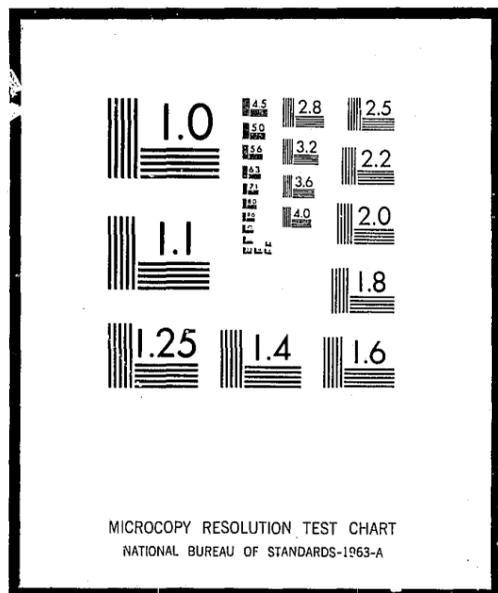


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EVALUATION

File: A2-7

CRIMINAL JUSTICE SEMINAR* REPORT

ON

INTERAGENCY COMMUNICATION PROBLEMS

by:

Robert J. Erickson

Michael R. Lochow

Russell J. Myhre

Virginia W. Powell

James S. Hill

*The Criminal Justice Seminar is a North Dakota Combined Law Enforcement Council project, funded through Action Grant #2-7, and directed by Professor Larry Kraft of the University of North Dakota School of Law.

BUY NORTH DAKOTA PRODUCTS

EVALUATION STATUS

Date 19/April/74 (of review)

- 1. Grant # A2-7
- 2. Program C-4.7
- 3. Title Criminal Justice Seminar
- 4. Grantee W.N.D. Law School

5. Projected completion date of project (#of months left) 0

6. How was the project to be evaluated?

- a) The subgrantee with the assistance of objective consultants will conduct an in-house evaluation of the project according to a pre-determined objective research design.
- b) Technical assistance will be furnished by staff members of the Law Enforcement Council or by the Technical Assistance Division of the Law Enforcement Assistance Administration to conduct the evaluation.
- c) The evaluation will be completed by an individual, an educational institution or organization that has been contracted to provide this service to the subgrantee.
- d) Does not apply - D N/A
- e) Unknown

7. Procedure:

- a) Project will be evaluated on an individual basis.
- b) The evaluation of the project will be part of a more comprehensive evaluation.
- c) The responsibility for evaluation has not been assigned yet.
- d) The project will not be evaluated.
- e) Unknown

8. Was the project set aside in the evaluation plan as a project to be evaluated?

- a) Yes
- b) No
- c) D N/A

9. Has an evaluation been completed?

- a) Yes
- b) No
- c) None proposed
- d) D N/A
- e) Unknown

10. If not completed, number of months till evaluation is due to be completed.

- a) Months
- b) D N/A

COMMENTS:

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INTRODUCTION

This report is the result of a ten week Criminal Justice Seminar in which five University of North Dakota Law students participated during the summer of 1972. Their stay at five separate North Dakota criminal justice agencies within the cities of Bismarck and Mandan was made possible by a grant from the North Dakota Law Enforcement Council. Their primary objective was to study the problems, both real and imaginary, which prohibit greater cooperation and understanding between the various agencies comprising the Criminal Justice System in the State of North Dakota.

A second objective of the seminar was that of providing a learning experience for five people who are preparing themselves for careers in an area intimately connected with the criminal justice system. In meeting that objective the seminar was an unqualified success.

All the agencies selected for participation in the program were from the Bismarck area because it is there that several of the important agencies that comprise the criminal justice system are located, and concentration in one area facilitated an exchange of ideas and experiences. The agencies and their respective interns were as follows:

Bismarck Police Department	Robert J. Erickson
Burleigh County State's Attorney	Michael R. Lochow
North Dakota Attorney General	Russell J. Myhre
North Dakota State Industrial School	Virginia W. Powell
North Dakota State Penitentiary	James S. Hill

The seminar commenced on May 30, 1972, and terminated on August 4, 1972. During that brief ten week period each intern had an opportunity to familiarize himself with the intricate operation of his institution, and to become generally familiar with at least some aspects of the operations of the other four institutions. The latter was accomplished through visitations to the other institutions and through contacts with the interns from the other institutions. In addition, meetings of all the interns were held weekly, and at most of these meetings either a law professor or a member of the staff of the Law Enforcement Council was present. Fortuitously the culmination of the intern's stay in Bismarck almost coincided with an event of hopefully much import to criminal justice in North Dakota. That event was the Governor's Conference on Corrections during which all five interns were active participants.

The scope of the Criminal Justice Seminar is larger than just the summer's experiences. It consists of several stages. The first stage was a pre-internship program which involved orientation by a law professor at the law school prior to the stay at the institutions. The second stage consisted of the summer internship experience described above. The third stage involved post-internship discussions that culminated in the writing of this report. The fourth and final stage will be a law school course in which these five interns, along with eight interns who participated in a similar program involving five federal correctional institutions, will participate.

While it might seem more logical to have submitted a report discussing the various institutions after completion of the law school seminar, it was concluded that a timely report overrode any other considerations. It should be emphasized that in ten short weeks one is unable to develop an expertise in any of the multifaceted areas studied. What follows are observations only -- presented in the hope that they might shed some light on the problems, both real and imaginary, which prohibit greater cooperation and understanding between agencies making up the Criminal Justice System in the State of North Dakota.

OBSERVATIONS ON THE ROLE OF THE
BISMARCK POLICE DEPARTMENT IN THE
AREA CRIMINAL JUSTICE SYSTEM

by Robert J. Erickson

Introduction

The following report is based on personal observations gained during a ten week internship with the Bismarck Police Department. I have also attempted to provide an insight into the attitude of police officers concerning their role within the criminal justice system and problem areas within the system. During this time, I worked within the whole scope of police work, concentrating on the criminal aspects: patrol, the detective division, and municipal court. That I was able to operate freely within the department is a reflection of the department's openness. In fact, there is a conscious receptiveness to outside observers, which stems from what may be termed a feeling of alienation from the rest of the criminal justice system, -- conflicting goals, conflicting emphasis, conflicting modes of operation -- in the belief that as a person becomes more familiar with the problems of law enforcement, the more a person is able to appreciate the police perspective in viewing the criminal justice system. Because of the nature of the department, I was confined to observation rather than being assigned duties as were the others interns.

The Police Department

The Bismarck Police Department consists of a 56-man force

organized along quasi-military lines, and deployed in accordance with the "Organization Chart" found in Appendix I. In addition, a statement entitled "Organization and Policy of the Police Department" sets forth a comprehensive code of professional and personal conduct (See: "General Orders", Appendix II) and a detailed set of sanctions (See: "Punishment", Appendix III) which further distinguish the police department from a civilian organization. Besides exercising authority within the jurisdiction of Bismarck, each officer is also a sworn deputy sheriff to give a county-wide enforcement dimension to the police officer if required.

Assignments within the department are based on manpower requirements, and are at the discretion of the Chief of Police. In any event, a two year period as a patrolman is required to make an officer eligible for assignment to the detective division.

Continued assignment to a particular division, while insuring specialization within a facet of police work, also leads to compartmentalization and a lack of awareness of what officers in other divisions do. Partially motivated by a desire to reverse this problem, and partially motivated by manpower requirements, an inter-departmental short term assignment program has been created. The example with which I am most familiar concerned the placing of a patrolman in the detective division on a temporary basis, usually three or four months. First, this will enable the patrolman to acquire practical knowledge and skills in the field of criminal investigation which he normally wouldn't encounter in his regular duties, but which would

make him a more effective patrolman at the scene of a crime, and a greater asset to the detective division in the investigation of a crime. The second reason deals with work styles: the patrolman performs an active, visible role within the department, while the function of the detective in investigating a crime is not so readily apparent. There is a desire to acquaint the patrolman with the role of the detective in order to develop an appreciation for that role.

In its criminal justice function, the police department is basically a reactive organization, relying on inputs supplied either through complaints, other law enforcement agencies, or informants to set it in motion. Primary responsibility in this area falls on the detective division, which both conducts criminal investigations and serves as a liaison with other members of the criminal justice system. Secondary responsibility rests with the three patrol shifts. While the patrolling officer is certainly the most conspicuous member of the law enforcement and criminal justice systems, relatively little of his time is spent in actual crime-related work. His basic connection to the criminal justice system is limited to situations in which there is a possible crime in progress, in apprehending offenders, and later as a witness at the trial stage. Two other peripheral, but important functions of the general patrol related to its criminal justice role include presence and community relations.

An Overview

The police department is an agency providing the general

public's conception of the criminal justice system. A police officer is the first, most frequent, and sometimes the only representative of the criminal justice system to be encountered. To a great extent the performance of a police officer will shape the public's view of the system. In turn, the police officer is often the first to hear criticism of the system when it is unresponsive to public needs or desires.

In speaking of responsiveness, it is necessary to consider what the public expects from the police and the criminal justice system as a whole, and, in turn, what the goals of the police department are. The goals of the law enforcement agency and the expectations of the public appear to be quite close together: protection through deterrence, prevention of crime, and enforcement. Other goals such as reform of the criminal justice system or rehabilitation are goals only to the extent that they do not conflict with the basic motivation of the department in pursuit of its goal of protection.

A law enforcement agency cannot successfully attain its goal in a vacuum, but only as an integral part of the criminal justice system and with the cooperation of the public. Deterrence would be a goal that could be realized by the police department alone only to the extent that arrest for the commission of a crime represented a sufficient sanction to deter a potential offender. However, arrest is plainly not a sufficient sanction, and as a practical matter, any deterrence in the criminal justice system flows primarily from the state's attorney in his role of drafting the charges and conducting the prosecution, and from the judge's role in the sentencing function.

Therefore, the effectiveness of the police as a deterrent against crime is directly related to the extent that the prosecuting attorney and the judge are effective in deterring potential offenders through imposition of sufficient sanctions.

A similar difficulty is encountered with the goal of prevention, however here public cooperation is the essential ingredient. As a practical matter, most crimes do not occur in the presence of a police officer, and given the limited manpower and equipment available, this is not likely to change. Private citizens must therefore acquaint themselves with means to prevent crime as recommended by the police in order to deter crime, confound the commission of crime, and to become more useful witnesses.

The only goal of the police department that is completely within the power of the officer is that of law enforcement. However, this alone will not lead to the degree of public protection that a police officer feels it is his duty to provide, nor the degree of protection which he feels the public expects.

Crime

A few observations are needed to place the nature of the crime problem as it exists in Bismarck into proper perspective.

Who is the offender? First, the average offender ranges from his late teens to thirty. Second, he is a repeat offender who is often in trouble. Third, there is a hard-core criminal population within the city, comprised of between 30 - 50 people.

What kinds of crimes are committed, and how often?

Month	Cases Cleared	Larceny & Theft	Burglary	Auto*	Misc.	Unfounded Reports	Number Arrested
Jan.	22	9	6	3	4	1	23
Feb.	23	13	1	3	6	1	23
Mar.	39	13	3	4	19	1	40
April	11	2	1	6	2	0	3
May	13	5	1	4	3	1	4
June	30	10	5	8	7	3	28
July	<u>16</u>	<u>5</u>	<u>4</u>	<u>4</u>	<u>3</u>	<u>1</u>	<u>10</u>
	154	57	21	32	44	8	131

*includes all motor vehicles (cars, trucks, motorcycles)

The rate of cases cleared (an arrest; recovery of stolen goods, or both) to substantiated reports of crimes is slightly over 50%, with this percentage fluctuating depending upon the particular crime. It is not uncommon that the arrest of one person or one group will result in the clearing of several unsolved crimes. It should also be noted that the problems of law enforcement are compounded any time an investigation requires involvement of other law enforcement agencies outside of Bismarck. This is due to time factors, problems in communications, and sometimes the unavoidable need to rely on an agency whose personnel have a lower level of professional skills and training.

On a purely technical basis -- investigations, interrogation, development of a case, understanding criminal and constitutional law, utilization of informants, ability to cooperate with other law enforcement agencies, effective patrol, and organization -- the department is competent to meet the public need of providing protection against crime. The basic

requirement is to develop a more cohesive relationship with other non-law enforcement agencies, which comprise the criminal justice system.

Intercommunication

In its criminal justice role, the police department will come in contact with at least two separate court systems, two separate prosecuting attorneys, and several correctional agencies.

A. Municipal Court System. The great majority of all action which reaches the trial stage will take place in municipal court. While the primary workload consists of traffic offenses (most of which are disposed of by guilty pleas), other criminal misdemeanors (i.e. petty theft, indecent exposure, possession of marijuana) are also heard. While a drug possession case could be heard in county court, prosecution may take place in municipal court motivated by reasons of speedier disposition and stiffer sentencing.

Example: Municipal Court -- possession of eight marijuana cigarettes brought a 30-day jail sentence.
 District Court -- possession of approximately \$500 worth of assorted drugs brought a one year deferred sentence.

The case load of the municipal court has necessitated adding an extra afternoon session each week or two, mainly to dispose of DWI cases, in addition to regular Tuesday court sessions. A typical afternoon will find 5-7 cases scheduled.

The procedure followed consists of the prosecuting attorney

arriving about half an hour prior to court in order to read over the complaints, interview the arresting officer and any witnesses, and conferring with defense attorneys. Any plea bargaining will take place at this time. Most cases are tried.

