COMMUNITY ALLIANCE

FINAL REPORT

Criminal Justice Standards and Goals

STANDARDS AND GOALS

for

MAINE'S CRIMINAL JUSTICE SYSTEM

as prepared by the

COMMUNITY ALLIANCE

STANDARDS and GOALS PROGRAM

funded by the

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

through the

MAINE CRIMINAL JUSTICE PLANNING AND ASSISTANCE AGENCY

July, 1978

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CRIMINAL JUSTICE - STANDARDS AND GOALS

by the COMMUNITY ALLIANCE MEMBERSHIP

1975 - 1978

The Standards and Goals Program started in December of 1975 with the awarding of descretionary funding to the Maine Criminal Justice Planning and Assistance Agency.

The original grant application became the foundation for a serious attempt to study, evaluate and recommend improvements in all functional areas of Maine's Criminal Justice system, using the citizen component as the basic unit for participation. Staffing was formalized by March of 1976 and the citizen-professional program structure was further expanded and specifically developed so that membership recruitment could begin in April of 1976. During the months of April through September of 1976, a massive public relations campaign and an individual person-to-person contact technique was applied, resulting in some problems but many successes, for by September of 1976 Citizen Study Groups were organized covering all sixteen counties of the State. Nearly 900 individuals were recruited, and during the fall months of 1976 an extensive educational program was presented to eleven separate Study Groups. By Christmas of 1976, all of the citizens and professionals had been exposed to a wide ranging picture of the existing Criminal Justice System in Maine with all of its strengths, weaknesses, costs and idiosyncrasies.

In January of 1977, the structure of the meetings changed from monthly, committee-of-the-whole sessions to twice-a-month sessions divided into four functional sub-committee areas of Police, Courts, Corrections and Youth Development (a total of 86 separate sub-committees, meeting monthly). The fifth and final section of the Report, Community Crime Prevention, was completed in late '77 and early '78. For a period of six-seven months these groups met endlessly in a series of in-depth discussions and studies of every possible facet of Criminal Justice: the State Comprehensive Plan, all past Criminal Justice studies of every type and distinction, all of the National Advisory Commission standards, the American Bar Association standards and other recommendations that evolved from this constant exposure and exploration.

The summer of 1977 was a staff effort, with guidance on writing from citizen sub-committee members who met several times to review the work and settle controversial issues on which the staff could not find consensus.

A preliminary Report was distributed in September to all members, Advisory Boards in each functional area, and to agencies, departments, legislators, etc., for a final fall (1977) review.

Following that, a series of regular monthly meetings was held statewide, Sept-Dec. for a thorough review and final draft preparation. In addition to this, 22 public hearings across the state were advertised and conducted in October of 1977.

A Final Draft Copy was restructured for the membership to address for final discussion and approval at a three-day statewide Convention held in town meeting style at the State capitol. Approximately 250 recommendations (Standards and Goals) were finally adopted by the Community Alliance. At the State Convention the group decided to form a non-profit corporation under Maine law to ensure the proper implementation of the goals.

INTRODUCTION

This report attempts to present accurately the decisions made by the Community Alliance citizens and criminal justice professionals and to state all recommendations in acceptable form. The recommendations set forth cover all functional areas of the criminal justice system.

Based on the involvement of rank-and-file citizens, the Community Alliance concept is unique in the National Standards and Goals program, for Maine is the only state that has submitted the complex criminal justice planning process to its citizens. This approach has the advantages that without general citizen knowledge and support, the criminal justice system (or any system) will neither function properly nor provide acceptable and productive services. Citizens have had the opportunity to educate themselves, and to comprehend the system's vastness and complexity. People have had the opportunity to discuss all issues and alternatives, voice their knowledgeable opinions, and make specific recommendations. The professionals in the system and in related fields became involved, and the practical experiences of the professional community was thoroughly conveyed to the Citizen Study Groups. These study groups have had the opportunity to:

(1) develop an understanding of how all segments of our present system operate;
(2) study the nationally recommended Standards & Goals to see which actually apply to Maine;
(3) study various state research and recommendations for change;
(4) review the impact of other Boards and agencies on our present system;
(5) address themselves to the serious problems facing our state in criminal justice;
(6) discuss issues with legal and legislative minds;
(7) consider the cost of all alternatives and recommendations; and
(8) develop recommendations of their own in each of the criminal justice fields.

