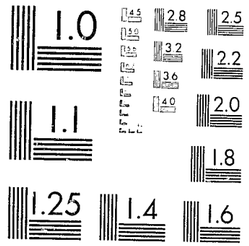


LEAA

Grants and Contracts

OFFICE OF LAW ENFORCEMENT ASSISTANCE, U.S. DEPARTMENT OF JUSTICE • WASHINGTON, D.C.

GOVERNORS' PLANNING COMMITTEES
N CRIMINAL ADMINISTRATION—
TWO STUDY PROJECTS

Iowa

West Virginia

LEAA DISSEMINATION DOCUMENT

GOVERNORS' PLANNING COMMITTEES IN CRIMINAL ADMINISTRATION - TWO STUDY PROJECTS;

* * *

THE IOWA CRIME COMMISSION'

GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND CORRECTIONS, STATE OF WEST VIRGINIA

Project Reports Submitted to
Office of Law Enforcement Assistance,
United States, Department of Justice,

These projects were supported by funds awarded by the Attorney General under the Law Enforcement Assistance Act of 1965: Grant #110 to the State of Iowa, Committee on Planning and Evaluation in Criminal Administration; and Grant #239(S.070) to the State of West Virginia, Governor's Committee on Crime, Delinquency and Corrections. Persons undertaking such projects under Government sponsorship are encouraged to express freely their professional judgment, findings, and conclusions. Therefore, points of view or opinions stated in this document do not necessarily represent the official position or policy of the U.S. Department of Justice.

PREFACE

The Iowa and West Virginia state commissions whose work is reported in this document are typical of the 31 statewide commissions presently engaged in criminal justice planning. These 31 commissions, or committees, established by the states with Law Enforcement Assistance Act (LEAA) matching funds, are assessing the nature and extent of state needs, and proposing measures that will improve state and local efforts to prevent and control crime.

Creation of these committees was proposed by the President in his March 9, 1966 Message to Congress on crime. He said, "Such state committees can assist--and be assisted by--the National (Crime) Commission. They can stimulate the growth of public involvement and the development of a comprehensive anti-crime agenda in every part of the country." Subsequently, on behalf of the President, the Attorney General invited each state governor to designate a commission and announced that LEAA matching grants of $25,000 would be available.

As of June 19, 1968, the LEAA program had provided over $900,000 in matching grants to 31 state committees, including continuation grants for several commissions which had begun work in 1966 or early 1967 and had completed the first phase of their planning effort. This relatively modest sum of money has enabled these committees to create formal machinery for the planning activities recommended by the President's Commission on Law Enforcement and Administration of Justice. As the President's Commission pointed out, "Significant reform is not to be achieved overnight by a stroke of a pen; it is the product of thought and preparation."

The governors' committees are, for the most part, comprised of a central committee assisted by task forces that conduct in-depth studies of specific topics. Membership on the committees is representative of both public and private sectors of the state and has typically included accomplished leaders in law enforcement.

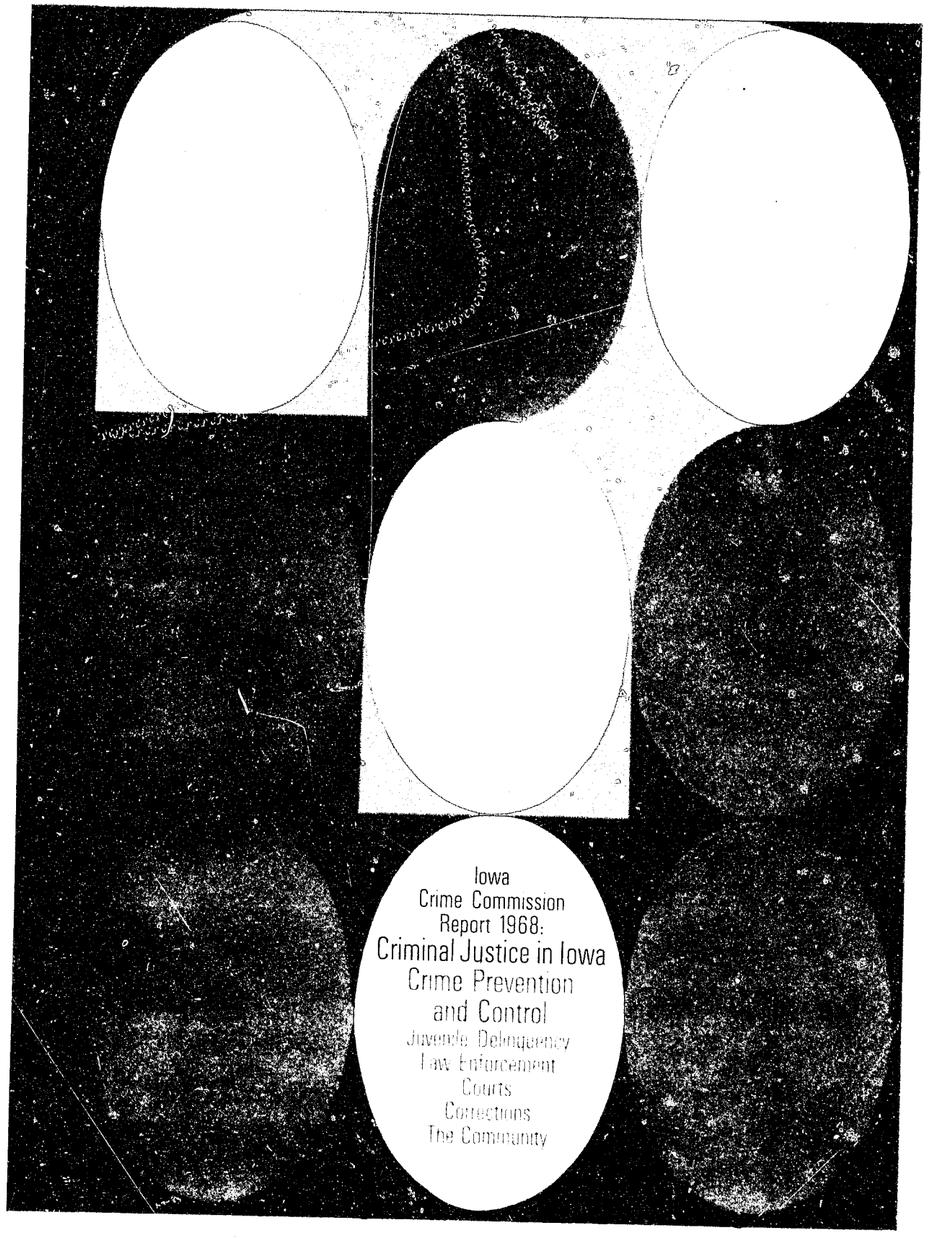
Each committee has worked to (1) identify noteworthy practices of police, court and correctional agencies in the state, (2) isolate the state's most pressing problems, (3) inventory financial, procedural and personnel needs, (4) pinpoint areas where gaps have arisen between the legal principles of criminal justice and the problems of everyday operation, (5) evaluate the feasibility of proposals made by the President's Commission, (6) assess

the state's resources and agencies, and (7) plan coordinated programs for law enforcement, courts and corrections.

In addition to providing financial support, the Office of Law Enforcement Assistance has sought to promote an interchange of information among the committees, and has conducted two conferences--one in June 1967 and the other in April 1968--for that purpose.

Office of Law Enforcement Assistance
U.S. Department of Justice

June 1968


Iowa
Crime Commission
Report 1968:
Criminal Justice in Iowa
Crime Prevention
and Control
Juvenile Delinquency
Law Enforcement
Courts
Corrections
The Community

"We read a lot about crime, we hear a lot about crime; but considering the magnitude of its cost in human suffering and economic loss, we really haven't done much about it.

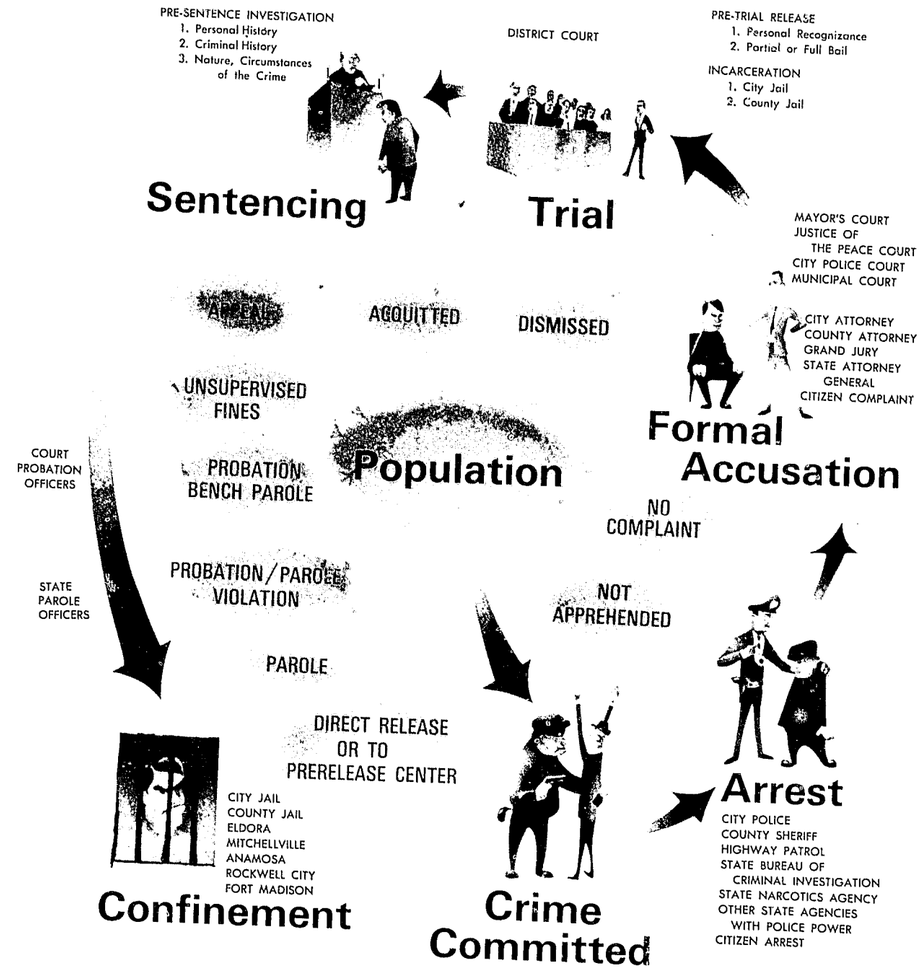
"The fact of the matter is that we are victimized by a continuing attack from this enemy within our society, that is on the scale of a military invasion..not just crime in the streets, but crime across the board...the abominable lawlessness we see around us.

"We can't lick this problem until the rank and file of our people feel the urgency and determination to become wholeheartedly involved with the authorities in the war on crime. It is all-out war: the people versus crime.

"Citizens of every community and of every county have to unite to give law enforcement the kind of communication, the kind of support it needs and to do everything possible to curb the epidemic of crime."

HAROLD E. HUGHES
Governor of Iowa

IOWA CRIMINAL PROCESS



THE IOWA CRIME COMMISSION

JAMES P. HAYES, DIRECTOR

MEMBERS:

ROBERT D. BLAIR, Director, State Bureau of Criminal Investigation
JOSEPH S. COUGHLIN, Deputy Commissioner, Department of Social Services
JOHN M. ELY, Senator, Cedar Rapids
NOLDEN GENTRY, Lawyer, Des Moines
MRS. HAROLD GOLDMAN, Des Moines
JACK HILSABECK, Sheriff, Audubon County
ARTHUR P. LONG, M.D., Commissioner of Public Health
M. L. MASON, Justice, Iowa Supreme Court
GEORGE J. MATIAS, Chief of Police, Cedar Rapids
MICHAEL O. McDERMOTT, Lawyer, Cedar Rapids
HOWARD S. MILLER, Chief, Iowa Highway Patrol
FRED H. MOORE, Chairman, Board of Parole
BISHOP GORDON V. SMITH, Episcopal Bishop of Iowa
WILLIAM F. SUEPPEL, Lawyer, Iowa City
DAVID H. VERNON, Dean, University of Iowa College of Law
ROSS T. WILBUR, Director of Family and Children's Services, Department of Social Services

SPECIAL ADVISORS:

DAVID L. BRODSKY, Lawyer, Des Moines
FRANK COVINGTON, Director, State Office of Planning and Programming
ROBERT N. DOWNER, Lawyer, Iowa City
DAVID A. ELDERKIN, Assistant State Attorney General

STAFF:

THOMAS D. McMILLEN, Drake Law School, Research Assistant, Writer and Editor
MIRIAM WEINER, Secretary and Administrative Assistant
(MRS. GLEN WATSON, Secretary and Administrative Assistant, served from May 1 through October, 1967)

F O R E W O R D

The Iowa Crime Commission was established on May 1, 1967, for the purpose of identifying Iowa's problems in juvenile delinquency, law enforcement, the courts and adult corrections. The Commission analyzed available data and collected additional information, pinpointing the needs existing, and recording for the first time in one document, important facts and conclusions regarding the many forces at work in our criminal process.

The Crime Commission Report is meant to be a useful document. It maps out needs and gaps, and it recommends plans of action which can be implemented by individual citizens, churches, schools, city councils, policemen, legislators and many others. These are things which can and must be done if we are to have a meaningful system of criminal justice for preventing and controlling crime in Iowa.

The Commission is a working one and the members and advisors have pursued their divisions of subject matter with zeal and in a spirit of cooperation and purpose. Many agencies, both local and state, particularly the Department of Public Safety, the Department of Social Services, and the University of Iowa College of Law, extended invaluable services and assistance of personnel throughout the study period. Persons not directly associated with the Commission, including wives, friends and relatives of the members, advisors and staff, pitched in and volunteered aid when it was most needed. To all of these we offer our gratitude.

Special commendation is extended to Miss Miriam Weiner, Mrs. Glen Watson, and Mr. Thomas D. McMillen for many long and tedious hours served in exceptional secretarial, research and staff capacity, for which there can never be full compensation.

James P. Hayes

James P. Hayes
Director

TABLE OF CONTENTS

A STUDY OF CRIMINAL JUSTICE IN IOWA

INTRODUCTION

Iowans are upset about crime today because there is more crime being committed and it is affecting the lives of more people. Many fear to use the streets of their cities and do not feel secure in their homes and shops. In the February 1968 Gallup Poll, for the first time since scientific polling began, crime and lawlessness topped the list of domestic problems troubling the American public. Three out of ten citizens polled admitted being afraid to go out alone at night.

Indeed, the community should be concerned about the complex and frustrating question of crime, for which there is no general prescription for cure. Last year in our nation over one-half of the serious crimes of arson, auto theft, vandalism, burglary, breaking and entering and larceny, were committed by children between the ages of 11 and 17. Between 1960 and 1966 there has been a 60 percent increase in juvenile arrests.

The Federal Bureau of Investigation Uniform Crime Reports show that for almost three million crimes covered, only one arrest is made for each four crimes reported; only one complaint is made for each four arrests. For the total process, only one court sentence is administered for each 17 crimes reported. The National Opinion Research Center of the University of Chicago points out that these figures do not take into account the fact that actual crime in the United States today is several times that reported in the Uniform Crime Reports, since these reports are voluntarily made by local police officials. Forcible rapes were more than three and one-half times the reported rate, burglaries three times, and aggravated assaults and robbery 50 percent greater. The Chicago University surveys produced rates of victimization that were from two to ten times greater than the official rates for individual crimes. Iowa has no uniform crime reporting to give us an accurate estimation of the quantity of crime committed and the nature of offenses.

It is a common misconception among the public, founded perhaps subconsciously, that once an offender is convicted and sent off to jail or prison, he will never return and we will not be bothered with him again. Quite to the contrary, we can expect over 50 percent of those incarcerated in our state's prisons to be released within two years of their confinement, and 50 percent of these persons are re-arrested within two and one-half years. This points out that present corrections practices are not affording adequate protection to society. Rehabilitation is not a personal luxury extended the offender. It is an absolute necessity for our safety and well-being in a healthy society. Sixty police officers were killed in the line of duty in 1967 and one out of ten can expect to be assaulted in the coming year. Ninety-five percent of the boys at Eldora Training School and 80 percent of the men at Anamosa Reformatory are school dropouts. In the capitol city, in only 20 percent of the cases which come to trial can police officers expect to be assisted by a civilian witness. The mood is "go away and don't bother me."

In Iowa, we are more fortunate than in many jurisdictions, for as the national crime rate increased 17 percent in the last year, Iowa's rate ascended somewhat over 8 percent, according to FBI Uniform Crime Reports. But any amount of crime

is too much, and we must do something now, while we are in a position to coolly and thoughtfully plan and adopt meaningful programs for improvement. The entire system of criminal justice, at all levels of government, must be modernized, and the community must be made to feel a part of this system.

Today we have no true system of criminal justice. We have various disciplines of interest attempting to solve the problem immediately confronting them, without any idea of how their programs and actions key into the total picture of criminal justice. In the end, our agencies have found themselves treating symptoms, not causes of crime. To use a medical simile, crime and delinquency bear the same relationship to social disorders as the headache bears to the serious disease of meningitis. In the latter case it is possible for a time to treat the headache with sufficient vigor so that much of the discomfort is temporarily relieved. When this is done, however, the basic disease continues, and in many cases, the patient dies. If, however, the basic disease is diagnosed and treated properly, in most cases the patient will live and the presenting symptoms will disappear.

The Iowa Crime Commission has directed its efforts toward crime prevention, not treatment after the fact. We urge the construction of a truly integrated and coordinated system of criminal justice which isolates causes of crime, and levels an all-out joint program of prevention and control. All persons and agencies involved--the juvenile authorities, law enforcement agencies, prosecutors, the courts, corrections officials and the community--must participate in the design and implementation of this system. We must review our criminal laws to see that they are fair, firm, effective and adapted to the problems we are facing in Iowa today. We must fully support our law enforcement people, not only in public statements, but with the funds necessary to provide adequate salaries, first-rate training and the most modern equipment. Young people are our most valued and valuable resource, and the high crime rate among juveniles is disturbing. We can make great strides in crime prevention by effectively dealing with juvenile delinquency in our state.

Steps should be taken to review and improve our correctional efforts in probation, parole, detention, and community-based programs. Finally, let us never forget there is a limit to the extent to which public efforts can go in preventing and controlling crime. The police, probation workers, courts and county attorneys are a poor substitute for parents. In their hands is the ultimate responsibility.

The Commission report outlines many long-range and short-range recommendations for an improved system of criminal justice in Iowa. Proposing and adopting these and other measures is not enough. The system must be reappraised and re-examined periodically in light of existing programs, policies, agencies and laws to see if present functions are consistent with original purpose and to determine whether or not the system meets contemporaneous problems of society.

CHAPTER I

JUVENILE DELINQUENCY: PREVENTION AND CONTROL

Members of the Juvenile Division are:

Nolden Gentry, Chairman
Dr. Arthur Long
Bishop Gordon V. Smith
Rosa Wilbur

At the outset of the Commission study, we found that there was virtually no available comprehensive Iowa data relating to socially deviant juvenile behavior and the institutions and program of care.

The Juvenile Division was delighted to learn of an in-depth study which had been conducted by David Frank and Darrel Morf of the Law Review Staff, University of Iowa College of Law. This study thoroughly reviewed the extent, nature and form of juvenile delinquency and suggested improvements for the system. The Law School offered the full use of these materials and we are indebted to them for this cooperation. Quoted materials in the body of this chapter are taken directly from the article "Contemporary Studies Project: Juvenile Delinquency in Iowa," 53 Iowa Law Review, Number 5, 1968.

Tony Travisono, Superintendent of the Boys Training School and Bernie Vogelgesang, Executive Director, Iowa Citizens Council on Crime and Delinquency, provided valuable writing, consultative and technical assistance in preparing the material of this chapter.

THE PROBLEM IN PERSPECTIVE

Although juvenile delinquency has always been a problem in each succeeding generation, there is no doubt that today it is one of the most difficult social crises existing.

We have found delinquency in every modern nation in the world, in every state in our union and in every city or town in our state. Iowa has not been immune to the onslaught of the increase in the incidence of crime and delinquency.

We have found in the years we have worked with the problem that there is no one known solution to the problem. However, rather than not doing anything at all and to continue to wring our hands and complain about the problem, we must finally commit a substantial portion of our resources to its prevention and control.

Part of our problem in combating delinquency is that despite extensive literature and numerous research findings, plausible theories and some good individual projects throughout our country, we have yet to produce a program that can drastically control or reduce the incidence of delinquency. We have not approached the problem with an integrated approach in regard to staff or financial resources. Some of the research looks promising even though it may take many years to work through to an acceptable solution.

In this report we will try to deal with the problem in two basic units: prevention and control. The prevention of this problem must depend to a great extent on proper and factual knowledge of causes. The more that is known about the subject, the more we can irradicate the breeding grounds if society will allow this to happen.

The path is not as clear in locating causes of juvenile delinquency as has been the case in the epidemiology of physical disease, but evidence encourages us to believe that causes can be isolated, and prevention and control measures adopted with proper planning and direction of resources.

In broad terms there are two types of prevention. One type of prevention is directed toward the prevention of the first offense. The second type of prevention is directed toward the prevention of repeat offenses after an initial apprehension by law enforcement.

Both of these areas of prevention are extremely important to society and to the individual offender. Different social institutions and social agencies speak more or less directly to only one type of prevention, but one social institution is of critical importance in either the prevention of the first offense or the prevention of repeat offenses.

This critical social institution is the family. The family has the greatest potential for preventing initial delinquency as well as for rehabilitating children who have already committed a delinquent act. Consequently, all other social agencies and institutions should examine their programs to determine if they are in fact tending to enhance the quality of family life or tending to detract from the quality of family life.

Among the other institutions of main importance are the educational systems both public and private, the church, the public welfare system, the system for administering justice, and many others, including the involvement of the private citizen in a variety of different programs.

314-086 O - 68 - 2

Major questions will be asked of these systems in the succeeding chapters. These are whether sufficient resources are being expended to meet the need, and whether those resources are being utilized in the most effective and productive manner.

Throughout our report on juveniles and crime, a distinction will be made between neglected children and delinquent children. This distinction, however, is more definitive than real and is made principally for convenience. The fact is that many children who are defined as delinquent are suffering from the effects of improper parental care; and many children who are defined as neglected have committed acts which could be called delinquent. Frequently the determination as to which type of service is provided is made on the basis of which system, public welfare or justice, has first contact with the family or child.

Delinquency prevention and control can become more of a reality if the whole subject can be kept in perspective and we as a society in Iowa wish to do something about it. More will have to be done than has been done in the past.

BACKGROUND

"Prior to 1904, children in Iowa over seven years of age who committed crimes were prosecuted as adult criminals if they were determined capable of possessing criminal intent. Before 1886, all children sentenced to security institutions were incarcerated in adult prisons. Because of the recognition of a child's immaturity, critics contended that these practices were too inflexible and harsh, and rendered the child an object of trial and condemnation instead of care and solicitude. Because the separate juvenile courts created by reform legislation greatly modified traditional criminal procedures, it is essential to understand the theory which led to their development.

"Every child is entitled to the custody provided by its parents or guardian. This custody includes parental guidance, care, training, education, and protection for the child. When a child commits a criminal offense or engages in prohibited behavior, he is considered to have suffered a default on the part of his parents or guardian in their custodial responsibilities. Therefore, the state, acting as parens patriae may intervene to provide the custody to which the child is entitled.

"All children are born with promise for good, and it is believed that they may be guided away from socially undesirable behavior during their formative years. Society's duty to a child, it is reasoned, goes beyond dispensation of criminal justice. A determination of guilt or innocence is less important than an understanding of the child and the reasons for his misbehavior, and a determination of what treatment will most likely save him from later criminality and self-injury. The application of traditional criminal law to children, therefore, would be inappropriate because of its emphasis on punishment and isolation, as opposed to rehabilitation.

"In analyzing the effectiveness of contemporary societal sanctions in achieving rehabilitation, and more specifically, those utilized in Iowa, three treatment processes will be examined--the informal, the judicial or formal, and the post-judicial, and appraised in terms of their primary function: The Prevention and Control of Juvenile Delinquency."

Our objective in the improved juvenile process is to prescribe and apply

individual treatment which best meets the needs of both the misbehaving child and society.

What is Juvenile Delinquency in America?

"Juvenile delinquency in America is children under eighteen years of age committing over fifty per cent of the burglary, breaking and entering, larceny, auto theft, arson, and vandalism offenses across the country. It is also children committing forty per cent of the robbery offenses, twenty-nine per cent of the liquor offenses, and twenty-four per cent of the sex offenses other than forcible rape. It is also children committing murder and manslaughter."

What is Juvenile Delinquency in Iowa?

"Juvenile delinquency in Iowa is petty stealing, liquor offenses, breaking and entering, auto theft, malicious mischief against property, runaways, rape and murder.

"In 1964, five urban Iowa counties reported that forty-seven per cent of the offenses committed by boys involved theft, burglary and unlawful entry, and auto theft; three per cent of the offenses were crimes against the person. Of offenses committed by girls, sixty per cent involved runaways, sex offenses, ungovernability, and other offenses; twenty-six per cent involved theft; and two per cent involved crimes against persons. The younger a person is when first arrested, the more likely he will be to commit subsequent crimes and such later crimes are ordinarily of a much more serious nature."

Who is the Juvenile Delinquent?

"The juvenile delinquent is one out of every six boys in America. In 1966, eighty-three per cent of Iowa's delinquency cases involved boys, with the remainder girls; approximately a five-to-one ratio. The nationwide ratio is similar. The average age of children officially processed in 1960 for both boys and girls was fifteen. Unofficial dispositions that year involved children whose ages averaged 14 to 14.5 years. Judges reporting in a survey made for this study indicated that about as many children acted alone as in groups, whereas probation officers determined that most delinquent acts involved two or more children. The consensus of both judges and probation officers was that delinquency could not be directly attributed to any specific class, racial, or cultural group."

Can it be Defined?

"Delinquent behavior can only be defined in reference to some determinable standard of conduct. A society, to provide security for its citizens, usually establishes and maintains order through norms manifested in the rules and laws of that society. These norms must be broad and flexible enough both to encourage individual and collective initiative and to avoid stagnation. Conduct which does not conform to the societal norm is often termed deviance. Delinquent behavior, as that term is used in this study, is defined as any conduct which is sufficiently deviant to elicit a societal sanction. Thus, society, and no single individual, is the determiner of deviant behavior."

Though there are many different definitions of delinquency, only the legal definition determines which children enter the juvenile system for administering justice. The Iowa Code defines a delinquent as a child under the age of 18

"(1) who has violated any state law or habitually violated local laws or ordinances except any offense which is exempted from this chapter by law; (2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court; (3) who is uncontrolled by his parents, guardian, or legal custodian by reason of being wayward or habitually disobedient; (4) who habitually deports himself in a manner that is injurious to himself or others."

Between 1960 and 1965 the Iowa rate of reported delinquency cases per 1,000 children in the 10 to 17 age group increased from 18.4 per cent to 22.3 per cent.

The kinds of offenses committed by delinquents range from truancy and ungovernable behavior through various types of larceny, breaking and entering, auto theft, forcible rape, up to murder. Certain types of offenses, however, tend to be more frequently committed by juveniles. As an example, nationally about 63 per cent of all auto thefts are committed by juveniles, while less than three per cent are committed by persons over the age of 45. On the other hand, juveniles commit fewer murders and assaults than do persons over the age of 45 according to the national statistics.

All of the above figures, however, do not give a full picture of delinquency in Iowa. They refer only to those apprehended delinquents who have been referred to the juvenile court or juvenile probation office. A substantially larger number of children are involved in some type of delinquent behavior. The President's Crime Commission estimates that 90 per cent of all juveniles have at some time committed an act for which they could be declared delinquent. Generally, nationwide, only about 45 per cent to 55 per cent of children apprehended by law enforcement for delinquent behavior are referred to the court or probation department.

PRINCIPAL CONSIDERATIONS IN DELINQUENCY AND CHILD CARE PRACTICES

Delinquency prevention has been variously defined in the following ways:

1. The sum total of all policies and activities that support our law-abiding behavior and contribute to the healthy growth and development of children.
2. The attempt to deal with the particular environmental conditions and family situations believed to contribute to delinquency.
3. Specific prevention services provided to individual children, groups of children and to families.

Regardless of what new programs may be forthcoming and regardless of who initiates or who sponsors these programs, programming must be reappraised and re-examined to see if it fulfills a need which is current. Once this is accomplished the next important consideration is to evaluate and use only those which can be said to be meaningful.

In 1966, approximately 700,000 delinquency cases were disposed of by the courts in the country. Eight per cent of those committed offenses against the person and less than two per cent of these juveniles were involved in offenses that endanger the life of an individual. Forty-two per cent were involved in some kind of property damages and twenty per cent were in court for offenses which were not criminal in nature. More than fifty per cent of girls were in juvenile courts for non-criminal offenses.

CHILD CARE PRINCIPLES

In order to be most effective in a program to prevent and control delinquency, the following child care principles must always be kept in mind:

1. Primary responsibility for the care of a child belongs to the child's own parent and if the family is available, all members including the children should take part in treatment planning.
2. Alternative plans for child care should only be considered at a time when the parents are unable or unwilling to exercise their parental responsibility.
3. The local community must assume basic responsibility for basic child care in the absence of responsible parents.
4. Community responsibility for child care programs should be focused on giving help to families in order to help them stay intact.
5. Separation of a child from his family should be considered a grave traumatic experience for everyone concerned.
6. Institutional treatment should be a treatment of choice. No judge or local official should ever say again, "We have no other alternative at our disposal other than the state institution, therefore you are hereby committed..."
7. An unwisely timed or poorly planned commitment to an institution can be a destructive experience for a child and should not be tolerated by any local group.
8. The needs of the child should be weighed as well as the needs of the local community and a financial condition or problem should not dictate a program for any child.
9. The full range of existing resources and services should be readily available for the treatment of juvenile problems in the community.
10. A multi-disciplinary study of each juvenile case should be undertaken prior to any disposition of the matter.

THE FAMILY

The unit of our society which has the greatest potential for preventing delinquency, and for rehabilitating children who have committed a delinquent act, is the family. Consequently, public service for children should place primary emphasis on services which tend to enhance the quality of family life. The evidence is that this is not true in Iowa, either in state administered services, or in services administered by local units of government. This does not guarantee that the quality of such families will be adequately sufficient to meet the juvenile needs. In those situations where the family structure fails, the children should be cared for in the manner which most closely approximates family life. This is not consistently being done by Iowa's public, child-caring agencies.

Consequently, both state and local units of government should examine appropriations for child caring services, from two points of view: Is the amount of money expended sufficient and is the money already appropriated being spent for services which tend to enhance the quality of family life?

CHILD WELFARE PROGRAMS FOR DEPENDENT AND NEGLECTED CHILDREN

Purpose

Among the great variety of services performed by Iowa's Public Welfare

system is a service called Child Welfare. The Child Welfare service is the basic service unit designed to strengthen families. It is Child Welfare's responsibility to work with families which are in the process of disintegration and to provide them with services which will tend to reverse that process.

According to standards of the Child Welfare League of America, competent child welfare services should be designed to strengthen family life, by a focus on social and related services to the parents and youth.

Even where these services are fully adequate and competent, it sometimes becomes necessary to remove children from their own families. Whenever this becomes necessary the child should be removed to a facility which most closely approximates family living and the goal of the placement should be the eventual return of the child to his own parents. That is, even while the child is living outside of his own home, work with the parents should continue in an effort to help them to become adequate parents.

This means that Child Welfare services should emphasize working with the neglected and dependent child in his own home and when placement outside his own home becomes necessary, Child Welfare should emphasize the use of foster homes. Institutions should be used only to provide specialized treatment for children with specialized needs, such as psychiatric care. The evidence is that this system of emphasis is actually reversed in Iowa's Public Welfare services. This can be demonstrated through an analysis of the sources of revenue and the methods through which funds have been expended by our units of government.

Funding

In 1967, Iowa's Child Welfare programs spent $5,026,013. Unfortunately, there are no figures available for that year to show the exact per capita tax contribution of federal, state and local expenditures for neglected children in Iowa. However, such figures were available for the fiscal year 1964, and are therefore utilized in this report to give an indication of how Iowa's public Child Welfare programs are funded.

In 1964, Iowa's public Child Welfare programs spent $3,303,678. This total includes expenditure of the Boards of Control and Social Welfare, and of local government. Over 42 per cent of this money was received from the Federal government, while state and local government contributed 29.2 per cent and 28.5 per cent respectively. It is obvious that Iowa's public Child Welfare programs are heavily reliant on Federal assistance and the suspicion is raised that Iowa appropriates only enough money for Child Welfare to qualify for maximum Federal aid. If this suspicion is correct, the inescapable conclusion is that appropriations for Child Welfare in Iowa are predicated not on the basis of the needs of Iowa's children, but on the basis of a desire for federal dollars. There is evidence to support both the suspicion and the conclusion.

Table I compares the average tax contribution in fiscal 1964 to Child Welfare programs in Iowa, Illinois, Minnesota and Wisconsin, and the percentage of total appropriations coming from Federal sources.

TABLE I

	Per Capita Contribution State & Local Only	Per Capita Contribution Including Federal	Rank Among States	Per Cent Federal Support
Iowa	$ .66	$1.14	46th	42%
Illinois	2.39	2.65	30th	9%
Minnesota	6.38	6.87	5th	7%
Wisconsin	4.89	5.28	9th	7%

It is obvious from these figures that Iowa's public programs for children are heavily reliant on Federal funds, and that relative to neighboring states, Iowa is investing little of its own resources in its children. In spite of the fact that Iowa ranks 46th among the states in per capita tax contributions, it ranks 21st among the states in the per capita number of children served. This incongruity raises serious questions regarding the quality of service being provided.

How the Money is Spent

Earlier it was stated that the principles of competent child care service are that programs be emphasized that tend to enhance the quality of family life; and that where such efforts fail, the child be served in the atmosphere which most closely approximates family living. The evidence is that, by and large, public funds appropriated for child care in Iowa are being expended in a manner which is not consistent with these principles and which, indeed, may be in conflict with them.

It is widely accepted as a fact that there are families which are beset by multiple social problems such as chronic economic dependency and criminal and delinquent behavior of varying degrees of seriousness. It is also accepted as a fact that such families tend to perpetuate the same pattern of behavior generation after generation unless effective action is taken to assist such families to stablize themselves. It has been demonstrated in a number of states, among them California and Minnesota, that such families--or families which are in danger of becoming such families--can be assisted to become stable families, providing a wholesome environment for their children. The method employed is frequently referred to as intensive family service. This is really a very simple approach to families which are experiencing serious problems of family disorganization. Social workers are assigned to provide family counselling for a limited number of families, sometimes as few as eight, but ranging up to twenty. Such programs have demonstrated that many families with long histories of economic dependency and deviant behavior can become reasonably stable units. No program such as this exists in Iowa.

Perhaps a major factor which has influenced the direction which Iowa Public Welfare has taken is the apparent fact that it is substantially easier to

obtain appropriations to buy food and clothing for a child, than it is to obtain appropriations to pay salaries of people who can work with families effectively. Likewise, it is apparently easier to obtain appropriations to build institutions, than it is to obtain appropriations to provide services which would make institutions unnecessary. In short, there is a greater supply of money available for tangible assistance to children than there is for intangible service to families which make the tangible services to children unnecessary.

The fact that Iowa is not investing in intensive family service indicates that Iowa's public agencies are not emphasizing programs which will tend to hold a family together. There is additional evidence to this effect.

The annual report of the Board of Social Welfare for fiscal 1966 states that over 15,000 Iowa children were receiving child welfare services, and that over 10,000 of these children were receiving service in their own homes. On the surface this would indicate that Iowa's public agencies are emphasizing programs which strengthen family life. A careful analysis of the report, and review of other data, however, raises serious questions about the point of emphasis.

Forty-two per cent of the children listed as receiving services in their own homes were involved in day care and nursery programs. According to officials of the Board of Social Welfare this was the only service the children were receiving. Day care and nursery care are valuable programs, but they do not constitute a basic service designed to assist families to become stronger and more capable families. An additional 17 per cent of the children listed as receiving service in their own homes are receiving service from workers whose essential responsibility is administering Aid to Dependent Children. Knowing what we do about the size of public assistance caseloads, the quality of such service is questionable. There are other smaller categories of service included in the total number of children who are considered to be receiving service in their own homes, and when these are totaled and subtracted from the over 10,000 so listed, it becomes apparent that more Iowa children are receiving care outside of their own homes than are benefiting from family counselling designed to hold the family together.

This is not to detract from the value of day care and nursery programs, nor is it intended to detract from the use of foster homes, adoptive homes and group homes. All of these are valuable and appropriate to the needs of some families and some children. However, many families can profit from intensive social service and thus the need for services outside the family can be minimized.

The most disturbing element in Iowa's child care programs is the over-reliance on institutions. Iowa maintains two institutions, Annie Wittenmyer and Toledo, for the care of neglected and dependent children. Many of the children committed to these institutions have engaged in delinquent behavior but are considered to be neglected. In fiscal 1966, Iowa spent 53 per cent of the total Child Welfare expenditures to operate these institutions, more than it did to provide all other forms of child care. This is in spite of the fact that institutional care for children is the least satisfactory method. The fact of operating these institutions has created a dual system of caring for children in their communities, one operated by the Board of Social Welfare, and one operated by the Board of Control. Reorganization of State government will eliminate this duplication of systems, but it will not necessarily eliminate the duplication of service.

During fiscal 1966, 232 children were committed to Annie Wittenmyer and Toldeo. Of these, 41 children were less than one year of age, and an additional 28 were between the ages of one and five. Consequently, pre-school age children accounted for 29 per cent of all admissions during fiscal 1966. If separation from parents of such young children was in fact necessary, foster homes should have been available. Foster homes would have provided these children with an opportunity to live in the warm and wholesome atmosphere of a family, which is superior to the emotionally sterile atmosphere of an institution. Furthermore, the establishment of foster homes would be substantially less costly.

In view of the relatively short term placement, and in view of the fact that nearly 1/3 of the children are returned to their own homes or to the homes of relatives, it is quite likely that community programs could have handled these children. While it is often necessary to separate a child from his parents temporarily, it is uneconomical to use an institution for this purpose, and it is harmful to the child. The primary purpose of a foster home is to provide a child with family living temporarily while efforts are made to assist his parents to assume their parental responsibilities.

Iowa's governmental bodies should study, with great care, both the manner in which public funds are expended for child care, and the manner in which such funds are appropriated. In the latter case, as an example, some counties appropriate funds directly to local public welfare, some appropriate funds directly to the juvenile court, while others appropriate money to various special "funds such as the institutional fund, the poor relief fund, or the soldiers and sailors funds. In some cases, apparently, children are institutionalized because money is available in the institutional fund, without reference to the type of service the child needs.

All discretionary decisions must be made in accordance with the following principle of primary concern in the disposition of juvenile offenders: all treatment must relate to the rehabilitative needs of the child and to the needs of the local community.

APPLICATION OF THE INFORMAL PROCESS

"For purposes of analysis, the informal process concept will include any treatment which does not involve a formal adjudication and disposition by the juvenile court. This definition, which is also used in preparing official Iowa statistical reports, represents a generally recognized practical alternative to the sanctions of the formal judicial process. Because formal sanctions are not employed, much of the implementation or enforcement of informal treatment is dependent upon the consent and cooperation of the child and his parents. The informal process is important because more than one-half of the juveniles identified as deviant are processed informally.

"The informal treatment process may be categorized as pre-judicial, extra-judicial, and non-judicial methods of treatment. Each treatment method within the informal process involves the making of discretionary decisions. The initial discretionary decision determines the type of treatment to be imposed upon a deviant child. Subsequent discretionary decisions determine the specific application of that treatment and ultimately affect the success of true rehabilitation." Thus, both the initial or dispository decision and the actual treatment must be analyzed to determine whether such treatment conforms to this principle.

PRE-JUDICIAL INFORMAL TREATMENT

Because many juvenile offenders are not formally dealt with, some type of screening process is utilized by court officers to avert adjudication. This screening process is the substance of pre-judicial treatment.

Police Officials

"A face to face confrontation with an arresting officer is often a juvenile delinquent's first contact with the law. A police officer on his local "beat" has perhaps the best opportunity to observe youthful behavior and movement, and to recognize those conditions which are conducive to delinquent behavior. Because of his ideal position to identify potentially delinquent children and report neighborhood conditions which may cultivate deviant behavior, the law enforcement officer plays an initial and significant role in screening the deviant away from the judicial process.

"The discretionary alternatives available to law enforcement officers include outright release, release after a parental conference, treatment within the police department, referral to a non-judicial agency for treatment, and referral for judicial disposition. Because initial contact with the law may be important in shaping a juvenile's future attitude toward society and its legal system, such discretionary decisions must be made with care.

"There are few non-judicial treatment agencies available in rural Iowa communities. Police officers in such communities are hesitant to refer any child to an agency outside the local community, apparently because of a distrust of agencies located outside the community, coupled with a determination on the part of local officials to solve their own problems. Thus, the typical rural community exclusively controls its own program." Although some communities work closely with programs outside of their jurisdiction, several county and district probation officers indicate that they have had no communications or contacts with smaller communities in their area for several years. Because rural communities lack alternatives in treatment methods and resist outside aid, non-judicial dispositions by the police officer are often confined to release with a stern warning, or release after a parental conference. This probably means that many children in need of professional diagnosis and guidance are not receiving it. On the other hand, we have no information which indicates how effective this non-judicial type of disposition is in preventing repeat offenses.

While the prevention of repeat offenses seems somewhat less glamorous, it is in fact an extremely important part of overall crime prevention. As an example, approximately 1/3 of the offenders housed at the State Reformatory for Men at Anamosa and the State Penitentiary for Men at Fort Madison in 1966 had previously been committed to a state training school. Consequently, the prevention of repeat offenses, or stated another way, the rehabilitation of the juvenile delinquent is an important factor in the prevention of adult crime.

"Local officials approve of release without treatment because a rural officer can usually maintain continual informal observation and supervision of the child, and a greater potential exists for officer-family communication and cooperation. Readjustment of the juvenile is generally sought through pressure to conform to community standards exerted upon the child by his school, his church, his family, and his contact with a police officer. Thus, because the

costs of a behavioral program are too great for any rural community to bear individually, and because cooperative programs are rejected, emphasis is apparently centered upon the correction of overt behavior and not an investigation of the underlying causes of deviancy.

"In larger Iowa communities there are two categories of discretionary law enforcement decisions--those made by the police officer making initial contact with the juvenile, and those made by the officer in charge of the police department. For both categories, more non-judicial agencies are available as options for treatment than in a rural area. A resident county probation office is also available for consultation or referral. Close communication is generally maintained between the police officials and the probation office, and records of every juvenile contact may be kept in the police file for future reference by probation authorities. These factors tend to result in a more formal, or standardized process of discretionary decision-making. Consequently, the officer on the beat generally has less freedom to make the dispository decision. Nonetheless such decisions are often made and in such cases they are as significant as those of the rural police official.

"Referral decisions by law enforcement officers, both rural and urban, are sometimes influenced by factors extraneous to the alleged offense or available treatment methods. The social and economic status of the offender's family may influence an official decision. In other cases the independent spirit of the child himself may be considered relevant. The child's individual needs, however, are usually overlooked. Thus, although more treatment agencies and specialists are generally available in urban areas, the danger still exists even there that arbitrary and inconsistent action, rather than true rehabilitation, will result. To enhance the probability that meaningful rehabilitation may result from the discretionary screening decision, police officers must be trained to recognize the behavioral problems which contribute to delinquency. Where a shortage of properly trained personnel exists, some method of supervision by qualified personnel should be initiated to ensure that proper attention is given to all the circumstances involved in the deviant conduct. Additionally, uniform standards should be established to guide all officers in their determination of what type of disposition is proper.

"The best solution of the problem of improper initial disposition is creation of a separate youth or juvenile division within the police department. Officers assigned to such divisions should be specially trained to work with juveniles. Through full time attention to juvenile problems, officers with an aptitude for, and express interest in, such problems will have an opportunity to achieve the desirable degree of specialization. Moreover, juvenile bureau officers should be able to wear street clothes, drive unmarked cars, and work on a flexible schedule, thus allowing them to move more freely through areas of high youth activity. Because of the juvenile officer's special training in observation and understanding of deviant juvenile behavior, the teenagers may be less likely to manifest the undesired "cop-hater" reaction which is prevalent among many delinquents.

"A number of Iowa's largest cities presently have a specialized juvenile police bureau. Some of those bureaus, however, are assigned only one or two officers. Other cities, such as Waterloo, have not yet developed a special program, and juvenile bureaus in communities of less than 30,000 are almost nonexistent. This situation is not necessarily unavoidable. Studies indicate that a police department with at least 15 officers should be able to have at least one full time juvenile officer. Consequently, larger communities could, and

should, increase their juvenile staff proportionately. Even a rural Iowa police force of three or four officers could allocate major responsibility for juvenile problems to one officer. Because specialized juvenile officers are highly desirable, if not absolutely vital, to the success of a law enforcement program, Iowa police departments should take whatever action is necessary to ensure that such individuals are available to the community.

"Juvenile department officers, like non-specialized officers, should have guidelines or standards for making the proper dispository decision. These standards will vary among communities and depend on the quality and extent of officer training for juvenile work, and the availability of community treatment resources, both public and private. An example of such decision-making guidelines is provided by a special handbook for all Connecticut juvenile officers. This manual recommends that all cases involving such offenses as stealing, fugitiveness, heavy property damage, and serious physical violence should be referred to the juvenile court. On the other hand, offenses involving minor property damage, neighborhood grievances, and trivial infractions of community rules are not to be referred to the juvenile court unless more serious and qualifying factors exist. These recommendations, however, still remain inflexible to a degree and retain a major emphasis upon the seriousness of the alleged offense. While seriousness of offense does provide a partial insight into the child's needs, other indicators should improve, enhancing the correlation between the child's needs and the disposition selected.

"When a decision is made not to refer a child to the juvenile court, an officer often must determine whether other public or private agencies should be utilized. Because treatment referrals should be made to correspond with the individual child's needs, an officer must be aware of the various community programs available for the redirection of deviant behavior and the specific purposes which they serve.

The County Attorney

"A significant number of rural Iowa law enforcement officials, especially sheriffs, refer all juvenile cases to the county attorney. The discretionary screening power is thereby transferred to the office of the county attorney.

"The responsibility for the discretionary decision-making appears to have shifted to the county attorney either through a non-exercise of that power by the sheriff, or because the probation officer, who is considered responsible for this function, is overworked, unqualified, or not immediately available in the county. In reaching his dispositional decision, the county attorney generally conducts an informal hearing. The child and his parents, the county sheriff, and often the probation officer are usually present. Generally, no provision is made for defense counsel. Because these hearings are very informal and function without procedural due process protections for the juvenile, agreement to treatment is voluntary on the part of both the parents and child, although some "persuasion" may be used by the county attorney in his presentation of alternatives.

"The county attorney is usually not trained in the behavioral sciences and lacks the necessary expertise in problem diagnosis and treatment. The individual needs of a juvenile, therefore, are often overlooked or sacrificed to expedient procedures. Hence, assumption of juvenile responsibilities by the county attorney, although praiseworthy on a short term basis, is only a stop-gap measure.

Probation Officers

"The Iowa Code defines probation as:

> ...[A] legal status created by court order following an adjudication of delinquency whereby a minor is permitted to remain in his home subject to supervision by the court or an agency designated by the court and subject to return to the court for violation of probation at any time during the period of probation.

"Informal probation may be imposed by the court without a formal adjudication, or by a probation officer without reference to the court. As a treatment form, informal probation is generally identical to formal, and many of the problems and recommendations regarding one are also applicable to the other.

[In the few instances where the probation officer is thought to be well-qualified], "many dispositional decisions other than probation are referred to him. These decisions are based upon a diagnosis which usually includes an analysis of the child's behavior, personality, social situation, family and general environment. Thus, availability of a probation officer qualified to make such a diagnosis provides an opportunity for insight into a child's anti-social behavior and facilitates selection of the proper treatment method. Conversely, if a probation officer is not qualified to make a diagnosis of deviant behavior, or makes no effort to use his diagnostic skills, the treatment which he selects may not relate to the rehabilitative needs of the child.

"Once informal probation is selected as the treatment form, a probation officer is responsible for its imposition. In many Iowa communities, probation is a series of restrictive conditions imposed upon the offender and supplemented by some type of supervision. These conditions are often standardized and presented to the juvenile on a mimeographed form. At times individualized conditions are also imposed. General probation conditions used in Iowa may include a requirement of church attendance, a limitation of personal association, a restriction on movement and hours of activity, a standard of minimum scholastic achievement, and a request for respect of adults.

"The probation conditions imposed should meet certain requirements. They should always be stated in positive and purposeful terms understandable to both the child and the probation officer. They should be achievable and enforceable. In addition, they should be reasonably limited in their restriction of normal juvenile activity. Probation officers should also consider the impact which the conditions will have upon the parents and their day-to-day problems of home management. If these practical factors are not considered, the conditions imposed may hinder proper behavioral adjustment.

"Where trained probation officers are available, usual restrictions may be supplemented or replaced by counselling. The qualitative nature of an informal probation program, however, is often determined by the extent of the probation officer's training, his workload, and the size of his district. Rural Iowa probation officers, for example, have responsibility for as many as six or seven counties, which limits the time they can devote to any one child.

"Because any probation conditions are imposed informally, they must be voluntarily accepted. Certain pressures, however, such as a threat of formal

adjudication as an alternative, are often used to attain consent. The United States Supreme Court has held that thinly-veiled threats of invoking legal sanctions or other means of coercion, persuasion, or intimidation to obtain voluntary cooperation or self-imposed restrictions are unconstitutional. Therefore, current practices of coercion, subtle or overt, could be considered improper and should be terminated. In some cases, however, the child may not cooperate under any circumstances, and resort may have to be made to the formal process for treatment.

"Some of the present probation conditions which substantially restrict a child's activity are punitive rather than rehabilitative. These more severe restrictions upon the individual may not be imposed without the protection of procedural due process. Thus, such conditions should be imposed only after a formal court adjudication.

"Once probationary restrictions have been imposed, they must be adequately supervised. An unsupervised child on probation may conclude that the probation officer either can be easily fooled, or does not care whether the imposed conditions are obeyed. In either case the result is undesirable. The better staffed offices in Iowa, usually those in the larger communities, make weekly contact with each child. Some rural probation officers are overburdened with work and must depend upon monthly correspondence for their supervision of a child. Because the rehabilitative goal requires that supervision be close and continuing, augmentation of Iowa probation staffs is an immediate necessity.

"There generally are underlying environmental factors which precipitate deviant behavior. An adequately staffed and trained probation office, therefore, should not only attempt to redirect a child's overall conduct, but should also seek to rebuild his personality. This may be partially accomplished through a positive casework approach. Weekly or bi-weekly meetings of the parents, child, and the probation officer may assist the child in recognizing his problems and developing resources to overcome them. Moreover, the entire family would recognize their involvement and the importance of their positive readjustment to the child's rehabilitation. Success of the casework approach, however, requires that the probation officer receive training in social casework, and that his caseload be limited to ensure that the necessary time can be devoted to each child."

The Judge

"The Iowa Code provides for an informal judicial disposition of probation. Informal probation is often imposed because the judge hesitates to burden a young child with a delinquency record. Consequently, informal disposition is usually imposed in the cases of first and second offenders, many of whom have previously been placed on informal probation by a probation officer in connection with other incidents. Thus, a child may ultimately have many contacts with the informal probation process before being adjudicated a delinquent.

"Judges also use informal probation in conjunction with the findings of an informal juvenile hearing. Although no official adjudication is reached, the initial steps may be taken. A social history of the child is generally prepared for the hearing. Counsel is often provided for the child, either by his parents or the court. Because there is no adjudication, though, the informal hearing and disposition is voluntary. In many cases, the judge may order a continuance of

the hearing to give the child another chance to improve his conduct. If the child's behavior does not improve, the probation officer can then return the child to the court for additional findings.

"The judge's statutory power to impose informal probation is qualified by three requirements. Facts which are pleaded must be admitted by the minor, consent must be obtained from the parent or guardian, and efforts to effect an informal adjustment through this procedure must not be continued for more than three months without a judicial review. It would appear, however, that in practice some judges are acting without obtaining full consent or admissions from the child and parent, or that subtle coercive power is used to gain such acknowledgement. Probation is also informally imposed for periods of six months to one year without provision for judicial review. Because these statutory qualifications are founded upon fairness and rehabilitative principles, they should not be circumvented for the sake of expediency or informality."

INFORMAL JUDICIAL TREATMENT WITHOUT JURISDICTION

"The Iowa Code specifically provides that inferior courts have no jurisdiction over juveniles for any public offenses other than traffic violations. Notwithstanding this provision, many juveniles are referred to an inferior court for informal disposition. The majority of these extra-legal cases processed by an inferior court involve liquor and beer violations, although disposition of other offenses, ranging from shoplifting to fighting, also occur.

"Several legal justifications for these extra-legal dispositions have been offered. It has been argued that a juvenile's consent to inferior court jurisdiction constitutes a waiver of his right to a juvenile court disposition.

"Another justification for extra-legal disposition has been founded on an informal agreement between the juvenile judge and the inferior court judge. Instead of complying with the requirements of the Code, which would provide for transfer after a hearing in the juvenile court, the child is sent directly to the inferior court without any contact with the juvenile court. This informal transfer without a hearing is in violation of the statute.

"In addition to the legal justifications, some inferior court judges proffer a justification based upon the practical considerations of expediency. It is contended that a tremendous burden would be imposed upon the juvenile court if it were required to take all juvenile cases, especially the voluminous number of beer and liquor violations. Also, many rural communities are not county seats and do not have a local district court; the only judicial agency is an inferior court. Most parents in these communities, it is argued, are said to prefer a local disposition to that of an outside agency. Thus, another benefit of the inferior court jurisdiction is its proximity to all parties involved and the immediacy of disposition which therefore results.

"Finally, because the inferior court does not make a finding of delinquency, or maintain an official record, it is thought that its disposition does not mark a child, or affect his reputation as would a juvenile court appearance. In some ways, therefore, the inferior court is satisfying a need in the rural counties created by abdication of the role by police and probation officers, and by the apparent limitations present in the formal process.

"A mayor or justice of the peace is not given any legal or behavioral

training in the juvenile area. Most of them do not have access to the child's social history for making a dispositional decision. Therefore, an inferior court judge often has no objective basis upon which to diagnose the juvenile's problems and needs, and order the proper treatment. In fact, the traditional inferior court disposition, a fine which may vary from twenty-five to one hundred dollars, is usually paid by the parent, and the child does not feel personally affected. Moreover, under such circumstances, the fine discriminates against the poor child whose parents are unable to pay.

"In a very few circumstances, other "treatments" may be used in conjunction with the fine. For example, a mayor in northern Iowa provides each juvenile with three alternatives: a twenty-five dollar fine, a five-day work assignment, or a six-day jail sentence. Generally, no type of counselling supplements any of these dispositions. Regardless of the practical arguments for an inferior court disposition, the inferior court probably should not participate in the informal process because it either does not have access to positive treatment services or does not utilize them. However, until other services are improved and made more readily available in the rural areas, the inferior court will undoubtedly continue to exercise authority in an extra-legal manner. Thus, while the ultimate solution may be an improved juvenile treatment system, an immediate effort should be made to provide inferior court officers with a minimum of training for their defacto involvement."

INFORMAL NON-JUDICIAL TREATMENT

School Involvement

"Schools have a vested interest in the correction of deviant juvenile behavior because the attainment of educational objectives requires the continual development and socialization of the child. By receiving children at an early age and observing them for several years, schools are in an ideal position to detect the initial signs of maladjustment and take the necessary preventive and remedial action. Because of its potential to identify the problem child, the school is encouraged to coordinate the services of the school, community, and home in meeting the child's needs.

"Serious in-school misbehavior, involving such things as petty theft, property damage, and fighting, is generally treated within the school. In addition, private citizens in many communities, especially rural communities, report out-of-school delinquent actions to the school for treatment. Iowa schools, therefore, usually play a prominent role in the correction and treatment of socially deviant juvenile behavior.

"The traditional punitive actions in the schools--corporal punishment, parental conferences, suspension of extra-curricular activities, assignment of extra work, and suspension from school--are still used. However, there seems to be an increasing availability and utilization of individual counselling. In addition to a counselor, several school districts now employ a social worker who works with the problems of entire families. Because of their training in the behavioral sciences, such counselors and social workers offer a positive alternative to the more standard punitive measures.

"An individual's proper societal adjustment often requires an experience of successful achievement in that society. An unsatisfactory curriculum,

poor teaching methods, or an unhappy classroom experience may contribute to a child's academic failure, which may in turn create resentment toward society. To enhance the educational potential of its students, many Iowa schools use a tracking system, separating students into ability groupings. Lower ability groups are often given the same courses, or some diluted form of these courses, rather than courses related to the skills which they possess and consider important. Placement in a lower ability group may also create a social stigma for the child involved. Such a placement may reinforce a child's negative self-image and become a self-fulfilling prophecy. In some schools, these unintended contributions toward a child's failure are multiplied when the lower ability group is assigned to an inflexible C, D, or F grading scale. It would seem most important for these students to experience some reward or success, and yet they have been relegated at the outset to the lower end of the grading scale.

"A school's contribution to a student's academic failure, although unintentional, may create or complicate juvenile maladjustment. Many juveniles who experience continual failure become "drop-outs," a category of individuals which constitutes the majority of juvenile offenders. If a plan for detection and correction of the reasons for students becoming drop-outs can be instituted in our school systems, a greater measure of social readjustment may be achieved. Thus, a flexible curriculum, suitable materials, and teachers trained to recognize the needs of lower ability students would provide these students with the opportunity for successful and meaningful experiences.

"Educational developments to assist the juvenile are not limited to the community school. Some programs are presently being initiated in multiple-county units for coordinated work study programs. These programs provide release time for work and are supplemented by instruction which corresponds to that work. Program participants are encouraged to engage in all school activities, and remain a part of the school system. Although admission to these programs is presently limited to the mentally or physically handicapped student, potential does exist in this program for motivating those average and poor students dissatisfied with the standard curriculum.

"To promote the goal of juvenile readjustment, the Iowa Department of Public Instruction has recommended that more special programs be provided for emotionally and socially maladjusted pupils. Many such programs for counselling, social work, and special education are now being implemented in Iowa. Success in these programs will depend in part upon the communication and coordination of school programs with the programs of other treatment agencies, such as probation and social welfare. Because this type of communication is often lacking, a local orientation and planning conference should be held before the opening of each school year and should be attended by all community treatment agencies. Hopefully, such a conference would encourage continuing inter-agency communication and coordination throughout the school year.

Community Involvement

"Juvenile delinquency adversely affects the entire community. Therefore, the members of a community should provide the leadership and support necessary for a successful preventive and remedial program."

There are a variety of ways in which private citizens can become directly involved in programs designed to prevent delinquency. Many service organizations, including the Lions, Optomist and Rotary Clubs provide recreational activities for young people such as baseball leagues, camps, educational trips or the

314-086 O - 68 - 3

sponsorship of youth organizations. The provision of recreational outlets, however, also imposes the responsibility upon citizens of providing good leadership for young people in their recreational pursuits.

Private citizens can also provide children with positive relationships with adults. An example of this is the Big Brother program which has been adopted in many cities and towns in the United States. In this program, private citizens volunteer to spend a specific period of time with boys who are in need of the relationship of an adult male. This program has proven to be of value in many communities in the United States.

In some parts of the country, official correctional agencies are also using citizen volunteers. Volunteers are being used in some probation offices, in some detention centers, and in many other kinds of correctional institutions. These programs too have proven to be of substantial value to the children involved and frequently to the adults who volunteer their services.

Youthful offenders released from institutions such as the State Training School for Boys at Eldora and the State Reformatory for Men at Anamosa frequently find themselves unable to find employment and as a result return to criminal activity and eventually to another correctional institution. Citizen volunteers who are in business can develop post release employment programs in cooperation with the adult parolling authority and the juvenile parolling authority. This again is an extremely useful service both to the young people involved and to the official correctional systems.

Whenever citizens think of helping teenagers to stay out of difficulty with the law, there is a tendency to think of what adult citizens can do to help youth. As a result, communities frequently overlook the fact that adolescent boys and girls are quite competent to perform tasks which are useful to the community. As our society becomes more and more complex it becomes more and more difficult for a younger person to perform tasks which are useful and constructive. Communities should make an effort to develop avenues through which younger people can make a positive constructive contribution to the life of their community. As an example, adolescents can be used as volunteers to assist in the care of patients in hospitals both public and private; in nursing homes for the aged; in the development and maintenance of parks and playgrounds; and to perform volunteer services in a host of health and welfare agencies in the community. Such work would be beneficial to the community and should be designed to make use of the full capacity of the adolescents who become involved. A service organization could compile a directory of teenage opportunities and could serve as a liaison between organizations and young people who are looking for an opportunity to become constructively and actively involved in the life of their own community.

Church Involvement

A church can reinforce the family in its role of developing a child's sense of values, moral and ethical standards, and basic outlook on life. Such reinforcement is most beneficial when a minister, priest or rabbi has been trained to counsel his parishioners in meeting the problems of daily living. In some Iowa communities, however, religious institutions are used as a vehicle to pressure a deviant child into conformity. This pressure may take the form of a requirement of religious participation, or visits from the local church elders. Church attendance and knowledge of moral precepts, however, are generally not enough, acting alone, to insure a child's proper character growth. These pressures may in fact have an adverse effect upon a child's adjustment. Consequently, Iowa

church leaders should attempt to counsel young people regarding all aspects of their lives. Such a program would enhance the probability of sincere reformation of behavior and reduce the probability of child resentment toward participation in religious activities.

County Social Welfare Department

"Every Iowa county has a social welfare department staffed with caseworkers and child welfare workers who may provide counselling and investigative services for the prevention and remedying of problems which might otherwise result in parental neglect, physical abuse, child exploitation, or juvenile delinquency. This agency, after a study of the child, his family, and the school, may counsel with the delinquent, his parents, relatives, and local authorities, in an attempt to affect his behavior. Most county welfare directors have indicated that the court and its probation staff make little use of these available services, even when no other agency is providing them. In some counties, local welfare directors report that friction exists between their agency and court officers, the latter being somewhat skeptical of all the "behaviorists" and "do-gooders." Courts in other counties may simply be unaware that these services are available. In some cases, however, the child welfare worker does prepare a written social history of the child for the court, and is then often requested to work with that child and his family. Yet, when social welfare department services are utilized, referrals to their offices are often delayed until the deviant behavior has become so serious that improvement is difficult. Hence, optimum use of social welfare services would appear to depend upon improved interagency communication and cooperation which is timely in relation to the needs of the child."

There is a shortage of persons holding professional positions in welfare oriented programs in our counties, and we recommend that a regular dialogue be established among those agencies having the major responsibility of child care so that the manpower resources which do exist will be most effectively utilized.

This kind of dialogue exists in several counties, but is completely absent in many.

Private Agencies

Privately financed social service agencies have demonstrated throughout the years that they are able to do an effective job in helping to control the increase in delinquency. However many of these private agencies have confined their services to urban areas. The rural areas generally have not made use of these services even though the services are available to all persons within the state. The reality of the situation points out that citizens who do not regularly see or hear of the available services have difficulty seeking help when it is needed.

Private agencies are providing and will continue to provide sound casework and group service to troubled families and children. However, the agencies are not large enough nor do they have staff enough to meet the overall need in the state. All private agencies emphasize the fact that the primary responsibility for organizing planning for troubled children is with the family and when it is not available, the local community.

Private agencies have had the same kinds of problems as public agencies

in the way of recruiting qualified staff personnel. There is a serious shortage of professional staff at all levels of development and the competition for staff has been keen. A great deal of consideration should be given to a state subsidy for private agency operations. Much can be said about the intervention of the private agency's work with children which does not force the labeling process upon a child. Hence the child may be effectively treated without being subjected to court adjudication. Private agencies should be encouraged to expand their services to children in relation to existing needs. The needs should be inventoried and analyzed jointly by the Department of Social Services and the private agencies, and coordinated planning initiated.

EVALUATION OF INFORMAL TREATMENT METHODS

"Crowded court dockets demand relative expediency. Consequently, meaningful individualized formal treatment [of juveniles] by the courts is often difficult to accomplish. If the informal process can reduce the burden upon the formal procedure and still offer individualized treatment for minor offenders, its status as a bonafide treatment process is clearly justifiable. In addition, serious concern has been expressed regarding the effect that a formal adjudication of delinquency may have upon a child's reputation; treatment through the informal process, therefore, may often be preferable. Furthermore, the great number of different agencies and individuals participating in the informal treatment process offer needed flexibility in the juvenile rehabilitation program.

"On the other hand, there is a question of how much felxibility is desirable. Unmanaged flexibility can result in arbitrary, indiscriminate, and inconsistent actions. Thus, proper controls over all informal treatment facilities are necessary. Moreover, all too often in the informal process the nature of the child's problems are not determinative in the selection of a treatment method. Thus, while the informal process can be offered as a viable treatment option, its success is dependent upon the consistent application of behavioral treatment measures in accordance with the child's identified individual needs. Ultimate responsibility for the informal treatment program, therefore, should rest with a well-prepared probation staff. Such a program, in combination with a court which is protective of a juvenile's rights, will provide a basis for an improved juvenile treatment program.

"Implicit in the analysis of the informal process is the recognition that the entire responsibility for current delinquency problems cannot be placed upon the juvenile court. Our entire society breeds defiance: through inattention to the needs, problems, and desires of the individual juvenile; through an over-emphasis on materialistic values coupled with an unwillingness to provide everyone with an opportunity to achieve them; and through vast divergence between practices and preachments. Therefore, it must be the entire society that seeks the solution. Provision should be made for an integrated system of formal and informal treatment. The ultimate treatment success, after once establishing structural interaction, will depend upon creative imagination and flexible independent thought by the men and women who are involved daily with young people in both official and unofficial capacities. This would ensure that children more properly the subjects of informal treatment will not be forced, through circumstance, into the formal adjudicatory process."

SPECIFIC AREAS FOR ACTION

BY THE STATE

Although it is recommended that the local government such as city or county be actively involved in a delinquency control and treatment program, it is quite obvious that the financial structure of the local government prevents them from providing sufficient resources to effectively operate many of their own programs. This does not preclude their participation, interest, spirit and cooperation to get the job done with as much help as possible from every citizen.

The State Department of Social Services should establish within it a new division whose primary responsibility is to plan programs, coordinate the several agencies in government, local and state, which deal with juvenile and family problems.

The division should be able to assess existing programs and activities and aid in the development of new or improved means for prevention, control and treatment. It should utilize research and information available from all sources and where necessary should initiate studies in such areas as juvenile police and court services, juvenile probation, types of institutions needed for juveniles, school dropouts, youth employment opportunities, street gangs, effects of pornographic literature and availability of specialized services for prevention and control of delinquency.

It should be responsible for initiating conferences and planning institutes to bring to bear the best available information. It should be able to mobilize widespread public support for action in the field and promote the full cooperation of the news media as well as citizen groups to reach a common goal as previously indicated.

Several suggested responsibilities for the Department have already been mentioned. The following areas are indicative of programs which the Department of Social Services can initiate:

<u>Schools</u>

1. The Department of Social Services and the Department of Public Instruction should begin an inter-agency liaison in regard to counselling services in all levels of school programming. Both public and private schools should provide personal adjustment or casework type counselling in any elementary, junior high or high school which has a population of more than 200 students. Schools are beginning to recognize the need for this kind of counselling in addition to vocational career counselling. Nonetheless, counselling by school social workers remains on a very limited basis throughout the state.

2. An instruction program which provides courses in community concern and a realistic approach to life through family life orientation, sex education, and a study of the world of occupational employment is a necessary and vital part of a new expanded curriculum in elementary and junior high schools. These courses can stimulate and strengthen the child's maturing process and result in a purposeful revision of his conception of the world around him and eventually his own self-concept.

3. Serious thought and consideration should be given to lengthening

the school year and removing the barrier of the school building as the only place to learn. Tours, field trips to public agencies, existing laboratories and other agencies should be utilized in the curriculum plans.

4. Junior High Schools should immediately develop vocationally oriented programs for students who do not show an aptitude or serious desire to participate in a college preparatory program. Vocationally oriented programs which include basic academic courses in their curriculum will allow a significant number of students to have a success experience which can be productive, rather than the traditional unhappy junior high and high school experience which may lead to the student dropping out of school altogether, or entering the labor market without any saleable skill.

5. Area schools or local school districts should be required to provide a course in family life experiences for adults and families as a whole. With the sharp rise in the school dropout rate for girls throughout the state because of pregnancy, it appears that we must use all necessary resources to establish a sound public educational program in this important area. This type of program should be accepted in our modern curriculum with the same emphasis as we give to English, math or history.

6. Increased communications should be developed between the school and other agencies which exist for the growth and development of children.

7. School buildings and related resources should be used as much as possible day and evening and for the entire twelve months for both children and adults.

Development of Related Agencies

1. State subsidies for private organizations

It is well known that the state agency responsible for programming and planning cannot carry the entire load of services for children. Therefore, one of the prime responsibilities would be to spearhead innovative programs and subsidize private programs that can be preventive in nature. The Department of Social Services should help develop and encourage agencies such as Boys Clubs, Big Brothers, family services, work opportunities and other agencies which are willing to reach out and provide services with the hard-to-reach families. State subsidies should be available for agencies who are willing to become a part of a team approach.

2. Youth Commissions

The Department of Social Services should foster the development of a Youth Commission in each city or town in Iowa. Each Youth Commission would have as its prime responsibility the coordination of all agencies which serve youth. Iowa is not unique when several agencies plan for the needs of the youth while not consulting each other in common areas of concern. Youth Commissions can allow their local needs to be heard in an organized way and formulate plans to work them with a regional area plan. The state should consider a subsidy program to enable established Youth Commissions to more fully realize their potential in the field of coordinated juvenile services.

Cooperation with Police Department

The State Department of Social Services should work very closely with the newly developed Iowa Law Enforcement Academy in order to provide support for training in juvenile areas. All local police and new police officers need training in juvenile work to be prepared to act reasonably in today's situations. Presently there are only two police departments in Iowa that give some training in juvenile work. In the larger cities and towns such as Des Moines, Cedar Rapids, Waterloo, Davenport, Mason City, Newton, Iowa City, Burlington, Muscatine, departments of youth services should be developed. The State Department of Social Services should be encouraged to aid in this development as much as possible even to the extent of providing financial help.

Junior Police Corps should be developed in every community to enhance relationship with law enforcement and to be of service with youth work, traffic and recreation.

APPLICATION OF THE FORMAL PROCESS

"The necessity for separate treatment of juveniles involved in the juvenile process led to an abandonment of criminal court practices in most juvenile cases. This procedural separation resulted in the development of unique juvenile court vocabulary and procedures. Children below a specified age who committed acts defined as crimes if committed by older persons, or who behaved in other manners prohibited to them, were adjudged delinquent, rather than convicted as criminals. Facilities for the incarceration of children were labeled with various euphemisms, such as juvenile hall, youtn study center, and training school. Grand jury indictments and informations were replaced by petitions which could often be presented to the court by any person. Arraignment and trial by judge or jury were replaced by non-adversary hearings before a juvenile judge, in which confidentiality and informality in procedure excluded the use of standard criminal and civil rules of evidence, procedural protections, and records. Presence of legal counsel was often considered unnecessary, appeal was limited or denied, and usually the rights to confrontation, cross-examination, notice, and silence were also denied. Criminal sentences were replaced by juvenile court dispositions which were to be flexibly adjusted to meet the child's treatment needs and not the seriousness of the offense. Dispositional decisions were to be aided by diagnostic social studies and recommendations made by juvenile court social workers, who would also provide counselling, supervision, and other case services. Finally, dispositions to security institutions were to be limited to cases in which protection of the child or the community actually required incarceration, and to institutions which could provide rehabilitative treatment in addition to custodial care.

"Much criticism of juvenile courts indicates that practice does not conform to theory. First, the casework method of diagnosis of a juvenile problem requires that sufficient resources be provided to employ skilled juvenile court personnel. If adequate funds are not available, either unqualified personnel will be employed, or capable court officers will have a workload too large to provide the needed casework services. Thus, rehabilitation efforts may be limited or expediently de-emphasized and supplanted by poor social studies, mistaken dispositions, inflexible probation rules, and poor supervision.

"Moreover, the distinction between criminal court objectives and juvenile court goals is not clear in practice. Isolation and punishment solely for deterrent

purposes, instead of regenerative treatment, are often guides in making juvenile court dispositions. When rehabilitative treatment is de-emphasized and criminal court objectives dominate, the informal, non-adversary procedure of the juvenile hearing appears to be unjustified. As a recent United States Supreme Court decision illustrates, the final effect of inadequately financed, poorly administered, punitively oriented, and procedurally undisputed juvenile court discretion is an unconstitutional denial of due process rights.

"Criticism is also made that the juvenile court process may even foster continued delinquency and crime. The stigma of being adjudged delinquent may often exclude a child from job opportunities and legitimate school and community activities. Combined with this ostracism are restrictive probation rules which, when incomprehensible to the child or poorly conceived to meet his needs, may encourage him to further misconduct. Moreover, sociologists note that the delinquent label is a status symbol among certain groups of children, and that for some of them, the label serves as a self-fulfilling prophecy. Finally, commitments which unnecessarily expose young offenders to experienced young criminals in training schools clearly contradicts the rehabilitative ideal of juvenile treatment.

"Other criticisms reveal partial deficiencies of the juvenile court theory itself. The custody and solicitous care rationale justifying parens patriae action by the state incorrectly assumes that all juvenile misbehavior is related to parental default or failure. Because of the complex nature of behavioral problems, both adult and juvenile, it seems likely that there can be no single causative factor. Moreover, where juvenile misconduct may be traced to parental fault, it seems ironic that the child is committed to an institution while the parents continue their undesirable way of life.

"Additionally, parents possess rights over their child and are entitled to custody and guardianship absent extraordinary circumstances. Therefore, if the state assumes the parent's role during a delinquency adjudication, it would appear that the parents are presumed incompetent or unwilling to assert their rights and duties in the child's behalf. Furthermore, it seems that initial assumption of the parental role by the juvenile court presumes some form of guilt by the child, or a suspicion of guilt sufficient to suspend parental rights.

"Juvenile delinquency and juvenile court practice in Iowa will be examined in light of the rehabilitative theory of correction of juvenile behavioral problems. The procedures followed and personnel participating in the juvenile court system will be evaluated, and recommendations will be suggested which may bring the system into line with constitutional principles and current standards of individualized treatment for children.

JUVENILE CASES IN IOWA

Juvenile courts in Iowa process several types of cases involving children under eighteen years of age. Approximately eighty per cent are delinquency cases which involve crime and behavior deemed unlawful for children. The remaining twenty per cent are dependency cases, which involve economic welfare and support services for children; neglect cases, which deal with parental failure to provide adequate care, education and protection for children; and other cases which involve termination of parent-child relationships and removal of guardians.

Although delinquency cases are the primary concern of this section, it should be noted that minor cases of crime or misbehavior are sometimes classified as neglect or dependency cases. This misnaming may be an indication that economic factors and parental neglect are sometimes related to misbehavior. An additional factor may also be that courts wish to avoid labeling a child delinquent when he is a first offender or very young.

"Juvenile courts also deal with adults as often as with children. Parents or guardians, if reasonably available, are required to be present for delinquency cases. Moreover, they are in effect the defendants in dependency and neglect cases where the children are principally wards of the case.

"Delinquency, dependency, and neglect cases are classified as official if a petition is filed in court, and unofficial if no petition is filed. In 1966, approximately seventy-four per cent of delinquency cases were handled unofficially, an increase from sixty-six per cent in 1960. Not all official cases result in a formal hearing, because some cases in which a petition is filed are adjusted informally by the court staff. Data from ten counties reveals that over seven per cent of the official cases in 1966 were dismissed, disposed of with only a warning, or held open, although several of these cases may have involved formal hearings."

IOWA JUVENILE COURT PROCEDURE

"One hundred and one Iowa district courts sit in ninety-nine Iowa counties. In most urban counties, responsibility for disposition of juvenile cases has been delegated to municipal court judges. In Polk County, however, one district court judge has sole responsibility for all juvenile cases within the district. In all other counties, responsibility for juvenile cases is divided among the judges in the district."

"In 1965 a total of 3,646 formal hearings were held to consider the allegations of 2,790 delinquency, dependency, and neglect petitions involving 3,747 children. Additionally, at least 6,068 delinquency allegations and 837 dependency or neglect cases were handled informally."

Apprehension-Referral into the Juvenile System-Detention

Immediately after a child is apprehended, law enforcement makes a decision as to whether the child should be referred into the juvenile system. If the child is referred into the system, a number of decisions are made quite early by either the county attorney or the probation officer. Among these decisions is whether or not the child should be detained in custody, or should be returned to his own parents.

Pending disposition of the juvenile's case, there are only two reasons why a child should not be returned to his own home. One is that he presents a clear and present threat to either the safety of the community or to his own safety, and the other is that the quality of parental care is so poor that to return him to his own home is to place the child in danger. The child who presents a clear and present threat to the community or to his own safety needs to be detained in a secure facility, one which will foreclose escape. The child who cannot be returned home because of the quality of parental care, however, does not need physical restraint and therefore should not be placed in detention at all, but rather in sheltered care.

Shelter care can be provided for children of all ages in temporary foster homes. This is done in many large and small cities in the United States at low cost and with great benefits to both the child and his family. In Iowa, a few counties maintain emergency temporary foster homes for adolescents. The typical pattern in Iowa, where shelter facilities are provided at all, is to provide temporary care in an institutional setting. Such facilities exist in Scott, Polk, and Pottawattamie counties. This type of shelter care is demonstrably more expensive and substantially less effective than providing such care in temporary foster homes.

One result of Iowa's failure to provide temporary foster homes for children who are essentially neglected and dependent is the fact that many neglected and dependent children are being confined in Iowa's county jails. In December 1965, at the request of the Iowa Citizens Council of the National Council on Crime and Delinquency (N.C.C.D), a questionnaire was submitted to children then resident in the Toledo and Annie Wittenmyer Homes for children. Children in these homes are considered to be essentially neglected children, yet 103, more than 20 per cent of the resident population, stated that they had been confined in county jails prior to admission to the state homes. Moreover, five children, less than ten years of age, stated that they had been confined in jail before entering the Annie Wittenmyer Home. Two young children under ten stated that they had been confined in jail for more than ten days. Since very few Iowa jails have facilities for segregating children from adults, it is obvious that many Iowa children who have received improper care from their parents are being exposed by Iowa's public services to adult offenders in county jails.

The provision of adequate shelter care facilities in Iowa is the responsibility of the Division of Family and Children's Services of the Department of Social Services. The provision of competent shelter care facilities should rate a high priority with this new department. It is unlikely that a temporary shelter care facility is required in all 99 counties in the state, but it is mandatory that some facilities be available to all 99 counties. As a result, it is probable that only the state department can solve the dilemma. It must develop facilities for the temporary care of neglected children on a multi-county basis and make such facilities available to all counties, their related law enforcement personnel, probation personnel, and the juvenile court itself.

The situation with the detention of delinquent children is even more serious and critical because of the large numbers of children involved. As an example, in 1965 a total of 424 children were committed to the State Training Schools at Eldora and Mitchellville. To provide service for these 424 children, the State of Iowa expended $2,126,166. During that same year of 1965, however, 1,241 children, at a minimum, were detained in the county jails of Iowa.

In very few of Iowa's jai[illegible] it possible to truly segregate juvenile offenders from adult offenders. To [illegible]strate this point, a questionnaire was submitted to the boys at the State Training School at Eldora on December 8, 1965, at the request of the Iowa Citizens Council. Of the 286 boys at the Training School, 271 stated they had been confined in county jails prior to commitment. Two hundred and six of those confined in jails stated that they had been confined within sight or sound of adult offenders, and fifty stated they had been confined in the same cell with adult offenders. Iowa's system for confining juvenile offenders temporarily in the community, therefore, really represents an educational process through which delinquent children receive a graduate course in criminal attitudes and behavior.

In 1966, the Iowa Legislative Research Committee, in studying county jails, submitted a questionnaire to the state's 99 sheriffs. Sixty-seven sheriffs responded and 44 of them stated they could not provide 24 hour supervision of inmates. The importance of this lack of supervision becomes apparent in view of the fact that 30 sheriffs reported they could not prevent communication between juvenile and adult offenders, and 28 sheriffs stated that they could not prevent communication between male and female prisoners. In such situations, the potential for abuse of juvenile offenders is great, and the potential for young delinquent children to become identified in their own minds as criminals is also very great.

No jail in Iowa is designed physically to provide a competent program for juvenile offenders. Nor is any jail in Iowa staffed to provide any kind of diagnostic or treatment services for delinquents who must be detained temporarily. A competent detention center provides diagnostic and study services as well as educational and recreational opportunities for children confined. The provision of such services is of great value to the child, to the community and to the court.

To the child, an adequate detention center provides: immediate protection against his own uncontrolled actions; things to do which challenge his interest; group guidance which counteracts the ill effects of confining him with other delinquents; individual guidance which helps him use the detention experience to understand himself better so that he can come to grips with his own problems; and contact with persons in authority who are concerned with his well being and subsequent compliance with the law, thus introducing him to a new concept of authority.

Detention facilities assure the court that the more disturbed boys and girls will be held in secure custody pending a court disposition. It not only assures their availability for interviews and court hearings, but provides opportunity for a report to the probation officer and the judge, based on short term intensive study and diagnosis at the detention center. The report supplements the probation officer's social investigation and gives the court additional information to be used as a basis for subsequent disposition of the matter.

Detention facilities provide the community with immediate protection from young people whose behavior has endangered and at the time appears to be likely to continue to endanger the safety and property rights of others. The young offender will benefit from adequate detention facilities and will more readily respond to the help of the probation officer, the social caseworker, or the correctional institution to which they may be sent.

Only one real detention center exists in the State of Iowa, in Polk County. Studies of other metropolitan areas indicate that indeed Polk County is the only county which has a large enough number of delinquents to make a detention center feasible. However, state law permits counties to combine to construct and maintain a detention center on a multi-county basis. Efforts to develop such multi-county locally operated detention centers have so far failed because of the difficulty involved in getting county governments to cooperate with each other.

As a result, the only realistic method for removing children from Iowa's county jails would appear to be a state operated system. Legislation was introduced in the 1967 session of the State Legislature which would have re-

sulted in the construction of one such state operated facility as the beginning of a statewide state operated system. The Division of Family and Children's Services of the Department of Social Services is urged to move as quickly as possible toward the development of such facilities, probably a part of a regional correction center.

While there is great urgency in the development of such facilities, caution should be exercised in determining the number and size of facilities which should be developed. A wide variety of factors influence the number of children who are being detained. Among these are the adequacy of criteria used to determine who should and who should not be detained. Across the state there is currently a large range of detention rates which indicate that there are no reliable criteria for detention being used on a county by county basis. As a result the state should determine what criteria are being used and what criteria ought to be used in order to make sure that detention is not being used for neglected and dependent children. Obviously, the provision of adequate shelter care facilities for adolescents would tend to decrease the need for secure detention.

