

CP-SAT  
4-27-80

RECOMMENDATIONS TO THE GOVERNOR  
REGARDING THE ADMINISTRATION OF  
THE CRIMINAL JUSTICE SYSTEM

From the Executive Advisory Commission  
on the Administration of Justice

Arthur L. Liman, Chairman

November 22, 1982

U.S. Department of Justice 87590  
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Executive Advisory Commission  
on the Administration of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

NCJRS

JAN 6 1983

ACQUISITIONS

Table of Contents

	<u>Page</u>
Letter of Transmittal to the Governor .....	
Introduction .....	1
<u>Recommendation No. 1:</u>	
An Administrator of Criminal Justice .....	15
<u>Recommendation No. 2:</u>	
A Criminal Justice Policy Council .....	24
<u>Recommendation No. 3:</u>	
A Director of Criminal Justice Information and Redesigning Information Management Systems .....	32
Conclusion .....	44
<u>Appendix</u>	
A. Representative Membership of Criminal Justice Council	
B. Report from Information Management Consultant	



EXECUTIVE ADVISORY COMMISSION  
ON THE ADMINISTRATION OF JUSTICE  
TWO WORLD TRADE CENTER - ROOM 5572  
NEW YORK, NEW YORK 10047  
(212) 486-6247/48

ARTHUR L. LIMAN,  
CHAIRMAN

RODERICK C. LANKLER,  
CHIEF COUNSEL AND  
EXECUTIVE DIRECTOR  
EDWARD J. McLAUGHLIN,  
DEPUTY DIRECTOR

November 22, 1982

The Honorable Hugh L. Carey  
Governor of the State of New York  
Albany, New York

Dear Governor Carey:

Citing the mandate you gave us to seek ways to achieve "better coordination among the various State criminal justice agencies and between State and local criminal justice programs," the Executive Advisory Commission on the Administration of Justice respectfully submits the enclosed Recommendation to Governor Hugh L. Carey Regarding the Administration of the Criminal Justice System.

The Commission concluded that certain structural changes can improve the coordination of the criminal justice effort in New York State, which you have long regarded as a priority. Among our unanimous recommendations are:

- the appointment of a criminal justice administrator to coordinate the executive branch's criminal justice efforts;
- the creation of a criminal justice policy council to bring together top-level State and local criminal justice officials;
- the implementation of an integrated criminal justice information system; and
- the appointment of a director of criminal justice information by the Governor and the Chief Judge of the Court of Appeals to integrate criminal justice information reposing within those separate branches of government.

The Honorable Hugh L. Carey

-2-

November 22, 1982

Noting your unqualified support and encouragement for its work, the Commission wants me to convey to you its conclusion that you can be proud of your record for innovative leadership and courage in criminal justice matters.

Sincerely,

Arthur L. Liman

ALL:cr  
Enclosure

## Introduction

### Mending an Expensive Kluge\*

In his executive order establishing the Executive Advisory Commission on the Administration of Justice, Governor Carey expressly asked us to be responsive to his concern for achieving "better coordination among the various State criminal justice agencies and between State and local criminal justice programs." After we began our work, the Governor appointed the Commissioner of Correctional Services to the additional post of Special Adviser to the Governor for Criminal Justice Coordination. The Governor also signed legislation in April, 1982, which authorized the Chief Administrator of the Courts to prepare impact statements for legislation likely to have a substantial effect on the court system. Despite these instructive steps, our consideration of the coordination problems among the State's criminal justice agencies causes us to share the Governor's concern.

Although there are realistic limits on what can be accomplished solely through reform of New York State's

---

\* Kluge: a system (and especially a computer system) made up of components that are poorly matched or were originally intended for some other use.

criminal justice system, we are convinced that there is no more important responsibility for the new Governor than to achieve a strengthened cohesion among the parts of the system.

It is a difficult assignment for any New York Governor, who directly controls only a few of the system's parts. But it is only the Governor who can lead a concerted statewide effort and, equally important, elevate public understanding of the complexities of that task. Since the 1960's, when fear of predatory crime became a principal domestic concern, we have routinely sought candidates' views on crime in assessing their fitness for office -- from the Presidency down to the bottom of the ticket. But robust political campaigns more readily result in empty slogans than the thoughtful public discourse in which a Governor can engage. There is much which can be done, though there is no simple measure which, in one stroke, will cut through the Gordian knot of street crime.

In its previous report, the Commission stressed that the public has unrealistic expectations of the criminal justice system, and, therefore, blames it for failures attributable to other tenacious forces in our society. The proper measure of the justice system's effectiveness is not solely the crime rate, which it cannot control,

but the efficiency -- and justice -- of a system laboring to function under the stress of the great demands placed upon it. The challenge is intensified by governments' dwindling resources. Recently, for example, Governor Carey projected a budget deficit for fiscal year 1982-1983 of \$579 million, which he estimated could mushroom to \$1.8 billion in fiscal year 1983-1984. Among the measures he predicted might be necessary to close the gap between revenues and expenditures would be the reduction of aid to local governments.

Given this context of scarcity, the problem for all criminal justice agencies has become the allocation and stretching of resources. And while State and local criminal justice agencies are engaged in earnest and often resourceful efforts to cope with difficult circumstances, we believe more is required to make them an effective consortium.

The many local and State bodies concerned with crime share a common general goal, but it does not provide Euclidian rules by which their efforts are interrelated, nor is there even a neat table of organization for the State's criminal justice system. The New York Constitution establishes three branches of State government -- executive, legislative and judicial -- each with inde-

pendent, important responsibilities for criminal justice, and it also provides for the creation of the present 62 New York counties with local law enforcement functions. At the "front" end of the system, State and local legislatures establish criminal laws and sanctions. The State Police and 575 registered local police departments within New York State's borders, employing 64,000 officers, together with the 62 elected county district attorneys and 1,700 assistant district attorneys, determine who is arrested and prosecuted.

In the "middle" of the system, 1,056 judges paid by the State, but virtually all of whom are elected or appointed at the local level, decide how many people will be committed to the "back" of the system -- State prisons -- as convicted felons, or placed on county probation programs to be supervised by 3,500 local probation officers. Yet another agency -- the State Board of Parole -- together with judges, decides how long convicted felons will be in prisons staffed and supported by 15,500 employees of the Department of Correctional Services. As we reported in an earlier study, the aggregate of these independent decisions over the last ten years has resulted in dangerous overcrowding of our State's prisons, the solution for which can come only from a coordinated statewide response.

Our concerns about the pernicious consequences of a hydra-headed criminal justice system are not new. For almost fifty years, past and present State officials have sought improvements, but the most innovative have not survived local officials' fears of State dominance. In 1936, for example, Governor Lehman's concerns about crime impelled him to propose creating a New York State Department of Justice modeled after the Federal government's Department of Justice. He stressed the now familiar theme: "One of our principal errors has been that we have thought and acted in terms of the police alone, or of prisons alone, or of courts, or of prosecution or parole, and have directed our attention to the improvement of each of these separately without any persistent attempt to correlate their independent activities."

The scheme outlined by Lehman involved giving the proposed agency new power only "to cooperate with and assist" local district attorneys, but the State Legislature scuttled his proposal. An even more far-reaching innovation, to have State officials "supervise" local law enforcement officials, was urged and rejected at the 1967 New York State Constitutional Convention.

More modest measures aimed at establishing coordination among the various agencies were launched during the Rockefeller and Carey administrations. In 1967, Governor

Rockefeller created a Crime Control Council which brought together the heads of State-level criminal justice agencies under a broad mandate to promote coordination and advise the Governor. Local involvement was enhanced with the passage of federal LEAA regulations requiring the participation of representatives from local agencies. The Division of Criminal Justice Services (DCJS) and a sub-agency, the Crime Control Planning Board (CCPB), were created to disburse the State's share of LEAA money. The virtual exhaustion of federal money, however, has curtailed the activities of DCJS and CCPB and make it problematic that these agencies can lead the coordination effort.

Thus, we have concluded that it is impractical to seek to revive DCJS in its present form as the keystone of coordination efforts by the State. But despite the history of fractious resistance in parts of the system to coordination efforts, the State's scarce resources impel renewed and sustained efforts to forge a coherent system.

We believe the diverse State and local criminal justice agencies are susceptible to a more cohesive structure, which should include the following elements:

-- A representative of the Governor to coordinate the several State-level executive branch agencies. The

representative would also serve as spokesperson for the executive branch's views to the legislature;

-- A forum for the discussion and resolution of criminal justice issues among the executive, legislative and judicial branches;

-- A forum for State and local criminal justice agencies to exchange views on issues affecting several levels of government or jurisdictions;

-- Reliable coordination between New York and federal authorities on problems, like drugs and gun control, which are beyond the State's means alone to control;

-- A mechanism for collecting and disseminating criminal justice information useful to all parts of the system;

-- An entity capable of useful research and analysis of the impact on the whole system of actions by a part of it, such as the consequences that proposed sentencing legislation, or the creation of new judges, might have on the number of inmates committed to the State's prisons.

