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PRISON GRIEVANCE MECHANISMS

PARTICIPANT'S HANDBOOK

Prepared by:

THE CENTER FOR COMMUNITY JUSTICE
Washington, D.C.

Under contract to:

UNIVERSITY RESEARCH CORPORATION
Washington, D.C.

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NCJRS

APR 5 1977

ACQUISITIONS

EXECUTIVE TRAINING PROGRAM
IN ADVANCED CRIMINAL JUSTICE PRACTICES

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TABLE OF CONTENTS

DAY I

THE EXECUTIVE TRAINING PROGRAM IN ADVANCED CRIMINAL JUSTICE PRACTICES.	iii
Session 1: INTRODUCTIONS, ORIGIN OF WORKSHOP, DEFINITIONS: OVERVIEW.	PP-1
Session 2: INTRODUCTIONS AND IDENTIFICATION OF PARTICIPANTS' CONCERNS.	PP-13
Session 3: DESIGN PRINCIPLES	PP-14

DAY II

Session 4: DESIGN PRINCIPLES: INMATE AND LINE STAFF PARTICIPATION	PP-34
Session 5: DESIGN PRINCIPLES: OUTSIDE REVIEW.	PP-49
Session 6: DESIGN PRINCIPLES SUMMARY: BENEFITS OF AN EFFECTIVE MECHANISM	PP-79

DAY III

Session 7: IMPLEMENTATION PROBLEMS AND PRINCIPLES.	PP-82
Session 8: EVALUATION OF EXISTING MECHANISMS IN LIGHT OF THE DESIGN AND IMPLEMENTATION PRINCIPLES.	PP-88
Session 9: APPLICATION OF TRUE GRID, FORCE FIELD ANALYSIS, AND ACTION PLAN	PP-90
Session 10: WRAP-UP SESSION: EVALUATION: LOGISTICS.	PP-96

THE EXECUTIVE TRAINING PROGRAM IN ADVANCED CRIMINAL JUSTICE PRACTICES

Introduction

The Executive Training Program in Advanced Criminal Justice Practices is sponsored by the National Institute of Law Enforcement and Criminal Justice (NILECJ), the research center of the Justice Department's Law Enforcement Assistance Administration (LEAA). The program offers state and local jurisdictions the opportunity to learn about improved criminal justice procedures and to put them into operation.

The Executive Training Program was designed, and is conducted and managed, by University Research Corporation (URC), a national training organization based in Washington, DC.

URC curriculum designers, trainers, and logistics staff are working with the National Institute, selected criminal justice experts, and local projects that have successfully carried out advanced practices. Some portions of the training are conducted under URC's supervision by consulting firms experienced in criminal justice training--including the Center for Community Justice and Bird Engineering-Research Associates.

Goals

The primary goal of the Executive Training Program is to enable criminal justice executives and policy-shapers to bring about adoption of improved court, corrections, and police practices identified or developed by the National Institute. As LEAA's research, evaluation, and technology transfer arm, the Institute works to devise improved methods to control crime and strengthen the criminal justice system and to train law enforcement and criminal justice personnel to use these promising approaches.

To introduce the new practices throughout the nation, the Institute's Executive Training Program:

- Informs influential policy-makers about new practices and their potential for improving the criminal justice system, and
- Gives them the knowledge and skills needed to apply these methods in their jurisdictions.

Program Activities

Four types of activities are being carried out during the two-year program to facilitate the transfer of advanced practices to local jurisdictions.

1) Regional Workshops

Eight Workshops will be held in each Federal Region. Each Workshop runs for about three days. It is devoted to one topic and is open to 60 top criminal justice policy-makers from throughout the Region. At the first four Workshops in each Region, participants are learning new techniques related to:

- Managing Criminal Investigations
- Juror Usage and Management
- Prison Grievance Mechanisms
- Rape and Its Victims.

Beginning in mid-1977, Workshops will be presented in each Region on:

- Managing Police Patrol
- Delivery of Prison Health Services
- Developing Sentencing Guidelines
- Establishing Victim/Witness Service Units

The training topics were selected from among the most promising models developed under NILECJ auspices. These include models derived from:

- Exemplary Projects--Projects that show documented success in controlling specific crimes or that have produced measurable improvement in criminal justice service.
- Prescriptive Packages--Synthesis of the most advanced techniques, including operational guidelines, that can be followed in locales, throughout the country.
- Research Results--Improved criminal justice practices derived from research findings.

2. Field Test Seminars

Each year, two workshop topics may be selected for field testing in up to ten jurisdictions. During 1976, "field test" sites were selected to implement projects in Managing Criminal Investigations and Juror Usage and Management.

The field tests will focus national attention on the new procedures and evaluate their effectiveness and transferability to other jurisdictions throughout the country. The communities selected are those considered most likely to be able to carry out model projects. Representatives from the field test sites attend Field Test Seminars designed to:

- Prepare the test site staff to operate or implement their projects,
- Identify needs for follow-on training, and
- Determine the most effective format for Regional Workshops.

3. Special Conferences

National conferences are being held for criminal justice policy-makers on significant topics selected by the National Institute. The first conference,

held in October, 1976, focused on the Argersinger v. Hamlin case. Conferences planned thus far for 1977 are:

- Criminal Justice at the Crossroads
- Update 1977
- Abolition of Indeterminate Sentencing.

Recommendations for problem-solving are provided by criminal justice experts and others who have already dealt with these problems or whose theoretical and analytical contributions can be helpful in the implementation effort.

4. Training Bulletins

Training bulletins, published by URC for NILECJ, will describe problem-solving ideas and approaches for those trying to implement new technologies. The bulletins serve as extensions of the training activities at the Regional Workshops, field-test seminars, and conferences and in follow-on training.

They also will provide a forum in which participants can report on techniques they develop after training that may be useful to others.

About URC

For more than a decade, URC has managed federally sponsored national training programs to encourage local development and implementation of human service delivery techniques that have been developed nationally or in outstanding local programs.

URC training programs are process-oriented, designed by nationally recognized experts who have already used new approaches to service. University Research Corporation has provided national training programs for LEAA as well as other federal agencies, including the U.S. Department of Health, Education, and Welfare; Housing and Urban Development; and Labor. All of these efforts have resulted in application of new concepts at the local and regional level.

Session 1

Day 1

Wednesday, 1:00-1:45

INTRODUCTIONS, ORIGIN OF WORKSHOP, DEFINITIONS, OVERVIEW

Goals:

1. To acquaint participants with trainers.
2. To familiarize participants with the origin and purposes of the workshop on prison grievance mechanisms.
3. To establish basic definitions.
4. To introduce the principles of designing a prison grievance mechanism.
5. To provide a preview of the workshop agenda.

Methods:

Lecture

Discussion

Activities:

A welcome to participants from representatives of the LEAA Regional office.

Training organizations and staff will be introduced to the participants. Background on the development of the Prison Grievance Mechanism (PGM) topic will be provided.

The first substantive material will cover definitions of a grievance, grievance mechanism, and an effective grievance mechanism.

The principles of design for effective grievance mechanisms will be introduced.

Participants will receive a preview of the workshop schedule and a listing of the workshop objectives.

The Training Staff

A. Organizations

1. National Institute of Law Enforcement and Criminal Justice (NILECJ) of the Law Enforcement Assistance Administration (LEAA):

NILECJ is the research arm of LEAA. Its primary responsibilities are research, evaluation, and technology transfer. A major purpose of the series of training events known as the Executive Training Program, of which the workshop on Prison Grievance Mechanisms is a part, is to promote the broad dissemination of information about concepts and programs proven successful through NILECJ's research and evaluation programs.

2. University Research Corporation (URC):

URC is responsible for overall management of the Executive Training Program, which includes seminars, demonstration projects, workshops, conferences, and follow-on training in at least ten criminal justice topic areas. URC has long been involved in the design and delivery of major training programs for a variety of government agencies, including HEW and LEAA.

3. Center for Community Justice (CCJ):

CCJ has worked in the development and evaluation of prison grievance mechanisms for over five years. It conducted an evaluation of grievance mechanisms in correctional institutions all across the country for NILECJ in 1974-75, which was published in the form of a NILECJ Prescriptive Package. The Center also provided extensive technical assistance to the California Youth Authority (CYA) in the establishment of a grievance mechanism for its inmates in 1972-73. The CYA mechanism was recognized as an Exemplary Project by NILECJ in 1975. In addition, CCJ has provided extensive technical assistance to many states in designing, implementing, and evaluating grievance mechanisms in correctional systems, institutions, and programs for adults and juveniles.

B. Trainers

J. Michael Keating, J.D., M.A., Team Leader

An attorney and deputy director of CCJ, Mr. Keating has an extensive background in administrative and correctional law and was co-author of the Prescriptive Package on grievance mechanisms. He has conducted numerous evaluations for CCJ and has published widely in the field of corrections.

Linda Singer, J.D., Executive Director, CCJ

Ms. Singer is a partner in the firm, Goldfarb and Singer, and is the Executive Director of CCJ. Co-author of a definitive book on corrections, After Conviction, and reporter on juvenile corrections for the American Bar Association/Institute of Judicial Administration Project on Juvenile Justice Standards, Ms. Singer has a national reputation in corrections and has written and lectured extensively on the subject of prison grievance mechanisms.

Michael K. Lewis, J.D.

Mr. Lewis, CCJ Director of Field Operations, has spent the last four years supervising the development of programs for prison grievance mechanisms in California, New York, Colorado, and South Carolina. Mr. Lewis has also provided technical assistance in developing legislation on prison grievances and has lectured at many conferences on the subject.

Charles Bethel, J.D.

Mr. Bethel is a CCJ staff attorney. He participated in CCJ's training of grievance committees in New York, South Carolina, and Colorado. Before

joining CCJ, he worked with the New Haven Legal Assistance Association in poverty law and criminal law. He has directed CCJ's early efforts to design and implement effective grievance mechanisms in schools.

Norma Gluckstern, Ed.D.

Dr. Gluckstern is a penologist and psychologist at University Research Corporation and an adjunct faculty member in the Institute of Criminal Justice at the University of Maryland and in psychology at Catholic University. For the last four years, she has worked in collaboration with the Berkshire County (Mass.) House of Corrections in developing management models for jails and has recently been awarded a grant from the National Institute of Corrections to evaluate the Berkshire County project. She is co-author of four video-based training manuals in communications skills, as well as author of a number of articles in psychology and corrections.

Allen F. Breed, A.B.

Mr. Breed has just completed eight years as Director of the Department and Chairman of the California Youth Authority Board. His term as director capped a 30-year career in the Youth Authority, where he began as a group supervisor at a ranch school in 1946. Mr. Breed is serving currently as an LEAA fellow and is chairman of the National Juvenile Delinquency Standards and Goals Task Force and the American Correctional Association's Council on Youth Correctional Services. Mr. Breed has also had an active and major role on recent commissions that have delineated standards in the field of criminal justice, including the National Advisory Committee on Criminal Justice Standards and Goals, the Advisory Committee on Criminal Justice Standards and Goals, the American Bar Association's Juvenile Justice Standards Project, and the National Assessment Study of Correctional Programs for Juvenile and Youthful Offenders.

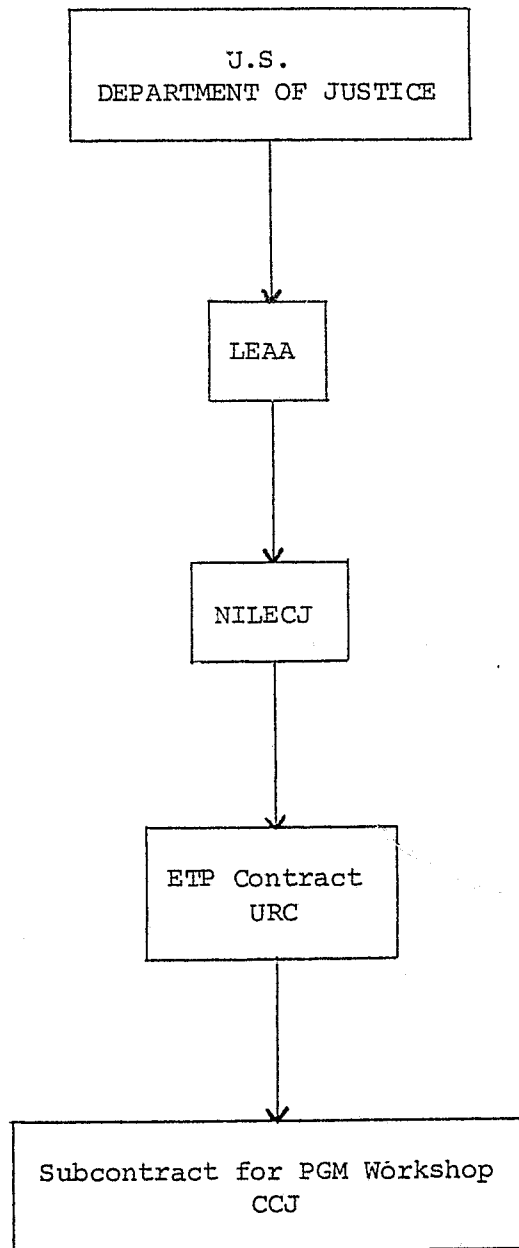
John Holland, A.B.

Mr. Holland currently is statewide coordinator for the California Youth Authority Ward (inmate) Grievance Procedure. He works directly under the Deputy Director of the CYA and is responsible for operations and monitoring of the mechanism in all institutions and parole offices of the Department. Mr. Holland is a 17-year veteran of the CYA; the bulk of his experience has been as an institutional staff member.