With eleven major Citizen Study Groups operating throughout Maine, involving over twelve hundred individuals over a two and a half year period, and with these groups further sub-divided into four distinct subcommittees of Police, Courts, Corrections and Juvenile Services, the task of the dissemination of information

and the addressing of issues became monumental. But since the Standards and Goals program was able to call upon the expertise and assistance of criminal justice professionals, the pros and cons of each substantive issue were clearly and honestly discussed and taken into consideration.

It was through the dedication of all citizens of this state that we witnessed increased cooperation among the functional parts of the criminal justice system.

If the criminal justice system can submit itself to citizen appraisal and comments, if it can justify itself and its components, if it can rationalize its cost effectiveness to the public, which it services, then Maine's unique approach has done the job and done it well.

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Helen Neff	Orono
John Johnson	Bangor
Bonnie Porter	Lincoln
Charles Smith	Argyle
Diane Ayers	Orono
Peter Chase	Levant
Richard Yost, Sr.	Millinocket
Tim Dorr	Bangor
Derwin Emerson	Charleston
Eileen M. Cox	Bangor
Belle Rush	Millinocket
Martha Wiltse	Millinocket
Rep. David Marshall	Millinocket
Robert Delancy	Lincoln
Nancy Pray	Millinocket
Alex Cairns	Bangor
Tom Landers	Orono
Susan Walker	Bangor
Alan Gove	Lincoln
Paul Gallant	Millinocket
James Carson, Jr.	Millinocket
Dana Saucier	Millinocket
Dan O'Leary	Orono
Russell Christensen	Orono
Dwight McIntosh	Levant
Dan Pooler	Brewer
Elliot Burton	Millinocket
Harry Hopkins	Brewer
Hon. Lincoln Spencer	Old Town

Rev. Arthur Woodward	Brewer
Sandy Smith	E. Holden
James Horan	Orono
Daniel Soule	Stillwater
Eric Mehnert	Orono
Lois LeBeau	Orono
June Anderson	Orono
Paul E. Cote	Bangor
Janel Krofta	Orono
Karl Egdren	Bangor
Jemes Clark	Bangor
John Wallach	Bangor
Thomas Hebert	Bangor
Rev. Arthur Davis	Bangor
Sister Mary Loretta	Bangor
Sister Mary Florence	Bangor
Frank Wright	Bangor
Harry Coucoutur	Millinocket
Brad Stanley	Bangor
Alan Reynolds	Orono
John Skanes	Orono
Jem Sukeforth	Bangor
Elizabeth Wright	Bangor
Ronald Pooler	Brewer
Sen. Minnette Cummings	Newport
Charles H. Jackson	Newport
Jane Ordway	Newport
Peter Friend	Newport
Mr&Mrs Dan Burgess	Orono
Chuck Stone	Bangor
Rev. Paul Stefanko	Millinocket
Mrs. Raymond W. Mitchell	Orono
David Munsell	Bradford
Barbara Aucker	Millinocket
Thomas Jamo	E. Millinocket
William Ayoob	Millinocket
Roger Summerson	E. Millinocket
Sam Smith	E. Millinocket
David Labun	Millinocket
Nancy Deschaine	Medway
Elliott Burtram	Millinocket
Mr&Mrs Robert Hussey	Dexter
Ellen Campbell	Brewer
Val Hilliker	Orono
Sgt. Lloyd Williams	Orono
Guy Bovard	Bangor
Rabbi Alan Kalinsky	Bangor
Richard Robbins	Bangor
Mr&Mrs Robert Carey	Orono
Pauline Greaton	Orono
Mrs. Edward Campbell	Brewer
Mrs. Charles Smith	Argyle

