1 the task force urges the General Assembly to evaluate present sentencing procedures in the Commonwealth with an eye toward the eventual formulation of a clear and consistent sentencing policy.

Much of the confusion of sentencing is the result of the lack of such a clear and consistent sentencing policy. Lack of any real conformity among sentencing judges and juries as to the effect a sentence is to have has led to disparity, inappropriate sentences and ultimately fundamental injustice. It is obvious that preconceptions about whether a sentence is to serve a rehabilitative or punitive purpose, or whether it is to deter, incapacitate or serve as societal retribution, profoundly affect final sentencing dispositions. Yet when all of these ideas coexist, as they do in the modern sentencing environment, the ways in which they affect sentencing decisions are unpredictable and often result in seemingly irrational sentences.

It is, of course, one thing to recognize the problem and another to solve it. There is, however, no dearth of conscientiously prepared material on sentencing and the assumptions that are appropriate to the sentencing decision. Much of this material is cited in the list of references that followed this goal. A cursory examination of the National Council on Crime and Delinquency's Model Sentencing Act (1963) and the recent report of the Committee for the Study of Incarceration entitled Doing Justice (1976) will show the polar extremes which sentencing policies have traversed in a mere thirteen years. In 1963 NCCD felt it imperative to treat the dangerous offender for periods of indeterminate imprisonment until he was "cured" of his anti-social impulses. This year the Committee for the Study of Incarceration felt the only conceivable rationale for imprisonment to be punishment -- imprisonment, short but sure, and carefully controlled by the crime committed.

There are no easy answers to the problems proposed by confused sentencing rationales, and the public should be wary of easy answers generally. The task force does not advocate any particular sentencing policy, but does urge that any such policy be consistent with its Goal 11.9 on rehabilitation.

It is important to emphasize here that what the task force has advocated in its Goal 11.9, and related goals throughout this report, is rehabilitation not treatment. The task force does not subscribe to the therapeutic approach to corrections in which offenders are treated as sick or mentally ill persons who have to be cured. The group did feel, however, that appropriate programs of counseling, education, training, work-release and the like should be available to those who can benefit by them. A sentencing policy recognizing this concept of rehabilitation need not be based on indeterminacy, a concept coming under increasing fire from both the liberal scholars who created it and the inmates who must endure it. The task force would not view a rejection of indeterminacy as a rejection of its concept of rehabilitation.

References

1. National Advisory Commission Report on Corrections, Chapter 5, pp. 141-196.
2. American Bar Association, Standards Relating to Sentencing Alternatives and Procedures, New York, 1968.
3. Va. Code §§ 18.2-9 through 18.2-17 (Repl. Vol. 1975) (classification of offenses and punishments therefore).
4. Va. Code §§ 19.2-311 through 19.2-316 (Repl. Vol. 1975) (indeterminate sentencing of 4 years with supervision and release decisions made by Department of Corrections).
5. American Law Institute, Model Penal Code, Philadelphia, 1962.
6. Board of Directors, National Council on Crime and Delinquency, "The Nondangerous Offender Should Not be Imprisoned: A Policy Statement," Crime and Delinquency, Vol. 19, 1973.
7. Clark, D., "Community Service: A Realistic Alternative for Sentencing," FBI Law Enforcement Bulletin, March 1976, p. 3.
8. Council of State Governments, Definite Sentencing -- An Examination of Proposals in Four States, Lexington, Ky., 1976.
9. Evans, W., and F. Gilbert, "The Sentencing Process: Better Methods are Available," Federal Probation, Vol. 39, No. 2, 1975, p. 35.
10. Fogel, D., ". . . We are the Living Proof . . .," Cincinnati: W. H. Anderson Co., 1975, pp. 238-260.
11. McGee, R., "A New Look at Sentencing," Parts I and II, Federal Probation, Vol. 38, No.'s 2 & 3, 1974.
12. Mitford, J., Kind and Usual Punishment, New York: Alfred A. Knopf, 1973, Chapter 6.
13. Morris, N., The Future of Imprisonment, Chicago: Univ. of Chicago Press, 1974, Chapter 3.
14. Murray, A., et al., "Prison Reform: Backward or Forward?," California State Bar Journal, Vol. 50, 1975, p. 356.

15. National Council on Crime and Delinquency, Model Sentencing Act, New York, 2d ed., 1972.

16. Note, "Jury Sentencing in Virginia," Virginia Law Review, Vol. 53, 1967, p. 968.

17. Partridge, A. and W. Eldridge, The Second Circuit Sentencing Study: A Report to the Judges of the Second Circuit, New York: Federal Judicial Center, August 1974.

18. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Courts, Washington, D.C.: U.S. Government Printing Office, 1967, p. 16.

19. Prettyman, E., "The Indeterminate Sentence and the Right to Treatment," American Criminal Law Review, Vol. 11, 1972, p.7.

20. Pugh, G., and H. Carver, "Due Process and Sentencing: from Mapp to Mempa and McGautha," Texas Law Review, Vol. 49, 1970, p. 25.

21. Von Hirsch, A., Doing Justice, New York: Hill and Wang, 1976.

Chapter 5
Classification

Goal 5.1
Comprehensive Classification Systems

Each correctional agency, whether community-based or institutional, should immediately reexamine its classification system and reorganize it along the following principles:

1. Recognizing that corrections is now characterized by deficient resources, and that classification systems therefore are more useful for assessing risk and facilitating the efficient management of offenders than for diagnosis of causation and prescriptions for remedial treatment, classification should be designed to operate on a practicable level and for realistic purposes, guided by the principle that:

   a. No offender should receive more surveillance or "help" than he requires; and

   b. No offender should be kept in more secure conditions or status than his potential risk dictates.

2. The classification system should be developed under appropriate management concepts (cf. Goals 12.1 ff.) and issued in written form so that it can be made public and shared. It should specify:

   a. The objectives of the system based on a hypothesis for the social reintegration of offenders, detailed methods for achieving the objectives and a monitoring and evaluation mechanism to determine whether the objectives are being met.

   b. The critical variables of the typology to be used.

   c. Detailed indicators of the components of the classification categories.

   d. The structure (committee, unit, team, etc.) and the procedures for balancing the decisions that must be made in relation to programming, custody, personal security and resource allocation.

3. The system should provide full coverage of the offender population, clearly delineated categories, internally consistent groupings, simplicity and a common language.

4. The system should be consistent with individual dignity and basic concepts of fairness (based on objective judgments rather than personal prejudices).

5. The system should provide for maximum involvement of the individual in determining the nature and direction of his own goals, and mechanisms for appealing administrative decisions affecting him.

6. The system should be adequately staffed, and the agency staff should be trained in its use.

7. The system should be sufficiently objective and quantifiable to facilitate research, demonstration, model building, intrasystem comparisons and administrative decisionmaking.

8. The correctional agency should participate in or be receptive to cross-classification research toward the development of a classification system that can be used commonly by all correctional agencies.

Commentary

In 1966 the American Correctional Association noted in its Manual of Correctional Standards: "The primary objective of classification as a systematic process is the development and administration of an integrated and realistic program of treatment for the individual, with procedures for changing the program when indicated." This goal rejects this approach of classification for treatment in favor of a system more oriented toward "assessing risk and facilitating the efficient management of offenders." The all-important proviso to this emphasis, however, is to place no offender in a classification category more secure and restricted than he requires.

Obviously this is a difficult balance to achieve and anyone who has attempted to classify offenders realizes the difficulty of assessing the degree of surveillance an individual offender requires. Today few voices are heard seriously to contend that prisons are anachronistic institutions that can be completely phased out in favor of community treatment. But the fact that this position of a decade ago may no longer be tenable does not detract from the fact that community-based programming is still a viable idea in corrections (see Goals 6.1 - 6.3). And the key to meaningful community programming must be classification.

With this in mind, Goal 5.1 exhorts the correctional community to acknowledge realistically what is possible in the classification process, but not to shirk its responsibility by resorting to unnecessary levels of custody to be "safe." The goal seeks to insure that classification systems will be systematically planned for and continually evaluated, and also recommends maximum involvement of the individual inmate in the classification process. Nothing less can be demanded of this vitally important correctional function.

References

1. National Advisory Commission Report on Corrections, Standard 6.1, pp. 210-212.

2. American Correctional Association, Correctional Classification and Treatment, Cincinnati: W.H. Anderson Co., 1975.

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 21.

Goal 5.2
Classification for Inmate Management

Each correctional agency operating institutions for committed offenders, in connection with and in addition to implementation of Goal 5.1, should reexamine and reorganize its classification system immediately, as follows:

1. The use of reception-diagnostic centers should be discontinued as soon as the proper implementation of community classification teams (Goal 5.3) is effected.

2. Whether a reception unit or classification committee or team is utilized within the institution, the administration's classification issuance described in Goal 5.1 also should:

   a. Describe the makeup of the unit, team, or committee, as well as its duties and responsibilities.

   b. Define its responsibilities for custody, employment and vocational assignments.

   c. Indicate what phases of an inmate program may be changed without unit, team or committee action.

   d. Specify procedures relating to inmate transfer from one program to another.

   e. Prescribe form and content of the classification interview.

   f. Develop written policies regarding initial inmate classification and reclassification.

3. The purpose of initial classification should be:

   a. To screen inmates for safe and appropriate placements and to determine whether these programs will accomplish the purposes for which inmates are placed in the correctional system, and

   b. Through orientation to give new inmates an opportunity to learn of the programs available to them and of the performance expected to gain their release.

4. A purpose of reclassification should be the increasing involvement of offenders in community-based programs.

5. Initial classification should not take longer than 1 week.

6. Reclassification should be undertaken at intervals not exceeding 6 weeks.

7. The isolation or quarantine period, if any, should be as brief as possible but no longer than 24 hours.

Commentary

The opposition of the task force to classification of offenders for treatment was not ideological, but was based upon the practical impossibility of meaningfully classifying offenders for treatment with insufficient resources. The task force agrees with the reasoning of the National Advisory Commission, in the commentary to its closely related Standard 6.2:

> The medical model of treatment, which many correctional agencies have attempted to follow in structuring classification, is rejected as inappropriate and incapable of fulfillment due to corrections lack of knowledge and resources. On the other hand, corrections has the capability to screen offenders for risk and to place them appropriately in programs involving different degrees of risk and to use classification as a method for managing offender populations. The traditional "treatment" programs -- education, vocational training, employment -- are not seen as necessarily rehabilitative in themselves. But these learning experiences may be useful assets in enabling offenders who are given opportunities to change their own behavior and who benefit from them to persist in a lifestyle that will avoid future involvement with the criminal justice system.

Generally, classification of offenders can take place at three levels: at reception-diagnostic centers specifically constructed for that purpose; by special classification units or teams within the institution; or by classification teams within the community.

Virginia now has no reception-diagnostic centers but does have two reception-classification centers: one at the Powhatan Correctional Center and one at the Southampton Correctional Center. Moreover, a pilot classification team approach is working both in state correctional institutions and at the local level. A local classification project has been in operation at the Chesapeake City Jail with good results. That project has effectively diverted certain categories of offenders from that facility into the community (see: Goal 2.1, commentary). This mixed approach is appropriate given the mixed group of offenders found in Virginia.

References

1. National Advisory Commission Report on Corrections, Standard 6.2, pp. 213-214.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 21.
3. American Friends Service Committee, Struggle for Justice: A Report on Crime and Punishment in America, New York: Hill and Wang, 1971.

Goal 5.3
Community Classification Teams

State and local correctional agencies should establish jointly and cooperatively in connection with the planning of community-based programs, classification teams in the larger cities of the Commonwealth for the purpose of encouraging the diversion of selected offenders from the criminal justice system, minimizing the use of institutions for convicted or adjudicated offenders, and programming individual offenders for community-based programs. Establishment of community classification teams should be governed by Goal 5.1, Comprehensive Classification Systems, and the following considerations:

1. The planning and operation of community classification teams should involve state and local correctional personnel (institutions, jails, probation, and parole); personnel of specific community-based programs (employment programs, halfway houses, work-study programs, etc.); and police, court and public representatives.

2. The classification teams should assist pretrial intervention projects in the selection of offenders for diversion from the criminal justice system, the courts in identifying offenders who do not require institutionalization, and probation and parole departments and state and local institutional agencies in original placement and periodic reevaluation and reassignment of offenders in specific community programs of training, education, employment and related services.

3. The classification team, in conjunction with the participating agencies, should develop criteria for screening offenders according to:

    a. Those who are essentially self-correcting and do not need elaborate programming.

b. Those who require different degrees of community supervision and programming.

c. Those who require highly concentrated institutional controls and services.

4. The policies developed by the classification team and participating agencies also should consider the tolerance of the general public concerning degrees of "punishment" that must be inflicted. In this connection the participation of the public in developing policies, as discussed in Goal 6.3, would be useful.

5. The work of the classification team should be designed to enable:

   a. Departments, units, and components of the correctional system to provide differential care and processing of offenders.

   b. Managers and correctional workers to array the clientele in caseloads of varying sizes and programs appropriate to the clients' needs as opposed to those of the agencies.

   c. The system to match client needs and strengths with department and community resources and specifically with the skills of those providing services.

Commentary

The implementation of community classification teams is imperative if community-based alternatives to institutionizization are to become a reality. The reasons for this are not difficult to comprehend. Institutional-based classification fulfills a necessary function, but in effect merely operates to assign offenders to various institutional alternatives. This is well-stated by Benedict Alper in Prisons Inside-Out:

> In effect, all that classification does is to fix the mode of treatment available to offenders on the basis of spatial predeterminations. If a certain number of spaces in maximum-security facilities are available, it is inevitable that enough bodies will be found to fill them, under what may be termed a penal Parkinson's Law. This law tends to operate to classify prisoners in the direction of maximum security for several reasons: because the facilities are available for a certain number of people who can be classified as requiring maximum security; and because in classifying, the tendency is to bear down mainly on the factor of security. In this way, the prison administrator is less likely to make a mistake than the other way around, which is more chancey.

If offenders are going to be kept in the community in any great numbers, they must be classified into appropriate community programs by classification teams in the community who are thoroughly knowledgeable about appropriate local alternatives to incarceration. The type of knowledge which is requisite to such decisions cannot be possessed by institutional classification units.

Virginia has nothing so extensive as the community classification program advocated here. Classification in Virginia is mostly at the institutional level and serves merely to assign offenders to appropriate levels of custody. However, the Department of Corrections is presently involved in instituting a number of pilot projects in local jails for the purpose of classifying inmates in those facilities. A two-month pilot classification program was set up July 1, 1976 in Richmond, Chesterfield, County, Petersburg, Albemarle County - Charlottesville, Fredericksburg, Danville, Campbell and Henry Counties. These pilot projects show the philosophical thrust advocated by Goal 5.3; however, this goal supports a more community-related effort.

References

1. National Advisory Commission Report on Corrections, Standard 6.3, pp. 215-217.

2. Alper, B., Prisons Inside-Out, Cambridge, Mass.: Ballinger Publishing Co., 1974, pp. 60-61.

3. American Correctional Association, Correctional Classification and Treatment, Cincinnati: W. H. Anderson Co., 1975.

4. Chamber of Commerce of the United States, Marshaling Citizen Power to Modernize Corrections, College Park, Md.: American Correctional Association, 1972, p. 5.

5. National Council on Crime and Delinquency, Policies and Background Information, Hackensack, N.J., 1972, p. 14.

Chapter 6
Community-Based Programs

Goal 6.1
Development Plan for Community-Based Alternatives to Confinement

The Department of Corrections should join with local correctional agencies and begin immediately to analyze its needs, resources and gaps in service and to develop a systematic plan with timetable and scheme for implementing a range of alternatives to institutionalization. The plan should specify the services to be provided directly by the correctional authority and those to be offered through other community resources. Community advisory assistance (discussed in Goal 6.3) is essential. The plan should be developed within the framework of total system planning discussed in Chapter 1, and state planning discussed in Chapter 12, Organization and Administration.

Minimum alternatives to be included in the plan should be the following:

1. Diversion mechanisms and programs prior to trial and sentence.

2. Nonresidential supervision programs in addition to probation and parole.

3. Residential alternatives to incarceration.

4. Community resources open to confined populations and institutional resources available to the entire community.

5. Prerelease programs.

6. Community facilities for released offenders in the critical reentry phase, with provision for short-term return as needed.

Commentary

In his recent book The Effectiveness of Correctional Treatment Robert Martinson found that virtually none of the correctional programs he evaluated -- programs that were conducted from 1945 to 1967 -- significantly reduced recidivism. Although these programs were primarily institution-based, some were community programs. As a result of Martinson's study a new mood of correctional nihilism has grown up. It has become fashionable to say that nothing works. Inevitably this mood of forboding and gloom has tainted the glow of optimism that greeted the idea of community-based alternatives to incarceration a decade ago. Equally inevitably this report will be accused by some of advocating a hopelessly out-moded correctional philosophy in this chapter recommending increased use of community programs.

The original rationale for community-based programming was that rehabilitation was difficult if not impossible in the institutional setting. If the purpose of rehabilitation was to insure than an individual would be able to live lawfully within society when released, the theory went, the most effective way of attaining that end was by allowing him to participate in programs within society while under correctional supervision. Isolation and reintegration were seen as incompatible aims.

Recent data has called into question whether community programs are any more effective in reducing recidivism than those in institutions. In the state which most whole-heartedly embraced the community corrections idea -- Massachusetts (which closed all of its juvenile institutions in 1970) -- a recent study by Harvard University indicates no decrease in recidivism. Other claims made by the Massachusetts program at its inception -- that it would be more economical and more humane -- apparently are also open to some debate. (See Corrections Magazine, Nov./Dec. 1975.) Elsewhere David Fogel's conclusions in ". . . We Are the Living Proof . . ." are that the data on what he terms "community treatment" are at best contradictory and inconclusive; that the studies of the result of the use of halfway houses "have not been optimistic."

The task force feels, however, that the absence of concrete data on the effect of community programs in reducing recidivism should not invalidate corrections in the community. Institutional programs have not reduced recidivism either and their failure to do so could form an equally valid argument for the abolition of institutions. Also it seems undeniable that institutions cost a great deal both economically and from the standpoint of the trauma they often induce in those they contain. Prisons dehumanize the inmate and it is simply not right to subject any but the most dangerous and anti-social to their rigors.

There are also positive aspects to community programming. The task force realizes the impracticality of advocating a correctional theory about which the best that can be said is that it is no worse than what is presently being done. One of the best positive justifications for community-based programming is that it allows for a broad array of penalties commensurate with the offenses committed. In a society such as ours which proscribes literally hundreds of actions of differing seriousness it seems naive to assume that all violations of the law mandate incarceration. However, judges are often forced to choose between incarceration or complete freedom for a law-breaker because no intermediate alternatives exist.

The result, of course, is overcrowding of our jails and prisons, a problem with which we are now all too familiar. There are only two answers to this problem: one is to build, at fantastic cost, innumerable additional institutions to house those convicted of crimes; the other is to emphasize community programs and incarcerate only those whose crimes require that sanction. The task force feels the latter to be the only real option. Despite recent criticism by some of community-based programming as an outmoded idea, the most recent major study of our system of criminal sanctions -- the final report of the Committee for the Study of Incarceration published under the title Doing Justice -- recommended a "stringent limitation on incarceration as punishment" and "alternatives to incarceration for the bulk of criminal offenses." [Emphasis added].

In summary, the idea of community-based alternatives to incarceration is no longer viewed as a correctional panacea; but then neither is anything else. The fact that the grand claims of the late '60's regarding significantly reducing recidivism and ultimately eliminating crime have been seen for the impossibilities they always were, should not detract from ideas which still may be justified on a more practical level. Community-based programming is such an idea.

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Goal 6.2
Marshalling and Coordinating Community Resources

The Department of Corrections should join with local correctional agencies to establish effective working relationships with the major social institutions, organizations and agencies of the community, including the following:

1. Employment resources -- private industry, labor unions, employment services, civil service systems.

2. Educational resources -- vocational and technical, secondary college and university, adult basic education, private and commercial training, government and private job development and skills training.

3. Social welfare services -- public assistance, housing, rehabilitation services, mental health services, counseling assistance, neighborhood centers, unemployment compensation, private social service agencies of all kinds.

4. The law enforcement system -- federal, state and local law enforcement personnel, particularly specialized units providing public information, diversion and services to juveniles.

5. Other relevant community organizations and groups -- ethnic and cultural groups, recreational and social organizations, religious and self-help groups, and others devoted to political or social action.

At the management level, correctional agencies should seek to involve representatives of these community resources in policy development and inter-agency procedures for consultation, coordinated planning, joint action, and shared programs and facilities. Correctional authorities also should enlist the aid of such bodies in formation of a broad-based and aggressive lobby that will speak for correctional and inmate needs and support community correctional programs.

At the operating level, correctional agencies should initiate procedures to work cooperatively in obtaining services needed by offenders.

Commentary

Obviously if community-based programming is going to be effective for offenders, a major effort at mobilizing and coordinating community agencies is going to be required. This goal calls for such an effort. It is important to emphasize in this connection that community-based corrections is a different concept from regionalization. Regionalization refers to the placement of state correctional facilities in the areas from which they draw their offenders; community-based programming calls for use of programs and facilities already existing in the community. Where such facilities do not exist it would, of course, be within the legitimate prerogatives of the Department of Corrections to urge that they be created in the community and furnish the expertise needed to create and maintain them.

References

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Goal 6.3
Corrections' Responsibility for Citizen Involvement

The Department of Corrections should create immediately: (a) a multipurpose public information and education unit, to inform the general public on correctional issues and to organize support for and overcome resistance to general reform efforts and specific community-based projects; and (b) an administrative unit responsible for securing citizen involvement in a variety of ways within corrections, including advisory and policymaking roles, direct service roles and cooperative endeavors with correctional clients.

1. The unit responsible for securing citizen involvement should develop and make public a written policy on selection process, term of service, tasks, responsibilities and authority for any advisory or policymaking body.

2. The citizen involvement unit should be specifically assigned the management of volunteer personnel serving in direct service capacities with correctional clientele, to include:

   a. Design and coordination of volunteer tasks.

   b. Screening and selection of appropriate persons.

   c. Orientation to the system and training as required for particular tasks.

   d. Professional supervision of volunteer staff.

   e. Development of appropriate personnel practices for volunteers, including personnel records, advancement opportunities and other rewards.

3. The unit should be responsible for providing for supervision of offenders who are serving in volunteer roles.

4. The unit should seek to diversify institutional programs by obtaining needed resources from the community that can be used in the institution and by examining and causing the periodic reevaluation of any procedures inhibiting the participation of inmates in any community program.

5. The unit should lead in establishing and operating community-based programs emanating from the institution or from satellite facility and, on an ongoing basis, seek to develop new opportunities for community contacts enabling inmate participants and custodial staff to regularize and maximize normal interaction with community residents and institutions.

6. The unit should also encourage the realization that the participation of volunteers in any correctional program does not reduce the obligation of the agency responsible for that program.

Commentary

Corrections often bemoans the lack of public awareness of its proper role and the extent of what can be expected of it as a state agency. This goal seeks to alleviate this problem by calling upon corrections, after it has clearly delineated a plan for what it feels to be its proper function, to take its plan to the public and educate them as to its legitimate purpose and expectations. Since one of the focal points of this report is community-based corrections, this goal seeks primarily to educate the public on community programming. In order to do this the goal would create a multipurpose public information and education unit to inform the general public and organize support for specific community-based projects. It would also create an administrative unit responsible for securing citizen involvement in a number of ways within corrections. Virginia's Department of Corrections already has a public information office which could be expanded to fulfill these functions.

It is important to realize, however, that Goal 6.3 does not advocate volunteer participation exclusively in the community. The National Advisory Commission noted in the commentary to its closely related Goal 7.3 that while "[i]t is obvious that community support is required if community corrections is to become a reality," it is further important that community participation be "required not only in community-based correctional programs but even more so in correctional institutions." The reasons for this are rather obvious, but are well stated by the NAC as follows:

> . . . In institutions, community involvement can play a crucial role in "normalizing" the environment and developing offenders' ties to the community, as well as

changing community attitudes toward offenders. Major institutions seldom have enough money and expertise to accomplish tasks for which they are responsible. Community participation in institutional programs should improve institutional programs, break down isolation, and help the offender explore the possibilities for his adjustment to the community.

There would seem to be support for the basic ideas of Goal 6.3 in at least some areas of Virginia. The Task Force Report on Guidelines and Recommendations for the Use of Volunteers in the Department of Corrections, issued in Richmond in May 1975, called for a ". . . clear policy commitment to integrate volunteer activities into all relevant departmental objectives." The report went on to describe in detail how the specifics of this proposal could be implemented, including recruiting, screening, training and supervision of volunteers; insurance for volunteers; funding; and other aspects of such a program. In November 1975, the Charlottesville Citizens' Task Force on Crime issued a report on the crime problem in that city which noted that without citizen involvement in the community there could be no real solution. The Board of Corrections has voiced support for use of volunteers and called for the creation of a position of volunteer coordinator in the Department of Corrections (cf. Goal 13.3). The department has created that position and hopes to enter into active volunteer programming in the near future.

Volunteer participation in corrections has proved to be a valid and important new force in corrections in a number of jurisdictions. In Virginia Offender Aid and Restoration (OAR), a volunteer program, has proved helpful in aiding recently released offenders in the difficult first weeks of transition back into society. Volunteers are also used in many youth homes in various communities. Goal 6.3 is intended to encourage this type of meaningful volunteer activity. The task force was, however, concerned about one aspect of the use of volunteers -- that being that their use in a program could result in an abdication of responsibility for that program by the correctional agency which normally would supervise it. Paragraph 6 addresses that possibility.

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Chapter 7
Probation

Goal 7.1
Probation

Each sentencing court immediately should revise its policies, procedures, and practices concerning probation, and where necessary, enabling legislation should be enacted, as follows:

1. A sentence to probation should be for a specific term not exceeding the maximum sentence authorized by law, except that probation for misdemeanants may be for a period not exceeding one year.

2. The court should be authorized to impose such conditions as are necessary to provide a benefit to the offender and protection to the public safety. The court also should be authorized to modify or enlarge the conditions of probation at any time prior to expiration or termination of sentence. The standard conditions imposed on an individual case should be tailored to meet the needs of the defendant and society, and mechanical imposition of uniform conditions on all defendants should be avoided.

3. The offender should be provided with a written statement of the conditions imposed and should be granted an

explanation of such conditions. The offender should also be authorized on his own initiative to petition the sentencing judge for a modification of the conditions imposed.

4. Procedures should be adopted authorizing the revocation of a sentence of probation for violation of specific conditions imposed, such procedures to include:

   a. Authorization for the prompt confinement of probationers who exhibit behavior that is a serious threat to themselves or others and for allowing probationers suspected of violations of a less serious nature to remain in the community until further proceedings are completed.

   b. Authorization of informal alternatives to formal revocation proceedings for handling alleged violations of minor conditions of probation. Such alternatives should include:

      (1) A formal or informal conference with the probationer to reemphasize the necessity of compliance with the conditions.

      (2) A formal or informal warning that further violations could result in revocation.

   c. A requirement that, unless waived by the probationer after due notification of his rights, a hearing be held on all alleged violations of probation where revocation is a possibility to determine whether there is substantial evidence to indicate a violation has occurred and if such a violation has occurred, the appropriate disposition.

   d. A requirement that at the probation revocation hearing the probationer should have notice of the alleged violation, access to official records regarding his case, the right to be represented by counsel including the right to appointed counsel if he is indigent, the right to subpoena witnesses in his own behalf, and the right to confront and cross-examine witnesses against him.

e. A requirement that before probation is revoked the court find substantial evidence of a violation of a condition of probation.

f. Authorization for the court, upon finding a violation of conditions of probation, to continue the existing sentence with or without modification, to enlarge the conditions, or to impose any other sentence that was available to the court at the time of initial sentencing. In resentencing a probation violator, the following rules should be applicable:

(1) Criteria and procedures governing initial sentencing decisions should govern resentencing decisions.

(2) Failure to comply with conditions of a sentence that imposes financial obligations upon the offender should not result in confinement unless such failure is due to a willful refusal to pay.

5. Probation should not be revoked for the commission of a new crime until the offender has been tried and convicted of that crime. At this time criteria and procedures governing initial sentencing decisions should govern resentencing decisions.

Commentary

In its 1973 Report on Corrections, the National Advisory Commission called probation "the brightest hope for corrections." There is much evidence to justify this conclusion where probation programs are adequately staffed and structured to provide appropriate supervision for the individual probationer. Even Robert Martinson's recent study The Effectiveness of Correctional Treatment, most often viewed as a nihilistic document which finds that nothing has worked to reduce recidivism, seems to find that some measure of success has been achieved in selected probation programs.

Probation is also economically attractive. California has estimated that the cost of probation, even with the expanded probation services needed to make it a meaningful sanction, runs only a little more than one-tenth of the cost of incarceration: approximately $600 per person annually for probation, compared to $5,000 annually for institutionalization. The Sagninaw Project, a three-year probation project conducted in

Michigan from 1954 to 1957, estimated the average stay for a person committed to prison to be 31 months with an operating cost per disposition of $4,000; the average length of probation supervision in the project to be 27 months at a cost per disposition of $630. The per disposition saving: $3,370. In its 1975 annual report the State Crime Commission advocated increased use of probation and parole to relieve overcrowding and estimated the comparative costs of incarceration versus parole at $6,300 versus $384 per year respectively.

It is important to note that what this goal advocates is a sentence of probation. In the past Virginia has habitually used probation as a device for moderating the harshness of confinement; this goal would make it a major sentencing alternative in its own right. Under this plan a person could be sentenced to five years' probation, with appropriate conditions, rather than be sentenced to five years' imprisonment suspended on condition of good behavior. The difference between the two approaches may seem minimal, but it is significant: the offender put on probation should be made to feel that it is a sentence being exacted from him for his offense, not that it is a reward for any number of mitigating factors he may possess. This is not to say that a sentence of probation should necessarily be punitive. But it is difficult for a rehabilitative purpose to evolve from a procedure in which an offender feels he has gotten off "scot free." A sentence to probation should not be subject to the criticism that it "coddles criminals."

At the same time, however, neither should probation procedures be so arbitrary as to deny the probationer the fair treatment essential to the success of the program. Goal 7.1 is designed to insure a certain fundamental fairness in probation procedures, particularly in probation revocation proceedings. Some of the procedures advocated here are presently in effect in Virginia, but in other areas the goal advocates procedures that conflict with present Virginia practice. The most significant instance of this is the final paragraph of the goal dealing with not revoking probation for commission of a new crime until the probationer has actually been convicted of that crime. Present Virginia law does not require this, see e.g., Marshall v. Commonwealth, 202 Va. 217, 116 S.E.2d 270 (1960). Feeling that revocation of probation prior to adjudication of guilt conflicts irreconcileably with the presumption of innocence, the task force recommends this procedure be changed.

The task force was not willing to recommend change to other areas of present Virginia practice, however. The group rejected a requirement that a preliminary hearing be held with attendant due process safeguards, whenever a probationer is arrested for violation of probation. The group was also unwilling to require the court to make a written finding of fact before probation could be revoked. And finally, after some controversy about alleged inconsistency with the concept of probation as a sentence, the task force rejected a proposal for giving credit for time served on probation after resentencing.

Finally it should be noted that this goal should be read in conjunction with the other goals in Chapter 7 of this report which deal with probation. The mechanics of specific proposals are discussed in those goals.

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4. Va. Code §§ 53-250, -272 (Repl. Vol. 1974).
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8. Cook v. Commonwealth, 211 Va. 290, 176 S.E.2d 815 (1970).
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15. Virginia State Crime Commission, 1975 Annual Report, Richmond, pp. 6-7.

Goal 7.2
Organization of Probation

The state correctional agency charged with probation 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 and recruitment.