Another factor which influences the need for bed space in detention facilities is the length of time delinquents are detained. The national average is 10 to 14 days, and it should be pointed out that detention is a temporary measure. This varies widely in Iowa and every effort should be made to hold the average length of stay in detention to the 10 to 14 day limit. In order to do this, detention facilities and probation staffs must be adequate to proceed rapidly with diagnosis and disposition. As an example, the juvenile detention center in Ramsey County, Minnesota, with a capacity of 30, is able to handle about 1,500 juveniles per year. On the other hand, the Polk County Juvenile Detention Center, with a capacity of 26 beds, handles only about 350 delinquents a year. The difference is in staffing of the detention center. It is obvious, therefore, that proper staffing can substantially reduce capital investment, and at the same time provide a better service.

Some states have grossly over-built on detention centers and as a result, are apparently detaining many more children than it is necessary to detain. Detention needs in Iowa are probably substantially less than generally expected. As an example, in 1965, a minimum of 1,241 children were detained in county jails. Perhaps another 400 children were detained in other facilities. If it is assumed that the total number of children confined in one type of facility or another was 2,000 and if it is assumed that all of the children confined actually needed detention, which is probably not true, and if these 2,000 children were detained for an average of 14 days, Iowa would need facilities for between 75 and 80 children on an average day. Capacity would have to be somewhat greater than this to handle peaks, but the number of beds necessary is relatively small.

Intake

"Intake is essentially a screening process to determine whether the court should take action and if so what action, or whether the matter should be referred elsewhere. The Iowa Code provides that 'whenever the court or any of its officers are informed by any competent person that a minor is within the purview of this chapter, an inquiry shall be made of the facts presented which bring the minor under this chapter to determine whether the interests of the public or of the minor require that further action be taken.'

"Screening may result in the exclusion of a juvenile case from the formal judicial process for various reasons and at varying stages of disposition. Any petition filed must allege jurisdiction and probable cause, and failure to substantiate either criteria will result in dismissal of the case. Also, the required factual inquiry into the case may result in a determination that the case should be dismissed, continued subject to adjustment, or adjusted informally."

1. Social Investigation Report

"Facts which may indicate a need for non-formal disposition may also be obtained from the social investigation report which is required in all uncontested juvenile cases resulting in decrees other than discharge. Important considerations in the social report should include the age of the child, seriousness of the offense, possibility of restitution, parental cooperation, and the child's attitude and history of misbehavior. The Iowa Code, however, does not articulate any such guidelines for preparation of the social report. To ensure that all data relevant to a proper disposition is contained in the report, it is recommended that criteria and guidelines for preparation of the report be specified by those specially trained in juvenile behavior and social welfare. Once a uniform method of reporting is established, it would be preferable in the larger districts for one probation officer to specialize in analysis of the social report.

"The Code clearly prohibits preparation of the social report in contested cases, but does require a factual inquiry into the allegations of all petitions. In practice, one report often serves both functions, and many probation officers reported that they prepare the same kind of "social report" for all cases--official and unofficial, contested and uncontested. It would appear that the two reports can and should be distinguished in practice. Inquiry into the allegations of the petition should be limited to a determination of whether or not the juvenile had conducted himself in a manner prohibited by law. Alternatively the social report serves the distinct function of examining the environmental aspects of the juvenile's everyday life so that the ultimate disposition of the case will best meet the rehabilitative needs of the child and the protective needs of the community. Not only should distinct functions of the two reports be observed, but preparation of a social report in a contested case under the guise of factual inquiry clearly appears to contravene legislative intent."

2. Informal Adjustment

"As noted earlier, more than seventy-four per cent of the delinquency allegations in 1966 were handled non-judicially. Informal adjustments by probation officers are preferable in some cases because they permit more flexibility and minimize harmful records. Yet, discretion given to the court in a formal hearing also allows for desirable flexibility. Moreover, records of unofficial cases are kept as in official cases. Informal adjustment of an official case, however, may avoid the social stigma of a delinquency adjudication and relieve busy court dockets. The greatest criticism of informal adjustment is that abuse may result from untrammeled discretion. The Code provides conditions for informal adjustment which attempt to limit abuse: the child must admit the facts alleged, the parents must consent to the informal adjustment, and informal adjustment may not be continued longer than three months without formal review by a judge. The third provision may be less meaningful because

nothing would prevent a series of continuances of the case. One solution would be to allow a sixty-day informal adjustment period and a thirty-day continuation only, after review by the judge."

Constitutional Principles

1. Notice of Charges

"In In re Gault, the United States Supreme Court held that in respect to juvenile delinquency proceedings, the child and his parents or guardian must be notified in writing of the specific charge, or factual allegations to be considered, sufficiently in advance of the hearing to permit preparation. In light of the Gault holding, the notice or summons served should be timely and set out the fact allegations with some degree or particularity. Although constitutionally adequate notice does not impose formality or inflexibility in the hearing, it may help establish a healthy attitude of formality in the overall juvenile procedure."

2. Right to Counsel

"The Gault holding, in respect to counsel, was limited to a situation in which the result may be commitment to an institution in which the juvenile's freedom is curtailed. Iowa Code provisions appear to be substantially consistent with the constitutional requirements concerning counsel.

"At the beginning of any contested hearing where the child and his parents or guardian appear unrepresented, the juvenile court should advise them of their right to counsel.

"The presence of counsel would appear to provide more than legal benefits to the child. Because of his counselling experience and exposure to the often impersonal legal process, the attorney may be a stabilizing influence on the child and his family throughout the adjudication. Moreover, only an attorney is fully qualified to ensure that all avenues to a proper resolution of the case have been explored, and that all proper considerations are extended to the family."

3. Privilege Against Self-Incrimination

"The Supreme Court in Gault held that the privilege against self-incrimination is applicable in the case of juveniles subject to delinquency proceedings and possible commitment. Thus, an admission by a juvenile may be used against him only when supported by clear and unequivocal evidence that the admission was made with knowledge that he was not obliged to speak and would not be penalized for remaining silent.

"The reason for adopting this rule concerning delinquency commitments is that training school incarceration is usually similar to imprisonment and that children, more than adults, are subject to intimidation or coercion. A child's 'confession' also may be highly unreliable, and compulsory testimony may disrupt the relation between the child and the court.

"Thus, it would appear to be desirable for officials involved in the juvenile system to encourage the presence of counsel during the early stages of investigation to ensure that any waiver obtained is effective.

"In delinquency proceedings where commitment is unwarranted, the approach to admissions by the child might vary according to the extent of the child's defiance and on the court's belief that an admission would constitute a constructive beginning of the rehabilitative process. However, subsequent commitment to a training school could not be made if the delinquency adjudication was based upon an inadmissible confession."

4. Right to Cross-Examination

"The rehabilitative emphasis on juvenile cases has been considered a justification for informality in the juvenile process. This informality has often resulted in a denial to the juvenile of certain procedural rights. Concerning cross-examination and admissible evidence, however, the Gault decision held that '...absent a valid confession, a determination of delinquency and an order of commitment to a state institution cannot be sustained in the absence of sworn testimony subjected to the opportunity for cross-examination in accordance with our law and constitutional requirements.' This rule in its narrowest interpretation would seem to require that the rules of evidence and cross-examination applicable in civil cases be followed in adjudicating a finding of delinquency, followed by commitment to a state institution."

5. Hearsay Evidence

In theory, the formal juvenile process is separable into two distinct phases or hearings. The first is the adjudicatory phase, in which it is determined whether the child's conduct was such to invoke public sanction. The second phase is that which determines the disposition or treatment to be imposed. In practice, however, these two phases often merge into one, resulting in uncertainty as to the admissibility of certain evidence regarding either the child's conduct or other matter, such as the child's family background. Therefore, a sincere effort should be made to clearly separate these two phases, hence ensuring that only matters relevant to each stage of the process are admitted.

"If the rules of evidence applicable to civil cases are binding on the juvenile court, these rules would be applicable only to an adjudicatory hearing to which the Gault holding was restricted. Therefore, the use of social reports, which usually contain hearsay evidence, would be substantially limited to the dispositional portion of the court hearing. To protect the child from the possible prejudicial effect of hearsay evidence, the United States Supreme Court held that the child's counsel must have access to social reports which are to be considered by the juvenile court in deciding whether to waive jurisdiction over the child. By implication, social reports which will be considered in making the disposition decision should also be made available to the child's counsel prior to their introduction into evidence. Protecting the child's interests at this stage of the hearing would appear to be equally as important as protecting his interests when jurisdiction might be waived. The social report in a contested Iowa juvenile case is not to be prepared before the allegations of the petition have been established at a hearing. Once the allegations have been established, however, the judge must consider the social report if any disposition other than discharge is contemplated. This procedure, therefore, would appear to be valid only where the child's counsel has free access to these reports prior to their consideration."

6. Waiver of Transfer to Criminal Proceedings

"A recent amendment to the Iowa Code provides that a child formally

charged with a criminal offense after his fourteenth birthday may be waived over to criminal prosecution by the juvenile court after a hearing. Considering the Gault application of constitutional principles to hearings which may result in commitment of a child, the interpretation by the Supreme Court in Kent v. United States becomes particularly relevant. There, the Supreme Court held that a statute requiring full investigation prior to waiver of jurisdiction by a juvenile court, when examined under the constitutional principles of due process and the right to counsel, must also provide for a hearing, a statement of reasons for waiver, and access by counsel to the juvenile court records and social reports which would be considered by the court in deciding the waiver question.

"From the viewpoint of traditional juvenile court theory, the decision to waive juvenile process ought to be made by the juvenile judge--one who is mature, sophisticated and specialized, wise and well-versed in the law and in the science of human behavior, who has specialists in child behavior and psychology at his service. This ideal, however is seldom approached.

"Thus, the Iowa provision allowing for a waiver to criminal proceedings while not patently unconstitutional, constitutes a threat that an unenlightened decision to transfer may reduce the rehabilitative potential of the juvenile involved and, hence, should be considered for future revision."

Dispositional Decision

"The final disposition of juvenile cases in rural Iowa counties generally results in dismissal, informal adjustment involving restitution and some informal supervision, formal probation, commitment to a training school or occasionally to a private institution, or waiver to criminal proceedings. Dispositional studies of four rural Iowa counties during 1965 and 1966 indicate a fairly consistent pattern: sixty per cent of all delinquency cases were dismissed or occasionally referred to other agencies; thirty-seven per cent resulted in official or unofficial probation; and approximately three per cent resulted in commitment to a training school. Dispositions in the more populous counties result in a wider variety of treatment programs, including greater use of mental health centers, private agencies and programs, and professional counselling and guidance. Because of the rehabilitative and regenerative ideal which pervades the juvenile process, the dispositional decision should be that which enhances the probability of redirecting juvenile misbehavior. Hence, the finding of guilt or innocence should not overshadow the essential need for individual and tailored treatment plans. Indeed, the determination of what will ultimately be done to, and with, the delinquent is perhaps the most crucial of all. Consequently, any factors which contribute to a disposition contrary to the goal of rehabilitation reduce the effectiveness of the entire juvenile program.

1. Economic Limitations

"Commitments to state training schools and routine dispositions to probation result in no cost to Iowa counties. Therefore, persuasive monetary incentives for counties exist which may discourage commitment to facilities requiring county expenditures, such as foster homes, and utilization of comprehensive diagnostic services at county expense. That this problem does exist is illustrated by the following conversation recorded in a rural county preliminary hearing:

Judge: 'What will the supervisors say if I put these kids in foster homes?'

County Attorney: 'They won't like it. I can't even get an electric typewriter for my office.'

Thus, the legislative mandate 'that each child...shall receive...the care, guidance, and control that will be conducive to his welfare,' and that the child removed from parental control should have 'secured for him [by the court] care as nearly as possible equivalent to that which he should have been given,' becomes a hollow mockery. Legislative amendments, therefore, should be adopted to equalize the cost to the county of all dispositions other than probation, so that training schools will no longer be overcrowded and children will more likely be given the individualized treatment which best meets their needs. Cost differentials could be paid out of the state general fund.

2. Training and Inter-Agency Cooperation

"The fact that Iowa dispositions pattern easily into five definite groups also indicates that individualized treatment has often given way to a routine, inflexible approach to dispositions. This situation may be partially remedied by providing those involved in the juvenile process with more contemporary information concerning juvenile behavior and larger and better trained staffs. At present, no meaningful statewide study has been made concerning disposition, recidivism, and costs, nor has any state agency provided juvenile court staffs with adequate information or training.

"Perhaps most important, however, is the need for a truly cooperative effort between all agencies dealing with juveniles and their problems. Survey results indicate a lack of professional confidence and understanding between welfare agency personnel and the juvenile court. In addition, many law enforcement officials in the survey expressed candid skepticism about the competence of probation officers and judges on juvenile matters. Success in combating juvenile delinquency would seem to require that all agencies work together in a united effort. To further this objective, immediate steps should be taken to effectuate continuous inter-agency communication. In addition to exchanges through memoranda or newsletters, personal exchanges of ideas through seminars and group discussion would be quite beneficial. Such a program would assist in the resolution of existing conflicts and help establish unity within the juvenile system.

3. Timeliness of Disposition

"Some Iowa courts issue serial continuances in juvenile cases which result in incarceration of the child in juvenile detention facilities or jails. If the purpose of this procedure is punishment, it is reprehensible. If the procedure is adopted because no other place for the child could be found, it is an indictment of the state's program for treating juvenile problems. An injunction or court order against this practice is difficult because each individual habeas corpus action can be easily mooted by the judges involved. Consequently, a legislative limit on the period during which a case may be continued should be enacted. A period of 30 days maximum would be adequate in most cases, and provision could be made for a hearing on the issue beyond that time upon a showing of good cause.

314-086 O - 68 - 4

4. Juvenile Court Personnel

A. Judge

"With two exceptions, all Iowa district court judges serve more or less regularly as part-time juvenile judges. Iowa is fortunate in several respects regarding judges who handle juvenile cases. All such men possess legal training and are members of the bar, in contrast to national statistics which show that half have no undergraduate degree and one-fifth are not members of the bar. Iowa juvenile courts are staffed mainly by judges who are lifetime appointees, at the district court level and from all indications most judges come to the juvenile court with a concern for the welfare of the child in trouble.

"At present, Iowa's municipal judges who serve as juvenile judges appear to be competent in dealing with juvenile problems. They are, however, elective officials subject to political pressures, and they may not develop the desired skills and knowledge normally acquired through long tenure. Establishment of tenure for municipal judges would appear to resolve this problem. However, since most juvenile judges are district court judges, few of whom specialize in juvenile work, the ultimate and long-range solution, difficult as it might be, would seem to be to eliminate municipal judges from juvenile positions and appoint additional district court judges. This would permit designation of one district judge to handle all juvenile cases arising in each judicial district. Probation services should then be reorganized where necessary to correspond with the juvenile jurisdiction.

B. Probation Officer

The probation officer has a critical position with regard to the juvenile delinquent. To a large extent, in most counties, the probation officer decides whether or not a child should be detained, whether or not a formal petition charging delinquency should be filed, and if a petition is filed, what disposition should be made. The juvenile judge has the statutory authority to make these decisions binding, but the probation officer's recommendations are frequently of critical importance.

"The quality and effectiveness of juvenile court work is largely a result of the probation officer's abilities. Therefore, individuals occupying the position should be well-trained and have a background in juvenile work. Juvenile judges should not have to compensate for the weaknesses of a probation staff, as they now must do, but rather should be able to rely upon the staff's strength. Hence, a great need exists for comprehensive in-service training programs and a higher selection criterion for personnel. A bachelor's degree in one of the behavioral sciences, or its clear equivalent in other training and experience, ought to be mandatory for all probation officers. Moreover, chief probation officers should have master's degrees in social work or extensive experience with behavioral work supplemented by some legal training. Resolution of this problem, however, will not be easy. Funds to hire such personnel are generally wanting, and it may be difficult to convince local people of the necessity for such qualified people. Also, as is the case presently with other professionals, it may be difficult to attract them away from the cities and into Iowa's rural areas."

In addition to being qualified, probation officers should have workloads which are sufficiently small to permit them to do a competent job of supervision. The National Council on Crime and Delinquency recommends a caseload of 35 units. Many Iowa Probation Officers, cover multi-county districts and as a result of the amount of time travelling the caseloads should probably be smaller. While complete data are not available, the average caseload for Iowa Probation Officers is over 70 which might indicate that the quality of probation service is strained.

Theoretically, probation consists of the social casework technique. However, since there are relatively few probation officers in the state who are qualified social caseworkers, and since caseloads are apparently so large, it is extremely doubtful that the casework technique is employed in practice to any large extent.

"By statutory requirement, the county attorney or his office must present the evidence in all cases except adoptions. In some counties the investigation is made and the case prepared by the probation staff, and the county attorney merely presents the material. His recommendation, if any, in those counties is that suggested by the probation officer. This procedure is advantageous because it does not place the probation officer in a public position adverse to the disposition, which could hinder subsequent rehabilitative efforts. In many counties, however, the role of the county attorney is much broader. He may conduct most of the investigation, prepare the evidence and basic treatment plan, and also represent the financial interests of the county treasury. Because most county attorneys are burdened by other, seemingly more important, legal matters, and are not trained in juvenile problems, such a broad responsibility in juvenile cases would appear to be undesirable. Moreover, his stance as a political figure may affect his dispositional recommendation at the expense of the child's best interests in any particular case of high community feeling. Thus, the county attorney's role should be limited to presentation of evidence and recommendation of the treatment plan devised principally by the probation staff."

SPECIFIC AREAS FOR ACTION RELATING TO JUVENILE COURTS

The Juvenile Court Judge

1. Need for Special Training

The juvenile court is substantially different from the adult criminal court and from other civil courts. However, law schools provide little training in the juvenile court field. As a result, most attorneys have relatively little knowledge of the function and purpose of the juvenile court. When an attorney becomes a judge and begins to hear juvenile cases he must begin to learn a process which is different from that which he has learned in law school. Some type of training should be made available to juvenile court judges. It is possible that the District Judges Association in cooperation with the Law School at the University of Iowa could develop a regular training program for juvenile court judges. Additionally, each juvenile court should have a juvenile judge who has had special training in understanding the special needs of youth. If the juvenile courts are to remain quasi-social agencies, they must then accept the fact that training other than law is necessary.

2. Need for Improved Support Facilities

The juvenile court judge deals with a large variety of different types of cases ranging from neglect and dependency cases involving the possible termination of parental rights, to relatively minor delinquency cases. All of these types of cases are of extreme importance to the children involved and to the community as a whole. In spite of this, however, services available to juvenile courts in Iowa are extremely limited. As pointed out previously, child welfare services which speak most directly to neglected and dependent children are weak and tend to emphasize the most expensive and least effective kinds of care. Probation services locally are also quite weak with the result that the court is frequently in a position of having to enter into the area of treatment as well as into the legal area. Communities by and large provide juvenile judges with very few alternative dispositions.

In delinquency proceedings, as an example, the judge may either dismiss the petition, place the child on probation, or commit him to a state training school. There are virtually no other alternatives unless the court has developed very close relationships with certain private agencies.

Probation

1. Mandatory Training for Probation Officers

The last session of the state legislature established a Law Enforcement Academy for police officers and made it mandatory for many police officers to receive training. Similar legislation for probation officers should be passed in Iowa requiring all newly employed probation officers successfully complete approved training programs, and that all employed probation officers regularly attend periodic in-service training programs.

2. Expanded Probation Services

One of the major deficiencies in Iowa's probation system is the fact that when a child is committed to one of the state training schools the local probation officer disassociates himself from the family. As a result, at the point when a child is committed no further relationship exists between the local community centered correctional programs and the state institutional programs. This means that virtually all children who are returned from the training school to their own families, as most are, are returned to the same family problems from whence they came.

It would be highly preferable to have a system in which the local agency continues to be active with the family during the period that the child is institutionalized. This would enhance the effectiveness of the treatment provided by the state institutions. There are a number of methods for achieving this. One method is the probation subsidy method which is employed in a number of states. In this system the state pays either all or a percentage of local probation costs. In return, the state sets minimum education standards and minimum standards of performance. If local counties fail to meet the educational standards or the performance standards as set up by the state department, the subsidy funds are cut off.

In return for the subsidy, the counties agree to supervise children who are being released from the state training school and to continue

to work with their families during the period of time the children are confined in the training schools. In addition to improving the service, this type of system also relieves the taxpayers of supporting a dual supervision system as currently exists in Iowa, because currently, local government provides probation services for children who have not been committed to state institutions, while the state department maintains a division of field services that supervise children who have been returned to the community from the institutions. Thus a probation officer employed locally and a parole officer employed by the state are covering the same geographic territory representing two different systems which are doing essentially the same job.

3. Centralization of Probation Services

Another method for dealing with this dual system and with the lack of communication and records between institutional programs and local programs, is to have the state assume the responsibility for all probation services. In this system all juvenile officers are state employees and are responsible to a state department, in Iowa's case, probably to the Division of Family and Children's Services of the Department of Social Services.

Need for Expanded Post-Judicial Treatment Services

Probation is an effective method of dealing with delinquents, but it is not an umbrella which can cover all types of delinquency and all types of delinquents. Yet it is the only alternative for retaining community treatment which is available to most of Iowa's juvenile court judges. It is estimated that the average juvenile probation officer in the United States is able to spend 20 minutes per month with children under supervision. By contrast, a child committed to the state training schools at Eldora and Mitchellville is supervised 24 hours a day. It is estimated that the average cost of probation is $300 per year per child under supervision while the average cost at Eldora is $5,300 per year per child. The gap between these two alternatives in terms of the intensity of service and the cost of service is extremely large and common sense would indicate that some alternative kinds of programs which provide more supervision than probation but less supervision than training schools and which costs more money than probation but less money than training schools could be devised. Alternative programs have been developed in some communities in the United States.

One of these programs involves intensive probation in which a probation officer is assigned to supervise only eight to twenty delinquents. In effect, this means that the probation officer is able to work more closely with the family of the delinquent than he can with a caseload of 60 or 70 or 80 offenders. Intensive probation programs are being used in California for children who have failed on regular probation. These programs have proven effective and they are substantially more economical than commitment to a training school.

A program called Citizenship Training has been in operation in Boston, Massachusetts for over 30 years. In this program children who have failed on regular probation are ordered to report to a center immediately after school every day and they remain in the program until early evening hours at which time they are ordered to report home. The children are involved in a large variety of activities including group therapy, recreation, remedial education, and parents are also involved. After 30 years of experience the repeater rate from this program is approximately 19 per cent as against a repeater rate from training schools of about 45 per cent to 65 per cent. Again, this program is slightly more expensive than probation but substantially less expensive than

institutional care and it has proven itself to be much more effective than training schools.

There are variations of the Boston Citizenship Training program operating in California which are called Probation Centers. They are quite similar in that children are ordered to report immediately after school or day long during vacation periods so that supervision is maintained for all but sleeping hours for all practical purposes. Again, these have proven themselves to be quite effective and economical. In a number of areas, guided group interaction has been utilized as a community treatment program with major success particularly among children from lower socio-economic groups. A variation of this program in Louisville, Kentucky, developed a guided group interaction program within a Junior High School. This program is no longer in operation although the evidence is that it was quite successful in preventing recidivism.

All of these alternatives to state training school are additional dispositions which can be utilized by a juvenile court with great success. There are certain basic elements involved in all of these programs. One is that the programs are used as an alternative to institutional care rather than as an alternative to probation. In almost all cases these community programs are used exclusively for children who have failed on probation and would normally be committed to state training schools. A second element is that in each of these programs parents are heavily involved. This is apparently a critical issue in the success of these programs. A third element appears to be that in each of these community alternative programs the court consistently follows through with commitment if the children fail to make an adequate adjustment in any of these programs. That is, when the child enters the program he is aware that failure to successfully complete the program will result in institutionalization. Apparently in all cases the courts follow through quite consistently.

Although these alternatives have been tried and have proven themselves to be both effective and economical it is suggested that communities explore other methods in addition to these. It was stated earlier that probation is essentially a social casework technique. However, many delinquent children have needs which are not met by social casework. As an example, there is apparently a high degree of relationship between delinquency and educational retardation. Therefore, it is quite likely that in addition to typical social casework centered probation, it might be possible to develop programs for educationally retarded delinquents which involve the public education system. Also, where this does not appear to be possible, as with a child who is not particularly academically inclined, the Division of Vocational Rehabilitation of the State Department of Public Instruction will probably have skills which are more appropriate to some delinquents needs than the social casework technique. It is recommended that the Department of Social Services make a major effort to develop a truly coordinated program with other agencies of the state government including community mental health centers, Departments of Public Instruction and the Division of Vocational Rehabilitation.

Other Areas for Action

1. Professional Diagnosis

Professional diagnosis should be made of each juvenile referred to the court. This diagnosis should be multi-disciplined and incorporating physiological, psychological and social testing.

2. Referees

The Iowa Code provision which allows "referees" in juvenile court work should be rescinded and the status of juvenile court should be upgraded rather than downgraded.

3. Broken Homes

In all divorce proceedings where minor children are involved, the advice of the juvenile court and its staff should be sought before custody is given to either parent.

4. Regional Detention Facilities

Adequate regional detention services should be available to all courts, and jails should not be used for children pending disposition by the juvenile court.

EXISTING POST-JUDICIAL TREATMENT INSTITUTIONS IN IOWA AND AREAS FOR EXPANSION OF RELATED FACILITIES

" 'In the public mind, the training school is an institution which is expected to produce miracles. It is supposed to take a boy or a girl with whom the community has failed and ...effect a transformation which will guarantee success in the same environment which originally helped to produce the failure. We should define for the benefit of the public what a training school can properly be expected to do.'

"The impact of the parens patriae philosophy on the penology field has led to the development of a state institutional system for children which is separate and distinct from the adult penal system. While elements of retribution and deterrence pervade the adult correctional philosophy, juvenile institutional theory is unique in its strict adherence to solely rehabilitative goals. However, institutionalization is only one of a variety of rehabilitative methods utilized by juvenile courts in treating the myriad of child problems with which they are confronted. Prescription of the appropriate remedy for a particular problem necessitates judicial cognizance of the unique treatment capabilities of institutions and adequate diagnostic practices which identify those problems amenable to institutional treatment. The initial effort, therefore, must be a determination of the role of institutions in juvenile treatment theory. This section will define the state's duty regarding institutional treatment of its children, discuss the operational difficulties confronted by juvenile institutions which may undermine successful treatment practices, and propose recommendations which, if implemented, should enhance state efforts to fulfill its child treatment obligations."

The State's Role in Institutional Care

"In Iowa, a juvenile court commitment order directing the State Board of Control to place a child in a state institution terminates the court's jurisdiction over the child and vests his guardianship in the state. Assumption of this guardianship role authorizes and requires the state '...to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about the general welfare of the minor.' Through exercise of its guardianship authority, the state may make decisions which intimately affect the future life of the child. Since the state is the ultimate judge of the child's

readiness for parole or placement, it determines the period of confinement. Furthermore, the nature of the child's confinement may subsequently be altered by a state decision to transfer him to an adult reformatory.

"The state, however, does not have absolute discretion in exercising its decisional power as guardian, but must act in accordance with due process of law and its role as parens patriae to the child. The state has a duty to insure that its children receive proper care and treatment. The propriety of state decisions concerning child treatment is dependent upon the nature of the problem to be treated, the quality and availability of treatment facilities, and the rehabilitative practices utilized by these facilities.

Iowa Juvenile Institutions

"Inherent within any large institutional setting is an atmosphere of artificiality. Institutional programs are designed to accommodate large numbers of children; consequently, these children are given less individualized care, have fewer opportunities to assume responsibility, have fewer contacts with normal family experiences and peer group activities, and in general lead a much more regimented life than do children cared for in smaller capacity facilities. Because of the necessity for institutional treatment of certain juveniles, such limitations may never be completely remedied. However, certain practices in Iowa's institutions which deter successful rehabilitation appear to be correctable and deserve legislative attention.

1. Iowa Training Schools

"Institutionalization is a major juvenile treatment method utilized in Iowa. Two training schools are presently in operation: the Iowa Training School for Boys at Eldora, and the Iowa Training School for Girls at Mitchellville. In 1961, based upon percentages of offical cases before the juvenile court which were resolved by training school commitment, Iowa committed at least eight times more boys and thirty times more girls to training schools than California during the same period. Furthermore, in recent years, the number of delinquency cases in Iowa has increased, with a concomitant increase in commitments to Iowa training schools."

A. Admission Standards

"Training school rehabilitation programs are theoretically designed to focus on children adjudged delinquent by the juvenile court, whose mental or behavioral problems pose a potential threat to their own welfare or the welfare of others. Eligibility for admission to the Iowa Training School for Boys at Eldora and the Iowa Training School for Girls at Mitchellville is limited to the child who has been adjudged delinquent by a juvenile court. The Iowa Code defines a delinquent as a child:

(1) Who has violated any state law or habitually violated local laws or ordinances except any offense which is exempted from this chapter by law.
(2) Who has violated a federal law or a law of another state and whose case has been referred to the juvenile court.
(3) Who is uncontrolled by his parents, guardian, or legal custodian by reason of being wayward or habitually disobedient.
(4) Who habitually deports himself in a manner that is injurious to himself or others.'

"The Iowa Code definition of delinquent behavior is essentially an enumeration of overt symptoms which may be a manifestation of serious underlying emotional problems. To assure that the child is amenable to treatment within the training school program, the services of professional clinicians should be utilized to diagnose the nature and source of the child's misbehavior. However, Iowa juvenile courts, due either to a lack of diagnostic facilities or the failure to use fully those facilities available, seem to commit many children solely on the basis of symptomatic behavior." In fact, in 1966, 80 per cent of the girls committed to the State Training School at Mitchellville were committed for non-criminal behavior. That is, they were committed for such offenses as truancy, ungovernability, or running away. Such girls have committed no offense against society as such, but are rather engaging in behavior which tends to be harmful primarily to themselves. These offenses, while prohibited by the juvenile code, indicate serious family relationship problems and the fact that the overwhelming majority of girls committed to Mitchellville fall into this category indicates that presently there is little emphasis on working with families. Approximately 25 per cent of the boys committed to Eldora during 1966 were also committed for non-criminal behavior.

B. Resident Population

"Inadequate diagnostic screening of children by Iowa's juvenile courts and a general orientation towards institutional treatment has hampered achievement of the training school's rehabilitative goals. Iowa training schools are presently overcrowded--a particularly acute problem at the Boys Training School. During fiscal 1966, that institution, with a maximum resident capacity of 290, admitted 592 children, resulting in a population turnover rate in excess of 200 per cent. In comparison, the turnover rate at the Girls Training School of 130 per cent was relatively low.

"Because the training schools cannot refuse to admit these children, a 'forced parole' procedure has been adopted at the Boys Training School to lessen the pressures of overcrowding on facilities and staff. Consequently, the school population is nearly always at or above resident capacity, and the arrival of a certain number of children committed by the courts or returned for parole violation results in the forced parole of a similar number of children. Although this procedure allows the training school to adjust to the influx of newly arrived children, forced parole has become a seemingly self-defeating solution to the overcrowding dilemma. Because the primary consideration in granting parole under these circumstances is often the creation of available bed space for new admissions, parole as a proper treatment decision for a particular child is often of only secondary importance.

"In addition, emphasis on forced parole has reduced the average length of residence at the training school from nine months in 1961 to only five months in 1966. Officials at the training school consider that a successful treatment program must be based on a more flexible length of residence, allowing them, if necessary, to retain children in the treatment program up to eight months. The lessened possibilities of successful parole adjustment seems to be reflected in the increasing rate of parole violations in recent years. In proportion to

the increasing number of paroles due to the forced parole procedure, the number of returnees from parole violation has increased at a higher rate. Therefore, even if the rate of future court commitments remains relatively constant, an increasing number of returnees for parole violation will further complicate the overcrowding problem at the Boys Training School. Potentially, this situation would further decrease the already inadequate length of residence, and the school's treatment program will be even less capable of providing proper care and treatment for committed children.

"The lack of adequate local diagnosis has in effect shifted the diagnostic function to the training schools, and necessitated the maintenance of an intake service on the institutional grounds. At the Boys Training School, for example, a residential intake center is maintained and usually filled to its thirty-resident capacity. Valuable staff time is thereby unnecessarily diverted to a diagnosis of the child's problem to determine whether he is a proper subject for institutional treatment, a function more properly the responsibility of the juvenile court officers and procedure."

A thorough multi-disciplined professional diagnosis should be made of each child at the time he is referred to the juvenile court system. Then, if the court should later determine that the child is a proper subject for institutional treatment, that institution should be prepared to study in great depth the individual causes of the child's behavioral problems, and provide appropriate treatment to alleviate such problems.

"Training school operations are further complicated by the presence of two distinct groups of children in the institutional population--the situational delinquents and the hyper-aggressive delinquents. Situational delinquents do not have severe emotional or behavioral problems which pose a threat to their own welfare or the welfare of others. These children are essentially dependent or neglected, and primarily have not received adequate affection, care, and discipline from their parents. Leaving these children with their natural parents or placing them in a responsible family unit, such as a foster home, coupled with supplementary supervision and treatment by the local probation office, mental health clinic, or family counselling service, would seem to be a more satisfactory treatment program than institutionalization. Local treatment of the situational delinquent is also advisable because of the adverse effects of training school confinement upon such children.

"Forced association with other delinquent children may also result in the formation or reinforcement of a delinquent self-image which may precipitate future unlawful conduct. Moreover, subjecting the situational delinquent to the restrictive confines of a training school because of relatively innocuous behavior, may engender resentful attitudes toward the legal system responsible for his commitment. Until juvenile court diagnostic practices are improved, miscommitment of the situational delinquent is likely to continue. Such improvement will result both in proper treatment of these children and in relief of institutional population pressures.

"In recent years, training schools have admitted an increasing number of children who are more maladjusted and emotionally disturbed than the balance of the institutional population. These children, characteristically referred to as "hyper-aggressive delinquents," have long histories of delinquency, anti-social attitudes, poor self-control, and feelings of alienation. Although they comprise only approximately ten per cent of the training school population, the hyper-aggressive delinquents have special problems which require very

intensive care and treatment. At the Boys Training School these children are confined in a medium security unit where facilities and staff members are available to provide treatment and control violent outbursts. Because of these factors, treatment of the hyper-aggressive delinquent consumes a disproportionate amount of staff time and limits the treatment and diagnostic services for the remaining ninety per cent of the children. One apparent remedy for this situation is an increase in institutional staff and additional, perhaps separate, facilities for treatment of the hyper-aggressive delinquents. Another possible solution would be to transfer the hyper-aggressive delinquent to a mental hospital or adult penal institution."

C. Administrative Transfer

"To cope with the problems of the hyper-aggressive delinquent in the institution, many jurisdictions, including Iowa, utilize a procedural device termed an administrative transfer. The power to invoke this procedure, whether derived from statutory or administrative authority, allows the transfer of a child from the training school to an adult correctional institution. The transfer procedure is usually initiated by a transfer recommendation from a training school staff committee. Final approval of the transfer order, however, is generally vested in the central administrative agency which operates the training school. Some federal courts have upheld such transfers upon a plain reading of the statute, hence allowing the administrator almost unlimited discretion in determining the nature of the child's confinement. Other courts, including state courts examining a transfer statute, uphold the statutory interpretation, but also require that the transfer be envoked only on the basis of the child's improper institutional conduct. For example, continued misconduct coupled with failure to respond to available treatment at the training school, or serious misconduct which endangers the child's own welfare or the welfare of other training school residents usually provides a sufficient ground for transfer.

2. Institutions for Dependent and Neglected Children

A. Admission Standards

"Eligibility for admission to Iowa's institutional homes, the Iowa Annie Wittenmyer Home at Davenport and the Iowa Juvenile Home at Toledo, is essentially limited to children adjudged by a juvenile court to be dependent or neglected. The Iowa Code defines the dependent child as one:

'(1) Who is without a parent, guardian, or other custodian
(2) Who is in need of special care and treatment required by his physical or mental condition which the parents, guardian, or other custodian is unable to provide
(3) Whose parents, guardian, or other custodian for good cause desires to be relieved of his care and custody '

The Code defines the neglected child as one:

(1) Who is abandoned by his parents, guardian, or other custodian.
(2) Who is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of his parents, guardian, or other custodian.
(3) Who is without proper parental care because of faults or habits of his parents, guardian, or other custodian."

(4) Who is living under conditions injurious to his mental or physical health or welfare.'

"The status of dependency and neglect is defined by the Code according to the manner in which parents, guardians, or custodians act towards their children without defining the effect of this parental behavior upon the child. Therefore, even though a child is subjected to family conditions falling within the legal definition of dependency or neglect, he may be stable both mentally and behaviorally. Juvenile courts which fail to recognize this possibility because of inadequate diagnostic practices may institutionalize dependent and neglected children who would receive more satisfactory care in the local community. To remedy this problem, therefore, commitment orders should be accompanied by evidence indicating that the child is either incapable of functioning adequately in a normal family unit or unable to relate satisfactorily to adults or other children.

"Specific admission standards for each institution could also be established according to the types of child problems which the institution is best equipped to treat. For example, the staff members of the Annie Wittenmyer Home have developed a tentative program which emphasizes treatment of the "undomesticated slow learner." In the context of this problem, the "undomesticated" child is one who is unable to function in a normal family situation. The "slow learner" is the child with an intelligence quotient between sixty and eighty. Further criteria for participation in this program involve factors of rejection and maladjustment. If this tentative program is successful, other programs designed for treatment of specific juvenile types may be instituted. The ultimate result may be a more individualized and workable treatment program, and a de-emphasis on parental behavior as a basis for child treatment.

B. Resident Populations

"Based on the maximum capacities of the Annie Wittenmyer Home and the Iowa Juvenile Home, admission rates to these institutions have not presented an overcrowding problem. Unlike the situation at the Boys Training School, these institutions have a very low population turnover rate. Consequently, because bed space is readily available, children may be retained in the institutional program for an adequate period of treatment.

"The resident population at these institutions is composed of three groups of children: children with problems amenable to institutional treatment, those with minor problems not amenable to institutional treatment, and children whose problems have been successfully treated. Those children comprising the latter two groups are proper subjects for placement outside of the institution. However, because these children are unable to support themselves independently and community placement facilities are limited, particularly for children in the ten to sixteen year old age range, continued confinement is the only feasible alternative. Unnecessary retention of these children in the institution increases the operating costs and diverts the staff members from their treatment duties. More importantly, these children are deprived of their freedom because of factors extrinsic to rehabilitation. To deny a child participation in normal childhood activities because of a failure to provide adequate placement facilities would appear to be at least a dereliction of the state's duty to provide its resident children with proper care and treatment and, arguably, a violation of due process.

"Continued confinement of the well-adjusted child may also cause children to become dependent on the institutional way of life, characteristically referred to as 'institutionalization.' As a result, these children possess an inordinate fear of leaving the institution and, because of this anxiety, are frequently unable to adjust in the local community. Unsuccessful placements result either in the child's return to the institution or serial replacements in different facilities. Thus continued confinement of well-adjusted children risks the reversal of prior treatment successes, and renders them incapable of satisfactory extra-institutional adjustment.

3. Foster Homes

"Foster homes are residential treatment facilities, either public or private, which serve as placement alternatives for those delinquent, dependent, or neglected children capable of adequate adjustment within a family unit.

A. Potential Advantages of Foster Care

"Family-centered foster care provides treatment which more closely approximates normal parental care than any other alternative treatment method. Therefore, the environment for child treatment is more conducive to readjustment than the artificial environment which pervades the typical institution. Moreover, the small capacity of these homes allows the foster parents time to render highly individualized care and offer the child opportunities for assuming responsibility. The less restrictive nature of a foster home also permits participation in normal childhood activities, including public school attendance and peer group association.

"In addition, well-designed foster home programs are functionally very flexible and allow the treatment of a wide range of child problems. Foster homes constitute both an alternative to institutional care and a facility for placement subsequent to institutional care.

"Because foster home treatment centers around a residence owned or rented and maintained by the foster parents, no capital outlay is necessary to establish a foster home program. Furthermore, since professional training is usually not a prerequisite to foster parenthood, salary scales are lower than those of professional staff personnel and recruitment of foster parents can be directed to a large segment of the public. Hence, the economic costs of a foster home program are far below those necessary for institutional treatment. This economic flexibility should allow tailoring of foster home participation to actual and current treatment needs.

B. Problems -- Organization

(1) Supervisory Personnel

"Iowa's foster home program lacks the child welfare personnel necessary to provide proper supervision and counselling for the child, his foster parents, and his natural parents while the child is in the foster home. In addition, because of general staff shortages in county social welfare offices, the few available child welfare workers are often required to assume responsibilities in other areas, such as aid to the aged and blind, which further detracts them from their foster care duties.

"Timely resolution of behavioral problems arising in foster homes would be facilitated by a legislative appropriation of funds sufficient to employ more child welfare personnel. Ideally, a full complement of welfare workers would staff a special unit in each county, whose main purpose would be the counselling of both parents and their children. Effective counselling could assist in reintegrating the child into the natural family and potentially may resolve family discord before removal of the child from his natural parents becomes necessary.

(2) Foster Parent Compensation

"The rate of compensation for child care in some Iowa counties is only sixty dollars per month per foster child, while in other counties the compensation varies from seventy to one hundred fifty dollars per month depending on the age and needs of the child. Because of these disparate payments for similar child care services, the advisability of county determination of compensation rates is questionable.

"It is recommended that the legislature, with the cooperation of the State Department of Social Services, establish fair and consistent compensation rates for foster care services. Because various degrees of effort and skill are required of foster parents, uniform rate differentials should be articulated, based on the number of children in the home, the seriousness and extent of the child's problems and needs, the age of the child, and the estimated cost of meals, clothing, and other necessities. In addition, foster parents should receive a specified basic monthly payment for those quarters unoccupied, but available for placement. This combination of compensation revision and subsidy would appear to upgrade present child treatment practices by facilitating the recruitment of foster parents and encouraging engaged foster parents to continue their services.

(3) Licensing Foster Homes

"To better provide more adequate care for the child, the Iowa Code requires that foster homes be licensed by the State Department of Social Services. Accordingly, this department has established certain standards with which foster homes must comply to receive a license. The foster home must be in a location conducive to the welfare and development of the child and must fulfill minimum health and sanitation requirements. The foster family must also be of good character and in good health, have a sound financial status, and be willing to provide the child with normal family experiences. Once granted, the license is reviewed annually and subject to revocation for breach of any applicable rule or regulation.

"Although licensing of foster homes is a positive step toward the goal of insuring proper child care, the placement of children in unlicensed homes has been a practice of certain Iowa juvenile courts. The basic reason for this practice seems to be the inadequate number of foster homes available to these courts. The apparent legal justification for this placement practice is a 1960 Iowa Attorney General's Opinion which interpreted the scope of the then existing licensing requirements as not applying to homes in which the child's guardian was present. The effect of a juvenile court placement in a "suitable family home" was to vest the guardianship of the child in a family member. Thus, the opinion concluded that these homes need not acquire a license. However, in 1965 the legislature amended the Code to provide that the legal effect of court placements

in foster homes is a transfer of custody rather than guardianship of the child to the foster parents. Therefore, the 1960 Attorney General's Opinion is no longer applicable. Hence, this practice is clearly a contravention of both the statutory mandate and legislative purpose and juvenile courts should refrain from the placement of children in unlicensed homes.

(4) Group Homes

"Iowa's foster home program was designed for the treatment of younger dependent and neglected children. Therefore, few homes have been developed as placement facilities for either the older dependent and neglected child or the delinquent child. One type of child care facility, the group home, would seem to be an appropriate treatment medium for these children. Because group homes have capacities varying from six to twelve children, "small family" unity and close parent-child relationships are not as evident. Although positive and substantial parent-child relationships are necessary to the successful operation of a group home, the group of children itself fulfills a meaningful rehabilitative role. The group offers the child an opportunity for security and acts as a forum in which his personal problems may be freely discussed. This peer group support greatly facilitiates resolution of the child's initial adjustment problems in the home.

"Of particular importance is the group's ability to accept and control, through self-imposed rules and sanctions, aggressive behavior or other disruptive actions commonly manifested by the delinquent child and the more independent older child. In this manner, group home parents, unlike foster parents, are somewhat shielded from the actions of this type of child. The group home is thereby better able to handle children with problems of a more serious nature. Consequently, because of the group home's large capacity and its unique treatment capabilities, the availability of these facilities could reduce the commitment rate of children to institutional homes and training schools.

(5) Halfway Houses

"One type of group home, termed the halfway house, has been effectively employed as an intermediate step between institutional confinement and placement in the local community. The primary purposes of this facility are to provide the child with more intensive supervision and treatment than he would receive from a parole officer, and allow the child a sufficient period of time for gradual readjustment to normal community life. Preliminary results of the federal halfway house project indicate that participating children violated parole at a rate less than one-half of the average violation rate for the entire federal institutional system. Because effective operation of this program requires employment of a professional staff, the operating costs of these facilities are higher than the costs of non-professionalized group homes, but less costly than institutional treatment. Therefore, because of the increasing rate of parole violations and subsequent recommitments to the Boys Training School, the Iowa Legislature should consider appropriating the funds necessary for implementation of a halfway house system as a possible solution to this dilemma.

(6) Financing the Foster Home Program

"Reimbursement to counties for costs incurred in providing

foster home care is generally limited to two sources--the federal government and the foster child's natural parents. The federal government partially defrays the costs of operating licensed foster homes which meet certain standards. In addition, the juvenile court, after a hearing on the matter, may order the child's parents to pay, in whole or in part, the expenses of their child's foster care treatment.

"The State, however, only reimburses the counties in a limited number of cases. Iowa law requires the State to provide full reimbursement for costs of foster care provided to veterans' children. Therefore, to avoid the use of cost considerations rather than the child's needs as the controlling factor in choosing a child care facility, it is recommended that the state fully reimburse counties for foster care costs which are not reimbursable from other sources, regardless of the status of the child served.

"A legislative appropriation would be necessary to finance adequately the foster home program. Approval of such a measure would not, in the long run, burden the state treasury because an increase in foster home treatment facilities will reduce the present population at the institutions and, hence, substantially reduce institutional treatment costs. Because of the great operating cost differential between foster care treatment and institutional treatment, the ultimate effect would be a cost saving to the state and the taxpayer.

C. Related Problems

(1) Aftercare Services

"Aftercare is a treatment service administered through state parole or placement programs which is provided to the child subsequent to his release from an institution. The objective of aftercare programs is to assure that the child receives proper counselling and supervision in a community environment conducive to successful adjustment. Because these programs assume the ultimate responsibility for reintegrating the child into the community, the continued effectiveness of the institutional treatment received by the child is substantially dependent on the quality of the aftercare services.

"The Community Services Unit of the Division of Corrections administers Iowa's aftercare program. Providing aftercare services to children placed in training schools and institutional home is the responsibility of the Unit's field workers, or family counselors. Soon after entering the institution the child is assigned a family counselor. In collaboration with the institutional staff, the family counselor reviews the history of the child's problems and his progress in the treatment program. In addition, the counselor conducts interviews with the child, his parents, and residents of the local community. On the basis of this analysis, a plan is formulated to guide the future reintegration of the child into the community and efforts are made to identify and resolve problems which may inhibit this reintegration.

"The family counselor's function becomes most crucial when the child is released from the institution. Since the ability of the child to adjust satisfactorily is often foreseeable during the initial three months of placement, the counselor must have time to supervise adequately the child's activities and counsel him concerning any difficulties which he may have in his contacts with parents, peers, school officials, and other members of the community.

After this critical period, the family counselor may diminish his supervisory control and allow the child to assume more responsibility for his conduct. The person with whom the child is placed is encouraged to fill the supervisory and counselling gap created by the less frequent visits of the family counselor. Ideally, as the family counselor diminishes his role, the natural parents or the foster parents will be able to assume full responsibility for the child and the child will be capable of proper behavior.

"The Community Services Unit is presently confronted with staff shortages. Therefore, many family counselors must assume heavy caseloads from a wide geographic area; a family counselor may be responsible for as many as seventy cases in six or more counties. Consequently, time for the counselling and supervision allocable to each case is reduced as caseloads and areas of responsibility increase. This often results in inadequate aftercare services, which may be a partial cause of the high rate of parole violation at the Boys Training School. Furthermore, counselors have less time available to investigate placement opportunities for children in institutional homes who are proper subjects for release. Therefore, it is recommended that the legislature appropriate sufficient funds to increase the family counselor staff to the level necessary for accomplishment of their treatment objective.

(2) Parole Revocation

"Parole is the conditional release of a person from an institution on a selective basis. Before release from the training school, the child must sign a community placement agreement which contains a number of rules of conduct to be followed while on parole. These administrative rules are similar to probation conditions and include restrictions on the child's selection of friends and travel outside the community. In addition, the Iowa Code conditions the child's freedom on conformity to a general standard of good conduct. The Code further provides that violation of any applicable rule in the placement agreement or "bad" conduct constitutes grounds for revoking the child's parole.

"Since the family counselor makes both the decision to invoke the procedure and establishes the grounds for the revocation, he is vested with a wide range of discretion. The standards of conduct are extremely vague; the counselor has few guidelines, aside from his own judgement, in determining the degree of misconduct which justifies invoking the procedure. It is also unlikely that the family counselor will observe the alleged violation, therefore the grounds for revocation usually must be established on the basis of reports from other parties. Consequently, there is a strong liklihood that hearsay evidence may influence the initial recommendation. Although it should be assumed that these reports are investigated in good faith, family counselors are nevertheless under the constant pressure of a time-consuming workload which may compel superficial investigation leading to erroneous conclusions.

"Perhaps the greatest potential for abuse of discretion arises from the parole revocation statute. This statute contains no provisions for notification to the child or his parents concerning the impending revocation decision and the grounds on which it will be based, denying the parties an opportunity to contest the allegations. In light of the child's substantial interest in continued freedom, the absence of these rights seems patently unfair. Therefore, it is recommended that a hearing be held on each revocation decision which guarantees to the juvenile the rights of fair notice of charges, counsel, confronta-

314-086 O - 68 - 5

tion and cross-examination of witnesses, and the privilege against self-incrimination."

EVALUATION OF FORMAL TREATMENT METHODS

The Juvenile Court System

The basic objective of the juvenile court system is to apply individual treatment to the misbehaving child, preferably while he remains in his own home or community, in an effort to guide him toward lawful citizenship and to serve his best interests, while simultaneously protecting the community from further unlawful acts. "The process and disposition of individual cases require a balancing of a number of interests: parental rights over the child; the child's welfare, rights and liberties; the security and good order of the community; and the societal cost of providing treatment for the child. The complexity of the juvenile delinquency problem demands that those involved in its resolution be educated and experienced in the field of juvenile behavior and contemporary social problems. If personnel in the juvenile court process do not possess these qualifications, no plan for the proper adjudication of juveniles can be meaningful in practice. Once properly staffed, the juvenile adjudicatory system must ensure that lines of communication between the various agencies and the disciplines which they represent are open for a continuous exchange of ideas and problem-subjects. Such a cooperative effort between competent agencies will do much to resolve the existing problems in the Iowa juvenile court system."

The Labelling Process

Society should be concerned about their children, but society does them no favor by adjudicating those who have not committed any criminal offenses as delinquent, thereby placing them in the same category with auto thieves, burglars, assaulters and even murderers. The State of New York has developed a different category for such children called "Persons in Need of Supervision." Through this category, society retains a mechanism for intervening in the lives of such children and their families, without preserving the bad effect of labelling them delinquent. Under the provisions of the New York Code, only those children who violate laws which would constitute criminal behavior, if they were adults, are adjudicated delinquents. The change in term obviously does not necessarily result in the instantaneous provision of different and better treatment resources, but it does remove the disabilities and stigma of having been labelled "delinquent."

Child Treatment Facilities

"For a variety of reasons, Iowa child treatment systems and facilities have engaged in practices which have little treatment propriety. The responsibility for these practices, and the potentially harmful consequences to the welfare of those children subjected to them, must ultimately revert to the state government. Thus, it seems incumbent upon all branches of state government to reject institutional treatment as a panacea for all child problems, and carefully re-evaluate present treatment policies in light of rehabilitative objectives."

SUMMARY

Iowans, like other Americans are having difficulty understanding the causes of delinquency. We have seen a wide variety of suggestions, recommendations, and "answers" on how to prevent, control and treat delinquency. If history is a portent of things to come, we will probably fill many more volumes of the same

kinds of suggestions, recommendations and answers to the same age-old problem unless we are able to take on a new look in accomplishing a goal that has eluded us through the generations.

We must admit to the following facts and effectively proceed in a coordinated effort to solve the problem.

1. Delinquency will never be reduced, controlled, or treated with isolated local programs or crash programs on a state level. All programs must be correlated and long range goals sought.
2. Each level of government must be willing to give up programs, traditions, and ideas of prevention, control and treatment that no longer fit the present scene or the decades to come.
3. Schools, public and private, must continue to examine policies which make it easy for certain groups of children to fail and subsequently formulate negative attitudes toward the educational process.
4. Child labor laws and policies regarding children working in certain occupations need to be reviewed and changed if valuable vocational experiences necessary for some students are to be given to them while in high school.
5. The continued study or modification of our juvenile code should be undertaken in order that the labelling process of delinquency is reasonably limited.
6. Police work with juveniles and special departments should be upgraded and recognized.
7. Attention should be directed to the court of alternatives other than the traditional probation or instituitonal commitment.
8. Continued research in all areas of juvenile concern should be a prime responsibility of the Department of Social Services.
9. Personnel training is and should be of prime concern to the State Department of Social Services in coordination with area schools, colleges and universities.

CONCLUSION

"The parens patriae doctrine and the recognition that child misconduct should be treated differently than adult crime led to the development of a less formal and separate legal process for treatment of juvenile deviancy. The recent United States Supreme Court decision of In re Gault, however, has emphasized the need for a tightening up of juvenile adjudicatory procedures to ensure that constitutional rights protect all citizens, be they adults or children. It is submitted, however, that full application of constitutional protections to juvenile offenders is clearly appropriate and vital to the child, his parents, and our society. Furthermore, such protection need not undermine the present philosophy of juvenile treatment so long as the child's behavior is diagnosed and treated by trained professionals who appreciate fully the responsibility of their position.

"Greater emphasis be given to the problems of juvenile deviancy by both the state government and its citizens. At the present time, judges consider juvenile cases to be the most distasteful assignment within the judiciary. The basis for their feelings appears to be a lack of prestige attending the position and a general tenor of disorganization which pervades the Iowa juvenile process. The genesis of this disorganization is apparently not singular, but a complexus composed of shortages of qualified personnel, an unworkable structural organization

for juvenile treatment, and a lack of communication of information regarding juvenile misbehavior.

"The Iowa Legislature has apparently recognized the need for reorganization of certain state functions. In 1967, the legislature enacted a bill to establish a State Department of Social Services, which combined the functions of the Board of Social Welfare, Department of Social Welfare, Board of Parole, Board of Control of State Institutions, and other state agencies. This reorganization will place under one major state agency all family institutional agencies and welfare agencies which participate in the juvenile process. It does not, however, encompass the services of probation officers. Because a great need exists for highly qualified probation officers, it is hoped that they may ultimately be included in the Division of Child and Family Services, a sub-agency of the newly created Department of Social Services. Such inclusion would enhance the probability that the employment of probation officers would be primarily based upon education and experience, as opposed to patronage and other subjective factors.

"Removal of the judge's appointment power with respect to probation officers is presently a highly controversial subject in Iowa. The judges, perhaps understandably, are reluctant to relinquish this patronage privilege and are opposed to centralized control over 'their' probation officers. However, a recent legislative amendment, while retaining the juvenile judge's appointment power, has authorized the Iowa Supreme Court to establish rules, standards, and qualifications for all probation officers so appointed. The court's power is permissive, and to date it has not articulated any guidelines. If meaningful guidelines are established, however, it will be a first stride towards a more competent probationary staff. Such action may constitute a more acceptable compromise to the juvenile judges; the only limitation upon their appointment power would be that of selecting qualified personnel for a public position of great social importance--arguably a reasonable limitation. If properly instituted and supervised, court-established qualifications may thus provide a viable alternative to inclusion of probationary staff within the Department of Social Services.

"In addition to centralization of juvenile services at the state level, it is recommended that consideration be given to reorganizing and centralizing field facilities. At present, the caseloads and areas of responsibility of both family counsellors and probation officers vary widely and often represent a duplication of juvenile services. There exists an inefficient use of personnel, and disparities exist across the state in the availability of treatment facilities. One possible solution to these problems would be the establishment of similarly equipped and staffed juvenile service centers throughout the state. Geographically, placement of juvenile service centers could be aligned with the major metropolitan and trade areas of the state. Such an orientation has been the locational basis for the recently developed vocational agricultural and technical schools.

"Criticism of such a program can be expected. Rural localities may object to outside control and the concomitant loss of local discretion in the juvenile treatment process. Centralized service centers, however, would allow for economy of personnel, equipment, institutional facilities, and consistency in treatment practices and policy. Supervision of the centers by the Division of Child and Family Services would aid in resolving the present conflicts and lack of cooperation which exists between agencies involved in the juvenile process.

"Moreover, collection and compilation of statistics so important to analysis of the juvenile problem would be uniform, current, and readily accessible. Thus, recognizing that proper rehabilitation of the juvenile offender is largely dependent upon adequate juvenile treatment facilities and staff, submission to purely

local objections would appear to delay attainment of the objective of preventing, controlling, and treating juvenile delinquency.

"Resolution of this educational function could be facilitated through distribution to all juvenile agencies, by the Division of Child and Family Services, of current juvenile treatment literature. The Iowa State Bar Association could also contribute through presentation of continuing legal seminars which focus upon the role of the attorney in representation of the juvenile and his family. Iowa law schools should also provide within their curriculum subjects which will give future lawyers a meaningful understanding of the juvenile's social and legal problems. Closing of this educational gap should not only result in academic understanding, but impress upon the public the significant role played daily by juvenile court personnel.

"Notwithstanding the current and future problems which Iowa must resolve to maintain a viable rehabilitative juvenile program, its present program has the positive factor of possessing personnel with an interest in, and motivation for, development of a truly professional program. Many of the present treatment practices in Iowa have achieved substantial rehabilitative success. However, until this achievement is characteristic of the entire Iowa juvenile system, the people of Iowa and their public representatives must conscientiously strive to provide meaningful care and custody for its problem children."

CHAPTER II

CRIMINAL JUSTICE: THE CRIMINAL CODE AND THE COURTS

Members of the Criminal Justice Division are:

William F. Sueppel, Chairman
Mrs. Harold Goldman
Justice M. L. Mason
Dean David H. Vernon

David L. Brodsky, Special Advisor, provided valuable research and writing assistance in preparing the material of this chapter.

CRIMINAL CODE REVISION

INTRODUCTION

A good criminal code must seek a reasonable balance between the rights of society and the rights of the accused while establishing adequate procedures to attain and protect these rights. The goal is "criminal justice."

The broad spectrum encompassed within the term "criminal justice" is many faceted. Especially troublesome is the fact that the entire framework of crime prevention, crime detection, and post-conviction treatment is like a house of cards. If failure occurs at one level or in one area, it necessarily makes itself felt in the other areas and levels. The old adage that a chain is only as strong as its weakest link was never more true.

The importance of the proper treatment of juvenile delinquents and potential delinquents, the proper training of law enforcement officers, and the proper use of modern sociological and technical devices in the prevention and detection of crime and the rehabilitation of offenders cannot be gainsaid. All of these factors are of vital importance. Their full effectiveness cannot be realized, however, unless supported by a well drafted, forward looking criminal code. If the code is lacking, if it fails to strike a reasonable balance between the rights of society and of the accused, if it fails to encompass modern learning as to the causes of crime, if it fails to provide adequate and clearly defined procedures, if it fails to deal effectively with sentencing and other post-conviction problems, all of these other efforts necessarily will fail. The President's Crime Commission states that a comprehensive and cohesive criminal code is the necessary starting point of any effective system of criminal justice. The Iowa Crime Commission wholeheartedly agrees.

Our review of the Iowa criminal code makes it clear that we do not now have the necessary solid foundation on which to build an effective system of criminal justice. In fact, it takes some stretching to call the present Iowa criminal statutes a code. It is a hodgepodge of several chapters and sections enacted over the years with little or no attempt having been made to create a unified and cohesive whole. Many of the chapters have remained unchanged since the Nineteenth Century. That these chapters have remained unchanged does not mean they have withstood the test of time. Rather, it demonstrates an apathy by the people of Iowa over the past several decades. (Our apathy is little different from that of people of most other states.)

It should be noted that we do not believe that a cursory review and a surface renovation of our existing laws would be sufficient. In the long run, such a renovation might be worse than no change at all. Substantial revision is necessary. If we adopt a half-way measure, we may delude ourselves into thinking we have done the job. We are convinced that extensive examination, research, review, and exploration should be undertaken before a new criminal code is presented to the Iowa Legislature. It is important that all agencies and groups concerned with such a revision be consulted and their views explored before a final draft is prepared. Even with such a careful review, we believe that with hard work and dedication, a revised criminal code could be drafted prior to the commencement of the 1969 legislative session.

DEFECTS OF THE PRESENT CRIMINAL CODE

It is not the purpose of this report to make a detailed section by section analysis of the present criminal code, nor, except very generally, to suggest substantive provision to be included in any revision. We merely wish to point out a few illustrative provisions as examples of the scope of the work that needs to be done.

Illustrative Substantive Problems

The Iowa Code of 1851, Section 2612, established as a felony the larceny of property worth more than $20. If the property taken was worth $20 or less, the offense was deemed a misdemeanor. The Iowa Code of 1966 contains the same line of demarcation. With the change in the value of the dollar, it seems clear that some serious reconsideration is necessary. It may be that a higher dollar value should be established. Or it may be that the line between a felony and a misdemeanor should be drawn on some standard other than the value of the property stolen. Whatever substantive decision is made, the line drawn in the 1851 Code seems inappropriate today.

Despite the fact that crimes involving the passing of bad checks have increased substantially over the years, the 1917 statute regulating such actions remains; and the language of the section presents some difficulty which should be subjected to close examination.

Several provisions remain in our Code which, by analogy, have been declared unconstitutional by the United States Supreme Court. The prime example of this kind of provision is found in the Iowa laws dealing with treason, criminal syndicalism, and the giving of aid and comfort to enemies of Iowa. Laws such as these have been declared unconstitutional, at times because the area has been pre-empted by the federal government and at other times because the statutes were drawn so loosely as to violate the First Amendment of the United States Constitution. Provisions such as these should be reviewed carefully to determine whether they are enforceable, and if enforceable, whether they are desirable.

Many crimes, such as assault with intent to commit manslaughter, depend upon common law definitions of the actual nature of the crime, and are not spelled out in the statute. Present day concepts of fair notice to the public dictate that the statute be made more specific and understandable.

Iowa statutes dealing with crimes having overtones of sex have not received a systematic review for years. Many of these crimes are similarly somewhat unclear as to the meaning and should be redrafted to insure clarity and notice to the public. Homocide, arson, burglary laws, and those pertaining to alcoholics, to mention a few, need revision in the light of new court decisions and modern concepts of due process.

It is clear that if the State of Iowa is to attain the goal of an effective system of criminal justice, a thorough, integrated review of the present Code provisions must be undertaken.

Rules of Criminal Procedure

Beyond substantive revision, a similar in-depth review and revision of the rules of criminal procedure are necessary to the establishment of an effective system of criminal justice. It is an anomaly that while our rules of

criminal procedure have remained relatively static, Iowa has revised its rules of civil procedure to bring them in line with good practice. In the non-criminal area, the extremes of the adversary system have given way in part to the demands of efficiency and fairness. Pre-trial discovery is now available in civil cases. Not so in the criminal area. Serious consideration should be given to the possible establishment of pre-trial discovery procedures in criminal cases to the extent that the Constitution allows. At present, when a person's physical freedom is at stake, he cannot use the discovery device to determine the case against him. Nor can the State use the device to ascertain the planned defense. The present system might be described as being like a game of hide-and-seek. When money is the thing in question, in civil cases, discovery is available. Not so when the right to personal freedom is being questioned.

We presently have a statutory void in the detailing of the type and form of motions to be made at the pre-trial and the post-conviction stages of a criminal proceeding. In light of the requirements of due process and fairness, clarity in defining these remedial rights is essential; and this clarity is now lacking in Iowa. As a matter of law, it is not enough that a defendant is accorded all of his rights. It is necessary that the system itself provide them. We urge that for the protection of society as well as the accused, a code of criminal procedure be adopted--a code which details the procedural rights and duties of the State and of the accused.

One of the major defects of our present code may be the absence of any modern, detailed post-conviction procedures to assure that those convicted are dealt with as individuals, rather than as statistics. The background of the convicted criminal should be of vital importance to the court in determining what course of corrective sentence would be best for the rehabilitative needs of the individual and for the protection of society. An extensive pre-sentencing examination is essential if the court is to be adequately informed about the personal characteristics of the defendant. There should be provision for mandatory and extensive pre-sentencing investigations in the revised criminal code. The pre-sentencing investigation should include a background study of the offender's social, cultural, educational, and criminal history, a close look at the nature and circumstances of the offense committed, and a multi-disciplined professional evaluation of the defendant's prognosis.

Sentencing disparity is a problem which has come increasingly to the attention of the public, the courts, and the legal profession in recent years. Defendants who have come from similar backgrounds commit the same crimes under almost identical circumstances, yet may receive grossly unequal sentences, because there is no statutory criteria to be used by a judge in passing sentence on the convicted criminal. As noted above, in view of the inherent dissimilarities of human beings, a certain degree of flexibility should be given a judge. However, this flexibility should be focused into proper perspective, both by full use of the pre-sentence investigation, and by general statutory standards which would aid the judge in making this all-important determination of sentence, a decision which is vital to the public interest and which will affect the remaining life of the convicted criminal.

Public Defenders

A random sample of 150 inmates at the Iowa State Reformatory shows only 11 who came from families of above average income. Thus, over 90 per cent are from families whose income is average or below average. It is this group which seeks the aid of the court-appointed attorney. The individual coming from a family of average income cannot afford to seek his own attorney. Once he is charged with a criminal offense, his job is usually forfeited and the savings he may have accumulated are spent on life's necessities. The problem is compounded if he has a wife and children to support. Hence, he is, in a real sense, indigent. It must be concluded that in Iowa the great majority of criminal defendants cannot afford to employ their own attorney and seek court-appointed counsel.

At present, Iowa counties are authorized to establish public defender offices within the county; or counties may cooperate in establishing multi-county defender offices. No county in the state has taken advantage of the statutory authority. Criminal law and procedure is complex. Because it involves the possible deprivation of personal freedom, it demands, perhaps, a higher degree of expertness than is necessary when only money is involved. Despite this, there are very few true criminal law "experts" in Iowa. Except for the county attorneys and their staffs, few Iowa lawyers deal with criminal problems to a sufficient extent to permit themselves to become experts. (And county attorneys often lack experience when they first take office.) We urge that Iowa counties give serious consideration to the establishment of public defender offices, either within the county or in conjunction with other counties. And we further urge that the Legislature consider giving substantial financial aid to those counties willing to establish such a system, and that adequate salaries and operating funds be provided such public defenders.

We cannot overemphasize the importance of proper representation and this is true of not only the defendant, but also the prosecution. The county attorney is daily faced with a myriad of legal problems which require his immediate attention. The quantity and complexity of his work is constantly increased. One of his major difficulties is the lack of sufficient staff. We strongly recommend the enlargement of the professional and clerical staff which is available to aid the county attorney. We also propose the formation of courses of study for the county attorney and his assistants and defense counsel. The courses would aid the county attorney in his constant endeavor to remain fully abreast of new trends and techniques in the area of criminal law. The Colleges of Law at the University of Iowa and Drake University could advantageously develop adequate courses. We would also suggest that the content of these courses might be developed in conjunction with the Police Science Bureau of the University of Iowa and the Iowa Law Enforcement Academy.

RECOMMENDED PROCEDURE FOR REVISING THE CRIMINAL CODE

This Commission is not the first to point out the need for criminal code revision in Iowa. The need is widely recognized. In the forefront of those seeking review and revision are the Iowa State Bar Association, the Iowa District Judges Association, and the law schools in Iowa, both at Drake and at the University of Iowa.

The Iowa State Bar Association has established a Criminal Code Revision Committee which has been working for several years on necessary changes. A tentative draft is now before the bar committee and may soon be presented to the Board of Governors of that group.

The bar association committee draft, representing many hours of voluntary work by members of the bar, well may be the basic document from which any Iowa revision should proceed. In view of the importance of obtaining the best possible criminal code for the state and in view of the desirability of having a unified statutory base in the entire criminal area, it is the view of the Crime Commission that the recommendations which may come from the bar committee be subjected to further study and review by other interested parties.

We recommend that, if possible, a committee including members from all interested groups be organized and that interested members of the faculties of our two law schools, Drake and the University of Iowa College of Law, be asked to act as resource people for the committee. We believe that it will be necessary to employ a full-time staff member for the committee and to provide such staff member with adequate research and secretarial help to assist the committee to the fullest. We hope that the staff member could be drawn from one of the law schools and that research help could also be provided by the law schools from among their students.

A research program could be undertaken within the period of a few months so that a thorough criminal code revision could be ready for consideration by the 1969 State Legislature.

IOWA COURT STRUCTURE

A criminal code which approaches perfection is meaningless if not properly interpreted by an aware and thoroughly competent judiciary. It can be truly said that the law is no more nor less than its interpretation by the courts. It is of vital importance that an orderly judicial system be in operation and that those who are given the supreme responsibility of interpreting the law be highly qualified and trained. With these necessities foremost in our consideration, we shall analyze the present judicial system existing in the State of Iowa, with particular emphasis on the criminal justice system. However, in order to define the jurisdiction of a judicial structure, it is necessary to set out the non-criminal aspects of that jurisdiction, as well, in order to give an accurate reflection of the total responsibilities of the court, and to provide a total program for court reform.

The lowest rung of the judicial ladder is manned by the Mayor's Court. Authority for such a court exists in all cities and towns of under 15,000 population which have no municipal, superior, or police courts. 899 cities and towns were authorized to have Mayor's Courts as of the last count conducted by the judicial statistician. In his last mail-out, he received a 61 per cent return and of those reporting, only 33 per cent had conducted court. The only qualification needed for one to serve as the presiding officer in a Mayor's Court, is that he be the Mayor of the city or town involved. A Mayor's Court has exclusive jurisdiction over the violation of city ordinances and has civil jurisdiction which is concurrent with that of the Justice of the Peace Court

on cases which arise within the city or town. It has criminal jurisdiction which is also concurrent with the Justice of the Peace Court. Appeals from the Mayor's Court go to the State District Court.

Statutory authority exists for the election of two Justice of the Peace Courts in most townships which would mean that if all townships exercise their statutory option, there would be approximately 3,320 Justice of the Peace Courts throughout the state. However, in the 1966 general election, only 531 Justices of the Peace were elected, and the last available figures place the number of Justices of the Peace at 521, the reduction being due to death, resignation, and failure to qualify subsequent to election. The Board of Supervisors is empowered to appoint successors until the next general election. The term of office for a Justice of the Peace is two years and the only qualification which he need satisfy is that of being a resident of the township. Justice of the Peace Courts have civil jurisdiction over all civil actions (except those arising in equity or where title to real estate is involved) when the amount in controversy is $100.00 or less. However, by mutual agreement of the parties, the Justice of the Peace Court can assume jurisdiction over controversies which involve the sum of up to $300.00. The criminal jurisdiction of the Justice of the Peace Courts extends to their acting as committing magistrates on felonies and indictable misdemeanors committed within the county, which are commonly referred to as preliminary information cases. The Justice of the Peace Court can handle criminal offenses which are less than felonies, which are committed within the county, if the punishment provided does not exceed a $100.00 fine or thirty days in jail. The Justice of the Peace Court can also handle city or town ordinance violation cases if they have been referred to the Justice of the Peace by the court which has exclusive jurisdiction, or if the court having exclusive jurisdiction is absent or unable to act. An appeal from the Justice of the Peace Court goes to the State District Court.

Police Courts are required in any city which has a population of more than 15,000 which does not have either a municipal or a superior court. Their existence is permissive in cities of under 15,000 which have neither a municipal or a superior court if the city ordinance provides for the creation of the Police Court. They exercise exclusive jurisdiction in all cases arising from the violation of the city ordinances. They exercise no civil jurisdiction and have criminal jurisdiction which is concurrent with that of the Justice of the Peace Court. There is no requirement that a judge of a Police Court have any legal training. Appeals from the decisions of the Police Court go to the State District Court. Police Courts are gradually increasing in number, and at the last time a complete report was issued by the judicial statistician, there were 30 Police Courts throughout the State of Iowa.

Superior Courts may be established by election in any city which has a population of over 4,000. Upon the establishment of a Superior Court, the Mayor's and Police Court are automatically abolished. At one time there were 35 Superior Courts throughout the State of Iowa. Just recently the last remaining Superior Court, in Keokuk, was abolished. A judge in a Superior Court must be licensed as an Attorney at Law. The Superior Court has exclusive jurisdiction in cases involving the violation of city ordinances. It has civil jurisdiction which is concurrent with the District Court in all civil causes except those dealing with probate, divorce, and separate maintenance. Its criminal jurisdiction is concurrent with that of the Justice of the Peace Court. Appeals

from the Superior Court go to the Supreme Court in all civil cases and to the State District Court in those cases which involve violation of ordinances or or criminal statutes.

Municipal Courts may be established by election in any city which has a population of more than 5,000. Its existence automatically abolishes all other local courts. There are thirteen Municipal Courts with 23 Municipal Court Judges presently operating in the State of Iowa. A judge of a Municipal Court must be licensed as an Attorney at Law. This court has exclusive jurisdiction over all cases involving the violation of ordinances and has civil jurisdiction which is concurrent with the District Court involving cases up to $2,000.00. However, it has no jurisdiction in probate, divorce, and separate maintenance cases and cases involving title to real estate. Its criminal jurisdiction includes the acting as a committing magistrate on preliminary information cases. It has concurrent jurisdiction with the District Court on indictable misdemeanors and it has the same jurisdiction as that of a Justice of the Peace Court on lesser criminal offenses. It may have juvenile jurisdiction if it is so determined by the judges of the District Court in the judicial district within which the Municipal Court resides. Appeals from decisions of Municipal Courts go directly to the Supreme Court in civil and state criminal cases, but appeal is to the State District Court in proceedings involving search warrants and the violation of city ordinances.

The State District Courts are the first level of courts which have general jurisdiction. Due to a Judicial Reorganization Act passed in 1967 by the Iowa Legislature, there are now 76 District Judges who sit in 18 judicial districts throughout the State. The districts have a variety of counties and judges within their boundaries. To become a District Court Judge, an individual must be licensed as an Attorney at Law. The District Court has original and exclusive general jurisdiction of all actions except in those situations of exclusive or concurrent jurisdiction conferred on some local court. The District Court is the Probate Court and Juvenile Court of the state, although as has been noted, the District Court may at its pleasure designate the Municipal Court or the Superior Court to handle juvenile matters within their jurisdictions. We have already noted the appellant jurisdiction from local courts which exist within the District Court. Appeals from the District Court are to the Supreme Court as a matter of right in all criminal cases and in all civil cases which involve real estate or where the amount in controversy is $300.00 or more. In those cases where the amount in controversy is less than $300.00, appeal cannot be had unless the trial judge certifies that appeal should be allowed.

This then is the present state of the Iowa judicial system. We have four different operating inferior courts with limited jurisdiction with statutory authority for a fifth type of inferior court with limited jurisdiction. There is a tremendous overlapping of authority between these various courts and in only one of the forms of inferior courts presently operating, namely the Municipal Court, is there the requirement that the judge be licensed as an Attorney at Law. The complexity of the law often confounds a superior jurist. Needless to say, this confusion is multiplied to an incalcuable level when the judge is lacking in even the most rudimentary legal training. When one goes before a court, he expects to find as the presiding officer an individual who is skilled in the law and fully aware of the rights, duties, and responsibilities of the respective parties.

The minor courts are supposed to handle the numerous small cases which must be decided according to law if justice is to prevail. Back in the early days of this state, these cases were of multifarious kinds. However, with the advent of the automobile most of the cases heard by the minor courts came to involve traffic violations. The judicial statistician for the State of Iowa, in 1964 reported that 88 per cent of the cases tried before the minor courts involved traffic violations. Forty-two per cent of these cases involved parking violations and 96 per cent of the cases were uncontested. At the present time we have no uniformity in penalties for minor uncontested traffic offenses.

There seems to be little reason why uncontested minor traffic offenses need to be presented before a court. The Crime Commission suggests that conveniently located traffic bureaus be instituted where penalties can be paid, it being understood that these bureaus act under the general supervision of a court of general jurisdiction. It is the feeling of the Commission that a court of general jurisdiction must have control over the handling of traffic cases and other minor matters of litigation, rather than a court of limited jurisdiction insofar as this will assure more substantive justice to the litigants or the criminal defendant and will promote uniform interpretation of the laws of the State of Iowa.

At the present time, the Iowa Judicial system is really three-tiered in structure. The Supreme Court exists for appeals, the District Courts for trials, and the various minor courts discussed above for a multitude of small matters. The structure of the Supreme Court and the District Courts is of fundamental strength and desirability, but the minor courts have ceased to serve a useful purpose and do much to weaken the overall judicial structure of this state. One of the most bothersome problems that exists with relation to our minor courts is that they are basically autonomous and are not controlled by the courts of general jurisdiction. Furthermore, when the fact that most of the minor courts are headed by "those who have had no special training" is coupled with the fact that at least in the case of the Justices of the Peace Courts and the Mayor's Courts, the presiding officer obtains his salary from court costs, it becomes readily apparent that despite the best intentions of these minor court officials, strong objection can be raised on the part of any criminal defendant that he is not appearing before an unbiased and objective judge. An unfortunate corollary of this fact is that the average citizen has little contact with any court other than those which are minor courts and the "justice" received by this citizen often leaves him with a very low opinion of our jurisprudential system. It is our conclusion that the minor courts have long outlived their reason for existence.

Of all the various strata of minor courts, the only type of minor court which can be given a satisfactory rating is the Municipal Court. The Municipal Court Judge is a lawyer and he is salaried. Unfortunately, the Municipal Court only operates within the corporate limits of the city in which it was created. Hence, adjoining rural residents are not able to appear in the Municipal Court unless the offense charged involves some aspect of municipal administration. We no longer can justify separate courts for urban and rural areas and the retention of this dichotomy cannot be sustained. Hence, we would propose that the structure of the Municipal Court, even though the judges therein have generally done an adequate job, should be replaced by officials of the District Court

who would have county-wide jurisdiction. There is little justification for allowing the Municipal Court to continue as the last vestige of the three-tiered court structure. Actually the restrictions which exist for Municipal Court jurisdiction tend to minimize the effectiveness of a Municipal Court. The unification of court structure is absolutely imperative with the abolition of the various overlapping minor courts, and the substitution should be made of a strong two-level court structure, with the prior functions of the minor courts being performed by adjuncts of the State District Court.

A unified trial court system can only be established by the abolishment of all courts which are courts of limited jurisdiction. The present Municipal Court Judges should be named Associate District Court Judges in their home county and they would exercise basically the same jurisdiction which they now possess except that their jurisdiction would extend county wide and the procedure would be that of the District Court. We further recommend that appeals from the decisions of these Associate District Court Judges would be to the Supreme Court and appeals would as a matter of right be only if the amount in controversy was $300.00 or more. The Associate District Court Judge would also handle nonindictable misdemeanors which would include the violation of city ordinances, county ordinances, and traffic charges not handled by a general traffic violations office.

The Associate District Court Judges come under the judicial tenure provisions applicable to District Judges, including the provisions for mandatory retirement for age. They should continue under the salary and retirement provisions presently applicable to Municipal Court Judges. However, the payment would be made by the state and not by the city and county. Only present Municipal Court Judges would be appointed Associate District Court Judges and once they reached retirement age, their void would be filled by District Court Commissioners.

The present elective administrative officers of the Municipal Courts would become deputies of the District Court Clerks and the Sheriffs. Regarding District Court personnel, we would recommend that the District Court Clerks be relieved of the responsibility of handling a number of functions which have no relation to the District Court. The District Court Clerk is a clerical officer of the District Court and these additional functions have caused an undue work load to be cast upon the Clerk of the District Court, In view of this reorganization proposal, it becomes doubly important that the unnecessary work load of the Clerk of the District Court be removed. Consequently, such functions as maintaining birth and death records would no longer be performed by the Clerk of the District Court and would be handled by other appropriate county officers.

In those counties which are presently without Municipal Courts, we propose that District Court Commissioners be appointed. Each county would have at least one of these Commissioners and the number of Commissioners within each county would be determined on a basis of population. The judges of the District Court should appoint the Commissioners and they would serve at the pleasure of the judges of the District Court. A Commissioner would have to be a resident of the county, a member of the Bar of Iowa, and be under seventy-two years of age. Upon attaining the age of seventy-two, the Commissioner would cease to hold office. We make no recommendation as to salary, but merely state that the Commissioners should be paid an amount sufficient to attract qualified attorneys. The jurisdiction of the Commissioners should include the handling of small civil claims using the small claims rules as proposed in rules of civil procedure by the Iowa Supreme Court. Determinations of the Commissioner would be

appealable to the District Court. Commissioners should have jurisdiction over nonindictable misdemeanors including the violation of city ordinances and certain traffic violations. The Commissioner should also handle preliminary hearings and search warrant proceedings. Their venue should be the same as that of the District Court. Appeals from decisions of the Commissioners relating to indictable misdemeanors would be directly to the Supreme Court.

Approximately 88 per cent of the minor cases presently before the courts of limited jurisdiction involve traffic violations. We propose the adoption of uniform traffic penalties and the creation of traffic bureaus which would be conveniently located throughout the State. The traffic bureaus would operate under the supervision of the District Court. In conjunction therewith, statutory authority should be granted to the Iowa Commissioner of Public Safety to adopt and distribute at cost to State and local law enforcement agencies a uniform combined traffic charge and summons which would be used for all traffic violations in Iowa under state law or municipal ordinance, unless the defendant was charged by information or the charge involved a non-moving violation. A statutory section should be adopted providing for the minimum fine for all convictions of these traffic violations whether these violations be of the state law or a municipal ordinance. The defendant prior to the time specified in the summons for appearance would be allowed to sign an admission of violation on the summons and deliver or mail the summons together with the minimum fine for the violation plus $2.00 in costs, to the traffic violations office in the county. If a moving violation was involved, a copy of the summons and admission would be forwarded to the Iowa Commissioner of Public Safety. The defendant would be required to appear in court when he had no license or when he was charged with a violation that was aggravated due to the circumstances of the violation. In such a circumstance, if an information was used the officer should endorse on the information a statement to the effect that this charge is not to be handled by the traffic violations office. If a summons is used, the officer shall strike out that portion of the summons which states that the defendant may admit the violation and need not appear in court.

