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Criminal Courts Technical Assistance Project  
Institute for Advanced Studies in Justice  
The American University Law School  
Washington, D.C.

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Nicholas N. Kittrie, Institute Director  
Joseph A. Trotter, Jr., Associate Director  
David J. Saari, Associate Director  
B. J. Tennery, Associate Director

David E. Aaronson & C. Thomas Dienes, Co-principal Investigators  
The Impact of Decriminalization on the Intake Process for Public Inebriates

H. H. A. Cooper, Staff Director  
National Advisory Committee Task Force on Disorders and Terrorism

Jerry V. Wilson, Project Director  
War on Crime in the District of Columbia, 1955-1975

**Criminal Courts Technical Assistance Project**

Joseph A. Trotter, Jr., Project Director  
Caroline S. Cooper, Deputy Director  
Bert H. Hoff, Technical Assistance Specialist  
Johanna S. Kramer, Evaluation Specialist  
Linda C. Sweeney, Research Analyst  
Mark D. Cherry, Administrative Assistant

**Project Advisory Board**

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SUMMARY OF RECOMMENDED AREAS FOR  
STUDY REGARDING CRIMINAL JUSTICE  
OPERATIONS IN CHAUTAUQUA COUNTY,  
NEW YORK

May, 1974

NCJRS

MAR 8 1977

ACQUISITIONS

Consultant

Colonel J.F. Lieblich U.S.A. (Ret.)

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT  
The American University  
4900 Massachusetts Avenue N.W.  
Washington, D. C. 20016



THE AMERICAN UNIVERSITY  
WASHINGTON, DISTRICT OF COLUMBIA 20016

Washington College of Law  
INSTITUTE FOR STUDIES IN JUSTICE AND SOCIAL BEHAVIOR

Criminal Courts Technical Assistance Project  
2139 Wisconsin Avenue  
Washington, D.C. 20007

NOTICE TO THE READER

There is a September 30, 1974 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project. Consequently, assignment reports received after August 20, 1974, cannot be edited by the project staff prior to their transmittal to the client agencies, as is our usual procedure. The present report is one of those for which our time schedule did not permit editing. We apologize for any inconvenience this may cause.

Joseph A. Trotter, Jr.  
Director  
Criminal Courts Technical  
Assistance Project

This report was prepared in conjunction with The American University Law School Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

Organizations undertaking such projects under Federal Government sponsorship are encouraged to express their own judgement freely. Therefore, points of view or opinions stated in this report do not necessarily represent the official position of the Department of Justice. The American University is solely responsible for the factual accuracy of all material presented in this publication.

## PART I. INTRODUCTION

In May, 1973, the Chautauqua County, New York, Legislature established a Criminal Justice System Task Force to conduct a comprehensive review of the County's criminal justice system. The Legislature's resolution mandated, specifically, that the Task Force:

- (1) Study the advisability of establishing a coordinated Criminal Justice System in Chautauqua County;
- (2) Determine possible federal and state assistance available to establish the local system, and
- (3) Determine what projects or programs would be needed for the courts, police, Public Defender, probation or District Attorney in order to improve the County's Criminal Justice System.

The Task Force, chaired by the County Sheriff, is composed of 45 members representing various aspects of criminal justice operations and includes County judicial officers, the District Attorney, the Public Defender, major municipal police chiefs, and the County Probation Chief. A list of these members is included in an Appendix to this Section.

To assist the Task Force in establishing the parameters of its efforts and to identify major problem areas of concentration, David Dawson, Government Coordinator for the Chautauqua County Department of Development, requested technical assistance through LEAA's Criminal Courts Technical

Assistance Project at The American University. On April 5, 1974, Joseph Trotter, Director of the Project, and Col. J. F. Lieblich, a specialist in criminal justice system analysis, visited Chautauqua County to meet with criminal justice officials and determine the scope of technical assistance necessary to guide the Task Force.

Based on these discussions, a summary of recommended areas for study was developed (Part II of this Report) and a multi-phase technical assistance effort was launched with each phase focusing upon a separate segment of criminal justice operations.

Since the County Public Defender's recent report\* had called for immediate changes in public defender operations in the County, it was decided to focus the first phase of assistance upon the operation of the public defender program and other areas of criminal justice operations relating to pre-trial activity. Three consultants were assigned to perform this initial phase: Bruce Beaudin, Director of the District of Columbia Bail Agency; Daniel J. Sullivan, Executive Assistant District Attorney in Bronx County, New York; and David Collins, Senior Attorney with the King County, Washington Public Defender Association. This consultant team visited Chautauqua County April 24 through 26 during which time they conducted extensive interviews with the Public Defender, District Attorney, County Sheriff (and Task Force Chairman), Probation Department staff, judges, attorneys, and others, as well as reviewing the operation of the Public Defender Program and other aspects of pre-trial activities in the County.

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\*See Annual Report of the Public Defender included in Part III, Appendix H.

The consultants' findings for this initial phase of effort are documented in Part III of this Report.

It should be noted that, because of the urgency of this study, the team was necessarily hampered in its ability to identify and contact all key personnel involved in their study and to evaluate in great depth all factors which might have bearing. On the other hand, some critical areas in need of attention became obvious and others were suggested. Part III, therefore, represents the initial phase of a comprehensive effort designed to examine public defender and pre-trial services in particular as well as to identify and develop coordinated responses to a wide range of criminal justice system needs in conjunction with County Task Force officials.

The results of this initial study were submitted to Task Force officials in early May. During the weekend of May 16 through 18, Mr. Beaudin, accompanied by Allan M. Schuman, Director of Social Services for the Superior Court of the District of Columbia, visited Chautauqua County for the purpose of discussing the initial study with members of the Task Force and assisting them in developing coordinated pre-trial release, corrections and post-conviction programs and, if feasible, community service programs.