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.

In addition to the responsibilities previously listed, the state correctional 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.

Commentary

The nucleus of this goal is the location of probation in the executive branch of state government. Although some debate continues nationally about the desirability of doing this -- as opposed to placement in the judicial branch -- Virginia has placed adult probation under the Division of Probation and Parole Services of the Department of Corrections, an executive branch agency. This should greatly simplify a number of the specific recommendations of this goal for a number of reasons. Not the least of these is greatly facilitated coordination of probation services, as well as better utilization of probation manpower.

Nothing in this goal should suggest drastic shifts in emphasis from present probation organization in Virginia. Organizational priorities should, however, be clearly delineated, and not mere abstractions. This goal is meant to offer guidance in the formulation of such priorities.

References

1. National Advisory Commission Report on Corrections, Standard 10.1, pp. 331-332.

2. American Bar Association, Standards Relating to Probation, Standard 6.1, New York, 1970.

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1967, Chapter 6.
4. National Probation and Parole Association, Standard Probation and Parole Act, New York, 1955, p. 4.
5. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 36.

Goal 7.3
Services to Probationers

Each probation system should develop a goal-oriented service delivery system that seeks to remove or reduce barriers to resocialization confronting probationers. The needs of probationers should be identified, priorities established and resources allocated based on established goals of the probation system.

1. Services provided directly should be limited to activities defined as belonging distinctly to probation. Other needed services should be procured from other agencies that have primary responsibility for them. It is essential that funds be provided for purchase of services.

2. The staff delivering specialized services to probationers in urban areas should be separate and distinct from the staff delivering services to the courts, although they may be part of the same agency. The staff delivering services to probationers should be located in the communities where probationers live and in service centers with access to programs of allied human services.

3. The probation system should be organized to deliver to probationers a range of staff. Various modules should be used for organizing staff and probationers into workloads or task groups, not caseloads. The modules should include staff teams related to groups of probationers and differentiated programs based on offender typologies.

4. A significant function of the probation officer should be that of community resource manager for probationers.

Commentary

This goal advocates a shift away from the traditional casework approach to probation which is widely employed in many jurisdictions including Virginia. It suggests instead a team, or classification, model. The essential difference between the concepts is that the casework approach depends

on a single probation officer to perform a wide variety of service to a great number of probationers; the classification model emphasizes an initial identification of individual needs, or classification, followed by assignment of probationers to trained teams which offer the type of services needed.

The impetus for the recommendation in this goal is the number of projects in the fifties and sixties which challenged some of the assumptions commonly made about the mechanics of probation. From the beginning probation has been very much under the spell of social work. One result has been the heavy emphasis on casework as an appropriate model for probation officers. Another has been the constant complaint of probation officers that their caseloads are too heavy to allow for effective supervision of probationers. Often caseload reduction has become almost an end in itself.

However, when caseloads alone have been reduced, the results have been disappointing. Mere reductions in caseloads have not reduced recidivism; in some cases an increase in probation violations has resulted, undoubtedly due to increased surveillance or overreaction by well-meaning probation officers. In 1959 a parole research project in Oakland, California began to test whether reducing caseloads would improve parole performance. Additional agents were employed and ten experimental 36-unit caseloads were established, with five 72-unit caseloads as controls. When the project was terminated two years later no overall difference was found in parole performance for reduced and full-size caseloads. California's Special Intensive Parole Unit (SIPU) studies, conducted in four segments from 1953 through 1963, obtained similar results.

Perhaps the most extensive project along these lines was the University of California's San Francisco Project which focused on federal probation and parole and the effects of different caseload sizes. According to Nora Klapmuts in the article cited below:

> . . . the small caseload was not demonstrated to be more effective in reducing recidivism. The results were interpreted as suggesting (1) that some offenders will succeed while others will violate no matter how much attention they they receive; and (2) that with identification of these offender groups, officer time could be allocated to give most attention to those (middle-risk) offenders whose success depends on the presence of certain types of supervision.

The conclusion of all these studies was that the concept of caseload is meaningless without some type of classification and matching of offender, service to be offered and staff. More attention by a probation officer can be positively harmful if that additional attention does not incorporate real help to the offender and if the particular offender is not receptive to that help.

With the results of these studies in mind, this goal recommends a reorientation of probation along the lines of appropriate classification and programming, rather than the minimal supervision presently provided for by the casework approach. The probation officer would, under this approach, become more concerned with delivery of services either on a personal level, or where possible, through the appropriate community agency or program.

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Goal 7.4
Misdemeanant Probation

The Commonwealth 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 goals of this report that apply to probation are intended to cover both misdemeanant and felony probation. Other than the possible length of probation terms, there should be no distinction between misdemeanant and felony probation as to organization, manpower or services.

Commentary

This goal simply seeks to provide the resources to enable increased use of probation as a sanction in misdemeanor cases. The task force feels that such encouragement is mandated, and shares the perspective of the National Advisory Commission in its 1973 report on Corrections:

> In many communities and even in entire States, probation cannot be used for persons convicted of misdemeanors. And where probation is authorized as a disposition for misdemeanants, it is not employed by the courts as often as it should be. Probation agencies dealing with misdemeanants are likely to have even less in the way of staff, funds, and resources than those agencies dealing with felons or juvenile offenders.

In Virginia, misdemeanant and felony probation efforts do not differ in their organization, manpower or service delivery This results in there often being no personnel available to provide for misdemeanant probation services, especially at the district court level. The task force believes that this situation is undesirable as resulting in deprivation of probation services to those who might most benefit by them.

References

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Goal 7.5
Probation Manpower

The Commonwealth 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 re-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.

4. Educational qualification for probation officers should be graduation from an accredited 4-year college.

Commentary

An immediate implementation of a comprehensive manpower development and training program to recruit and train probational personnel is a definite prerequisite to more effective and extensive use of probation. This recruitment should extend to volunteers, women and ex-offenders, and should include provision for: effective utilization of manpower on a full- or part-time basis; new career lines in probation built into career ladders; advancement along two tracks -- service delivery and administration; a college education requirement for probation officers.

This report envisions a more extensive use of probation as a sentencing alternative in the future. As was noted in the commentary to Goal 7.1, probation is one of the few correctional alternatives which has a good track record. It is also desirable from the purely practical standpoint of reducing overcrowding. If this perspective is accepted, clearly increased manpower and training for probation is mandated. This goal seeks to delineate the nature and extent of the recruitment and training that need be done.

This goal suggests no great contradiction to present Virginia practice except perhaps in the area of emphasis. Women are presently employed as probation and parole officers, and limited use of volunteers is a possibility through OAR (Offender Aid and Restoration). In addition, ex-offenders would not seem to be precluded from service as probation officers if they possess the requisite qualifications. In Virginia those qualifications include a bachelor's degree from an accredited four-year college, which complies with the recommendation of the task force.

References

1. National Advisory Commission Report on Corrections, Standard 10.4, pp. 337-338.
2. American Bar Association, Standards Relating to Probation,

Standards 6.5-6.7, New York, 1970.

3. Bertinot, L., and J. Taylor, "A Basic Plan for Statewide Probation Training," Federal Probation, Vol. 38, No. 2, 1974, p. 29.

Goal 7.6
Probation in Release on Recognizance Programs

Each probation office serving a community or metropolitan area of more than 100,000 persons that does not already have an effective release on recognizance program should immediately develop, in cooperation with the court, additional staff and procedures to investigate arrested adult defendants for possible release on recognizance (ROR) while awaiting trial, to avoid necessary use of detention in jail.

1. The staff used in the ROR investigations should not be probation officers but persons trained in interviewing, investigation techniques and report preparation.

2. The staff should collect information relating to defendant's residence, past and present; employment status; financial condition; prior record if any; and family, relatives, or others, particularly those living in the immediate area who may assist him in attending court at the proper time.

3. Where appropriate, staff making the investigation should recommend to the court any conditions that should be imposed on the defendant if released on recognizance.

4. The probation agency should provide pretrial intervention services to persons released on recognizance.

Commentary

This goal is a logical corollary of the goals of Chapter 3 calling for maximum use of alternatives to pretrial detention. It calls for creation of a mechanism by which release on recognizance

could be maximized. This mechanism should include a staff to investigate candidates for ROR who would be trained in interviewing, investigation techniques and report preparation but who would not be probation officers. Probation officers already have enough to do in this area of gathering information in their work preparing presentence reports, without requiring them to assuem this additional sizable burden. A separate probation staff should be assembled to do this work, perhaps along the lines of the Des Moines Project (cf. Goal 3.4, commentary). Another alternative is use of trained volunteers, a proposal that is being explored by Offender Aid and Restoration (OAR) in Virginia.

The specifics of this goal are consistent with Goal 3.4, which provides for release on recognizance as the most desirable of a long list of alternatives to pretrial detention, as well as with Goal 3.5, which lists in detail the various inquiries that should be made as part of the investigation. Also, Goal 3.6 provides the information-gathering services for the judicial officer who makes the decision should be provided in the first instance by the law enforcement agency, and verified and supplemented by the agency that develops presentence reports. All of these recommendations are consistent with, and in elaboration of, Goal 7.5.

References

1. National Advisory Commission Report on Corrections, Standard 10.5, pp. 339-340.

2. American Bar Association, Standards Relating to Pretrial Release, Standard 5.1, New York, 1968.

3. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 19.

Chapter 8
Parole

Goal 8.1
Organization of Paroling Authorities

The board responsible for the parole of adult offenders should have jurisdiction over both felons and misdemeanants.

1. The board should be specifically responsible for articulating and fixing policy, for acting on appeals by correctional authorities or inmates on decisions made by appropriate staff, and for issuing and signing warrants to arrest and hold alleged parole violators.

2. Board members should have close understanding of correctional institutions and be fully aware of the nature of their programs and the activities of offenders.

3. The parole board should develop a citizen committee, broadly representative of the community, to advise the board on the development of policies.

Commentary

As the National Advisory Commission noted in its Report on Corrections: "The sound use of discretion and ultimate accountability for its exercise rest largely in making visible the criteria used in forming judgments."

To achieve this end of increased visibility, the task force recommends the development of citizen committee, which would be broadly representative of the community, to advise the board on development of policies. A parole board which is making decisions based upon what it believes to be the community's expectations and priorities, but without any real knowledge, can weight its decisions with spurious considerations. A citizen committee could alleviate this problem, and also could enlighten the citizenry as to the functioning of its parole board.

References

1. National Advisory Commission Report on Corrections, Standard 12.1, pp. 417-419.
2. Va. Code §§ 53-230 through 53-265 (Repl. Vol. 1974).
3. Administrative Conference of the United States, Recommendations Concerning the U.S. Parole System, Washington, D.C., 1972, Recommendation #72-3.
4. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 7.
5. Davis, K., Discretionary Justice: A Preliminary Inquiry, Baton Rouge: Louisiana State Univ. Press, 1969, pp. 126-130.
6. Hoffman, P., and L. DeGostin, "Parole Decision-Making: Structuring Discretion", Federal Probation, Vol. 38, No. 4, 1974, p.7.
7. National Council on Crime and Delinquency, Standard Probation and Parole Act, New York, 1955, Art. II.
8. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 60-69.

Goal 8.2
Parole Authority Personnel

The Commonwealth should adopt a policy that the qualifications and conditions of appointment of parole board members be specified.

1. Parole boards for adult offenders should consist of fulltime members.

2. Members should possess academic training in fields such as criminology, education, psychology, psychiatry, law, social work or sociology.

3. Members should have a high degree of skill in comprehending legal issues and statistical information and an ability to develop and promulgate policy.

4. Members should be appointed by the governor. Consideration should be given to recommendations of qualified persons made by citizen groups or individual citizens.

5. Parole board members should be compensated at a rate equal to that of a circuit court judge.

6. Parole board members should participate in continuing training on a national basis. The exchange of parole board members and hearing examiners between states for training purposes should be supported and encouraged.

Commentary

It was the consensus on the task force that Virginia had been fortunate in the high caliber of parole board members it had habitually produced. However, the group did feel that the qualifications and conditions of appointment of such members should be specified. Presently the statutes governing selection of parole board members in Virginia specify no qualifications for appointment. Code §53-231 provides that the board shall consist of five members; §53-232 that they shall serve terms of 4 years. Nowhere is the governor given any guidance as to what qualifications could be appropriate to membership on the board. This goal suggests that training in such fields as criminology, education, psychology, psychiatry, law, social work or sociology would be appropriate.

The task force also feels that if the qualifications of parole board members were to be made specific at appropriate high levels of accomplishment, commensurate compensation is a logical corollary. Presently Code §53-236 provides for salaries for board members, but sets no amount. This goal recommends a salary equal to that of a circuit court judge, or an amount in excess of that currently paid Virginia Parole Board members.

References

1. National Advisory Commission Report on Corrections, Standard 12.2, pp. 420-421.

2. Va. Code §§ 53-231, -232 (Cum. Supp. 1975); 53-236 (Repl. Vol. 1974).

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 7.

4. National Council on Crime and Delinquency, Standard Probation and Parole Act, New York, 1955, Article II.

Goal 8.3
The Parole Grant Hearing

Each parole jurisdiction immediately should develop policies for parole release hearing that include opportunities for personal and adequate participation by the inmates concerned; procedural guidelines to insure proper, fair and thorough consideration of every case; prompt decisions, with reasons for denials, and personal notifications in writing of decisions to inmates; and provision for accurate records of deliberations and conclusions.

Commentary

The parole grant hearing has been largely without the scrutiny of the courts, unlike the more clearly adversarial revocation procedure dealt with in the following goal. As a consequence, parole grant hearings have been traditionally less structured and less characterized by due process procedures than hearings to determine revocation. This goal seeks to set out the procedures that fundamental fairness seems to require at the grant hearing.

As has been noted throughout, it is important in all of the aspects of the criminal justice system to maintain an appearance of fairness. This is particularly true in a procedure designed to determine the advisability of an increased amount of freedom. Obviously the inmate who is refused parole at first eligibility will not be happy about that fact. However, if he feels that he has been fairly treated, and is clearly informed of the reasons for the refusal, that refusal may avoid the undesirable side effect of embittering him at what he feels has been a deck stacked against him. The Virginia Parole Board has made substantial progress in meeting the recommendations of this goal.

References

1. National Advisory Commission Report on Corrections, Standard 12.3, pp. 422-424.

2. Va. Code §§ 53-251 through 53-260; 53-263 through 53-265 (Repl. Vol. 1974).

3. American Law Institute, Model Penal Code, Philadelphis, 1962, Article 305.

Goal 8.4
The Parole Revocation Hearing

Each parole jurisdiction immediately should develop and implement a system of revocation procedures to permit the prompt confinement of parolees exhibiting behavior that poses a serious threat to others. At the same time, it should provide careful controls, methods of fact-finding, and possible alternatives to keep as many offenders as possible in the community. Return to the institutions should be used as a last resort, even when a factual basis for revocation can be demonstrated.

1. Warrants to arrest and hold alleged parole violators should be issued and signed by parole board members. Tight control should be developed over the process of issuing such warrants. They should never be issued unless there is sufficient evidence of probable serious violation. In some instances, there may be a need to detain alleged parole violators. Any parolee who is detained should be granted a prompt preliminary hearing. Administrative arrest and detention should never be used simply to permit investigation of possible violations.

2. A preliminary hearing conducted by an individual not previously directly involved in the case should be held promptly on all alleged parole violations, including convictions of new crimes, in or near the community in which the violation occurred unless waived by the parolee after due notification of his rights. The purpose should be to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee has committed acts that would constitute a violation of parole conditions and a determination of the value question of whether

the case should be carried further, even if probable cause exists. The parolee should be given notice that the hearing will take place and of what parole violations have been alleged. He should have the right to present evidence and to confront and cross-examine witnesses. Where it is determined by the person who conducts the hearing that the parolee will have difficulty presenting the disputed facts without aid of counsel, provision for such representation should be made.

The person who conducts the hearing should make a summary of what transpired at the hearing and the information he used to determine whether probable cause existed to hold the parolee for the final decision of the parole board on revocation. If the evidence is insufficient to support a further hearing, or if it is otherwise determined that revocation would not be desirable, the offender should be released to the community immediately.

3. At parole revocation hearing, the parolee should have written notice of the alleged infractions of his rules or conditions; access to official records regarding his case; the opportunity to be heard in person; the right to subpoena witnesses in his own behalf; and the right to cross-examine witnesses or otherwise to challenge allegations or evidence held by the Commonwealth. Provision for representation by counsel, including appointed counsel where the parolee is indigent, should be made in those cases in which the ultimate decision, as determined by the Parole Board, is deemed likely to involve legal or other skills the parolee is unlikely to possess. Parole should not be revoked unless there is substantial evidence of a violation of one of the conditions of parole.

4. Each jurisdiction should develop alternatives to parole revocation, such as warning, special conditions of future parole, variations in intensity of supervision or surveillance, and referral to other community resources. Such alternative measures should be utilized as often as is practicable.

5. If return to a correctional institution is warranted, the offender should be scheduled for subsequent appearances for parole considerations when appropriate.

There should be no automatic prohibition against re-parole of a parole violator.

Commentary

This goal in large part derives from the case of Morrissey v. Brewer, a 1972 United States Supreme Court case. For the most part, the Virginia Parole Board follows the mandates of Morrissey and this goal.

The Morrissey case is rather specific about what is required in revoking parole. There must be: (a) written notice to the parolee of the claimed violations of parole; (b) disclosure to the parolee to be heard and present evidence; (c) the right to confront and cross-examine witnesses against him (unless the hearing officer determines that such procedure would endanger a witness); (d) a "neutral and detached" hearing body; and (e) a written statement of the fact-finders of the decision to revoke, the evidence relied on and reasons for revoking. Prior to formal revocation proceedings, an "individual not previously directly involved in the case" must hold a preliminary hearing to determine if there is "probable cause" to hold the parolee over for a formal revocation hearing; the parolee must receive proper notice of the preliminary hearing, and the course of the hearing should be recorded in a summary or digest. These specific procedures, the Court held, were required as a matter of due process of law.

The Court in Morrissey found these specific procedures necessary as matter of due process because the liberty of a parolee, although qualified by supervision and conditions, is so similar to the unqualified liberty of a free citizen, and the liberty is so constitutionally valuable that its termination calls for some orderly process.

As specific as the procedures mandated by Morrissey appear to be, they may nevertheless be, as the Court noted, informal, i.e., administrative in nature without relying on technical rules of evidence.

The Court in Morrissey did not consider whether a parolee ought to have counsel as a matter of right at a revocation hearing. As is presently the practice in Virginia, the task force feels that assistance of counsel ought to be required where the decision on whether or not to revoke parole may turn on legal or other questions which the parolee may not comprehend, or over which he may not have the necessary expertise or skills. Such should and does apply to both the preliminary and formal revocation hearing.

There was some controversy among task force members as to the degree to which a parolee accused of a new crime should be considered to have the rights of a free person; specifically with regard to the opportunity to make bail or other release mechanism, when the allegation of a new

crime appears to be the only evidence of violation of parole conditions. In Virginia, § 53-260 of the Code provides that upon the issuance of a warrant for the arrest of a parolee, the parolee is to be treated as an escaped prisoner. Thus, the opportunity to make bail becomes problematical when a parole warrant is issued. No solution is offered here or in the goal; perhaps subsequent litigation will provide clarification of this issue.

As a final note, paragraph 4 of the goal provides latitude in dealing with a parolee who has had his parole revoked. This latitute is suggested by the goal in recognition of the fact that a return to incarceration is not considered to be necessary in every case. Such is currently in effect in Virginia.

References

1. National Advisory Commission Report on Corrections, Standard 12.4, pp. 425-527.
2. Va. Code § 53-262 (Cum Supp. 1975).
3. Morrissey v. Brewer, 408 U.S. 471 (1972).

Goal 8.5 Organization of Field Services

The Commonwealth should provide for the consolidation of institutional and field parole services in departments or divisions of correctional services. Such consolidations should occur as closely as possible to operational levels.

1. Regional administration should be established so that institutional and field services are jointly managed and coordinated at the program level.

2. Joint training programs for institutional and field staffs should be undertaken, and transfers of personnel between the two programs should be encouraged.

3. Parole services should be delivered, wherever practical, under a team system in which a variety of persons including parolees, parole managers and community representatives participate.

4. Teams should be located, whenever practical, in the

neighborhoods where parolees reside. Specific team members should be assigned to specific community groups and institutions designated by the team as especially significant.

5. Organizational and administrative practices should be altered to provide greatly increased autonomy and decision making power to the parole teams.

Commentary

The organizational framework here suggested is not greatly at variance with that currently employed in Virginia, although the degree of regional administration to manage institutional and field services at the program level does not appear to be as formally structured as the goal suggests. The task force hopes that such a coordinated effort will evolve in the future.

Of special significance is the recommendation that parole be administered through a team rather than a caseload orientation. The reasons for this recommendation were extensively documented in the commentary to Goal 7.3 relating to probation. Virginia is currently in the process of converting, at least experimentally, to the team approach.

References

1. National Advisory Commission Report on Corrections, Standard 12.5, pp. 433-434.
2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 67-69.

Goal 8.6
Community Services for Parolees

The Commonwealth 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 available to all citizens, with parole staff providing linkage between services and the parolees who need or desire them.

1. Stringent review procedures should be adopted, so

that 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. The Parole Board 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 should develop effective communication systems at the local level. Joint meeting and training sessions should be undertaken.

6. Each parole agency should have one or more persons attached to the central office to act as liaison with major program agencies.

7. Institutional vocational training tied directly to specific subsequent job placements should be supported.

8. The Parole Board should encourage institutions to maintain effective quality control over programs.

9. Small community-based group homes should be available to parole staff for prerelease programs, for crises, and as a substitute to recommitment to an institution in appropriately reviewed cases of parole violation.

10. Special caseloads should be established for offenders with specific types of problems, such as drug abuse.

Commentary

This goal attempts to discourage the common parole practice of intensive supervision and to substitute instead use of relevant programming for the particular needs of the parolee. As was documented in the commentary of Goal 7.2, a number of studies have demonstrated that intensive supervision in itself, unaccompanied by approriate

programming or counseling, not only does not reduce recividism but in many cases works to increase it. Under such circumstances the parolee may commit another crime out of pique. This goal would make the parole officer a "community resource manager." This shift of emphasis corresponds with that advocated in Goal 7.3 on probation.

References

1. National Advisory Commission Report on Corrections, Standard 12.6, pp. 430-432.

2. California Department of Corrections, Special Intensive Parole Unit, Research Reports, Phases I-IV, Sacramento, 1953-1964.

3. Johnson, D., "The Failure of a Parole Research Project," California Youth Authority Quarterly, Vol. 19, 1965, pp. 35-39.

4. Keve, P., Innovative Programming in Probation and Parole, Minneapolis: Univ. of Minnesota Press, 1967.

5. University of California School of Criminology, San Francisco Project, Research Reports, Berkley, 1965-1967.

Goal 8.7
Measures of Control

The Commonwealth should take immediate action to reduce parole rules to an absolute minimum, retaining only those critical in the individual case, and to provide for effective means of enforcing the conditions established.

1. After considering suggestions from correctional staff and preferences of the individual, parole boards should establish in each case the specific parole conditions appropriate for the individual offender.

2. Parole staff should be able to request the board to amend rules to fit the needs of each case and should be empowered to require the parolee to obey any such rule when put in writing, pending the final action of the parole board.

3. Special caseloads for intensive supervision should be established and staffed by personnel of suitable skill and temperament. Careful review procedures should be established to determine which offenders should be assigned or removed from such caseloads.

4. Parole officers should develop close liaison with police agencies, so that any formal arrests necessary can be made by police. Parole officers, therefore, would not need to be armed.

Commentary

The main point of this goal is the development of individualized rules and conditions of parole in each case designed to meet the needs of each parolee. Presently all parolees must observe ten general conditions of parole, and the Parole Board can and does additionally set special conditions in appropriate cases, although obviously special conditions are not necessary in every case. Moreover, the parole officer, under the authority given him to "advise and direct" the parolee, can design specific rules and conditions tailored to individual needs. The task force urges the expansion of the uses of special, individualized conditions of parole.

The task force also feels strongly that parole officers should not be armed. A parole officer is not a police officer and should not be called upon, except in emergencies, to perform law enforcement activities. For this reason, the task force recommends that a close liaison between parole officers and police agencies be maintained.

References

1. National Advisory Commission Report on Corrections, Standard 12.7, pp. 428-429.
2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 67-71, 105-111.

Goal 8.8
Manpower for Parole

The Commonwealth should develop a comprehensive manpower and training program which would make it possible to recruit persons with a wide variety of skills including significant numbers of

minority group members and volunteers, and use them effectively in parole programs.

Among the elements of state manpower and training programs for corrections that are prescribed in Chapter 13, the following apply with special force to parole.

1. A functional workload system linking specific tasks to different categories of parolees should be instituted and should form the basis of allocating manpower resources.

2. The bachelor's degree should constitute the requisite educational level for the beginning parole officer.

3. Provisions should be made for the employment of parole personnel having less than a college degree to work with parole officers on a team basis, carrying out the tasks appropriate to their individual skills.

4. Career leaders that offer opportunities for advancement of persons with less than college degrees should be provided.

5. Recruitment efforts should be designed to produce a staff roughly proportional in ethnic background to the offender populations being served.

6. Ex-offenders should receive consideration for employment in parole agencies.

7. Use of volunteers should be extended substantially.

8. Training programs designed to deal with the organizational issues and the kinds of personnel required by the program should be established in each parole agency.

Commentary

This goal seeks to provide for the manpower and training required to furnish the parole services anticipated by the rest of Chapter 8. It would require a bachelor's degree of parole officers, but allow for hiring of parole personnel with less than this education to work with parole officers on a team basis. Career

ladders would exist to provide for advancement of those people. Recruitment, the goal provides, should be designed to produce a staff roughly proportional to the offender population being served. Hiring of ex-effenders and use of volunteers would be encouraged.

Virginia currently has no career ladders for persons with less than a college degree. Most of the other requirements of Goal 8.8 are possibilities in Virginia.

References

1. National Advisory Commission Report on Corrections, Standard 12.8, pp. 435-436.

2. American Bar Association Young Lawyers Section and Commission on Correctional Facilities and Services, Volunteer Parole Aid Program--Goals and Accomplishments 71-5, Washington, D.C., 1975, pp. 22 ff.

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 171-188.

Chapter 9
Jails (Local Adult Institutions)

Goal 9.1
State Inspection of Local Facilities

The General Assembly should immediately authorize the formulation of state standards for correctional facilities and operational procedures and state inspection to insure compliance, including such features as:

1. Access of inspectors to a facility and the persons therein.

2. Inspections of:

   a. Administrative area, including record-keeping procedures;
   b. Health and medical services;
   c. Offenders' leisure activities;
   d. Offenders' employment;
   e. Offenders' education and work programs;
   f. Offenders' housing;
   g. Offenders' recreation programs;
   h. Food service;
   i. Observation of rights of offenders.

3. Every detention facility for adults or juveniles should have provisions for an outside, objective evaluation at least once a year. Contractual arrangements can be made with competent evaluators.

4. If the evaluation finds the facility's programs do not meet prescribed standards, state authorities should be informed in writing of the existing conditions and deficiencies. The state authorities should be empowered to make an inspection to ascertain the facts about the existing condition of the facility.

5. The state agency should have authority to require those in charge of the facility to take necessary measures to bring the facility up to standards.

6. In the event that the facility's staff fails to implement the necessary changes within a reasonable time, the state agency should have authority to condemn the facility.

7. Once a facility is condemned, it should be unlawful to commit or confine any persons to it. Prisoners should be relocated to facilities that meet established standards until a new or renovated facility is available. Provisions should be made for distribution of offenders and payment of expenses for relocated prisoners by the detaining jurisdiction.

Commentary

This goal is intended to provide a framework within which the Commonwealth may maintain the quality of local jails. Presently, pursuant to § 53-133 of the Code, the Board of Corrections can provide minimum standards for jail construction, and minimum requirements for the care of jail prisoners. Pursuant to § 53-135, a court can enforce the Board's order. From a practical standpoint however, the dire nature of this sanction may prevent it from being a meaningful enforcement technique. While §53-173 gives the Board of Corrections an intermediate remedial power in case of noncompliance with requirements, nevertheless, there may be need

for further means of enforcing standards.

This problem may be alleviated by the case of Stinnie v. Fidler, civil action number 554-70-R, which has been before the U. S. District Court for the Eastern District of Virginia for some time. Stinnie could result in certain guidelines being enforceable as minimum due process. It could have a similar effect on Virginia's jails to that Landman v. Royster, 333 F. Supp. 621 (E.D. Va. 1971), had on its major institutions a few years ago. Litigation, however, is a lengthy and expensive manner in which to enforce basic standards of decency. This goal recommends that there be a state agency -- in this case presumably the Board of Corrections -- with authority to require that certain guidelines be observed. There should be some manner within the legitimate administrative power of the state that this can be done short of litigation or the closing down of badly needed jail facilities.

References

1. National Advisory Commission Report on Corrections, Standard 9.3, pp. 294-295.

2. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971, p. 55.

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 34-35.

Goal 9.2
Adult Intake Services

Each planning area should immediately take action, including the pursuit of enabling legislation where necessary, to establish centrally coordinated and directed adult intake services to:

1. Perform investigative services for pretrail intake screening. Such services should be conducted within 3 days and provide data for decisions regarding appropriateness of summons release, release on recognizance, community bail, conditional pretrial release or other forms of pretrial release. Persons should not be placed in detention solely for the purpose of facilitating such services.

2. Emphasize diversion of accused persons from the criminal justice system and referral to alternative community-based programs (halfway houses, drug treatment programs and other residential and nonresidential adult programs). The principal task is identifying the need and matching community services to it.

3. Offer initial and ongoing assessment, evaluation and classification services to other agencies as requested.

4. Provide assessment, evaluation and classification services that assist program planning for sentenced offenders.

5. Arrange secure residential detention for pretrial detainees at an existing community or regional correctional center or jail, or at a separate facility for pretrial detainees where feasible. Where possible accused persons awaiting trial should be diverted to release programs, and the remaining population should be only those who represent a serious threat to the safety of others.

The following principles should be followed in establishing, planning and operating intake services for adults:

1. Ideally, intake services should operate in conjunction with a community correctional facility.

2. Initiation of intake services should in no way imply that the client or recipient of its services is guilty. Protection of the rights of the accused must be maintained at every phase of the process.

3. Confidentiality should be maintained at all times.

4. Social inventory and offender classification should be a significant component of intake services.

5. Specialized services should be purchased in the community on a contractual basis.

Commentary

This goal seeks to provide the machinery by which a number of the ideas supported elsewhere in this report can be implemented. For instance, the goal provides for the mechanics by which a person could be diverted from the criminal justice process (cf. Goal 2.1), the procedure by which data would be assembled on individuals relevant to summons release, ROR, bail, etc. (Goals 3.3 - 3.5) and the fleshing out of the concept of community classification teams (Goal 5.3). Undeniably this goal is an important and integral part of this entire report.

Specifically this goal provides that each criminal justice jurisdiction should establish centrally coordinated intake services to: (1) perform investigations to determine the appropriateness of various types of pretrial release; (2) emphasize diversion by identifying individual needs and matching community services: (3) offer initial and ongoing classification services to other agencies as requested; (4) provide information to assist in program planning for sentenced offenders; (5) arrange for pretrial detention at a community or regional correctional center or jail where such detention is mandated. The goal then spells out a number of principles that should apply in establishing these intake services.

The extent of compliance with this goal in Virginia varies from almost none -- in some of the smaller rural jails -- to nearly complete compliance in some of the large metropolitan facilities in the Commonwealth. This goal does not contemplate that every jail in the state would establish such a complex program as is envisioned here. What it does contemplate is the establishment of regional facilities in less densely populated areas which would offer the comprehensive intake services here enumerated (cf. Goal 1.1, Total System Planning).