The basic management measures which we described above either do not exist in New York State or are feeble and ineffective.

While we are calling on the Governor to take the lead in establishing effective coordinating measures, the

blame for their absence ought not to be placed at the door of any one public official, past or present. But the vacuum has spawned several serious problems and perpetuates others:

-- Each executive branch criminal justice agency separately submits its budget requirements to the State's Division of the Budget and separately argues for the amount requested, first with Budget and then with the State Legislature. Over the last four or five years, according to budget officials, the office of the Governor's counsel and program associates have been included in budget discussions after proposals were submitted to the budget division. We believe, however, the Governor's imprint on these programs, to be effective, should begin at an early point in the process and not depend on serendipity. There must be a knowledgeable spokesperson for the Governor to reconcile competing demands against an overall criminal justice plan before agencies' budgets reach the Division of the Budget.

-- We included in an earlier report the conclusion of the Executive Advisory Committee on Sentencing: "Incredibly, it is impossible to track a single felony arrest through the entire process of prosecution, conviction, and sentencing, which deprives us of the ability to assess what happens after arrest, or why. The aggregate statistics which are published are substantially meaningless

for evaluating how well, or how poorly, the criminal justice system really works." That situation continues in large measure today. The reasons, as we explained, relate to the operation of individual agencies in isolation from one another and top management's inattention to data information issues. IBM, the Commission's unpaid consultant, estimated that by 1990, the State will be spending \$50 million annually on a data information system it characterized as "a disaster". We also pointed to the relative lack of success attained by interagency committees to overcome information management problems. These efforts must have the strong and persistent guidance of the Governor's closest aides. In the absence of such a presence, interagency meetings serve only as feckless theaters of bureaucratic warfare.

-- A recurring and troublesome problem involves the relationship between courts and "front end" agencies -- police and prosecutors -- which often produce widely diverging information. Since the creation of the Office of Court Administration (OCA) in 1977, court administrators have had the responsibility for collecting and disseminating data concerning the court process and the utilization of judges and court parts. But the resulting data is often different from the data on the same subject

compiled by the police and prosecutors. For example, the Division of Criminal Justice Services reported that the number of felony indictments in New York City for the first eight judicial terms of 1982 was up only 0.07%. But the office of Court Administration reported an increase of 17.2% for this same period. There is no existing mechanism for reconciling the information or establishing a common basis for reporting data. Moreover, we believe a strong presumption favors considering information about the criminal justice system to be in the public domain. But where an agency is in exclusive control of information, it also has the power to establish an unnecessary crypto-classification system. An "in-house" data agency may also be reluctant to be perceived as a statistical shoofly producing information concerning productivity and efficiency. But criminal justice statistics should not be used like a drunk uses a lamppost -- for support instead of illumination. The same Constitution which espouses the independence of three branches of government also establishes checks and balances among them, and no exception should be made for the collection of data. The executive and judicial branches must join forces in producing useful and public information concerning the criminal justice system.

-- We have also already drawn attention to the dangerous situation existing in our State's prisons. The

surge in the State's prison population stemmed from actions by many parts of the system, all responding independently to the public's angry demands for relief from predatory criminals. We have pointed to several specific measures -- both short and long term -- to ameliorate conditions which will not vanish by themselves. Indeed, without rigorous action, this already dangerous situation will worsen.

In stressing the need for strengthening state-wide management of our criminal justice resources, we are not suggesting the police, prosecutors, or the courts be less diligent in enforcing the laws enacted by the legislature, or that the legislature should be less resourceful in enacting laws which it believes will help reduce crime. But, as the system now exists, no agency in the system analyzes the projected impact on the State of the autonomous policies and practices of 576 police departments, 62 county prosecutors, over 1,000 judges, 12 parole commissioners, and the State Legislature -- all equally but separately seeking a safer New York. While there is presently no more important service that government undertakes than its criminal justice function, the responsibility for its efficient functioning is the most diffuse of all of government's responsibilities. Harry Truman's dictum, that the "buck stops here", has not yet taken root in the management of the State's criminal justice system.

-- In the absence of an effective executive branch coordinating agency, local law enforcement officials seeking State assistance or proposing policy have, instead, had to navigate through a changing maze of State officials. Traditionally, the Governor's legal counsel has borne the responsibility for overseeing criminal justice matters. But, depending on the circumstances, the Governor's secretary and budget director have also been involved. And under our constitutional system, the State Senate and Assembly, its leadership and designated committees, are separate and essential parts of the complex puzzle. We view the January, 1982 appointment of the Commissioner of Correctional Services to serve also as Special Adviser to the Governor for Criminal Justice Coordination as a warranted step by the Governor to establish a single voice to express the views of the executive branch to the legislature.

-- The diffusion of responsibility in the criminal justice system also presents difficulties for State officials seeking routine accountability from localities for State-assisted programs. While law enforcement remains within the local domain, the State contributes nearly \$40 million annually to defray the costs of prosecuting "major" offenders. The State's current reporting requirements, according to budget officials responsible for criminal justice funds, should



be strengthened to insure that State funds are used in furtherance of State policies.

In arriving at the recommendations in this report, which we believe will help the State progress toward a system of criminal justice, we have concluded the following measures are imperative:

(1) The new Governor must appoint a criminal justice administrator, with direct access to him, solely responsible for criminal justice matters. There will be no more important appointment made by the new Governor to his administration;

(2) Responsibility for the State's criminal justice research, planning, program development, and coordination should be given to the administrator, who should have no operational functions;

(3) A criminal justice policy council, chaired by the new administrator, should be created. Membership in this top-level, prestigious body should include State and local -- even possibly Federal -- officials representing the State's criminal justice process from "front" to "back". The council should have a staff and meet regularly to promote coordination;

(4) A specific task of the council should be to prepare impact statements concerning proposed criminal justice

legislation and to recommend approval or disapproval of the legislation;

(5) The State must implement an integrated criminal justice information system. The administrator must have the authority to mandate integration within the executive branch; and

(6) A director of criminal justice information must be jointly appointed by the Chief Judge and the Governor to integrate criminal justice information reposing within those separate branches of government.

Recommendation No. 1:

The Governor Should Appoint an  
Administrator of Criminal Justice

The Commission recommends that the Governor appoint an administrator of criminal justice. We believe it will be one of his most important appointments.

The administrator's primary function would be to advise the Governor on criminal justice matters. He\* would be responsible for the coordination of the executive's criminal justice programs and the development of criminal justice plans. His review of existing programs would be a monitoring function. This requires analysis of available statistical data, including the development of data collection where needed but unavailable, and an evaluation of the impact the State's programs have on the criminal justice effort. His ultimate goal would be to assure that they are coordinated efforts -- and if not, propose the necessary remedies to the Governor. He would be required to develop both short-term plans to meet existing problems and long-range programs to define the State's future criminal justice course. His unique position should enable him to predict the impact such plans and programs would have upon all the criminal justice components of the State, diminishing the need for

---

\* For stylistic reasons, this report uses the masculine pronoun. Such usage implies no preference about the gender of this, or any other, appointee.

emergency remedial resources once the programs are implemented.

In order to be effective, the administrator must have direct access to the Governor, control over the information systems and influence over the allocation of resources for criminal justice, and no conflicting operational duties. He should have a planning and program development staff, which would also serve as staff for the statewide criminal justice council we recommend be established. The council would provide the administrator with valuable information regarding the problems and needs of the various branches and levels of government throughout the State.

Access and Unfettered Policy Responsibilities

Traditionally, the Governor of New York has had three principal aides: the Secretary, responsible for administration; the Counsel, his chief legal adviser; and the Director of the Budget, who heads the fiscal and management staff of the Governor. They cope day-to-day with a myriad of problems faced by New York State concerning fiscal matters, education, health, and labor, to cite only a few.

The administrator of criminal justice should be added to the three principal aides who have direct access to the Governor. His responsibilities are no less

important. The task of managing the State's government is such that no Governor can afford the time to address criminal justice matters as often, and as deeply, as is presently needed to assure effective administration of the State's three billion dollars a year effort.

The administrator would not have any line or operational duties. He would not be responsible for the daily supervision, control, or operation of those departments and divisions of the executive branch of government presently concerned with criminal justice matters. He would not, for example, oversee the administration of the Department of Correctional Services. As policies are developed by the administrator, however, and adopted by the Governor, the agency would be responsible for their implementation, and the administrator would be the link between the Governor and the Department of Correctional Services on policy questions.