During their three-day site visit, the consultants discussed the initial study report with members of the Task Force and others as well as reviewed a grant application submitted by the County for Discretionary Funding of an Offender Rehabilitation Program. This application, which the consultants modified on the basis of the needs they perceived during their

site work, is included in this Report as Part IV. It provides for eight positions with a total requested funding of approximately \$107,000. These positions were determined as follows:

(1) Two Family Court Intake Screeners to operate in the Jamestown and Dunkirk areas, the County's two largest cities. Since only 100 of the 900 petitions filed in the Family Court Division in 1973 were able to be screened immediately and diverted from the system, the consultants and county officials concluded that two full-time screeners working out of two locations could screen and divert probably another 400 or 500 cases. All officials involved in court, law enforcement and Probation Department operations agreed that the formalization of a diversion program in the juvenile area could reap substantial benefits to the County.

(2) Two Misdemeanor Diversion/ROR Screeners operating full-time in the Jamestown area and Dunkirk area and working with the juvenile screeners to handle initial ROR screening for the Committing Magistrates in their areas. These screeners could, in cooperation with law enforcement and court officials, be able to formalize a Misdemeanor Diversion Program.

(3) Work Release Job Development Coordinator to coordinate community resources and needs with those of incarcerated defendants with a view to developing meaningful jobs which would address particular strengths in the system. Operating from the jail, the coordinator would be in a position at all times to know the needs of the jail population and the matching resources in the community. In addition, he could, in cooperation with the Probation Department, the Sheriff and the County Criminal Court

Judge; develop an alternative to straight incarceration by which the defendant might serve certain hours in the jail and be allowed community release for employment or school purposes. While a work release program presently exists, the Sheriff, in cooperation with the Probation Department, determines when an inmate is "ready".

(4) Recreational/Educational Director to coordinate such programs as "G.E.D.", college equivalency, travel to and from various community educational and recreational facilities, and, at the same time, assist the Sheriff with the professional recreational counseling that is essential in any prison environment. Although substantial educational opportunities were available, the consultants noted that inadequate staffing resources in the Sheriff's Office precluded more intensive involvement by the inmates in these programs. The recommended new staff position, together with the anticipated jail facility expansion could therefore permit a significantly expanded recreational and educational program.

(5) Coordinator of Volunteer Programs to coordinate transportation, publication and communication of County volunteer programs. Through the services of this coordinator, the activities of the community and the criminal justice system could be interfaced so as to promote not only the benefits of volunteer resources to the criminal justice system but, in addition, a healthy community climate to which convicted men and women might reenter with acceptance.

(6) Stenographer to provide support to the above positions.

The narrative of the grant application summarizes the objectives of the project which are, essentially, the creation of three new programs: (1) ROR; (2) Diversion in the Juvenile and Misdemeanor Adult areas; and (3) Coordination and Development of new community efforts. In the opinion of Messrs. Beaudin and Schuman, such programs should represent a model community criminal justice system effort in which, for the first time, both the defendant and the community would be involved in mutual efforts.

In the Fall of 1974, the final phase of technical assistance was provided to the Task Force and consisted of a review of the operations of the County Coroner's Office. The results of this study are documented in Part V of this Report.

The consultant assigned to this third phase of study was Dr. Samuel R. Gerber, Coroner for Cuyahoga County (Cleveland), Ohio, who is both a physician and an attorney. Dr. Gerber visited Chautauqua County on November 11-13 to meet with members of the Task Force, County Coroners, other County officials as well as officers of the nearby Jamestown Community College which offers a criminal justice curriculum which might have bearing on the County's criminal justice training needs - particularly as they apply to Coroner-Medical Examiner services. (Part V, Appendix A). Accompanying Dr. Gerber in his site study was Daniel J. Sullivan, Executive Assistant District Attorney for Bronx County, New York and a participant in the first phase of the technical assistance study.

Dr. Gerber focused his efforts upon reviewing the operations and procedures of the Coroner's Office serving Chautauqua County with a view to evaluating their adequacy and efficiency and indicating any potential areas which might be improved. In this regard, among the various subjects of interest to the Task Force were the relative merits and disadvantages of instituting the office of Medical Examiner in the County to assume the functions and responsibilities of the current Coroner's Office. This review was conducted in the light of the needs of the County and impending legislative changes affecting these services.