References

1. National Advisory Commission Report on Corrections, Standard 9.4, pp. 296-297.
2. American Bar Association, Standards Relating to Pretrial Release, New York, 1967.
3. National Clearinghouse on Criminal Justice Planning and Architecture, Harris County [Texas] Corrections Plan, Urbana: Univ. of Illinois, 1975, pp. 43 ff.

Goal 9.3
Pretrial Detention Admission Process

County, city or regional jails or community correctional centers should immediately reorganize their admission processing for residential care as follows:

1. In addition to providing appropriate safeguards for the community, admission processing for pretrial detention should establish conditions and qualities conducive to overall correctional goals.

2. Emphasis should be given to prompt processing that allows the individual to be aware of his circumstances and avoid undue anxiety.

3. The admission process should be conducted within the security perimeter, with adequate physical separation from other portions of the facility and from the discharge process.

4. Intake processing should include a hot water shower with soap, the option of clothing issue and proper checking and storage of personal effects.

5. All personal property and clothing taken from the individual upon admission should be recorded and stored, and a receipt issued to him. The detaining facility is responsible for the effects until they are returned to their owner.

6. Proper record keeping in the admission process is necessary in the interest of the individual as well as the criminal justice system. Such records should include: name and vital statistics; a brief personal, social, and occupational history; usual identity data; results of the initial medical examination; and results of the initial intake

interview. Emphasis should be directed to individualizing the record-taking operation, since it is an imposition on the innocent and represents a component of the correctional process for the guilty.

7. Each person should be interviewed by a counselor, social worker or other program staff member as soon as possible after reception. Interviews should be conducted in private, and the interviewing area furnished with reasonable comfort.

8. An examination of each person should be made for contagious disease for which emergency treatment is required.

Commentary

A reasoned and rational approach to the proper procedures to be followed in processing pretrial detainees is a vital component of the smooth functioning of local jails. As was comtemplated in Goal 3.4, Alternatives to Pretrial Detention, no one should be detained awaiting trial except as a last resort as dictated by public safety or the likelihood of appearing for trial. As noted in the commentary to that goal, that is consistent with present Virginia law (Code § 19.2-120; Rule 3A: 29). However, after all other alternatives have been explored, some accused persons will need to be detained. This goal spells out the procedures to be used in processing these persons. The task force regards the recommendations of this goal as critical, and suggests that immediate steps be taken to implement its reforms.

Again, in Virginia the degree of compliance with the specific recommendations of this goal varies from jail to jail. One of the biggest problems in Virginia's jails, as in jails elsewhere, is the shortage of qualified medical personnel. Because of this, it has been impossible in the past, and appears that it will be impossible for the foreseeable future, to give a thorough medical examination to each incoming pretrial detainee. This goal does recommend, however, that an examination of each person should be made for contagious diseases which endanger the health of others as well as the individual who has such diseases. This would not necessarily require the services of a physician; the American Medical Association is in the process of creating a training syllabus for jailers which would enable them to screen incoming detainees for communicable diseases. This is scheduled to be tried in the near future in six pilot states -- Georgia, Indiana, Maryland, Michigan, Washington and Wisconsin.

References

1. National Advisory Commission Report on Corrections, Standard 9.5, pp. 298-299.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 46, 52-53.
3. American Medical Association Advisory Committee to Improve Medical Care and Health Services ir Correctional Institutions, Standards and Guidelines for Jails -- Pilot Program to Improve Medical Care and Health Services in Correctional Institutions (Draft), Chicago, 1976.
4. National Sheriffs' Association, Manual on Jail Administration, Washington, D.C., 1970, VII-XI, XX.

Goal 9.4
Staffing Patterns

Every jurisdiction operating larger locally based correctional institutions, or regional correctional institutions and programs, should immediately establish these criteria for staff:

1. All personnel should be placed in a merit 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 law enforcement and fire departments.

3. Law enforcement personnel should not be assigned to the staffs local correctional centers.

4. Qualifications for correctional staff members should be set at the state level and include requirements of a high school dipolma.

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 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 inhouse 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 themselves should engage in counseling and other activities as needs indicate.

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 officer.

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.

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Commentary

As has been noted throughout the commentary in this chapter relating to local jails, the uses of such facilities in Virginia are myriad and therefore the needs of the particular jails diverse. It has been noted in reference to previous goals that the recommendations they contain are not meant to dictate exorbitant needs to localities in which jails serve specialized and unsophisticated functions. For example, Goal 9.6 on Local Correctional Facility Programming notes in its commentary that the extensive programming needs it recommends depend on a view of the jail as a regionalized community correctional center.

The task force feels this to be the direction of the future in jails, but does not wish to advocate it as the expense of localities which feel such facilities to be inappropriate to their needs. Consequently, the group expressly limited this goal on staffing patterns to jurisdictions operating "larger locally based correctional institutions," such as some of the large metropolitan jails in Virginia, or to "regional correctional institutions."

For jails which fall into either of these categories, the task force feels personnel should be on a merit status. If jails are to be more than mere lockups, which in most cases they should be, appropriately trained and remunerated personnel must be retained to staff them. In its 1973 Report on Corrections, the National Advisory Commission in reference to jail personnel:

> Those persons in the most frequent contact with inmates have a significant impact on the nature and effects of incarceration. A new and significant treatment role for the correctional workers who will replace traditional jailers is envisioned. Working under the supervision and with the advice of appropriate professionals, the correctional worker will be engaged not only in housekeeping and security tasks but also in inmate counseling and in operating programs both internal and external to the center proper. . .

The task force shares this perspective.

References

1. National Advisory Commission Report on Corrections, Standard 9.6, pp. 300-301.

2. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971, p. 61.

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 171-172.

4. Chamber of Commerce of the United States, Marshaling Citizen Power to Modernize Corrections, Washington, D.C., 1972, p. 4.

5. Governors' Mutual Assistance Program for Criminal Justice, Where We Stand in the Fight Against Crime, Washington, D.C.: National Governors' Conference, 1973, p. 155.

6. National Sheriffs' Association, Manual on Jail Administration, Washington, D.C. 1970, Chapter II.

7. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U. S. Government Printing Office, 1967, pp. 93-104.

Goal 9.5
Internal Policies

Every jurisdiction operating locally based correctional institutions and programs for adults should immediately adopt these internal policies:

1. A system of classification should be used to provide the basis for residential assignment and program planning for individuals. Segregation of diverse categories of incarcerated persons, as well as identification of special supervision and treatment requirements, should be observed.

   a. The mentally ill should not be housed in a detention facility.

   b. Since local correctional facilities are not equipped to treat addicts, they should be diverted to narcotic treatment centers.

   c. Since local correctional facilities are not proper locations for treatment of alcoholics, all such offenders should be diverted to detoxification centers and given a medical examination. Alcoholics with delirium tremens should be transferred immediately to a hospital for proper treatment.

   d. Prisoners who suffer from various disabilities should have separate housing and close supervision to prevent mistreatment by other inmates. Any potential suicide risk should be under careful supervision. Epileptics, diabetics and persons with other special problems should be treated as recommended by the staff physician.

   e. Beyond segregating these groups, serious and multiple offenders should be kept separate from those whose charge or conviction for a first or minor offense. The Commonwealth should insist on the separation of pretrial and posttrial inmates, except where it can be demonstrated conclusively that separation is not possible and every alternative is being used to reduce pretrial detention.

2. Detention rules and regulations should be provided each new admission and posted in each separate area of the facility. These regulations should cover items discussed in Goals 11.1 - 11.18 dealing with rights of offenders.

3. Every inmate has the right to visits from family and friends. The environment in which visits take place should be designed and operated under conditions as normal as possible. Maximum security arrangements should be reserved for the few cases in which they are necessary.

4. The institution's medical program should obtain assistance from external medical and health resources (state agencies, medical societies, professional groups, hospitals and clinics). Specifically:

   a. Each inmate should be examined by a physician within 24 hours after admission to determine his physical and mental condition. If the physician is not immediately available, a preliminary medical inspection should be administered by the receiving officer to detect any injury or illness requiring immediate medical attention and possible segregation from other inmates until the physician can see him.

   b. Every facility should have a formal sick call procedure that gives inmates the opportunity to present their request directly to a member of the staff and obtain medical attention from the physician.

   c. Every facility should be able to provide the services of a qualified dentist. Eyeglass fitting and other special services such as provision of prosthetic devices should be made available.

   d. Personal medical records should be kept for each inmate, containing condition on admission, previous medical history, illness or injury during confinement and treatment provided, and condition at time of release.

   e. All personnel should be trained to administer first aid.

5. Three meals daily should be provided at regular and reasonable hours. Meals should be of sufficient quantity, well prepared, served in an attractive manner and nutritionally balanced. Service should be prompt, so that hot food remains hot and cold food remains cold. Each facility should also have a commissary service.

6. The inmates' lives and health are the responsibility of the facility. Hence the facility should implement sanitation and safety procedures that help protect the inmate from disease, injury and personal danger.

7. Each dentention facility should have written provisions that deal with its management and administration. Proper legal authority, legal custody and charge of the facility, commitment and confinement rules, transfer and transportation of inmates, and emergency procedures are among the topics that should be covered.

Commentary

This goal addresses bacially two concerns: the diversion from the local jails of those who should be receiving some other type of attention and, secondly, the rights of those incarcerated in the local jails for whom diversion or pretrial release is not an appropriate alternative. In respect to the first concern, the goal provides that the mentally ill, drug addicts and alcoholics should be diverted into facilities appropriate to their needs. These recommendations are generally consistent with Goal 2.1 on diversion and would not seem unduly controversial. Where appropriate facilities exist, it would seem diversion of the categories of offenders enumerated would be a response most jail personnel would accept. However, proper classification procedures at the local level would have to be implemented to make this a realistic goal.

The remaining recommendations of Goal 9.5 would also seem uncontroversial in abstract. Unfortunately the reality of overcrowding in many local jails greatly complicates their implementation. For example, to recommend that prisoners who suffer from such disabilities as epilepsy or diabetes, or are inclined toward suicide, should receive separate housing and close supervision is undeniably desirable. However, in a badly overcrowded local jail the likelihood of such a recommendation becoming reality is remote. This is equally true of the recommendation that serious and habitual offenders be segregated from those charged

with a first or minor offense. It is contemplated by the overall perspective of this report, however, that expanded use of diversion and less extensive use of pretrial detention will significantly reduce jail overcrowding. When this is brought about, appropriate segregation should be greatly facilitated.

The remainder of this goal is devoted primarily to the rights of those incarcerated in the local jails. As such that is a good deal of overlap between the rights enumerated here, and the rights of offenders more extensively explicated in Goals 11.1 - 11.18. Here, however, the emphasis is specifically on those in the jails. Again the task force recognizes the difficulty of providing medical examinations in each local jail for each incoming inmate (cf. Goal 9.3, commentary). However, this goal reflects the view of the task force that wherever possible each inmate should be examined by a physician within 24 hours after admission. If a physician is not immediately available, this preliminary examination should be administered by the receiving officer. The important thing is to detect possible serious or communicable diseases requiring segregation, and this should be possible with a specially trained officer or qualified medical technician.

References

1. National Advisory Commission Report on Corrections, Standard 9.7, pp. 302-303.

2. Va. Code §§ 53-184, -184.1, -184.2, -185 (Repl. Vol. 1974).

3. American Bar Association, Medical and Health Care in Jails, Prisons and Other Correctional Facilities, Washington, D.C., 1973.

4. National Clearinghouse for Criminal Justic Planning and Architecture, Jackson County Health Service Unit, Urbana: University of Illinois, pamphlet dated March 1976.

5. National Institute of Law Enforcement and Criminal Justice, Health Care in Correctional Institutions, Washington, D.C.: Law Enforcement Assistance Administration, 1975, pp. 39-42.

6. National Sheriffs' Association, Manual on Jail Administration, Washington, D.C.. 1970.

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8. Newman, C., and B. Price, "Jails and Drug Treatment: A National Perspective," Federal Probation, Vol. 40, No. 1, 1976, p. 3.

9. Rudovsky, D., The Rights of Prisoners -- An American Civil Liberties Union Handbook, New York: Avon Books, 1973, pp. 97-103.

Goal 9.6
Local Correctional Facility Planning

Every jurisdiction operating locally based correctional facilities and programs for adults should immediately adopt the following programming practices:

1. A decisionmaking body should be established to follow and direct the inmate's progress through the local correctional system, either as a part of or in conjunction with the community classification team concept set forth in Goal 5.3. Members should include a parole and probation supervisor, the administrator of the correctional facility or his immediate subordinates, professionals whose services are purchased by the institution, representatives of community organizations running programs in the institution or with its residents, and inmates. This body should serve as a central information-gathering point. It should discuss with an individual inmate all major decisions pertaining to him.

2. Educational programs should be available to all residents in cooperation with a school district. Particular emphasis should be given to self-pacing learning programs, packaged instructional materials, and utilization of volunteers and paraprofessionals as instructors.

3. Vocational programs should be provided by the appropriate state agency or school district. It is desirable that coordination be offered on the state level to allow variety and to permit inmates to transfer amoung institutions in order to take advantage of training opportunities.

4. A job placement program should be operated at all community correctional centers as part of the vocational training program. Such programs should be operated by state employment agencies and local groups representing employers and local unions.

5. Each local institution should provide counseling services. Individuals showing acute problems will require professional services. Other individuals may require, on a day-to-day

basis, situational counseling that can be provided by correctional workers supervised by professionals.

6. Volunteers should be recruited and trained to serve as counselors, instructors, teachers and recreational therapists.

7. A range of activities to provide physical exercise should be available both in the facility and through the use of local recreational resources. Other leisure activities should be supported by access to library materials, television, writing materials, playing cards and games.

8. In general, internal programs should be aimed only at that part of the institutional population unable to take advantage of ongoing programs in the community.

9. Meetings with the administrator or appropriate staff of the institution should be available to all individuals and groups.

Commentary

This goal is based upon Standard 9.8 in the National Advisory Commission Report on Corrections and consequently is also somewhat dependent on that commission's view of the jail as a regionalized community correctional center. In many cases the enlarged and comprehensive nature of jail services here invisioned is appropriate to a regional jail, and excessive for small rural jails which may be serving more specialized functions. The task force feels, however, that regionalization is probably the direction of the future in jails. Moreover, even if a jail is to serve no more sophisticated purpose than a pretrial lockup, some productive activity for those held therein is obviously required (cf. Goal 3.8).

As might be expected based on the wide diversity of uses to which Virginia's jails are put, compliance with this goal varies greatly in the Commonwealth. For the most part, however, the jails in Virginia do not offer any extensive programming. The jail study conducted by the Crime Commission in 1975 found that, out of 84 jails responding to a questionnaire, only 12 had a drug abuse counseling program, only 15 a program of counseling for alcoholics, only 42 had recreational facilities and 34 any type of educational or vocational program. If, as many commentators have noted, boredom is the most common problem in jail, it seems increased programming would be desirable regardless of one's philisophy on the proper function of jails.

In reference to making available educational programs to those held in local jails (paragraph 2) the task force feels that where such programming is not available through local school districts, it could perhaps be furnished by the Rehabilitative School Authority (Code §§ 22-41.1 through 22-41.7). In those cases in which the local school district or authority cannot provide its jail with educational programs, the RSA could serve a valuable supplementary role.

References

1. National Advisory Commission Report on Corrections, Standard 9.8, pp. 304-305.
2. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: U.S. Government Printing Office, 1971, p. 59.
3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, p. 424.
4. Cohen, F., "Jail Reform: An Experiment that Worked," Criminal Law Bulletin, Vol. 12, 1976, p. 758.
5. National Sheriffs' Association, Manual on Jail Administration, Washington, D.C., 1970, Chapter XXI.
6. National Sheriffs' Association, Standards for Inmates' Legal Rights, Standard 20, Washington, D.C., 1974.
7. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 175.
8. Virginia State Crime Commission, Report of the Advisory Task Force to Study Local Jails for Virginia State Crime Commission, Richmond, December 15, 1975, pp. 50-55.

Goal 9.7
Jail Release Programs

Every jurisdiction operating locally based correctional facilities and programs for convicted adults immediately should develop release programs drawing community leadership, social agencies and business interests into action with the criminal justice system.

1. Because programs rely heavily on the participant's self-discipline and personal responsibility, the offender should be involved as a member of the program planning team.

2. Release programs have special potential for utilizing specialized community services to meet offenders'

special needs. This capability avoids the necessity of service duplication within corrections.

3. Weekend visits and home furloughs should be planned regularly, so that eligible individuals can maintain ties with family and friends.

4. Work release should be made available to persons in all offense categories who do not present a serious threat to others.

5. The offender in a work-release program should be paid at prevailing wages. The individual and the work-release agency may agree to allocation of earnings to cover subsistence, transportation cost, compensation to victims, family support payments and spending money. The work-release agency should maintain strict accounting procedures open to inspection by the client and others.

6. Program location should give high priority to the proximity of job opportunities. Various modes of transportation may need to be utilized.

7. Work release may be operated initially from an existing jail facility, but this is not a long-term solution. Rented and converted buildings (such as YMCA's, YWCA's, motels, hotels) should be considered to separate the transitional program from the image of incarceration that accompanies the traditional jail.

8. When the release program is combined with a local correctional facility, there should be separate access to the work-release residence and activity areas.

9. Educational or study release should be available to all inmates (pretrial and convicted) who do not present a serious threat to others. Arrangements with a local school district and nearby colleges should allow participation at any level required (literacy training, adult basic education, high school or general educational development equivalency and college level).

10. Arrangements should be made to encourage offender participation in local civic and social groups. Particular emphasis should be given to involving the offender in public education and the community in corrections efforts.

Commentary

This goal provides a logical complement to the previous one by seeking to provide programs in the community to balance those provided in the jail. The task force feels this balancing of internal with community programs to be necessary to encourage the development of the skills necessary to live lawfully within society, and to prevent duplication of services within corrections.

The specific programs envisioned include: weekend visits and home furloughs, work-release involving employment at prevailing wages and educational or study release. The goal also seeks to encourage offender participation in local civic and social groups. The type of work release programs contemplated envisions the eventual acquisition of buildings other than the jail from which they would operate.

Presently in Virginia there are a number of functioning work release programs in the jails; however, there is little compliance with the recommendation that jails develop weekend visits and home furloughs as part of their programming. The system of weekend sentences served by misdemeanants in some local jails observes the spirit of the recommendation.

References

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2. Alper, B., Prisons Inside-Out, Cambridge, Mass.: Ballinger Publishing Co., 1974, pp. 71-85.
3. Morris, N., "Lessons from the Adult Correctional System of Sweden," Federal Probation, Vol. 30, No. 4, 1966, p. 3.
4. National Sheriffs' Association, Manual on Jail Administration, Washington, D.C., 1970, Chapter 23.
5. National Sheriffs' Association, Standards for Inmates' Legal Rights, Standard 20, Washington, D.C., 1974.

Goal 9.8
Local Facility Evaluation and Planning

Jurisdictions evaluating the physical plants of existing local facilities for adults or planning new facilities should consider the following where appropriate:

1. A comprehensive survey and analysis should be made of criminal justice needs and projections in a particular service area.

   a. Evaluation of population levels and projections should assume maximum use of pretrial release programs and post-adjudication alternatives to incarceration.

   b. Diversion of sociomedical problem cases (alcoholics, narcotic addicts, mentally ill and vagrants) should be provided for.

2. Facility planning, location and construction should:

   a. Develop, maintain and strengthen offenders' ties with the community. Therefore, convenient access to work, school, family, recreation, professional services and community activities should be maximized.

   b. Increase the likelihood of community acceptance, the availability of contracted programs and purchased professional services, and attractiveness to volunteers, paraprofessionals and professional staff.

   c. Afford easy access to the courts and legal services to facilitate intake screening, presentence investigations, postsentence programming and pretrial detention.

3. A spatial "activity design" should be developed.

   a. Planning of sleeping, dining, counseling,

visiting, movement, programs and other functions should be directed at optimizing the conditions of each.

b. Unnecessary distance between staff and resident territories should be eliminated.

c. Transitional spaces should be provided that can be used by "outside" and inmate participants and give a feeling of openness.

4. Security elements and detention provisions should not dominate facility design.

a. Appropriate levels of security should be achieved through a range of unobtrusive measures that avoid the ubiquitous "cage" and "closed" environment.

b. Environmental conditions comparable to normal living should be provided to support development of normal behavior patterns.

c. All inmates should be accommodated in individual rooms arranged in residential clusters of 8 to 24 rooms to achieve separation of accused and sentenced persons, male and female offenders, and varying security levels and to reduce the depersonalization of institutional living.

d. A range of facility types and the quality and kinds of spaces comprising them should be developed to provide for sequential movement of inmates through different programs and physical spaces consistent with their progress.

5. Applicable health, sanitation, space, safety, construction, environmental and custody codes and regulations must be taken into account.

6. Consideration must be given to resources available and the most efficient use of funds.

a. Expenditures on security hardware should be minimized.

b. Existing community resources should be used for provision of correctional services to the maximum feasible extent.

c. Shared use of facilities with other social agencies not conventionally associated with corrections should be investigated.

d. Facility design should emphasize flexibility and amenability to change in anticipation of fluctuating conditions and needs and to achieve highest return on capital investment.

7. Prisoners should be handled in a manner consistent with humane standards.

   a. Use of closed-circuit television and other electronic surveillance is detrimental to program objectives, particularly when used as a substitute for direct staff-resident interaction. Experience in the use of such equipment also has proved unsatisfactory for any purposes other than traffic control or surveillance of institutional areas where inmates' presence is not authorized.

   b. Individual residence space should provide sensory stimulation and opportunity for self-expression and personalizing the environment.

8. Existing community facilities should be explored as potential replacement for, or adjuncts to, a proposed facility.

9. Planning for network facilities should include no single component, or institution, housing more than 300 persons.

Commentary

This goal seeks to provide comprehensive guidelines for the planning and construction of new local correctional facilities for adults, or for the modification of existing institutions to meet documented needs. Obviously this is a topic of great interest to localities in the process of planning new jails. Such localities have a legitimate interest in specificity and consistency in the guidelines they need observe. This goal seeks to be as specific as the nature of this report as an overview of corrections in Virginia permits. However, localities desiring comprehensive planning guidance should look to the forthcoming report of the task force commissioned by the Board of Corrections specifically to address standards for jail construction. This goal is meant to complement that report.

This goal, in common with most all enlightened thinking in the field of jail planning and construction, recommends individual rooms. It further advocates that these rooms be arranged in residential clusters of 8 to 24 to allow for segregation of the number of different categories of persons habitually found in jails. Another aspect of this arrangement is that it allows for different modalities of treatment impossible in the more traditional facility. In the larger jails, whether urban or regionalized, designing a jail to facilitate segregation and differential programming is clearly desirable.

The task force also recommends that expenditures on "security hardware" -- i.e. bars, steel doors, locks -- should be minimized. There are a number of ways this can be done that do not jeopardize necessary security. One is to use barless windows too small to allow passage of a human body; another to use metal-covered doors with view panels instead of the formerly ubiquitous "clang" doors of steel bars that dehumanize the environment. Locks are of course not expendable in an environment which by definition requires security, but they should be designed to serve a complex set of functions including: (1) allowing the inmate to enter his own room and lock it, thus reducing the need for administrative segregation and for lengthy lockups of entire populations of a facility merely to isolate the recalcitrant few; (2) allowing for correctional officer override in those cases where the privacy of the inmate's individual room must be violated for security reasons; and (3) allowing for emergency mass release where required.

The type of facility this goal envisions would incorporate minimal internal security, relying rather on extensive perimeter security. This has the effect of making the inmate's surroundings as habitable as possible, but does not subject surrounding communities to increased danger of escapes. Another effect is to make the expense of construction of such a facility commensurate with the building costs of more traditional institutions which depend on massive internal security. This is so because internal security is achieved at a tremendous expense in steel and concrete: concrete has to be thicker, supporting beams heavier. Thus, such a facility as contemplated by this goal should cost no more than a traditional jail in spite of designing the facility with programming and humane treatment in mind, rather than simply to detain prisoners.

One final aspect of this goal should be addressed. As noted at the beginning, the contemplation of the goal is not necessarily construction. If the physical plants of existing local facilities can be modified to meet the needs of the locality, and to achieve the standards suggested here, this should certainly be done. An example of a successful use of such an approach is the Potter County (Texas) Correctional Center which was adapted from an abandoned stockade at the Amarillo Air Force Base. The total cost of renovation of this facility was $50,000.00, or $3.90

a square foot. This represents a substantial saving over the cost of new construction.

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Chapter 10
Major Institutions

Goal 10.1
Planning New Correctional Institutions

Before a correctional agency administering a state institutions for adults constructs a new physical facility for incarcerating such persons, a comprehensive planning effort should conclusively demonstrate the need for such facility. Where new construction is deemed necessary, these factors should characterize the planning and design process:

1. A collaborative planning effort should identify the purpose of the physical plant. Planners for new facilities should include provision for future specialization of new facilities or parts thereof in accordance with, for instance, community-based correctional programs.

2. The size of the inmate population of the projected institutuion should be small enough to allow security without excessive regimentation, surveillance equipment or repressive hardware.

3. The location of the institution should be selected on the basis of its proximity to:

   a. The communitites from which the inmates come.

b. Areas capable of providing or attracting adequate numbers of qualified line and professional staff members of racial and ethnic origin compatible with the inmate population, and capable of supporting staff lifestyles and community service requirements.

c. Areas that have community services and activities to support the correctional goal, including social services, schools, hospitals, universities and employment opportunities.

d. The courts and auxiliary correctional agencies.

e. Public transportation.

4. The physical environment of a new institution should be designed with consideration to:

a. Provision of privacy and personal space.

b. Minimization of noise.

c. Reduction of sensory deprivation.

d. Encouragement of constructive inmate-staff relationships.

e. Provision of adequate utility services.

5. Provision also should be made for:

a. Dignified facilities for inmate visiting.

b. Individual and group counseling.

c. Education, vocational training and workshops designed to accommodate small numbers of inmates and to facilitate supervision.

d. Recreation yards for each housing unit as well as larger recreational facilities accessible to the entire inmate population.

e. Medical and hospital facilities.

Commentary

In regard to institutional planning, there are two basic philosophies. One exhorts building, the turn of mind the National Advisory Commission described as an "edifice complex"; the other emphasizes planning. This goal is of the latter school. By no stretch of the imagination should this be taken to mean that the task force advocates a moratorium on prison and jail construction. Although that was a rather popular stance a few years ago, and was espoused by such groups as the National Council on Crime and Delinquency, it has now become apparent that community alternatives to prison cannot be viewed as the only answer (cf. Goal 6.1, commentary).

Before a new correctional institution is built, all alternatives to incarcertation should be explored. Construction should be based upon projections of prison populations that make maximum use of appropriate alternatives for offenders whose crimes do not mandate incarceration. The reasons why this must be done inhere not only in the inhumanity of incarceration for any but the most inhumane crimes, but also in its inordinate expense. On a nationwide basis more than two thirds of the offenders in the correctional system are under community supervision on probation and parole, but 80 per cent of the correctional budget goes to custody. Other alternatives must be explored if, for no other reason, because institutions are a tremendous financial drain on a state already fiscally hard-pressed.

Certainly the reality of overcrowding in Virginia is undeniable and steps must be taken to deal with it as soon as possible. The specific provisions of this goal are meant to provide guidance in those cases where, as is presently the case in the Commonwealth, a well-documented need for construction does exist. For the future, however, it is impossible to overemphasize the point that uncoordinated and abortive planning will almost certainly result in further overcrowding or similar crises in corrections. With Virginia's recent Comprehensive Action Plan for fiscal years 1975 - 1984 having to be largely rethought after the 1976 General Assembly, it would seem that that document, perhaps in conjunction with recent studies of corrections done by the State Crime Commission, could form a foundation for this type of comprehensive planning.

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Goal 10.2
Modification of Existing Institutions

Each correctional agency administering state institutions for adult offenders should undertake immediately a program of examining existing institutions to minimize their use where possible, and where this is not possible, of modifying existing institutions to minimize the deleterious effects of excessive regimentation and harmful physical environments imposed by physical plants.

1. A collaborative planning effort should be made to determine the legitimate role of each institution in the correctional system.

2. If the average population of an institution is too large to facilitate the purpose of security without excessive regimentation, as recommended by paragraph 2 of Goal 10.1, it should be reduced.

3. Consideration should be given to the abandonment of adult institutions that do not fit the location criteria of paragraph 3 of Goal 10.1.

4. The physical environments of the adult institutions to be retained should be modified to achieve the objectives stated in paragraph 4 of Goal 10.1 as to:

   a. Provision of privacy and personal space.

   b. Minimization of noise.

   c. Reduction of sensory deprivation.

d. Reduction in size of inmate activity spaces to facilitate constructive inmate-staff relationships.

e. Provision of adequate utility services.

5. Plant modification of retained institutions should also be undertaken to provide larger, more dignified and more informal visiting facilities; spaces for formal and informal individual and group counseling, education and vocational training, workshops, recreational facilities, and medical and hospital facilities; and such additional program spaces as may fit the identified purposes of the institution.

6. A reexamination of the purposes and physical facilities of each existing institution should be undertaken at least every 5 years, in connection with continuing long-range planning for the entire corrections system.

Commentary

This goal seeks to encourage the modification of existing institutions to make these facilities as humane and uncoercive as their function as secure institutions will permit. Some will no doubt indignantly object that prisons are not supposed to be humane -- they are rather to be punitive environments for those who have broken the law and deserve punishment. This is not the place for extensive debate on the proper purpose of imprisonment. However, this goal stands for the proposition that the punishment which may be an appropriate function of incarceration is not the type of punishment which inheres in unnecessary regimentation and barbaric living conditions. For the average inmate, the fact of imprisonment is punishment enough. Further measures which can be shown to serve none but punitive ends are, except perhaps for the incorrigible few, counterproductive.

Perhaps the most significant portion of this goal is paragraph 6 calling for continuing reexamination of the purposes and physical facilities of each institution at least every five years. Many of the problems in corrections today are derivative from inflexible adherence to correctional philosophies with well-documented records of failure. The best and most comprehensive planning can be no better than the steps built into it to avoid its own obsolescence.

References

1. National Advisory Commission Report on Corrections, Standard 11.2, pp. 360-361.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, p. 340.
3. American Law Institute, Model Penal Code, Philadelphia, 1962, § 304.2.
4. Hickey, W., "Modern Correctional Design," Crime and Delinquency Literature, Vol. 4, 1972, pp. 116-121.
5. Moyer, F., and E. Flynn, eds., Correctional Environments, Urbana: University of Illinois, 1971.
6. Nagel, W., The New Red Barn: A Critical Look at the Modern American Prison, New York: Walker and Co., 1973.

Goal 10.3
Social Environment of Institutions

Each correctional agency operating adult institutions, and each institution, should undertake immediately to reexamine and where appropriate 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.

Commentary

This goal is an admitted generalization. It is easy to agree that the social environment of institutions should "stimulate offenders to change their behavior." Penal facilities have allegedly been in this business since the opening of the Elmira Reformatory in New York in 1876. However, there are a number of specific things that can be done to make this goal a meaningful one.

First of all, the institution's organizational structure should permit open communication and provide for maximum involvement of all sectors of the institutional population in the decisionmaking process. This openness should include the creation of inmate advisory committees, as well as use of a policy of participative management (cf. Goal 13.5) in which inmates could contribute ideas regarding those aspects of the institutional regimen which directly concern them. Such a system would

of course not mandate that these ideas be controlling; however, the mere fact that they are solicited and considered could have a salutary effect on the institutional population. Inmate newspapers and magazines also should be supported.