It has been the general practice that the majority of the defendants who hire an attorney to contest their arrests on traffic violations are either acquitted or found guilty on a lesser included offense.

There are many reasons contributing to this low conviction rate:

(1) Time for trial is often several weeks after an infraction occurred. In this time, it is possible for the exact recollection of the arresting officer to slip just enough under cross-examination to fall short of meeting the burden of proof beyond reasonable doubt.

(2) Improperly drafted complaints. This may sometimes be the fault of the arresting officer. As an example, the ordinances contain several different careless driving violations, and by picking the wrong one, the officer may make it impossible to meet the burden of proof. Had "careless driving without regard for the safety of others" been charged rather than "careless driving endangering life," the evidence would have supported a conviction instead of a dismissal. The blame might also rest on the city commission for lack of care in drafting an ordinance upon which a complaint is based. An offense as "exhibition driving" is not sufficiently defined to advise the officer or the court of the parameters of proscribed conduct, which may lead to a dismissal on grounds of vagueness

in the questionable case. Another example is failure to bring the language of the ordinance within the scope of state enabling legislation. North Dakota Century Code prohibits possession of "alcoholic beverages" by minors. Local ordinance prohibits possession of "liquor" by minors. Because not all "alcoholic beverages" are "liquor", the variance caused a dismissal of charges against a minor for possession of beer.

(3) Attitudes of judge and prosecuting attorney. As sole trier of fact, the judge will of course look for any reasonable doubt. The prosecutor also works on the premise that because of the nature of the court, the defendant should receive the benefit of the doubt.

Example: In a shoplifting action, the store manager who made the arrest revealed flaws in the chain of evidence, and was thereafter questioned by the prosecutor along the lines of a defense attorney's cross-examination, then asked the defense attorney to move for a dismissal.

While a dismissal on any grounds is resented by police officers, the greatest criticism is reserved for judges and prosecuting attorneys. There is a feeling that their job of effective policework is being undercut by defects in the criminal justice system. The feeling becomes more pronounced as the gravity of the charge increases.

A major problem in municipal court is that of delay. A new scheduling procedure is required that will set not only the day but a definite time for trial. This would alleviate the practice of requiring several attorneys, arresting police

officers, and witnesses from spending an entire afternoon waiting for their cases. This summer, Judge Pearce issued a directive to eliminate postponements of actions once placed on the calendar, except for exceptional circumstances. Diligently applied, this will reduce inconvenience and lost man-hours within the police department by providing a reliable schedule of when an arresting officer must appear.

A current problem as of yet unresolved concerns the necessity of an expert witness representing the state toxicologist to verify the accuracy of breath-a-lyzer tests in each DWI arrest in which this device is used. Rather than requiring such testimony in each case, it would seem that toxicologist's certification of the alcoholic control solution, sent out each month to act as a fail-safe, would be proper verification. To prevent a loss of time and money, some sort of stipulation ought to be reached.

Report of Bismarck Municipal Court (July 1-June 30)

	1972	1971
Cases pending at beginning of period	-0-	-0-
Total cases filed since last report	<u>1282</u>	<u>1468</u>
- Cases Completed During Period -		
Bond forfeited -- no bench warrant issued	158	118
Trial by Court (uncontested)	1041	1285
Pleas of guilty or dismissed on motion		
Trial by court (contested)	83	65
Trial by jury	-0-	-0-
Total cases disposed of	<u>1282</u>	<u>1468</u>
Total Traffic Cases Disposed of	1123	1248
Total non-traffic cases disposed of	159	220
Revenue generated, fiscal 1972 ----	\$60,791.22.	
Uncollected Outstanding Cash Balance ----	\$5,000 - 7,000.	

(Report of Bismarck Municipal Court continued)

Such balance appears on the books at any given time, primarily the result of some indigence on the part of the offender which necessitates payment of the fine in installments.

B. State's Attorney. Relations with the state's attorney's office can be described as strained at best. It should be possible with both a full-time state's attorney and an assistant to minimize delays and increase efficiency. I have no personal knowledge of how that office functioned on a part-time basis, but the present operation is far from satisfactory from the police point of view.

The greatest handicap presented by the state's attorney is his lack of availability. The police officer is on duty or subject to call twenty-four hours a day, seven days a week. On at least two occasions during the summer, both the state's attorney and his assistant were absent from the city. Such absences have presented the problem of drawing felony warrants, and charging and arraigning the prisoner before a delay will jeopardize his constitutional rights. It is therefore recommended that either the state's attorney or his assistant be in Bismarck and subject to call at all times. The work schedule of a prosecuting attorney should be adaptable to the needs of law enforcement officers.

The second handicap is presented by the indifferent attitude taken by the state's attorney towards law enforcement.

Example: a parolee had committed a felony. The state's attorney recommended that his parole be revoked rather than prosecuting him for the recent felony.

The effect is to present an inaccurate picture of a criminal's record.

Example: on a Monday a member of the detective division approached the state's attorney concerning a possible search warrant for narcotics. Both photographic and informant evidence was gathered by Tuesday to support a warrant. An effort was made each day to contact the state's attorney in order to secure a complaint. The warrant was granted and the search took place the following Friday. Fortunately, the drugs were still on the premises. Although the affidavit supporting the warrant was based on positive proof, and not mere reasonable belief, the state's attorney would not authorize a day-night warrant, although the evidence would support such a warrant, and the probability of a more fruitful raid would be enhanced.

The efficacy of the office would be increased if the state's attorney would take an earlier, and more active role in police work. The purpose of this would be to (1) offer on the scene legal advice to police officers in the performance of their duties, this being especially true in the area of arrest procedures, search and seizures, and unusual criminal activity; and (2) more fully acquaint himself with the facts of each case which he will later be responsible for prosecuting.

Example: a particularly vicious assault and battery took place on a Saturday night. A suspect was arrested based on eye-witness identification.

A complaint was signed and arraignment took place at 4:45 p.m. on Monday. Rather than being ready to move immediately on Monday morning, the state's attorney had to spend the greater part of the day trying to familiarize himself with the case.

C. County and District Courts. An article prominently displayed throughout the police station bears the caption, "Soft Judges Make Hardened Criminals". This typifies the prevailing mood among police officers towards the court system, and with some justification -- the average person arrested for a felony is not a first time offender. While there is little objection to the exercise of judicial discretion in granting probation and deferred sentences for first offenders, such discretion is severely criticized when exercised in favor of a repeating offender for several reasons:

- (1) Recidivism is evidence that the judicially given "second chance" was not effective in reforming the criminal behavior of the offender.
- (2) It places an undue burden on law enforcement, requiring duplication of effort to repeatedly apprehend and prosecute the same person.
- (3) It places society at an unfair advantage by denial of the protection it deserves. As an example, a person was arrested for a crime of violence, was a parolee. Though only in his 20's, his record included other felony convictions, some in related violent crimes, for which he had received either probation, a deferred sentence, or a short prison term.

Such repeated criminality should have put both judges and parole board members on notice, and maximum sentences imposed. Such strictness would have saved an innocent citizen from grave harm.

(4) Law enforcement agencies are stripped of their deterrent force.

Prison System

There is little contact between the police department and the state penitentiary. However, the prison administration policies, programs, and personnel are held in low esteem. The area of closest interplay involves the apprehension of escaped prisoners. However, notice of the one escape occurring during my work in patrol wasn't received for 5 1/2 hours. Such delays should be eliminated.

Various programs such as work release, along with the parole system causes a high concentration of convicts in the Bismarck area -- estimated in excess of one hundred. This places an added burden on local law enforcements both in preventing crime and apprehending offenders when crimes do occur. The parole office and the prison administration should cooperate to furnish local police with information as to names and whereabouts of convicts living and/or working outside the prison. Efforts also should be made to revamp some of the rehabilitative programs to distribute the convicts more evenly throughout the state.

Conclusion

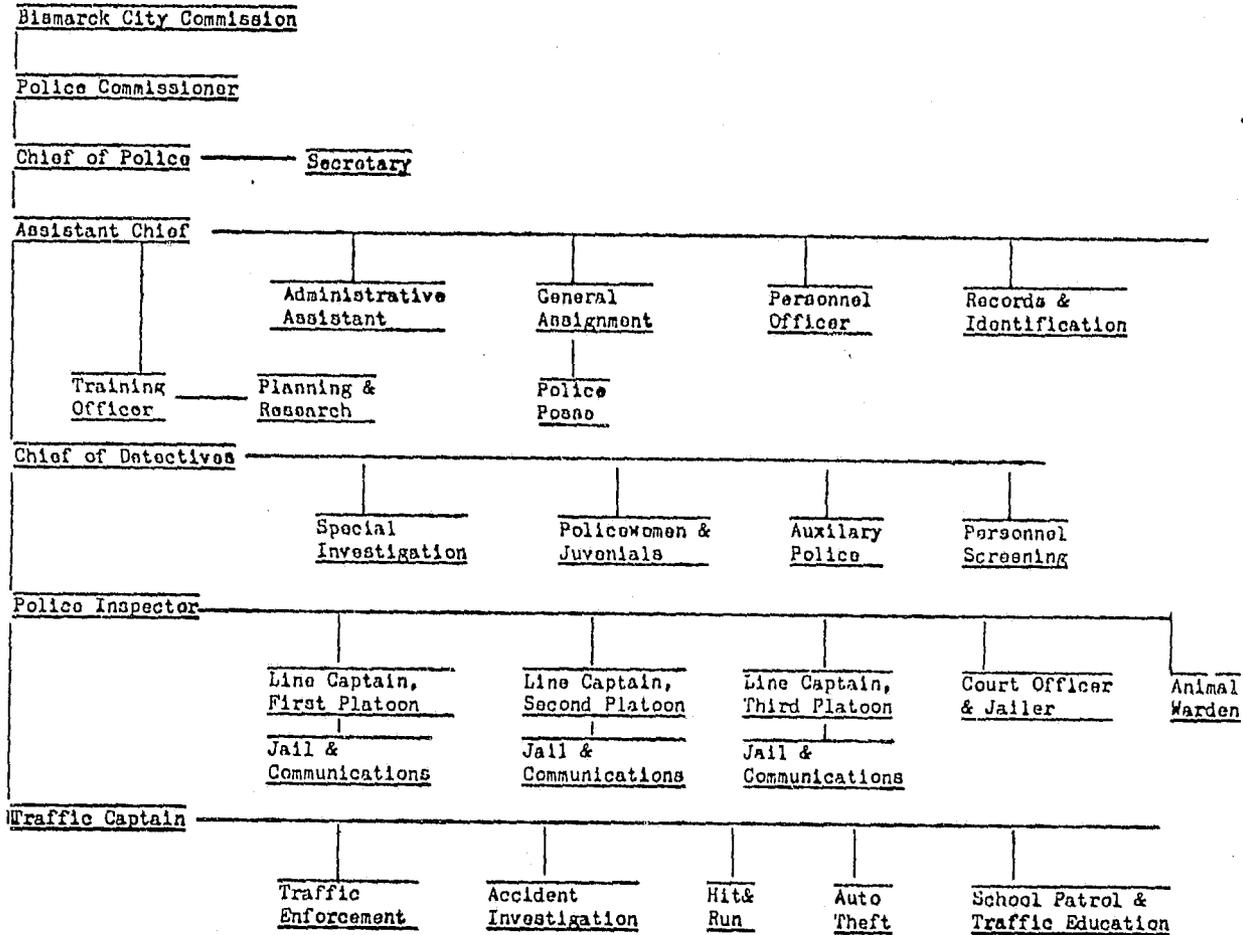
As a whole, the Bismarck Police Department is well-trained,

effective, dedicated and professional. The men I met and had an opportunity to work with enjoy being police officers, if not all of the unhappy duties. As was repeatedly stressed, their's is a commitment to people, and if an officer is unwilling to make such a commitment, he does a disservice to himself and the department.

Some police cadet program should be instituted to attract college graduates with an interest in police administration, a program analagous to the methods the military utilizes to supply junior officers. However, it is to be recognized that there is no substitute for experience in conducting investigations related to the criminal field.

A program should also be instituted to allow judges, lawyers, parole board members, and other interested persons to spend a similar ten week program working with the police department to gain an insight into police problems, public concerns, and the nature of a criminal. This is welcomed by the police department, and is a unique and meaningful learning experience.

**ORGANIZATIONAL CHART
BISMARCK POLICE DEPARTMENT**



APPENDIX I

APPENDIX II

GENERAL ORDERS

Familiarity with duties--patrolman must make himself familiar with every part of his post and vigilantly watch the description of every person passing his way.

Note objects of danger--shall note all obstructions and defects in streets and sidewalks from which accidents may occur, report them, and remedy them when possible.

Patrolling--Keep alert for unusual activities and investigate such. The greatest degree of familiarity possible without infringing upon a citizen's right to privacy. No information relative to a patrolman's duties or orders shall be communicated to anyone outside of the dept. HE SHALL FURNISH INFORMATION AND RENDER SUCH AID TO ALL PERSONS WHOM THE OFFICER MAY COME IN CONTACT DURING HIS TOUR OF DUTY.

Must not follow any other calling--members of the police force shall devote their full time and attention to the business of the dept. and are expressly prohibited from being employed in any other business without approval of the Chief.

Bail--no member shall become bondsman, or furnish bail, or assist in furnishing of bail for any prisoner or persons arrested.

