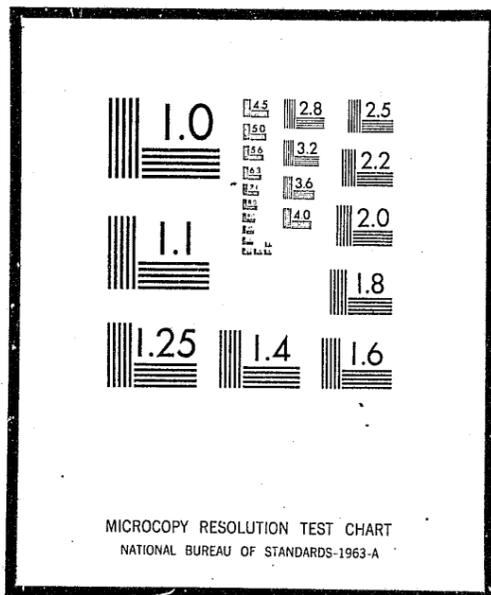


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SEEN BUT NOT HEARD

## A Survey of Grievance Mechanisms in Juvenile Correctional Institutions

By

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We would like to express our thanks to the administrators, the staff members and residents of the institutions included in this study. They opened their facilities to us, gave freely of their time, and frankly discussed their problems, as well as their successes, with us.

In the report that follows, we have been quite critical of the various grievance mechanisms observed in the course of the study. Our criticisms are presented in the hope that we can help to avoid the repetition of common problems. However, we hope that no one who reads this report will lose sight of the fact that the institutions surveyed have been willing to experiment in uncharted territory. The existence of the grievance mechanisms described here attests to the imagination and the flexibility of the people who created them. Their willingness to share experiences can aid in the establishment of principles to guide the development of successful mechanisms in the future.

This study was made possible through the efforts of the late J. Lawrence Schultz, former director of the Juvenile Justice Standards Project. We hope that it will help in some way to realize his desire to improve conditions for young people.

Linda R. Singer  
Executive Director  
Center for Correctional Justice

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CHAPTER I: Introduction

In October, 1973, the Center for Correctional Justice contracted with the Institute of Judicial Administration to study various non-judicial grievance mechanisms currently in use in juvenile facilities throughout the country. The project was to consist of three phases: a nation-wide survey of juvenile and young offender facilities to determine the availability of grievance mechanisms as well as the popularity of various types of mechanisms; visits to 16 institutions in eight states with innovative mechanisms to assess their impact; and an analysis of the components that appear to be necessary for the operation of an effective grievance mechanism in juvenile institutions.

The Center mailed questionnaires to federal, state and local facilities identified in the first complete census of public facilities in the juvenile criminal justice system.\* Questionnaires also were sent to selected privately operated juvenile facilities. The survey provided data on the extent and types of grievance mechanisms being implemented throughout the nation and identified facilities with the most imaginative procedural variations.

The detailed study of the selected facilities consisted of a series of on-site inspections by a CCJ field team. At each facility, the Center

\* National Criminal Justice Information and Statistics Service, Children in Custody: A Report on the Juvenile Detention and Correctional Facility Census of 1971, Washington, D. C., 1974.

team interviewed staff, juveniles and administrators, observed operations of the mechanism, examined records generated by the process, determined the familiarity of staff and juveniles with the process, assessed the mechanism's credibility with both groups and evaluated the relative effectiveness of the mechanism in resolving grievances. Where appropriate, Center staff members went to the central office of the juvenile corrections department being visited and, where outsiders were involved in a mechanism, interviewed outsiders. The Center team prepared a detailed report on the grievance mechanism following each trip.

The third phase of the project involved an analysis of the various types of mechanisms being implemented throughout the country, based on the information gathered from the survey and field trips. The most successful grievance mechanisms were examined to identify those elements that appeared to contribute most to the effectiveness of each mechanism.

The analysis resulted in this critique of the present grievance mechanisms for juveniles under correctional supervision. The critique first considers each mechanism in detail, then compares and comments on some aspects generally applicable to all mechanisms and concludes with a series of recommendations for the design and implementation of grievance mechanisms elsewhere.

#### The Center for Correctional Justice

The Center for Correctional Justice is directly involved in the development of correctional grievance mechanisms. In 1971, a group of lawyers, correctional officials and ex-offenders founded the Center to develop alternatives to prison violence and litigation. The Center first designed and operated a pilot program for delivering legal services to

prisoners and parolees in the District of Columbia. In the course of providing legal services to individuals, the Center also came to serve as an ad hoc ombudsman, mediating disputes between inmates and correctional staff.

The Center's early experience led to the development of formal procedures for handling problems within correctional agencies. Variations of these procedures have been implemented in the Massachusetts Department of Correction and, most recently, in the California Youth Authority. Because of its direct participation in the design and implementation of these procedures, the Center has become a source of technical assistance for other states, institutions, planning agencies and inmate groups interested in developing grievance mechanisms of their own. In early 1974, the National Institute of Law Enforcement and Criminal Justice of LEAA requested the Center to conduct a survey of innovative grievance mechanisms in adult institutions and prepare a manual on the design and implementation of mechanisms for correctional administrators.

CHAPTER II: The Growth of  
Correctional Grievance Mechanisms

Since the 1960's when judges began to abandon their traditional "hands-off" attitude toward prisoners' claims, the efforts of adult prisoners to reform the correctional system have focused on the courts. These prisoners have succeeded in winning some dramatic legal victories that have created new theories of prisoners' rights. Yet, the length of time and the resources required to pursue a case through the courts, the continued reluctance of judges to deal with the problems that do not rise to constitutional dimensions, and the difficulty of enforcing court orders in closed institutions all have led to growing disillusionment with the judicial process as the primary vehicle for resolving prisoners' grievances.

Frequent use of the courts is particularly difficult and inappropriate for juveniles, who often are unsophisticated about legal remedies. Activist lawyers have devoted most of their energies to the adult system, and the remote location of some juvenile institutions makes legal involvement particularly difficult. Perhaps most significant, however, are the delays inherent in the judicial process, delays that are critical to youths who rarely spend more than nine months to a year in an institution. The legal system simply operates too slowly to deal meaningfully with their grievances.

Whatever the deficiencies of judicial action, it is preferable to violence, the incidence of which can not be ignored by any responsible administrator. Following most recent major disturbances in adult correctional institutions, investigators have noted the existence of long-standing, often legitimate complaints directed at conditions, policies or

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personnel of the besieged institution. Some of these complaints could have been remedied with little difficulty before they escalated into violent confrontation. Although organized violence is not a frequent occurrence in juvenile facilities, fights between youths, assaults on staff and escapes from institutions often can be traced to the existence of unresolved complaints.

The need to develop grievance mechanisms for all persons committed to correctional supervision has been widely recognized. In a 1970 speech to the National Association of Attorneys General, Chief Justice Warren E. Burger observed:

What we need is to supplement [judicial actions] with flexible, sensible working mechanisms adapted to the modern conditions of overcrowded and understaffed prisons. . . a simple and workable procedure by which every person in confinement who has, or who thinks he has, a grievance or complaint can be heard promptly, fairly and fully.\*

A year later, speaking to the National Conference of Christians and Jews, the Chief Justice described labor-management grievance procedures as a possible model for correctional administrators and stated:

This, in essence, is what every penal institution must have-- the means of having complaints reach decision-making sources through established channels so that the valid grievances can be remedied and spurious grievances exposed. \*\*

In January, 1973, the National Advisory Commission on Criminal Justice Standards and Goals echoed the Chief Justice:

\* Washington, D. C., February 6, 1970.

\*\* Address delivered in Philadelphia, Pa., November 16, 1972. See also *Procunier v. Martinez*, \_\_\_U.S.\_\_(1974).

A formal procedure to insure that offenders' grievances are fairly resolved should alleviate much of the existing tension within institutions . . . peaceful avenues for redress of grievances are a prerequisite if violent means are to be avoided. Thus, all correctional agencies have not only a responsibility but an institutional interest in maintaining procedures that are, and appear to offenders to be, designed to resolve their complaints fairly.\*

After a thoughtful evaluation of Attica, the Correctional Association of New York, a statutorily established panel of independent overseers of the New York Correctional system, concluded:

It is now two calendar years since the awesome tragedy of Attica. Since that time in September, 1971, there has grown almost universal agreement that essential to the prevention of another Attica is an effective system for hearing and dealing with the grievances of individuals in the state's correctional institutions.\*\*

For the most part juveniles do not pose the same potential violent threat as adult inmates; they are relatively passive, are moved in and out of facilities at a comparatively rapid rate, and are often unaware of their few legally recognized rights. These factors, together with the age and lack of sophistication of many juvenile offenders and the lack of continuing legal assistance for youths in institutions, make the need for effective administrative channels for resolving grievances especially acute in juvenile facilities.

For the purposes of this report, a "grievance mechanism" is defined as an administrative process by which the complaints of individuals about institutional or departmental policies, personnel, conditions or

\* Volume on Corrections, p. 57.

\*\* The Correctional Association of New York Newsletter, Jan-March, 1973, p.2.

procedures can be expressed and resolved. The definition is intentionally broad and encompasses the two most commonly encountered types of grievance mechanisms, namely, the "ombudsman" and a structured, multi-level procedure. The definition excludes a number of programs operating in correctional settings, including legal services and organized community volunteer activities, which may help to resolve individual problems as a by-product of their primary activity. Resident councils, in which, characteristically, youth representatives discuss institutional problems and recommend solutions to administrators, likewise are excluded from the definition. Youths and correctional staff agreed that such councils generally are not intended to resolve individual complaints. They will be discussed, however, in those cases in which they complement the operations of co-existing grievance mechanisms.

The differences between the two common types of mechanisms, i.e., the ombudsman and the structured procedure, are slight, but significant. In an ombudsman program, once a juvenile files a complaint, he surrenders all further control over its progress. The ombudsman initially decides whether he will accept and pursue a grievance; he determines what kind of investigation is necessary and appropriate and conducts it himself. If the administration rejects the ombudsman's recommendation for resolving a grievance he has found to be meritorious, it is up to the ombudsman to pursue the complaint to a higher level of review (if such review is available).

\* In the following chapters the pronoun "he" does not necessarily indicate gender; it is meant to apply to both males and females.

In a grievance procedure, a juvenile who files a complaint assumes considerable responsibility for its progress. At some level of the procedure, he usually must present his case in a hearing where, generally, he may have representation. If he is dissatisfied with the response at any level, he must decide whether to appeal to a higher level of review. In a few instances, his fellow residents may participate in the formulation of resolutions of his grievances.

While there are other differences, especially in theory, between the ombudsman and the appeal procedure (e.g., the ability of the ombudsman to initiate complaints is unique--though rarely employed), the element of the grievant's control over the progress of his complaint is the principal distinction between the two types of mechanism.

Although this project is concerned with identifiable grievance mechanisms, i.e., structures designed and implemented for the purpose of resolving complaints, recognized, informal channels for grievance resolution already exist in virtually every institution. Where formal grievance mechanisms are adopted, they supplement the existing informal structure; they are not meant as a substitute. The existence of a structured mechanism ensures that individuals have an opportunity to pursue a satisfactory resolution, if it is impossible to achieve one through informal means. A well-designed mechanism, moreover, can improve considerably the operations of existing informal channels.

### CHAPTER III: Survey of Juvenile Institutions

In order to locate innovative juvenile grievance mechanisms for detailed review and to assess generally the "state of the art" in handling grievances in juvenile facilities, the Center conducted a mail survey of state, county, city and privately operated juvenile institutions.

The list of juvenile facilities surveyed was obtained by two means. A study by LEAA's National Criminal Justice Information and Statistics Service, based on 1971 figures compiled by the U.S. Bureau of the Census, provided names and addresses of public institutions, including training schools, reception and diagnostic centers, camps, detention centers, shelters and group homes. To obtain the addresses of private institutions, the Center used the American Correctional Association's Directory of Juvenile and Adult Correctional Institutions and Agencies and contacted correctional personnel in several large states.

A total of 972 names and addresses of juvenile institutions was obtained from this process, 887 of them public and 85 private. Of the 972, 22 were later found to be duplicates, and 37 others either had closed or, in one case, not yet opened. The resulting base number of juvenile institutions was 913.

The Center mailed questionnaires to the 972 original addressees in January, 1974, with a cover letter explaining the purpose of the survey. The questionnaire contained 39 questions regarding characteristics of the institutions and their residents and information about the handling of complaints. Most of the questions could be answered with a check mark, although a few required fuller written responses. (A copy of the questionnaire is included in Appendix A). Two follow-up questionnaires were mailed at monthly intervals to institutions that had not responded. Sixty-five percent of the institutions surveyed completed the questionnaire.

Institutional Characteristics

The populations of the responding institutions tend to be fairly small. (See Table 1 for an outline of institutional characteristics.) Over half have 50 or fewer residents. Of the responding institutions, 44.8 percent have both male and female residents. An additional 40.6 percent have only male residents, and 11.6 percent have only females. Eighteen did not respond to the question on the sex of their residents.

The median age of residents in the responding institutions falls in the category 15.0 years to 15.4 years. Only seven institutions reported an average age lower than 12.5 years; only 19 reported an average age over 18 years. The average length of stay of residents of these institutions ranges from a day to longer than three years, with the median falling into the three-to six-month category. Both the average length of stay and the average size of the institutions are affected by the inclusion of detention centers for juveniles among the institutions on the Census Bureau list. These detention centers often hold three or fewer juveniles at a time for average lengths of stay of less than two weeks.

Responses to the survey identified 197 institutions with 50 or more residents and average lengths of stay estimated at three months or longer. These institutions, comprising 33.1 percent of the respondents, became the focal point of the Center's detailed study, because it is in such institutions that one could expect to find more highly developed grievance mechanisms.

Of the 197 institutions in the subgroup, 173 (87.8%) are publicly operated and 24 (12.2%) privately operated. The median-sized institution in this group has between 101 and 150 residents. Only 48, or 24.4 percent,

Table 1

Characteristics of Institutions  
Responding to Survey

	(n=594) All Respondents		(n=197)* Subgroup Respondents	
	No.	Percent	No.	Percent
No. Publicly and Privately Operated				
Publicly operated	550	92.6	173	87.8
Privately operated	44	7.4	24	12.2
No. of Residents				
1 - 10	111	18.7	---	---
11 - 25	116	19.5	---	---
26 - 50	116	19.5	6	3.0
51 - 100	116	19.5	92	46.7
101 - 150	47	7.9	39	19.8
151 - 200	24	4.0	20	10.2
201 - 250	16	2.7	13	6.6
251 - 300	8	1.3	4	2.0
301 + more	22	3.7	19	9.6
No answer	18	3.0	4	2.0
Sex of Residents				
Male only	241	40.6	121	61.4
Female only	69	11.6	26	13.2
Coed	266	44.8	48	24.4
No answer	18	3.0	2	1.0
Average Lengths of Stay of Residents				
3 months or less	234	39.4	---	---
3 - 6 months	94	15.8	34	17.2
6 months - 1 year	211	35.5	128	65.0
1 year - 18 months	35	5.9	24	12.2
18 months - 2 years	8	1.3	4	2.0
2 - 2 1/2 years	2	.3	2	.1
2 1/2 - 3 years	1	.2	1	.5
Over 3 years	2	.3	1	.5
No answer	7	1.2	3**	1.5
(including respondents who checked two answers)				

\* Population 50 or more, average length of stay 3 months or longer.  
\*\* Both answers checked exceeded three months.