PISCATAQUIS

Dorothy Mathes	Beaver Cove
Randall Hamilton	Greenville
Frank Tarazewich	Greenville Junc.
Richard Gould	Greenville
Cathy Jamison	Greenville
Philip Blood	Greenville
Bernard Keenan	Greenville
Bertha Cook	Greenville
R.K. Poulson	Greenville
Edmund Pelletier	Greenville
Francis Foss	Milo
Anna Hastings	Greenville
Richard Ross	Greenville
J.R. Thompson	Dover-Foxcroft
Frank Murch	Dover-Foxcroft
Cheryl Martel	Rockwood
Martha Burton	Greenville
Ralph Ryder	Greenville
Ronald Walden	Greenville
James Richards	Guilford
Katharyn Zwicker	Brownville Junc.
Kevin Whitten	Milo
John Sherburne	Milo
Rex Webb	Milo
Skip Hanson	Dover-Foxcroft
John Goggin	Dover-Foxcroft
David Roberts	Dover-Foxcroft
George McCormack	Dover-Foxcroft
Hon. Jessie Briggs	Milo
Cora Frike	Cambridge
Wayne Beckwith	Shirley
Karen Neal	Guilford
David Gaw	Guilford
Tom Goulette	Guilford
John Dyer	Greenville
Kerry Jones	Dover-Foxcroft
Edith Gould	Greenville
Rodney Ross	Brownville
Harriet Ross	Brownville
Barbara Rolfe	Brownville Junc.
Owen Cusack	Brownville
Webber Jones	Brownville
Myrtle Jones	Brownville
Doug Burdin	Guilford
Dale Clukey	Dover-Foxcroft
Paul Bridge	Guilford
Steven Vermette	Milo
Mr&Mrs John Wohlfahrt, Jr.	Greenville
Mr&Mrs Vincent J. Zardus	Greenville
Mrs. Nellie Borrell	Greenville Junc.
Mrs. Margaret Tidd	Greenville

WASHINGTON

Bob Berta	Machias
Carol Thomayer	Calais
Gregory Bartlett	Calais
Judy Curtis	Milbridge
Kenneth Hatt	Machias
Shirley Dunning	Jonesport
Chester Gray	Jonesport
Pauline Gray	Jonesport
Ivan Archer	Machias
Barbara Manchester	Machias
Kenneth Manchester	Machias
Theone Look	Jonesboro
Electa Feeney	Machias
Elsie Dircksen	Machias
Ted Cobb	Machias
Patti Grant	Addison
Dianne McLaughlin	Harrington
Dr. Curt Hanners	E. Machias
Sue Gagnon	E. Machias
Tom Michaud	Machias
E. Jeffery Barnes	Lubec
Judith Barnes	Robbinston
Dorothy Kelley	Machias
Robert Feeney	Jonesport
Earle Tyler, Jr.	Milbridge
Barbara McCandless Robinson	Cherryfield
Mary McDonald	Robbinston
Fred Hayward	Marshfield
Linda Cray	Addison
Loretta Austin	Machias
Mr&Mrs Arthur Beatty	Bucks Harbor
Greg Burchum	Calais
Tim Ryan	Woodland
Stephen McPike	Waite
Nita Bundza	Calais
Kevin Thomayer	Calais
Alan Grant	Columbia Falls

Michael Merserve	Harrington
Julie Arnold	Milbridge
Frieda Grant	Columbia
Pan Dowling	Whitneyville
Herbert Dowling	Whitneyville
Hom. Millard Emanuelson	Machias
John Romei	Dennysville
James Sullivan	Dennysville
James Rier	Machias
Charles DiPerri, Jr.	Machias
Dale Look	Machias
Patsy Look	Machias
Gwen Diffin	Robbinston
Joe Ingalls	Lubec
Dr. Karl Larson	E. Machias
Lawrence Brown	Lubec
Father Peter Gorham	Lubec
Joseph Stewart, Jr.	Lubec
Michael Leonard	Machias
Maureen Jans	Machias
Victoria Szatkowski	Robbinston
David Ashley	Pembroke
Tony Look	Jonesboro
Sherwood Chandler	Machias
Frederic Reynolds	Machias
Reid Moholland	Machias
Kathleen Atwood	Machias
Andrew Akins	Calais
Ernest James	Charlotte
Patty Crandlemire	Machias
David Grant, Sr.	Calais
Susan Grant	Calais
Mary MacDonald	Robbinston
Glenn Lambson	Addison
Ed Pellon	Machias
Esther Pellon	Machias
Barbara Lapham	Dennysville
Bertram Clark	Machiasport
Daniel S. Dunn	Machiasport
Lucy Palmer	Milbridge
Edward Sprague	Machias
Gayle Sprague	Machias
Mr&Mrs Keith Fernald	Cherryfield
Mark Bellavance	Machias
Cynthia Boomer	Addison
Richard Kennedy	Greenville
Arthur Buckingham	Machias
Donald Brown	Pembroke