Assistance in civil cases--members of the police force must not render any assistance in civil cases, except to prevent an immediate breach of the peace, or quell a disturbance actually commenced.

Use of batons and Pistols--Batons shall be used only in cases of self-defense, or of forcible or violent resistance to them in the discharge of their duties. Pistols are to be used in self-defense, and then only with great prudence; every effort should be made to apprehend an escaping felon without resort to weapons.

Rewards or Gifts--prohibited while on or off duty.

Correspondence--all official correspondence to persons outside dept. shall be first submitted to the Chief for his approval and signature.

Contracting debts--no officer shall contract a debt he cannot pay within a reasonable length of time. Neglect or refusal to pay a just debt will be grounds for reprimand or dismissal. (Conduct unbecoming an officer)

Politics--no member of the dept. shall take part in politics or elections except to cast his own vote.

Compromise--no officer shall directly or indirectly be concerned in making any compromise or arrangement between thieves or other criminals or other persons who suffered by their acts with a view of permitting the criminals to escape the penalties provided by law.

Publication-News media--no officer shall communicate information regarding the dept. or another officer which may hinder the process of law enforcement. The Chief, Ass't. Chief, and Inspector shall give such information as he deems necessary.

Transfers--all dept. members shall be subject to transfer to another division within the dept. as the Chief may deem necessary in the best interests of the dept.

Temporary duty--all members are subject to be called upon to perform some temporary assignment, and will not hesitate to do so when called upon.

Dept. Reports--all employees will complete and submit daily, before going off duty, an Officer's Daily Report covering all dept. activities engaged in for the date indicated. He will also complete all Complaint, Offense, Accident, and other dept. records before checking off duty. All follow-up investigation reports will also be completed. All reports will be submitted to officer in charge for approval before filing.

APPENDIX III

PUNISHMENT

Any member of the force may be punished by the Chief, at his discretion, either by reprimand, forfeiture, withholding pay for any offense, be reduced in rank, be dismissed for the force upon conviction or any one of the following offenses:

- Intoxication
- Acts of oppression or tyranny
- Cowardice
- Profanity
- Neglect of duty and general incompetency
- Any breach of discipline
- Neglect or disobedience of orders
- Any conduct unbecoming of an officer and gentleman
- Any legal offense
- Accepting bribes or receiving favors, rewards, or gifts as to condition of enforcement
- Absence without leave
- Failure to report known violation of law
- Immoral conduct
- Conduct injurious to public peace or welfare
- Sitting down while policing public dances, basketball games, etc
- Incapacity: mental, physical, or educational
- Neglecting or refusing to pay a debt contracted by the officer
- Visiting disorderly places while in uniform except for police business
- Attending political conventions as a delegate or wrangling over or discussing politics or religion around the station, or with fellow officers or citizens while in uniform on duty
- Violation of any criminal law
- Lounging on post
- Sleeping while on duty
- Absent without permission
- Insubordination or disrespect toward a superior officer
- Willful maltreatment of prisoners or any other person
- Gossiping about members of the dept., either about his personal character or conduct, to the detriment of any such member
- Publically criticizing the official action of a superior officer
- Communication or giving out information to any person concerning the business of the dept.

A LIMITED VIEW OF THE OFFICE OF
THE BURLEIGH COUNTY STATE'S ATTORNEY

by Michael R. Lochow

The Burleigh County State's Attorney's Office is located in the County Courthouse in Bismarck, North Dakota. In contrast with most state's attorneys' offices in North Dakota, the Burleigh County State's Attorney is a full-time state's attorney with no private law practice. The office is comprised of four personnel: Thomas F. Kelsch, State's Attorney; Dennis A. Schneider, Assistant State's Attorney; and two secretaries.

This office is responsible for providing advice to all county officials including but not limited to the County Auditor, County Sheriff, Superintendent of Schools, County Treasurer, Register of Deeds, and the County Nurse. The following offices or boards also may look to the State's Attorney for advice: Board of County Commissioners, Department of Social Services, County Park Commissioner, Board of Flood Irrigation, State Engineer, and Water Conservation and Flood Districts. Should any lawsuit be brought against Burleigh County or any particular Burleigh County official, the State's Attorney has a duty to defend that lawsuit.

The Burleigh County State's Attorney is required by law to sit on numerous boards in the county. These include the Commission to Review City Annexation, the County Board of Health, and in the absence of the Burleigh County Judge he

must sit on the County Mental Health Board and the Tuberculosis Board. The office is also required to act as an assistant to the County Juvenile Court, assist in the collection of child support and alimony, and represent petitioners in actions brought under reciprocal non-support agreements.

Records were kept by this office at one time to determine the number of telephone calls received daily and the number of monthly office visitors. This information had been requested by the Burleigh County Board of County Commissioners in their capacity of responsibility for budgeting of the county offices. This study revealed that an average of 50 telephone calls per day were received and that office visitors totaled 65 per month. It should be noted here that each visit of the 65 represents one problem of a group of people, whether that group numbers one or five. Also this total number of visitors per month excludes law enforcement personnel such as the County Sheriff, Bismarck City Policemen or North Dakota Highway Patrolmen, attorneys and county employees. It was also determined that this office is involved with approximately 25 reciprocal non-support agreement hearings per year.

Between the period from July 1, 1971, to June 30, 1972, the Burleigh County State's Attorney's Office handled 204 misdemeanor complaints. During this same period 99 felony complaints were also signed. Of this number of felonies, 49 of the files had been closed as of June 30, 1972, and 50 remained open. (See Appendix I and Appendix II)

required that the complainant can show that he has contacted the drawer of the check after it has been returned by the bank. This is usually in the form of a certified letter. If after giving the drawer a reasonable amount of time to make good on the check and he does not, then if the complainant will sign a complaint one will be drawn up. After the complaint has been signed this office will not dismiss charges even if the checks are subsequently made good. By so doing it is felt that the State's Attorney's office does not become likened to a collection agency in using the threat of criminal prosecution as a lever to force payment of the bad checks. There are a minority of business people who feel it is the function of the State's Attorney to collect these bad checks for them. And in refusing to issue complaints prior to notice to the drawer or to write certified letters to the drawer of the bad checks to effect notice, the State's Attorney is not performing his function as a public servant of the county as seen by this minority.

On the surface as well as could be determined over this ten week period, the office of Burleigh County State's Attorney and the Bismarck Police Department have a good working relationship. At this first stage it did seem that there were instances when members of the Police Department felt a complaint should have been issued by the State's Attorney and was not. Part of what added to this appearance of the good working relationship mentioned above was the effort on the part of the State's Attorney to explain to the police officers involved the reasons why a complaint was not issued in a particular case. As stated, on the surface this appeared to be effective.

This wide area of responsibility imposed upon the Burleigh County State's Attorney's Office allows it to come in contact with people from a variety of backgrounds, with a variety of problems. It is inevitable that in circumstances as these that problem areas should arise. There is no attempt to judge the rightness or wrongness of the actions of any of the parties involved in any conflict or to offer any solutions to any of these differences. But rather to merely present them as observed over a ten week period in hopes that they might serve to facilitate cooperation among the parties involved.

The fundamental scope of the office of the Burleigh County State's Attorney appeared divided primarily between the public and the Bismarck Police Department and further divisible into four particular areas. These four areas are the decision to prosecute, trial, sentencing, and incarceration. At each stage may be found sources of disagreement and misunderstanding. At the first stage, the decision whether to prosecute or not to prosecute involves in most cases business men or women desiring someone to be prosecuted for either no account checks or for issuing a check with insufficient funds. This fact is evidenced by the listing of misdemeanor complaints in the appendix which reveals that over one-half of the misdemeanor complaints issued between July 1, 1971, and June 30, 1972, were for these two categories of offenses. This States Attorney's office has established a definite policy in regard to the prosecuting of violators falling within the two above-mentioned categories. It is first

feels a particular sentence was too oppressive or the criticism of a police agency or prosecuting attorney if they feel the sentence was not harsh enough. It is possible for the State's Attorney through his sentence recommendation to create a rift between the law enforcement agencies but there was observed little of this over the ten week period evaluated. This again was probably lessened by the State's Attorney's willingness to discuss the problem of sentence recommendation with the people involved prior to his making of the actual recommendation.

In the area of both sentencing and incarceration, there did seem to exist a void in the process of justice regarding individuals falling into a category characterized by a low level of mental competency and frequent committance of non-violent crimes. These types of offenders are not sick enough to be committed to the State Hospital in Jamestown yet are not really criminal enough and have no hope of rehabilitation in being committed to a place such as the North Dakota State Penitentiary, thus the void. Many drug offenders fall into a somewhat similar group in that they do not fit the design of the usual criminal offender and thus there are not facilities available to adequately deal with the problem which they present to society.

Another problem evident involved the State Hospital at Jamestown. Oftentimes criminal offenders who had committed serious crimes were transported to the State Hospital for evaluation. Due to the number of these individuals who escape and/or were placed on convalescent leave, it seemed that the

In the past, it appeared there was some resentment by the Police Department toward the State's Attorney's policy of exchanging information with defense attorneys and in operating under an open file system. This allegedly was most evident when during the progress of one trial a confession appeared, the existence of which was not known to either prosecuting or defending attorneys but known only to the police officers involved. At the trial level, the Police Department seemed to prefer the operation of the State's Attorney as opposed to the city attorney. This may be caused because of the State's Attorney's role as exclusively a prosecutor while the city attorney also maintains a private law practice. Due to this difference it appeared to some members of the Bismarck Police Department that cases were lost in city court because of insufficient time to properly prepare. The State's Attorney's Office seemed to feel that some of these dismissals could be avoided if more investigation had been done prior to trial. The types of cases referred to here would involve crimes as a minor in possession of alcoholic beverages where reasonable doubt might easily be raised by the accused. With prior notice of the defendant's position concerning the incident, perhaps garnered at the time of the arrest, the prosecuting attorney could more effectively prepare for the trial in anticipating possible fabricated defenses.

Sentencing from the State's Attorney's viewpoint was not a large problem because in the end it is the judge who must bear the brunt of criticism if the accused or his attorney

State Hospital lacked facilities to adequately restrain offenders of this grouping.

As observed over this period there seemed to be excellent cooperation between the Office of the State's Attorney and the Office of Public Defender. There was, however, some resentment shown toward the Public Defender by others within the criminal justice process. Those who seemed to harbor this resentment were not opposed to the Public Defender's office per se. They were in favor of the accused being represented in court to assure a fair trial so that the purpose of our system of justice would be satisfied. The problem arose over how much diligence the Public Defender should exercise in fulfillment of his position. Since his office was created and funded by the state, some seemed to feel he should restrain himself somewhat. This attitude did not seem to show itself toward all defense attorneys but largely just toward the Public Defender because of his special association with the state.

One further point of friction involved members of the public who came seeking advice about matters involving county officials. This put the State's Attorney in the position where a conflict of interest might arise should action be taken by one of these inquirers against a county official. Because of this he could not advise the individual members of the public concerning the conflict and there was some dissatisfaction shown in some isolated cases.

In an effort to effect a good working relationship with other attorneys in Burleigh County, the Office of the State's

Attorney maintains a policy of declining to recommend other attorneys within the county when individuals are seeking legal advice and services in matters falling outside the scope of the State's Attorney's Office.

In total, the Burleigh County State's Attorney's Office appeared to have little trouble working with those people necessary to fulfill its obligation to the county. As mentioned above, there were isolated instances of conflict but from the information gathered over this limited period it seemed that conditions were, at worst, better than in the past and still improving. The public seemed to be the most difficult to deal with because of their overall limited contact with people working in law enforcement and hence their lack of comprehension. It is difficult to see how any program could be instituted to inform them and lessen any problem other than trying in each individual instance to help them understand the various legal positions and realities.

APPENDIX I

FELONY COMPLAINTS SIGNED JULY 1, 1971, TO JUNE 30, 1972

<u>FILE CLOSED</u>	<u>STILL OPEN</u>	
0	4	Assault with Sharp & Dangerous Weapon w/out Intent to Kill
0	1	Assault with a Deadly Weapon with Intent to Kill
0	1	Assault with Intent to Commit a Felony, namely, Rape
1	0	Assault on a Peace Officer
1	0	Accessory to Forgery
9	3	Burglary
1	0	Burglary when Armed
0	1	Carrying Pistol in Motor Vehicle w/out a License
2	13	Delivery of a Controlled Substance
7	6	Possession of a Controlled Substance
0	3	Attempted Escape from Prison
0	1	Escape from Confinement
1	0	Escape from Custody
4	4	Escape from Prison
0	1	Fraudulent Appropriation by Clerk
2	2	Grand Larceny
3	1	Larceny of an Automobile
1	0	Manslaughter
6	3	Obtaining Money (or property) by False Pretenses
1	1	Possession of a Forged Instrument
4	4	Uttering a Forged Instrument
1	0	Possession of a Pistol w/out a License

APPENDIX I continued

FILE CLOSED	STILL OPEN	
5	0	Receiving Stolen Property
<u>0</u>	<u>1</u>	Unlawfully Offering Sales of Sub- divided Lands
49	50	

Total: 99

APPENDIX II

MISDEMEANOR COMPLAINTS SIGNED - JULY 1, 1971, to JUNE 30, 1972.