Average Ages of Residents	(n=594)		(n=197)	
	All Respondents No.	Percent	Subgroup Respondents No.	Percent
Below 12.5 years	7	1.8	---	---
12.5 - 12.9	3	.5	3	1.5
13.0 - 13.4	12	2.0	5	2.5
13.5 - 13.9	7	1.8	4	2.0
14.0 - 14.4	55	9.3	16	8.1
14.5 - 14.9	36	6.1	10	5.1
15.0 - 15.4	204	34.3	46	23.4
15.5 - 15.9	73	12.3	34	17.3
16.0 - 16.4	99	16.7	32	16.2
16.5 - 16.9	38	6.4	17	8.6
17.0 - 17.4	29	4.9	13	6.6
17.5 - 17.9	3	.5	2	1.0
18.0 and over	19	3.2	13	6.6
No answer	9	1.5	2	1.0

of these institutions are coeducational, as opposed to almost twice that percentage for all of the surveyed institutions. Over 60 percent have boys only. Thirteen percent have only girls. The median age of residents in these institutions is between 15.5 and 15.9 years. The median length of stay is between six months and a year. The subgroup institutions are located in 46 states and the District of Columbia.

Parents' Complaints

According to the responses of the subgroup institutions, parents' complaints are not numerous. Sixty-five percent of the institutions reported that the average number of complaints they receive per month from parents is five or fewer. Only three institutions reported receiving an average of more than 20 complaints per month from parents.

Although 89.8 percent of the institutions reported that parents who complain are guaranteed a response, only 44 percent said they have a formal procedure for handling parents' complaints. Institutions that reported having time limits on the responses to complaints of parents numbered 64, or 32.5 percent of the subgroup. Both these institutions and the institutions not reporting such time limits state that responses are usually given to parents within a week. Over two-thirds of the institutions with time limits reported them as seven days or less. Over four-fifths of the institutions with no time limit estimated the usual time lapse between complaint and response to be less than a week.

Residents' Complaints

One hundred seventeen, or 59.4 percent, of the 197 institutions in the subgroup reported "programs or procedures specifically established

for the purpose of handling complaints of residents." One institution reported three such mechanisms and three reported two, for a total of 122 programs or procedures in the 117 institutions. Eighty institutions reported no such program. Only 50 (41.0%) of the mechanisms are available in written form. (Characteristics of the 122 programs are shown in Table 2.)

According to the subgroup respondents, slightly more than half of the programs, 52.5%, specify a particular person to be contacted with a complaint. Most often this person is the institutional administrator or one of his assistants, and next most often the person is the juvenile's counselor or cottage parent.

The most common method of presenting a complaint is by personal contact. An informal note is next most common. Only ten institutions use a prepared form. Thirty-three institutions use more than one method.

More than nine-tenths of the mechanisms guarantee residents a response to complaints, but only about half contain time limits. Most of the time limits are seven days or less. A majority of the institutions having mechanisms with no time limits also estimated that they respond to residents' complaints in seven days or less.

Residents who are not satisfied with the responses they receive may appeal the decisions in 114 of the 122 mechanisms. Appeals go most often to the institutional administrator or one of his assistants, but in nine cases the appeal can go beyond the institutional administrator to his superior.

Table 2

Characteristics of Complaint Mechanisms  
in Subgroup Institutions

<u>Characteristic</u>	<u>No. of Programs*</u>
Initial contact for purpose of complaining	
Particular person (n=64)	
Superintendent, assistants	18
Counselor, houseparent	15
Social worker	7
Other	24
No particular person (n=57)	
Any staff or several staff members	36
Student committee	5
Staff treatment team	5
Volunteer workers	1
Method of contact	
On campus	47
Informal note	18
Prepared form	10
Regular group meetings	3
More than one method	33
Whether response is guaranteed	
Yes	113
No	8
Whether response must be made within a time limit	
Yes	63
No	56
Whether resident may appeal decision	
Yes	114
No	8
Whether procedure provides for a hearing	
Yes	90
No	21
Hearing is conducted by	
Superintendent or assistants	42
Staff committee	12
Certain staff members	11
Counselor	11
Group meeting	10
Other	1
	8

\* Where columns do not total 122, institutions making up the difference did not answer.

Characteristic

No. of Programs

No. of programs allowing residents to be represented at hearings  
No. of programs allowing witnesses  
No. of programs allowing confrontation

75

78

79

Nearly three-quarters of the programs provide for hearings. The vast majority of these are conducted by the institutional administrator or one of his assistants, or a committee of staff. As shown in Table 2, more than 80% of those mechanisms that include hearings allow residents to have representation, call witnesses, confront the person involved in the complaint and refute adverse testimony.

Ratings of Effectiveness and Level of Resident Knowledge

The institutions were asked to assess the effectiveness of their programs in resolving residents' complaints. A scale was provided: "poor," "fair," "good," and "very good." Only one respondent from the subgroup gave his institution's program a "poor" rating. Twelve gave a rating of "fair" and one "fair" to "good". Ninety-four grievance mechanisms, or 77 percent of the total, were rated "good" or better.

Most respondents believe that a high proportion of residents know and understand the program for resolving grievances in their institution. Nearly 79% of the respondents estimated that more than three-quarters of their residents knew about their grievance mechanism. Only one institution estimated that fewer than 25% of the inmates know about its mechanism.

Most residents are told about the grievance mechanism when they arrive at the institution, according to the respondents in the subgroup. In 40 cases the orientation program is supplemented by other educational devices, including bulletin boards and handbooks. Word of mouth is relied on heavily.

Some respondents believed that their programs served purposes in addition to that of handling grievances. The additional functions named most often included "improving staff-resident communication," "giving juveniles increased responsibility," "feedback on program" and "helping residents' adjustment." Some respondents said that their procedures protect staff.

#### Other Ways of Handling Residents' Grievances

The questionnaires asked institutions whether they had provisions for handling residents' complaints other than the procedures they had just described. More than three-quarters of the institutions in the subgroup responded that any staff member or several staff members could handle complaints. Only 50, or 25.4%, of all institutions in the subgroup have a program under which legal services are provided for residents by attorneys or law students. Resident councils that meet with the superintendent or his designee exist in 102 of the 197 subgroup institutions.

Since some institutions consider the complaints of juveniles as a matter for treatment, the questionnaire sought information on the treatment modes used in the institutions surveyed. Respondents were asked to check as many treatment modes as were used in their institutions from a list of six and were given space to write in others. The 197 institutions in the subgroup listed 647 treatment modes as being in use by their staffs, or an average of more than three treatment modalities per institution. When asked which treatment mode predominated in their institution, the most frequent answer was behavior modification, followed by reality therapy, and guided group interaction.

#### Analysis of the Survey

The survey returns indicate a high level of interest on the part of correctional administrators in dealing with the complaints of incarcerated juveniles in some formal manner. A full 59.4% of the subgroup institutions have established a specific program for handling grievances. The majority of programs assume the shape of a formal procedure, as opposed to an ombudsman. Although inmate councils exist in over half of the institutions surveyed, they apparently are not perceived by the survey respondents to be devices for dealing with residents' individual problems. Only five institutions mentioned a complaint system that required the youth to present a complaint to a student council or resident committee.

The survey results show that the majority of institutions housing more than 50 youths for three months or longer have developed some kind of a formal grievance mechanism. Administrators believe that youths in their institutions understand the programs and that the mechanisms are effective in resolving residents' complaints.

As a result of the survey, the Center was able to identify seven jurisdictions with innovative mechanisms. In addition, the Federal Youth Center in Englewood, Colorado was chosen in order to include a federal facility in the on-site visits. After identifying a jurisdiction, the Center followed suggestions of departmental administrators to locate institutions for visits. Following are chapters analyzing the grievance mechanisms in the 16 institutions visited by a Center team.

CHAPTER IV: Visits to Institutions  
with Innovative Grievance Mechanisms

Center teams of two or three members visited 16 institutions in eight states, with each visit lasting from three to five days. A visit generally consisted of a stop at the jurisdiction's central office to review records and interview key administrators. At each institution, the team conducted interviews with the superintendent, key personnel involved in the operations of the mechanism, a cross section of staff and ten percent of the juvenile population. Where available, the Center team gathered training and orientation materials and written descriptions of the mechanism. Each team gathered the same type of data and asked the same questions in interviews in order to obtain comparable information from each institution visited.

The following report on the visits is divided into two sections: the first discusses ombudsman programs observed in seven institutions; the second describes formal grievance procedures studied in nine institutions.

Section 1: Ombudsmen

A. General Background

The first ombudsman, a governmental official designated to receive and investigate complaints made by individuals against abuses or capricious acts of public officials, was appointed in Sweden in 1809. Each of the Scandinavian countries has since adopted the concept, which calls for the appointment, usually by the legislature, of an independent and respected individual to handle the complaints of citizens against governmental agencies. The ombudsman has broad investigatory powers and, where he determines that a complaint is valid, generally recommends a resolution to the agency involved. If the agency ignores the recommendation, the ombudsman is authorized to

report directly to the legislative body that appointed him. Since the ombudsman also has the authority to make his findings and recommendations public in the event that they are rejected by those to whom he reports, governmental agencies theoretically face both legislative and public pressures to comply.

The chief characteristic of the ombudsman concept is that the holder of the office has full authority to investigate and pass judgment, but no power to enforce. The key to the success of the Scandinavian ombudsman has been the personal respect which he commands and the general belief in the reasonableness of his recommendations.\*

In America in recent years, the ombudsman concept has become increasingly popular as a complaint-handling mechanism used by states, governmental agencies, businesses, universities and prisons. In the past three years at least eight states have adopted some variant of an ombudsman authorized to accept citizens' complaints, including those of prisoners. Some jurisdictions, such as Hawaii, have ombudsmen appointed by legislatures to handle complaints against state agencies and officials, including the corrections department; other states, beginning with Oregon in 1971, have created correctional ombudsmen specifically to handle prisoners' complaints.\*\*

In applying the ombudsman concept to prisons, correctional administrators have made substantial alterations, particularly in regard to the

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\* For background on the development of the ombudsman concept see, Stanley V. Anderson, Ombudsmen for American Government?, American Assembly, 1968; Walter Gellhorn, When Americans Complain, Harvard University Press, 1966; "The Ombudsman", 109 Pa. L. Rev. 1057 (1961).

\*\* American Bar Association's Section of Administrative Law, Ombudsman Committee, Development Report; July 1, 1973 - June 30, 1974.

ombudsman's independence. In the Scandinavian model, the ombudsman who reviews actions of executive agencies is hired by and reports to the legislature. Most correctional agencies in this country have made the ombudsman into a sort of departmental (as in Ohio) or institutional (as in the Oregon State Penitentiary) inspector general, who investigates complaints and makes recommendations for resolution to the official who appoints him and supervises his activities. Few states have developed correctional ombudsman programs which resemble closely their Scandinavian forebears.

During its study of juvenile correctional grievance mechanisms, the Center observed four different ombudsman programs. Two were of the "inspector general" variety, one of them departmental (New York Division for Youth), and the other institutional (Federal Youth Center in Englewood, Colorado). The other two programs studied (Iowa and Minnesota) more closely resembled the Scandinavian model.

#### B. New York Division for Youth

History and Design: In July, 1971, 13 training schools in New York State, plagued by allegations of rampant child abuse and chaotic conditions, were transferred from the Department of Social Services to the New York Division for Youth (DFY). Concerned by the charges and committed to defending the legal rights of juveniles newly placed under his jurisdiction, the director of the DFY ordered the design and implementation of the first departmental ombudsman program for juveniles in the United States.

In August, 1972, the DFY hired four young lawyers as ombudsmen to serve the approximately 5400 youths incarcerated in New York institutions for juveniles. All four formerly were attorneys for various legal aid offices across the state and had been involved in law suits against the DFY and other state agencies.

Each ombudsman is responsible for receiving and investigating complaints from institutions within one of four geographic regions and preparing monthly reports to the DFY director on his activities. Every month a day-long session for all of the ombudsmen is scheduled with the DFY director and legal counsel, usually followed by an evening meeting with the Independent Review Board.

The Independent Review Board is a committee of citizens appointed by the director of the DFY, after consultation with the Family Court Judges Association of New York State, for the purpose of monitoring the program. The board meets regularly with the director to review the ombudsmen's reports, make recommendations and seek information on the steps taken by the DFY to implement changes recommended by the board and/or the ombudsmen. Although the board members are selected by the director of the DFY, they are not employees of the division and are chosen because of their experience or interest in juvenile corrections. The board also is charged with responsibility for making an annual report to the director to guide him in formulating agency policy. The powers of the board are purely advisory.

Operations of the Program: In September, 1973, a Center team attended the monthly meeting of the ombudsmen with the director and legal counsel, as well as a meeting of the Independent Review Board. At that time, there were five ombudsmen\*, with the fifth acting as a liaison officer to coordinate activities between the ombudsmen and the central office. Only one of the five had been in the original group of ombudsmen hired by the Division; two of the ombudsmen had been working less than three months.

During the meeting of the ombudsmen with the director there was a candid and detailed discussion of problems encountered by the ombudsmen in

\* Since then, a sixth has been added.

their activities in specific institutions. It quickly became obvious that there was an extraordinary degree of rapport and frankness in the relationship between the director and the ombudsmen. In addition to a review of problems, needs and accomplishments, the meeting included detailed discussion of draft rules drawn up by a sub-committee of ombudsmen to replace current division policy or to establish new policies. The draft rules were slated for presentation at the next meeting of the Independent Review Board, where they would be approved, amended or rejected.

A meeting of the Independent Review Board, also attended by the Center team, included a brief review of the month's activities of the ombudsmen given by the DFY legal counsel. Discussion of the board members then turned quickly to the draft rules presented for the board's review. At the particular meeting observed by the Center staff, there was little direct exchange between the ombudsmen and the board members; lively discussions occurred between DFY administrators present and board members or among the board members themselves, but the ombudsmen sat mute throughout most of the meeting.

The Independent Review Board meeting attended by the Center team left considerable doubt concerning the effectiveness of the board's role in monitoring the DFY ombudsman program. The questions, doubts, complaints and apprehensions expressed candidly by the ombudsmen in their earlier monthly meeting with the director never surfaced before the board.

The Center team interviewed all of the DFY ombudsmen. It was evident from the interviews (as well as from the monthly meeting) that the ombudsmen were ambivalent about their roles in the program. Largely due to their legal education and experience, they tended to view themselves as advocates for institutionalized youths. On the other hand, the director's emphasis on the need for objectivity and a balanced perspective, together with the failure

of the ombudsmen's sometimes strident advocacy to bring about institutional change, has made them conscious of the limitations of advocacy.

Of great importance to all the ombudsmen was the personal interest taken by the director in the program, and they attributed whatever changes they had accomplished to the knowledge of superintendents throughout the system that the director received information directly from the ombudsmen. Despite the support of the director, the ombudsmen's ambivalence over their roles seemed to create tension and frustration. They voiced feelings of loneliness, isolation and uncertainty about the scope of their jobs.

The ombudsmen indicated that there had been no formal training for newly hired ombudsmen in the techniques of mediation or "ombudsmanship." Recruits generally spent a week observing proceedings in juvenile courts. The ombudsmen were young and often in their first or second post-law school jobs. With limited experience in dealing with bureaucrats and no training in the skills of conflict resolution, they were forced to develop expertise through trial and error.

The program has no clear guidelines governing the specific activities of the ombudsmen and each seemed to operate in a slightly different manner. All of them investigated any grievance involving institutional policies and personnel, while matters relating to a youth's court appearance or sentence were not pursued. When asked if there was a policy requiring responses to youths' complaints, they said "no", but each indicated that he had developed an individual system. Most stressed that they tried to get back to the youths who had contacted them, but sometimes they did not do so. One ombudsman had a policy of never giving specific responses. There also was no common policy on acceptable time limits within which to resolve issues.

The Center team visited three DFY institutions, chosen by the Center with the advice of the DFY administration, for the variety of ages of the population and for the fact that each facility was served by a different ombudsman.

Hudson School for Girls (population: 64; average stay: nine months; average age: 15.2 years) houses all of the older juvenile delinquent girls in New York. In September, 1973, Hudson had been without an ombudsman for two months due to the resignation of the former ombudsman and a lag in replacement. One top administrator asserted that there had been "a general sigh of relief when the ombudsman resigned." He said that although Hudson's ombudsman had developed good rapport with the girls and staff, most staff were wary of the program and felt that "a lawyer was being sent from Albany to spy on them."

Hudson's treatment plan is geared to heavy group involvement. Many staff complained that the ombudsman offered girls "a way out"; if someone did not want to work in the program she could use the ombudsman as an escape.