For the social environment of institutions to foster change and creative growth, institutions should make explicit their goals and program thrust. Inmates as well as staff must know where they stand, as well as what is expected of them. Ambivalent correctional goals result in confusion and bitterness, as well as in the creation of institutional programs that often work at cross purposes. To combat this institutions should clearly delineate goals and emphasize these goals in staff recruitment and training. Performance standards should be developed to measure program effectiveness. In addition, public understanding and support of correctional goals should be solicited through an intensive public relations campaign designed to explain these goals.

Due to the fact that most institutions contain significant numbers of minority offenders, positive steps should be taken in the institution to recognize these groups and encourage their integrity through use of ethnic studies courses, hiring of significant numbers of minority group staff and involvement of minority residents of the community in institutional programming. Practices and procedures which run contrary to these goals should be phased out.

Another aspect of developing an institutional environment conducive to reintegration of offenders into society is maintaining maximum contact between the offender and society while he is incarcerated. The public often forgets that all but one to two per cent of those who are imprisoned ultimately return to society. Obviously, then, it is important to minimize the isolating and desocializing aspects of imprisonment. An important caveat to this recommendation, however, is contained in the realization that the types of persons that should be in institutions in the future will be only the most chronically anti-social. We can no longer afford the luxury of incarcerating any but those who fall into this category. And if persons of this nature compose the inmate populations of our institutions, obviously a good deal of discretion will have to be used in involving them in the community. This should not detract from encouraging citizen involvement in institutional programming.

References

1. National Advisory Commission Report on Corrections, Standard 11.3, pp.363-367.
2. Alper, B., Prisons Inside-Out, Cambridge, Mass.: Ballinger Publishing Co., 1974, Chapters 5, 6.
3. American Correctional Association, Correctional Classification and Treatment, Cincinnati: W. H. Anderson Co., 1975.

4. Department of Corrections, Division of Adult Services, Minimum Operational Standards, Richmond, 1974.
5. Goffman, E., Asylums - Essays on the Social Situation of Mental Patients and Other Inmates, Garden City, N.Y.: Doubleday Anchor, 1961.
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8. Morris, N., The Future of Imprisonment, Chicago: Univ. of Chicago Press, 1974, Chapter 4.
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Goal 10.4
Educational and Vocational Training

Each institution for adults should reexamine immediately its educational and vocational training programs to insure that they meet standards that will individualize education and training. These programs should be geared directly to the reintegration of the offender into the community.

1. The Commonwealth should have a comprehensive, continuous educational program for inmates.

    a. The educational department of the institution should establish a system of accountability to include:

        (1) An annual internal evaluation of achievement data to measure the effectiveness of the instruction program against stated performance objectives.

        (2) An appraisal comparable to an accreditation process, employing community representatives, educational department staff and inmate students to evaluate the system against specific objectives. This appraisal should be repeated at least every 3 years.

b. The educational curriculum should be developed with inmate involvement. Individualized and personalized programming should be provided.

c. The educational department should have at least one learning laboratory for basic skill instruction. Occupational education should be correlated with basic academic subjects.

d. In addition to meeting state certification requirements, teachers should have additional course work in social education, reading instruction and abnormal psychology.

e. Each educational department should make arrangements for education programs at local colleges where possible, using educational opportunities programs, work-study programs for continuing education and work-furlough programs.

f. Each educational department should have a guidance counselor (preferably a certificated school psychologist) and a student personnel worker.

g. Social and coping skills should be part of the educational curriculum, particularly consumer and family life education.

2. Each institution should have prevocational and vocational training programs to enhance the offender's marketable skills.

a. The vocational training program should be part of a reintegrative continuum, which includes determination of needs, establishment of program objectives, vocational training and assimilation into the labor market.

b. The vocational training curriculum should be designated in short, intensive training modules.

c. Individual prescriptions for vocational training programs should include integration of academic work, remedial reading and math, high school graduation and strong emphasis on the socialization of the individual as well as development of trade skills and knowledge.

d. Vocational programs for offenders should be intended to meet their individual needs and not the needs of the instructor or the institution. Individual programs should be developed in cooperation with each inmate. Vocational education and training programs should be made relevant to the employment world.

(1) Programs of study about the work world and job readiness should be included in prevocational or orientation courses.

(2) Work sampling and tool technology programs should be completed before assignment to a training program.

(3) Use of vocational skill clusters, which provide the student with the opportunity to obtain basic skills and knowledge for job entry into several related occupations, should be incorporated into vocational training programs.

e. Vocational programs should be selected on the basis of the following factors related to increasing offenders' marketable skills:

(1) Vocational needs analysis of the inmate population.

(2) Job market analysis of existing or emerging occupations.

(3) Job performance or specification analysis, including skills and knowledge needed to acquire the occupation.

f. All vocational training programs should have a set of measurable behavioral objectives appropriate to the program. These objectives should comprise a portion of the instructor's performance evaluation.

g. Vocational instructors should be licensed or credentialed under rules and regulations for public education in the Commonwealth.

h. Active inservice instructor training programs should provide vocational staff with information on the latest trends, methods and innovations in their fields.

i. Class size should be based on a ratio of 12 students to 1 teacher.

j. Equipment should require the same range and level of skills to operate as that used by private industry.

k. Trades advisory councils should involve labor and management to assist and advise in the ongoing growth and development of the vocational program.

l. Private industry should be encouraged to establish training programs within the residential facility and to commit certain numbers of jobs to graduates from these training programs.

m. The institution should seek active cooperative programs and community resources in vocational fields with community colleges, federally funded projects and private community action groups.

n. On-the-job training and work release should be used to the fullest extent possible.

o. An active job placement program should be established to help residents find employment related to skills training received.

3. Features applicable both to educational and vocational training programs should include the following:

a. Emphasis should be placed on programmed instruction, which allows maximum flexibility in scheduling, enables students to proceed at their own pace, gives immediate feedback and permits individualized instruction.

b. A variety of vocational equipment and instructional materials -- including audio tapes, teaching machines, books, computers and television -- should be used to stimulate individual motivation and interest.

c. Selected offenders should participate in instructional roles.

d. Community resources should be fully utilized.

e. Correspondence courses should be incorporated into educational and vocational training programs to make available to inmates specialized instruction that cannot be obtained in the institution or the community.

f. Credit should be awarded for educational and vocational programs equivalent to or the same as that associated with these programs in the free world.

Commentary

This rather voluminous goal attempts to deal in a great amount of specific detail with two highly significant aspects of institutional programming: education and vocational training. These aspects of correctional programming in Virginia's state institutions are presently handled by the Rehabilitative School Authority (see Code sections cited below). Because of the specific nature of the goal itself, extensive commentary is not required to explain the various aspects of it. Only some few recommendations of the goal seem to require further explanation.

First of all, in reference to the goal generally, the task force recognized the impracticality of requiring programming as extensive as it contemplates in every adult institution in the Commonwealth. The intent of the task force was rather that such programming be available within the correctional system. Sophisticated classification procedures should facilitate access to these programs for those who are interested in them and can benefit by them (cf. Goals 5.1 - 5.3).

In reference to vocational training, needless to say that training should be germane to the job market. Training in archaic and irrelevant skills does little to aid a former offender in the difficult period of transition back into society at relase. It may even alienate him. (Another aspect of this same problem is the difficulty in becoming licensed to perform certain jobs on release (cf. Goal 11.10). For this reason, Goal 10.4 calls for selection of vocational programs in the institution based upon a number of "factors related to increasing offenders' marketable skills."

References

1. National Advisory Commission Report on Corrections, Standard 11.4, pp. 368-372.
2. Va. Code §§ 22-41.1 through 22-41.7 (Cum. Supp. 1975).
3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 30.
4. Department of Corrections, Division of Adult Services, Minimum Operational Standards, Richmond, 1974, §§ 2400, 3100.
5. Hosford, R., and C. Moss, eds., The Crumbling Walls - Treatment and Counseling of Prisoners, Urbana: Univ. of Illinois Press, 1975.
6. Morris, N., The Future of Imprisonment, Chicago: Univ. of Chicago Press, 1974.

Goal 10.5
Special Offender Types

Each correctional agency operating major institutions, and each institution, should reexamine immediately its policies, procedures and programs for the handling of special problem offenders -- the addict, the recalcitrant offender and the emotionally disturbed -- and implement substantially the following:

1. The commitment of addicts to correctional institutions should be discouraged, and correctional administrators should actively press for the development of alternative methods of dealing with addicts, preferably community-based alternatives. Recognizing, however, that some addicts will commit crimes sufficiently serious to warrant a formal sentence and commitment, each institution must experiment with and work toward the development of institutional programs that can be related eventually to community programs following parole or release and that have more promise in dealing effectively with addiction.

   a. Immediate steps should be taken to limit, or if possible eliminate, the passage of contraband drugs into correctional institutions.

   b. Specially trained and qualified staff should be assigned to design and supervise drug offender programs, staff orientation, involvement of

offender in working out their own programs and coordination of institutional and community drug programs.

c. Former drug offenders should be recruited and trained as change agents to provide program credibility and influence offenders' behavior patterns.

d. In addition to the development of social, medical and psychological information, the classification process should identify motivations for change and realistic goals for the reintegration of the offender with a drug problem.

e. A variety of approaches should provide flexibility to meet the varying needs of different offenders. These should include individual counseling, family counseling and group approaches.

f. Programs should emphasize "alternatives" to drugs. These should include opportunities to affiliate with cultural and subcultural groups, social action alliances and similar groups that provide meaningful group identification and new social roles which decrease the desire to rely on drugs. Methadone and other drug maintenance programs are not appropriate in institutions.

g. The major emphasis in institutional programs for drug users should be the eventual involvement of the users in community drug treatment programs upon their parole or release.

h. Because of the inherent limitations and past failure of institutions to deal effectively with drug addiction, research and experimentation should be an indispensable element of institutional drug treatment programs. Priorities include:

   (1) Development of techniques for the evaluation of correctional therapeutic communities.

   (2) Development of methods for surveying inmates to determine the extent of drug abuse and treatment needs.

(3) Evaluation of program effectiveness with different offender types.

2. Each institution should make special provisions other than mere segregation for inmates who are serious behavior problems and an immediate danger to others.

   a. The classification process should be used to attempt to obtain an understanding of the recalcitrant offender and to work out performance objectives with him.

   b. A variety of staff should be provided to meet the different needs of these offenders.

      (1) Staff selections should be made through in-depth interviews. In addition to broad education and experience backgrounds, personal qualities of tolerance and maturity are essential.

      (2) Continuous on-the-job staff evaluation and administrative flexibility in removing ineffective staff are needed to meet the stringent demands of these positions.

      (3) Training programs designed to implement new knowledge and techniques are mandatory.

   c. Recalcitrant offenders who are too dangerous to be kept in the general institutional population should be housed in a unit of not more than 26 individual rooms providing safety and comfort.

      (1) Good surveillance and perimeter security should be provided to permit staff time and efforts to be concentrated on the offenders' problems.

      (2) No individual should remain in the unit longer than is absolutely necessary for the safety of others.

      (3) Wherever possible the inmate of the special unit should participate in regular recreation, school, training,

visiting and other institutional programs. Individual tutorial or intensive casework services should also be available.

(4) Tranquilizers and other medication should be used only under medical direction and supervision.

d. Procedures should be established to monitor the programs and services for recalcitrant offenders, and evaluation and research should be conducted by both internal staff and outside personnel.

3. The Department of Mental Health and Mental Retardation should provide for the psychiatric treatment of emotionally disturbed offenders. Psychotic offenders should be transferred to mental health facilities. Treatment of the emotionally disturbed should be under the supervision and direction of psychiatrists.

a. Program policies and procedures should be clearly defined and specified in a plan outlining a continuum of diagnosis, treatment and aftercare.

b. A diagnostic report including a physical examination, medical history and tentative diagnosis of the nature of the emotional disturbance should be developed. Diagnosis should be a continuing process.

c. There should be a program plan for each offender based on diagnostic evaluation; assessment of current needs, priorities and strengths; and the resources available within both the program and the correctional system. The plan should specify use of specific activities; for example, individual, group and family therapy. Need for medication, educational and occupational approaches, and recreational therapy should be identified. The plan should be evaluated through frequent interaction between diagnostic and treatment staff.

d. All psychiatric programs should have access to a qualified neurologist and essential radiological and laboratory services, by contractual or other agreement.

e. In addition to basic medical services, psychiatric programs should provide for education, occupational therapy, recreation and psychological and social services.

f. On transfer from diagnostic to treatment status, the diagnostic report, program prescription and all case material should be reviewed within 2 working days.

g. Within 4 working days of the transfer, case management responsibility should be assigned and a case conference held with all involved, including the offender. At this time, treatment and planning objectives should be developed consistent with the diagnostic program prescription.

h. Cases should be reviewed each month to reassess original treatment goals, evaluate progress and modify the program as needed.

i. All staff responsible for providing service in a living unit should be integrated into a multi-disciplinary team and should be under the direction and supervision of a professionally trained staff member.

j. Each case should have one staff member (counselor, teacher, caseworker or psychologist), assigned to provide casework services. The psychologist or caseworker should provide intensive services to those offenders whose mental or emotional disabilities are most severe.

k. Reintegration of the offender into the community or program from which he came should be established as the primary objective.

l. When an offender is released from a psychiatric treatment program directly to the community, continued involvement of a trained therapist during the first 6 months of the patient's reintegration should be provided, at least on a pilot basis.

Commentary

This, another lengthy goal, addresses itself to three offender types that cause a great deal of problems for the institutions in which they are held: the drug addict; the recalcitrant offender; and the mentally or emotionally disturbed inmate. Ideally only the second category of offender would be a consideration of correctional institutions. The addict should have been diverted into an appropriate drug treatment program before institutionalization; the offender with psychiatric problems into a mental health facility. It would be indeed naive, however, to assume that this is entirely the case.

It is almost inevitable that persons with drug problems will find themselves in institutions as long as some crimes which are derivative from addiction are of sufficient seriousness to mandate incarceration. For these offenders it is important that rehabilitative drug programming be made available. Virginia currently does so, but not in so extensive and comprehensive a manner as advocated by this goal. Virginia's Parole Board does require, as a condition of parole in appropriate cases, involvement in community drug treatment programs; for those who are released outright, mechanisms of control to urge released offenders into such programs have not yet been formulated. This recommendation would seem to be a reasonable use of graduated release for a category of offenders who habitually experience inordinate difficulty in keeping "clean."

The task force is troubled by the problem of what to do with the mentally or emotionally disturbed offender. Ideally correctional institutions are no place for such persons. It seems incontestable, however, that the vagaries of the law relating to criminal responsibility continue to result in a certain number of emotionally disturbed persons being sentenced to penal facilities. As long as this is true, some more effective manner of dealing with these persons than is currently available in the Commonwealth must be developed.

The task force believes that primary responsibility for developing extensive treatment for the emotionally disturbed or psychotic should logically rest with the Department of Mental Health and Mental Retardation. Section three of this goal suggests a number of specific procedures that would be appropriate in the development of such treatment capacity. By making these recommendations, the task force did not wish to suggest that Virginia presently makes no provision for the mentally disturbed inmate; it was felt, however, that a more organized and systematic approach, involving intensive coordination between the Department of Corrections and the Department of Mental Health and Mental Retardation, could greatly improve the present situation.

With regard to the recalcitrant offender, there are no easy answers. Nevertheless, paragraph two strives to make some specific suggestions about how best to deal with this extremely problematic group. The emphasis of this section of Goal 10.5 is threefold: adequate classification to enable understanding of the recalcitrant offender's motivations and appropriate performance objectives for him; a highly trained and varied staff to work with this category of offender; and creation of a special segregation unit for the severely recalcitrant offender, which unit would still offer programs and services, but in a restructured and individualized manner.

In effect, this goal advocates the use of what has been termed an "adjustment center" for severely recalcitrant inmates (cf. Cook et al., below). Such a center is an area of the institution set aside for intensive treatment of the problem inmate with the objective of ultimately returning him to the institutional population. The adjustment center is designed to supplant solitary confinement as a primary reaction to inmate hostility in the institution. The task force recognizes, however, that solitary confinement is in some cases the only viable option for dealing with the intractable inmate. Use of this sanction, however, must be rigidly controlled (cf. Goal 11.4).

References

1. National Advisory Commission Report on Corrections, Standard 11.5, pp. 373-378.

2. Va. Code §§ 19.2-167 through 19.2-182 (Repl. Vol. 1975); 37.1-63 through 37.1-119 (Repl. Vol. 1970).

3. American Law Institute, Model Penal Code, Philadelphia, 1962, §§ 304.2 (2) (e).

4. Cook, A., et al., "Methods of Handling the Severely Recalcitrant Inmate," in American Correctional Association's Correctional Classification and Treatment, Cincinnati: W.H. Anderson Co., 1975, pp. 267-273.

5. Hosford, R., and C. Moss, The Crumbling Walls -- Treatment and Counseling of Prisoners, Urbana: Univ. of Illinois Press, 1975, pp. 53-61, 147-164, 191-236.

6. Keve, P., Imaginative Programming in Probation and Parole, Minneapolis: Univ. of Minnesota, 1967, pp. 179-200.

7. National Institute of Mental Health, Civil Commitment of Special Categories of Offenders, Washington, D.C.: U. S. Government Printing Office, 1971.

Goal 10.6
Women
in Major Institutions

The Commonwealth should reexamine immediately its policies, procedures and programs for women offenders, and make such adjustments as may be indicated to make these policies, procedures and programs more relevant to the problems and needs of women.

1. Facilities for women offenders should be considered an integral part of the overall corrections system, rather than an isolated activity or the responsibility of an unrelated agency.

2. Comprehensive evaluation of the woman offender should be developed through research. The Commonwealth should determine differences in the needs between male and female offenders and implement differential programming.

3. Vocational training programs should be expanded. Vocational programs that promote dependency and exist solely for administrative ease should be abolished. A comprehensive research effort should be initiated to determine the aptitudes and abilities of the female institutional population. This information should be coordinated with labor statistics predicting job availability. From data so obtained, creative vocational training should be developed which will provide a woman with skills necessary to allow independence.

4. Adequate diversionary methods for female offenders should be implemented. Community programs should be available to women. Special attempts should be made to create alternative programs in community centers and halfway houses or other arrangements, allowing the woman to keep her family with her.

5. State correctional agencies with such small numbers of women inmates as to make adequate facilities and programming uneconomical should make every effort to find alternatives to imprisonment for them, including parole and local residential facilities. For those

women inmates for whom such alternatives cannot be employed, contractual arrangements should be made with nearby states with more adequate facilities and programs.

Commentary

Today it is particularly important to deal with the individualized needs of women in our institutions. Statistics have shown that the number of women committing serious crimes -- the type of crimes resulting in incarceration -- has risen dramatically over the years. (See Fogel at pages cited below; The Contemporary Woman and Crime, below.)

The woman in prison has been referred to as "the forgotten offender" by those who have studied her situation. A number of reasons have been proposed for why women generally have had this status. One reason is that women generally form but a small percentage of overall prison populations. Another is that women inmates themselves, unlike their male counterparts, have generally not called attention to their situation. Also the crimes most commonly committed by women tend to attract less public scrutiny than those committed by men. Whatever the reasons for past neglect, the task force felt that women in correctional facilities were overdue attention.

Virginia's female institutional population is held in the Correctional Center for Women at Goochland. At the time of the last intensive corrections study of the State Crime Commission, completed in May 1975, the center had a population of 200 inmates ranging from 17 to 72 years of age. Those wishing a detailed look at the working of that institution should consult that document.

The task force feels strongly that research to determine the differences in needs of male and female offenders, with the ultimate goal being differential programming, needs to be undertaken. In Virginia, as in most states, there is a need for relevant programming for women. Relevant in this context should be understood to comprehend training to develop independence on release. Many women who find themselves in prison are there because they have no skills with which to support themselves, and have no one else upon whom they can depend.

Another aspect of women in institutuions that interested the task force was the possibility of creating a coeducational institution in the future. While not wishing explicitly to recommend the creation of such a facility, neither did the group wish to preclude the possibility of

such an institution being created in the future. In this country there have been a number of recent developments in this area. In Massachusetts the Women's Reformatory at Framingham was in the process of being converted to a coeducational facility in 1974. The first such program for adults was created at a federal prison in Fort Worth, Texas in 1972. In addition, the trend nationally seems clearly to be toward coeducation in the armed forces and educational institutions. Perhaps a coeducational unit of the Virginia corrections system is something that should be looked at as part of the total system planning advocated by Goal 1.1.

References

1. National Advisory Commission Report on Corrections, Standard 11.6, pp. 378-380.
2. Alper, B., Prisons Inside-Out, Cambridge, Mass.: Ballinger Publishing Co., 1974, pp. 94-96.
3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 34.
4. American Law Institute, Model Penal Code, Philadelphia, 1962, § 304.2 (2) (f).
5. Fogel, D., ". . . We Are the Living Proof. . .," Cincinnati: W.H. Anderson Co., 1975, pp. 48-50.
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7. Mitford, J., Kind and Usual Punishment, New York: Alfred A. Knopf, 1973, Chapter 2.
8. National Institute of Mental Health, The Contemporary Woman and Crime, Washington, D.C.: U.S. Government Printing Office, 1975.
9. Report of the President's Task Force on Prisoner Rehabilitation, The Criminal Offender -- What Should be Done? Washington, D.C.: U.S. Government Printing Office, 1970, p. 20.
10. Virginia State Crime Commission, Phase IV Report -- Study of Corrections, Richmond, May 1975, pp. 196-250.
11. Ward, D., and G. Kassebaum, Women's Prison, Chicago: Aldine Publishing Co., 1965.

Goal 10.7
Religious Programs

Each institution should immediately adopt policies and practices to permit the development of a full range of religious programs.

1. Program planning procedures should include religious history and practices of the individual, to maximize his opportunities to pursue the religious faith of his choice while confined.

2. The chaplain should play an integral part in institutional programs.

3. To prevent the chaplain from becoming institutionalized and losing touch with the significance of religion in free society, sabbaticals should be required. The chaplain should return to the community and participate in religious activities during the sabbatical. Sabbatical leave also should include further studies, including study of religions and sects alien to the chaplain but existing in his institution.

4. The chaplain should locate religious resources in the civilian community for those offenders who desire assistance on release.

5. The correctional administrator should develop a tolerant attitude toward the growing numbers of religious sects and beliefs and provide all reasonable assistance to their practice.

6. Community representatives of all faiths should be encouraged to participate in religious services and other activities within the institution.

Commentary

This goal, read in conjunction with Goal 11.6, is meant to insure and make meaningful the offender's exercise of religious freedom. Virginia is generally in compliance with its recommendations. The task force emphasizes that it feels the present procedure of reimbursement of chaplains through the Chaplain Service of the Churches of Virginia, Inc., rather than by the Commonwealth, is desirable. Nothing in this goal contemplates a change in that procedure.

References

1. National Advisory Commission Report on Corrections, Standard 11.7, pp. 381-382.
2. Va. Code § 53-33 (Repl. Vol. 1974).

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 29.
4. Department of Corrections, Division of Adult Services, Minimum Operational Standards, Richmond, 1974, §3000.
5. Fourth United Nations Congress on Prevention of Crime and Treatment of Offenders, Standard Minimum Rules for the Treatment of Prisoners, New York: United Nations Department of Economic and Social Affairs, 1970, Rules 41 and 42.
6. Krantz, S., et al., Model Rules and Regulations on Prisoners' Rights and Responsibilities, St. Paul, Minn.: West Publishing Co., 1973, pp. 32-42.

Goal 10.8
Recreation Programs

The Commonwealth should develop and implement immediately policies and practices for the provision of recreation activities as an important resource for changing behavior patterns of offenders.

1. Every institution should have a full-time trained and qualified recreation director with responsibility for the total recreation program of that facility. He also should be responsible for integration of the program with the total planning for the offender.

2. Program planning for every offender should include specific information concerning interests and capabilities related to leisure-time activities.

3. Recreation should provide ongoing interaction with the community while the offender is incarcerated. This can be accomplished by bringing volunteers and community members into the institution and taking offenders into the community for recreational activities. Institutional restriction in policy and practice which bars use of community recreational resources should be relaxed to the maximum extent possible.

4. The range of recreational activities to be made available to inmates should be broad in order to meet a wide range of interests and talents and stimulate the development of the constructive use of leisure time that can be followed when the

offender is reintegrated into the community. Recreational activities to be offered inmates should include music, athletics, painting, writing, drama, handcrafts, and similar pursuits that reflect the legitimate leisure-time activities of free citizens.

Commentary

The task force feels that recreation programs should be an important and integral part of institutional programming. The basic function of recreation in the institution is twofold: it helps to relieve the boredom which permeates so many institutions and serves as a breeding ground for hostility; and it serves an important health purpose as well by giving inmates an opportunity to get exercise and stay in shape.

One proviso to the recommendation of this goal was felt to be mandated by the task force. The group notes that the goal's provisions do not apply to state prisoners in local jails. Many local jails do not have the facilities to provide meaningful recreation opportunities for their own populations; to require them to include state prisoners in their recreation programs would further complicate this picture. State prisoners should be transported to state facilities as soon as possible so that they may participate in state programs.

References

1. National Advisory Commission Report on Corrections, Standard 11.8, pp. 383-384.
2. Va. Code §§ 53-33 (Repl. Vol. 1974).
3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 32.
4. Department of Corrections, Division of Adult Services, Minimum Operational Standards, Richmond, 1974, § 3300.
5. Menninger, K., The Crime of Punishment, New York: The Viking Press, 1968, pp. 168-174 (page references to Viking Compass edition).

Goal 10.9
Counseling Programs

Each institution should begin immediately to develop planned, organized, ongoing counseling programs, in conjunction with the implementation of Goal 10.3, Social Environment of Institutions, which is intended to provide a social-emotional climate conducive to the motivation of behavioral change and interpersonal growth.

1. Three levels of counseling programs should be provided:

   a. Individual, for self-discovery in a one-to-one relationship.

   b. Small group, for self-discovery in an intimate group setting with open communication.

   c. Large group, for self-discovery as a member of a living unit community with responsibility for the welfare of that community.

2. Institutional organization should support counseling programs by coordinating group living, education, work and recreational programs to maintain an overall supportive climate. This should be accomplished through a participative management approach.

3. Each institution should have a full-time counseling supervisor responsible for developing and maintaining an overall institutional program through training and supervising staff and volunteers; a bachelor's degree with training in social work, group work, or counseling psychology or equivalents should be required. Each unit should have at least one qualified counselor to train and supervise nonprofessional staff. Trained ex-offenders and paraprofessionals with well-defined roles may be used.

4. Counseling within institutions should be given high priority in resources and time.

Commentary

Counseling has long occupied a significant place in correctional programming and the task force felt that this should continue. Because the term counseling can be used in so many different ways, Goal 10.9 explicitly limits its use of the word to three levels of counseling programs: 1. individual; 2. small group; and 3. large group. These three levels of counseling programs are all used to some extent now in Virginia's institutions.

Needless to say, a counselor should be well-trained. To insure proper expertise in counseling programs a full-time counseling supervisor should be employed at each institution. A bachelor's degree with training in social work, group work or counseling psychology or equivalents should be required; preferably a master's degree and six years of such experience should be pre-requisite. It is important to emphasize the credentials of the counseling supervisor as the success or failure of the various programs in his charge depends largely upon his expertise.

The goal also provides that trained ex-offenders and paraprofessionals with well-defined roles may be used in institutional counseling. Moreover, "peer counseling" by specifically trained and supervised inmates may be greatly beneficial (see: Hosford and Moss, below, at pp. 35-44 and 45-52).

Finally, the task force wished made clear the distinction in paragraph 3 between an "institution" and a "unit." In Virginia the word institution refers to one of the major correctional institutions administered by the Division of Adult Services. These institutions include the State Penitentiary, the James River and Powhatan Correctional Centers, Southampton Correctional Center, Bland Correctional Center, St. Brides, Staunton Correctional Center and the Virginia Correctional Center for Women. The new maximum security facility at Mecklenburg is also an institution. In contrast, a unit refers to one of the roughly 17 permanent and 10 temporary units under the Bureau of Correctional Field Units which supply a work force for the Department of Highways. Obviously it is more practical to provide more sophisticated counseling programs in the institutions, and Goal 10.9 has made this distinction.

References

1. National Advisory Commission Report on Corrections, Standard 11.9, pp. 385-386.

2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 25.

3. Department of Corrections, Division of Adult Services, Minimum Operational Standards, Richmond, 1974, § 2600.

4. Harrison, R., "An Overview of Group Counseling in the California Department of Corrections," in American Correctional Association's Correctional Classification and Treatment, Cincinnati: W. H. Anderson Co., 1975, pp. 188-196.

5. Hosford, R., and C. Moss, eds., The Crumbling Walls -- Treatment and Counseling of Prisoners, Urbana: Univ. of Illinois Press, 1975.

6. Woodward, H., and F. Chivers, "Teaching Motivation to Inmates," Federal Probation, Vol. 40, No. 1, 1976, p. 41.

Goal 10.10 Prison Labor and Industries

Each correctional agency and each institution operating industrial and labor programs should take steps immediately to reorganize their programs to support the reintegrative purpose of correctional institutions.

1. Prison industries should be diversified and job specifications defined to fit work assignments to offenders' needs as determined by release planning.

2. All work should form part of a designed training program with provisions for:

   a. Involving the offender in the decision concerning his assignment.

   b. Giving him the opportunity to achieve on a productive job to further his confidence in his ability to work.

   c. Assisting him to learn and develop his skills in a number of job areas.

   d. Instilling good working habits by providing incentives.

3. Joint bodies consisting of institution management, inmates, labor organizations and industry should be responsible for planning and implementing a work program useful to the

offender, efficient and closely related to skills in demand outside the prison.

4. Training modules integrated into a total training plan for individual offenders should be provided. Such plans must be periodically monitored and flexible enough to provide for modification in line with individuals' needs.

Commentary

Work in prisons has been made to serve a number of different purposes -- to punish, to alleviate boredom, to promote discipline, to maintain the institution, to defray operation costs, to provide training and wages -- and these purposes have often been contradictory. The task force believes that the job-training function should have the highest priority, at the sacrifice of the other purposes of prison labor mentioned above where those aspects are incompatible with the acquiring of vocational expertise.

Specifically this goal provides that all work should form part of a designed training program which should involve the offender in the decision concerning his assignment, give him the opportunity to achieve on a productive job, assist him to learn skills in a number of job areas and instill good work habits by providing incentives. The goal is silent on what the institution should do with the offender who declines the opportunity to participate in a work program which offers him these benefits. Norval Morris provides an interesting answer in his book The Future of Imprisonment, the book that has recently formed the basis for the new federal prison in Butner, North Carolina. Morris suggests that although all rehabilitation programs should be voluntary, two things should be required of inmates who refuse to participate in these programs. These two things are work at a prison job and regular attendance at group counseling sessions. Of this former requirement, Morris writes:

> A program of useful work should be established at the prison, not as a treatment program, but simply because this is regarded in our society as a substantial part of the life of the ordinary adult. There is no good reason that inmates should be exempted from this responsibility.

Morris goes on to note, however:

> By the same token, inmates in the work program should be compensated at a rate competitive with that paid

> for similar work on the outside and should return part of their salary for room and board. Those permitted educational leave in lieu of daytime work should be similarly compensated.

This second aspect of prison work programs -- i.e. compensation at a competitive rate -- was rejected by the task force as a portion of Goal 10.10. The National Advisory Commission made such commensurate reimbursement a goal for implementation by 1978 in its 1973 Report on Corrections, and noted:

> The ability of correctional agencies to implement this objective will depend on the development of more efficient institutional industries, better training for inmates, more skilled supervision, and motivational techniques. Achievement of this goal might be accompanied by the establishment of an obligation on the part of the inmate to reimburse the State for a reasonable share of its cost in maintaining him.