- 1 Possession of alcoholic beverage by minor
- 8 Illegal possession
- 7 Wilful mischief
- 8 Failure to appear
- 72 NSF checks
- 31 No account checks
- 1 Misrepresentation in hunting license application
- 1 Assault & battery
- 1 Possession of pistol without license
- 1 Injury to public peace
- 1 Failure to remove fish house
- 2 Hunting protected birds
- 7 Failure to make application for mobile home tax
- 2 Attempt to take big game with rifle in area closed to hunting
- 6 Petit larceny
- 1 Registering in hotel under fictitious name
- 5 Assault & battery
- 1 Turning left at intersection
- 6 Delivery of alcohol beverage to minor
- 1 Making false statements to obtain benefits from N. D. Unemployment
- 1 Driving while license revoked
- 1 Driving while license suspended
- 1 Joy riding
- 2 Neglect of children
- 2 Disturbing the peace
- 1 Disorderly conduct
- 1 Contributing to delinquency of minor
- 1 Soliciting a ride
- 5 Evading hotel bill
- 1 Operating unlicensed or unnumbered motor boat
- 1 Fishing in illegal matter
- 1 Taking illegal size fish
- 2 Driving w/out due care
- 2 Care required (careless driving)
- 3 Open container of alcoholic beverage in motor vehicle
- 1 Disorderly conduct
- 1 Resisting a peace officer
- 4 DWI
- 2 Deposit of refuse
- 1 No license in possession
- 1 Establishing & maintaining a trailer court w/out a license
- 1 Aggravated reckless driving
- 1 Carrying a pistol in a motor vehicle without a license
- 1 Operating a motor vehicle in violation of license restriction
- 1 Failure to attach seal to big game
- 1 Fraudulent appropriation by clerk or servant
- 1 Permitting anyone to operate motor vehicle without current number plates

OBSERVATIONS OF
THE ATTORNEY GENERAL'S OFFICE, 1972

by Russell J. Myhre

The goals of the Attorney General of the state of North Dakota, like the goals of the other state agencies which were examined in this study, include rehabilitation, punishment, deterrance and protection. However, these goals must be examined from an administrative, regulatory, and political point of view to place them in a proper perspective.

The duties of the Attorney General are drawn by statute, and there is little derivative power given to the Attorney General outside the statutory functions of the office. These duties and powers are outlined in Chapter 54-12 of the North Dakota Century Code, although other duties and powers are given in conjunction with various provisions throughout the Century Code. The first section of Chapter 54-12 summarizes most of these duties:

The Attorney General shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party;
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer;
3. Appear and defend all actions and proceedings

against any state officer in his official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the Attorney General may determine which officer he will represent and the other officer may employ counsel to represent him;

4. Consult with and advise the several state's attorneys in matters relating to the duties of their office;

5. Attend the trial of any party accused of crime and assist in the prosecution when in his judgment the interests of the state require it;

6. Consult with and advise the governor and all other state officers, and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively;

7. Prepare, when necessary, proper drafts or contracts and other writings relating to subjects in which the state is interested;

8. Give written opinions, when requested by either branch of the legislative assembly, upon legal questions;

9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds;

10. Prosecute corporations, when necessary, for failure or refusal to make the reports required by law;

11. Keep in proper books a register of all cases prosecuted or defended by him, or his assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to him as provided by law, and deliver the same to his successor in office;

12. Keep in his office a book in which he shall record all the official opinions given by him during his term of office, such book to be delivered by him to his successor in office;

13. Pay into the state treasury all moneys received by him for the use of the state;

14. Serve as superintendent of criminal identification and perform all duties incident to the proper and efficient conduct of that office;

15. Attend to and perform any other duties which from time to time may be required by law;

16. Appoint the state fire marshal and supervise the operation of the state fire marshal department;

17. Give written opinions, when requested by the governing body or city attorney of a city

in the state of North Dakota.

The Attorney General, in the 1968-1970 biannual report of the Attorney General to the Governor, cites three main functions of his office. First, the Attorney General is to serve as a legal advisor to all state officers, state departments, boards, and commissions, and to represent generally the state in all cases in which it is an interested party. Second, he is to act as the chief law enforcement officer for the state of North Dakota. Last, he is to serve in an executive and administrative capacity on several boards and commissions. However, as a practical matter, the Attorney General functions as a clearing house for legal problems throughout the state.

There are several misconceptions about the functions and powers of the Attorney General. One of the most common misconceptions is that the Attorney General can give legal advice to any citizen of North Dakota. Legal advice upon a specific problem cannot be given to private citizens; the Attorney General can only give legal advice to certain public officials as provided by statute under Chapter 54-12 of the North Dakota Century Code. However, a certain amount of public relations work goes into answers to these citizens. The standard practice in handling these requests for legal advice by private citizens is first to inform the individual that the Attorney General cannot give legal advice to individuals, but to give the party some general information upon the subject, which sometimes results in extensive research upon difficult and complex subjects. This general information often answers the requesting party's question.

A sizable portion of the incoming flow of people and mail consists of requests for general information upon law related issues. These requests are either channeled into information-dispensing agencies, such as the Combined Law Enforcement Council, or handled within the office.

Another misconception stems from the belief that because the Attorney General is considered the chief law enforcement officer in North Dakota, he may exercise considerable power to enforce all the laws of North Dakota. Actually, the power of the Attorney General is restricted by statute to "institute and prosecute all cases in which the state is a party." N.D.C.C. 54-12-02. This serves to limit his ability to prosecute cases which may be for the general welfare of the citizens of North Dakota but may not be in the interests of the state. The actual ability of the Attorney General to enforce the laws of the state is similarly limited. He is to investigate in any county in the state and enforce the laws, but first, he must declare it necessary for the Attorney General to investigate in a particular county for the successful enforcement of the laws in that county; second, he must be requested to do so by a majority of the members of the board of county commissioners of that county; and third, he must be petitioned by twenty-five taxpaying citizens of that county. N.D.C.C. 54-12-03. Failure of any one of these requirements prevents the Attorney General from making an investigation in a certain county in the state unless it may fall under his duties mentioned above. However, the Attorney General may investigate and prosecute any criminal cases in which a judge of the district court so demands in writing.

As a practical matter, the Attorney General handles few criminal cases. During the ten week observation period, only one criminal case was in the process of being prosecuted by the Attorney General and only one hearing for a writ of habeas corpus was argued by the Attorney General. The bulk of criminal cases are tried by the state's attorney in each county; only a few are turned over to the Attorney General. The criminal case mentioned above involved offense which was quite volatile in the county concerned, and for this reason the Attorney General was called in to handle the case. Since the observation period, an attorney has been hired to help coordinate activities between the state's attorneys and the Attorney General.

Often, the various state's attorneys will request information concerning questions and problems involving various cases, statutes, and ruling pursuant to N.D.C.C. 54-12-01(4). On the whole, the Attorney General feels that there is a good working rapport with the state's attorney upon legitimate questions and problems.

However, there does seem to be a problem with a small percentage of state's attorneys who feel that they can use the Attorney General as a research agency. Rather than doing even obvious and superficial research upon a question, these state's attorneys merely hand the problem over to the Attorney General. Also, the Attorney General feels obligated to step in to handle any case which is in the least bit difficult where a few state's attorneys are concerned because these state's attorneys are felt to be extremely incompetent.

Relating back to the duty of the Attorney General to give written opinions on all legal or constitutional questions relating to the duties of state officers, there seems to be a good deal of misapprehension about this function. The Attorney General should only give opinions upon apparently vague, questionable, or conflicting cases, rulings, or statutes. There is a certain amount of abuse of this privilege by a few officials. Non-lawyers are easily forgiven because it is assumed that laymen would not know about the published copies of the Attorney General's opinions and other source materials which might provide an answer to the particular problem. Abuse of this privilege by state's attorneys, who are, of course, lawyers, causes an inordinate amount of time researching previous opinions and gathering materials to be sent to the requesting state's attorney.

The regulatory function of the Attorney General is embodied in a licensing department, which issues annual licenses for retail beer and liquor, retail and wholesale cigarettes and tobacco, billiard rooms, bowling alleys, coin operated devices, theatres, dance halls, private employment agencies, private detective agents and agencies, and hearing aid dealers. To insure compliance with licensing statutes, the Attorney General is authorized to appoint inspectors to make a field check on these various licensable matters and areas. At the present time there is a chief inspector who has a small number of deputy inspectors. The chief inspector and each deputy inspector has a designated part of the state to inspect periodically. One agent from the Crime Bureau is also assigned

licensing inspection. The licensing department employs two clerks. The rush seasons are usually June, when the cigarette license must be renewed, and December, when the liquor license must be renewed.

An assistant attorney general advises the licensing department. He also conducts administrative hearings regarding suspension or revocation of retail beer and liquor licenses. In addition, he is the legal advisor to the North Dakota Board of Hearing Aids and Fitters.

The Attorney General is chairman of the North Dakota Law Enforcement Council, which can make recommendations for rules for operation and maintenance of county and municipal jails. All county and municipal jails are to be inspected annually, and recommendations for needed changes are made to the governing board of the cities and counties involved.

The office of the Attorney General is elective, and as such, it is a political office. The office carries with it positions on numerous policy-making boards and commissions, which include but are not limited to the following:

- Auditing Board
- Board of Pardons
- Board of University and School Lands
- Budget Board
- Civil Defense Council
- Combined Law Enforcement Council
- Highway Traffic Advisory Committee
- Industrial Commission
- Judicial Council
- Laboratories Commission
- Natural Resources Council
- North Dakota Patrolman's Retirement Board
- Securities Board of Review
- State Bonding Board.

As may be seen by the diversity and breadth of these boards and commissions, the Attorney General has a broad policy-

making power on the state level. As a member of these boards and commissions, the Attorney General acts in an executive, administrative, and legal capacity.

The various functions and duties of the office of the Attorney General are broken down between the Attorney General and his assistants. The Attorney General is limited to five assistant attorneys by statute, but he may appoint as many special assistant attorneys general as are required. The total number of special assistant attorneys general were not ascertained during the study period, since they work outside of the office proper. However, it was determined that three worked with the highway department, and three worked with the labor department. Since the study period, two more have been appointed to help with various aspects of legal work in the Attorney General's office, and a third has been appointed at the University of North Dakota Law School to advise the consumer fraud aspects of a clinical education program for law students. To assist the Attorney General and his staff, the office has three secretaries, a clerk, an auditor, and a special investigator, who also functions as an administrative assistant.

The Attorney General acts as chief executive and administrator of the office. Each assistant attorney general handles special areas, *i.e.*, education, labor, Unsatisfied Judgment Fund, consumer fraud, etc. However, each assistant attorney general may also work in general areas, and two assistants have their main work load in a general area. One of these assistants handles mainly "rush" assignments which must

be handled immediately. When a special or important case comes up, the entire office may be required to stop work on all but a minimal case load to assist in that case.

Policy determinations within the office are a democratic function. The Attorney General uses his assistants as advisors, and in areas of importance or concern, the entire staff will meet and discuss the problem. Letters or opinions written by a member of the staff are read by the other members of the staff, and each member may concur or dissent. In case of a major dissent, the author of the opinion and the dissenter will meet and attempt to reconcile their views. Each letter or opinion must carry the approval of at least three members of the staff. All letters and opinions are kept on file, and all further correspondence and legal opinions are kept consistent with previous statements of policy. Any departure from previous opinions are duly noted in the overruling opinion.

The work load of the Attorney General's office consists mainly of issuing opinions, writing letters, handling legal problems, and acting as an ombudsman. There are also meetings, hearings, and conferences to attend, as well as discussions and encounters with legislators during the legislative sessions. There is also a certain amount of public relations work to be done.

There is a shortage of staff and a lack of adequate space in the Attorney General's office. The three additional special assistant attorneys general may alleviate some of the work load of the office, but they all work outside the office proper, and there is a need for more personnel within the of-

fice. The amount of available space is extremely limited and restrictive of growth within the office itself. Within the legal framework of the office of the Attorney General, there is a need for close physical proximity to aid in the coordination of activities, but as it is, files for various areas, such as the files for the Unsatisfied Judgment Fund, are in another office on a different floor of the Capitol Building.

While appointment of special assistant attorneys general may lighten the case load of each person within the office, there is a need for para-professionals to work in the areas of research, public relations, and general paperwork. There is also a need for investigative officers to work more closely with the Attorney General. The latter problem shall be examined more closely below.

Presently, the Attorney General is responding well to efforts to coordinate and reorganize the structure of the various agencies of which he is the head to utilize better present funds and facilities and to present a more effective and efficient law enforcement program within the scope of his powers. One change which has not been effected but has been favorably received by the Attorney General is a proposal to reorganize and consolidate the functions of the special investigator, the licensing inspectors, and the Crime Bureau inspectors under the special investigator, who would direct the total investigative aspect necessary for the proper execution of the duties of the Attorney General. The purposes of this proposal are to eliminate unnecessary duplication and over-lapping of functions, to bring all the investigators and inspectors operating through

the Attorney General under a central director responsible to the Attorney General, and to provide more efficient investigation. Investigation of cases which are brought under the authority of the Attorney General is an essential part of handling any case, but it has only been within the last two years that a special investigator has been used to investigate cases in which the Attorney General is concerned. Before the investigator was employed through federal funds, all investigative functions were left to local police departments. Since the quality of the police varied throughout the state, the quality and accuracy of the information varied considerably. The one investigator is used for all cases in which investigation is required; the major areas of investigation are consumer fraud claims and Unsatisfied Judgment Fund claims. Approximately six working days out of the month are spent traveling throughout the state by the special investigator. The investigator interviews the parties concerned, takes interrogatories, depositions, and other statements under oath, does on-the-scene investigation; checks the reports of investigating policemen and interviews these policemen; and checks other pertinent information. The investigator also has a law degree, and he advises the assistant attorney general with whom he is working. He also handles and investigates all initial complaints in the area of consumer fraud. For further information, see the appended materials on consumer fraud.