The experience of the Division of Criminal Justice Services (DCJS) was instructive in developing our recommendation. DCJS theoretically has the responsibility for developing policies to improve the coordination, administration and effectiveness of the criminal justice system. But it has also been saddled with many operational duties which vitiate its coordinating function. The Division's primary

responsibility for many years was the distribution of LEAA funds, which totaled \$479,455,000 from 1970-1982. Those federal grants required periodic reports which the Division prepared. Another taxing responsibility for DCJS is its administration of the State's central data facility for the disposition of all criminal charges and for criminal records, fingerprints, and other means of identification. Additionally, the Division must assist in the training of local municipal police, prosecutors, and public defenders throughout the State. We do not believe it is practical to give an agency important operational or line duties while also requiring it to develop plans for coordinating the system. Pressing operational duties inevitably become more important, and the task of developing strategies for coordination of the entire system often seems convenient to defer. It is for these reasons that we recommend all policy development functions be placed with the administrator of criminal justice, who would have no other line or operational duties.

#### Control of Information for Policy Making

It is essential that the administrator have reliable data in order to evaluate programs, and as the basis for predicting the consequences of planned activity.

As we discuss in Recommendation No. 3, the State's information management system is in need of vast overhaul.

Improvements will require time and involve significant expenditures. It is essential for the administrator to head the task of directing the steps necessary to coordinate the executive branch's information management systems. His effectiveness will depend on reliable data.

An important and large segment of criminal justice statistics reposes with the judiciary, constitutionally independent of the executive branch. At present, there are numerous conflicts between the data gathered by DCJS and the Office of Court Administration (OCA). Each has frequently produced different statistics on the same subject. Yet such matters as the number of arrests for a particular crime, the indictments which resulted from those arrests, and the ultimate disposition of those indictments go to the very heart of any analysis of criminal justice programs.

In our view, constitutionally independent agencies are not also required to ignore each other to the detriment of all, and the idea that the judicial and executive branches share responsibilities in information systems' management is not unique. In 1976, Maryland placed its justice information system under the joint responsibility of the Chief Judge and Secretary of the Department of Public Safety and Correctional Services. The latter is a gubernatorial appointee, who directs a department containing the

state police, parole, probation and correctional service agencies. Collectively the Chief Judge and Secretary, with an advisory board, manage the central repository of information and establish rules and procedures by which agencies report and obtain information.

We would, therefore, propose that the data collection functions, presently performed by DCJS and OCA, be placed under a director of criminal justice information, appointed jointly by, and serving at the pleasure of, the Chief Judge of the Court of Appeals and the Governor. He would receive data from the executive agencies, from the courts, and from local police and prosecutors as required by law. He would have two masters, the judiciary and the executive, and would report common statistics to each. To the extent that present reporting procedures result in inconsistencies, it will be his duty to resolve them. It will be in the interest of his two masters that he do so. Since the administrator will be dependent upon the director's figures, it will be in the administrator's best interests to have executive agencies reporting accurate statistics. This dependency should motivate the administrator's efforts to coordinate those executive agencies' information management systems.

Similarly, the Chief Judge and OCA would be dependent upon the same figures and there would be a sym-

metrical desire to improve the accuracy and efficiency of court figures. We see such a position as a means of overcoming the obstacles which presently exist between these two branches of government; of giving each branch of government the information from the other that it needs; and, at the same time, of permitting the courts and the executive agencies to retain information capabilities needed for their own internal operations. The common goal of efficient and effective administration of criminal justice, to which both branches of government make such a vital contribution, would be served.

#### Involvement in the Budget Process

In addition to timely and accurate criminal justice data, the administrator must be an important part of the budget process. Both the National Governors' Association and the National Criminal Justice Association urge that the agency charged with the coordination and planning duties have a strong voice in designing a state's criminal justice budget. By providing the administrator with an influential budget role, we seek not only unity of purpose among the executive criminal justice agencies, but also to give the smaller ones, such as the watchdog Commission of Correction, an advocate at budget time.

We recommend that the administrator's contribution be much more than advisory in nature. All agencies would be required to submit their budgets to the administrator prior to the customary fall meeting with the Division of the Budget (DOB). The administrator would examine the budget requests to determine if agency proposals follow announced policy, whether they are duplicative of programs occurring elsewhere, whether they attempt to initiate discredited ideas, are oriented too much to individual agency goals, or continue projects which have produced insufficient returns. To the extent necessary, he would revise the separate budgets to reconcile them with the State's overall criminal justice needs and priorities before they are submitted to DOB.

This procedure retains the participation of DOB. Its inclusion is important, since criminal justice must coexist with all other necessary State expenditures. By retaining Budget's role in criminal justice budget decisions, we expect that criminal justice will continue to receive its fair share of the State's annual funding. As special circumstances arise, such as the need to expand the prison system, or to modify electronic information systems, DOB's familiarity with the State's overall fiscal condition will permit it to weigh criminal justice needs and divert funds effectively to meet them.

Liaison With Local Agencies and the Legislature

The administrator of criminal justice would produce other benefits. Law enforcement officials throughout the State should welcome his existence. Local prosecutors, police and defense services would have a central clearing-house for their programs and problems. With the disappearance of federal money to assist local law enforcement efforts, we anticipate more and more demands for State aid and involvement. The administrator could establish priorities to meet the most urgent needs of particular areas. When State money is expended for local criminal justice efforts, his ability to review and assess those efforts should produce more accountability.

The legislature should also welcome the concept of an administrator. He would serve as the spokesperson for the executive's criminal justice policies. He would be able to assist the legislature in its process of evaluating legislation and expenditures. While particular commissioners will speak to the impact of proposed legislation upon their agencies, the administrator should be able to predict the impact upon the system as a whole by reference to impact statements prepared by the Policy Council described in the Commission's Recommendation No. 2.

Recommendation No. 2

New York Should Create a  
Criminal Justice Policy Council

The disparate local institutions throughout New York involved in the criminal justice system must be made an intimate part of the State's coordination effort. New York City alone accounts for 58% of the arrests and 55% of the indictments filed in the State courts. Sixty-seven percent of the inmates in the State prison system come from New York City. The process begins with local governments enforcing legislated mandates; local jails holding the accused; and often ends with commitments to local jails and probation departments.

To bring together State and local officials, we recommend creating a criminal justice policy council, which would have as its members representatives not only of the criminal justice process from "front" to "back", but also from the public and which would be required to meet quarterly.

During the course of our work, we found many principal actors in the criminal justice field would welcome creation of a high-level forum to facilitate informed policy choices and coordination. The creation of such a council will not result in unanimity of philosophy, policy or priori-

ties among the participants. Nevertheless, there is a pressing need for the leaders of the State's criminal justice efforts to seek a workable consensus on many basic problems testing its strained capacity. Among the questions requiring careful analysis from different perspectives are those relating to:

-- Resource Enhancement. What untapped sources of revenue exist or could be created to fund increased criminal justice efforts? Especially needed are additional funds to intensify prosecutions of career criminals and traffickers in hard drugs. Can the Federal government be induced to provide greater fiscal assistance or increase its own efforts in narcotic and firearms enforcement? Are anti-crime bond issues, special taxes, fines or other levies realistic ways to supplement State and local coffers? How should any new funds be allocated?

-- Sentencing Policy. Are current sentencing laws producing desirable results? Should determinate sentencing be adopted? What are the appropriate roles of the trial judge and Parole Board in determining the length of incarceration?

-- Sentence Alternatives. Can effective non-incarcerative punishments be created which punish without sending some offenders to prison or jail? Can restitution

and work projects adequately compensate victims and communities for wrongs done to them so they are adopted as acceptable alternatives to incarceration? To the extent that seed money from the State is necessary to foster these programs, is it money well spent?

-- Prosecution Priorities. Does the State enhance selective incapacitation programs? What will be the impact on the prisons? What should State and local priorities be for treating non-violent repeat offenders and the non-violent misdemeanants who tend to be ignored in such a program?

-- Substance Abuse Treatment Programs. If 40% of the inmates entering the prison system are classified by DOCS as alcoholics or serious alcohol abusers, and over 60% of the prison population has a history of drug abuse, what can the State do to treat these conditions? Should not there be concerted inter-agency efforts which carry through from early identification at the offender's entry into the system to follow-up treatment by parole or probation officials? Isn't recidivism encouraged by neglect?

-- Electronic Data Processing. Can the quality and accuracy of the criminal history records which the State provides and the criminal justice system's statistical gathering and analysis capabilities be upgraded? How

can State and local computer systems be modified to accommodate individual agency and system-wide needs? Can the State assist localities either with direct fiscal support or by securing statewide software and hardware price reduction, for local computer users?

-- State and Local Agency Relationships. What State compensation to localities should accompany State rule-making and standard-setting in areas such as local jail conditions, probation, municipal police training and statistical reporting? What accountability should exist for State funds given to localities?

-- Case Processing. Can greater numbers of cases be diverted from the criminal justice system without sacrificing respect for law? Is the continued use of the grand jury in most felony prosecutions appropriate? Should mandatory preliminary hearings be adopted as a substitute?

Other states have reported encouraging results from similar bodies which bring together the top-level administrators responsible for criminal justice administration. Michigan's council, for example, consults with that State's judicial planning body, suggests ways to improve statistical gathering, issues plans for criminal justice policy and reports annually about progress in attaining these goals. New Jersey, faced with severe prison over-

crowding, established a council of the criminal justice agency heads, judges and legislators, responsible for creating and applying sentencing policy. Not only has the council recommended a program for remedying overcrowding, but their meetings, according to one of the participants, have fostered cooperation, consultation and useful sharing of information in other areas also.