The Florida Division of Corrections suggested a similar response to the increased costs of commensurate reimbursement, noting that if this were to be implemented, "the cost of all services provided by the State would be deducted from the wage scale authorized." Virginia might explore such approaches if it deems compensation at a prevailing wage to be desirable at some time in the future.

References

1. National Advisory Commission Report on Corrections, Standard 11.10, pp. 387-388.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 23.
3. American Law Institute, Model Penal Code, Philadelphia, 1962, §§ 303.7, 304.8.
4. Department of Corrections, Division of Adult Services, Minimum Operational Standards, Richmond, 1974, § 2400.
5. Florida Division of Corrections, Response to National Standards and Goals for Corrections, Tallahassee: Department of Health and Rehabilitation, February 1974, p. 167.
6. Fogel, D., ". . . We Are the Living Proof . . .," Cincinnati: W. H. Anderson Co., 1975, pp. 43-48.
7. Hawkins, G., The Prison, Chicago: Univ. of Chicago Press, 1976, Chapter 5.
8. Mitford, J., Kind and Usual Punishment, New York: Alfred A. Knopf, 1973, Chapter 11.
9. Morris, N., The Future of Imprisonment, Chicago: Univ. of Chicago Press, 1974, p. 116.

Chapter 11
Rights of Offenders

Goal 11.1
Access to the 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. This goal does not require the creation of any new causes of action or procedures for the protection of the rights of persons under correctional supervision.

1. The appropriate governmental body having jurisdiction over matters enumerated herein should make available to persons under correctional authority adequate remedies that permit, and are administered to provide, prompt resolution of suits, claims and petitions. Where adequate remedies exist, they should be available to offenders, including pre-trial detainees, on the same basis as to citizens generally.

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 not apply.

4. Offenders should not be prevented by correctional authority, administrative policies or actions from filing timely appeals of convictions or other judgements; 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. Transporation 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.

Commentary

Although the task force chose to call this a goal, there is nothing here that is not already being done in Virginia. The group felt, however, that the constitutional rights here addressed were of sufficient importance to mandate inclusion in any comprehensive report on corrections. While there is little disagreement with the proposition that offenders should be assured access to courts, the task force is concerned over the great number of frivolous petitions filed by inmates. The group concludes, as did the American Bar Association and the National Advisory Commission, that there is no

practical way to eliminate the filing of frivolous petitions. Any type of administrative screening would raise serious constitutional questions, and any orientation or educational program appealing to inmates to exercise self-restraint can expect little success as long as inmates have nothing to lose by filing countless petitions.

Although cognizent of the burden that Virginia courts must bear in a system where inmates have free access to judicial remedies, the task force concluded that the burden must be borne in order to protect the inmate's constitutional rights. It should be noted that while preserving free access to the courts, the Supreme Court of Virginia has provided guidelines in identifying frivolous petitions, and has recognized that frivolous claims will not be permitted to monopolize court time. See, e.g., Slayton v. Parrigan, 215 Va. 27, 205 S.E.2d 680 (1974). The United States Supreme Court has also recently recognized that some note of finality must be observed in habeas corpus cases. Stone v. Powell, __ U. S. __, 96 S. Ct. 3037 (1976).

Another significant manner in which the burden on the courts in regard to offenders' complaints can be lessened is by full imposition of administrative remedies. This goal embraces the principle that, in asserting the right of access to the courts, offenders must first use and exhaust administrative remedies. The task force is aware of recent precedent to the contrary. In McCray v. Burrell, 516 F.2d 357 (4th Cir. 1975), for example, it was held that state prisoners claiming deprivations of civil rights were not required to exhaust available state or administrative remedies before bringing suit under the Civil Rights Act. The task force feels, nonetheless, that resort to available administrative remedies prior to turning to the courts is no more than logical in an era when the courts are badly overcrowded.

Perhaps the most significant aspect of Goal 11.1 is the recognition of the inmate's right to "pursue remedies in connection with civil legal problems." The task force feels it is an unsound practice to prevent inmates from filing civil suits unrelated to their personal liberty. When offenders must wait years to commence actions, they are placed under great disadvantage in garnering witnesses and preserving evidence. The only limitations on the inmate's right to pursue "civil legal problems," should be those limitations necessitated by reasonable requirements of correctional security and scheduling. Section 53-305 of the Code of Virginia, and following sections, preserves the right of inmates to pursue civil legal remedies.

References

1. National Advisory Commission Report on Corrections, Standard 2.1, pp. 23-25.
2. 28 U.S.C. §§ 2241-2255 (1970) (federal habeas corpus).
3. Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680 (1970).
4. Civil Rights Act, 42 U.S.C. § 1983 (1970).
5. Va. Code §§ 8-596 through 8-608.1 (Cum. Supp. 1975) (habeas corpus).
6. Va. Code §§ 8-704 through 8-714 (Cum. Supp. 1975) (mandamus).
7. Dowd v. United States ex rel. Cook, 340 U.S. 206 (1951).
8. Ex Parte Hull, 312 U.S. 546 (1941).
9. Christman v. Skinner, 468 F.2d 723 (2d Cir. 1972).
10. Almond v. Kent, 459 F.2d 200 (4th Cir. 1972).
11. Blanks v. Cunningham, 409 F.2d 220 (4th Cir. 1969).
12. Smith v. Superintendent, 214 Va. 359, 200 S.E.2d 523 (1974).
13. American Bar Association, Standards Relating to Post-Conviction Remedies, New York, 1967.
14. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 15, paragraph 10.
15. National Council on Crime and Delinquency, Model Act for the Protection of Rights of Prisoners, New York, 1972, § 6.
16. Palmer, J., Constitutional Rights of Prisoners, Cincinnati: W. H. Anderson Co., 1973, pp. 27-28.
17. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 84.
18. Rudovsky, D., The Rights of Prisoners--An American Civil Liberties Union Handbook, New York: Avon Books, 1973, pp. 41-59.

Goal 11.2
Access to Legal Services

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of offenders to have access to legal assistance, through counsel or counsel substitute, with problems or proceedings relating to their custody, control, management or legal affairs while under correctional authority. Correctional authorities should facilitate access to such assistance and assist offenders affirmatively in pursuing their legal rights. Where appropriate governmental authority should furnish adequate attorney representation and lay representation to meet the needs of offenders without the financial resources to retain such assistance privately.

The proceedings or matters to which this goal applies include the following:

1. Direct appeal from a judgment of conviction and such other postconviction proceedings, including habeas corpus, which present challenges to conviction or confinement not patently frivolous;

2. Probation revocation hearings;

3. Parole revocation hearings in which the ultimate decision is likely to involve legal or other skills the parolee is unlikely to possess;

4. Grievance proceedings within the correctional institution;

5. Disciplinary proceedings imposing major penalties or deprivations;

6. Civil proceedings involving an offender's personal affairs.

In the exercise of the foregoing rights:

1. Attorney representation should be required for all proceedings or matters related to the foregoing items 1 and 2, and for all proceedings related to item 3 where attorney representation is deemed to be required because of the presence of legal issues. Law students, if approved by rule of court or other proper authority, may provide consultation, advice and initial representation of pro se postconviction petitions.

2. In all proceedings or matters described herein, counsel substitutes (law students, correctional staff, inmate paraprofessionals or other trained paralegal persons) may be used to provide assistance to attorneys of record or supervising attorneys.

3. Counsel substitutes may provide representation in proceedings or matters described in foregoing items 4 and 6, provided the counsel substitute has been oriented and trained by qualified attorneys or educational institutions and receives continuing supervision from qualified attorneys.

4. Major deprivations or penalties should include loss of "good time," assignment to isolation status or

fine. Major deprivations or penalties do not include transfers to other institutions, transfers to higher security or custory status or other administrative classification or reclassification.

5. Correctional authorities should assist inmates in making confidential contact with attorneys and lay counsel. This assistance includes visits during normal institutional hours, uncensored correspondence, telephone communication and special consideration for after-hour visits where requested on the basis of special circumstances.

Commentary

The primary problem in attempting to formulate guidelines for offender access to legal services is that of achieving a meaningful balance between overly broad discretion and rules of thumb too specific to be workable. This problem can be clearly seen in the area of furnishing counsel to indigent habeas corpus petitioners. The present procedure calls for furnishing counsel in situations where the petition raises claims not patently frivolous. Cooper v. Haas, 210 Va. 279, 170 S.E. 2d 5 (1969); Darnell v. Peyton, 208 Va. 675, 160 S.E.2d 749 (1968). While more specific guidance for the appointing judge would be desirable in these cases, it is difficult to envision what form such guidance could take. The present procedure depends on a faith in the realization by the appointing judge of his obligation to act fairly and without arbitrariness. Retention of this procedure in the above goal is indicative of a renewal of that faith.

A similar, and perhaps more significant problem is found concerning violations of constitutional rights cognizable under the Civil Rights Act, 42 U.S.C. § 1983. Given that much of such litigation can be seen as frivolous, federal courts do not often appoint counsel to represent indigent inmates, and appointment of counsel is seen as a privilege to be granted solely in the exercise of a court's sound discretion. Sewell v. Kennedy, 22 F. Supp 115 (E.D. Va. 1963).

Another area of controversy is the area of access to legal services is that of representation at parole grant and revocation hearings. While the National Advisory Commission explicitly noted that citizen volunteers could perhaps serve a useful purpose at a parole grant hearing, the feeling of the task force is that this is not in fact the case. The consensus was that such volunteer participation would merely confuse and protract the proceedings. Consequently, the parole grant procedure was not included in the goal. In reference to parole revocation hearings, room was left for the parole board, in

it's discretion, to request the appropriate court to appoint counsel where the issues presented seem to require legal expertise (cf. Goal 8.4).

Finally, in regard to grievance procedures, disciplinary proceedings and civil matters, it is important to note that the goal allows for qualified counsel substitute as a possible alternative to legal representation. No attempt is being made to insinuate lawyers into every category of offender complaint; rather the present Goal 11.2 attempts to differentiate those areas in which legal representation is a necessity for adequate realization of constitutional rights, as opposed to those areas in which it would be a luxury at best and a positive hindrance to correctional administration at worst.

References

1. National Advisory Commission Report on Correction, Standard 2.2, pp. 26-28.
2. American Bar Association, Standards Relating to the Defense Function, Standards 3.1 (c) and (d), New York, 1967.
3. American Bar Association, Standards Relating to Post-Conviction Remedies, Standard 4.4, New York, 1967.
4. American Bar Association, Standards Relating to Probation, Standard 5.4, New York, 1970.
5. Va. Code § 16.1-173 (Repl. Vol. 1975).
6. Va. Code §§ 19.2-157 through 19.2-163 (Repl. Vol. 1975).
7. Va. Code § 53-21.2 (Repl. Vol. 1974).
8. Rules of The Supreme Court of Virginia, Rule 3A:31.
9. Wolff v. McDonnell, 418 U.S. 539 (1974).
10. Gagnon v. Scarpelli, 411 U.S. 778 (1973).
11. Morrissey v. Brewer, 408 U.S. 471 (1972).
12. Argersinger v. Hamlin, 407 U.S. 25 (1972).
13. Johnson v. Avery, 393 U.S. 128 (1967).
14. Mempa v. Rhay, 389 U.S. 128 (1967).
15. Chewning v. Cunningham, 368 U.S. 443 (1962).
16. Gardner v. McCarthy, 503 F.2d 733 (9th Cir. 1974).
17. Adams v. Carlson, 488 F.2d 619 (7th Cir. 1973).
18. Landman v. Royster, 333 F. Supp. 621 (E.D. Va. 1971).
19. Association of State Correctional Administrators, Uniform Correctional Policies and Procedures, Columbia, S.C., p. r.
20. Krantz, S., et al., Model Rules and Regulations on Prisoners' Rights and Responsibilities, St. Paul, Minn.: West Publishing Co., 1973, pp. 167-168.
21. Palmer, J., Constitutional Rights of Prisoners, Cincinnati: W. H. Anderson Co., 1973, pp. 77-93, 105-107, 120-122.

22. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 64-66.

23. Rudovsky, D., The Rights of Prisoners--An American Civil Liberties Union Handbook, New York: Avon Books, 1973, pp. 41-59.

Goal 11.3
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.

Commentary

The rights of inmates to possess and have legal materials is an issue which has been extensively litigated in the past few years. In Younger v. Gilmore, 404 U.S. 15 (1971), the United States Supreme Court affirmed a lower court ruling which recognized the right of access to courts to include "all the means a defendant or petitioner might require to get a fair hearing from the judiciary on all charges brought against him or grievances alleged by him." Gilmore v. Lynch, 319 F. Supp. 105, 110 (N.D. Cal. 1970). The result was a finding of denial of equal protection of the laws to those denied adequate research materials in prison libraries.

The extent of the requirements of the Younger decision has yet to be clearly delineated by subsequent lower court decisions. Traditionally, prison regulations imposing limitations on the manner in which inmates can conduct legal research have been upheld where such regulations do not frustrate access to courts. See, e.g., Gittlemacker v. Prasse, 428 F.2d 1 (3d Cir. 1970).

The task force feels that because offenders in Virginia have free access to legal services (cf. Goal 11.2), no curtailment of access to courts results from a less than complete availability of research materials. Consequently the group modified the recommendation of the National Advisory Commission to make Goal 11.3 more amenable to economic realities. The "reasonable access" envisioned by the goal should consist of providing, where economically feasible, a law library consisting of a state constitution and state statutes, decisions and procedural rules; federal case law materials; court rules and practice

treatises; one or more legal priodicals to facilitate current research; and appropriate digests and indexes for the above.

References

1. National Advisory Commission Report on Corrections, Standard 2.3, pp. 29-30.
2. Hatfield v. Bailleaux, 290 F.2d 632 (9th Cir. 1961).
3. United States ex rel. Mayberry v. Prasse, 225 F. Supp. 752 (E.D. Pa. 1963).
4. Bolden v. Pegelow, 218 F. Supp. 152 (E.D. Va. 1963).
5. American Bar Association, Standards Relating to Post-Conviction Remedies, Standard 3.1, New York, 1967.
6. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 15, paragraph 10.
7. Palmer, J., Constitutional Rights of Prisoners, Cincinnati: W. H. Anderson Co., 1973, pp. 88-91.
8. Special Committee on Law Library Services to Prisoners, American Association of Law Libraries, Recommended Minimum Collection for Prison Law Libraries, Chicago, 1972.

Goal 11.4
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, or prevention of riot or escape. This should not be interpreted to proscribe such limited physical force as required to deal with recalcitrant offenders who refuse to move or conform to reasonable correctional rules designed to insure institutional order.

3. Solitary or segregated confinement as a disciplinary or punitive measure except as appropriate and then not extending beyond 15 days' duration per offense.

4. Any deprivation of clothing, bed and bedding, light, ventilation, heat, exercise, balanced diet or hygenic necessities, unless necessary for the health or safety of an inmate as certified by a physician.

5. Any act or lack of care, whether by willful act or neglect, that injures or significantly impairs the health of any offender.

6. Infliction of mental distress, degradation or humiliation.

Correctional authorities should:

1. Evaluate their staff periodically to identify persons who may constitute a threat to offenders and where such individuals are identified, reassign or discharge them as permitted by the State Personnel Act.

2. Develop institution classification procedures that will identify violence-prone offenders and where such offenders are identified, insure greater supervision, segregation or other appropriate measures.

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.

Commentary

The function of this goal -- the prevention of physical abuse and excessively punitive treatment of offenders while incarcerated -- is one that arouses little controversy. However, while realizing the desirability of limiting physical and psychological sanctions within the confines of an institution, it is also necessary to recognize the necessity of maintaining some effective punishment for the incorrigible.

With this in mind, the goal attempts to proscribe all punitive practices within the institution not absolutely necessary to the maintenance of institutional order. The major area of controversy in formulating this goal was the allowance of fifteen days' solitary confinement per offense. The feeling of the task force is that without this addition allowing for longer and consecutive sentences to solitary confinement, the effect of the segregation as a correctional technique for preservation of order would be largely lost.

Also, the task force feels that correctional authorities must be given discretion in the use of moderate force to deal with recalcitrant offenders who stage "sit down strikes" and the like within institutions. The force needed to deal with such situations may be no more than physically moving individuals from one area to another, yet without the proviso of paragraph 2, this goal could be interpreted to prohibit such a response.

References

1. National Advisory Commission Report on Corrections, Standard 2.4, pp. 31-33.
2. Va. Code § 53-55 (Repl. Vol. 1974) (punishment of any prisoner by whipping, etc., prohibited).
3. Weems v. United States, 217 U.S. 349 (1910).
4. Logan v. United States, 144 U.S. 263 (1892).
5. United States v. Georvassilis, 498 F.2d 883 (6th Cir. 1974).
6. Woodhous v. Commonwealth, Mem. Dec. 15,075 (4th Cir. 7/7/71).
7. Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968).
8. Wright v. McMann, 387 F.2d 519 (2d Cir. 1967).
9. Holt v. Sarver, 309 F. Supp. 362 (E.D. Ark. 1970), aff'd, 442 F.2d 304 (8th Cir. 1971).
10. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 24.
11. Annotation, "Prison - Assault by Prisoner," American Law Reports, third series, Vol. 41, 1972, p. 1021.
12. National Council on Crime and Delinquency, Model Act for the Protection of Rights of Prisoners, New York, 1972, §§ 2, 3.
13. National Sheriffs' Association, Standards for Inmates' Legal Rights, Washington, D.C., 1974, Standards 1, 2, 11.
14. Palmer, J., Constitutional Rights of Prisoners, Cincinnati: W. H. Anderson Co., 1973, pp. 15-24, 50-56.
15. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 50-51.
16. Rudovsky, D., The Rights of Prisoners--An American Civil Liberties Union Handbook, New York: Avon Books, 1973, pp. 29-38.

Goal 11.5
Healthful Surroundings

Each correctional agency should immediately examine and take action to fulfill the right of each person in its custody to a healthful place in which to live. After a reasonable time to make changes, a residential facility that does not meet the requirements set forth in state health and sanitation laws should be deemed a nuisance and abated.

The facility should provide each inmate with:

1. His own room or cell of adequate size.

2. Heat or cooling as appropriate to the season to maintain a reasonable temperature in the comfort range.

3. Natural and artificial light.

4. Clean and decent installations for the maintenance of personal cleanliness.

5. Recreational opportunities and equipment; when climatic conditions permit, recreation or exercise in the open air.

Healthful surroundings, appropriate to the purpose of the area, also should be provided in all other areas of the facility. Cleanliness and occupational health and safety rules should be compiled with.

Independent comprehensive safety and sanitation inspections should be performed annually by qualified personnel: state or local inspectors of food, medical, housing and industrial safety who are independent of the correctional agency. Correctional facilities should be subject to applicable state and local statutes or ordinances.

Commentary

Antiquated and poorly designed facilities have traditionally been a problem for correctional administrators. Until recently not even minimal comforts and conveniences have been required in prisons. The modern trend of the courts, however, has been to recognize a right

to minimum decency in prison. See, e.g., Holt v. Sarver, 309 F. Supp. 362 (E.D. Ark. 1970), aff'd. 442 F.2d 304 (8th Cir. 1971).

In approving this goal the task force is not unmindful of the practical and economic difficulties connected with individual rooms or cells for inmates. Nevertheless, the group concluded that individual cells were desirable and should be sought wherever economically feasible. Each institution being planned for the future should, if at all possible, conform to this goal.

Another controversial point was the recommendation of appropriate cooling to maintain seasonal comfort. The task force means the language "maintain a reasonable temperature in the comfort range" to embody the flexible standard of "reasonable comfort" and feels that it should be left to the discretion of correctional authorities as to when, if ever, air conditioning would be appropriate.

References

1. National Advisory Commission Report on Correction, Standard 2.5, pp. 34-35.
2. Va. Code § 53-55 (Repl. Vol. 1974) (recreation and religious services).
3. Woodhous v. Commonwealth, Mem. Dec. 15,075 (4th Cir. 7/7/71).
4. Pugh v. Locke,
5. McLaughlin v. Royster, 346 F. Supp. 297 (E.D. Va. 1972).
6. Sinclair v. Henderson, 331 F. Supp. 1123 (E.D. La. 1971).
7. Jones v. Wittenberg, 323 F. Supp. 93 (N.D. Ohio 1971).
8. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 15, paragraph 7.
9. Association of State Correctional Administrators, Uniform Correctional Policies and Procedures, Columbia, S.C., 1972, p. 7.
10. National Council on Crime and Delinquency, Model Act for the Protection of the Rights of Prisoners, New York, 1972, § 1.
11. National Sheriffs' Association, Standards for Inmates' Legal Rights, Washington, D.C., 1974, Standard 3.
12. Fourth United Nations Congress on Prevention of Crime and Treatment of Offenders, Standard Minimum Rules for the Treatment of Prisoners, New York: United Nations Department of Economic and Social Affairs, 1970.

Goal 11.6
Medical Care

Each correctional agency (state and local) should take immediate steps to fulfill the right of offenders to medical care. This should include services guaranteeing physical, mental and social well-being as well as treatment for specific deseases or infirmities. Every state correctional institution should provide at least the following:

1. A prompt examination by a physician upon commitment to each facility maintained by the department of corrections.

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 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.

The prescription, dispensing and administration of medication should be under strict medical and pharmaceutical supervision.

Commentary

Inmates in correctional institutions often enter such institutions in need of medical and dental care that they have not previously received prior to incarceration. Goal 11.6 recognizes this fact and attempts to deal with it by providing for a prompt examination by a

physician upon commitment. However, no such requirement for local jails is here suggested, both because such facilities are not intended to serve the same function as state correctional institutions, and because of the economic impracticality of employing a doctor at all of Virginia's nearly one hundred local jails. (Goal 9.4 deals with medical care in local jails.)

The fundamental problem for any goal attempting to deal realistically with medical care in correctional institutions is: what standard of care is to be held out as desirable? The National Advisory Commission, in framing its closely related Standard 2.6, felt the standard "should not be 'what the individual was accustomed to,'" which could result in an unacceptably low level of medical care. Rather Standard 2.6 seeks to insure medical care "comparable in quality and availability to that obtainable by the general public..." The task force feels this standard of care, particularly in a state suffering from a shortage of medical personnel for many of its unincarcertaed citizens, to be impractical. This realization does not, however, detract from the obligation of corrections to provide the highest quality medical care reasonably obtainable and the specifics of Goal 11.6 set out the minimum care that is to be offered to all inmates.

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Goal 11.7
Searches

Each correctional agency should immediately develop and implement policies and procedures governing searches and seizures to insure that the rights of persons under their authority are observed.

1. Persons supervised in the community should be subject to searches when correctional authorities reasonably believe that such searches are necessary to maintain adequate supervision.

2. Correctional agencies operating institutions should develop a plan for making administrative searches of facilities and persons confined in correctional institutions. The plan shall provide for:

   a. Avoiding undue or unnecessary force, embarrassment or indignity to the individual.

   b. Using non-intensive sensors and other technological advances instead of body searches wherever feasible.

   c. Conducting searches no more frequently than reasonably necessary to control contraband in the instutution or to recover missing or stolen property.

   d. Respecting an inmate's rights of property owned or under his control, as such property is authorized by institutional regulations.

   e. Publication of the plan.

Commentary

The authority to conduct searches is one of the major components by which security is maintained by correctional authorities in institutions and is an important factor in community programs such as probation, parole and work release. Clearly there is a need in institutions for periodic searches to control contraband. However, there is also a need to conduct these searches in a fair and reasonable manner in order to avoid harassment, real or apparent.

As for searches of those on probation, parole and other community programs, the task force drafted the goal in conformity with the overwhelming weight of legal precedent, which holds that searches of probation and parole clients are justified when the officer reasonably believes that such search is necessary in the performance of his duties.

Regarding searches in institutions, the task force agreed to a general guideline which would protect the inmate against unnecessary force as well as provide protection for his authorized property. However, the group decided to defer to the court the exact details of search procedures. Recent cases such as Robinson v. United States, 414 U.S. 218 (1973), which dealt with a police officer's custodial search incident to arrest, suggest that the courts are re-examining the area of custodial searches. The task force notes that correctional authorities should stay abreast of case law in this area and should not attempt to draft specific procedures which could quickly become outdated as case law continues to evolve.

Thus, this goal preserves the search mechanism for control of contraband, but also provides some restrictions to prevent searches for purposes of harassment.

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Goal 11.8 Nondiscriminatory Treatment

Each correctional agency should immediately develop and implement policies and procedures assuring the right of offenders not be 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 in 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.

Commentary

The object of this goal is to insure that institutions in Virginia be prohibited from denying like treatment to offenders because of reasons unrelated to security. It should be emphasized, however, that the nondiscrimintoary treatment advocated by this goal is not intended to preclude totally segregation or other such measures. Although, on its face, segregation might seem patently discriminatory, it is undeniable that it is sometimes necessary for maintenance of control, e.g. in emergency situations involving confrontation between groups.

Regarding discrimination based on religion, see 11.16, commentary.

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5. Holt v. Sarver, 309 F. Supp. 362 (E.D. Ark. 1970), aff'd, 442 F.2d 304 (8th Cir. 1971).
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Goal 11.9
Rehabilitation

One of the significant functions of corrections is to provide facilities and assistance to allow offenders to rehabilitate themselves. Each correctional agency should immediately develop and implement policies, procedures and practices to guarantee the availability of rehabilitative programs for those deemed capable, by proper classification procedure, of benefiting from their use. Where such programs are absent, the correctional authority should establish or provide access to such programs. To further define these rehabilitative services:

1. The correctional authority and the governmental body of which it is a part should give high priority to implementation of statutory specifications or statements of purpose on rehabilitative services.

2. Each correctional agency providing parole, probation or other community supervision, should supplement its rehabilitative services by referring offenders to social services and activities available to citizens generally. The correctional authority should, in planning its total range of rehabilitative programs, strive toward a concept of community-based programs to the maximum extent possible.

3. A correctional authority's rehabilitation program should include a mixture of educational, vocational, counseling and other services appropriate to offender needs. Not every facility need offer the entire range of programs, except that:

   a. Every system should provide opportunities for basic education up to high school equivalency, on a basis comparable to that available to citizens generally, for offenders capable and desirous of such programs.

   b. Every system should have a selection of vocational training programs within the correctional system to permit proper sentencing decisions and realistic evaluation of treatment alternatives.

Commentary

The task force recognizes that the concept of rehabilitation has, in recent years, been undercut significantly by such studies as that of Robert Martinson (see below). Nevertheless, given its proper emphasis, the task force feels that rehabilitation can still be a proper goal of corrections. As expressed in the goal, this proper emphasis should indicate that rehabilitation is not something to be forced on an offender; force rarely succeeds in changing habits and attitudes. Rather, rehabilitation ought properly to be an opportunity presented to an offender voluntarily to change his ways. The "opportunity" from corrections' standpoint should be as varied as possible to meet the needs of the many varied individuals under supervision.

It is important to note, as has been noted elsewhere in this report, that the traditional notion of rehabilitation utilizing a medical model of diagnosis (of "illness") and treatment has been expressly rejected by the task force; its bases have been effectively destroyed in virtually every study done in recent years. The task force feels, however, that rehabilitation need not be discarded simply because it has been associated with intellectually bankrupt philosophies of criminal behavior and unenlightened sentencing.

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Goal 11.10
Retention and Restoration of Rights

Persons convicted of criminal offenses should not be automatically deprived of their civil rights or other attributes of citizenship beyond the period of their sentence. Any collateral disability or penalty resulting from a criminal conviction should be imposed only after a determination in each individual case that the disability or penalty advances an important governmental interest.

Political disabilities such as the right to vote, the right to hold public office and the right to serve as a juror should be restored upon successful completion of a sentence.

Virginia should enact legislation protecting persons convicted of criminal offenses from unreasonable discrimination in employment. Such legislation should specifically govern: (a) refusing employment; (b) discharging persons from employment; (c) refusing fair employment conditions, remuneration or promotion; (d) denying membership in any labor union or other organization affecting employability; and (e) denying or revoking a license necessary to engage in any occupation, profession or employment.

Discrimination in employment on the basis of a conviction should be prohibited unless the offense committed bears a substantial relationship to the competency of the individual to perform the functions and responsibilities of the employment. Among the factors which should be considered in evaluating the relationship between the offense and the employment are the following:

1. The likelihood the employment will enhance the opportunity for the commission of similar offenses.

2. The time elapsing since conviction.

3. The offender's conduct subsequent to conviction.

4. The circumstances under which the crime was committed and the likelihood that such circumstances will reoccur.

The legislation should be applicable to private and public employment.

Commentary

If rehabilitation is indeed a significant function of corrections, it is at best incongruous to maintain the vast array of constitutional and statutory deprivations derivative from a former criminal conviction that Virginia currently does. As Erving Goffman notes in his book Asylums:

> Although some roles can be re-established by the inmate if and when he returns to the world, it is plain that other losses are irrevocable and may be painfully experienced as such. It may not be possible to make up, at a later phase of the life cycle, the time not now spent in educational or job advancement, in courting, or in rearing one's children. A legal aspect of this permanent dispossession is found in the concept of "civil death": prison inmates may face not only a temporary loss of the rights to will money and write checks, to contest divorce or adoption proceedings, and to vote but may have some of these rights permanently abrogated.

While some of the deprivations a person must endure while in prison are unavoidable and perhaps legitimate, it is difficult to justify the collateral consequences of a conviction which Goffman addresses in the latter portion of his paragraph. When a person is released from prison, it is hoped that he will be able to assume a proper role in society. Instead of desirable reassimilation, continuing deprivations serve to preserve the ex-offender's status as a "con."

Goal 11.10 seeks to correct this seeming anomaly by providing: first, that collateral disabilities of convictions should not be automatic, but rather should be imposed in individual cases only as

appropriate and where a substantial governmental interest is advanced thereby; second, that the political rights of which a former offender is deprived in Virginia should be restored upon successful completion of a sentence; and third, that the present statutory custom of making a former conviction cause for denial of a license in various licensed professions should be continued only where the offense committed bears a substantial relationship to the employment in question.

These recommendations are not unprecedented in Virginia. In 1973 two separate studies recommended a substantial re-evaluation of the state's policy toward former offenders. A study done for the Division of Justice and Crime Prevention recommended that only specific deprivations be retained and that these could be removed by court order. This study further recommended that all disabilities terminate after five years following completion of sentence with no intervening conviction. The other study, done for the Department of Professional and Occupational Registration, recommended that in regard to occupational licensing licenses should be denied only where relevant criteria had been employed. The passage of a period of five years without subsequent conviction, the study concluded, should be prima facie evidence of ability to be licensed for the profession in question.

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Goal 11.11
Rules of Conduct

Each correctional agency should immediately promulgate rules of conduct for offenders under its jurisdiction. Such rules should:

1. Be designated to effectuate or protect an important interest of the facility or program for which they are promulgated.

2. Be the least restrictive 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 should provide offenders under their jurisdiction with an up-to-date written statement of rules of conduct applicable to them.

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. Acts of violence or other serious misconduct should be prosecuted criminally and not be the subject of administrative sanction.

2. Where the state intends to prosecute, disciplinary action should be deferred.

3. Where the state prosecutes and the offender is found not guilty, the correctional authority should not take further punitive action for that offense.

Commentary

Rules of conduct are established to provide an integrated and comprehensive body of regulations proscribing all conduct that causes or threatens substantial harm to the interests of individuals, the institution or the state. Moreover, the promulgated rules insure adequate notification of prohibited activity and protect the offender against arbitrary treatment by limiting punishment to specific offenses in the rules of conduct. The task force accepted the goal of a written set of rules of conduct which would help inmates understand their rights as well as protect administrators from charges of harassment, discrimination and unnecessary discipline.