David Dillingham, M.S.W.

Mr. Dillingham directs the CYA Research Division's continuing program of evaluation of the department's grievance mechanism. He designed and implemented the sophisticated evaluation program associated with the mechanism and has provided assistance to other states in replicating the CYA evaluation effort. Mr. Dillingham has been with the department for eight years; he held institutional and parole positions before undertaking his current research responsibilities.

RELATIONSHIP OF ORGANIZATIONS
INVOLVED IN THE WORKSHOP



GENESIS OF THE WORKSHOP ON PGM

NILECJ FUNCTION

PRODUCTS

Research:

Prescriptive Package Program
Grievance Mechanisms in
Correctional Institutions

Evaluation:

Exemplary Project Program
Controlled Confrontation

Technology
Transfer:

ETP Workshop on
Prison Grievance Mechanisms

↓
Participants' Replication
of Effective Grievance
Mechanisms

SOME BASIC DEFINITIONS

What is a "grievance"?

A complaint about the substance or application of any written or unwritten policy or regulation, or about the absence of a policy or regulation, or about any behavior or action directed at an inmate.*

What is "grievable"?

Potentially, anything is grievable. It is up to the people designing a mechanism to identify areas or subjects that must be specifically eliminated for statutory or political reasons from the jurisdiction of a mechanism.

What is a "grievance mechanism"?

An administrative--as opposed to legislative or judicial--means for the expression and resolution of inmates' grievances.

What is an "effective grievance mechanism"?

A grievance mechanism is effective:

1. If it operates fairly and is perceived to be fair by inmates and staff.
2. If it is used.
3. If it actually solves problems, including those that require review, clarification, and change of policies.

* Whenever the term inmate is used in the workshop, it is intended to include any individual--juvenile or adult--who is under the supervision of any correctional institution or program.

DESIGN PRINCIPLES

ACCESS FOR ALL INMATES WITH GUARANTEES AGAINST REPRISALS
INMATE AND LINE-STAFF PARTICIPATION IN DESIGN AND OPERATION
WRITTEN RESPONSES, WITH REASONS, TO ALL GRIEVANCES
REASONABLE TIME LIMITS AT ALL LEVELS, WITH PROVISIONS FOR EMERGENCIES
OUTSIDE REVIEW
BROAD JURISDICTION, WITH DISPUTES OVER WHAT IS GRIEVABLE SUBMITTED TO
THE MECHANISM

IMPLEMENTATION PRINCIPLES

ADMINISTRATIVE LEADERSHIP AND PLANNING
TRAINING
ORIENTATION
MONITORING AND EVALUATION
INCREMENTALISM

OVERVIEW OF SCHEDULEWED.

1:00	Session 1	Introduction
2:00	Session 2	Identification of Participants' Perspectives and Concerns
3:00	Session 3	The Principles of Design

THURS.

9:00	Session 4	Principles of Design: Participation
1:00	Session 5	Principles of Design: Outside Review
3:00	Session 6	Summary of Principles of Design: Benefits of the Design Principles

FRI.

9:00	Session 7	Implementation Problems and Principles
11:30	Session 8	Analysis of Mechanisms with the "True Grid"
1:00	Session 9	"True Grid" Applied; Force Field Analysis; State Action Plans
2:15	Session 10	Wrap-up

OVERALL WORKSHOP OBJECTIVES

The workshop has been designed to help participants gain:

An understanding of the principles essential to creating effective prison grievance mechanisms.

An awareness of the potential benefits--direct and indirect--of effective grievance mechanisms.

An appreciation of the importance of thorough planning and implementation.

A grasp of the techniques that are helpful in solving problems of planning and implementation.

A knowledge of the resources available nationally, regionally, and locally to a correctional system that is about to implement its own grievance mechanism.

Session 2

Day 1

Wednesday, 2:00-2:45

INTRODUCTIONS AND IDENTIFICATION OF PARTICIPANTS' CONCERNS

Goals:

1. To introduce participants to each other and to the staff.
2. To raise and legitimize concerns that participants may have about prison grievance mechanisms.

Methods:

Small group discussion of concerns.

Activities:

The participants will be divided into four groups of equal size. The group trainer will introduce the session task, which is to identify and place in order of priority the concerns and problems participants have about prison grievance mechanisms.

The small groups of from 10 to 15 participants will identify and list their concerns in order of importance. The concerns will provide a benchmark for subsequent sessions, and the training staff will refer back to them frequently to make sure they are covered adequately in the workshop.

Session 3

Day 1

Wednesday, 3:00-5:30

DESIGN PRINCIPLES

Goals:

1. To introduce participants to the principles of design that are essential for an effective grievance mechanism.
2. To give participants an opportunity to apply the principles in the design of a grievance mechanism for an environment similar to a correctional setting.

Methods:

Lecture

Small group exercise; simulation and role-play

Discussion

Activities:

The participants will continue to meet in small groups of from 10 to 15 each. The trainer will introduce the participants to the six design principles, explaining first their derivation and development. This introduction will and focus on making clear what is meant by each principle. Participants will have an opportunity to question the trainer about the meaning of any principle that remains unclear.

Each group will then be further divided into two working subgroups of from five to eight members. The school context for the working exercise will be described and each participant will be given a specific role. Each

Session 3

subgroup will constitute a committee whose task will be to design a grievance mechanism for George Washington High School that incorporates the design principles.

One participant in each subgroup will serve as the school principal. It is his/her task to lead the meeting and make sure the design committee sticks to its task. He/she will also appoint someone to record the design developed by the committee or do so himself/herself.

When the subgroups have completed their designs, the group will be reassembled to compare designs with each other and with the principles.

The session will conclude with an assignment of reading materials for the next day's sessions.

Session 3

ADDITIONAL READING ON DESIGN PRINCIPLES OF AN EFFECTIVE SCHOOL GRIEVANCE MECHANISM

1. Written responses, including the reasons for the decision taken, must be made to all grievances.

Assurance that there will be a response to a complaint at every level is a fundamental requirement for an effective grievance mechanism. If the complaint is rejected, a written reply with reasons for the rejection is all the more important. Only in this way can a grievant or other interested party know the grounds on which decisions were based or decide whether or not an appeal is warranted. Written replies are also needed to determine whether a grievance has been handled properly within established time limits. In all, written replies are an index of the fairness of the procedure, as the Supreme Court has noted:

The provision for a written record helps to insure that administrators, faced with possible scrutiny by state officials and the public, and perhaps even by the courts, where fundamental constitutional rights may have been abridged, will act fairly.*

The necessity of providing a written reply applies at every level at which a grievance is considered, including informal resolution of the complaints.

2. Grievances must be responded to within prescribed, reasonable time limits; special provisions must be made for responding to emergencies.

Brief, enforceable time limits are essential at every step in a grievance mechanism. They put all involved parties on notice that they must act on complaints. Mechanisms without time limits are an invitation to parties responsible to avoid dealing with tough questions and issues. Time

*Wolff v. McDonnell, 418 U.S. 539, 565 (1974).

Session 3

limits should be realistic, but any procedure that requires much more than 30 days from start to finish probably will not be used or trusted by students.

To have meaning, time limits must be enforceable. If a response at one level is delayed beyond the time limit, a grievance should automatically be forwarded to the next level of the mechanism. If necessary, the time limit at one level may be extended for a specified, brief period, but only with the written consent of the grievant.

Mechanisms must also have special provisions for handling emergency grievances. Some complaints may involve some loss to the student unless there is a quick resolution of the complaint. For example, a student may be excluded from a trip unless an alleged infraction is cleared up immediately. In such cases, time limits must be shorter, and some levels of the mechanism may have to be bypassed to expedite handling of the grievance.

3. Outside review of grievances must be available.

To be effective, a school grievance mechanism must include some form of independent review--that is, review by a person or agency independent of the school system. This requirement reflects the reality of life in educational institutions, where the power exercised by administrators and teachers over students is so great that any administrative procedure created to handle grievances must be safeguarded against abuse.

Objective review of complaints by impartial outsiders is essential if a mechanism is to be credible to students. In addition to providing the unemotional perspective of a neutral party, outside review imposes at the lower levels of a grievance procedure the necessity of responding reasonably, since unreasonable responses and faulty logic will be detected.

Session 3

It is not necessary for the opinion of the independent outside body to be binding on school administrators for the procedure to be effective. The independence and fairness of the outside review and the good faith of school administrators, rather than the threat of binding sanctions, make mechanisms effective. There is no theoretical reason, however, for not making the decision of the outside reviewer binding in cases involving the application--as opposed to the substance--of policy.

4. Students and teachers must participate in the design and operation of the mechanism.

The most effective way to promote credibility in a grievance mechanism is to give teachers and students a central role in making it work. Such a role must have meaning; teachers and students must have a hand in the design of the mechanism, as well as the opportunity to work together to decide matters within their jurisdiction and to offer persuasive recommendations to administrators on policies. This kind of participation requires a willingness on the part of administrators to share a measure of responsibility with teachers and, in turn, a willingness on the part of teachers to work in harmony with students.

This participatory approach enables those people who must live with the solutions to problems to share a role in developing those solutions. Teacher and student participation promotes a commitment to the mechanism and guarantees that those who know the daily school routine best will have a say in the process of altering that routine. Student participation also makes it less threatening for other students to bring up legitimate grievances (especially against teachers), at the same time that it discourages the submission of frivolous grievances and other potential abuses of the system.

Session 3

5. All students must have access to the mechanism, with guarantees against reprisal.

Fear of reprisal is the objection to grievance mechanisms most often voiced by students. Of course, there can never be an absolute guarantee that threats or reprisals will not be applied informally against someone who uses the system, but some safeguards can be built into the mechanism. For example, the importance of ensuring that no record of a grievance be placed in the complainant's school file cannot be overemphasized. Belief that a complaint about policy, programs, or teachers will appear in a student's file that goes to a college or potential employer is likely to deter him/her from making the complaint if he/she is already hesitant to use the mechanism. More subtle pressures can also be applied, especially by teachers, who can make life difficult for grievants or students with participatory roles in the procedure. Another test of the good faith of administrators is whether they prevent harassment of students who use the system.

6. The mechanism must be applicable to as broad a range of issues as possible and must contain means for resolving specific questions of jurisdiction.

Some schools may already have, say, a disciplinary process and may wish to retain it, or there currently may be a method of questioning class assignments. Once the scope of a grievance mechanism has been agreed upon, the mechanism itself must contain a means for determining whether a specific

Session 6

grievance is grievable. Thus, when a grievance is dismissed because it is not within the ambit of the mechanism, a student must be allowed to appeal that ruling through every level of review. The mechanism thus would have jurisdiction over questions of its own applicability.

Session 3

School Simulation

GENERAL BACKGROUND

George Washington High has a student population of 2,000. It is one of three high schools in Riverwood, a large suburb of a major city. Over the past three years the school district has experienced problems confronting the majority of high schools today: vandalism, truancy, theft of school property, and declining test scores. There has been a drastic rise in the use of drugs and alcohol on school grounds. In addition, the school district has been subjected to an increasing amount of litigation by parents on behalf of children who have been suspended for various infractions of rules and threats of violence against faculty members.

Most recently, Washington High has had two controversies that have aggravated the school's situation:

1. The administration backed the school newspaper's faculty advisor when she refused to publish an article she considered obscene in the school paper. The student editors resigned and took their case to the student government, from whom they expected support. After a closed meeting with the principal, the student government decided to take no stand on the issue.
2. A prominent student was suspended after repeatedly defying a certain teacher's authority and disrupting his classes. She is a very bright student with a large following among the student "intelligentsia" and some faculty members. Her parents have now filed suit against the school for depriving their daughter of her rightful education.

The District Superintendent has been deluged with phone calls due to the recent incidents. The press has reported the lawsuit something the superintendent had hoped could be avoided. He has decided steps must be

Session 3

taken immediately and that something new is necessary. A pilot project is planned for one of the high schools in the school district as an experiment. With the aid of a small foundation grant, a student grievance mechanism will be designed for the school within 30 days.

The principal of George Washington High worked actively to make sure George Washington was chosen as the test school for the pilot project. The principal feels that some conflict resolution tool is needed to prevent the high school from becoming hopelessly mired in problems. The principal has just learned that George Washington has been chosen to conduct the experiment and has called a meeting of key people to begin the design process. The principal's memo is attached.

Session 3

MEMORANDUM

TO: Design Committee Members DATE: March 1, 1977
FROM: Principal, George Washington High
SUBJECT: First meeting to develop the design of the Pilot Student
Grievance Mechanism

As per our conversation of last week, I want to thank you for agreeing to serve on the committee to develop a Student Grievance Mechanism for George Washington High. You were identified not only because of the positions you hold as members of the faculty and student body, but also because of the points of view you represent. The meeting will be held at 2:00 p.m. on March 4 in the faculty lounge. The committee is composed of the following people:

Principal
Head Guidance Counselor
Academic Vice-Principal
Dean of Students
Teachers' Union Building Representative
Student Council President
Junior Class President
PTA President
Vice-Principal for Administration

As you know, the purpose of this meeting is to come up with the design of a mechanism to handle student problems quickly, fairly, and openly. May I suggest that you now begin thinking about such issues as the form a procedure should take, the number of levels of appeal, who should participate at each level, the time limits, and the costs.

Session 3

The Superintendent has given us 30 days for the design of such a mechanism. Therefore, we must act rapidly. I expect the committee to arrive at a preliminary plan at our March 4 meeting.