YORK

Bobbie St. Jean	Sanford
Mr&Mrs Irving Kellman	Springvale
Me&Mrs Roger Vachon	Sanford
Edmund Wakelin, Jr.	Alfred
Francis Amoroso	Saco
Steven Howe	Ogunquit
Ronald G. Caron	Biddeford
Edward. L. Caron, Jr.	Saco
Paula M. Hersey	Sanford
Jon A. Mills	Biddeford
Richard E. Manning	Biddeford
William J. Weber, Jr.	Kittery
Hon. Lincoln Spencer	Kennebunkport
Arnold Shapiro	Biddeford
Raymond Keneally	Biddeford
Nancy DeCato	Wells
Chris Mumme	Berwick
Dave Redmond	Biddeford
Neil Rolde	York
Jonathan Carter	Springvale
Harold Hanson	Kennebunkport
J. Richard Martin	Biddeford Pool
Phyllis Hunter	Kennebunk
Rev. Howard Kellet	Kennebunkport
Richard Fancy	W. Kennebunk
Will Trottier	Saco
Marion Hussey	Kennebunkport
Bruce W. Harrison	Sanford
Brad Jerome	Sanford
Sandria J.C. Griffin	York
Vera Burridge	Eliot
Royal Sheltra	Biddeford
John Massaro	Springvale
Richard Lumb	Old Orchard Beach
Ed Newall	Gorham
Rev. Robert Howes	Kennebunkport
John D. Shevenell	Old Orchard Beach
Fred Greaves	Sanford
Beverly Cannon	Ogunquit
Sherryanne Godwin	York
Philip Perreault	Biddeford
Madeline Salamonski	Biddeford
Tom Haley	Saco
Rosemary Guptil	Wells
Ron Brezeale	Cape Porpoise
Mary King	Saco
Leatrice Morin	Old Orchard Beach
Breen Savage	Kennebunk
Clinton Phinney, Jr.	Eliot
Stedman Seavey	Kennebunkport
Mr&Mrs Conrad Veilleux	York
Ed Noyes	Hollis
Terry Delage	So. Berwick
Carroll Moulton	Lebanon
Wendy Miller	Springvale
David Corbett	Saco
Leslie Bridges	Hollis Center
Joseph F. Tiffany, Jr.	York
Jim Martin	Eliot
Laura Emery	So. Berwick
Sherry Dozier	So. Berwick
David Ofner	So. Berwick
Sue Poissant	Old Orchard Beach
Robert Desrochers	Biddeford

COMMUNITY CRIME PREVENTION

STANDARDS and GOALS

SECTION "A"

COMMUNITY CRIME PREVENTION

TABLE OF CONTENTS

COMMUNITY CRIME PREVENTION AND GENERAL CRIMINAL JUSTICE STANDARDS & GOALS

INTRODUCTION

Crime is rooted in both the individual and the community. It is related to the quality of life a society offers or an individual can achieve, and to public attitudes, and to the degree of citizen involvement.

Generally, the Criminal Justice System is veiwed as being composed of police, courts and corrections activities. However, this view not only fails to put responsibility where it belongs, with the community and with the individual, but it also "passes the buck" to the criminal justice professionals. It is easier to place the burden of law enforcement on someone else than to accept crime control and community management as basic responsibilities for all people in a democratic society.

Citizen participation thus becomes the major ingredient in all community activity. Increased involvement of all citizens in the total social environment is the key to the survival of our form of government and the economic system of free enterprise on which it is based.

The citizens of Maine already recognize the value of community efforts in combatting crime and more importantly in preventing crime.

This section of the Standards & Goals report will address a variety of areas:

Chapter 1. Responsible Government

Chapter 2. Employment Practices

Chapter 3. Educational Policy

Chapter 4. Recreational Opportunities

Chapter 5. Religious Involvement

Chapter 6. Integrity in Government

Chapter 7. Programs for the Reduction of Criminal Opportunity

Chapter 8. Special Section - - Miscellaneous Citizens' Opinions.

CITIZEN RATINGS

What do you consider to be the area (s) in Community Crime Prevention that most affect the development of Crime? (Rate 1-7 in priority)

			#
A.	Economic conditions	15%	5
B.	Employment practices	22%	2
C.	Educational policy	23%	1
D.	Recreational opportunities	15%	4
E.	Social services	16%	3
F.	Zoning	1%	7
G.	Governmental administration	7%	6

How important do you feel the social well-being of a community is in the effects of crime?