Neither staff nor youths received an orientation to the purpose and functions of the ombudsman program prior to its introduction in the school. The superintendent was informed about the impending introduction by a memorandum sent from the central office in Albany. The lack of explanation added to the hostility felt by staff, many of whom said that they felt left out since "no one ever sent a lawyer to ask about our complaints."

Some of the girls at Hudson remembered the ombudsman who had resigned, but others stated that they had never heard of him. Most of the youths interviewed told Center staff that they had never been given any information about the program, and although they could identify him when told the ombudsman's name, very few knew why he was at Hudson. When asked if she thought

having an outsider to complain to was a good idea, one girl said, "I am so sick of groups that I can't imagine wanting to talk to anyone."

Most staff members interviewed at Hudson knew that the ombudsman had succeeded in bringing habeas corpus petitions for several girls, which resulted in their release.\* No juvenile interviewed had heard of this particular accomplishment of the ombudsman at Hudson.

Highland School for Children (population: 16 females and 74 males; average stay: 15 to 17 months; average age: 12.5 years) is a coeducational facility for younger children (ages 8-13). At Highland, the administration and staff were familiar with and generally unhappy about the ombudsman program. The ombudsman (in this case, ombudswoman) was described as both vocal and active, especially in the vigorous pursuit of several complaints alleging child abuse by members of the staff. In fact, at least one staff member had been dismissed as a result of her investigation and many of the remaining staff expressed concern over the incident and the way in which it was handled. The Highland staff knew that the ombudsman was a lawyer, and this fact added to their wariness. Some personnel told the Center team that they had little knowledge about the specific laws governing youths and feared being taken to court.

Most of the residents interviewed, on the other hand, did not know who the ombudsman was or what the program was about. They recognized a physical description of the ombudsman, but most thought she was a teacher or social worker. Some of the older children knew that there was a lawyer at Highland to listen to their complaints and they had seen her in the cottages, but many told interviewers that they were afraid to talk to her. Apparently, very few youths voiced complaints to the ombudsman, and many of the grievances investigated at Highland were picked up by the ombudsman through the institu-

\*This successful handling of post-conviction complaints was a departure from the normal operations of the ombudsman program.

tional grapevine rather than being lodged by individual children.

Highland seems to demonstrate that an institution with a relatively young population offers a special challenge to designers of grievance mechanisms. The Center team found very little understanding of the purpose and function of the ombudsman program, particularly among the younger juveniles. While this may have reflected an inadequate attempt at orientation, the Center team felt that the problem had a deeper dimension. Children of this age seem to have a difficult time remembering someone who is not at the institution all the time. Each of the DFY ombudsmen is responsible for several institutions and schedules visits to each facility depending on the size, location and complaints of the clientele. Although older youths in other institutions frequently were able to grasp the concepts of the program and identify their ombudsman, the Highland children could not.

Another problem may reside in the use of the title, "ombudsman." The designation is virtually impossible to pronounce, much less remember and understand. It is simply an obstacle to the already difficult task of informing youths about the nature of the program and urging them to make use of it.

Warwick Training School for Boys (population: 144; average stay: 12.1 months; average age: 14-15 years) houses delinquent boys. The institution looks more like a prison than the other two DFY facilities visited. The boys wear state-issued clothing and move in more or less regimented fashion throughout the grounds.

The superintendent at Warwick expressed a genuine liking for the ombudsman at his institution and stated that he was eager to cooperate with the program. He was convinced that increased staff consciousness of the need for exercising greater caution in dealing with youths was an indirect benefit

of the program.

The youths interviewed at Warwick knew the ombudsman; many said that he regularly visited the cottages. Several had talked to him and stressed that he had done a good job solving personal problems. On the other hand, they did not see any changes in institutional policies or rules as a result of the program. Many boys told Center staff that they "wouldn't bother complaining about rules, because it wouldn't do any good except get you a hassle." Those interviewed were totally unaware of the rule-writing role of the ombudsmen.

Most of the Warwick residents who dealt directly with the ombudsman seemed pleased with the results, although some expressed dissatisfaction because they had not received answers to their complaints. Some interviewed youths expressed dissatisfaction because it "took forever" to get any action, and some argued that "lots of times, nothing ever happens."

At Warwick the ombudsman had resolved successfully several complaints of individual residents interviewed (e.g., one boy was allowed more visits and another was permitted to order special books). The solutions seemed to be due, in large part, to the excellent working relationship between the ombudsman and the superintendent. The ombudsman confirmed that his relations with the institutional administration were relaxed and amiable.

The measurably greater impact of the ombudsman program at Warwick seemed to be linked directly to the kind of relationship enjoyed by the ombudsman with the staff and administration. At Warwick, the ombudsman seemed to have decided any internal conflict over his role in favor of neutrality. He made an apparently successful effort to remain objective and to understand the points of view of the staff and administration, as well as that of his juvenile clients, thereby rejecting a role of pure advocacy.

Summary: Judging from the Center's observations of the operations of the ombudsmen in various institutions in New York, the program has helped to unify the New York juvenile system, has established the presence of the central administration in every facility in the state and has helped to make the incidence of child abuse a rarity in the system. One of the major accomplishments of the program to date has been the revision and implementation of a number of state-wide regulations (such as a ban on compulsory Sunday church attendance). The DFY director has used the ombudsmen effectively both to draft and to monitor the implementation of these new regulations throughout the state system.

The ombudsmen had mixed feelings about the nature of their roles. As resolvers of complaints on an institutional level, they seemed to know that success depended heavily on the strength of their personal relationship with institutional staff and administrators, whom they basically distrusted. While they acknowledged the closeness and importance of their relationship with the director, they complained that he seemed unable or unwilling to exert his authority to bring about substantive, departmental change. The ombudsmen seemed to believe that the director's ability to effect major change quickly was unlimited.

The DFY ombudsman program represents a radical departure from the structure of the Scandinavian ombudsman. In New York, the ombudsmen investigate complaints for the director and report their findings and recommendations to the institutional superintendent or the director. The agency monitored by the ombudsmen hires them and evaluates their performance; the ombudsmen have no authority to publish their findings. The Independent Review Board, designed to give the ombudsmen at least a quasi-public forum, does not seem to be fulfilling its monitoring function. Rather than keeping

a close check on the activities of the ombudsmen and the implementation of their recommendations, the board seems to have become a purely advisory body that considers suggested rule changes.

These structural limitations of the DFY ombudsman reflect the narrow purposes for which the program was initiated, namely, to prevent the abuse of children under the division's supervision and provide an additional means of centralized administrative control during the transfer of training schools to the DFY. The program was not intended to handle all of the grievances prevalent in New York juvenile correctional institutions, it was designed in response to the allegations of widespread abuse of children committed to training schools. The subject of alleged physical and sexual abuses continues to be the primary concern of the program.

In addition, the DFY is currently undergoing a process of administrative regionalization with newly created management positions designed to act as links between the department and the institutions. The "middle managers," those who will serve as the regional administrators, are expected by the director to assume the policy writing and monitoring duties presently handled by the ombudsmen. Regionalization, then, will end the aspect of the DFY program that gave the ombudsmen the unique task of rewriting DFY regulations. Thereafter, the director anticipates that the ombudsmen will continue their fact-finding functions to guard against child abuse.

Considering the limited purposes of the DFY ombudsman program, it has been extremely successful. The rule-writing assignment entrusted to the New York ombudsmen is unique in the country, whether in juvenile or adult corrections. However, outside of a fairly narrow range of complaints, the program does not, nor was it ever intended to, deal with many of the grievances of institutionalized juveniles.

C. Federal Youth Center at Englewood, Colorado

History and Design: In November, 1973, when a Center team visited the Federal Youth Center in Englewood, Colorado (population: 380 males; average stay: 16 months; average age: 19 years), it was the only federal facility for young offenders in the West,\* with youths from nearly every state west of the Mississippi.

In early 1972, the warden and his special assistant saw a need to demonstrate to youths at Englewood that the administration was concerned about their legitimate complaints. In response to that need, the special assistant took on the tasks of an ombudsman. He left the institution in the fall of 1973 and was replaced by a part-time successor.

The Youth Center is divided into five living units, each with a staff of counselors and caseworkers supervised by a unit manager, the chief administrative officer for each unit. Within this structure, youths were expected to attempt resolution of grievances at the unit level, first by talking to a counselor and then to the unit manager. If the complaint was still unresolved, a youth could make an appointment with the ombudsman, who investigated the situation and made a recommendation to those involved. If the unit manager rejected the ombudsman's recommendation, the complainant could appeal to the ombudsman, whose decision was final. When the ombudsman was approached, he first contacted the unit managers to make sure that the youth had attempted resolution at a lower level. If it was found that the youth had come directly to the ombudsman, he was advised to consult unit personnel to attempt resolution.

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\* Since then, a new federal youthful offender facility has been opened in California.

In essence, the Colorado design created an ombudsman to handle complaints for the warden. If the warden rejected the recommendation of the ombudsman, the proceeding came to a halt. The ombudsman could not appeal to a higher level nor publicize his findings.

Operations of the Program: In addition to visiting Englewood and talking to people there, the Center interviewed the initial ombudsman, who had been instrumental in the development of the program. He remained convinced that a review mechanism outside the unit structure was essential to prevent arbitrary decisions. He admitted that the unit managers had not been happy at first with his role at Englewood, but most of them had accepted the legitimacy of the function. The original ombudsman hoped that eventually an ombudsman would not be necessary and that staff and youths would develop a relationship of mutual trust. He regretted that such a relationship did not yet exist.

At Englewood the Center team talked to the new staff member who recently had been appointed to assume the ombudsman functions. Unlike his predecessor, whose only institutional duty was to serve as ombudsman, the new appointee was expected to assume the responsibilities of supervising institutional caseworkers as well as performing the ombudsman's duties. Not surprisingly, he was cautious about the ombudsman's role in the institution. He confirmed that he had not sought the position and was concerned about a possible conflict of interest between his two functions, since he would be reviewing the decisions of fellow staff members in two separate capacities.

The new ombudsman thought that his role should be confined generally to the oversight of administrative procedures. He should become involved in investigations of only blatantly arbitrary decisions. Finally, he observed that most complaints could be settled satisfactorily within the units, so the need for his intervention was limited.

The unit managers interviewed by the Center team agreed with the newly appointed ombudsman: they felt that grievances could and should be handled at the unit level and saw no real need for an institutional ombudsman. One manager already had appointed a "unit ombudsman" to handle complaints within his living unit. Recommendations of the original ombudsman for changing the decisions of unit managers had aroused resentment among managers, who expressed distrust of a fellow staff member who "took a kid's word over that of the staff."

Among the juveniles at Englewood interviewed by the Center team, most felt that the unit managers were extremely powerful, since they had the final word on such key issues as furloughs, passes and trips to town, all of which were based on the individual youth's behavior on the hall. Most expressed the view that anyone "going over the man's head to the ombudsman" would risk future denial of furloughs or passes and "it wasn't worth it." One youth told the interviewer, "Either you solve a complaint on a unit level or you bury it."

On the other hand, several of the youths interviewed said they had taken complaints to the ombudsman, who had gotten results for them. Three boys had had disciplinary rulings reversed, and others had received day-passes or

home visits. Many youths told the Center team that the positive results came from the managers' fear of the ombudsman. To avoid trouble with the warden, they followed the ombudsman's recommendations and reversed their own decisions. Most of the youths interviewed expressed the feeling that the ombudsman could satisfactorily resolve individual complaints but that he could not change unit policy.

Part of the explanation for the failure of staff or youths interviewed to view the institutional ombudsman as a vehicle for handling complaints about policy may have been the existence of the Resident Community Council at Englewood. The council, composed of two elected representatives from each unit, was designed to give residents input into institutional regulations and policy decisions. The council met weekly with an administrative staff member and discussed rules and policies.

CCJ staff attended a weekly meeting of the council and had an opportunity to discuss its impact with its members. In the meeting attended by the Center team, visiting policies, recommendations for holiday events, dress and hair codes, and policy on town visits were discussed. Council members voted to recommend the residents' position on several issues to the Advisory Committee on Treatment (ACT), the major policy committee at the Youth Center.

The Resident Community Council was expected to discuss and present institutional policy recommendations on behalf of the population to the ACT, which was comprised of seven staff members and one voting resident. Council members told the Center team that their recommendations often were not accepted or were tabled indefinitely for future discussions at ACT meetings. As one resident put it, "If they like something, they'll vote with us, but with seven of them (staff) and one of us, we can't hope to pass things they don't like."

Neither of the ombudsmen at Englewood had received any training prior to assuming his position. There was no continuing orientation program on the purpose and functions of the office for either staff or residents, who learned of the program by word of mouth. There was no policy on time limits for responses to complaints submitted to the ombudsman and, indeed, no requirement for the ombudsman to respond at all, although the original ombudsman had established a personal policy of contacting each complainant with an explanation of the action taken.

Summary: Although the institutional ombudsman was established to investigate and make recommendations for action on all kinds of complaints, including unit and institutional policies, it has become, at best, a means to review the decisions of unit managers in individual cases. Even here, however, there seems to have been a loss of effectiveness since the departure of the original ombudsman, who was convinced of the merit of the program and whose sole function in the institution was to make it work. The hesitancy of the new ombudsman, who had joined the Englewood staff only recently, to commit his time to the program does not bode well for the future success of the institutional ombudsman at Englewood. It should be noted, however, that the Center's visit was made during a transitional period during which the program was in flux.

In the past, it is clear that the ombudsman has had some measure of success in resolving the personal problems of residents. The program is not viewed by staff or residents as a means of reviewing unit or institutional policy. Presently there are no channels available to Youth Center residents for complaints about unit policies; the function of reviewing institutional policies is entrusted to the council and its parent body, ACT, in which

interviewed residents expressed little trust.

D. Minnesota Ombudsman for Corrections

History and Design: In April, 1972, Governor Anderson appointed an ombudsman for corrections in Minnesota, using money from two Law Enforcement Assistance Administration grants to fund the project. In May of 1973, the state legislature passed a bill creating the Office of Ombudsman for Corrections as an independent state agency. As stated in the 1972-73 annual report, the general purpose of the office was to ensure the prevalence of justice and fair play in Department of Corrections' dealings with people under its supervision, especially those in correctional institutions. In addition, the program began with some specific goals and objectives, including the following:

1. Improving the relationship between staff and inmate by providing the inmates with information on the actions, motives, and design of administrative action.
2. Alleviation of tension within the prison by means of more open communications, i.e., a "release valve."
3. The improvement and clarification of administrative procedures and regulations.
4. Reorganization and revitalization of internal prison review procedures.
5. Increased access to judicial review by cooperation and coordination with the various legal aid services.
6. Encouragement of more active involvement of private and governmental agencies and interest groups in alleviating grievances.\*

The design of the ombudsman program in Minnesota is more faithful to the Scandinavian model than either the Englewood or New York program.

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\* Ombudsman for Corrections, 1972-73 Annual Report, State of Minnesota, p. 1.

In Minnesota, the ombudsman is established by statute; he is empowered to suggest statutory changes directly to the legislature; he may bring court action to enforce his broad investigatory authority; he may publish his findings and recommendations and he is required to prepare an annual report for public distribution. Unlike the Scandinavian model, however, he is appointed by the governor and according to the enabling statute is accountable to the chief executive of the state, meaning, presumably, that he is removable by the governor.

The Minnesota Ombudsman for Corrections has broad jurisdiction, primarily because the corrections system in Minnesota includes both parolees and juveniles under its supervision. The average daily population served by the program in 1973 was 5782 (1897 of whom were in adult and juvenile institutions.)\*

When a resident in a Minnesota institution files a grievance, the ombudsman, or someone from his staff, investigates the complaint, compiles a report of his findings and makes a recommendation, usually to the institutional superintendent or his appropriate subordinate. In the event that his recommendation is rejected, the ombudsman may appeal to the Director of the Department of Corrections, to the Governor and, finally, to the public through publication of findings and recommendations. At each level, it is left to the discretion of the ombudsman whether to press forward through further levels of appeal. As of mid-1974, the ombudsman never had felt the need to take a case beyond the Department of Corrections.