APPENDIX - PART I

MEMBERS OF CHAUTAUQUA COUNTY CRIMINAL JUSTICE TASK FORCE

	<u>Name</u>	<u>Home Address</u>	<u>Phone</u>
1.	John R. Burns, Sr.	R.D. #2, Mayville, N.Y.	789-3934
2.	Jerome G. Adams	R.D. #1, Bemus Point, N.Y.	386-2221
3.	Floyd W. Black	R.D.#1, E. Lake Rd., Westfield	326-3351
4.	Phillip Van Rensselaer	R.D. - Kennedy, N.Y.	267-3052
5.	Daniel Bentley	68 Fluvanna Ave., Jamestown, NY	487-1041
6.	Torrey Isaac	R.D. #1, Ashville, N.Y.	789-3775
7.	Joseph Fenicello	48 W. 4th St., Dunkirk, N.Y.	366-5612
8.	Allan Austin	101 Center St., Fredonia, N.Y.	672-2272
9.	C. Berkeley Adams	63 Hammond St., Jamestown, N.Y.	488-1616
10.	Ted Leonard	Box 134, Maple Springs, N.Y.	386-7314
11.	Mark Hampton	11 Vista Way, Lakewood, N.Y.	763-7675
12.	Anna May D. Cole	72 Livingston Ave., Jamestown	484-0572
13.	Raymond E. Gordon	400 W. Fairmount Ave., Lakewood	763-1374
14.	Richard E. Davies	35 Union St., Westfield, N.Y.	326-4241
15.	James W. Mead	97 S. Portage St., Westfield	326-2506
16.	Jerry Tubbs	Pecor St., Portland, N.Y.	792-9614
17.	Samuel C. Alessi, Jr.	54 Chestnut St., Jamestown, NY	487-2025
18.	Jerome Ernewein	Lighthouse Point, Mayville	753-2687
19.	Margaret Kraemer	R.D. #1, Ashville, N.Y.	763-4759
20.	Chester L. Tarnowski	231 Nevins St., Dunkirk, NY	366-5579
21.	Edward Mulville	135 Point Drive N., Dunkirk, NY	366-2461
22.	Robert Sisson	36 Chautauqua St., Fredonia, NY	672-4455
23.	Arthur Goggin	8562 E. Main, Clymer, N.Y.	355-6624
24.	Richard H. Fessenden	15 Wiley Ave., Chautauqua, NY	357-2831
25.	Rodney A. Vanstrom	R.D. #1, Townline Rd., Jamestown	985-4153
26.	John H. Ball	19 Price St., Jamestown, N.Y.	484-7326
27.	Martin Pecoraro	25 Burgess St., Silver Creek, NY	934-2485
28.	Donald P. Studd	23 Hawkins. Silver Creek, NY	934-2880
29.	Ronald A. Butterfield	946 Diamond Ave., Dewittville, NY	753-2233
30.	John L. Goodell	413 N. Main St., Jamestown, NY	484-1378
31.	Carmen J. Basile	134 W. Virginia Blvd., Jamestown	664-3937
32.	Spencer E. Kirschman	137 Front St., Lakewood, N.Y.	763-1276
33.	John F. Rowe	20 W. Summit, Lakewood, N.Y.	763-1811
34.	William G. Young	Chautauqua Shores, RD2, Mayville	789-3965
35.	Stanley Fox	6 Maple Drive, E., Mayville, NY	753-2924
36.	Charles Gennuso	172 Berry St., Fredonia, N.Y.	679-1691
37.	Leonard Faulk	155 Myrtle, Jamestown, N.Y.	489-6659
38.	John R. Bentley	Sheriff, Chaut. County, Mayville	753-2131
39.	David Dawson	Model County Office, Mayville	753-7111
40.	Rolland Kidder	252 Hazzard St., Jamestown (Resigned)	
41.	Judge Lee Towne Adams	Chaut. County Judge	
42.	Judge Willard W. Cass, Jr.	Surrogate Judge	
43.	Thomas Costanzo	42 Allen St., Jamestown	
44.	William Arrison	Public Defender	
45.	Richard Slater	74 E. Terrace Ave., Lakewood	484-0044
46.	Michael Thies		
47.	Dr. Glen Ebersole	35 Sunset Ave., Lakewood	763-9597
		(* Resigned)	

- 48. Donald Coe
- 49. John Kohler
- 50. Ralph Tworek
- 51. Rev. Robert Shaver
- 52. John Scorse Ex officio member
- 53. Rev. Canon Howard
- 54. Paul King

## BREAKDOWN OF COMMITTEES

### POLICE

1. John H. Ball - Chairman
2. Edward J. Mulville - Co-chairman
3. Floyd W. Black
4. Jerome G. Adams
5. Raymond Gordon
6. Richard Davies
7. Martin Pecoraro
8. Charles Gennuso
9. Donald P. Studd
10. Mark Hampton
11. Richard H. Fessenden
12. John F. Rowe
13. R. A. Vanstrom
14. Anna May D. Cole
15. Ronald Butterfield
16. P. Van Rensselaer
17. Robert Sisson
18. Daniel Bentley
19. Torrey Isaac
20. Jerome Ernewein
21. Chester L. Tarnowski
22. Donald Coe
23. John A. Kohler
24. John Bentley
25. Rev. Canon Howard

### DEFENSE

1. William Arrison - Chairman
2. Margaret Kraemer
3. Spencer Kirschman
4. John F. Rowe
5. Richard Slater

### CORRECTIONS

1. C. Berkeley Adams - Chairman
2. Torry Isaac - Co-chairman
3. Stanley Fox
4. Raymond Gordon
5. John Goodell
6. Joe Feniello
7. Anna May D. Cole
8. Ted Leonard
9. Carmen J. Basile
10. Charles Gennuso
11. Michael Thies
12. Leonard Faulk
13. Rev. Robert Shaver

PART II.

SUMMARY OF RECOMMENDED AREAS FOR STUDY REGARDING  
CRIMINAL JUSTICE OPERATIONS IN CHAUTAUQUA COUNTY

MAY 1974

Consultants

J. F. Lieblich

PROSECUTION

Donald P. Studd - Chairman  
 Jerry Tubbs  
 Richard E. Davies  
 Edward J. Mulville  
 Martin Pecoraro  
 Chester Tarnowski  
 John H. Ball  
 Floyd W. Black  
 Jerome Ernewein  
 John F. Rowe  
 Paul King

COURTS

1. Judge Lee Towne Adams - Chairman
2. Judge Willard W. Cass, Jr.
3. Allan Austin
4. John R. Burns, Sr.
5. John Goodell
6. Samuel C. Alessi
7. James Mead
8. Jerry Tubbs
9. Anna May D. Cole
10. Arthur Goggin
11. Dr. Glen Ebersole
12. William G. Young
13. Ralph Tworek

CORONER

1. Thomas Costanzo

PART II. SUMMARY OF RECOMMENDED AREAS FOR STUDY REGARDING  
CRIMINAL JUSTICE OPERATIONS IN CHAUTAUQUA COUNTY

The Task Force was charged with defining and describing "those County wide criminal justice system programs which could be implemented to provide efficient and maximum program coverage at minimum costs to the public, with particular emphasis on the efficiency of police operations and corrections, and criminal justice community services. The Task Force was also charged with determining the availability of Federal LEAA funding or any other State or Federal funds which might be available to assist County Police correction, community or judicial agencies to implement County Wide programs.