A.	Extremely important	81%
B.	Fairly important	12%
C.	Of little importance	7%

COMMUNITY CRIME PREVENTION

GOALS

1. TO FOSTER COMMUNITY CRIME PREVENTION AS THE MAJOR FORCE IN THE REDUCTION OF CRIME.

2. TO OPEN ALL AREAS OF GOVERNMENT TO CITIZEN PARTICIPATION.

3. TO BRING GOVERNMENTAL OPERATIONS CLOSE TO THE PUBLIC AND TO INVOLVE CITIZENS IN THE PROCESSES.

4. TO DEVELOP EMPLOYMENT PRACTICES THAT WILL EXTEND FULL EMPLOYMENT TO ALL SEGMENTS OF SOCIETY.

5. TO BROADEN EDUCATIONAL POLICY IN ORDER TO STIMULATE GREATER INTELLECTUAL DEVELOPMENT, AND TO FOSTER SOCIALIZATION.

6. TO ENRICH THE LIVES OF ALL OF OUR CITIZENS BY OFFERING A FULL RANGE OF RECREATIONAL ACTIVITIES AVAILABLE TO ALL CITIZENS.

7. TO INVOLVE THE RELIGIOUS COMMUNITY WITH THE CRIMINAL JUSTICE SYSTEM, AND ENCOURAGE ITS ACTIVE PARTICIPATION AND RESPONSIBILITY.

8. TO ENHANCE THE INTEGRITY OF GOVERNMENT'S PUBLIC AND PRIVATE SERVICES.

9. TO DEVELOP PROGRAMS TO REDUCE CRIMINAL OPPORTUNITY.

10. TO ENCOURAGE CITIZEN INVOLVEMENT IN CRIME PREVENTION.

CHAPTER I

RESPONSIBLE GOVERNMENT

Government is a servant of the people and can justify its existence only as long as it is directly accountable to the public. It must commit itself to maintaining and improving the social order which the public determines is basic to their needs:

A government open to the public and constantly attempting to provide appropriate governmental services.

A government encouraging active citizen participation and responding to individual and collective needs.

A government placing efficient and honest administration as its principal goal.

A government stressing equality of service to all of its citizens.

THE COMMUNITY ALLIANCE RESISTS THE TENDENCY OF PUBLIC OFFICIALS, AGENCIES AND BOARDS TO ISOLATE THE PUBLIC FROM THE DECISION-MAKING PROCESS.

STANDARD 1.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT "RIGHT-TO-KNOW LAWS" BE STREGTHENED AND ENFORCED IN ALL AREAS OF GOVERNMENT.

1. Access to information: The Community Alliance agrees with the National Advisory Commission's recommendations that local governments enact and/or strengthen "public right-to-know laws" that provide citizens open and easy access to agency regulations, audits, minutes of meetings, and all other information necessary for meaningful citizen involvement in local governmental processes. Right-to-know laws must stipulate in detail the categories of information available. They must also specify those unavailable to the public, and they should disseminate information concerning: (a) how the public may obtain information that is accessible; and (b) how failure to give public notice will be grounds for declaring meetings "null and void".

In its first special session in 1976, the Maine Legislature repealed an act which sought to revise and clarify the Freedom of Access Law. This act was replaced by new legislation.[1] This new legislation brought within the meaning of the term "public proceedings" the following groups: the Legislature and its committees and

subcommittees; any board or commission of any state agency or authority; the Board of Trustees of the University of Maine; the Board of Trustees of the Maine Maritime Academy; and any board, commission, agency or authority of any county, municipality, school district or other political or administrative subdivision. All are therefore subject to the new legislative enactment. The new legislation provides that all public proceedings be made open to the public, except for those times when the agencies and bodies subject to the law meet in executive session. Executive sessions may not be used to defeat the purposes of the enactment, however. Further, the procedure for calling executive sessions, as well as the matters which may be considered in executive session, are specific and limited. Lastly, public notice must be given of all public proceedings at which expenditure of public funds, taxation or policy are to be discussed.

With regard to those public records which must be made open to public inspection, there are five exceptions: (1) those records which are designated confidential by statute; (2) records within the scope of privilege against discovery if sought in the course of a court proceeding; (3) records, working papers and inter- and intra-office memoranda used by Legislators, Legislative agencies or employees to prepare House and Senate papers or reports for legislative consideration or consideration of any of its committees; (4) material prepared for and used specifically and exclusively in preparation for negotiations, including bargaining proposals for use of a public employer in collective bargaining; (5) records, working papers, inter- and intra-office memoranda used by or prepared for subcommittees of the University of Maine Board of Trustees, Maine Maritime Academy Board of Trustees, or faculty and administrative committees of both institutions. Finally, the new legislation provides that the public may tape or film public proceedings, subject to reasonable rules or regulations promulgated by the public body or agency holding the proceedings. The Act provides for a written record of certain kinds of decisions, and establishes an appeals procedure. It also makes any willful violation of any requirement of the law a Class "E" crime.