Operations of the Program: A team from the Center visited the Minnesota ombudsman's office in October, 1973, and conducted interviews

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\* Ibid, Table 1, p. 7.

with the ombudsman and several of his investigators. The ombudsman has a background of involvement in community action programs in Minnesota. He was the original ombudsman appointed by Governor Anderson and has played a major role in the development and design of the ombudsman program.

At the time of the Center's visit, the ombudsman's office had grown from one part-time helper for the ombudsman to a staff of six, including four investigators and two secretaries. The staff of the ombudsman's office have varied backgrounds, including one "graduate" of a juvenile facility in Minnesota who works with youths in the community. None has worked for the Department of Corrections or in an institution; most were involved in various social programs in the community before joining the staff.

There had been no formal training for anyone in the ombudsman's office, and no specific guidelines for the job existed. Although all agreed that the primary goal of the project was to act as an independent, objective party to receive and resolve individual complaints, there was a variety of opinions on how best to accomplish the goal. Each investigator had developed a personal pattern of operation, including criteria for the dismissal of complaints, investigative methods and the use of outside pressure to resolve institutional complaints.

There were no specific institutional assignments made in the office, although certain investigators visited the major institutions regularly. Since the vast majority of complaints (77 percent in 1972-73) were received from the two large male adult institutions (Stillwater and St. Cloud), much of the ombudsman's activity was concentrated in these prisons. Investigators indicated to the Center team that the ombudsman's office intensified and concentrated its activity at an institution where increasing tension threatened to break out in violence, or where violence actually occurred. During such

periods of crisis, operations in other institutions tended to be neglected.

Neither the ombudsman nor any of his staff sought to conceal the fact that the Minnesota Ombudsman for Corrections was available to juveniles in state institutions only on a limited basis. Investigators visited juvenile facilities rarely, at best only once every six weeks. The ombudsman and his staff expressed regret over the relative neglect of juveniles and pleaded poverty of resources. There was discussion of future plans to assign investigators to cover particular juvenile institutions so that, even in times of crisis at the adult facilities, someone from the staff would maintain contact with the juveniles. These assignments would require an expansion of manpower, a high priority for the ombudsman.

After conducting interviews at the office of the ombudsman, the Center team visited two Minnesota juvenile institutions.

The Minnesota Reception and Diagnostic Center in Lino Lakes (population: 28 females, 112 males; average stay: four months; average age: 16 years) was formerly the state reception center for juveniles in Minnesota. Under a reorganization plan of regionalization, each institution now conducts its own reception and diagnostic program, and Lino Lakes serves as a residential institution for male and female juveniles from the Twin-Cities area.

The institution, opened in 1963, is modern and has the highest paid correctional staff in Minnesota.\* The facility has a relaxed atmosphere and is free of bars and fences. The superintendent expressed the view that the ombudsman program provided a necessary "checks and balances" system for staff. He said that the investigators were extremely cooperative with the institution

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\* This is because the staff has a high percentage of "diagnosticians" remaining from the Reception Center days.

and that there was little problem with staff hostility. When the ombudsman program was implemented there had been a general information session for staff, but investigators from the ombudsman's office are now responsible for telling staff about their program.

In talks with staff and juveniles, there seemed to be no clear idea about the nature of the ombudsman program or what it was supposed to accomplish. Staff were not hostile to the concept, although many told the Center team that they were nervous when the program began. One counselor stated, "I didn't know what would happen, but there's been no real change, so I guess it's OK."

Most of the staff members interviewed did not know of anyone who had filed a complaint and most had never talked with anyone from the ombudsman's office. In addition, only one of the staff interviewed by the Center ever had attended an orientation session on the program; all of the others had learned about it through the grapevine.

Juveniles at Lino Lakes were even less informed about the program than staff. Some told the Center team that their counselors or cottage parents had explained the ombudsman concept, but few residents had ever filed a complaint or seen the investigator. Most youths knew of the locked complaint boxes scattered throughout the facility but did not know what happened to complaints once they were filed. One interviewed youth, who had seen the investigator about a problem with a teacher, told Center staff that he had never received any answer to his complaint. The youths expressed the feeling that having an outsider to whom complaints could be submitted was a good idea, but stressed that the outsider had to be available frequently and had to circulate in the cottages so everyone could know who he was.

The Minnesota State Training School at Red Wing (population: 24 females, 140 males; average stay: eight to nine months; average age: 16-17 years) is well known because of its initiation of the treatment modality known as "positive peer culture" in the setting of a large institution. The basic theory of the modality is that youths can "treat" one another and will recognize quickly the characteristics of another resident's "problem pattern" that is repeated in the institution. Treatment is developed around a group of ten to twelve individuals who use direct confrontation and supportive pressure to help each other recognize their individual problems and cope with them.

Red Wing, formerly an all-boys' facility, recently became co-educational. The buildings, old brick structures without surrounding walls or fences, give the institution the look of a prep school nestled in the countryside. Although Red Wing has a constant stream of visitors from across the country, the institution remains isolated from contact with service agencies and programs in Minnesota. It is a 90-minute drive from Minneapolis to Red Wing and there is little visible sign of public transportation.

Red Wing's young superintendent expressed complete confidence in the effectiveness of positive peer culture in treating juveniles, as well as an equally strong belief that any outside interference operates as a disruptive intrusion into the treatment program. Red Wing does not allow home visits, and discourages family visits to the institution.

In view of the central treatment philosophy, it is not surprising that the ombudsman program is virtually non-existent at Red Wing. Positive peer culture does not recognize individual grievances. All complaints are identified as falling within a limited number of defined categories of "problems." Since all "problems" must be dealt with and resolved within

the group process before a youth is eligible for release, theoretically there seems to be little room for the operation of any kind of grievance mechanism, especially one operated by "outsiders."

Youths interviewed by the Center team were acutely aware of the connection between solving "problem patterns," which seemed to embrace the entire range of their complaints, and release. Almost unanimously, they expressed fear and apprehension that using any sort of outside complaint system would be an obstacle to their release.

The real problem of the compatibility of an effective grievance mechanism with a treatment modality of the variety practiced at Red Wing is exacerbated by the distant rural location of the institution, the limited manpower resources of the ombudsman's office and its preoccupation with the complaints of adult prisoners. Youths interviewed at Red Wing were almost totally ignorant of the existence, purpose and function of the ombudsman program.

Summary: When the Minnesota Ombudsman for Corrections was conceived and established, it was designed primarily to provide a grievance mechanism for adult correctional institutions in the state. Little attention was given to the theoretical and practical application of the program to juvenile corrections. As a result, the ombudsman program has had virtually no impact on juvenile institutions in Minnesota. Certainly, none of the specific goals of the program listed earlier have been achieved by the ombudsman in Lino Lakes and Red Wing.

This judgment will not surprise those involved in the Minnesota Ombudsman program. They are aware of the extremely limited presence of their program in juvenile institutions and are moving to correct the situation.

At Lino Lakes, as in Highland School for Children in New York, the basic problem is a lack of regular visibility on the part of the ombudsman. The administration of the institution acknowledges the value of the program; the staff is wary, but not overtly hostile to the concept; and the residents seem willing to try the system, if they are made aware of its existence, purpose and functions.

The problem at Red Wing is more complex. There, the ombudsman program is considered a threat to the treatment modality. Until the ombudsman's office makes a greater effort to be available to juveniles in the institution, it will be impossible to determine the compatibility of the two programs. Minnesota, with a grievance mechanism that has demonstrated very real potential for effectiveness in its adult institutions,\* and an institution that has served as a national model for the development of positive peer culture,\*\* seems like an ideal arena in which to conduct a search for the most effective accommodation between the demands of justice and fairness and those of an effective treatment modality.

#### E. Iowa Citizens' Aide

History and Design: In October, 1970, the Governor of Iowa created the office of Citizens' Aide, a state-wide ombudsman program to monitor state government agencies, which was initially funded by a grant from the Office

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\* The CCJ survey of adult grievance mechanisms for LEAA's National Institute of Law Enforcement and Criminal Justice included a review of the operations of the Minnesota ombudsman in Stillwater.

\*\* In the survey of institutions for juveniles conducted by the Center for this report, over 60 percent of responding institutions with 50 or more residents and an average stay of over three months claimed to be using some form of positive peer culture in all or part of their institutions.

of Economic Opportunity. Two years later the Iowa General Assembly passed the Citizens' Aide Act and appropriated funds to establish the Citizens' Aide (CA) as a separate state agency.

When the program began, the Governor asked the CA not to get involved in corrections because he feared that the caseload would be overwhelming. In 1973, however, the CA began to correspond with Iowa inmates and visit state facilities to receive grievances.

Recognizing the potential size of the correctional caseload, the CA office applied for a grant to the Iowa Crime Commission to hire a correctional investigator. In September, 1973, an ex-offender from the Iowa system was hired and given responsibility for providing service to three adult correctional facilities, three juvenile facilities and 88 county jails.

Of all of the ombudsman programs providing service to correctional institutions in the United States, the Iowa CA most closely resembles the Scandinavian model. The CA is appointed by the legislature, is required to make an annual report of his activities to that body, and can be removed from office only by majority vote of both houses. He has broad powers of investigation, which he may enforce by resorting to court action. After his investigation, the CA makes recommendations for change to the agency involved. He also may publish his conclusions and recommendations and transmit them to the Governor, the General Assembly or any of its committees.

Operations of the Program: Center staff interviewed the Deputy Citizens' Aide in charge of corrections in May, 1974. He explained that, although the jurisdiction of the CA office included the state's juvenile facilities, most of his efforts were concentrated on adult male facilities. The Deputy CA told the Center team he felt that "the juvenile facilities are in really good shape," so they did not require much attention from the CA's office.

The Deputy CA usually receives complaints in writing, but he has received only one letter from a juvenile facility since he was hired. He told the Center team that there had been no formal orientation program for either staff or youths to explain the Office of the Citizens' Aide, but he indicated that all superintendents had received a memorandum informing them of the hiring of a corrections deputy. The Deputy CA "assumed" that the superintendents had informed the staff and youths at each juvenile facility about the existence of the CA.

The Mitchellville Training School for Girls (population: 83; average stay: five and one half months; average age: 15.8 years), one of the three juvenile facilities in Iowa, houses all of the adjudicated female delinquents in the state. At Mitchellville, the interviewers met with the school principal, one of the three administrators of the facility. The principal expressed the view that the Citizens' Aide was a good idea, but he explained that Mitchellville had had little formal contact with the agency. The principal (and other staff members interviewed) identified what he described as a conflict of interest problem involving the CA program. The Deputy CA's wife is a staff member at Mitchellville. There is some feeling among staff that the Deputy CA's wife has been the source of information leading to the initiation of two investigations by the CA office. This use of "inside information" has led to what one staff member described as "an uneasy relationship" with the deputy ombudsman.

The Center team interviewed several housemothers and cottage directors who said that most complaints at Mitchellville were handled informally. The girls had cottage meetings to discuss rules and regulations, which gave them some input into decisions.

Few of the staff knew about the Citizens' Aide program. When asked if they knew the Deputy CA, they identified him as a state employee who was also the husband of a staff member. There had been no orientation program for staff about the Citizens' Aide program.

Likewise, most of the 15 juveniles interviewed at Mitchellville had never heard of the Citizens' Aide program. When asked if they knew the Deputy CA, many said "yes," but they did not know what his job was. The Center staff asked if anyone ever had written a complaint to Des Moines, or been told that there was an office in Des Moines to receive complaints. All the girls said "no"; you could write the Governor or someone else, but "it didn't do any good."

In addition to the Citizens' Aide program, Mitchellville has an internal grievance procedure for the handling of residents' complaints, which was designed several years ago and revised and updated in 1973. The procedure is activated when a girl files a written grievance with the superintendant. There is no grievance form; the complaint is merely submitted on paper. Once the grievance is filed, a hearing is scheduled, usually for the same day or, at the latest, for the following day. The hearing panel is chaired by one of three staff: superintendent, treatment supervisor, or school principal, depending on the nature of the complaint. Two girls also sit on the panel; one is the elected grievance representative from the cottage where the complaint originated, and the other is a representative from one of the other cottages.

At the hearing, the complainant decides who will be present in the room during her appearance; if she wants to confront any staff members involved in the grievance, she may do so. If she wants to tell her story privately, then the panel hears later from the others involved. Witnesses are called

and testimony given, although the hearings are informal. After hearing testimony, the members of the grievance panel discuss the case. The chairman alone makes and announces the final decision. A written report is then placed in the complainant's file.

A resident dissatisfied with the outcome may write directly to the Bureau Director. However, since anyone can write directly to the Bureau Director without going through a hearing, this hardly constitutes a procedural appeal process. The principal explained that the procedure was designed especially for non-verbal girls who would not talk to the superintendent on a regular basis. An elected group of residents, the Advisory Council, which formally met monthly with the superintendent, helped design the procedure. Complaints are filed on an average of three times a month by girls to voice personal complaints; youths do not use the procedure to advocate policy changes in the facility, according to the principal.

Staff interviewed by the Center supported the grievance procedure, although they stated that it was not particularly important. They indicated that there had been no effort to educate staff about the procedure, although cottage manuals contained a written description. Staff also told the Center team that the Advisory Council no longer functioned, but that administrators got feedback from girls on an informal basis.

Residents at Mitchellville were not enthusiastic about the grievance procedure. Although some felt that serious personal problems might be resolved through the grievance procedure, most stated that residents rarely got favorable responses to their complaints and that it "was no good to complain because we always lose." This presumption seemed to be due, in part, to inadequate communications. A check of the records of the procedure

indicated that there had been some recent grievance resolutions favoring the complainants.

Summary: The Citizens' Aide program has had virtually no impact on the residents at Mitchellville. Although the deputy ombudsman keeps "in touch" with the facility by means of the personal contact represented by his wife, few staff or youths understand his official function. The Deputy CA's present means of contact with the institution, in addition, has created some uneasiness for the administrators and some staff at Mitchellville.

Again, the problem of visibility encountered earlier in New York and Minnesota plagues the operations of the Iowa CA in the state's juvenile institutions. One of the key elements of success of an ombudsman program is accessibility. In Iowa, as in Minnesota, the design of the model is excellent; as in Minnesota, the Iowa CA has performed well in at least one of the two adult male institutions, where he conducts the bulk of his activity.\* Both the Minnesota and the Iowa ombudsmen have neglected the juvenile correctional system so badly that it was impossible to determine whether these programs eventually can be regarded as effective grievance mechanisms for juveniles.

The grievance procedure at Mitchellville offers an interesting alternative mechanism. The residents were included in the design of the procedure and participate directly in its operations. There are rigorous time limits. The absence of an appeal process could be resolved simply by specifying that appeals of the superintendent's decisions should be sent to the Citizens' Aide.

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\* The CCJ survey of adult grievance mechanisms for LEAA's National Institute of Law Enforcement and Criminal Justice included a review of the operations of the Iowa Citizens' Aide in Anamosa.

There is widespread ignorance among staff and residents at Mitchellville about both grievance mechanisms. Neither will ever be effective without a well-planned, continuing program of orientation and training for everyone at the institution.

F. Some Observations on the Ombudsman

The preceding survey permits some observations on the ombudsman:

1. Probably the most important single element in a successful ombudsman program for juveniles is the frequent and regular availability to residents of the ombudsman. There seems to be a direct relationship between the amount of time an ombudsman spends physically circulating in an institution and his effectiveness.

In the Division for Youth program in New York, the most successful one observed by the Center, ombudsmen were more readily available on a regular basis than elsewhere. Within the New York program, the system was most successful where the visibility of the ombudsman was highest; conversely, it was weakest where the ombudsman's visibility was lowest. In Englewood, the original institutional ombudsman was theoretically always "available"; in fact, his availability was somewhat limited by his belief that unit administrators should handle most grievances.