Participating in this conference were J. F. Liebllich and Joseph A. Trotter, Jr., representing LEAA's Criminal Courts Technical Assistance Project, representatives from the New York Divisions of Criminal Justice Services (SPA) and Chautauqua County officials.

1. Establishment of Specialized Coordinated County-Wide Sheriff/Police Criminal Investigating Teams.

It is recommended that study be given to the problem of establishing the following specialized coordinated Sheriff/Municipal Police criminal investigating teams. The teams would be designed to take over, in their individual areas, all police level investigation and prosecutor support investigation as required, at the earliest possible time after the reporting of the offense or the first entry of any County law enforcement agency into a case:

a. Narcotics Detective Squad - to give special attention to the enforcement of the new New York narcotics laws, including enforcement in public schools and Fredonia State College. This Squad will need particular support from a properly operated and equipped forensic laboratory, located proximately close to the County Seat.

b. Burglary Detective Squad - to cover both home and commercial burglary. This probably represents the greatest single source of citizens' losses from crime.

c. Auto Theft Detective Squad - to particularly concentrate on intra and interstate auto theft, transportation, but not unauthorized use or joyriding where there is no manifest intent to steal. This is particularly important in view of the location of the County on major New York-Pennsylvania communications routes. This Squad would require special communications facilities linking with both the Pennsylvania and New York State Police and both State Departments of Motor Vehicles, as well as NCIC, for the identification of drivers, determination of vehicle ownership, reports of loss, and driver arrest records.

d. Violent Robbery Squad - to particularly concentrate on armed robbery, robbery with threat of knife, club, or weapon, especially where violence is done to the victim. These crimes probably excite more complaints than any other offense. This Squad would require special support from a forensic laboratory weapons identification

facility and forensic medical examination facilities to locate bullets in the body and to identify instrument or weapon used causing the bodily damage.

e. Homicide Squad - this is particularly necessary where the County must rely upon non-medically trained coroners for authorization for removal of unattended dead bodies and for ordering post mortem by medical personnel who may not be specifically trained in forensic medicine as competent professional forensic medical examiners. This Squad would require the support of local competent forensic medical examiners and facilities.

f. Organized Crime Squad - particularly to work with Federal and State efforts at suppressing organized crime such as prostitution, gambling, narcotics, racketeering, extortion, and loan sharking.

Note: This recommendation envisions that the study or investigation will concentrate on developing those teams based on the contribution in funds and personnel from the major municipal police departments and from the Sheriff's office. The study should review the command, operational, and communications arrangements, the specialized training required, and the required support in forensic laboratory facilities, personnel, and particularly forensic medical examiners. This recommendation is premised on the Sheriff's operating these combined police task force teams in coordination with the principal municipal police chiefs.

2. Review of Police Communications Arrangements.

This review is made timely by the general nationwide tendency for police communications equipment change-over from low band to high band equipment. The proposed review should determine the cost and technical performance effectiveness of retaining on hand low band station-to-scout car equipment, or station-to-station equipment, for its reasonable life, but utilizing new high band equipment where not yet installed, particularly for station-to-station and station-to-car communications with the Pennsylvania State police, alternatively making a full conversion to high band on a planned multi-year schedule. The review should include the problem of installing relay stations to accommodate the hilly topography of the County for low band or high band as required. The review should also consider the need for centralized Police dispatch from the Sheriff's headquarters for all police, except Jamestown, Dunkirk, and Fredonia municipal forces, with station-to-station interchange with all scout cars between the Sheriff and the three municipal police agencies, as well as centralized Sheriff dispatch of fire calls, ambulance requirements, helicopter emergency casualty transportation to the Jamestown Hospital emergency facilities, together with the possible establishment of fully trained para-medical rescue and treatment teams under Fire or Police Department control, operating in conjunction with emergency medical facilities in the Jamestown Hospital.

3. Establishment of Centralized Sheriff County-Wide Criminal Justice Records and Reporting.

This study should explore the cost and performance effectiveness, as well as the personnel and equipment contributions from major municipal police departments required to establish a centralized County-wide criminal justice records and reporting system. This system should include:

- a. The establishment of a central police records file, including arrests, stolen vehicles, missing persons, stolen County property subject to centralized reporting, and other law enforcement data.
- b. The central accomplishment of fingerprinting and photography where required, except in the major municipal police forces with adequate facilities.
- c. The collection and dispatch or electronic transmission of all County-wide fingerprints, "mug" shots, arrest data, and other law enforcement data required to be reported on individual crimes to both the New York State Police and Federal NCIC.
- d. The collection, dispatch or electronic transmission of all disposition reports, to be matched in County, State and Federal files with arrest records, whether the disposition is accomplished at the police, prosecutor, or judicial level.
- e. The control of the dissemination, amendment or expungement of any criminal records within the County or emanating from the County to State or Federal agencies in compliance with judicial orders, State or Federal statutes, or regulations.
- f. The control, compilation, reconciliation, and dispatch of all

required criminal justice statistical reporting for all County, State, FBI, or other Federal agency purposes authorized to receive such information.

g. The collection, compilation, and dispatch, under judicial control, of disposition reports from court clerks or prosecutors.

h. The collection, dissemination to and from both the New York and Pennsylvania Motor Vehicle Commissioners, or similar organizations, of traffic accident reports, requests for owner identification of unattended vehicles, the collection and dispatch of licenses taken up under judicial disposition, if not otherwise directed by law, the determination of prior traffic offense data as may be required to administer the traffic laws of the State of New York, together with the furnishing of traffic and accident data upon valid requests to insurance companies, accident victims, attorneys, etc., under rules approved by the courts and the District Attorney.

i. The standardization within the County police forces, made mandatory for all but the three major Municipal police forces, and coordinated with these agencies to the maximum extent possible, of police record format, preparation, reporting, traffic ticket control, request for warrants, peace bonds, etc., service of process forms, records, and procedures, in coordination with the requirements of New York law and regulations of the New York State Bureau of Municipal Police.