Maine's Right to Access law is in many ways analagous to the federal government's Freedom of Information Act.[2] However, the primary thrust of the federal law is disclosure, while the focus of the Maine law is access. This difference in approach is

significant. Although the Maine law is designed to be construed liberally, the public record exceptions to access, taken as a whole, weaken the Legislation's implied intent. Examples of this are: (1) records designated confidential by statute and where no discretion is allowed for disclosure or records specifically exempted by statute where particular criteria for withholding information have been established, are exempt; (2) records within the scope of a privilege against discovery if sought in the course of a court proceeding, are exempt; (3) a wholesale exemption is made for records, memos and working papers of legislators, legislative agencies, or legislative employees during the biennium in which the proposal or report is prepared. All of these seriously reduces the meaningful invlovement of any citizen in governmental processes. In effect, this exception makes citizen involvement an after-the-fact affair. There is little opportunity to intelligently monitor and influence decisions as they are made. It is difficult to gain access to the facts which influence legislative decisions before they are made. The federal approach would allow any segregable portion of such material to be provided, unless specifically excepted, e.g., material solely related to internal personnel rules and practices, or material which constitutes an unwarranted invasion of personal privacy. These criticisms apply to the last exception in the Act which addresses itself to the University of Maine, the Maine Maritime Academy, and their faculties and administrative committees. The fourth exception, "negotiation proposals and collective bargaining material", is necessary to protect the parties involved and to avoid undue advantage.

Maine's Right to Access Law, although limited in scope, permits certain records and proceedings to be scrutinized by the public. However, the law encourages access rather than actual citizen participation in government processes. In its 1977 regular session, the Maine Legislature enacted new administrative procedures which go a long way to encourage actual citizen involvement in agency decision-making. The new procedures are applicable to agencies alone, and not to the Legislature, Governor, courts, University of Maine or Maine Maritime Academy, school districts, special purpose districts, municipalities, counties or other political subdivisions of the State. Nonetheless, the new procedures do illustrate the need for governmental procedures to be responsible to the general public. The new procedures contain optional (unless otherwise required by statute) provisions which require public hearings to be held prior to any rulemaking. The procedures include adequate notice,

publication of rules, and strict filing requirements. While the new procedures could be improved by mandating public hearings on rulemaking, or by including those entities exempted (above), nevertheless they do give statutory support for more accountable rule and decision-making.

In sum, Maine's Right to Access Law is commendable in theory, but its many exceptions render it somewhat less commendable in practice. It provides no check for entities which meet in private to set agendas, make rules and determine other 'non-substantive' matters which may affect public participation. Its limitations on notice, its failure to specify a simple, identifiable process through which one may obtain public records, and the absence of a designated, centralized place from which one may obtain public records, all combine to weaken the law. "Sunshine provisions", which would mandate public hearings in a variety of locations in order to consider public sentiment on issues of concern, are wholly lacking. While the access law may prove significant in its attempt to open state processes to the people of Maine, it does not succeed in providing the public with a way to participate meaningfully or substantially in state processes.

CITIZEN RECOMMENDATION

	YES	NO
Do you support complete public "right-to-know" laws in all areas of government?	75%	25%

STANDARD 1.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THERE BE SPECIFIC POLICIES ON THE DISTRIBUTION OF INFORMATION TO THE GENERAL PUBLIC.

The Community Alliance supports the recommendation that local governments permit radio and television stations to cover official meetings and public hearings on a regular basis. Cooperation with media should include allowing the taping of town government, city or county council meetings at which significant or controversial issues are discussed. Local governments in communities with cable televsision systems should develop television programming capabilities to make effective use of the government access channel provided by FCC regulations. Public affairs and staff and communications specialists should be employed to develop this capability in larger units of government.

STANDARD 1.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT PUBLIC HEARINGS BE CONDUCTED TO GIVE MAXIMUM EXPOSURE TO ALL GOVERNMENTAL PROGRAMS AND ACTIVITIES.