2. Another key element in the success of an ombudsman is his capacity to create a reputation for objectivity. The essential skill for

the effective ombudsman lies not in advocacy but in mediation; he has to cajole and persuade both staff and residents to compromise their differences in imaginative ways that will resolve legitimate grievances. Anyone familiar with even the rudiments of mediation knows that the need for objectivity in a mediator is paramount.

3. There seems to be no relationship between the education, prior experience, occupation, personality or ethnic or racial background of the ombudsman and his effectiveness. In this study (and in another survey of correctional grievance mechanisms in adult institutions conducted by the Center), many different kinds of people have been observed working effectively as correctional ombudsmen, including a former social worker, a businessman, a correctional officer, legal aid attorneys, an ex-offender; blacks, whites, introverts, extroverts. It is interesting to observe that, contrary to this evidence, those responsible for putting together each of the various programs all insist that it is absolutely essential for an effective ombudsman to have the same background possessed by their particular ombudsman.
4. No single ombudsman operating in corrections today has been trained in "ombudsmanship," i.e., mediation. The conviction seems to be prevalent that any intelligent, competent human being can function intuitively as an effective ombudsman. As a result, practicing ombudsmen across the country have acquired expertise only through trial and error. Given the volatile nature of correctional institutions and the fragility of the ombudsman's credibility, the failure

to train prospective ombudsmen properly is a serious mistake.

5. A vital component in a successful ombudsman program is the degree of commitment of the institutional or departmental administrator to whom the ombudsman makes his recommendations. The more radically an ombudsman program departs from the independent Scandinavian model, the more important this element becomes. For example, because of this structure, the commitment of the New York Division for Youth director to making his system work is probably more critical than that of the director of the Bureau of Family and Children's Services in Iowa.
6. Based on the Center's survey, it is too early to say whether an ombudsman is an effective grievance mechanism for juvenile institutions. The only currently effective program observed by the Center was the New York DFY's ombudsman, which is limited in purpose and truncated in structure. Until Minnesota and Iowa move to provide adequate resources for the operation of their programs in juvenile institutions, their effectiveness in a juvenile setting remains to be tested.
7. To be an effective grievance mechanism, the design of an ombudsman program must include time limits and guaranteed responses. The failure to deliver timely answers to complaints can kill the willingness of residents to believe in and use an operating ombudsman program faster than any other single factor.

## Section 2: Grievance Procedures

### A. General Background

The implementation of internal grievance procedures has occurred in correctional systems in several states over the past few years. The structural framework for these procedures is based on concepts originating in the field of labor relations, where the development of grievance procedures began in the 1930's.\*

In a typical industrial relations grievance procedure, the first step usually involves the employee, with or without his union representative, and his foreman. A second level typically brings together the employee, the shop steward (a union official) and a higher-level plant supervisor, who together attempt to resolve the complaint. Thereafter, if the union chooses to pursue the matter further, the plant bargaining committee normally will take up the grievance with top management. Lastly, the union may decide to take the matter to arbitration, where a professional, neutral arbitrator makes a decision that is binding on all parties and enforceable through court action.

In industrial relations, the grievance procedure is part of the contract between management and the union. It is the mechanism designed to provide a final and binding interpretation of the terms of the contract, which determines wages, hours and conditions of employment.

The concept of binding arbitration did not come easily in the field of labor relations. Management stoutly resisted the surrender of authority and

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\* For an excellent general study of industrial grievance procedures, see Russell A. Smith, Leroy S. Merrifield and Donald P. Rothschild, *Collective Bargaining and Labor Arbitration*, Bobbs-Merrill Co., Inc., 1970, pp. 335-346.

power implied in the arbitration concept all through the decade of the thirties. World War II, however, created an irresistible need for machinery to prevent work stoppages and interruptions, so the War Labor Board was created by Congress to impose arbitration on management and labor. Arbitration worked so well during the four years of the war that, with the advent of peace and the dismantling of the War Labor Board, management opted for voluntary continuation of the process. As a result, almost 95 percent of all working agreements negotiated in American industry today include a grievance procedure culminating in arbitration.

In the correctional grievance procedures designed and implemented in the 1970's in the aftermath of Attica, the multi-level structure of the industrial relations procedure generally has been retained, with the final level of appeal being, most often, the director or commissioner of the department. Also typically, a grievant files his complaint in writing and, at some point, has a hearing where he can argue his case. Frequently, he is permitted to have a representative assist him at the hearing.

There are three major differences between the grievance procedures developed for industrial relations and those adapted for corrections:

1. In the correctional context, there is no organized body of inmates or residents representing the interests of the population and the individuals in it in dealings with the administration.\* This means that responsibility for pursuing a grievance falls on the complainant alone. It also means he alone decides how far he wishes to pursue his grievance if he receives unsatisfactory responses.

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\* Union activity among prison inmates so far has been unsuccessful. The California Prisoners' Union has been recruiting members across the country for almost ten years; the National Prisoners Reform Association obtained negotiating rights with the administration of Walpole, Massachusetts for a brief period; and at least three legal attempts to obtain recognition as public employees with the right to organize and bargain collectively have been made in New York, Michigan and Massachusetts.

2. To this point, no correctional procedure culminates in binding arbitration.\* Some jurisdictions\*\* have created a procedure in which the decision of a top administrator can be subjected to outside review, but the "decision" of the outside reviewer is simply a recommendation to the administrator, who, while obligated to reply, can reject it.
3. There is, in the correctional context, no working agreement or contract to set boundaries to the reach of the procedure. Consequently procedures typically embrace challenges to policies themselves, as well as complaints about the application of policies. Other matters, such as appeals of disciplinary decisions, that would be included in industrial procedures sometimes are excepted from correctional procedures for reasons of workload or the prior existence of other channels of review.

#### B. Kentucky

History and Design: In 1971-72, Kentucky began to reorganize its Department of Child Welfare, closing large juvenile institutions and opening ten small facilities throughout the state. In addition, Kentucky juvenile laws were rewritten, transferring the power to institutionalize juveniles from county judges to the department, whose priorities emphasized keeping

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\* In early 1974, the Pennsylvania Department of Corrections reportedly was considering the implementation of a procedure with binding arbitration on matters involving the application of departmental and institutional policies. See National Association of Attorneys General, Committee on the Office of Attorney General, Special Report: Prison Grievance Procedures, 1974, p.16 .

\*\* E.g., see the California Youth Authority procedure described below at 70-77.

juveniles in the community. The result was a total restructuring of the juvenile corrections system. The maximum capacity in any state institution is 50, and the staff-to-youth ratio in Kentucky is almost one to one.

An administrative complaint mechanism called the "Service Program Grievance Procedure" was developed at the time of the reorganization. Under the procedure, youths in institutions file written grievances with the superintendent, who attempts to resolve the problem. If the complainant is dissatisfied, the grievance is sent to the director of the Residential Services Division, who assigns a full-time departmental investigator to pursue the complaint. An investigation is undertaken and a report recommending action is delivered to the division director, who, after reviewing the report and recommendation, decides on a course of action and notifies the complainant. All of this is supposed to take place within 40 days of the submission of the complaint.

A final level of appeal is available if the complainant, within ten days of receiving the division head's answer, requests an informal hearing before a three-party panel of correctional administrators appointed by the Commissioner of the Department of Child Welfare. At the hearing, the complainant is entitled to enlist an attorney and to call and cross-examine witnesses. The hearing panel recommends a course of action to the commissioner, who makes a final decision and notifies the complainant.

A grievance from a youth being supervised in the community is sent directly to the Community Services Division director, an investigation is conducted, and the complainant is given the option of requesting an appeal hearing.

Operations of the Procedure: A Center team interviewed the directors of the Residential Services Division and the Community Services Division

in the central office of the Child Welfare Department in January, 1974. Both men felt that the move to smaller facilities had had a great impact on the lives of institutionalized youths; now every child has easy access to staff and administrators at all levels of authority in an institution. The smaller facilities are conducive to communication, and the vast majority of complaints can be handled on an individual basis within the facilities. When questioned about the use of the grievance procedure, both division directors admitted that few complaints were received from institutions. In a few cases, parents of institutionalized children had used the mechanism, but no child ever had filed a grievance that reached the second level of the procedure, the Division of Residential Services.

The directors expressed their conviction that the existence of the procedure was beneficial to ensure that youths had an avenue to register grievances officially, but they acknowledged that the procedure was not widely used. Both men stated that a combination of factors was involved in the infrequent use of the procedure, including a lack of understanding of the mechanism on the part of staff and residents, some institutional reluctance to "air dirty laundry" in the department that produced an all-out attempt to resolve complaints within the institution, and a general presumption that youths' complaints could be handled through informal means.

The Center team interviewed the departmental investigator, who is assigned to pursue a grievance once it has been sent to either division director. Although her reports (prepared, so far, only in response to the complaints of parents) typically recommend a resolution of particular grievances and suggest policy changes to prevent recurrence of abuses, the investigator stated that she had had little effect on policy decisions. For the most

part, her recommended resolutions of specific grievances have been followed by the division director, but there has been no follow-up on her recommendations for policy changes. When asked why youths do not use the procedure, she indicated that few know of its existence. She also observed that, although staff have been generally cooperative during the course of investigations, they feel threatened by the procedure.

The Center team visited three juvenile institutions in Kentucky.

Morehead Treatment Center (population: 15 females and 23 males; average stay: four months; average age: 16-17 years (females), 13-14 years (males)) houses all of the state's delinquent girls. The treatment modality is reality therapy, relying heavily on group structure.

The superintendent of Morehead told the Center team that all youths are informed of the existence of the grievance procedure upon entering the facility and must sign a form saying that they understand the procedure. Even with what he thought was a thorough explanation, the superintendent acknowledged that only one grievance, resolved within the institution, had been filed in the past year. He stated that most grievances were expressed in groups, which met nightly; residents were expected to discuss and deal with their "problems." Also, staff were easily accessible to the youths, so that, while he thought the procedure was a good idea in theory, he did not think there was much need for it at Morehead.

The assistant superintendent and two of the counselors interviewed at Morehead confirmed the superintendent's judgment that most problems were discussed and resolved in group sessions. When asked about a youth whose legitimate grievance might be directed against the group or group leader, staff admitted that group pressure could be a problem for some; they counter-

balanced this admission with the observation that in most cases peer pressure was beneficial. Most of the interviewed staff acknowledged that the implementation of the grievance procedure had had little impact on youths at Morehead.

Most of the residents interviewed by the Center knew vaguely of the existence of the procedure, but no one knew anyone who had ever used it. Some of the youths expressed fear about using the procedure, stating that they had been advised by counselors that "the complaint should be very serious or there would be big trouble for filing a grievance." None could say what "really serious" meant, but most youths understood the warning as a threat and, consequently, were afraid to file a formal grievance. One girl explained: "If you get hit or someone really bugs you, then it's better to avoid them and not talk about it or it might happen again. If the complaint wasn't as serious as being hit, then you shouldn't file a grievance anyway."

Most youths interviewed expressed the feeling that access to staff to discuss problems was good, except that one had to avoid "going outside group" or talking to anyone not in one's group structure. According to those interviewed, group leaders repeatedly told youths that problems should be discussed and resolved within the group: "Talking to someone else is a cop-out."

Frenchburg Boys Camp (population: 49; average stay: five months; average age: 16 years) houses older delinquent boys. Frenchburg is a relaxed facility, tucked into hills in the Kentucky countryside. The institution uses a very loose group structure, and there is a campus council where elected representatives discuss policy changes.

The assistant superintendent at Frenchburg told Center staff that it was very possible that an explanation of the departmental complaint procedure

was not given when a boy entered the facility. He did not know for sure. He said that staff and youths maintained open channels of communication and expressed the belief that there were few serious complaints ever voiced at Frenchburg.

Other staff and residents interviewed felt much the same way. Few knew of the existence of a departmental grievance procedure, and most seemed to feel that there was little need for a formal channel for complaints. Youths voiced satisfaction with the work programs and school at the institution and said that, for the most part, "staff really treat you well."

Although few of the residents had been told of the procedure, when asked by Center staff if there were ways to solve complaints, most boys replied affirmatively. Talking to any staff member, including the superintendent, was quite easy, and juveniles felt that the staff cared about them and were anxious to see that there were no serious complaints.

Lynwood Treatment Center (population: 43; average stay: five and a half to six months; average age: 15.5 years ) houses all of the female status offenders in Kentucky and some younger, smaller boys. The same relaxed atmosphere characteristic of Frenchburg prevails also at Lynwood. The superintendent said that few formal complaints were brought to her attention, although she moves throughout the facility daily. Staff at Lynwood knew of the complaint procedure mainly through word-of-mouth; there had been no formal orientation session conducted.

Residents at Lynwood were satisfied that individual problems could be solved by talking with staff, and the campus council handled minor policy changes. The prevailing attitude seemed to be that whatever could not be resolved easily should be forgotten, because it would not be changed.

Summary: When reorganization occurred in the Kentucky juvenile system, everyone obviously expected improvement of the conditions of life for residents in state juvenile facilities. The decision to create the "Service Program Grievance Procedure" also reflected the recognition that the changes, while beneficial, would not end completely the recurrence of abuses and errors of judgment throughout the system. Somehow, however, this understanding of the inevitability of the occurrence of legitimate grievances and the need to provide means of redress was never communicated meaningfully to the reorganized institutions. The operations of the Kentucky grievance procedure demonstrate clearly that the design of a procedure can be less important than the commitment of institutional administrators to make it work and the way in which the procedure is introduced and explained in an institution.

At Morehead, where the treatment modality was most pervasive (as at Red Wing in Minnesota), there was considerable hostility towards the grievance procedure among staff. The submission of grievances was viewed by staff as a threat to treatment, and this feeling was communicated clearly to residents. As a result, youths were reluctant to discuss problems with anyone outside their group structure.

At Frenchburg and Lynwood, where tensions were minimal and most residents seemed pleased with the way they were treated, failure to use the procedure resulted more from a lack of knowledge of its existence than a fear of real or imagined reprisals. Whatever the reasons, however, residents with legitimate complaints at all three institutions simply did not have access to the procedure created by the Department of Child Welfare to give them an outlet for their grievances.

C. Illinois

History and Design: In 1972, the Illinois Department of Corrections undertook a massive revision of its administrative regulations, which were subsequently enacted in the form of a statutory unified code of corrections. The new regulations mandated that all Illinois institutions, both adult and juvenile, develop formal grievance procedures. In addition, a regulation of the Juvenile Division outlined specific guidelines for youth grievance procedures, including various levels of appeal up to the director of the department, a means for requesting a hearing at the departmental level and the assurance that no reprisals would be taken as a result of using the procedure. Institutional superintendents were expected to design procedures in compliance with the guidelines.

Juvenile institutions in Illinois adopted a wide variety of means for handling the institutional levels of the procedure. Usually there is a requirement for an attempt at informal resolution at the lowest possible institutional level. Unresolved complaints then can be referred to the superintendent, usually in writing. If the resident is still dissatisfied, he may send his grievance outside the institution to a higher level of review.

The departmental order directs that a final level of appeal will be available to juveniles, which involves sending the grievance to the department with a request for a hearing by the assistant director or the director.\* At the time of the Center's visit in November, 1973, no hearing on a grievance appealed from a juvenile institution ever had been held; the few grievances submitted to the director by juveniles had been answered by direct mail from the central office with "recommendations" for action.

\* "Youth Grievance Procedures", Section 613, Administrative Regulations, Juvenile Division, Department of Corrections, State of Illinois.

Operations of the Procedure: The Center team interviewed one of the administrative assistants to the departmental director, who stated that the procedure had had a beneficial effect throughout the Illinois system by giving individuals in facilities an opportunity to resolve complaints peacefully. He said that the introduction of grievance mechanisms into juvenile facilities had reduced noticeably the number of complaints received from parents of institutionalized youths and had "cooled off" some very tense institutions by providing a release valve for institutionalized youths.

The Center team visited three juvenile institutions in Illinois.

The Illinois State Training School for Boys in St. Charles (population: 200; average stay: six and a half months; average age: 16.5 years) is the largest juvenile facility in the state. The superintendent at St. Charles told the Center team that the departmental grievance procedure was a good idea because "it forced staff to deal with kids' complaints; it was impossible to squelch them along the line." Prior to issuance of the new regulations, St. Charles had had an institutional grievance procedure in which staff investigated and resolved complaints; only on rare instances did the superintendent become involved.