We would recommend that the personnel of the traffic violations office be appointed by the Clerk of the District Court and that the location of these offices be in the respective county courthouses. The creation of this traffic violation office would cause a great burden to be lifted from our present judicial system and would go far to reduce the presently oppressive number of minor traffic violations which come before the courts.

The Iowa Crime Commission believes that the institution of the above described reforms would go far toward negating the present difficulties which exist within our court structure and particularly in our criminal justice system. It must be noted that we do not suggest that the only reforms needed are those as outlined above. However, we feel that these are the key reforms which are necessary. We support the basic principles espoused in the Iowa Legislative Court Study Commission Report which was submitted to the 62nd General Assembly of Iowa in January of 1967. We further accept the proposals therein as amended by the Judicial Administration Committee and the Joint Committee on Minor Courts of the Iowa Bar Association.

314-086 O - 68 - 6

CHAPTER III

LAW ENFORCEMENT

Members of the Law Enforcement Division are:

Robert Blair, Chairman
Jack Hilsabeck
George Matias
Howard S. Miller

Advisors Robert Downer and Ronald Carlson were attentive consultants to the Division. Members of the Iowa Highway Patrol provided valuable assistance in the collection and research of data which was utilized in the writing of this chapter.

The Miranda report was conducted for the Commission by Rodney Joslin and David Ingram of the Law Review Staff, University of Iowa College of Law. They were supervised in their work by Mr. Ronald Carlson.

Today's law enforcement officer walks his beat, patrols his area and enforces the law, facing problems more tense, people more complex and situations more trying than he has ever before known. He is challenged daily to do a better job as scenes of personal violence and property damage multiply and the public subjects him to the closest possible scrutiny for every move. U.S. Attorney General Ramsay Clark has observed that the policeman is on a tightrope, "If he over-reacts, we know he can cause a riot. If he under-reacts, we know he may permit a riot."

"It is hard to overstate the intimacy of the contact between the police and the community. Policemen deal with people when they are both most threatening and most vulnerable, when they are angry, when they are frightened, when they are desperate, when they are drunk, when they are violent, or when they are ashamed. Every police action can affect in some way someone's di nity, or self-respect, or sense of privacy, or constitutional rights. As a matter of routine, policemen become privy to, and make judgments about, secrets that most citizens guard jealously from their closest friends: relationships between husbands and wives, the misbehavior of children, personal eccentricities, peccadilloes and lapses of all kinds. Very often policemen must physically restrain or subdue unruly citizens." (President's Crime Commission Report)

We want our police officer to be exceptionally bright, understanding, perceptive; he must practice courtesy, exercise discretion and possess characteristics of trustworthiness and reliability. He must be physically and mentally able, alert and agile; he must also understand psychology, medicine and constitutional law principles in such areas as right to counsel and search and seizure.

What is our record in Iowa for meeting this exacting standard? How well have we tried to provide our communities with the protection deserved?

For the past several decades as population has increased, society has become increasingly mobile, problems of living together have become more complicated, social unrest has magnified, and we haven't really cared about improving law enforcement in Iowa. Police requests have too long occupied the bottom of the agenda at city council and county board of supervisors meetings as well as in the state legislature. Facts gleaned from a comprehensive law enforcement survey conducted by the Crime Commission illustrate in clear and lucid fashion the decades of neglect suffered by law enforcement agencies. There have b en no statewide requirements relating to the quantity and quality of education and training offered policemen. The larger local and state agencies have instructed their recruits and provided in-service training, but smaller departments have gone wonting in the main. Though large numbers of officers have attended various types of informal short courses, only a fraction of our total manpower has received comprehensive formalized, classroom training, where rules are enforced and pass or fail has significance.

And through what process has that man been hired for enforcing the laws and maintaining the peace of society? There are no uniform standards for selection of officers. Most enforcement agencies do not utilize intelligence or any other written examination in the selection process, and the great majority do not require fingerprinting of applicants prior to hiring.

Only 27 police agencies, providing 220 of the 3,400 regularly employed officers in the state, start their new officers at $500 or more per month. A

large share of towns under 1,000 population start their officers at less than $200 per month and the salary for new men in municipalities between 1-5,000 fluctuates between $300 and $500 per month. Frequently, this full-time officer in the smaller cities and towns has additional non-enforcement functions such as fulfilling street, sewer and water maintenance duties. Practically all local enforcement agencies permit their officers to "moonlight," that is, to hold outside jobs, in order to supplement their incomes.

We ask our policemen to be policemen, on call 24 hours each day, ordinarily working in excess of 50 hours per week, and yet to a large extent, their time is spent answering complaint calls which are non-criminal in nature. More than one-half of the police departments in cities over 5,000 population said 75 per cent or more of their calls are non-criminal, involving such things as directing traffic, enforcing parking meter violations, chasing animals and performing clerical office work. We want the very best recruited, well-trained and educated police officers on our forces, we want them to do the very best job, day-in, day-out. But the manpower supply simply does not exist to place the number of needed well-qualified police officers on our streets for our protection, and yet expect them to spend so much of their time in non-enforcement functions.

The good will or bad temper of the mayor, city council, county board of supervisors, duty sergeant or captain, too often determines hirings, firings, promotions, the purchase or failure to purchase needed equipment and numbers of enforcement personnel. Politics, with a small "p" or with the capital letter, frequently determines the progress or failure of an agency, because consistent short-range planning and long-range objective setting cannot be attempted. The leadership, and at times, whole agencies, come and go by whim, and at a time when continuity of action in policework is most needed. Manuals of operation, organizational charts, long-range plans and police-community relations programs are virtually non-existent in these days when the police officer most needs guidance and assistance in his on-the-scene decision making and in his effort to help people reinitiate their respect for the law.

Our treatment of law enforcement in this report will fall within three general categories: The law enforcement structure in Iowa; recruiting, selection of officers, recruit training and career development; and internal operations and working conditions. Each category will deal with the applicable problems facing various sizes of cities, towns, the counties and state agencies possessing law enforcement responsibility. In addition, several special reports will treat the question of firearms control, the effect of Miranda on law enforcement in Iowa, the need for a state crime-forensic-toxicology laboratory and the need for a crime information system.

INTRODUCTION

The major problem facing the Law Enforcement Division of the Commission in its portion of the study, was the fact that no statewide research had been done regarding number of police officers, operating structure and practices, the degree of coordination and cooperation which exists or is lacking among agencies in their work.

A comprehensive survey was distributed by the Crime Commission in November of 1967, to all cities and towns, county and state units of government, a total of 1,052 jurisdictions, inquiring into the chief areas of police work. The categories of inquiry were as follows: administration, supervision and personnel assignments; selection of officers; attracting personnel and departmental

working conditions; and career development of officers.

The interest of police agencies and administrative authorities for improvement was demonstrated by the response. One hundred per cent of all sheriffs, state agencies with police authority, and cities of 5,000 population and above, answered the survey. Seventy-two per cent of towns 1-5,000 population replied, and 53 per cent of the towns under 1,000 population returned figures.

The tabulated study, which surveys 119 specific matters involving the police and police work, was the primary resource for the conclusions and recommendations drawn by the Law Enforcement Division of the Crime Commission. Data obtained from the agencies will at some future time be placed on computer, so that a central file of information, department by department, will be available for review and regular updating. As a result, timely research of problems confronting police agencies can be accomplished and meaningful plans and programs for short-range, long-range improvement be fashioned.

The law enforcement survey, which will hereafter be referred to as "the survey," graphically illustrates through the facts submitted, a cumbersome, outmoded body of police power of various types and quality in our state. In comparison to scientific and managerial developments in other areas, both public and private, the police officer and law enforcement agency for the most part have remained in the nineteenth century with practically the same selection standards, training and equipment as were utilized then.

LAW ENFORCEMENT STRUCTURE IN IOWA

Peace officers in Iowa, who actively exercise full police powers fall into three jurisdictional categories: City police, County Sheriffs, and State Department of Public Safety Peace Officers comprised of Agents of the Bureau of Criminal Investigation and uniformed officers of the State Highway Patrol. Numerous other agencies are staffed with personnel who function as peace officers within the scope of jurisdiction of their authority or while engaged in their specifically defined duties, or who may call for police assistance in enforcement. A compendium encompassing the various personnel involved in enforcing the law and the types of peace officer authority and action, is as follows:

	AGENCY	IOWA CODE SECTION	AUTHORITY
1.	Aeronautics	328.12(6)	General police powers within scope of authority
2.	Agriculture	159.16	Any police officer has duty to aid when called by agricultural agent.
3.	Animal Health	163.8	May call for assistance
4.	Attorney General	80.22, 748.6	He may call for assistance
5.	Bureau of Criminal Investigation	Chapter 80 749.1 thru 749.3	Full police powers
6.	Capitol police	18.2(4)	Peace officers within scope of authority.
7.	Cemetery sextons	359.39	Full police powers within and adjacent to the cemetery.
8.	City Police	748.3; Chapter 365	Full police powers within the jurisdiction.
9.	Civil Defense	29C.15	Shall enforce rules and regulations promulgated and may call in peace officer assistance for arrest purposes.
10.	Conservation	106.19, 107.15, 109.11, 111.26	Enforce conservation laws, motor vehicle laws, and all public offenses committed in the officer's presence. Call for aid on other matters.
11.	County park custodian	111A.5	Full police powers
12.	Constables	39.21, 748.3	Full police powers
13.	Department of Public Safety Peace Officers	748.3; Chap. 80	All members, as defined, have full police powers
14.	Fairground Police	174.5	Full police powers
15.	Health	135.35, 135.36, 137.15, 137.17	Call for police officer's assistance
16.	Sheriff	Chap. 337	Full police powers within the county
17.	Military	29B-4	Peace officer status within scope of authority
18.	Parole agents	247.24	Peace officer status while engaged in duties.
19.	Pharmacy	147.95, 204.19	Peace officers while enforcing these chapters
		748.3	Full police powers while operating pursuant to this section
20.	Probation officers	231.10	Peace officers while engaged in their duties
21.	Railway special agents	80.7	Peace officers within scope of authority.

Some 3,430 full-time peace officers constitute the foundation of law enforcement in Iowa. There are an additional 903 persons who serve in this capacity on a part-time basis. Out of 688 towns under 1,000 population, there are 198 known peace officers. The police officer in smaller Iowa communities is often designated as Marshal or Town Marshal.

Typically, the enforcement officer in a small town has other duties to perform, many that are not even remotely associated with law enforcement. He commonly reads public utility meters, acts as street maintenance superintendent, is sewer and water commissioner and, in general, devotes his time to any and all duties assigned him by the Mayor and Town Council. He normally works days and is subjected to call during the late night hours, and many of these small towns which do retain a policeman pay him less than $200 per month. One mayor of a small town of 900 responded to the survey by saying that as a practical matter he refers the enforcement problems involving considerable detail or skill to the county sheriff, or on occasion, to a state highway patrolman. "We sure would like to have law enforcement," he said, "but we can't afford it." Working under these restrictive circumstances the smaller city officer contributes as much to enforcement as is reasonable to expect.

In cities of up to 5,000 inhabitants it is normal to employ from one to five full-time police officers to enforce local ordinances and violations of law occurring within the corporate limits.

In these cities and towns containing less than 5,000 persons, the personnel are chosen by the Council and the Mayor and the designated supervisory officers are appointed in the same manner. The officers have no job security and

are subject to removal without cause. A newly elected Mayor oftentimes chooses a new Police Chief and might very well initiate an entirely new "police force." There is no merit system and the officers are subject to internal and external pressures from elected officials and influential citizens alike. The Mayor ordinarily has little or no concept of law enforcement and consequently does not comprehend police problems.

Enforcement effort directed toward influential businessmen and community leaders is often discouraged by the loss of job if their efforts to enforce the laws and ordinances are too aggressive. This, of course, results in loss of respect for the enforcement agency and completely destroys initiative on the part of the police officer.

There are 45 cities between 5,000 and 20,000 population employing 438 law officers full time. Sixty-two per cent of the cities have nine or less policemen, 25 per cent have ten to fourteen officers, and approximately 60 per cent of the officers are not under Civil Service or merit systems. Seventy-seven per cent of these cities have a mayor-council form of government.

Small communities simply are unable to attract adequate numbers of qualified police candidates to meet law enforcement requirements. In most cases the salary is not competitive, the working conditions are not desirable and the opportunity for advancement is slight. Additionally, many young men and their families prefer living in more populated areas. In county enforcement agencies and the smaller municipalities, there is no job security because employment usually hinges upon the outcome of an election, consequently no long-range program can be implemented for career development of local peace officers.

Small towns, at least those less than 1,000 in population, should contract with a larger jurisdiction, either county or city, for supplying adequate law enforcement protection to its citizens, since it is not economically feasible nor practical for these communities as independent entities to provide police protection.

County-wide merit systems or civil service should be adopted to provide the job security necessary and desirable for recruiting and retaining talented officers in regionalized or local law enforcement positions. The Iowa Law Enforcement Academy should be responsible for the testing program involved in such county-wide merit systems.

Seventeen city police agencies in cities over 20,000 population provide 1,166 of Iowa's full-time policemen, and all are subject to civil service provisions of the Iowa law.

The average number of law enforcement officers per 1,000 population in Iowa is 1.15 for cities 1 to 5,000; 1.13 for cities 5 to 20,000; 1.17 for cities 20,000 to 50,000 in size and 1.25 for cities 50,000 and over.

Sheriffs and their deputies account for 367 of the state manpower supply, all of whom operate with jurisdiction to enforce against violations of law occurring within their respective counties. Twenty-nine of these county officers have only one deputy, 37 have two deputies, 13 have three assistants, nine have four deputies and 11 are aided by five or more deputized officers. Sheriffs may appoint a deputy or deputies with the approval of the county board of supervisors. Sheriffs are elected and there is no merit system for either him or his staff.

The State Highway Patrol and the Bureau of Criminal Investigation (BCI) supply 422 full-time officers to the State's peace officer table. Present authorized strength of the Highway Patrol places 400 men statewide in 14 supervised districts. The authorized strength will reach 410 as of July 1, 1968. Twenty-two BCI Agents staff the head office in Des Moines and serve as agents, resident in the field, for maximum assistance to local enforcement agencies in investigating and solving crime.

Chapter 80 of the Iowa Code, sets out general statewide police power for both agencies, but in practice, the Patrol has restricted its functions to enforcement of the State's traffic laws and other offenses which occur in the use of the highway or a motor vehicle, and the BCI acts pursuant to a request from a local enforcement official. Both agencies fall within the administration of the State Department of Public Safety, and are employed, retained and subject to dismissal pursuant to specific sections of Chapter 80, in addition to the general terms of the State's Merit Employment Act.

State officials regularly employed to enforce very limited areas of the law number 262 including personnel from the Conservation Commission, Capitol Police, Narcotic Division of the Board of Pharmacy, Fairgrounds Police, Highway Commission, Parole Board and Liquor Commission.

Perhaps the most important aspect of good law enforcement management today is resource allocation planning by police agencies. The demand for police services is increasing at a much faster rate than qualified manpower and money are available to fight crime increase. Law enforcement administrators must carefully analyze and evaluate enforcement and preventive programs, the factors involved in assigning patrol units to given areas, and formulate schedules for the most effective deployment of personnel.

Police chiefs and agency heads should study carefully the types, locations and times of events requiring police manpower in respective jurisdictions, or jointly on a regional basis, including: crimes against the person, crimes against property, destruction of property, fraud, sex offenses, general misconduct and traffic offenses.

As a part of the planning for effective and efficient allocation of resources, the community and the police agency should take a hard look at the division of enforcement--non-enforcement responsibilities among its officers. Assignments which are clearly non-criminal in nature, related to neither law enforcement, nor performing essentially community services on the street, should be referred to competent civilian personnel who could adequately handle such tasks and relieve police officers for police work.

This review should encompass both professional and non-professional types of functions and duties performed by agencies. Law enforcement administrators should consider the use of civilians for administrative assistance in areas such as planning, programming, budgeting, and legal affairs. This practice could not only relieve valuable trained officers for command and related police roles, but would furnish the agency with crucial civilian-community perspective. In the non-professional field, civilians could be employed for tasks presently carried out, such as reading parking meters, performing secretarial functions (Highway Patrolmen, BCI agents and most city and county officers spend countless hours typing accident, investigative and inter-office reports, work which could more properly be accomplished by clerical help), and telecommunications.

In addition, all law enforcement agencies should carefully review their criteria for authorized manpower strength, taking into consideration such things as population density, make-up and mobility, geography of the area, proximity to other state or states, volume and type of highway systems and adequacy of scientific and technological advances which would offset people needs.

The Federal Bureau of Investigation recommends that city departments field two officers per 1,000 population. We are far below that average in Iowa at the present time. City, county and state units of enforcement should weigh all relative factors against that national standard for structuring of the most effective table of organization tailored to their existing and projected needs.

Any statewide resource allocation project would be greatly facilitated by the implementation of state uniform crime reporting and the crime information system, discussed herein under "Special Reports."

IN TIME OF EMERGENCY

Tornados, floods, civil disturbances and riots present circumstances which require officers and agencies to work at their efficient, effective best, separately and jointly, pursuant to adequate, established guidelines.

Each emergency situation occurring requires the tailoring of procedures to the scene. However, the statute should provide for coordinated, cooperative state-local action which will assure that available manpower and equipment are used to best advantage to preserve law and order and protect human life and property, should an emergency arise.

Where emergencies are of local significance only, the power to direct the control measures and to summon peace officers for assistance should rest with the official who has the primary jurisdiction as established by the legislature. This official, designated by law, would have the power and responsibility for summoning peace officer assistance and directing those so summoned.

The County Sheriff now has authority to "call any person to his aid to keep the peace or prevent crime." Similar authority should be granted to other local peace officers so that in time of emergency within their jurisdiction they would be enabled to summon sheriffs and deputies from other counties, and peace officers from other municipal jurisdictions.

Where the emergency has multi-county, statewide or interstate significance, the law should designate a state official who will be responsible for summoning peace officer assistance, both state and local, and directing and coordinating the actions of the state and local agencies and officers involved.

The Governor is the Chief Executive of our State and in his Office is reposed the ultimate power and duty to enforce State Law, yet there is no requirement that emergencies which occur in the state be coordinated through the Chief Executive's Office. The law should clearly state that, as Chief Executive, the Governor has the power to coordinate law enforcement measures directed toward these emergencies of grave proportions.

The need for review of Iowa's provisions for handling the grave

emergency highlights a basic deficiency in our law enforcement structure: law-making bodies have not carefully analyzed the police function in terms of personnel, duties, jurisdictions and total, consolidated effort, with maximum public safety, efficiency and economy as the end objective.

In view of the confusion existing in regard to integrated law enforcement operations, especially in time of extreme emergency, the Iowa Crime Commission recommends that a comprehensive review and analysis of peace officer authority be undertaken with the aim of defining the power and the persons to whom the power is given, identifying jurisdictions, and structuring guidelines for the maximum coordinated and cooperative state-local improved law enforcement.

RECRUITING, SELECTION OF OFFICERS, RECRUIT TRAINING AND CAREER DEVELOPMENT

The embryo of good police-community relations is the officer selection process. A community's attitude toward its police is influenced most by the actions of the individual officers on the street, and if the agency recruits with vigor, thus attracting able candidates, selects with care and educates and trains the men chosen in the latest and best-proven principles and methods of law enforcement, basic police-community relations will be built-in. The fact that all persons are treated fairly, firmly and courteously in the enforcement of our laws, by well-trained, qualified men, who are well-supervised and operating pursuant to established rules and regulations, will create an atmosphere of respect for law enforcement and the officer and will maximize the contact between the policeman and the community.

This portion of the Commission Report will inventory and analyze the officer recruiting and selection process in Iowa, and will suggest how we might do a better job of obtaining and training the best qualified for careers in law enforcement.

Why is recruiting a headache for law enforcement agencies?

1. Salary levels are not attractive.
2. Police image--The National Observer reports that in a social status-ranking of occupations, police tied for 54th place with playground directors and railroad conductors.
3. The President's Crime Commission says that the practice of starting all new officers, regardless of education or experience, as a uniformed patrolman, requiring him to work up step by step hampers the recruiting process.
4. Initiative and talent as selection standards have not ranked high in many instances in an agency's search for manpower.
5. Working conditions are repellant. The officer works irregular schedules, and in all kinds of weather. He works more than 40 hours per week, usually without overtime compensation or time off. Many times the police officer spends hours testifying or waiting to testify in court on days off. His duty is both hazardous and humdrum and he might find himself faced with a crazed gunman or drug addict, or become embroiled in a riot, or be required to investigate an accident, called upon to settle a family squabble or flag traffic at a sporting event.
6. Police-community relations units are virtually non-existent in Iowa. People must know about police, who they are and what they do. Children must be assisted in the initiation of respect for the law. The neighborhood and

police must be brought together. Society is so big and so diverse today that law enforcement must adjust to become part of the picture.

At present, 38 per cent of the law enforcement agencies in Iowa employ some type of recruiting program, however, these are not generally intense, continuous efforts and are not well-planned or organized. The greatest share of departments with recruiting programs are found in cities of 20,000 population or more, the Iowa Highway Patrol and the Bureau of Criminal Investigation. In the majority of cities over 20,000 a civil service organization controls recruitment. As the size of the city decreases, there is a greater tendency for the responsibility of recruitment to be assumed by the chief executive officer of the department. In the cities under 10,000 population, the department head exerts predominant control of recruiting and no formal personnel recruiting program exists. In cities of 5,000 or less, the selection of police officers is carried out by the mayor, city manager or police chief without the use of any type of recruitment program. The sheriffs' departments of Iowa have no formal recruiting program.

The following practices might assist agencies in their recruiting program:

1. Brochures and leaflets--Police agencies must provide persons who might be interested in a career in law enforcement with up-to-date information concerning job openings. One simple, inexpensive method of accomplishing this objective is through the use of a brochure or information leaflet which will provide interested persons a succinct picture of law enforcement as a career. Such materials could be distributed at public affairs such as sporting events and through utility billings and other public mailings.
2. Posters: attractive, colorful, well-designed posters are an effective method of calling the attention of the public to employment opportunities in law enforcement.
3. News Media, radio and television: spot announcements concerning employment opportunities as a law enforcement officer, special appearances by police officers and administrators and newspaper ads can be effectively employed.
4. Recruiting through present members--most law enforcement agencies find that some of the best candidates become interested in police work through their association with present members of the agency.
5. Liaison with Colleges, Junior Colleges, and other Educational Institutions is important--the use of recruiting teams, brochures and posters at educational institutions should be expanded to assure that likely prospects are well-aware of job opportunities in law enforcement.
6. The U.S. Defense Department now permits police to recruit on military installations and authorizes early releases up to 90 days for servicemen hired as police. Twenty-five departments in the nation have tried military recruiting. In Washington D.C., over a 3-1/2 month period, 520 military men have passed the written examination and 91 have joined the force. This alternative, of course, is not the panacea for recruitment, but it is a new source for manpower.
7. A standard employment application form should be adopted for all law enforcement agencies in Iowa. At least two copies of the application should be required, one copy to become a permanent part of the recruit's record at the Iowa Law Enforcement Academy, the second to remain with the respective department. Agencies should review all application forms to determine if the applicants meet the basic qualifications or standards set by the agency or by the state. This will eliminate time spent in processing applicants who do not meet the minimum requirements.

At present there are varied standards among agencies in the recruitment and selection of law enforcement officers in Iowa. The basic requirements include one, some or all of the following:

A. Intelligence Test and Other Examinations
B. Fingerprints
C. Background Investigation
D. Personal Interview
E. Physical Ability and Agility Test
F. Medical Examination
G. Residency
H. Height
I. Weight
J. Vision
K. Age -- minimum and maximum
L. Educational
M. Moral Standards
N. Polygraph test

Intelligence Test and Other Examinations

With the exception of police departments of cities in excess of 20,000 population, the Iowa Highway Patrol and the Bureau of Criminal Investigation, there is limited use of intelligence and aptitude tests in Iowa. Iowa law enforcement agencies tend to rely more on an oral interview than a written examination in application for employment.

Examinations should be designed to test the individual's general intelligence as well as his potential and aptitude for law enforcement work. These tests should include the use of techniques to take into account cultural differences, such as cultural deprivation, which, when using only standardized psychological measures may erroneously indicate intellectual or aptitude deficiency.

Testing should be performed to determine the applicant's fitness for working under extreme emergency conditions such as civil disturbances and riots.

Fingerprints

Though fingerprinting is a prime means of identification and is a widely used law enforcement tool, only eight per cent of law enforcement agencies in Iowa require printing of recruit applicants. In the recruitment of peace officers in Iowa, fingerprinting is a must for proper identification. Immediately after the review of the application form, or in conjunction with an oral interview, name checks of agency files should be made to eliminate those persons who have disqualifying criminal records. The applicant should be fingerprinted and the prints sent to the F.B.I. Identification Division and the State Bureau of Identification for records checks. Fingerprints should be filed with the law enforcement agency hiring the applicant for identification.

Background Investigation

The majority of law enforcement agencies utilize the background investigation in the selection process, however, the degree of thoroughness is

CONTINUED

1 OF 5

not accurately known. State agencies have the advantage in this area for they have manpower throughout the state and can conduct a more comprehensive base of references. A background investigation is essential and should be complete and local departments should have the assistance of the state agencies in this investigation if needed. The background investigation should be the most time-consuming of the selection process, it should be the last stage and confined to those applicants who have passed preceding requirements. Personnel conducting these investigations should be selected carefully and orientated in this responsibility. The investigation must be thorough and ample time allowed to perform a satisfactory investigation.

Personal Interview

The majority of agencies use this method in recruiting and selection. Where such interviews are used, a formal rating scale is ordinarily employed in an effort to obtain comparative judgments from oral board members. All the hazards of rater bias and error are present, and though some standards of evaluation may be prescribed in civil service or merit system rules, definite administrative guidelines to employment interviewing should be adopted. Personal interview should be the last phase in the selection process. The personal interview should be utilized by the agency for an evaluation of the applicant and final acceptance by the agency of the applicant as a recruit.

Physical Ability and Agility Test

The dangers faced by law enforcement officers require that they possess above average strength and agility to defend themselves and to use necessary force if circumstances should demand it. The normal medical examination does not always reveal this factor. For this reason, some form of standardized strength and agility test is recommended as part of the selection process. Only 16 per cent of the agencies in Iowa currently require a physical ability and agility test. A standardization of a physical ability and agility test is pertinent to law enforcement recruiting, and the use of the U.S. Department of Health Physical Fitness Requirements should be considered in the processing of all applicants.

Medical Examination

The very nature of law enforcement operations requires that officers be in good physical condition, yet only 12 per cent of Iowa's law enforcement agencies require a medical examination prior to employment. Iowa needs a standardization of medical examinations for peace officers and every applicant should be afforded a comprehensive medical examination to determine whether he has any physical or other medical defects which would interfere with his serving as a law enforcement officer.

Residency

Many law enforcement agencies have a pre-employment residence requirement in Iowa which stipulates that an applicant must have resided within the city or other area under the agency's jurisdiction, for a certain period of time before he can be considered. Approximately 25 per cent of Iowa law enforcement agencies have residence requirements. Many police administrators, legislators and governmental bodies feel that pre-employment residence requirements are a great deterrent to effective recruiting, since it bars well-qualified men from further consideration simply because they live in another city, county or state.

The Sixty-Second General Assembly abolished the state residency requirement which had previously been applicable to Highway Patrol and Bureau of Criminal Investigation recruiting. Pre-employment residency requirements are a great detriment to law enforcement recruiting, and should be abolished.

Height -- Weight

The minimum height requirements in Iowa vary from 66 inches to 70 inches, with maximum allowed height of 77 inches in some agencies. Fifteen per cent of the agencies have no height requirements, minimum or maximum. Weight requirements for applicants in Iowa ranges from a minimum of 150 pounds in some departments, weight in proportion to height in others, and no weight requirements in many agencies. Iowa law enforcement agencies should realistically review height and weight standards in its recruiting practices.

Vision

Three per cent of Iowa law enforcement agencies will not employ a person who wears glasses, but the majority have minimum vision requirements that vary from 20-30 to 20-60 vision corrected with glasses. The standard of vision requirements should be adopted statewide, and the Iowa Medical Society might recommend a practical standard.

Age

Eleven per cent of all agencies have no minimum entrance age requirements, 12 per cent have no maximum entrance age level. In the United States, 21 is the usual age at which an individual may be a sworn police officer. Very few departments will accept anyone younger. Some departments set the minimum entrance age for police officers at more than 21, theorizing that a young man just 21 years of age does not have sufficient maturity to function as a law enforcement officer. Arbitrarily setting the minimum age at more than 21 unnecessarily narrows the recruiting base and precludes consideration of highly qualified applicants simply because they have not yet reached a certain age.

Some of these young men who are eager to enter law enforcement at the age of 21 may not be interested several years later if they are gainfully employed in some other field. Many, if not most, 21 year old men have sufficient maturity to function as police officers if they are given proper orientation, training, supervision and leadership. A maximum age limit, relating to both entrance and retirement, should be considered, at least for personnel involved in field operations.

A complete study of the physical requirements for peace officers including height, weight, age and vision, should be made and a standardization of the requirements adopted statewide perhaps as part of the standards established by the Law Enforcement Academy.

Educational

Thirty-five per cent of the agencies require a high school education for employment. Sixty per cent have no educational requirements in recruitment. The latter group is composed of departments in cities under 5,000 population and

sheriffs departments. At present, no law enforcement agency in Iowa requires a college degree. Low salaries, lack of promotional opportunities, and other factors, hamper most city, county, and state agencies from raising educational requirements, yet this is an age when law enforcement officers must be intelligent, articulate, and able to communicate effectively. Policemen often find that they have only a few minutes to make a decision concerning arrests or other matters of a legal nature which may be subject to a detailed review in court. The law enforcement officer's prior educational background must be such that he can absorb and understand fundamentals of the law he is enforcing. A minimum educational standard will be set by the Iowa Law Enforcement Academy and maintained for all law enforcement officers in the State of Iowa.

Since law enforcement officers will have to serve a better educated public, it makes sense to have a better educated police service. High school education must be a basic requirement. An in-service education program should be developed to induce peace officers to continue their education, thus both developing talents for the department and satisfying a self-fulfillment desire in the officer. Leaves of absence and tuition grants should be furnished by departments to interested, qualified candidates for further education. Departments should stress the desirability of college work as a possible pre-employment condition and also as a requirement for promotion. Increased manpower allotments to agencies would allow greater flexibility to police administrators in granting these educational leaves.

Only a small percentage of the total complement of police officers in the state have received adequate recruit training. We are fortunate that the Sixty-Second General Assembly enacted the Law Enforcement Academy Act which requires that all police officers, employed after July 1, 1968, both local and state, successfully complete the course of instruction provided by the Academy. The first course will be four weeks in length and will treat primarily the fundamentals of law enforcement, including police-community relations, arrest, search and seizure, interrogation, first-aid, firearms and traffic enforcement. Those agencies with courses of instruction approved by the council are excepted from the provisions of the Act. As progress is made, the course length will be extended, more subjects will be offered, and eventually advanced classes in various areas of police science will be offered to police agencies in the state. A seven-member council representative of the various disciplines of law enforcement, the legislature and the public, is the policy-making body for the Academy and is responsible for setting standards for Iowa law enforcement officers. The training center falls within the Department of Public Safety for general administrative purposes.

Moral Standards

Background investigation, oral examination, standard intelligence test, fingerprinting and personal interview can be effectively utilized to provide the information a department may desire in the area.

Polygraph Test

The Iowa Highway Patrol and Bureau of Criminal Investigation employ the use of polygraph examination in Iowa prior to acceptance of an applicant.

INTERNAL OPERATIONS AND WORKING CONDITIONS

How can we attract top caliber men into the ranks of law enforcement in Iowa and retain them on a career basis? The fulfillment of this expectation lies in the recruitment of men of character, vigor, imagination, intellect, and a strong sense of dedication to public service. A reliable test of the confidence the public has in law enforcement in any community is the attitude of qualified young men toward seeking careers in its enforcement agencies. The recruitment and selection of top quality applicants hinges on the frank opinions of young men toward opportunities in the law enforcement field. Prospective applicants logically turn toward or reject employment in a specific law enforcement agency on the basis of their appraisal of its record in these areas:

1. Fair and just compensation.
2. The expectation of recognition and advancement on the basis of merit.
3. Effective recruit and in-service training programs which adequately equip men for complex tasks.
4. The department's achievement of the respect and cooperation of citizens.
5. Competent leadership.

Towns under 1,000 persons generally start their officers at less than $200 per month salary. Nineteen per cent of the cities of 1,000 to 5,000 population pay only $300 to $399 per month; Nineteen per cent pay $400 to $499 and only four per cent pay their officers $500 a month or more. Sheriffs and deputies are compensated pursuant to a statutory schedule based upon population of its county served. The sheriff of the smallest county received $500 per month, the sheriff from the largest county $1,000 per month. Deputies receive up to 85 per cent of the sheriffs wage. The Iowa Highway Patrol start their men at $485 per month, and B.C.I. officers begin at $540 per month. Seven Sheriffs have department manuals of operations and two have organizational charts. All sheriffs offices keep criminal arrest records. Generally, less than five per cent of the county's budget is spent on law enforcement.

Ninety-five per cent of the cities in the population group 5,000-20,000 offer a beginning salary of less than $500 per month. Less demanding occupations involving far less skill, knowledge, risk and responsibility pay greater salaries than the police officer receives.

The well-recruited and well-trained peace officer must be recognized for outstanding contribution to his organization and receive advancement based on merit. This man deserves to be supervised and motivated by competent leadership. He places his life on the line every day, and he should be led by persons who will face today's problems and offer contemporary solutions, who will plan organizationally years in advance, who are imaginative enough to offer not one, but several alternative answers to important questions being asked. Departments should review their supervisory tables to assure that there are adequate numbers of supervisory officers to provide enlightened guidance to the officer enforcing the law.

There is no consistency among Iowa law enforcement agencies in lengths of time in service requirements or other standards for promotional eligibility. Time in service minimum runs from no time required up to a ten-year minimum. Both ends of the spectrum are unrealistic.

314-086 O - 68 - 7

Promotions should be based primarily on ability and initiative as well as a sufficient period of experience with the department to demonstrate supervisory and management ability. Five to seven years of experience would appear to be adequate to illustrate the make-up necessary for performing in the best tradition of police work for public service. Technical examinations, prior performance, character, educational achievement and leadership potential are all important principles to be carefully weighed in establishing promotional guidelines. Compensation for promotion to supervisory positions should be made as attractive as possible in order to increase the competition for important management command roles.

Numbers of men in relation to position openings hinder promotional opportunities for many good men. If our recruiting, selection, education and training standards continue to increase, there will never be enough promotions for all the qualified, industrious officers. Something must be offered to retain these men and their continued motivation for high performance.

Police salaries should be raised. Legislative minimum base starting salaries for State Highway Patrol and B.C.I. Agents of $8,400 per year should be adopted and local agencies should pattern their standards after the state action. The future of members of these state and local agencies must hold something more than the present maximums. We recommend that these agencies be provided with sufficient funds to pay regular members at least $18,000 per year after 20 years of service, with appropriate higher pay for those in command and management eschelons of service.

Private industry and business afford retirement plans and insurance programs which are more than commensurate with those extended to the policeman. Vacation, overtime, accident-health insurance and pension schedules should be studied for possible upgrading.

Because of the history of low salary structures in Iowa law enforcement, many agencies have permitted their officers to hold second jobs to supplement income. Salary should be at such a level that this practice could be eliminated. However, until the time that attractive compensation schedules are adopted, each agency should closely scrutinize its definitions, policies and limitations regarding the nature and time, if any, permitted to be expended on outside employment. Certain "moonlighting" activities reflect discredit on the officer and the agency and should be prohibited. At no time should "moonlighting" be permitted where a conflict of interest with the officer's primary function, fulfilling his police role, exists or might arise.

Only eight per cent of the towns under 5,000 in population have a manual of operations and regulations for guiding their police officers in the every day decision-making tasks of being a police officer. Guidelines set out in such a manual would assist the officer in making arrests, searching and seizing, forming meaningful contacts with the community, and generally conducting himself in an acceptable manner.

Each enforcement agency should adopt an operating rules and regulations manual for daily operations and conduct which defines the objectives of the agency and the method for achieving them. The State Law Enforcement Academy should assist in formulating a uniform manual which could be adopted in part or in whole by agencies statewide.

Each agency in cities of 5,000 or more population, the county and the state departments, should maintain a person or persons on the table of organization responsible for the continual in-service training and refresher education of officers employed. The Law Enforcement Academy should be responsible for planning and coordinating much of the materials utilized, especially as pertains to the smaller jurisdictions, and perhaps could conduct regional courses of instruction to serve the purpose outlined.

POLICE-COMMUNITY RELATIONS

The police have the prime responsibility for safeguarding the minimum goal of any civilized society--security of life and property, and effective law enforcement requires the support of the community. In order to gather and maintain their support, the community must know the policeman and his department, and the police must be sensitive to the personality of the community and anticipate, prevent and deal effectively with problems arising.

Ideally, the officer would possess such qualities of perception, understanding, tolerance, intelligence and good judgment, and his administrators would supervise and manage with such a high degree of efficiency and imagination, implementing the latest principles and methods of law enforcement, that special activities would need not be undertaken to bolster the good relations between the police and the community. Improving community relations is a full-time job for every commander and every officer. Departments must develop a tone, an attitude for true public service.

All agencies of law enforcement should undertake full, in-depth studies of police community relationships, and a statewide study, similarly in-depth, should be carried out parallel to the studies tailored locally.

In implementing a program for improved police-community relations, the following factors might be considered:

1. Larger agencies should maintain a full-time unit or bureau in police-community relations. Smaller departments should designate an officer as the individual responsible for coordinating and developing this function.
2. Officers participating in any special police-community relations program should be trained to fulfill this assignment.
3. The police agency should conduct general public sessions to explain police methods and practices for preventing and controlling crime.
4. City police departments should assign as many men as possible to patrol areas of the city on foot, thus increasing measurably the number of personal contacts and affording the agency valuable on-the-scene observations. Des Moines is currently deploying foot patrolmen to selected areas of the city in three-man units. One officer drives, and the remaining two patrol on foot for a period of time. They are transported to several locations in the course of an evening.
5. Any police relations program must be a continuing thing and not by cliche methods. Such a program is not to be confused with a public relations program.
6. Police agencies should recognize and award officers for exceptional police-community relations work as well as for heroic acts and field activity.

SPECIAL REPORTS

SURVEY OF THE EFFECTS OF MIRANDA ON LAW ENFORCEMENT IN IOWA

THE MIRANDA DECISION

Miranda v. Arizona is the case in which the United States Supreme Court decided that persons who are subjected to "custodial interrogation" by police officers must be advised of the following constitutional rights:

1. That they have a right to remain silent;
2. They if they waive this right to remain silent, anything they say can and will be used as evidence against them in a court of law;
3. That they have a right to consult with an attorney and to have the attorney present during police interrogation; and
4. That if they cannot afford an attorney, one will be appointed to represent them, free of charge.

Miranda says that statements or confessions taken in violation of these requirements cannot be used as evidence against the person making them. Miranda does not prohibit the introduction at trial of other evidence against a suspect if a statement is ruled inadmissible. The defendant's trial continues without the benefit of the statement for the prosecution. It should be noted that the warnings need only be given if the police interrogate the person after he is taken into custody or in some way is deprived of his freedom of action. The opinion indicates that the warnings need not be given if the police are only engaged in general questioning at the scene of the crime or if the police question the person at his home or place of business. Miranda in no way prohibits the use of statements voluntarily made by a person in the absence of any interrogation or before the interrogation begins. Miranda simply operates as a check against the use of improper confessions and statements. In part because past experience has proven that many people will confess to crimes they did not commit if they are exposed to harsh interrogation procedures, the courts have ruled that no confession can be presumed to be valid unless the suspect was advised of his constitutional rights and knowingly and intelligently waived those rights. Without the requisite knowledge of constitutional rights and waiver thereof, any confession or statement made in the coercive atmosphere of an interrogation will be held invalid.

THE NEED FOR EVALUATION

Since the Miranda decision was handed down on June 13, 1966, there have been widespread criticisms of the case and assertions that the Supreme Court has "handcuffed" the police. It is common knowledge that most law enforcement officials have spoken against the decision, and a recent Gallup Poll shows that the general public is also concerned about the courts' treatment of criminals. In the poll, the question asked of the public was whether they thought the courts were dealing too harshly or not harshly enough with criminals. The results were compared to the results obtained in asking the same question in 1965. In both 1965 and 1968 only two per cent of those questioned thought the courts were too harsh. However, a significant increase was shown in the percentage who thought

the courts were not harsh enough; 48 per cent taking this view in 1965 while 63 per cent were of this opinion in 1968. Because of the great deal of press coverage which Miranda and other cases have received, it seems fair to conclude that Miranda played some part in the opinions. The case has been widely interpreted and criticized as being a "soft" approach to crime. Adding more weight to the conclusion that Miranda played some part in the opinions is the answer given to another question in the poll. In response to the question, what should be done to reduce crime, 17 per cent of those questioned said the police should be given a freer hand.

These opinions and assertions concerning Miranda, however, are founded upon little or no concrete evidence. A great deal of publicity was given to those instances in which a confession was ruled inadmissible shortly after Miranda, and the public had difficulty understanding why the appellate courts were "freeing" people who had confessed to crimes.

In order to shed light on the controversy and to determine whether or not Miranda has been a detriment to law enforcement, several surveys were undertaken to determine if the number of confessions, convictions and guilty pleas had decreased since June of 1966. Surveys were made in Los Angeles, Pittsburgh, and New Haven, Connecticut, and in general, they all showed that Miranda has had little or no adverse effect on law enforcement. However, these surveys were thought not to be conclusive for the Iowa experience. The former studies were conducted in major urban areas which could present quite different problems and results. It was thought that urban police have more training and equipment than their rural counterparts and consequently their ability to investigate and cope with the problem would be much greater. It is with these problems in mind and the general desire to know how Iowa police officers have responded to Miranda that this study was undertaken.

THE SURVEY

Introduction

The survey was conducted by mailed questionnaires, personal inspection of criminal dockets and interviewing police and other law enforcement officials. Questionnaires were mailed throughout Iowa to county attorneys, district court judges, Iowa Supreme Court Judges, county sheriffs, and 183 police chiefs in towns and cities of varying population. Inquiries were made concerning various statistical matters for the period from January 1, 1964, through December 31, 1967, in order to give an adequate representation of cases prior and subsequent to the decision. Various opinion questions were also asked in an effort to elicit the experience of those who deal directly with the Miranda decision. In addition to the opinion and statistical questions, sheriffs and police chiefs were asked various questions concerning changes in procedure because of Miranda.

The Docket Survey

To determine the effect of Miranda on the ability of law enforcement agencies to enforce the law, a docket study was conducted in Polk, Scott, Johnson, Muscatine, Iowa and Keokuk Counties. The study consisted of recording the disposition of various cases begining January 1, 1964, and running through December 31, 1967. Not all cases were considered. The determination of which type of case to consider was based mainly on the seriousness of the offense and the need for confessions for convictions of the offense. For example, traffic violations were

not considered except O.M.V.I. second, third, fourth and subsequent offenses. Domestic crimes such as child desertion were not considered. Liquor violations such as selling beer to minors were also not considered. The disposition of the included cases were broken down into dismissals, guilty pleas, trials, convictions and acquittals.

A substantial increase in the number of post-Miranda dismissals might indicate that the prosecution is unable to handle all the cases in which suspects are demanding trials or that he is unable to present sufficient evidence to warrant a trial. A substantial decrease in the number of post-Miranda guilty pleas could indicate that law enforcement agencies are no longer effective against the law violator because their tools of enforcement have been taken away. A substantial fall in the conviction rate after Miranda could indicate that without the ability to freely interrogate, convictions are impossible.

SIX COUNTY TOTALS

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	1,356	899	191	658	41	31	10
1965	1,399	916	217	637	63	47	16
1966*	1,416	774	171	553	61	51	10
1967	1,562	807	165	560	78	61	17

*Miranda, June 13

We immediately see from the statistics that none of these problems are evident in the survey counties. The guilty plea, for example, continues to play an important role in disposition of cases. In a recent interview with a police chief from a large metropolitan area, it was indicated that although stationhouse confessions are falling off, suspects are still willing to accomplish the same result through a guilty plea at a later time. The reliance once placed on the confession by the police is no longer effective and therefore greater reliance has been placed on investigation. Although this has created more work for the police throughout the state, law enforcement has not suffered. It was the opinion of several police officers and many judges that Miranda has been an aid to law enforcement because it requires better investigative techniques. It appears from these statistics that the police have done an adequate job in this investigative process and consequently in many cases when the suspect is presented with the evidence against him, he is willing to enter a guilty plea. It also appears from the statistics that the conviction rate did not take a substantial drop in the post-Miranda period.

If we break these figures down into small, medium and large counties we see more clearly the lack of change from the previous patterns of disposition.

Polk County

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	791	505	154	315	36	27	9
1965	833	528	147	330	51	36	15
1966*	872	437	108	274	55	46	9
1967	1,033	510	126	317	63	47	16

*Miranda, June 13

Scott County

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	275	232	13	211	8	8	0
1965	258	233	40	185	8	7	1
1966*	238	208	38	168	2	2	0
1967	198	144	13	124	7	6	1

*Miranda, June 13

The larger counties experience more trials than the smaller, but they seem to have a substantial guilty plea and conviction rate. The rate of dismissals also seems to be no problem.

Johnson County

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	109	71	6	65	1	1	0
1965	137	81	17	64	1	1	0
1966*	131	55	9	46	1	0	1
1967	115	62	3	59	0	0	0

*Miranda, June 13

Muscatine County

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	117	63	16	43	4	4	0
1965	96	46	11	34	1	1	0
1966*	105	44	13	41	0	0	0
1967	132	59	15	44	0	0	0

*Miranda, June 13

The medium sized counties also show little net change in their disposition range. These counties appear to try fewer cases than their larger counterparts and convict a greater percentage of those tried. The guilty plea rate plays a substantial part in the disposition of cases in these counties, which indicates that the police must be making adequate investigation in those cases docketed. The dismissal rate here again does not present a problem.

Keokuk County

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	29	16	1	13	2	1	1
1965	43	13	2	9	2	2	0
1966*	45	19	3	13	3	3	0
1967	52	19	8	4	7	7	0

*Miranda, June 13

Iowa County

Year	Cases Docketed	Cases Considered	Cases Dismissed or Ignored	Guilty Pleas	Trials	Convictions	Acquittals
1964	35	12	1	11	0	0	0
1965	37	15	0	15	0	0	0
1966*	25	11	0	11	0	0	0
1967	32	13	0	12	1	1	0

We see a greater number of trials in the small counties than in the medium sized counties when both are considered together. The number of trials in Keokuk County jumped from 3 in 1966 to 7 in 1967. This is not a great number of trials but in comparison to Iowa, Johnson and Muscatine Counties there is a substantial difference. The rise in the number of trials might be attributed to Miranda. However, in light of the fact that no acquittals resulted in those trials, Miranda has not had a detrimental effect on the ability to obtain convictions in that county.

The disposition of cases in the sample counties seems to indicate that Miranda has not adversely affected the ability of law enforcement agencies to enforce the law. Certainly the procedures have changed. However, law enforcement continues to be as effective as it was in the pre-Miranda period.

Questionnaire and Personal Interviews

1. Police Procedures and Costs

One of the goals of the survey was to determine how the police have changed their procedures to comply with Miranda. Almost all officers in Iowa now carry printed warning cards to ensure that some or all warnings are not forgotten and to ensure that the warnings are properly given. A typical warning card lists all four of the warnings on one side and a statement requesting a waiver on the other. Another widely used device is the printed waiver of rights form. For example, an extremely safe form has the Miranda warnings printed at the top of the page in large bold face type. The suspect is asked to sign below these warnings if he desires to waive his rights. Below the waiver of rights is recorded the signed statement. At the end of the statement is another waiver of rights. Once the police have a statement on such a form, there seems little doubt that it meets the requirements of Miranda. It has become the practice in many large cities in other states to have posters in the stationhouse advising a suspect of his rights. Very few departments in Iowa now use this method. In addition, although large cities in other states indicate that they use recordings and motion pictures to show the accused waiving his rights, such advanced procedure has not been introduced in Iowa. It might be suggested that departments go to this type of procedure in order to save what might be a much needed statement.

No department indicated that new men were added to the force to meet the requirements of Miranda, but many noted that it has caused additional work for the present personnel. Although one large department estimated that one percent of its time was spent on Miranda work and consequently cost the taxpayers $10,000, the majority of those reporting did not indicate a figure of that proportion. As a practical matter it would seem the only direct additional costs caused by Miranda are the negligible costs of warning cards and waiver forms. However, additional costs of investigation such as overtime hours for police officers, more miles traveled in official cars, are all probably the indirect result of Miranda. The taxpayers should not complain about such expenses since ultimately they lead to better law enforcement.

2. Understanding of the Police

Possibly the most serious and certainly the most prevalent problem detected by this study was the lack of understanding by the police of what Miranda

entails. Some officers expressed concern that the decision requires them to give the warnings as soon as they encounter a suspect, including those caught in the act. The majority of officers answering the questionnaire indicated that the warnings must be given even if no interrogation is to follow. Some officers thought that Miranda took away some of their arrest powers. Further confusion exists concerning when, where and for what offenses the warnings must be given. The custodial interrogation concept has not been grasped by the majority of police in Iowa. It has been only because many of the misinterpretations have been an over-compliance with Miranda that no serious problems have resulted. It could be this over-compliance, however, which could allow a guilty man to go free in certain cases.

One reason for the misunderstanding and confusion is the lack of communication among law enforcement personnel. In response to the question concerning their source of information about Miranda, the police indicated such divergent sources as other police, the county sheriff, county attorney and the news media. Many departments learned of the requirements by means of training bulletins distributed by the International Association of Chiefs of Police. This publication presents an adequate analysis of the case and if this publication had been made available and followed by all Iowa officers, it is possible that no misunderstanding would have arisen. It is imperative that Iowa adopt a centralized distribution center of information so that recent court rulings and modern police procedures are made available to all officers. Any number of methods might be formulated, one being to place the responsibility on the sheriff or county attorney to distribute materials and inform the officers and departments in his county. Another method could be to mail a bi-monthly bulletin from a state enforcement agency to each officer's home. No matter what method of distribution is adopted it is imperative that all officers obtain this information.

3. The Judiciary

Another possible reason for the confusion and misunderstanding of the police in some areas is the inconsistent interpretations of Miranda's requirements by the District Court Judges. In recent interviews, the police expressed concern and dismay over the fact that although they try to comply with one judge's interpretation of Miranda, they go to court and discover that another judge interprets the case much more stringently and a statement is excluded. One police chief said that if we are given one interpretation we will do everything in our power to follow it.

In isolated instances judges have pushed the requirements of Miranda to what appears to be beyond what the Supreme Court intended. Miranda sets standards designed to protect constitutional rights, but if the judiciary pushes those standards too far, the police in some cases may quite legitimately feel that they have been handcuffed. This is especially true when, in reliance on one judge's ruling, the police follow what they believe to be the correct procedures only to have the statement excluded by a different interpretation of the decision by a different judge.

One way to eliminate this problem is to hold meetings of all law enforcement personnel in a judicial district and invite all the judges to participate. The discussion should focus on the law of Miranda, not particular factual situations. This should not be considered by the judges as an advisory opinion because no particular case is under consideration.

Another way to move against this problem is to hold a statewide seminar for the judges on Miranda. Many people have advocated the uplifting of police and police practices but if the judges are not also educated to properly interpret Miranda, the uplifting of police procedures will be partially wasted.

Finally, the most effective way to eliminate inconsistent interpretations of Miranda is to allow a direct appeal from the exclusion of the statement at trial. Present procedure allows an appeal only after the trial is completed. Under the present system, if a statement is excluded because of Miranda and the defendant is acquitted, the state may appeal but if the statement was improperly excluded the defendant may not be retried. If, however, the statement was improperly admitted into evidence and the defendant was convicted the defendant is allowed a new trial without the statement. Under the appeal procedure suggested here, the state could appeal after the statement was excluded but before trial, if it was improperly excluded the statement could then be used in his trial. This method would lead to more uniformity of interpretation because it would provide a greater incentive to appeal and therefore the Iowa Supreme Court could lend one interpretation to the various problems involved. At present most cases in which confessions are excluded are won by the state and consequently few are appealed by the prosecution. Also, the state has little incentive to appeal because the defendant may not be retried. This proposed procedure would give the state the same advantage now enjoyed by the defendant. As the procedure now stands only the defendant wins on appeal.

CONCLUSION

The information used in the statistical survey was limited and it is difficult to make generalizations concerning the effect on all cases in Iowa. Nevertheless, until additional statistics are brought forth, the figures supplied by this survey support the proposition that Miranda has not detrimentally affected the ability of law enforcement agencies to enforce the law. Changes in police procedure have taken place and problems still persist. However, with the suggestions outlined for enforcement agencies, prosecution and the judiciary in the preceding sections, Iowa officers can meet the requirements of Miranda, while still effectively enforcing the law.

FIREARMS REPORT

The question of effective control over the sale, possession, transfer and use of firearms and other weapons was raised to the Crime Commission for the following reasons:

1. The presence of figures from the FBI Uniform Crime Reports which show the use of firearms in aggravated assaults increasing by 22 per cent in the period January through September, 1967. Armed Robbery which constitutes 58 per cent of all robbery offenses, increased 33 per cent during that same period.

2. A number of states and cities have adopted firearm regulations in an effort to curb serious crime. Examples of those jurisdictions are: Philadelphia, Kansas City, Los Angeles, New York City, Chicago and New Jersey.

3. FBI figures show that where firearms control is weakest, greater numbers of serious crimes are committed with firearms.

4. Some people would place greater emphasis on the misuse of the weapon rather than on the regulation of ownership of the weapon.

5. The National Crime Commission recommends legislation by governmental units to maximize the possiblity of keeping firearms out of the hands of potential criminal offenders, while at the same time affording citizens ample opportunity to purchase such weapons for legitimate purposes.

The following advisors to the Crime Commission, representative of the many persons and groups interested in weapons and their use, specially studied the firearms matter: District Court Judge Gibson Holliday; Chief of Intelligence, Des Moines Police Department, Sergeant Ed Crozier; Assistant State Attorney General David Elderkin; Izaak Walton League Secretary, Robert Russell; Keokuk County Sheriff Bud Wallerich. This sub-committee reviewed the existing Iowa law relating to weapons and firearms control; reviewed regulations of 49 states and numerous municipalities; reviewed the National Crime Commission recommendations; reviewed bills proposed in the U.S. Congress; and interviewed spokesmen for sporting interests, city police, sheriffs, highway patrol, State Bureau of Criminal Investigation and the general public.

THE IOWA CRIME COMMISSION RECOMMENDS:

1. Firearms and other destructive weapons should be specifically defined in the Code.

2. There should be an absolute ban on the general sale, possession and use of certain weapons and devices such as hand grenades, machine guns, molotov cocktails, cannons, silencers and sawed-off shotguns.

3. Altering or defacing of serial numbers should be prohibited.

4. The penalties for misuse should be studied for possible upgrading, especially in the areas of aggravated offenses.

5. The police officer be accorded by law the power to stop to search a person whom he has reasonable suspicion to believe is committing, has committed

or is about to commit a felony. The officer should use great restraint in exercising this authority. Only when the officer has legitimately stopped the subject and reasonably suspects that life and limb may be in jeopardy, may he search such person for a dangerous weapon. Action by the State in this area would be contingent upon the outcome of two New York cases and an Ohio case now pending in the United States Supreme Court.

The Commission feels that the police must have authority to carry out such a quick search. However, the officer must also be carefully subjected to operating rules and regulations established by departmental supervisory staff to obviate possible abuse of power. These principles would carefully define terms and would outline when and where a search could be conducted and who could be searched to assure propriety of action by the police.

Educational courses should also be offered at the Iowa Law Enforcement Academy to instruct all new officers in the proper execution of this technique.

6. Weapons, especially handguns, in the possession of certain persons such as those suffering from mental disorder, drug addicts, the chronically intoxicated, serious criminal offenders and the very young, can more likely lead to misuse and possible harm. Iowa law should prohibit sale, possession and use of weapons by such classes of people, through requirements clearly set out in the Code.

7. Better control of the movement of concealable firearms is needed at the point of purchase or distribution rather than through registration after purchase. The present law, Section 695.21, now requires dealers to report information about purchasers and purchases to the County Recorder. There is no effective way the provision can be enforced. Because there is virtually no research data to substantiate the value of gun registration in crime prevention, and because gun registration would be such a costly and time-consuming alternative under our existing structure, we recommend placing effective, centralized control at the point of sales and distribution of concealable firearms.

Reporting forms requesting pertinent information about purchasers and purchases would be formulated by an agency such as the State Bureau of Criminal Investigation, completed by the seller, and reported back to the Bureau of Criminal Investigation for centralized filing. Procedure for enforcement of this control measure would be clearly outlined, and penalties for violation by either the seller or the purchaser, in the way of misrepresentation or failure to comply, would be more severe than the present simple misdemeanor.

The Commission feels this strengthening of statewide review and regulation of the exchange of certain weapons would help eliminate a serious weapons problem--pawnshop and bootleg sales.

8. Weapons confiscated by police agencies in the conduct of their duties should not be auctioned at sale to the general public, but rather should by law be destroyed or ordered by the court to be distributed to a bonafide police agency.

IOWA CRIME INFORMATION SYSTEM

INTRODUCTION

The current lack of standardized, timely information flow among agencies involved in Iowa's criminal justice process results in reduced operational effectiveness of these agencies.

Each agency of law enforcement, prosecution, the courts, corrections, probation and parole, contributes in some measure to the overall process of justice. This process is essentially a decision-making network for preventing and controlling crime, and the authorized persons and agencies involved must have the most reliable, accurate information at their fingertips, by rapid access, so that they may make the best judgment decision in any given factual situation.

1. The police officer must decide whether he has probable cause to arrest a suspect and he must know enough about that person that he can adequately protect himself in making the apprehension.
2. The prosecutor must decide whether he has enough evidence to make a formal accusation, and then to determine trial arguments and strategy.
3. The court must decide from the accused's personal and criminal history and other related information, the conditions of pre-trial release or bail.
4. The court, after conviction, must decide on the form and degree of sentence administered, based upon information pertaining to, among other things, the offender, his background and the nature and circumstances of the offense. If the offender is placed on probation, the court and the probation officer must decide on the supervised program to which the convicted person will best respond.
5. If the convicted offender is incarcerated, correctional people and parole officials must be able to design, from all available facts, a suitable treatment plan, tailored to that individual, so that the offender will return to society a better citizen.

COMMUNICATIONS IN IOWA TODAY

At the present time in Iowa, we have no crime reporting system which can tell us how much crime is actually occurring, who is doing it or where it is happening.

We have no adequate filing system for collecting, storing and disseminating to persons and agencies involved in crime prevention and control, the important information about criminals, criminal activity, or the fruits of criminal acts, upon which their actions depend.

Our State Police Radio communications system, which by law is structured to serve all law enforcement agencies in two-way and base station communication, has been consistently neglected in the satisfaction of manpower and equipment requirements. As a result, we have an antiquated, patched-up, overloaded network which cannot, under present conditions, meet needs of city, county and state officers and agencies, nor ever hope to fulfill anticipated increased use.

Review and analysis of existing communications links in Iowa demonstrates that the following problems affect city, county and state systems of radio communications:

1. frequency congestion
2. improper frequency assignments
3. lack of adequate equipment
4. obsolete and improperly functioning equipment
5. failure to use all communications sources available
6. lack of frequency coordination among the three systems

A complete overhaul of the police radio system will be necessary if it is to satisfy the message sending, receiving and transferring needs anticipated in the performance of the crime information system.

Adjustment of frequencies, organization and management of operations, replacement of old equipment and acquisition of necessary new equipment, satisfaction of manpower needs to meet the existing overload and handle the new volume are some of the problems confronting police radio which must be met head-on if we are to be able to most effectively utilize the full proposed system. The capacity does exist, however, to begin the pilot stages of an information sharing program.

We recommend the following modifications and improvements in police radio communications:

<u>The State System</u>

1. The state police radio communication system should be placed under the supervision of the Iowa Highway Patrol and be located in Highway Patrol District Offices in order to orient the system to the needs of law enforcement personnel.
2. The nine base stations located about the state should transmit on alternating frequencies, thus alleviating much of the congestion now found because far too many vehicles must transmit on the same frequencies.
3. Mobile units should be of multiple frequency selection so that vehicles passing from one transmitting area to another could select the proper frequency.
4. Walkie-talkies should be of a type capable of transmitting and receiving on at least two frequencies: one for contacting a base station or mobile unit and the other being exclusively for communication with other walkie-talkie units.
5. This point becomes extremely crucial in time of emergency operations because walkie-talkies must share the same channels with radio-operated cars. A mobile central command post should be established with facilities for communicating with any police agency in the state in emergency situations.

<u>The City Systems</u>

1. All cities and towns employing policemen 24 hours each day should have, as a minimum, two-way voice communication from mobile units.
2. All cities and towns over 1,000 population should operate a two-way base station on an approved frequency.
3. All cities and towns operating a base station should employ radio operators on a 24 hour daily basis.

<u>The County Systems</u>

1. All counties should operate and maintain a base station on a 24 hour

daily basis on the low band frequency approved by the State Communications Director.

2. All counties should also operate a base station on the high band known as "point to point."

All Systems

1. The State Communications Director should assign frequencies which will prevent overlapping.

2. Walkie-talkies capable of receiving and transmitting on two frequencies should be purchased in numbers sufficient to meet present needs.

3. A replacement schedule for equipment on a rotation system should be established.

4. All systems operating a base station should have a teletypewriter unit in the station in order to relieve voice communication channels wherever possible.

The enactment of a statewide communications system bill in the last session paves the way for development of an Iowa Crime Information System. Design and implementation of the system would require parallel planning and action in separate but related aspects of communications, but aspects which must be totally integrated and coordinated for maximum utility and efficiency. They are:

1. Statewide mandatory uniform crime reporting. Mandatory reporting of all crime, by all local and state agencies, to a central state agency, is a pre-requisite to full utility and desired effect of the crime information system. Legislation should be adopted specifying, among other things, the central agency to which crime is reported; in general, the crimes and the facts and circumstances surrounding those crimes which must be reported; the enforcement terms of the crime reporting law.

2. Collection of information received through the above uniform reporting system, and other reports, in a centrally located computer. A summary of key types of information needed in a comprehensive crime information system file are as follows:

A. Identification of persons
B. Warrants, wants and missing persons
C. Arrest and disposition
D. Vehicle identification and status
E. Weapons identification and status
F. Index of probation, parole and incarceration history
G. Driving history
H. Violence potential

3. Dissemination of pertinent information to the applicable authorized personnel or agency, through a modernized and efficient state police radio system, utilizing the best and most effective two-way communications and teletypewriter, and through the improved telephone, teletypewriter, facsimile reproduction and other data transmissions envisioned in the forthcoming implementation of the statewide communications system bill.

CONCLUSIONS

1. Comprehensive files must be available for use in the system.

2. The files must be complete, accurate, up to date and both readily and rapidly accessible.

3. An effective communications network would be needed in order to gather and disseminate the information contained in the files. The network should include a computer to be used as a message switching device between local terminals and to gain access to the F.B.I. files and the state files for use by all levels of authorized personnel involved in the Iowa Criminal Justice process.

Computer hardware itself must have the ability to communicate through terminals; and though we would estimate that at some time over 100 terminals would be needed around the state in highway patrol offices, police stations, courthouses and other suitable access locations, the first phases of the system could be implemented utilizing the above mentioned available computer hardware with the addition of a certain number of communications terminals serving remote areas.

With the proper combination of adequate design and planning, care in selection of hardware and location, and proper training of personnel submitting reports to the system and retrieving information through terminals and police radio communications, the maximum time elapsing between inquiry and message response should not exceed 15 seconds.

4. The files should be used to automatically update the F.B.I. files from the state computer system.

THE IOWA CRIME COMMISSION RECOMMENDS:

Effective communications and information exchange is one of the most important technological advantages vital to criminal justice.

This type of system outlined in this report is highly desirable for our improved handling of criminal justice in Iowa and has proven to be feasible both from the cost and implementation standpoints in other state governments designing and making use of such a program.

Iowa should direct its immediate attention to the planning and design of a comprehensive state crime information system, including the initiation of mandatory uniform crime reporting, the upgrading of two-way police communications and the conversion of files utilized by authorized criminal justice personnel to computers.

314-086 O - 68 - 8

CRIME-FORENSICS-TOXICOLOGY LABORATORY

Definitions

1. Criminalistics is the combination of many disciplines, including chemistry, physics and mathematics, to produce technical and semi-technical evidence in the application of science in law enforcement.
2. Toxicology is the science of poisons, narcotics and drugs, and their properties.
3. Forensic Medicine is that body of medical and associated scientific knowledge which may be of service in the administration of the law.
4. Crime Lab and Criminalistics Lab are terms used interchangeably to connote a facility where personnel and equipment are used to perform scientific investigations in the field of criminalistics for effective collection and preservation of technical and semi-technical evidence.
5. Pathology is the study of the causes of disease and impairment of the human body which involves changes in its nature and function.
6. Medicolegal Autopsy is the application of forensic medicine to an autopsy to determine the nature and cause of death, and to preserve evidence relating to the circumstances surrounding the decedent's death.

INTRODUCTION

Evidence-taking aspects of law enforcement have undergone changes in procedure, beginning primarily in 1961 as the result of the case Mapp v. Ohio, relating to searches and seizures. Additional restrictions were placed upon the police with the Escobedo and Miranda decisions, which set limits and guidelines on the taking of oral testimony. Where crimes were formerly solved to a large degree in the interrogation room, law enforcement agencies must now rely more and more on improved investigation techniques, including the more careful collection and preservation of physical evidence.

Changes to comply with the new requirements must be accomplished within the organizational environment of the law enforcement agency and in accordance with its needs. Unless administrative and scientific personnel demonstrate resiliency and resourcefulness under the new conditions of stress and duress, the police agency may not fulfill its tasks to the optimum.

The President's Crime Commission reported that it should be an important goal of the police to develop the capacity, through training and proper facilities, to make a thorough search of the scene of every serious crime and to analyze evidence so discovered, through immediate access to good city or state crime laboratories.

The Commission further reported that "the police are not making the most of their opportunities to obtain and analyze physical evidence. They are handicapped by technical lacks. There is a very great lack in police departments of all sizes of skilled evidence technicians, who can be called upon to search crime scenes not merely for fingerprints, but for potentially telltale evidence like footprints, hairs, fibers, or traces of blood or mud."

Scientific medical examination is often necessary to determine the existence of criminal acts involving the decedent's death. Presently, due to the severe inadequacies of readily available labs, because there is no central lab facility, and because there is no chief medical examiner in Iowa for consultation, a local medical examiner is likely to dismiss all deaths which are not patently

suspicious for the sake of expense and expediency for all concerned. Hence, many deaths which would receive careful examination under a fully implemented state medical examiner system would thus be overlooked and discarded under the present system. It is in the utilization of a trained medicolegal expert, a forensics pathologist, given the authority to order autopsies, and provided with all of the resources available in an up-to-date scientific lab, that the medical examiner system proves its greater value to the community.

THE PRESENT SITUATION IN IOWA

Iowa has 99 county medical examiners that are either medical doctors or osteopaths. There exists no coordinated effort among these medical examiners, nor is there any chief medical examiner with special medicolegal training to control or coordinate the activities of the county medical examiners. Thus, there presently exists no expert medical examiner with any medicolegal training or background.

Iowa has no forensic pathologist. Iowa has no state toxicologist, nor any single expert in the general field of toxicology.

Iowa has a semi-technical evidence lab within the Department of Public Safety under the State Bureau of Criminal Investigation.

Iowa has a State Hygienic Lab at the University of Iowa, Iowa City, Iowa.

Nearly all technical evidence gathered from crime scenes in Iowa goes to the F.B.I. Laboratory at Washington D.C., a process requiring five to six weeks of time, or is sent to private labs which exact fees from the State, and none of which are capable of handling the full range of a given criminalistic or toxicological problem.

When time is not a factor, the F.B.I. laboratory can be utilized. When time is a factor, Iowa investigators today must seek out a private laboratory which can or will examine the evidence on a fee basis. One problem in utilizing these private laboratories is the fact that the examiner must be in a position to testify possibly at the preliminary hearing, the grand jury, and the trial. This same problem also arises when evidence is sent to the F.B.I. laboratory in Washington D.C., in that the availability of expert examiners of the F.B.I. to appear at the trial is often tenuous due to their heavy schedule of similar court appearances in several of the other states. Furthermore, the F.B.I. does not have any forensic pathologists.

As a result of the many inconveniences involved in obtaining laboratory analyses, officers are sometimes reluctant or passive about attempting to collect and preserve valuable physical evidence, and will proceed into a case without the benefit of such evidence evaluation.

THE NEED FOR NEW LAB FACILITIES

Indicative of the yearly needs existing in Iowa, is that in 1965 alone, the F.B.I. laboratory performed 1,378 laboratory examinations for Iowa's non-federal law enforcement agencies, or 2.3 per cent of the total number of all laboratory examinations performed by the F.B.I. for all non-federal agencies in the United States, Canada, Virgin Islands, Puerto Rico and the Canal Zone. Yet, Iowa accounts for only one per cent of the total population of the United States.

The following listing illustrates the percentage of Iowa laboratory requests to the F.B.I. as compared to requests from other states:

72 per cent of California's total examinations performed by F.B.I. Lab
50 per cent of New York's total examinations performed by F.B.I. Lab
70 per cent of Illinois' total examinations performed by F.B.I. Lab
350 per cent of Indiana's total examinations performed by F.B.I. Lab
78 per cent of Ohio's total examinations performed by F.B.I. Lab
56 per cent of Pennsylvania's total examinations performed by F.B.I. Lab
350 per cent of Minnesota's total examinations performed by F.B.I. Lab

These figures tend to indicate that Iowa's technical crime solving facilities seriously lag behind other states. Hence, it would not be unreasonable to assume that Iowa's capacity to solve crimes is not reaching its potential.

Consolidated criminalistic, forensic medicine and toxicology facilities under the Division of Medical Services at the University of Iowa and in conjunction with the Medical College at Iowa City, provide several positive benefits to the State of Iowa in the area of criminal justice:

1. Trained personnel to supervise and staff these labs would be more readily available initially and as replacements are required.
2. Research facilities are presently available at the Medical College and other related colleges of the University which could be utilized under a Chief Medical Examiner's Office.
3. Consolidated facilities under the State Medical Examiner would provide:

A. Increased economy in operations in that much of the equipment and personnel are already available at the Medical College and other divisions under Medical Services; many of the same kinds of people and much of the same kinds of equipment are necessary in separate crime, forensic-pathology and toxicology labs; this duplication would be eliminated under the consolidated laboratory structures; inter-laboratory costs of transportation, communications and consultations would be reduced.

B. Centralized control and management of the laboratory complex.

C. Expediency in the total analytic process and evaluation of results.

4. Location: The United States Attorney General's Office, Law Enforcement Assistance Report No. 13 recommends that the State of Iowa establish its laboratory facilities in the Eastern portion of the State, based upon considerations of geographic population facilities and availability of laboratory resources of personnel and equipment.

THE IOWA CRIME COMMISSION RECOMMENDS

The state should conduct an in-depth study to identify the exact nature of the problems and needs which exist in relation to adequate crime-forensics-toxicology laboratory facilities. This study should be completed early enough that proposals can be submitted to the upcoming legislative session.

From the Commission's preliminary survey, it would appear that a consolidated crime-forensics-toxicology laboratory, located within the operating structure of the University of Iowa, would be a most efficient and effective alternative.

Such a consolidated state facility should be supported by an expanded crime laboratory located within the Bureau of Criminal Investigation.

The Iowa Law Enforcement Academy and the state laboratory facility which is established should work together to instruct law enforcement officers and county medical examiners in the proper field procedure necessary for collection and preservation of criminal evidence.

SUPPLEMENT

ADDITIONAL VIEWS OF INDIVIDUAL COMMISSION MEMBERS

ADDITIONAL VIEWS OF DEAN VERNON AND MRS. GOLDMAN

We concur in paragraph seven of the Firearms Report, except that we favor a statewide registration system for all firearms new and old. In addition to the regulations recommended by the Commission in paragraph seven relating to the sale of weapons, we would require registration of all firearms as ammunition is purchased for them. We would further require that all firearms in the state be registered within two years of adoption of appropriate legislation.

At the present time, ballistics identification has not progressed to the point that a filing system similar to our existing fingerprint identification system can be established. Within a few years, however, it is likely that such a system will be feasible. As soon as this ballistics identification system is available, all firearms in the state should be tested and the ballistics identification marks placed in file. To assure a complete file, a statewide registration system is necessary and should be operative at the time the identification system goes into effect.

ADDITIONAL VIEWS OF DEAN VERNON AND MR. McDERMOTT

Reorganization studies should be undertaken immediately to determine the desirability and feasibility of establishing sixteen regional police agencies, each supported by several counties and communities, as well as by the state.

These regional offices should assume the functions now performed by County law enforcement officers, and should render services to the cities and towns located within the respective region.

We believe that such regional offices, manned by professional police officers, well may be able to render more efficient service to all communities than is presently available to them.

CHAPTER IV

ADULT CORRECTIONS

Members of the Adult Corrections Division are:

Joseph Coughlin, Chairman
John Ely
Michael O. McDermott
Fred Moore

Mr. Coughlin was assisted by his staff, as well as by Division members, in the preparation of surveys, collection of data and writing of this chapter.

INTRODUCTION

The Iowa Crime Commission Report on Corrections is concerned with those facilities and programs used in the supervision, detention, and rehabilitation of law violators from the time of arrest to the time of final release or discharge, to the end that the incidence of crime by repeat offenders may be reduced. These facilities and programs range from city lockups, county jails, and informal probation to formal probation, parole services and minimum, medium, and maximum security prisons.

In its report to the President's Crime Commission, the Iowa Citizens Council on Crime and Delinquency reported in May, 1967, that annually over 16,000 Iowans are incarcerated in Iowa's county jails. The average daily correcti ns population for the year covered in that report, fiscal 1966 included 2,121 adults on probation and parole, 2,079 in the three state correctional institutions (prison, reformatory, and women's reformatory), and another 674 in county jails and other lockups. Uncounted additional thousands are handled informally by the police and the courts.

While the crime rate in the state has markedly increased, this trend has not been reflected in the populations of state correctional institutions for adults. In fact, there has been a decline in total average daily population each year since 2,460 in 1963, to the present low of 1,881. However, statistical analysis of admissions and releases for the past six years indicates that the decline in population in institutions for adult offenders has leveled off. If crime rates continue to rise, institution populations will again climb. Explanation of the seemingly conflicting statistical trends is found in the fact that the bulk of the increase in crime has been in the youthful age groups beginning in the early teens. Increased use of probation and parole, economical factors and the war have also tended to hold down the populations of correctional institutions for adults. However, past experience indicates that following wars and economic recessions, correction populations rise.

OFFENDER CHARACTERISTICS

In a recent year, 21 per cent of Iowans incarcerated in jail were jailed for simple intoxication, 13 per cent for larceny, 16 per cent for bad checks, 5 per cent for disorderly conduct and vagrancy, 6 per cent for breaking and entering and 3 per cent for assault. The remaining offenders were confined for miscellaneous public offenses. Beyond this, we have little specific information dealing with misdemeanant offenders in Iowa. However, on the basis of information concerning jail inmates nationwide, we can reasonably assume that nearly half of all misdemeanants confined in jails have been arrested for public drunkenness or offenses related to drinking. Many of these are traffic law violators. "Another substantial and varied group of misdemeanants have committed offenses generally characteristic of inner city life, including among others, after hours liquor offenses, weapons offenses and gambling. Some of the offenders in this group can easily become involved in the kinds of crime with which the mainstream of corrections deals." (President's Commission, Corrections).

The characteristics of felony offenders in Iowa have been studied in detail. Typically, the inmate entering an Iowa correctional institution is a relatively young man. Over one-third of those who entered the reformatory last year were under 21 years of age. The average age for all inmates is 27 years. Twenty-one per cent are under 21; 58 per cent under 30, and 79 per cent are under 40. Though most are of average intelligence, approximately 80 per cent have not completed high school. Sixty-five per cent were unskilled laborers. Three out of five had been experiencing some problem with alcohol or had been drinking at the time the offense was committed. Forty-four per cent had one or more previous prison sentences. By far, the majority of inmates were committed for non-aggressive offenses, chiefly forgery, burglary, and larceny. Nine out of ten are Caucasion, as compared to 9.9 out of 10 in the total Iowa population. The inmates are evenly divided into the following groups: married, single, or previously married. While seven of the metropolitan areas of Iowa (Des Moines, Davenport, Sioux City, Waterloo, Cedar Rapids, Dubuque, and Council Bluffs) comprise only 33.2 per cent of the total state population, nearly half of the commitments are from those areas.

A more detailed analysis was recently made of a random sample of 150 inmates of the Iowa State Reformatory. Almost half of this group were age 21 and under. The average age was 23. Four out of five had never been in a prison or reformatory before. However, many had previously been involved in police investigations, and well over half had been on probation at some time during their lives. Eighty-five per cent of the group had not completed high school. Only one out of ten had completed formal job training and six out of ten were not experienced enough to be considered qualified to work even as unskilled laborers. Eight out of ten were classified as having an unstable work history. Two of three came from parental homes in which the parents were incompatible, separated, divorced or deceased. From the point of view of economic status, 11 of the 150 came from homes which were above average in income, 66 average, and 73 were from homes which were rated below average.

As with the jail misdemeanants, alcohol was either a problem in itself or related to the specific offense of over half of these offenders. Only 19 of the 150 attended religious services other than occasionally and 60 per cent were rated as inactive in any religious practice. This profile of 150 inmates in Iowa is consistent with repeated observations of experienced correctional workers in other jurisdictions. With few exceptions, studies show that those offenders who arrive at correctional institutions are disadvantaged socio-economically, occupationally, educationally and by reason of family environment.

Alcoholism is frequently a problem, but there are many other clues to their social maladjustment prior to the moment they are sentenced to a correctional facility. These clues include breakdown in the parental family, school problems, patterns of work instability, problem drinking, and police records. While these clues are often evident early in life, the first opportunity given to corrections agencies is at the first time of confinement. That earlier correctional treatment is lacking is obvious in the fact that most convicted felons in Iowa have long histories of police referrals, jail terms, and probation sentences.

CORRECTIONS CONCEPTS

Corrections in Iowa presently evidence a variety of evolutions in thought and practice, each seeking to cope with the difficult problems of punishing, deterring, and rehabilitating offenders. Correctional philosophies have run the gamut from punishment and retribution to the explanation that all criminal

behavior is a symptom of mental illness. The Task Force on Corrections of the President's Crime Commission gives recognition to the following facts and principles which have application in Iowa:

1. The public is protected only temporarily by procedures which do no more than confine and punish offenders. Most people admitted to Iowa correctional institutions as felons are released in two to three years either by discharge or by parole. Thus, the public is only temporarily protected from the offender through confinement. Lasting protection must come about through correctional procedures which lead to the offender's successful integration into society as a law-abiding citizen.

2. While we have very little scientific data against which to measure the success or failure of correctional procedures, we do know that traditional procedures such as surveillance, jailing misdemeanants, and imprisoning felons have been more notable for their failures than for their successes. Almost all felony offenders in Iowa have long histories of exposure to police, courts, and probation. It is estimated that two-thirds of releasees from prisons and reformatories will again commit crimes during their lifetime. Approximately one-third of those released on parole are returned to institutions before their parole period is concluded.

3. Institutionalization in prisons is as costly as it is ineffective As of September, 1967, the cost of keeping a person in a correctional institution was as follows: Iowa State Reformatory, $3,036 per year; Iowa State Penitentiary, $2,680 per year; Iowa Reformatory for Women, $5,700 per year. These costs are somewhat inflated because of abnormally low institution populations, but are realistic reflections of the growing cost of institutionalization. The costs of a professional probation or parole program is approximately 1/10 the cost of institutional confinement. To the cost of confinement must be added the loss in tax dollars for those who would be working in the community and the cost to the public for support of the families of many inmates.

4. Programs intended to correct delinquent behavior must be based on the fact that, in a broad sense, behavior is the product of the impact of physical environment and interpersonal relationships on the biological individual. While there is much we do not know about personality growth, we do know that when a human being grows up in normal, healthy, family and community circumstances, that person will usually be a normal, happy, law-abiding citizen. Conversely, we know that when a human being is raised without love, in disruptive family circumstances, in a high delinquency social situation or is otherwise socio-economically deprived, chances are high that he will experience adjustment problems which may be expressed in law violation.

5. Those who must be removed from society as a matter of public protection should be confined in small, no larger than 300 capacity, institutions in which they are housed and otherwise treated in circumstances which discourage the formation of a convict society and maintain as many normal social ties with free society as possible. Mass treatment institutions, such as The Iowa State Penitentiary and Reformatory, constructed in the days when secure confinement was the primary objective, expose offenders of all types to a "convict" society and a physical environment of walls, guns, and barred cells, both of which create and reinforce the identification of self as criminal. This fosters abnormal interpersonal relationships and social patterns. Small specialized institutions make it

possible to separate aggressive anti-social offenders needing maximum security from the less delinquent, and facilitate the development of specialized programs to meet the unique rehabilitation needs of individual offenders. They help assure that individuals do not get lost in the routine and impersonalization typical of larger institutions.

6. Community-based programs, such as probation, parole, and half-way houses which work with the offender in circumstances as nearly normal as possible and avoid sinking offenders into a convict society, offer the best chances for prevention of recidivism. While research in corrections is limited, the President's Crime Commission tells us that our greatest hope for crime prevention through corrections lies in community-based programs. This comes as no surprise in the light of what we know goes into healthy personality growth. Further, this is consistent with the fact that a majority of offenders are the alcoholic, the inept and the inadequate. Supportive services in the community, in half-way houses or "half-way institutions," frequently can protect the public while offering the best chance for the offenders becoming responsible citizens. The serious offender, who some day will have served his sentence, must also be helped toward re-entry into the community through supportive community based corrections.

7. The goals of protecting society through progressive corrections and helping offenders and their families toward happy productive lives are inseparable. A healthy community is one made up of healthy individuals who relate to each other in mutually constructive ways.

THE NEED FOR A COORDINATED APPROACH

The Manual of Correctional Standards, published by the American Correctional Association, a national professional organization for corrections, states "there is a growing acceptance of the principle that the adult offender should be dealt with most effectively in a continuous, coordinated and integrated correctional process and that he should not be dealt with successively by independent and loosely coordinated services, each of which frequently pays little attention to what the others have done or may do later."