PARTICIPANT QUESTIONNAIRE

Reaction to Workshop on Prison Grievance Mechanisms
 Executive Training Program in Advanced Criminal Justice Practices
 University Research Corporation

Region I, Boston, March 9-11, 1977

Day 1, March 9, 1977

(8,9) Current Job Title (Circle one)

- | | |
|--|---------------------|
| 01 Corrections Administrator--Juvenile | 20 Judge |
| 02 Corrections Administrator--Adult | 46 Attorney general |
| 04 SPA--Correctional Specialist | 80 State legislator |
| 09 Other (Please specify) | 81 Governor's aide |
-

(72,73) State (Circle one)

- | | |
|---------------------------|------------------|
| 11 Connecticut | 41 New Hampshire |
| 21 Maine | 51 Rhode Island |
| 31 Massachusetts | 61 Vermont |
| 09 Other (Please specify) | |
-

(10) Small-Group Leader (Circle one)

- | | |
|--------------------|---------------------------|
| 1 Norma Gluckstern | 5 Dave Dillingham |
| 2 John Holland | 6 Mike Lewis |
| 3 Ann Horvitz | 7 Linda Singer |
| 4 Mike Keating | 09 Other (Please specify) |
-

Your responses to the following questions will help us improve the delivery of this workshop. Read each item carefully. Circle the response that most accurately reflects your perceptions. In the spaces provided, please identify any changes you think would make the workshop more effective and useful.

The following questions refer to the sessions delivered on Day 1.

(11) 1. The workshop's objectives are clear to me.

- | | | |
|------------------|------------|---------------------|
| 5 Strongly agree | 3 Not sure | 2 Disagree |
| 4 Agree | | 1 Strongly disagree |

OVER PLEASE

- (12) 2. I have a clear idea of the workshop schedule and the order in which topics will be discussed. (Circle one)

5 Strongly agree 2 Disagree
 3 Not sure
 4 Agree 1 Strongly disagree

- (13) 3. The sessions have contributed to my understanding of the definition of "grievance mechanism." (Circle one)

5 Strongly agree 2 Disagree
 3 Not sure
 4 Agree 1 Strongly disagree

- (14) 4. The small-group task on the high school simulation contributed to my understanding of the principles of design of an effective grievance mechanism. (Circle one)

5 Strongly agree 2 Disagree
 3 Not sure
 4 Agree 1 Strongly disagree

5. Please rate the following components of the workshop by circling the appropriate number. Note any needed changes in the space provided on the right.

Excellent don't change anything	Good	Satisfac- tory, some changes needed	Poor	Unsatis- factory, major changes needed	Please identify the needed changes.
--	------	--	------	--	-------------------------------------

- (15) CONTENT
 (Information presented)

5 4 3 2 1

- (16) ALLOCATION OF TIME
 TO TOPICS

5 4 3 2 1

- (17) TRAINING METHODS
 (Role play,
 presentation)

5 4 3 2 1

- (18) MATERIALS OVERALL

5 4 3 2 1

		Excellent don't change anything	Good	Satisfac- tory, some changes needed	Poor	Unsatis- factory, major changes needed	Please identify the needed changes.
(19)	Handbook	5	4	3	2	1	
(20)	Visuals (Charts, diagrams)	5	4	3	2	1	
(21)	TRAINING STAFF	5	4	3	2	1	

6. Are there any ways your small-group trainer could be more effective?

(22)

7. We need to know whether the design principles are clear to you and if any principles need further explanation. In the space below, please list the six design principles in order of their clarity to you--those you understand the best list at the top; those you do not understand well list at the bottom.

(23)

(24)

(25)

(26)

(27)

(28)

Thursday, 9:00 a.m. - 12:00 noon

DESIGN PRINCIPLES: INMATE AND LINE STAFF PARTICIPATION

Goals:

1. To explain and define the principle of inmate and line staff participation.
2. To give participants exposure to and an understanding of one successful form of inmate and line staff participation.
3. To give participants an opportunity to question and react to the principle of participation.

Methods:

Lecture
Role Play
Discussion
Film

Activities:

The session will begin with a recapitulation of the principles by the group trainer, who will also respond to any major questions about the principles that emerged in the group on the previous day.

Participants then will prepare to conduct a simulated grievance committee hearing with themselves as committee members. The group trainer will explain the purpose and nature of the grievance committee simulation and make role

Session 4

assignments. In the simulation there will be role players and observers. The latter will have the task of evaluating the performance of the committee.

The simulation will recreate the handling of a bona fide grievance by an inmate and line staff committee in a mythical correctional institution. The committee is one form that inmate and line staff participation can take--and has taken successfully--in a prison grievance mechanism.

After the observers' critique of the effectiveness of the grievance committee's performance, the group trainer will elicit the reactions of participants--role players and observers alike--to the general concept of inmate and line staff participation as exemplified in the simulated grievance committee hearing.

Participants will reconvene in a plenary meeting to view a film of an actual grievance committee hearing. At the end of the session, participants will have an opportunity to offer opposing or supporting opinions on the need for, and usefulness of, inmate and line staff participation.

Session 4

BACKGROUND INFORMATION: INMATE GRIEVANCE COMMITTEE

Note: Participants Should Read This Section Before Attending Session 4.

SIMULATION NOTES FOR SESSION 4

The following notes are provided to enable participants to prepare for the simulation that will take place in small groups during Session 4 on Day 2.

Background: Committee Structure

The heart of an effective mechanism is inmate and line staff participation. Tomorrow morning's simulation is designed to present a working illustration of what we mean by inmate and line staff participation.

The committee hearing that participants will simulate tomorrow morning is the first formal step in the handling of a hypothetical grievance. It comes after an attempt at informal resolution has already been made--unsuccessfully--by the committee.

The committee consists of three inmates and three line staff, plus a non-voting chairperson. The inmate members have been chosen by vote of the total inmate population. Line staff were selected by the administration.

The non-voting chairperson may be a staff person, inmate, or volunteer from the community who has worked in some program within the institution. He/she is chosen by mutual consent of committee members. There is usually a panel of equal numbers of staff and inmate chairpersons who rotate the assignment.

RolesCommittee Members

The role of committee members is to hold grievance hearings and make recommendations for the resolution of the grievances they hear. Suggested

Session 4

resolutions should be considered on the basis of their reasonableness and responsiveness to the problem. Thus, staff and inmate committee members must approach hearings objectively and unemotionally.

Specific duties of the committee members include:

1. Attending and being on time for all committee hearings.
2. Listening attentively and impartially to all presentations.
3. Asking pertinent questions of parties and witnesses involved in the grievance to ensure that all facts and facets of both sides of the problem are discussed and reviewed.
4. Keeping the hearing focused on the grievance involved.
5. Seeking constantly for imaginative alternative solutions to the problems presented.
6. Helping other committee members frame a resolution that responds to the grievance and protects the interests of inmates and staff.

Suggestions for Committee Members in Conducting Hearings

A hearing is initiated by a complaint. The complaint may be individual or institutional. It may be a grievance against a specific action or a general policy, or it may be a suggestion for change.

The role of a committee member is to:

1. Identify the issue or issues (these may sometimes be obscure).
2. Get at the facts, if there is any dispute as to the facts.
3. Hear all sides of the argument.

The important thing to remember is that the grievance mechanism is a way of solving problems, not judging guilt. It is concerned with changing policies, circumstances, conditions, and attitudes to improve the future--and with providing recompense to the grievant, if appropriate. Thus, the hearing should resemble less a courtroom than a negotiation session.

Session 4

Fashioning solutions to problems requires that the committee members focus on the following tasks:

1. Get all the facts: Both parties to a grievance will have issues to discuss and points of view to explain. They should have a full opportunity to do so at the grievance committee hearing. It is sometimes difficult, in the midst of so much talk, to pinpoint the specific problem. Sometimes, moreover, the real problem will be subtle or hidden, and committee members must make sure they understand both the obvious and hidden dimensions of the grievance. By asking questions, committee members should strive for a clear understanding of both the problem and the grievant's suggested remedy.

2. Keep an open mind: Committee members should try to avoid a fixed, preconceived notion of merits of the grievance. They must be alert to efforts on the part of grievants, responding parties, or witnesses to misrepresent, exaggerate, or obscure the facts. Most important, committee members must resist the urge to believe whatever their fellow inmates or fellow staff tell them, while discounting whatever their opposites may say.

3. Help make a decision: A willingness to compromise is essential if decisions are going to be made successfully by the committee. The key to compromise will be the ability of committee members to devise imaginative solutions that do not sell out the interests of their respective staff or inmate constituencies, but that do respond to grievances in a way that is satisfactory both to the grievant and to others involved.

The committee may not be able to agree on a solution to every grievance. Some solutions may require more compromise than the committee can manage. In such cases, when the voting members cannot agree on a solution, the committee should forward separate recommendations to the grievant and the superintendent.

Session 4

Non-Voting Chairperson

This role is essentially that of a mediator. The chairperson has no authority to impose a settlement; rather, his/her purpose is to facilitate agreement. This requires that the chairperson act as "the person in the middle," standing between contending forces and serving as a medium for bringing them together. When staff and inmate committee members begin to work together, the chairperson's function changes to one of encouraging the developing cooperation, since the committee--not the chairperson--has primary responsibility for fashioning solutions.

Whether the chairperson is an inmate, a member of the staff, or a volunteer, he/she must remember that he/she is without power or authority in the committee. Should he/she attempt to "dictate" committee recommendations, the value and purpose of the procedure will be lost. When acting as chairperson, an individual's personal needs, interests, or views are not nearly as important as those of the voting members. If the chairperson's conduct of a hearing pegs him/her as a partisan, his/her ability to function as a mediator in the decision-making process is at an end. If the chairperson's conduct of the hearing leaves either side with the impression that its full story wasn't permitted to be told, the process itself will soon be discredited.

Specific duties of the chairperson of the committee include:

1. Convening all hearings as scheduled in such a way as to ensure that required time limits are met.
2. Establishing the order of business for hearings, convening when necessary, adjourning when necessary, and guiding discussions.

Session 4

3. Seeing that all hearings are conducted in a full and fair fashion so that the rights of inmates and staff are protected and all inmates and staff have an opportunity to express themselves completely.
4. Helping committee members formulate reasonable solutions to problems that are responsive to the complaint and acceptable to the involved parties.
5. Writing the response to the grievant's complaint and making sure that the grievant fully understands the decision of the committee and the reasons for the decision.

Suggestions for the Committee Chairperson

The chairperson's first and most obvious responsibility is to run the grievance hearing, which is essentially a formal fact-gathering meeting.

Some questions a chairperson might use as a checklist for his/her role as presiding member of the committee include:

1. Did I explain the purpose of the hearing to the grievant and others present?
2. Did I allow full expression by both sides?
3. Did I appear to be open and objective or did I appear as if I knew what the answer was or had made up my mind beforehand?
4. Was the hearing orderly or was there a great deal of cross-talk and chaos?
5. Did I stick to the issue (or issues) or, knowing that some ventilation must occur, did I nevertheless let parties wander unnecessarily?
6. Did I give other committee members a chance to ask questions after the presentations had been concluded?

Session 4

7. Did all the facts and arguments get on the table? If not, was it the fault of the parties, or the committee members? Did the members understand the issues, were they perceptive, did they probe?
8. Did all parties feel that they had every opportunity to tell their side of the story?

At the end of a hearing, when all of the facts have been heard and the issue or issues clarified, the committee will go into a private session to consider and frame its decision. Here the primary function of the chairperson is mediation. He/she must help the committee fashion a joint recommendation that will equitably and effectively resolve the grievance.

To achieve this goal, the chairperson (mediator) must keep open communication between staff and inmate members of the committee. Inmate and staff members obviously will have different perceptions of some grievances and their proper solution. By positioning himself/herself in the middle, the chairperson becomes a translator for those different perceptions.

Successful solutions to problems brought before the committee will require accommodation, compromise, and an ability by inmates and staff to recognize each others' interests and needs. The chairperson's skills as a mediator will be vital to the success of the grievance process. The following questions will serve as a checklist on the mediation aspects of the chairperson's role:

1. Did I retain objectivity?
2. Did I look beyond the "recommended action" and search for other alternatives that might be more acceptable?
3. Did I let solutions come from the other committee members or did I seek to impose my solution on the committee?

Session 4

4. What was the approach of the members--were they open, did they try to understand and reach toward the other viewpoint, or were they rigid? Was there a feeling that they were seeking a solution or only "their" solution?
5. If a solution was reached, was it understood? Was it clearly set down so that others could understand it? Assuming it was not perfect (most solutions are not), did it appear to meet the problem?
6. Was "authority" used to pressure anyone, or did the solution appear to be the best the committee members felt they could get under the circumstances?

Grievant

The grievant is an inmate of the institution. He has first taken his complaint to an inmate clerk, who has helped him state it clearly in writing and made sure that the statement is an accurate reflection of the grievant's problem and what he wants done about it. Inmate or staff members of the committee may have spoken to him about his grievance in an attempt at informal resolution, but none has been achieved. The grievant has asked the grievance clerk to be his representative at the hearing. (NOTE: grievants are not required to have a representative or witness present and frequently do not.)

At the hearing, the grievant or his representative will be asked to state the problem in his own words and elaborate on it. He may call witnesses if he likes. He may be asked questions by any and all committee members, including the non-voting chairperson. When the committee is satisfied that it has gathered all pertinent information, it will excuse the grievant and attempt to reach a solution. If it does so quickly, it may call the grievant back in

Session 4

and tell him its decision. If a committee needs more time, it may either call the grievant back to hear its decision at a later date or give it to him in writing.