The Alliance's Citizen membership recommend that public hearings be held on all issues of general interest, so that government officials may receive important input from citizens on the real concerns of the community.

1. Subject Matter: Hearings should be scheduled to consider such issues as town, city and county budgets, setting of priorities for allocating resources, public housing and urban renewal site selection, zoning changes, location of park and public works facilities, area security and governmental policy changes.

2. Timing: Prior to official designation of projects and priorities, citizens should have the opportunity to determine the projects most suitable to them, and to make their views known through public hearings. Once a project has been designated, it is important that public hearings be held during various stages of project development. In some cases this may be in the pre-planning stages, but in all cases it should occur during the planning process.

3. Convenience: To ease transportation problems and encourage maximum participation, hearings should be held in a facility as close as possible to the affected population, e.g., in neighborhood schools, community centers, churches, or other local facilities. Hearings should be scheduled when most of the affected citizens are available (usually evenings and weekends).

4. Official Interest: The principal elected and administrative officials should conduct the hearings so that there is an exchange of first-hand, accurate information between the public and those who have authority to make decisions.

STANDARD 1.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL JURISDICTIONS TAKE POSITIVE STEPS TO PUBLICIZE PENDING ACTIONS AND ACTIONS TAKEN IN THE ZONING, LICENSING, AND TAX ASSESSMENT AREAS.

1. Pending and taken decisions should be summarized, compiled, and distributed to public interest groups, the media and any citizen requesting regular receipt of such summary.
2. Jurisdictions should compile mailing lists of parties interested in categories of decisions and should actively solicit citizens and agencies to submit their names to it.
3. The summary presentation should be prepared in layman's language; it should identify all public officials and private parties involved, contain a description of the results of the pending or approved action and describe where further information can be obtained.
4. The publicized report of government decisions also should contain summaries in layman's language of all audits, performance reviews and other analyses of agencies' operations.

CHAPTER II

EMPLOYMENT PRACTICES

Inequities in employment practices and the economic conditions influenced by these practices have a direct effect on the criminal justice system.

Full employment, general job training, and job opportunities for the offender and ex-offender are superseded only by the need to consider them as effective measures for crime prevention.

Citizens feel that employment practices are one of the two major causes in the development of adult crime. Educational policy is the other element. They also feel the employment practices have a major effect on juvenile crime and social life. They support special labor regulations that would allow more young people to secure employment.

Recent research has found a close correlation between the umemployment rate and the change in size of the population of federal and state prisons. The relationship was found to be direct -- as unemployment rises, so does the number of new prison admissions each year; as it falls, the number of prison admissions drops, with a one-year lag in the federal prison system.[3] The findings suggest that the unemployment rate influences prison populations. High levels of unemployment could lead to social unrest and a lessening of support for social institutions, which possibly affect, in turn, crime rates and sentencing policies.

CITIZEN RECOMMENDATION

What do you consider to be the area (s) in Community Crime Prevention that most effect the development of crime? (Rate 1-7 in priority)

			#
A.	Economic conditions	15%	5
B.	Employment practices	22%	2
C.	Educational policy	23%	1
D.	Recreational opportunities	15%	4
E.	Social services	16%	3
F.	Zoning	1%	7
G.	Governmental administration	7%	6

THE COMMUNITY ALLIANCE RECOGNIZES THE IMPORTANCE OF EMPLOYMENT PRACTICES AND OPPORTUNITIES AND THEIR EFFECT ON CRIMINAL ACTIVITIES.

STANDARD 2.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT ECONOMIC POLICY CONCENTRATE ON MAINTAINING AGGREGATE EMPLOYMENT AT A HIGH LEVEL. FURTHER, STATE AND LOCAL GOVERNMENTS SHOULD STRUCTURE THEIR EXPENDITURES AND TAXES TO HAVE THE GREATEST IMPACT ON EMPLOYMENT, INCOME AND CREDIT AVAILABILITY IN HIGH POVERTY AREAS.

The following objectives should guide employment policy. First, the unemployment rate in poverty areas should be no greater than the current national rate. Second, monetary restraint should be applied so as to have the least impact on low income areas. Third, public agencies should be required to consider the impact of their relocation decisions on local economic conditions. Finally, programs to benefit poverty areas should be staffed as much as possible by residents of those areas.