4. Standardization and Improvement by Management Engineering of the County Sheriff's Recordkeeping in Non-Law Enforcement Areas.

This review should study, from the viewpoint of accepted management engineering principles, reports and forms design, control, retention, and duplication, how to standardize and improve, from a cost and technical effectiveness viewpoint, the Sheriff's jailkeeping, process serving, courthouse security, prisoner transportation records and financial accounting records, within the constraints of New York State law or State regulations or any uniform practices adopted by the State Sheriffs Association. It is to be noted that results obtained from such studies should be of use in a large number of rural New York State counties with small populations, and particularly for Region 13 allied counties of Cattaraugus or Allegany.

5. Improvement of Procedures Governing Unattended Deaths.

This review should, consistent with the provisions of New York State law, review the procedures, as applied in the County, on unattended deaths, with particular concentration on:

- a. The continued use of elected non-medically qualified coroners;
- b. Coordination of police investigation of traffic accidents involving fatalities;
- c. The removal of traffic accident bodies which now must await the coroner's arrival and direction;
- d. The certification of death;
- e. The decision to conduct postmortems, and the conducting of post-mortem medical examinations by medical officers not particularly trained in forensic medicine;
- f. The provision of forensic trained medical examiners and the

establishment of arrangements for the use of neighboring County trained medical examiners, or the development in the staffing of County public hospitals of a trained forensic medical examiner;

g. The establishment of appropriate forensic medical postmortem facilities and procedures, and the possible use of County Health Department Medical Personnel as "designees" for coroner determinations and post-mortem examinations similar to procedures used in civil commitments.

6. Development of Adequate Crime Laboratory Facilities and Procedures.

Study is urgently required on the cost and performance effectiveness of establishing locally available crime laboratory facilities and procedures, particularly focusing on narcotics and the mechanics of administering breath and blood tests for individuals charged or arrested for drunken driving. The study should seek to take maximum advantage of the Jamestown Community College forensic science staff, faculty, and facilities. The study should particularly seek to define the perimeters as to when New York State or FBI facilities should be used and when local facilities to be established should be used. The study should also consider the extension of central facilities to the scene of the crime by use of mobile vans. The study must provide satisfactory evidentiary custodial features approved by local judicial rules and the District Attorney so that prosecutors can adequately defend the evidentiary trace and the Sheriff or Municipal Police spared the requirement of posting guards over evidence under examination, as well as for the production of analysis of narcotics to meet the specific requirements of the New York State narcotics laws.

7. Planning for Unified County-Wide Pretrial Confinement/Lock-Up Facilities and Procedures.

A planning study is considered to be urgently required for the exploration of concepts on the development of a unified County-wide pretrial confinement institution and the procedures which can be legally effective under New York law and the Code of Criminal Rules of Procedure. Presently, the Sheriff is authorized to commit to the County jail for pre-trial determination only after a bail-jail commitment hearing by a justice. However, certain Municipal Police can operate a lock-up and detain following arrest on certain charges prior to the bail-jail commitment hearing before a magistrate. If statutory and rule procedures can be found to permit, it is recommended that the planning study address the following problems:

a. Use of the County jail as a central lock-up before or after bail-jail commitment hearings. This would include:

(1) Removal to the County jail of persons arrested for felonies or certain misdemeanors, to be set forth in the County Court local rules, by those municipal police whose municipalities do not have lock-up facilities, or where the bail-jail commitment hearing would have to be held by a justice at night or on holidays;

(2) Removal to the County jail from Municipal lock-ups after a local bail-jail commitment hearing in which bail was denied or unable to be met, and release on recognizance was not granted;

(3) Removal to the County jail from Municipal lock-ups before bail-jail commitment hearings which would otherwise have to be held during off-duty hours, at night, or during holidays by justice or

municipal magistrate, particularly in certain situations where public safety demands, or segregated facilities for juveniles of either sex or females were not locally available, or where the municipal lock-up facilities were overtaxed because of local situations such as civil disturbances, riots, tumults, especially such as any large-scale rural "rock-pot" sessions with extremely large attendance beyond local police control, such as at Woodstock, New York.

b. Planning for facilities in which juveniles of either sex, requiring detention, can at all times and places be completely segregated from adults, and where adult females or adult males, who present sexual or violent threats to other inmates of the same sex, can be segregated properly in pretrial confinement, and in all cases the segregation of all pretrial confinees from any inmates sentenced to confinement in the County jail.

c. Necessary coordination with the application of the results of any study on extending release on recognizance on pretrial confinement or improvements in release on bond procedures, which might be developed under other studies also recommended.

d. Addressing the problem of concentrating the bail-jail commitment hearings on all cases where the offender is charged with felony or is a juvenile or claims indigency and requires the services of the public defender at the bail-jail commitment hearing, in the hands of the County Court judges rather than justices or municipal magistrates. Such concentration is particularly desirable where any pretrial release on recognizance procedures require social and criminal background investigation, which must be accomplished properly and quickly by trained personnel, in

coordination with the District Attorney and the Public Defender, which situation can be more easily handled at the County seal and by judicial personnel with the County judge's authority.

e. Addressing the problems of detoxification detention after arrest for drunken driving or awaiting administration of breath or blood physical examinations, and the allied problems of properly administering such tests, particularly the drawing of blood by properly qualified and trained para-medical or medical personnel, if required by law, and the proper assessment or analysis of such blood or breath tests. If the planning study addressed such detention and test administration centralization, the facilities emerging from such study would make proper provision for post and pre-examination detention, detoxification detention, as well as administration of the tests, so that competent and legally admissible evidence is promptly received based on analysis or assessment of the results in terms of the New York law governing driving under the influence of alcohol or drugs.