The President's Crime Commission report on corrections discusses at length the problems created by the segmentation of responsibility for planning, financing, and administering the multiplicity of agencies which deal with the offender from the time of arrest to final discharge. Iowa has shared these problems with the nation as a whole. In past decades, each state correctional institution, while reporting to a central agency, functioned relatively autonomously. Probation and parole were administered under separate state, county, and municipal agencies. Confusion was the net result. Even today, almost all of the 99 counties and many municipalities operate their own jail facilities. There has been little link between the public agencies of corrections and related public and private agencies.

The development of a strong central correctional administration under the Board of Control has led to increased coordination and long-range planning for state correctional institutions. This, together with reorganization of the Division of Corrections, the State Board of Parole and Probation Agency within the Department of Social Services, and the establishment of a state jail program, offers promise of greater integration of state resources for crime prevention

through corrections in the future. However, all of the systems continue to lack the range of resources necessary to accomplish truly effective crime prevention. The task of reorganizing state social service agencies and mobilizing community resources has just begun.

A most vital advance in personnel administration was accomplished when the last session of the legislature established a Merit System for state employees. The Merit System staff is now in the process of setting up a classification and compensation plan. The lack of highly qualified personnel can doom the effectiveness of corrections activities and hence this law is a giant step forward. It also succeeds in substantially reducing potential political pressure, which if present, might dissuade administrations from pursuing and implementing needed programs. The President's Crime Commission suggests the following guidelines for the proper reorganization of corrections institutions:

1. Though parts of the correctional system may be operated by local jurisdictions, the state government should be responsible for the quality of all correctional systems and programs within the state.

2. If local jurisdictions operate parts of the correctional program, the state should clearly designate a parent agency responsible for consultation, standard setting, research, training and financing of or subsidy of local programs. With the state parole staff being used as the probation resource and the introduction of the state jail program, Iowa is moving toward this objective.

3. All correctional systems should have a statement of objectives, policies and general plans governing their organization and function.

4. Specific rules and regulations setting forth the delegation of authority to subordinate executives as well as the limitation of that authority should be compiled on all systems.

5. Every correctional system requires a staff of administrative and supervisory personnel commensurate with the size and extent of the system. The staff should be so organized that all important functions of the total administrative process are represented and an adequate span of control is maintained.

6. A structured program of on-the-job training is essential for every correctional agency. Its elements are (a) an orientation period for new workers, geared especially to acquaint them with the agency and its rules, procedures and policies; (b) a continual in-service training program designed to meet the needs of all personnel, including administrators and supervisors, through the agency directly and by participation in seminars, workshops, institutes; (c) educational leave programs with provision for part-time and full-time salaried leave, with financial assistance for educational costs to achieve preferred qualifications and to improve professional competence.

7. Besides the appropriate educational qualifications, each correctional employee should have good health, maturity, integrity, interest in the welfare of human beings, ability to establish interpersonal relationship, and to work with aggressive persons, belief in the capacity of people to change, recognition of the dignity and value of the individual, resourcefulness, patience, ability to use authority responsibly, and continuing interest in professional development.

8. Personnel should be covered by a Merit or Civil Service System. They should serve a probationary period of at least six months before attaining permanent status. When permanent status has been achieved, dismissal should be for cause only, and the discharged employee should have the right to a hearing before an appropriate body.

9. Appointment should be based on the educational and personal qualifications set forth in the job description of each class or position.

10. Salaries should be adequate and commensurate with the qualifications, high trust, and responsibility involved. Salaries should have a minimum and maximum level with provision for regular increments based on merit, performance, and evaluations.

11. There should be provision for sick leave, annual leave, hospital and medical care insurance, disability, retirement benefits, and other accepted employee benefits compatible with the best practices of public and private agencies.

12. An adequate research evaluation and statistics reporting program should be maintained. All correctional data should be uniformly and routinely reported to a central state agency. Statistical reporting systems should provide for the storage and analysis of information and its dissemination to local jurisdictions within the state, to other states, and to national agencies.

13. A citizens committee should be developed to serve state correctional agencies and institutions in an advisory capacity. Similar advisory committees should serve local agencies operating parts of the correctional system.

THE CORRECTIONAL PROCESS IN IOWA

INTAKE

Intake to a correctional system occurs when a citizen upon arrest is first delivered to the jail. How the citizen whose guilt at that point is factually, morally, and legally undetermined, is treated as a human being, the impact of the arrest and jail experience upon him as a human personality and its resulting influence on his attitude toward law enforcement, corrections personnel and society in general, will begin to determine whether the first arrest will be the prelude to a life of crime or the beginning of a truly "correcting" process.

The jail inspection program, provided for by the last session of the legislature and now being implemented, was sponsored by the Sheriffs' Association of Iowa in recognition that jails in general in Iowa are in deplorable condition from the point of view of their physical structure, inadequate staffing and absence of any meaningful programs beyond mere detention.

With the segmentation of Iowa into 99 counties and each county trying to operate its own jail, with very few exceptions, and many municipalities operating their own detention facilities, there are few jurisdictions populated to the extent necessary to support an adequate physical plant or staff. The average daily jail population was less than one person in 13 counties; it was two to three in 40 counties; four to five in 21 counties; and six to ten in nine counties.

The average daily population was more than ten in only 13 counties, including eight which averaged 11 to 20 and three which averaged 21 to 40. There were only two counties which had an average daily population of more than 40 inmates. It is obvious that it would be impractical, and perhaps impossible for most counties to develop adequate jails and jail resources on their own. It would appear the only practical course of action is to study the feasibility of the development of regional detention centers. These can probably be combined with regional correctional centers as part of the corrections system.

A great variety of other problems in the Iowa county jail system are reflected in statistical information gathered by the Legislative Research Bureau Survey. Of the 84 counties responding to the question of whether or not jail employees were present and awake at all times when prisoners were confined, 65 answered no. Many of these jails would not pass the most imperfect fire safety standards, and in many situations weaker, less sophisticated adults and delinquents are left at the mercy of other jail inmates.

While the Iowa Legislature enacted a jail work release law several years ago, only a few counties have implemented this program. Responding to the questions as to why not, 34 counties responded that present jail facilities do not permit separation of work release prisoners from others, 39 responded that they had an inadequate number of personnel to supervise work release, while others felt there were not adequate employment opportunities or that they did not have prisoners qualified for the work release, which strongly suggests that, if they had good facilities and personnel, the work release program would have been better established at this time.

Three-fourths of the jails in Iowa are more than 25 years old and almost half are more than 50 years old. Thirty-four, more than one-third of the jails in Iowa, were constructed in the 19th century. Not only are Iowa's jails old, but in many instances little has been done to maintain them. The deplorable condition of the jails is made even more meaningful when one realizes they are used to detain women, children, and mentally ill persons. In the survey for the legislature, it was determined that over one-third of the counties do not even have facilities for the individual confinement of prisoners.

The jail problem in Iowa is further complicated by the fact that in addition to almost 100 county jails, 133 communities operate municipal lockups. Due to general lack of available resources, most communities are unable to provide any more than mere physical detention. A few do provide religious services and participate in work release programs. Beyond that, however, there is nothing in the way of constructive programming.

In the light of what we know about the early indicators of social maladjustment and future law violation, the arrest of a citizen should trigger the concern of the correctional system. The well-being of the community and the well-being of the offender and his family are inseparable and may dictate intervention beyond mere arrest, jail, fine, or imprisonment. This may be necessary to prevent development of behavioral characteristics which will lead to a career of crime.

Pre-trial release, which permits the bailable offender to be released from custody on personal recognizance or unsecured bond, is part of the intake process and already operates informally in many cities. This program could be organized formally on a state-wide basis at relatively low cost since it could be operated by reasonably intelligent non-professionals, generally on a part-time basis. Pre-trial release not only avoids the injustice of jailing the poor while releasing on bond those who can afford it, but in addition, it has been found that good behavior while out on pre-trial release encourages the use of suspended sentences and other alternatives to institutionalization.

Evidence is that a high percentage of all arrests are for liquor violations. Almost one-fourth of Iowa's county jail population is made up of persons confined for simple intoxication, and many of these are jailed for bad checks and other offenses which are associated with drinking. We know that chronic alcoholism is a disease and must be treated as such in alternative establishments such as detoxification centers.

Other offenders should also be diverted to more appropriate services in the intake process, since the traditional correctional services in the community many times do not fulfill rehabilitative needs of these people. Referral should be made to the Division of Vocational Rehabilitation, a family service, a mental health center, religious consultation, or other public or private agencies in many instances.

DISPOSITION

The second phase in the correctional process occurs after an alleged offender's guilt has been judicially determined. For the guilty and for society, the dispositional decision, be it jail sentence, probation or imprisonment, is equally as important as the determination of guilt or innocence.

Our main concern, therefore, is what correctional procedures are likely to be most constructive in the life of the offender and his family and, therefore, least likely to subject the community to further harm. In order for the judge to make an intelligent disposition he must have available the results of a comprehensive pre-sentence investigation which will help him understand the individual needs of the offender, the kinds of problems which have led to the offense, the probability that the offender could safely be worked back into the community, his willingness to cooperate with the probation officer and his desires to make restitution. This requires that the court have available the resources for a comprehensive pre-sentence investigation and have available the correctional facilities and services it recommends. It is, of course, illogical to make a decision to place a man on probation under an intensive counseling program with possible psychiatric referral, if the resources for such a program are not available in the community.

For felony cases, in Iowa, most pre-sentence investigations and probation services are provided by the staff of the State Parole Board. However, in the jail survey done by the Iowa Legislative Research Bureau, it was found that the majority of counties continued to use non-professionals as probation officers in misdemeanor cases. Those experienced in administration of probation programs have found that informal probation, utilizing non-professional workers can work under favorable circumstances. However, most frequently, if there is a need for probation supervision, there is also a need for professional case

work services which cannot be provided by volunteers without specialized training and professional supervision.

A survey of the entire Iowa State Parole Staff reveals that there are a number of districts in which judges asked for no pre-sentence investigations, while in other districts, judges requested pre-sentence investigations in all felony cases. Overall, it was estimated that pre-sentence investigations are requested in 50 per cent of the adult cases. While the issue of manpower for probation and parole programs will be discussed in later chapters, several factors brought out in the survey were particularly relevant to the issue of the availability of manpower to carry out the pre-sentence diagnostic process. Parole agents reported that they were working an average of 59 hours per week. Their hours ranged from 40 to 80 hours per week. In addition to doing pre-sentence investigations, the workers are carrying caseloads which average well in excess of recommended standards of The National Council on Crime and Delinquency. One agent reported that he must cover 20 counties serving 126 active cases, 91 more cases than the recommended standard.

The U.S. Children's Bureau, The National Council on Crime and Delinquency, and the American Correctional Association recommend that fully-trained probation and parole officers be required to have graduate training. In Iowa, of 35 parole agents surveyed, 16 were high school graduates, nine were high school graduates with some college training, nine had undergraduate degrees, and one was a graduate social worker. Twenty-three of the 35 parole agents had police work as all or part of their experience prior to joining the parole staff. Four had been in some area of teaching and seven had been in sales work. Half of the staff had been on the job two years or less. As expected, the survey revealed that a greater range of facilities and services must be developed and placed at the disposal of the probation officer in order to meet the individual needs of each referral. The range of this need includes mental health services, half-way houses, and vocational training programs.

INSTITUTION PROGRAMS

The Division of Corrections, which has been responsible for administration of correctional institutions in Iowa is presently being integrated within the Department of Social Services so that the new Division of Corrections will include probation and parole services as well as institutions. The institution system, too, is in a state of transition. In past years, almost all of its resources were tied up in two mass-treatment security prisons: The Men's Reformatory at Anamosa and the Iowa State Penitentiary at Fort Madison. The disproportionate investment made in institution-based corrections as compared to community-based corrections systems is reflected in the most recent Departmental budget in which $10.00 is being invested in personnel and support for institution programs for every $1.00 being invested in probation and parole programs.

A program has been initiated which begins to replace the prison-oriented system with one which will provide the necessary range of resources for security and constructive rehabilitation programs. The new system is designed to provide a continuum from a close security institution for housing and treating those who need close security, to medium and minimum security rehabilitation centers tied as closely as possible to communities with the maximum exposure of offenders to the outside community. This move toward diversification has just begun. The Legislature appropriated $3.5 million to begin replacing the Iowa Men's Reformatory with smaller rehabilitation oriented facilities.

The Work Release Law was enacted permitting the Division of Corrections to establish segments of its program in the communities. Under this program, inmates may be employed or go to school in the community while serving their terms. However, much of the state's correctional institution system remains centered within the massive walls of the Iowa State Reformatory and Iowa State Penitentiary.

Each person in need of rehabilitation is in need because of a unique set of factors--hereditary, social, economic, and psychological. These factors must be studied, needs determined and remedial resources provided on an individual basis if we are to carry on a meaningful program in corrections. This requires a maximum of flexibility in the use of a broad range of resources. Among these resources available to the state correctional system in Iowa are the following:

For the Mentally Ill Offender

Authorities do not agree as to the number of inmates in correctional institutions who are either mentally ill or in need of some mental health treatment. Presently, Iowa operates a small security hospital with a capacity of only 80 patients at the state reformatory. It operates as a place of referral from courts for diagnostic purposes and as a place of treatment for persons committed by the courts as mentally ill, and those transferred from correctional institutions because of mental illness. The Iowa Legislature has appropriated money for the building of a modern security medical facility at Oakdale to replace the institution within the reformatory. The new Iowa Security Medical Facility will be located adjacent to the University of Iowa so that it may share the resources of the University departments of Medicine, Psychology, and Sociology. Thus, it has potential to develop not only as a place of treatment, but also as a correctional research center and place of training for correctional personnel from throughout the institutions and field services of the Division of Corrections. The institution is scheduled to open in the Spring of 1969. It was originally designed to handle 250 patients with the intention that it would eventually function as a reception and diagnostic center for the Division of Corrections. However, budgetary limitations have required that its opening capacity be reduced to 94 beds. This will severely limit the number of referrals that can be accepted from the courts and from other correctional institutions. Whether or not the new Iowa Security Medical Facility is able to fulfill the functions for which it was originally designed will depend upon its being adequately staffed and expanded to full capacity of 250 beds.

Many mentally ill offenders do not require the close security which the Iowa Security Medical Facility offers. Correctional administrators contend that other mental health institutions of the state should assume responsibility for treatment of mentally ill offenders who do not require tight security. They contend further that many of the persons in prison who are in need of mental health care are not significantly different from many persons presently in mental hospitals. Commitment to a correctional institution rather than a hospital was hardly a matter of the socio-economic status of the family and a lack of resources or resourcefulness on the part of the court and other public officials.

For the Offender Requiring Close Security

The Iowa State Penitentiary, founded in 1839, is the oldest prison west

314-086 O - 68 - 9

of the Mississippi River. Its ancient cell halls with a capacity of 1,070 single cells are adequate to house more than twice as many offenders requiring close security as there are in the entire correctional system. Some of the original structure has been replaced with modern buildings, including the administration building, the offices of the security staff, counseling staff, and part of the school. Funds are available and the contract has been let to begin building a new vocational training area and gymnasium.

Generally speaking, the penitentiary's institutional counseling, vocational training, education, and industries programs approximate standards of the American Correctional Association. However, there is a serious question as to whether the positive influence of these programs prevail, or whether the convict sub-culture and other negatives associated with this traditional mass treatment process prevail. Human beings tend to respond on the basis of expectation. When inmates who do not require such security and regimentation are subjected to the system along with the most hardened criminals, there is the ever-present danger that they will conform to the expectations that this treatment implies.

Included in the Iowa State Penitentiary complex is a medium security dormitory area constructed outside of the walls of the institution, and a minimum security bunkhouse which houses farm and conservation workers. A variety of programs have been made available to the residents of these facilities outside of the walls including Gavel Club, Alcoholics Anonymous, and the Junior Chamber of Commerce in which persons from the community actively participate. However, contact between inmates and the outside community is very limited and there is need for development in this area. While Work Release was made available as one means for bridging the gap between the institution and the community, its implementation has just begun and there is need for continued consideration of Work Release in a variety of forms as a means of providing correctional programs to the prison population to minimize the isolation of the offender from law abiding society.

For the Offender Needing Medium Security

Iowa has no medium security institution as such. However, the Division of Corrections is working toward the development of the Iowa State Men's Reformatory at Anamosa as a medium security correctional institution. The Reformatory was originally built as a close security institution for first offenders, 30 years of age and under. Its most obvious features are its bastile-like profile and massive gray granite walls and cell halls. However, several areas of the institution have been refurbished on the inside including the administrative offices, the visiting room, and dining room. Nonetheless, the overall physical structure clearly reflects the purposes for which this type of institution was originally designed--secure confinement of dangerous criminals. The problems of operating this physical plant as a modern medium security rehabilitation unit are well stated in the report by the team of consultants of the Department of Public Instruction which evaluated the institution and its programs on request of the Division of Corrections:

"The written philosophy as expressed by officials of the reformatory indicates that the major goal of the institution is one of education and rehabilitation. Achieving this goal will enable the inmates to resume their proper place in society.

"The existing physical facilities are not conducive to implementing the established goals of the institution. Most of the buildings now in use were constructed at the turn of the century and the high walls reflect the custodial philosophy held by the officials of that era.

"Several of these old buildings have been remodeled in an attempt to adjust to the new philosophy of education and rehabilitation. At best, these facilities only partially fulfill the needs of the institution. Vocational education programs are restricted in their enrollments and space for equipment and training stations are at a premium. In order to broaden the educational program and expand the vocational offerings additional educational facilities will be required.

"The limited amount of space available within the walls of the reformatory restricts the construction that can take place. The restraining walls and the custodial nature of the reformatory are in conflict with the philosophy held by the officials of the institution and those in charge of penal institutions throughout the country.

"The only plausible solution to the problem appears to be a complete abandonment of the present facility. Building an entirely new facility at a new location would provide the environment essential for implementation of a modern philosophy of treatment. A new facility would provide for custodial care and more importantly facilitate an excellent program of education and rehabilitation."

However, with limitations imposed by the atmosphere and the basic structure of the place, a variety of programs are offered. Treatment services presently include social, psychological, religious, vocational, and educational guidance.

For the rehabilitation of some offenders, availability of a modern vocational training program is imperative. Such a program should:

1. Teach a job skill which is saleable in the labor market.
2. Promote personality growth which will assure use of the job skill.

Vocational training is presently offered in automotive repair, body and fender repair, heavy equipment operations, welding, meat cutting, machine shop operation and construction. Training in additional vocational areas is offered in correctional industries and maintenance shops.

Emphasis is placed on contacts with the community in a number of ways. Through the new Work Release Law, inmates work locally and attend vocational and academic schools. A release center was established in 1967. Its operation draws heavily on community volunteers who help staff the center. Its program includes interviews with parole officers who will supervise the releasees, counseling in finances, employment, marriage, legal proglems, and social conduct. Furthermore, contacts with future employers and families are maintained, as well as general supervision over community based programs in surrounding areas. Further development of this program is dependent upon the addition of more trained staff members.

Various other programs are used to increase interaction between the inmates of the institutions and the prison administration and the outside community.

These include panel discussions by inmates, art shows, talent shows, and the inmate branch of the Junior Chamber of Commerce. Inmates participate in these programs in the community as well as within the institution. In addition, local teachers, college personnel, and businessmen participate in various education and counseling programs within the institution.

Program for Female Offenders

The Iowa State Women's Reformatory at Rockwell City, founded in 1918, is an open institution which receives offenders sentenced to jail terms exceeding 30 days, felons and youthful offenders transferred from the Iowa Training School for Girls. It has a capacity of 80. While the average population was 72 for 1967, it has declined during recent months and at times has been in the low 40's. It is staffed with 48 full time and eight part time positions.

Consultation is provided by psychiatrists, psychologists, ministers, and medical personnel from nearby communities. The treatment program is based on a cottage system. Its internal resources include a limited academic and vocational training program, recreation, and individual and group counseling.

With the passage of the Work Release Law in 1967, this program has expanded to include participation in vocational training, community college, and work programs in nearby communities.

Presently operating at approximately half capacity, the per capita costs of Rockwell City have increased to approximately $6,000 per year per bed. The basic institution, now approximately 50 years old, was originally designed with the intention of substantial expansion to a much larger capacity. Its buildings are of a construction which require constant maintenance and presently they are in need of expensive renovation. Its space is inappropriately planned to function with its small capacity. Its location in the state is such that there are limited community resources to draw on in moving from an institution oriented to a community based program.

During 1967, a Citizens Advisory Committee was asked to help evaluate institution population as to program needs on an individual case basis and to project this in terms of a full program for female offenders. The committee concluded that almost the total population could be as appropriately, and perhaps more adequately served through an alternative program. The alternative program would include:

1. A small reception diagnostic and intensive treatment unit at a mental health hospital. The Iowa Security Medical Facility under construction at Iowa City with the addition of a residence unit for female offenders or the partially vacated residence building at the Mount Pleasant Mental Health Institute could possibly be utilized for this purpose.

2. Regional correctional units for female offenders at other state institutions.

3. Work Release centers close to the localities to be served.

If it is finally concluded that the alternative program for female offenders should be adopted in Iowa, the present institution facility might be suitable for other uses such as the establishment of facilities for youthful offenders, or as a center for specialized programs such as treating the mentally retarded offender.

CORRECTIONAL MANPOWER REQUIREMENTS

For the purpose of identifying manpower requirements, four major correctional functions can be identified, each containing a number of different occupations, but generally homogeneous from the standpoint of manpower development needs. The first category consists of group supervisors, correctional officers, and other institutional personnel concerned generally with the custody and care of offenders in group settings. The second group comprises case managers who are responsible for assembling information about individual offenders, developing specific treatment programs, and supervising probationers and parolees in the community. The third category consists of specialists, academic and vocational teachers, and therapists who work in correctional programs. The last category includes the diverse group of technical and service personnel.

Custodial Personnel and Group Supervisors

In Iowa, as in other states, this category of employees comprises better than half of the total correctional manpower in adult corrections. The largest sub-category in this group is the corrections officer. The corrections officer is a key person in the correctional process. He is not only responsible for the security and control of the institution, but because of his constant contact with the inmate, plays a vital role in the rehabilitation process. Such persons must be educated and trained in the fields of security, behavioral sciences and supervision. Shortages and lack of these types of trained people mean curtailment of necessary programs.

Unless the system can offer competitive salaries to its employees, it will increasingly operate short-handed and continue to compromise standards and employ persons who are in some manner lacking either because of age, level of performance, or education. Furthermore, it will have no resource pool of young officers from which to draw supervisory correctional personnel. In the long run this will cost the State more money and certainly will restrict the implementation of Iowa's rehabilitation program.

Case Managers-Institutions

The Case Manager is another important member of the treatment team and has a vital role to play in any institutional rehabilitation program.

Upon commitment, inmates are assigned to a case worker. This person is charged with the responsibility of working directly with the inmate during this period of confinement. He must be thoroughly educated and trained in the behavioral sciences with a solid depth of understanding people and their problems. The caseworker, beyond his diagnostic and investigative capacity, must be able to give effective counseling and guidance, and have the ability to work with the community in the best interests of his charge.

Because of the shortage of fully qualified applicants and salary limitations, correctional institutions have had no previous correctional experience. However, all meet the minimal qualifications of a Bachelors Degree with an increasing number holding a Masters Degree. Consequently, we are faced with a two-fold challenge: to provide adequate case work services for inmates, and secondly,

to provide an adequate on-the-job training program for the caseworker. To accomplish this objective, more resources must be developed at the University level in the education and training of practitioners for corrections work.

Institution	Case Managers or counselors employed who carry caseloads	Ratio of Case Manager to Inmates	Counselor time per month available for each inmate
Penitentiary	8	1 to 124	56 minutes
Men's Reformatory	6	1 to 80	1 hr. 25 min.
Women's Reformatory	3	1 to 17	3 hrs. 52 min.
Release Center	1	1 to 107	1 hr. 12 min.
Security Hospital	3	1 to 27	3 hrs.

Iowa has experienced a reasonable degree of success in recruiting and keeping this category of employees. However, the state must strive to increase the ratio of professional staff to inmates. This means that more resources should be developed at the university level in education and training of practitioners for corrections.

Case Manager-Probation and Parole Agents

Until March, 1968, probation and parole agents reported to the Iowa Board of Parole. However, with the implementation of the Governmental Re-Organizational Bill, probation and parole supervision now comes under the supervision of the Division of Corrections within the Department of Social Services.

The staff presently includes 35 agents, one institutional agent, and three supervisors.* The parole agent deals with his parolees largely on an individual basis. However, the Parole Agent frequently works with families, employers, and other members of the community who have an important relationship with and a degree of responsibility for the parolee. To do an adequate job, the parole agent needs a broad range of education and training in case work methods, social counseling, occupational counseling and psychology. While a college education does not alone prepare a parole agent for his work, the better educated agent can draw upon his wider range of experiences and understanding in dealing with difficult problems. The National Council on Crime and Delinquency and the American Correctional Association recommend that probation and parole agents hold masters degrees in fields closely related to their work.

*Field staff are presently underpaid in contrast to their great responsibility and necessary job skills, thus making it most difficult to recruit qualified persons needed to fill these positions.

Present salaries for parole agents range from a minimum of $480 per month to a maximum of $600 per month. A case manager possessing a bachelors degree, with no experience, starts working in a correctional institution at a salary of $600 per month.

Of the present parole staff, one has a masters degree in social work, nine have undergraduate degrees, nine have completed one to three years of college, and 16 have high school educations. To further complicate the problem, state parole agents carry workloads averaging over 45 cases in addition to pre-sentence and other investigative work. The President's Commission recommends a workload of 35 cases without pre-sentence responsibilities.

At the present time there is no formal training program for parole agents. Training consists primarily of assignment to a supervisor for general on-the-job training. In order to work effectively with these problems, we recommend:

1. Gradual increasing of entry educational requirements for adult parole agents.

2. Immediate steps to increase the salary to a minimum of $7,200 per year in order to attract and hold well-qualified agents.

3. Increasing the number of agents to reduce the present work load.

4. Establishment of a concentrated on-going in-service training program.

An exchange program should be developed between parole staff and the institutional personnel. This would provide both agencies with valuable insights into the problems faced by offenders.

In summary, we see one of the greatest needs of manpower in the area of probation and parole. More agents, higher salaries, better qualified personnel, and formalized training all need to be implemented as soon as possible if we are to meet this critical manpower problem.

Specialists

Included in this category are vocational and academic teachers, psychologists, and psychiatrists. There is a high correlation between a person's lack of education and saleable skills and his subsequent commitment to a correctional institution. In Iowa, over one-half of the inmates in the State Penitentiary entered with less than a ninth grade education. At the reformatory over one-third entered with less than a ninth grade education. The majority of inmates in both institutions lack positive saleable skills. For this reason, considerable emphasis must be given to academic schooling and vocational training. A competent, well qualified staff is necessary to provide the needed services. All teachers presently employed in adult institutions are certified by the Department of Public Instruction. Institutions have been able to recruit competent academic teachers with a reasonable degree of success. However, the recruitment of vocational teachers presents a more serious problem. Wages offered in area schools and private industry are considerably higher than present salaries for vocational teachers in the State institutions.

On the other hand, the area schools have helped to meet the institutional academic needs by supplying teachers on a part-time basis at no expense to the institution. We recommend the utilization of this method in the vocational area. With teachers continually receiving higher pay and fringe benefits, salaries must be continually reviewed to put corrections in a favorable competitive position with other potential employers.

The clinical specialists represent somewhat of the same problem that confronts us with the vocational teachers. It has become increasingly difficult to attract and keep competent psychologists and psychiatrists in Corrections. A prison or reformatory setting is not the most glamorous or attractive situation within which to work.

Correctional institutions in Iowa have been able to hire Ph.D. psychologists and psychiatrists on a part-time consultant basis, but have not been successful in obtaining them on a full-time basis except at the Iowa Security Medical Facility which has two full-time psychiatrists. With the national shortage in both areas, it appears Corrections will continue to experience a difficulty in recruiting and retaining these types of personnel.

One solution to this problem is to provide additional stipends and fellowships similar to those used in the mental health field. This will provide an opportunity for M.A. level psychologists to return to school and work on their Ph.D's. Additional upgrading of fringe benefits would also offer an additional incentive for corrections.

Other correctional specialists who work in the religious, recreational and medical area, have made important contributions to the total rehabilitation program.

Technician and Service Personnel

This group represents the second largest category of personnel who are presently employed in our correctional system. This diversified group includes maintenance people, farm managers, foremen of industrial shops, dietary personnel, and secretaries. While most have had no special preparation for working with offenders other than on-the-job training, many have the potential for participating in the treatment of the offender. Manpower and training needs for these groups are very similar to those in the custodial and supervisory category.

The wage scale for technicians and service personnel in Iowa correctional institutions is low when compared to wages paid to similar personnel by private enterprise. Consequently, the state institutions must often hire less qualified employees with little or no experience and then train them. This training makes the worker more attractive to private industry and frequently he moves on to a better salary opportunity in an environment where he does not have the added responsibility of supervisory and counseling inmates.

Corrections Managers

Iowa has recruited some capable correctional institution managers. However, there are not adequate numbers of these people at the Central Division and institution level to supervise current operations and to develop long-range plans implementing the needed changes. Construction of a new institution has been delayed many months because of the shortage of staff time necessary for the many hours of detailed planning.

The corrections manager needs opportunities for professional development through extension courses, institutes, and workshops. It is imperative that the universities look seriously toward the development of a curriculum which prepares practitioners in corrections. At the present time the University of Iowa and Iowa State offer degrees in sociology with a general background in corrections. Correctional institutions provide opportunities for many internships and practice situations for these students. If the Iowa correctional system is to accomplish its objectives, it must continue to develop more effective methods of training personnel to work effectively and constructively with offenders.

Staff Training

Iowa correctional institutions presently conduct a two week orientation program for all new employees. A variety of training methods are used, such as lectures, films, demonstrations, self study and rotational assignment to the various jobs in the company of an experienced employee.

In addition, a continuous in-service training program is conducted for all employees to advise them of current trends in the field of corrections. For nine months of the year, an hour per month is spent in a formal training session. In addition, continuous training is carried on at the departmental level.

Iowa has recently received a training grant funded under the U.S. Department of Justice, Office of Law Enforcement Assistance, in cooperation with the Institute of Public Affairs at the University of Iowa. This is a $14,783 planning grant to develop a program combining the facilities of the University of Iowa with those of the Division of Corrections and Juvenile Court Probation Staff in order to develop a cooperative certificate in corrections for all correctional personnel. On successful completion of a prescribed curriculum, correctional officers and probation-parole officials will be certified by the University of Iowa and the appropriate correctional agency of the State.

NEW SOURCES OF MANPOWER FOR CORRECTIONS

Sub-professionals and Ex-offenders

For some time Iowa has recognized the potential for working with the offender through use of sub-professionals. In connection with various training programs, the sub-professional staff has been encouraged to improve themselves academically with the later possibility of becoming professionals. In many institutions, people falling in these categories regularly conduct courses in group counseling and thus play an integral part in working with the offender. Furthermore, it is recognized that, if other employers are to be expected to hire ex-offenders, the Division of Corrections must set an example. For example, at the Security Hospital an extensive training program is carried on for the training of hospital aides. The bulk of this work is carried out by inmates assigned to the hospital. After release they are eligible to be considered for positions at the hospital. Ex-offenders contribute through various groups such as Alcoholics Anonymous, as well as in training sessions with the administrative staff. The ex-offender offers a promising source of manpower and valuable service to present offenders in many areas of corrections in Iowa.

Volunteers

Another manpower source with vast potential for aiding corrections is the volunteer. Iowa makes considerable use of volunteers within its correctional institutions. They participate through Alcoholics Anonymous, the Junior Chamber of Commerce, and Toastmasters International. Volunteers have also been used on the numerous advisory committees to the Division of Correctional industries. The most important elements in a successful volunteer program is the serious commitment on the part of the agency to the use of volunteers and the use of adequate full-time staff to train and supervise these volunteers. Volunteers offer an excellent potential for effectively and constructively dealing with offenders. The volunteer is an important outside link between the inmate and free community.

PAROLE

Parole Board

In Iowa, with the exception of those serving life terms, persons at the penitentiary or the reformatories may be released under the supervision of a state parole agent at any time during their sentence. The authority to release offenders on parole is vested with the State Board of Parole. Iowa has a three member Parole Board, appointed by the Governor for six-year terms, whose members serve on a part-time basis. The only requirement is that one of them must be a practicing attorney. In this connection, the President's Crime Commission recommends that each state should "appoint Parole Boards solely on the basis pf merit, providing training and requiring full-time service." The President's Crime Commission further reported that "even a relatively small correctional system requires a considerable investment of time and energy if careful study and frequent review are to be given to all parole cases, and if prompt and considerate action is to be taken in parole revocation. It would appear that a full-time releasing authority should be the objective of every jurisdiction. Even in smaller corrections systems there is enough work generally to occupy the full time attention of Board members." It is further recommended that "the nature of the decisions to be made in parole requires persons who have broad academic backgrounds, especially in the behavioral sciences and who are aware of how parole operates within the context of a total corrections process."

The parole law in Iowa allows for a great deal of flexibility in that it permits parole release of most offenders at any time during the period of the sentence at the discretion of the Parole Board. However, because of the part-time nature of the Board, while all inmates have the opportunity for a personal interview with the Parole Board three months after commitment, not all inmates can be seen personally by the Board on a regular basis thereafter. Instead, the list of eligibles is screened by the Board in their home office in Des Moines. Generally, only those parole applicants on which a preliminary decision to parole has been made are personally interviewed by the Board at the institution. While some paroling authorities disagree, institution correctional administrators agree that it would be an important addition to the treatment process if every inmate could be assured of an interview with the Parole Board at regular intervals with adequate time to discuss progress in the program, pre-requisites to release, and planning for the future.

Parole Supervision

Much has been written about the crucial period immediately following release when the releasee is faced with the difficult task of finding a place in society. The immediate adjustment problem is exemplified by the fact that 50 per cent of the parolees who violate their parole do so during the first six months after release and that 60 per cent violate their parole within the first year after release. Unfortunately, the parole agent in Iowa has little opportunity to work intensively with individual parolees. On the survey completed by the parole agents, their frank answers to questions as to how often they are able to see their probationers and parolees indicate that only four of 34 agents are able to see all of their releasees twice a month or more. The great majority indicated that in only one case out of four were their contacts with their releasees as frequent as twice a month. Experienced parole agents report that there is often a need for daily contacts with parolees immediately after release or during crisis situations and that it is not uncommon to spend a full day or several days on a single case in a crisis situation. It is obvious that at these times other cases must go completely without attention. Except for the fact that parole occurs after a period of incarceration, resource needs for an effective parole system are identical to those for probation.

PROGRAM FOR REPLACEMENT OF THE IOWA STATE REFORMATORY

A substantial percentage of the persons received at the Iowa State Reformatory are adolescents and young adults. Most are in a correctional institution for the first time. While they have been problem youths in the community, many are not hard, sophisticated criminals. Nevertheless, some adopt a thoroughly anti-social orientation after being confined for only a year in the reformatory. This is partly explained by the fact that youthful offenders are in daily contact and become associated with many offenders much more aggressively delinquent than themselves. With the completion of the new rehabilitation center now funded, it will be possible to remove as many as 300 of these less confirmed delinquents from the present prisons.

The Iowa Board of Control of State Institutions included in its last biennial budget a request for capital funds to replace the Iowa State Reformatory with smaller rehabilitation oriented institutions. The Governor and the Legislature accepted this plan and provided $3,531,250 for the construction of a 300 bed medium security rehabilitation center. The new "Iowa Rehabilitation Center" will, by legislative direction, be built in the Anamosa vicinity. The program emphasis for the center will be directed toward the personal-social growth of each inmate. This new program differs markedly from existing prison programs in that living conditions will approximate those of the free society as closely as possible so that inmates can be treated as individuals and thereby retain the individual identity necessary to enable them to more readily adjust to the outside community upon their release. Management in small groups will supplant the mass treatment and mass living arrangements typical of traditional prisons. Inmates will be housed in units of 20. Each unit will be provided with a unit director, a social worker or similarly trained counselor, who will have responsibility for developing the total program of each inmate in the unit.

The institution will be managed in such a way that its members relate to each other, segments of their program such as school work or vocational training in much the same manner as people in free society relate to these areas.

Dining, recreation, visiting, and general social activities will be oriented around the residence units except that a central building for gymnasium, chapel, and canteen facilities will provide recreational outlets outside of the residence units as a means of providing opportunities for social experience beyond the residence unit.

The State of Iowa, through its Department of Social Services, Division of Corrections, has developed a long range plan for corrections in Iowa which conforms to the recommendations of the President's Crime Commission. It is charted on the following page.

Under this plan, the corrections process would begin at the community level upon reception of an offender or suspected offender at a Regional Correctional Unit. These units would operate as a segment of the Department of Social Services' regional facilities. Insofar as practicable, the regional correctional units would serve as regional jails for the surrounding counties and regional headquarters for probation, parole, and consulting services. They would also function as regional corrections facilities receiving persons convicted as felons directly from the courts or on transfer from state institutions when local detention, combined with work or educational release, is the appropriate program for the individual offender.

With the help of social background information and professional consultation provided by the probation and consulting staff, the courts would channel some offenders into non-corrections programs before trial. In instances where the offender was tried and found guilty, a probation officer would be assigned to do a pre-sentence investigation and recommend appropriate disposition to the court. The recommendations to the court might be one of the following:

1. Place the offender on probation in one of the community-based program areas indicated on the chart.

2. Place the offender on probation with referral to a non-corrections program.

3. Commit the offender to the Department of Social Services and deliver him to the Iowa Security Medical Facility for further study and further disposition.

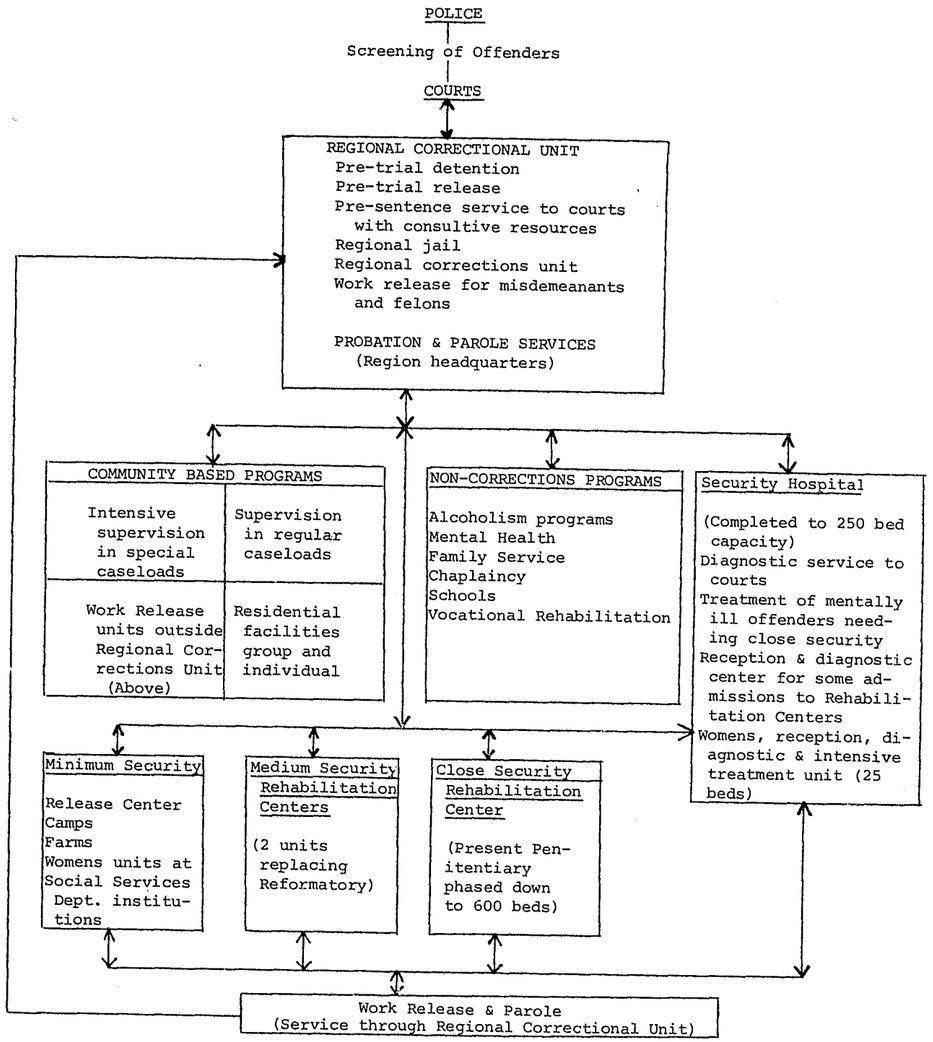
4. Commit the offender to the Department of Social Services and deliver him to one of the security rehabilitation centers.

5. Commit the offender to the Department of Social Services and deliver him to a work release unit.

The projected program provides for a continuum of treatment situations without sacrificing security and program content. It allows freedom of movement between programs so that an offender who, as a matter of public protection, must initially be placed in a close security rehabilitation center, can eventually work down through the continuum of medium and minimum security to a work release program and eventually a parole situation, under the close observation and supervision of trained personnel in each of these programs.

The plan is flexible with opportunity to adjust for population changes and changes in program emphasis on an as-need basis.

ELEMENTS OF A MODERN CORRECTIONAL SYSTEM IN IOWA AS RECOMMENDED BY THE IOWA CRIME COMMISSION



PROGRAM EVALUATION

The President's Crime Commission has referred to the lack of knowledge and the unsystematic approach to the development of programs and techniques in corrections as the "most conspicuous problem in corrections today." The Board of Control of State Institutions, Division of Corrections, which, until the recent reorganization, was responsible for the administration of state institutions in Iowa, developed a statistical unit which feeds basic data on population, population characteristics, and population movement into a data processing system. The Division of Corrections has been striving for some time to supplement the present system with the additional data necessary for on-going program evaluation. However, this effort has been handicapped by the lack of research and records management staff and is still in the developmental stage.

There has been a general reluctance on the part of state government to furnish the necessary personnel so that we may move aggressively in developing the necessary information gathering and research facilities to accurately measure the effectiveness of existing correctional programs.

A CONTINUING PROGRAM FOR IOWA CRIMINAL JUSTICE

The work of the Crime Commission has just begun with this inventory and analysis of resources, programs and plans in criminal justice. The materials compiled and the recommendations made should provide a useful tool to juvenile authorities, law enforcement agencies, courts and correctional personnel in their planning and programming efforts.

In-depth research must be conducted in a number of areas and suggestions and recommendations tailored to the situation which confronts the particular agency. It is imperative that the comprehensive statewide plan for an improved criminal justice system, integrating the efforts of state and local units of government and the community, be initiated immediately. The Iowa Crime Commission stands ready to assist communities in local and regional planning for coordination with the statewide program.

Speeches and words and fine intentions are not enough. We must seek out new knowledge, new techniques and new understanding. We must plan and act now, for a working system of criminal justice if we are to better prevent and control crime in Iowa.

INDEX OF RECOMMENDATIONS

314-088 O - 68 - 10

4. Because treatment referrals should be made to correspond with the individual child's needs, an officer must be aware of the various community programs available for the redirection of deviant behavior and the specific purposes which they serve.

Probation Officers and Probation (Page 13)

1. Probation officers should be qualified to make a diagnosis.
2. The probation conditions imposed should meet certain requirements. They should always be stated in positive and purposeful terms understandable to both the child and probation officer. They should be achievable, enforceable and reasonably limited in their restriction of normal juvenile activity.
3. Punitive probation conditions should be imposed only after a formal court adjudication.
4. Once probationary restrictions have been imposed, they must be adequately supervised.

INFORMAL JUDICIAL TREATMENT WITHOUT JURISDICTION (Page 15)

1. Inferior courts should ultimately not participate in the informal process.

INFORMAL NON-JUDICIAL TREATMENT (Page 16)

School Involvement (Page 16)

1. Because of its potential to identify the problem child, the school is encouraged to coordinate the services of the school, community, and home in meeting the child's needs.
2. In school programs, coordinated with programs of other treatment agencies, should be established for emotionally and socially maladjusted pupils. A local orientation and planning conference should be held before the opening of each school year and should be attended by all community treatment agencies.

Community Involvement (Page 17)

1. Private citizens should provide children with positive relationships with adults.
2. Post-release employment programs should be established in the community for young men in cooperation with the adult and juvenile parolling authority.
3. Communities should make an effort to develop avenues through which younger people can make a positive constructive contribution to the life of their community.

Church Involvement (Page 18)

1. A church can reinforce the family in its role of developing a child's sense of values, moral and ethical standards, and basic outlook on life. Iowa church leaders should attempt to counsel young people regarding all aspects of their lives.

County Social Welfare Department (Page 19)

1. Optimum use of social welfare services would appear to depend upon improved inter-agency communication and cooperation which is timely in relation to the needs of the child.

Private Agencies (Page 19)

1. Consideration should be given to a state subsidy for certain kinds of private agency operations which deal with crime prevention.

EVALUATION OF INFORMAL TREATMENT METHODS (Page 20)

1. The nature of the child's problems should be determinative in the selection of treatment methods.
2. Ultimate responsibility for the informal treatment program should rest with a well-trained and prepared probation staff.

SPECIFIC AREAS FOR ACTION BY THE STATE (Page 21)

1. The Department of Social Services and the Department of Public Instruction should begin an inter-agency liaison in regard to counselling services in all levels of school programming.
2. School curriculum should be expanded to include vocational and family life studies, along with the standard academic program.
3. School buildings and related resources should be used as much as possible day and evening for the entire twelve months for programs for both children and adults.
4. The department of Social Services should foster the development of a youth commission in each city or town in Iowa, which will have as its prime responsibility the coordination of all agencies which serve youth. The state should consider a subsidy program to enable established youth commissions to more fully realize their potential in the field of coordinated juvenile services.

APPLICATION OF THE FORMAL PROCESS (Page 23)

Iowa Juvenile Court Procedure (Page 25)

Detention (Page 25)

1. A child who cannot be returned home because of the quality of his parental care should not be placed in detention at all, but rather in sheltered care facilities.
2. Children in need of secure detention should not be detained in jails, but rather should be detained in state operated regional detention centers for juveniles as a part of a regional correction center.
3. Shelter care facilities for dependent or neglected children should be developed on a multi-county basis.

Intake (Page 28)

1. Guidelines for the preparation of the social investigation report should be articulated to insure that all data relevant to a proper disposition is contained in the report.

Constitutional Principles (Page 30)

1. Juvenile adjudicatory procedures should be strengthened to insure that constitutional rights are afforded to all citizens, be they adults or children, when any of their rights or liberties may be affected.

Juvenile Court Personnel (Page 35)

1. One district court judge should be designated to handle all juvenile cases arising in each judicial district. Probation services should then be reorganized where necessary to correspond with the juvenile jurisdiction.
2. A thorough multi-disciplined professional diagnosis should be made of each child at the time he is referred to the juvenile court system.
3. "Situational" delinquents generally should not be institutionalized, but should be involved in community based programs.
4. "Hyper-aggressive" delinquents generally should be institutionalized and treated separately.

INSTITUTIONS FOR DEPENDENT AND NEGLECTED CHILDREN (Page 43)

1. Specific admission standards for each institution could also be established according to the types of child problems which the institution is best equipped to treat.
2. The legislature, with the cooperation of the State Department of Social Services, should establish fair and consistent compensation rates for foster care services.

Group Homes (Page 47)

1. Because of the group home's large capacity and its unique treatment capabilities, group homes should be established as an alternative to institutional care for older dependents and delinquents.

Halfway Houses (Page 47)

1. Halfway houses should be employed as an intermediate step between institutional confinement and placement in the community.

2. A legislative appropriation will be necessary to adequately finance the Foster Home program. Because of the great operating cost differential between foster care treatment and institutional treatment, the ultimate effect would be a cost saving to the state and the taxpayer.

EVALUATION OF FORMAL TREATMENT METHODS (Page 50)

The Labelling Process (Page 50)

1. The juvenile court system does not accomplish its objective of rehabilitative treatment by adjudicating those who have not committed any criminal offense as "delinquent." Alternative categories for this labelling process should be considered in appropriate cases. The stigma of having been labelled "delinquent" by a juvenile court should not be attached to juveniles who have not committed any criminal offenses.

GENERAL RECOMMENDATIONS (Page 51)

1. The Iowa Supreme Court should establish rules, standards, and qualifications for all probation officers appointed by juvenile judges.

CHAPTER II: CRIMINAL JUSTICE: THE CRIMINAL CODE AND THE COURTS

CRIMINAL CODE REVISION (Page 54)

1. A research program should be undertaken within the period of a few months so that a thorough criminal code revision could be ready for consideration by the 1969 State Legislature.

COURT REFORM (Page 58)

1. The unification of court structure is absolutely imperative with the abolition of the various overlapping minor courts, and the substitution should be made of a strong two-level court structure, with the prior functions of the minor courts being performed by adjuncts of the State District Court.

CHAPTER III: LAW ENFORCEMENT

LAW ENFORCEMENT STRUCTURE (Page 66)

1. Small towns should contract with large jurisdictions for police protection.
2. Countywide merit systems should be employed to provide job security for those police officials not elective in position.
3. Manpower allocations studies should be initiated.
4. Division between enforcement--non-enforcement functions should be made; full utility of civilian help where possible.
5. Cities and towns should provide two police officers for each 1,000 population.
6. A comprehensive review and analysis of law enforcement functions statewide should be undertaken defining the authority given, the personnel, jurisdictions and coordination in time of emergency.

RECRUITING, SELECTION, TRAINING, CAREER DEVELOPMENT (Page 71)

1. Specific departmental recruiting programs should be undertaken.
2. Appropriate testing programs for applicants should be instituted on a statewide basis.
3. Applicants should be fingerprinted.
4. Medical examinations should be utilized.
5. Residency requirements should be abolished.
6. Height, weight, age and vision requirements should be reviewed.
7. A high school education should be required.
8. In-service education, leaves of absence and tuition grants should be available for education advancement by the officer after employment.
9. Advanced training and educational courses should be offered by the Law Enforcement Academy in addition to the basic course initially established.

INTERNAL OPERATIONS AND WORKING CONDITIONS (Page 77)

1. Minimum salaries for Highway Patrol and Bureau of Criminal Investigation should be set at $8,400 per year, with maximum at $18,000 after 20 years of service without promotion. City and County units should adopt this standard.
2. Substantial increases should accrue to the officer who is promoted to supervisory and management ranks.
3. Uniform manuals of operations should be adopted statewide for use by police agencies.

POLICE-COMMUNITY RELATIONS (Page 79)

1. All agencies should undertake full, in-depth studies of police-community relationships, and a statewide study similarly in depth, should be carried out in parallel to local studies.

SPECIAL REPORTS

Miranda Survey (Page 80)

1. Law Enforcement can work effectively within the terms of Miranda and courts should endeavor to make uniform application of Miranda principles.

Firearms Study (Page 88)

1. Control measures should be placed on the sale, possession and misuse of firearms.
2. Firearms should be fully defined.

Crime Information System (Page 90)

1. Iowa should plan and implement a comprehensive state crime information system, including mandatory uniform crime reporting to the state, upgrading of two-way police radio communications and conversion of important files to computer.

Crime-Forensic-Toxicology Laboratory (Page 94)

1. A consolidated crime-forensics-toxicology laboratory should be instituted to meet needs of law enforcement officers and medical examiners in the proper collection and preservation of criminal evidence and the disposition of these cases.

CHAPTER IV: ADULT CORRECTIONS

CORRECTIONS CONCEPTS (Page 99)

1. Establish small-unit institutions oriented toward community-based treatment.
2. Correctional programs designed to provide lasting protection to the community must recognize the necessity of the offender's successful integration into society as a law-abiding citizen.
3. Develop more community treatment programs as alternatives to institutionalization.

THE NEED FOR A COORDINATED APPROACH (Page 101)

1. Adult offenders should be dealt with most effectively in a continuous, coordinated and integrated correctional process.
2. Though parts of the correctional system may be operated by local jurisdictions, the state government should be responsible for the quality of all correctional systems and programs within the state.
3. All correctional systems should have a statement of objectives, policies and general plans governing their organization and function.
4. Every correctional system requires a staff of administrative and supervisory personnel commensurate with the size and extent of the system.
5. A structured program of in-service training is essential for every correctional agency.
6. Appointment of personnel should be based on the educational and personal qualifications set forth in the job description of each class or position.

7. Salaries should have a minimum and maximum level with provision for regular increments based on merit, performance, and evaluations.
8. There should be provision for a variety of fringe benefits comparable with other public and private agencies.
9. An adequate research evaluation and statistics reporting program should be maintained. All correctional data should be uniformly and routinely reported to a central state agency. Statistical reporting systems should provide for the storage and analysis of information and its dissemination to local jurisdictions within the state, to other states, and to national agencies.
10. There is a dearth of information available on criminal law and procedures as applied to the mentally retarded. Because of this deficiency, a study isolating pertinent factors related to the nature, degree and cause of the problems in criminal practices and law unique to the mentally retarded offender is urged.

THE CORRECTIONAL PROCESS IN IOWA (Page 103)

1. Regional detention centers, combined with regional correction centers, should be developed.
2. The work-release program should be better established at all levels.
3. Pre-trial release programs should be organized formally on a state-wide basis.
4. Chronic alcoholism is a disease and should be treated as such in alternative establishments such as detoxification centers.

Disposition (Page 105)

1. The court must have available the necessary resources to conduct a comprehensive pre-sentence investigation and have available the correctional facilities and services it recommends, including qualified, trained probation officers.

INSTITUTION PROGRAMS (Page 106)

1. Hereditary, social, economic and psychological factors of each offender should be studied, and needs and remedial resources should be determined and provided on an individual basis.
2. An alternative program to the Iowa State Women's Reformatory should be considered. Such a program should include: a small reception, diagnostic and intensive treatment unit at a mental health hospital along with a residence unit for female offenders at that hospital, regional correctional units for female offenders at other state institutions, and work release centers close to the localities to be served.

CORRECTIONAL MANPOWER REQUIREMENTS (Page 111)

Case Manager-Probation and Parole Agents (Page 112)

1. The number of agents should be increased to reduce the present workload.

Specialists (Page 113)

1. Specialists should be provided for inmates in the following areas: academic schooling; vocational training, and for multi-disciplined professional diagnoses.
2. Area schools should consider supplying vocational teachers to institutions on a part-time basis at no expense to the institution.
3. In order to recruit and retain professional staff members, stipends and fellowships, similar to those used in the mental health field, should be considered.

NEW SOURCES OF MANPOWER FOR CORRECTIONS (Page 115)

1. Use volunteers and sub-professional aides.
2. Encourage sub-professionals to improve themselves academically with the idea of later becoming professionals.
3. The Division of Corrections should hire rehabilitated ex-offenders to serve in a variety of capacities in the correctional system.

PAROLE (Page 116)

1. Appoint parole boards solely on basis of merit, providing training and requiring full-time service.

BIBLIOGRAPHY

JUVENILE DELINQUENCY: PREVENTION AND CONTROL

1. "Contemporary Studies Project: Juvenile Delinquency in Iowa," 53 Iowa Law Review, Number 5, 1968.
2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime, 1967.
3. Stanton Wheeler and Leonard S. Cottrell, Jr., Juvenile Delinquency--Its Prevention and Control, Russell Sage Foundation (1966).
4. National Council on Crime and Delinquency: Goals and Recommendations, NCCD, 1967.
5. Juvenile Delinquency: A Report on State Action and Responsibilities, Prepared by Council of State Governments, The President's Committee on Juvenile Delinquency and the National Council of Crime and Delinquency, 1965.
6. Code of Iowa, 1966.
7. The Challenge of Crime in a Free Society, A Report by the President's Commission on Law Enforcement and Administration of Justice, 1967.
8. Crime in the U.S., U.S. Department of Justice, 1967.
9. Iowa Juvenile Courts in 1961, Prepared by Iowa Department of Social Welfare, 1962.
10. W. Lunden, Statistics on Delinquents and Delinquency, 1964.
11. W. Lunden, Juvenile Delinquency in Iowa, (1967).
12. State of Iowa Board of Control of State Institutions, Thirty-Fifth Biennial Report, 1966.
13. Studies in Delinquency, the Re-Entry of the Offender into the Community, Prepared by the U.S. Department of Health, Education, and Welfare, Welfare Administration, Office of Juvenile Delinquency and Youth Development, 1967.
14. A. Neigher, "The Gault Decision: Due Process and the Juvenile Courts", Federal Probation, December, 1967.
15. T. Ferdinand, "Some Inherent Limitations in Rehabilitating Juvenile Delinquents in Training Schools," Federal Probation, December, 1967.
16. A. Catalino, "A Pre-Release Program for Juveniles in a Medium Security Institution," Federal Probation, December, 1967.
17. "Police Services for Juveniles", U.S. Department of Health, Education, and Welfare, Social Security Administration, Children's Bureau, 1954.

CRIMINAL JUSTICE: THE CRIMINAL CODE AND THE COURTS

1. Code of Iowa, 1966.
2. Iowa Code Annotated
3. The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts, 1967.
4. The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Drunkenness, 1967.
5. The Challenge of Crime in a Free Society, A Report by the President's Commission on Law Enforcement and Administration of Justice, 1967.
6. The Pre-Sentence Investigation Report, Prepared by Division of Probation, Administrative Office of the U.S. Courts, Washington D.C., February, 1965.
7. The Court and the Chronic Inebriate, U.S. Department of Health, Education and Welfare, Washington, D.C., 1965.

LAW ENFORCEMENT

1. J. Lohman and G. Misner, The Police and the Community: The Dynamics of their Relationship in a Changing Society, A Study supported by Department of Justice, O.L.E.A. Grant No. 014, Regents of the University of California, Sections I-IV, October, 1966.

2. J. Lohman, "Current Decline in Respect for Law and Order," Federal Probation, December, 1967.
3. Iowa Crime Commission Law Enforcement Survey, 1968
4. Crime in the United States, Uniform Crime Reports, F.B.I., 1966
5. R.L. Holcomb, Police Patrol, American Lecture Series, Springfield, Illinois 1957 (Third Printing).
6. R.L. Holcomb, The Police and the Public, Charles Thomas, Publisher, Seventh Printing, 1966.
7. Proceedings of Police Administrators Conference on Community Relations, International Association of Chiefs of Police, sponsored by O.L.E.A., 1966.
8. R.B. Mills, "Selection of Metropolitan Police Officers," American Psychological Association Convention, Los Angeles, California, September, 1964.
9. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, 1967.
10. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology, 1967.
11. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Drunkenness, 1967.
12. The Challenge of Crime in a Free Society, A Report by the President's Commission on Law Enforcement and Administration of Justice, 1967.
13. Code of Iowa, 1966.
14. Uniform Crime Reporting Handbook, Prepared by the F.B.I., U.S. Department of Justice, July, 1966.
15. Report of the National Advisory Commission on Civil Disorders, 1968, Pursuant to Executive Order July, 1967.

SPECIAL REPORTS

Miranda

1. 52 Iowa Law Review 752 (1967).
2. Survey of the Effects of Miranda on Law Enforcement in Iowa, 1968.
3. E. Younger, "Results of a Survey Conducted in the District Attorney's Office of Los Angeles County Regarding the Effect of the Miranda Decision upon the Prosecution of Felony Cases," 5 Am. Crim. L. Q. 32 (1966)
4. Seeburger and Wettick, "Miranda in Pittsburgh--A Statistical Study," 29 Pitt. L. Rev. 1 (1967).
5. "Interrogations in New Haven: The Impact of Miranda," 76 Yale L.J. 1519 (1967).
6. Code of Iowa, 1966.

Firearms

Bibliographic sources are contained in the body of the report, Chapter III, Special Reports: Firearms

Crime Information System

1. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology, 1967.
2. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, 1967.
3. The Challenge of Crime in a Free Society, A Report by the President's Commission on Law Enforcement and Administration of Justice, 1967.
4. An Integrated Communications System for the State of Iowa, Prepared by Jansky & Bailey Systems Engineering Division, Atlantic Research Corp., Virginia, March, 1967.
5. Uniform Crime Reporting Handbook, Prepared by the F.B.I., U.S. Department of Justice, July, 1966.
6. Iowa Crime Commission Report: A Crime Information System, April, 1968.

Crime-Forensics-Toxicology Laboratory

1. R.B.H. Gradwohl, Legal Medicine, St. Louis, Mosby, 1954.
2. OLEA Project No. 13 Report: Study of Needs and the Development of Curricula in the Field of Forensic Science, 1967.
3. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police, 1967.
4. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology, 1967.
5. Bureau of Vital Statistics, Department of Health, State of Iowa, 1967.
6. Office of the Chief Medical Examiner, Department of Health, Commonwealth of Virginia.
7. G.T. Mann, M.D., , Medical Examiner's Handbook, Office of the Chief Medical Examiner, Department of Health, Virginia, 1962.
8. Iowa Crime Commission Report: A Crime-Forensic-Toxicology Laboratory, April, 1968.

ADULT CORRECTIONS

1. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, 1967.
2. Thirty-Fifth Biennial Report, State of Iowa, Board of Control, June, 1966.
3. Manual of Correctional Standards, American Correctional Association, Washington DC, 1966.
4. Crime and Delinquency, National Council on Crime and Delinquency, Vol. 13, No. 1., January, 1967.
5. Code of Iowa, 1966.
6. Report on "Evaluation of the Industries and Vocational Education Programs at the Iowa State Penitentiary, Fort Madison, Iowa", Employment Security Commission and Department of Public Instruction, January, 1968.
7. "Anamosa Reformatory Report," Department of Public Instruction, January, 1967.
8. Report on "Evaluation of the Industries of Iowa State Reformatory", Employment Security Commission and Department of Public Instruction, January, 1967.
9. "Report of Advisory Committee, Iowa Reformatory for Women"--on file with Division of Corrections, Department of Social Services, State
10. "Iowa Citizens Council on Crime and Delinquency Report on Corrections in Iowa", Press Release May 20, 1967.
11. The Challenge of Crime in a Free Society, A Report by the President's Commission on Law Enforcement and Administration of Justice, 1967.
12. D. Young, "Correctional Workers Must Speak Out," Federal Probation, December, 1967.
13. S. Adams, "Some Findings from Correctional Caseload Research," Federal Probation, December, 1967.
14. E. Johnson, "Personnel Problems of Corrections and the Potential Contribution of Universities, "Federal Probation, December, 1967.
15. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Drunkenness, 1967.
16. The Pre-Sentence Investigation Report, prepared by Division of Probation, Administrative Office of the United States Courts, Washington DC, February, 1965.
17. The Court and the Chronic Inebriate, U.S. Department of Health, Education and Welfare, Washington DC, 1965.

OTHER COMMISSION ADVISORS AND PERSONS WHO ASSISTED IN PREPARATION OF THE REPORT

Senator Alan Shirley
Dr. J.O. Cromwell
Judge Harvey Uhlenhopp
Richard L. Holcomb
James Harrington
Nolan H. Ellandson
Sheriff William J. Spurrier
Dr. Richard Manatt
Dr. Robert Caldwell
Sheriff Wilbur Hildreth
Chief Vear Douglas
Russell Bobzin
Carl F. O'Neil
Charles Haugh
Monsignor William Roach
John Yeager
Jack M. Fulton
Mrs. Morton Bookey
Sheriff William Strout
Robert Bruner
Verne Tanner
Glen Jeffes
Lloyd Karr

Iowa Highway Patrol Officers:

Ted Godfrey
Arliss Boothe
Alton Chrystal
Fred Burger
Lyle Dickinson
Frank Metzger
Richard Wignall
Jack Beaman
Bob Darrah
John Abeltins
William Sober

CRIME IN WEST VIRGINIA

PLANNING FOR CHANGE

HULETT C. SMITH, GOVERNOR

GOVERNOR'S COMMITTEE ON
CRIME, DELINQUENCY, & CORRECTIONS

CRIME IN WEST VIRGINIA

PLANNING FOR CHANGE

A REPORT BY THE GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND CORRECTIONS

April, 1968

PREFACE

In this era when the crack of a mail-order catalog rifle stifles the life of a President, the law enforcement officer openly charges that the high court has shackled him, rebellion in metropolitan ghettos and destruction of city blocks focuses congressional attention on anti-riot legislation, a struggle wages over the right of our government to command a citizen to war duty, and a President's Commission recommends legalizing electronic evidence to save our society from organized crime, the issues with the crime problem become very complex. But they remain and will continue to be every citizen's concern. The purpose of this work is to present a comprehensive program to meet West Virginia's crime problem.

Special credit is due Benjamin Brashears and Judge K. K. Hall for their contribution to the "Chapter on Police," to Dr. Harold Kerr and Elizabeth Hallanan with the "Chapter on Delinquency," to Charles M. Love, Jr., and Professors Willard Lorensen and Stanley Dadisman with the "Chapter on Criminal Justice," to Robert Sarver and Ed White with the "Chapter on Corrections," to N. C. Reger with the "Chapter on Minimum Standards," to Colonel T. A. Welty with the "Chapter on Central Reporting," to Dr. Bern Kuhn with the "Chapter on Law Enforcement Academic Program," to Drs. Oscar G. Mink and Joseph Moriarty with the "Chapter on a Research and Training Center for Corrections," to Karla Simon with the "Chapter on Auto Theft Prevention," and to Don Dancy and Elliot Henderson with the "Chapter on Non-criminal Treatment of Drunkenness."

The National Council on Crime and Delinquency provided the program with a consultant on numerous occasions when called upon by staff to guide and evaluate the various surveys which were made. We are especially indebted to that organization for the role it played in helping us complete this work.

The many man-hours contributed by the West Virginia Department of Public Safety in preparing IBM crime data sheets and providing consultant services in the field of law enforcement have been invaluable. We also received the unstinting assistance of the Federal Bureau of Investigation, the West Virginia Council on Crime and Delinquency, and many of the county and municipal law enforcement units and other state agencies.

We are indebted to the many resource people and advisors, whose special talents and expert knowledge have contributed to the proposal.

THE COMMITTEE

DARRELL V. McGRAW, JR., Chairman

HOMER BALL
THORNTON G. BERRY, JR.
EDWARD FRANKOVITCH
JOHN D. FRISK
MICHAEL G. GRETCHEN
K. K. HALL
ELIZABETH V. HALLANAN
MRS. EDGAR A. HEERMANS
HERBERT HENDERSON
JOSEPH HUTCHISON
CHARLES M. LOVE, JR.
REV. FRANK MARVIN
JAMES T. NELSON
C. ROBERT SARVER
RICHARD SHELTON
JOHN C. SKINNER, JR.
RABBI SAMUEL VOLKMAN
CHARLES M. WALKER
DR. NEIL WELLER
COLONEL T. A. WELTY
GEORGE H. WHALEY
EDWARD T. WHITE
DR. CORNELIA B. WILBUR

THE STAFF

W. J. THOMPSON
Executive Director

ALICIA G. TYLER
Research Assistant

JOAN E. SAVILLA
Secretary

ELLEN WARDER
Consulting Editor

314-086 O - 68 - 11

CONTENTS

HISTORICAL

Prior to the establishment by Governor Hulett C. Smith of the Governor's Committee on Crime, Delinquency and Corrections, the previous work of similar nature made in the state was very limited. Of those making a significant contribution the following should be noted:

I. After a prison riot in 1954, Sanford Bates of New Jersey was employed by the legislature to make a survey of the penitentiary at Moundsville, and a few years later the Governor and the West Virginia Council on Crime and Delinquency employed Austin MacCormick of the Osborne Association to do further study in the same area.

II. The National Council on Crime and Delinquency for several years now has continued to spend some of its resources in West Virginia. This Council is a voluntary organization of citizens and officials organized to prevent and control crime and delinquency and encourage corrective and preventive facilities and methods. Its contribution to West Virginia consists of the following:

A. In 1951 at the request of the Judge of the Intermediate Court, it made an adult probation survey in Kanawha County. It resulted in the county court's providing the criminal court in this county with adequate probation facilities. The probation department of this court gradually grew until its personnel program and facilities equalled recognized national standards.

B. In 1953 at the request of the Judge of the Domestic Relations Court of Cabell County, the Council made a study of the juvenile court and its detention home. Considerable improvement in juvenile probation and detention in that county later developed.

C. In addition to these special studies the Council made at the state level surveys consisting of:

1) A survey of juvenile court and detention services in West Virginia (1946).

2) A report on the West Virginia penitentiary.

3) A report to the public on the West Virginia Industrial School for Boys at Pruntytown (1958).

D. Sponsored the West Virginia Citizens Action Program for prevention, control and treatment of delinquency in West Virginia since 1958.

III. Under the auspices of the President's Committee on Juvenile Delinquency and Youth Crime, an in-depth survey of juvenile delinquency in Kanawha County was made. This was followed by a demonstration program for Kanawha County youth. This study was made in the name of the Charleston Youth Community, Inc., and the demonstration program was later merged into the community action program of the Office of Economic Opportunity.

IV. The West Virginia Council on Crime and Delinquency which, as previously stated, is sponsored by the National Council on Crime and Delinquency, was organized in this state on April 10, 1958. Its present chairman, Miss Elizabeth Hallanan, is also a member of the Governor's Committee. The Council is made up of 35 citizens whose objective is to fight crime with knowledge as responsible citizens. It is the action arm of the National Council on Crime and Delinquency.

The members of this organization seek to inform themselves about crime and delinquency in West Virginia, assess the adequacy of the state's correctional services, consult with correctional leaders within the state, and apply tested standards developed by the National Council on Crime and Delinquency. Fundamentally, to develop an action program to insure effective and economical services to cope with the problems.

The Council is not affiliated with any governmental group. It is non-partisan and has no vested interest in the correctional program. The Council has received private support through a grant from the Ford Foundation to the National Council on Crime and Delinquency, a grant

from the Claude Worthington Benedum Foundation to the West Virginia Council on Crime and Delinquency and through small contributions from numerous individual donors throughout the state.

Among its many accomplishments may be noted:

A. Separation of many youthful offenders from hardened criminals in the penitentiary. It worked for improved schooling, visiting and administrative facilities in the penitentiary with the completion of construction authorized at the institution some 30 years ago but completed only when the Council pressed for it. It also helped bring about the introduction of new prison industries.

B. At the Industrial School for Boys the goal was an extension for the school's vocational education program, plus the improvement of housing and administrative facilities and the upgrading of building maintenance.

C. Through the Council's efforts with the Governor's Office, the Board of Probation and Parole and the legislature, a parole deficiency was corrected when a solution for release of over 600 men granted parole, but still confined because of their inability to secure employment, was found. The Council feels that this resulted in a saving to the state of more than $100,000 in the first year.

D. The Council tackled the delinquency prevention problem by helping to develop and support the planning project of the Charleston Youth Community, Inc., for the President's Committee on Juvenile Delinquency and Youth Crime.

E. It assisted in arranging in cooperation with the West Virginia Council of Juvenile Court Judges and the College of Law of West Virginia University a seminar for judges with juvenile court jurisdiction -- the goal being uniform practice in the courts.

314-086 O - 68 - 12

F. A pamphlet and teaching guide on "You and the Law" for youths in junior high school classes as an attempt to reduce juvenile delinquency was prepared.

G. Council members visited each of the state's correctional institutions, gave concentrated study to crime and delinquency problems in other states, met with judges, parole officials, legislators and the Governor, and prepared a blueprint to modernize the state's correctional structure.

H. The Council's consultant visited 55 counties, travelled 14,000 miles in West Virginia, made 50 visits to correctional institutions, talked to groups, conducted training institutes and provided consultation at no cost to responsible officials and agencies.

I. The Council drafted a Model Correction Act for West Virginia and sought the support of 3 administrations for its passage. In 1965 the West Virginia legislature enacted the present law creating a Division of Correction and embodying fundamentally the correctional philosophy of the Model Correction Act. Members held numerous conferences for public officials, legislators, and governors prior to the passage of the new law.

The present goals of the Council are worthy of mentioning here. It seeks to:

- promote appointment of a policy-making Commission of Correction.
- develop a professional career service for corrections.
- provide effective penal management and sustained planning through career correctional leadership.
- develop improved probation and parole services to save both people and money.
- improve classification services in prisons to reduce escapes and increase rehabilitation.

- improve treatment programs at all state correctional institutions.
- eliminate the sinister effects of detention of children in county jails.
- improve treatment services in county jails.
- find the basic causes for delinquency and crime in West Virginia and work toward their reduction.
- make more effective the present forestry camp, and extend the forestry camp program.
- insure that West Virginia receives maximum benefit from its expenditures for correctional services.

INTRODUCTION

On October 14, 1966, Governor Hulett C. Smith, in addressing the West Virginia League of Municipalities at Oglebay Park, called for a program for strengthening law enforcement in West Virginia and designed to "deal with the roots of crime and ways to stop the production of criminals." He announced the appointment of a Governor's Committee on Crime, Delinquency and Corrections charged with the task of studying the entire system in dealing with crime.

The Governor instructed his office to make application to the Office of Law Enforcement Assistance of the Justice Department in Washington for a matching grant to support a statewide planning program. This department allocated $25,000 to be matched by a like amount by the State of West Virginia over a 12-months' period. On September 1, 1966, work on this plan started, and then, on August 31, 1967, the Justice Department granted an additional $18,000 on the same matching basis to be used over a 6-months' period to complete the work under way. All through this work various specialists from OLEA have spent many hours of their time consulting with staff, both in Charleston and in Washington, concerning different aspects of the state's needs and our proposal. Especially helpful has been this assistance given in the law enforcement field, including standards and training, police science and central reporting. But for the effort put forth by the Justice Department, both financial and professional, sufficient resources would not have been forthcoming to prepare this program.

This report, *Crime in West Virginia -- Planning for Change*, embodies the major findings we have drawn from our examination of crime throughout the state -- in the county, the village, and the city. In the broad perspective we have dealt with law enforcement, delinquency, criminal justice, corrections, and the community.

The Committee has not only identified the major problems in each area and developed suggested answers, but it has established priorities under which it believes these problems should be met.

Specific chapters have been included concerning implemented programs and proposals for which funds are being sought. These programs are tagged with high priority.

No effort was made by the Committee to deal with special causes of crime within the state. Staff and resources

would not permit this. Reference is made to periodicals and books written by leading sociologists, criminologists, and other professionals for answers to the questions that arose.

The Committee strove for a plan which would adequately meet the state's needs without respect to the difficulties that would be encountered in achieving it or the time period which would be involved before it was attained. The plan proposed here contains that type of program. It is not suggested that the changes recommended do not involve expenditures of substantial sums of tax dollars. The differences in cost, however, can be related to the degree of success to be had with the program. To settle for anything less would, for the most part, just be wasting tax money. Furthermore, many of these changes recommended involve alterations in our Constitution and statutes. For the most part we are dealing with a law enforcement and criminal justice system which has been with us long before the formation of the state. The practices have become outdated and unworkable in a modern society. True, a major surgical operation is planned for, but nothing short of this will permit us to achieve what is desired for the state.

In order to start work on one of the highest priority items, your Committee applied to the Justice Department for an outright $15,000 grant to start a Law Enforcement Officers Minimum Standards Project. N.C. Reger, formerly with the West Virginia State Police, was employed as Executive Director on September 1, 1967. In October the Governor appointed a Police Advisory Commission of 14 members to assist in developing this program for the police. Planning for this program is scheduled for completion by June 30, 1968.

On June 30, 1967, West Virginia University made application to the Justice Department for an outright grant of $15,000 to develop a comprehensive training program for West Virginia correctional personnel. Dr. Oscar G. Mink, Director of the Division of Clinical Studies at the University, is in charge of the program. Frank Nuzum, Deputy Director of the Division of Correction, has been employed by the school as Project Director. This program was funded by the Justice Department in December, 1967, and work is now under way.

Darrell V. McGraw Jr.

DARRELL V. McGRAW, JR.
Chairman

Chapter 1

CRIME IN WEST VIRGINIA

Criminals at one time were considered sinners who chose to offend against the laws of God and man. Criminologists today regard society being in a large measure responsible for crimes committed against it. Poverty, bad living conditions, and poor education are all causes of crime. Crime is fundamentally the result of society's failure to provide a decent life for all the people and to develop a sense of social responsibility in its citizens. The trend toward urbanization, commercial exploitation, and pressures wrought by the enormous gap between our ideals and our achievements contribute to our problem. The world is rapidly changing today, and with values changing rapidly, crime increases. Crime is also higher in a society where people with different values and backgrounds are thrown together. A negative factor is that we are not a community with a settled way of life. Another problem plaguing us is that traditional respect for law is rapidly disappearing.

> The President's Commission reached the conclusion that "crime is a social problem that is interwoven with almost every aspect of American life. Controlling it involves the quality of family life, the way schools are run, the way cities are planned, the way workers are hired...Controlling crime is the business of every American."[1] For us it is the business of every West Virginian.

One further observation can be made: of all the problems which beset West Virginia, crime is probably the most complex in nature -- the most difficult to solve. It is very often passed off with the comment "there is no solution". Yet, crime and the fear of crime in West Virginia exact a heavy toll in terms of human suffering and financial loss to both individuals and communities.

Assessment of Crime

A great deal of effort was devoted by the committee's staff in assessing crime in the state. This was difficult because a majority of law enforcement agencies do not keep accurate, uniform records. In many instances no records are kept. The Committee used as a base for the crime assessment the reported major

---

[1]President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* xi (1967).

offense statistics of the 37 Class I, II and III cities and the West Virginia Department of Public Safety submitted to the Uniform Crime Reports of the United States Department of Justice, plus the records of 9 sheriff's departments which were made available to us. 1966 was used as the base year. The Committee relied primarily on state levy and audit statistics for cost figures for the law enforcement and criminal justice system.

LACK OF KNOWLEDGE

To understand crime we must have a greater knowledge of how much there is and where it occurs. But in no other area of public concern is there such a great lack of basic information on which to build a solid foundation of control, preventative, or rehabilitative programs. To illustrate, most county and smaller city law enforcement units do not keep records on crimes reported and crimes cleared by arrest. Out of a total of 128 law enforcement agencies at the state, county, and municipal levels (excluding towns and villages) only 47 of them had records available for this study. Figure 1 shows the reported major offenses crime in the state by counties.

AMOUNT OF SERIOUS CRIMES

In 1966 there was a total of 10,926 reported major offenses committed in West Virginia.[2] These offenses include murder, rape, robbery, felonious assault, burglary (including breaking and entering), grand larceny, and auto theft. These are the crimes which affect West Virginians most, because their personal safety at home, at work, and on the streets is involved. Figure 2 shows the amount of this crime intermost of the number of offenses. The total offenses represent an 11% increase over 1965.

Table 1 shows the rate per 1,000 people by rural areas classes of cities. West Virginia has more than 3 times as much crime in its highly urbanized areas as in its rural communities. The rate uniformly recedes from Class I cities to rural areas. Table 2 shows the 20 cities reporting the highest rate, and Table 3 lists the 20 counties reporting the highest rural crime rate. Paradoxically, lack of educational opportunity is given as a cause of crime increase; yet the three cities with the highest crime rate have more than 60 percent of the state's higher educational students.

---

[2] **Uniform Crime Reports**, *Crime in the United States* 77 (1966).