The Definition of a Grievance

For the purposes of this simulation, it is assumed that a grievance has been defined as follows:

A grievance is a complaint about (1) the substance or application of any written or unwritten policy, regulation, or rule of the correctional institution or any of its program units, (2) the lack of a policy, regulation, or rule, or (3) any behavior or action directed toward an inmate.

Individual disciplinary matters are not grievable under this procedure. However, policies and rules of the disciplinary process, as generally applicable to inmates, may be the subject of a grievance.

In accordance with the correctional laws of the state, any policy, regulation, or rule of the Board of Parole or action taken by it is not within the jurisdiction of this grievance procedure.

BASIC OUTLINE OF
HYPOTHETICAL GRIEVANCE MECHANISM

FIRST LEVEL

Some Form of Inmate/Staff Committee



SECOND LEVEL

Management Decision
(Superintendent, Director)



THIRD LEVEL

Outside Review

Session 4

Inmate Grievance Committee Hearing Simulation

OBSERVERS' CHECK LIST

These are things to look for during the simulated grievance hearing. Most of the questions can be answered with a simple yes or no. We will ask the observers to share their answers with the group at the end of the hearing:

1. What is at issue in this grievance? _____

2. Does it concern policy? Yes No
 If so, is it institutional? _____
 departmental? _____
3. What was the recommendation(s) arrived at by the committee? _____

4. Did the committee members: Yes No
 - a. Listen attentively to all sides _____
 - b. Behave impartially _____
 - c. Ask pertinent questions and get all facts _____
 - d. Identify the issues _____
 - e. Work well together _____
 - f. Find a solution that responds to the grievant
 while protecting the interests of inmates and staff _____
5. Did the non-voting chairperson:
 - a. Make sure everyone understood the grievance _____
 - b. Give all committee members a chance to ask questions _____
 - c. Give the grievant a chance to discuss the case _____
 - d. Get all the facts and issues out _____
 - e. Guide the committee discussion of possible solutions
 fairly and effectively _____
6. Was the solution that was reached clearly understood by all members? _____
7. Was the solution clearly written down for the grievant? _____
8. Did there seem to be any undue pressure on either the grievant or on some committee member(s)? _____

Session 4

GRIEVANCE COMMITTEE HEARING QUESTIONNAIRE

1. Was the proceeding an adversarial one or not?
2. Was the hearing fair to the grievant?
3. Would you, were you he, perceive it to be fair?
4. Does this kind of hearing give the grievance mechanism credibility?
5. Did both sides seem to have a genuine interest in making the committee work?
6. What can this committee do that informal resolution cannot accomplish?
7. Does this forum provide a means for inmates and staff to have genuine input into institutional policies and living conditions?
8. Does it help staff and inmates understand each others' points of view?

Session 5

Day 2

Thursday, 1:00-2:45

DESIGN PRINCIPLES: OUTSIDE REVIEW

Goals:

1. To explain what is meant by the principle of outside review.
2. To acquaint the participants with the different forms that outside review can take.
3. To show how outside review has worked in the form of ad hoc arbitration to resolve diverse and difficult issues.
4. To give participants an understanding of the benefits of outside review in a grievance mechanism.

Methods:

Lecture

Discussion

Activities:

The lead trainer will explain the principle of outside review and identify grievance mechanisms in corrections that already include it.

Participants will divide into four groups for a discussion of case studies that demonstrate one approach to outside review. The case studies focus on arbitration opinions from mechanisms in New York and Chalifornia. Participants are urged to read the case studies prior to the beginning of Session 5 and to share any questions or comments they have on the case studies during this session.

Session 5

The session also will include a summary of the potential benefits of outside review and will consider the differences between an ad hoc and a permanent system of outside review.

OUTSIDE REVIEW

WHAT IS IT

"OUTSIDE"



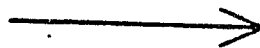
INDEPENDENT OF:

INSTITUTION

DEPARTMENT

STATE

"REVIEW"



RECOMMENDATION

BINDING vs. ADVISORY DECISIONS

APPLICATION vs. SUBSTANCE

POSSIBILITY FOR COMPROMISE

OUTSIDE REVIEWERS

Who are they?

REVIEWERS' STATUS

Permanent or ad hoc?

Session 5

OUTSIDE REVIEW: NO LONGER AN INNOVATION

INDEPENDENT OMBUDSMAN:

1. Connecticut
2. Hawaii
3. Iowa
4. Michigan
5. Minnesota

MULTILEVEL PROCEDURES WITH SOME FORM OF OUTSIDE REVIEW:

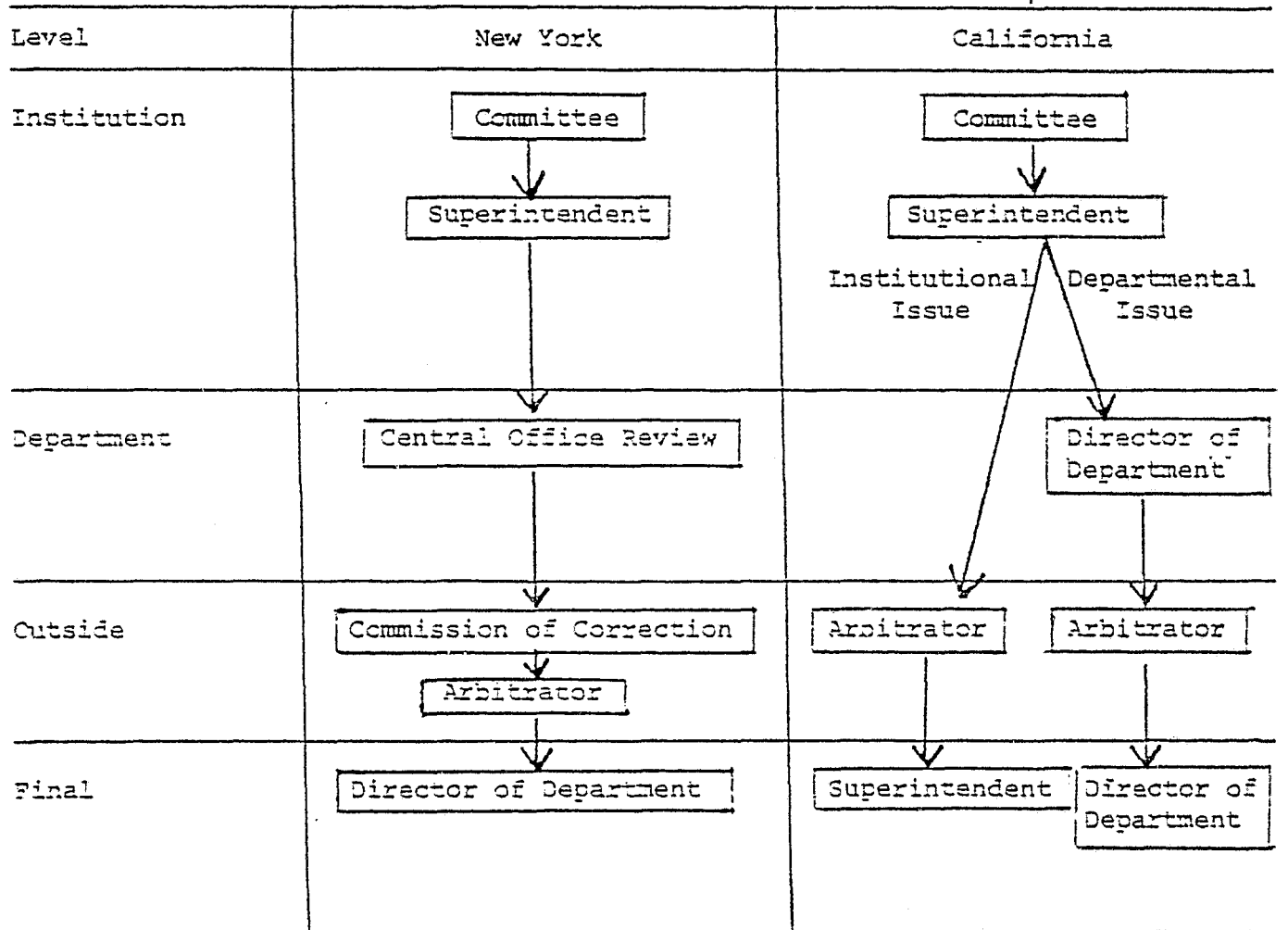
6. Illinois
7. Maryland
8. North Carolina
9. Wisconsin

MECHANISMS WITH REVIEW BY OUTSIDE ARBITRATORS

10. California Youth Authority
11. New York
12. South Carolina

TOTAL: 24% of the 50 states have mechanisms with outside review; 100% of the 50 states and the Bureau of Prisons have judicial outside review!

STEPS LEADING TO OUTSIDE REVIEW



Session 5

ARBITRATION #1

CASE OF THE SHOWERS (PART I)

In the Matter of the Grievance between
Green Haven Correctional Facility
and
Anthony S _____, Grievant

ISSUE

This grievance involves the adequacy of current shower facilities and schedules at Green Haven Correctional Facility and the institution's failure to remedy that problem by providing access to newly-installed, modern showers in six of the eight occupied cellblocks.

STATEMENT OF FACTS

In support of his complaint, grievant shows that the current shower schedule of approximately one shower per week is based on the exclusive use of old, inadequate showers in a central bathhouse and that new showers are available and operable, but unused.

In response, the administration contends that the newly-installed showers require scheduling correctional personnel to supervise their use and altering the daily schedule of inmate activity to accommodate shower time for those who desire it. In addition, the administration showed that alternative shower facilities existed in the gym for those involved in evening sports activities and for those in high school, pursuant to a special directive of the superintendent to ensure access of night school students to gym showers on a daily basis, if desired.

During earlier stages of processing this grievance, the inmate and staff members of the Grievance Committee unanimously recommended a shower at the end of the work day, between 2:30 and 3:15 p.m. The Superintendent neither accepted nor rejected that proposal but referred it to the Correction Department's Central Office Review Committee. That committee remanded the grievance to the superintendent with instructions to develop a shower schedule suited to the needs of his particular institution but consistent with the official work day, which technically (although not actually) ends at 3 p.m.

Grievant appealed to the State Commission of Correction, which designated me to arbitrate this matter in accord with the institution's grievance procedure.

At the hearing on November 7, 1975 several new facts became clear. First, the alternative facilities described by the administration representative are limited in their availability and therefore do not provide adequate relief for the problem. Although the gym showers are modern, present athletic scheduling enables inmates to use those facilities on a rotating, non-mandatory basis only once each five nights. In addition, it became clear that the former superintendent's directive enabling night school students to shower on a daily basis after classes was not being complied with.

Second, newly-appointed Superintendent _____ expressed at the hearing his intention within one month, but hopefully within one week, to schedule showers within the time available to inmates to maximize the number of showers per week per man, as desired by each man.

Finally, and most important, upon discussion by the representatives of both sides and by staff and inmate members of the Grievance Committee, it became clear that there was no significant difference in the "policy" goals of the institution and the remedy desired by the grievant. The grievant

Session 5

seeks a reasonable number of showers per week; the superintendent's representative indicated that for health and sanitation reasons the administration hoped ultimately to be able to schedule daily showers if desired.

Since there is no essential dispute between the parties and since the administration indicated that it would voluntarily move to correct this situation, I have decided to issue an interim award by which I will direct the administration to take specific steps to improve the shower schedule within two weeks following issuance of that award. In addition, because it is an interim award, I shall retain jurisdiction over the grievance to make sure that the steps implemented by the administration are sufficient to resolve the complaints raised by the grievant. If it becomes necessary, the case will be reconvened before me for further findings of fact; and, if necessary, I shall issue a final award resolving this matter. If the steps directed by this interim award and the steps taken by the administration are sufficient to resolve the complaint, then I shall issue a final award noting that the grievance has been resolved and dismissing the same.

By reason of the foregoing I hereby issue the following:

INTERIM AWARD

1. Within two weeks following issuance of this interim award, but no later than Friday, November 28, 1975, the superintendent of the Greenhaven Correctional Facility shall take the following steps to resolve this grievance:
 - A. Schedule at least three showers per week for inmates in cellblocks D, E, F, G, H, and J, where new showers have been installed; and
 - B. Enforce the former superintendent's directive enabling night school students to shower at their option at the gym following the end of night school classes; and

Session 5

C. Schedule no less than three showers per week in the bathhouse for inmates in cellblocks A and B who desire showers.

2. I hereby retain jurisdiction of this case for the purpose of determining whether compliance with the foregoing direction resolves the complaints raised by the grievants.

Session 5

CASE OF THE SHOWERS (PART II)

In the Matter of the Grievance between
Green Haven Correctional Facility
and
Anthony S _____, Grievant

On November 14, 1975 I issued an Interim Award in this matter, retaining jurisdiction of the case to determine whether compliance with my Interim Award resolved the complaints raised by grievant.

On April 22, 1976 I met with the Grievance Committee at Green Haven Correctional Facility to review the Administration's compliance in this matter. On the basis of that review I find that the Administration has complied in every respect with the substantive direction of the Interim Award. That compliance is satisfying the inmate's grievance, and I shall therefore issue the substantive terms of that Interim Award as a final Award.

At the April 22 hearing, however, a significant, related problem became apparent: there had been no effective distribution of the Interim Award so that the inmate population was unaware of the important benefit which had been accomplished through the grievance procedure. For the procedure to work effectively in reducing tensions and establishing an effective problem-solving relationship between inmates and Administration, it is necessary to educate all concerned as to the nature of the process and its successes. I shall therefore incorporate in the final Award provision for ensuring that the inmate population receives notice of this Award.