The "appropriate consultation with offenders and other interested parties" referred to in the goal is intended to reflect no more than the standard procedure in administrative proceedings. Such procedure customarily provides that notice to interested parties be given before rules are promulgated, and that after the hearing or other proceeding of which notice is given, all parties in interest are deemed to have been heard and rules thereafter enacted are not subject to challenge.

In addition, the task force endorses the concept that in cases where the state prosecutes and the offender is not guilty, the correctional authority should not take further punitive action for that offense. The task force recognizes that the courts permit correctional administrators to discipline an individual even where he has been acquitted of the charges by a court of competent jurisdiction. Nonetheless, the group feels that such a practice is reprehensible, and offensive to a basic sense of justice.

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Goal 11.12
Disciplinary Procedures

Each correctional agency immediately should adopt disciplinary procedures for each type of residential facility it operates and for the persons residing therein.

Minor violations of rules of conduct are those punishable by no more than a reprimand, or loss of commissary, entertainment or recreation privileges for not more than 48 hours. Rules governing minor violations should provide that:

1. Staff may impose the prescribed sanctions after informing the offender of the nature of his misconduct and giving him the chance to explain or deny it.

2. If a report of the violation is placed in the offender's file, the offender should be so notified.

3. The offender should be provided with the opportunity for a review by an impartial officer or board of the appropriateness of the staff action.

4. Where the review indicates that the offender did not commit the violation or the staff's action

was not appropriate, all reference to the incident should be removed from the offender's file.

Major violations of rules of conduct are those punishable by sanctions more stringent than those for minor violations.

Rules governing major violations shall provide for the following prehearing procedures:

1. Someone other than the reporting officer should conduct a complete investigation into the facts of the alleged misconduct to determine of there is probable cause to believe the offender committed a violation. If probable cause exists, a hearing date should be set.

2. The offender should receive a copy of any disciplinary report or charges of the alleged violation and notice of the time and place of the hearing.

3. The offender, if he desires, should receive assistance in preparing for the hearing from a member of the correctional staff, another inmate or other authorized person (including legal counsel if available and the offender can afford to retain such counsel).

4. No sanction for the alleged violation should be imposed until after the hearing except that the offender may be segregated from the rest of the population if the head of the institution finds that he constitutes a threat to persons or property.

Rules governing major violations should provide for a hearing on the alleged violation which should be conducted as follows:

1. The hearing should be held as quickly as possible, generally not more than 72 hours after the charges are made.

2. The hearing should be before an impartial officer or board.

3. The offender should be allowed to present evidence or witnesses on his behalf.

4. The offender may be allowed to confront and cross-examine the witnesses against him.

5. The offender should be allowed to select someone, including legal counsel if available and he is able to retain such, to assist him at the hearing.

6. The hearing officer or board should be required to find substantial evidence of guilt before imposing a sanction.

7. The hearing officer or board should be required to render its decision in writing setting forth its findings as to controverted facts, its conclusion and the sanction imposed. If the decision finds that the offender did not commit the violation, all reference to the charge should be removed from the offender's file.

Rules governing major violations should provide for internal review of the hearing officer's or board's decision. Such review should be conducted whenever requested. The reviewing authority should be authorized to accept the decision, order further proceedings, or reduce the sanction imposed.

Commentary

The offender accused of an infraction necessitating disciplinary procedure within the institution is better protected by constitutional guarantees today than he has ever been before. The landmark case in Virginia was Landman v. Royster, 333 F. Supp. 621 (E.D. Va. 1971), which mandated guidelines to assure minimal due process to every offender charged with a disciplinary violation. More recently the United States Supreme Court in Wolff v. McDonnell, 418 U.S. 539 (1974), specified the procedures minimally required at any prison disciplinary hearing alleging serious misconduct. Since Landman, Virginia has established disciplinary procedures in essential compliance with the proposals of this goal. It does not, however, limit penalties for minor violations to a 48-hour period, since some minor penalties can extend to 30 days.

In its Report on Corrections the National Advisory Commission called for an impartial officer or board at some stage in both major and minor disciplinary violations. The NAC was not as explicit in defining its concept of impartiality in its Standard 2.12, upon

which this goal is based, as it was in its later Standard 2.14 dealing with grievance procedures. There it called for a reviewing facility "independent of the correctional authority." It is the feeling of the task force, however, that both from the standpoint of visibility and objectivity it is desirable that the impartiality articulated by Goal 11.12 be accented by encouraging citizen participation in disciplinary proceedings.

Such participation may occur at a number of levels and the task force does not advocate one approach at the expense of another. For example, such participation may be completely passive. In such a procedure a citizen or citizens would sit in on disciplinary hearings but have no vote. This would have a salutary effect both to the offender being accused of an infraction, because it would dispel any atmosphere of secretive punishment being dispensed behind closed doors, and to the community as a whole, which would learn a great deal about the complexity of correctional administration from the perceptions of its observers. Such procedure has been employed with success in some Virginia localities. On the other hand citizen participation may be of an active sort. Such approach is favored by the Model Rules and Regulations on Prisoners' Rights and Responsibilities (see below), which advocate a three-member disciplinary hearing board composed of two employees of the institution and a single citizen volunteer who shall serve as chairman.

Another aspect of the goal which merits some mention is the differentiation that has been made in the imperative nature of the rules governing major violations. While paragraph 1-3 and 5-7 refer to various rights which should attach at such hearings, paragraph 4 notes that the ". . . offender may be allowed to confront and cross-examine the witnesses against him." This change in phraseology is deliberate and is intended to reflect the realization of the task force that it might be impractical or even dangerous in some cases to allow for confrontation in the volatile atmosphere of a prison. The Supreme Court appreciated this fact in Wolff v. McDonnell, in which it noted that in some cases limitations of the offender's presentation of evidence might be appropriate to prevent reprisals or the undermining of prison authority (418 U.S. at 568-569).

In regard to legal representation at a major disciplinary hearing, the task force has included provision for such where available and the offender is able to retain such representation privately. If this is not possible, the offender can resort to some other type of representation -- law student, paralegal, jail-house lawyer or the like. The task force, like the Supreme Court in Wolff, has declined to extend the right of appointed counsel for indigent offenders to disciplinary proceedings. This is consistent with Goal 11.2, Access to Legal Services.

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Goal 11.13
Procedures for Non-Disciplinary Changes of Status

Each correctional agency should immediately promulgate written rules and regulations to prescribe the procedures for determining and changing offender status, including classification, transfers and major changes or decisions on participation in treatment, education and work programs within the same facility.

1. The regulations should:

    a. Specify criteria for the several classifications to which offenders may be assigned

and the privileges and duties of persons in each class.

b. Specify frequency of status reviews or the nature of events that prompt such review.

c. Be made available to offenders who may be affected by them.

d. Provide for notice to the offender when his status is being reviewed.

e. Provide for participation of the offender in decisions affecting his program.

2. The offender should be permitted to make his views known regarding the classification, transfer or program decision under consideration. The offender should have an opportunity to oppose or support proposed changes in status or to initiate a review of his status.

3. Where reviews involving substantially adverse changes in degree, type, location or level of custody are conducted, an administrative hearing should be held, involving notice to the offender, an opportunity to be heard, and a written report by the correctional authority communicating the final outcome of the review. Where such actions, particularly transfers, must be made on an emergency basis, this procedure should be followed subsequent to the action. In the case of transfers between correctional and mental institutions, whether or not maintained by the correctional authority, such procedures should include specified procedural safeguards available for new or initial commitments to the general population of such institutions.

4. Proceedings for non-disciplinary changes of status should not be used to impose disciplinary sanctions or otherwise punish offenders for violations of rules of conduct or other misbehavior.

Commentary

Generally the primary type of non-disciplinary change of status is classification. This procedure, a fundamental correctional process, consists of the use of diagnostic and analytical techniques to characterize offenders both for the purpose of facilitating security and control, as well as to insure the widest availability of programs to those most able to benefit by them. The process is basically unrelated to discipline; yet it is undeniable that decisions of this kind can and do have a critical effect on the offender's degree of liberty, access to correctional services and basic conditions of existence within an institution.

With this in mind, Goal 11.13 seeks to articulate a set of workable guidelines to assure fairness and visibility of classification decisions. The goal seeks to create a workable balance between the interests of the correctional system and those of the offender. Like the standard of the National Advisory Commission on which it was based, Goal 11.13 seeks to formalize the procedures for non-disciplinary changes of status without attaining the due process standards earlier articulated in regard to disciplinary procedures (cf. Goal 11.12).

The adoption of this goal is not meant to suggest that the Department of Corrections has in any way classified offenders arbitrarily or for punitive ends. Rather the purpose is to open to scrutiny the criteria and rationales employed in adjudications of offender status. Rehabilitation becomes more possible when offenders feel they have been dealt with fairly by the system, and this realization can only come from the revelation to them of the reasons for particular status decisions.

References

1. National Advisory Commission Report on Corrections, Standard 2.13, pp. 54-55.
2. Meachum v. Fano, __U.S.__, 96 S.Ct. 2532 (1976).
3. Montanye v. Haymes, __U.S.__, 96 S.Ct. 2543 (1976).
4. Wolff v. McDonnell, 418 U.S. 539 (1974).
5. Baxtrom v. Herold, 383 U.S. 107 (1966).
6. Shone v. Maine, 406 F.2d 844 (1st Cir. 1969).
7. Morris v. Travisono, 310 F. Supp. 857 (D.R.I. 1970).
8. American Correctional Association, Handbook on Classification in Correctional Institutions, Washington, D.C., 1947, p. 10.
9. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 21.
10. Krantz, S., et al., Model Rules and Regulations on Prisoners' Rights and Responsibilities, St. Paul, Minn.: West Publishing Co., 1973, pp. 87-100.

Goal 11.14
Grievance Procedure

Each correctional agency immediately should develop and implement a grievance procedure. The procedure should have the following elements:

1. Each person being supervised by the correctional authority should be able to report a grievance.

2. The grievance should be transmitted without alteration, interference or delay to the person or entity responsible for receiving and investigating grievances.

   a. Such person or entity preferably should be independent of the correctional authority. It should not, in any case, be concerned with the day-to-day administration of the corrections function that is the subject of the grievance.

   b. The person reporting the grievance should not be subject to any adverse action as a result of filing the report.

3. Promptly after receipt, each grievance not patently frivolous should be investigated. A written report should be prepared for the correctional authority and the complaining person. The report should set forth the findings of the investigation and the recommendations of the person or entity responsible for making the investigation.

4. The correctional authority should respond to each such report, indicating what disposition will be made of the recommendations received.

Commentary

In Procunier v. Martinez, 416 U.S. 396 (1974), the United States Supreme Court observed that courts are "ill-suited to act as the

front-line agencies for the infinite variety of prisoner complaints" and that "the capacity of our criminal justice system to deal fairly and fully with legitimate claims will be impaired by a burgeoning increase of frivolous prisoner complaints." The volume of prisoner claims has thus led many to the conclusion that alternative means of resolving these conflicts must be developed.

A number of proposals have been made. Chief Justice Warren Burger, in the American Bar Association Journal (Vol. 59, 1973), calls for the creating of a statutory administrative procedure to hear complaints of federal prisoners and would require that an inmate resort to these procedures before filing a claim in federal court. He has also called for informal grievance procedures in state systems. A survey done by the Center for Correctional Justice, and reported in the December 1974 issue of Federal Probation, concluded that most institutions in the nation had grievance procedures.

Other grievance procedures being explored by administrators make use of ombudsmen to investigate grievances. Two basic models have emerged: in one the ombudsman reports directly to someone within the department of corrections in order to resolve grievances; in the other the ombudsman has an independent power base. The latter approach opens the correctional process to public scrutiny; the former depends on the good faith of prison officials.

Goal 11.14 expresses a preference for the type of process which opens the correctional grievance procedure to public scrutiny. This is in line with a number of recommendations by influential groups, including the National Advisory Commission and the National Council on Crime and Delinquency. This recommendation does not contemplate that any outside authority should control correctional responses to grievances. Rather the intent is merely to insure objectivity and obviate all appearance of tokenism in investigation of prisoner complaints. The final response to each individual grievance should remain in correctional hands.

It is assumed that the appropriate institutional body will have had an opportunity to respond to a complaint before it becomes a grievance. In the overwhelming majority of cases the complaint should be resolved at this stage and no grievance will be necessary.

References

1. National Advisory Commission Report on Corrections, Standard 2.14, pp. 56-57.

2. Thompson v. U.S. Federal Prison Industries, 492 F.2d 1082 (5th Cir. 1974).

3. Waddell v. Alldredge, 480 F.2d 1078 (3d Cir. 1973).
4. Hayes v. Secretary, Department of Public Safety, 455 F.2d 798 (4th Cir. 1972).
5. Hyde v. Fitzberger, 365 F. Supp. 1021 (D. Md. 1973).
6. Krantz, S., et al., Model Rules and Regulations on Prisoners' Rights and Responsibilities, St. Paul, Minn.: West Publishing Co., 1973, pp. 183 ff.
7. McArthur, V., "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," Federal Probation, Vol. 38, No. 4, 1974.
8. National Council on Crime and Delinquency, Model Act for the Protection of Rights of Prisoners, New York, 1972, § 5.

Goal 11.15
Free Expression and Association

Each correctional agency should immediately develop policies and procedures to assure that individual offenders are able to exercise their constitutional rights of free expression and association to the extent possible and consistent with security requirements. Regulations limiting an offender's right of expression and association should be justified by a compelling state interest requiring such limitation. Where such justification exists, the agency should adopt regulations which effectuate the state interest with as little interference with an offender's rights as possible.

Rights of expression and association are involved in the following contexts:

1. Exercise of free speech.
2. Exercise of religious beliefs and practices. (See Goal 11.16).
3. Sending or receipt of mail. (See Goal 11.17).
4. Visitations. (See Goal 11.17).
5. Access to the public through the media. (See Goal 11.17).
6. Engaging in peaceful assemblies.
7. Belonging to and participating in organizations.

Justification for limiting an offender's right of expression or association would include regulations necessary to maintain order, security or to protect other offenders, correctional staff or other persons from violence, or the clear threat of violence. The existence of a justification for limiting an offender's rights should be determined in light of all the circumstances, including the nature of the correctional program or institution to which he is assigned.

Ordinarily, the following factors would not constitute sufficient justification for an interference with an offender's rights unless present in a situation which constituted a clear threat to personal or institutional security.

1. Protection of the correctional agency or its staff from criticism, whether or not justified.

2. Protection of other offenders from unpopular ideas.

3. Protection of offenders from views correctional officials deem not conducive to rehabilitation or other correctional treatment.

4. Administrative inconvenience.

5. Administrative cost except where unreasonable and disproportionate to that expended on other offenders for similar purposes.

Correctional authorities should encourage and facilitate the exercise of the right of expression and association by providing appropriate opportunities and facilities.

Commentary

The modern attitude toward the first amendment rights of offenders is reflected in Sobell v. Reed, 327 F. Supp. 1294, 1303 (S.D.N.Y. 1971), in which the U.S. District Court for the Southern District of New York held:

> The freedoms of conscience, of thought, and of expression, like all the rest of life, are cramped and diluted for the inmate. But, they exist to the fullest extent consistent with prison discipline, security, and the punitive regime of a prison.

Goal 11.15 emplys such a balanced approach in attempting to guarantee to offenders their first amendment rights as limited only by such compelling state interests as institutional security. Vague administrative rationales such as are enumerated in the latter part of the goal should serve as no justification for restraint.

A second aspect of this goal addresses the situation where there is such compelling state interest as to justify limitation of an offender's first amendment rights. In such case the goal provides that authorities should intrude on freedom of expression to the least extent consistent with protecting the state interest in question. Also, all alternative means of protecting the state interest without interference with these rights should be explored.

Goal 11.15 does not specifically address the extent to which administrative inconvenience and expense should be allowed to curtail freedom of expression. In the commentary to its closely related Standard 2.15, the National Advisory Commission notes in this regard:

> Two concepts should govern determinations as to when expense justifies inaction. If the expense is reasonable in light of existing resources and in relationship to the benefit to be obtained, the expenditure should be made. Likewise, if the government expends funds to facilitate the rights of some offenders, it is obligated to expend proportionally for all offenders.

One aspect of an offender's right of free expression which the task force feels particularly subject to reasonable limitation was the right to wear distinguishing clothing, hairstyles and other characteristics related to physical appearance. Some task force members felt strongly that requiring reasonable regimentation and uniformity in dress was a legitimate correctional response to problems of identification, security and cleanliness. For this reason no specific reference to clothing and physical appearance was included among the enumerated aspects of free expression being addressed by the goal.

Finally, it is important to note that intelligent regulation of inmate expression in the institution requires that the correctional administration be knowledgeable about the various aspects of expression which exist. This awareness does not presuppose automatic suppression, but rather merely supports a concept of intelligent and informed balancing of state and individual interests.

References

1. National Advisory Commission Report on Corrections, Standard 2.15, pp. 58-62.
2. Sostre v. McGinnis, 442 F.2d 178 (2d Cir. 1971), cert. denied, 404 U.S. 1049 (1972).
3. Jackson v. Goodwin, 400 F.2d 529, 532, 541 (5th Cir. 1968).
4. Krantz, S., et al., Model Rules and Regulations on Prisoners' Rights and Responsibilities, St. Paul, Minn.: West Publishing Co., 1973, pp. 12-30.
5. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 83.
6. Rudovsky, D., The Rights of Prisoners--An American Civil Liberties Union Handbook, New York: Avon Books, 1973, p. 73.

Goal 11.16
Exercise of Religious Beliefs and Practices

Each correctional agency immediately should develop and implement policies and procedures that will fulfill the right of offenders to exercise their own religious beliefs. These policies and procedures should allow and facilitate the practice of these beliefs to the maximum extent possible, within reason, consistent with Goal 11.15, and reflect the responsibility of the correctional agency to:

1. Provide access to appropriate facilities for worship or meditation.

2. Enable offenders to adhere to the dietary laws of their faith.

3. Arrange the institution's schedule to the extent reasonably possible so that inmates may worship or meditate at the time prescribed by their faith.

4. Allow access to clergymen or spiritual advisers of all faiths represented in the institution's population.

5. Permit receipt of any religious literature and publications that can be transmitted legally through the United States mails.

Each correctional agency should give equal status and protection to all religions, traditional or unorthodox. In determining whether practices are religiously motivated, the following factors among others should be considered as supporting a religious foundation for the practice in question:

1. Whether there is substantial literature supporting the practice as related to religious principle.

2. Whether there is a formal, organized worship of shared belief by a recognizable and cohesive group supporting the practice.

3. Whether there is a loose and informal association of persons who share common ethical, moral or intellectual views supporting the practice.

4. Whether the belief is deeply and sincerely held by the offender.

The following facts should not be considered as indicating a lack of religious support for the practice in question:

1. The belief is held by a small number of individuals.

2. The belief is of recent origin.

3. The belief is not based on the concept of a supreme being or its equivalent.

4. The belief is unpopular or controversial.

In determining whether practices are religiously motivated, the correctional agency should allow the offender to present evidence of religious foundations to the official making the determination.

The correctional agency should not proselytize persons under its supervision or permit others to do so without the consent of the person concerned. Reasonable opportunity and access should be provided to offenders requesting information about the activities of any religion with which they may not be actively affiliated.

In making judgments regarding the adjustment or rehabilitation of an offender, the correctional agency may consider the attitudes and perceptions of the offender but should not:

1. Consider, in any manner prejudicial to determinations of offenders release or status, whether or not such beliefs are religiously motivated.

2. Impose, as a condition of confinement, parole, probation or release, adherence to the active practice of any religion or religious beliefs.

Commentary

The states are prevented by the first and fourteenth amendments of the federal constitution from establishing, or preventing free exercise of, a religion. A guarantee of religious freedom is contained in article I, section 16 of the Virginia constitution. This goal is meant to insure that same basic freedom in the correctional setting. The only restrictions on inmate religious freedom here envisioned are those dictated by the same considerations applied in the previous goal, i.e. a compelling state interest requiring limitation.

In interpreting the constitutional rights of freedom of religion, a distinction has generally been drawn between the right to believe in a religion, which is unlimited, and the practice thereof, which is subject to the type of reasonable regulation recognized above. This need reasonably to regulate is particularly apparent in the correctional environment where religious practice is subject to limitation not only because of security needs, but also due to insufficient time, space or resources.

Correctional administrators must be wary, however, of prohibition of a purportedly legitimate religious sect merely because the tenets of that sect are unfamiliar or bizarre. Legitimate religious motivation may be inherent in the conduct of an individual or group no matter how unorthodox. Because such beliefs should not be proscribed merely because they are strange or repugnant to administrators, a substantial portion of Goal 11.16 is concerned with criteria which should, and should not, enter into a determination of religious legitimacy.

References

1. National Advisory Commission Report on Corrections, Standard 2.16, pp. 63-65.
2. Va. Code § 53-33 (Repl. Vol. 1974) (recreation and religious services).
3. Reynolds v. United States, 98 U.S. 145 (1878).
4. Brown v. Peyton, 437 F.2d 1228 (4th Cir. 1971).
5. Banks v. Havener, 234 F. Supp. 27 (E.D. Va. 1964).
6. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 29.
7. National Sheriffs' Association, Standards for Inmates' Legal Rights, Washington, D.C., 1974, Standard 18.
8. Palmer, J., Constitutional Rights of Prisoners, Cincinnati: W. H. Anderson Co., 1973, pp. 57-76.
9. Rudovsky, D., The Rights of Prisoners--An American Civil Liberties Union Handbook, New York: Avon Books, 1973, p. 61.

Goal 11.17
Access to the Public

Each correctional agency should develop and implement immediately policies and procedures to fulfill the right of offenders to communicate with the public. Correctional regulations limiting such communication should be consistent with Goal 11.15. Questions of right of access to the public arise primarily in the context of regulations affecting mail, personal visitation and the communications media.

MAIL. Offenders should have the right to communicate or correspond with persons or organizations and to send and receive letters, packages, books, periodicals and any other material that can be lawfully mailed. The following additional guidelines should apply:

1. Correctional authorities should not limit the volume of mail to or from a person under supervision. For health and safety reasons, however, correctional authorities may limit the amount of mailed materials which may be maintained in an inmate's cell or personal storage area.

2. Correctional authorities should have the right to inspect incoming and outgoing mail. Censorship of inmate mail should be employed only

when a substantial and demonstrable governmental interest unrelated to the suppression of expression is at stake. The censorship must be no greater than is necessary or essential to the protection of the governmental interest concerned. Cash, checks or money orders should be removed from incoming mail and credited to offenders' accounts. If contraband is discovered in either incoming or outgoing mail, it may be removed. Only illegal items and items which threaten the order and security of the institution should be considered contraband.

3. Offenders should receive reasonable postage and materials to maintain community ties.

VISITATION. Offenders should have the right to communicate in person with individuals of their own choosing. The following additional guidelines should apply:

1. Correctional authorities should not limit the number of visitors an offender may receive or the length of such visits except in accordance with regular institutional schedules and requirements.

2. Correctional authorities should, to the extent reasonable, facilitate and promote visitation of offenders by the following acts:

   a. Providing transportation for visitors from terminal points of public transportation. In some instances, the correctional agency may wish to pay the entire transportation costs of family members where the offender and the family are indigent.

   b. Providing appropriate facilities for visitation that allow ease and informality of communication in a natural environment as free from institutional or custodial attributes as possible.

c. Making provisions for family visits in private surroundings conducive to maintaining and strengthening family ties.

d. Making provisions for furloughs to enable inmates to maintain and strengthen family ties in an atmosphere and location conducive to that purpose.

3. The correctional agency may supervise the visiting area in an unobtrusive manner but should not eavesdrop on conversations or otherwise interfere with the participants' privacy.

MEDIA. Except in emergencies such as institutional disorders, offenders should be allowed to present their views through the communications media. Correctional authorities should encourage and facilitate the flow of information between the media and offenders by authorizing offenders, among other things, to:

1. Grant confidential and uncensored interviews to representatives of the media. Such interviews should be scheduled not to disrupt regular institutional schedules unduly unless during a newsworthy event.

2. Send uncensored letters and other communications to the media.

3. Publish articles or books on any subject.

4. Display and sell original creative works.

As used in this goal, the term "media" encompasses any printed or electronic means of conveying information to the public including but not limited to newspapers, magazines, books or other publications regardless of the size or nature of their circulation and licensed radio and television broadcasting. Representatives of the media should be allowed access to all correctional facilities for reporting items of public interest consistent with the preservation of offenders' privacy, and consistent with institutional security and order.

Offenders should be entitled to receive any lawful publication, or radio and television broadcast subject to limitations implicit in the state's interest in maintaining order and security within correctional institutions.

Commentary

The minimizing of isolation from the community is a major thrust of this entire set of goals dealing with the rights of offenders. The greater isolation of offenders, the greater the alienation and desocialization that is likely to occur. Goal 11.17 recognizes that rehabilitation cannot occur in a vacuum, and seeks to encourage all community contact consistent with security. In his book The End of Imprisonment, Robert Sommer notes:

> The hostility towards visitors is ultimately self-defeating to the correctional system. One cannot deny the public access to instituions because inmates are dangerous and then expect them to receive discharged inmates in their midst. One cannot rigidly control the flow of information out of the institutions, through direct mail censorship and prohibitions against staff discussing prison policies, and then complain about prisons getting a bad press...

Goal 11.17 addresses Sommer's concerns with recommendations in three categories. The first category is use of the mail. Generally, the task force feels that offenders should have broad rights of correspondence. There was general agreement, however, that correctional administrators could limit the amount of mailed materials maintained in an offender's cell as excessive correspondence.

There was less agreement about another aspect of an offender's right to use of the mail. This area of controversy was censorship. Some task force members felt censorship of inmate mail to be an inappropriate and spurious correctional response. Any information detrimental to the correctional administration or to law enforcement generally which could be conveyed by the mail, this group argued, could more effectively be communicated by other means, such as orally during visitation.

Another segment of the task force felt, however, that correctional administrators had a legitimate interest in limited censorship where circumstances indicated its necessity. This group worried about the possibilities of planning escapes, coordinating crimes or even creating inmate syndicates in a totally uncensored environment. In response to this group's arguments, language allowing limited censorship of inmate correspondence was included beneath subparagraph 2 dealing with mail. This language substantially conforms with that enunciated by the United States Supreme Court in Procunier v. Martinez, 416 U.S. 396 (1974).

With regard to visitation, there was again cleavage on the task force as to the extent to which correctional authorities should facilitate access to those incarcerated in their institutions. Specifically, some task force members felt subparagraph 2a under the heading VISITATION, which deals with providing transportation for visitors from terminal points of public transportation, to be impractical and financially burdensome. The same arguments were made against the subsequent suggestion that the entire costs of transportation might be paid by the appropriate correctional agency in cases of indigency. In the final analysis, however, these concepts were incorporated in Goal 11.17. As limited by the introductory language "to the extent reasonable," the majority of the task force feels the facilitation of transportation to be a meaningful corollary to the concept of visitation.

The task force also expressed concern over the concept of conjugal visits, which some members felt to be at least implicit in the language of subparagraph 2c of the goal. Conjugal visits, although employed at Parchman Prison in Mississippi and at San Quentin in California, were recognized by a number of the members as fraught with difficulty and the task force, like the National Advisory Commission in its Standard 2.17, does not endorse them.

Finally, in regard to the third section of Goal 11.17 dealing with access to the media, the task force agreed that offenders should be allowed to present their views through media sources. Such access has the doubly beneficial effect of allowing offenders to maintain community ties and of creating an environment in which the public is kept aware of institutional conditions. Only limitations requisite to the maintenance of security and order should preclude free media access.

References

1. National Advisory Commission Report on Corrections, Standard 2.17, pp. 66-69.
2. Va. Code § 53-54 (Repl. Vol. 1974) (correspondence, newspapers, etc.).
3. Va. Code § 53-37 (Repl. Vol. 1974) (furloughs).
4. Pell v. Procunier, 417 U.S. 817 (1974).
5. Polakoff v. Henderson, 370 F. Supp. 690 (N.D. Ga. 1973).
6. Morales v. Schmidt, 304 F. Supp. 544 (W.D. Wis. 1972).
7. Jones v. Wittenberg, 323 F. Supp. 93 (N.D. Ohio 1971), aff'd sub nom, Jones v. Metzger, 456 F.2d 854 (6th Cir. 1972).
8. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 15, paragraph 9.

9. Association of State Correctional Administrators, Uniform Correctional Policies and Procedures, Columbia, S.C., 1972.
10. Comment, "Prisoner Mail Censorship and the First Amendment," Yale Law Journal, Vol. 81, 1971, p. 87.
11. Krantz, S., et al., Model Rules and Regulations on Prisoners' Rights and Responsibilities, St. Paul, Minn.: West Publishing Co., 1973, pp. 44-58.
12. National Council on Crime and Delinquency, Model Act for the Protection of Rights of Prisoners, New York, 1972, § 7.
13. National Sheriffs' Association, Standards for Inmates' Legal Rights, Washington, D.C., 1974, Standard 19.
14. Palmer, J., The Constitutional Rights of Prisoners, Cincinnati: W. H. Anderson Co., 1973, pp. 25-49.
15. Rudovsky, D., The Rights of Prisoners--An American Civil Liberties Union Handbook, New York: Avon Books, 1973, pp. 41-60.
16. Sommer, D., The End of Imprisonment, New York: Oxford Univ. Press, 1976, pp. 107-108.

Goal 11.18
Remedies for Violation of an Offender's Rights

Each correctional agency immediately shall adopt policies and procedures, and where applicable should seek legislation, to insure proper redress where an offender's rights as enumerated in this chapter are abridged.

1. Administrative remedies, not requiring the intervention of a court, should include at least the following:

   a. Procedures allowing an offender to seek redress where he believes his rights have been or are about to be violated. Such procedures should be consistent with Goal 11.14, Grievance Procedures.

   b. Policies of inspection and supervision to assure periodic evaluation of institutional conditions and staff practices that may affect offenders' rights.

   c. Policies which:

(1) Assure wide distribution and understanding of the rights, duties and obligations of offenders among offenders, correctional staff and the public.

(2) Provide that the intentional or persistent violation of an offender's rights is justification for removal from office or employment of any correctional worker.

2. Judicial remedies for violation of rights should include at least the following:

a. Authority for an injunction either prohibiting a practice violative of an offender's rights or requiring affirmative action on the part of governmental officials to assure compliance with offenders' rights.

b. Authority for an award of damages against, in appropriate circumstances, the correctional staff member involved to compensate the offender for injury caused by a violation of his rights.

c. Authority for the court to exercise continuous supervision of a correctional facility or program including the power to appoint a special master responsible to the court to oversee implementation of offenders' rights.

d. Authority for the court to prohibit further commitments to an institution or program.

e. Authority for the court to shut down an institution or program and require either the transfer or release of confined or supervised offenders.

f. Criminal penalties for intentional violations of an offender's constituional or statutory rights.

Commentary

This goal generally embraces much of what has been dealt with in the previous goals regarding specific areas of prisoners' rights, but goes the further step of attempting to assure that the paper rights earlier enumerated are also actual rights which, if abused, can be guaranteed by administrative or judicial remedies. This goal closely conforms with the National Advisory Commission's Standard 2.18 in its Report on Corrections. The major deletion from that standard is the removal of language referring to payment of claims to offenders by correctional administrative boards. Similar NAC language was deleted in formulating Goal 11.4.

References

1. National Advisory Commission Report on Corrections, Standard 2.18, pp. 70-72.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 15, paragraph 10.
3. Association of State Correctional Administrators, Uniform Correctional Policies and Procedures, Columbia, S.C., 1972, pp. 11-15.
4. Krantz, S., The Law of Corrections and Prisoners' Rights, St. Paul, Minn.: West Publishing Co., 1973, pp. 681-873.
5. National Council on Crime and Delinquency, Model Act for the Protection of Rights of Prisoners, New York, 1972, § 6.
6. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 85.