Other efforts are presently being made to bring about more efficient use of tax money by streamlining office paperwork and by introducing new and more efficient forms. More-

over, claims against the Unsatisfied Judgment Fund are being defended whenever possible through the efforts of the assistant attorney general who acts as counsel for the fund and through the efforts of the special investigator. Further efforts are being made to coordinate all such activities with the auditor in the office.

Admittedly, not all areas or aspects of the Attorney General's office could be explored in the relatively short ten week observation period, such areas as the Crime Bureau, labor, and education. In other areas, acquaintance with the problems involved could only be made on a superficial level because of the time limitation. Some areas, such as legislative research and other activities during the legislative sessions, could not be examined because the legislature was not in session during the observation period, and some problems could not be examined because no cases arose in that particular area during the observation period. The office of the Attorney General should be examined more thoroughly in other areas to discover further problems, misunderstandings, and misconceptions.



PAUL M. SAND
FIRST ASSISTANT
JOHN E. ADAMS
GERALD W. VANDEWALLE
LYNN E. ERICKSON
ROBERT P. BRADY
ASSISTANTS

APPENDIX I
STATE OF NORTH DAKOTA
HELGI JOHANNESON
ATTORNEY GENERAL

BISMARCK, NORTH DAKOTA 58501
JUNE, 1972

191 FURNACE
324-2210
DORIS KREIN
CHARLOTTE LOGAN
ARDYTH LANGE
SECRETARIES
SUSAN ALBERS
CLERK
JOHN R. ERICKSON
AUDITOR

CONSUMER PROTECTION DIVISION

<u>New Complaints Received</u>	<u>Complaints, Out of Scope or Unfounded</u>	
180	83	
<u>Files Established</u>	<u>Files Closed</u>	<u>Files Pending</u>
97	101	68
<u>Lawsuits Filed</u>	<u>Lawsuits Completed</u>	<u>Lawsuits Pending</u>
NONE	NONE	NONE
<u>Monies Recovered for Complainants</u>	<u>Costs Recovered for State</u>	
\$ 94,731.28	NONE	
<u>Year to Date *</u>		

<u>New Complaints Received</u>	<u>Complaints, Out of Scope or Unfounded</u>	
1,058 *	456 *	
<u>Files Established</u>	<u>Files Closed</u>	<u>Files Pending</u>
692 *	534 *	68 *
<u>Lawsuits Filed</u>	<u>Lawsuits Completed</u>	<u>Lawsuits Pending</u>
2 *	1 *	1 *
<u>Monies Recovered for Complainants</u>	<u>Costs Recovered for State</u>	
\$ 556,999.70 *	NONE *	

Respectfully Submitted JUNE, 30, 1972

* Figures October 1, 1971 to date.

By: CURTIS B. HANSEN

Curtis B. Hansen

APPENDIX II

June 1, 1972

Ms. Annie Laurie Gunter
Consumer Protection Officer
Executive Department
Montgomery, Alabama 36100

Dear Ms. Gunter:

Your letter of May 22, 1972, has been referred to my attention.

In the way of a bit of background, our Office of Consumer Fraud was established within the Attorney General's Office. From its inception in 1965 to September of 1971, all items of Consumer Fraud were handled on a hit and miss basis by whatever attorney had the time to spend without neglecting his other duties. We had no record keeping of any type and no one developed any expertise in this area. In September of 1971, I was assigned the project of establishing an effective, but not costly operation in the consumer fraud area. I now work full time in Consumer Fraud, and we have the services of one secretary on a part time basis and use Robert Brady for consultation and trial work only. During the month of April, 1972, we received over 200 complaints, dismissed about 70 of these and settled 104 with a dollar recovery of \$91,888.85. As you can see, the system is working very well.

I am enclosing copies of the forms that we use that are unique to this area. I will attempt to explain the flow and processes involved.

When a complaint is received, by telephone, letter or any other means, we almost always send the Complainant the Consumer Complaint Form. When we receive this form back, it is reviewed and a determination is made as to whether or not it is well founded and as to if it falls into the area of our jurisdiction. If the complaint appears to be unfounded we dismiss it, if it is well founded but not within the area of our jurisdiction, we either return it to the complainant or forward it on to the proper authority.

Ms. Annie Laurie Gunter

2

June 1, 1972

If the complaint does appear to be well founded and within our jurisdiction, we establish a file. A number is assigned to the file, this number is the heart of our filing system. A typical number would be as follows: #2-MV-RW-0446. Now the first digit just refers to the year that the complaint was received (2-1972 3-1973 etc.). The next two letters refer to the class of the complaint, in this case the complaint involved a motor vehicle, thus MV (we use MH for mobile homes-HA for home appliances-BM for book and magazine sales-BL for building or land sales or improvements-HB for health and beauty aids etc.) I am sure that this would have to be modified for any given area. The next two letters stand for or indicate the reason for the complaint, in the example cited it would involve a repair or warranty problem or RW (we use FD for failure to deliver-DM for defective merchandise-DA for deceptive advertising-US for unsatisfactory service or installation-DP for deceptive pricing etc.) Again I am sure that this would have to be modified to fill the needs of the area involved. The last four numbers are assigned in order and are for filing and record keeping purposes only.

After this number has been assigned a hardback file is made up as the one enclosed. Then the three part form is filled out with the complainant's name, the respondent's name and the file number. This three part form is used for filing (in one file by the complainant's name, this is the white copy) (in one file by the respondent's name, this is the yellow copy) (and in one file as a follow up, tickler or memory jogger, this is the pink copy). This form is also used to record the activities and/or status of the file. I might add here that this seems like a lot of work to go through just to establish a file, but we have found through experience that it is well worth the effort as it makes filing, finding, record keeping and follow-up an easy task. After the file is closed, the date, complainant's name, respondent's name, file number and dollar amount recovered is logged into a journal, by date closed. The pink copy of the three part form is attached inside the hardback. The white and yellow copies are filed as before in a separate file, one by complainant's name and one by respondent's name. We do have one other card file and in that we put these copies for any files that are out of the office for any reason, in this way we can keep track of the files or find out who has them even if they have been assigned out to someone else. We have two large files for the hardbacks one for the open files and one for the closed files, both filed by the last number.

Ms. Annie Laurie Gunter

3

June 1, 1972

After the file has been established, we determine if we have all of the information that we need from the complainant or if we feel that for some reason we should have the information furnished by the complainant in affidavit form. If we need either of these we get them next.

The next step in the process is to contact the respondent, sometime we use a form letter for this and at times we write individual letters depending on the particular file. After the information is received back from the respondent we again review it and if we feel that we have sufficient evidence to support a successful action, we either write the respondent and advise him that we feel that he should settle the matter or that we will be taking legal action or call both parties in for a hearing, at which this determination is disclosed and argued. At this point the vast majority of most of the complaints are settled.

I think that from this point on each file has to be handled on its own merits.

On each Monday morning the file is checked that contains the pink cards and all of those files that have been diaryed for follow that week are pulled and all three parts of the form are pulled and attached to the file, these files and the complaints that come in during that week are the work load for the week.

I am very sorry to say that due to the lack of funds we have been unable to have printed any educational or informative type literature. We do speak to many civic groups and college or high school classes and have aided many Home Economics teachers in the preparation of materials for them to include in their curriculum.

If I can be of any assistance in any way, please feel free to contact me at any time. If you would like to come up and take a first hand look at our operation, our files and office will be open to you.

Sincerely,

C. B. "Curt" Hansen
Special Investigator

CBH:ah

Enclosure

OBSERVATIONS ON THE
NORTH DAKOTA INDUSTRIAL SCHOOL
by Virginia Powell

In order to assess the effectiveness or success of a correctional institution, first it is necessary to examine the goals of the institution. Therein lies a problem, however, for often there is no statement as such setting out the goals of the institution, and there may be considerable disagreement as to what the function of a correctional institution should be. Opinions of members of the community, officials of the institution, law enforcement personnel, and those involved in the judicial process may be quite diverse. To some, a correctional institution is a place where those who break the law are punished, and nothing else. Some see institutionalization as a deterrent to potential lawbreakers, and others see it as a place of detention, a means of keeping undersirable or dangerous elements of society segregated from the rest of the community. Still another view of corrections is that its function is rehabilitation, that is, that an institution should be a positive experience for the offender. To many, a correctional institution should serve a combination of these functions.

In the area of correctional institutions for juvenile offenders, the same diversity of views as to the function of the institution is present; however, it is perhaps easier to talk in terms of rehabilitation when one is dealing with young people than it is when one is dealing with an older offender. An

adult offender may have established a pattern of behavior or life style which has become more and more rigid over a period of years, making change difficult. With the juvenile, an attempt can be made to keep him out of the pattern of anti-social behavior before he has become locked into it. This attempt is being made by the North Dakota Industrial School, N.D.I.S., an institution for adjudicated delinquents within the State of North Dakota. The general approach of N.D.I.S. seems to be rehabilitative in nature, with a recognition that an adolescent who is committed to the institution has the potential to become a law abiding adult if he is given the proper help. The physical plant at N.D.I.S. is in keeping with this attitude towards its function. There are no walls around the institution, no guard towers, no barbed wire, no cells. But rather there are dormitories and other buildings in a pleasant landscaped setting.

Rather than being only a place of detention for juveniles, N.D.I.S., through its treatment program, is a place where change can be effected. The general treatment program consists of a positive peer culture approach. Upon his arrival, each incoming student is assigned to a group, which consists of approximately ten other students. The dormitories are set up to provide for a group living situation, and contain large rooms in which ten students may live together comfortably. There is a common lounge area, kitchen, and dining area. Group members not only live together, but as much as possible they work together on the various duties that they have, such as kitchen cleanup, work detail on the grounds, laundry, etc. They also

have recreation and school together. Every day, usually for approximately an hour and a half, each group has a meeting, at which their group leader, a staff member, is present. The structure is designed in such a way that peer influence is the vehicle of change. The aim of having students live, work, and play together is to create an atmosphere of interaction in order to facilitate group integration. Often with delinquent young people, there is a basic lack of trust, and suspicion which may cause them to resist the sharing and care that is a necessary component of the group process. The close proximity in which group members find themselves is geared to counteract this basic distrust and fear of becoming close, and encourages communication of private thoughts which in the past made them more vulnerable to being attacked rather than helped.

Often these adolescents have a very poor self-image, and can see no reason to alter their present pattern of behavior, no hope that their lives may hold anything better. This initial lack of motivation is countered in the group method with the concept of doing things to help one another. Withdrawal from the group or resistance to it is interpreted as a lack of interest and care for the other group members. Group members are responsible for each other, an obvious example being that if one of the students shows a desire to go A.W.O.L. from the institution, it is up to his group members to help him handle whatever stress may be causing his need to escape.

In group meetings, the students, under the guidance of the group leader, are encouraged to talk out their problems and

day to day frustrations. Instead of allowing hostilities and feelings to build up inside, the students are encouraged to express their feelings. In order for the adolescents to feel free to expose their inner thoughts and emotions, an atmosphere of trust (which has been fostered by the group living, work, and play situation) must exist within the group.

The process of rehabilitation at N.D.I.S. is measured in terms of "stagings". Shortly after a student arrives at N.D. I.S. he attains stage one status. With the help of his group members, he sets goals for himself, such as completing certain school work or modifying objectional behavior. When the student, his group members, his group leader, his teachers, his building officers, and other staff members, feel that he has achieved these goals, he "graduates" to stage two. The process continues through four stages and release from the institution, each step accompanied by an increase of privileges. The hope is that by the time a student is ready to leave N.D. I.S., he has learned some things about himself and others which will better equip him to cope successfully with life outside the institution. Transition for the student from institutionalization to life in the community may be quite difficult, however, for the student must leave the security of the institution and face the problems on the outside. The student has probably become quite close to his group members and perhaps too dependent on them. Group leaders at N.D.I.S. are aware of this problem of transition, and an attempt is made to prepare the student for the necessity of continuing the progress he has made without the support of his group members

and group leader. But, the problem of dependence on the security within the institution is still very real.

Another problem facing delinquent juveniles to which N.D. I.S. has taken an innovative approach, is in the area of classroom learning. Most of the students arriving at N.D.I.S. have experienced difficulty within the traditional school system. Many have failed grades and some have dropped out. In recognition of these problems, N.D.I.S. has adopted a program of individualized instruction. After diagnosis by the teachers of the student's work and needs, the student starts his program of learning. He works more or less at his own pace and uses reference materials, written and audio-visual. After completion of a prescribed unit of work in a particular subject, the student again enters into an evaluation with the teacher. Based on the evaluation, the teacher again starts the cycle of diagnosing, prescribing, and evaluating. The school tries to maintain a 10-1 student-teacher ratio. With this type of school program, students who have felt in the past that they were stupid and always behind, need no longer experience this feeling of inadequacy. With some stresses removed, and with a greater degree of freedom to choose both the work he does and the pace at which he completes it, the student may be more motivated and accomplish more than he has in the past. Of course, guidance from teachers is essential, and at N.D.I.S. the ratio of students to teachers does seem to leave the teachers with enough time to provide the individual attention necessary. Naturally enough, there are some students who waste

a great deal of time and do not work at the pace of which they are capable. Here once again, the group is responsible for its members and the group in conjunction with the school attempts, not always successfully, to prod the dilatory student. Upon completion of prescribed units of work, the student receives academic credits, which will be transferred to the school the student attends upon leaving N.D.I.S. Problems sometimes occur when the student who has become accustomed to the individualized approach to learning at N.D.I.S. returns to his community and re-enters a traditional school system; he often finds adjustment difficult. Despite problems that exist in this relatively new system of learning at N.D.I.S., it does seem to be very well suited to the correctional setting.