By reason of the foregoing I hereby issue the following

Session 5

AWARD

1. The superintendent of the Green Haven Correctional Facility shall continue to take the following steps to resolve this grievance:
 - A. Schedule at least three showers per week for inmates in all cellblocks where new showers have been installed; and
 - B. Enforce the former Superintendent's directive enabling night school students to shower at their option at the gym following the end of night school classes; and
 - C. Schedule no less than three showers per week in the bathhouse for inmates residing in cellblocks where new showers have not yet been installed.
2. The Superintendent shall maintain in every cellblock a loose-leaf binder containing copies of every arbitration award affecting Green Haven Correctional Facility. The Superintendent shall ensure that the regular block clerk maintains those binders in up-to-date status, and the Superintendent shall from time to time advise the general population that copies of these awards are available for reading in each book.

Session 5

ARBITRATION #2

CASE OF THE SUNNI BEARDS

In the Matter of the Grievance between
Attica Correctional Facility
and
Allen H _____, Grievant

A hearing in the above matter was held at the Attica Correctional Facility, Attica, New York, on June 1, 1976, before the undersigned, who was selected to serve as Arbitrator in accordance with the procedures of Section 139 of the Correctional Law. Each side was afforded full opportunity to present testimony, evidence, and argument, to summon witnesses, and to engage in their examination and cross examination. All witnesses were sworn.

The Arbitrator wishes to thank all of the participants for the courtesy and cooperation extended to her during the hearings and to commend the respective parties for the diligence and skill each evidenced in their respective undertaking.

THE ISSUE

This advisory arbitration stems from a grievance filed by Grievant which reads as follows:

1. "Grievant requests the law governing the growth of beards be modified (to allow Sunni Muslims to wear 1 inch beards)."

CONTENTION OF THE GRIEVANT

In support of his case, the Grievant, a member of the Sunni Muslim sect for twelve years, contends that the issue of not being allowed to wear a beard for security purposes at the Attica Correctional Facility is a violation of the Sunni Muslim religion, which states that the wearing of

Session 5

beards is mandatory. He states that in the Sunni Muslim religion a beard is a sign of manhood, rank, and dignity and that a clean-shaven face opposes his beliefs.

The Grievant states his awareness of prison rules and points out that Ramadan services (fasting until sundown) plus other religious services dictated by the Muslim Bible are allowed in prison. Not allowed is the wearing of special robes and at times the use of incense and oils which, according to the Grievant, pose no threat to security, any more than does the wearing of beards. He points out that some practices are allowed and some are not and that the security-oriented arguments are inconsistent.

The Grievant also contends that if he were not in prison, he would wear a full beard as the Muslim prophets do; his argument for the wearing of a one-inch beard, therefore, is a compromise. He states that this is an example of giving up something in order to get something else.

The Grievant's representative maintained that the beard is a poor reason for invoking security precautions in that a prisoner who started any trouble in the yard or elsewhere is too heavily guarded to be able to escape from sight long enough to shave off his beard in order to thwart identification, a possibility suggested by the Administration. In addition to the guard security, the prisoners are locked out of their cells when they are in the yard, making it impossible to re-enter a cell for the purpose of attempted camouflage or a quick shave. He further states the guards are familiar with the prisoners and even with a new security crew on duty, identification of prisoners is firmly enough established to preclude a prisoner's escape after starting trouble. He asserts that a known person is known with or without a beard.

Session 5

A second spokesman for the Grievant suggested that fingerprinting be counted as a much surer basis for identification than a clean shaven face versus a bearded face. He asked an Administration representative how many times a fight had occurred where identification of the participants became an issue. The representative answered that it had happened six or eight or ten times within the last two years but that the fights usually didn't happen in front of the officers. In a New York City Correctional Facility (Riker's Island) that houses over 7,000 prisoners, beards are allowed. He theorizes that security at Riker's Island must pose as great a problem as at Attica, if not greater, and that beards do not, apparently, interfere with prison identification there.

In conclusion, Grievant pleads to be allowed to follow the guidelines of his religion and maintains that beards are not an identification factor inasmuch as people have individual facial characteristics as well as variations in size and shape. In addition, rigid security systems and the number of guards and hall captains on duty would not allow the time or the logistics for a prisoner to change his identification at the time of an altercation.

CONTENTIONS OF THE ADMINISTRATION

Wearing of beards by prisoners should not be allowed for any reason including religious, because it is a threat to prison security in that beards make identification too difficult if an inmate should create a disturbance.

The Administration contends that on two previous occasions, New York State Court decisions upheld the rule banning facial hair for prisoners. Why then, should this be changed now?

Session 5

The Administration also contends that too much religious emphasis has been placed on this issue, especially since the Grievant admitted that he would not be excommunicated from his faith if he was clean-shaven.

The fear of "going too far" was also expressed by the Administration. A one-inch beard could easily grow into a three-inch beard; how, therefore, could any control be exercised?

With two or three officers guarding 400 inmates in the yard, guards are left at a great disadvantage if some altercation should occur. One of the members of the Administration stated that since "all black faces look alike, it is difficult to tell black people apart and that the addition of beards would make identification impossible--especially from far away." According to the Administration, the black inmates have three hair styles--braided, afro, and close-shaven--whereas white inmates have blond, brown, black, and red hair worn curly, straight, crew-cut, close-shaven, etc., which makes the white prisoners much more distinguishable from one another.

The guards contend that it is theoretically possible to quickly shave anywhere in the prison (not just in the cell) and that prisoners can often sneak into the gallery and that officers often don't know who is where.

There is a fear that acceptance of beards in this instance will create difficulties in the future if other prisoners should want to grow facial hair.

OPINION

One of the controlling aspects of my decision in this case is the question of whether the wearing of beards by Sunni Muslims is a mandatory tenet of their religion. The delay in the issuance of this arbitration must be attributed to the Arbitrator's conviction that this case could not be decided without full information on the religious beliefs of the Sect in this respect. By letter of June 6, 1976, Grievant cited material that would

Session 5

settle this issue. The material was requested by the Arbitrator from the Ansaru Allah Community in Brooklyn, New York, and received on July 18, 1976. The Arbitrator is aware that in a traditional Labor-Management Arbitration situation she would not have the burden of securing additional necessary items of evidence, but she is additionally aware of the special problems and responsibilities of the Arbitrator in this case. For that reason, she chose to reserve her decision pending receipt of the book, Why the Beard.

On the basis of the material received, I accept Grievant's position that beards are mandatory to members of the Sunni Muslim faith. I quote from the document at page 13:

"the cutting of the beard is considered a disgrace and it is strictly forbidden by ALLAH. Trimming of the beard and clipping short the mustache is, however, recommended, as also the removal of superfluous hair under the navel or in the armpits."

and additionally on page 1:

"Do the opposite of what the polytheists do; let the beard grow and clip the mustache."

In denying Grievant's request, the Administration relies on two decisions of the United States District Court: In the matter of the Application of Douglas Martin, dated July 17, 1973; and In the matter of the Application of Richard Brathwaite, dated May 1, 1973. I am mindful that as an arbitrator I am not bound by these legal precedents, but I am also persuaded that I must consider them seriously. In the Brathwaite case, Judge John V. Curtin cites the Supreme Court in United States v. O'Brien, 391 U.S. 367, 377, (1967). Mr. Chief Justice Warren, writing for the Court, concluded:

...we think it clear that a government regulation is sufficiently justified if it is within the constitutional power of the government, if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression, and if the incidental restriction on alleged First Amendment freedoms is essential to the furtherance of that interest.

Session 5

In the Brathwaite case, Judge Curtin concluded that the prison regulations fell within the O'Brien standard.

The present case is an administrative action, and I find that the evidence as presented to me falls short of satisfying the O'Brien doctrine, as laid down by Justice Warren speaking for the United States Supreme Court.

After careful consideration of all of the evidence and testimony this Arbitrator finds that the argument for any real threat to security has not been substantiated.

After a site visit to the areas where prisoners might attempt to go quickly to shave a beard in order to deter identification, I am convinced that this would be difficult, if not impossible, to accomplish. The guards are familiar with the inmates and cells are locked behind the prisoners who are in the yard. Re-entry into a cell would be impossible. There was no example cited by the Administration to show that any incident occurred, which indicates that the concern is problematic rather than a concern based upon actual or known identification problems. The Grievant gave compelling examples of how difficult it would be for a prisoner to escape recognition if he committed a disturbance. A known person is known with or without his beard, in as well as out of his cell.

The Arbitrator will not give dignity to the Administration contention that "all black faces look alike" by discussing it in the body of this opinion and award.

My award is based on the additional consideration that there are two precedents that may be cited as comparable. The information offered in testimony for the Grievant that beards are allowed on Riker's Island was not disputed by the Administration, which indicated that beards apparently do

Session 5

not interfere with security there. Although the precedent of prior awards is not controlling, I cite with approval and note that I am in agreement with the award of Arbitrator Joel Douglas in the Matter of the Grievance between Inmate of F-Block, Green Haven Correctional Facility, and State of New York Department of Correctional Services, November 5, 1975, when he recommended that Native American Indians be allowed to wear headbands at all times while in prison.

"First Amendment freedoms are among the most dearly cherished rights that we have as a people. . .the Amendment states that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . .'. This Federal Amendment was extended to the states in 1940 when the United States Supreme Court in Cantwell v. Connecticut, 310 U.S. 296, held this provision binding on the states by virtue of the due process clause of the Fourteenth Amendment.

Taken in the strictest sense the Amendment appears to be an absolute, but those of us familiar with Constitutional Law appreciate the need to balance First Amendment freedoms with the needs of a free society to protect and preserve itself. The Courts have long taken the position that the need to balance among absolutes is one of the difficult areas of Civil Liberties, but unless society can show that it will be harmed the rights of the individual must be maintained."

In conclusion, I am persuaded that the wearing of beards is mandatory for Sunni Muslims; that there was insufficient evidence presented to persuade this Arbitrator that the security or health of the institution would be in jeopardy; that there is precedent for the recommendations in this award; and that Sunni Muslims should be allowed to wear one-inch beards in Attica Prison.

This Arbitrator wishes to make it clear that the recommendation in this award is restricted only to the request of the Grievant--that Sunni Muslims in Attica Prison be allowed to wear one-inch beards.

Session 5

ARBITRATION #3

CASE OF THE MYSTERIOUS FIRE

In the Matter of Arbitration between
Mike W _____
and
FRED C. NELLES SCHOOL

This grievance was filed by Ward Mike W _____ on behalf of all teaching assistants in Group C assigned to Hayes Cottage, and concerns the imposition by the staff of group restrictions on all residents of Hayes Cottage as a result of an incident occurring in horticulture.

On June 26, 1975, at approximately 10:00 a.m., a fire was started at horticulture while Group A was there hoeing weeds. The fire was small and was easily put out. At noon, when the entire cottage was assembled, the Wards were counseled concerning the seriousness of the fire and were advised that the entire cottage would be restricted from evening program if further incidents were to occur in the afternoon.

In the afternoon, while Group B was at horticulture, other fires were started and this group was ordered back to the cottage. After being returned from school, the entire cottage was then sent into the dorm and instructed to stay on their beds at approximately 3:30 that afternoon. A speech restriction was imposed during the dinner hour, and upon completion of dinner the Wards were required to remain in the dormitory and not receive their normal evening program.

Upon the failure of the parties to resolve this grievance through the grievance procedure instituted at the Fred C. Nelles School, George E. M_____, Jr. was appointed an impartial arbitrator, and the matter was

Session 5

set for arbitration. A hearing was held on August 27, 1975, at which time both the grievant and the staff were given a full opportunity to present evidence and arguments on the issues.

The issues to be decided were:

1. Whether the restriction of Group C and the seven teaching assistants who were not present at horticulture when the fires were started was a fair and reasonable application of school disciplinary policy.
2. If not, what is the appropriate remedy?

Ward Position:

It is the grievant's contention that the implementation of cottage restriction affecting Group C and the seven teaching assistants who were not in horticulture at the time of either incident was unfair.

In addition, the grievant feels that the teaching assistants and Group C should be given some form of compensation for the approximate 5-hour loss of program on the day in question. The grievant suggested that 1500 cash points be awarded the individuals deprived of their evening program.

Staff Position:

It is the staff position that the imposition of cottage restriction was appropriate in view of the circumstances surrounding the fire. The staff contends that there was no way for them to ascertain whether the absent teaching assistants or Group C did not encourage the other Wards to start the fires. The staff also contends that the awarding of cash points to the Wards would set a precedent, in view of the fact that cash points are earned, and that the staff did not act improperly in restricting the Wards.

Discussion and Conclusions:

There is no dispute between grievant and staff as to the facts. This grievance seeks to ensure that discipline, when imposed, will be fair and

Session 5

reasonable and not arbitrary and capricious. The staff is charged with the responsibility of implementing fair and reasonable discipline without compromising institutional security and the safety of Wards and staff.

The evidence adduced at the hearing would indicate that the staff was aware of the names of the teaching assistants who did not go to horticulture and of their whereabouts and the whereabouts of Group C all during the day. To infer that the teaching assistants and Group C members encouraged members of Groups A and B to start the fires is grossly unfair and appears to be an attempt to punish by association, rather than an attempt to ascertain sufficient independent evidence to draw such a conclusion. Peer pressure may be helpful in some instances in solving some problems, but it would seem highly unlikely to be appropriate in this instance.

Evidence was submitted to reflect the layout of the cottage and to show how it was possible to restrict members of the cottage to the dormitory and to permit others to enjoy an evening program by locking several doors as an alternative to the discipline imposed. This method has been used on other occasions and in particular in connection with a disturbance that occurred during the screening of a movie. The staff was unable to satisfactorily distinguish the movie incident from the facts of this grievance.