Chapter 12
Management

Goal 12.1
Professional Correctional Management

Each corrections agency should begin immediately to train a management staff that can provide, at minimum, the following system capabilities:

1. Managerial attitude and administrative procedures permitting each employee to have more say about what he does, including more responsibility for deciding how to proceed for setting goals and producing effective rehabilitation programs.

2. A management philosophy encouraging delegation of work-related authority to the employee level and acceptance of employee decisions, with the recognition that such diffusion of authority does not mean managerial abdication but rather that decisions can be made by the persons most involved.

3. Administrative flexibility to organize employees into teams or groups, recognizing that individuals involved in small working units become concerned with helping their teammates and achieving common goals.

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4. Desire and administrative capacity to eliminate consciously as many as possible of the visible distinctions between employee categories, thereby shifting organizational emphasis from an authority or status orientation to a goal orientation.

5. The capability of accomplishing promotion from within the system through a carefully designed and properly implemented career development program.

Commentary

In the higher levels of government and industry today, management has come to be seen as a science and as a profession in itself. Clearly the appropriate objectives of today's corrections are of sufficient sophistication to mandate professionally trained managers.

References

1. National Advisory Commission Report on Corrections, Standard 13.1, pp. 455-456.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapters 9-10.
3. Coffey, A., Administration of Criminal Justice, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974, Chapters 11-12.
4. Cohn, A., "The Failure of Correctional Management," Crime and Delinquency, July 1973, p. 323.
5. Fogel, D., ". . . We Are the Living Proof . . .," Cincinnati: W. H. Anderson Co., 1975, Chapter 2.
6. Joint Commission on Correctional Manpower and Training, A Time to Act, American Correctional Association, Washington, D.C., 1969.
7. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 48-49.

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Goal 12.2
Planning and Organization

Each correctional agency should begin immediately to develop an operational, integrated process of long-, intermediate-, and short-range planning for administrative and operation 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 future impact of each influence (see Chapter 14).

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 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 analyses for management.

Commentary

The perspective of this goal is that many of the current problems in corrections are directly derivative from a failure to anticipate the operational impact of general social environmental changes. This is a perspective that was shared by the National Advisory Commission, which mentioned as a prominent example of this the problems created by the recent extensions of offenders' rights. Proper planning for administration and operation in corrections would have realized, the commission suggests, that these extensions of rights were but a natural outgrowth of a similar movement with regard to racial minorities and students, and would have resulted in appropriate preparation and less trauma.

This goal recommends that organizational planning be based on a management by objectives approach. Under such an approach, specific departmental objectives are selected as appropriate for the particular agency. The ideas of as many employees as possible should be sought in establishing and reviewing these objectives. Future success or failure of the agency is then predicated on the degree to which progress toward these objectives is attained. This, of course, presupposes the ability to monitor, at least annually, progress toward previously specified objectives. Departmental objectives would be broken down into appropriate blocks for measurement of performance of employees in various sections of the department.

To quote from the National Advisory Commission's Report on Corrections, the purpose of management by objectives is to:

> (1) develop a mutually understood statement regarding the organization's direction and (2) provide criteria for measuring organization and individual performance. The statement is a hierarchical set of interrelated and measurable goals, objectives, and subobjectives. If properly conducted, the process may be as important as the objectives themselves because it improves vertical and horizontal communication and emphasizes interdepartmental integration.

References

1. National Advisory Commission Report on Corrections, Standard 13.2, pp. 457-458.

2. Coffey, A., Administration of Criminal Justice, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974, Chapter 8.

3. Drucker, P., The Practice of Management, New York: Harper and Row, 1954.
4. Levinson, H., "Management By Whose Objectives," Harvard Business Review, July-August 1970.
5. McConkie, M., Management by Objectives: A Corrections Perspective, Institute of Government, University of Georgia, 1975.
6. Odiorne, G., Management Decisions By Objectives, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1965.

Goal 12.3 Employee-Management Relations

Each correctional agency should begin immediately to develop the capability to relate effectively to employees and offenders. This labor-offender-management relations capability should consist, at minimum, of the following elements:

1. All management levels should receive in-depth management training designed to reduce interpersonal friction and employee-offender alienation. Such training specifically should include methods of conflict resolution, psychology, group dynamics, human relations, interpersonal communication, motivation of employees and relations with minority and disadvantaged groups.

2. All nonmanagement personnel in direct, continuing contact with offenders should receive training in psychology, basic counseling, group dynamics, human relations, interpersonal communication, motivation with emphasis on indirect offender rehabilitation and relations with minority groups and the disadvantaged.

3. All system personnel, including executives and supervisors, should be evaluated, in part, on their interpersonal competence and human sensitivity.

4. All managers should receive training in the strategy and tactics of management-employee relations.

5. Top management should have carefully developed and detailed procedures for responding immediately and effectively to problems that may develop in the labor-management or inmate-management relations. These should include specific assignment of responsibility and precise delegation of authority for action, sequenced steps for resolving grievances and adverse actions, and an appeal procedure from agency decisions.

Commentary

This goal seeks to make all levels of correctional management responsible for developing skills needed to reduce interpersonal friction and employer-offender alienation. In addition, it recommends that all non-management personnel in direct contact with offenders should receive training designed to develop skills in interpersonal relationships. The goal would require that all personnel be evaluated, in part, on the development of these skills.

References

1. National Advisory Commission Report on Corrections, Standard 13.3, pp. 459-460.

2. Advisory Commission on Intergovernmental Relations, Labor-Management Policies for State and Local Government, Washington, D.C.: U.S. Government Printing Office, 1969, p. 104.

3. Fogel, D., ". . . We Are the Living Proof . . .," Cincinnati: W. H. Anderson Co., 1975, Chapter 2.

4. Hawkins, G., The Prison, Chicago: Univ. of Chicago Press, 1976, Chapter 4.

5. Hosford, R., and C. Moss, eds., The Crumbling Walls--Treatment and Counseling of Prisoners, Urbana: Univ. of Illinois Press, 1975, pp. 18-34.

Goal 12.4
Work Stoppages and Job Actions

Correctional administrators should immediately make preparations to be able to deal with any concerted work stoppage or job action by correctional employees. Such planning should have the principles outlined in Goal 12.3 as its primary components. In addition, further steps may be necessary to insure that the public, other correctional staff or inmates are not endangered or denied necessary services because of a work stoppage.

1. Every correctional agency should establish formal written policy prohibiting employees from engaging in any concerted work stoppage. Such policy should specify the alternatives available to employees for resolving grievances. It should delineate internal disciplinary actions that may result from participation in concerted work stoppages.

2. Every correctional agency should develop a plan which will provide for continuing correctional operations in the event of a concerted employee work stoppage.

Commentary

Virginia Code §40.1-55 provides that any employee of the Commonwealth, or of any of its counties, cities, towns or political subdivisions, who participates in a work stoppage shall be deemed to have terminated his employment. To date in the Commonwealth this statute has proved effective in avoiding the fearful consequences of strikes of public employees which many other states have recently experienced. However, the task force feels that correctional administrators should nonetheless be prepared for a work stoppage of correctional employees in the unlikely event that one should occur. This goal is a reflection of that belief.

References

1. National Adviaory Commission Report on Corrections, Standard 13.4, pp. 461-462.

2. Va. Code §40.1-55 (Repl. Vol. 1970).

3. Commonwealth of Virginia v. County Board of Arlington County, et al., Rec. No. 761421 (Va. Sup. Ct. 1/14/77).

4. Advisory Commission on Intergovernmental Relations, Labor-Management Policies for State and Local Government, Washington, D.C.: U.S. Government Printing Office, 1968, pp. 96-98.

5. Twentieth Century Fund Task Force on Labor Disputes in Public Employment, Pickets at City Hall, New York, 1970.

Chapter 13
Personnel

Goal 13.1
Recruitment of Correctional Staff

Correctional agencies should begin immediately to develop personnel policies and practices that will improve the image of corrections and facilitate the fair and effective selection of the best persons for correctional positions.

To improve the image of corrections, agencies should initiate studies concerning:

1. Use of uniforms.
2. Replacement of all military titles with names appropriate to the correctional task.
3. Use of badges and the carrying of weapons.
4. Use of military terms such as company, mess hall, drill, inspection and gig list.
5. Use of regimented behavior in all facilities for personnel.

In the recruitment of personnel, agencies should:

1. Discourage all political patronage for staff selection.

2. Eliminate such personnel practices as:

   a. Unreasonable age or sex restrictions.

   b. Unreasonable physical restrictions (e.g., height, weight).

   c. Barriers to hiring physically handicapped.

   d. Questionable personality tests.

   e. Legal or administrative barriers to hiring ex-offenders which are unrelated to job skills.

   f. Unnecessarily long requirements for experience in correctional work.

   g. Unreasonable residency requirements.

3. In recruitment of personnel agencies should recruit from all citizens including minority groups, women, young persons and prospective indigenous workers, and see that employement announcements reach these groups and the general public.

4. Make a task analysis of each correctional position (to be updated periodically) to determine those tasks, skills and qualities needed. Testing based solely on these relevant features should be designed to assure that proper qualifications are considered for each position.

5. Use an open system of selection in which any testing device used is related to a specific job and is a practical test of a person's ability to perform that job.

Commentary

This goal recommends a revamping of recruitment policies, a project which is currently in process with corrections in Virginia. Policies that have been barriers to effective recruitment should be examined. The task force feels that some traditional practices may well have valid purposes in correctional administration, however, in examining such policies, a determination should be made that the purpose of any particular policy outweighs any negative influence it may have on the recruitment of personnel.

References

1. National Advisory Commission Report on Corrections, Standard 14.1, pp. 471-473.

2. Griggs v. Duke Power Company, 401 U.S. 424 (1971).

3. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 171-172.

4. Goldstein, B., Screening for Emotional Fitness in Correctional Officer Hiring, Washington, D.C.: American Bar Association Commission on Correctional Facilities and Services, 1975.

5. Governors' Mutual Assistance Program for Criminal Justice, Where We Stand in the Fight Against Crime, Washington, D.C.: National Governors' Conference, 1973, pp. 155-156.

6. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 93.

Goal 13.2
Employment of Minorities, Women and Ex-Offenders

Correctional agencies should take immediate action to recruit and employ minority group individuals, women and ex-offenders.

1. All job qualifications and hiring policies should be reexamined with the assistance of equal employment specialists from outside the hiring agency. All assumptions (implicit and explicit) in qualifications and policies should be reviewed for demonstrable relationship to successful job

performance. Particular attention should be devoted to the meaning and relevance of such criteria as age, educational background, specified experience requirements, physical characteristics, prior criminal record or "good moral character" specifications, and "sensitive job" designations. All arbitrary obstacles to employment should be eliminated.

2. If the examinations are deemed necessary, outside assistance should be enlisted to insure that all tests, written and oral, are related significantly to the work to be performed and are not biased.

3. Hiring should be from a pool of qualified candidates which should include representatives of minority groups, women and ex-offenders.

4. Recruitment of minority group members should involve a community relations effort in areas where the general population does not reflect the ethnic and cultural diversity of the correctional populations. Agencies should develop suitable housing, transportation, education and other arrangements for minority staff, where these factors are such as to discourage their recruitment.

5. Employment of women should involve provision for lateral entry to allow immediate placement of women in administrative positions. All unreasonable obstacles to employment of women should be removed.

6. Policies and practices restricting the hiring of ex-offenders should be reviewed and, where found unreasonable, changed.

Commentary

Attempts to employ appropriate numbers of qualified minority group members have habitually been problematic. On the one hand recruitment regulations without teeth have largely been ignored or evaded by the explanation that no qualified minority group members had applied; on the other hand quotas

have proved inimical to selecting the best qualified candidate regardless of racial or ethnic group, and often have produced discrimination themselves.

Affirmative action programs have been increasingly criticized and challenged in court. For this reason, Goal 13.2 makes no reference to correctional agencies taking "affirmative action" to recruit minority group members, women or ex-offenders. What the goal would require is that a pool of qualified candidates be developed for each personnel opening, and that the pool contain if at all possible representatives of minority groups, women and ex-offenders. The best qualified candidate would then be hired from this pool.

Women in the past have had a minimal place on correctional staffs in Virginia. Current federal civil rights guidelines now recognize a male inmate's right to privacy related to personal bodily functions as the only area where women may justifiably be excluded. In conjunction with federal guidelines, Goal 13.2 provides that all assumptions about women's qualifications for various correctional jobs should be reviewed to determine if there is a demonstrable relationship between them and successful job performance. Sex should not ordinarily be an issue in hiring; it may, however, be a consideration in making some job assignments.

Finally in regard to ex-offenders, it seems obvious that persons in this category could bring a very real rapport to jobs featuring maximum interaction with inmates and others under correctional supervision. Again the task force does not advocate affirmative action or quotas. However, an ex-offender who is otherwise qualified should not be excluded from a correctional job because of his status (cf. Goal 11.10).

References

1. National Advisory Commission Report on Corrections, Standard 14.2-14.4, pp. 474-479.

2. Joint Commission on Correctional Manpower and Training, A Time to Act, Washington, D.C., 1969.

3. Joint Commission on Correctional Manpower and Training, Manpower and Training in Correctional Institutes, Washington, D.C., 1969.

4. Joint Commission on Correctional Manpower and Training, Offenders as a Correctional Manpower Resource, Washington, D.C., 1968.

5. Joint Commission on Correctional Manpower and Training, Perspectives on Correctional Manpower and Training, Washington, D.C., 1970.

6. National Institute of Law Enforcement and Criminal Justice, Only Ex-Offenders Need Apply--The Ohio Parole Officer Aide Program, Washington, D.C.: U.S. Government Printing Office, 1976.

Goal 13.3
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. 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.

2. A paid coordinator of volunteers should be provided for efficient program operation.

3. Administrators should plan for and bring about full participation of volunteers in their programs; volunteers should be included in organizational development efforts.

4. Insurance plans should be available to protect the volunteer from any mishaps experienced during participation in the program.

5. The presence of volunteer programs should not be used to diminish the responsibility of government agencies.

Commentary

There has been a strong emphasis throughout this report on use of volunteers in correctional programming. The strongest statement in this regard is in Goal 6.3 which provides for a number of the specifics of volunteer participation in community and institutional programming. Goal 13.3 adds to this a number of important prerequisites to use of volunteers: training, an aspect of volunteer participation that cannot be overemphasized

in avoiding the types of mistakes which can discredit volunteer programs; a coordinator of volunteers to insure efficient program operation; full participation of volunteers in administration and organizational efforts; and availability of insurance plans to protect volunteers from work-related injuries. Finally the task force wishes to emphasize, as it did in Goal 6.3, that volunteer participation in a program does not diminish the responsibility of the correctional agency responsible for it. Any other conclusion is asking for trouble.

References

1. National Advisory Commission Report on Corrections, Standard 14.5, pp. 480-481.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chapter 18.
3. Department of Corrections, Task Force Report on Guidelines and Recommendations for Use of Volunteers in the Department of Corrections, Richmond, May 15, 1975.
4. Joint Commission on Correctional Manpower and Training, Volunteers Look at Corrections, Washington, D.C., 1969.

Goal 13.4
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 state, local and private concerns.

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 so as 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 such others as nature of cases, team assignments and the needs of offenders and the community.

Commentary

This goal calls for the creation of conditions of employment in Virginia's Department of Corrections which should be designed best to utilize qualified personnel and insure their remaining in the field of corrections. Currently, Virginia has a turnover rate among correctional officers of thirty per cent. Implementation of the provisions of this goal should assist in lessening that turnover rate. It should also promote heightened professionalism and expertise among personnel in order to make corrections work in Virginia.

References

1. National Advisory Commission Report on Corrections, Standard 14.6, pp. 482-484.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 174-175.
3. Fogel, D., ". . . We Are the Living Proof. . .," Cincinnati: W.H. Anderson Co., 1975, Chapter 2.
4. Jacobs, J., and H. Retsky, "Prison Guard," Urban Life and Culture, Vol. 4, No. 1, April, 1975.
5. Joint Commission on Correctional Manpower and Training, A Time to Act, Washington, D.C., 1969.

Goal 13.5
Participatory Management

Correctional agencies should adopt immediately a program of participatory management in which everyone involved--managers, staff and offenders--shares in identifying problems, finding mutually agreeable solutions, setting goals and objectives, defining new roles for participants and evaluating effectiveness of these processes.

This program should include the following:

1. Training and development sessions to prepare managers, staff and offenders for their new roles in organizational development.

2. An ongoing evaluation process to determine progress toward participatory management and role changes of managers, staff and offenders.

3. A procedure for the participation of other elements of the criminal justice system in long-range planning for the correctional system.

4. A change of manpower utilization from traditional roles to those in keeping with new management and correctional concepts.

Commentary

Participatory mangement is an integral part of management by objectives as outlined in the previous chapter. As noted in the discussion of that concept, one of the salient features of management by objectives is the attaining of maximum participation from all aspects of the labor force in setting the initial objectives which will serve as goals for future management. This participative approach should continue in the refining and redeveloping of these goals as needs and priorities change. Participative management has not only the effect of broadening the data base from which decisions are made, but it also improves morale among participating staff members. The mirror image of

participatory mangement is authoritative management, in which staff participation is neither sought nor, when forthcoming, constructively employed.

It should be noted that the participatory management recommended by this goal contemplates inclusion not only of staff and management itself, but also would include offenders. It has become increasingly clear over the last few years that offenders cannot be systematically excluded from all roles in the decision-making apparatus which controls the conditions of their custody. Offender contribution to managerial decisions is an important aspect of correctional participatory management.

References

1. National Advisory Commission Report on Corrections, Standard 14.7, pp. 485-486.

2. Coffey, A., Administration of Criminal Justice, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974, pp. 29, 145.

3. Joint Commission on Correctional Manpower and Training, Manpower and Training in Correctional Institutions, Washington, D.C., 1969, p. 45.

4. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 173-174.

Goal 13.6 Redistribution of Correctional Manpower Resources to Community-Based Programs

Correctional and other agencies, in implementing the recommendations of Chapters 6 and 10 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 correctional manpower profile including appropriate data on each worker.

2. Proposals for retraining staff relocated by institutional closures.

3. A process of updating information on program effectiveness and needed role changes for correctional staff working in community-based programs.

4. Methods for formal, official corrections to cooperate effectively with informal and private correctional efforts found increasingly in the community. Both should develop collaboratively rather than competitively.

Commentary

Distribution of correctional manpower in Virginia has not traditionally been oriented toward community programming. Priorities in manpower allocation, as in distribution of funds for correctional programs, have traditionally been directed toward institutions. After institutions have absorbed the extraordinary manpower and financial resources they need to exist, little has been left of either to trickle down into community programs. This goal seeks to discourage this state of mind.

What this goal does not advocate is wholesale and immediate closing of institutions such as has recently occurred in Massachusetts. With present overcrowding in the Commonwealth, it is naive to assume any such massive scheme of deinstitutionalization could occur in Virginia. On the other hand, it is not necessarily naive to assume that with proper planning at some time in the future some institutions may be closed. It is to this possibility that paragraph 2 of the goal addresses itself.

References

1. National Advisory Commission Report on Corrections, Standard 14.8, pp. 487-489.

2. Advisory Commission on Intergovernmental Relations, Correctional Reform, Washington, D.C.: U.S. Government Printing Office, 1971, pp. 39.

3. Joint Commission on Correctional Manpower and Training, A Time to Act, Washington, D.C., 1969, p. 39.

Goal 13.7
Coordinated State Plan for Criminal Justice Education

The Commonwealth should establish 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 Commonwealth with defined needs, and to work toward proper placement of persons completing these programs.

1. Where a state higher education coordinating agency exists, it 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 educational plan.

4. Preservice graduates of criminal justice education programs should be assisted in finding proper employment.

Each unified state correctional system 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

This goal is largely self-explanatory but the task force feels that two aspects of it deserve particular emphasis. The group feels particularly strongly about the paragraph recommending that educational leaders, state planners and criminal justice staff members should meet to plan academic programs in the criminal justice field. Presently the State Council on Higher Education makes such decisions largely without the participation of criminal justice staff members. The task force also feels strongly that rewards should be provided to encourage inservice staff to pursue educational opportunities in the criminal justice field.

References

1. National Advisory Commission Report on Corrections, Standard 14.9, pp. 490-491.
2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, p. 100.

Goal 13.8 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 faculty, student interns and agency staff.

4. Empirical evaluation of each program.

5. Realistic pay for students.

6. Follow-up with participating students to encourage entrance into correctional work.

Commentary

Programs such as recommended by this goal already exist in Virginia but in many cases they are little known to those who could most benefit by them. This goal seeks to remedy this by recommending that positive recruitment efforts be undertaken to enlist interested students in the programs. Ultimately it is hoped these programs will result in a number of persons educated in the criminal justice field entering correctional careers. Robert Sommer describes how this has occurred in Oregon (see below).

References

1. National Advisory Commission Report on Corrections, Standard 14.10, pp. 492-493.

2. Law Enforcement Assistance Administration, Manpower Development Assistance Division, Report on Internship Program, Washington, D.C., 1972.

3. Sommer, R., The End of Imprisonment, New York: Oxford Univ. Press, 1976, p. 162.

4. U. S. Department of Health, Education and Welfare, Pilot Study of Correctional Training and Manpower, Washington, D.C.: U.S. Government Printing Office, 1967, p. 19.

Goal 13.9
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. Trainers should cooperate with their counterparts in the private sector and draw resources from higher education.

6. Sabbatical leaves should be granted for correctional personnel to teach or attend courses in colleges and universities.

Commentary

It is so self-evident as to require little elaboration that training is basic to competence and professionalism of correctional staff. In the past, however, the seeming self-evidence of this statement was widely overlooked as correctional personnel received little or no training with the not infrequent exception of guards. This picture began to change with the availability of funds through the Law Enforcement Assistance Administration of the U.S. Department of Justice in the late sixties. By now training of correctional staff is the rule rather than the exception. Virginia's Department of Corrections has recently taken a meaningful step in this direction by establishing an extensive training academy in Waynesboro (Richmond Times-Dispatch, 5/24/76, B-1). This goal would seem to fit comfortably into the direction of present trends in Virginia.

References

1. National Advisory Commission Report on Corrections, Standard 14.11, pp. 494-495.
2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 178-179.
3. American Prison Association, In-Service Training Standards for Prison Custodial Officers, Washington, D.C., 1951, Chapter 2.
4. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington, D.C.: U.S. Government Printing Office, 1967, pp. 100-101.
5. U.S. Bureau of Prisons, The Jail: Its Operation and Management, 1971, p. 127.

Chapter 14
Data Systems

Goal 14.1
Evaluating the Performance of the Correctional System

Each correctional agency immediately should begin to make performance measurements on two evaluative levels--overall performance or 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 first edition of the Criminal Justice Statistical Dictionary defines recidivism as the repetition of criminal behavior; habitual criminality; in statistical practice, any of a number of possible ratios between instances of arrest; conviction, correctional commitment, and correctional status changes, and subsequent repetitions of the same events within a given period of time. The units of count and their relationships must be specified as well as the elapsed time. The

Criminal Justice Statistical Dictionary discusses at some length the problems existing with the definition and use of recidivism. It recommends that the standard statistical description of recidivism:

a. Include re-arrests, re-prosecutions, reconvictions, revocations of probation or parole, recommitments and new sentences. Calculations that exclude one of these factors may omit the information from which the degree of correspondence between system action and subject behavior can best be inferred.

b. Include specific charge(s) at each of the above process points. A data presentation that does not distinguish between motor vehicle theft and criminal homicide may measure little more than system workload.

c. Report at least the information described above for a minimum period of 18 months of community exposure following release from confinement, or conviction if no confinement. There is empirical evidence that the likelihood of re-arrest is very high for 18 months and then decreases sharply.

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 as 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 state or type, etc.). Evaluative measurement should be applied to discrete and defined cohorts.

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

The placement of this goal at the conclusion of this report is in no way intended to detract from its manifest importance. So often the fate of a correctional program rests not on empirical data which clearly indicates its success or failure in reducing recidivism, but rather on subjective evaluations which may bear but a limited correspondence to

reality. This is frequently the case because empirical data simply is not available. In such an information vacuum, resort to opinions and visceral reactions is inevitable. This goal seeks to remedy this unfortunate situation which has often precluded enlightened correctional planning in Virginia.

Clearly the implementation of this goal is going to require the creation of coherent and integrated state correctional information systems. In the past Virginia has had no such capacity. In 1973, Thomas Vocino studied this aspect of Virginia's criminal justice system and concluded:

> Most correctional data concerns the offender under the control of state institutions. Many data elements are collected on numerous forms, most of which are transmitted to the offender's file, however, only a small portion of these data become a part of ongoing information systems. Thus for this and other reasons that will become apparent in this report, few general system questions can be answered with systematic data from the Bureau of Research and Reporting at D.W. & I. [Department of Welfare and Institutions].

Fortunately the bleakness of this picture has diminished somewhat in the Commonwealth. The Central Criminal Records Exchange (CCRE) is the collection point for criminal history record information concerning persons arrested for felonies and class 1 and 2 misdemeanors. Court dispositions and correctional status changes are also required to be reported to the CCRE. This information provides the basis for computerized criminal histories (CCH) which are of operational value to nearly every segment of the criminal justice system. CCH can be transmitted over the Virginia Criminal Information Network to any of 134 terminals operated by 79 different agencies.

Goal 14.1 contemplates that a more comprehensive and varied state correctional information system be implemented in the Commonwealth than presently exists. The creation of this system is presently being undertaken based upon the Comprehensive Data System Program (CDS) funded by the Law Enforcement Assistance Administration of the U.S. Department of Justice. Three components of the CDS program which affect the correctional system are under development. These are a Department of Corrections Management Information System, the Offender Based State Corrections Information System (OBSCIS), and an Offender Based Transactions Statistics (OBTS) system. The latter two systems share many data elements and thus are

to be interconnected. The basic OBTS derives directly from the reports required to be made to the CCRE. When these systems become operational evaluation of the correctional systems and particular programs therein will be possible as visualized by Goal 14.1.

It is important to achieve coordination and uniformity in information systems because subtle variances in manners of collecting information may result in data not being comparable. This in turn can result in programs being evaluated by reliance on misleading or erroneous data. This is obviously no better than no data at all; it may even be worse as the decisions that are being made are ostensibly enlightened.

For these reasons Goal 14.1 depends on a coordinated data system. This system should be statewide and should provide access at various points throughout the Commonwealth. Placement of the correctional data base should be such so as to provide direct access to top administrators of the department, but at the same time the mission of the system should be broad enough to be of service to the entire Department of Corrections. Obviously sophistication of staff must match the complexity of the system. When these things are a reality in Virginia, and indications suggest that that should be in the future, Goal 14.1 will then be a next logical step in upgrading corrections in Virginia. The Department of Corrections is in the process of implementing this goal; some of its provisions, however, such as 2c, will take time and money to realize.

References

1. National Advisory Commission Report on Corrections, Standard 15.1 - 15.5, pp. 519-530.

2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, Chaper 12.

3. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology, Washington, D.C.: U.S. Government Printing Office, 1967.

4. "Recent Developments: Criminal History Records--Collection, Storage, and Dissemination of Information," Criminal Law Bulletin, Vol. 12, 1976, p. 583.

5. Vocino, T., An Inventory and Evaluation of Data Sources, Reporting, and Research in the Virginia Correctional System, Richmond: Commonwealth of Virginia, Division of Justice and Crime Prevention, 1973.

Goal 14.2
A National Research Strategy Plan

Federal granting agencies active in correctional research should join immediately in preparation of a coordinated research strategy in which general areas of interest and activity are delimited, objectives are specified and research priorities declared. This strategy should be published and reviewed annually.

The national research strategy should include at least the following four kinds of research support:

1. National Corrections Statistics. The National Institute of Law Enforcement and Criminal Justice or some other body should initiate a consolidated annual report including data on population characteristics and movement of both adults and juveniles through detention and correctional facilities, probation and parole. Exact dimensions of the report and the strategy required to achieve it should be developed by a representative group.

2. Maintenance of Program Standards. Emphasis should be placed on monitoring the implementation of national performance standards. Funding agencies should pay close attention to the degree to which agencies adopt performance standards derived from objective statistical measurement and the extent to which they are validated and utilized.

3. Study of Trends in Correctional Program Change. Leadership of funding agencies is indispensable to coordination of research. An effort should be made to coordinate research with changes occurring as new programs and policies develop.

4. Facilitation of Innovation. Supporting research should be planned and implemented at the same time program innovations are started. Funding agencies should require that the study of process begin at the beginning, instead of tolerating scattered explorations after programs are operating. While not every project will warrant its own internal research and evaluation component, experimentation with special evaluative teams to assist numerous agencies, special demonstration projects and similar strategies should be explored. Funding agencies also should provide a continuing strategy for development. There should be a cycle in which review of the state of the art and development of research in relevant sciences are considered together so that specific areas for concentration in future research can be defined.

Commentary

While the task force felt that it might be presumptuous of it to recommend something such as this on a national scale, it also felt that a national research strategy plan was a natural step beyond the statewide data systems addressed in the previous goal. This report is certainly not unique in recognizing the desirability of such a proposal. In fact this goal is very substantially based upon a recommendation of the National Advisory Commission in its Report on Corrections. Other groups that have made similar recommendations include the American Correctional Association, the National Council on Crime and Delinquency and the President's Crime Commission.

References

1. National Advisory Commission Report on Corrections, pp. 531-533.

2. American Correctional Association, Manual of Correctional Standards, Washington, D.C., 1966, pp. 251-252.

3. National Probation and Parole Institutes, A National Uniform Parole and Reporting System, Davis, Cal.: National Council on Crime and Delinquency, 1970, p. 103.

4. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1967, p. 277.

Dissenting Views

Statement of Mr. Pleasant C. Shields

I wish to register my disagreement with portions of Goal 7.1, Probation, and note the following:

In Section 1, I am of the opinion that probation should not be restricted to a one-year period for all misdemeanants. I could favor restriction of probation for a single misdemeanor to a one-year period, but, in case of multiple misdemeanors, I feel it might be proper to allow for a period greater than one year. For example, those persons convicted of six or eight misdemeanors should, in my judgment, be considered for a period of supervision exceeding one year.

In Section 2, I am of the opinion that all persons should be released to the general or standard conditions of probation, as are now used statewide. I believe the Judges should be, and in fact Judges do, impose special conditions for those cases wherein specific need is determined. I am of the opinion that it would be rather cumbersome for each person to be released under a separate set of conditions.

In Section 4, Item D, I have questions with respect to probationers having "access to official records regarding his case". At this writing I am not sure what this includes, and I am not certain that, in my judgment, it should include the total case file maintained by the probationer.

Under Section 5, I do not agree. I am of the opinion that there are times when probation should be revoked even if the person may be acquitted after being charged with a new crime. As you know, many persons are acquitted as a result of technical errors, and yet, in my judgment, it makes them no less responsible. I have no difficulty with probation revocation until after litigation is completed on any new crime.

Statement of Judge Duncan C. Gibb

I wish to register my objection to:

Goal 3.4, Alternatives to Pretrial Detention (commentary only)
Goal 7.1, Probation
Goal 9.7, Jail Release Programs, subparagraph 3 (unless prior approval is obtained from the court).
Goal 11.10 Retention and Restoration of Rights

Statement of Mr. Wendell L. Seldon

I take exception to Goal 9.4, Staffing Patterns, paragraph 2 which states that "Correctional personnel should receive salaries equal to those of persons with comparable qualifications and seniority in the jurisdiction's police and fire departments." It is my feeling that correctional personnel should receive salaries equal to "other departments," not necessarily "police and fire." The persons with comparable qualifications and seniority in the jurisdiction may be in other departments. The salary ranges presently established by the Department of Corrections for local correctional personnel are often disruptive to other departments and, accordingly, should be based on comparable qualifications, not specific departments.