#### Impact Statements and Policy Recommendations

An important function of the New York criminal justice policy council should be the submission to the Governor and the legislature of impact statements detailing the anticipated consequences to the system of proposed legislation. In April, 1982, the Governor signed legislation authorizing the Chief Administrator of the Courts -- when requested by the legislature -- to prepare judicial-impact statements concerning legislation likely to have a substantial effect on the court system. While this step is a welcomed measure, it falls short of our own belief that impact statements should be required, and should not be limited to the effect on the courts. At least two important benefits would accrue from this function. First, data gathering and analysis within the system would be tested for its usefulness in planning. There would be a necessity to close the gaps and remedy the deficiencies in information



systems which now exist. Council members, as criminal justice leaders and agency heads, would be given ample incentive to modify and coordinate data gathering systems to meet their new responsibilities. Secondly, once council members are able accurately to articulate the ramifications of policy initiatives, they would be in a strengthened position to discuss the costs and benefits of these measures and possible alternatives.

Some criminal justice agencies are already forced to attempt quantifying the consequences of enacted legislation and adopted policy changes in planning for the needs of their agencies. The Department of Correctional Services, for example, seeks to anticipate future inmate populations on the basis of historical correlations and new developments. But the recommended policy council would analyze relevant agency projections before legislation were adopted and should serve as an important ingredient in anticipating the wisdom of a particular proposal.

Another principal function for a council should be to prepare an annual set of recommendations for the Governor and legislature concerning measures which might be enacted to strengthen the system.

#### Composition of the Council

There are many options for the makeup of a council. While a large group risks ritualistic sparring, we believe an inclusive council best meets New York State's present needs. A prototype council is attached as Appendix A. The goal, however, is sufficient representation to accomplish policy-making responsive to the perspective of a constellation of criminal justice agencies, local governments, legislators, the judiciary, and the public. Judges actively participate in councils elsewhere. For example, in Michigan, Pennsylvania and Illinois legislation mandates judicial participation in similar councils. Indeed, judges, including the current Chief Administrative Judge, are members of New York's Crime Control Planning Board. The importance of coordination with federal officials to increase efficiency and avoid duplication of effort in such areas as narcotics enforcement also suggests they be invited to participate in the council.

The council should have a staff sufficient to assist it in planning agendas, conducting research, consulting with governments and agencies, drafting reports and proposing solutions to problems. We recommended earlier that the staff of the administrator of criminal justice be used by the council, and that the administrator chair the council.

New York cannot afford unnecessary fragmentation in the criminal justice system. The cooperative spirit present now should be encouraged. The Commission advocates fostering it through a policy council which, in candid discussions, would explore eagerly sought solutions to the State's criminal justice needs.

Recommendation No. 3

Criminal Justice Information

Management Systems Must Be

Substantially Revised

The criminal justice system of this State is managed by agencies and courts. Those entities deal largely with the same people as they pass through the system, and their informational needs regarding those people overlap. Moreover, to a significant extent, the successful operation of each of these agencies is dependent upon the operation of others.

In those circumstances, the need for an integrated information management system is apparent:

- to reduce duplication and error in data entry;
- to permit immediate, on-line transmission of information among agencies;
- to assist each agency in its performance of management functions, particularly where the projections of the future needs of any one agency must take other agencies' operations into account; and
- to enable a comprehensive study of the efficacy of the entire criminal justice system, as well as each of its parts.

Over the past fifteen years many criminal justice agencies in New York computerized portions of their record keeping and daily operating functions. The State's entry into the computer age occurred during a period when the interdependence of criminal justice agencies was less appreciated. Agencies obtained computer systems and software packages from different sources. While the resulting patchwork of components now allows each agency partially to meet its individual needs, the incompatibility of these units (a) compels duplicative data entry processes and thus enormous waste, (b) prevents comprehensive studies of criminal justice operations, and (c) permits only minimal exchanges of data among agencies on an on-line basis. Attempting to transform this kluge into an integrated system, without replacing most of the hardware involved, would require prohibitively high programming expenses.

In short, the State's computerized criminal justice information system is a gigantic and extravagant oxymoron.

New York once basked in the limelight of automation. The State's pioneering efforts in the 1960's far exceeded those of other states in creating a statewide automated criminal history file, an advance most states still lack. In a sense, New York suffers because of its

rapid response in the mid-1970's when Washington made funds available for computers. But, in hindsight, it moved too quickly into the electronic age without sufficient expertise; without direction or guidance to agencies regarding their roles in a system; without requiring hardware and software compatibility; without appreciating the most effective uses of automation; and without enforcing a plan for systematic automation. The result was inevitable.

One unfortunate consequence of the haphazard system development is the consuming and wasteful duplication of effort throughout the criminal justice system. Millions of dollars are lost to redundant data entry annually by the several agencies handling a case. Other deficiencies are the inability to produce timely and accurate reports about the criminal justice system's operations; to maintain a complete criminal history file; and to predict the future personnel and facility needs of the system's components.

These are not the only faults which exist with the State's data processing capabilities. New York's use of automated data processing is antiquated. Agencies routinely use computers to count events which already have been performed manually rather than incorporating the computer into criminal justice functions. For example, indictments are filed, prisoners enter and leave institu-

tions, and cases move from stage to stage without existing automated systems participating in the process. Data is later entered into the computers for future reference and reporting. Errors, omissions and delays result when staff enters data which is irrelevant to accomplishing their jobs and which records what has happened already. Thus used, the computer hinders rather than enhances accuracy. Properly used, computers participate in the events. Functions, such as filing charges and releasing inmates, should not occur without employing the agency's electronic data processing equipment in the process. Information for statistical and research reports would be obtained as a by-product of routine agency operations.

New York still does not have an entity guiding criminal justice information management. No agency exists to resolve competing computer related problems either within one governmental level or those which cross from one to another. The problems to be addressed are huge:

- Executive criminal justice agencies have only marginal computer-to-computer access to non-confidential data of other executive branch agencies;

- No unit of government has the authority to determine the timeliness, accuracy and utility of reports

which agencies release to the public or which legislative or executive branch criminal justice planners use;

- No single agency can assist a locality or agency considering initiating or expanding data processing capabilities. Information about vendor reliability and component incompatibility with existing county or State computer functions is not located centrally; and

- No one is the focal point for criminal justice computer matters in general and coordination in particular.

The existing impasse has not escaped the attention of others. In February, 1980, the Assembly Codes Committee, chaired by Assemblyman Melvin Miller, wrote a report entitled, Too Little, Too Late, lamenting the money wasted in developing the State's criminal justice computer system. The report recommended that the legislature "... appropriate the necessary funds to secure an outside consultant to examine the existing statewide system at agency levels and to propose a plan which will insure that all final systems are integrated, function as cost-effectively as possible, and are capable of presenting an accurate, comprehensive and timely picture of the criminal justice system. Such a plan must work from existing systems." The Codes Committee also commented on the continuing absence of a master plan for a criminal justice information system which DCJS should have

completed in conjunction with its application for, and receipt of, federal LEAA grants funding information systems for statewide criminal justice agencies. No one funded an audit nor obtained a consultant.

Shortly after attention was drawn by the Codes Committee to the lack of a master plan, DCJS published one. Among its recommendations DCJS stressed the need for buying compatible systems and urged the establishment of a permanent criminal justice information systems advisory committee. The group, said DCJS, should include a representative of each major metropolitan area and each State criminal justice agency. DCJS recommended that the Committee meet at least quarterly to: "Address the issues that confront the criminal justice community in terms of information systems needs and associated problems . . . [and] act as the vehicle for identifying information needs between agencies and for establishing realistic priorities for implementing specific tasks to meet these information needs." Coincidentally, the plan was published as LEAA was being phased out as a funding source to implement that plan and long after agencies had purchased computer equipment from various manufacturers. No one pursued DCJS's recommendations.

During the course of its work, this Commission sought to stimulate improvements and cooperation. We

quickly learned that the problems were entrenched and beyond our expertise. Consequently, we sought expert assistance from the International Business Machine Corporation's (IBM) team of criminal justice computer specialists who have national experience in criminal justice information management. This group, the Applications Transfer Team, already was assisting OCA to automate the Family Court of the State of New York located within New York City. IBM agreed to appraise the justice information systems in New York without cost to the State.

Governor Carey, Chief Judge Cooke, the Mayor of the City of New York and the past and present Presidents of the New York State District Attorneys Association all offered their cooperation. But time constraints on the Commission precluded involving New York City's criminal justice agencies and, understandably, the present State administration was unable to commit its successor to either policy or fiscal changes. Thus, IBM's study, which is appended to this report\*, is more an agenda for the new Governor than a detailed plan to engineer changes now. It outlines the complexity of the criminal justice system in a typical major state, such as New York, and describes

---

\* Sections I-IV of the IBM study are attached. The remainder of the IBM report is available upon request. Agency hardware and software inventories and "wish lists", which are not part of the IBM report but were used in its preparation, have been forwarded to the Governor.

the benefits of an integrated information system operating in that context. The report presents IBM's conclusions and recommendations about information management in New York.