If the aim of N.D.I.S. is in fact rehabilitative in nature, then one important aspect of the program at the institution must be the re-integration of the offender into society when he leaves the institution. Great difficulties exist in this area, because often there is a close correlation between the environment from which the student came and the behavior which got him into trouble. Is he, upon release, to be sent back to that very same environment? And if not, then where is he to go? At N.D.I.S., an employee of the State Youth Authority works at the institution to deal with the problem of placement. There is also a vocational rehabilitation counselor at N.D.I.S. two days a week who attempts to place students in suitable jobs or training programs. No student at N.D.I.S. is simply released and left completely to his own devices. Jobs, schools, training programs, foster homes, etc. are made

available to the student when possible, often on a trial basis. An effort is made to ascertain where the student's interests and aptitudes lie, and to place him accordingly. It would seem, however, that a shortage of suitable placement alternatives makes this vital phase of re-entry into the community difficult.

In assessing the interrelation and attendant communication of the five agencies observed in the ten week period, this theme of alternatives to incarceration seemed to recur in connection with all five of these law enforcement branches. In talking with judges, lawyers, and officials, many expressed a dissatisfaction with institutionalization as the primary means of dealing with all offenders. Particularly with juveniles, a desire was expressed by many that there be alternatives to the home environment other than incarceration. Often a student may be committed to N.D.I.S., not because the institution may meet his need for help, but because he is a problem and there is nowhere else to send him. Half way houses, group homes, and foster homes seem to be inadequate at this time. Although N.D.I.S. serves a rehabilitative function in the corrections process and may be a positive experience for some juveniles, it is still by its very nature an institution, with a population in excess of 100 young people. It is unfortunate that juveniles whose most serious offense may consist of running away from home or ungovernable behavior must be introduced to incarceration at such an early age, perhaps establishing a pattern for life which is difficult to break.

It is this observer's impression that N.D.I.S. is a progressive institution, whose staff members evince a genuine concern for the young people committed to the school; however, there would seem to be a need for more alternatives to incarceration for juvenile offenders in North Dakota.

OBSERVATIONS OF A SUMMER AT
THE NORTH DAKOTA STATE PENITENTIARY

by James S. Hill

Introduction

The State of North Dakota maintains one adult maximum security institution which is responsible for the safekeeping, care, protection and rehabilitation of all persons committed to the prison. This is perhaps the final phase of the criminal justice process in this state at present. With this consideration, it becomes of paramount importance to maintain an effective and functional institution to succeed in the goals of such process and to prevent the prison from becoming merely an impetus to crime.

The purpose as described in the Century Code is "for the punishment and reformation of offenders against the laws of this state" (N.D.C.C. 12-47-01). If we are to have such an institution it must be run in the most efficient and professional manner which would insure the success of such goals. There may also be a question of whether these "purposes" have or are being achieved and more basically whether or not they should be the goals of the institution.

I. Organization of the Institution

- A. One of the basic problems at the State Penitentiary is the absence of any clear, concise or effective chain of command. Without such plan the institution is robbed of basic system efficiency which is required

of any organization at any level. A definite chain must be established in which the responsibilities and authorities of each staff member should be specifically delegated. At present the institution is operating without such necessary communication.

B. Observations in Administration

1. The warden's own communication with his officers is instrumental in the smooth and safe operation of the prison. He can easily undermine the stability of the institution through indecisiveness, cautiousness and a determination to please everyone. By statute his duties are broadly outlined. "He shall superintend and be responsible for the policing of the penitentiary and the discipline of the inmates" (N.D.C.C. 12-47-11). It may also be noted he is the only officer appointed by the Director of Institutions; all other officers and employees are to be appointed by the warden, subject to approval of the Director and hold office at the "pleasure of the warden" (N.D.C.C. 12-47-06). The warden should know every action taken by his staff since as it is seen he is ultimately responsible for their conduct. If he is unaware of these particular actions he is unable to sufficiently support or reject them which naturally reflects the competency of his entire staff.

2. The warden's office should be the initiator of primary institution programs and should in all cases be directly involved in their operation. As basic an

operation as staff meetings must be called and at least attended by the warden which was not the case while I was at the institution. The matter was usually delegated to the Clinical Director, and without his initiative would in all likelihood not have taken place. The most innovative programs have been at the suggestion of a Governor's Board of Inquiry and only after internal disturbances have put the prison in the public eye. After programs such as Discipline or Classification committees are implemented they must operate with the full cooperation and support of the warden's office and most definitely under his direction.

3. In general, the warden must assume a role in this institution and whatever that role is it must fit the type of institution he intends to operate. But whatever type of institution, he must allow things to happen by his order and not by his indecisiveness. He must establish a rapport with his officers and staff, by letting them know what to expect and what he expects from them. I was told by several officers, that the Warden hasn't visited parts of the institution for over five years. You cannot operate without the final decision maker as an integral part of the institution and by law the warden is final word.

4. The staff and officers of this institution should be well trained and well acquainted with their specific duties and obligations. A formal and complete operational manual should be written and provided for every

individual employed by the prison. A basic level of education and adequate training coupled with sufficient salaries are all necessary criteria of a well disciplined staff. If the purpose of the institution is to be achieved, it must be done so with an efficient staff. Compliance with established rules and regulations of the penitentiary is without comment an instrumental part of the entire program. I found a great deal of undercurrents within the ranks of employees, their jobs became more difficult as duties became less defined. Communications were minimal in many areas, to the degree that some employees did not know other staff members. Several inmates knew more about specific situations than members of the custodial staff. A particular instance can be seen in the operation of the hospital ward; much of the time this summer I spent trying to determine who ran that ward, as I left I was still wondering. And in light of that comment it is ironic to note that this ward is also the Reception center for incoming inmates.

5. Staff evaluation at periodical stages might insure the competence and efficiency of the entire department. Coordination and communication can only be achieved through the cooperation of every individual, the necessary training, and the proper delegation of duty and authority. In essence the warden must be the warden, in every respect he must control his staff to implement the goals he wishes to achieve. One of his initial

tasks is to gain the loyalty and confidence of his entire staff.

II. SERVICES AT THE NORTH DAKOTA STATE PENITENTIARY

Existing Programs and Services.

1. At present the entire clinical staff at this institution is funded by the federal government through the Law Enforcement Council. It has been in operation for two years and application has been made to extend it for the upcoming year. Up to the beginning of this program there had been only one member of the entire prison staff that could be classified as a counselor, that being the present Clinical Director. On the staff now are two individuals used specifically for private counseling, and therapy work, an athletic director and a vocational director. With the population at approximately 140, that leaves a particularly heavy case load for each counselor. Many times the staff was preoccupied purely with request slips from inmates concerning daily problems and were unable to concern themselves with long range therapy work.

2. This department is the focal point of the institution in many respects. It is charged with the duties of receiving, counseling, training, educating and rehabilitating the individual entering the prison. Without a doubt the effect of the individuals in this area is instrumental in supplementing the goals of the institution. Their primary objective is the "reformation" of

the offender apart from the punishment aspect of the total institution. Although a specific analysis of all phases of the clinical procedure is not possible in such a paper as this, I will attempt to indicate obvious problems facing the department.

3. The clinical department can operate only through the cooperation of the entire institution. Many times various departments are unaware of activities in other parts of the prison. If an inmate is dangerous, this department should be made aware immediately so it can most effectively cope with the situation. Lack of interaction between the various areas within the walls causes duplicated work of a regressive nature which only decreases the efficiency and increases the dangers of the prison staff.

4. Medical and psychological examinations and vocational evaluation are all essential aspects of the correctional program. At present the facilities in North Dakota provide basic health care through the use of local doctors and dentists. However its psychiatric program amounts to the use of a clinical psychologist, on Saturday mornings (primarily used for parole board evaluations) and a local psychiatrist who spends about the same amount of time. Whether the prison wants to establish the proper mental health care it needs to solve the inmate problems is a question for the present administration to decide. Perhaps their decision should include whether or not such a program is to be utilized

at all in the institution. But if indeed there is a determination of need then perhaps a re-evaluation of what is "adequate" in terms of inmate population and whether it's possible to implement rather than allowing an incomplete program to operate. It must be pointed out that what work that is done is diagnostic and any rehabilitative work is left either to the clinical staff or is never completed. One interesting recommendation from the Governor's Conference on Corrections was that officials should study the possibility of using sentences which do not have a minimum time to be served (see Appendix I). This concept gives the staff much more to work with if they feel a man is ready for release or parole, the rehabilitative process is stifled if he is not considered at that time. A most pragmatic consideration to keep in mind is that there is great expense involved in incarceration of any individual, and society's self imposed duty to care for his wife and children make the process even more costly.

5. Another significant problem for the staff is the visiting facilities at the prison which have a great effect on both inmate and outsider alike. Again the goals and objective of the administration and staff must be reviewed to determine if this type of provision is within the scope of their program. If the institution aims at attempting to "rehabilitate" the offender, all techniques including social and medical

investigation, psychiatric examination, education, religious and vocation studies and basic observation of the staff must be utilized.

6. The work release program at the state penitentiary will prove invaluable in the future years in allowing the inmate an "out" or "alternate" to remaining incarcerated throughout his sentence. Under this concept, the offender is confined in an institution only at night and on weekends but is permitted to work within the community during the day. The participants of this work program also contribute a specified amount for their room and board. This type of program makes possible a greater degree of control than is possible under probation and gives the parole board an invaluable alternative to denying the inmate any relief. One basic problem with a parole and probation board is that often times they have little choice but to deny any relief on the basis of the man's background and are hampered by the small number of programs at their discretion. Primarily they are limited to denying or granting parole, granting work release or granting an educational release. Neither work nor education release is at a stage where every individual qualified is able to participate. And the parole system lacks the controls, assistance, and guidance which the inmate needs to serve the remainder of his sentence within society. The expansion of such systems would alleviate many problems in prison discipline. Naturally to

effectuate a program such as this, with any degree of success, there must be a highly trained and coordinated staff and a great amount of community cooperation. Promoting community involvement is probably the most difficult task facing individuals in the field of correction. However to change the existing conditions there must not only be improved operations within the criminal justice system but a mobilization of resources outside the system.

7. The reception program at the institution is especially significant because no time is more important to the prisoner in determining his later attitude and behavior. At present the induction process is handled through the clinical department, and it attempts to orientate the individual to as many aspects of prison life as possible. Once a man enters the reception area, he is interviewed by a staff member as to his social history, past work record and present offense. He is allowed at that point to inquire as to his rights and duties. Also at this time he is shown a sound-slide film concerning the institution and its personnel. The inmate will be given a physical examination by the doctor and is fingerprinted and photographed. While in reception he is administered the various psychological tests which had been administered by an inmate, however when this proved unsatisfactory a member of the staff was put in charge of giving all the tests.

Inmate activity during the reception period must be

strictly controlled by the staff, exposure to general population without adequate orientation can be detrimental to any man's stay in the prison. Cooperation from the first week of incarceration is of benefit to both inmate and staff. Utilization of inmates in the indoctrination process is advised however careful selection is important keeping in mind the goal of rehabilitation.

8. There has been at the institution the establishment of a classification committee which has as its objective to develop and administer an integrated and realistic program of treatment for each inmate; and to initiate procedures for changing the program when there is need. The program outlined for each individual will include such things as the degree of custody required, work assignments, academic placement, medical and psychiatric recommendations, religious and recreational programs and if necessary the committee shall determine where the inmate shall be quartered. Such a program must also be flexible to change when situations warrant it, thus it would be necessary to periodically review each man's program and his progress. Again information is depended upon from all correctional officers and other staff officials to insure a proper classification. The reason for such a committee is described encompassingly by the Handbook on Classification and Correctional Institutions, (American Correctional Association, New York, 1947 p. 10)

"Classification...contributed to a smoothly, efficiently operated correctional program by the pooling of all relevant information concerning the offender, by devising a program for the individual based upon that information, and by keeping that program realistically in line with the individual's requirements. It furnishes an orderly method to the institution administrator by which the varied needs and requirements of each inmate may be followed through from commitment to discharge. Through its diagnostic and coordinating functions, classification not only contributes to the objective of rehabilitation, but also to custody, discipline, work assignments, officer and inmate morale and the effective use of training opportunities. Through the data it develops, it assists in long range planning and development, both in the correctional system as a whole and in the individual institution."

This program is just beginning at the state penitentiary through the efforts of the clinical staff and is a step at reorganizing the policy of the institution. If there is to be a goal of "rehabilitation" or indeed "habilitation" such a program is integral but again the correctional system must decide what its goals are before success is assured in this area of corrections.

9. Attached as part of the Appendix is the outline of the function and purpose of the Evaluation and Rehabili-

tation Unit located at the State Prison. This department operates completely independent to the penitentiary and has begun operation as of September of this year. This program is designed for an individual before he has been sentenced by a court, it assists the judge in his disposition of the case. Since the program is so new and it's connection with the prison a bit vague, I include only this brief comment and refer you to the attached policy statement written by Winston Saturn, its present director.