f. Addressing the problems of holding those charged with violation of the new State narcotic laws through use, where tests must be administered to determine the type of drug and extent of drug use and detention provided for detoxification. Centralization of detention, drug testing, and assessment at the County seat in the County detention facilities, with access to trained forensic laboratories, para-medical or medical personnel, where required, particularly in dealing with serious detoxification problems, is considered essential, especially under the New York law.

g. Addressing the problems of holding persons arrested for any criminal activity who present problems for pretrial release because of

apparent incompetency of mind or psychiatric instability which require immediate medical-psychiatric treatment, particularly where there is a past record of suicide, or where the person arrested on any charge presents threats or makes efforts at suicide.

h. Addressing the problem of providing medical treatment to persons charged with serious offenses where release could not in any case be permitted, by bail or by recognizance, until completion of medical treatment and subsequent police interrogation and investigation. This portion of the study should examine the desirability of the provision of emergency medical and psychiatric services on call at all times to the detention authorities, and also the provision of criminal medical or psychiatric detention facilities with necessary custodial safeguards for public safety, which might reduce the number of police personnel required for guard duty at the institution, if other than the detention center.

8. Study on Pre-Trial Release on Bail or Recognizance

Note: This study would necessarily be coordinated with the study in the recommendation of para 6 above covering pre-trial detention facilities and hearings.

The study recommended herein calls for a review of the procedures, as required by New York law and the Rules of Criminal Procedures, for providing for pre-trial release, whether by bail, cash, property or recognizance or commercial surety or personal bond or by licenced surety with or without third party custodians, applying the principles, developed by The VERA Institute, to determine community ties as a means of assessing the likelihood of appearance for required judicial process. However, it is considered essential that the procedures be adjusted to eliminate certain categories from such recognizance law or bail release who show disposition to recidivism from prior police records and an inability to control themselves despite community ties, as with addicts, sexual psyopaths, or drunks. These categories present dangers to society and the community in their release. Included within the parameters of an overall assessment of the total pre-trial release spectrum, whether by bail, bond, or recognizance, would be the following factors:

a. That level of justice, magistrate, or judge, should make the pre-trial release decision, particularly setting the amount of the bail, where bail is to be required, or determining the acceptability of the investigation or finding the facts showing the required community ties evidencing a likelihood of appearance as well as an absence of public danger in the release, or determining the conditions of all types of recognizance release. It is recommended that the study determine the acceptable

judicial level for finding in connection with pre-trial release, need for third party custodianship, continued night and week-end custody, with day time work release and the need, as a condition for recognizance, the individual's acceptance of prescribed rehabilitation and medical or psychiatric treatment.

The continued use of judicially fixed bail schedules, which would authorize release by the Sheriff or appropriate level custodial officials, of a pre-trial detainee making bond or posting cash or property to the amount of the bail schedule based upon the highest offense charged should be studied. It is urgently recommended that enthusiasm for the introduction of liberal pre-trial release on recognizance not be permitted to sweep aside consideration of conventional common law release on bail. The traumatic effect, especially on youthful or first offenders, of confinement, overcome by immediate bonding and return to normal family situations, must be given proper weight.

c. The thoroughness of the investigation, on which release on recognizance is to be recommended to the appropriate magistrate and the trained capability of the investigators in social and family background situations should be carefully considered. The pre-trial release investigation should be of a caliber to constitute the commencement of the eventual probation officer's pre-sentence investigation file or the correctional institution's intake investigation, or of any state probation and parole investigation, if the accused is subsequently committed to a State institution, penal or mental, depending upon conviction.

d. The broadest and safest possible use of summons in lieu of arrest should be considered in the study of pre-trial release since service of a summons precludes not only correctional confinement but the problem of subsequent pre-trial release.

e. That consideration be given to the standard situation of setting impossibly high bonds on grave offenses with possible constitutional and legal imperfections, particularly if the alteration in the capital punishment laws of the state have removed the former barrier to normal admission to bail in the commission of a capital offense, even if the law authorizes exceptions. Such exceptions are provided in many states, copying a common law maxim, "That bail will be allowed even on capital offenses unless the proof be evident or the presumptions great".

f. That consideration be squarely given to the situation that narcotics sellers, prostitution bosses, or numbers captains, particularly where organized crime may be involved, invariably find money for even extremely high bail, and, whether, in such situations, some other restraint can legally be invoked to prevent improvident release in such situations.

g. That consideration be given to providing rigid safeguards for any bail cash or property, received by custodial personnel or court clerks to prevent "skimming" of such funds.

h. That the procedures adopted face the legal requirement of the full participation of the District Attorney in bail-jail commitment proceedings and the equally strong moral requirement that the Public Defender be given concomitant participation.

9. Equalization of Adversary Capabilities of  
District Attorney and Public Defender

Study is recommended on the means of equalizing the adversary capabilities of the District Attorney and the Public Defender, assuming that incumbents are equally professionally qualified to make the common law adversary system fully effective. It is considered that this study should not seek to weigh the relative professional merits of the elected District Attorney and the appointed Public Defender nor to concentrate on the utilization in either office, where not required by law, of full time or part time professionals. The dangers of full time, but underpaid professionals, who cannot draw from private practice, necessary contact with public viewpoint and experience, is equally matched by the danger of not developing adequate adversary expertise if part time public defender face full time prosecutors or vice versa. Rather, it is recommended that this assessment look to the following measures of support, on the assumption that the people will elect and officials will appoint equally qualified individuals as prosecutors and public defenders provided the support made available to both prosecutors and defenders is equalized. These measures of equalized support should be examined:

- a. Equality in professional staffing, in terms of equal hours of work, to be made available, whether under part time or full time employment.
- b. Equality in professional staffing in terms of qualifications as measured by equivalent salary levels for appropriate levels of office management and length of professional legal experience.
- c. Equality in recruitment out of law schools or from the local legal community in terms of fringe benefits, tenure, and other aspects of personal administration.