FIGURE 1

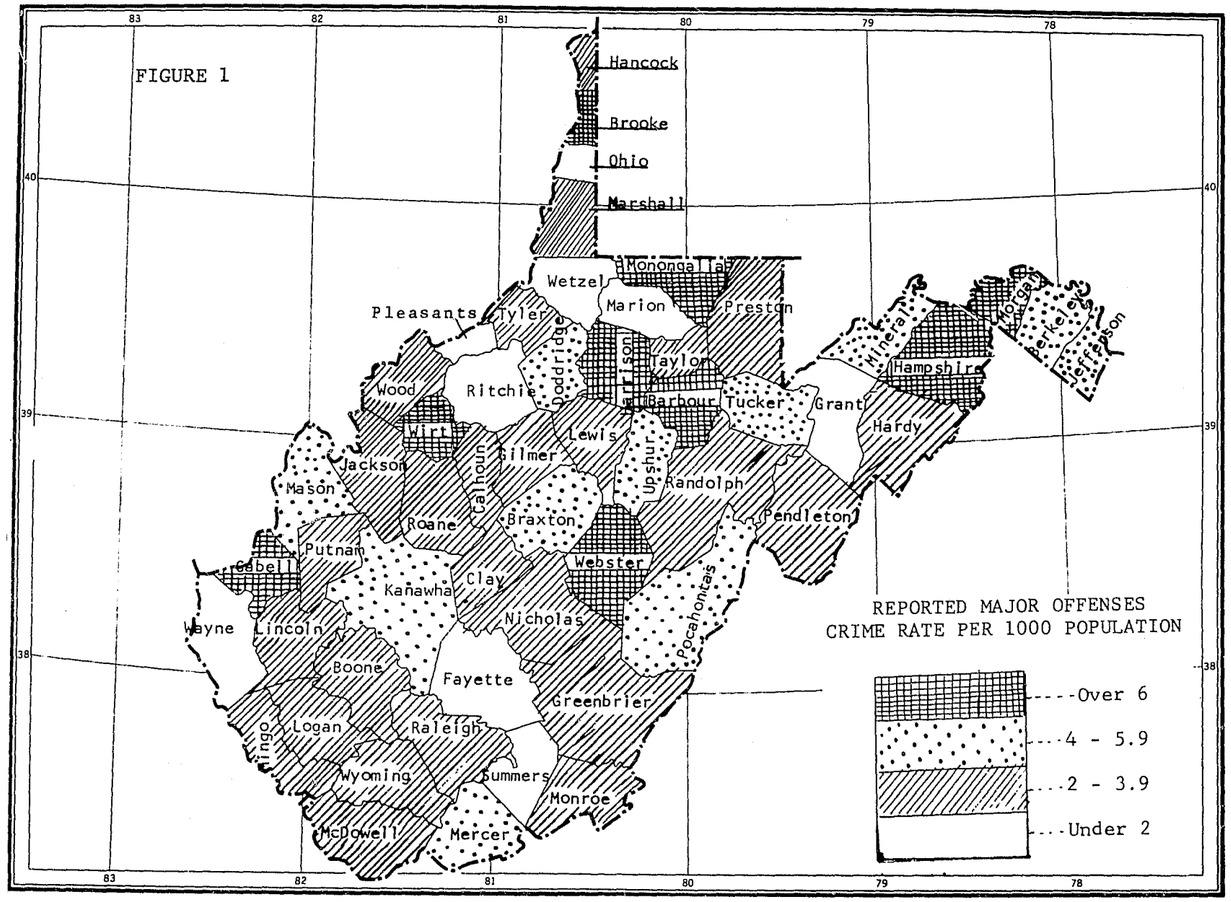
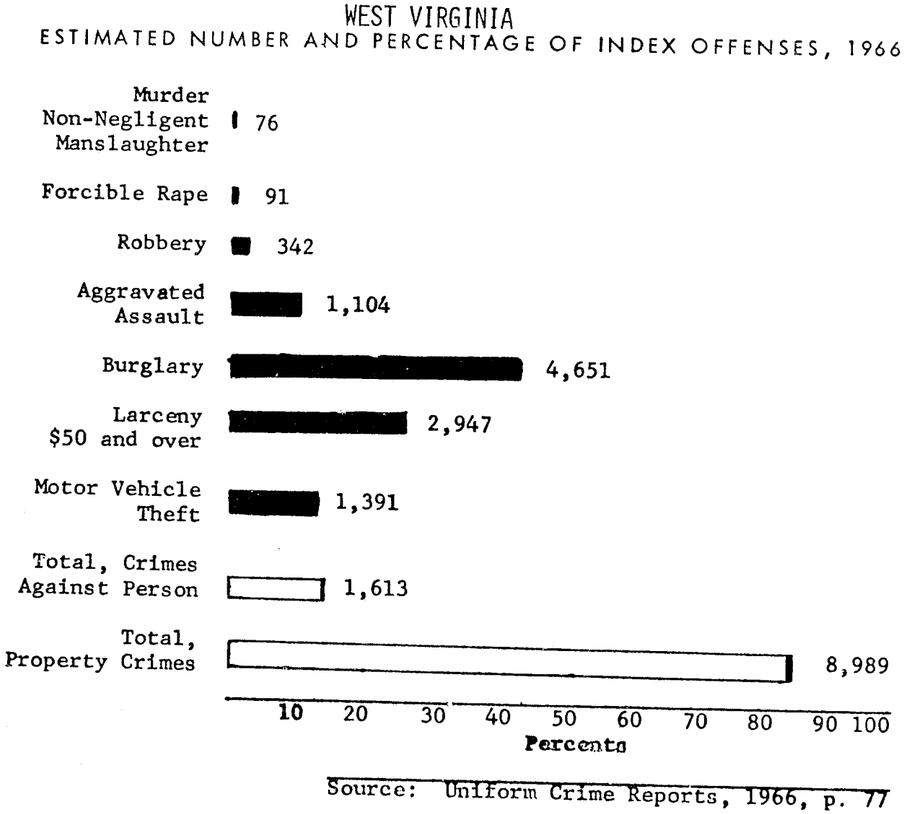

Hancock
Brooke
Ohio
Marshall
Wetzel
Monongalia
Pleasants
Tyler
Marion
Preston
Taylor
Barbour
Tucker
Grant
Hampshire
Morgan
Berkeley
Jefferson
Hardy
Wood
Ritchie
Doddridge
Harrison
Lewis
Gilmer
Wirt
Jackson
Calhoun
Mason
Roane
Braxton
Randolph
Pendleton
Putnam
Webster
Clay
Kanawha
Nicholas
Pocahontas
Wayne
Lincoln
Boone
Fayette
Greenbrier
Logan
Raleigh
Wyoming
Summers
Monroe
McDowell
Mercer
83
82
81
80
79
78
40
39
38
REPORTED MAJOR OFFENSES
CRIME RATE PER 1000 POPULATION
Over 6
4 - 5.9
2 - 3.9
Under 2

FIGURE 2



Source: Uniform Crime Reports, 1966, p. 77

TABLE 1 W.Va. MAJOR OFFENSES CRIME - 1966

CITIES	TOTAL OFFENSES	RATE PER 1000 POPULATION
Class I - Over 50,000	3820	11.42
Class II - 10,000 - 50,000	2346	9.09
Class III - 2,000 - 10,000	941	4.45
RURAL	3819	3.49

Source: Survey made by staff

TABLE 2 MAJOR OFFENSES CRIMES (CITIES) 1966

CITY	RATE PER 1000
1. Huntington	21.03
2. Charleston	18.58
3. Morgantown	15.18
4. Kenova	13.93
5. Parkersburg	9.86
6. Wheeling	9.18
7. Princeton	8.23
8. Bluefield	8.13
9. Logan	8.01
10. Beckley	7.95
11. Dunbar	7.54
12. Shinnston	7.07
13. New Martinsville	6.83
14. So. Charleston	6.38
15. Pt. Pleasant	6.32
16. Charles Town	5.39
17. Elkins	5.23
18. Chesapeake	5.03
19. Benwood	4.55
20. St. Albans	4.26

Source: Survey made by staff

TABLE 3 MAJOR OFFENSES CRIMES (COUNTIES) 1966

COUNTY	RATE PER 1000
1. Monongalia	8.32
2. Brooke	8.23
3. Cabell	7.58
4. Wirt	7.44
5. Barbour	7.25
6. Morgan	7.20
7. Hampshire	7.06
8. Webster	6.86
9. Harrison	6.11
10. Tucker	5.87
11. Jefferson	5.51
12. Mason	4.84
13. Kanawha	4.72
14. Berkeley	4.62
15. Upshur	4.33
16. Mercer	4.30
17. Braxton	4.25
18. Doddridge	4.14
19. Pocahontas	4.04
20. Mineral	4.03

Source: Survey made by staff

ECONOMIC IMPACT

One authority estimates that employee dishonesty is responsible for 30 percent of the business failures in the nation.[3] Insurance is available for protection against some crimes, but not all. Some of the policies are:

TYPE OF POLICY	PREMIUMS WRITTEN - W.VA. 1966
Burglary & theft	$ 511,643
Fidelity	751,307
Fire	13,043,059
Glass	184,141
Multiple line	13,966,179
Auto: Fire, theft	
Collision, etc.	24,973,184

(Source: W. Va. Insurance Commission)

AUTO THEFT

In 1966 there were 1,391 auto thefts in West Virginia.[4] Based on an average value arrived at by the President's Commission of $1,030, this amounts to $1,432,730 in stolen property. The Commission also estimates that roughly 88 percent of the cars stolen are recovered eventually,[5] leaving an estimated value of $172,010 in cars never recovered. Total losses exceed this figure, however, because of the recovered cars that have been damaged.

BURGLARY

In 1966 there were 4,651 burglaries known to the police[6]--approximately 44 percent of the total offenses in the state. Cost data in the President's Commission Report indicate an average loss of $242 per burglary[7]--a projected state total of $1,125,542. The Commission estimated that 88.4 percent of the stolen goods are never recovered--a value of $944,862.

ARSON

The damage and destruction of property from this crime is an area in which there is very little cost data on which to base a reliable estimate. The Fire Marshal's Office reports

[3] Picone, "Insurance Today", *Journal of Commerce* 9 (Aug. 15, 1967).
[4] *Supra* note 1 at [illegible].
[5] President's Commission on Law Enforcement, Task Force Report *Crime and Its Impact--An Assessment* 49 (1967).
[6] *Supra* note 1 at 77.
[7] *Supra* note 5 at 46.

that there were 1,251 fires in West Virginia for 1966. Out of this total, 109 cases were investigated, and it is estimated that 8.7 percent of the total fires are attributed to arson -- at a loss of $295,350.

SHOPLIFTING

The amount of loss to business in inventory shrinkage as a result of shoplifting, employee theft, and embezzlement is very difficult to gauge, because only a small percent are reported to the police. The President's Commission estimates that Americans pay a crime tariff of about 1 to 2 percent of the value of all retail sales because of inventory shrinkage as a result of dishonesty.[8] According to the best estimate of the West Virginia Department of Commerce, the retail sales in the State for the year 1965 amounted to $2,023,364,000. Using the 1 to 2 percent example the crime tariff for inventory shrinkage in the state for that year was somewhere between $20,233,640 and $40,467,280 or $11 or $22 for each person in the state.

The West Virginia Retailers Association conducted a survey on shoplifting in the Kanawha Valley -- Charleston and metropolitan surrounding area -- and found that stores reported a 56 percent increase in shoplifting in 1966 over 1961. Food markets reported an increase of 53 percent, and hardware stores, an increase of 100 percent. The total amount of loss in 1966 for these three groups in the Kanawha Valley was approximately one million dollars. Similar increases in shoplifting were found over the entire state.

From Charleston and three other cities a loss of $690,000 was reported. On the basis of this figure, it is estimated that the total loss from shoplifting in Class I, II and III cities in West Virginia amounts to $4,140,000.

EMBEZZLEMENT

Another crime which is infrequently reported -- and difficult to detect -- is embezzlement. Businesses are afraid that public disclosure will be harmful to their reputation. The American Bankers Association, which records embezzlement in excess of $10,000 in all the states, recorded three embezzlements in West Virginia for 1966, totalling $342,140.

[8] Id. at 48.

LARCENY

For the crime of larceny, if we use the figure of $84, which is the average arrived at by the President's Commission, the loss from this crime in West Virginia for 1966 was $703,164.[9] The average amount recovered is 11.6 percent, with a net loss of $621,997.

ASSAULT

Personal injuries resulting from crimes against the person include: time lost from work, medical bills and, in some instances, permanent impairment. According to the President's Commission: "no reliable estimates or average loss values have been computed for crimes against the person .... The percentage requiring hospitalization ... in the case of Index crimes against the person, occurring in as many as one-fifth to one-sixth of all such crimes."[10]

If a $100 loss of one week's wages and medical bills of $250 were assumed for each victim hospitalized as a result of crimes against the person in West Virginia, assuming that one-fifth of all such crimes require hospitalization, the loss figure for 1966 would be $113,050. Assuming that limited injuries occur in two-thirds of all crimes against the person, not counting those hospitalized, and allowing a $50 loss for each victim,[11] the total loss for 1966 would approximate $54,050. Additional injuries not reflected here occur in non-Index offenses, such as simple assault.

These are but a few of the many crimes involved in the loss picture. Figures for losses from others were not available.

POTENTIAL EARNINGS OF PRISONERS

The Division of Correction reported that the average daily adult population of correctional institutions in 1966 was 1,465. If these prisoners were out leading a productive life in society and earned the state's median wage of $5,107,[12] the total earnings would be $7,431,755.

PUBLIC EXPENDITURES FOR PREVENTION AND CONTROL OF CRIME

It is conservatively estimated that $21,984,121 tax dollars were spent for law enforcement and criminal justice in 1966.

---

[9] Id. at 47.
[10] Id. at 45.
[11] Id. at 45.
[12] Source: W. Va. Department of Labor.

The state spends 9.2 million dollars, the counties 4.3, and the cities 8.5 million dollars. (See Figure 3) Another breakdown of this total shows a 13.5 million dollar expenditure for police protection; 1.5 each for prosecution and courts; and 5.5 million on corrections. For each dollar so spent another 4 million dollars is estimated to have been lost to the state in potential tax earnings, welfare benefits, losses to victims and so forth, bringing the total cost of crime to well over 100 million dollars each year. This represents a per capita loss of over $55 for each person in the state.

RISING CRIME RATE

In the twentieth century science has amassed a great amount of knowledge to eradicate killing and crippling diseases, however, we do not seem capable in our nation of preventing a forcible rape every 21 minutes, a robbery every 3½ minutes, an assault every 2 minutes, a car theft every minute, and a burglary every 23 seconds.[13] In West Virginia a serious crime is committed every hour, one murder every 3½ days, a forcible rape every 4 days, a robbery every 24 hours, an aggravated assault every 4 hours, a burglary every 2 hours, a grand larceny every 3 hours, and an auto theft every 6 hours. (See West Virginia Crime Clocks -- Figure 4)

These figures are startling -- and yet, we know that far more crime is committed than is ever reported, and in many instances the same faces parade before the judge every year -- career offenders. Present criminal justice procedures generally fail to protect society from further violations by the same offenders. Our traditional methods of controlling crime, a majority of which predate the birth of our state, are failing.

TRENDS IN CRIME

Table 4 shows the "Major Offenses Crime Trends" in the state from 1958-1966. In the metropolitan areas there was an increase of 35 percent; in the "other cities" the increase was 60 percent. The rural figures show a decline of 8.8 percent. However, if we start with the year 1959, then in 1966 there was an increase of 33 percent. For the state as a whole for the total period, the increase was 24 percent. The crime index figure in 1958 was 433.8, and that has risen now to 591.1.[14]

---

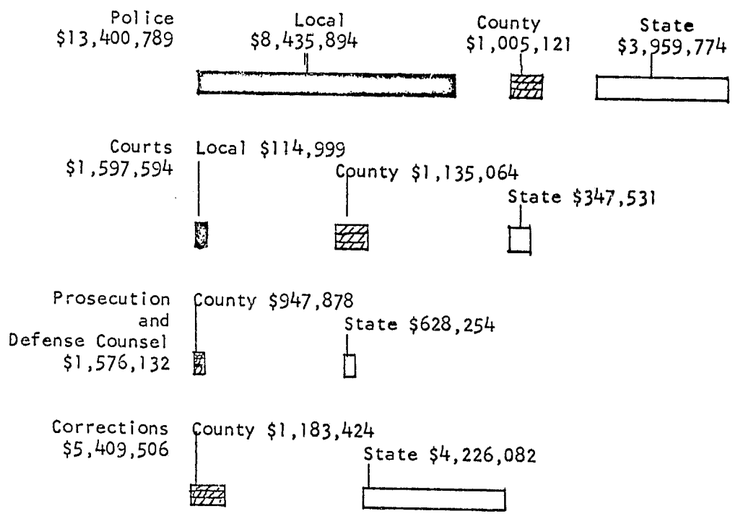
[13] *Supra* Note 2 at 21.
[14] Source: Uniform Crime Reports.

CONTINUED

2 OF 5

FIGURE 3

WEST VIRGINIA EXPENDITURES FOR PREVENTION AND CONTROL OF CRIME



Source: West Virginia Tax Department

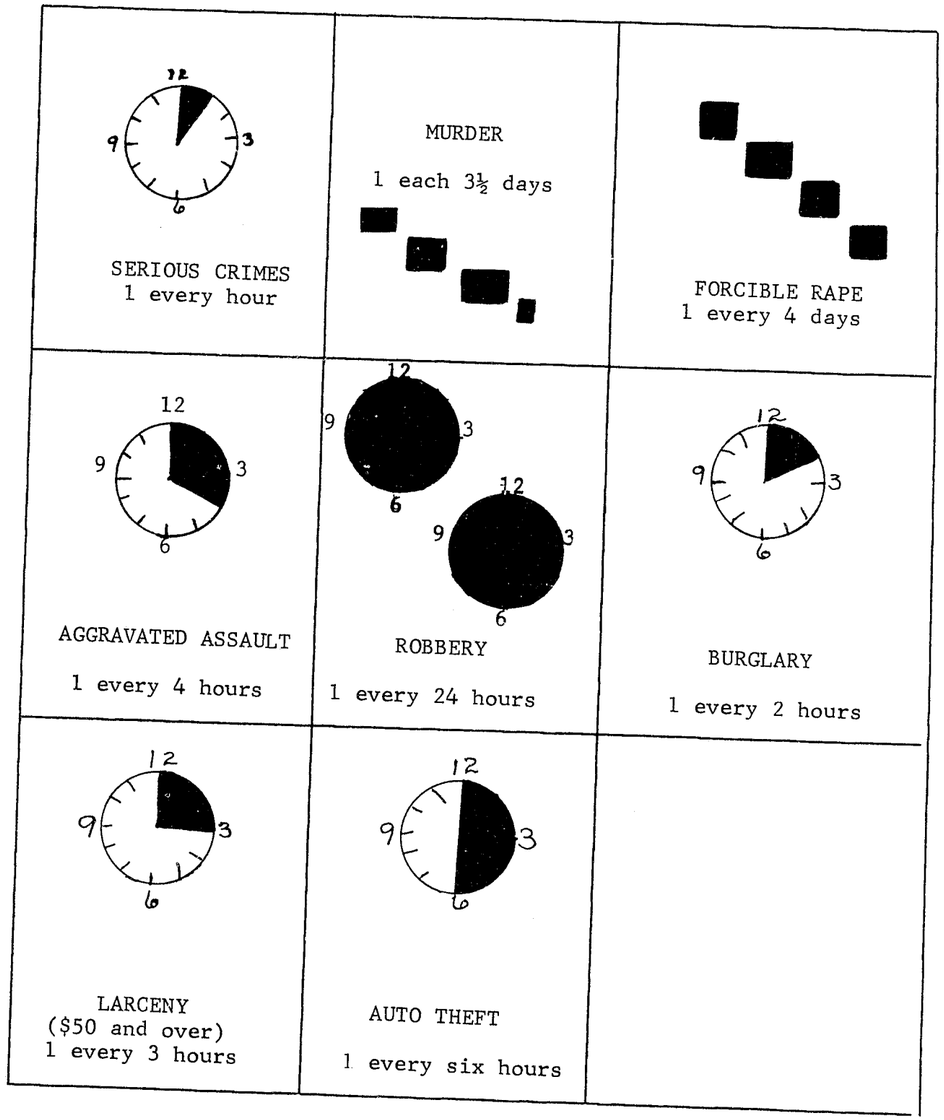
TABLE 4 MAJOR OFFENSES CRIME TRENDS - W. Va.

	1958	1959	1960	1961	1962	1963	1964	1965	1966	Percentage of Change
METROPOLITAN....	4067	4157	4089	3928	3867	4248	4775	4907	5527	+35%
OTHER CITIES....	1440	1600	2079	1860	1902	1726	2261	2215	2309	+60%
RURAL	3034	2081	2513	2524	2330	2448	2636	2459	2766	-8.8%
STATE.....	8541	8438	8681	8312	8099	8422	9672	9581	10602	+24%
RATE.....	433.8	456.8	466.6	449.3	456.8	473.7	538.2	528.8	591.1	

Source: Uniform Crime Reports

FIGURE 4

WEST VIRGINIA CRIME CLOCKS - 1966



SOURCE: Uniform Crime Reports, 1966

314-086 O - 68 - 13

TABLE 5 TRENDS FOR EACH OFFENSE (W.Va.)

OFFENSE YEAR	1959	1960	1961	1962	1963	1964	1965	1966
Murder	81	82	82	66	95	67	72	76
Rape	110	81	81	75	74	89	77	91
Robbery	238	251	216	273	260	303	261	342
Burglary	581	660	629	584	603	718	1003	1104
Feloneous Assault	4157	4446	4396	3837	4023	4818	4600	4651
Grand Larceny	1880	1881	1645	2000	2051	2267	2310	2947
Auto Theft	1391	1330	1263	1264	1316	1410	1258	1391

Source: Uniform Crime Reports

Table 5 shows the trends by offenses in the state for the period 1959-1966. Murder decreased 20 percent, rape decreased 3 percent, robbery increased 12 percent, burglary 9 percent, aggravated assault rose 71 percent, grand larceny climbed 85 percent, and auto theft decreased 10 percent during this period. The population fell from 1,968,734 to 1,794,000.[15]

PUBLIC PROTECTION

Under lying any system of law enforcement and criminal justice is the number one objective: to protect the citizens from the criminal. Yet, according to a survey made by the President's Commission, one-third of all Americans are fearful of being attacked by a stranger while walking alone in their own neighborhoods at night.[16] Hardly a person can be found who feels he is immune to harm from any criminal. One standard for ascertaining how much protection we are getting is to take a look at the public outlay in dollars and cents. All units of government in the state spend $12.15 per person for law enforcement and criminal justice. The national average of $19.40 for state and local expenditures[17] is 67 percent higher than what we spend.

The law enforcement officer in West Virginia has been sadly neglected for many years now. Modern science and technology in this field have had much to offer him for some time but it is expensive. We have been reluctant to make use of innovative measures for detecting and solving crime. This is borne out by the figures in the preceding paragraph. There is a patent

15 Source: W. Va. Dept. of Commerce.
16 *Supra* Note 1 at x.
17 *Supra* Note 2 at 54.

shortage of law enforcement manpower and training in all of the 128 state, county, and municipal units. Thus, much depends on our willingness to close this gap between what we are spending and what is needed to be spent to purchase the protection essential to our peace and tranquility.

SOME SPECIAL PROBLEMS

ORGANIZED CRIME

Organized crime is described by the President's Commission as a society which seeks to operate without the control of government. The core of the activity is the supplying of illegal goods and services -- gambling, loan sharking, narcotics and other forms of vice -- to countless numbers of citizen customers. It may be syndicated or of the Cosa Nostra "family" type, or it can consist of an organization wholly within the state. Whatever its organizational makeup, its nature and goals, it constitutes a serious threat to any society. We should ever be on our guard to detect it and destroy it.

No state can be said to be immune from its threat. The President's Commission said that "organized crime cannot be seen as merely a big city problem." But it is the most difficult kind of crime to combat -- to detect, ferret out and destroy. To exist for any appreciable time, it must have corrupted public officials.

Often the only evidence which can lead to successful prosecution is what is said by word-of-mouth over the telephone. For this reason the President's Commission has recommended legalizing the use of wiretapping and electronic evidence in organized crime cases, similar to what is now done in cases involving national security.

The Governor's Committee had neither the time, the staff, nor resources with which to assess intelligently organized crime in West Virginia. The President's Commission pointed out that organized crime in small cities is difficult to assess. The criminal records themselves reveal little or nothing of significance in an organized crime assessment. The fact that no figures on the extent of organized crime in West Virginia appear in this report by no means is to be taken as an indication the Committee does not believe it to be important to the crime problem in the state.

PORNOGRAPHY

West Virginia Code §61-8-11 prohibits the importing, publication, sale or distribution of pornographic materials. Such materials are defined as those tending to corrupt the morals of youth or the public morals. Many argue with some validity that a more realistic definition of what is prohibited is needed. Difficulty arises when we try to spell out the specifics, and each person finds himself advocating a law embodying his own code of morals.

The limitation with respect to obscenity legislation is found in the 1st Amendment to the United States Constitution, which guarantees the right of free press. The Supreme Court of the United States in *Roth v. United States*[18] held that a finding of obscenity must be supported by the following conditions: "whether to the average person applying contemporary community standards the dominant theme of the material, taken as a whole, appeals to the prurient (inclined to lascivious thoughts and desires) interest," and if the material is "patently offensive" or "whose indecency is self-demonstrating." *(Manual Enterprises v. Day)*[19]

Many would argue that these judicially defined criteria do not go far enough to protect their personal concept of what constitutes pornography.

Every citizen has at some time encountered pornographic pictures or publications which were unlawful even under the most liberal interpretation of the high court's decision. The State Police records, however, in the year 1966 show only 7 arrests for obscenity and 23 arrests for 1965.

Pornographic materials are indeed damaging when circulated among youth. They constitute a most serious threat when passed among school children. Often pornographic materials are found under the counter of some disreputable newsstand, where they may be had at a premium price. Occasionally some sex deviate will attempt to circulate them among school children just for the "kick" he gets from doing it.

Parents are reluctant to prosecute in obscenity cases. Even school officials hesitate to get involved. They insist that the police take the initiative by getting the warrant, and when they do, the case can very easily fail for lack of cooperation. The picture or publication is seized, but identity of those responsible for its distribution cannot be traced.

A trained police investigative unit offers the best protection the public has from exposure to pornography. Alert and

---

[18] Roth v. United States, 354 U.S. 476 (1957).
[19] Manual Enterprises v. Day, 370 U.S. 478 (1962).

responsible school administrators should always be on guard for pornographic materials, and then when discovered, these officials should work closely with the law enforcement investigators to reach the source of distribution, disregarding the fear of embarrassment or concern for the personalities involved. This type of criminal activity has to be dealt with openly and not in secret if it is to be combatted successfully.

HIGHWAY SAFETY

In reading this chapter and, in fact, the full report, one might wonder why the Committee has not dealt with the subject of highway safety. Two reasons should be given: 1) the President's Commission categorizes traffic arrests as noncriminal, as opposed to criminal arrests, and authorities argue that the state could better deal with traffic violations through some administrative procedure, rather than the courts, which in West Virginia are constitutionally barred from administratively suspending the driver's license and; 2) the State's Highway Safety Program, which is being administered in conjunction with the National Highway Safety Act, is funded to develop a comprehensive highway safety program, not only in the law enforcement field, but with the traffic courts. Guidelines established by the national program call for full-time, qualified, salaried traffic judges in a court system within the framework of our present judicial system. These criteria have such force and effect under the law that if not complied with, the U. S. Bureau of Public Roads can penalize the State of West Virginia up to 10 percent of the public road monies coming into the state. This penalty, if imposed, could cost the state millions of dollars.

The highway traffic cases are a serious concern to both state and local law enforcement, particularly with the traffic death rate rising as it is. It is estimated that approximately 45 percent of the manpower hours of the Department of Public Safety are devoted to highway patrol and other traffic work. As the State Highway Safety Program emerges, it is the intent of the Governor's Committee to work in close cooperation with it. However, federal funds for implementing each program will come from different sources -- the Governor's Committee's funds from the Justice Department and the Highway Safety Program from the U. S. Bureau of Public Roads.

ASSESSMENT OF PUBLIC ATTITUDE

Before developing an implementation program for the Committee's recommendations, an assessment of the public attitude toward crime as it relates to the various criminal justice areas must be made. Such information at or near the time of implementation is a prerequisite to the preparation of the public education design of the implementation program.

POLICE

In this age of ever increasing criminal activity and social unrest, the work of the law enforcement officer is particularly significant. The task of enforcing the laws and maintaining order does not fall to the police alone, for such a task is the responsibility of the entire criminal justice system. It is, however, the police who have the most difficult and direct contact with crime--contact in the streets.

As it was so aptly stated in the President's Commission report:

> It is he who directly confronts criminal situations and it is to him that the public looks for personal safety. The freedom of Americans to walk their streets and be secure in their homes---in fact, to do what they want when they want---depends to a great extent on their policeman.[1]

It is for this reason that any study of crime and crime prevention must necessarily involve a study of the existing system of law enforcement. It is for this reason that any movement to combat crime in our society must necessarily involve the means to preserve the best of what we have and to acquire the new and innovative techniques that quality law enforcement demands.

A study of the existing system of law enforcement in West Virginia revealed two significant problems--lack of available information about crime in West Virginia and the need for a more effective use of existing police manpower. It is the intent of this committee to establish some guidelines for meeting these problems. The guidelines, however, must be accepted with the realization that quality law enforcement demands continual high level planning which anticipates changes in technological and methodological techniques based on our increasing knowledge of the nature of crime and the means to combat it.

THE PROBLEMS IN CRIMINAL STATISTICS

Basic to the implementation of improved crime prevention and control programs is a knowledge of the amount and nature of

---

[1] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 92 (1967).

crime. The collection and interpretation of criminal statistics is essential in law enforcement for determining such factors as manpower needs, necessary specialized services, training and facility requirements, and personnel distribution. We cannot combat crime without knowing what crime is---its volume, its trends, its nature---when it occurs, where it occurs, how it occurs.

The President's Commission on Law Enforcement and Administration of Justice, which recently focused attention on many problems surrounding the collection and interpretation of crime statistics, pointed out that the best source of crime information is "crimes known to the police"---that is, offenses officially reported to the police. While crimes known to the police are the best we have, they leave much to be desired in terms of reflecting the true amount of crime or criminal behavior.

In West Virginia the only available statistical information relates to crimes reported to the police. The validity of any conclusions based on these statistics is challenged by the volume of unreported crime. The President's Commission on Law Enforcement and Administration of Justice commissioned the National Opinion Research Center of the University of Chicago to survey 10,000 households. Every person was questioned concerning whether he or any member of his household had been the victim of a crime during the past year, whether the crime had been reported, and, if not, the reasons for the failure to report to the responsible law enforcement agency. These detailed surveys were conducted in Boston, Chicago and Washington. The results revealed great disparity between reported and unreported crimes. In one particular precinct in Boston, the survey revealed that about three times more crime actually occurred than was reported to the police. Those people interviewed who had failed to report crimes premised their action upon police indifference, fear of reprisal, personal involvements, and a reluctance to jeopardize the life pattern of the offender.

The validity of existing statistics is further challenged by sources of error in collection and presentation. Lack of uniformity and variations in the definitions of individual crimes among the various jurisdictions makes meaningful comparisons impossible.

UNIFORM CRIME REPORTS (UCR)

The Uniform Crime Reports published by the United States Department of Justice offers the best source of crime statistics. This Committee made generous use of these reports, but they are only available for 38 of the 213 law enforcement units in West Virginia. These statistics are based on crimes known to the police and are formulated on the basis of uniform reporting procedures by the various participating agencies.

But even the Uniform Crime Reports do not provide the whole answer. There is no clear definition of what is a "major" or "serious" crime. Moreover, many serious crimes against or involving personal risks to victims are not included in the UCR's Index--the seven serious crimes that the FBI considers as indicative of the general crime trends in the nation. Many other factors combine to make the UCR a less meaningful statistical yearstick, but the UCR still remains the best available yardstick we have.

LAW ENFORCEMENT SURVEY

The staff of this Committee devoted a great deal of effort to making an assessment of crime. The task was a difficult one because a majority of the law enforcement agencies do not keep accurate or uniform records--in some instances they keep no records at all. The Department of Public Safety is the only law enforcement agency that provides a reporting service which attempts to accumulate the records of the numerous law enforcement units so that meaningful projections can be derived.

The survey was made in an attempt to relate the police manpower situation to the needs of the locality. The staff was ever mindful of the discrepancies which it knew would occur when the UCR crime index was used as a base. There was, however, no other source of information available. For the time being, at least, many of the questions being asked must go unanswered; for instance, the reported crime figures for Wheeling were quite low considering its population, geographic location, and its position of a major east-west highway. Thus, a number of unknown factors may be operating there. The best than can be said is that in any planning for future law enforcement in the state, crime statistics must be used with great caution and only as a broad guide for indicating the incidence of crime in the state.

The Committee recommends:

The establishment of a central statewide uniform records and data collecting system with provision for instant dissemination and interchange of information to every law enforcement unit. Provision shall be made for participation by all law enforcement units.

TWENTY-FOUR HOUR QUALITY LAW ENFORCEMENT SERVICE

Fundamental to the concept of quality law enforcement is the idea that every area of the state---rural, small town, urban--should have twenty-four hour law enforcement service. This means twenty-four hour availability of law enforcement personnel in each county and town. In many areas, there is not sufficient manpower to provide twenty-four hour coverage, and in other areas lack of communication between the various operating law enforcement units prevents its establishment.

Quality law enforcement also demands that each jurisdiction's law enforcement unit meet minimum standards of selection and training. This envisages a system in which the state must assist the local agencies in maintaining standards and in providing specialized services. The state will also have to take a greater role in financing the cost of improved law enforcement. Financing the cost of law enforcement as it is now practiced in smaller communities is financially unsound and results in a lower quality of law enforcement than is desirable. This does not imply that the present law enforcement officials will be replaced; it does, however, mean that they must be upgraded to meet basic standards.

The Committee recommends:

That steps be taken in local and state law enforcement in West Virginia to provide quality, twenty-four hour law enforcement throughout the state at the municipal, county and state levels.

A LAW ENFORCEMENT PLAN FOR WEST VIRGINIA

One of the powers reserved to the states under the Federal Constitution and expressly mentioned in our State Constitition as being vested in the people is the police power. The framers of the Constitution divided the state into counties and provided a sheriff for each county. Under the Constitution he is the law enforcement officer for the county. The legislature has also created a Department of Public Safety and given its officers statewide law enforcement powers. Thus, as a practical matter, local law enforcement exists with the municipal police in a municipality and with the sheriff's department in areas outside the confines of the city. The present strength of the state agency is 315; of the county agencies 220; and of the municipal agencies 1,014.

A plan has been developed which incorporates a number of basic ideas for the implementation of law enforcement on a statewide basis into the present overall consitutionally and legislatively delegated police authority. Major changes, however, are needed in the law to implement the plan. Moreover, the Committee realizes that any plan that might be proposed at this point must be a flexible one. For as time progresses and new concepts in law enforcement arise, West Virginia must be able to meet the challenges imposed by them.

THE ROLE OF THE SHERIFF

As this plan proposes 24-hour law enforcement coverage for all areas of the state, the question arises whether this coverage will be provided by the state or through the local county and municipal government. At this point in time the best answer to that question is to provide local law enforcement through the aegis of the sheriff's department. Under the plan, then, the sheriff's office would be responsible for law enforcement coverage for all rural areas and for all towns with a population of 5,000 and under. Municipalities with a population of 5,000 and over would work cooperatively with the sheriff's department, but would be responsible for providing 24-hour law enforcement coverage for their own communities, unless they decide to join the sheriff's enforcement unit. The tax collecting function of the sheriff's office would be removed, in order to allow his office to devote itself completely to full-time law enforcement. Another county agency could be created to collect taxes. All members of the sheriff's department and members of municipal departments would have to comply with the minimum recruitment and training standards program. The sheriff, an elected official, would not be required to meet these requirements, but all of his staff would. Deputies would have to be insured tenure in order to justify the outlay for training.

Until such time as the county courts are willing to pay for quality local law enforcement in the rural areas, the state must of necessity fill this gap as it is attempting to do now with the State Police. The state has an interest in seeing that law enforcement does not break down in any county or municipality. Poor law enforcement in any one area will tend to erode the entire system and subsequently affect other areas.

Until such time as the local people choose to bring county law enforcement up to acceptable standards, a system to coordinate the efforts of the county sheriffs and the State Police should be provided at the local level. Both local units must work together to accomplish maximum protection for the citizen.

The Committee Recommends:

That steps be taken to provide for sheriffs' succession, the establishment of a separate county office for tax collection, and a merit-tenure system for deputy sheriffs.

THE ROLE OF THE DEPARTMENT OF PUBLIC SAFETY

With these basic ideas in mind we will now turn to the role of the State Police in the overall plan. A fundamental part of the state's role is providing assistance to law enforcement at the county and municipal level. This includes local cooperation and coordination in maintaining standards and a statewide law enforcement network. Secondarily, the state must provide the needed specialized services which are uneconomical for each community to maintain.

INVESTIGATIVE AND LABORATORY ASSISTANCE

Because of the high cost of equipment and shortage of skilled personnel, the function of major crime investigation and laboratory assistance cannot be handled adequately by every local or county department. Several possibilities suggest themselves here. First, a central laboratory can be established where all criminalistic work is performed and where specialists in crime investigation could be disbursed throughout the state. Regional crime laboratories could be created with a larger central facility to perform highly technical and specialized criminalistic work; however, the regional facility would also perform routine criminal investigations. Moreover, specialists in criminal investigations would be stationed at the regional level to provide assistance to local and county departments.

The regional concept seems to offer more promise in that the specialized personnel would be closer to the scene, and the personnel involved in the specialized services are able to become more intimately acquainted with the local department personnel. It is felt that training local personnel in the details of crime investigation is not economically feasible in terms of time and money, but through good basic recruit and in-service training they will be well versed in preservation of the crime scene, etc. Determination of numbers of personnel needed for both the laboratory and investigative sections and geographic location should await detailed study by the state or the Governor's Committee of the number of major crimes occurring, their location, etc., over a period of several years. Provision should be made to employ civil personnel (non-sworn), such as chemists, laboratory technicians, and so forth. Some thought should be given to locating the various regional laboratory facilities at or near universities or colleges throughout the state in order to make use of the specialized talents within the appropriate departments.

The Committee recommends:

Expanding the laboratory and technical facilities of the State Police Criminal Investigation Bureau in Charleston, preferably on a regional basis, and supplying the department with the best police science and crime detection equipment and technical staff capable of coping with the most complex and difficult crime situation that could arise anywhere in the state.

PLANNING AND RESEARCH

Planning and research are functions too expensive to maintain locally in West Virginia with the state's present population base. This important function can give direction and guidance to the various departments in such areas as manpower allocation, use of available resources, patrol distribution, financial resources, financial administration and planning, and equipment needs and utilization, to mention just a few. The planning and research function should be geared to examine the needs of law enforcement in the entire state, yet it should be able to give individualized assistance to the needs of each county and municipality. The planning and research group should be an instrument for change and improvement in law enforcement. The planning and research unit also provides the opportunity for employment of non-sworn personnel.

RECORDS AND COMMUNICATIONS

Centralized records are a must in the state for rapid records search, for planning and administrative purposes. In addition, with the advent of National Communications Information Center (NCIC), the tie-in with a national records center offers great advantages for rapid information retrieval. The Governor's Committee has recommended the establishment of just such a unit to provide "instant dissemination and interchange of information to every law enforcement unit in the state". An adjunct to this system would be the improvement of local records. Civilian personnel could be hired in many capacities at both the local and state levels. The need for improvement of record keeping and maintaining common definitions has been noted previously, and in order for the planning and research unit to be most effective, this information is mandatory.

ORGANIZED CRIME INVESTIGATION UNIT

It is now impossible to determine even the extent of organized crime activity in the state. Reliable sources feel that there is organized crime activity in certain sections of the state, but few facts are known. The function of this unit would be to determine the extent, location, types of activity, persons involved, etc., in organized crime, to conduct investigations and seek prosecution. Again, the provision of such a unit at the local level would not be feasible economically; moreover, lack of enough skilled investigators might hamper the efficiency of such a unit on the local level. Housing such a unit on the state level would tend to protect against bribery and influence on the investigators and also help to lessen the chance of leaks of information.

The Committee recommends:

That the legislature establish an organized crime unit within the framework of the State Police to be constantly on the alert for organized crime. This unit should be staffed with at least one person who is knowledgeable and trained in the organized crime field. Further, the Attorney General's Office should be provided with funds for a special unit charged with the responsibility of prosecuting organized crime cases throughout the state.

CENTRAL INVESTIGATION

A central investigation unit would perform the function of an internal investigations unit such as found in large, modern police departments. This unit's function would be to investigate

complaints against police, charges of corruption and the like in those local departments involved. Most departments from small to medium size cannot afford to free men for this function, therefore a state unit is recommended. In addition, a state unit would lessen the influences of personal loyalties, bribes, etc. In other words, it would offer more objective investigations. This unit is mandatory in the state if the desire is there for professional law enforcement. This unit can be phased in over a period of the time; and this phasing-in period should focus on indoctrination of all law enforcement personnel concerning its function, utility, and contribution to better law enforcement and improved police community relations. Likewise, the public should be apprised of the role and function of this unit and its (the public's) role in increasing the unit's efficiency and utility.

The President's Commission recommends:

> "Every department, regardless of size, should have a comprehensive program for maintaining police integrity and every medium and large-sized department should have a well-manned internal investigation unit responsible only to the chief administrator. The unit should have both an investigative and preventive role in controlling dishonest, unethical, and offensive actions by police officers."[2]

This is an unpleasant assignment for any unit, and the people charged with the responsibility of doing the work are not likely to be very popular among the other members of law enforcement. However, it is believed that if the local sheriff or chief of police could call upon the services of such a unit any time he felt he had a problem requiring such an independent investigation, then this would be the cheapest and most practical way of handling such problems within the state. Once the head of a local law enforcement unit called for such service, the investigator would be answerable solely to the person requesting his service, and his reports and findings would be made to the sheriff or chief calling for the investigation.

---

[2] *Supra* Note 1 at 116.

STATE SERVICES

RECRUITMENT

All recruitment of personnel for all law enforcement agencies within the state must meet the uniform standards set by the Police Standards and Training Commission. All applicants for positions will be subject to screening by this body, thus assuring meeting minimum entrance requirements, such as physical standards, mental ability, background check, etc. This will be accomplished through a cooperative effort with the State Department of Employment Security, which would be responsibile for testing and preliminary screening, while the local law enforcement agency would be responsible for background checks, psychological screening, and so forth. The final decision on whether the applicant can qualify for the eligibility list will be for the Commission. The recruiting effort would include screening personnel for patrolman level, administrative positions and for technical personnel. This would assure conformance with statewide standards, would enhance voluntary lateral entry and movement of personnel around the state and conform to the goals of the State Law Enforcement Officers Standards and Training Program.

RECRUIT TRAINING

The entire responsibility for all recruit training (for all departments in the state) lies with the state. The extant Standards and Training Commission would have this responsibility. The training could be done at a central location or on a regional basis. In conjunction with the statewide study of the law enforcement officer's job and the design of a curricula to best train these officers for their job, the most appropriate training arrangements can be determined. One of the goals of a present proposal is to design the course so that the maximum amount of study can be accomplished at the home community and a minimum amount of time spent away at some central or regional training facility.

IN-SERVICE TRAINING

In-service training is the responsibility of the Commission. The goal is to bring all currently employed law enforcement officers in the state up to minimum standards in terms of training. This will undoubtedly be one of the immediate

goals of the current Standards and Training program -- including curriculum design and determination of the most feasible method of implementing the project.

SUPERVISORY AND ADMINISTRATIVE TRAINING

In line with the Commission's responsibility in recruitment at the basic and advanced levels, it should also have the responsibility for conducting appropriate promotional examinations for all supervisory and command level positions throughout the state. After selection has been made, it will be responsible for administering a training curriculum designed for supervisors and administrators. Ideally, all new supervisors and administrators should receive the training before assuming their new positions. Lateral entry and lateral or advanced movement throughout the state are assumed. It is also assumed that all agencies will conform to state civil service standards. Again, the appropriate agency to administer and conduct this program is the Standards and Training Commission. This commission is now conducting a study to determine the present need for this training, the expected demand with increased personnel in the various departments, and to design appropriate supervisory and administrative curricula.

The Committee recommends:

The establishment of statewide minimum standards of selection, training, compensation and tenure for all state, county and municipal law enforcement officers supported by adequate training facilities and programs to meet the needs of the local law enforcement officer.

Already the Governor's Committee has been very active in planning for minimum standards and training. It has been responsible for receiving a grant from the Office of Law Enforcement Assistance to plan for statewide minimum standards and training for law enforcement officers. In line with this, an application is now pending with the Office of Law Enforcement Assistance for a grant to study on a systems analysis basis the job of a policeman in West Virginia and to design a training program to best fit his needs.

314-086 O - 68 - 14

POLICE SCIENCE ACADEMIC PROGRAM

An application for a grant from the Office of Law Enforcement Assistance has been made for a planning grant to inaugurate a degree program in law enforcement at West Virginia State College.[3] With the establishment of a degree program within the state, the academic staff of the college could be utilized to design and to present aspects of the course. It is within the realm of possibility that college credits could be given for the supervisory and administrative courses or for at least part of the curriculum.

The Committee recommends:

An interdisciplinary police science academic program with a curriculum in police administration similar to the one now in the police administration school at Michigan State University leading to (1) a two-year Associate Degree in Police Science, and (2) a four-year Bachelor's Degree in Police Administration be established.

POLICE STANDARDS AND TRAINING COMMISSION

The present Police Training Advisory Commission, which was created by the Governor in 1967, expects to ask the 1969 Legislature for a state minimum standards and training law. Approximately 20 states already have such legislation and 5 others are in the process of developing training programs which will lead to the enactment of a law. This body will direct the statewide standards and training program as it develops. The Commission is also in a position to offer leadership and work for the general improvement of all law enforcement in the state.

The Committee recommends:

That there be a legislatively created Standards and Training Commission for West Virginia.

A suggested make up of the membership for such a commission would be two representatives each from the chiefs of police, sheriffs, state police, Fraternal Order of Police, one representative each from the League of Municipalities, the

---

For details of such a program, see Chapter 9, Law Enforcement Academic Program.

Judicial Association, Bar Association, Prosecuting Attorneys Association, College of Police Science and two citizens-at-large.

INSPECTION

The Commission would have the responsibility of inspecting all local units in order to determine if they were maintaining minimum standards in working conditions, equipment, etc. It would also provide advisory service regarding improvement of the functions of each department. If the department in question is not meeting specified standards, then the Commission would recommend changes and be responsibile for seeing that the appropriate changes were made within a reasonable period of time if the locality were to continue to receive state funds.

LOCAL RESPONSIBILITY

Basically, the local unit (municipality of 5,000 or over, or county unit) has the responsibility of providing law enforcement to its citizens. State support in the nature of the previously outlined services together with supplemental state funds for minimum wages, uniforms, and essential equipment would be highly desirable. All jurisdictions meeting the state standards should qualify for state support. Precedent for this type of assistance is found in the educational program of the state. Law enforcement, however, continues to remain a local function under this plan. Nothing in this proposal is to be construed as authorizing any state agency to exercise any direction, supervision, or control over any local law enforcement unit. However, to receive support the local unit must meet the standards prescribed by the legislature and the Standards and Training Commission acting with legislative authority.

COMMUNITY SERVICE OFFICER

The President's Commission recommended for large and medium-sized urbanized police departments the employment of a community service officer. This person is seen as a young man, typically between the ages of 17 and 21 with the aptitude, integrigy and stability necessary to perform police work. He is, in effect, an apprentice policeman replacing the present police cadet. He would work on the street under close supervision and in close cooperation with the police officer and police agent. He would not have full police powers or carry arms. Neither would he perform only clerical duties as many police cadets do today. He would be uniformed, perform some

investigative duties and maintain close contact with the juveniles in the neighborhood where he worked. Whether there is a need for such a person in West Virginia law enforcement is a question on which there is considerable difference of opinion. Uniquely, it would offer a very fertile force of recruitment, just as the cadet program can be. The Police Advisory Commission should give further study to the matter of determining whether there is a legitimate role for the community service officer in West Virginia law enforcement organization.

MINIMUM STANDARDS AND WORKING CONDITIONS

Pending further study, the Governor's Committee has tentatively determined that the minimum size of a jurisdiction to maintain its own law enforcement agency is one with a population of 5,000. With a minimum force of 6 for a city of 5,000 this provides manpower at the rate of one for every 800 plus people. Assuming that the crime rate is normal for a Class III city, this does not seem to be out of line with what can be found in other communities of similar size in the nation. Our per capita expenditure for law enforcement is already far below the national per capita average. To reduce the population base very much would raise the per capita expenditure for law enforcement in that community to a prohibitive point. In order to afford smaller communities the opportunity of joining forces and pooling their resources in the law enforcement effort,

The Committee Recommends:

Permissive legislation authorizing the creation of central police authority, whether by municipalities, counties or a combination of the two.

In addition to the minimum population base, the municipality must be guaranteed 24 hour police protection and meet such minimum working conditions as 40 hour week, paid vacations and sick leave. It is of the utmost importance that jurisdiction be able to provide the necessary manpower to attain these standards. Likewise, the county must also maintain these standards for its coverage of rural areas and for its coverage of all towns in the county with a population base of less than 5,000. The Committee in its further study will determine the minimum number of personnel needed to provide this coverage based on the crime rate, population, size of the area to be covered and topography.

At best, for the moment, it is estimated in order to provide twenty-four hours police service with minimum working conditions in a community of 5,000, a minimum number of law enforcement personnel needed would be six plus the addition of appropriate civilian personnel to operate communications equipment, keep records, etc. There is no rule of thumb for determining the appropriate number of policemen per 1,000 population. Numbers alone are misleading, for it is more reasonable to expect that efficient law enforcement is the result of well selected, well trained personnel who have the respect and confidence of the citizens they serve. By attaining the suggested state standards it is trusted that improved law enforcement will result.

COMPLIANCE WITH STATE PERSONNEL PRACTICES

As previously implied, the municipality or county must comply with certain statewide standards and personnel practices. In addition the Commission is charged with the responsibility, along with the local community, of insuring that these standards are maintained. Compliance with state personnel practices as the following are mandatory:

Lateral Entry

May include change in local ordinances regarding residence in a community, but this insures qualified persons occupying positions at all levels.

Minimum Manpower

Maintenance of a minimum number of personnel on the force at all times, to provide 24-hour law enforcement coverage of a given jurisdiction while meeting minimum working conditions for the employees. Minimum manpower for any jurisdiction will be determined by study by the Governor's Committee on Crime, Delinquency and Corrections which will recommend this to the state legislature for implementation. Assistance in this effort will be by the state law enforcement agency.

Equal Employment

Compliance with state equal opportunity employment laws.

Retirement

All law enforcement personnel will be on the state retirement system, and each jurisdiction will contribute to this system. In those jurisdictions where retirement systems are extant, they should be transferred to the state system or allowed the choice of remaining under the present system or transferred to the state system. The state standards and training commission should initiate a survey of all retirement systems and recommend a system which incorporates the best features of all such systems.

Minimum Education and Standards

Compliance with such training and selection standards as established by the State Standards and Training Commission, for all new recruits. Also includes participation in lateral entry system, and in-service training for all officers presently in service. Includes participation in all in-service training, supervisory and administrative training officially sponsored by the Standards and Training Commission.

Each jurisdiction will comply with broad guidelines issued by the Standards and Training Commission as regards minimum standards for uniforms, radio equipment, automobiles, motorcycles, firearms, riot equipment, etc. All forms used by all departments will be uniform according to state specifications.

ORGANIZATIONAL REQUIREMENTS

Each jurisdiction will follow broad organizational guidelines developed by the state standards and training commission. The sheriff, in rural areas and in towns of less than 5,000 population will be the principal law enforcement official and will have no other responsibilities including tax collection. The sheriff himself will not be required to conform with the minimum standards, nor take the basic recruitment course; however, he should be encouraged to take all the courses available -- particularly those concerned with administration. All deputy sheriffs will come under state regulations regarding standards, training, working conditions, and the like. All municipal departments will comply with state organizational standards and working condition regulations.

The state will require local contribution in the form of salary, retirement, equipment in complaince with all minimum standards and training regulations; however, it will assist those areas where it can be established that the tax base is not sufficient to support the minimum standards.

SUMMARY

The plan as described would place with the Standards and Training Commission the responsibility of statewide recruitment, training (recruit, supervisory, administrative and in-service) with the State Police and for assisting local departments in specialized areas such as planning and research, central records, traffic, organized crime investigation and control, investigative and laboratory facilities and central investigation. Basic law enforcement would remain the responsibility of the county or municipality (over 5,000 population) with assistance from the state in the above mentioned specialized function. This plan allows for provision of twenty-four hour law enforcement coverage to all rural areas, as well as municipalities, and provides for minimum working conditions, voluntary lateral movement of personnel throughout the state, and minimum standards and training for all officers.

The plan, as presented, allows for variation depending on studies of feasibility of one method of operation over another. In some cases alternative approaches have been suggested. However, many of the recommendations require a thorough, detailed study as to feasibility and method of implementation, and these should be carried out by the Governor's Committee on Crime, Delinquency and Corrections or the state Standards and Training Commission. It is felt that the plan as presented offers a goal for the state to try to achieve, yet the plan allows for flexibility and alternative approaches which may be more politically and economically feasible. The plan also ties in with the findings and recommendations of the President's Commission and with the current projects of the Governor's Committee, such as the Standards and Training Commission, and the proposals currently pending with the Office of Law Enforcement Assistance for a study of law enforcement in the state, the creation of a degree program in law enforcement, etc.

A great deal of responsibility for specialized service has been placed with the State Police, but the responsibility for and maintenance of adequate law enforcement ramains with the local community. (See Appendix E for a suggested planning and implementation schedule for this program.)

Chapter 3

CRIMINAL JUSTICE

This chapter deals primarily with the court system, its operation and the basic body of criminal law which the system implements. There is a basic constitutional commitment at both the state and federal levels that criminal justice is to be administered by a court system functioning within the framework of an adversary tradition. Renewed concern for the problems of criminal justice administration, spurred by a growing crime rate, have raised serious challenges to the operation of the present system. However, there have been no serious suggestions that the fundamental commitment to judicial administration of criminal law grounded upon the adversary system should be abandoned. The thrust of present-day concern is toward the improvement of the existing system, not an abandonment of it. That is the premise of this chapter.

STRUCTURAL ASPECTS OF COURT SYSTEM

The court system is then the focus of present concern for the administration of criminal justice. The courts are the prime decision-making agencies. They are the pace-setters of the system. The court system is a structured hierarchy, with courts of limited jurisdiction at the bottom of the scale, courts of general jurisdiction occupying the center ground determining the vast majority of the more serious criminal cases, and with the Supreme Court of Appeals exercising ultimate reviewing authority within the state system. Operating through this system and upon it at all levels is the public prosecutor, the county attorney. The role of defense counsel throughout the State of West Virginia is a function performed by the bar generally. The aim of the opening portion of this chapter is to examine briefly the court structure in the light of the demands of criminal justice administration in the later years of the twentieth century and to examine the prosecutor and defense counsel functions within the state.

JUSTICE OF THE PEACE COURTS

The justice of the peace courts dominate the bottom rung of the judicial ladder. There are about 625 positions for justices in the State of West Virginia. Slightly more than a third of these remain vacant for lack of contestants seeking election to the post. Justices must be residents of the district from which they are elected and are elected for a four-year term after nomination in a partisan primary election. The jurisdiction of a justice in a criminal case is generally quite limited, but special grants of jurisdiction are sprinkled throughout the West Virginia Code. An estimate based upon fee reports by justices throughout the state indicates that as many as 81,000 cases per year are handled by justices, of which about 51,000 are brought to them by members of the state police. This volume of judicial business handled by the justice courts indicates the sizeable impact that this court has upon the administration of justice in West Virginia. Courts of general criminal jurisdiction entertain a mere 4,100 cases each year.

In addition to actually disposing of many criminal cases, the justice of the peace acts as the committing magistrate for most felony prosecutions. When indictment by a grand jury is anticipated, the justice determines, in many instances following arrest, whether there is probable cause to hold the man for grand jury action. A defendant is entitled to a preliminary hearing by the justice to determine this issue. The role the justice plays at this point in the criminal proceedings in serious cases takes on increasing importance as the matter of appointment of counsel and other important rights need early explanation to one accused of crime.

There are two major flaws with the present justice of the peace system which raise grave doubts as to the adequacy of its operation. First, there is no legal training or knowledge of law required for the office. All that is required is that the justice be a resident of the district in which he is elected and a voter in that district. The second major criticism of the state's justice of the peace program is the fee system by which it operates. There is no fixed salary for the justice, and he earns money only for the services he actually performs. The fee system encourages the justice to cooperate with police authorities which tends to

continue bringing a large volume of business to his court.[1] This promotes a bias which undermines faith in the magistrate as the objective and impartial arbitrator of important decisions affecting the liberty and security of the citizenry. Increasing stress is being placed upon the necessity of "probable cause" before arrests of individuals or search of private belongings may be undertaken by police. With an obvious economic temptation to agree with the police point of view in rendering these delicate decisions, the justice of the peace may be indeed institutionally incapable of providing a neutral testing ground in regard to these matters. In addition to this not too subtle bias that erodes the liberty of us all, more flagrant abuses are encouraged by the fee system. Since the justice is paid per case, the total fees earned may be aggrandized by multiplying the number of cases involved in essentially a single complaint. In some instances a single transaction may be splintered into multiple complaints so that large numbers of warrants issue against a single individual. The high cost of these multiple causes sap the strength of a defendant and put the justice who is willing to abuse his public trust in a position to bargain for a compromised settlement that means a substantial fee.

There is a national move to bring about the demise of the justice of the peace system which is in fact a historic legacy that has long since become obsolete.[2] The lack of training promotes a kind of "common sense" justice that may sometimes range far from the actual law and raises grave doubts as to the ability of the present system to make sophisticated discriminations at the threshhold of important felony cases. The fee system builds in a bias that undermines the system generally and encourages truly grievous abuses of justice on occasion. The general lack of dignity and decorum moreover contributes to the general lack of quality of the administration of the law at this level.

The Committee recommends:

Justice of the peace courts as they now exist should be abolished and in their stead county-wide or regional courts with qualified personnel should be provided.

---

[1] See Note, *The Justice of the Peace: Constitutional Questions*, 69 W. Va. L.R. 314 (1967).

[2] President's Commission on Law Enforcement and Administration of Justice, Task Force Report: *The Courts*, 34-37.

TRIAL COURTS OF RECORD

General criminal jurisdiction is exercised by the circuit courts throughout most of West Virginia and by special statutory courts in seven counties. The annual number of new criminal cases filed in these courts has varied from 4,980 to a low of 4,107 during the last five fiscal years, according to figures kept by the West Virginia Judicial Council. The highest number during that five-year span occurred in fiscal 1963 and there has been a steady decline in the number of new criminal cases filed since that year. However, the number of cases pending at the end of each fiscal year has tended to grow steadily over the same five-year period. While there is some indication that the courts are tending to fall a bit behind in the disposition of cases, the crushing burdens of a huge backlog of cases does not burden the administration of criminal justice in courts of general jurisdiction in West Virginia as it does in some areas. While West Virginia voters have seemed reluctant to change the Constitution to allow the expansion of a number of circuit judges, the legislature has created a number of special statutory courts to provide adequate judicial manpower within the state. In sum, West Virginia seems adequately supplied with judicial manpower and adequate means seem available for making adjustment as caseloads may indicate an increasing demand.

While West Virginia circuit court judges and judges of special statutory courts exercising general criminal jurisdiction are elected in partisan elections, the length of terms for these offices seems to provide substantial insulation from undue pressure to respond to transient emotional reactions that sometimes well up within the public. The eight-year term of office for circuit judges allows the judge to act in a dispassionate judicial manner even though the criminal cases coming before him may be charged with substantial emotional overtones.

West Virginia trial courts exercising general criminal jurisdiction have had broad authority to grant probation since 1939. Probation officers, who are required to provide pre-sentence reports and supervise probationers, are appointed in some cases by the judges exercising criminal jurisdication, but most of them are furnished by the Director of Correction. The general statute providing for this appointment fixes limitations on the amount of compensation to be paid but does not fix any training or professional standards for the probation officer. That the role of probation officer is looked upon as a political appointment is evidenced by the fact that the *West Virginia Bluebook* lists the political party affiliation of probation officers in the county

register in many instances. Probation services of high quality have been developed in some parts of the state but this important adjunct to the proper functioning of the criminal courts of the state has not reached its full potential. While the direct appointment by the judges concerned, with no limitations of significance imposed by law, promotes close cooperation between the probation officer and the court, some degree of professionalism on the part of the probation officers throughout the state guaranteed by some minimum training requirement or effective in-service training program should be required by statute.

APPELLATE COURT

The Supreme Court of Appeals exercises the ultimate appellate jurisdiction within the state judicial system. This court, composed of the five judges elected on a partisan ballot for overlapping terms of 12 years, exercises appellate jurisdiction on a discretionary basis unique among the states. A person convicted of crime has a right to seek a writ of error following his conviction, but this involves only the opportunity to seek appellate review and does not provide assurance that appellate review will in fact take place. The number of criminal cases actually reviewed by the Supreme Court of Appeals in recent years has been extremely low. In the fiscal years 1961 through 1966 the number of appeals actually granted in criminal cases in any one year ranged from a low of 5 in fiscal 1966 to a high of 18 in fiscal 1961. The number of instances in which appellate review was sought in criminal cases ranged from about 20 to about 40 during these years.

It is quite clear from the limited number of cases in which appeal is sought, and the even smaller number in which a fully briefed and argued appellate review of cases occurs, that an extremely small number of criminal cases in West Virginia are ever subjected to the scrutiny of a court beyond the court of original jurisdiction. This is quite out of keeping with common practice throughout the United States where at least one appeal as of right is almost automatically available to any defendant convicted of crime. There are substantial advantages to be gained from broadening and strengthening the appellate review of criminal cases. The operational advantages of this policy will be discussed in a later portion of this chapter.

INTERMEDIATE APPELLATE COURT

In light of the limited size of the Supreme Court of Appeals (five members, so limited by the constitution) and the

long-standing tradition of a very limited exercise of the discretionary appellate jurisdiction granted to that court, the most feasible method of insuring at least one review as of right by an independent appellate tribunal in criminal cases in West Virginia would involve the creation of a new intermediate appellate court between the courts now exercising general criminal court jurisdiction and the Supreme Court of Appeals.

The Committee recommends:

A new intermediate court of appeals made up of at least three judges be established to insure at least one appeal as a matter of right in all criminal cases without disruption of the jurisdiction of existing courts. No reasons appear which would prohibit this court, if established, from also exercising civil jurisdiction.

PROSECUTING ATTORNEY

The prosecutorial function in West Virginia is performed by the county attorney elected on a partisan basis for a four-year term in each of West Virginia's 55 counties. The pay for this office varies widely across the state ranging from a low of $2,600 per year to a high of $17,000 per year. The recent high at $17,000 authorized by the legislature in 1967 for the Kanawha County prosecutor stands considerably above the rate provided for most prosecutors in the state. However, the Kanawha County prosecutor is the only prosecutor in the state required by statute to devote full time to his office. He is forbidden to carry on any private practice. West Virginia also provides for 42 assistant prosecutors around the state who along with secretarial assistance in the prosecutor's office operate at a cost at nearly three-fourths of a million dollars per year.

An important aspect of the prosecutor's office in West Virginia is the predominant commitment to a part-time prosecutor assisted by a part-time assistant. By tradition, the criminal justice system in West Virginia operates in surges that build up to intensive periods of activity just before and during each term of court. Thus, a prosecutor and an assistant may be heavily burdened with criminal work for a short period of time, but once the term of court is over and the trial calendar cleared, the demands of the office are substantially reduced and the attorneys have time to devote to private practice matters. The inherent shortcoming of the part-time prosecutor system is quite obvious. With compensation for the public duties fixed by statute, the temptation to devote additional effort to the private sector of

his business to enhance income and push it toward more truly professional levels is very considerable. The dilemma created by the challenge of public responsibility on one hand and the obvious and intriguing opportunities to enhance personal income by devoting greater efforts to private practice on the other hand should not be forced upon a man with such an important public responsibility.

The Committee recommends:

That West Virginia abandon the policy of part-time prosecutors and require regional prosecuting attorneys to devote full time to their public responsibilities. Appropriate work loads could be arranged for such officers by combining the criminal prosecutorial functions in smaller adjacent counties and by increasing the responsibility of the county attorney to represent various public agencies locally in their civil legal matters. The continuation of part-time assistant prosecutors could be continued to supplement the work force created by the full-time prosecutor.

INVESTIGATORS FOR PROSECUTING ATTORNEYS

County prosecutors presently do not have direct supervision over any investigative agency. Their ability to obtain adequate investigation services in the preparation of criminal cases depends upon their own personal ability to develop the cooperation of various local police agencies. The operation of this office could be improved considerably by the addition of a trained investigator who is responsible directly to the prosecutor who could serve as liaison with existing police investigative agencies and provide independent investigative capability to the prosecutor's office when deemed necessary.

The Committee recommends:

Trained investigators responsible directly to prosecutors should be authorized for that office.

DEFENSE OF THE INDIGENT

The provision of defense services to persons accused of crimes is a matter of growing concern. The minimal requirements established by the United States Constitution and demanded of state criminal justice systems have been expanded considerably in recent years. West Virginia has long required that counsel be

appointed to defend individuals charged with felonies within this state, but the administration of these provisions has varied considerably throughout the West Virginia counties. The state attorney general of West Virginia joined in filing an *amicus curai* brief with the United States Supreme Court in the important case of *Gideon v. Wainwright*[3] which established as a Constitutional mandate that states provide defense counsel for all indigent criminal defendants accused of serious crimes. There is increasing emphasis being placed upon the role of counsel across the full range of criminal justice administration from the time of arrest until the time of ultimate release to society. In more and more instances, the United States Supreme Court is demanding that the right to counsel be afforded. The right to counsel must be afforded to a criminal defendant (free of charge if he is indigent) during in-custody interrogation,[4] trial, appeal,[5] probation revocation hearings[6] and, since the case of *In re Gault*,[7] in juvenile proceedings where a substantial interference with the freedom of the juvenile involved is a possible consequence.

The appointment of counsel for indigent criminal defendants in West Virginia is within the power of any court of record in West Virginia having criminal jurisdiction. The authority is buried obscurely in a statute which was amended in 1966 to assure the courts of this state that their authority to appoint occurred "at any time."[8] There is no statewide systematic method whereby counsel is appointed for indigent accused. There is no clear understanding of the scope of the obligation of an appointed defense counsel. Practices in regard to the appointment of counsel vary from court to court. The lack of clear-cut guidance as to the terminal point of an appointed counsel's obligation leaves the matter of representation of indigent defendants on appeal or in probation revocation proceedings very much in doubt. Still, it seems quite clear now that the spirit of the right to counsel and equal protection doctrines of the United States Constitution clearly command adequate and vigorus representation of

---

[3] 372 U.S. 335 (1963).
[4] Miranda v. Arizona, 384 U.S. 436 (1966).
[5] Douglas v. California, 372 U.S. 353 (1963).
[6] Mempa v. Rhea, 389 U.S. 803 (1967).
[7] 387 U.S. 1 (1967).
[8] W. Va. Code ch. 62, art. 3, § 1 (Michie 1966).

the accused at these stages of his confrontation with public authority. A recent study of the problems involved in providing adequate defense services to the poor undertaken by the American Bar Association strongly recommends that the appointment process be made very systematic so that the failure to provide counsel at any important point in a criminal proceeding does not result from lack of clearly defined responsibility.[9] Furthermore, the report suggests that the obligation of the defense counsel be precisely stated to avoid doubt as to when the responsibility of the counsel comes to an end. These matters deserve serious consideration.

Underlying the problem of providing adequate defense services to indigent accused persons is the matter of cost. West Virginia has now provided a token payment to appointed counsel -- $50 in the case of felony and $25 in the case of misdemeanor. Truly adequate defense services are available to the poor only at exhorbitant personal sacrifice by attorneys. The quality of legal services provided in many instances is substantially compromised simply because the attorney, no matter how public spirited he may be, cannot indefinitely perform services for such totally inadequate pay. The federal government in the Criminal Justice Assistance Act of 1964 abandoned the policy of expecting lawyers to represent indigent defendants in federal criminal proceedings without fee and adopted a more pragmatic program of paying on a modest but adequate scale according to the time actually devoted to the representation of the individual involved.[10] One of the vexing constitutional problems facing the nation today is that of implementing the spirit of the *Gideon* decision so that every poor man accused of crime is not only represented by counsel but adequately represented by legal counsel. It is the duty of the state to face this obligation and respond to this challenge in a meaningful way.

The Committee recommends:

A program of ample compensation for counsel representing indigent persons accused of crimes, delinquency and neglect of children providing for a time necessary to investigate and prepare a case, in court appearances, and appropriate appellate actions, be undertaken by this state. It should be clearly established that it is the responsibility of the state and not the bar to provide counsel for indigent persons accused of crimes, delinquency or neglect of children.

---

[9] American Bar Association, *Providing Defense Services* (Tent. Draft 1967).
[10] Criminal Justice Act of 1964, 18 U.S.C. § 3006A (1964).

314-086 O - 68 - 15

OPERATIONAL ASPECTS OF COURT SYSTEM

To this point, this chapter has devoted itself essentially to the structural aspects of the criminal justice system--the court system and the professional legal personnel, prosecutors and defense counsel, who operate in that system. The focus now shifts to the operational aspects so that other facets of the criminal justice system of the State of West Virginia may be examined.

INITIATING CRIMINAL CHARGES

The focus here will be on the process from the initiating of the criminal charge to the ultimate disposition of the charge following trial and appeal.

The machinery of the criminal justice system may be set in motion by either a private citizen or a police officer. The police officer acts either upon observed infractions of the law or official information given to him. West Virginia is fortunate in escaping the kind of strained relations between large segments of the population and the police force that plague the urban centers of our nation. Sporadic complaints do arise within the state, but these are in fact sporatic rather than persistent and would not seem to require any kind of sweeping change involving the criminal justice system generally.

The situation is different in the area of private complaint. Any private citizen may initiate the criminal process by swearing a complaint before a justice of the peace. This sets in motion a hearing process which at a minimum can cause great inconvenience to the individual accused. Here again the fee system of the justice of the peace courts tends to encourage abuse of legal process. The justice does not receive a fee for refusing to issue a warrant but receives a fee for issuing the warrant and holding a hearing upon it. The justice generally feels justified in issuing the warrant compelling the accused person to appear so that the matter might be resolved upon a fair hearing. Presently, the only restraint is the fear of a civil action in damages for false arrest or malicious prosecution.

The difficulty is, of course, that the tradition of our legal system cautions against the interference of the liberties of the private citizen unless there is probable cause to summon him before a magistrate. The fee system encourages total disdain for the probable cause standard and the setting in motion of the machinery of criminal justice upon ther merest of suspicion and motivated by nothing more than a moment's anger. To reduce the possible abuses within this area--

The Committee recommends:

Legislation should require, subject to certain exceptions, the approval of the appropriate prosecuting attorney prior to the issuance of a warrant.

RELEASE ON PERSONAL RECOGNIZANCE

When there is probable cause to hold a person for grand jury action and subsequent disposition by a court exercising general criminal jurisdiction, another problem arises within the criminal justice system. By strong tradition within our system every man is entitled to bail prior to his trial on noncapital offense, thus allowing him freedom during the time that elapses between the initial arrest and the disposition of the case by a court of competent jurisdiction. By common practice bail has operated much to the disadvantage of the poorest members of our society since they are least able to meet the economic demands of bail. As a consequence, the man with the least job security, the least likely to have any economic cusion to tide him and his family over difficult times, the person frequently faced with the most desperate needs in terms of providing the necessities of life, is most frequently retained in jail pending disposition of the criminal charges against him. The grievous disadvantages this works upon the poor have been carefully documented elsewhere.[11]

On the brighter side of the picture, however, there are programs operating in two West Virginia cities, Charleston and Huntington, which have demonstrated productive new means of dealing with this problem. Both of these cities have developed bail projects patterned after the now famous Manhattan bail project sponsored by the Vera Foundation in New York City. These projects fix responsibility on a specific individual to make brief examination of each new person lodged in jail pending criminal charges to ascertain and verify certain background information in regard to the individual. A simple scale has been developed which has proved quite effective in identifying those persons who would be good risks to release from jail on personal recognizance without the demands of an immediate outlay of money which lays beyond the capabilities of most of these men. There is obviously an immediate benefit to society as a whole in the operation of these programs.

---

[11] President's Commission on Law Enforcement and Administration of Justice, Task Force Report: *The Courts*, 37-41 (1967).

The Committee recommends:

Bail projects patterned after the Vera Foundation type projects in Charleston and Huntington should be developed on a statewide basis.

NOTICE IN LIEU OF ARREST

An alternative mode of reaching much the same problem in regard to minor criminal offenses and thus further reducing the unnecessary pre-trial incarceration of individuals charged with crime can be accomplished by expanding use of a notice system rather than an arrest system to bring offenders before courts of justice. Many traffic and parking violations are handled by a summons instead of an arrest. The possibility of expanding this practice should be seriously investigated so that guidelines may be drawn and proper adjustments in legal procedures made to facilitate the maximum use of these. Informal and less burdensome means may be employed to initiate the criminal process.

The Committee recommends:

An appropriate study should be undertaken to determine under what conditions a summons may be used in lieu of a warrant.

WAIVER OF INDICTMENT

We have addressed ourselves to several means by which the burdens of pre-trial incarceration may be ameliorated. There is another aspect of this problem which deserves attention. By reducing the time span between the initiation of the criminal process and the disposition before a court of competent jurisdiction, many advantages may be gained. The resolution of the criminal charge will clear the doubt that hovers over the individual. More importantly, to those individuals who failed to gain release from jail pending this disposition, the advantages of shortening the waiting time are doubly important. One stumbling block in reducing this time span is the reliance in West Virginia upon the indictment as the sole means to initiate criminal prosecutions in all felonies and by custon in serious misdemeanors.

Since the indictment may be returned only by a grand jury and grand juries convene at only infrequent intervals throughout the year, much of the pre-trial time is devoted to merely awaiting the convening of a grand jury so that the formal charge may be made and some definite action in disposition begun. Many states prosecute by information, a criminal charge sworn to by the public prosecutor. The information also initiates many prosecutions in federal criminal proceedings where a waiver of an indictment is allowed in all but capital cases.[12]

[12]Federal Rules of Criminal Procedure, Rule 7(b). See Smith v. United States, 360 U.S. 1 (1959); Barkman v. Sanford, 162 F2d 592 (5th Cir. 1947).

The grand jury originated as an instrument whereby the people of the locality concerned could report offenses formally to the visiting judges sent out by the king. It evolved into a body in the United States today which serves two primary functions: It may serve as a check on hasty and unwarranted criminal charges thus saving a potential criminal defendant the burdens of standing criminal trial where there is totally inadequate evidence to justify this; and second, it can serve as an investigative body representing an unbiased cross-section of the community which can be particularly effective when public doubts are raised as to the unbiased quality of investigations that may be made by other public agencies. The grand jury continues to hold out potential and significant advantages. However, channeling every significant criminal charge to the grand jury is not necessary to reap the substantial advantages of a grand jury system. By recognizing the validity of the information as a valid means of starting a criminal prosecution as an alternative to the indictment would allow its use in those cases where there is no advantage to be gained by waiting for grand jury action. No right is lost when a defendant makes a knowing and intelligent waiver of indictment by grand jury and submits to trial on information.

In the vast majority of instances, there is no doubt at all that there is sufficient evidence to warrant trial on charges involved. In these instances it is much to the advantage of the accused to proceed promptly to a disposition of the case. To allow a waiver of an indictment by a defendant under such circumstances would promote the expeditious disposition of criminal cases and would reduce the pressures of the cyclical nature of criminal court activity presently produced by the surge of business set off by a meeting of the grand jury.

The Committee recommends:

Steps should be taken to authorize public prosecutors to proceed by information where there is a valid waiver of an indictment.

NEGOTIATED PLEA OF GUILTY

Most criminal cases are disposed of without trial by jury. This fact makes it all the more important that the waiver of indictment be recognized as valid in West Virginia. Since the grand jury is usually followed promptly by the petit jury, much of the advantage and smoothing out the court's criminal caseload would be lost if the cases merely piled up awaiting action by a petit jury. However, it is abundantly clear that the vast majority of criminal cases are disposed of without a jury trial on the merits

and thus the waiver of indictment would be doubly effective in moving criminal cases along to a rapid disposition.

The practice of disposing of criminal cases without trial is one about which much of the legal profession and the court system manifests ambivalent feelings. Several factors contribute to the commonness of the plea of guilty. First, most people who are arrested and indicted are in fact guilty of a criminal offense. Frequently, their criminal activity will involve violation of more than one criminal statute, and thus they are subject to prosecution for several different criminal offenses. Secondly, the present criminal code is premised upon an approach which might be labeled "overkill" in common vernacular of our day. That is, a single episode of unlawful behavior may involve several acts which, though relatively innocuous in themselves, amount to independent felonies each subjecting the individual to very substantial periods of incarceration. In short, the present criminal law provides for penalties which are disproportionately large for most offenses. Thirdly, the public prosecutor frequently feels that public justice is adequately done if only a portion of the potential penalties which may be levied against the individual are in fact imposed upon him. All these factors contribute to the common feeling that a willing admission of guilt as to part of the criminal offense does not belie the truth, adequately serves the needs of public punishment, and avoids the necessity of criminal trial which would produce little advantage for either prosecution or defense in most instances. As a consequence, the negotiated plea of guilty, sometimes more disparagingly called bargained pleas or bargained justice, accounts for the disposition of the many criminal cases.

AMERICAN BAR ASSOCIATION POSITION ON NEGOTIATED PLEAS

A study by the American Bar Association recently published suggests minimum standards to be observed in the activities surrounding this process. The underlying premise of the American Bar Association position is that plea negotiation is legitimate, that it serves a useful purpose, and that justice is better served by the process being performed openly and above board with the acknowledgement of court approval and supervision. This report deserves serious study by the bench and bar in West Virginia.[13]

---

[13]American Bar Association, *Pleas of Guilty* (Tent. Draft 1967).

Jury trials in West Virginia of criminal cases are relatively low in number, but their impact on the system as a whole remains terribly important. Much of the defendant's willingness to plead guilty or a prosecutor's willingness to drop charges in view of the nature of evidence is gauged by anticipated jury reaction to the particular situation involved. The jury trial thus tends to be a pace setter for the system as a whole, a kind of barometer against which the less formal and more obscure decision processes within the criminal justice system operate. At the heart of the jury system, of course, is the method by which the jury panels are drawn from the community at large. At present the system by which this most important termination is made varies considerably in important detail from county to county within the state.

The federal government has recently undertaken a study of the jury selection systems of the federal courts and the system involved in various states courts with a view toward expanding civil rights legislation to insure selection of juries on nondiscriminatory bases.[14] It would seem appropriate that West Virginia should, in light of its own strong and serious commitment to state initiative in human relations,[15] undertake to review the jury selection processes within this state to reassure itself that the legal rules surrounding the selection of juries insure a fair cross-section of the communities involved. This is an area in which objective rules of law could seem to assure the public of truly nondiscriminatory practices better than a system which places faith upon procedures which are conducted largely beyond the view of the general public.

PREJUDICIAL EFFECTS OF PUBLICITY

There is one further striking development in regard to the jury trial in recent years that has not missed the State of West Virginia. This problem grows from the increasing difficulty to conduct important criminal trials free of intense pressures which are generated by the vast amount of public media attention that is focused upon such events. Recent cases in the United States Supreme Court such as *Shepherd v. Maxwell*[16] and *Texas v. Estes*[17] have underlined the basic constitutional dimensions

---

[14]See, "President's Special Message to Congress on Civil Rights" Feb. 16, 1967, House Doc. No. 56, 90th Cong. 1st Sess. See also, "Hearings, Federal Jury Selection," Senate Subcommittee on Improvement of Judicial Machinery, Mar. 21 - July 20, 1967.

[15]W. Va. Code ch. 5, art. 11, § 1 (Michie 1966).

[16]384 U.S. 333 (1966).

[17]381 U.S. 532 (1965).

of this question. In our own state, serious problems of the prejudicial effects of publicity were raised in the recent cases of *State v. Hamrick*,[18] *State v. Dandy*[19] and *State v. Maley*.[20] Developing a sound and mature policy in this area which will promote the even-handed administration of justice while allowing the legitimate distribution of public information and avoiding the aborting of the criminal process as does so dramatically occur from time to time raises a challenge of substantial importance. Again, a recent report by the American Bar Association has focused upon this matter and makes useful suggestions which deserve careful consideration.[21] The recommendations of this report have been vigorously attacked by a broad segment of the American Press attesting to the probability of very serious problems that would have to be faced in any serious adjustment of policy in this area.[22] The bench, bar, and news media sources of the State of West Virginia should be challenged to look seriously to the issues raised by this report and consider carefully what kind of policy would be best for the state of West Virginia.

SENTENCING POLICY

The final step of the trial stage of a criminal case is the sentencing action taken by the trial judge. Here, the legal policy of West Virginia has undergone a major, but quiet revolution. West Virginia has, since the adoption of its first constitution, been committed to the policy that "penalties shall be proportioned to the character and degree of the offense."[23] Over the years, the Supreme Court of Appeals has refused to exercise the potential power of this phrase and has allowed the legislature to do as it pleased in regard to the disposition of persons convicted of crime in West Virginia. And, it has pleased the legislature of West Virginia to make wide-ranging changes in the basic approach to sentencing in this state. The most significant innovations came about in 1939 with a granting of broad probation authority to criminal courts and with the commitment to the indefinite sentence.[24]

---

[18] 151 S.E.2d 252 (W. Va. 1966).
[19] 153 S.E.2d 507 (W. Va. 1967).
[20] 152 S.E.2d 827 (W. Va. 1967).
[21] American Bar Association, *Fair Trial and Free Press* (Tent. Draft) (1966).
[22] American Newspaper Publishers Association, *Free Press and Fair Trial* (1967).
[23] W. Va. Const. art. III, § 5.
[24] Brown, *West Virginia Indeterminate Sentence and Parole Laws* 59 W. Va. L.R. 143 (1957).

This legislation shifted a very large measure to the control of the maximum term of imprisonment out of the hands of the courts and into the hands of the administrative agency--the Board of Probation and Parole. More recently another legislative innovation has shifted West Virginia still further from its initial policy of fitting the punishment to the crime. A new Division of Correction was created in 1965 and specifically charged with developing programs that would return convicted persons to normal productive lives at the earliest possible date.[25] Thus, the current posture of the State of West Virginia is to promote to the fullest degree a rehabilitative program in lieu of a retributive program. In this process the importance of the sentencing role of the court has been substantially reduced. The gross length of a prison sentence is determined by fixed limits within statutes. The sentencing court still has some degree of discretion in its choice of consecutive or concurrent sentences where multiple offenses are concerned. It still has considerable discretion in granting or denying probation to a convicted person. And, there are some offenses as to which the trial court is specifically authorized to choose between incarceration in the jail or commitment to the penitentiary.

Courts exercising criminal jurisdiction in West Virginia have available the pre-sentence report as a tool to facilitate enlightened disposition of offenders.[26] The quality of these reports varies considerably from county to county depending upon the capabilities of the probation officer involved (recall that these officers are appointed by the judge and need to meet no specific professional training requirement by law) and the community resources available to support the presentence investigation. (Local mental health clinics are sometimes called upon by some courts to provide psychological or psychiatric analyses of individuals involved.)

The sentencing policy manifested by West Virginia statute is somewhat incongruous. The indeterminate terms fixed by West Virginia statutes in regard to various specific offenses are not altogether consistent. There are more than 200 different

---

[25] W. Va. Code ch. 62, art. 13, § 1 (Michie 1966).
[26] Lorensen, *Disclosure of Presentence Reports to Defense in West Virginia*, 69 W. Va. L.R. 159 (1967).

specific penalties fixed for various offenses in Chapter 61 of the West Virginia Code. The indefinite sentence policy which makes release contingent upon approval by the Board of Probation and Parole tends to dilute the significance of the terms fixed by the statute. Moreover, the trial judge has no authority to adjust even the minimum period of time that an offender must serve before he is eligible for release on parole. Additionally, some crimes have unusually high minimum terms fixed and are no doubt the result of emotional reactions to a short lived waive of public concern for particular crimes.

MODEL SENTENCING ACTS

Several new models concerning the sentencing problem have been developed by agencies of national repute in recent years. The American Law Institute has evolved a thorough going sentencing policy as a part of its Model Penal Code.[27] The National Council on Crime and Delinquency recently published a Model Sentencing Act,[28] and the American Bar Association has recently published a tentative report on Appellate Review of Sentences and another on Sentencing Alternatives and Procedures. That West Virginia has been willing to innovate in the area of correction is commendable, but the role of the sentencing court, the prime concern of this chapter, seems to have become quite ambiguous and uncertain. With prestigious national models providing a platform from which an intelligent evaluation may be made, the time would seem right for a careful reconsideration of the proper role of the sentencing judge in the correction system generally.

APPELLATE REVIEW

As previously recommended, it is felt that there is need for intermediate appellate court that would provide one appeal as of right in all criminal cases. As noted, the Supreme Court of Appeals has not in recent years engaged in an aggressive review of criminal cases in this jurisdiction, and has disclaimed authority to review sentencing decisions by trial judges with the result that frequently the most important determination made in a case is not subject to any subsequent re-evaluation. Certainly,

---

[27] American Law Institute, *Model Penal Code*, Arts. 6, 7 (Proposed Official Draft 1962).

[28] The Model Sentencing Act is published in 9 Crime and Delinquency pp. 345 *et. seq.* (1963).

one of the major reasons for the lack of a healthy persistent overview of the administration of criminal justice in West Virginia has been the lack of effective demand upon the Supreme Court of Appeals for the review of criminal cases. This lack of demand arises from several causes. There seems to be considerable doubt as to the responsibility of appointed counsel to pursue appellate remedies for an indigent accused. Certainly, there is no adequate compensation, and out-of-pocket expenses for appellate review in West Virginia outstrip the compensation that is allowed by statute at a very early point. Moreover, the speculative nature of gaining review on the merits, in light of the discretionary review policy of West Virginia appeals, discourages many from even seeking review where it might otherwise be pursued with vigor. All of these factors contribute to the present policy that finds only a handful of West Virginia criminal cases being subjected to the dispassionate and objective review of an appellate court in the normal year's operation of the judicial system.