10. The religious services at the institution are provided by volunteers and are by request. There is not a broadly organized program partly because of the size of the institution. The chaplain arranges services for Protestant and Catholic ministers and on occasion various clergymen visit individual inmates. Provisions should be made for a Chaplain's Office since at this point he has none. Such a department is always needed but the size must be determined by demand of the population.

11. Recreational facilities are minimal with virtually no programs during the winter months. The federal grant providing for the Clinical Department included a recreational director but with the motivation factor extremely low and very little equipment, the department is restricted to primarily softball and baseball teams during the summer months. Since rehabilitation includes recreation keeping the inmate active this program is

a type of therapy. Perhaps the use of local facilities is the only method of instituting a realistic recreational program during both the summer and winter months.

12. Vocational Rehabilitation exists at the institution through the local State offices and has one full time personnel at the penitentiary. Training programs have been created for those inmates leaving the institution having been made eligible for education or work release. The effectiveness of this office has a great deal to do with the success or failure of either of the release programs. V. R. purchases clothing for the inmate going into these programs, in addition to supplying in some cases tuition, books and living expenses. Cooperation with this department is exceptional; however, its capacity is limited by the public's view of the returning offender. Both the Employment Security Bureau and the Bureau of Indian Affairs retain liaison with the penitentiary providing assistance where possible. In any of these departments little suggestion for improvement can be made as my knowledge of them was minimal; however, their services are without a doubt indispensable for a well functioning program.

13. Mention should be made of the educational programs existent at the penitentiary. Basically, there is offered supervised correspondence work through the North Dakota State University Extension Service. Mary College offers a program of basic college courses and a class in preparation for the high school equivalency test. There are

approximately six instructors involved in this project; however, participation is small. An adult basic Education Program exists also and along with the other projects, form a basic educational system. Probably the largest problem existing is the absence of a proper library facility with accessibility by the entire population. At present the library is in a disgusting state and inmates are not allowed to personally utilize it but instead must request a book from a corrections officer. An area of study should be employed to operate within the walls as both a library and classroom. It should also be made conducive to that particular goal.

III. PRISON INDUSTRIES

The North Dakota State Prison operates two industries, a Tag and Sign plant, and a Book Bindery. It is imperative that authorities make an evaluation of these operations from both a business angle and a rehabilitative one. Work experience, including vocational training, and the assurance of a decent job for the released offender should be the goal of such a correctional process.

1. To subject an individual with poor work habits to a situation of enforced idleness merely reduces his capacity to derive satisfaction or even take part in a working community. And even the best institutional job and job-training program is futile if it does not lead on the outside to a reasonable, profitable job. The tag plant and book bindery are of that type which are regressive to any training program. No skill is involved and

neither is it taught within the walls. The offender leaves the institution with no more skill and probably less ambition than when he entered. If indeed the existence of such businesses are continued, their effect as a rehabilitative tool will continue to diminish. What could be instituted is a pay incentive program for the individual and an evaluation system through the prison administration. But before such a project is explored, the value of such industries must be determined and dealt with accordingly.

2. I was informed during my stay at the institution that from a financial aspect the industries were a failing proposition. If they are, an evaluation should be made from that viewpoint coupled with the rehabilitative training derived therefrom, and a decision made as to their usefulness in the correction process. According to various sources at the prison, the tag plant could operate with three men and do in only six months what approximately twelve inmates do now in a year. Economics indeed may force the decision on this aspect of the prison.

IV. DISCIPLINE

A major problem of any correctional institution is the discipline of its population and as of late the state penitentiary has experienced a great deal of problems in this field. I preface my statements at this point by saying that before a specific program of correction can be implemented the administration must

decide what type of institution is to be operated, different forms of discipline are adaptable to various plans of administration. Attached as part of the appendix is a plan of inmate discipline at the State Prison.

1. The operation of the discipline committee is basis of any such program. How it functions and controls the inmate infractions dictates the type of program that will be in effect. The committee was formalized at the prison in the spring of 1972 and began operation at request of the Governor's Board of Inquiry. It is to act upon all major infractions of prison rules within a reasonable time of the infraction. However since the warden is the only person who by statute has authority to punish those violating institutional rules, the board in effect makes recommendations, it does not pronounce judgment, it essentially evaluates and advises the warden as to likely disposition of sentence. The warden decides his course of action, and again the power of his office is demonstrated through his total control of the process.

2. One problem that did arise was the distinction between a major and minor infraction and even more elementary what is an infraction. What should be resolved is the formal list of infractions and then specific classification before such a committee begins periodic operation. The operation of the board must be formal to insure the proper image and the function of the board should be explained in detail to each individual

appearing before it.

3. The Governor's Board of Inquiry of June 9, 1972, also stated that a formal written grievance procedure should be established to hear inmate grievances. The only recommendation in this respect is that this committee should act separately from the disciplinary committee. Both require a different degree of formality, and might inhibit the effective operation of each other. A standardized procedure should be organized and every inmate be advised of that procedure in approaching both of these groups.

V. STATE FARM

The State of North Dakota also operates a State Farm at which it houses offenders with sentences of less than one year. The entire program accomplishes nothing in respect to the rehabilitation program. The population is usually the first time offender; however, the facilities offer no counseling or training while he is there. When eighteen or twenty individuals attempt to operate a small farm it's inevitable many end up with little to do. For a key in curbing the criminal career, stopping it at this stage is imperative. The value of this facility should be taken into focus with its ability to solve the problems of the criminal justice program. At this point, it is ineffective in every respect and consideration should be given for its abolishment.

VI. PAROLE OFFICE

The treatment program inevitably travels to the North Dakota Parole and Probation Department and here the work of rehabili-

tation continues. It is essential that cooperation be acute between this office and that of the penitentiary. The parole department should be well aware of the programs of the institution and should be included in general staff conferences at the prison. Basic problems challenge the efficiency of the department in the form of inadequate salaries, overload case assignments, minimal staff members and lack of proper facilities. North Dakota has approximately 800 probationers and paroles while it employs 7 full-time parole agents and 2 that primarily do pre-sentence work. At those odds, the agent is barely able to see his caseload within a three-month period.

VII. CONCLUSIONS

Some general needs of the correctional phase of the criminal system must be examined before the individual programs can become effective.

1. There exists a need for defining just what correction is or should be in the State of North Dakota. Within the structure there is disagreement as to what should be included within the corrections program. In recent months the question of whether the prison should continue to exist or not, has been put forth, a satisfactory answer should be obtained along with the definition of correction.

2. There is need for consensus of the goals and purposes of such correction program. Is it punishment? Deterrence? Protection of the public? or Rehabilitation? Once a penitentiary has an individual the agency must have some practical idea of what it is to do with him. Different attitudes exist from those who deal with youth and those with

adults. The judges and police all have their own opinions as do the general public and the legislature. The fundamental question is what are the goals and purposes of the institution whose inferred purpose is to correct, reform and rehabilitate the inmate. There has traditionally been a problem in failing to differentiate among different classes of offenders on the issue of program objectives.

3. There is a need for a state-wide strategy for the prevention, abatement and control of crime. The system must cooperate to insure the success of this strategy.

4. Public information is of utmost importance in achieving proper results of these goals. When different parts of the system work against each other the public becomes confused and justifiably critical. The public is unaware of any other function of the penitentiary other than punishment.

5. The need to continue the evaluation, development and creation of innovative programs to effectuate the rehabilitative aspect of the prison is evidenced by the present system and the problems it has incurred.

APPENDIX I
PRESS RELEASE

The Governor's Conference on Corrections met August 1, 1972. Persons from all segments of the criminal justice system, as well as concerned citizens, related agencies, and ex-offenders were represented at the conference.

The conference concluded by submitting several recommendations to the Governor. The recommendations, which were considered by the conference as a total package were not listed in any particular order of priorities. The recommendations were as follows:

1. The present standard pre-sentence report on an offender which the judge receives does not give an adequate informational basis for sentencing. There should be additional powers vested in the court to commit an offender to an institution for more extensive evaluation prior to sentencing.
2. The court should have the power to commit persons to treatment centers, at public expense if necessary, as an alternative to commitment to the Penitentiary. This is particularly true in drug and alcohol related cases.
3. The validity of plea bargaining is affirmed. Support is given to the proposed criminal rules of procedure which are being finalized for adoption by the Supreme Court and which include formalized procedures for plea bargaining.
4. Study the possibility of using sentences which do not have a minimum time to be served.
5. There is a lack of uniformity in sentencing. Investigation into the possibility of having the sentence determined by a central authority should be conducted.
6. Emphasis should be placed upon combination rehabilitation and restitution programs for offenders convicted of crimes against property.
7. Community based programs, including "halfway house" and work release programs should be established.
8. Vocational and employment training preparing offenders for their return to society should be available. These programs could be independent training programs not under the jurisdiction of correctional institutions.
9. A department or division of corrections should be established under the Social Services Department.

10. Prompt implementation of the Board of Inquiry recommendations concerning the operation of the Penitentiary should be carried out.
11. An office of Ombudsman should be established for corrections operations in the state.
12. The inmates of correctional facilities should have increased opportunities for social contacts with the rest of society to increase their self-esteem and personal respect.
13. The department of corrections or the director of institutions should have the authority and ability to implement or terminate prison industries and job training programs without legislative action.
14. All correctional staff should meet job qualification standards and engage in regular training sessions.
15. "Halfway houses" or similar programs should be available to persons on release programs.
16. There should be an examination and re-evaluation of the criminality of and morality of that which is currently considered to be anti-social conduct.
17. The role of probation prior to incarceration should be emphasized and the role of incarceration in a centrally located institution be de-emphasized in corrections.

This should include a) a concentrated effort to educate the police about the role and concept of probation and parole and b) statewide and community based control programs for both felons and misdemeanants with sufficient trained probation and parole officers and other resources.
18. Neutralize, where possible, the stigma of being a present or former offender; this would include the restoration of civil rights automatically upon the expiration of a sentence.
19. Recognize that punishment has not been effective and shift the emphasis to control methods that emphasize individualized treatment.
20. Encourage willingness throughout the criminal justice system to allow increased lay participation.

Suggested vehicles for accomplishing this process are a) a university extension course for criminal justice interns to involve people in their own towns, b) a "buddy" system which would accomplish much the same thing on an informal basis and c) encourage mayors to appoint commis-

sions composed of a cross-section of citizens as a monitoring group and to promote awareness of all phases of the system.

21. Enact a program of victim compensation and encourage the idea of restitution programs to help eliminate public ill-feeling against offenders.
22. Make a commitment to the rehabilitation of the offender rather than to his removal from society.
23. Legislative efforts should be made to upgrade all court facilities to increase their dignity and professionalism.
24. The State Bar Association should take the lead in informing the public concerning the rehabilitation and treatment of offenders.
25. The legislature should provide funds for public information regarding problems with the rehabilitation and treatment of offenders.
26. Adequate facilities within the Penitentiary for recreation and for the treatment of offenders should be provided.
27. Implement the "Brooklyn Plan" for juveniles to allow judges to dismiss cases once restitution has been made.
28. In order to insure uniformity in court practices, municipal judges should be eliminated and the cases moved to county courts of increased jurisdiction.
29. County jail systems should be coordinated with the rehabilitation policies of the state system.
30. All programs should emphasize dealing with the role that drugs and alcohol play in crime in the state.

Following the discussion and definition of recommendations at the conference, Dr. Fogel, Commissioner of Corrections in Minnesota, concluded the conference with a few observations on the recommendations and the work of the conference.

He noted that, from the discussions he had heard, North Dakota may have a chance to be one of the few states to do away with the prison system and return the prison to what it should have been; a place for detention, evaluation and the "in and out function; that is, getting a man ready for his stay outside rather than his stay inside."

Dr. Fogel also noted that the emphasis of the conference on probation might be a step in the right direction. He told the conference that probation has been shown to work 3 out of 4 times nationally, while institutional stay and parole works

only 3 out of 10 to 5 out of 10 times.

He summed up by giving this advice to the conference "keep cool but stay involved".

APPENDIX II

EVALUATION AND REHABILITATION UNIT
at
NORTH DAKOTA STATE PENITENTIARY
by Winston Saturn, Director

A. PURPOSE

The adult public offender has been typified as economically disadvantaged, undereducated, usually unemployed, underemployed when employed, and a repeater in committing serious crimes. This profile and the continuous problem of high recidivism rates substantiate the need to evaluate the offender's mental stability, work potential, and physical capabilities.

The purpose of the Evaluation and Rehabilitation Unit is to assess the offender's rehabilitation potential and recommend a rounded program of treatment, training, education, and counseling. It is designed to employ a multi-discipline approach for the purpose of evaluating the assets, liabilities, and problems presented by the offender.

B. ORGANIZATION AND ADMINISTRATION

The State of North Dakota maintains one adult maximum security prison which is responsible for the safekeeping, care, protection, and rehabilitation of all persons committed to the institution.

The Division of Vocational Rehabilitation is the official agency charged with the development and operation of a comprehensive vocational rehabilitation program for the State of North Dakota.

In recognition of this responsibility and the vocational rehabilitation needs of individuals who appear before the court system and who are charged or convicted of a felony, the Agency proposes to conduct and develop a comprehensive Evaluation and Rehabilitation Unit. The initial step in this endeavor will be to establish the Evaluation Unit at the North Dakota State Penitentiary.