d. Equality in terms of secretarial help, numbers, pay, benefits and grades.

e. Equality in terms of investigative help provided in numbers, pay, benefits, grades and experience. If public law enforcement personnel are made available to the prosecutor as investigators, equal availability of equally qualified law enforcement personnel should be made available to the Public Defender.

g. Equality in terms of access of prosecutor and defense to the person charged and to his records, including those of law enforcement, judicial clerks, and probation personnel as well as opportunity to enter a case at approximately equal times, to equally participate in all aspects from the initial bail-jail commitment hearing to prosecution of the final appeal. This would include equal notice by law enforcement agencies to both offices at the same time of arrests and confinement.

h. Equality in providing the prosecutor with a capability of perfecting appeal equal to that gained by the public defender by hiring legal specialists in appeals work.

i. Equality in providing equal court transcription records on an equal time basis and equal access to court reporters with equal professional expertise.

j. Equality in having the Sheriff make service of process and subpoenas equally for the Public Defender and the District Attorney.

k. Equality in providing each office with a full time administrative assistant, of equal professional pay and status, to administer each office, take calendar calls, make appearances, assign cases, maintain dockets, keep up work productivity, supervise investigations, perform necessary liaison to keep cases moving, and to advise their respective chiefs of plea

bargains proposed and within the limits of an equal authority given by their respective chiefs, to approve plea arrangements whether agreed upon or contested to be presented to the Judges by more junior or part-time lawyers in either office.

10. Recommendations to the Appropriate Appellate Division of the Supreme Court Concerning Assignment of County Court Judges, Surrogates and Family Court Judges.

The Task Force should develop, making use of best available local professional talent, trained and experienced in New York law, a series of recommendations, by the County Legislature, to the Fourth Appellate Division of the Supreme Court for the exercise by that court of their statutory or inherent powers to reassign judges within their circuit and without the County to develop a more equal caseload for Chautauqua County Judges. These recommendations should consider:

a. The Supreme Court Judge try the great bulk of civil cases, aided by the Surrogate, thereby taking over from the County Court Judge all civil cases which the County Court judge normally handles, which the Surrogate may lawfully be permitted to handle, over and above the Surrogate's normal duties.

b. The County Court Judge try the great bulk of criminal cases, aided by the Family Court Judge on criminal cases which the Family Court Judge is lawfully permitted to handle.

c. The County Court Judge assist the Family Court Judge when the latter is overbalanced in Family Court caseload matters.

d. Outside judges, particularly from nearby counties with multi-judge courts assist the Supreme Court and County Court judge in easing a temporary case congestion, which cannot be handled by use of the Surrogate or the Family Court Judge.

e. Development of arrangements, particularly in Region 13, between the Supreme Court, County Court, and Family Court judges and Surrogates of Chautauqua, Cattaraugus, and Allegheny Counties, to work out emergency "circuit riding" procedures, particularly when bias and prejudice is claimed or venue must be changed, and to help out on a regularly scheduled calendar basis when the caseload of one County permits assistance to be rendered the other County.

f. Changes if any, which may be required to be recommended to the New York Legislature as to laws and New York Judicial County as to Rules on venue and jurisdiction, to make these judge assignment procedures more workable.

11. Continuation of the Studies on the Utilization of Town and Village Justices

Current studies on the legal position, cost and operational effectiveness and duties to be performed by Town and Village justices should be continued to determine:

a. Those types of cases appropriate for disposition by Town and Village Justices.

b. Those types of cases, now handled by Town and Village justices that should be remitted to the County or Family Courts for Trial.

c. The warrant issuing function, other support of law enforcement personnel, admission to bail or recognizance functions, the preservation of the public peace functions, which should remain with Justices, with due consideration to geographical distance and weather conditions in the County.

d. The strict controls and accounting for all funds, bail, fines, fees received by Justices and their disposition according to New York Law.

e. The standardization of fees for services which Justices will be permitted to render.

f. The regulation of the number of Town and Village justices which should be funded by the County Legislature, in whole or in part, or which the County Legislature will permit the towns or villages to actually compensate.

g. Any changes in the laws or rules of venue which may be required to be recommended to the New York State Legislature or to the New York Judicial counsel to make desired arrangements with respect to town and village Justices more feasible.

12. Court Management Studies of Calendaring, Plea Bargaining, Sentencing Continuance, and Notification to all Interested Parties in Criminal Cases

It is recommended that further technical inspection teams be provided to identify specific court management problems and suggest solutions in the criminal justice process in the County with respect to the following:

a. Methods of calendaring of all types of cases, specifically including traffic cases.

b. Procedures for regulation of plea bargaining, including identification of offenses in which no bargaining will be permitted; of offenses where bargains of special types will be permitted concerning length of sentence, striking prior offense references on use of armed weapons or force, and the like; of offenses where jail time will be allowed and where, even though sentenced for a felony, the sentence will be such as to cause the individual to be confined to the County Jail, (thereby permitting the Sheriff to collect the state fee for State Prisoners lodged with the county.

c. Procedures where there will be no reduction from a felony to a misdemeanor.

d. Procedures where leniency in plea bargaining by reduction of offenses will be permitted as in cases where:

1. the offender is on a first offense
2. force, violence, or arms were not used.
3. Only property was violated by the offender.
4. Where the amount stolen, by burglary or larceny, but not robbery, is below a certain level, other than statutory, and whether restitution or recovery occurred.
5. Where victimless crimes are involved.
6. Where the amount involved in the sale of narcotics and the type of sale within the meaning of the new state laws is defined as to whether or not plea bargaining will be permitted.
7. Where use of the "soft" drugs, as distinguished from sale takes place.
8. Where diversion for rehabilitation treatment in lieu of sentencing will be employed.