It would therefore seem that the imposition of group restriction to the entire cottage was unfair and that Group C and the seven teaching assistants from Hayes Cottage should prevail in this class action type grievance.

Award and Decision:

Upon full consideration of all the evidence and arguments of the parties, it is the decision of this arbitration board, or a majority

Session 5

thereof, that:

1. The imposition of cottage restriction on Group C and the seven teaching assistants of Hayes Cottage was unfair and unreasonable, since neither the group nor the teaching assistants were present when the fires were started.
2. The appropriate remedy is to restore to the Wards of Group C and the seven teaching assistants all time lost as a result of the group restriction.
3. The arbitration board finds that the total time lost was approximately five hours and the Wards are to be given 5 hours of program time at the rate of one-half hour each evening until they receive the total hours lost.

Session 5

ARBITRATION #4

CASE OF THE DISCIPLINARY PROCESS

In the Matter of Independent Review between
STEVEN W _____, Ward

and

CALIFORNIA YOUTH AUTHORITY,
(O. H. Close School)

ISSUE

Should Section 453.7 of the Disciplinary Decision Making System be revised to require "proof beyond a reasonable doubt" as the standard of certainty to find "true" an allegation of misconduct in Level B cases?

STATEMENT OF FACTS

On October 27, 1975, Grievant filed a grievance on behalf of a number of wards in Calaveras Hall, O.H. Close School, contending that the existing standard of certainty, based upon "preponderance of evidence," deprived wards involved in Level B disciplinary proceedings of "due process" as guaranteed by the United States Constitution. In his grievance, he requested that Section 453.7 be amended to require "proof beyond a reasonable doubt" as the standard of certainty to be applied in Level B DDMS cases.

The matter came before the Calaveras Hall Grievance Committee on October 31, 1975. The Committee's decision was that "...all guilt should be proven... (and)...that evidence should be factual in all instances, rather than a belief in guilt."

On November 7, 1975, the Superintendent of the School denied the grievance with the following explanation: "Department policy is clear that preponderance of evidence may be used." Because departmental policy was involved, however, he referred his decision to the Director of CYA in Sacramento for final determination. In a letter to the Grievant, dated

Session 5

November 26, 1975, the Director concurred in the Superintendent's decision and informed the former that he could appeal the decision to independent review if not satisfied with the decision.

Grievant then appealed his grievance on November 26, 1975.

DISCUSSION

Grievant contends that findings based upon preponderance of evidence have resulted in great injustices to wards at the school. He argues that 35 percent of the wards found guilty of alleged Level B infractions at the School during the past year were not guilty at all but were convicted on circumstantial evidence, often a result of false charges made by unfriendly wards.

In this connection, he cited an incident in which he was personally involved, one night when he committed a minor infraction by trading beds with another ward in order to be near a ward with whom he wanted to talk. A staff member caught him in the wrong bed and he would have been charged with only a Level A infraction had not some unidentified ward or wards falsely informed the staff member that he had engaged in serious misconduct with wards next to him before the staff member came into the room. Grievant testified that even though innocent of the more serious charges made against him, he was found guilty and suffered lock-up for 72 hours and possible extension of time before parole. He argued from this incident that the conviction of a ward for a Level B infraction, without proof beyond a reasonable doubt, violates that person's constitutional rights guaranteed by the 5th, 6th, and 14th Amendments.

The California Youth Authority admits that injustices can occur under the "preponderance of evidence" standard but argues that the security interests of correctional institutions require a standard of certainty below that of

Session 5

proof beyond a reasonable doubt. The Director, in denying the grievance in this case, had this to say:

My reasons are as follows: The "preponderance" standard of proof is the generally recognized standard of proof for both parole and correctional (systems). The courts do not require a higher standard. They recognize that the protection of staff and wards requires a high degree of certainty that persons involved in serious misconduct or major rule violations will be held accountable. The courts recognize the basic and unavoidable task correctional administrators have of providing reasonable personal safety for staff and wards. Clearly defined rules and sure reckoning for misconduct plays a major role in furthering the institutional goal or modifying the behavior and value systems of wards sufficiently to permit them to live within the law when they are released.

In our institutions there is a great range of personality and characteristics among the wards. With many wards, it is essential that discipline be swift and sure. It would be unwise to establish disciplinary procedures which would require the proceedings typical of the criminal trial, for it would very likely raise the level of confrontation between staff and wards and make it more difficult to utilize the disciplinary process as a tool to advance the rehabilitative goals of our institutions. This consideration, along with the necessity to maintain an acceptable level of personal security in our institutions, must be taken into account when we establish our policies regarding disciplinary proceedings.

However, a number of procedural safeguards have been provided to protect wards accused of serious misconduct. They include: Written notice of the allegations and the evidence against the ward 48 hours in advance of the hearing, the right to request the assistance of a ward representative to assist the ward in presenting his defense at the hearing, the right to call witnesses and present documentary evidence in his defense when permitting the accused ward to do so will not be unduly hazardous to the physical safety of another ward, a hearing by an independent and unbiased fact finder, a written statement of the findings and the evidence relied upon by the fact finder, and a written statement of the disposition. In addition to these "due process" protections, departmental policy provides two levels of appeal to assure a ward consideration of administrative relief when they feel they have been treated unfairly.

OPINION

After hearing the testimony offered by both parties at the hearing and reviewing the documentary evidence submitted by them, the Panel, in

Session 5

executive session, unanimously agreed that the preponderance of evidence standard, with whatever shortcomings it may have, should not be disturbed.

The Youth Authority referred to U. S. Supreme Court decisions relative to the revocation of parole wherein the minimum level of proof required to warrant parole board action to revoke parole is a preponderance of evidence. The deprivation suffered by a parolee in revocation of parole is at least equal to or greater than the loss sustained by an institution inmate who is disciplined as the result of a finding of fact in a Level B DDMS case.

The Department argued that institution administration and particularly maintenance of necessary discipline preclude a higher standard of evidence than required by the United States Supreme Court. The Grievant did not argue against this position.

The DDMS provides all the necessary and appropriate due process safeguards. Any failure by the Youth Authority to comply with the DDMS procedure is grievable.

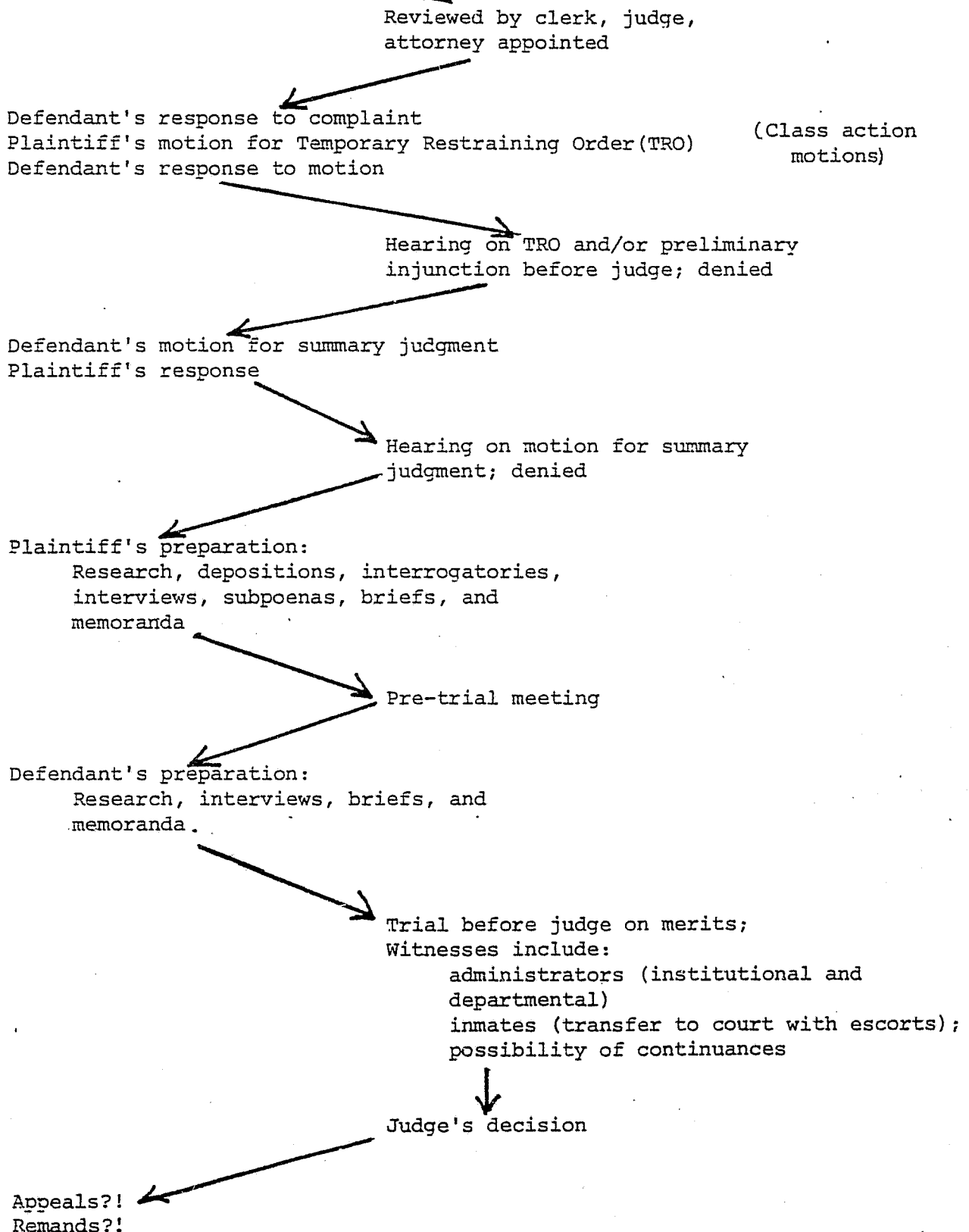
We believe that Youth Authority wards in institutions receive all the protection of their Constitutional rights required by the United States Supreme Court in respect to actions taken as the result of alleged misconduct.

RECOMMENDATION

It is the unanimous recommendation of the Panel that the grievance be denied.

PRO SE PETITION (Complaint)

CHARTING THE COURSE
(AND COSTS) OF LITIGATION



Session 5

ARBITRATION TRACK RECORD

California Youth Authority

Period: First 29 months of operation

Grievances Filed: Over 7,000

Grievances appealed to outside review: 58 (0.8 percent)

In 58 cases heard by arbitrators:

Outside reviewers reversed administrators' prior decisions
in 40 cases (69 percent):

Findings of the outside reviewer were accepted in
34 of these cases (85 percent).

Findings of the outside reviewer were denied
in 6 of these cases (15 percent).

Outside reviewer sustained administrators' prior decisions
in 18 cases (31 percent).

Session 5

B E N E F I T S O F O U T S I D E R E V I E W

*C R E D I B I L I T Y

*R E A S O N A B L E D E C I S I O N S

*S A F E C A T A L Y S T F O R R E F O R M

*D E V E L O P M E N T O F A P O W E R F U L C O N S T I T U E N C Y

Session 5

A D H O C vs P E R M A N E N T O U T S I D E R E V I E W

*C O S T

*C O - O P T A T I O N B Y E S T A B L I S H M E N T O R I N M A T E S

*B U I L D I N G A C O N S T I T U E N C Y

*G E O G R A P H Y

*E X P E R T I S E

PP-79

Session 6

Day 2

Thursday, 3:00-5:30

DESIGN PRINCIPLES SUMMARY: BENEFITS OF AN EFFECTIVE MECHANISM

Goals:

1. To review the design principles and make sure they are clearly understood.
2. To show the unitary nature of the principles package.
3. To spell out the benefits of adopting a prison grievance mechanism based on the principles.
4. To give participants an opportunity to express their reaction to the six design principles.

Methods:

Lecture

Discussion

Activities:

The participants will get a last review of the design principles. One of the most important points of the workshop is the unitary nature of the design principles. For a mechanism to be effective, all of the principles must be incorporated into the design.

Session 6

In a plenary session, participants also will be presented with a description of the benefits an effective grievance mechanism reasonably can be expected to produce. Discussion of these benefits is designed to address participants' doubts about why they should bother to accept and implement the design principles.

The benefits analysis will be conducted by a correctional administrator who has implemented a grievance procedure based on the principles and who will share his perceptions about their value. Following his presentation, there will be a question-and-answer period during which participants are encouraged to express their doubts and concerns about the principles and their value--as well as their support for them.

BENEFITS OF EFFECTIVE GRIEVANCE MECHANISMS

- "Window-in"
- Clarification of policies
- "Participatory" management
- "Lightning rod"
- Constituency building
- Alternative to violence
- Alternative to litigation
- Rehabilitative potential
- "Justice model"

Session 7

Day 3

Friday, 9:00 - 11:30 a.m.

IMPLEMENTATION PROBLEMS AND PRINCIPLES

Goals:

1. To illustrate the problems involved in implementing an effective grievance mechanism.
2. To give participants a chance to wrestle with planning for an implementation effort, thereby enabling them to consider directly and personally the difficulties inherent in implementation.
3. To identify the principles of implementing a mechanism.
4. To provide a successful model of implementation.

Methods:

Lecture

Case study

Discussion

Activities:

Participants will meet in small groups to work on an implementation exercise. The trainer will begin the session with a brief discussion of principles found to be essential in successfully implementing a mechanism. After a discussion of the principles, the group will divide into subgroups to devise an implementation strategy for the introduction of a grievance mechanism in a hypothetical jurisdiction.