It is clear that the State must initiate a major restructuring of justice administration in New York. We concur with IBM's conclusions that:

- Improvements in information management systems must be preceded by establishing a clear central State authority to lead such efforts;
- DCJS, as structured, cannot coordinate information systems planning;
- The State lacks a mechanism to nurture the cooperative effort between the executive and judicial branches necessary to solve court data and criminal history problems;
- Justice information must be viewed as one system, rather than as a series of autonomous systems with limited inter-agency responsibility;
- Criminal justice information systems, as managed, are duplicative and wasteful;
- New York needs a plan for information management which benefits State and local governments; and
- Most significantly, improvement is now impossible because of the existing governmental structure.

The report singles out the State's efforts in automation but not for praise. New York's current information system caused IBM to doubt whether there "is anywhere a group of related functions which are addressed by as varied an array of computer hardware and software as is the case in the New York Justice System."

The IBM report concludes that the criminal justice system currently is not manageable: " . . . [T]he Chief Executive of the State of New York should be extremely concerned that a hugely important function of government that costs the taxpayers of his State more than three billion dollars a year is not led, is not managed, and as presently constituted, is not manageable."

In cautioning the State about deferring efforts for improvements, IBM observes: "It would be highly inaccurate to imply that major improvements in the system will be accomplished without cost, but we insist that in this instance the proper and effective application of technology should within a few short years yield to the State a significant return on investment. We must not lose sight of the fact that the present operation is costing millions of dollars per year and is a disaster."

The Commission too is convinced that it is time not only to come to grips with information management prob-

lems, but to do so by employing the government structure we have described in other sections of our report. For example, a criminal justice administrator cannot make policy and budget recommendations without more accurate system-wide data than now exists. A council cannot fulfill its duties to recommend policies, provide projections of their anticipated effect and evaluate the success of existing practices without an improved information system, and the judicial and executive branches cannot shed the albatross of missing dispositions and incomplete criminal histories, still tarnishing the State's reputation in information management, under present conditions.

Both State and local governments will reap fiscal benefits within a few years from an integrated information system. Savings will not be limited to the data processing arena, although cost reductions there will be significant. Eliminating duplicate data entry functions as well as duplicate systems can also produce great savings. More significantly, however, an information system capable of accurately projecting the criminal justice system's future needs helps criminal justice managers avoid incurring sizable and unnecessary costs.

We, therefore, make the following recommendations:

1. The Chief Judge and the Governor should jointly appoint a Director of Criminal Justice Information, who should

be experienced in data processing. The Director should have responsibility for the development and maintenance of a statewide, integrated information management system.

2. Existing agency-independent data processing installations now used for criminal justice purposes should be converted, as soon as practicable, into a statewide, integrated, distributed processing system, containing the following features:

(a) A host system for the storage and processing of information required by more than one agency and for purposes of analyzing and managing criminal justice operations within the State;

(b) Subsystems in the courts and each of the State and local criminal justice agencies for the storage and processing of data for agency- or court-unique functions;

(c) Access by each such subsystem to information stored in the host system;

(d) Reduction, to the maximum extent feasible, of the present duplication of data entry processes; and

(e) Adequate security measures for the protection of confidential data.

3. As soon as possible, the Director should prepare a plan for the creation of such a system. To that end, the Director should be empowered and provided with the necessary funds to commission a study regarding the alternative means for developing the system, the costs involved, and the time required. That plan should reflect the needs of the executive branch as submitted by the administrator, the needs of the unified court system as submitted by the Office of Court Administration, and the needs of the various levels of government as submitted by the council. The plan should then be approved by the Governor and the Chief Judge.

4. Pending implementation of the plan, no major commitments for data processing equipment should be made by any agency without the approval of the Director, so as to ensure, to the maximum extent feasible, that new acquisitions will be consistent with that implementation.

5. The Director, in consultation with the Office of Court Administration, the Administrator, and the Council, should have oversight responsibility with respect to the data processing budgets and expenditures for criminal justice purposes of the agencies and courts.

### Conclusion

The steps we recommend are only a logical starting place. We have no illusions that the problems we touched upon will readily disappear. State-level agencies may still seek to go their own way, resisting central direction. Local agencies may still be wary of intrusions on their perceived autonomy. Individual criminal justice agencies may still believe protecting their respective turf is a high policy goal. Each branch of Government may still choose to exercise its independent power in criminal justice, oblivious to the systemic problems it creates. And parochial interest groups, pocked through the system, may continue to thwart long-overdue reform of selfish or antiquated work rules and practices.

But without a more hopeful structure for coordination, such as the one we propose, the prospects are good that New York will continue to experience a precarious, roller coaster journey in its criminal justice efforts. The Governor must take strong and far-reaching action, mindful that failure in solving demanding problems, as Dean Acheson cautioned, lies in taking timorous, cramped half-measures.

\* \* \*

It has been a privilege for the Commission to conduct its work with the unqualified support and encouragement



of Governor Carey. In his executive order establishing this Commission, he stressed both his concern for strengthening the State's criminal justice efforts and his openness to new initiatives: "I believe that further success in our efforts to control crime," the Governor stated, "will, to a large degree, depend upon our willingness to re-evaluate current programs, embrace new and innovative approaches, and establish comprehensive, long-range criminal justice strategies." During his administration, Governor Carey demonstrated innovative leadership and courage in criminal justice matters, and we believe he can be justly proud of his record.

The change in administration shifts the audience for our report to Governor-elect Cuomo. We are confident that his experience managing governmental problems will be a sustaining asset in formulating the State's response to the difficult challenges we have outlined.

The legislature and judiciary must also be involved in the effort, since several of our proposals are beyond the Governor's reach alone to implement. We have sought to present recommendations which are responsive to the problems. We do not believe our suggestions are the only ones possible. We hope by this report to stimulate lively public discussion and cooperative labors, among the legislative, executive and judicial branches, in framing sound solutions -- legislative

and administrative -- of the same magnitude as the problems. Those whom we hope to stimulate to action may devise even better answers. We caution only against inaction and preserving an unsatisfactory status quo. We are confident that is not the course Governor-elect Cuomo will choose.

## Appendix A

The council structure can take many forms.

There is no uniform composition among the several states that have councils. An example of a New York council follows:

1. Administrator of Criminal Justice
2. Chief Judge of the Court of Appeals
3. Attorney General of the State of New York
4. Director of the Division of the Budget
5. Chairman of the Codes Committee of the State Assembly
6. Chairman of the Codes Committee of the State Senate
7. Commissioner of the Department of Correctional Services
8. Chairman of the Division of Parole
9. Chairman of the Division of Probation
10. Criminal Justice Coordinator for the City of New York
11. President of the New York State District Attorneys' Association
12. Executive Director of The Legal Aid Society of New York
13. District Attorney from New York City selected by the Mayor
14. Commissioner of the New York City Department of Correction
15. Police Commissioner of the City of New York
16. President of the New York State Bar Association
17. U.S. Attorneys for the Four Judicial Districts in New York (ex-officio members)
18. President of the New York State Sheriffs' Association
19. President of the New York State Association of Chiefs of Police
20. Director of the Division for Youth
21. Director of the Department of Mental Health and Hygiene
22. Director of the Division of Alcohol and Substance Abuse
- 23.- Seven members of the public appointed by the Governor

## APPENDIX B

The attached report of our research into the Criminal Justice System of the State of New York is forwarded for your information and such disposition as you care to make of it. You will note that my perception of the problem has changed since our conversations early in the year--and, therefore, the study does not follow the outline I proposed in June.

My initial assumption was that the several agencies involved in the administration of justice had not taken advantage of developing technology, and that significant improvement could be effected through the provision of a coherent policy and a measure of guidance. Unfortunately, the real problem turns out to be far more severe.

It is actually the case that several of the subject agencies have moved aggressively to exploit technology, but each has done so without apparent reference to the others. We will make frequent reference to this failure to view the administration of justice as a total process in which each agency deals with just one facet.

The result is a situation wherein each agency has the capability to manage its "in-house" activities reasonably well, but where there is virtually no way to measure overall effectiveness, evaluate programs, identify weaknesses, make intelligent budget decisions, or direct the overall justice system. This condition has developed over a decade and involves significant investments in dollars, effort, and ego. There will be no easy fixes.

R. E. McDonell  
Industry Consultant for  
Law Enforcement and  
Criminal Justice

## SECTION I

### INTRODUCTION

During the period July to September, 1982, we have reviewed the information related operations of the following New York State agencies:

Division of Criminal Justice Services

Department of Correctional Services

Division of Parole

Division of Probation

Division for Youth

Commission of Correction

Crime Victims Compensation Board

Because of their close interaction with these executive department agencies, we also explored to some degree the information processing functions of the following organizations:

Office of Court Administration

District Attorneys Association

We did not spend any time with the New York State Police, because while their function is hugely important, it is largely peripheral to the central concern of our study and time was limited. Reference will be made in the body of our report with regard to how the state police function fits into the overall justice operation.