e. Procedures with respect to sentencing, where sentencing norms are developed from past history to provide guidance to judges in future sentences for like offenses.

f. Adoption of rules governing continuances, postponements, other sources of delay, including use of calendar calls, uncontrolled absences of essential parties, loss of court files, failures of persons on bond to appear, and the development of procedures for filing motions for dismissal for want of a speedy trial.

g. Adoption of case calendar management methods which do not depend, particularly in traffic cases, on the availability of the arresting officer's "court day", but set the cases on the calendar within strict time limits approved by the judges, based on pre-scheduling conferences to determine maximum availability of the date on which the case is scheduled for the principal parties to attend, and require prior motions or mental or medical examinations to have been disposed of before cases are set for trial, and otherwise minimize excuses for further delay.

h. Adoption of a calendar notification system furnishing the dates, times and places at which any stage of a judicial process is calendared, in advance, to all interested parties. These would include the Court Clerk for production of records; the Sheriff for production of confined defendants; the bondsmen or custodians if the defendant is on recognizance; the prosecutor; the public defender; the judge; the jury commissioner (if jury trial is demanded); the witnesses as the initial subpoena and thereafter as process requires; and the public officials required to render reports such as post mortem, medical or psychiatric evaluations as to competency to stand trial or competency at the time of the offense.

13. Improvement and Expansion of County Probation Office Activities

A study of the County Probation Office should be undertaken with these objectives in mind:

a. Development of appropriate personnel qualifications for recruitment and advancement of probation personnel which recognizes the progression of individuals in the system entering without college training, the encouragement of such individuals to take college training, and the entry of college trained personnel.

b. Development of appropriate personnel staffing and compensation levels based upon the recruitment criteria demanded and upon reasonably equalized case load levels.

c. Provision of means by which the Probation Office can monitor or exercise surveillance over probationers by manual or simple computerized checks with employers as to continued employment, with the post office, as to address, and with family or relatives as to continued presence in the jurisdiction.

d. Check with law enforcement officials through maintenance of lists of all individuals on probation, with addresses, alias, AKAs, so that law enforcement personnel in making arrests, can quickly and accurately determine whether the person arrested is on parole or probation.

e. Checks, by manual or simple computerized means, with social educational, psychological, rehabilitation, medical, or psychiatric institutions as to whether a probationer is following a prescribed course of rehabilitation-- i.e. missing his visits, classes, or sessions.

f. Development of sources for the provision of social, psychological, educational training, psychiatric, or medical after care which might

be available by public agencies or private institutions in the County to give sentencing judges, prosecutor, public defenders, or probation personnel confinement alternatives to individuals emerging from criminal justice connections with problems which might be alleviated by these services.

g. Development of sources or volunteers from church, social agencies, fraternal or occupational agencies, who would with guidance and minimum training, be able to offer substantial volunteer assistance in social situation investigations, in checking on continued adherence to probation requirements or rehabilitation, psychiatric, or medical schedules, or who can provide counseling services on a one-to-one basis, or who can organize efforts to locate jobs or home for personnel on probation, particularly their immediate emergency period following confinement.

It is to be noted that public sensitivity to recidivism of offenders, placed on probation, requires that probation officers exercise maximum care in the exercise of their surveillance after probation concerning the probationer's adherence to probation conditions, avoidance of situations leading to recidivism, use of untrained agencies who fail to understand the danger to the public in not keeping probation officers informed or in not promptly informing probation or law enforcement personnel as to probation violations.

h. Improvement of pre-trial social investigation under any pre-trial release or recognizance program and of pre-sentence investigations to give the judicial officers with responsibility for imposing sentence more than routine cursory, and therefor, often incomplete or incorrect recommendations, thereby jeopardizing the system.

i. Development of procedures for the immediate notification of law enforcement and judicial personnel of probation violations so that law enforcement personnel can secure bench warrants and make arrests and the judges can promptly issue bench warrants and give priority to parole violation hearings in their calendaring system.

#### 14. Improvement of Internal Correctional Rehabilitation

Assuming that on pre-trial detainees, the accent is on speedy trial and maximum pre-trial release, the opportunity for correctional rehabilitation is admittedly not too great in the County Jail. However, for the increasing number of convicted defendants, whom the Courts choose to confine in the County Jail, particularly if confinement of persons charged with a felony, through plea bargaining, allowance of jail time, or lowering of sentence to one year without change of the level of offense is followed, internal correctional rehabilitation within the County Jail will become an increasingly important problem. Studies of this situation should include:

a. Provision of emergency medical and psychiatric care, particularly for detoxification, drug drying out, proper diagnosis of medical ailments which mask as drug symptoms, emergency treatment for legitimate medical emergencies, and effective but not cruel and unusual methods of restraint for prevention of suicide and the handling of psychotic cases.

b. Provision for adequate communications between detainees and their attorneys, particularly with respect to pre-trial release and preparation for trial where release is not feasible.

c. Provision of adequate segregation measures between adults and juveniles; pre-trial detainees and convicts; and for female or male detainees helpless to protect themselves from sexual or non-sexual assaults because of age, infirmity, intoxication, or drugs.

d. Encouragement of volunteer social workers who will visit, counsel, and provide amenities to persons confined in the County Jail. Particularly important is first the contact and only secondly writing paper, pens, cigarettes, chewing gum, paper back books, bibles, or religious material. These volunteers should also be used to establish communications with the family or friends of the detained or confined. Most important sources, particularly in a non-urban environment are church groups, fraternal organizations, and social groups. Every effort should be made to interest these organizations into "visit amenities" programs described above, preferably through the County Council of Churches or other county associations of social agencies.

e. Encouragement of continued participation in education through assistance from public school system or volunteer teachers.

f. Organization, particularly through business men's clubs, fraternal organizations, including the military organizations, of programs for finding jobs and/or places to stay, if the prisoner has no home upon his release.

**END**