Session 7

After completion of the plans, key problems and elements will be discussed and compared with the actual implementation strategy of other jurisdictions that have introduced mechanisms based on the design principles, including the California Youth Authority, as highlighted in the publication, Controlled Confrontation, prepared for the National Institute of Law Enforcement and Criminal Justice's Exemplary Project series.

IMPLEMENTATION PRINCIPLES

ADMINISTRATIVE LEADERSHIP AND PLANNING

TRAINING

ORIENTATION

MONITORING AND EVALUATION

INCREMENTALISM

Session 7

IMPLEMENTATION PLAN

Planning

Identification of resources:

Schedule for implementation:

Training

Who needs to be trained for what tasks?

Plan for delivery of training to:

Administrators

Line staff

Inmates

Outside reviewers

Orientation

Who needs to be oriented?

Plan for delivery of orientation to:

Administrators

Line staff

Inmates

Monitoring

Who needs to monitor what?

Plan for establishing monitoring programs:

Institutional/program

Department

External

Evaluation

Plan for developing:

Data on grievances

Data on mechanisms

Analysis of data

Standards

FACT SHEETSTATEWIDE DEPARTMENT OF CORRECTIONS CASE STUDYBackground Information and Early History

The Statewide Department of Corrections has a population of 4,3000 inmates. Two-thirds have been convicted for violent crimes; one-third for crimes against property.

Most of the inmates are housed in ten institutions, of which three maximum security. A small number of inmates are housed in two reception centers and four forestry camps. The ten institutions conform more or less to a general plan: 400 inmates to an institution, divided into eight 50-cell living units. Two living units are tied together as a team, under the supervision of an administrator known as a Cell-Block Supervisor. Each living unit has its own sergeant, with a staff of custodial personnel and counselors.

In late 1975, Statewide inaugurated a Disciplinary Decision Making System (DDMS). In the course of designing this procedure for appealing disciplinary decisions, Statewide administrators came to recognize that inmates had no way to appeal nondisciplinary matters. Over the previous several years, several methods have been tried: suggestion boxes, inmate councils at major institutions, an ombudsman working out of a central office in the state capitol. In addition, various institutions have tried plans of their own, and the Director has always permitted uncensored direct mail to himself as well as to the institutional superintendents.

All of the formal methods either have never gotten off the ground or have proven ineffectual. In August, 1976, a committee from one of the maximum security institutions submitted a three-page list of unresolved complaints. Upon

examining the complaints, the administration recognized that the majority of them had merit and had been plaguing the institution for a long time. As a result, it set up a task force to design an inmate grievance procedure in the fall of 1976.

The Director of the statewide Department of Corrections made it quite clear that his top priority for the coming year was the creation of an effective grievance procedure. He applied for and received a year's grant of \$25,000 from a local foundation to bring in outsiders with expertise to help with design and early implementation. They can be used in planning, initial training, and orientation at all levels--within and without the institutions. With the strong support of the Director, they have good access to institutions, staff and inmates.

There are some additional funds within the existing budget: each institution had its own training officer and a small training budget in which there is some leeway for training costs. In addition, there is limited overtime pay available in the institutions for staff meetings and training sessions.

The Director has set a target of six months for initial planning and design and expects implementation at all institutions to be underway within a year to eighteen months.

Session 8

Day 3

Friday, 11:30 - 12:00 noon

EVALUATION OF EXISTING MECHANISMS IN LIGHT OF THE DESIGN AND IMPLEMENTATION PRINCIPLES

Goals:

1. To provide participants with a tool for analyzing their existing mechanisms in light of the design and implementation principles.
2. To help participants pinpoint the weaknesses and strengths of their own mechanisms.

Methods:

Lecture

Discussion

Activities:

In a plenary session, the participants will be introduced to the "True Grid," an analytical tool useful in identifying strengths and weaknesses of existing grievance mechanisms. The lead trainer will describe the nature and purpose of the "True Grid," explain its application, and apply it to a sample mechanism.

In Session 9, the last substantive session of the workshop, participants will apply the grid analysis to their own mechanisms in an attempt to assess their effectiveness. This analysis will become the basis for planning any appropriate changes.

	WRITTEN RESPONSES	TIME LIMITS	PARTICIPATION	OUTSIDE REVIEW	ACCESS	JURISDICTION
DESIGN	GUARANTEED WRITTEN RESPONSE	ALL LEVELS AT TIME LIMITS ON ALL RESPONSES	INMATE AND/OR STAFF PARTICIPATION	JOINT PARTICIPATION IN DESIGN	JOINT PARTICIPATION IN OPERATIONS	INDEPENDENT EXPERT
ACTUAL PRACTICE	REASONS ARE SUBSTANTIAL AND FULL	TIME LIMITS AT ALL LEVELS	EMERGENCY PROVISIONS	AVAILABILITY TO ALL INMATES	PROTECTION AGAINST REPRISALS	SCOPE OF MECHANISM
	REASONS WITH REASONS			DISPUTE SETTLEMENT PROVISION		

	IMPLEMENTATION TOTAL						TOTAL FOR MECHANISM
EVALUATION							
MONITORING							
ORIENTATING PROGRAM							
CONTINUING INITIAL ORIENTATIONS							
SUFFICIENT TRAINING PROGRAM							
CONTINUING UP TRAINING							
SUFFICIENT START-UP TRAINING							
INCREMENTALISM							
PLANNING							
CONTINUING ALLOCATION OF RESOURCES							
DEMONSTRATED COMMITMENT							

Session 9

Day 3

Friday, 1:00 - 2:15 p.m.

APPLICATION OF TRUE GRID, FORCE FIELD ANALYSIS, AND ACTION PLAN

Goals:

1. To help participants understand the relationship between their current mechanisms and a new or improved mechanism based on the design principles.
2. To help participants apply what they have learned during the workshop to their own states' process of implementing or improving prison grievance mechanisms.
3. To provide assistance to state groups, helping them plan for implementation of new or improved mechanisms in their own jurisdictions.
4. To provide participants with a means of analyzing the problem of implementation within an analytical framework.
5. To help participants anticipate obstacles to implementation and consider ways of overcoming these obstacles.
6. To have participants place priorities on anticipated obstacles.

Methods:

Lecture

Small group interaction

Session 9

Activities:

Participants will break into state groups and apply the true grid to their own correctional system, or some part thereof, in order to analyze it in relation to the design and implementation principles.

They will be introduced to Force Field Analysis, a diagnostic tool for analyzing the problems of implementation. After an explanation and demonstration by the trainer, they will again apply the Force Field Analysis concept and begin to plan for action in their own jurisdictions.

KURT LEWIN'S "FORCE FIELD ANALYSIS"

Change in a group or an organization means essentially an alteration in the way things get done in the system. It may mean changes in compensation methods, sales and production levels, leadership styles, or interpersonal functioning, among others. Kurt Lewin's Force Field Analysis provides a framework for problem-solving and for implementing planned change efforts around a wide range of group and organizational issues. By way of reviewing Lewin's concepts, this paper describes how a group of managers applied the method when they met to discuss their effectiveness as a work team.

In talking to each other, the group members soon recognized that their day-to-day effectiveness and their ability to improve it were hampered by the degree to which they felt free to confront each other on relevant task and interpersonal issues. Having agreed that they needed to talk more openly with each other, each individual member now waited for someone else to "be open." Much of the frustration with this technique was soon summarized in the question, "Why can't we change the way we work together?"

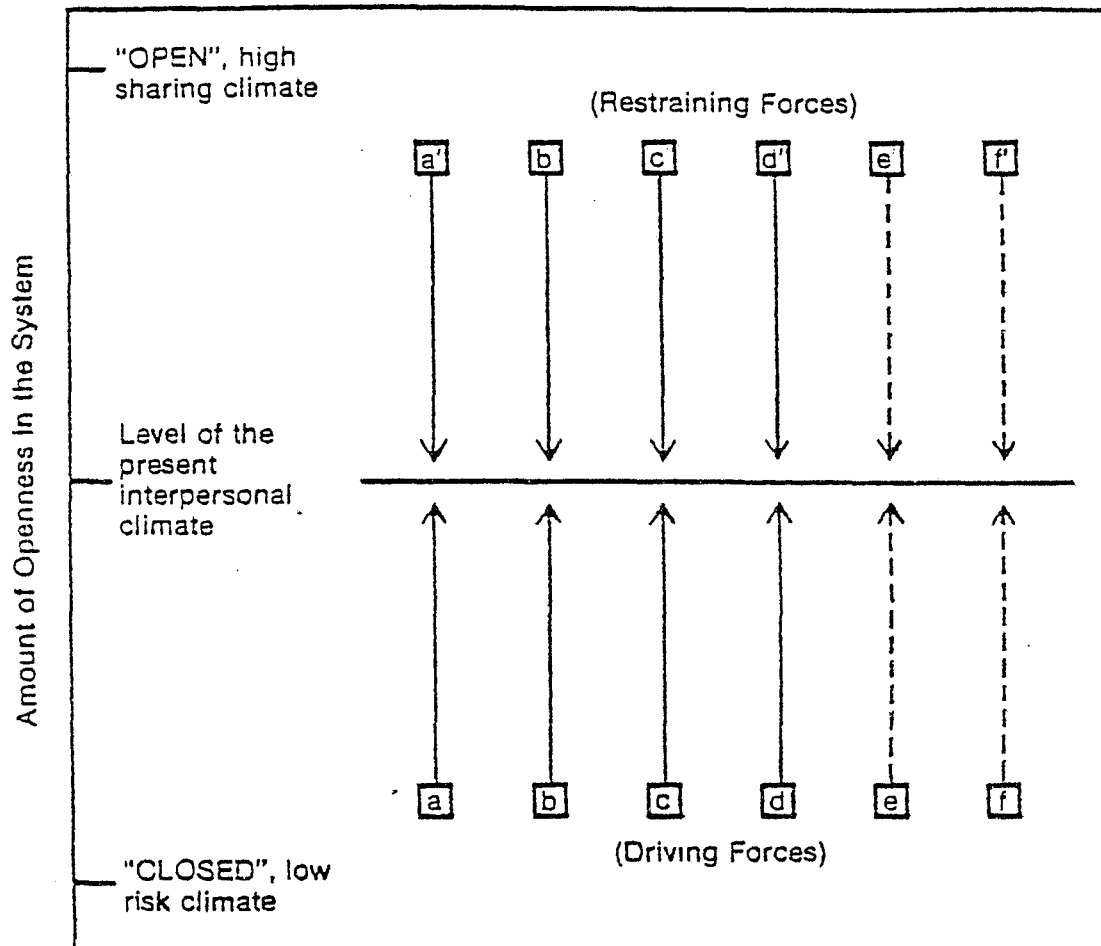
DEFINITION OF THE PROBLEM

At first the reason for "no change" seemed to be "that's just the way things are," but as the managers looked more deeply at the climate in which they were operating, they identified some factors or pressures that strongly supported changes in the direction of more openness: (a) the team members wanted to perform effectively for the sake of their own careers as well as the good of the organization; (b) they were functionally interdependent and had to work together to accomplish their goals; (c) there were existing work-related problems that were having an impact on effectiveness (for example, responsibility without authority and unclear job definitions); (d) some interpersonal tension already existed in the system (for example, destructive competition and passive and overt hostility).

As they continued their analysis, the managers also identified pressures that acted as powerful obstacles to change: (a) many of the group members lacked experience and skills in dealing with conflict and more open feedback; (b) the risk of the "unknown" was high in terms of "What will we open up?" and "Will we hurt each other?"; (c) there was a concern that if certain issues were brought up "things could get worse"; and (d) there were questions about whether top management would support a more open climate or whether they would respond with "That's not the way things are done around here." Thus, the definition of the problem took the form of recognizing that opposing forces like these in the environment determined the existing level of interpersonal functioning in the group.

Figure I summarizes this "diagnosis" of the problem. The top and bottom of the figure represent opposite ends of a continuum of a team's functioning in terms of its interpersonal climate. The environmental conditions and pressures supportive of more open-

FIGURE 1.-
The Force Field



ness in the system are the *driving forces* represented by the arrows pushing upward which, at the same time, act as barriers to the team's movement backward toward a more closed system. The arrows pushing downward represent the *restraining forces* which are keeping the system from moving toward a higher degree of openness and, at the same time, are driving forces toward a climate of lower interpersonal risk.

A group of forces as shown in Figure I may be called a "force field." The length of the arrows in the force field describes the relative strength of the forces: the longer the arrow the stronger the force. For descriptive purposes, the forces in Figure I are shown as equal in strength, but a force field can be made up of forces of varying strengths. Indeed, the strength of any single force may itself vary as we get closer to either end of the continuum of openness. A group or organization stabilizes its behavior where the forces pushing for change are equal to the forces resisting change. Lewin called the result of this dynamic balance of forces the "quasi-stationary equilibrium." In our example, the equilibrium is represented in Figure I by the line marked "level of the present interpersonal climate." It is at this level of functioning that the system is not completely "closed" in terms of a total lack of openness, feedback and risk taking, but neither is there the degree of each needed to work together as effectively as might be. The arrows meeting at the line indicate that the current state is being maintained somewhere between

the end points on a continuum of team functioning by a balance of discernable driving and restraining forces.

THE IMPLEMENTATION OF CHANGE

Since the management team is interacting at its present level because of a balance of organizational and individual needs and forces, change will only occur if the forces are modified so that the system can move to and stabilize itself at a different level where the driving and restraining forces are again equal. The equilibrium can be changed in the direction of more openness by: (1) strengthening or adding forces in the direction of change, (2) reducing or removing some of the restraining forces, or (3) changing the direction of the forces.