During implementation of the procedure at St. Charles, information sessions were held for staff and youths. Currently, counselors explain to youths how to file complaints and assist them in filling out forms. The procedure includes a record-keeping system designed to operate as an administrative check on the operations of the procedure. Grievances are filed and recorded at a level above the level at which a resolution is reached; thus, if a cottage supervisor resolves a grievance, it is reviewed and kept on file by the superintendent.

Most of the staff interviewed at St. Charles felt that the grievance procedure was useful, although they expressed the fear that the procedure

could be manipulated by both residents and staff. Some staff mentioned the rash of grievances that followed an incident involving a staff member. The feeling was expressed that the staff member had manipulated the residents in his cottage to use the procedure in order to protest a management decision affecting his position.

The general consensus of the staff at St. Charles seemed to be that most problems could and should be resolved on an informal basis through discussions with the person involved. Most staff commented that the procedure could work as a check on the discretion of their decisions by subjecting them to the superintendent's review.

Residents generally were aware of the procedure and many had filed grievances. The reactions of youths interviewed at St. Charles were mixed: some were satisfied with the results and others had decided not to pursue (or had been discouraged from pursuing) a particular complaint even though it was not satisfactorily resolved. Most resolved grievances apparently were settled at the cottage level. Youths stated that they felt they had access to administrative channels to resolve grievances.

There is also a campus council at St. Charles called the Student Advisory Committee (SAC), with youths elected from each cottage. The SAC meets on an irregular basis with the superintendent, who told the Center team that the committee provided him with good insights into the feelings of the boys about various issues. Most staff and youths interviewed felt that the committee had not been very active in recent months; several youths did not know it existed.

Valley View School for Boys (population: 101; length of stay: seven months to two years; average age: 16 years) is the newest institution for juveniles in Illinois. The Center team visited Valley View specifically to

observe its unique "court system", related to the token economy at the school, and consider its compatibility with the state-ordered grievance procedure.

Valley View has a behavior modification program, in which room and work assignments, privileges and recreation are determined by the level of a resident's "bank account" in the token economy. Tokens are awarded and subtracted each week in a "court" session, where every resident appears individually before one of the two institutional "judges" with negative or positive reports from each of his counselors, teachers and supervisors. The "judge" levies a negative token value for each disciplinary "write-up", awards a positive value for the resident's favorable behavior reports and adjusts the "bank balance" accordingly. In the Valley View court system, residents have the opportunity to appeal negative levies to the other campus "judge" and, in addition, can "sue" for grievance damages.

Valley View also has initiated a formal grievance procedure in accordance with departmental regulations. In interviewing the superintendent, staff and residents at Valley View, it quickly became obvious to the Center team that, although theoretically residents have two grievance channels, the departmental grievance mechanism rarely is used. The superintendent told Center staff that residents choose to pursue grievances through the court system rather than administrative channels, because, if successful, they win tokens in addition to resolving their complaints. He also expressed the feeling that the court system was quite adequate to handle institutional complaints because residents have the opportunity to "sue" for the redress of grievances. He said that the court system offered residents a practical avenue to seek redress of complaints.

The "judges" at Valley View School supported the superintendent's contention that the court system could adequately resolve personal complaints.

Both "judges" are staff members who assumed the full-time positions of "judge" when the program was designed. One judge felt that in some "serious" cases, a resident may wish to file a grievance through the procedure, but was unable to identify anything other than blatant child-abuse as a "serious" case. Both men believed that residents were satisfied with the system and interested in the program.

All of the staff at Valley View knew the structure of the court system thoroughly; staff members and residents also were involved daily in the operations of the system. In contrast, although top-level staff and administrators knew of the department's regulation establishing formal grievance procedures, most lower-level staff and a vast majority of the residents had no knowledge of its existence. Staff had received training and orientation sessions on the token economy and the court system, but there had been no training or orientation sessions on the grievance procedure. At the reception cottage, residents received detailed booklets and verbal descriptions about the treatment modality and the court system, which were reinforced by weekly trips to "court." There was no hand-out explaining the departmental procedure, and most residents stated that they had never been told of its existence.

Most of the residents interviewed by the Center team expressed serious disenchantment with the Valley View court system. Youths saw the court system as a disciplinary tool, and the general attitude expressed seemed to be that appeals were fruitless, "because if it's a case of staff against kids, staff always wins." Most residents never had heard of the departmental grievance procedure, and those who knew of the existence of the procedure had picked up information about it at other juvenile facilities in Illinois.

When asked by the Center team what was done to resolve complaints, the youths responded that, unless a problem could be solved by talking to a

particular staff member, it was useless to pursue it. Many complained that there were far too many rules and regulations at Valley View, and said that they did not perceive the judges in the court system as impartial. Rather, they saw them as members of the staff siding with other staff in supporting negative write-ups against residents.

A review of the court system's records kept at Valley View indicated that suits by residents could be worthwhile. Although investigations of complaints might take as long as a few months, they sometimes vindicated the complainant and resulted in a damages award of tokens. In one case, a complainant received nominal damages (five tokens rather than the 200 tokens sought) after a staff member admitted she had called the resident "crazy" for requesting that the heat be turned on in a dorm. While awards of damages were not cut so drastically all of the time, they were always smaller than the amounts requested.

Geneva State Training School for Girls (population: 75 females, 45 males; average stay: five and a half months; average age: 15 years) houses all of the female juvenile delinquents in the Illinois system and has expanded recently to include a small number of boys.

The superintendent at Geneva told Center staff that the formal grievance procedure had been used only two or three times in two years because institutional staff were quite open and available to discuss problems with residents at any time. He said that at Geneva most complaints were resolved at the cottage level or were discussed by the student representatives on the campus council, called the Student Involvement Committee (SIC).

The Center team spoke to the administrative chairman of SIC, who confessed to a lack of knowledge about the operations of the grievance procedure at

Geneva; she supported the superintendent's contention that it was never used. She told Center staff that policy and rule changes were discussed at SIC. Students met in their cottages prior to monthly SIC meetings and cottage representatives gathered to discuss the recommendations of their fellow residents. The SIC met and received answers to each request from the administration at the next month's meeting. Personal complaints were handled at the cottage level, by counselors or the cottage director, Center staff was told.

The girls at Geneva had little knowledge of the formal grievance procedure. They explained to Center staff that some rules could be changed through SIC meetings, but mostly "you get new curtains or chairs or stuff for the cottages." Cottage supervisors or directors had a large amount of discretionary authority, including the ability to discipline residents, to grant special privileges and to set policies that varied from cottage to cottage. Views of residents on the availability of complaint channels varied depending on the cottage in which a youth was assigned, with most girls stating that if you could not get a problem solved through your cottage director, "then you just better keep your mouth shut about it." Few of the residents interviewed ever had talked to the superintendent. They alleged that they had to get permission from the cottage director to see the superintendent and, if the problem involved the cottage director, permission usually was denied. The opinion of the majority of residents interviewed by the Center team was that it was better to keep one's mouth shut and "avoid being hassled" by the staff for pursuing a grievance.

Summary: The Illinois procedure is a classic example of the importance of implementation in the introduction of a correctional grievance mechanism.

Even though the state had ordered by statute the establishment of a system to review the grievances of committed persons, the state juvenile division specifically had directed institutions to create such procedures, and most institutions had promulgated written rules on how to handle grievances, there were no effectively operating formal grievance procedures in two of the three Illinois juvenile institutions visited by the Center.

The department has implicitly acknowledged this by proposing and establishing the office of "Youth Advocate" in Illinois juvenile corrections, a program patterned on the New York Division for Youth's ombudsman program.\* The advocate is responsible for responding to the grievances of incarcerated juveniles in a broad range of matters.

Under the Illinois procedure, there was apparently only a handful of cases in which appeals of institutional decisions were taken to the department, where, in turn, they were handled summarily without hearings. The absence of meaningful departmental review removes the incentive for institutional administrators to design and support aggressively active, responsive local procedures. This characteristically results in bland institutional procedures that simply describe in writing an informal means for handling grievances that already exist in the institutions. Hopefully, the recently introduced Youth Advocate program will provide the meaningful departmental review lacking in the grievance procedure.

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\*As of September, 1974, the Youth Advocate was handling approximately 100-150 complaints a month out of ten juvenile institutions with a population of just under 1000 youths, a staggering contrast to the operations of the grievance procedure. Since its inception in Feb., 1974, the Youth Advocate program has replaced the grievance procedure entirely as a means of obtaining review of grievances at a higher level than the institutional superintendent.

D. California Youth Authority

History and Design: In the Fall of 1972, the director of the California Youth Authority determined that all Youth Authority program units, both institutional and community-based, should develop formal grievance procedures. Working with consultants from the Center for Correctional Justice, a departmental task force formulated tentative principles to serve as a framework for experimental procedures. The principles established the following requirements:

1. Every resident assigned to any program unit shall have available to him a means to file a grievance and use any grievance procedure developed within that program unit.
2. There shall be available to any resident with an emergency grievance or problem, a course of action which can provide him redress to his problem within a relatively immediate time frame.
3. There shall be participation by elected residents and staff in the developing of procedures and in the operation of said grievance procedure.
4. The levels of review for a grievance shall be kept to a minimum. Ideally, these levels should coincide with the major decision making levels of the program unit's organization.
5. Residents shall be entitled to representation at all levels, including informal resolution within the procedure.
6. There shall be time limits established for the receipt of all responses for any action which must be taken to put said response into effect.
7. A course of action shall be available to all parties of a grievance, staff or residents, for appealing a decision.
8. A resident filing a written grievance will be guaranteed a written response with reasons for action taken, or shall have recourse in the absence of a written response.
9. There shall be monitoring and evaluation of all procedures, their operation, and their decisions.
10. The procedure shall include, as a final review, some sort of independent review by a party or parties outside of the Youth Authority.
11. There shall not be any reprisals taken against anyone using the grievance procedure.

12. The grievance procedure shall provide an impartial method for determining whether a complaint falls within the procedure.\*

Experimentation with the principles began in July, 1973, in one of four 100-bed living units at the Karl Holton School in Stockton. A committee representing staff and youths in the unit met with the superintendent and Center staff to design a procedure based on the principles, but tailored to the needs of the unit. In the resulting procedure, the first level consisted of a committee of four voting members (two staff and two residents) with a non-voting chairman acting as mediator. At the second level, the committee's decision (in living unit matters) or recommendations (on institutional questions) could be appealed to the superintendent by the complainant or the staff members involved in the grievance. The final level involved review of appeals from the superintendent's or, where appropriate, the departmental director's decisions by an independent review panel, comprised of one youth representative, one staff representative and a local professional arbitrator from the American Arbitration Association.

To prepare for use of the new procedure, the Center obtained assistance from the Institute for Mediation and Conflict Resolution (IMCR), a New York-based organization with broad experience in teaching mediation and other conflict resolution skills. For three days, administrators of Karl Holton, together with residents and staff members chosen to serve on the first-level grievance committee, participated in group discussion, simulations, and analyses of their own performance on videotape. Meeting in small groups with fellow youths from the living unit, resident members of the committee then explained the operations of the procedure.

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\* Principles for Ward Grievance Procedures, California Youth Authority, dated April 4, 1973.

The first unit's procedure went into operation in early September. Thereafter, implementation throughout Karl Holton continued on a unit-by-unit basis until March, 1974, when all units had functioning grievance procedures. With each succeeding training session conducted by the Center and the IMCR, a larger role was given to Karl Holton youths and staff. The final session in late February concentrated on teaching training techniques to residents and staff given the responsibility of conducting refresher sessions in the future.

Based on a favorable evaluation of the procedure's operations at Karl Holton by the Research Division of the Youth Authority, the director decided to extend the procedure to each institution and program unit in the department. The largest CYA institution, the Youth Training School in Ontario, with 1200 beds, designed and implemented the first procedure for one of its living units in the summer of 1974. All other Youth Authority institutions were scheduled to design a procedure by the end of 1974 and implement them by July 1, 1975, while a special task force had been appointed to develop principles governing procedures for parole and community programs.

Operations of the Procedure: Karl Holton School (population: 390; average length of stay: ten months) is one of three 400-bed facilities operated by the California Youth Authority in a complex in Stockton, California. The average age of residents at Karl Holton is 18.5 years.

A staff team from the Center visited Karl Holton School in June, 1974.\* By that time, all living units at the institution had procedures in operation. By mid-May, 212 grievances had been submitted. In 134 (over 70%) of the grievances, the relief sought by the complaining youths was granted wholly

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\* Although the Center for Correctional Justice provided consultation in the development and implementation of the procedures, Center staff members who comprised the visiting team for this study had no previous involvement with the Karl Holton procedure.

or in part. Most grievances (107) concerned living unit, institutional or departmental policies; 24 complaints involved a specific staff member's action or behavior; the remaining grievances (81) dealt with the application of policies to individual residents. Acceptable explanations for rejection of grievances were obtained by wards in all but four cases at the first two levels of the procedure. In only ten cases, was the first-level mediation committee unable to reach a majority decision.

Four grievances were appealed to the independent review panel. The cases involved departmental policy on facial hair, the operation of the institution's canteen, a move to block the transfer of a popular school teacher, and mail censorship. The complaining resident's suggested relief was adopted wholly in one case and partially in the other three.

At Karl Holton the Center team interviewed the superintendent, who expressed the feeling that the grievance procedure has been an extremely beneficial program, has improved communication between staff and youths and has been important in "increasing the power base of youths." He told the Center staff that although a number of youths do not have a clear idea about the steps in the grievance procedure, most know that the procedure exists and how to file a grievance.

The superintendent said that many staff were suspicious of the procedure when it was initiated, but that most now felt that the procedure was needed at Karl Holton. The superintendent's perceptions were confirmed by the Youth Authority Research Division which concluded after a series of staff interviews in May, 1974, that 84 percent of interviewed staff felt that a grievance procedure was needed at Karl Holton.\*

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\* Research Division, California Youth Authority, Interim Report on Evaluation of Ward Grievance Procedure at Karl Holton School, May, 1974, pp. 57-65.

The Center team interviewed staff from each of the living units at Karl Holton. Most staff members agreed that youths should have a means through which to air and resolve complaints and some form of input into policy matters. Although many staff had feared the procedure initially, much of the early mistrust and hostility appeared to have been dissipated. Some staff even told the Center team that they would like to see residents "use the procedure more often, to force a review of policies throughout the institution."

While the general reaction of the staff at Karl Holton was favorable to the concept of a grievance procedure, there were some difficulties recognized in its operations. For example, line staff not directly involved in operations of the procedure frequently were uninformed about the composition of the various levels of the procedure, although everyone seemed to know that a complaint mechanism for residents existed. In addition, staff members told the Center team that they would like to know how the procedure was working in other units; most were only aware of results in their own units.

All of the youths interviewed by the Center team at Karl Holton knew of the existence of the grievance procedure and had been given information about it when it was implemented initially. Many youths told Center staff that they personally had filed grievances; some were quite satisfied with the results and others were disenchanted.\* Few youths clearly understood the third level of the procedure; most told Center staff that someone from "outside the institution" was involved, but they often were not sure who it was.

Karl Holton residents told the Center team that the effectiveness of the procedure varied from unit to unit. One principal factor in the variation was identified as the grievance clerks (residents on each hall who

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\* Ibid., pp. 35-42, for an assessment of the degree of resident satisfaction with the resolution of grievances under the procedure.

collect grievances and help others use the procedure). On some units, clerks were very efficient; they knew the procedure and urged other youths to voice complaints. Other grievance clerks, according to both staff and youths, were intimidated by staff, did not ensure that time limits were observed and did not help youths on their halls to understand the procedure.

Residents from some halls indicated that the staff in their unit did not like the grievance procedure, "so they slow down the process." A few residents complained that some staff used the behavior modification treatment strategy to repress the filing of grievances by giving "checks" or misconduct demerits to those who sought to use the procedure regularly.