We have attempted to organize this report into sections so that the reader who has limited time and who is interested only in the "bottom-line" need read only the first four sections which are quite brief. Those who are interested in more detail can proceed to the final three sections which contain, primarily, supporting information. The sections of the report are:

Section I Introduction

Section II Current Status of the New York  
State Justice System

The intent in this section is not to present an exhaustive list of weaknesses in the present system, but rather to cite examples of problem areas that could be corrected if present efforts and expenditures were re-directed.

Section III Conclusions

Section IV Recommendations

Section V The New York State Justice System

The intent in this section was not to present a detail perfect analysis of the New York State Justice process, and there may be, in fact, some errors in description. The intent was to emphasize the complex interaction that exists among justice agencies to support the conclusion that the administration of justice must be treated as a single process.

Section VI Justice Information System Development

This section defines the major considerations in the development of an integrated justice information system. It is not included as a specific blueprint for

New York State, but rather to demonstrate that considerable research and thought have gone into the design of state-wide justice information systems.

#### Section VII     Agency Reports

It should be noted that during the data gathering phase, a great deal of effort was required from state employees who were asked to provide information that was, in many respects, not much more than an update of data they had compiled at least twice before in the past two or three years. It is to their very great credit that they complied with our requests with diligence and dispatch. We are truly grateful for this full and complete cooperation.

#### SECTION II

Current Status of the New York

State Justice System

Prior to the commencement of the current study, the management of criminal justice information in New York State had become the subject of severe criticism from practitioners within the justice system, from the press, by at least one committee of the state legislature, and by the Office of the President of the New York City Council, to name a few. Once the Executive Advisory Commission on the Administration of Justice was appointed, its investigators verified to their own satisfaction that all was not well within the state.

It was reasonable, then, to first look to the more simple aspects of the problem in the hope of finding easy solutions. Charts I and II on the following pages would seem to indicate that the information deficiencies of the New York State Justice System are not entirely the result of lack of effort or expenditure. The direct budget cost of the State justice agencies (including the state police) is well over one billion dollars per year. Again including the state police, more than 1,000 employees and 14 million dollars per year go to support the data processing requirements of these several agencies.

COST ANALYSIS				
(1982 Budget)				
AGENCY	TOTAL BUDGET	DP STAFF & NON-HARDWARE	DP HARDWARE	DP TOTAL
Division of Criminal Justice Services	29,351,945	3,071,693	2,575,186	5,646,879
Department of Correctional Services	434,533,500	242,000	450,000	1,692,000
Division of Parole	29,607,100	682,644	30,400	713,044
Division of Probation	2,130,195	191,270	62,500	253,770
Division for Youth	87,831,520	258,600	131,000	389,600
Commission of Correction	1,778,200	-	-	-
Crime Victims Compensation Board	1,542,800	-	50,000	50,000
Office of Court Administration	495,000,000	2,506,479	2,406,306	4,912,785
State Police	110,177,200			(est.) 600,000
	\$1,191,912,460			\$14,258,178

CHART I

DP STAFFING

	<u>No. Auth. Positions</u>
Division of Criminal Justice Services	250
Department of Correctional Services	437*
Division of Parole	35
Division of Probation	12
Division for Youth	10
Commission of Correction	0
Crime Victims Compensation Board	3
Office of Court Administration	<u>107</u>
TOTAL	854

\*The great majority of these positions are data entry, and it is not clear how many are full time DP related positions.

CHART II

Fourteen million dollars per year is a significant sum of money, and in our judgement, the state does not enjoy a reasonable return for this level of expenditure. On the other hand the 14 million dollars represents approximately 1.4% of the total budget of a group of agencies who are very nearly totally dependent on availability of information, and this is an incredibly low figure. There is no implication here that not enough money is spent on processing information, because it is processed in some fashion, or that large increases in total expenditure are indicated. What should be drawn from these facts is that not enough resource is directed to automated information processing and that potentially large savings could occur if inefficient manual methods were abandoned in favor of today's available technology.

We have avoided any attempt to quantify dollar savings that might accrue to the state if the justice information system were to be thoroughly and effectively modernized because there are too many intangibles. It is clear that there are large numbers of people doing tasks that could be accomplished more economically through technology - but it is also clear that there is a great demand for information services that is not now being satisfied. We must suspect that if the system were really optimized there would not be much of a net savings in salary expenditure. There would be a significant improvement in the level of justice services provided.

We also are unable to conclude that the failure of present expenditures in information systems to provide an acceptable return is assignable to quality of personnel. Almost without exception, the professionals with whom we came in contact were intelligent, informed, and dedicated to their work. This, we believe, accounts for the fact that each individual agency appears to do a very effective job of addressing requirements that are strictly internal.

Where the system fails is in those many areas where one agency is dependent on information developed by other agencies, and where measurement and evaluation must encompass the work of two or more agencies. The basis for this failure is, we believe, made obvious by Chart III. No data processing executive who is responsible for the information flow in an organization that has to survive in the private sector would consider for a moment such a kluge of equipment--backed up by an even more discouraging array of noncompatible software.

It is not that these systems cannot be made to communicate with one another, because of course they can. However, to attain effective communication among all of these different devices would be unrealistically expensive in terms of money, time and effort. What is most disturbing from this chart is that despite what might be said in New York State about recognizing that the administration of justice is a single process that begins with an offense

# HARDWARE ANALYSIS

<u>AGENCY</u>	<u>PRIMARY MANUFACTURER</u>
State Police	UNIVAC
Division of Criminal Justice Services	Burroughs
Department of Correctional Services	Honeywell
Division of Parole	Honeywell (OGS) UNIVAC Racal-Milgo
Division of Probation	Northstar Horizon
Division for Youth	Prime
Commission of Correction	-----
Crime Victims Compensation Board	-----
Office of Court Administration	IBM, Data General

Note: Most local police and district attorneys throughout the state use IBM equipment with a few on Burroughs or UNIVAC.

CHART III



against the state and an arrest, and concludes when the offender is released from custody or supervision, the actions clearly demonstrate that there is no real appreciation of this most basic fact.

While each justice agency may be, by statutory or constitutional decree, a separate entity, each deals with only a "slice in time" of the total justice process. While this concept may not have been important in rural America of one hundred years ago, failure to recognize it in the densely populated, high volume, urban society of today can only lead to the kind of weaknesses that are the subject of this report. Those weaknesses fall into several categories:

#### Duplication of Effort

Where automated information about individuals and cases cannot be passed along with each stage of the case, it must be re-recorded at each stage.

e.g., name and other identification information, plus details of offense, charge, etc. are re-recorded at the booking agency, the prosecuting agency, the lower court, the upper court, the probation department, the correctional institution and the parole agency.

This results in increased cost, delay, and error.

#### Lack of Status Information

Where status information (arrest status, charge status, bail status, parole/probation status, criminal history record, etc.) is stored in manual files in one agency, it is for all practical purposes unavailable to any other agency in the state which may be called upon to make a decision on how to process the subject.

In New York State, the information may be on automated files and be equally unavailable because the systems are themselves unable to communicate except in the most primitive way. Thus, New York State has spent the money on technology, but does not enjoy the benefits technology was intended to provide.

#### Inability to Manage the System

Where the justice system is treated as a loosely related group of parts and is not seen as a total process, there is a general inability to identify weak spots and bottlenecks in the system, an inability to effectively evaluate day to day operation as well as special programs, and an inability

to make optimum use of resources (budget, custodial facilities, alternative programs, etc.).

In our judgement, New York State suffers from all of these conditions, not through design, but simply because each agency has been left to the single minded pursuit of its own parochial interests - with no one in position to look out for the whole.

#### Selected Problems in New York State

We have not taken the time to do an exhaustive analysis of the New York State Justice System--and have not felt it worthwhile to do so at this time. Since the overriding problem of the system is management direction, it is hardly productive to address operational detail until it is clear that management direction will change and what form it will take. We have observed, however, what we consider more than adequate evidence that the system is in trouble, and several examples, both general and specific, are offered below to support this view:

##### 1. Decentralized vs. Distributed Processing

We believe it would be totally impractical to attempt to address all of the information and management needs of New York State

justice agencies on a single very large computer with a network of terminals. Such a completely centralized approach would almost inevitably result in serious dissatisfaction among the users over service, assignment of priorities, and a perceived lack of responsiveness, and it would very likely stifle aggressive pursuit of improvement in the individual agencies.

The present totally decentralized program, on the other hand, is at least equally impractical and virtually guarantees an inadequate basis for proper management. Unless one can find a way to claim that a group of agencies that deal with the same clientele and the same set of facts at different points in time are actually unrelated, there hardly seems to be any defense for the decisions on automation that have been taken in New York State.