The Evaluation and Rehabilitation Unit is a distinct and separate program within the State Penitentiary with a close cooperative relationship involving the entire organization. The unit will have its own staff and will function as a component part of the State Penitentiary.

The administrative policies and procedures agreed upon by the Director of Institutions, Warden of the State Penitentiary, and the Division of Vocational Rehabilitation will be implemented through the proper utilization of staff and resources assigned

to this project.

Since the Division of Vocational Rehabilitation has the responsibility of funding and administering the program, responsibility will be vested in the Director of the Evaluation and Training Unit who has been assigned to the program by the Division of Vocational Rehabilitation. In addition, the Director will be responsible for coordination of essential supporting services provided by the State Penitentiary. This arrangement is designed to insure effective utilization of all institutional resources and continuity of rehabilitation services provided to evaluatees.

C. PROGRAM OF SERVICES

The Division of Vocational Rehabilitation, Director of Institutions, and the State Penitentiary, in fulfilling commitments to bring about maximum rehabilitation of individuals so as to facilitate optimum job placement and promote financial responsibility, are jointly establishing the Evaluation and Rehabilitation Unit as an essential component of their respective programs. Intensive vocational assessment, psycho-social evaluation, counseling, and recommendations to the presiding judge are important integral parts of the total program to improve the skills and knowledge of the individuals and to enhance their chances of rehabilitation.

This is a new program. The program is being established as flexible as possible in order to maximize the opportunity to profit from operational experiences. Approximately 200 to 250 individuals a year will be processed through the Evaluation and Rehabilitation Unit.

Vocational rehabilitation services for purposes of this program will include the following where appropriate:

1. A routine general medical examination will be accomplished to provide an appraisal of the current medical status in each case. Medical facilities of the State Penitentiary will be used for diagnostic purposes whenever possible. Medical services currently being provided by the State Penitentiary will be made available to participants in this project. The Division of Vocational Rehabilitation will provide all non-duplicated medical services for eligible persons to the extent necessary to determine their rehabilitation potential or achieve their vocational rehabilitation.
2. (See Page 81)
- 2A. Psychological testing and evaluation will be secured in all cases. Such examinations will include tests

of intelligence and personality, assessments of educational progress and achievements, and vocational aptitudes and interests.

3. Vocational evaluation will include an adequate work assessment based upon a client's background, interests and abilities. Procedures will include work simulation, job tryouts, role playing, and other learning experiences. Vocational rehabilitation counseling will be provided to individuals for interpretive purposes to assist them to choose vocational objectives commensurate with their physical and mental abilities.
 4. Education instruction related to drug addiction, alcoholism, and mental illness will be provided by the Evaluation and Rehabilitation Unit. The educational service is designed to make the evaluatee aware of the symptoms and consequences of these illnesses.
 5. Upon the disposition of sentence, the responsibility for job development, placement, and follow-up will be shared by the vocational rehabilitation counselor and the parole officer, with consideration given to the official role of each. The individual rehabilitation plan in effect at the time of parole or discharge will be continued as the basic responsibility of the vocational rehabilitation counselor who will assist the individual in his vocational readjustment to the community. Parole officers and vocational rehabilitation counselors will work in close harmony to effect the community and work adjustment of each individual.
2. Psychiatric testing and evaluation will be secured in all pre-trial cases and will be available as needed in pre-sentence evaluations. Such examinations will include tests of personality, assessment of mental stability and prognosis of rehabilitation potential.

APPENDIX III

INMATE DISCIPLINE

Discipline is the outcome of a process of orientation, training and guidance intended to bring about order and personal responsibility. Without discipline there can be neither rehabilitation nor treatment. A correctional community, even more than other communities, cannot be operated safely and efficiently for staff, inmates, and visitors, unless its occupants conform to standards of orderly behavior.

Basic to the operation of a disciplinary program are standards of acceptable inmate behavior. These standards must be reasonably related to the purposes of the institution and must be effectively communicated to both staff and inmates.

The achievement of these standards requires a continuing effort by both staff and inmates. "Preventive" discipline is more important than correction after a rule is violated. When a rule is violated, discipline must be prompt and fair.

As rules are necessary to guide and govern human conduct and relationships, it is imperative that:

1. The rules be expressed in writing in clear and understandable language.
2. The rules be positive in character and minimum in number.
3. The rules be known to all concerned.

The rules and their necessity should be explained to inmates during the orientation period.

The scope of rules governing inmate conduct must encompass the rights and responsibilities of inmates as related to:

1. Contact and relationships with outsiders via correspondence and visiting.
2. Personal behavior toward others.
3. Use of personal and state property.

Disciplinary action must serve to:

1. Conserve human values and dignity.
2. Regulate behavior within acceptable limits.
3. Preserve the confidence of all concerned.

Inmate Discipline

4. Promote individual self-control.
5. Provide dispositions which are lawful and humane.

Essential principles of the disciplinary process are that it is prompt and fair, not arbitrary, capricious, nor overly severe.

MINOR VIOLATIONS

Minor rule violations may be disposed of by the observing employee. The institutional staff should be encouraged to counsel and/or reprimand in cases of minor rule infractions. No written report need be filed by the employee.

Other minor rule violations, including conduct not directly dangerous to persons or property, may be recorded. In these instances certain designated employees may mete out disciplinary actions which are carefully specified and limited in scope and type of minor consequences. The custody supervisor must be informed of any such action.

Referral to the disciplinary committee should not be undertaken unless the inmate has demonstrated an unwillingness to respond and cooperate. The referral should document such unwillingness.

In the case of any minor misconduct the inmate should always have the right to request a formal report and a disciplinary committee hearing.

MAJOR VIOLATIONS

Every inmate charged with more serious misconduct should appear before the institutional disciplinary committee. Severe penalties, such as forfeiture of earned good time or extended confinement in punitive segregation, should only be imposed after a hearing before the disciplinary committee. A hearing should be conducted with as little delay as possible and before any penalty is invoked. Inmates involved may be held in administrative segregation awaiting action of the disciplinary committee.

An employee observing such misconduct will file a written report with the designated official prior to a hearing. The report should detail the nature and circumstances of the rule infraction.

CONTINUED

1 OF 2

Inmate Discipline

The superior officer should review each misconduct report and determine appropriate placement for the inmate pending the disciplinary hearing. He may also request of any staff member additional investigation and information.

Comments by the reviewing officer may be included with the misconduct report. This might include the results of investigation, statement of extenuating circumstances, or any other relevant evidence. A recommendation to dismiss the charges or proceed with the disciplinary hearing will be forwarded to the proper official.

The institution may refer the matter to the proper authorities for prosecution. Such referral does not preclude institutional action against the inmate.

HEARINGS

NOTICE

There should be adequate notice to the inmate of the alleged violation of institutional rules at a reasonable length of time prior to the hearings. Such notification should be documented.

PREPARATION FOR HEARING

The inmate should be brought before the disciplinary committee as soon as is practical. The committee may order further investigation of the alleged rule violation. Such investigation is to be completed as expeditiously as possible. The inmate may be granted, upon his request, additional time to prepare for the presentation of his case.

ASSISTANCE

Upon an inmate's request, a member of the institutional staff may be assigned to assist him in the preparation and presentation of his case.

COMMITTEE COMPOSITION

The committee should be composed of a minimum of three persons, representatives of the institutional staff appointed by the institutional head.

The person who reported the rule violation should not be included on the committee. The person who has investigated the accident should not be a member, but may serve as a resource.

Inmate Discipline

INVESTIGATION

The relevant facts concerning the alleged rule violation will be made known to the inmate at the time of the hearing. The inmate will be given an opportunity to admit, explain, or refute, the allegation.

If the committee determines that significant additional information should be obtained from other persons, these persons should be contacted and this information should be considered by the committee before a final decision is made.

FINDINGS AND DISPOSITION

After the committee has decided that all relevant information has been before it, the committee should dismiss all persons except those on the committee and carefully weigh the information. Written findings of the committee should be made after deliberation is completed. The disposition shall be appropriate to the needs of the individual and the institution. The individual shall be apprised of the final decision of the committee.

RECORDS

Adequate records keeping is essential to prevent the appearance of arbitrary action and to provide a sound foundation for future judgments.

Except where otherwise provided, there should be a record of every incident involving inmate disciplinary problems. A permanent copy of this record should be maintained in the inmate's file.

A written summary of proceedings at disciplinary hearings should be placed in the inmate's file.

The inmate should be notified promptly of the disposition of his case and of his right, if dissatisfied, to appeal.

Record of all later reviews of disciplinary action should be placed in the inmate's file with notation of action taken.

REVIEW AND APPEAL

Each inmate should have the right to a review of any decision with which he is dissatisfied. The head of the insti-

Inmate Discipline

tution should automatically review all decisions which result in serious consequences to an inmate; such as, loss of good time or punitive confinement.

In review, the head of the institution may take the following actions:

1. Confirm the decision.
2. Order further or new proceedings.
3. Reduce or suspend punishment.

The head of the institution cannot increase the amount of punishment.

The inmate will be notified of the result of the final review of his case.

If the inmate remains dissatisfied with the decision, after review by the head of the institution, he should have the right to appeal to the head of the correctional system.

At the conclusion of any disciplinary action, including the termination of any restrictive confinement which may have been imposed, an inmate may be reviewed by the regular classification process to determine if any change in assignment is appropriate. This process should not be considered a disciplinary action nor a punishment.

Any change of assignment to a higher level of control, including assignment to administrative segregation, should be based only upon the needs of the individual and the requirements of the institution.

The distinction between the disciplinary process and the classification process should be clearly defined and should not be permitted to become blurred.

Compiled by
Charles F. Enders
Clinical Director
North Dakota State Penitentiary

CONCLUSION

The agencies discussed in this report do have communication problems. Why do these problems exist? Perhaps because society has failed to provide these agencies and others within the criminal justice system with adequate guidelines as to what it expects of the criminal justice system. Does society expect these agencies to rehabilitate, deter potential criminals, punish, or protect society? They are not informed, yet they are individually and collectively condemned for failing to live up to society's nebulous expectations. Since each agency feels it is fulfilling its role, there exists a tendency to place the responsibility for the failure on other agencies. A better understanding of the problems faced by their sister agencies could do much toward alleviating the problems that prohibit greater cooperation and understanding between the various agencies.

An example might be taken from the report on the Bismarck Police Department by Robert J. Erickson. In his report it was pointed out that on two occasions during the summer, both the state's attorney and his assistant were absent from the city. The police department felt such absences have presented problems regarding the drawing of felony warrants and charging and arraigning the prisoner before a delay will jeopardize the prisoner's constitutional rights. Michael R. Lochow, speaking from the state's attorney's viewpoint in

these two instances, would point out that these absences occurred during a period when the State's Attorney and the Assistant State's Attorney were absent in connection with responsibilities pertaining to their duties. Arrangements had been made for another Bismarck attorney to act in their stead should something arise requiring immediate attention. That attorney, along with the office staff, knew where to contact Mr. Kelsch should an emergency arise. Better communication in these two instances might have lessened any resentment felt by the Bismarck Police Department because of the inaccessibility of the state's attorney.

To make ultimate progress within the criminal justice system it is first necessary to define the goals; once the desired direction is determined the functioning of the system will be facilitated. Attitudes and facilities must then be developed to cope effectively with problems and solutions. It will necessitate a concentrated effort in areas of public relations, communications, education, and reallocation of resources, both men and materials, to maximize both short and long term objectives. Let us hope that this direction may be found soon and steps taken to realize the needed progress. In the meantime it should be the responsibility of every agency to learn as much as it can about the limitations of its sister agencies. We hope this effort will make a small contribution to that end.

EVALUATION STATUS

Date 18 April 74 (of review)

- 1. Grant # A137
- 2. Program C-1.1
- 3. Title Clinical Program for State Penitentiary
- 4. Grantee State Pen.
- 5. Projected completion date of project (#of months left) _____

6. How was the project to be evaluated?

- a) The subgrantee with the assistance of objective consultants will conduct an in-house evaluation of the project according to a pre-determined objective research design.
- b) Technical assistance will be furnished by staff members of the Law Enforcement Council or by the Technical Assistance Division of the Law Enforcement Assistance Administration to conduct the evaluation.
- c) The evaluation will be completed by an individual, an educational institution or organization that has been contracted to provide this service to the subgrantee.
- d) Does not apply - D N/A
- e) Unknown

7. Procedure:

- a) Project will be evaluated on an individual basis.
- b) The evaluation of the project will be part of a more comprehensive evaluation.
- c) The responsibility for evaluation has not been assigned yet.
- d) The project will not be evaluated.
- e) Unknown

8. Was the project set aside in the evaluation plan as a project to be evaluated?

- a) Yes
- b) No
- c) D N/A

9. Has an evaluation been completed?

- a) Yes
- b) No
- c) None proposed
- d) D N/A
- e) Unknown

10. If not completed, number of months till evaluation is due to be completed.

- a) Months
- b) D N/A

COMMENTS:

these two instances, would point out that these absences occurred during a period when the State's Attorney and the Assistant State's Attorney were absent in connection with responsibilities pertaining to their duties. Arrangements had been made for another Bismarck attorney to act in their stead should something arise requiring immediate attention. That attorney, along with the office staff, knew where to contact Mr. Kelsch should an emergency arise. Better communication in these two instances might have lessened any resentment felt by the Bismarck Police Department because of the inaccessibility of the state's attorney.

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