The consequences of this lack of appellate review are not altogether healthy. Trial court practices on many points vary from county to county. No doubt some local variation is bound to occur within every judicial system, but the disparities that occur in West Virginia are considerable. The lack of effective appellate review lodges extraordinary power in West Virginia trial judges. This simply means that an enormous number of decisions within the criminal justice system operates upon a basis of discretion exercised by the local trial judge. While a certain degree of discretion is necessary in order to insure adequate flexibility and efficiency, an excessive reliance upon it invites suspicion. The basic commitment of our system, that it should be in a government of laws and not of men, runs quite counter to the proposition that so many important decisions go unreviewed and unreviewable. It is one thing to isolate the trial judge from emotional or partisan pressures by providing a long term on the bench and infrequent election. It is quite another to insulate the trial judge from effective review of his legal decisions by another competent court. The present system encourages an overpersonalized administration of the law which is fundamentally incompatible with a system in which objective rules should reign supreme.

APPEAL AS A MATTER OF RIGHT

Appeal as of right in criminal cases is quite common throughout the United States and discretionary granting of review in West Virginia is unique. To promote respect for law and standardized practices throughout the state, an

appeal as of right in every criminal case should be provided. It is to be hoped that the new court suggested by this report could, with its fresh start, seek to innovate in appellate practice to make the review of criminal cases quick and inexpensive. It would certainly be appropriate considering the operation of such a court to weigh the merits of having the court sit at various points throughout the state to reduce the time and travel expense of litigants to reach it; to consider the appellate review services of this court in connection with a review of the sentencing policy in light of the growing view that there is nothing inappropriate in the review of sentencing decisions; and considering the possibility of automatic review of every criminal case to some extent whether requested or not to forestall the question of whether rights have been prejudiced by failure to press for appellate review in specific cases and to promote the maximum standardization of practices throughout the state as a whole.

POST CONVICTION RELIEF

A problem that has plagued the operation of the criminal justice system in recent years has been the increasing resort to post-conviction relief. The growing concern of the United States Supreme Court for minimum due process standards applicable in state criminal proceedings has been paralleled by a broadening of the procedural means by which federal courts can eventually review the adherence to federal minimum standards.[29] Most states, including West Virginia, have broadened their own state post-conviction remedies, abandoning the ancient narrow limits upon the writ of habeas corpus in order to accord the state courts a "first crack" at complaints by prisoners that constitutional standards were not met in their conviction. West Virginia recently adopted a post-conviction relief act that should serve to provide an expedient means to make accurate factual determinations in regard to allegations of abuse of federal constitutional rights.[30] Whether this statute is operating effectively is not yet known. It should be noted, however, than an intermediate appellate court which could automatically review promptly after

---

[29] See Lorensen, *New Scope of Federal Habeas Corpus for State Prisoners*, 65 W. Va. L.R. 253 (1963).

[30] W. Va. Code 53-4A (Michie Supp. 1967). See Note, "Habeas Corpus in West Virginia" 69 W. Va. L.R. 283 (1967).

trial every criminal case in West Virginia could serve to forestall much of the anguish engendered by stale complaints of prisoners who challenge the details of procedure by which they were convicted many years after those events have occurred.

PROBLEM OF DELAY

Underlying the entire criminal justice system is one problem that seems to infect the administration of criminal law throughout the United States in varying degrees. The problem is the pace at which the system operates. Justice delayed is justice denied in many instances and contravenes the requirement of Section 17 of Article III of our State Constitution which requires that "..justice shall be administered without sale, denial or delay."

The delay in prompt disposition of a criminal case can frequently mean a loss of job and a loss of status in a community that is wholly disproportionate to the criminal offense involved. This kind of delay can only serve to embitter the individual involved so that any corrective action taken by the court is due to fail no matter how well informed. If a person who violates society's rules is to feel the sting of public indignation for the wrong that he has done, that response should follow close upon the misconduct that is involved. A great lapse of time between the crime and the punishment stretches the cause and effect relationship beyond plausible bounds and reduces the efficacy of any rehabilitative effect that the punitive action might have. In short, the system should operate as quickly as dispassionate, careful and balanced judgment will allow.

CAUSES OF DELAY

The causes for delay within the system are sometimes subtle and sometimes obvious. One obvious cause for delay is the grand jury system which creates an unnecessary gap of time between the original complaint and the formal charging of a crime against a defendant. We have already suggested that much of this problem can be alleviated by recognition of the validity of the information in West Virginia. Another more subtle cause for delay is the almost automatic advantage in terms of defending against the formal charge against the accused, that accrues to his benefit by delaying official action upon it. Reaction to the original wrong wanes, enthusiasm for the charge peters out,

witnesses' recollection dulls and concern ebbs, as the provoking event further recedes in the past. The result is that there seems to be an automatic advantage to the defense to delay prompt disposition of a criminal charge when it is brought. But in the larger picture the defendant may suffer considerably from this delay. So long as a criminal charge hangs over his head unresolved, many affairs of productive aspects of his personal life must hang in limbo. Reasons for delay abound, but the public is entitled to swift disposition of public business and the constitutional guarantees of speedy trial should not be played off indiscriminately against the hopes of benefiting from procrastination. The means by which a new force can be injected into the system to promote speedy disposition are not altogether clear. The desirability of the end is hardly open to question, but the technique by which to achieve it raises some difficult problems.

The Committee recommends:

The felony timetable recommended by the President's Commission on Law Enforcement and Administration of Justice be given further study as a possible guide to promote the expeditious disposition of criminal cases. This timetable sets forth a worthy goal demanding a program that should be developed within the framework of the judicial and bar association in order to insure proper support. (See Figure 7)

SUBSTANTIVE CRIMINAL LAW

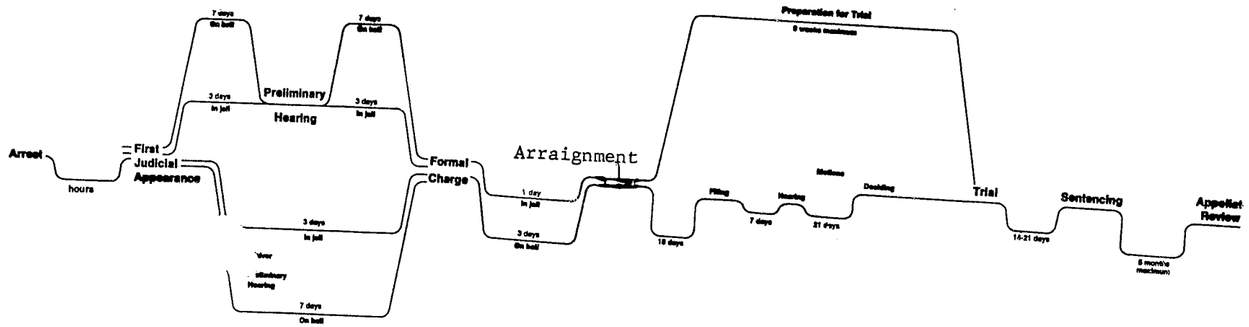
To this point various structures and processes have been observed and evaluated and a number of recommendations have been made bearing upon adjustments that might be implemented to improve the operation of the criminal justice system. Another element of this picture that deserves consideration is the criminal law which is in fact administered by the system. The substantive criminal law itself can hardly escape examination. The basic body of West Virginia criminal law was absorbed from the West Virginia Code of 1849. While there has been a good deal of tinkering and patching up done in the past century, there has been no careful thorough going review of this important body of law.

Much of the substantive criminal law reflects the common law of England of the 17th Century that was more oriented toward a metaphysical mode of thought. The pragmatism of the latter

THE CHALLENGE OF CRIME IN A FREE SOCIETY - Pgs. 154-155

FIGURE 7

Model Timetable for Felony Cases



Arrest to First Judicial Appearance. *Many States and the Federal courts require appearance "without unnecessary delay." Depending on the circumstances, a few hours—or less—may be regarded as "unnecessary delay." Compliance with this standard may require extension of court operating hours and the continual availability of a magistrate.*

First Judicial Appearance to Arraignment. *Standards here are complicated because: (a) a shorter period is appropriate for defendants in jail than for those released; (b) preliminary hearings are waived in many cases and the formality and usefulness of the hearing varies; (c) formal charge in some cases is by grand jury indictment, while in others by prosecutor's information—usually the right to indictment can be waived by the defendant; and (d) in many jurisdictions proceedings through preliminary hearing in felony cases are in one court while grand jury charge and subsequent proceedings are in another. While in all cases these steps should take no more than 17 days, in most cases it should be possible to accomplish them in substantially less time.*

Arraignment to Trial. *Many of the increasing number of motions require the judge to hear and decide factual issues. Discovery orders may require time for the assembling and screening of documents. The recommended standard would allow slightly more than 5 weeks for these steps and would allow a total of 9 weeks between arraignment and trial. Where complicated motions are not involved, the period before trial should be shortened.*

Trial to Sentence. *During this period a presentence investigation should be completed.*

Sentence to Appellate Review. *This standard is based on the time periods of the proposed Uniform Rules of Federal Appellate Procedure. Many jurisdictions would have to change existing practices concerning printing and preparation of records to meet this standard.*

half of the 20th Century makes some of this quaint. Our criminal law today is encumbered with many sophisticated discriminations. Many basic determinations are encumbered by archaic language.

The rather indiscriminate process by which the substantive criminal law of today has evolved into its present condition has created a situation in which the criminal law is called upon to deal with problems which are patently inappropriate for its sphere of concern. The public has all too often reacted to an equation which suggests that anything deemed offensive by a majority of the citizens should be officially condemned -- and if it were condemned it should be made criminal and the burden cast upon the criminal processes to eradicate it. There seems a clear consensus today that there are certain types of problems that have been shouldered by the criminal processes for too long and with disastrous results. It would be wise that immediate steps be taken to acknowledge the inability of criminal processes to effectively meet these kinds of problems.

The Committee recommends:

Drunkenness and narcotic addiction should be excluded from the criminal justice system and an alternative means of dealing with such problems should be provided.

One approach to the alcoholism problem is the Court School for Alcoholism Prevention.[31] Judge Levin, of the Superior Court of California, City and County of San Francisco, describes the unusual school established by him to which persons with the problem of excessive drinking are sent as a condition of their probation. The school is run the year around for four one-hour sessions on successive Wednesday evenings. Each session emphasizes a different theme -- (1) the medical aspect of alcoholism; (2) social-psycholigical factors involved in alcoholism; (3) Alcoholics Anonymous and its program; and (4) community treatment resources. Similar schools have been conducted in other parts of the country with some degree of success.

[31]See Levin, *Alcoholism Prevention School* 53 A.B.A.J. 1043 (1967).

The President's Commission recommended civil detoxification centers, along with civil legislation authorizing the police to pick up those drunks who refuse to, or are unable to, cooperate and provide for their detention until sober. Counseling and other programs to assist the intoxicated person are offered all brought to the center. The Division of Alcoholism of the Department of Mental Health has prepared for the Governor's Committee an alternative plan for handling the drunken offender, which appears in Chapter 12.

DISTINCTION BETWEEN CRIME AND SIN

There is a growing body of opinion that suggests the time has come when the law should recognize the distinction between crime and sin and stop employing the tools of the criminal law to attach to matters of essentially private moral concern. The criminal law is, of course, but a small part of the arsenal of weapons used by society to shape and mold the ethical and moral conduct of its members. The law threatens grievous punishment and public condemnation.

In a pluralistic society which is fundamentally committed to recognize and tolerate differences of opinion, there is considerable doubt of the propriety of using criminal penalties to punish persons for acts which do no objective harm to others or to society as a whole but tend only to contravene the moral principles of the majority.[32]

In the light of the fact there has been no thorough going evaluation of the scope of the criminal law in West Virginia since the inception of this state, the time would seem right for either careful readjustment of the perimeters of the criminal law in those areas where the criminal law seems to be of doubtful efficacy; gambling, abortions, private sexual practices; either separately or as a part of a broader re-evaluation of the criminal code of the state as a whole.

CONCLUSION

This chapter has sought to deal with the broad problems of the criminal justice system in West Virginia generally. Specific recommendations have been made where particular steps have offered the opportunity for productive

[32]See Lorensen, *Abortion and the Crime-Sin Spectrum*, 70 W. Va. L.R. 20 (1967) and sources therein cited.

314-086 O - 68 - 16

change. Some matters have been touched upon in detail, others have been addressed in only the broadest fashion. This chapter has been concerned with essentially the institutional form of the criminal justice system. With this structure we have found much that merits further examination and the possibilities of improvement seem very real. That the processes of criminal justice operate as well as they do within the state speaks well of the quality of the men who make it work.

Chapter 4

JUVENILE DELINQUENCY

Some time ago in a statement on crime, President Johnson said: "We cannot tolerate an endless, self-defeating cycle of imprisonment, release and reimprisonment which fails to alter undesirable attitudes and behavior." If any one point of view related to the defeat of this cycle nears universal acceptance, it is the simple belief that the best hope for reducing adult crime is to find a way to prevent or reduce juvenile or youth crime. Thus, probing for ways to implement this point of view is in fact probing at the very heart of the problem.

Some insight into the magnitude of this task that lies ahead can be gained by observing that with approximately 22,000 inmates in our 34 federal institutions today, another 1,000 in Public Health Service hospitals, and still another 3,000 in the custody of non-federal facilities, the Bureau of Prisons is responsible for the care of about 26,000 inmates. In addition, there are about eight times this number confined by the 50 states. Since the present United States population is approximately 200 million people, the ratio of those imprisoned to the total population is 100 in every 100,000 people. A substantial number of these imprisoned individuals are young people or older offenders with juvenile records.

NEED FOR STATISTICAL EVIDENCE

It has been suggested by many experts that a significant component in the prevention and control of delinquency is to know as many facts about delinquency as it is possible to assemble. This means that we should have knowledge of how many youthful offenders exist, the kinds of offenses committed, the number of arrests and the disposition of juvenile cases. In addition, we should know the number and kinds of institutions available for handling juvenile offenders, programs for treating those institutionalized, significant shifts in the kinds of acts committed, recidivism rates, and any other aspects of apprehension and treatment that will cast more light upon what to do to, for, with, or about delinquency and delinquents.

The task of securing needed statistical data, however, is fraught with difficulties. The President's Commission reported that:

"But we are severely limited in what we can learn today. The only juvenile statistics regularly gathered over the years on a national scale are the FBI's Uniform Crime Reports, based on arrests statistics, and the juvenile court statistics of the Children's Bureau of the United States Department of Health, Education, and Welfare, based on referrals of juveniles from a variety of agencies to a sample of juvenile courts. These reports can tell us nothing about the vast number of unsolved offenses, or about the many cases in which delinquents are dealt with informally instead of being arrested or referred to court. Supplementing this official picture of delinquency are self-report studies, which rely on asking selected individuals about their delinquent acts. While efforts are made to insure the validity of the results by such means as guaranteeing anonymity, and verifying results with official records and unofficial checks, such studies have been conducted only on a local and sporadic basis, and they vary greatly in quality. Clearly, there is urgent need for more and better information." 1

AVAILABLE STATISTICS

Available statistics related to juvenile offenders in West Virginia are at their best inadequate. Reporting is sporadic and lacking in uniformity. The effective use of available data in the pursuit of solutions to delinquency problems is adversely affected by the fact that the quantity and quality of available data suffers not only from inconsistencies in the classification of various behaviors held to be of a deviating nature, but also from variations in the definition of the term "delinquent".

The West Virginia Department of Education estimates that there are 272,163 children between the ages of 10-17 living in this state. Of these 272,163 children, it is estimated that 10,866 were arrested in 1966. This figure is based on the West Virginia Judicial Council statistics which show that 3,622 cases involving juveniles were referred to the courts for the fiscal year ending June 30, 1966. Experience has shown that for every one child referred to the courts, two are not referred. Judicial Council statistics also reveal that only 1.33 percent of these children in the 10-17 age group appear before the juvenile courts of this state.[2] This figure compares favorably with the national average

1 President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 55 (1967).

2 A compilation of available delinquency statistics in West Virginia is contained in Appendix F.

of 2 percent estimated by the United State's Children's Bureau. It must be noted that about one-half of the juveniles appearing in the courts of this state are repeaters.

In 1966 the West Virginia State Police arrested 2,439 juveniles while 902 were arrested by the Charleston City Police Department. Of the nine sheriff's reporting, 109 juvenile arrests were tabulated for 1966. This represents a combined total of 3,450 of the projected 10,866 arrests for 1966. The types and frequency of offenses for which arrests were made are reflected in Tables 6 and 7. These tables have particular significance as they are indicative of the nature of this deviating behavior.

Officially designated delinquents are predominately male. The United States Children's Bureau projects that if present trends continue, one in every six boys will be referred to a juvenile court before his eighteenth birthday. In West Virginia this means that with the present population of 136,000 males in the 10-17 age group, 22,000 of these boys will be appearing in juvenile courts before they are 18.

We cannot rely too heavily on the statistics presently available on juvenile delinquency in this state. It follows, therefore, that we cannot be too sure of the seriousness of the delinquency problem. To develop a more effective way to reduce or eliminate delinquency, we must have reliable and uniform statistical data.

The Committee recommends:

Standardization by all courts exercizing juvenile jurisdiction of statistical information record forms.

THE EXPERIMENTAL APPROACH

Since our American culture changes with almost kaleidoscopic rapidity, the underlying principle governing the development of any recommendations for solving juvenile problems is that such recommendations must be viewed as a basis for change within a short period of time. Such a position is essential if an experimental attitude toward new programs for the effective resocialization of delinquents is maintained.

Insistence on an experimental approach to the social phenomenon called juvenile delinquency stems from four simple

TABLE 6 - NUMBER & RATE OF ARRESTS FOR THE 10 MOST FREQUENT JUVENILE OFFENSES - 1966

Rank	Offense	Number	Rate (per 1000 population)	Percent of total Arrests
1	Breaking and Entering	300	2.7	7.0
2	Petit Larceny	208	1.9	4.9
3	Auto Theft	205	1.8	4.8
4	Juvenile Delinquency	169	1.5	3.9
5	Burglary	157	1.4	3.7
6	Destruction of Property	107	.9	2.5
7	Grand Larceny	91	.8	2.1
8	Drunk	71	.6	1.7
9	Assault	51	.4	1.2
10	Weapons	28	.2	.7
	Total, 10 most frequent offenses	1387	1.27	32.45
	Arrests for all offenses	4287	3.92	100.00

Source: State Police Juvenile Arrest Records, 1966
Rural W. Va. population approximately 1,092,072

TABLE 7 - NUMBER & RATE OF ARRESTS FOR THE 10 MOST FREQUENT JUVENILE OFFENSES - CHARLESTON, W. VA. - 1965

Rank	Offense	Number	Rate (per 1000 population)	Percent of total arrests
1	Shoplifting	173	2.00	19.2
2	Violation - Curfew	154	1.80	17.1
3	Drunk	61	.70	6.8
4	Disorderly Conduct	55	.63	6.1
5	Petit Larceny	51	.58	5.7
6	Dest. of Property	43	.50	4.8
7	Incorrigible	38	.43	4.2
8	Missing/Runaway	36	.41	4.0
9	Grand Larceny	29	.33	3.2
10	Missing/Runaway (out of state)	26	.30	3.0
	Total, 10 most frequent offenses	666	7.68	74.0
	Arrests for all offenses*	902	10.40	100.0

Source: Charleston Police Dept., Juvenile Bureau, 1965.
Charleston population estimated at 86,621.
* Does not include traffic arrests.

truisms: 1) social institutions are, in essence, relatively crystalized sets of behavior habits; 2) culture is dynamic, not static; 3) social institutions are co- (or inter) related in any social system; and 4) when change takes place in one social institution, change will inevitably occur in one or more of the other institutions. Adherence to these truisms fosters the development of recommendations that will fit a changing, moving milieu rather than unrealistic, definitive proposals that would be better suited to a static, non-changing social setting.

FRESH CONCEPTS AND APPROACHES

Although unanimity cannot be expected on all suggested procedures for affecting resocialization, those people who are in a position to know and understand juvenile problems in this state are in complete agreement that there is a need for fresh concepts and approaches in most areas. There is a serious need for developing ways and means by which an effective program for the resocialization of the juvenile offender can replace simple custodial care. This does not infer that the institutionalized offender is given only custodial care by the existing correctional personnel in West Virginia. This does mean, however, that because juvenile delinquency is on the rise and the recidivism rates for youthful offenders are higher than for all other age groups of violators, we must be continually alert to new ways of rehabilitating and resocializing the young law violator.

It should be distinctly understood that the strong emphasis on the adoption of new programs that will result in the effective resocialization and rehabilitation of the deviating child is not an advocation of a soft or permissive approach. People and property must be protected against mistreatment by juveniles as well as adult offenders. However, if a juvenile's cycle of violation, incarceration, violation, incarceration *ad infinitum* is to be permanently interrupted, a way must be found to produce a positive change in the delinquent. It is of the utmost importance that those people who work with juvenile offenders be able to expose them to a set of experiences that will motivate these offenders to slough off their anti-social tendencies in favor of a socially useful pattern of behavior.[3]

[3] **Already plans are underway for the establishment of a correctional and research training center at West Virginia University in Morgantown. For details of concept, see Chapter 10.**

Essential to the program recommended here is a continuing program of research and experimentation for new concepts and approaches to the delinquency problems in the state. Only with the help of a research and training component can the sought-after goal be achieved.

COMPREHENSIVE APPROACH

The resocialization of a deviating juvenile represents but half of the total need. If the state's concern with the institutionalized delinquent ends with the child's demonstration of a readiness to return to society, and nothing is changed in the social milieu to which he or she must return, then the state is indeed guilty of what might be called a "piecemeal" attack upon the problem of delinquency.

For example, a child is picked up in "X" locality and is committed to a correctional institution after repeatedly demonstrating indifference to social responsibility. He is kept in the institution until such time as the offender demonstrates that he has substituted acceptable behavior habits for the undesirable behavior habits that caused him to be sent away in the first place. If the staff is successful in the efforts to rehabilitate or resocialize that young person, he is released. If he simply returns to an unchanged social climate in which the interest and motivation to delinquency originally was generated, then that youthful offender will soon show the need to be institutionalized again.

If the "piecemeal" approach is to be avoided in favor of a total attack, then the full might of all community resources must be enlisted and brought to bear in an effort to stop communities from being contributors to the perpetuation of delinquency.

THE FAMILY COURT

A family court having jurisdiction over such matters as delinquency, divorce, adoption, non-support, bastardy, contributing, and foster home placement can make a significant contribution to the solution of many problems related to juvenile and youth crime. The inadequacies inherent in the circuit court prevent it from being an instrument of maximum effectiveness in dealing with problems of juvenile and youthful offenders. However, it is not any shortcoming of the present handling of young law violators that prompts the recommendation that the system of family courts be established. Rather, it is the keen sensitivity of the Committee to the deep involvement of the home in the etiology of most delinquent behavior that stimulates them to look upon the juvenile or family court as the *sine qua non* in any program intended to solve deviating behavior problems of young people. There are many reasons why this is so. Some of the more obvious ones are:

A. Delinquency is a highly complex phenomenon of unlawful behavior committed by children and youth.

B. Because of the complex nature of the development of a delinquent, rehabilitating the delinquent can be achieved most frequently by professionally trained persons capable of developing and implementing programs which incorporate the latest findings of the social scientist. A family court, staffed by professionals, can provide this.

C. Although a thousand juveniles may commit the same delinquent act, no two of them will commit that act for exactly the same set of reasons. Therefore, it is essential for effective resocialization or rehabilitation of juvenile offenders to have readily available an instrument that recognizes the need for and has the capability of providing justice based on individual case need.

Individualized justice is not an easy thing to accomplish. This awareness is shared by many who work in the field of juvenile delinquency. William H. Sheridan, Assistant Director, Division of Juvenile Services, Children's Bureau, makes the following recommendations for a juvenile or family court structure:

1. A judge and a staff identified with and capable of carrying out a nonpunitive and individualized service.

2. Sufficient facilities available in the court and the community to insure:

   a. that the dispositions of the court are based on the best available knowledge of the needs of the child.

   b. that the child, if he needs care and treatment, receives these through facilities adapted to his needs and from persons properly qualified and empowered to give them.

   c. that the community receives adequate protection.

3. Procedures designed to insure:

   a. that each child and his situation are considered individually.

b. that the legal and constitutional rights of both parents and child and those of the community are duly considered and protected.[4]

One of the most important features of such a court is that it offers a wide range of possible dispositions of children's cases. A family or juvenile court, structured to provide a "team approach", an experimental spirit, a professional staff dedicated to keeping abreast of new knowledge discovered in the physical, biological, social and health sciences, will give West Virginia an instrument that will help the state to take a major step in meeting its obligation to all its socially and culturally handicapped children, whether they are delinquent or not.

A point worth reemphasizing is that approaching the needs of delinquent children in a humanitarian manner should not be equated with "mollycoddling" those who violate the law. Reestablishing in a delinquent child a desire to live a useful and productive life should be the aim of any program for treating a law violator.

The Committee recommends:

Family courts with jurisdiction over all matters normally found in this type of court, such as delinquency, divorce, adoption, non-support, bastardy, contributing, etc., and with a sufficient population base to justify a full-time judge or judges.

ORGANIZATIONAL STRUCTURE OF THE DELINQUENCY PROGRAM

The development and implementation of a comprehensive juvenile program presupposes the existence of an effective organizational structure. The organizational structure must reflect the established goals and philosophies of the program.

This is not always an easy thing to accomplish. For example, in West Virginia the accepted theory of juvenile treatment is that the handling of juvenile problems is fundamentally a task that must be coped with at the local level. However, many areas of this state are too thinly populated to justify the development of costly programs that are required if we are to meet the juvenile problems in our state adequately. Yet, at the same time, an effective delinquency program must provide high quality services to all youths regardless of the population area from which they come.

[4] Sheridan, *Juvenile and Family Courts* 2 (1966).

A majority of the counties in West Virginia do not have a population base to justify the establishment of separate juvenile facilities, such as courts and detention housing with appropriate personnel. In addition, there are not enough youngsters who require these services in most counties to justify the expense. A multi-county approach, therefore, seems to be the most logical answer. Under this system a geographical area with a sufficient population base (300,000 to 500,000) would provide specialized services for all youngsters in that area. The counties could join together and be served by a family court, a youth service bureau, a detention facility, and other appropriate services. With the advent of improved roads in West Virginia, the small inconvenience caused by traveling to reach a given facility would be balanced by the improvement in youth services.

The establishment of juvenile services on a regional basis necessitates the creation of some coordinating body to assure uniformity in approach and equal opportunity for all individuals. The Committee realized the need for a centralized youth authority committed to the task of providing leadership and direction on the development and implementation of local youth services. Though the prevention and control of delinquency is essentially a task to be met by local governmental units, it is the responsibility of the state to assure uniform standards for the operation of various delinquency facilities, courts, detention housing, probation and parole personnel and to provide equal opportunities for every child.

By providing state leadership for local government, as with state programming throughout, a comprehensive attack on delinquency problems is made possible. Sporadic and fragmented implementation is eliminated. Responsibility for action is fixed.

The Committee recommends:

The organizational structure of the delinquency program in the state should be as follows:

a. Department of Corrections responsible for all services to the delinquent, including youth service bureaus and regional detention facilities programs.

b. A Division of Delinquency within the Department of Corrections to administer the state delinquency program.

c. Division of the state into regions with regional centers.

d. **A legislatively created Advisory Commission to advise on the program.**

e. **A delinquency component within the Correctional Research and Training Center to be established at West Virginia University in conjunction with the state correctional program.**

YOUTH SERVICES BUREAU

Scanning juvenile arrest records of the average municipal police department in the state will reveal that about one-half of the arrests are made by the police for such conduct as fighting, incorrigibility, hitchhiking, disorderly conduct, drunk, loitering, runaway, playing pool, starting a fire without a permit, truancy, trespassing, violation of curfew and firecracker law.

The thinking of many of the juvenile delinquency authorities in the nation today is that both the police and the schools should have some community agency to which it can refer such juveniles. These people recommend the test for referral to this agency be such that if the conduct for which the juvenile is detained had been engaged in by the adult and the adult would not be answerable to the criminal laws, then referral to this agency could be had by the police and the schools. Even in the court-accepted cases referral can be made by the juvenile court.

Such a procedure would avoid the stigma of being processed by an official agency regarded by the public as an arm of crime control by substituting for the official agencies organizations which are better suited for redirecting conduct. It has been proven many times that it is possible to achieve greater success with this type of program. Also, the utilization of these locally sponsored organizations heightens the community awareness of need for recreation, employment, tutoring and other youth development services. This in turn brings a greater appreciation of the complexity of the delinquent's problems on the part of the community.

The President's Commission recommended the establishment by the committee of neighborhood youth services agency -- youth services bureaus, to act as central coordinators of all community or neighborhood programs, specifically, ones designed for less seriously delinquent juveniles.

A primary function of this agency would be individually tailored work with troubled youths which might include group and individual counseling, placement in foster homes, work and recreational programs, employment counseling and special education (remedial, vocational).

The Committee recommends:

Youth Service Center Bureaus of the type recommended by the President's Commission on Law Enforcement and Administration of Justice, as an alternative referral source for the police and schools for those juveniles whose delinquent conduct, if committed by an adult, would not cause him to be answerable to an adult court, and also as an alternative referral source for the family courts in all juvenile cases.

REGIONAL DETENTION

Under the present law in West Virginia no child under the age of 16 can legally be housed in a county or city jail. However, because of the overwhelming lack of separate detention facilities for children in West Virginia, the present custom is that a room or two is set aside in a county or city jail and described as the "juvenile section". No matter what you call this section, the fact remains that these youngsters are being housed in jails in violation of West Virginia law, not to mention the obvious harmful effects on the youngsters confined therein. Nevertheless, judges must have a place to detain temporarily many of the youngsters who are referred to their courts, pending final disposition of their cases. Frequently this is necessary for the protection of society and other times for the protection of the youngster.

The Committee recommends:

Regional detention facilities equipped with adequate programs to meet the needs of the detained children, and approved overnight holdover facilities for children requiring immediate secure custody locally. Jails will be eliminated as a source of detention for juveniles.

SPECIALLY TRAINED PERSONNEL

Any structure or system dealing with people is entirely dependent upon personnel for its effectiveness. In an area as complicated as that of delinquency, specially trained staff members are imperative. National statistics reveal that for every one person arrested by a law enforcement officer two others have been contacted by that officer. Certainly a child's first contact with a law enforcement officer can have a great deal to do with his future conduct. Similarly, once a child has been referred to a court, his relationship with court personnel such as probation officers or later, his contacts with institutional personnel, all have a direct bearing on his chances for rehabilitation. In any serious illness one would not consider seeking help from anyone other than a professionally educated and trained person.

The Committee recommends:

All personnel employed to work in any agency dealing in any way with delinquency should have specialized training.

IN-SERVICE TRAINING FOR JUDGES

Like any other scientific field, new techniques are constantly being discovered or discussed in the field of juvenile delinquency. As is the case with other professional persons, it is highly important that judges dealing with juveniles and other family matters keep up to date in their knowledge of new materials and methods.

The Committee recommends:

An in-service training program for family court judges.

ADEQUATE PROBATION AND PAROLE SERVICES

The best trained probation and parole personnel cannot perform their duties effectively unless they have a realistic number of youngsters under their supervision. The National Council on Crime and Delinquency recommends a caseload not to exceed twenty for juvenile probation officers and a caseload not to exceed thirty for juvenile parole officers.

The Committee recommends:

An adequate probation and parole service available to family courts and the juvenile parole system.

PROTECTION OF RIGHTS OF JUVENILE

In recent cases the United States Supreme Court has ruled that certain constitutional rights apply in cases involving juveniles charged with acts of delinquency. These rights which are required to be respected in all cases include the right to counsel, written notice of charges against the juvenile, the privilege against self-incrimination and confrontation and cross-examination of witnesses. The Committee wholeheartedly concurs with the recognition that these rights apply to juvenile delinquency cases.

The Committee recommends:

The establishment of a system of juvenile justice to provide a juvenile with all constitutional facilities.

COMMUNITY PROGRAMS

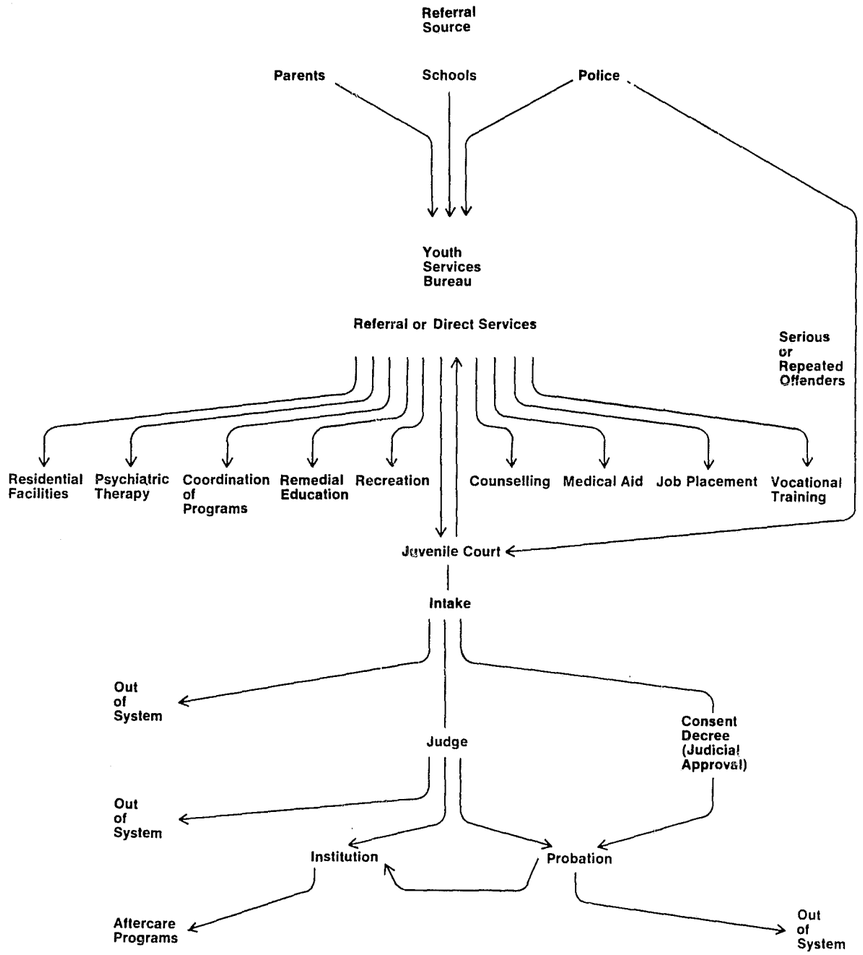
All the court, detention, and institutional services in the world will not prevent or decrease juvenile delinquency without the support of the community as a whole. Parents, teachers, all who come in contact with children, play a key role in determining behavior patterns. Society must have an abiding interest, accompanied by appropriate community action programs -- schools, recreation, churches, etc. Only by working together can this serious state and national problem be solved.

The Committee recommends:

The extension of appropriate community action -- extra judicial delinquency prevention, disposition, and after-care facilities and programs.

FIGURE 8

Proposed Juvenile Justice System



Source: *Challenge of Crime in a Free Society, op. cit., p. 89.*

CORRECTION

OUR PRESENT SYSTEM

Traditionally, society has been most reluctant to look at the correctional machinery which it supports with its tax dollars. Not only is correction difficult to see, because of the very nature of its purpose and function, but also unattractive to view. The impersonal atmosphere of the typically steel and concrete institutional buildings is not pleasing to the eye, and those residing within are not the types with whom the average law-abiding citizens in our society would want to associate. Inhabitants of correctional institutions in West Virginia represent the hard-core segment of the most troublesome, quarrelsome, bothersome, and criminally inclined element of our society. They have been officially declared, for all practical purposes, misfits and failures and are enrobed in a cloak of disrespectability and irresponsibility.

Even the families of those who have been sentenced to our correctional institutions prefer not to think or talk about the institutions and often ignore, or forget entirely, the family member who has been ostracized from society.

PRE-INSTITUTIONAL CARE OR PROBATION SERVICES

Of course, the correctional process machinery is not limited to correctional institutions. It includes pre-institutional care (probation) and after-care (parole).

Persons who find themselves in pre-institutional care or probation services, are so interspersed within our society that we are scarcely aware of them. The stigma of institutionalization has not yet attached to the young, impressionable, first offender. He has not yet acquired the more sophisticated criminal attitudes of the "old timer" who has been through the institutional process. The degrading, debasing and often humilitating experiences of the prison have not yet befallen the average probationer. There is still a high degree of hope that he will change his attitude toward society and toward himself and emerge from the probation process as a law-abiding, peaceable

314-086 O - 68 - 17

member of society. Indeed, perhaps the greatest ray of hope on the correctional horizon is the intensified supervision and professionalized counseling available through pre-institutional services.

AVERAGE PAROLEE IN OUR SOCIETY

Although similarly interspersed among our society, the average parolee is not as obscure as the probationer. Having acquired certain specific habits and traits within the institution and often possessing the tell-tale "love"," hate", and "born to lose" finger tattoos, he is readily identifiable by most law enforcement and correctional personnel and other sociologically informed members of the community. For the average parolee, authority is a thing to be feared and fought. Society as a whole is considered an enemy. Anti-social attitudes and beliefs have been reinforced in the correctional setting. Prisons, as we understand them in West Virginia, have done very little to change the attitudes of those committed to their charge or to prepare them for the almost inevitable return to the community. Until recently, no psychiatric services at the institutions were available, there were no treatment-oriented personnel employed in the institutions, training programs were minimal and highly inadequate, and the administrations were entirely content with security efforts aimed at keeping the charges within the confines of the institutions.

SCOPE OF THE DIVISION OF CORRECTION

In West Virginia, until March of 1965, each of the six correctional institutions and probation and parole services were operated as separate entities, independent of each other. In March, 1965, the West Virginia Legislature established the Division of Correction within the office of the Commissioner of Public Institutions. The Division of Correction is made up of the following institutions:

1. West Virginia Penitentiary, Moundsville, West Virginia -- a maximum security prison for adult, male felons, with a present population of 850;
2. West Virginia Medium Security Prison, Huttonsville, West Virginia -- a medium security prison for adult, male felons, with a present population of 300;
3. West Virginia Prison for Women, Pence Springs, West Virginia -- a medium-minimum security facility for adult female felons, with a present population of 31;

4. West Virginia Industrial School for Boys, Pruntytown, West Virginia -- for male juvenile delinquents, with a present population of approximately 190;
5. West Virginia Industrial Home for Girls, Salem, West Virginia, for female juvenile delinquents, with a present population of approximately 60;
6. West Virginia Forestry Camp for Boys, Davis, West Virginia, -- a minimum security facility for youthful, male offenders, with a present population of 85.

Also included in the Division of Correction is full responsibility for the supervision of all persons on parole within the State of West Virginia and all adult probationers except those assigned to a county court probation staff.

On any given day, the State Division of Correction is responsible for approximately 4,000 people in the institutions or on probation and parole. There are some 700 employees in the division, 33 of whom are probation and parole officers.

The responsibility for granting, denying or revoking adult parolees, remains exclusively within the purview of the West Virginia Board of Probation and Parole. Responsibility for juvenile probationers rests with the West Virginia Department of Welfare and the juvenile courts.

FACILITIES NOW INADEQUATE

The jail facilities, juvenile detention facilities, juvenile training schools, and the prisons of the state are generally totally inadequate. Most of our jails are disgustingly dirty, ill-equipped and poorly managed facilities. There are only three counties in the state with juvenile detention faciiities outside of the county jails. In all other counties, juvenile and youthful offenders are housed in the county jail along with adult offenders.

There is no system of centralized routine jail inspection in West Virginia. The jails operate autonomously and are not generally favored by substantial appropriations for their operation. Indeed, the system of criminal justice, including correction, has not been one of those favored areas of legislative concern, as far as financial appropriation is concerned. Our need for roads, schools, development of natural resources, better mental health facilities, increased welfare benefits and the like, have all taken priority over our system of criminal justice and correction.

BEGINNING OF A NEW ERA IN WEST VIRGINIA CORRECTION

The establishment of the West Virginia Division of Correction was the beginning of a comprehensive plan of dealing with public offenders. However, virtually all the personnel employed in the institutions falling under the jurisdiction of the Division of Correction had as their primary aim security and custody. There were very few treatment or rehabilitation-oriented people within the institutions. Lack of financial opportunity, lack of job security, and less than attractive physical surroundings within which to work, have badly hampered the recruitment of treatment and rehabilitation personnel in our correctional system.

While the concept of rehabilitation and treatment of the public offender is not novel, it is a relatively new idea in the historical development of penology in this country. Even to the uninformed, it is obvious that there is no panacea to the complex problems of crime and the criminal. Indeed, correction has not corrected a great meny offenders. On the contrary, the conditions which have existed in our correctional institutions have probably been a positive detriment to self re-evaluation and rehabilitation.

FIVE BASIC TRUTHS OF A CORRECTIONAL PROGRAM

There are five basic truths or premises upon which any successful, comprehensive correctional program or plan must be based. First, that the people who have the greatest influence, either positive or negative, upon people in our correctional institutions are their fellow inmates. Secondly, that 98% of all persons in correctional institutions in West Virginia today, will one day return to society. Thirdly, that rehabilitation is largely a matter of the mind; we may have the most modern physical plant and the most qualified professional staff, but if the offender does not want to be rehabilitated and has not determined that it is economically and socially better to be outside than in, no rehabilitation program will work for him. Fourthly, that the transition from a correctional institution back to society must be made as gracefully and realistically as possible. Lastly, correctional institutions should be places where people are sent *as* punishment, not *for* punishment, and should be used only as a last resort.

The legislative purpose stated in the act establishing the West Virginia Division of Corrections is that the,

> ...article shall be liberally construed, to the end that persons committed to institutions of the State for crime and delinquency shall be afforded individual and group treatment to re-establish their ability to live peaceably and, consistent with the protection of the community, to release such individuals at the earliest possible date, and to establish a just, humane and efficient program, and to avoid duplication and waste of effort and money on the part of public and private agencies. [1]

It becomes immediately apparent that it is incongruous to expect our institutions to prepare the public offender to return to society to live peaceably and to re-establish his ability to live in a peaceful society with the rest of us, when we must accomplish this purpose by removing him from our society and placing him in an utterly abnormal environment.

PROBLEM OF EVALUATION PROGRAM

A major problem has been that of evaluating the worth of individual correction programs. How does one measure the worth of a correctional system? When is it succeeding at its task and when is it failing? One answer might be that a successful correctional program is one which reduces crimes or results in a reduction of the number of offences against society. Even more specifically, it seems that a correctional system could best be measured by the end-products which it returns to society. Are those in the correctional system being returned to society as self-sufficient, self-respecting, trustworthy, confident, responsible, self-reliant people? If they are not, it is a good bet that they will return to our institutions for the commission of another offense against society, soon after release. Trustworthiness, confidence and a sense of responsibility are developmental matters. If one is to be trustworthy and responsible, trust and responsibility must be reposed in him as he develops. Most people are capable of assuming trust and responsibility, but many fail themselves and fail

---

[1] W. Va. Code, Ch. 62, Art. 13, §1 (Michie 1966).

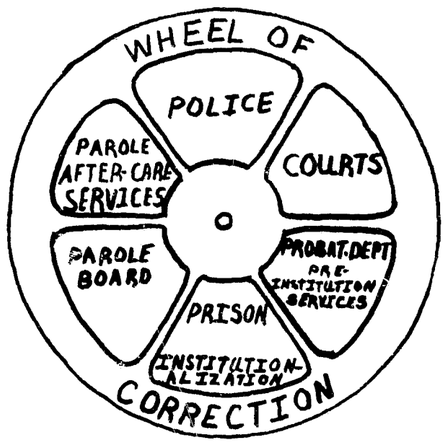
society as well. They are the ones who make the headlines in our newspapers when they breach their trust and escape the custody of the institutions.

Making responsible citizens out of public offenders is difficult at best, but it is even more difficult when we realize that each individual human being must be approached and handled in a different way because he is not like any other human being. Therefore, our institutional programs must be geared to the needs of the individuals rather than gearing the individuals to the needs of the institutions.

How the police officer performs his tasks will very often determine the image of government held by those who have come in contact with him. It can and often does predetermine the attitude of the offender toward the rest of the system of criminal justice.

THE WHEEL OF CORRECTION

Our system of criminal justice is made up of six segments, all of which are so interwined and interspersed within each other that the policies, procedures and programs of one will greatly and directly affect the workings of all the others. It must function as a well-oiled piece of machinery with the cooperative efforts of the six segments involved.



Locking each person in a cell or a room and keeping him under close security in that cell or room is the easy way to operate a correctional facility. No one ever escapes, society feels secure, and the correctional staff does not have its ingenuity overtaxed. However, the end product of such a system will scarcely be better able to live peaceably in our society for his having been through such an experience.

It is when we open the doors and cells and repose trust, confidence and responsibility in the inmates of our correctional institutions that the need for competent, professional treatment and rehabilitation oriented staff becomes critical. The job becomes much more difficult, and we realize that we must have highly trained people to provide the treatment so desperately needed and compassionate, patient people, filled with love for their fellow men, to serve as security officers, charged with the responsibility of keeping the public offenders away from society during the period of treatment and rehabilitation.

CORRECTIONS BEGIN AT MOMENT OF ARREST

A truly comprehensive and effective correctional system must be based upon one additional premise; i.e., that the correctional process must begin at the moment of first arrest. The person with whom the average member of society is most familiar in the criminal justice system is the policeman on the local beat. He represents authority. He represents the "establishment", the "administration" or the "institution", in the most comprehensive sense of the word; he represents "government", and he is often the only member of our state or local government with whom the average citizen comes in contact directly.

When the public offender is first apprehended by the police, the manner in which he is handled may very well determine his attitude when he goes before the court. The efforts of the police will directly affect the operation of the courts. For example, if the police avoid making arrests or cut down on the number of arrests they are making, the dockets of the courts will be much smaller. If the police increase the arrest rates, the dockets of the courts will become larger. Similarly, if the judges place more public offenders on probation, the population of the correctional institutions will lower. If the courts use probation sparingly, on the other hand, and tend to increase prison or insitutional sentences, there will be fewer persons on probation and the population of the prisons and other institutions

will be increased. Also, if the Parole Board tightens up its paroling policies and paroles fewer people, the populations of the prisons will be higher and the case load of the parole officer in after-care services will be reduced. A liberal paroling policy of the parole board will result in reduced population at the institutions and increased case loads for after-care supervisors. Lax supervision of parolees or reluctance to revoke parole may very well result in increased arrests by police of persons who have already been incarcerated in correctional institutions. Similarly, tight parole supervision and revocation policies will result in lower parole officer case loads and increased prison or institutional populations.

It is obvious, therefore, that a truly comprehensive system of criminal justice and correction must begin at the moment of first contact with the wheel of correction and must encompass all segments of the wheel.

HISTORICAL CONCEPTS OF CRIME AND CRIMINAL RESPONSIBILITY

Historically, theories of crime and criminal responsibility have been closely associated with theories of the objectives of punishment. In primitive times, it was believed that crime was largely the responsibility of evil spirits influencing the person who had committed the crime. Therefore, the major purpose of punishment was to satisfy the gods.

Later, crime was considered to be the willful act of a free agent. Thus, punishment was laid on as a social revenge. Therefore, society retaliated, often quite harshly, when it became indignant and outraged at an act of voluntary perversity.

Of course, an additional function of punishment was to deter potential wrongdoers from committing further crimes. The theory of deterrence is really only a rationalization of revenge. Under this theory the person being punished becomes examples to others.

In recent years, new concepts of crime and criminals have developed along with the growth of new philosophies regarding social responsibility and the development of the biological sciences. These new concepts have sharply challenged the doctrine of free will and have produced a shift from theories of revenge, retribution, expiation and deterrence, to those of reformation of the offender and the protection of society. Emphasis has been shifted to the individual committing the crime rather than on the crime itself.

ILLS OF PRESENT SYSTEM

The ills which have so long plagued our correctional system and its institutions formed the basis for a study by the American Correctional Association, shortly after the period between 1950 and 1956, during which almost 100 riots and serious disturbances swept the nation's prisons. Property destruction as a result of these riots was estimated at more than ten million dollars, and only a few states escaped these riots. The committee reported that,

> The immediate causes...are usually only symptomatic of more basic causes. Bad food usually means inadequate budgets reflected in insufficient supplies, poor equipment, poor personnel and often inept management. Mistreatment of prisoners, or lax discipline usually has behind it untrained employees and unwise or inexperienced management. The fundamental causes of prison maladministration may be categorized under a number of general heads, (a) inadequate financial support, and official and public indifference; (b) substandard personnel; (c) enforced idleness; (d) lack of professional leadership and professional programs; (e) excessive size and over-crowding of institutions; (f) political domination and motivation of management; and (g) unwise sentencing and parole practices. [2]

However, even above and beyond these so-called fundamental causes of institutional maladministration, there lies an even deeper and more critical matter. Robert Frasure, having reviewed the above monograph of the American Correctional Association stated:

> I make bold to suggest that until we make the prison a more human habitation, in a psychological sense, prison riots are inevitable for the very reasons which the monograph cites. Certainly, there must be qualified personnel, classification, full employment, smaller prisons, all the essential elements of a dynamic, positive program, and with all these, that which the committee fails even to suggest, a psycholigical setting in which 'The prisoner's self-respect can be cultivated to the utmost.' No authoritative statement on prison riots in this day and age can ignore or should it fail to emphasize the feeling aspect of prison life.

---

[2] 33-2 *Prison Journal* 23-24 (1953).

> Should one not reasonably expect an authoritative statement on the subject of corrections today to include some reference to individual help and the process by which it is made available to the prisoner? The monograph sets down widely accepted theories of prison management. It resorts to a hackneyed, but still popular pasttime by placing the blame on 'politicians' and an indifferent public for the ills which afflict the prison. I suggest that we in the correctional field give an up-to-date interpretation to the challenging and too long neglected principles of the 'Declaration of Principles.'[3]

It would appear, therefore, that prison riots, and general ineffective correctional institutional management and administration will continue so long as the personality of the individual inmate is ignored as a result of a mass-treatment concept which insists on regimentation and monotony of day-to-day existence, in a setting where suspicion and fear and contempt pervave the atmosphere surrounding the personnel and in which custody and treatment are at constant loggerheads with treatment always subservient to custody. In such circumstances the "jail psychosis" is most firmly inbedded. Inmates in such surroundings are reduced to little more than animal status. The only creature of God with the power of speech is silenced; the only creature with the power of independent judgment is deprived of the opportunity of exercising such power; a societal creature is placed in a circumstance wherein betrayal of his fellows results in reward, and group conduct is governed by the dread and deadly inmate code. Such codes are in operation in correctional institutions of all types for adults, juveniles, male and female.

THE COUNTY JAIL AND CITY LOCKUP

The county jail and often the city lockup are as important as a state prison. The city lockup or the county jail is only a step away from the first spoke in the wheel of correction and the majority of those who are later sent to prison have already spent time in jail while awaiting trial. Hundreds of our citizens have served time in jail for minor offences and in many instances innocent persons have had jail experience. Many of those aquitted by judge or jury have already been required to serve detention, sometimes for months or even years, in jail.

---

[3] *Supra* Note 2 at 23-24. See *Proceedings, American Correctional Association,* 1956, CIIICIC, for an enumeration of the principles laid down at the Cincinnati Congress in 1870.

Of all facilities designed to handle public offenders, the jail is probably the most vile from the standpoint of sanitation, the most functionally absurd and the most administratively inefficient.

Idleness is the rule in county jails and city lockups. No attempt is made at rehabilitation or treatment.

Myrl Alexander, the Director of the Federal Bureau of Prisons has stated:

> Far too many jails...are little more than the enforced meeting place for social derelicts who find there the greatest opportunity to infect the casual offender, the unsophisticated, the morally retarded, and the socially inadequate. Moreover, such jails are often unsuccessful in performing the basic mission of security detention. In them jailers' responsibilities are delegated to the most sophisticated and experienced criminals who proceed to prey upon the majority of other prisoners through tacitly approved kangaroo courts, 'sanitary courts,' and other devices and insidious methods concocted by those morally corrupt criminals schooled in the slimy culture of mankind's social backwash.[4]

Jail reform has come very slowly. If the people of West Virginia had the will, the jail could be abolished. However, jails are deeply rooted in local politics, and any suggestion that they be merged into a wider and more efficient system under regional or statewide control has, heretofore, been rigidly resisted from local pride and suspicion. However, it should not be inferred that all jail administrators in West Virginia are deaf to jail reform. Many of them are sincerely concerned with the problems of their establishments and cooperate fully with the leaders in the reform movement to abolish or at least radically change jails and all that they represent.

PLIGHT OF PRISONERS IN PRESENT INSTITUTIONS

Professor John L. Gillin wrote:

> What monuments of stupidity are these institutions we have built - stupidity not so much of the inmates as of free citizens. What a mockery of science are our prison discipline,

---

[4] Barnes and Teeters, *New Horizons in Criminology* (3d ed. 1959).

> our massing of social iniquity in prisons, the good and bad together in one stupendous potpourri. How silly of us to think that we can prepare men for social life by reversing the ordinary process of socialization - silence for the only animal with speech; repressive regimentation of men who are in prison because they need to learn how to exercise their activities in constructive ways; outward conformity to rules which repress all efforts at constructive expression; work without the operation of economic motives; motivation by fear of punishment rather than by hope of reward or appeal to their higher motives; cringing rather than growth and manliness; rewards secured by a betrayal of a fellow rather than the development of a large loyalty.[5]

It is obvious that we shall not make any substantial progress by merely advocating better correctional institutions. The rational treatment of criminals demands primarily programs that are non-institutional. We must develop constructive public attitudes to replace inordinate fear and contempt and to allow comprehensive and inclusive use of probation, conditional release and parole.

TIME FOR SECOND REVOLUTION IN PENOLOGY

The first major revolution in handling the public offender was the replacement of corporal punishment by institutionalization. We are long overdue for the second revolution which will see the abolition of prisons and like institutions and their replacement by a flexible program of reformative treatment based on reason and silence.

It is well and good to talk of reformative treatment based upon reason and science, but it is another thing to reasonably and scientifically develop rehabilitation and treatment programs which will effectively alter the attitudes of the public offender. Talking of new methods and criticizing old methods will not accomplish the task. Definite action must be taken.

---

[5] *Supra* Note 4.

A COURSE TO FOLLOW

NEED FOR RESEARCH AND TRAINING

We have long recognized the value of research in the etiology of delinquency and crime. However, we have been sorely hampered by lack of sufficient finances to support any type of comprehensive study. Much satisfactory work has been done, and the results have had important impact upon programs both within and without correctional institutions. There is much more to be done, and we must have trained people to engage in such important work.

The establishment of a research and training center in Morgantown, West Virginia, would enable our state to obtain college and university students for work in the field of correction. It would also provide excellent laboratory facilities for the clinical training of students, inasmuch as the new National Training School for Boys is being constructed in Morgantown. Also, the West Virginia Industrial School for Boys is located within 25 miles of the university, and the West Virginia Industrial Home for Girls is within easy driving distance.

Furthermore, with the facilities of the university, a continuing in-service training center staffed by university faculty personnel and personnel of the West Virginia Division of Correction could provide much needed training for personnel already employed in the Division of Correction.

Although the determination as to development of the curriculum for under-graduate and graduate students of the university would remain a problem for the university leadership, it is proposed by the committee that a correctional core curriculum would provide a double-barreled approach to the training of the future professional correctional worker. That is, under-graduate students would choose a degree field from one of the standard disciplines, i.e. psychology, sociology, penology, education, guidance and counselling, etc., with a major in correction. Thereby, the student would have alternative selections for job opportunities. In the event that the student would determine after graduation that correction was not his cup of tea, he would still have available the alternative field of endeavor. Of course, it would be anticipated that the university would eventually develop a graduate program for intensified study in the narrower field of correction. It would be hoped that in the future a master's and doctoral program in correction would be developed at the university.

The Committee recommends:

Expansion of West Virginia University's "Comprehensive Training Program for West Virginia Correctional Personnel" into a Correctional Research and Training Center at the University.

JAIL REFORM

As has been discussed heretofore, the deplorable conditions of most of our county and city jails must be eliminated and a more effective means of detention devised. Although your committee has considered innumerable ways of expressing the needs of the state with regard to its jail system, it was unable to improve upon those words used by the National Jail Committee of the American Correctional Association when, in 1937, it issued the following 14 points or propositions representative of the phases of the overall objectives of jail reform. These objectives have as much, or more meaning today as they did when they were first enunciated:

I. Measures to Keep People out of Jail

1. By law direct that the courts adopt a more extended use of bail, recognizance and other approved measures for release from custody.
2. Secure a law providing for collection of fines by installment and for sufficient personnel to enforce it.
3. Develop an approved probation system, not only to prevent people from getting into jail, but to supervise and guide offenders released from custody.

II. Fundamental Changes in Jail Set-up.

4. Abolish the locally controlled jail as a place for convicted prisoners.
5. Place the jail and all its present functions wholly within the State Correction system and under centralized control.
6. Reorganize the system to provide for secure and suitable detention places, properly staffed and equipped for segregation, classification of prisoners charged with law breaking.
7. Establish regional custodial centers for care, training, and needed treatment, with a regular work program under rigid discipline.
8. Eliminate the fee system in connection with the arrest, trial, and custody of prisoners, and place all the officers on fixed salary.

III. Reform in Law and Court Action

9. Simplify law and court procedure with regard to all arrested persons.
10. Adopt measures and reforms to shorten time spent in detention quarters by prisoners awaiting trial, witnesses, appeals, etc.
11. Secure an indeterminate sentence law with specified minimum sentence.

IV. Standards and Records

12. Fix minimum standards for custodians of prisoners and probation workers with merit system safeguards.
13. Establish a central state bureau of identification and record.
14. Create a uniform system of records and statistics for the whole correctional setup, jails included.[6]

As has been stated before, the county jail is as important as the state prison. Many misdemeanants in West Virginia serve up to one year in the county jail for their offenses. During this year, however, no effort is made to train or educate these people, formally or vocationally, and most of the time is spent in stark idleness. Operated within the program of the West Virginia Division of Correction, psychiatric treatment could be afforded these people. They could be trained during this year of confinement in vocational rehabilitation training programs, formal education programs, and work release programs. The barren futility of jail confinement could be eliminated effectively. With a system of regular, periodic inspections, with full authority to close a jail which fails to comply with minimum standards, the Division of Correction would eliminate much of the unsanitary conditions which now prevail.

REGIONAL DETENTION AND EVALUATION CENTERS

By eliminating the 55 county jails and several hundred city lockups, and consolidating all state jail requirements into perhaps 10 or 15 regional facilities, much unnecessary economic waste will be eliminated, competent, professional custodial and treatment personnel could be acquired for the operation of the jails, and effective retraining and rehabilitation programs could be instituted. Indeed, in connection with work release programs,

---

6*Supra* Note 4.

maximum security type facilities could be constructed in the regional jail facility to house penitentiary inmates from the area who are trustworthy enough to participate in a work release program in the particular region. Thereby, the inmate could remain gainfully employed, continue to support his family, and be a useful member of society rather than another useless, idle mouth for society to feed.

The Committee recommends:

Replacement of the present jail system with regional detention and evaluation centers, operated program-wide by the West Virginia Division of Correction.

AN EFFECTIVE PROBATION SYSTEM

The development of a comprehensive correctional program for the State of West Virginia requires that we begin at the moment of first arrest or first contact with the authorities within the system of criminal justice. In addition to revamping bail and recognizance laws, consolidating and upgrading jail and regional detention facilities, we must further utilize the probation machinery of the state. A truly effective probation system must be coordinated with the law enforcement officials, jails, courts, and correctional institutions. It should be operated from a central point to provide for coordinated planning and development.

The Committee recommends:

That all adult and juvenile probation services be centralized under the control of the West Virginia Division of Correction.

Centralized probation services for the entire state would eliminate much economic waste. Counties which are now required to support court probation departments would be relieved of this obligation. Comprehensive program planning for probationers would be more readily facilitated by a central planning agency. Recordkeeping on public offenders would be centralized and would be more readily available when necessary. Policies, procedures and philosophies would be more uniform. Program evaluation would be more effective. Duplication of effort and records would be eliminated.

Centralized pre-institutional or probation service offers the greatest ray of hope in the entire correctional process. An upgraded probation staff operating within a sound probation policy offers, perhaps, the best alternative to increased institutionalization of adult as well as juvenile public offenders.

NEED FOR EXCHANGE OF INFORMATION

Communication between the arms of the various agencies of the correctional process -- the police, the courts, the parole board, and the probation and parole field staff, has long been a problem in West Virginia and in the United States. Exchange of information is vital to a comprehensive program of law enforcement. It is equally vital to an effective classification system within a correctional system. Storage of vital records and classification information and data and its subsequent effective dissemination among interested agencies is a matter of major concern in the development of the overall comprehensive correctional process.

The Committee recommends:

A uniform statewide correction reporting system with instant dissemination to all arms of the correctional process.

A central storage facility of all correction data and material should be established within the data processing equipment of the state of West Virginia. Such information should be made available only to necessary, interested state or federal agencies or other arms of the correctional process. Thereby, law enforcement agencies, courts, correctional personnel and the parole board would have available within a matter of seconds, information vital to the performance of their respective functions.

This committee believes that by operating the reporting system in conjunction with other state data processing needs, we would avoid unnecessary duplication of effort and economical functioning of the process would result.

With such a uniform, statewide correction reporting system, we would have detailed personal history and classification data on all persons convicted of public offenses, including those convicted in the minor court system. This information would greatly facilitate coordination of the efforts of various state and local agencies concerned with the correctional process or related processes.

314-086 O - 68 - 18

By taking and maintaining complete personal history and full classification data on all persons convicted of public offenses, including those convicted in municipal and justice courts, and storing such information in a central data processing facility, the work of law enforcement officers, the courts, probation staffs, and the West Virginia Board of Probation and Parole would be much more effective and efficient.

An effective and comprehensive classification system for adult male offenders has been instituted at West Virginia Penitentiary, and it is now operative. The personal history and data collected by the classification committee will be maintained in uniform files. Transfer of this information to data processing equipment is a transition not too difficult to accomplish; more difficult will be the taking of personal histories and classification data from those convicted in minor courts. However, with a beefed-up probation field staff the necessary history could easily be made available and forwarded to the central information storage areas.

CONTINUITY OF TREATMENT

Another of the major pressing problems of correction today is that of the continuity of treatment or follow-up treatment. All too often the person coming within the purview of the correctional process receives only temporary professional help for a limited period of time and is then thrust back into society to make his own way. No effort is made to follow up on his progress or to offer assistance once he has been discharged from the jurisdiction of the process. It is all to obvious for words that many people who have been within the correctional system have returned to society in dire need of professional treatment and help. This treatment has not been available and is not now available. Furthermore, many juveniles who come into the correctional process as juveniles return to the process as adults, and no attempt at continuity of treatment has been made heretofore. Those correctional personnel responsible for his later treatment as an adult could benefit greatly by having at hand the treatment history including medical and personal at the time he was in the correctional process as a juvenile.

The Committee recommends:

Continuity of treatment at the professional level in institutional and community facilities with a view toward affecting complete rehabilitation.

To change one's attitude toward society or to affect a complete self re-evaluation requires much time and much professional competence. Above all it requires follow up. It requires periodic re-evaluation of the subject. It requires comprehensive record keeping.

Records of professional treatment within correctional institutions must be made available to treatment facilities within the community and vice versa. Once again, the need for a comprehensive correctional system under a central head is made obvious. Without continuity of treatment from the jails and lockups, the probation, correctional institutions, the Parole Board and community-based facilities, the job of rehabilitating the public offender will never be effectively and comprehensively accomplished.

PROFESSIONAL PERSONNEL NEEDED

Understanding the public offender, the operation of correctional institutions, the needs of the offender, coordinating the efforts of the various arms of the correctional process with the agencies within the community, and planning effective treatment and rehabilitating programs for public offenders requires competent, professional personnel. It is a rare individual who finds enjoyment working within the confines of correctional institutions as we know and understand them today. Working constantly with the misfits, the failures and the irresponsible members of our society is depressing, to say the least. Seeing only the seamy side of life day after day, being more often betrayed than not, suffering enumerable failures in search of just one success, and devoting one's life to helping those who do not seem to want help requires a special breed of cat. One may utilize professional training in the fields of psychology, sociology, penology, criminology, and other related fields to much more of an economic advantage in many other areas than in correction. The attendant dangers are not present in a university setting or in a public or private

clinic. The hours are not nearly so long in a private psychological clinic, and one is not subject to the all too critical scrutiny of the news media and often unwarranted criticism of those who are ill-informed concerning the correctional process.

Attracting and keeping qualified, professional correctional personnel has been most difficult in the past and continues to be difficult at this writing.

The Committee recommends:

Immediate Civil Service status for all employees of the West Virginia Division of Correction, eventual complete professionalization of the staff, and competitive salaries for all correctional personnel in the West Virginia Division of Correction.

It is interesting to note in this regard that the starting salary of a correctional officer at the Federal Reformatory for Women at Alderson, West Virginia, is $1,300.00 *more* than the salary of the superintendent of the West Virginia Prison for Women at Pence Springs, West Virginia. Additionally, two or our neighboring states pay the Director of Correction $10,000.00 *more* per year than West Virginia pays its director. At West Virginia Penitentiary, there are 170 guards, or correctional officers, and the turnover is 100 per year. With an excellent training program, these correctional officers are trained at West Virginia Penitentiary. After this comprehensive training, they remove to the State of Ohio where they are employed with a beginning salary substantially in excess of what they can reasonably expect to earn at West Virginia Penitentiary during their first year of employment.

There is no job security within the West Virginia Division of Correction at this time. Many thousands of dollars have been spent during the past two years training the personnel who are operating the correctional institutions of the state and who are operating the probation and parole machinery of the state. However, most of this training will have gone for naught in the event of a change in the administration of the state government.

Until the disrupting effects of petty politics can be effectively removed from the correctional system, no truly effective continuing professional treatment program can be implemented. We must raise salaries, provide job security,

either through civil service or a similar merit system and thereby eventually completely professionalize the field of correction in West Virginia

ADEQUATE EVALUATION MUST BE PROVIDED

Determining whether or not a correctional system is performing its task or is an effective correctional system is a very difficult thing to do. One may leave a correctional institution in West Virginia, return to society, and not be heard from in the West Virginia correctional system again. One might safely assume such released inmate had made a quiet and effective readjustment to societal living and was once again living peaceably within the community. On the other hand such inmate may very well be in a penitentiary in another state. Keeping tabs on persons who have been in the correctional process is difficult. Evaluating the worth of correctional programs is concomitantly difficult for the reason that no effective evaluation of such programs can take place without access to those persons who have come through the process.

Additionally, it is difficult to evaluate the worth of the personnel who are operating the correctional institutions and who are operating the field programs of the correctional process. It is difficult to administer a test which will truly and effectively evaluate one's worth as a correctional worker; however, it must be accomplished if an effective and comprehensive program is to be attained.

The Committee recommends:

An adequate evaluative system for correctional personnel, institutional and field treatment of offenders and community programs.

The committee would recommend that in conjunction with the research and training center proposed in a preceeding recommendation, professional evaluation methods might be devised and the results utilized in the development of sound personnel and resident treatment plans and community-based programs.

COOPERATION WITH DIVISION OF VOCATIONAL REHABILITATION

The development of strong inter-agency relationships may very well provide a key to the sound planning of our correctional system. It is difficult to be all things to all people for any state agency. The services available from one agency

may be utilized by another. Such cooperative efforts by related agencies are typified by the recent joint venture embarked upon by the West Virginia Division of Correction and the West Virginia Division of Vocational Rehabilitation. Under their agreement a Vocational Rehabilitation Unit was established at West Virginia Penitentiary and will be operated by the professional staff of the Division of Vocational Rehabilitation. Much effort has been made and much progress made in this area by the Division of Vocational Rehabilitation,and their efforts continue. Furthermore, the Division of Vocational Rehabilitation has made studies and recommendations concerning the motivation of correctional personnel.

The Committee recommends:

Utilization by the correctional system of the findings and recommendations of the Governor's Commission on Vocational Rehabilitation Planning with particular emphasis on those findings related to the motivation of correctional personnel.

MEASURING THE INMATE'S PROGRESSION

Within the correctional process as it now exists, one very important arm is that of the West Virginia Board of Probation and Parole. The Board has the responsibility of determining when an adult felony offender is ready to return to society from an institution and when such individual must once again be removed from society and returned to the correctional institution as a parole violater. Essentially, the Board of Probation and Parole is placed in a position of evaluating the efforts of the correctional institution personnel and the inmate's progression back to society. There must be a professional yardstick by which the board can more accurately make the determination that the offender is ready to once again resume his place in society. Furthermore, it will require professionalization of the membership on the Board of Probation and Parole. Professionalization will concomitantly call for competitive salaries for board members.

The Committee recommends:

Professional evaluation of the individual for progression back to society. There must be professional evaluation capability within the Board of Probation and Parole together with rewarding salaries and appropriate training.

With adequately compensated professional persons serving on the West Virginia Board of Probation and Parole equipped with detailed historical background and classification data and a thorough knowledge of modern, scientific methods of psychological evaluation, the correctional process will necessarily be upgraded.

A SEPARATE DEPARTMENT OF CORRECTION

In 1965 West Virginia took a major step forward in the field of corrections by establishing within the Department of Public Institutions a Division of Correction, charged with the responsibility of providing a comprehensive program of rehabilitation for public offenders. This piece of legislation was in itself a major revolution. It provided a bridge between the provincial idea of institutional custody and the progressive theory of rehabilitative care to insure the successful reentry into society.

West Virginia now stands at the crossroads. We must choose between the rocky road of reform which leads to an innovative and effective system of treatment designed to meet the needs of the individual and society and the superficially secure path which backtracks to the "dark ages" of corrections. The choice is an obvious one for we cannot afford to sacrifice the significant achievements that have already been reaped.

The movement toward reform, however, requires a full concentration of resources and the creation of an organizationl structure that can operate in an environment which is free from political interference. State government must provide the leadership in this reform movement. Such leadership necessitates the existence of an independent agency that is totally committed to the administration of a professional program involving professional personnel and modern correctional techniques.

In line with the recommendation regarding civil service status for employees of the West Virginia Division of Correction and in furtherance of the Committee's desire to professionalize the Division of Correction, the Committee believes that a separate Department of Correction should be created, but headed by an appointee of the Governor. Under the present law the Commissioner of Public Institutions, who is not required to have any qualifications or experience in the correctional field, is charged with the responsibility of approving all the programs and functions undertaken by the Director of the Division of Correction.

Some 10 years ago, the West Virginia Council on Crime and Delinquency with funds supplied first by a grant from the Ford Foundation and then by a grant from the Benedum Foundation along with resources supplied by the National Council on Crime and Delinquency, drafted a Model Correctional Act for West Virginia which was first submitted to the West Virginia Legislature on February 8, 1963, but rejected.[7] In 1966 the National Council on Crime and Delinquency prepared and published a Standard Act for State Correctional Services;[8] This Act is a refinement of the 1963 Act and the Committee feels that a far superior correctional program would be possible with it than could be had under the present law.

The Committee recommends:

Creation of a Department of Correction consistent with the principles contained in the "Standard Act for State Correctional Services" published by the National Council on Crime and Delinquency but to be headed by an appointee of the Governor.

COMMUNITY PROGRAMS

In an effort to switch correctional emphasis from the institutions to the individuals in those institutions and to establish and maintain a humane system of correction placing emphasis upon the dignity and respect of the individual human being, more treatment and rehabilitation-oriented community programs are essential.

The Committee recommends:

The establishment of rehabilitation programs such as half-way houses and work-release to be established by the Communities with the assistance of the West Virginia Division of Correction.

The criminal justice system, including correction, is a societal responsibility. Regardless of where blame might lie for a specific offense against society and regardless of whether or not the criminal ill might be hereditary or acquired, it is still a societal problem. It is up to the community to solve the problem. Indeed, as has been said before, 98% of all people in West Virginia's correctional institutions today will one day be back in the community living among our law-abiding citizenry. The abnormal environment of the prison or other correctional institution has obviously not accomplished the

---

[7] *A Model Correctional Act for West Virginia*, W. Va. Council on Crime and Delinquency and National Council on Crime and Delinquency (See Appendix G).

[8] *Standard Act for State Correctional Services*, National Council on Crime and Delinquency (1966), See Appendix P.

purpose which we desire. All research to the present indicated that community-based programs have the greatest rate of success in correcting the public offender.

We must prepare our communities for the return of the offenders and be prepared to support programs which will appreciably increase their chances of re-establishing themselves in the communities.

Legislation is needed to provide for a work-release program for the residents of our adult correctional institutions. Under such a program the residents would be permitted to work at gainful employment in the community while they are housed at the correctional institution. This would provide them with needed funds and substantially contribute to the support of their families. Furthermore, upon their release from the correctional institution the transition back to community living would not prove the sometimes overwhelming obstacle now faced by many who return from our prisons to our society.

Funds must be appropriated for the establishment of additional half-way house type facilities. So many of our residents, parolees and dischargees have no family or friends to whom to look for assistance upon their release from the institutions. Many of them require a quasi-structured environment in which to function properly, at least during the early weeks after release from an institution.

With the help of professional correction personnel many community-based organizations, civic, church and philanthropic can, and should, develop programs specifically aimed at assisting the public offender in making his transition back to the community.

With over sixty percent of the total correction caseload in West Virginia under probation or parole supervision today, the question is no longer whether or not we should attempt to handle offenders within the community, but how to handle them safely and successfully within the community. This committee believes that well-planned, organized and efficiently operated community-based programs aids to the transition from the institution back to society and will answer this question adequately.

CONCLUSION

The fact that present-day correctional policies in the state are ineffective is not controverted. Change is needed desperately. The direction and scope of the change may be subject to debate, but there is ample evidence that something other than correctional institutions as we know them today are needed and more community-based programs designed to handle public offenders are necessary.

No doubt rough estimates of costs could be made. Plans could be formulated for 20 or 25 years to come. However, with the development of new correctional research data we recognize the need to remain flexible and mobile in our planning.

This committee believes that we must have people, first; trained, professional, compassionate and mature correctional personnel to plan and implement the comprehensive system of corrections so badly needed today. The initial cost will be substantial, but the savings in property, dollars and lives will be overwhelming.

Doctors Barnes and Teeters summarized the problems facing the American system of criminal justice as follows:

> "Whether one looks upon the criminal law chiefly from the standpoint of deterrence or reformation, there can be no doubt that certaintly of apprehension and conviction for criminal behavior is the first and most indispensable item in securing the immediate reduction in the volume and variety of crime. An honest and expert police system is the only answer to efficient apprehension. Defects in our court systems should be remedied. This calls for a sweeping reconstruction of court procedures...the modification of the sporting theory of justice, and the adoption of pre-sentence clinic and diagnostic boards of professionally trained experts. The emphasis must be on keeping men out of prison rather than on committing them."[9]

[9] *Supra* note 4.

THE COMMUNITY AND CRIME

The President's Commission points up the need for public involvement in this manner:

> "Each time a citizen fails to report a crime, declines to take the common sense precautions against crime his police department tells him to, is disrespectful to an officer of the law, shirks his duty as a juror or performs it with a biased mind or a hate-filled heart, or refuses to hire a qualified man because he is an exconvict, he contributes his mite to crime. That much is obvious."[1]

Further note is made by the Commission that every citizen owes himself the duty of familiarizing himself with the problems of crime and the criminal justice system, so that when these items become issues with the legislature or the public officials, he can respond intelligently. Money needed to control crime will ultimately come from the public. This also is obvious.

In return for this support it is the obligation of the public officials to inform the citizenry accurately and regularly about crime. Care should be taken that this is not done in a manner which will leave the people with wrong impressions.

THE PUBLIC.

AN EXAMPLE OF GROUP INVOLVEMENT

The President's Commission reports an example of a citizen's group which rather forcefully and successfully addressed itself to the problems of crime and criminal justice. In Indianapolis in 1962, just a day after a 90-year-old woman had been hit on the head and robbed on the street, 39 women, representing a cross-section of the community, met to devise ways of making the streets safer. This organization now consists of 50,000 women in 14 divisions and has no dues, no membership cards, no minutes and no by-laws. Some of the many achievements credited to its effort are: improved street lighting, securing jobs for young people, helping school droupouts return to school, and involving

[1] The President's Commission on Law Enforcement and Criminal Justice, *Challenge of Crime in a Free Society* 13 (1967).

thousands of adolescents in voluntary work for social agencies and clinics. It has sponsored campaigns for cleaning up the slums and helping with the police recruit program. It has aided parole officers with their work. It observed and publicized shortcomings of the operation of the courts and campaigned for pay raises for policemen.[2] Many other activities could be added to this list of this citizen endeavor. The point can be made here that every group in the community stands in a position to do something about crime and criminal justice, whether it be the PTA, the hospitals, the businessmen's groups, the neighborhood group, the bar association, police organizations or some other organization.

In a survey made by the President's Commission in Washington, D.C., it was found that most people felt that the effort to reduce crime is a responsibility of the police, the courts, and perhaps other public agencies, and that as an individual he could not do anything. However, when pressed further about the matter, many businessmen and administrators were able to think of ways in which their organizations might help reduce crime such as cooperating to make law enforcement easier, donating and helping in neighborhood programs, providing more and better street lighting, creating more parks with recreational programs, furnishing more youth programs and adult education and promoting integration of work crews and better community relations programs.[3] West Virginians need assistance in translating this concern about or fear of crime into positive action.

The Committee recommends:

A statewide program to promote respect for law and the law enforcement officer.

Currently, the West Virginia Bar Association has a statewide project called "Law Day". Under this program one-hour ceremonies are held on May 1st of each year in various places throughout the state, usually the Circuit Court room. This is in conjunction with the American Bar Association's

2 *Supra* note 1 at 290.
3 *Supra* note 1 at 53.

"Law Day U.S.A." The theme of the program usually centers around our general belief in and respect for the law. The Committee felt that some type of program teaching respect for the law and the law enforcement officer should be carried on throughout the year under the auspices of some sponsoring agency, such as the West Virginia Bar Association. The program should be designed to reach all elements of society.

PREVENTION

The old adage, "an ounce of prevention is worth a pound of cure," has strong application in every anti-crime program. It is far easier and extremely more economical to prevent crime than to rehabilitate a criminal offender. The only way to reduce crime is to prevent it.

The schools and the communities are singularly significant components in any prevention program. They provide vehicles through which public sentiment and attitudes can be affected on a local basis.

AUTO THEFT

Auto theft, often referred to as the "teen-age crime", is on the increase in the state. A simple act on the part of the motorist can stop much of the auto theft. If the keys are removed when the car is locked, the temptation to steal the car is not there. This simple message can be effectively communicated to the motorist in an auto theft prevention program. The Governor's Committee is now attempting to demonstrate this principle in the current Auto Theft Prevention Campaign, which has been in effect since August 18, 1967.[4]

The Committee recommends:

A continuing statewide Auto Theft Prevention Campaign.

BURGLARY

Last year the State Police records show that over 40% of the home burglaries were committed by juveniles. Unwary citizens helped these burglars. A publication published by the National Council on Crime and Delinquency entitled *How to Protect*

4 For a further explanation of the Auto Theft Prevention Program see Chapter 11.

CONTINUED

3 OF 5

Your Home -- A Guide for Home Owners and Apartment Dwellers [5] lists helpful hints for safeguarding the home and the apartment. Many of the routine practices of the home owner often assist the burglar. The Council estimates that 20 percent of all burglaries occur because people simply leave their doors unlocked. Adopting a more thoughtful attitude on the part of the home owner can reduce burglary. Such small items as closing doors to an empty garage, placing expensive jewelry in a safety deposit box, leaving the light on in the bathroom when you go out at night, and not pulling the shades or blinds down when on vacation can be helpful. Moreover, it is a dead giveaway that someone is not at home when newspapers, milk bottles, and mail accumulate on the front porch. All these things are important to the prowler. The citizen needs to be constantly reminded of these dangerous practices if he is to do his part in preventing crime.

The Committee recommends:

A continuing statewide burglary prevention campaign.

THE SCHOOLS

The National Council on Crime and Delinquency publishes a booklet for school children entitled "You and the Law".[6] This publication attempts to define with examples such crimes as larceny, auto theft, forgery, breaking and entering, burglary, shoplifting, reckless driving, carrying dangerous weapons, and accomplices. By using the factual cases the teacher can easily get across to the youngster the seriousness of each crime. Penalties are also listed. In the latter part of the booklet the consequences resulting from a criminal record are described. This is followed by an article on juvenile delinquency and the youthful offender This program has been carried on quite successfully in the schools in Charleston under the sponsorship of the Kiwanis Club and in Parkersburg under the direction of the Parkersburg Women's Club. Its usefulness in the schools has been proven in many other areas throughout the nation.

Recently, through the efforts of Mrs. Edgar A. Heermans, the W. Va. Congress of Parent Teachers Association obligated itself to place in every school in West Virginia the "You and the Law" programs. Funds in the amount of $1170 were supplied by the Sears Roebuck Foundation to pay for the printing of the booklets

5 National Council on Crime & Delinquency, New York (1967).
6 National Council on Crime & Delinquency, Kiwannis International, Chicago (1963).

and teacher's guides. School administrators were urged by the State Superintendent of Schools, Rex Smith, and the Governor's Committee to provide for comprehensive use of the booklet throughout the state. The publication is designed to fill a basic need of the youth not otherwise met in his school career.

POVERTY AND CRIME

It would be remiss on the Committee's part not to recognize the role of the Office of Economic Opportunity in the "War on Crime". Already we have referred to poverty and the lack of opportunity as major causes of our rising crime rate.[7] A majority of criminal activity emanates from the impoverished community. The crime rate is increasing more rapidly in these areas than elsewhere. Most of the people in our juvenile and criminal courts come from indigent and welfare families.

In 1962 a group in Kanawha County called the Charleston Youth Community obtained a grant from the National Juvenile Delinquency Program, which was then under the auspices of the Attorney General of the United States. The purposes of this proposal was to survey delinquency in the county. Such matters as school dropouts, rate of illegitimacy, rate of welfare recipients, appearance in court, and unemployment among youth were gone into. Upon completion of this survey, a program was designed to attack the problems of delinquency. One of the objectives of the program was to place neighborhood workers in areas reporting high rates of delinquency. While it was difficult to obtain a desirable evaluation of the results of this action, favorable comments were made following the two years of operation of the program. One of the state police reported that in two of the target areas the numerous complaints and calls for assistance had been significantly reduced. The chief of police of a large community reported that the program definitely helped the police with their work in impoverished areas. They no longer encountered the same difficulties with the people as they once had. A lady who owned a grocery store in one of these areas stated that before the program started, she could name 8 or 9 teenagers who were just on the verge of becoming involved with the law, and that now these people were either back in school, employed, or had left for the Job Corps. Another lady merchant in one of the impoverished rural communities was very complimentary about the change in attitudes with respect to community responsibility the program was having with the families.

The Committee recommends:

A coordination of the efforts of the War on Poverty and the War on Crime to curtail this state's crime rate.