Summary: The grievance procedure at Karl Holton differs from the others reviewed by the Center in several respects. Most important of these is the degree of participation on the part of the line staff and residents in the design and operation of the procedure. Residents and line staff representatives jointly designed their own procedure, restricted only by the guidelines in the departmental principles; resident and line staff representatives participate on an equal basis in the committee that hears complaints initially at the first level of the procedure; residents and staff were trained together and were given joint responsibility for explaining the procedure to their respective constituencies; both residents and line staff may appeal unfavorable decisions at each level of the procedure; residents and staff both have representation on the tripartite outside review panel; residents may represent fellow residents at each step of the procedure; on each living unit, resident clerks have a key role in operating the procedure, including administration of the entire process.

Nowhere in its survey did the Center staff find a comparable level of

resident and staff participation. Although the institutional procedure in Mitchellville (Iowa)\* provided for some resident participation in complaint hearings, the youths there had no decision-making role. The early success of the Youth Authority procedure seems to indicate that participation is a vital prerequisite for an effective grievance mechanism.

The California procedure also seems to indicate that the manner in which a grievance mechanism is implemented is crucial in determining its effectiveness. Because of the early commitment of effort to planning, training and initial orientation of staff and residents, everyone interviewed by the Center team knew, at least, of the existence of the procedure and how to file a complaint. Moreover, there was agreement among both residents and staff (unique in the institutions surveyed) on the need for the mechanism and the soundness of the basic design of the Karl Holton procedures.

Equally important is the commitment of administrators to the difficult task of implementing an effective mechanism. The determination of the Director of the California Youth Authority to ensure justice and fairness in the treatment of youths in the state's juvenile institutions is well known.\*\* The superintendent at Karl Holton volunteered to experiment first with the tentative principles and has supported the project unreservedly. This kind of dedicated and determined support is vital in overcoming initial institutional staff hostility. To procure a like commitment to the concepts of mediation and arbitration on the part of all California Youth Authority administrators, every superintendent, assistant superintendent, program head and regional parole supervisor in the system was sent to one of several seminars on

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\* See above, pp. 47 and 48.

\*\* See the description of the California Youth Authority and its director in Corrections Magazine, September, 1974, pp. 43-49.

conflict resolution given by the Institute for Mediation and Conflict Resolution in New York. This direct exposure to the techniques and benefits of mediation was instrumental in obtaining committed enthusiasm from institutional administrators.

The Youth Authority procedure was not free of problems. There was a repeatedly stated need for more information, further training and a continuing orientation program for new staff and residents. Moreover, there is clearly a need for an institutionalized monitoring program to ensure that the procedure operates evenly in all units and in accord with the departmental principles.

For all of its problems, however, initial experience with the California Youth Authority procedure has been a success and indicates that the concepts of mediation and arbitration can be applied beneficially to juvenile corrections. One interviewer from the Research Division summarized best the impact of the procedure on youths he had interviewed at Karl Holton:

One of the youths told me that one thing that resulted from the grievance procedure is that "I do have rights as a human being in an institution". . . and, although he's sort of fuzzy in terms of rights, the whole notion that it occurs to him that he is a human being with integrity that has certain rights -- however restricted -- has been part of his learning. . . .

#### E. Maryland

History and Design: In 1971, the Maryland Legislature established the Inmate Grievance Commission as a separate agency within the Maryland Department of Public Safety and Correctional Services.

The Commission is comprised of five members appointed by the Governor, including at least two lawyers and two members with experience in corrections.

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\* Maryland Annotated Code, Art. 41, Section 204 F.

The Commissioners, after an initial staggered appointment, now serve four-year terms and are reimbursed for their work on a per diem basis. The legislation provides for the appointment of an executive director for the Commission by the Secretary of Public Safety with the Governor's approval.

Any individual serving a sentence in a Department of Corrections facility is eligible to use the Grievance Commission. Most grievances are lodged by inmates mailing a description of their grievance to the Commission's office; in some cases, relatives or friends phone the office to voice an inmate's complaint. Upon receiving the complaint, the executive director makes a preliminary investigation, checking the dates and facts of the grievance with an institutional contact officer and making an initial determination about the validity of the complaint.

At this stage, the institutional officer working with the Grievance Commission is supposed to try to work out an informal settlement with the complaining inmate. A majority of complaints (55 percent as of August, 1974) are dismissed or resolved informally at this level. Those complaints found to be legitimate, which are not informally resolved, are scheduled for a hearing before the Commissioners.

Grievance hearings usually are held at the complainant's institution. A quorum of three Commissioners hear the inmate's grievance (he is entitled to have a spokesman and to call witnesses), interview involved personnel and receive background information from the executive director. On the basis of the evidence presented at the hearing, the Commissioners make a decision either to dismiss the grievance or to recommend specific action. Their recommendations are forwarded to the Secretary of Public Safety who makes a final decision as to what action, if any, should be taken.

The Maryland Legislature created the Commission in the aftermath of Bundy v. Cannon,\* a federal district court case that imposed procedural due process on disciplinary hearings held in Maryland correctional institutions. One of the basic purposes of the procedure was to restrict the direct access of Maryland prisoners to federal courts by requiring the exhaustion of an elaborate state administrative remedy. A recent case\*\*, presently on appeal to the United States Court of Appeals for the Fourth Circuit, has held that a prisoner may be required to go through the Inmate Grievance Commission prior to filing action in a federal court alleging violation of his rights under the Civil Rights Act. #

The Inmate Grievance Commission, consisting of five part-time Commissioners and two full-time staff, has jurisdiction over eight institutions with an approximate total population of 5,500 inmates. At the time of the Center's visit in December, 1973, the Commission had processed over 1,300 grievances from institutions throughout the state; 700 were resolved informally or dismissed at the administrative level, 500 cases have been heard and over 100 cases remained open.

Operations of the Procedure: The jurisdiction of the Commission does not extend to juvenile facilities in Maryland, but the Center visited the two institutions in the adult system earmarked primarily for youthful offenders, where the average age is 21.

The executive director of the Inmate Grievance Commission told Center staff that the Commission is an effective grievance channel for Maryland inmates. Complaints received in the office include problems of staff harrass-

\* 328 F.Supp. 165 (D.Md. 1971).

\*\* McCray v. Burrell, 367 F.Supp. 1191 (D.Md. 1973).

# 42 U.S.C. Section 1983.

ment or abuse, medical service, programs, food, and appeals from disciplinary action. Use of a grievance mechanism to handle appeals from the decisions of an institutional disciplinary board is not a widespread practice. The Commission rejected complaints involving post-conviction legal matters, such as appeals, collateral attacks on convictions or motions to reduce sentences. Finally, the Commission was reluctant to get involved in formulating new or revised institutional policy; the Commission apparently viewed its major function as clarifying existing policy.

The executive director told the Center team that there were no rigid guidelines for the dismissal of complaints. However, prior to scheduling a complaint for hearing, he makes sure that the grievance involves institutional problems, not matters resulting from the inmate's trial or sentence, and then contacts the institutional liaison, a staff member assigned to deal with the Commission, at the facility where the complaint originated to verify the basic facts in the grievance. The executive director then requests that the facts be gathered for hearing, and, if possible, an effort be made to try to encourage informal resolution of the grievance. The contact officer reports back to the executive director with information on the complaint, indicating whether the grievance has been resolved informally or a hearing should be scheduled.

Although he believes that the Commission is effective, the executive director told Center staff that the operations could be made even more efficient. He stated that the Commission lacked sufficient staff; it often took from three to four months to schedule a grievance for hearing and an additional two to three months to receive the final recommendation from the Commission. The threat to the credibility of the system represented by such

lengthy delays was identified as a major problem.\* Inmates, especially those complaining about disciplinary proceedings, often had completed a sentence in isolation or lost privileges or jobs long before the Commission acted.

The Commission has no authority to make decisions; it makes recommendations to the Secretary of the Department. According to the executive director, the Secretary has disagreed with the recommendations of the Commission and reversed or modified its recommendations in only about 12 of 500 cases. In at least two cases complainants had challenged the Secretary's reversal of the Commission's recommendation in court and, in both cases, the inmates won. The two cases involved minor policy changes, but the Secretary of Public Safety denied that policy decisions were subject to review by the Commission. In both instances, local courts ruled that the Commission's jurisdiction properly included review of departmental policy.

The Commission has been extremely reluctant to exercise this judicially confirmed jurisdiction. The executive director indicated that, while the Commission might ask that a policy decision be reconsidered, it rarely suggested specific alternatives. Specific recommendations for action ordinarily were issued only in responding to the complaints of individuals.

The Center team visited two institutions for youthful offenders in Maryland.

The Maryland Correctional Institution (MCI) at Hagerstown (population: 775; average stay: 20 months; average age: 20.5 years) is a medium security

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\* A later visit by the Center to the Maryland Grievance Commission in August, 1974 to evaluate the program for a National Institute of Law Enforcement and Criminal Justice (NILE) study indicated that the time-lag had been reduced to an average of just under four months from time of receipt of a complaint to completion of the Commission's findings.

institution more similar to traditional adult prisons than the other juvenile facilities visited by the Center during this survey.

The Center team interviewed both the superintendent and the assistant superintendent at MCI. Both administrators said that they were initially wary of the Grievance Commission, but the "record shows that MCI rarely loses a case, so staff isn't fearful any longer."\* The superintendent told Center staff that inmates now had an objective channel through which to air complaints and that most staff exercised more caution in judgment since the Commission's inception. When asked how the staff were informed about the Commission, the superintendent told the Center team that a memorandum had been posted on bulletin boards, and that everyone was informed by word-of-mouth. Inmates were informed about the mechanism in the reception center and given handbooks that included an explanation of the system.

MCI administrators and staff interviewed by the Center team agreed that the major problem of the Commission was the lengthy delay between the filing of a complaint and the receipt of an answer. Many felt that the delay was prohibitive for inmates who had problems that needed to be solved quickly; they would attempt either to reach an informal solution within the institution or drop the complaint. Several staff indicated that they knew very little about the mechanics of the Inmate Grievance Commission, but they did know that inmates had recourse to "outsiders" who "didn't work here."

Center staff interviewed a number of young offenders at MCI and found that most residents knew about the existence of the Commission. Many voiced the opinion that the Commission was an obstacle designed to keep residents

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\* As of November 30, 1973, 33 percent of the Commission's decisions found the complainant's case meritorious.

out of court, and few felt that the Commission was an adequate grievance mechanism. One resident explained to Center staff that "if you have a clear-cut complaint against a staff member at MCI, chances are that you can get it resolved in the institution. Only guys doing long time (in segregation) who have nothing to lose by waiting six to eight months bother to file a complaint with the Commission."

The Maryland Correctional Training Center (MCTC) (population: 1080; average stay: one year; average age: 21 years), located physically adjacent to MCI, is a minimum security institution. Center staff interviewed an associate superintendent, who also acts as the Commission's liaison officer at MCTC. He indicated that he frequently could resolve complaints informally either on his own or by talking to other staff. He complained that residents often wrote directly to the Commission before attempting to resolve grievances within the institution. The Center team was told that most institutional staff were very hostile toward the Commission; staff were afraid of being reproached by outsiders, who were characterized as being "out of touch" with problems at MCTC.

Most of the staff interviewed by the Center team said that they found out about the Commission through the grapevine; there were no formal orientation sessions. Although many were hostile to the concept of outsiders having the power to review institutional decisions, most said that the Commission had not had a great impact on the system. Few thought there would be any noticeable difference if the Commission disappeared.

Residents at MCTC expressed some fear to the Center team about using the grievance mechanism. MCTC is a more relaxed institution than MCI, and most residents had been "sent down the hill" (to MCTC) as a reward for good behavior. They told Center staff that since they had a relatively "good deal,"

they did not "want to cause trouble by messing with the Commission." There had been some fear of reprisals voiced by residents at MCI, but at MCTC most of the residents interviewed by the Center team agreed that "you'd have to be crazy to mess with the Commission."

There also was a general feeling among inmates at both institutions that the Commission members were a part of "the system"; they generally were not perceived as objective, independent outsiders. Center staff was told that every decision had to be approved by the department, and few residents expressed the feeling that the department would alter many policies or rules. There was a certain irony in the situation in that institutional staff were hostile to the Commissioners because they considered them "outsiders," while the residents suspected the Commissioners because they considered them "part of the system."

Summary: It is difficult to compare the effectiveness of the Maryland Grievance Commission with that of other mechanisms observed as part of this study. Although, for example, both the Maryland Commission and the Illinois grievance procedure for juveniles are statutorily based and designed to review all kinds of grievances, they serve a substantially different clientele. Not only is the average age of residents substantially higher in Maryland than in Illinois, but the average length of stay is more than twice as long in the Maryland institutions visited as in Illinois juvenile institutions.

Having noted the differences, however, it is fair to say that the Maryland system is considerably more effective than the Illinois procedure, based on the volume and nature of complaints handled. In Illinois from an average population of approximately 1000 residents a handful of complaints reached

the upper level of the procedure, in Maryland, the executive director of the Commission had received and processed nearly 1300 complaints from an average population of approximately 5500 as of November, 1973.

The Maryland procedure, however, is not without its problems. The time lag between filing and receipt of the Commission's decision is a serious liability that strikes directly at inmate confidence in the reliability of the procedure. The executive director expressed concern over the problem and indicated that he was taking steps to reduce delays, apparently caused primarily by lack of sufficient clerical resources for the Commission.

In addition, there is a basic inefficiency in the design of the Maryland mechanism. Complaints go directly by mail to the Commission; the executive director communicates by phone with the institution through a liaison staff member, who is supposed to try to resolve the grievance informally or, failing that, conduct a pre-hearing investigation of the case. In practice, the institutional liaison man, who has other full-time supervisory duties to execute rarely has the time to seek informal resolution effectively or to investigate cases. Thus, whatever informal resolution occurs comes as a result of phone calls by the executive director, and preliminary investigations tend to be skimpy and inadequate. The full hearing before the Commission becomes the investigation of those complaints that the executive director decides have merit. The procedure could work far more efficiently if there were an effective, full-time representative of the Commission in each institution or an informal hearing within the institution, as in California, designed to elicit the facts and, where possible, to resolve the grievance speedily.

Despite these problems, the Maryland Inmate Grievance Commission is one of the few procedures observed by the Center during its survey that has the

potential to process and respond effectively to the grievances of youths. It provides for review of complaints at a level outside the institution and includes the review of complaints by individuals outside the departmental structure. Consideration should be given to extending the Commission's jurisdiction to juveniles under the supervision of the Maryland Department of Juvenile Services.

F. Some Observations on Grievance Procedures

The preceding survey permits some observations on grievance procedures:

1. In many formal procedures, there is no one whose job depends on the handling of grievances. In Kentucky and Illinois, for example, the procedure is supposed to be self-executing, with investigators or boards of review being appointed at both the institutional and the departmental levels on an ad hoc basis. The result of such a structure seems to be apathy and indifference. Successful procedures require that someone have a stake in promoting its use and effectiveness. In Maryland, an external bureaucracy has such a stake and, in California, the resident population itself (especially the grievance clerks) has a vested interest in making the procedure work.

In addition, it would appear that youthful offenders, left to their own devices, either cannot or will not pursue a grievance through a number of different procedural levels. Thus, in Illinois and Kentucky, where residents must pursue appeals entirely on their own, there is minimal use of departmental review, while in Maryland and California, where the Commission structure and grievance clerks respectively provide help in processing appeals, there is far greater use of the upper levels of the procedure.

2. A corollary of the preceding observation is that the method of implementation of formal grievance procedures is an even more important element of success than it is in establishing an ombudsman. The latter, to a certain degree, can overcome deficient orientation by personal effort; an impersonal procedure, however, has no built-in capacity to explain its functions and purposes on a continuing basis. The development of a strong program of orientation for a new procedure, therefore, is vital.

3. While there has been insufficient experimentation with and evaluation of correctional grievance procedures to this point, the Center's limited survey seems to indicate that outside, independent review of grievances is essential to a successful procedure. The inclusion of outside review in the Maryland and California procedures seems to have contributed substantially to their effectiveness. In addition to enhancing resident credibility in the objectivity of a procedure, outside review has the additional benefit of imposing a requirement for reasonable action on the part of everyone involved in the institutional disposition of grievances.