An answer to exactly this problem has developed over the past seven or eight years: It is called distributed processing and is made to order for the justice environment. In a distributed processing system, any number of computers may serve individual agency needs, but they are connected to a "host" processor. The data required by multiple agencies is simply passed through the host as it is captured at a distributed processor, and it is therefore immediately available to all participants in the system. Such an approach permits the individual agencies as much

freedom as they need to address agency unique requirements, while at the same time providing some level of discipline from the host to ensure that minimum information requirements for the total system are met. Security procedures are available to adequately safeguard sensitive (e.g., juvenile) data.

Such a system also facilitates the automation of an entire process, such as case tracking, rather than just the capture of bits and pieces. The result is that edits and audits can be built into the system to insure accuracy and provide current and complete information. It should be noted that a distributed system is made possible by the system's support programming available today, which implies that the hardware must all be compatible.

## 2. Networking Requirements

At present, most law enforcement agencies in the state have terminals into either the New York State Police (NYSPIN) or the Division of Criminal Justice Services (DCJS) and on to the Department of Motor Vehicles and the National Crime Information Center (NCIC). Some agencies have terminal access to the Office of General Services (OGS), while others provide terminals for their users into their own agencies. We were unable to develop a precise cost for data communications in the state, or even to

identify all of the existing and projected operations. However, it does seem clear that the decentralized nature of information systems has led to an unplanned approach to terminal networks and computer to computer interfaces.

Since communications costs can represent a very large piece of total data processing costs, an orderly approach to networking is critical. Networking simply refers to methods of designing communications networks so that the length of communications line is kept to a minimum and that maximum utilization of lines is obtained. This involves balancing traffic volumes and location and "multidropping" compatible devices on a single line.

3. An example of a specific weakness in the present system has to do with the inadequacy of the criminal history record. The legislature has mandated that the Division of Criminal Justice Services maintain disposition data on all felony arrests. DCJS attempts to do this by asking arresting agencies throughout the state to forward arrest data direct to Albany where it is to be matched later to court dispositions received in batch form (magnetic tape) from the Office of Court Administration. This might work if all arrests went to trial on a timely basis, and a disposition was immediately forthcoming, and the OCA system had adequate controls to insure that each disposition was forwarded to DCJS in an expeditious fashion.

What actually happens, of course, is that some number of felony arrests are discharged by either the police or the District Attorney, others are reduced to misdemeanors, and still others become unrecognizable due to change in charge or defendant's name (he was using an alias). There is also reason to suspect that some records are simply lost. The result is a criminal history record system in which the number of incomplete records is unacceptably high. We expect that this condition will continue to exist until the state finally adopts a true case tracking system wherein a case record is established at the host at time of arrest and is updated as the case passes through each stage of the justice process.

Such a system makes it possible to determine precisely where in the process information is being lost--and it also provides the basis for measurements and management decision throughout the system.

4. The legislature has also required DCJS to report periodically on felony indictments. DCJS does this in great detail - and the results are of questionable value for these reasons:

- a. The prosecutors in 62 counties in the state prepare some 37,000 felony indictments per year. This involves typing information relating to county, defendant, name, charges,

dates, etc. Clerical staff then retype essentially the same information on another form (DCJS form 1020) and it is mailed to the state. At DCJS, data entry personnel key the data into the DCJS system.

- b. The multiple keying operations are expensive, and there are two additional opportunities for error. Since this operation offers little benefit to the F.A.'s, it is for them, a very low priority task. The data for the state is almost always backlogged in the local offices, and we are told, it is not infrequently lost.
- c. The statistical reporting from DCJS is so late that, even if accurate, it would be of marginal value and the accuracy is subject to question. For the first eight terms of 1982, DCJS reported that the number of felony indictments filed for New York City was up a mere .07%. OCA reported an increase of 17.2% for the same period.

The point here is that the system is faulty from the outset. The courts and DCJS are counting different things at different times. There is no basis for audit and the result is that the state spends huge sums of money for a series of reports which serve only to enhance the level of confusion.

5. The Department of Correctional Services, which has a considerable investment in data processing, does an apparently outstanding job of addressing the internal administrative requirements of the department - but this agency is still a victim of the lack of an overall justice information system organization.

- a. New intake and release information is entered into the Honeywell System for internal use. Then, Department of Correctional Services personnel re-key all of the data on another terminal into the Burroughs System at DCJS. A computer to computer interface between these two incompatible systems could be established, but at considerable cost and effort.
- b. When individuals on Parole are released from supervision, this disposition data is received from the Division of Parole on paper forms and is key-entered into the Department of Correctional Services system. It has already been entered into the Division of Parole system, but again, the computer operations do not communicate.

6. The Commission of Correction is charged with responsibility for supervision of all custodial facilities within the state with particular emphasis on monitoring overcrowding in local jails.

In the absense of any other capability, they attempt to accomplish this task by phoning local jails twice a year and checking their population. We assume that most of the Sheriff's departments have terminals for law enforcement purposes, but the inadequacies of the network operation and the lack of a "host" system for data collection purposes, deny this facility to the Commission.

Were routine terminal reporting from all jails and prisons possible, the Commission on Correction would be able to be far more effective in discharging its assigned responsibilities in a number of areas. They could:

- Identify number of incarcerants in jails and persons on a weekly and monthly basis.
- Identify facilities which are continuously overcrowded, and those which frequently have space available.
- Identify trends such as increased or decreased length of stay in custody for certain groups of offenders.
- Track impact of Coram Nobis, State-Ready, and parole violations on correction facilities.
- Measure cost impact of policy changes.

7. The Division for Youth receives no automated input with any commitment. They generally receive a paper commitment form from either the adult or Family Court - but little or nothing from the pre-sentence investigation, and no family history, medical history, criminal history, etc. This means that this agency does everything over on every subject they process. The amount of information they have available on which to base decisions relating to diagnosis and placement, then, is limited to that which they have the time to develop with their own staff.

8. The Division of Probation is a sizable operation employing 2,000 professionals (state and county) throughout the state. They may supervise up to 70,000 probationers at a time, and the Division has a number of information related problems.

- There is no automated ability to store and analyze workload data.
- They cannot answer common questions relating to:
  - why the court did not follow pre-sentence investigation recommendations
  - characteristics of probationers

- reasons for revocation
- cost data by case, by function, by agency, etc.
- because of the lack of a data communications network, interface to the county probation department is limited.
- While some 70,000 pre-sentence investigations are done in the state each year, they are in the paper files of the originating agency - and everything is done over each time the subject is processed. Given known levels of recidivism, this has to be hugely expensive.

9. There is an overall lack of coordination of the justice process that only adds to the inevitable strains of a multiple agency-multiple branch of government operation. The Division of Criminal Justice Services reportedly changed the form for reporting indictment information without consultation with the District Attorneys. More recently, the New York City Courts have changed (expanded) their docket number without advising the District Attorneys--and the computer programs of the Kings County D.A. can't accommodate the new number. These failures should not occur, and the fact that they do should merit the highest level attention.

These anecdotes could be continued at great length, but those cited should be sufficient to support the allegation that in New York State, Justice Administration has simply not been addressed as a single process. Attempts to solve isolated problems (dispositions, indictments, etc.) have generally resulted in more work, and no discernible improvement in the quality of justice.

### SECTION III

### CONCLUSIONS

From this far from in depth, but we think, generally informative study, we have arrived at a series of general conclusions as follows:

1. The cost of the administration of justice for New York State is more than one billion dollars annually for State agencies alone, and we estimate that it is more than three billion dollars per year when local government expenditures are included.
2. Roughly 14 million dollars is spent for information services at the State level each year, and some lesser but significant dollar amount by local government.
3. The State does not benefit as it should from the money and effort expended on justice information processing. The reason, it is clear, is that justice administration has not been treated as a process, but rather as if only tangential relationships exist between and among the several agencies.
4. We are unable to measure the actual impact in dollars, but we believe strongly that the inadequacies of the state justice information system have an even more negative impact

on local government than on the state agencies themselves. Those individuals and classes of individuals who contribute a very large part of the criminal justice workload become adept at finding soft spots in the system. Timely, complete, and accurate information, on a state-wide basis is the most valuable tool that can be made available to the police, the prosecutor, and the trial court.

5. Information systems technology is still treated as if this were still the 1960's when automation consisted largely of converting specific pieces of information to machine form for specific reporting purposes. Failure to use technology to its full potential; to automate complete processes so that the computer records, counts, tracks, audits, notifies and monitors the entire process has been a costly error.
6. We doubt that there is anywhere a group of related functions which are addressed by as varied an array of computer hardware and software as is the case in the New York Justice System. We cannot determine if this resulted from a conscious effort by each agency to maintain their "separateness" or if it is simply the random result of lack of leadership. In any event, it has been disastrous.