7 For a further explanation see Chapter 1.

THE MAN WITH A PRISON RECORD

RECIDIVISM AND THE COMMUNITY

According to crime statistics, the man who goes off to prison for two, three or four years is a significant factor in the ever-rising crime rate. Two factors contribute greatly to this: (1) the type of isolated life he must live while in the institution is hardly compatible with that he is expected to live after his release, and (2) the sentence itself carries far greater and more lasting penalties which are imposed upon him by the community than those imposed upon him by law for the crime committed. Estimates are that 60 to 70 percent of those once sentenced to prison become recidivists -- persons who fall back into prior criminal habits once released. 95 percent of those sent to the penitentiary return to the community within five years.[8]

At the time of the sentence the average offender finds himself torn from his parents, brothers and sisters, and possibly a wife and children. He leaves behind a pattern of life he has lived for some 20 years. He knows that everything must change for him as he enters his institutional life. He finds himself condemned by his friends and a forgotten man.

REGIMENTED PRISON LIFE

While in prison he becomes even more embittered than the day shackles were placed around his wrists, and he was hauled away. He finds the institutional life far different from the life outside. Here he has someone else to do his thinking for him. He is locked in a cell with a bunk to be alone. Someone else tells him when to get up, when to go eat, what to eat, and the piece of silverware available to him. Hour by hour his day passes with a guard over him at all times. In the evening he is told when to retire. This goes on 365 days a year. Sometimes he is given an opportunity to work in return for his keep.

Much of this regimentation may be necessary if the prison is to be operated in an orderly manner. The community had no alternative but to remove him, for he had become a threat to its general walfare. Undesirables are not exiled today but sent to prison.

---

8 Source: Division of Corrections Records, 1966 (W.Va.).

A real problem arises when a man has finished his term and is released to return to the community. After he leaves prison he encounters many roadblocks on the outside. He is often denied employment opportunities because of his prison record. The community shuns him. He is unwelcome in many ways. Several of the statutes preclude him from holding public office because he has a criminal record.

When he is confronted with these obstacles, he becomes frustrated. He may steal to satisfy his needs or injure someone as a result of his bitterness. At this point society decides he has not been rehabilitated -- he has not learned his lesson, and so he returns to the regimented life where somebody else does his thinking and his forging. By now his pattern is becoming a vicious cycle and a course which is expensive to the taxpayer, who will easily find himself spending $50,000 to $60,000 keeping this man the remainder of his life.

Theoretically the parole officer is responsible for the herculean task of helping this individual bridge the gap between him and society. This officer is helpless without participation by the community. Community cooperation is essential if this person is to make the grade. The community's choice is between participating and having this ex-convict remain a statistic in its increasing recidivism rate.

The Committee recommends:

A broadly-based committee at the county level to provide a total community-involved program of special services and aids for re-acceptance into the community for former offenders.

THE SWEDISH PRISON EXPERIMENT

The prison system in Sweden is currently experimenting with a project designed to take a more realistic approach toward rehabilitating the individual. It is unlike any experiment that has ever been conducted in the United States. Under this program selected prisoners are given living accomodations in an apartment building with their families. Involved in any of these programs, of course, is the amount of freedom granted the prisoner. The first step in this direction came in American penology when we established the medium security prison. Then

314-086 O - 68 - 19

the federal government advanced to minimal security by establishing such an institution in Texas.

Home visitation, work release programs, and half-way houses are all in experimental stages in this country, but as yet, nothing has been attempted which approaches this Swedish experiment. Correctional people, undoubtedly, will be looking with a great deal of interest at the results of this experiment to see if it holds any answer to the recidivism problem. Some criticism has been directed at the prison authorities in Sweden by the people complaining that the prisoners are recieving better treatment than they can afford for themselves[9] Undoubtedly, if such a program is successful, it will make the offender more suitable for reacceptance into society once his term of sentence is completed.

COORDINATED PROGRAMS

The task of coordinating and developing broad-range preventative and educational programs must be a continuing responsibility at the state level. Such a task should be guided and promoted by such agencies as the Governor's Committee on Crime, Delinquency and Corrections, or as it is designated in some states, the Governor's Crime Commission. Coordination and planning at the state level permits a more effective attack on particular issues. Since fighting crime is the responsibility of every West Virginian, any program of prevention or education should be designed to reach every citizen of this State. This is feasible only if such preventative and educational programs are undertaken on a statewide basis.

The Committee recommends:

The establishment of a statewide crime preventative and educational program directly under the Governor to encourage and develop appropriate preventative and educational programs at the community levels to reduce the crime rate.

In conclusion it must be stated that the community always comes first in a war on crime. Whether it be in the area of the police, the delinquent, the convicted or the judge, no program, no matter how meretorious, can make headway beyond the point it is able to muster budget support.

---

[9]Kirby, "Protecting Prisoners from Prisons", CBS Reports, (December 6, 1967).

Chapter 7

LAW ENFORCEMENT OFFICERS MINIMUM SELECTION AND TRAINING STANDARDS

West Virginia has 55 county sheriff offices, 72 police departments in Class I, II, and III municipalities, 85 towns and villages with one to three-men departments and the Department of Public Safety. Personnel includes the 55 sheriffs, 165 enforcement deputies, 1,044 municipal police and 318 members of the Department of Public Safety.

NEED FOR POLICE SERVICE

The State's need for police service of high quality is no less than that of other states. Our citizens are entitled to, and should expect as their right, adequate police protection from the lawless element. Capable and conscientious police administrators recognize that they have not provided the kind of efficient and effective police service to the citizens of West Virginia as they would like. Inadequate resources have frustrated police officials for far too long a time.

The chief complaint has always been the lack of personnel to do the work required or expected. Only major crimes can be given major attention; lesser offenses cannot be investigated with the thoroughness and persistence required to detect, apprehend and turn over to the courts for prosecution many lesser criminals and young offenders whose criminal acts become more frequent and usually more serious as they go undetected. While the demand has been for an increase in personnel, not enough emphasis has been placed on better qualified personnel and more effective use of them.

POLICE AGENCIES NOT WITHOUT BLAME

The police agencies themselves might deserve some criticism for not keeping the public sufficiently informed about their needs and problems or for minimizing these needs and even the crime picture itself to avoid criticism or cover their own inadequacies. They may also have failed to encourage self-improvement of individual officers or to bring about group improvement through effective training methods. Many of our police have apparently been willing to assume full responsibility for crime, its causes and prevention,

and for failure to provide complete protection for the public. This willingness has contributed in no small way to perpetuating the lack of capability. The public, on the other hand, has been willing to let the police assume full responsibility for crime conditions, for the unmanageable traffic problem, and a host of other public ills. The police have been used as scapegoals for many things for which they are not entirely responsible.

AN INTERESTED AND DEMANDING PUBLIC

Law enforcement is expensive. Cost increases as the quality improves. Only when scandal strikes a police department does society indicate a willingness to pay for better service, or an interest in police problems. An interested and demanding public, one that is willing to pay for and support good police service, is the best assurance that it will be obtained. As a result of this attitude, the problems and difficulties of the police have increased to the point where it has not been possible to attract the type of person the service requires.

NATIONAL EVENTS

Only a series of events occuring in the past few years has finally caused the public to begin to take note of the grave existing law enforcement conditions. These events include the Kefauver hearings on organized crime, the recent Senate investigation of the Cosa Nostra, and the United States Supreme Court decisions which now prohibit previously acceptable police practices in interrogation and search and seizure. The constantly increasing crime rate, which borders on a national scandal, and the wide publicity given to a number of public crimes, including murder, where witnessing citizens lacked enough concern to even inform the police that a crime was being committed have contributed to a rising public concern. The combination of these events and finally the riots in major cities led to the establishment of the President's Commission on Law Enforcement and Administration of Justice. The work of this commission, published in 1967, has so forcefully pointed out the needs and weaknesses of law enforcement that they can no longer be ignored. Never has so much attention been given to the American police, and never before have opportunities been better for their improvement.

PROPER SELECTION AND TRAINING ESSENTIAL

Police administrators share the belief that the successful development of police departments depends upon the proper

selection and training of young men entering the service and upgrading those already serving through improved training and education. Time will eliminate those who have not been properly selected, trained and educated. The police service must attract, select, train, retrain, and properly utilize qualified personnel.

> "The Commission believes that substantially raising the quality of police personnel would inject into police work knowledge, expertise, initiative and integrity that would contribute importantly to crime control."[1]

> "It has often been said that policing a community is personal service of the highest order requiring sterling qualities in the individual who performs it....
>
> "Few professions are so peculiarly charged with individual responsibility. Officers are compelled to make instantaneous decisions -- often without clearcut guidance of a legislature, the judiciary, or from departmental police -- and mistakes in judgment could cause irreparable harm to citizens or even to the community....
>
> "One incompetent officer can trigger a riot, permanently damage the reputation of a citizen, alienate a community against a police department. It is essential, therefore, that the requirements to serve in law enforcement reflect the awesome responsibility facing the personnel that is selected."[2]

SELECTION

A broad base from which to select applicants is required. This does not exist for a wide variety of reasons, the more important being the present low prestige of law enforcement itself. The attitude towards the police service in this country has been such that the majority of young men with the necessary qualifications have no desire to enter it; in fact, they shun it.

Restrictive requirements having little if any bearing on the applicant's general qualifications, residence requirements, low pay, lack of challenge and the nature of much of the work itself contribute to the problem. Regardless of the difficulties involved, improvement must be made. The trend must be reversed.

---

1 President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 107 (1967).
2 President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police* 125 (1967).

PRESIDENT'S COMMISSION RECOMMENDATIONS

To overcome some recruiting difficulties and improve the selection process, the President's Commission has recommended:

"Police departments should recruit far more actively than they now do, with special attention to college campuses and innercity neighborhoods.

"The ultimate aim of all police departments should be that all personnel with general enforcement powers have baccalaureate degrees.

"Police departments should take immediate steps to establish a minimum requirement of a baccalaureate degree for all supervisory and executive positions.

"Until reliable tests are devised for identifying and measuring the personal characteristics that contribute to good police work, intelligence tests, thorough background investigations, and personal interviews should be used by all departments as absolute minimum techniques to determine the moral character and the intellectual and emotional fitness of police candidates.

"Police departments and civil service commissions should reexamine and, if necessary, modify present recruitment standards on age, height, weight, visual acuity, and prior residence. The appointing authority should place primary emphasis on the education, background, character and personality of a candidate for police service.

"Police salaries must be raised, particularly by increasing maximums. In order to attract college graduates to police service, starting and maximum salaries must be competitive with other professions and occupations that seek the same graduates.

"Salary proposals for each department within local government should be considered on their own merits and should not be joined with the demands of other departments within a city.

"Promotion eligibility requirements should stress ability above seniority. Promotion "lists" should be compiled on the basis not only of scores on technical examinations but on prior performance, character, educational achievement and leadership potential.

"Personnel to perform all specialized police functions not involving a need for general enforcement powers should be selected for their talents and abilities without regard to prior police service. Professional policemen should have the same opportunity as other professionals to seek employment where they are most needed. The inhibitions that civil service regulations, retirement plans and hiring policies place on lateral entry should be removed. To encourage lateral movement of police personnel, a nationwide retirement system should be devised that permits the transfer of retirement credits."[3]

PRESENT SELECTION METHODS

The methods used to select police officers in West Virginia range from the direct appointment of the deputy sheriffs and village marshalls where politics are often the primary consideration to the more sophisticated ones used by the larger municipalities and the Department of Public Safety. In the villages and small towns choice is usually limited. Employment conditions are such that there is not much interest in these positions. An older resident is normally employed or a younger man may be found who will accept appointment until he can find a more desirable position. If he is a local resident his background and reputation are common knowledge; otherwise, less will be known about him because no formal background investigation is conducted.

In a survey conducted by the Governor's Committee on Crime, Delinquency and Corrections of some 107 officers representing 66 towns and villages with populations under 2,000, the ages ranged from the low twenties into the seventies; education from the fourth grade through college and salaries from less than $250 to one of $700 per month. The average age of the group is slightly over 47 years, the average education range from the fourth grade through college and salaries

[3] *Supra* Note 1 at 109-112.

per month. This same situation applies generally to 39 of the 55 Class III municipalities (2,000 to 10,000 population) which do not operate under Police Civil Service Commissions. Here 122 of 211 officers of Class III municipalities apparently are not required to meet any particular qualifications other than physical ability. Of the 211 officers in this category, the average age is 40, the average education is the 11th grade and the median salary is in the $350 and $400 per month range. Thus, almost one-fourth of West Virginia's law enforcement officers are not required to meet any particular standards of qualification.

A CASE IN POINT

In one of the Class III communities in West Virginia several years ago, a man was hired as a police officer without any consideration being given to his qualifications until it was too late. Within a month after he assumed his responsibilities as a policeman, he unnecessarily killed a local citizen he was arresting with his mace.

An investigation at this stage disclosed that he previously had been discharged from the military service as mentally unfit for duty. Had he undergone the proper screening and recruitment tests he would not have qualified for the job.

He was indicted by the grand jury for first degree murder. During the trial the judge declared a mistrial, and on advice of counsel the man plead guilty to the lesser offense of second degree murder. He was sentenced to serve 5 to 18 years in the state prison.

While in prison he frequently became involved in fights with other prisoners. On occasion he would fight with the prison guards. He was transferred to a state mental hospital where he remained a patient for several years.

Even a brief background investigation would have established that this man should never have been employed as a policeman.

PRESENT LAW

West Virginia law requires municipalities with populations of 5,000 or more to establish Police Civil Service Commissions to make appointments and establish promotional procedures for their police departments. In municipalities of less than 5,000 population the civil service commission is optional.

This law requires a physical examination and medical certification that the applicant is free from disqualifying physical or mental defects, that he be between the ages of 21 and 35, that all original appointments be for a probationary period of six months, and *that the appointee be a resident of the county for at least three years prior to appointment.* The Commission may refuse to certify the physically disabled, those addicted to the habitual use of alcohol or drugs, or who have been guilty of a crime or of infamous or notorious conduct, and for other reasons provided in the law. This was enacted in 1937 at a time when less thought was given to applicant screening as long as physical requirements were met. In actual practice now, civil service commissions schedule and conduct examinations, arrange for physical examinations and consider reports of investigation of the background or character of the applicant. The board certifies an eligibility list to the appointing authority who is required to make appointments from it.[4]

POLICE CIVIL SERVICE COMMISSIONS

Police Civil Service requirements vary from municipality to municipality, depending upon the different opinions and philosophies of the commission members, examining physicians and employment conditions. Normally minimum height is 5'9" and minimum weight is 150 pounds. Requirements as to vision, color blindness and hearing exist, as well as the other physical requirements, but there is no standardization. Some commissions accept 5'8" as the minimum height to increase the applicant base because of lower pay scales or fewer fringe benefits the community offers. In one municipality the height ranges from 5'8" to 6'2" and from 140 pounds to 180 pounds at the minimum height and 170 to 220 pounds at the maximum.

STATE POLICE SELECTION LAW

The section of the West Virginia Code governing the appointment of members of the Department of Public Safety states:

> Preference in making appointments shall be given whenever possible to honorably discharged soldiers, sailors and marines of the United States Army and Navy. Each applicant shall be a person of not less than twenty-one or more than thirty years of age, of sound constitution, of good moral character

---

[4] W. Va. Code, Ch. 8, art. 5A (Michie 1966).

and shall be required to pass such mental and pyssical examinations as may be provided by the rules and regulations promulgated by the retirement board.[5]

By law the retirement board is composed of the Superintendent of the Department, the State Treasurer, the Attorney General and two enlisted members selected by vote of the members of the Department.[6]

STATE POLICE SELECTION STANDARDS

The board required each member to successfully pass a strength and ability test designed to eliminate the uncoordinated and very awkward and those possessing less than average strength; a preliminary physical examination to determine height, weight, hearing and vision; an intelligence, aptitude and observation tests, a thorough character investigation and a medical examination.

The West Virginia Constitution prohibits employing those who have not been a resident of the state for one year.[7] An average combined score of 70 per cent on the written and observation tests in passing.

The minimum height is 5'9"; the minimum weight is 150 pounds (which is not rigidly adhered to) or weight in proportion to height; 20-40 vision in either eye correctible to 20-20. Freedom from color blindness, tunnel vision and excessive night blindness is mandatory. Good depth perception and glare recovery are required. Eyes are tested with a Porto Glare Eye testing unit and Dvorine Color Perception Chart. Normal hearing is required, each ear being tested separately on an Audio Rater.

Exceptions have been made in the physical requirements with college graduates applying for technical positions.

SCREENING ELIMINATES A HIGH PERCENTAGE

The screening process eliminates a high percentage of applicants in both municipal and state departments. Detailed data on rejections is not kept. Presumably administrators are

[5] W. Va. Code, ch. 15, art. 2, § 5 (Michie 1966). (The preference to veterans dates from 1919 when the department was organized and all members were veterans.)
[6] W. Va. Code, ch. 15, art. 2, § 27 (Michie 1966).
[7] *W. Va. Constitution*, Art. 4, sec. 1.

more interested in what they have left after the screening process than they are in reasons for rejection. Recent inquiry disclosed that when one Class II municipality in 1967 advertised for applicants, only nine applied. Of the seven who took the test, five passed but four were rejected by the Civil Service Commission, leaving only one employable. The Huntington Police Department reports in 1965 and 1966 a total of 115 men appeared for the written examinations, 70 passed, and 59 were rejected for various reasons which are not a matter of record. In 1967, 63 appeared for the examination, 41 passed the written test, but only 12 were accepted by the Commission, with one still being considered.

In 1967 the Department of Public Safety solicited 133 men to take the entrance examination; 47 reported for examination and 24 were selected for appointment. This included all who scored 70 per cent or above on the written test. Of the other 23, 11 were rejected by the background investigation, two withdrew after preliminary screening and one appeared for the test but decided to return to college instead. Out of 24 remaining members eight resigned for one reason or another before completion of fourteen weeks training.

STATE POLICE SELECTION SURVEY

A recent survey of physical selection requirements conducted by Lieutenant J.R. Buckalew of the Department of Public Safety resulted in responses from 43 of the state police or patrol departments and 12 municipal or metropolitan departments with side geographic and population distribution. They indicated most of them had established physical standards prior to 1942 when employment opportunities were limited and manpower plentiful, leaving the impression with him that the standards were intended to reject rather than select.

He concluded, as others have, that there is not a great deal known about the physical requirements needed for police work, that standards are set without real basis, that too much emphasis is placed on physical requirements and that the police service has failed to recognize that our standards must match the times.

RELATION OF STANDARDS TO TASKS REQUIRED

The establishment of minimum standards projects in some of our states is now causing thought to be given to just

what standards police officers should be required to meet. Attention is being directed toward studies of the duties and tasks required of police personnel and relating standards to these needs. As in most other areas it is probably still true that "a good big man is better than a good little one." However, physical qualifications alone are not enough. Other factors of more importance are intelligence, education, stability, initiative, alertness, desire and the ability to get along with others. Some of these are difficult to determine,but they must be given first consideration if the police service is to become truly effective.

A high school diploma or its equivalent is required for enlistment by the three Class I and all but four of the Class II municipalities and the Department of Public Safety.

RECOMMENDED SELECTION STANDARDS

AGE

Minimum enlistment age of 21, with provisions to employ in some capacity well qualified and interested young men over 19. The maximum age should be determined by availability of personnel, qualifications and need. Young men are more easily taught, have longer time to serve and are more active physically. Older men should excel in judgment situations but are more fixed in their attitudes and thinking.

RESIDENCE

The present legal requirement on residence should be removed permitting recruitment on a state-wide basis. This will provide additional manpower and employment opportunity. A constitutional provision prohibiting the employment of all but state citizens should be removed. Nation-wide recruiting would present some problems in background investigation of applicants, but many departments have apparently successfully coped with this problem.

EDUCATION AND INTELLIGENCE

A high school diploma should be required, but a passing grade on the General Education Development Test should be accepted. Those selected for enlistment should be capable of meeting college entrance requirements.

CHARACTER

All applicants must be of good character as determined by a thorough background investigation which would include family history and reputation, school records, local, state and FBI fingerprinting files, employment, military and driving records and any other source of information that would aid in determining the applicant's suitability. Any felony convictions would be disqualifying. Misdemeanor convictions, including traffic, should be evaluated.

PHYSICAL

Height and weight requirements are arbitrary. It is conceded that tall men have a psychological advantage over short ones and, in many cases, a physical advantage as well. However, such an advantage in some police situations is a disadvantage in others. Height and weight standards should be flexible enough to permit the employment of those whose educational, intelligence or technical qualifications are well above average.

Other physical qualifications should be established by a sound medical examination that will result in the selection of those physically sound and active and reject those with deficiencies which might endanger their own or others' safety. Hearing, vision and color vision should be normal, as medically defined. Vision correctable to 20-20 in each eye with a minimum of 20-40 uncorrected should be accepted.

EMOTIONAL

Every attempt should be made to detect and reject the emotionally unstable, those lacking in self-control and possessing personality traits which makes working with others difficult.

ORAL INTERVIEW

All applicants should be screened by an Oral Interview Board to determine the applicant's fitness from the standpoint of appearance, ability to communicate, poise and attitudes.

POLICE TRAINING

Whether selection or training is of most importance is an academic question, because either without the other will not provide satisfactory results. A good selection process will send

to the training class those with desirable characteristics and qualifications; training will be easier and less costly because the training curriculum can be covered in less time and with better results. Training gives to those selected a basic knowledge of "how to do, what to do, and when to do". It provides a foundation on which to build and with a reasonable amount of experience will enable the officer to work with poise, and with confidence in his ability, because he has a better understanding of his role or purpose in society, what authority has been given to him by the branch of the government he represents, why it has been given, and the limitations placed upon it.

NO LONGER A QUESTION OF NEED FOR TRAINING

Much has been written about the need for training police officers--so much, in fact, as to leave the impression that it is something to be justified. Perhaps a generation ago--or longer--justification would have been necessary. At least it would have been more understandable. Now there is no question of such need unless it would be to justify the lack of it. Now the pertinent questions are: How much can we get? Where will it be given? How much does it cost? Who is to pay? The traditional method of putting a recruit on the street, even to work with experienced officers has contributed largely to present conditions.

Left to choice, as in their personal affairs, people want qualified and reputable people to take care of their needs whether it be in professional areas as doctors, lawyers, dentists, and teachers; or in skilled crafts; or services provided by barbers, beauticians and others. Why, then, should they accept less efficiency in law enforcement?

TWO CASES IN POINT

Not too long ago in a small community in West Virginia an officer was hired and put on the job without any previous training. He became involved with one of the local citizens whom he claimed had violated a traffic law. In the case the statute required him to issue a traffic citation for the man's appearance in court at a future date. Apparently now knowing the limits of his rights and what the rights of the citizen were, he made an unauthorized arrest. Others came to the citizen's rescue and freed him. In the scuffle the officer shot one of the people. For this unjustified act, the officer was charged with unlawful wounding, tried, convicted by a jury, and sentenced to serve one year in the county jail.

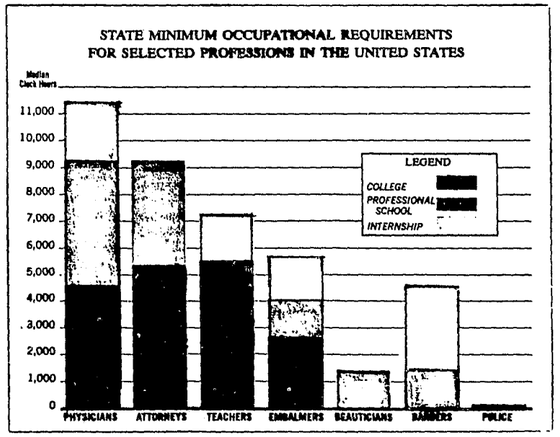
Another case in point happened in one of the southern counties of the state. A man without any previous training was hired as a policeman in a small community. Within a month a tragic accident occurred.

He was given a pistol although he had never been trained in the use of firearms. In fact, on the day of the accident he had only fired a revolver six times in his life. While removing the gun from its holster in his home, he accidentally discharged it, fatally wounding his bride of four weeks. Polygraph tests cleared him of criminal intent. Proper training could prevent such incidents.

POLICE TRAINING REQUIREMENTS COMPARED WITH OTHER PROFESSIONS

An article in the August, 1967 issue of the official publication of the International Association of Chiefs of Police, discusses in depth a model police standards council.[8] The writer compares the position of the police in the United States with that of selected professions, and suggests that similar regulatory procedures be adopted to improve the police service. Figure 10 shows how the police suffer by comparison. The data shown is an average of requirements of various states. West Virginia's requirements are substantially similar. While the determination of West Virginia's requirements was being made, it was learned that the State Health Department requires manicurists to have 500 hours of training before they can go to work. Surely the responsibilities charged to our police are more important than caring for the fingernails of our citizens.

Figure 11[9]



[8]Kassoff, "A Model Police Standards Council Act", 34 *The Police Chief* 12-24 (August 1967).
[9]*Supra* note 8 at 12.

Mr. Kassoff recommends, among other things, that "each state adopt mandatory minimum standards for recruitment, selection and training of law enforcement officers, as discussed, and provide for reciprocity with other states adopting the same standards." Figure 12 shows states which have such legislation.

PRESIDENT'S COMMISSION RECOMMENDATIONS

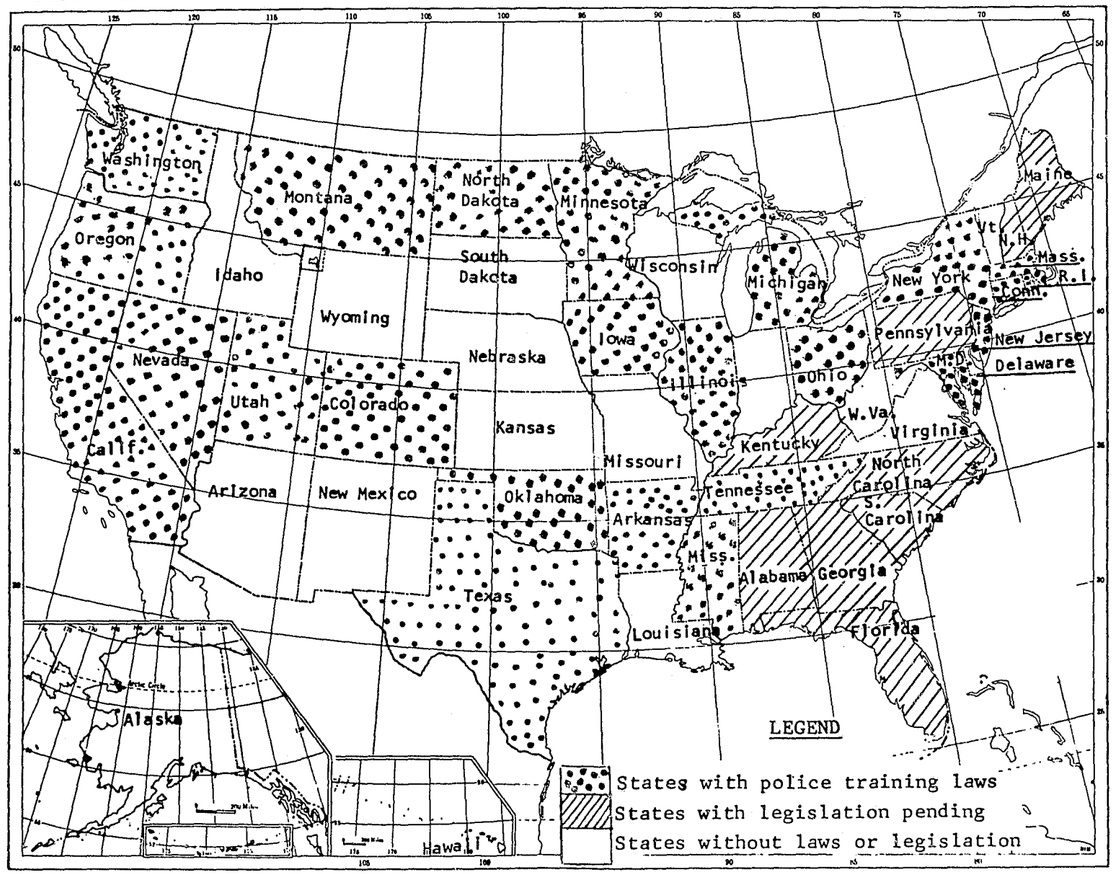
> Formal police training programs for recruits in all departments, large and small, should consist of an absolute minimum of 400 hours of classroom work spread over a 4- to 6-month period period so that it can be combined with carefully selected and supervised field training.
>
> Entering officers should serve probation periods of, preferably, 18 months and certainly no less than 1 year. During this period the recruit should be systematically observed and rated. Chief administrators should have the sole authority of dismissal during the probation period and should willingly exercise it against unsatisfactory officers.
>
> All training programs should provide instruction on subjects that prepare recruits to exercise discretion properly, and to understand the community, the role of the police, and what the criminal justice system can and cannot do. Professional educators should be used to teach specialized courses -- law and psychology, for example. Recognized teaching techniques such as problem-solving seminars should be incorporated into training programs. 10

PRESENT WEST VIRGINIA LAW

In West Virginia today there is no legal requirement that county or municipal officers have any type of training. To aggravate this condition, there is no opportunity for training to be obtained except in the larger municipalities. County officers and the majority of municipal officers have few, if any, good training opportunities. Law enforcement generally lacks requirement, opportunity, and encouragement.

10*Supra* Note 1 at 112-113.

FIGURE 12 STATUS OF POLICE TRAINING/STANDARDS IN THE UNITED STATES



314-086 O - 68 - 20

Police Civil Service law is silent on training. The West Virginia Code regarding State Police provides:

> The Superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in-service training from time to time for all members of the department. The superintendent may, at his discretion, hold training classes for other peace officers in the State without cost to such officers, except actual expenses for food, lodging and school supplies. [11]

PRESENT STATUS OF TRAINING

It is not intended to leave the impression that all police officers in the state have had no training or training opportunities. The majority who have had opportunity for even limited training have been quick to take advantage of it. Each municipality must determine its own course and the great majority do not have training programs because of the cost involved. Even the largest cities in the state cannot conduct schools until the number of untrained officers or new recruits is large enough to make it economically possible. It is obvious that help is needed to remedy this situation.

HISTORY OF POLICE TRAINING

A look at the past will show the slow, groping progress made in the training area.

It is doubtful if any municipality in the state had what could be called a training school until after World War II. However, a number did have, from time to time, training periods ranging from a day or two up to a week. In the late 1930's such schools were conducted in Charleston, Huntington, and Bluefield. These were started as a result of one or more of their members attending the Federal Bureau of Investigation National Police Academy. Deputy sheriffs and other local officers were invited to attend.

In 1936 the West Virginia League of Municipalities sponsored some short courses in general police work on a statewide basis for local officers.

---

[11] W. Va. Code, ch. 15, art. 2 § 3 (Michie 1966)

The West Virginia Chiefs of Police Association and the Department of Public Safety jointly sponsored a six-week training school at Jackson's Mill in 1946, which was attended by officers from several municipalities. In 1950, a class was held at the then new State Police Academy at Institute, sponsored by the Chiefs Association, the Federal Bureau of Investigation and the Department of Public Safety, for 25 men from 14 municipalities. Two two-week schools were held at the same place in 1954 for a total of 52 officers from 19 municipalities, and one in 1955--the last one, for 27 men from 11 different departments.

DEPARTMENT OF EDUCATION'S VOCATIONAL PROGRAM

In March of 1955, the Vocational Education Division of the Department of Education employed C.W. Ray, former State Police Captain and Charleston Police Chief, to conduct training programs for local police officers. This program served minimum police needs until April 30, 1967, when it terminated with his retirement. Over 100 schools were conducted at various places over the state and were attended by approximately 2,400 officers, some of whom repeated the same course at different times. Initially 80 classroom hours of instruction were given, four hours daily for twenty days, with members attending after work. Instructors were provided by the Department of Public Safety, the Federal Bureau of Investigation and local departments and officials. After about two years the instruction period was reduced to 45 to 60 hours at the request of local departments and officials. Interest and attendance at these schools were good. Sometimes sessions would be for a single department of larger size, but usually they were for an area or region and, in such cases, were attended by members whose experience ranged from a few days to several years.

MUNICIPAL TRAINING PROGRAMS

Both Charleston and Huntington police departments began developing their own training programs in the early 1960's. In 1965, Huntington established a six-week school for recruits, and later the same year Charleston developed one of sixteen weeks. Other larger departments occasionally conduct courses of two, three or four weeks but have no established programs.

DEPARTMENT OF PUBLIC SAFETY TRAINING PROGRAM

The Department of Public Safety, established in 1919, had its first in-service school worthy of the name in 1927. An attempt was made to give the members some knowledge of the laws

they were to enforce and to broaden their interest and increase their ability. Previously training had been almost entirely of a military type, or jujitsu or motorcycle riding. References are made in early biennial reports to "training from the ground up", "trained men", and inculcating in the present personnel a real rudimentary knowledge of police work in its finer phases", but there is no reason to believe this occurred.

The first recruit school was held in 1928 for two months, and the members attended without pay. Two-week schools were held in 1933 and 1934 and another for two months in 1935. From 1938 on, recruit schools have been conducted regularly except from 1943 to 1946. The training course has been increased from one month in 1938, to the present one of twenty weeks. In-service schools, first started in 1927, were conducted regularly from 1935 until the start of World War II. They have been conducted since 1947 but without regularity.

OUT-OF-STATE TRAINING

For many years, officers from the state have attended police training schools and institutes in other states. These include, among others, the National Police Academy, Southern Police Institute at the University of Louisville, and the Traffice Institute at Northwestern University. Several departments have sent members to seminars on traffic, investigation of crime and supervision and management.

SUPERVISORY TRAINING

The first training in supervision was conducted by the Huntington Police Department in 1965 with the assistance of Public Services Administration of Chicago. Later the same year the Department of Public Safety and the Insurance Institute for Highway Safety co-sponsored two-week supervisory schools for all commissioned and non-commissioned officers of the department and a one-week management course for commissioned and top noncommissioned officers.

GOVERNOR'S COMMITTEE SURVEY

A survey of police personnel referred to in the discussion on standards produced enough information to give a reasonable appraisal of current training conditions in the state.

Responses from 34 of the 55 county sheriffs' departments were received, which included 144 deputy sheriffs and 13 sheriffs. Forty-three individuals or 27 percent report they have had no training of any type. Eighty-eight report they have had only basic training. Forty-seven indicate they have had some type of advanced training.

Eighty-five responses were received from town and village officers and included 107 men. Fifty-two individual officers or 48 percent have had no training of any type. Fifty-seven report they have had either basic, advanced or other training. Forty-nine of 56 Class III municipalities replied with 211 officers reporting. Nineteen departments show all the members have had training; 12 report none of any type and 18 show some with training. Seventy members of 33 percent have had no training and fifteen others have had 15 hours or less of basic. All 13 of Class II municipalities reported with 223 of 294 officers responding. All departments had had training but not all members. Thirty-nine officers report they have had no training. Projecting this figure shows 51 or 17 percent of the total without training. Class I municipalities report a total of 332 officers with 209 responding. Nineteen show no training. By projection this figure totals thirty or 9 percent with no training. All others indicate they have had some type of training ranging from 20 hours through 16 weeks basic. Some show both basic and advanced training.

The basic training reported in the majority of the cases was that provided by the Vocational Education Division for local officers in the 45, 60, 80-hour classes. The advanced training for the most part would be obtained in out of state schools, institutes and seminars or classes on supervision and management provided by their own departments.

At the time this survey was made the Department of Public Safety had employed 311 members. Two hundred sixty responses were obtained reflecting that all had had basic training, and that the commissioned and non-commissioned officers had had advanced training. For the most part this consisted of supervisory and management training previously referred to.

POLICE ACADEMIC PROGRAM

In 1958 a two-year academic program for police officers was established at West Virginia State College. The curriculum has a general liberal arts orientation in sociology, psychology, language skills and political science. Its lack of success is

due largely to its failure to provide courses in police administration and police science which would attract police officers or those interested in a police career.

COLLEGE TRAINING DISTINGUISHED FROM VOCATIONAL TRAINING

The training programs conducted in West Virginia are almost entirely vocational. The need for such training cannot be debated, because its lack has brought about to a large degree the present unsatisfactory situation. Vocational training only tells how the job is done -- how the arrest is to be made or the case investigated -- it does not teach causes or principles. It does not provide background. There are those who believe it is the policeman's job to act and not to question why, a type of "Charge of the Light Brigade" philosophy. It is as necessary that they have at least a basic knowledge of people, their behavior and its motivation as it is for them to know how to perform the many tasks required of them. This is learned through education, not training, and it is impractical to leave such knowledge to be gained by experience. The best place and time to learn this is at the college level, prior to entry into the police service or soon thereafter.

Students who plan professional careers do not go directly to law, medical, engineering or dental college; they are first required to take two or three years of academic subjects to broaden their educational backgrounds and thus better equip them for their professional careers. Only a few years ago industry began encouraging its technical people to begin courses of study in the liberal arts to better fit them for positions in management. Vocational training alone, as does a narrow technical education, results in tunnel vision of the mind.

Today, 39 of the states, including Alaska and Hawaii and the District of Columbia, provide educational opportunities at the college level in law enforcement, police science or police administration. Such opportunities are to be found at a total of 191 colleges or junior colleges, 158 of which grant associate degrees, 41 baccalaureate degrees and 14 master's degrees. A college degree, in itself, is not a guarantee of success in any field. Experience has shown this to be true of law enforcement. Judgments, however, are to be made on overall accomplishments instead of isolated cases. Failures are to be found in all professional fields, but they have not resulted in abandonment or decrease of requirements. The educational level of the population is gradually increasing. A gradual increase in the educational requirements of law enforcement personnel is not enough. A longer step must be taken.

TRAINING RECOMMENDATIONS

1. That a basic training course of not less than ten weeks of classroom instruction be established and its successful completion be required of all newly recruited officers, with necessary provision for integrating the classroom instruction with properly supervised field training.

2. That recruit training be centralized at a single, advantageously located facility. In the absence of such a facility. In the absence of such a facility, or as an alternative, regional recruit schools be established at or near some of the state's colleges.

3. That regional in-service schools be conducted annually for officers with experience, but without training, for their improvement and to keep them currently informed about new methods, practices, laws and court rulings.

4. That supervisory and management seminars be conducted to provide personnel in these categories with training necessary to perform effectively, and that such seminars be available at or near promotion to such positions.

5. That police instructors be carefully selected and given training in teaching techniques and methods; that college instructors or people with professional backgrounds be used to teach non-vocational subjects.

6. That both two-year associate degree and four-year baccalaureate degree programs be established in the field of law enforcement and police science at one or more of our state colleges.

CONCLUSION

The President's Commission described the intimacy of the police and community in these words:

> "It is hard to overstate the intimacy of the contact between the police and the community. Policemen deal with people when they are both most threatening and most vulnerable, when they are angry, when they are frightened, when they are desperate, when they are drunk, when they are violent, or when they are ashamed.

> Every police action can affect in some way someone's dignity, or self-respect, or sense of privacy, or constitutional rights. As a matter of routine policemen become privy to, and make judgments about, secrets that most citizens guard jealously from their closest friends: Relationships between husbands and wives, the misbehavior of children, personal eccentricities, peccadilloes and lapses of all kinds. Very often policemen must physically restrain or subdue unruly citizens."[12]

Because the role of the police officer in modern society is so critical, West Virginians must rally in support of law enforcement. Nathan C. Reger, Director of the West Virginia Law Enforcement Officers Minimum Standards Project and formerly a Lieutenant Colonel in the West Virginia Department of Public Safety published the following:

> Lack of proper training places the typical police officer in this state in a critical position. The irony of the situation is that he is eager to train but such a program is not available to him in this state.
>
> Training ranges from none to excellent. Except for Wheeling, Huntington and Charleston, where the training program is 3, 6 and 20 weeks respectively, local law enforcement is afforded little, if any, training. Of the remaining 700 municipal officers and 200 county police, it is estimated that for the typical officer training will average about two weeks. From 1955 to 1967 a Peace Officer Training Program was sponsored by the Vocational Education Division of the State Department of Education for local officers. This consisted primarily of 45 hours of classroom instruction. Currently, there is no recruit training in the state available to the 55 sheriff departments, the 69 Class II and Class III municipal police departments and the 85 towns and villages with police. At the state level the picture is brighter, for the typical State Police recruit is a man who undergoes 20 weeks of training before assuming his duties.

---

12 *Supra* Note 1 at 91-92.

When compared with state requirements for other professions and trades, it is apparent that there has been little concern by the law makers for a professional policeman in the state. (See following table). The law requires a barber to go to school for 45 weeks before he can be licensed; or a beautician 50 weeks before practicing; even a manicurist must have 12½ weeks training before working on your fingernails. Yet, three-fourths of all of West Virginia's law enforcement officers go about their daily tasks without as much as four weeks of training.

It can hardly be disputed that the quality of the police work bears a direct relation to the contribution made to crime control. Policing a community is a personal service of the highest order and few professions are so peculiarly charged with individual responsibility. Officers are compelled to make instantaneous decisions--often without clearcut guidance of a legislature, the judiciary or from departmental policy --and mistakes can cost irreparable harm to citizens or even to the community.

A basic training course should be provided for all officers which would include schooling in a law of arrest, search and seizure and the mechanics of arrest. The officer needs to know some of the fundamentals of criminal law and procedures for investigation. Most prosecutors in the state will bear witness to the fact that in very important cases the defendant sometimes goes unpunished because the officer used improper techniques or he made an illegal search. The officer should be knowledgeable of scientific aids to law enforcement. Courses such as traffic control and accident investigation, self-defense, crowd control, firearms training, criminal evidence, court procedures, testifying in a case and many others give him important insight into how to properly carry out his responsibilities as a police officer and give the public the service it should have.

> Every police action can affect in some way someone's dignity, or self-respect, or sense of privacy, or constitutional rights. As a matter of routine policemen become privy to, and make judgments about, secrets that most citizens guard jealously from their closest friends: Relationships between husbands and wives, the misbehavior of children, personal eccentricities, peccadilloes and lapses of all kinds. Very often policemen must physically restrain or subdue unruly citizens."[12]

Because the role of the police officer in modern society is so critical, West Virginians must rally in support of law enforcement. Nathan C. Reger, Director of the West Virginia Law Enforcement Officers Minimum Standards Project and formerly a Lieutenant Colonel in the West Virginia Department of Public Safety published the following:

> Lack of proper training places the typical police officer in this state in a critical position. The irony of the situation is that he is eager to train but such a program is not available to him in this state.
>
> Training ranges from none to excellent. Except for Wheeling, Huntington and Charleston, where the training program is 3, 6 and 20 weeks respectively, local law enforcement is afforded little, if any, training. Of the remaining 700 municipal officers and 200 county police, it is estimated that for the typical officer training will average about two weeks. From 1955 to 1967 a Peace Officer Training Program was sponsored by the Vocational Education Division of the State Department of Education for local officers. This consisted primarily of 45 hours of classroom instruction. Currently, there is no recruit training in the state available to the 55 sheriff departments, the 69 Class II and Class III municipal police departments and the 85 towns and villages with police. At the state level the picture is brighter, for the typical State Police recruit is a man who undergoes 20 weeks of training before assuming his duties.

---

12 *Supra* Note 1 at 91-92.

When compared with state requirements for other professions and trades, it is apparent that there has been little concern by the law makers for a professional policeman in the state. (See following table). The law requires a barber to go to school for 45 weeks before he can be licensed; or a beautician 50 weeks before practicing; even a manicurist must have 12½ weeks training before working on your fingernails. Yet, three-fourths of all of West Virginia's law enforcement officers go about their daily tasks without as much as four weeks of training.

It can hardly be disputed that the quality of the police work bears a direct relation to the contribution made to crime control. Policing a community is a personal service of the highest order and few professions are so peculiarly charged with individual responsibility. Officers are compelled to make instantaneous decisions--often without clearcut guidance of a legislature, the judiciary or from departmental policy --and mistakes can cost irreparable harm to citizens or even to the community.

A basic training course should be provided for all officers which would include schooling in a law of arrest, search and seizure and the mechanics of arrest. The officer needs to know some of the fundamentals of criminal law and procedures for investigation. Most prosecutors in the state will bear witness to the fact that in very important cases the defendant sometimes goes unpunished because the officer used improper techniques or he made an illegal search. The officer should be knowledgeable of scientific aids to law enforcement. Courses such as traffic control and accident investigation, self-defense, crowd control, firearms training, criminal evidence, court procedures, testifying in a case and many others give him important insight into how to properly carry out his responsibilities as a police officer and give the public the service it should have.

The President's Commission on Law Enforcement and the Administration of Justice describes the community and police relationship as one of intimacy of contact which is hard to overstate. The policeman deals with people when they are both most threatening and most vulnerable, when they are angry, when they are violent, or when they are ashamed. Every police action can affect in some way someone's dignity, or self-respect, or sense of privacy, or constitutional rights. As a matter of routine, policeman become privy to and make judgments about, secrets that most citizens guard jealously from their closest friends -- relationships between husbands and wives, the misbehavior of children, personal eccentricities, peccadilloes and lapses of all kinds.

These situations are at best extremely difficult for even trained people to deal with. It is unthinkable that a police officer without training could cope with such problems in a manner to command public respect.

Huntington has now developed a 12-week training program for a training class which started April 1, 1968.

For a score of years now the West Virginia legislative and administrative branches of government, like those in other states, have been wrestling with such problems as roads, education, mental health, and welfare. Millions and millions of dollars have been budgeted toward solving these problems. West Virginia during this same period has shunted the pleas of the police. We are now far below the national averages according to law enforcement statistics. We have neglected the police and their problems for so long that we now face a monumental effort to rescue the state's local law enforcement if our people are to have a satisfactory law enforcement program. This was the conclusion reached by the Governor's Police Advisory Commission.

One of the many law enforcement problems the Police Advisory Commission sees is that of manpower. Out of a total of 308,000 full-time county and municipal (local) law enforcement officers in the nation, the President's Commission on Law Enforcement and Criminal Justice found the average distribution to range from one officer per 1,000 people in rural areas to 2.3 officers per 1,000 people in cities over 250,000 population. An average of 1.3 officers was found in all city groups below 100,000 population. Surburban police numbered 1.4 officers per1,000 and county sheriffs one per 1,000.

The following map shows how West Virginia law enforcement is supplied with manpower as compared to the average for similarly populated areas in the nation. The first figure given is present strength for the city or county and the second shows the average national figure for a similar area. The percent figure represents the increase necessary to reach the national level, which is itself a bare minimal figure. For example, in a county with 5,000 people this shows five officers. With quality, 24-hour service (one man on duty at all times), this would require five officers working a forty-hour week which means there would be only one officer to furnish service for 5,000 at anytime during the 24-hour period. This is spreading police protection dangerously thin.

Unlike the national scale, part-time law enforcement strength has been included for the state. The 165 deputy sheriffs have been carried as full-time law enforcement strength and the 55 sheriffs are shown as half-time because of their tax collecting responsibilities. Constables were not carried as law enforcement strength in the state figures, nor were they included in the national figures. Many of the smaller cities are included in the county figures. State police exercising purely administrative, supervisory, auto inspection, or West Virginia Turnpike patrol responsibilities were not counted as part of local law enforcement.

Four millions of dollars are needed for local law enforcement manpower alone. Currently we have 744 local law enforcement officers in the smaller cities and counties where 1,233 are needed to reach the figure considered minimal by police authorities, or a 66% increase in law enforcement manpower. There are 716 police in the larger cities, and 829 are needed to reach the national average -- an increase of 16%. In order to realize this minimum standard one finds it would require an additional expenditure in the state of at least $3,000,000 for the counties and smaller cities, and approximately $700,000 for larger cities to reach the minimal figure. Assuming that many of these political units are simply unable to provide these funds, some aid must come from state and/or national government.

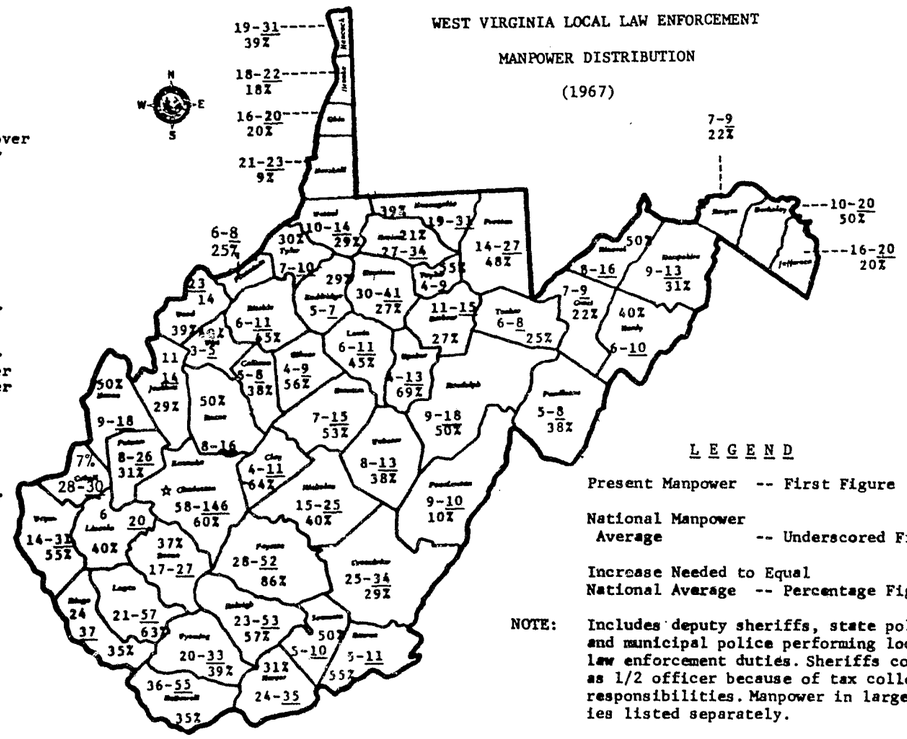
Many deputy sheriffs currently collect taxes and this was not taken into consideration here. The additional salaries represent only a portion of the total needs for West Virginia law enforcement however. Training and other needs of the present force are great in the opinion of the Police Advisory Commission.

WEST VIRGINIA LOCAL LAW ENFORCEMENT

MANPOWER DISTRIBUTION

(1967)

CITIES		
Martinsburg	17-21	18%
Wellsburg	5-8	38%
Huntington	100-116	14%
Bridgeport	3-8	63%
Clarksburg	30-37	18%
Ravenswood	4-9	56%
Charleston	142-121	15% over
So. Charleston	27-26	4% over
Dunbar	9-16	44%
St. Albans	12-23	48%
Nitro	6-10	40%
Weston	9-12	25%
Logan	8-6	25% over
Welch	9-7	22% over
Fairmont	32-37	14%
Moundsville	15-20	25%
Pt. Pleasant	6-9	33%
Princeton	13-12	8% over
Bluefield	24-29	17%
Keyser	6-10	40%
Williamson	10-9	10% over
Morgantown	27-23	15% over
Wheeling	92-65	29% over
Beckley	20-25	20%
Elkins	9-12	25%
Hinton	7-7	0%
Grafton	8-8	0%
Buckhannon	6-9	33%
Kenova	5-7	29%
New Martinsville	9-8	11% over
Vienna	4-15	73%
Parkersburg	49-62	21%



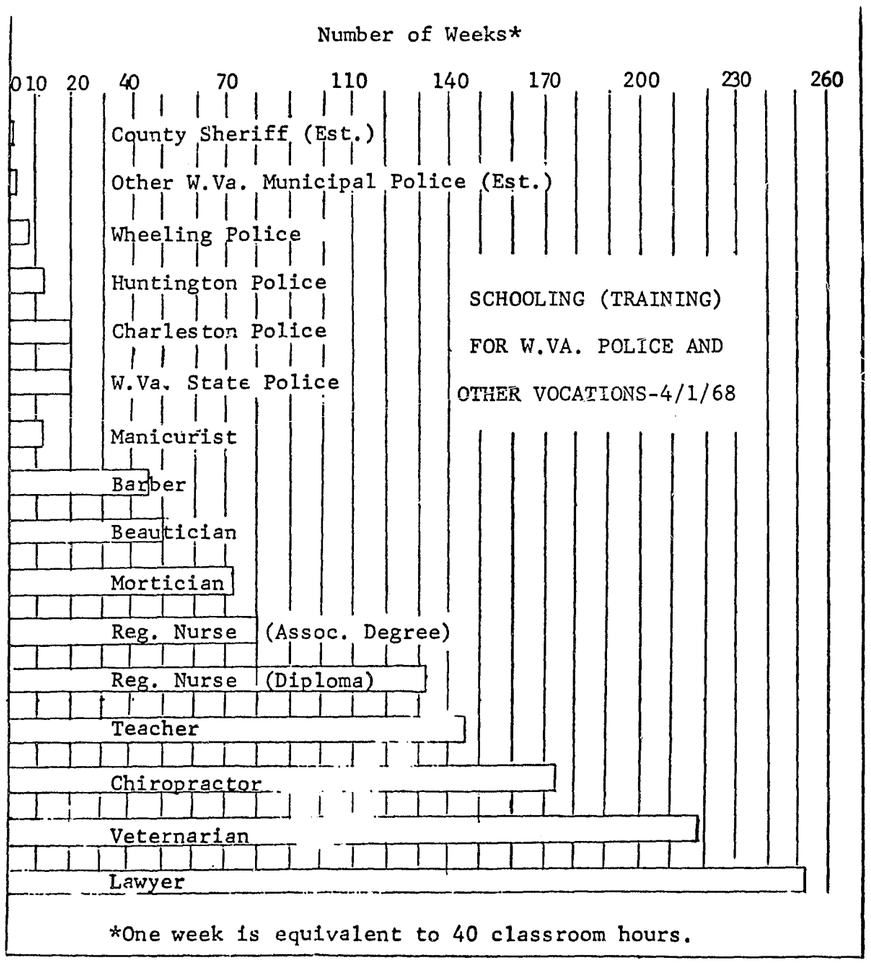
LEGEND

Present Manpower -- First Figure

National Manpower
Average -- Underscored Figure

Increase Needed to Equal
National Average -- Percentage Figure

NOTE: Includes deputy sheriffs, state police, and municipal police performing local law enforcement duties. Sheriffs counted as 1/2 officer because of tax collecting responsibilities. Manpower in larger cities listed separately.



WEST VIRGINIA CRIME DATA REPORTING SYSTEM

There is a need in West Virginia for a comprehensive, centralized crime reporting system reigned over by a computer. Tied into this program should be all agencies in the criminal justice field including all law enforcement units at the municipal, county, or state levels the criminal courts, juvenile courts, prosecuting attorneys, Attorney General, Division of Corrections including parole, institutions and jails who would be looking to the computer for basic information. Non-justice agencies, such as the Department of Motor Vehicles, and some of the social service agencies would also participate. In fact, any agency which is a consumer of crime data should have access to the program.

PRIORITY WITH LAW ENFORCEMENT

In establishing such a program in the state, priority would go to the approximately 213 law enforcement units now in existence. The most urgent need is here. Centralized reporting with instant dissemination to all law enforcement agencies is one of the recommendations of the Governor's Committee. Just how soon the information is made available to the officer on the scene sometimes determines whether the criminal is apprehended. In some police circles two minutes is considered a maximum lapse of time to allow between the sending of the inquiry by the officer on the scene to the computer and the receipt of the answer back by him. Recently a case was reported in the newspapers which illustrates the urgency for immediate dissemination to the police of crime data. A police officer in one of the New England states became suspicious and started following an automobile. He made his inquiry to headquarters for data, but before the reply was received, he was killed. The data revealed that he was following a stolen car occupied by two armed prison escapees. If the officer had had knowledge of these facts, he would probably have not been killed.

SYSTEM MUST BE GEARED TO STATE'S NEEDS

There are several nationally recognized state comprehensive central crime reporting systems in the country. However, in planning such a system for a state much study is required to determine the state's needs. Each state differs, and

no one state's system can be used as a pattern for another state. In other words, a design for this type of program in West Virginia could not be used for North Carolina because the needs of the two states cannot be met in the same manner.

CENTRAL REPORTING IN THE STATE

Colonel T. A. Welty, Superintendent of the West Virginia Department of Public Safety, was asked to give us his views on the needs of central reporting in law enforcement in West Virginia. He commented as follows:

DEFINITION

"Central reporting is a central filing system which will collect and store all criminal data and relative police information. This system should have the capabilities of disseminating such data and information as a matter of routine procedure to the individual policeman and all police agencies throughout the state and nation and/or upon their specific request. The system needs to be available twenty-four hours a day for inquiries. In order to do this effectively and efficiently with the minimum possibility of error and with expediency, an electronic computer system must be employed. This system must also be compatible with the National Crime Information Center in Washington, D.C.

THE NEED FOR THE SYSTEM

"In order to cope with crime today there is an urgent need for the effective collection, accumulation and retrieval of available data and information and its dissemination to the various police departments and governmental agencies concerned.

"It is in the public interest that these various police agencies and governmental agencies share among themselves available information related to all aspects of crime.

"At the present time, criminal information in West Virginia is contained in separate and widely dispersed filing systems, manually maintained, and no adequate system now exists for coordinating either the files or the information they contain.

"To assure that this information is accurately and swiftly disseminated to police departments and governmental agencies concerned, there is a definite need for a new and more advanced computer system.

"Through the use of electronic data processing and related procedure, a system must be established to provide a central data facility, by which relevant information can be coordinated and made available whenever and wherever required in the investigation and prosecution of crime and the administration of criminal justice.

WHAT WE HAVE

"At the present time, police records are widely scattered throughout the state, lacking in desired information and are manually maintained.

"The State Police system is a manually maintained system centrally located at the Criminal Identification Bureau at the Capitol. Very little information is furnished by other police agencies for this central filing.

WHAT IS NEEDED

"The following is recommended for the organizational structure and machinery for a central reporting system:

"An electronic computer capable of storing police information such as stolen property, criminal records, mode of operation, motor vehicles registration and operator's license information as contained by the Department of Motor Vehicles and any other pertinent police information. This computer should be of the type to give instantaneous reply upon request.

"Inquiries would be made through teletype machines which are tied indirectly to the computer. These teletype machines would also be used in other communications and be adapted to the computer, so that by the use of a code the teletype machine would key the computer in for inquiries and store information.

314-086 O - 68 - 21

The teletype inquiry stations should be located in key locations throughout the state in the various police agencies (state, county and municipal), so that individual police officers would have swift and easy access through radio or telephone communications.

"Information to be stored in this computer should be contributed by all law enforcement agencies and other governmental agencies concerned.

"This computer should be compatible with the NCIC in Washington, D.C., and programmed so it would first make inquiry into a local computer; then, if necessary, inquiry would be made automatically to the NCIC.

"This system should be worked out in different phases over a period of years.

"First year: Phase One will give the immediate service benefits to the law enforcement community. With the installation of a computer, the first year should consist of wanted persons, stolen property, message switching, traffic accidents, arrests, fingerprints, complaints, performance accounting, gun files and motor vehicle cost analysis.

"Second year: criminal history, fraudulent checks, civil defense inventory, department inventory, *modus operandi* and latent fingerprints.

"Third year: personnel files, recruit school training, master fingerprint records and crime laboratory.

"Priorities for future developments will be based upon broad systems research."

SYSTEMS AVAILABLE

MICHIGAN SYSTEM

One of the reporting systems visited by a member of the staff was that of the State of Michigan. Theirs is a one-message transmission system for the entire state. The program proceeds

on the concept that the problem of preserving the peace and enforcing the laws is no longer the sole concern of the several local jurisdictions, for the thief who preys on the citizen in one community may live elsewhere; the motorist delayed or inconvenienced in one jurisdiction may have started his trip in another, seeking to travel to still a third. Currently this system is providing all police agencies within the state and their patrolling officers with immediate access to statewide stolen autos and wanted person files on a 24-hour, 7-days-a-week basis. Projected to 1970 it will be enlarged to take in many more aspects of the crime data consumer needs.[1]

CALIFORNIA PROGRAM

The California program, which recently got under way with the assistance of a grant from the Office of Law Enforcement Assistance, is called the California Criminal Justice Information System. Its goal is to improve operating and service effectiveness in the management of criminal justice information. The proposal describes the concept as a collective effort directed toward the development of a fully integrated information system design, based upon user need and the preparation of an implementation schedule that is practical in terms of information available, with respect to time and content.[2]

OHIO SYSTEM

The Ohio system is styled a "Communications and Information Network". Here the concept is described as consisting of an on-line, real-time computer, containing files on law enforcement data and statewide communications network. Some of the benefits spelled out in the proposal are: 1) improved efficiency of police by reducing the amount of time lost waiting for responses to inquiries into the files of stolen vehicles, operator's licenses, vehicle registrations and wanted persons, 2) greater apprehension of criminals, 3) greater safety to the officer approaching a driver who might be a dangerous criminal, and 4) to the highway user through the identification of hazardous motorists, and 5) improved record keeping. It is described as a new and powerful law enforcement tool for the state. It is basically a law enforcement program with liason to other agencies, while the California program attempts to include everything having to do with crime.[3]

---

[1] See Appendix H for diagram of the Michigan program.
[2] See Appendix I for the information flow among the agencies, and Appendix J for a diagram of the California program.
[3] See Appendix K for computer file layout of the system.

NEW YORK SYSTEM

Probably the ultimate in computerizing data is found in the New York State Identification and Intelligence System (NYSIIS). This system, which is quite expensive, is now capable of recording fingerprints in the bank. It started with New York City and is being extended to cover the entire state.[4]

NATIONAL CRIME DATA REPORTING

In the *President's Commission Report* is found an outline of a National Crime Data Reporting System by Dr. Peter J. Lejins. Inasmuch as the national proposal has applicability to state systems, a summary is included in this report.[5] Not only would a uniform records and data collecting system of the scale described by Dr. Lejins have a tremendous impact upon the effectiveness of law enforcement and all the criminal justice processes within the state, but would be invaluable to administrative and legislative planning and the evaluation of law enforcement and criminal justice programs within the state.

[4]See Appendix L for diagram of a fingerprint superimposed on a grid, preparatory to insertion in the computer bank.
[5]See Appendix N.

Chapter 9

LAW ENFORCEMENT ACADEMIC PROGRAM

INTRODUCTION

There are numerous reasons for the apparent concern regarding the development of two and four-year law enforcement education and training programs at the college and university level. It appears that law enforcement and other administrative officials, both academic and public, have in the past taken lightly the task of providing adequate police training and educational programs. With the increased emphasis on law enforcement functions and responsibilities, suitable training and education must become a matter of academic concern if law enforcement officers are to optimally function within the department and serve the total needs of a demanding society.

GENERAL OBSERVATIONS

Law enforcement training and education exists for two major purposes: (1) to develop to the fullest extent the potentialities of the individual student, and (2) to protect and promote the welfare of society. These goals depend upon each other for accomplishment. It should be the purpose of realistic police education and training programs to strive toward these goals during the time when the individual is pursuing a course of study at the college, university and police academy. If this is to be done effectively, it is essential that the role of law enforcement education and training be understood by administrators at all levels of government and that they be sympathetic with both the needs of the individual and society.

The past has much to tell us about the present and the future. By glancing back into history we can fully comprehend why certain concepts reflecting the meaning of law enforcement training and education must be understood.

In our present age of rapid changes in police thinking, problems can arise at the same accelerating rate at

which political and technological developments occur. Concepts in police training and education are changing so profoundly that even the conceptual framework shows the strain. As the result, there exists among many high-level police administrators in the United States a myriad of ideas and opinions concerning what constitutes an adequate police training and/or educational program, and a lack of agreement as to the meaning and implications of such training and education in comparison with the needs of the individual and society.

When ideas and conceptions are in such a state of confusion and misinterpretation, the need arises for either entirely new forms of conception or a reinterpretation of the elements that constitute adequate law enforcement training and educational programs.

The role of law enforcement in the protection of society is not changing; however, society is altering its understanding of this role. Can responsible administrators plan, develop, and implement training and educational programs designed to accommodate the now interested society and as such determine the direction of needed changes in police training and education so that the role of law enforcement is made more effective for and understandable to society? Confidence is expressed in the future meeting of law enforcement administrators and business, civic, and governmental leaders uniting voluntarily to bring about the required improvement in law enforcement training and education. An improved training and educational system is the first order of business in the insuring of a dynamic and competent law enforcement agency.

NEED FOR ACADEMIC PROGRAM IN WEST VIRGINIA

Discussion of the need for a police academic program in West Virginia must be in terms of general considerations as specific delineation of factors relating to particular needs of West Virginia would involve the knowledge of information that is not presently available. This information must be obtained through a state survey of existing law enforcement conditions reflective of manpower needs, training

and training needs; attitudes, interests, ideas, and opinions regarding the development of a law enforcement academic program, both on the part of law enforcement and public officials, evaluation of existing educational programs which have been so designed to meet the needs of law enforcement; and many other essential considerations.

A survey will soon be conducted which will provide essential information reflective of law enforcement conditions and training education needs in West Virginia.

NECESSARY QUESTIONS WHICH MUST BE CONSIDERED

Various questions must be considered to establishing a law enforcement administration program at the college level. The following are representative of such questions.

1. Should a degree or certificate program be offered?

2. Should West Virginia State offer a two-year terminal program, two-year transfer program, or a four-year degree program?

3. Should the program include more academic or professional courses?

4. What type of instructional personnel is needed? How many staff members would have to be employed to initiate a law enforcement administration program? What is the salary estimate for this additional personnel?

5. What should the director of the program do to attract and select students?

6. At what time of the day or night should courses be offered?

7. Will such a program create a loss of personnel to the departments once they complete the program?

THE TWO-YEAR PROGRAM

PRIMARY OBJECTIVES OF THE ASSOCIATE OF ARTS DEGREE PROGRAM

The primary purpose of a law enforcement training and education program is to assist in bringing about the professionalization of law enforcement through proper and meaningful education and training. Specifically speaking, the objectives of the two-year program would have to encompass the following:

1. Enable the individual law enforcement agencies to more effectively operate as the result of the dissemination of proper administrative methods, procedures and considerations.

2. Assist the student to better realize the significance of law enforcement organization and management by promoting an understanding of the total role of law enforcement in a contemporary society.

3. Delineate the structure of the system of government in which the student functions, i.e., local, state, federal, illustrating the role of law enforcement and the police officer within the various levels of government.

4. Instill within the student the knowledge of laws and ordinances and the specific elements of each offense. The extent to which this objective is realized is the extent to which illegal acts on the part of the officer will be avoided.

5. Prepare students to perform in a police capacity certain duties and responsibilities characteristic to this job. By utilizing practical exercises and teaching the student correct methods and procedures, confident and safe attitudes and practices can be achieved.

6. Promote an awareness on the part of the student to the necessary considerations, practices, attitudes and techniques of patrol, investigation, courtroom manner and bearing, human behavior, public relations, and other elements so essential to the work of a law enforcement officer.

7. Develop a basis for further learning by impressing upon the student that effective law enforcement management and operation make learning a continuous process.

SUGGESTED DEVELOPMENT FOR W. VA. STATE COLLEGE'S TWO-YEAR PROGRAM

The projection for this two-year terminal program would probably require approximately 64 to 68 semester hours of college level training in Social Science, Natural Science, Humanities, and special law enforcement administration leading to the Associate degree.

This program should be designed: (1) to serve pre-employment law enforcement students, and (2) to further educate and train those people who are interested in increasing their professional knowledge and performing their work more effectively.

Students should cover such subjects as English, psychology, general science, health and first aid education, sociology, governmental and legal systems, introduction to law enforcement, criminal law, criminal investigation, patrol procedures, interviewing and case preparation, police organization and administration, evidence and criminal procedure, traffic administration and control, and delinquency prevention.

The philosophy and orientation of the two-year program would be directed to the needs of the practitioner using a how-to-do-it approach.

TWO-YEAR PROGRAM CURRICULUM

The following courses are reflective of those which should be considered essential to the two-year program leading to the Associate of Science degree with a major in Law Enforcement Administration. Course descriptions are not absolute to the point that flexibility is eliminated. These descriptions were carefully selected from suitable college and university reference sources.

I. BEHAVIORAL SCIENCES (15 credits)

Anthropology. The Origin of Man and Culture. (3 credits)

Introduction to physical anthropology; The position of man in the animal kingdom, the

genetic mechanisms of evolution, human beginnings and the fossil record, racial evolution and racial types among modern man, the anticipation of culture among other animals and the development of human culture, and culture as an adaptive mechanism.

Psychology. General Psychology. (3 credits)

Survey of psychological topics including learning motivation, emotions, intelligence, personality, and social relations.

Psychology. Psychology of Personality. (3 credits)

Application of psycholigical principles to an introductory understanding of personality and interpersonal adjustments; social motivation, frustration, conflicts, and adjustment mechanisms; theories of adjustment, the assessment of personality, problems of mental hygiene and some theories of psychotherapy.

Sociology. Contemporary Social Problems. (3 credits)

The sociological perspective is used to examine aspects of American culture and institutions which are the source of behaviors associated with areas of contemporary concern such as criminality, alcoholism, mental illness, minority groups, the aged, etc.

Sociology. Introduction to Social Psychology. (3 credits)

Relation of individual to his social environment, with special reference to personality development, communication and role behavior.

II. POLITICAL SCIENCE (6 credits)

Political Science. American National Government. (3 credits)

Major aspects of national government with emphasis on the policy-making process. Special attention to civil liberties and role of political parties and interest groups.

Political Science. American State Government. (3 credits)

State government today; growth of power of the governors; administrative and judicial reorganization; comparison of state political systems; trends in legislative leadership; forces and interests shaping policies.

III. HUMANITIES (8 credits)

English. Forms of Literature I. (3 credits)

English. Forms of Literature II. (3 credits)

Major forms of prose fiction, designed to reveal artistic problems met and solved by these forms. Prepares students for advanced literary study by acquainting them with the conventions of various literary forms, by providing a critical vocabulary and by furnishing experience in reading and writing critical evaluations of outstanding literary works from all historical periods; or

English. Expository Writing. (3 credits)

Practice in informative writing to develop mastery of a clear, accurate style and of practical, basic expository forms.

English. Creative Writing. (3 credits)

Instruction and practice in fundamentals with emphasis on description of character and background. Weekly assignments in writing and the analysis of models.

Speech. Public Speaking. (2 credits)

Principles and practices of effective speaking in both informal and formal situations.

IV. NATURAL SCIENCE (8 credits)

Biology. General Biology I. (4 credits)

Biology. General Biology II. (4 credits)

Integrated course emphasizing cell structure and function, genetics, comparative morphology and physiology or living organisms and their developmental and community relationships.

V. LAW ENFORCEMENT ADMINISTRATION (Police Science) (27 credits)

Introduction to Law Enforcement (3 credits)

Survey of law enforcement -- the role, history, development and constitutional aspects of law enforcement and public safety. A review of agencies involved in the processes of the administration of criminal justice.

Criminal Law. (3 credits)

Elements of substantive criminal law relevant to attaining the preservation and protection of life and property. The structure, definitions and the most applicable and pertinent sections of the criminal statutes.

Criminal Investigation. (3 credits)

Fundamentals of investigation; techniques of crime scene recording and search; collection and preservation of physical evidence; modus operandi processes; sources of information; follow-up and case preparation.

Patrol Prodecures. (3 credits)

Patrol as the basic operation of the police function. Purpose, methods, types and means of police patrol. Administration of police patrol, determining the patrol strength, layout, beats, areas and deployment.

Interviewing and the Communication Process. (3 credits)

Applicable interviewing concepts, principles, methods relative to current police practices. Practical interviewing considerations in

agreement with legal stipulations.

Police Organization and Administration. (3 credits)

Functions and activities of police agencies. Police department organizations; responsibilities of police chief in the administration of line, auxiliary, and staff units. Police formulations. Current administrative experimentation in law enforcement agencies.

Evidence and Criminal Procedure. (3 credits)

Discussion of pertinent rules of evidence of particular import at the operational level in law enforcement and with criminal procedure in important areas such as arrest, force, and search and seizure.

Police and Court Traffic Administration. (3 credits)

Organization of police traffic activities. Administrative standards. Enforcement policies and tactics, parking control, directing traffic movement, accident reporting and investigation, traffic records. Accident data analysis and planning. Traffic court procedure. Violations Bureau operation.

Delinquency Prevention. (3 credits)

Problem of juvenile delinquency, theories of causation and prevention programs. Police prevention programs, juvenile courts, institutional treatment, community resources for prevention, federal and state programs.

The courses listed herein as recommended courses do not preclude the taking of other courses to meet the requirements. The student, with the approval of his academic advisor, may elect other similar courses to fulfill the general requirements.

THE FOUR-YEAR PROGRAM

PRIMARY OBJECTIVES OF THE FOUR-YEAR PROGRAM

This description of the intended Law Enforcement Administration Program at West Virginia State College delineates the

baccalaureate degree curriculum. Its design is intended to convey a professional concept of law enforcement service. However, course nomenclature and credit hours are not absolute; thus, flexibility is inherent within its design.

During the early development of any four-year degree program, it is essential to rely upon the practical rather than the theoretical aspects of the program. As the program develops, more sophistication becomes inherent and the development of theory and the expansion and classification of knowledge that a four-year program should fulfill becomes necessary. This is natural and desirable since a major function of the four-year program is to expand in theoretical understanding and interpretation of the law enforcement field and increase the extent and classification of knowledge being pursued.

One of the most common problems of the newly developed discipline lies in the adequate measurement of the scope of the program and the organization of knowledge comprising the program into teachable forms. Law enforcement administration degree programs are generally in this position. Since one of the most applicable and direct ways in which degree programs of this type contribute to society is through the dissemination of knowledge, one requirement is a well-organized curriculum. An adequate four-year law enforcement degree program must be one that will serve three classes of students.

1. Those who wish to acquire an understanding of the law enforcement role in society as part of a broad general college education;

2. The specialized student who wishes to prepare himself for a professional career in law enforcement; and

3. Those who seek to prepare themselves for advanced study in the law enforcement field or related disciplines.

The prevention of crime and disorder, preservation of the peace, the protection of life and property, the preservation of personal liberty, and the maintenance of social order are essential to the strong continuance of a democratic society.

To provide for this peace, safety, liberty, freedom and order, private agencies and public agencies at the federal, state and local levels are engaged in activities designed to prevent crime, enforce law, detect and apprehend criminals, deter delinquency, correct and rehabilitate offenders, and facilitate justice under law.

The four-year program in Law Enforcement Administration provides preparation for career service in law enforcement by:

1. Requiring a thorough study of the organization, management, and operation of police service, and the areas of specialized techniques and procedure together with a consideration of their legal and philosophical bases; and

2. Requiring a well-balanced program of study to the extent that graduates may not only be knowledgeable and informed, but that they also be able to exercise authority wisely and maintain an absolute integrity of character in keeping with the goal of a professionalized law enforcement service.

The following represents a guide which can be used in planning for and the development of a four-year law enforcement administration program.

The projection for the four-year program would probably require approximately 128 to 136 semester hours of college level training in Social Science, Natural Science, Humanities, and specific law enforcement subjects leading to the Bachelor of Science Degree. Course descriptions are not absolute to the point that flexibility is eliminated. The courses identified represent only a few feasible courses which would apply in the various identified areas of required learning.

BACHELOR OF SCIENCE DEGREE PROGRAM CURRICULUM

GENERAL COLLEGE REQUIREMENTS (Semester Hour Basis)

Natural Science --------8 credits

Social Science----------8 credits

Humanities-------------12 credits

Health, Physical Education & Recreation----------6 credits

TOTAL GENERAL COLLEGE REQUIREMENTS--------34 credits

LAW ENFORCEMENT ADMINISTRATION CORE----------35 credits

PROFESSIONAL DEPTH COURSES ---------- 9 credits

POLITICAL SCIENCE COURSES---------- 6 credits

HUMANITIES COURSES---------- 8 credits

BUSINESS, COMMUNICATIONS, ARTS, EDUCATION---------- 6 credits

BEHAVIORAL SCIENCES----------22 credits

GENERAL ELECTIVES----------8 credits

TOTAL CREDITS REQUIRED FOR B.S. DEGREE 128 credits

I. GENERAL COLLEGE REQUIREMENTS (34 credits)

Natural Science. (8 credits)

Biology. General Biology I. (4 credits)

Biology. General Biology II. (4 credits)

Integrate courses emphasizing cell structure and function, genetics, comparative morphology and physiology of living organisms and their developmental and community relationships.

Social Science. (8 credits)

Social Science I. (4 credits)

Basic concepts used in analysis of social behavior. Processes by which new members of group are oriented to prevailing patterns of behavior. Part played by such agencies as the family, school and church in the development of personality and in the socialization process.

Social Science II. (4 credits)

Problem of satisfying human needs and wants. This includes socio-psychological (noneconomic) needs and wants as well as treatment of ways in which resources are allocated and products distributed in response to economic needs and wants. Economic institutions with emphasis on their relationships to other aspects of human behavior.

Humanities. (12 credits)

Humanities I. (4 credits)

A field of study in relation to general education; classical background of Western man as seen in Greek pattern of community life, religion, philosophy, literature and art;

314-086 O - 68 - 22

Roman contributions as seen in the imperial idea, in concepts of the good life, in architecture and engineering, and in development of law, Christian roots of Western civilization as seen in its spiritual foundations, the basic teachings of Jesus Christ, and growth of the early Church.

Humanities II. (4 credits)

Medieval man in Western Europe; economic life on manor and in towns; political ideas and practices in feudal times, influences from Islam and the East; creation of a Christian synthesis in spirit, thought, education, literature, art, music; emergence of modern man and modern forces in Western civilization; transition to a dynamic capitalist economy; the development of nation state; humanism as expressed in literature, art, music; the Protestant Reformation.

Humanities III. (4 credits)

Intellectual foundations of the modern world; revolution in science; thought, literature, and art of the Enlightenment. Locke and origins of democratic political theory, the liberal revolutions, romanticism and idealism in philosophy and the arts, impact of the machine, advance of science, nationalism and imperialism; attacks on liberalism from Right and Left; break-up of liberal order; effect of World Wars; rise of collectivism; contemporary spirit in literature and art; contemporary views of the world and man.

Health, Physical Education and Recreation (6 credits)

Athletic Training.(2 credits)

Principles governing conditioning of men for various sports; different types of men; hygienic rules, study of weight sheets, massage; prevention of staleness, symptoms and treatment; work and rest; prevention and treatment of injuries.

First Aid. (2 credits)

Methods of giving aid in case of accident or sudden illness; bandaging; control of hemorrhage; resuscitation; administration of simple antidotes in case of poisoning; caring for wounds and injuries. American Red Cross First Aid certificates are issued to those completing course.

Wrestling. (2 credits)

Techniques necessary to conduct combatives programs. Teaching techniques and fundamental skills of boxing, wrestling and fencing. Training and conditioning, equipment, officiating and safety measures.

II. LAW ENFORCEMENT ADMINISTRATION CORE (35 credits)

Criminal Law. (3 credits)

Elements of substantive criminal law relevant to attaining the preservation and protection of life and property. The structure, definitions and the most applicable and pertinent sections of the criminal statutes.

Criminal Investigation. (3 credits)

Fundamentals of investigation; techniques of crime scene recording and search; collection and preservation of physical evidence, modus operandi processes; sources of information; follow-up and case preparation.

Patrol Procedures. (3 credits)

Patrol as the basic operation of the police function. Purpose, methods, types and means of patrol. Administration of police patrol, determining the patrol strength, layout, beats, areas and deployment.

Interviewing and the Communication Process. (3 credits)

Applicable interviewing concepts, principles and methods relative to current police practices. Interviewing considerations in agreement with legal stipulations.

Police Organization and Administration (Staff). (3 credits)

Functions and activities of police agencies with emphasis on staff operations. Police department organizations; responsibilities of police chief in the administration of line, auxiliary, and staff units. Policy formulations. Current administrative experimentation in law enforcement agencies.

Evidence and Criminal Procedure. (3 credits)

Discussion of pertinent rules of evidence of particular import at the operational level in law enforcement and with criminal procedure in important areas such as arrest, force and search and seizure.

Police and Court Traffic Administration. (3 credits)

Organization of police traffic activities. Administrative standards. Enforcement policies and tactics. Parking control. Directing traffic movement. Accident reporting and investigation. Traffic records. Accident data analysis and planning. Traffic court procedure. Violation bureau operation.

Delinquency Prevention and Control. (3 credits)

Problem of juvenile delinquency, theories of causation and prevention programs. Police prevention program, juvenile courts, institutional treatment, community resources for prevention, federal and state programs.

Police Organization and Administration (Line). (3 credits)

Functions and activities of police agencies with emphasis on line operations. The organization and management of patrol, traffic, detective, juvenile and vice units; formulation of police and procedure; rules and regulations; deployment; implementation of procedural and tactical palnning; coordination of activity.

Field Service Training. (8 credits)

Field service training provided with federal, state and local enforcement agencies; crime laboratories; commercial, industrial, and financial organizations with security programs; agencies working in crime and delinquency prevention; correctional agencies; and organizations engaged in highway safety.

III. PROFESSIONAL DEPTH COURSES. (9 credits)

Correctional Philosophy: Theory and Practice (2 credits)

Introductory survey of philosophy, theory and practice involved in the treatment of convicted law violators of all ages. Appraisal of the impact of correctional treatment upon post-correctional behavior.

Research Methodology. (3 credits)

Utility of scientific thought and method in police administrative decision making. Techniques of collection and forms of presentation of data.

Police and Community Relations. (2 Credits)

Aspects of community relations encompassing the spectrum of the administration of jusice and community responsibility.

Senior Seminar. (2 credits)

Discussion and evaluation of observed policies and practices of the field with studied theories and procedures. Conflicts between theory and practice are examined, analyzed and reconciled.

IV. POLITICAL SCIENCE COURSES. (6 credits)

American National Government. (3 credits)

Major aspects of national government with emphasis on the policymaking process. Special attention to civil liberties and role of political parties and interest groups.

American State Government. (3 credits)

State government today; growth of power of the governors; administrative and judicial reorganization; comparison of state political systems; trends in legislative leadership; forces and interests shaping policies.

V. HUMANITIES COURSES. (8 credits)

English. Expository Writing. (3 credits)

Practice in informative writing to develop mastery of clear, accurate style and of practical, basic expository forms.

English. Creative Writing. (3 credits)

Instruction and practice in fundamentals with emphasis on description of character and background. Weekly assignments in writing and the analysis of models.

Speech. Public Speaking. (2 credits)

Principles and practices of effective speaking in both informal and formal situations.

VI. BUSINESS, COMMUNICATIONS, ARTS, EDUCATION (6 credits)

Communications. The Communication Process. (3 credits)

Introduction to the communications process, with emphasis on the functions of language and the problems of responsibility.

Business. Principles of Public Relations. (3 credits)

Problems of interpreting an organization or business to its various publics and interpreting the publics to the organization.

VII. BEHAVIORAL SCIENCES. (22 credits)

Psychology. Methods of Effective Study. (3 credits)

Group and individual counseling for students with problems in academic achievement, including motivation, concentration, and attitudes toward study; methods and techniques of study; utilization of time; and student efficiency in the classroom.