Any of the basic strategies may change the level of the team's functioning, but the secondary effects will differ depending on the method used. If a change in the equilibrium is brought about only by strengthening or adding driving forces, the new level may be accomplished by a relatively high degree of tension which itself may reduce effectiveness. In Figure I, the line representing the "level of the present interpersonal climate" will move upward toward more openness under the pressure of strengthened driving forces. The additional pressures upward, however, will be met by corresponding increases in resistance. The resulting increase of tension in the system will be characterized by a lengthening of the arrows pushing upward and downward at the new level.

Attempts to induce change by removing or diminishing opposing forces will generally result in a lower degree of tension. An important restraining force that requires removal in our example is the managers' lack of experience and skills in dealing with conflict. As the managers acquire new interpersonal skills, a key restraining force will be removed. Moreover, changes accomplished by overcoming counterforces are likely to be more stable than changes induced by additional or stronger driving forces. Restraining forces which have been removed will not push for a return to old behaviors and ways of doing things. If changes come about only through the strengthening of driving forces, the forces which support the new level must be stable. For example, many work groups are stimulated toward new ways of working together by participating in "team-building" sessions, only to find the former behaviors and habits re-emerging shortly after return to the day-to-day job. If the change started by the learning and enthusiasm of the team-building is to continue after the session, some other driving force must be ready to take the place of the meeting's stimulation.

One of the most efficient ways to get change is to change the direction of one of the forces. If the managers in our example can be persuaded to "test" top management's support for a more open climate, they might find more encouragement than they previously thought existed. Thus, the removal of a powerful restraining force (expected top management disapproval) becomes an additional, strong driving force (actual top management support) in the direction of change.

Morris S. Spier

REFERENCES

- Carzo, R. and Yanouzas, J.N. *Formal Organizations: A Systems Approach*. Homewood, Illinois: Irwin-Dorsey, 1967, pp.501-506. (An application of the method to changes in industrial production levels.)
- Jenkins, D.H. "Force Field Analysis Applied to a School Situation." In Bennis, W.G., Benne, K.D., and Chin, R. (Eds.), *The Planning of Change*. New York: Holt, Rinehard, Winston, 1969, pp. 233-244.
- Lewin, K. "Quasi-stationary Social Equilibria and the Problem of Permanent Change." In Bennis, W.G., Benne, K.D., and Chin, R. (Eds.), *The Planning of Change*. New York: Holt, Rinehard, Winston, 1969, pp. 235-238.

Session 9

Force Field Analysis Inventory

Working individually or as a group member, identify in the space below the driving and restraining forces that you see operating in implementing or changing existing grievance mechanisms. Rank them according to importance. Identify at least one restraining or driving force that the group might begin to work on when returning to its own jurisdiction.

Rank	Driving forces

Rank	Restraining forces

Session 10

Day 3

Friday, 2:30 - 3:00 p.m.

WRAP-UP SESSION; EVALUATION; LOGISTICS

Goals:

To wind up the workshop--

1. Answer questions
2. Fill out evaluation forms
3. Complete travel vouchers
4. Discuss the possibility of further training and technical assistance.

Methods:

discussion

questions and answers

Activities:

Participants will have the opportunity to complete their evaluation forms, if they have not already done so. They will also complete and return travel vouchers. The lead trainer or an LEAA spokesperson will discuss follow-on training and answer questions.

PARTICIPANT QUESTIONNAIRE

Reaction to Workshop on Prison Grievance Mechanisms
Executive Training Program in Advanced Criminal Justice Practices
University Research Corporation

Region I, Boston, March 9-11, 1977

CODE (For URC use)				
2				

1. Name _____ 2. Agency _____

3. Current Job Title (Circle one)

- | | |
|--|---------------------|
| 01 Corrections Administrator--Juvenile | 20 Judge |
| 02 Corrections Administrator--Adult | 46 Attorney general |
| 04 SPA--Correctional Specialist | 80 State legislator |
| 09 Other (Please specify) _____ | 81 Governor's aide |

4. State (Circle one)

- | | |
|---------------------------------|------------------|
| 11 Connecticut | 41 New Hampshire |
| 21 Maine | 51 Rhode Island |
| 31 Massachusetts | 61 Vermont |
| 09 Other (Please specify) _____ | |

5. Small-Group Leader (Circle one)

- | | |
|---------------------------------|-------------------|
| 1 Norma Gluckstern | 4 Mike Keating |
| 2 John Holland | 5 Dave Dillingham |
| 3 Ann Horvitz | 6 Mike Lewis |
| 09 Other (Please specify) _____ | 7 Linda Singer |

To help us determine how useful the workshop has been to you, your agency, and your state, and to help us identify needed changes in the workshop, please answer the following questions as completely and accurately as possible. Return the completed form to a member of the training team. Thank you.

OVER PLEASE

The following questions refer to the workshop as a whole.

(17) 6. How useful was the workshop for you? (Circle one)

- | | | |
|---------------|-------------------|--------------------|
| 5 Very useful | 3 Somewhat useful | 2 Not very useful |
| 4 Useful | | 1 Of no use at all |

(20) 7. How would you rate the usefulness of this workshop compared to other training programs you have attended? (Circle one)

- | | | |
|---------------|---------------|--------------|
| 5 Much higher | 3 About equal | 2 Lower |
| 4 Higher | | 1 Much lower |

(21) 8. Would you recommend this workshop to others in your field?
(Circle one)

Yes No

If yes, to whom? (Circle one or more)

(22)	01 Corrections Administrator--Juvenile	20 Judge
(23)		
(24)	02 Corrections Administrator--Adult	46 Attorney General
(25)		
(26)	04 SPA--Correctional Specialist	80 State Legislator
(27)		
(28)	09 Others (Please specify) _____	81 Governor's Aide
(29)		

(30) 9. How well were your training needs in relation to prison grievance mechanisms met? (Circle number of appropriate response)

- | | |
|-----------------------------|-----------------------|
| 5 All were met (100%) | 2 Some were met (25%) |
| 3 About half were met (50%) | |
| 4 Most were met (75%) | 1 Not met at all (0%) |

CONTINUED

1 OF 2

10. In regard to the items below, please indicate your level of understanding of them before the workshop with an X and at the end of the workshop with an O. For example,

5 ④ 3 ~~2~~ 1

Very High High Moderate Low Very Low

- | | | | | | | |
|------------|---|---|---|---|---|---|
| (11,12) a. | The structure, purpose, and major characteristics of the grievance mechanisms (if any) in your correctional system. | 5 | 4 | 3 | 2 | 1 |
| (13,14) b. | The principles underlying the effective design of a grievance mechanism. | 5 | 4 | 3 | 2 | 1 |
| (15,16) c. | The implications of the design for bringing about changes in your correctional system. | 5 | 4 | 3 | 2 | 1 |
| (17,18) d. | The considerations/steps needed to implement an effective grievance mechanism. | 5 | 4 | 3 | 2 | 1 |
| (19,20) e. | Use of resources to assist in planning and implementation. | 5 | 4 | 3 | 2 | 1 |

11. Listed below are the objectives of this workshop. Please indicate how well each was met. (Circle the appropriate response.)

How well were the objectives met?

<u>Workshop Objectives</u>		Completely (100%)	Mostly (75%)	About half (50%)	Some (25%)	Not at all (0%)
(21)	a. To understand the principles essential to creating effective prison grievance mechanisms.	5	4	3	2	1
(22)	b. To understand the potential benefits of effective grievance mechanisms.	5	4	3	2	1
(23)	c. To understand the steps in planning and implementing an effective mechanism and techniques for resolving attendant problems.	5	4	3	2	1
(24)	d. To know the national, regional, and local resources available to a correctional system about to introduce or improve its own grievance mechanism.	5	4	3	2	1
(25)	e. Workshop objectives overall.	5	4	3	2	1

12. We would like to know how you would rate the prison grievance mechanism(s) (if any) in your correctional system. (Please respond to each item listed below by circling the appropriate response.)

Does your correctional system have?						If yes, how would you rate its effectiveness? (Circle one.)				
		Yes	No	Pro- jected	Don't Know	Excel- lent	Good	Satis- factory	Poor	Unsatis- factory
(26,27)	a. An ombudsman?	1	2	3	9	5	4	3	2	1
(28,29)	b. A formal grievance mechanism?	1	2	3	9	5	4	3	2	1
(30,31)	c. An inmate council?	1	2	3	9	5	4	3	2	1
(32,33)	d. Other mechanism(s)? (Please specify.)	1	2	3	9	5	4	3	2	1
<hr/>										
If you have a grievance mechanism, does it provide for:										
(34,35)	a. Outside review?	1	2	3	9	5	4	3	2	1
(36,37)	b. Inmate participation?	1	2	3	9	5	4	3	2	1
(38,39)	c. Staff participation?	1	2	3	9	5	4	3	2	1

13. In what areas do you anticipate trying to change/improve the grievance mechanism(s) of your correctional system. (Circle numbers of all applicable responses.)

(40)	01 Written responses	07 Leadership
(41)	02 Time limits	08 Planning
(42)	03 Inmate/staff participation	09 Incrementalism
(43)	04 Outside review	10 Training/orientation
(44)	05 Access to prison grievance mechanism	11 Monitoring/evaluation
(45)	06 Jurisdiction	12 Supervision
		99 Other (Please specify)

(46)

(47)

(48)

(49)

(50)

(51)

14. Identify specifically what steps, if any, you plan to take to institute or improve your prison grievance mechanism(s) in the next three months and in the next year.

(Circle all appropriate responses.)

In the next
three months:

In the next
year:

- | | | | |
|------|---|----|----|
| (52) | Review and evaluate current means for dealing with inmates' grievances. | 01 | 01 |
| (53) | Create an agency task force to review the applicability of the principles in my jurisdiction. | 02 | 02 |
| (54) | Seek follow-on training for key personnel in my agency or jurisdiction. | 03 | 03 |
| (55) | Attempt to improve operations of a current mechanism by experimenting with the principles in one institution or living unit. | 04 | 04 |
| (56) | Try out a new mechanism based on the principles in one unit or institution. | 05 | 05 |
| (57) | Seek help from outside resources (other correctional systems, consultants, etc.) in implementing a new mechanism or improving an old one. | 06 | 06 |
| (58) | Establish a continuing training and orientation program for the current mechanism. | 07 | 07 |
| (59) | Improve monitoring of a current mechanism. | 08 | 08 |
| | Other(s) (Please specify) _____ | | |
| (60) | _____ | 09 | 09 |

15. Please respond to the workshop components below by circling the appropriate number. Note any changes you think are needed in the space provided on the right.

		Excellent don't change anything	Good	Satisfac- tory, some changes needed	Poor	Unsatis- factory, major changes needed	Please identify the needed changes.
(31)	WORKSHOP CONTENT (Information presented)	5	4	3	2	1	
(32)	TIME GIVEN TO TOPICS	5	4	3	2	1	
(33)	TRAINING METHODS (e.g., presentation, case study)	5	4	3	2	1	
(34)	SEQUENCE OF SESSIONS	5	4	3	2	1	
(35)	TRAINING MATERIALS OVERALL	5	4	3	2	1	
(36)	Manual	5	4	3	2	1	
(37)	Handbook	5	4	3	2	1	
(38)	Visuals (e.g., charts, diagrams, slides)	5	4	3	2	1	
(39)	Film	5	4	3	2	1	

	Excellent don't change anything	Good	Satisfac- tory, some changes needed	Poor	Unsatis- factory, major changes needed	Please identify the needed changes.
--	--	------	--	------	--	-------------------------------------

(40)	TRAINING STAFF	5	4	3	2	1	
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(41)	GROUPING OF PARTICIPANTS	5	4	3	2	1	
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(42)	WORKSHOP AMBIANCE (learning environment)	5	4	3	2	1	
------	---	---	---	---	---	---	--

(43)	WORKSHOP LOGISTICS (rooms, service, etc.)	5	4	3	2	1	
------	--	---	---	---	---	---	--

(44)	Was the location convenient to restaur- ants within your per diem allowance?	5	4	3	2	1	
------	---	---	---	---	---	---	--

(45)	Did the site have adequate meeting rooms?	5	4	3	2	1	
------	---	---	---	---	---	---	--

(46)	Was the flight reservations pro- cess convenient for you?	5	4	3	2	1	
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16. What was of most value to you in this workshop?

17. What was of least value to you in this workshop?

18. What suggestions or recommendations do you have for ways to improve the workshop?

19. Other comments and suggestions:

March 9-11, 1977

ETP/ACJP
TRAVEL VOUCHER

TAN _____
SAN _____
WYLBUR _____
(office use only) _____

TRAVELER'S NAME _____
ADDRESS _____
CITY & STATE _____ ZIP _____
TELEPHONE _____ (home) _____ (office)

DEPARTURE		POINTS OF TRAVEL		ARRIVAL	
DATE	HOUR	FROM	TO	DATE	HOUR

	MON	TUE	WED	THU	FRI	SAT	SUN	
MONTH AND DATE								SUBTOTALS
Meals: \$14./day, or \$2.50 B, \$4.50 L, \$7.00 D								
* Rail or Bus Transportation								
* Airport Parking (3 day maximum)								
Personal auto @ 15¢/mile								
* Taxi or limo. (explain on back) Claim only if cour- tesy car not avail.								
Tolls								
Other: (explain on back)								

* (Attach receipts) TOTAL EXPENSES INCURRED _____
DATE SUBMITTED _____ BALANCE DUE FROM URC _____
SIGNATURE _____
APPROVED BY _____

END