It also would appear that the identity of the outsider is important. In Maryland, many interviewed residents thought that the Commissioners were "part of the establishment" with the result that residents tended to be somewhat cynical about the value of outside review. In California, the American Arbitration Association has been alert to the factors of age and ethnic and racial backgrounds in the recruitment of volunteer arbitrators, and the volunteers have a better image among Karl Holton residents.

## CHAPTER V: IMPLEMENTATION

In addition to reviewing the design and operations of the mechanisms reviewed, the Center also looked at the methods of implementation associated with each mechanism. Interviews with administrators, staff and youths focused on such features as administrative planning, training, orientation, evaluation and monitoring. Center teams also examined records where available and studied existing training and orientation materials. Some observations resulting from this review are included in this chapter.

### Overall Planning

In its study of overall planning, the Center found little evidence of sound administrative practices so prevalent among correctional administrators when they are developing programs they consider important. Among the administrators responsible for establishing mechanisms, there was widespread misunderstanding or confusion about the nature and purposes of grievance mechanisms; virtually no research into the various types of grievance mechanisms developed for correctional institutions was conducted prior to determining a design; special characteristics of different institutions, age groups and treatment modalities within a department generally were ignored; allocation of training and orientation resources characteristically was overlooked or seriously neglected; evaluation and monitoring programs never were initiated. The result of such maladministration was inevitably a minimally effective mechanism.

The design and implementation of an effective correctional grievance mechanism is a challenging task of administration and leadership. Institutional administrators generally dislike outside review of their decisions; custodial staff fear that a mechanism will undermine "control" and security;

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treatment staff resent challenges to the therapeutic regimen; youths distrust any mechanism established by and responsible to the "Man."

In attempting to overcome the obstacles to an effective grievance mechanism, an administrator cannot afford to omit careful and thorough planning.

At a minimum, such planning should include:

1. A clear understanding of the objective(s) of the mechanism;
2. A study of other mechanisms in use;
3. Consideration of the special needs and characteristics of different institutions, age levels and program elements within the jurisdiction;
4. A program to win the commitment of institutional administrators;
5. A plan for training and orientation in each institution, including arrangements for the funding of overtime and the allocation of manpower resources; and
6. Establishment of a means of monitoring and evaluating the mechanism.

#### Orientation

Among the mechanisms surveyed, only in California was there an in-depth, formal effort to explain the nature and purposes of the program to institutional staff prior to its implementation. Staff introductions to the grievance mechanisms varied from departmental memoranda sent to the institutions and posted on bulletin boards (Illinois and Kentucky) to one institution-wide meeting with the ombudsman in Minnesota. Even in states with fairly thorough initial orientation sessions for juveniles, such as Iowa, line staff generally were excluded.

The failure to provide meaningful orientation to staff encouraged a degree of hostility that was excessive and unnecessary. In most facilities

visited by the Center, line staff readily admitted their distrust of and apprehension about the grievance mechanism. The depth of the distrust was inversely proportional to the amount of orientation given staff. Whether expressed as a feeling of being "bird-dogged" by lawyers in New York or resentment over having their performances reviewed "by outsiders who didn't know the programs or the institutions" in Maryland, line staff were bitter because they had not been involved in the design of the program and had been given little information concerning its proposed operation. The exception was California, where staff had been involved in the design and implementation of the procedure. There the general consensus was that some sort of grievance mechanism was necessary; a substantial number believed that the grievance mechanism was beneficial for staff as well as the residents for whom it was initiated.

In contrast to staff, institutional administrators were quite knowledgeable about the mechanisms in their institutions. Often they had been included in policy sessions at the departmental level if the mechanism was designed by the central office, or they had had an early opportunity to meet key personnel, such as the ombudsman and his staff, suggest operational patterns and understand the nature and functions of the program. In view of their own orientation, it is difficult to understand why institutional administrators consistently failed to make a similar effort to win over recalcitrant staff.

Orientation of youths varied from state to state, but Center staff found that in most facilities the grievance mechanism was explained verbally during a reception period and/or was described in written form in a residents' handbook. The problem in relying solely on resident orientation during the reception period was pinpointed by the director of the orientation unit at

the Geneva School for Girls in Illinois:

Most of these kids are frightened and homesick and they get so many rules and regulations and tests in two weeks that it's a miracle they remember anything. Most of the information that kids have, they learn later when they move into a cottage.

Apart from California and Iowa, no mechanism reviewed involved youths in the design of the procedure, held formal orientation sessions for youths at the time of implementation, or included formal input from youths in arriving at solutions to grievances. Considering the growing emphasis on the participation of youths, both in education and in juvenile corrections, this oversight seems fundamental.

#### Training

Whatever the particular design of a grievance mechanism, a key element all have in common is the concept of mediation. Whether review or investigation is conducted by an ad hoc investigator, an ombudsman, a grievance officer or a committee of staff and residents, the ability to investigate objectively and promote compromise solutions to problems is vital. Unfortunately, there is a widespread myth that anyone modestly competent and amiable can serve effectively as a mediator without any special training for the job. In only one of the mechanisms surveyed (California Youth Authority), was an attempt made to train key personnel in the skills of mediation.

The fact is that skillful mediation is an art, which requires both training and extensive practice. Currently, participants in correctional grievance mechanisms are forced to learn the skills vital to their roles through trial and error. Some are succeeding, but others are squandering their fragile credibility with staff and youths in a difficult and only partially successful search for skills.

### Records

Of the mechanisms surveyed by the Center, the Maryland Grievance Commission kept the best records. All complaints dismissed by the executive director were responded to individually, with a copy kept on file at the Commission. In the case of grievances that went to a hearing, the end result was a final order containing the following: details of the complaint and the date it was received; a summary of the hearings; committee recommendations and reasons; and a report of affirmation, denial or modification by the Secretary of Public Safety. If the secretary's decision required action by an institution, a letter was sent from his office to the superintendent asking for compliance with the order and a written report of the action taken within 30 days. Copies of the final order were sent to the inmate and the superintendent; another copy was kept in the secretary's files and one remained in the Commission's files.

But even in the Maryland records system, there were problems. Records of complaints that were resolved informally by the executive director, a substantial percentage of all complaints submitted, were sketchy at best. In addition, a large number of complaints, while not dismissed directly by the executive director, disappeared before there could be a hearing. No one seemed sure of what had happened to these grievances.

The New York Division for Youth left record-keeping responsibilities in the hands of individual ombudsmen. The only departmental requirement was a monthly report of activities, with a statistical breakdown of the quantity and types of grievances handled. Outside of this monthly narrative report, supplemented by a base statistical chart, there was no way to assess the services provided by the ombudsmen in individual cases. Thus, while the

monthly reports catalogued numbers and types of cases received, they did not provide a means of tracking the timeliness and substance of efforts to resolve grievances.

The primary purpose of maintaining written records in a correctional grievance mechanism is to monitor its operations. Records need not be elaborate. In the California Youth Authority, they are simple enough to be maintained by residents. To be useful, they must indicate the timing and the substance of resolutions; little else is required.

One note: in the grievance procedure at Mitchellville (Iowa), as well as in the procedures of several adult jurisdictions studied as part of the Center's NILE survey, a record of each complaint and its resolution was placed in the resident's file. There is no surer way of destroying the credibility of a procedure on the part of youths. The fear that filing grievances may affect a youth's opportunity for release or special privileges can be sufficient to preclude use of a procedure. Every mechanism should have a written provision specifically prohibiting any mention in a youngster's file of his use of the grievance mechanism.

### Monitoring

Any system to curb the abuses of a bureaucracy is liable to become operationally flabby after an initial period of enthusiasm. The principal danger is the likelihood that the mechanism will be co-opted by the agency which is supposed to be policed. One need look no further than the federal regulatory structure to find an example of this process in operation.

The provision of records is designed to enable effective monitoring. Monitoring of a correctional grievance mechanism must 1) ensure that the operations of the mechanism conform to the design, 2) prevent the occurrence

of reprisals against residents who make use of the system and 3) make sure that decisions under the mechanism are carried out. While the first and third functions are common to all administrative processes, the second is particularly acute in correctional institutions. The fear of reprisals on the part of residents, whether or not objectively justified, is a perception that must be dealt with realistically and effectively. To allay the fear, it may be wise to rely on monitoring by individuals who, at a minimum, are extra-institutional and who, at best, are totally independent of the correctional structure. An independent ombudsman, for example, probably is the best person to monitor the operations of a formal grievance procedure. While the system at Mitchellville has the potential of operating in this manner, it did not do so at the time of the Center's visit.

#### Evaluation

Evaluation involves objective review of the success of a system in achieving the goals set out for it. Especially in this period of early experimentation with correctional grievance mechanisms, it is vital that efforts be made to assess both the immediate and long-term impact of grievance mechanisms on correctional institutions and agencies. Increasingly, states are committing scarce correctional dollars to the effort to design and implement effective grievance mechanisms. Unfortunately, there has been little effort to assess empirically the effect of mechanisms on such factors as intra-institutional violence, litigation and social climate. It is time such an effort was made.

#### CHAPTER VI: RECOMMENDATIONS

The report concludes with recommended elements considered essential to effective grievance mechanisms. The recommendations presented here were derived primarily from comparisons between effective and ineffective mechanisms observed by the Center during the course of the study, as well as from observations of mechanisms operating in adult institutions. The conclusions are divided into the two phases of design and implementation.

The list of essential elements is premised on several theories. The first and most important premise is that all persons in correctional institutions should have access to a formal grievance mechanism. Many jurisdictions throughout the country have introduced a variety of programs to provide redress of grievances in adult facilities, yet many of those same states do not have formal grievance channels for juveniles. Children and youths held in institutions must have ways of voicing and redressing complaints, in addition to verbal discussions with staff members, to guard against capricious decisions or abuses of authority.

Second, the resolution of grievances should be accomplished at the lowest possible level, preferably by face-to-face discussion between the complainant and others involved. The development of grievance mechanisms is never meant to replace informal channels, but rather to ensure that there are avenues to resolve complaints if the informal channels do not produce satisfactory results.

Third, it is important that each facility design a mechanism appropriate to its physical set-up, the age of its population and the focus of its program. It is presumptuous to believe that there is one "model" procedure that can be implemented in all juvenile facilities throughout the country.

Departments have different resources, and institutions have various methods of operation that must be reconciled with the guidelines in order to provide for effective grievance mechanisms.

With these premises in mind the following elements have been found by the Center to be essential to the design of an effective grievance mechanism:

- ° Simplicity: a small number of easily understood steps.

All of the mechanisms reviewed by the Center in institutions for juveniles adhere to this element.

- ° Answers: guaranteed written responses to all complaints, with reasons given for adverse decisions.

In New York, Colorado and Minnesota, most complainants were given verbal answers; some received letters and others were never re-contacted. Iowa did not provide for written responses, but the other four states guaranteed written responses at each level of the mechanism.

- ° Speed: time limits for receipt of all responses and for action implementing responses, with special provisions for emergencies.

Time limits and speed of responses vary enormously from state to state. The procedures in California and Kentucky have specified time limits at each level. Iowa provided one-day responses to grievances, while young offenders in Maryland waited an average of six months to receive a decision from the Commission. None of the ombudsman programs suggested or enforced time limits for final responses.

- ° Participation: involvement of representatives of residents and line staff in the design of all mechanisms and in the resolution of grievances.

Only California included this essential. In Iowa youths contributed to the design of the institutional procedure and sat on the grievance committee, but no line staff were involved in the operations of the procedure. To

ensure staff and resident credibility in the mechanism, reduce the hostility of having a new program imposed on the population, open lines of staff-resident communication and reduce the over-all cost of the procedure, it is important to involve staff and youths in the design of any grievance mechanism.

- ° Outside review: the possibility of appeal to a party or parties independent of the correctional agency.

At present, grievance procedures in California and Maryland (Kentucky, in theory) provide advisory review outside the department as a final level of appeal. The ombudsman programs in Minnesota and Iowa were designed to ensure independence from the agencies they review as well as to establish direct lines of communication to the press, the legislature and the governor.

The second phase, implementation, was found to be even more crucial to the development of an effective mechanism than its design. The type of orientation and information given to staff and residents determines their understanding of the purpose and functions of the mechanism and establishes the credibility of the system as a viable means for solving institutional problems. The essential elements for this phase are more difficult to structure than design elements because they are more subject to variation. It probably will require considerably more trial and error to define them clearly. In the meantime, the following forms a partial listing of essential implementation elements:

- ° Administrative leadership: commitment of top administrators, particularly superintendents, to the concept of grievance resolution.

In all of the states visited by the Center, departmental administrators seemed genuinely committed to the development of effective grievance mech-

anisms. In most cases, superintendents also seemed enthusiastic about the programs and were determined to operate effective mechanisms. In those facilities where mechanisms were opposed by reluctant institutional administrators, line staff were hostile toward the concept of a grievance mechanism and youths were either ignorant of the procedure or afraid to use it.

° Involvement: active involvement of both youths and line staff in implementing and operating the mechanism.

With the exception of California, no mechanism was designed and introduced by line staff and youths, or involved representatives of the entire population in the resolution process. Shared responsibility for the effective operation of the grievance mechanism is the central focus of a framework within which staff and youths work together to design a mechanism, orient their respective peers, and participate in the daily operations of the mechanism.

° Orientation: face-to-face discussions with both staff and residents concerning the concepts involved, as well as the practical steps necessary to using grievance mechanisms.

With only a few exceptions, the most common feature of the mechanisms reviewed was the lack of information on the program available to youths and line staff prior to implementation. In no facility, except for the Karl Holton School, were all line staff included in verbal orientation sessions about the concepts or use of grievance mechanisms. The commonly expressed views of staff that grievance channels are unnecessary and threatening become more readily understandable in the light of this oversight; no one has bothered to talk about the purpose of formal mechanisms with staff.

Beyond the level of initial information sessions, no facility visited by the Center had an effective ongoing orientation program for new youths

and staff. Newly arrived youths at Karl Holton did not thoroughly understand the procedure; Illinois and Kentucky had no formal orientation programs but relied on individual counselors to inform youths about the procedure; the ombudsmen in New York, Minnesota, Colorado and Iowa were responsible personally for informing youths and staff of their presence. In fact, in every institution visited, the population was informed of the programs "through the grapevine."

° Monitoring: a review process, not connected with the operation of the procedures, to ensure their effective functioning and the implementation of all decisions reached.

This element was absent in every program reviewed by the Center team. Administrators in Kentucky, Illinois and California admitted to Center staff that "intra-institutional" monitoring was not effective, and all were considering the creation of additional departmental staff positions to monitor the operations of the grievance mechanisms. (California had just done so, and intended to use the extensive data collected by the department's Division of Research to inform administrators of the day-to-day operations of the procedure.) The New York Division for Youth's ombudsman program had a built-in monitoring mechanism, the Independent Review Board, but it did not actually monitor the program.

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Within the past three years, correctional administrators throughout the country have adopted a wide variety of grievance mechanisms. This movement reflects the growing conviction among administrators that people in institutions must have access to channels for the prompt airing and resolution of grievances.

There is no single "model procedure" that can operate with guaranteed effectiveness in every correctional institution. There are, however, several common elements that, when present, seem to promote effectiveness and, when absent, produce failure. Given an understanding of those elements, innovative departmental personnel, institutional administrators and well-trained and compassionate staff can ensure the provision of formal channels through which youths can discuss and resolve grievances.

Ultimately, the most important result of effective grievance mechanisms is that youths learn to use the system, to reach compromises and often to suggest policy changes that are beneficial to the entire institution or department. The creation of grievance mechanisms affords residents a voice in the system that intimately affects their lives and, likewise, provides a forum for the open discussion of staff and youths' actions, institutional rules and departmental policies.

"Copies of the appendices are available from  
the Juvenile Justice Standards Project, 80  
5th Avenue, New York, N. Y., 10011."

**END**