Priorities

The corrections task force members were asked to identify and rank the ten goals they deemed most important to the improvement of Virginia's criminal justice system. The selected goals and the relative weight accorded each are listed below in descending order. (The most important goal is listed first.)

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
1	1.1	Total System Planning	68
2	6.1	Development Plan for Community-Based Alternatives to Confinement	35
3	4.1	Establishing Sentencing Policy	33
4	12.1	Professional Correctional Management	28
5	14.1	Evaluating the Performance of the Correctional System	25
6	12.2	Planning and Organization	20
7	13.1	Recruitment of Correctional Staff	18
8	9.6	Local Correctional Facility Programming	17
9	6.3	Corrections Responsibility for Community Involvement	16
10	11.6	Medical Care	16
11	3.1	Comprehensive Pretrail Process Planning	15
12	9.4	Staffing Patterns	15
13	6.2	Marshaling and Coordinating Community Resources	14
14	3.4	Alternatives to Pretrial Detention	14
15	10.4	Educational and Vocational Training	14
16	7.1	Probation	13

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
17	9.8	Local Facility Evaluation and Planning	13
18	7.6	Probation in Release on Recognizance Programs	11
19	2.1	Use of Deferred Prosecution (Diversion)	9
20	3.3	Alternatives to Arrest	9
21	5.2	Classification for Inmate Management	9
22	13.7	Coordinated State Plan for Criminal Justice Education	9
23	13.9	Staff Development	9
24	7.3	Services to Probationers	8
25	10.1	Planning New Correctional Institutions	8
26	10.10	Prison Labor and Industries	8
27	5.1	Comprehensive Classification Systems	7
28	5.3	Community Classification Teams	7
29	8.6	Community Services for Parolees	7
30	7.4	Misdemeanant Probation	7
31	11.4	Protection Against Personal Abuse	7
32	11.8	Nondiscriminatory Treatment	7
33	3.5	Procedures Relating to Pretrial Release and Detention Decisions	6
34	11.1	Access to Courts	6
35	3.2	Construction Policy for Pretrial Detention Facilities	5
36	10.5	Special Offender Types	5

RANK	GOAL NO.	GOAL TITLE	RELATIVE WEIGHT
37	9.1	State Inspection of Local Facilities	4
38	13.6	Redistribution of Correctional Manpower Resources to Community-Based Programs	4
39	9.7	Jail Release Programs	3
40	8.1	Organization of Paroling Authorities	2
41	13.4	Personnel Practices for Retaining Staff	2
42	10.2	Modification of Existing Institutions	1
43	10.8	Recreation Programs	1
44	11.9	Rehabilitation	1
45	11.10	Retention and Restoration of Rights	1
46	13.5	Participatory Management	1

Implementing Authorities

CORRECTIONS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
1.1	Total System Planning	General Assembly, Governor, Commonwealth's attorneys, judges, Department of Corrections, Board of Corrections, planning district commissions, local governments, Secretary of Public Safety, State Crime Commission, Division of Justice and Crime Prevention, State Compensation Board, police chief executives, sheriffs
2.1	Use of Deferred Prosecution (Diversion)	Commonwealth's attorneys, circuit and district judges, local government
3.1	Comprehensive Pretrial Process Planning	Local government, planning district commissions, Commonwealth's attorneys, judges and magistrates
3.2	Construction Policy for Pretrial Detention Facilities	Local governments, Department of Corrections
3.3	Alternatives to Arrest	Magistrates, police chief executives, sheriffs
3.4	Alternatives to Pretrial Detention	Circuit and district court judges, magistrates
3.5	Procedures Relating to Pretrial Release and Detention Decisions	Magistrates, circuit and district court judges
3.6	Organization of Pretrial Services	General Assembly
3.7	Rights of Pretrial Detainees	Sheriffs
3.8	Programs for Pretrial Detainees	Local government, sheriffs, Department of Corrections
4.1	Establishing Sentencing Policy	General Assembly

CORRECTIONS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
5.1	Comprehensive Classification Systems	Department of Corrections, Classification Section
5.2	Classification for Inmate Management	Department of Corrections, Classification Section
5.3	Community Classification Teams	Local government; Department of Corrections, Classification Section
6.1	Development Plan for Community-Based Alternatives to Confinement	Local government; planning district commissions; Department of Corrections, Division of Adult Services, Division of Probation and Parole Services
6.2	Marshaling and Coordinating Community Resources	Local government; planning district commissions; Department of Corrections, Division of Adult Services
6.3	Corrections Responsibility for Community Involvement	Local government; planning district commissions; Department of Corrections, Division of Adult services; State Office on Volunteerism
7.1	Probation	Circuit and district court judges; Department of Corrections, Division of Probation and Parole Services
7.2	Organization of Probation	Department of Corrections, Division of Probation and Parole Services
7.3	Services to Probationers	Department of Corrections, Division of Probation and Parole Services
7.4	Misdemeanant Probation	District judges; Department of Corrections, Division of Probation and Parole Services

CORRECTIONS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
7.5	Probation Manpower	Department of Corrections, Division of Probation and Parole Services; State Office on Volunteerism
7.6	Probation in Release on Recognizance Programs	Circuit and district court judges; Department of Corrections Division of Probation and Parole Services; State Office on Volunteerism
8.1	Organization of Paroling Authorities	Parole Board
8.2	Parole Authority Personnel	General Assembly, Governor
8.3	The Parole Grant Hearing	Parole Board
8.4	The Parole Revocation Hearing	Parole Board
8.5	Organization of Field Services	Department of Corrections: Division of Probation and Parole Services, Parole Board
8.6	Community Services for Parolees	Department of Corrections: Division of Probation and Parole Services, Parole Board
8.7	Measures of Control	Department of Corrections: Division of Probation and Parole Services, Parole Board
8.8	Manpower for Parole	Department of Corrections: Division of Probation and Parole Services, Parole Board
9.1	State Inspection of Local Facilities	General Assembly, Board of Corrections, Department of Corrections
9.2	Adult Intake Services	Planning district commissions

CORRECTIONS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
9.3	Pretrial Detention Admission Process	Sheriffs
9.4	Staffing Patterns	Sheriffs, local government, State Compensation Board
9.5	Internal Policies	Sheriffs, local government, Department of Corrections
9.6	Local Correctional Facility Programming	Sheriffs, local government, Rehabilitative School Authority (with statutory authorization)
9.7	Jail Release Programs	Sheriffs, local government, circuit and district court judges
9.8	Local Facility Evaluation and Planning	Local government, planning district commissions
10.1	Planning New Correctional Institutions	Planning district commissions; Department of Corrections, Division of Adult Services
10.2	Modification of Existing Institutions	Department of Corrections, Division of Adult Services
10.3	Social Environment of Institutions	Department of Corrections, Division of Adult Services
10.4	Educational and Vocational Training	Department of Corrections: Division of Adult Services, Rehabilitative School Authority; Department of Vocational Rehabilitation
10.5	Special Offender Types	Department of Corrections, Division of Adult Services; Department of Mental Health and Mental Retardation

CORRECTIONS GOAL NUMBERS AND TITLES	IMPLEMENTING AUTHORITIES
10.6 Women in Major Institutions	Department of Corrections, Division of Adult Services; State Commission on the Status of Women (advisory role)
10.7 Religious Programs	Department of Corrections, Division of Adult Services; Chaplain Service of the Churches of Virginia, Inc.
10.8 Recreation Programs	Department of Corrections, Division of Adult Services
10.9 Counseling Programs	Department of Corrections, Division of Adult Services
10.10 Prison Labor and Industries	Department of Corrections, Division of Adult Services
11.1 Access to Courts	Department of Corrections, Division of Adult Services
11.2 Access to Legal Services	Department of Corrections, Division of Adult Services
11.3 Access to Legal Materials	Department of Corrections, Division of Adult Services
11.4 Protection Against Personal Abuse	Department of Corrections, Division of Adult Services
11.5 Healthful Surroundings	Department of Corrections, Division of Adult Services
11.6 Medical Care	Department of Corrections, Division of Adult Services
11.7 Searches	Department of Corrections, Division of Adult Services
11.8 Nondiscriminatory Treatment	Department of Corrections, Division of Adult Services
11.9 Rehabilitation	Department of Corrections, Division of Adult Services
11.10 Retention and Restoration of Rights	General Assembly; Governor; Department of Corrections, Division of Adult Services

CORRECTIONS GOAL NUMBERS AND TITLES	IMPLEMENTING AUTHORITIES
11.11 Rules of Conduct	Department of Corrections, Division of Adult Services
11.12 Disciplinary Procedures	Department of Corrections, Division of Adult Services; State Office on Volunteerism (citizen involvement in disciplinary proceedings)
11.13 Procedures for Non-Disciplinary Changes of Status	Department of Corrections: Division of Adult Services, Classification Section
11.14 Grievance Procedure	Department of Corrections, Division of Adult Services
11.15 Free Expression and Association	Department of Corrections, Division of Adult Services
11.16 Exercise of Religious Beliefs and Practices	Department of Corrections, Division of Adult Services
11.17 Access to the Public	Department of Corrections, Division of Adult Services
11.18 Remedies for Violation of an Offender's Rights	Department of Corrections, Division of Adult Services
12.1 Professional Correctional Management	Department of Corrections, Division of Administrative Services
12.2 Planning and Organization	Department of Corrections, Division of Administrative Services
12.3 Employee-Management Relations	Department of Corrections, Division of Administrative Services
12.4 Work Stoppages and Job Actions	Department of Corrections, Division of Administrative Services

CORRECTIONS GOAL NUMBERS AND TITLES		IMPLEMENTING AUTHORITIES
13.1	Recruitment of Correctional Staff	Department of Corrections, Division of Administrative Services
13.2	Employment of Minorities, Women and Ex-Offenders	Department of Corrections, Division of Administrative Services; State Commission on the Status of Women
13.3	Employment of Volunteers	Department of Corrections, Division of Administrative Services; State Office on Volunteerism
13.4	Personnel Practices for Retaining Staff	Department of Corrections, Division of Administrative Services
13.5	Participatory Management	Department of Corrections, Division of Administrative Services
13.6	Redistribution of Correctional Manpower Resources to Community-Based Programs	Department of Corrections, Division of Administrative Services
13.7	Coordinated State Plan for Criminal Justice Education	General Assembly; Department of Corrections, Division of Administrative Services
13.8	Intern and Work Study Programs	Department of Corrections, Division of Administrative Services
13.9	Staff Development	Department of Corrections, Division of Administrative Services
14.1	Evaluating the Performance of the Correctional System	Department of Corrections, Bureau of Research and Planning
14.2	A National Research Strategy Plan	Federal legislation

Disposition of the National Advisory Commission Standards

	Goal	A	AA	S	DC	DNR	DFS	R	RP
2.1 Access to Courts	11.1		X						
2.2 Access to Legal Services	11.2		X						
2.3 Access to Legal Materials	11.3			X					
2.4 Protection Against Personal Abuse	11.4			X					
2.5 Healthful Surroundings	11.5		X						
2.6 Medical Care	11.6			X					
2.7 Searches	11.7		X						
2.8 Nondiscriminatory Treatment	11.8		X						
2.9 Rehabilitation	11.9			X					
2.10 Retention and Restoration of Rights	11.10			X					
2.11 Rules of Conduct	11.11		X						
2.12 Disciplinary Procedures	11.12		X						

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
2.13 Procedures for Nondisciplinary Changes of Status	11.13	X							
2.14 Grievance Procedure	11.14	X							
2.15 Free Expression and Association	11.15		X						
2.16 Exercise of Religious Beliefs and Practices	11.16		X						
2.17 Access to the Public	11.17			X					
2.18 Remedies for Violation of an Offender's Rights	11.18		X						
3.1 Use of Diversion	2.1		X						
4.1 Comprehensive Pretrial Process Planning	3.1	X							
4.2 Construction Policy for Pretrial Detention Facilities	3.2		X						
4.3 Alternatives to Arrest	3.3		X						
4.4 Alternatives to Pretrial Detention	3.4		X						
4.5 Procedures Relating to Pretrial Release and Detention Decisions	3.5			X					

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
4.6 Organization of Pretrial Services	3.6		X						
4.7 Persons Incompetent to Stand Trial					X				
4.8 Rights of Pretrial Detainees	3.7		X						
4.9 Programs for Pretrial Detainees	3.8	X							
4.10 Expediting Criminal Trials	3.9			X					
5.1 The Sentencing Agency								X	
5.2 Sentencing the Nondangerous Offender	4.1			X					
5.3 Sentencing to Extended Terms	4.1			X					
5.4 Probation	7.1		X						
5.5 Fines								X	
5.6 Multiple Sentences								X	
5.7 Effect of Guilty Plea in Sentencing								X	

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
5.8 Credit for Time Served								X	
5.9 Continuing Jurisdiction of Sentencing Court								X	
5.10 Judicial Visits to Institutions								X	
5.11 Sentencing Equality								X	
5.12 Sentending Institutes								X	
5.13 Sentencing Councils								X	
5.14 Requirements for Presentence Report and Content Specification								X	
5.15 Preparation of Presentence Report Prior to Adjudication								X	
5.16 Disclosure of Presentence Report								X	
5.17 Sentencing Hearing -- Rights of Defendant								X	
5.18 Sentencing Hearing -- Role of Counsel								X	
5.19 Imposition of Sentence								X	

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
6.1 Comprehensive Classification Systems	5.1		X						
6.2 Classification for Inmate Management	5.2		X						
6.3 Community Classification Teams	5.3		X						
7.1 Development Plan for Community-Based Alternatives to Confinement	6.1	X							
7.2 Marshaling and Coordinating Community Resources	6.2	X							
7.3 Corrections' Responsibility for Citizen Involvement	6.3		X						
7.4 Inmate Involvement in Community Programs								X	
8.1 - 8.4 The task force did not deal with the juvenile justice system in Virginia									
9.1 Total System Planning	1.1		X						
9.2 State Operation and Control of Local Institutions	1.1			X					
9.3 State Inspection of Local Facilities	9.1		X						
9.4 Adult Intake Services	9.2		X						

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
9.5 Pretrial Detention Admission Process	9.3		X						
9.6 Staffing Patterns	9.4		X						
9.7 Internal Policies	9.5		X						
9.8 Local Correctional Facility Programming	9.6		X						
9.9 Jail Release Programs	9.7	X							
9.10 Local Facility Evaluation and Planning	9.8		X						
10.1 Organization of Probation	7.2		X						
10.2 Services to Probationers	7.3		X						
10.3 Misdemeanant Probation	7.4	X							
10.4 Probation Manpower	7.5	X							
10.5 Probation in Release on Recognizance Programs	7.6		X						
11.1 Planning New Correctional Institutions	10.1		X						

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		Goal	A	AA	S	DC	DNR	DFS	R	RP
11.2	Modification of Existing Institutions	10.2		X						
11.3	Social Environment of Insititutions	10.3			X					
11.4	Education and Vocational Training	10.4		X						
11.5	Special Offender Types	10.5		X						
11.6	Women in Major Institutions	10.6		X						
11.7	Religious Programs	10.7	X							
11.8	Recreation Programs	10.8		X						
11.9	Counseling Programs	10.9		X						
11.10	Prison Labor and Industries	10.10			X					
12.1	Organization of Paroling Authorities	8.1		X						
12.2	Parole Authority Personnel	8.2		X						
12.3	The Parole Grant Hearing	8.3			X					

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12.4	Revocation Hearings	8.4		X						
12.5	Organization of Field Services	8.5		X						
12.6	Community Services for Parolees	8.6		X						
12.7	Measures of Control	8.7	X							
12.8	Manpower for Parole	8.8		X						
13.1	Professional Correctional Management	12.1		X						
13.2	Planning and Organization	12.2		X						
13.3	Employee-Management Relations	12.3		X						
13.4	Work Stoppages and Job Actions	12.4		X						
14.1	Recruitment of Correctional Staff	13.1		X						
14.2	Recruitment from Minority Groups	13.2		X						
14.3	Employment of Women	13.2		X						

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		Goal	A	AA	S	DC	DNR	DFS	R	RP
14.4	Employment of Ex-Offenders	13.2		X						
14.5	Employment of Volunteers	13.3		X						
14.6	Personnel Practices for Retaining Staff	13.4		X						
14.7	Participatory Management	13.5	X							
14.8	Redistribution of Correctional Manpower Resources to Community-Based Programs	13.6	X							
14.9	Coordinated State Plan for Criminal Justice Education	13.7	X							
14.10	Intern and Work-Study Programs	13.8		X						
14.11	Staff Development	13.9		X						
15.1	State Correctional Information Systems					X				
15.2	Staffing for Correctional Research and Information Systems					X				
15.3	Design Characteristics of a Correctional Information System					X				
15.4	Development of a Correctional Data Base					X				

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
15.5 Evaluating the Performance of the Correctional System	14.1	X							
Recommendation: A National Research Strategy Plan	14.2	X							
* 16.1 Comprehensive Correctional Legislation									
* 16.2 Administrative Justice									
* 16.3 Code of Offenders' Rights									
* 16.4 Unifying Correctional Programs									
* 16.5 Recruiting and Retaining Professional Personnel									
* 16.6 Regional Cooperation									
* 16.7 Sentencing Legislation									
* 16.8 Sentencing Alternatives									
* 16.9 Detention and Disposition of Juveniles									

* Standards 16.1 - 16.17 were deleted. The need for legislation is implied in many of the goals adopted by the task force.

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	Goal	A	AA	S	DC	DNR	DFS	R	RP
* 16.10 Presentence Reports									
* 16.11 Probation Legislation									
* 16.12 Commitment Legislation									
* 16.13 Prison Industries									
* 16.14 Community-Based Programs									
* 16.15 Parole Legislation									
* 16.16 Pardon Legislation									
* 16.17 Collateral Consequences of a Criminal Conviction									

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(Note: Minutes of the meetings are included in the working papers of the task force and contain complete discussion on NAC Standards.)

Glossary

1. ARRAIGNMENT. That stage of the criminal process at which the defendant is brought before the court to answer the charges made against him in the indictment. The process consists of calling the defendant by name, reading the indictment to him and asking for his plea. (Rules of Court, Rule 3A:10.)

2. BOARD OF CORRECTIONS. A nine-member board appointed by the governor which has as its main purpose to advise and confer with the director of the Department of Corrections. The board may also initiate investigations, consider correctional problems and make recommendations of its own motion. (Code §§ 53-19.23 through 53-19.38.)

3. BRIEF IN OPPOSITION. When a defendant is convicted at the trial level he may petition the Supreme Court of Virginia to review and set aside his conviction. If the Commonwealth opposes such a petition, a brief in opposition is filed setting out the legal and factual justification for upholding the conviction.

4. CHAPLAIN SERVICE OF THE CHURCHES OF VIRGINIA, INC. An organization which serves all of Virginia's correctional institutions, the Chaplain Service conducts religious worship and education programs, recreational activities and general discussion groups for offenders.

5. CLASSIFICATION. In its simplest form, the theory of classification is a recognition that people are individuals and therefore have a different educational background, employment history, vocational aptitude, medical history, physical limitations, intelligence, maturity and interests. Ideally, the recognition of those "differences" allows the corrections system (consistent with available resources) to tailor its activities to deal with the different types or classes of offenders.

6. CODE OF PROFESSIONAL RESPONSIBILITY. A set of rules of professional conduct for lawyers promulgated by the Virginia State Bar and consisting of two separate but interrelated sections: Ethical Considerations and Disciplinary Rules. The former are general statements of professional characteristics lawyers should strive for, the latter are standards of minimum professional conduct below which a lawyer

may not fall. Misconduct under the Code of Professional Responsibility is dealt with by the Virginia State Bar Disciplinary Board.

7. COLLATERAL DISABILITIES. There are generally two types of penalties imposed upon convicted offenders: (1) those penalties which are a part of the punishment adjudged by the trial court, e.g., a fine or a period of incarceration, and (2) those penalties which automatically, under law, attach to every convicted felon, e.g., loss of the right to vote, to hold public office, to serve as a juror or to be licensed for a number of professions. This latter category of penalties is the one referred to as collateral disabilities.

8. COMMITTEE ON DISTRICT COURTS. A committee composed of the chairmen of the House and Senate Courts of Justice Committees, two members of each committee appointed by those chairmen, and one circuit, one general district and one juvenile and domestic relations court judge. The three judical members are appointed by the Chief Justice of the Virginia Supreme Court. The committee is charged with various administrative duties relative to Virginia's district courts. For a complete description of these duties, see Code § 16.1-69.33.

9. COMMUNITY-BASED CORRECTIONS. Encompasses all correctional programs which increase community involvement and minimize full custodial confinement. This includes such programs as work release, educational or study release, halfway houses and probation.

10. COMPLAINT. "The complaint shall consist of sworn statements of a person or persons of facts relating to the commission of an alleged offense." (Rule 3A:3.) The statements are made before a magistrate who may require that they be reduced to writing and signed. If the complaint states facts which create a reasonable belief (probable cause) that an individual committed a crime, the magistrate may issue an arrest warrant for the individual.

11. CORRECTIONS GUIDELINES. Issued by the director of the Department of Corrections and deal with the administration of various aspects or correctional institutions. The guidelines are amended and updated as appropriate.

12. CRIMINAL JUSTICE SERVICES COMMISSION. The commission charged with promulgating minimum training standards for law enforcement officers, jailers, custodial officers and other criminal justice professionals in the Commonwealth. (See Code §§ 9-107 through 9-111.2.)

13. DISCOVERY. The pretrial procedure whereby the defendant discloses certain information to the Commonwealth and/or the Commonwealth discloses certain information to the defendant. The right of discovery in criminal cases in Virginia is set out in Rule 3A:14 of the Rules of Court.

14. DIVERSION (DEFERRED PROSECUTION). The suspension, before conviction, of formal criminal proceedings against the accused. This suspension is contingent upon the accused's agreement to do something in return. For example, an alcoholic who has committed a crime while intoxicated may have his prosecution suspended pending his successful completion of an alcoholic rehabilitation (or detoxification) program. If he does not successfully complete the program, prosecution may be renewed; while successful completion may result in a final "dropping" of the charge. See Corrections Goal 2.1 for a fuller description of diversion.

15. DIVISION OF PROBATION AND PAROLE SERVICES. A division of the Department of Corrections which is responsible for (1) supervision of probationers and preparation of presentence reports for the courts, (2) parole investigation and case supervision for the Virginia Parole Board, (3) supervision and provision of services to those pardoned by the governor and (4) operation of community-based correctional centers, or halfway houses, in Richmond and Roanoke.

16. GIG LIST. A list of infractions, or demerits, which is compiled during a military inspection. The term is sometimes used, as it is in the corrections report, to refer to a list of infractions in a prison.

17. HABEAS CORPUS. In our present legal system, the term most commonly refers to a writ challenging the constitutionality of imprisonment. The technical term for this writ is habeas corpus ad subjiciendum. Code § 8-596; Peyton v. Williams, 206 Va. 595, 145 S.E.2d 147 (1965).

18. INDICTMENT. "An indictment is a written accusation of crime, prepared by the attorney for the Commonwealth and returned 'a true bill' upon the oath or affirmation of a legally impanelled grand jury." (Code § 19.2-216.) "The indictment or information shall be a plain, concise and definite written statement, (1) naming the accused, (2) describing the offense charged and citing the statute or ordinance that defines the offense or, if there is no defining statute or ordinance, prescribes the punishment for the offense, (3) identifying the county, city or town in which the accused committed the offense, and (4) reciting that the accused committed the offense on or about a certain date." (Rule 3A:7.)

19. INDETERMINATE SENTENCE. "A sentence to imprisonment for the maximum period defined by law, subject to termination by the parole board or other agency at any time after service of the minimum period." 24 C.J.S. 1217. Periods of indeterminate commitment for youthful offenders are authorized by Code §§ 19.2-311 through 19.2-316.

20. INFORMATION. "A written accusation of crime or a complaint for forfeiture of property or money or for imposition of a penalty, prepared and presented by a competent public official upon his oath of office." (Code § 19.2-216.) If the defendant waives his right to have the grand jury return an indictment on a felony charge, he may be tried on an information.

21. INSTITUTION. As used in the corrections report, an institution is any one of the seven major prison complexes administered by the Division of Adult Services of the Virginia Department of Corrections. These include: the State Penitentiary; the James River and Powhatan Correctional Centers; Southampton Correctional Center; Bland Correctional Center; St. Brides; Staunton Correctional Center; and the Virginia Correctional Center for Women. The new maximum security facility in Mecklenburg County, when completed, will also be an institution.

22. INSTRUCTIONS. In cases tried by a jury, the instructions are the statements may by the judge explaining to the jury the law which is applicable to the facts of the case.

23. INTAKE SERVICES. As used in Corrections Goal 9.2, it involves rapid assembly of the types of information prerequisite to release of those awaiting trial.

24. JUDICIAL CONFERENCE. A group which includes the Chief Justice and Justices of the Virginia Supreme Court and all judges of courts of record in the Commonwealth, whether active or retired. The judicial conference also has numerous honorary members. The group meets at least once each calendar year to discuss ways of improving the administration of justice in the state. (Code §§ 17-228 through 17-231.)

25. JUDICIAL COUNCIL. An organigation composed of five circuit court judges, one general district court judge, one juvenile and domestic relations court judge, two attorneys qualified to practice before the Virginia Supreme Court and the Chairmen of the House and Senate Courts of Justice Committees. These eleven persons meet periodically to conduct a continuous study of the organization and operation of Virginia's judicial system. (Code §§ 17-222 through 17-227.)

26. MAGISTRATE. In Virginia, the constitutional officer formerly known by the title "justice of the peace" whose duties include receiving criminal complaints (see COMPLAINT), and issuing warrants and summonses.

27. MANAGEMENT BY OBJECTIVES (MBO). A theory of management in which management and personnel cooperate in developing the objectives which will act as the guidelines by which to measure future performance of the agency. Participatory management is the key. A management scheme in which the objectives are set by management alone is not MBO.

28. MANDAMUS. A writ which issues from a court of superior jurisdiction to an inferior tribunal or public official compelling performance of a ministerial non-discretionary act; the writ of mandamus is sometimes used by inmates in penal facilities to compel corrections officials to perform legitimate duties.

29. NON-RESIDENTIAL SUPERVISION PROGRAMS. Community-based correctional programs in which the offender being supervised does not reside in a community-based correctional facility, such as a halfway house or group home, but rather lives at home and is supervised

and counseled from there.

30. NOTICE OF APPEAL. When a convicted defendant wishes to appeal his conviction to the Supreme Court of Virginia, he must file a notice of appeal and assignment of errors that he alleges occurred at trial. This filing must be within 30 days after entry of final judgment against the defendant in the trial court.

31. PARTICIPATORY MANAGEMENT. See MANAGEMENT BY OBJECTIVES.

32. PAROLE. A conditional release from prison prior to the serving of the entire sentence; the release is conditional upon observance of a number of regulations which may be individualized to the particular needs of the parolee.

33. PLANNING DISTRICTS. The twenty-two districts in Virginia which coordinate planning for the counties, towns and cities which they contain.

34. PROBATION. "A sentence not involving confinement which imposes conditions and retains authority in the sentencing court to modify the conditions of sentence or to re-sentence the offender if he violates the conditions." American Bar Association, Standards Relating to Probation, Standard 1.1.

35. RECEPTION-DIAGNOSTIC CENTER. Has typically been a centrally located facility to which offenders are sent for "diagnosis." The concept is integral to the medical model of treatment (see REHABILITATION) which equates criminal conduct with illness and seeks to treat criminal tendencies by curing the subliminal psychological forces which allegedly cause them. It is also central to such sentencing plans as the National Council on Crime and Delinquency's Model Sentencing Act, which seeks to divide offenders into "dangerous" and "non-dangerous" categories and incarcerate only the former.

36. REGIONALIZATION. The division of a state or soverign unit into regions based upon particular correctional needs; regionalization proceeds from the assumption that presently existing local governmental boundaries may not correspond to those most adequately addressing the needs of correctional planning. In Virginia, for example, adjacent counties may not be able

individually to meet their needs for local jails. A single regional jail receiving detainees and offenders from these counties could presumably offer more diverse programming and facilities. Regionalization offers the opportunity for facilities of an expense and sophistication which single localities often need but cannot afford.

37. REHABILITATION. The corrections task force specifically rejects a concept of rehabilitation which assumes that every criminal offender is "ill" and in need of psychological "treatment" in order to rehabilitate him. The corrections task force defines rehabilitation as the successful efforts of an offender to acquire the requisite social (and perhaps economic) skills which allow him to live lawfully within society. The decision to be rehabilitated and the efforts directed toward that goal are the responsibility of the offender. The state's responsibility is in providing a wide range of programs for personal betterment which are available to offenders on a purely voluntary basis.

38. REHABILITATIVE SCHOOL AUTHORITY. All educational and vocational programs within the institutions and units maintained by the Department of Corrections are known as the Rehabilitative School Authority. (Code §§ 22-41.1 through 22-41.7.)

39. RELEASE ON OWN RECOGNIZANCE. The release of an accused pending trial based upon his own unsecured promise to appear in court on the date of trial.

40. RESIDENTIAL ALTERNATIVES TO INCARCERATION. One of the classes of community correctional programs, this description refers to such alternatives to incarceration as halfway houses and group homes in which the offender actually lives while being counseled and supervised. Cf. NON-RESIDENTIAL SUPERVISION PROGRAMS.

41. RULES OF COURT. Rules formulated by the Supreme Court of Virginia which govern practice and procedure in the circuit courts. (Code § 17-116.4).

42. SCREENING. The discretionary decision to stop formal proceedings against an accused; it differs from diversion in that it is not contingent upon the accused's agreement to do something in return. For a further

explanation see commentary to Courts Goal 1.1.

43. SHORT-TERM RETURN. The return of a recently released former offender to a community correctional facility for a short term when he commits a new criminal offense. The theory is that another criminal sentence of incarceration should be avoided if at all possible in the critical early stages of a former offender's attempt to re-enter society. Short-term return to a community facility, with appropriate counseling and help, may aid him in overcoming the last obstacles to resocialization.

44. SUMMONS. An alternative to arrest in which the accused signs a certificate agreeing to appear in court on a specific date and time to answer to charges. In many jurisdictions, and in the standards of such organizations as the American Bar Association and the National Advisory Commission, this is known as a citation when issued by a law enforcement officer, a summons if issued by a judicial officer. In Virginia summons refers to both.

45. SUPERSEDEAS. A writ which issues from an appellate court to a trial court suspending execution of a judgment which is being appealed pending the outcome of that appeal.

46. TEAM POLICING. ". . .[A]ssigning police responsibility for a certain area to a team of police officers. The more responsibility this team has, the greater the degree of team policing: ...The basic idea is that the team learns its neighborhood, its people, and its problems. It is an extension of the 'cop on the beat' concept, brought up to date with more men and modern police services." National Advisory Commission Report on Police, p. 154. For further explanation see Police Goal 6.1.

47. UNIT. As used in the corrections report, unit refers to any one of the roughly seventeen permanent and ten temporary facilities under the Bureau of Correctional Field Units of the Virginia Department of Corrections. See INSTITUTION.

48. VIRGINIA PAROLE BOARD. A board consisting of five members appointed by the governor which is responsible for making parole release and revocation decisions. (Code §§ 53-230 through 53-265.)

49. VIRGINIA STATE BAR. An administrative agency of the Virginia Supreme Court to which all practicing lawyers in the Commonwealth are required to belong. Its responsibilities include enforcing the law and canons of legal ethics governing practice in Virginia, and generally advancing the administration of justice in the Commonwealth.

50. WRIT OF ERROR. The order of the Supreme Court of Virginia by which that Court agrees to hear a case appealed from the trial court. See BRIEF IN OPPOSITION.

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