Psychology. General Psychology. (3 credits)

Survey of psychological topics including learning motivation, emotions, intelligence, personality, and social relations.

Psychology. Psychology of Personality. (3 credits)

Application of psychological principles to an introductory understanding of personality and interpersonal adjustments; social motivation, frustration, conflicts and adjustment mechanisms; theories of adjustment, the assessment of personality, problems of mental hygiene and some theories of psychotherapy.

Psychology. Legal and Criminal Psychology. (3 credits)

Applications of psychological principles, methods and techniques to legal and criminal problems and procedures, including the formation, detection, prevention and rehabilitation of criminal behavior, testimony, legal arguments, trial tactics and the other courtroom procedures.

Sociology. Contemporary Social Problems. (3 credits)

The sociological perspective is used to examine aspects of American culture and institutions which are the source of behaviors associated with areas of contemporary concern such as criminality, alcoholism, mental illness, minority groups, the aged, etc.

Sociology. Normal and Delinquent Behavior of Youth. (3 credits)

Growing-up process of late childhood and adolescence from sociological and cultural viewpoint. Delinquent, abnormal, and normal behavior. Problems of individual in his social environment and group forces which lead to his maladjustment.

Sociological principles for working with youth from viewpoint of parent, teacher, police and youth organization leader.

Sociology. Criminology. (3 credits)

Cultural nature, origin and development of crime; trends in criminal law; psychological and sociological factors involved in criminal behavior; current programs for treatment and prevention.

VIII. ELECTIVES. (8 credits)

The student with the approval of his advisor may elect eight credits in any of the previously mentioned areas.

The courses listed herein under Groups I through VII as recommended courses do not preclude the taking of other courses to meet the requirements. The student, with the approval of his academic advisor, may elect other similar courses to fulfill the general requirements.

A RESEARCH AND TRAINING CENTER IN CORRECTION AND LAW ENFORCEMENT

WHAT IS A RESEARCH AND TRAINING CENTER?

The general purpose of any research and training center is to mobilize the skills and competencies available in a university setting and apply them to the same specific problem area. For example, in recent years the national office of the Vocational Rehabilitation Administration has established sixteen such centers across the United States. Through the vehicle of the Rehabilitation Research and Training Center, the enormous potential of the nation's universities are brought to bear on the problems of rehabilitation. One of the unique advantages of such research and training centers is that they are able to translate their research findings into actual training with a minimum of delay. Thus, a research and training center is able to solve an age-old problem of research, i.e., the failure to translate relevant findings into improved operations. A second advantage of the research and training center is that they are interdisciplinary in character. More often than not, social problems tend to occur in clusters. Thus, educational and cultural deprivation is often correlated with economic deprivation and substandard health conditions. Because of this "clustering principle", it is usually unrealistic to look to one academic discipline or even several disciplines for solutions to problems posed by the disabled whether the disability be psychological, physical, or sociological in nature.

IN CORRECTIONS AND LAW ENFORCEMENT

A research and training center in corrections and law enforcement could address itself to many of the perennially vexing problems in these areas. For example, in corrections the problem of recidivism could be taken up as a core research problem, and a project could be initiated to evaluate specific techniques aimed at recidivism reduction.

The "Clustering Principle" alluded to above seems to be especially pronounced in the case of the public offender. That is, quite typically, our public offenders are from the lower socioeconomic strata of our society. Characteristically, the public offender is educationally handicapped sometimes to the point of functional illiteracy. Often the public offender comes from a broken home or from no home at all. In short the public offender has problems that cut across economic, social, educational,

psychological and even medical lines. In view of the complexity of the problem, it seems that research, if it is to be effective, must draw upon the skills and competencies of virtually all of the basic sciences.

Ideally, a West Virginia Research and Training Center in Corrections would be housed on the main campus of the University in Morgantown. Such housing would in all probability involve the construction of a new building, which would house the administrative offices, classrooms, training laboratories, etc.

WHY A RESEARCH AND TRAINING CENTER?

TRAINING NEEDS

It is obvious indeed, in times painfully obvious, that the training and sophistication of those who are charged with the responsibility of correctional and law enforcement functions lack rudimentary knowledge of basic problems in the behavorial sciences and related disciplines. Events in recent years have triggered the development of a sound body of research findings of criminology, penal psychology, etc. While this research remains of vital importance, the most regretable feature of the current state of affairs is that the research findings seldom filter down to those individuals who need it the most. Part of the problem no doubt rests with the researchers themselves in that they quite characteristically couch the results of the research in academic jargon and complicated statistical charts and tables. While such a vehicle may be effective in communicating from one researcher to another, it is far from effective in communicating between the researcher and the personnel charged with the responsibility of handling the everyday problems of corrections.

It is clear, therefore, that one of the major contributions of the research and training center in the area of corrections would be to serve as the bridge between researching and practicing rehabilitation communication and encouraging personnel to to implement recently developed innovative techniques in their field. The groups who might profit from exposure to such training experiences would be correctional and law enforcement officers at the county, municipal and state levels. Furthermore, the research and training center could function as an umbrella for innovative training programs which would cut across traditional state agencies' lines. For example, seminars and symposia could be developed by correctional and rehabilitation or public welfare personnel. Such training sessions could be addressed to

its problems that are of common interest to these respective agencies as they relate to the public offender. Briefly, a research and training center could serve the function of reorganization of agencies' services so as to more efficiently accomplish the goal of returning the offenders to society as an asset rather than a liability.

In addition to the activities, a research and training center could serve as a regional or indeed a national center, thereby facilitating the flow of information and ideas between states that may be experiencing identical or similar kinds of problems. The obvious advantage of such a function would therefore serve to measurably increase the rates for money spent in the area of law enforcement, crime prevention and corrections.

Taking an even broader view of the functions of the research and training center, it is possible to house such a center with its university affiliation as a vehicle for fostering the flow of ideas between nations. For example, exchange programs may be initiated whereby a student from the United States may study the programs of a foreign nation and reciprocally a student from that nation may study here in the United States, preferably over the aegis of the research and training center.

At a more modest level the training function of a research and training center would be implemented by storing books, periodicals, as well as other training aids such as film strips at the research and training center. The center could then become a central warehouse at which all of the information relating to the areas of correction and law enforcement could be stored. In addition to educating staff, such a library would also be an invaluable tool in the education of the public to the needs, potentialities, and problems of corrections and related areas. In this fashion the center could contribute to the dissolution of public apathy and at times mistrust of the work of the correctional and law enforcement personnel.

RESEARCH

While training would remain a significant function for the kind of center herein being discussed, an even more critical issue is to develop a sound body research in order that training needs may be determined. Furthermore, concerning the areas that would fall under the purview of the Research and Training center, it is obvious to say that we have far more questions than we have answers. For example, the problem of recidivism looms largely as perhaps the central issue in the area of corrections. Yet, little is known about what specific techniques are to be employed to reduce the problem. It is entirely possible that certain remedial programs given to prisoners could be more advantageous than others, for example, for some pirsoners perhaps some program of remedial education to the point of reducing recidivism would be better than a program of vocational training. For other prisoners it may require both remedial

education and vocational training to produce the optimum level of rehabilitation. For other groups who already possess adequate vocational and educational skills, it is possible that counseling, social case work and psychiatric treatment may be more along the lines of his needs.

Other research questions are posed by the fact that little systematic evaluation is currently being conducted on new rehabilitation oriented program. Thus, we have no sound way of saying whether a given program is more or less effective than a second program. Such a problem points to the need in corrections and law enforcement for a solid evaluation base. Such an evaluation base would provide at cost benefits analysis so that administration would be in a position to decide what areas would be the best to develop in view of the related resources available.

OTHER CONSIDERATIONS FOR THE CENTER

WHO ARE TO BE INVOLVED IN A RESEARCH AND TRAINING CENTER?

The administrative structure of a research and training center should approximate something like the following. First, there would be a center director. Ideally, this individual should have his doctorate in one of the basic sciences, i.e., psychology, clinical sociology. Also, it would perhaps be best to have the exposure to and experience with the problems of the law enforcement and correctional field. The center director's primary function would be to articulate the basic research and training center's programs for the center and would also serve the function of providing liaison between related activities and disciplines, i.e., rehabilitation, welfare, special education, psychiatry, psychology, etc.

Serving under the director would be the director of research and the director of training. The director should have a doctorate degree with a solid research background. The director of training would seem to be best able to serve his function if his education and experience background were in the area of education and educational techniques. A Master's degree in one of these areas would be a sufficient academic background. The overall governing board for such a center should involve representatives from both the university and the related state agency. For example, the university representatives might be the president of the university or

his designee, or the dean of the school or college in which the research and training center would be. Representation from the state agency should include the state director of corrections and a leading state official in the law enforcement area. The governing body or executive committee would be charged with the responsibility of recruiting any personnel such as the center director and directors of research and training. They would also be charged with the responsibility for overseeing the operations of the center and guaranteeing that its aims and objectives were being carried out. The center director would be responsible to the governing body in these matters.

WHERE SHOULD A RESEARCH AND TRAINING CENTER BE ESTABLISHED?

It was noted above that the ideal setting for a research and training center would be near the state university. The reasons for such a location is that the access to various academic disciplines would be very much enhanced by such a positioning. Furthermore, as the research and training center developed, it is possible that it could serve as the nucleous of the development of associate and bachelor's degrees in the areas of criminology, penology and law enforcement. It would be much more difficult to develop along these lines if the research and training center were situated in an area that was remote from the university.

The research and training center situated at a university would also be in a more advantageous position to offer refresher courses and interdisciplinary courses for correctional and law enforcement personnel. Where appropriate individuals attending such courses, seminars, symposiums or workshops could receive college credit as a result of their participation.

WHEN SHOULD A RESEARCH AND TRAINING CENTER

In view of the legislation currently passed by, or pending in, the United States Congress, e.g., the Law Enforcement and Criminal Justice Assistance Act of 1967, it seems appropriate that the development of plans for a research and training center proceed at a reasonable rapid pace. A governing board of executive committee mentioned above could be established fairly soon. Our immediate task would be the drawing up of a formal proposal which hopefully could be drafted by July 1. Assuming the approval

of such a grant request, the executive committee would continue to exercise its function primarily in the recruiting of key staff personnel and the mobilizing of university and state agency officials toward the establishment of a research and training center. It would appear that West Virginia is in a reasonably advantageous position regarding a research and training center of the kind herein proposed, in view of the presence within its borders not only of state correctional institutions, but also several large federal correctional institutions. For example, a research and training center in corrections established at the University in Morgantown would be in a position to work effectively with the soon-to-be-opened National Training School for Boys, which is also to be located in Morgantown. It would appear that in such a training school the center would have an already-established laboratory for its research and training activities.

Chapter 11

AUTO THEFT PREVENTION CAMPAIGN

INTRODUCTION

President Johnson's War on Crime can be divided into two areas of concern: control and prevention.

Crime is controlled by law, law enforcement officers, and the criminal justice system. The prevention of crime, however, can be achieved only by combining the efforts of those who control crime with an involved citizenry. In other words, community action is an important part of crime prevention.

Making people aware of their part in reducing crime is, by no means, a magic formula for making a crimeless society. But it is important for one reason: a vast majority of the crimes against property are the result of carelessness. There is certainly no need to tempt a criminal, or even a potential one, and yet people do -- they leave their houses unlocked, the keys in their cars, their money in easily found places.

Therefore, the necessity of educating the public about its role in the prevention of crime is a major problem for consideration. One of the most effective means used to stimulate public interest and involvement is the community action campaign. The following explanation and analysis of West Virginia's Auto Theft Prevention Campaign is intended to exemplify such an effort and perhaps serve as a model for any future campaigns.

PLANNING

On March 1, 1967, Ramsey Clark, Attorney General of the United States, announced the kick-off of the National Auto Theft Prevention Campaign. He explained the need to educate the public about its part in crime reduction. He stressed the alarming fact that eight out of ten stolen cars had been left unlocked, and four out of ten had the keys in them when they were stolen.

Three weeks later, the Honorable Hulett C. Smith, Governor of West Virginia, spoke to a number of interested civic

14-086 O - 68 - 23

leaders and law enforcement officers whom he had invited to serve on the Planning Committee of the West Virginia Auto Theft Prevention Campaign. He explained his desire to launch a campaign aimed at encouraging public interest in the reduction of automobile theft and thereby significantly lowering the crime rate. He suggested that the campaign be sponsored by the Governor's Committee on Crime, Delinquency and Corrections and the West Virginia Council on Crime and Delinquency.

ORGANIZATION OF THE PLANNING COMMITTEE

The forty-five member Planning Committee was then divided into seven subcommittees: Advertising, Evaluation, Finance, Law Enforcement, News Media, Organizations and Schools, and Public Officials. The five "working" subcommittees were to propose a program which the Evaluation Subcommittee would assess and for which the Finance Subcommittee would seek revenue. Members were to consider the recommendations in the campaign kit furnished by the National Auto Theft Prevention Campaign, and another planning meeting was set for June 5th.

The recommended program was compiled from the minutes of the Planning Committee and the five subcommittees on that date. On June 21, the Evaluation Subcommittee met and decided on the final draft of the program. The following week, the Finance Subcommittee began to consider various ways of funding the campaign.

Throughout the initial planning stages, both the committee and the staff were aware that the approach of the campaign was to be educational. The aim was to encourage the motorist that it is his own responsibility to help prevent auto theft. Therefore, it was considered necessary to saturate the public by such things as billboard advertising, public service announcements on radio and television, editorials and other articles in newspapers, and a program in the schools.

FIRST STATEWIDE PROGRAM

There were, of course, national guidelines to follow, but West Virginia's campaign was to be the first one organized on a statewide basis. This created an organizational problem from the outset, and the only way to overcome it was to restrict the scope of the campaign in certain aspects. One example of this limitation follows: It was recommended that a committee

be set up in each of the fifty-five counties to coordinate the efforts on the local level. This would certainly be an effective method of encouraging greater local participation. However, it would require a vast amount of paper work as well as personal visits to insure the continued cooperation of these county committees. Therefore, it was decided that this idea could not be carried out well enough to merit its inclusion in the program.

Because of the broadness of the campaign, much more was involved in planning than can be indicated here. During the month of July, the subcommittees met again to discuss the methods of carrying out the proposals and to recommend any further action. In addition, all of the programs had to be coordinated and organized so that each of them would be as effective as possible.

ACTION

West Virginia's Auto Theft Prevention Campaign was launched on Friday, August 18, 1967, by Governor Hulett C. Smith. The kick-off was announced at a press conference in the Governor's Reception Room. The Governor urged all citizens of West Virginia to help prevent auto theft simply by removing the keys from their cars and locking them. Mr. Richard L. Braun, Executive Assistant in the Criminal Justice Division of the United States Department of Justice outlined to the Governor and the Planning Committee ways his office would assist in making this first statewide Auto Theft Prevention Campaign a success.

After the campaign, launching work on a twenty-point program started immediately. The Insurance Information Institute furnished 20,000 parking meter stickers. These were supplied to the Chiefs of Police in the municipalities throughout the state and placed on parking meters. The supply of the stickers will be renewed in the spring.

The President of the West Virginia Broadcasters Association included a release in the August edition of the Association's newsletter, explaining the campaign and urging the stations to use our spot announcements. These spots, from 20 to 30 seconds long, were distributed to the 60 stations in the state and have been appearing on radio. The State Office of Public Information has cooperated by taping these spots and

mailing them to the stations. From time to time, spots from the National Campaign Headquarters, furnished directly to the West Virginia radio stations, are broadcasted.

The Executive Secretary of the West Virginia Press Association wrote to all newspaper editors about the campaign soliciting support for the editorial and logotype program. The first of a series of three logotype mats have been distributed to the 80 newspapers. The editorial program is actively underway. Journalism students from West Virginia University and Marshall University are preparing these articles which will appear in state newspapers periodically.

Nine hundred posters were sent to the four State Police Companies for placement in business establishments. Letters were written to chiefs of police asking for their assistance in displaying the posters and county clerks were requested to place the posters in county court houses.

The printer is including a design on the back of the license plate envelopes which will reach all motorists who purchase the 1968-69 license tags.

Arrangements are being made to include a "Remove Key--Lock Car" slogan on the inside of the auto inspection stickers. This will appear with the printing of a new order of inspection stickers.

Mrs. Edgar Heermans, Chairman of the Juvenile Delinquency Committee of the Congress of Parents and Teachers, made arrangements for distribution of a packet to each of the 1,100 Parent Teachers Associations in the state. Each local organization was asked to schedule auto theft prevention on one of their monthly programs during the year.

Letters were written to various civic groups throughout the state advising them of the availability of law enforcement speakers for the Auto Theft Campaign. Several requests for speaking engagements have been filled.

A fifteen-minute film entitled "Too Late for Regret" has been made available for showing in the schools. This is the story of a youth who wrecked his employment opportunities by taking a shiny, red convertible. The owner had carelessly left the keys dangling on the dashboard. Several showings have already been made. A curriculum coordinator for one of the county schools recently wrote us that the message was so impressive she would like to have the film for a one-week showing. Arrangements were made with Mr. Robert Patterson, Director, Bureau of Instruction and Curriculum in the Department of Education, and Mr. Charles Byrd, Administrator of Title II, ESEA, Department of Education, for a showing of this film together with another one on crime entitled "The Road to Nowhere". Plans are now underway to get someone to obtain four more copies of each film so they can be shown to junior and senior high schools throughout the state.

EFFECTIVENESS TO BE EVALUATED

It is too early in the campaign to evaluate its effectiveness in reducing auto theft in the state. Eventually we will have monthly 1967 auto theft figures by county and those cities which keep records for comparison. Obviously, these figures will be more meaningful after the campaign has been underway for a much longer period. The Justice Department feels that the program should go on for two years before there can be a proper evaluation. There were 1391 autos stolen in West Virginia during the year 1966.[1] The goal of this campaign is to make a substantial reduction of this figure.

MASTER KEY LEGISLATION

Numerous bills are currently pending in Congress which restrict the manufacture, sale and possession of automobile master keys. Several states also have similar legislation under consideration. Some of these proposed statutes make no exception; others permit law enforcement officials to make use of them, and still others extend this right to bona fide car dealers. Such a law in this state would make it more difficult for some to steal cars. It is relatively easy for any youth to obtain a master key now, and no doubt many of the cars are taken with the aid of a master key.[2]

---

[1] *Uniform Crime Reports* 77 (1966).

[2] See Appendix N for the Justice Department's proposed master key legislation.)

Chapter 12

NONCRIMINAL TREATMENT OF DRUNKENNESS

Alcoholism has been labeled a disease by all leading health authorities...The American Medical Association, the U.S. Public Health Service, the North American Association of Alcohol Programs, the National Council on Alcoholism, and many other official health, social and welfare agencies. In President Johnson's health message to Congress on March 1, 1966, he stated, "The alcoholic suffers from a disease which will yield eventually to scientific research and adequate treatment."

THE PROBLEM IN WEST VIRGINIA

MAGNITUDE OF THE PROBLEM

The West Virginia Division of Alcoholism, using the best known national formulas, available data and sample surveys, reports the number of persons having serious problems with the use of alcohol in West Virginia varies from a minimum number of 54,000 alcoholics up to 75,000 heavy, escape drinkers. With 75,000 persons directly involved and at least three more persons per case indirectly involved, West Virginia has at least 300,000 persons adversely affected by excessive use of alcohol.[1]

From sample surveys made in urban and rural areas the Division of Alcoholism found the following:

1) Between 1962 and 1966, records of one urban police department showed 52 percent of all arrests were for drunkenness; 74.4 percent of the cases appearing before justices of the peace were for offenses involving drunkenness, and 66.2 percent of misdemeanors appearing in the county court involved drunkenness.

2) In a current study (not yet complete) the indications are rather conclusive that at least 40 to 50 percent of all arrests in rural areas are for public drunkenness. Drunkenness arrests plus other charges that involved drunkenness show a range of 60 to 70 percent of all arrests involve a drunkenness offense.[2]

---

1 For further information see records of Division of Alcoholism, Department of Mental Health (W.Va.).
2 *Ibid.*

West Virginia State Police arrest records for 1966 show 53.7 percent of all misdemeanor arrests were for drunkenness.[3] These arrests were principally outside the municipalities and in the rural areas. Arrests for moving traffic violation showed 4.5 percent were for drunken driving. Of all traffic arrests made by the State Police, 12.63 percent involved either drunkenness or a drinking driver. In the highly urbanized areas the picture is even more bleak. Out of a total of 7,600 arrests made by the Charleston Police Department in 1966, 4,808 (63%) were for drunkenness.[4]

A survey of state mental hospitals from January 1 through June 30, 1967, showed 35.29 percent of admissions reported that, "excessive use of alcohol was a major factor contributing to their illness." This 35.29 percent plus voluntary admissions to our alcoholic intensive treatment units (3.4 percent) makes a total of 38.69 percent of all admissions to our state mental hospitals who have serious problems with excessive use of alcohol.[5]

From information and data available on prisoners in the state institutions, between 75 and 80 percent of all prisoners are alcoholics, or have a related alcohol use problem.[6]

PROGRESS WITH TREATMENT

A survey of alcoholic patients receiving intensive treatment in one of West Virginia's more advanced alcoholic treatment units show that 66.4 percent have responded very favorably to treatment. Of these, 38.8 percent have refrained from drinking and made improvement in other areas of adjustment to life, and another 27.6 percent have had less than one 24-hour drinking episode per six months during the last year and have improved in other areas of social and personal adjustment.[7]

In one study of public drunkenness offenders, the records of 140 such offenders showed an average of 23.3 arrests per each individual. From 116 of these cases referred to a local alcoholism information center for counseling, guidance and treatment, only 21 have reappeared in court over a period of one year.[8] Although the study is not complete, these current findings definitely indicate that the old system of

3 W. Va. Department of Public Safety, "Arrests by County" (1966).
4 Charleston Police Department, *Annual Report* (1966).
5 Source: records of the W. Va. Department of Mental Health (1967).
6 Source: records of the Division of Corrections (1967).
7 Source: Division of Alcoholism, *op. cit.*
8 *Ibid.*

prosecution is outdated, outmoded and inadequate, and that proper referral, education, counseling and treatment is effective and an economically sound investment.

COST OF REHABILITATION

A recent study by the West Virginia Division of Vocational Rehabilitation shows the average cost of service for rehabilitating an alcoholic is considerably less than for any other disability category. The average cost per alcoholic was $103. Comparatively, the next lowest disability category cost was $217 and the highest category was $876.[9]

VIEWS OF THE GOVERNOR'S COMMITTEE AND PRESIDENT'S COMMISSION

The evidence available today indicates the present method of arresting, fining or incarcerating the public drunkenness offender is ineffective in decreasing the problem. Aside from the ineffectiveness of this punishment oriented approach, the medical and social problems of the chronic offender are not met. There is the greater danger too that due to lack of adequate medical attention that is prevalent in many jails, physical damage may result. It is true that society demands that the individual who appears on the street in an intoxicated state be removed from the public view. While the Governor's Committee does not disagree, it does believe that once the individual is removed from the streets an alternative method of treating the individual is needed.

The President's Commission has recommended that "drunkenness, in and of itself, should not be considered a criminal offense",[10] and the Governor's Committee has recommended that the alcoholic be taken out of the criminal justice system. To accomplish this it is proposed that the alternative of civil disposition be used in all cases of public drunkenness. All the civil system does is to remove the drunk from public view, detoxify him, give him food, shelter, emergency medical service, and a brief period of forced sobriety. Further help is made available to him however.

DETOXIFICATION CENTERS

Detoxification centers could be located in close proximity to the new regional facility proposed to replace

9 Source: records of the W. Va. Department of Vocational Rehabilitation (1967).
10 President's Commission on Law Enforcement and Administration of Justice, *Challenge of Crime in a Free Society* 236 (1967).

the present outdated jail for the criminal. The Govemor's Committee has also recommended that jails be replaced with regional detention and evaluation centers, equipped with necessary programs, including medical and psychiatric. This facility, programwise, would become the responsibility of the Division of Corrections. In cooperation with this program a detoxification program for the drunk offender under the Department of Mental Health's Division of Alcoholism should be maintained. The same facilities would not necessarily be used for the criminal.

Under the authority of civil legislation the intoxicated person would be brought to this facility, if he is not sent home by the police, and detained here until sober. Whether he is to continue treatment, which would be available for him here, is a matter left to the decision of the individual. No additional burden is placed on the police officer under this system. Without the civil procedure the intoxicated person would be brought to the regional detention and evaluation center to sober up and be subsequently fined, and/or imprisoned by the judge.

THE CHRONIC ALCOHOLIC

In the case of the chronic alcoholic, under the present system, a subsequent commitment can be made under the inebriate statute, which provides for detention where the county mental hygiene commission finds that the individual "is in need of custody, care and treatment, in a hospital and, because of his illness, lacks insight or capacity to make responsible decisions with respect to his hospitalization".[11] Detention under this statute in a medical facility is for a minimum period of 30 days, or until such time as it is determined by the staff that the condition justifying involuntary hospitalization no longer exists.

DRUNKENNESS AND CRIME

The civil commitment process in no way affects the criminal punishment of those who are disorderly or have engaged in other criminal conduct accompanied by drunkenness. Neither would the police be prevented from bringing to such a center persons charged with petty offenses other than drunkenness or even with felony offenses. If the criminal case were to be prosecuted, a summons could be left with the offender to appear in court at a later date. If there were some doubt whether a felony offender would appear in court, he could be placed in the regional detention and evaluation center where

11 W. Va. Code ch. 27, art. 6, §§ 1-6 (Michie 1966).

there were adequate detention facilities.

AN ALTERNATIVE PLAN PROPOSED BY THE DIVISION OF ALCOHOLISM

An alternative program would be a comprehensive interagency multi-disciplinary agency at both the community and state levels. The following are the basic elements of such a program:

1) Public education
2) Utilization of all state and local social agencies
3) Establishment of local and/or regional detoxification centers
4) Establishment of half-way houses
5) Expansion and addition of Alcoholic Treatment Units
6) Expansion and addition of Alcoholism Information Centers
7) Adequate follow-up services
8) Prevention

PUBLIC EDUCATION

Basic to the program is comprehensive public education at the community level such as the one presently being conducted by the Division of Alcoholism of the Department of Mental Health.

The program, as it is presently being conducted, is tailored to meet the needs of the individual community. Eight communities now have Alcoholism Information Centers. The approach of these centers is prevention through education. Their major role is to make the community aware of the problem of alcoholism and foster attitude change by providing factual, unbiased information about the problem. Many communities are now aware that alcoholism is a treatable disease and are engaged in programs to combat this problem.

Another function of the Alcoholism Information Center is to inform the public of treatment facilities available and of agency services offered the alcoholic. At present limit counselling is offered, but the major role of the centers is that of a liaison or referral agency to other agencies at both the state and local levels.

This basic plan should be expanded throughout other regions and communities in the state. In addition alcoholism therapists and counselors should be added in all of these centers.

LOCAL AND REGIONAL DETOXIFICATION CENTERS

Rather than the present "drunk tanks" in the local jail, the Division recommends that local and/or regional detoxification units with adequate medical facilities be established and utilized. An urban area with sufficient population and economic resources should develop such facilities near or within an existing medical facility. Rural areas, which could not financially support such a facility, could combine with other rural areas and develop detoxification facilities as part of the projected regional detention facilities as projected by the Division of Corrections.

All such facilities should conform to staffing and constructed standards as set forth by the Department of Mental Health in cooperation with local, state and federal agencies.

With such facilities, the drunkenness offender, when taken into custody, will be taken to these units, given needed medical care, and detained until sober. Also, an integral part of this phase of the program will be to motivate the chronic drunkenness offender to accept treatment for his alcoholism. It must be emphasized that detoxification is just the first step in a comprehensive program with the chronic drunkenness offender.

MOBILIZATION OF ALL EXISTING STATE AND COMMUNITY RESOURCES

The Division feels that alcoholism is a community problem; and, as such, a cooperative interagency approach is the best method. This not only reduces duplication of effort, but also provides for more comprehensive and better services.

The following agencies, although not a complete list, could be utilized:

1) Vocational Rehabilitation
2) Welfare Department
3) Employment Security
4) Police Department
5) Family Services
6) Local Mental Health Facilities
7) Local physicians and hospitals
8) Alcoholism Information Center

TREATMENT

In line with our philosophy that alcoholism is a community problem, the Division recommends that treatment after detoxification be provided in the community. They could be

provided in existing and projected community mental health centers on an out-patient basis. If this is not available the individual could be referred to intensive treatment units located at the state hospitals and returned to the community as soon as possible for follow-up and continued treatment. It is again emphasized that a cooperative interagency approach be utilized at the community level.

Presently West Virginia has alcoholism treatment units located in three of the state mental hospitals. These facilities offer intensive short term therapy for alcoholics. These facilities are presently utilized to capacity and are inadequate to meet the demands for service placed on them. These facilities could be expanded and additional units established to meet the increased demand. Units are needed in southern West Virginia and eastern and northern panhandle areas.

Alcoholism treatment facilities are also needed in the state correctional institutions. Also half-way houses for the individual who is to be released, as a place where re-integration into society may be started, should be established.

Provision should be made for a long-term treatment facility for those individuals who do not respond to available short-term treatment and who are unable to function in society. Included in this group will be many commonly referred to as the "skid row drunk". Rather than arresting this individual repeatedly at a great cost to the taxpayer, a sheltered, therapeutic environment should be provided.

ESTABLISHMENT OF HALF-WAY HOUSES

A residence in the community for the homeless alcoholic while in the process of rehabilitation and re-integration into society must be provided. Payment would be required as the individual becomes productive and economically independent.

RECOMMENDATIONS OF DIVISION OF ALCOHOLISM

"We feel a medical-social approach is the better method in treating and preventing the disease of alcoholism. We strongly recommend that an alternative method of dealing with the public drunkenness offender be adopted."

MODEL LEGISLATION

A tentative draft of model legislation prepared by a joint committee of the American Medical Association and the American Bar Association for use by states in coping with the problems resulting from court decisions that alcoholism is a public health responsibility, not subject to criminal proceeding, appears in Appendix O. This model legislation should be used as a guideline for drafting a state law for West Virginia.

Table of Recommendations

POLICE -- CHAPTER 2

CRIMINAL JUSTICE -- CHAPTER 3

314-086 O - 68 - 24

THE COMMUNITY AND CRIME -- CHAPTER 6

APPENDICES

The following appendices to the original project report have not been reprinted in this Office of Law Enforcement Assistance document, but may be obtained by writing:

Governor's Committee on Crime,
Delinquency and Corrections
216 Olney Street
Charleston, West Virginia

APPENDIX O Tentative draft of Proposed Treatment of Alcoholism Model Legislation prepared by joint committee of the American Medical Association and American Bar Association

THE COMMITTEE MEMBERS

DARRELL VIVIAN McGRAW, JR., CHAIRMAN

Charleston, West Virginia; A.B., LL.B., and M.A. Degrees, West Virginia University; Governor's Staff, 1965 to present; Counsel for Governmental Affairs, Bureau for Government Research, College of Arts and Sciences, West Virginia University, 1967 to present; General Attorney, Foreign Claims Settlement Commission, United States State Department, 1964-65; Public Relations, Philip Morris Tobacco Company, 1959-61; U. S. Army, 1954-57; Member American Association of University Professors; Member, American Judicature Society; Member, American Society for Public Administration; Member, American Political Science Association; Member, American Academy of Political and Social Science; Member, Federal Bar Association; Member, American Bar Association; Member, West Virginia Bar Association; Member, West Virginia State Bar; Member, West Virginia Planning Association; Subcommittee member, Education Advisory Committee to the Appalachian Regional Commission; Chairman, Comprehensive Education Planning Committee for West Virginia.

HOMER KEATON BALL

Athens, West Virginia; B.S. Degree, Concord College, 1948; M.P.H. Degree, University of Michigan, 1951; U.S. Army, Corporal, 1943-46; Supervisor, Virginia State Health Department, 1951-53; Merchant, 1953-65; Sheriff, Mercer County, 1965-68; President, Pinnacle Police Officers Association; Treasurer, West Virginia Sheriffs Association, 1965-68; Board of Directors, Mercer County Chapter, American Red Cross; Steering Committee, Mercer County Mental Health Association; Board of Directors, Mercer County T.B. and Health Association.

THORNTON G. BERRY, JR.

Charleston, West Virginia; A.B. Degree, Virginia Military Institute, 1928; LL.B. Degree, Washington & Lee University, 1934; Assistant United States Attorney, Southern District of West Virginia, 1939; Prosecuting Attorney, McDowell County, 1941-42; United States Navy, Lieutenant Commander, 1942-46; Judge, Eighth Judicial Circuit of West Virginia, 1952-58; Judge, Supreme Court of Appeals, 1958; Elected President of the Supreme Court of Appeals, 1963 and re-elected for a twelve-year term in 1964; former President, McDowell County Bar Association; former Vice-president West Virginia Bar Association, Member, American Bar Association, Member, West Virginia Judicial Association; Member, American Law Institute; Member, American Judicature Society; Member, Phi Kappa Psi Fraternity; Member, Phi Delta Phi Legal Fraternity; Member, the American Legion, 40 & 8; Member, Veterans of Foreign Wars; 32° Mason and Shriner.

EDWARD FRANKOVITCH

Weirton, West Virginia; Chief, Weirton City Police Department, 1963-68; Deputy Sheriff, Hancock County, 1957-63; Court Baliff, Hancock County, 1958-63; Temporary Juvenile and Probation Officer, Hancock County, 1959-60; Chief Deputy Sheriff, Hancock County, 1963; Charter Member, West Virginia Chiefs of Police Association; President, West Virginia Chiefs of Police, 1965-67; Vice-president, West Virginia Chiefs of Police Association, 1965; Member, Governor's Committee on Auto Theft Prevention, 1967-68; Member, Constitutional Revision Committee of Chiefs Sections of International Association of Chiefs of Police, 1967-68; Member, International Association of Chiefs of Police, 1963-68; Vice-president, Jay Cee's, 1962 and Board of Directors, 1959-62; Member, County Council of P.T.A., 1967-68.

JOHN D. FRISK

Charleston, West Virginia; B.A. Degree, West Virginia University; Teacher, Montgomery High School, 1960; Instructor, the Adjutant General's School, U.S. Army, 1961; Assistant Adjutant General, Fort Belvoir, Virginia, 1961-62; Investigator, Civil Service Commission, Washington, D.C., 1962-65; National Labor Relations Board, Detroit, Michigan, 1966; Deputy Director, West Virginia Economic Opportunity Agency, 1966-68.

MICHAEL G. GRETCHEN

Windsor Heights, West Virginia; Course in Citizen Leadership and Participation, Bethany College; Huroquois Council, Boy Scouts of America; Former member of Board of Directors, American Red Cross, Brooke County; Former Member, Salvation Army, Brooke County; President, two terms, Brooke County T.B. Association and presently a member of the Board of Directors; Former Vice-president, West Virginia Industrial Union Council; Treasurer, Local Union #6362, United Mine Workers of America, 1934; Secretary, Local Union #6362; President and Member, grievance committee, 1957-68; Executive Board Member, United Mine Workers of America, District #6, Division #4, 1968; Member, Advisory Board, Federal Housing Administration; Member, Morgantown Area Manpower Advisory Commission; Member, Windsor Heights Voluntary Fire Department; Member, Knights of Columbus; Member, Moose Lodge; Member Eagles Lodge.

KENNETH KELLER HALL

Madison, West Virginia; West Virginia University, College of Law; United States Navy, 1942-45; U.S.S. Bunker Hill Aircraft Carrier, 1943-45; Presidential Unit Citation; Past President, West Virginia Judicial Association, District Governor, District 755, Rotary, Southern West Virginia; Member, West Virginia State Bar Association; Member, American Bar Association; Member, West Virginia Judicial Association; Judge, Twenty-fifth Judicial Circuit, 1952 and re-elected, 1960.

ELIZABETH V. HALLANAN

Charleston, West Virginia; A.B. Degree, Morris Harvey College, 1946; LL.B. Degree, West Virginia University, College of Law, 1951; West Virginia Board of Education, 1955-57; House of Delegates, 1956; Assistant Commissioner of Public Institutions, 1957; Republican nominee for State Senate, 1958; Judge, first full-time Kanawha County Juvenile Court, 1959-61 (first woman judge in West Virginia in this capacity); Executive Director, West Virginia Association of College and University Presidents; Former member, Board of Directors and Treasurer, Family Service-Travellers Aid; former Member, Board and Education Committee, Action for Appalachian Youth; former Member, Governor's Advisory Committee on Mental Health; former Member, Project Finding Committee, Junior League of Charleston; former President, Sacred Heart Parish Council; Trustee, Laird Foundation, Inc., Montgomery, West Virginia; Member of Board and Secretary, Education

CONTINUED

4 OF 5

Foundation, Inc.; Member of Board, West Virginia Rehabilitation Center Foundation; Chairman, West Virginia Council on Crime and Delinquency; Member, White House Conference on Children and Youth; Member of Board, Goodwill Industries of Kanawha County, West Virginia; Member of Board of Trustees, YWCA of Kanawha County; Member of Board, Kanawha Valley Fellowship Home; Member, Kanawha County Bar Association; Member, West Virginia Bar Association; Member, American Bar Association; Member, West Virginia Judicial Association; Member, West Virginia Association of Juvenile Court Judges.

JENNY (MRS. EDGAR A.) HEERMANS

Parkersburg, West Virginia; Executive Director, Parkersburg Board of Supervisors of Public Solicitations of Funds, 1958-68; Member, Wood County Recreation Commission, 1962-68; President of the Wood County Recreation Commission, 1966; Member, St. Andrews Methodist Church and Kindergarten Board; Secretary, Board of Directors, Boys Club of Parkersburg, 1964-68; Chairmen, Crime Prevention Committee, Parkersburg Woman's Club; Member, League of Woman Voters; Chairman, Exceptional Child Committee for West Virginia Congress of Parent Teachers Association, 1968; Chairman, Legislative Committee, 1948-64; Chairman, Juvenile Protection Committee, 1964-68; Executive Committee, National Council Parent Teachers Association; Treasurer, Children's Theatre Bureau, Parkersburg, 1956-68; Chairman, Safety and Juvenile Protection, Wood County Council of Parent Teachers Association; Vice-president, Wood County Community Action Association; Member, Governor's Auto Theft Prevention Campaign.

HERBERT H. HENDERSON

Huntington, West Virginia; United States Army, 1946-49; B.S. Degree, West Virginia State College, 1953; Commanding Officer of Artillery Battery, Korean Conflict; LL.B. Degree, George Washington University Law School, 1958; Member, West Virginia Small Business Administration Committee; Director, Cabell County Mental Health Association; Member, and legal advisor, Loyal Order of Bisons; former President, Barnett Child Care Program, Inc.; Member, Cabell County Bar Association; Member, West Virginia Trial Lawyers Association; Member, West Virginia State Bar Association; Legal Advisor, Huntington Chapter, National Association for the Advancement of Colored People also Membership Chairman and State President of the West Virginia State Conference of Branches of that group; Secretary-treasurer, Huntington Professional and Business Men's Club, Inc.; President,

Methodist Men's Club, Ebenezer Methodist Church; Founder and Vice-chairman, Board of Directors, Cabell County Community Action Program, Inc.; President, Board of Directors of ACTION, Inc.; presently, Attorney at Law, Huntington, West Virginia

JOSEPH HUTCHISON

Morgantown, West Virginia; B.A. Degree, Muskingum College, New Concord, Ohio, 1954; M.S. Degree, West Virginia University, 1956; U.S. Navy Reserve, 1949-54; United States Army, 1955-57; Department of Recreation, West Virginia University, 1957-68; Member, State Recreation Advisory Council; Association Director, National Youth Science Camp; 1963-68; Chairman, State Trails Study Committee; Recreation Consultant, Public, Private and Voluntary Agencies, 1968; Past President, West Virginia Recreation Society; Past Chairman, Southern District Advisory Committee, National Recreation and Park Association.

CHARLES MARION LOVE, JR.

Charleston, West Virginia; Partner, law firm of Dayton, Campbell and Love, Charleston, West Virginia; Member and former President, Kanawha County Bar Association; Member, West Virginia State Bar and West Virginia Bar Association; Member, American Bar Association; Special Counsel, County and State Bar Associations; Special judge, Circuit and Intermediate Courts of Kanawha County; Attorney for Kanawha County Court, 1932; Assistant United States Attorney, 1934-43; Referee in Bankruptcy for Southern District of West Virginia, 1944-45; State Senator, Eighth District, 1946 and 1950; Chairman, Charleston Democratic Executive Committee, 1942-60; Delegate-at-Large from State of West Virginia to Democratic National Convention, 1956 and reelected in 1960; former Member, Board of Trustee, Morris Memorial Hospital, Milton, West Virginia; Davis-Stuart School, Lewisburg, West Virginia; Member and Chairman, Board of Visitors, College of Law, West Virginia University; Member and Chairman, West Virginia State Tax Study Commission and Member and Chairman of its Executive Committee, 1959-60; Member and Chairman, West Virginia Citizen Action Council on Crime and Delinquency; Member, Board of Trustees of National Council on Crime and Delinquency.

FRANK C. MARVIN, JR.

Ann Arbour, Michigan; B.A. Degree, University of Pittsburgh; B.S. Degree, University of Pittsburgh; B.D. Degree, Princeton Theological Seminary; M.A. Degree, Columbia University; presently a student at the University of Michigan; formerly,

Assistant Pastor, East Liberty Presbyterian Church, Pittsburgh, Pennsylvania; Former Pastor, First United Presbyterian Church, Fairmont, West Virginia, 1954-67; United States Army Air Force, 1943-46; Moderator, Grafton Presbytery, 1957-62; Moderator, Synod of West Virginia, 1966-67; Member, West Virginia Council on Crime and Delinquency; Board of Directors, Family Service, Inc.; Member, Mayor's Committee on Human Rights; Member, Board of Directors, United Fund, Marion County, West Virginia; Member, Board of Directors, Marion County Council Retarded Children, Inc.; Delivered Invocation for Opening of United States Senate, 1956.

JAMES T. NELSON

St. Albans, West Virginia; Coordinator, Special Projects, AFL-CIO Appalachian Council; Member, Advisory Committee Institute for Labor Studies, West Virginia University, 1958-68; Member, Salary Study Commission, Study of West Virginia, 1963; Member, Board of Directors and 2nd Vice-president, Action for Appalachian Youth-Community Development, 1965-68; Member, Kanawha Valley Community Council, 1966-68; Member, West Virginia Council on Crime and Delinquency, 1966-68; Member, Advisory Council for Technical Services, West Virginia Department of Commerce, 1966-68; Member, Advisory Committee, Office of Economic Opportunity Administrative Training Program, Institute for Local Government, University of Pittsburg, 1966-68; Member, Task Forces on Poverty, National Council of Churches, 1966; Member, Community Relations Council, Women's Job Corps Center, Charleston, West Virginia, 1966-68; Member, Ad-hoc Advisory Committee, State Comprehensive Health Planning, 1967; Member, Governor's Council on Youth Opportunity, 1967.

CHARLES ROBERT SARVER

Fairmont, West Virginia; St. James Prep School, St. James, Maryland; A.B., and LL.B. Degrees, West Virginia University, Morgantown, West Virginia; former Associate, Furbee and Hardesty, Attorneys at Law, Fairmont, West Virginia; former Assistant Prosecuting Attorney, Marion County, West Virginia; former director, Motor Carriers of West Virginia; former Assistant General Counsel of D.C. Transit Systems, Inc., Washington, D.C.; former partner in law firm of Chalk, Sims, Turner & Krakower, Washington, D.C.; former Assistant

Attorney General of West Virginia; Member, West Virginia State Bar Association; Member, District of Columbia Bar Association; Currently, Director, State Division of Correction.

RICHARD SHELTON

Charleston, West Virginia; attended West Virginia University, Morgantown, West Virginia; former Department Head, State Business and Occupation Tax Division of the West Virginia State Tax Department; former Department Head, Levy and Assessment Division of the State Tax Department; Executive Director, Association of County Officials, 1960-68; especially interested in recreation and youth organizations.

JOHN C. SKINNER, JR.

Charles Town, West Virginia; A.B. Degree, West Virginia University, 1963; LL.B. Degree, West Virginia University College of Law, 1966; Inheritance Tax Division of West Virginia State Tax Commissioner's Office employee until 1966 when elected Prosecuting Attorney of Jefferson County as a write-in candidate; Member, West Virginia State Bar; Secretary-Treasurer, Jefferson County Bar Association; Member, Board of Managers, Charles Town General Hospital.

SAMUEL VOLKMAN

Charleston, West Virginia; Rabbi of Temple Israel, Charleston, West Virginia; Chaplan, United States Navy, 1944-46; Ohio Valley Regional Director of Union of American Hebrew Congregations, 1957-59; Member, Executive Committee Central Conference of American Rabbis, 1965-67; Member, Overseas Hebrew Union College, Jewish Institute of Religion, 1963-67; Member, Charleston Mayor's Commission on Human Relations, 1957-64; Member, West Virginia Advisory Committee to Civil Rights Commission; Member, West Virginia Council on Crime and Delinquency.

CHARLES M. WALKER

Charleston, West Virginia; Law practice, Washington, D.C. 1940-43; Law practice, Mexico, 1948-50; D.F. and Post Graduate University of Mexico, Law School, 1946-48; Law practice, Charleston, West Virginia, 1950-68; Virginia State Bar Association, District of Columbia Bar Association; Member, West Virginia State Bar Association; Director, Barium Reduction Corporation, 1950-59; Part-time lecturer at police institutes;

Secretary and Director, AAY-CD and OEO Community Action Program; Lieutenant, United States Navy, 1943-46; United States Silver Star; Director, National District Attorneys Association and Member, Executive Committee of that Association, 1965-68; President, West Virginia Prosecuting Attorneys Association, 1959-68; Co-author of Revision of Lee's Criminal Trials in the Virginias; Member, American Bar Association, Chairman, Criminal Law Section; Chairman, Defense of Indigents for West Virginia; Prosecuting Attorney, Kanawha County, West Virginia, 1959-68.

NEIL WELLER

Morgantown, West Virginia; Ph.D, University of Michigan; Assistant Professor of Sociology, West Virginia University, Morgantown, West Virginia, 1959-68;

TERRENCE ANTHONY WELTY

Charleston, West Virginia; West Virginia University; West Virginia State College; Member, Charleston Civitan Club; United States Army during World War II; West Virginia State Police Department, 1940, appointed Superintendent of the West Virginia State Police, 1967; Chairman, Governor's Police Advisory Commission; Conference President, Southern Safety Conference, Inc.

GEORGE H. WHALEY

Parkersburg, West Virginia; A.B. Degree, Ohio University; LL.B. Degree, West Virginia University, College of Law; Judge, Intermediate Court, Wood County, West Virginia; Member, House of Delegates, Wood County, 1955-67; President, West Virginia Council of Juvenile Court Judges, 1965-66; Member, Executive Committee, National Council of Juvenile Court Judges; Member, West Virginia State Bar Association; former President, Boys Club, Inc., Parkersburg, West Virginia; former State Chairman, Juvenile Protection Committee, West Virginia Congress of Parent Teachers Association.

EDWARD T. WHITE

Union, West Virginia; Phillip's Exeter Academy; A.B. Degree Harvard University; engaged in farming and livestock raising; Protestant; Member, West Virginia Farm Bureau; served five years with the United States Air Force during World War II; elected to the House of Delegates from Monroe County in 1956; Member, West Virginia Council on Crime & Delinquency.

CORNELIA WILBUR

New York; B.S., M.S. and M.D. Degrees, University of Michigan; Residency in neuropsychiatry at University Hospital, Ann Arbor, Michigan; Superintendent of the Weston State Hospital, 1965-67; Faculty, Department of Psychiatry of the West Virginia University Medical School; Diplomate, American Board of Neurology and Psychiatry; Associate, Psychiatry, College of Physicians and Surgeons, Columbia University; Consultant, Joint Legislative Committee on Health Insurance of the New York Legislature; Consultant, Subcommittee on Facilities of New York State Mental Health Planning Committee; Former teaching and training positions of psychiatry, College of Medicine of the University of Nebraska, Veterans Administration in New York and New York Medical College; Director, Residency Training, Pinecrest Sanatorium, Astoria, New York, 1948-59; Fellow, American Psychiatric Association and of the Academy of Psychoanalysis; Member, American Medical Association; Member, American Association for the Advancement of Science; Member, American Medical Womens Association; Member, New York County and State Medical Society; Member, Society of Medical Psychoanalysts; Charter Fellow and Founder of the American College of Psychiatrists.

Appendix B

CONSULTANTS AND ADVISORS

GENERAL

F. Lovell Bixby, Consultant on Probation, Office of the Courts, Trenton, New Jersey

Robert W. Cassidy, Regional Consultant, National Council on Crime and Delinquency, New York, New York

Arnold Hopkins, Office of Law Enforcement Assistance, Washington, D. C.

Paul Kalin, Consultant, National Council on Crime and Delinquency, Homewood, Illinois

David W. Martin, Programmer, Criminal Identification Bureau, Department of Public Safety, State Capitol, Charleston, W. Va.

Jeff Monroe, Director, Office of Economic Opportunity, State Capitol, Charleston, West Virginia

David O. Myhra, Research Economist Department of Commerce, State Capitol, Charleston, W. Va.

Vincent O'Leary, National Council on Crime and Delinquency, New York, New York

Milton G. Rector, Director, National Council on Crime and Delinquency, New York, New York

Hugh Reed, Assistant Director, National Council on Crime and Delinquency, New York, New York

Louis Rome, Executive Director, Michigan Commission on Crime, Delinquency, and Criminal Administration, Lansing, Michigan

Sol Rubin, Counsel for Advisory Council of Judges, National Council on Crime and Delinquency New York, New York

COMMUNITY PROGRAMS

William C. Beatty, President, West Virginia State Bar, Huntington, W. Va.

Richard L. Braun, Exec. Assistant, U. S. Dept. of Justice, Washington, D. C.

William P. Clancey, Jr., Attorney, Criminal Division, U. S. Department of Justice, Washington, D. C.

Donald R. Dancy, Supervisor, Division of Alcoholism, State of West Virginia, Charleston, W. Va.

Elliott Henderson, Prog. Analyst Div. of Alcoholism, Dept. of Mental Health, Charleston, W. Va.

CORRECTIONS

Robert D. Kerns, Dept. of Mental Health, State Capitol, Charleston, W. Va.

John McGinnis, Federal Jail Inspector, Bureau of Prisons, Washington, D. C.

Oscar G. Mink, Div. of Clinical Studies, W. Va. University, Morgantown, W. Va.

Frank J. Nuzum, Project Director, W. Va. In-service Training Program for Correctional Personnel, Morgantown, W. Va.

Jane Yurow, Program Assistant, Office of Law Enforcement Assistance, Washington, D. C.

CRIMINAL JUSTICE

Timothy Barber, Attorney at Law, Charleston, W. Va.

D. Paul Camiletti, Attorney at Law, Wheeling, W. Va.

C. Patrick Casey, Chief Assistant Prosecuting Attorney, Kanawha Co., Charleston, W. Va.

Stanley Dadisman, Professor, College of Law, W. Va. University, Morgantown, W. Va.

Joe Gies, Justice of the Peace, Kanawha Co., Charleston, W. Va.

Phillip Hoskins, Program Assistant, Office of Law Enforcement Assistance, Dept. of Justice, Washington, D. C.

Gordon S. Jaeck, Professor, Department of Sociology, Wheaton College, Wheaton, Illinois

Willard Lorensen, Professor, College of Law, W. Va. University, Morgantown, W. Va.

Paul L. Selby, Dean, College of Law, W. Va. University, Morgantown, W. Va.

H. G. Shaffer, Jr., Vice-President, W. Va. State Bar, Madison, W. Va.

Gray Silver, Jr., President, W. Va. Judicial Association, Martinsburg, W. Va.

DELINQUENCY

Virginia Burns, Dept. of Health, Education and Welfare, Washington, D. C.

David H. Clelland, Superintendent, Social Services, Div. of Vocational Rehabilitation, State Capitol, Charleston, W. Va.

D. E. Cuppett, President, W. Va. Council of Juvenile Court Judges, Petersburg, W. Va.

Robert V. Griffis, Title I Director, Cabell Co. Board of Education, Huntington, W.Va.

Harold Kerr, Professor, Sociology Dept., W. Va. University, Morgantown, W. Va.

William H. Langdon, Personnel and Attendance Director, Cabell County Board of Educ., Huntington, W. Va.

William G. Nagel, Exec. Sec., Governor's Council for Human Services, Harrisburg, Pa.

Robert B. Rader, Superintendent, Kanawha Co. Home for Children, Dunbar, W. Va.

POLICE

Robert A. Anglin, Chm., Sociology Dept., W. Va. State College, Institute, W. Va.

Dallas W. Bias, Chief, Charleston Police Dept., Charleston, W. Va.

Matt D. Bouldin, Pros. Attorney, Boone Co., Madison, W. Va.

Benjamin Brashears, College of Police Adm. and Public Safety, Michigan State Univ., Lansing, Michigan

Glenn Carpenter, Program Mgr., Sterling Institute, Washington, D. C.

Russell Dunbar, Pros. Attorney, Cabell Co., Huntington, W. Va.

Robert L. Emerich, Office of Law Enforcement Assistance, Dept. of Justice, Washington, D. C.

Courtney A. Evans, Acting Director, Office of Law Enforcement Assistance, Washington, D. C.

Irene Hetler, Prog. Assistant, Office of Law Enforcement Assistance, Dept. of Justice, Washington, D. C.

Edwin D. Hoffman, Dean of Instruction, W. Va. State College, Institute, W. Va.

Robert Johnson, President, General Learning Corporation, Washington, D. C.

Gilbert Kleinknecht, Chief of Police, Huntington Police Dept., Huntington, W. Va.

Bern Kuhn, Dept. of State Police, Law Enforcement Officers' Training Center, Lansing, Michigan

Louis Mayo, Asst. Director, Office of Law Enforcement Assistance, Dept. of Justice, Washington, D.C.

James Mills, Lieutenant, Flint Police Dept., Acting Exec. Sec., Michigan Police Training Center, Lansing, Michigan

Joseph Moriarty, Dir. of Research and Training, W. Va. Univ., Morgantown, W. Va.

Patrick V. Murphy, Asst. Dir., Office of Law Enforcement Assistance, Dept. of Justice, Washington, D. C.

Capt. Charles W. Ray, Specialist, Peace Officers' Training, W. Va. Vocational Educ. and Marshall Univ., Gandeeville, W. Va.

Col. N. C. Reger, Exec. Dir., W. Va. Law Enforcement Officers Minimum Standards Project, Charleston, W. Va.

Sgt. Arlie E. Robinson, Juv. Div., Charleston Police Dept., Charleston, W. Va.

Lt. Robert E. Stanley, Dept. of Public Safety, State Capitol, Charleston, W. Va.

Daniel Skoler, Dep. Dir., Office of Law Enforcement Assistance, Dept. of Justice, Washington, D.C.

Robert C. Stone, Exec. Dir., Kentucky Peace Officer's Standards and Training, Eastern Ky. Univ., Box 608, Richmond, Ky.

314-086 O - 68 - 25

Appendix C

LAW ENFORCEMENT OFFICERS MINIMUM STANDARDS PROJECT

POLICE ADVISORY COMMISSION

COLONEL T. A. WELTY, Chairman

GILBERT KLEINKNECHT, Vice-Chairman

DR. ROBERT A. ANGLIN
DALLAS W. BIAS
RICHARD E. DAVIES
K. K. HALL
CHARLES A. KISER
DARRELL V. McGRAW, JR.
CHARLES E. PRICE
JOHN PROTAN
CAPT. C. W. RAY
LT. CECIL H. RUSSELL
SGT. EDWARD WEITH
JOHN WOODRUFF

THE STAFF

N. C. REGER
Executive Director

KATHY M. SMITH
Secretary

WEST VIRGINIA COUNCIL ON CRIME & DELINQUENCY

Miss Elizabeth Hallanan, Chm.
Nat'l. Bank of Commerce Bldg.
Charleston, West Virginia

Rev. Wilburn C. Campbell
Bishop, Episcopal Church
1608-A Virginia Street, E.
Charleston, West Virginia

Eugene A. Carter
4515 MacCorkle Avenue, S.E.
Charleston, West Virginia

Stanley E. Dadisman
College of Law
West Virginia University
Morgantown, W. Va.

David B. Dalzell
1203 Sixth Street
Moundsville, W. Va.

Charles E. Hamilton, Jr.
Union Carbide Chemicals Co.
South Charleston, W. Va.

Joseph M. Handlan, Senator
P. O. Box 288
Parkersburg, W. Va.

Dr. Harry B. Heflin
Vice-President
West Virginia University
Morgantown, West Virginia

Cecil B. Highland, Jr.
Empire National Bank Bldg.
Clarksburg, W. Va.

Paul Kalin, Consultant
Nat'l. Council on Crime & Delinquency
18703 Dixie Highway
Homewood, Illinois

Rev. Joseph H. Hodges, D.D.
Bishop of Wheeling
1300 Byron Street
Wheeling, West Virginia

Rev. Fred G. Holloway
Resident Bishop
Methodist Church
721-724 Kan. Valley Bldg.
Charleston, W. Va.

William L. Lonesome
211 Bank of Commerce Bldg.
Charleston, West Virginia

Charles M. Love, Jr.
Security Building
Charleston, W. Va.

Dr. Joseph Marsh
President, Concord College
Athens, West Virginia

Rev. Frank Marvin
Ann Arbour
Michigan

*Jack D. Maurice
1001 Virginia Street
Charleston, W. Va.

Charles R. McElwee
Security Building
Charleston, West Virginia

Ford Morrow
Kaiser Aluminum
Ravenswood, W. Va.

James T. Nelson
P. O. Box 646
Charleston, W. Va.

Mrs. S. M. Preston
Lewisburg
West Virginia

Mrs. Ernest H. Polack II
Washington Farms
Wheeling, W. Va.

E. Glenn Robinson
Chas. Nat'l. B'k. Bldg.
Charleston, W. Va.

Edward A. Ross
Weirton Steel Co.
Weirton, West Virginia

Mrs. Victor Shaw
425 Morgantown Ave.
Fairmont, W. Va.

Mrs. Philip J. Silverstein
1509 Connell Road
Charleston, W. Va.

C. Manning Smith
Charles Town
West Virginia

Hon. Hulett C. Smith
State Capitol
Charleston, W. Va.

Robert St. Claire Soule
Monongahela Power Co.
Fairmont, W. Va.

Mrs. Robert Evans Stealey
35 Meadowcrest Drive
Parkersburg, W. Va.

*Robert N. Steptoe
126 E. Burke Street
Martinsburg, W. Va.

Edgar M. Tutwiler
Appalachian Tire Products
Mount Hope, W. Va.

Hon. Cecil H. Underwood
Monsanto Corporation
Huntington, W. Va.

Rabbi Samuel Volkman
Temple Israel
Charleston, W. Va.

Dr. William J. L. Wallace
President, W. Va. State College
Institute, West Virginia

Edward T. White
Walnut Farm
Union, West Virginia

*Associate Member

Appendix G

A MODEL CORRECTIONAL ACT FOR WEST VIRGINIA
By
WEST VIRGINIA COUNCIL ON CRIME AND DELINQUENCY AND
NATIONAL COUNCIL ON CRIME AND DELINQUENCY

HOUSE BILL NO. 408

(By Mr. Auvil)

(Introduced February 8, 1963; referred to the Committee on the Judiciary)

A BILL to amend chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, creating a department of correction; transferring to such department the custody and care of all persons committed for conviction of felony and all state institutions for the correction of adult, youth and juvenile offenders; transferring to such department the administrative and supervisory functions of the board of probation and parole, and repealing all acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

Article 13. Department of Correction.

Section 1. Construction and purpose of Act.--This act shall be liberally construed to the end that persons committed to institutions of the state for crime or delinquency shall be afforded individual and group treatment to re-establish their ability to live peaceably and, consistent with the protection of the community, to release such individuals at the earliest possible date, and to establish a just, humane and efficient program; to avoid duplication and waste of effort and money on the part of public and private agencies.

Section 2. State Department of Correction.--There is hereby established the department of correction, which shall consist of a board of correction, a director of correction, and such deputy directors as herein provided, and the officers, employees and institutions of such department. The department of correction shall have and is hereby granted all the powers and authority and shall perform all the functions and services formerly vested in and performed by the West Virginia board of control, and thereafter by the commissioner of public institutions, as to the institutions named in this section.

a. The department shall have custody and care of all persons committed for conviction of felony and such other persons as may be committed to it and shall also have jurisdiction and control of the state institutions for the correction of adult, youth and juvenile offenders, including the following institutions and such other institutions as now or may hereafter be established by law;

West Virginia penitentiary at Moundsville, West Virginia;
West Virginia state prison for women at Pence Springs, West Virginia;
West Virginia medium security prison, Huttonsville, West Virginia;
West Virginia industrial school for boys, Grafton, West Virginia;
West Virginia industrial school for girls, Salem, West Virginia;
West Virginia forestry camp for boys at Davis, West Virginia

B. The department shall have general supervisory control over all court and county probation officers. It shall be charged with the duty of supervising all persons released on probation and placed in the charge of a state probation and parole officer, and all persons released on parole under any law of this State. It shall also be charged with the duty of supervising all probationers and parolees exclusive of juveniles whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state parolee supervision. The department shall prescribe rules and regulations for the supervision of probationers and parolees. The department shall succeed to all administrative and supervisory powers of the board of probation and parole and the authority of said board of probation and parole in such matters only.

c. The department shall administer all other laws affecting the custody, control, treatment and employment of persons committed to institutions under supervision of the department, or affecting the operation and administration of institutions or functions of the department of activities therein.

Sec. 3. State Board of Correction; Appointment; Terms; Compensation.-- There is hereby established a board of correction. The board shall consist of seven members, all of whom shall be citizens of the state, and be appointed by the governor, by and with the advice and consent of the Senate, for over-lapping terms of seven years, except that the original appointment shall be for terms of one, two three, four, five, six and seven years, respectively. At least one but not more than two shall be appointed from each congressional district of the state of West Virginia. No more than four members shall belong to the same political party, and at least one member shall be a woman. No person shall be eligible for membership on the board of correction who is a member of any political party executive committee, or who holds any public office, or public employment under the federal government, or under the government of this state, or any of its political subdivision. Members shall be eligible for reappointment.

The governor shall appoint all members of the board as soon after the effective date hereof as it is practicable for respective terms of office, beginning on the first day of July, one thousand nine hundred sixty-three. Any vacancy on the board shall be filled by the governor by appointment for the unexpired term.

No member may be removed from office by the governor except for official misconduct, incompetence, neglect of duty, or gross immorality and then only in the manner prescribed by law for the removal by the governor of state elective officers.

Before exercising any authority or performing any duties as a member of the board of correction, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article four of the constitution, the certificate whereof shall be filed in the office of the secretary of state. A suitable office or offices for the board shall be provided in the capitol.

The members of the board shall be non-salaried, but shall receive twenty-five dollars per diem compensation for meetings of

the board or visiting institutions under the control of the department, but not exceeding eight hundred dollars per annum, together with necessary travel expense incurred in the performance of official duties. The board shall meet at stated times to be fixed by it, but not less often than once every two months, and on call of its chairman.

A majority of the board will constitute a quorum. One member of the board shall be designated annually by the governor to serve as chairman of the board. The members of the board shall annually select a vice-chairman from their own number. The board shall make such rules for regulation of its own proceedings as it shall deem proper.

The board shall have general control and supervision of the business affairs of all state penal and correctional institutions and such matters as may be herein or hereinafter conferred upon it.

Sec. 4. Powers and Duties of the Board.--The powers and duties of the board shall be regulatory and policy forming, and not administrative or executive.

The board shall:

a. Exercise general supervision over the administration of the department;

b. Have the duty of making any investigations necessary to matters affecting the department. The board may inquire into any matter affecting corrections and hold hearings and shall have the power to subpoena witnesses and issue subpoenas for production of papers and records;

c. Appoint the director of correction, herein referred to as the director, who shall be duly qualified by education and experience, preferably with a record as a successful administrator in the field of correction or a related field. The director may be removed by a majority vote of the full board.

d. Establish separate divisions, to be headed by deputy directors, of adult services, youth services, and other divisions as it deems advisable, which may be headed by the same or different dupty directors;

e. Visit each institution under control of the department at least once every twelve months;

f. At the close of each fiscal year, submit to the Governor and the legislature a report with statistical and other data of its work, including any recommendations for legislation for the improvement of correctional treatment and the more effective work of the department.

Sec. 5. Duties of the Director; Appointment of Staff.--The director shall be the executive and administrative officer of the department and serve as secretary to the board. Subject to policies of the board, he shall:

a. Set qualifications for employment and appoint division heads (deputies); wardens and superintendents of institutions within the department; all necessary staff for the operation of the institutions and divisions; and state employed probation and parole personnel. All employees, except the director, deputy directors, wardens and superintendents shall be selected and their appointment governed by the state merit system;

b. Administer and execute the powers of the board as set forth herein;

c. Establish rules and regulations in writing governing all division and institutions within the department;

d. Establish an in-service training program for personnel of the department;

e. Establish a plan of classification, of institutions, varying according to such factors as security features, program, age and sex of inmates, physical stature or size, character of inmates, and shall organize the institutions of the department in accordance with such plan;

f. Establish a system of classification of inmates, through a reception and examination procedure, and in each institution a classification committee and procedure for assignment of inmates within the programs of the institution;

g. Establish, maintain and direct a varied program of education for inmates in all institutions within the department;

h. Supervise the treatment, custody and discipline of all inmates and the maintenance of the institutions of the department and its industries;

i. Establish a system of compensation for inmates of the correctional institutions of the state who perform good and satisfactory work either within the industrial program or in the servicing and maintenance of the correctional institutions or in the correctional camps. The director with the approval of the board may establish, upon recommendation of any principal officer, a graduated scale of compensation to be paid to inmates in accordance with their skill in industry, and the director shall establish, and may at any time amend or annul, rules and regulations for carrying out the purposes of this subsection. Subject to appropriations from the general fund, compensation to any one inmate shall not exceed twelve cents per hour. No money shall be paid directly to any inmate during the term of his incarceration or imprisonment.

The principal officer of any correctional institution on request of the inmate, may expend one-half of the money so earned by any inmate on behalf of the inmate or his family. The remainder of the money so earned, after deducting amounts expended on behalf of the inmate as aforesaid, shall be accumulated to the credit of the inmate and be paid to the inmate upon his release from such institution in such installments and at such times as may be prescribed by such rules and regulations. Such funds so accumulated on behalf of inmates shall be held by the principal officer of each institution, under a bond to be approved by the attorney general.

The accumulation of such total funds, not necessary for current distribution, shall be invested, with the approval of the board, through the state sinking fund commission, in short term bonds or treasury certificates or equivalent of the United States. Bonds so purchased shall remain in the custody of the state treasurer. The earnings from investments so made shall be reported to the principal officer of each institution from time to time, as earned, and shall be credited to the respective accounts by the sinking fund commission.

When such earnings are transferred to the respective institutions, they shall be credited by the principal officer to the credit of and for the benefit of the prisoner's activities account.

Sec. 6. Commitments; transfer.--All persons committed by courts of criminal and juvenile jurisdiction for custody in penal, correctional or training institutions within the control of the department shall be committed to an appropriate institution,

but the director shall have the authority to and may order the transfer of any person committed to the department to any appropriate institution within the department. However, no person committed as a juvenile shall be held in any institution except one for training and care of children; and no one may be transferred to a state prison unless the crime for which such person is incarcerated was of the grade which would warrant direct commitment to the prison.

The director may transfer any prisoner or inmate who is mentally disturbed and who would more appropriately be treated in an institution under the jurisdiction of the department of mental health, to such department subject to the approval of the director of the department of mental health. The director may transfer any prisoner or inmate to an appropriate mental facility for specialized medical treatment.

Sec. 7. Compensation of Employees.--The director shall receive a salary of twelve thousand dollars per annum. The deputy directors herein created and hereafter created shall receive nine thousand dollars per annum. Subject to the approval of the board and the merit system council, the director of the department shall determine the salaries of all other employees of the department. All employees shall receive necessary traveling and other expenses. The compensation, salaries and expenses provided for the board and its employees shall be paid in the same manner as are those of other state employees upon certification of the director.

Sec. 8. Repeal of Inconsistent Laws.--All other laws or parts of laws inconsistent with this act are hereby repealed; Provided, however, that nothing in this article shall be construed to affect in any way the laws relating to juvenile probation and parole. Whenever in the official code of West Virginia the words "board of probation and parole" are used and refer to specific administrative and supervisory functions and duties transferred to the department of correction by this act, the words shall be construed to mean the department of correction.

NOTE: The purpose of this bill is to create a Department of Correction which will exercise authority and supervision over all state correctional institutions and, excepting juveniles, all probation and parole matters heretofore administered, either on the state or county level. (This is a new article.)

AN ACT
TO ESTABLISH A STATE DEPARTMENT OF CORRECTION

ARTICLE I. CONSTRUCTION OF ACT

§1. Construction and Purpose

The purpose of this Act is to establish an agency of state government for the custody, study, care, discipline, training, and treatment of persons in the correctional and detention institutions and for the study, training, and treatment of persons under the supervision of other correctional services of the state, so that they may be prepared for lawful community living. Correctional services shall be so diversified in program and personnel as to facilitate individualization of treatment.

§2. Department Established; Board

ARTICLE II. ORGANIZATION OF DEPARTMENT

§2. Department Established; Board

A state department of correction, hereinafter referred to as "the department," is hereby established. Within the department there shall be a board of correction of seven members, who are not officials of the state in any other capacity and are qualified for their position by demonstrated interest in and knowledge of correctional treatment. Members of the board shall be appointed by the governor with the advice and consent of the Senate. The terms of members shall be six years and until their successors are appointed and have qualified, except that the first appointments shall be for terms of two years for two members, four years for two members, and six years for three members. A member may be reappointed. The board shall elect its chairman and provide for its organization. Members of the board shall receive no salaries but, when in attendance at meetings of the board or engaged in other duty authorized by the board, shall receive ($...) per diem and necessary expenses for not more than (...) days per year. The board shall meet quarterly and other times at the call of the chairman. The chairman shall call a meeting when requested by a majority of the board.

The board shall determine department policy; it shall not have administrative or executive duties and shall not deal with specific procedural matters. The board may appoint temporary or permanent advisory committees, for such purposes as it may determine. It shall have other duties as granted in this Act.

§3. Institutions and Services

First Alternative §3.

1. The following institutions and services shall be administered by the department:

a) All state institutions for the care, custody, and correction of persons committed for felonies or misdemeanors, persons adjudicated as youthful offenders, and minors adjudicated as delinquents by the (juvenile or family) courts under sections (...) and committed to the department.

b) Probation services for courts having jurisdiction over criminals, youthful offenders, and children.

c) Parole services for persons committed by criminal courts to institutions within the department. The parole board established by (reference to section establishing parole board) shall be continued and shall be responsible for those duties specified in sections (...).

2. The department (may) (shall) establish and operate institutions for misdemeanants committed for terms of thirty days or over. It may establish and operate regional adult and juvenile detention facilities.

3. The department shall provide consultation services for the design, construction, programs, and administration of detention and correctional facilities for children and adults operated by counties and municipalities and shall make studies and surveys of the programs and administration of such facilities. Personnel of the department shall be admitted to these facilities as required for such purposes. The department shall administer programs of grants in aid of construction and operation of approved local facilities. It shall provide courses of training for the personnel of such institutions and shall conduct demonstration projects with offenders in the institutions. It shall establish standards and rules for the operation of correctional

and detention facilities, shall at least once a year inspect each facility for compliance with the standards set, and shall publish the results of such inspections as well as statistical and other data on the persons held in detention. The director may order the closing of any detention or correctional facility that does not meet the standards set by the department.

Second Alternative §3.

1. The following institutions and services shall be administered by the department:

(a),(b) (Institutional and probation services as provided in the First or the Third Alternative.)

c) Parole services for persons committed by criminal courts in institutions within the department. The parole board established by (reference to section establishing parole board) shall be continued and shall be responsible for those duties specified in sections (...). It shall appoint a director of parole who shall appoint, with the approval of the board, a sufficient number of parole officers and other employees required to administer the parole provisions of this Act.

2. (Same as subdivision 2 of the First or the Third Alternative.)

3. (Same as subdivision 3 of the First or the Third Alternative.)

Third Alternative §3.

1. The following institutions and services shall be administered by the department:

a) All state institutions for the care, custody, and correction of persons committed for felonies or misdemeanors or adjudicated as youthful offenders.

b) Probation services for courts having jurisdiction over criminals and youthful offenders.

c) (Parole services as provided in the First or the Second Alternative.)

2. (Same as subdivision 2 of the First Alternative,

except for omission of the words "and juvenile" in lines 17-18.)

3. (Same as subdivision 3 of the First Alternative, except for omission of the words "children and" in line 21.)

Fourth Alternative §3.

1. The following institutions and services shall be administered by the department:

a) (Institutional services as provided in the First or the Third Alternative.)

b) (See comment for alternative forms for probation service.)

2. (Same as subdivision 2 of the First or the Third Alternative.)

3. (Same as subdivision 3 of the First or the Third Alternative.)

§4. Director of Correction

A director of correction, who shall be the chief executive, administrative, and budget and fiscal officer of the department, shall be appointed by the board for an indefinite term, at a salary fixed by the board. The director shall be qualified for his position by character, personality, ability, education, training, and successful administrative experience in the correctional field. He need not be a resident of this state. He shall be subject to removal only by vote of a majority of the entire board, after a hearing upon due notice, for disability, inefficiency, neglect of duty, malfeasance in office, or other just cause.

§5. Other Employees

The director shall appoint such personnel as are required to administer the provisions of this act. All employees of the department other than the director and, with the approval of the board, (two to four) assistants to the director, shall be within the state merit system.

§6. Duties of Director

Within the general policies established by the board,

the director shall administer the department, shall prescribe rules and regulations for operation of the department, and shall supervise the administration of all institutions, facilities, and services under the department's jurisdiction.

The director shall prescribe the duties of all personnel of the department and the regulations governing transfer of employees from one institution or division of the department to another. He shall institute a program for the training and development of all personnel within the department. He shall have authority, subject to civil service requirements, to suspend, discharge, or otherwise discipline personnel for cause.

§7. Administrative Structure

The director and the board of correction shall develop a suitable administrative structure providing for divisions and services to accomplish the purposes, goals, and programs required by this Act. (Services for minors committed as delinquents by the (juvenile or family) courts shall be provided by specially qualified staff, in institutions separate from those for adults, and, where administered separately from those for adults.)

§8. Research, Statistics, and Planning

The department shall establish programs of research, statistics, and planning, including study of the performance of the various functions and activities of the department, studies affecting the treatment of offenders, and information about other programs.

§9. Reports

The department shall make an (annual)(biennial) report to the governor on the work of the department, including statistical and other data, accounts of research work by the department, and recommendations for legislation affecting the department. Printed copies of the report shall be provided to each member of the legislature.

The director shall periodically submit to the board an analysis of the institutions and services within the department, and an analysis and evaluation of the adequacy and effectiveness of personnel and buildings.

§10. Cooperation and Agreements with Other Departments and Agencies

The department shall cooperate with public and private agencies and officials to assist in attaining the purposes of the Act. The department may enter into agreements with other departments of federal, state, or municipal government and with private agencies concerning the discharge of its responsibilites or theirs.

ARTICLE III. INSTITUTIONAL ADMINISTRATION

§11. Commitment; Transfers

Commitment to institutions within the jurisdiction of the department shall be to the department, not to any particular institution. The director shall assign a newly committed inmate to an appropriate facility. He may transfer an inmate from one facility to another, consistent with the commitment and in accordance with treatment, training, and security needs, except that he may not transfer to an institution for offenders committed by criminal courts a minor adjudicated as delinquent by a (juvenile or family) court. A person detained in or sentenced to a local jail may, at the discretion of the director, be transferred to a state institution.

§12. Treatment of Mentally Ill and Mentally Retarded Inmates; Transfer

The department may establish resources and programs for the treatment of mentally ill and mentally retarded inmates, either in a separate facility or as part of other institutions or facilities of the department.

On the recommendation of the medical director, the director of the department may transfer an inmate for observation and diagnosis to the department of mental hospitals or other appropriate department or institution for not over (...) days. If the inmate is found to be subject to civil commitment for psychosis or other mental illness or retardation, the director of the department shall initiate legal proceedings for such commitment. While the inmate is in such other institution his sentence shall continue to run.

When, in the judgment of the administrator of the institution to which an inmate has been transferred, he has recovered from the condition which occasioned the transfer, he shall be returned to the department, unless his sentence has expired.

314-086 O - 68 - 26

§13. Diagnostic Center

There shall be within the department a diagnostic center, consisting of one or more branches, to make social, medical, and psychological studies of persons committed to the department. At the request of any sentencing court, the diagnostic service shall, in accordance with standards established by the department, receive for study and a report to the court any person who has been convicted, is before the court for sentence, and is subject to commitment to the department.

A defendant may not be held for more than (...) days for such purpose. The diagnostic center may apply to the court for an extension of time, which may be granted for an additional period not to exceed (...) days. Time spent in the diagnostic center shall be credited on any sentence of commitment.

ARTICLE IV. TREATMENT OF INMATES

§14. Classification and Treatment Programs

Persons committed to the institutional care of the department shall be dealt with humanely, with efforts directed to their rehabilitation, to effect their return to the community as promptly as practicable. For these purposes the director shall establish programs of classification and diagnosis, education, casework, counseling and psychotherapy, vocational training and guidance, work, and library and religious services; he may establish other rehabilitation programs; and he shall institute procedures for the study and classification of inmates.

Women committed to the department shall be housed in institutions separate from institutions for men.

§15. Work by Inmates; Allowances

The department shall provide employment opportunities, work experiences, and vocational training for all inmates. Equipment, management practices, and general procedures shall approximate, to the maximum extent possible, normal conditions of employment in free industry. Tax-supported departments, institutions, and agencies of the state and its governmental subdivisions shall give preference to the purchase of products of inmate labor and inmate services.

Inmates shall be compensated, at rates fixed by the director, for work performed, including institutional maintenance and attendance at training programs. Prisoners who are unable

to work because of injury, illness, or other incapacity may be compensated at rates to be fixed by the director. The inmate shall contribute to support of his dependents who may be receiving public assistance during the period of commitment if funds available to him are adequate for such purpose.

The department shall make contractual arrangements for the use of inmate labor by other tax-supported units of government responsible for the conservation of natural resources or other public works.

§16. Discipline

The director shall prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions of the department, including procedures for dealing with violations. A copy of such rules shall be provided to each inmate. Corporal punishment is prohibited.

The director shall provide for a record of charges of infractions by inmates, any punishments imposed, and medical inspections made.

§17. Medical Care

The director shall establish and shall prescribe standards for health, medical, and dental services for each institution, including preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients.

An inmate may be taken, when necessary, to a medical facility outside the institution.

§18. Inmate Contacts with Persons Outside the Institution; Temporary Releases

Under rules prescribed by the department, heads of the institutions may authorize visits and correspondence, under reasonable conditions, between inmates and approved friends, relatives, and others, and temporary release of an inmate for such occasions as the serious illness or death of a member of the inmate's family or an interview of the inmate by a prospective employer.

§19. Good Behavior Allowance

An inmate serving a commitment shall be allowed a reduction, from his maximum term, of ten days for each month served for the first five years of any term, and fifteen days per month for the period of any term over five years. Regulations shall be issued authorizing the director to deny such allowances for one or more months of time served prior to the infraction of rules by the inmate. The regulations shall also authorize, under stated circumstances, restoration of good time lost.

§20. Discharge Allowance; Loans

Inmates released upon completion of their term or released on parole or mandatory conditional release shall be supplied with satisfactory clothing, transportation, and financial assistance to meet their needs for a reasonable period after release. If the inmate or his family has financial resources, these shall be used prior to the use of public funds.

The department shall establish a revolving fund from funds available to the department, to be used for loans to prisoners discharged, released on parole, or released on mandatory conditional release, to assist them to readjust in the community. The fund shall be operated in accordance with regulations approved by the board.

ARTICLE V. INTERSTATE RELATIONS; DETAINERS

§21. Agreement on Detainers

The Agreement on Detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows: .....

ARTICLE VI. APPLICATION OF ACT

§22. Laws Repealed

Chapters (...) and all other acts and parts of acts inconsistent with the provisions of this Act are hereby repealed.

§23. Constitutionality

If any section, subdivision, or clause of this Act shall

be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

§ 24. Appropriation

The sum of $(...) is hereby appropriated for the purpose of this Act for the fiscal year (or biennium) ending (...).

§25. Time of Taking Effect

This Act shall take effect on (...).

* * * *

Published by the National Council on Crime and Delinquency, 1967.

RECENT LEAA PUBLICATIONS

General

Third Annual Report to the President and the Congress on Activities under the Law Enforcement Assistance Act of 1965(April 1, 1968).

Project Reports and Dissemination Documents

Grant #007	From Campus to Corrections: Institutes to Attract College Students to Correctional Services
Grant #013 #140 and #66-3	Crime Laboratories - Three Study Reports
Grant #016, #053 and #087	Statewide Police Command and Supervisory Training--Three Demonstration Projects .New Jersey Mobile Training Units .North Carolina Police Management Institute .Arkansas Regional Courses for Police Supervisors
Grant #017	State Police Systems
Grant #020	The APCO Project--A National Training Manual and Procedural Guide for Police and Public Safety Radio Communications Personnel
Grant #198 (S.022)	Project Sky Knight: A Demonstration in Aerial Surveillance and Crime Control
Grant #085	Harvard Student District Attorney Project
Grant #153	Reports, Records and Communications in the Boston Police Department: A System Improvement Study
Contract #67-22	Police Management Training in Eight Southern States
Grant #178	Model In-Service Training Program for Correctional Personnel: A University of Georgia Project

U.S. GOVERNMENT PRINTING OFFICE : 1968 O - 314-086

RECENT LEAA PUBLICATIONS

Article Reprints on LEAA Projects

Grant #006	Interrogation and the Criminal Process
Grant #035	The NDAA/LEAA Project--Training Program for Prosecuting Attorneys
Grant #037	Big Help for Small Offenders (The Reader's Digest, April 1968)
Grant #039	Computer Mapping - A New Technique in Crime Analysis
Grant #053	Police Executive Development in North Carolina
Grant #071	A Communication System for the Washington, D.C. Metropolitan Police Department
Grant #127 #162 and #165	The OLEA Fellowship Program
Grant #157	Training Police as Specialists in Family Crisis Intervention: A Community Psychology Action Program
Grant #168	SIMBAD (University of Southern California project to develop a mathematical model of the probation process)
Grant #198 (S.022)	Sky Knight, The Heavenly Prowl Car (The Reader's Digest, April 1968)
Grant #241	Correctional Staff Training Institutes (brochure)
Contracts #66-2 and #66-11	Surveys of Population Samples for Estimating Crime Incidence

* * *

Copies of the foregoing are available on request directed to the Dissemination Office, Office of Law Enforcement Assistance, U.S. Department of Justice, Washington, D.C. 20537.