7. It is probable that the intent of the State in establishing the Division of Criminal Justice Services was to fill the need for a leading or coordinating body for justice administration. DCJS, in any event, has not filled that need. Furthermore, since the Commissioner of DCJS is an equal among peers, we believe it is unrealistic to expect him to impose a set of directions on the other State agencies.

8. While, as we have indicated, we have not been able to develop precise cost data, either to quantify waste in the existing system or to estimate cost/benefits of an improved system, there are some gross dollar factors that need to be considered while evaluating the proposals made here:

a. The cost of the administration of justice for the country as a whole has been growing at a compound rate of about 13% per year in recent years -- very nearly doubling every five years. We would expect that the rate in our second largest state would be higher than the national rate -- and we would expect that continuing pressure for more information about the justice process in New York State would keep expenditures for data processing growing at an even faster pace. We could expect, then, that the data

processing costs in the New York State Justice System could approach -- or even exceed 50 million dollars a year by 1990.

If there is no change in direction, this sizeable outlay is not likely to produce much improvement in the State's ability to manage and direct the justice process. It will mean that each agency will be so deeply committed to its own program that eventual overhaul would be prohibitively expensive.

b. There are numerous areas which can be cited where money could be saved if an efficient, integrated, host-driven information system were currently in place:

- Some 37,000 felony indictments are key-entered three times in the existing system when they should be entered once. Greater accuracy and more timely information could be gained with one-time entry at savings of 700,000 to 1,000,000 dollars per year.
- 70,000 pre-sentence investigations are conducted at the county level each year, and remain in paper form at the county level. The result is that

state agencies which process these subjects collect all of the same information (criminal history, medical history, job history, educational history, etc.) over again, record it again, and file it in paper files again. Given the known rates of recidivism, we must presume that more than half the 70,000 pre-sentence investigations each year relate to persons who have been so investigated one or more times before. Potential savings could be 3-5 million dollars a years.

Absence of a case tracking system implies repetitive recording of indicative information (name, date of birth, physical identifiers, charge information, etc.) at each stage of the justice process. It also results in significant outlays to attempt reconciliation of data captured by different individuals at different points in time. A sound case management system, applied to both misdemeanor and felony cases, would again yield annual savings of several million dollars in data collection costs -- and would provide the basis for tremendous improvement in management capability.

c. The installation of a host system to begin addressing these problems would cost (very roughly) 2 million dollars for the state executive agencies, another million dollars for the courts, and two million dollars on an annual basis for staffing. It should be borne in mind, however, that the true value of such an approach is not just related to the 14 million dollars per year now spent on justice data processing, but rather to the impact on the one billion dollars spent on Justice Administration each year.

9. We finally conclude that the Chief Executive of the State of New York should be extremely concerned that a hugely important function of government that costs the taxpayers of his state more than three billion dollars a year is not led, is not managed, and as presently constituted, is not manageable.

#### SECTION IV

#### RECOMMENDATIONS

We would enjoy being able to deliver this report with some very simple solutions to the New York State Justice Information System problem. However, as we should have known from the outset, there are no free rides. We are dealing with a hugely complex problem that has been described in these pages in only the most superficial way. The solution will not be forthcoming by merely being wished for, and if left alone, the situation can only be expected to worsen at an accelerating rate.

Before stating our recommendations, we would like to comment on two considerations on which they are based. First, we have encountered at every step of this study an assumption that any "fix" will be prohibitively expensive. It would be highly inaccurate to imply that major improvements in the system will be accomplished without cost, but we must insist that in this instance the proper and effective application of technology should, within a few years, yield to the State a significant return on investment. We must not lose sight of the fact that the present operation is costing millions of dollars per year and is a disaster.

The second consideration is that we have found a most peculiar fascination with "data elements." There appears to be a widely held view that if one can only identify the data elements common to two or more agencies, they can be magically linked together

to produce valid, accurate information. This is, of course, impossibly simplistic. The problem is not data elements or lack of information or any other such easily addressed consideration.

Every bit of information that is required to manage the justice process is, by definition, recorded somewhere in the process. Those bits of information are at present unavailable at the time and place they are needed, not because it is difficult to capture them and present them, but because the information environment of the New York Justice System has become so compartmentalized that the various components do not and cannot communicate. The real problem is that no one is running the ship. Our recommendations are:

1. We recommend that the executive department agencies be brought together under one head who has responsibility for management of the justice system for the State of New York -- and authority commensurate with that responsibility.
2. We recommend that a state statute be sought that clearly places responsibility for an effective justice information system jointly on the head of the executive department justice agencies and the Chief Judge.

3. We recommend the following steps in the implementation of a New York Justice Information System:

- a. A moratorium on all data processing acquisitions until a plan is in place.
- b. Designation of an advisory policy board representing all of the state and local agencies involved in the administration of justice and reporting to the head of the executive department agencies. This board should be charged with full responsibility for approving and then implementing the justice plan. The effectiveness of the individuals appointed to this board may well determine success or failure.
- c. Selection of an outside agency with expertise in both justice administration and information systems to guide -- but not "do" the justice plan. It is critically important that the plan be the work product of those who must implement and administer it.
- d. Develop the plan in six months from formal start date. The plan should be essentially a statement of goals, objectives, and relationships. The time limit would serve to keep the participants from getting

bogged down in detail that can be better left to the technical staff charged with implementation.

- e. A first part of the planning effort should be a set of hardware and software standards for the "host" system and a phased program for bringing all state level participants under those standards in three to four years.

The overall consideration in the development of such a set of standards should be the overall requirements for information and communication for the entire justice system.

It should be considered that hardware costs represent a fraction of one percent of the cost of the administration of justice, and that the "low-bid" mentality has in part brought the state to its present condition. The guideline rule should be "one process - one system."

#### Members of the Commission

- Arthur L. Liman, Chairman of the Commission, partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, former General Counsel of the New York State Special Commission on Attica;
- Arthur H. Barnes, President, New York Urban Coalition;
- Richard L. Gelb, Chairman of the Board of Bristol-Myers Company and Chairman of the Crime Control Planning Board;
- Betsy Gotbaum, Executive Director, Foundation on Violence in America and former Executive Director, New York City Police Foundation;
- Simon Gourdine, Commissioner, New York City Department of Consumer Affairs, former Assistant United States Attorney;
- Ralph Graves, Editorial Director, Time, Inc.;
- Thomas F. Hastings, Executive Director, Rochester Jobs, Inc., former Chief of Police, Rochester, New York;
- Alan J. Hruska, partner in the law firm of Cravath, Swaine & Moore, President, Institute of Judicial Administration;
- Patricia M. Hynes, Executive Assistant United States Attorney, Southern District of New York;
- Salvatore R. Martoche, United States Attorney for the Western District of New York;
- Robert B. McKay, Director, Aspen Institute for Humanistic Studies, former Chairman of the New York State Special Commission on Attica and Dean of New York University Law School;
- Robert M. Morgenthau, District Attorney, New York County;
- Archibald R. Murray, Executive Director and Attorney-in-Chief, The Legal Aid Society;
- Vincent O'Leary, President, State University of New York at Albany;
- John F. O'Mara, partner in the law firm of Davidson & O'Mara, former Chemung County District Attorney and Judge of the New York Court of Claims;

Juan Ortiz, Personnel Director of the City of New York, former Assistant District Attorney;

Harold R. Tyler, Jr., partner in the law firm of Patterson, Belknap, Webb & Tyler, former Deputy Attorney General of the United States and Judge of the United States District Court for the Southern District of New York;

H. Richard Uviller, Professor of Law, Columbia University School of Law, former Chief of the Appeals Bureau, New York County District Attorney's Office;

Martha Redfield Wallace, Executive Director, The Henry Luce Foundation;

#### Staff

Roderick C. Lankler, Executive Director of the Commission, former Special State Prosecutor for the Investigation of the New York City Criminal Justice System;

Steven E. Landers, Secretary to the Commission, partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison and former General Counsel, New York State Executive Advisory Committee on Sentencing;

Edward J. McLaughlin, Deputy Executive Director of the Commission, former Assistant Special State Prosecutor for the Investigation of the New York City Criminal Justice System and Assistant District Attorney;

Thomas H. Busch, Associate Counsel to the Commission (until July 30, 1982), former Associate Appellate Counsel, Criminal Appeals Bureau, The Legal Aid Society;

Lori Carena, Associate Counsel to the Commission, former law assistant to the Honorable Irving Lang, Acting Justice of the Supreme Court, and Courts Planner St. Paul, Minnesota Criminal Justice Coordinating Council;

Faith Colangelo, Associate Counsel to the Commission, former Associate Attorney, Criminal Defense Division, The Legal Aid Society;

Oscar Garcia-Rivera, Associate Counsel to the Commission, New York Attorney and former General Counsel and Director of the Puerto Rican Legal Defense Fund;

Jay Cohen, Special Assistant to the Commission, associate in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison;

Patricia Conroy, Editor and Research Assistant;

Cheryl Palladino, Research Assistant;

Ellen M. Finney, Administrative Assistant..

**END**