CITIZEN RECOMMENDATIONS	YES	NO
Should the State of Maine have an "economic plan" for the State? The plan would provide for on-going economic development and contingency action for any type of economic emergency.	97	3

There exists no comprehensive economic plan for Maine as might exist in an entity where the government plans the economy. In addition, with the abolition of the Department of Commerce and Industry (DCI) in 1975, there is no longer a single agency whose sole purpose is to plan for Maine's economic future even though the State Planning Agency does perform some of this function.

When DCI was established, some if its responsibilities were transferred to the State Planning Office. The most important function transferred was the Research and Planning Division. That Division has continued to analyze economic trends and to project them into the future. The Division is presently attempting to develop reliable econometric models to assist in making more accurate predictions of the effect of events on Maine's economy.

However, the absence of a single plan does not imply inactivity. In 1975, the Governor's Economic Advisory Commission, composed of thirty private persons involved in business and industry, prepared a comprehensive analysis of ways to improve Maine's economy. This report led to the passage of legislation originally prepared to revamp the powers of the Maine Guarantee Authority to make it a more effective tool for economic development.

The major initiative in economic planning has been the work of the Commission on Maine's Future. Three years in the works, the Commission's final report has focused on two issues: (1) what kind of economic development does Maine want? and (2) what kind of economic development can Maine have? The role of the Commission is to reconcile the two questions. The Commission has received testimony from many Maine citizens and from scores of experts from within and without Maine. Much of the testimony has focused on political issues, such as the conflict between industry and the environment. The contribution of the Commission to planning Maine's economic future will be clear only when the final report is issued. Therefore, the State's administrative agencies have shown reluctance to make plans of their own before the report is issued. The State Planning Office's Economic Planning Division is preparing an analysis of Maine's economic strengths and weaknesses, which will be developed into a plan after the Commission issues its report. Other serious efforts to maximize development of Maine's ports, fisheries, tourism and forest resources by individual agencies also await the Commission's plan.

STANDARD 2.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT EMPLOYERS AND UNIONS INSTITUTE AND ACCELERATE EFFORTS TO EXPAND JOB OR MEMBERSHIP OPPORTUNITIES TO ECONOMICALLY AND EDUCATIONALLY DISADVANTAGED YOUTH.

The President's Commission on Law Enforcement and Administration of Justice recommended that:

> Efforts, both private and public...be intensified to: prepare youth for employment; provide youth with information about employment opportunities; reduce barriers to employment posed by...maintenance of rigid job qualifications, and create new employment opportunities.[4]

The President's Commission suggested that employers take the initiative in reconsidering job requirements and in hiring youths who may lack some non-essential qualification.[5]

These efforts should include the elimination of arbitrary selection criteria, and exclusionary policies based on factors such as minimum age requirements and bonding procedures.

The White House Conference on Youth made the following proposals:

> To expand the job opportunities available to disadvantaged youth...employers (should) re-examine their hiring requirements;...States (should) review existing laws...which bar young people from employment... Business should accelerate its efforts to employ youth.[6]

Employers and unions should also support actions to remove unnecessary or outdated State and Federal labor restrictions on employing young people. Finally, employers should institute or expand training programs to sensitize management and supervisors to the special problems young people may bring to their jobs.

STANDARD 2.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT EACH COMMUNITY OR AGENCY BROADEN ITS AFTER-SCHOOL AND SUMMER EMPLOYMENT PROGRAMS FOR YOUTH, INCLUDING THE 14-AND 15-YEAR OLDS WHO MAY HAVE BEEN EXCLUDED FROM SUCH PROGRAMS IN THE PAST.

These programs may be sponsored by governmental or private groups, but should include such elements as recruitment from a variety of community resources, selection on the basis of economic need and a sufficient reservoir of job possibilities. The youth involved should have the benefit of an adequate orientation period with pay, and an equitable wage.

Local child labor regulations must be changed wherever possible to broaden employment opportunities for youth. Non-hazardous jobs with real career potential should be the goal of any legislation in this area.

The President's Commission on Law Enforcement and Administration of Justice recommended that governments, schools, labor organizations, and businesses mount broad-based attacks on youth employment problems. The Commission suggests that placement activities be expanded to provide for part-time, "in school" jobs, as well as permanent employment upon graduating or leaving school. It also recommended that employment programs be created or adapted to combine academic education, vocational training, and on-the-job experience, for purposes of immediate financial assistance and future employment.[7]

Most government sponsored work programs (e.g., SPEDY) are in full operation generally in the summer months and not during the school year. Additionally, the guidelines for entrance into these programs are usually very stringent and closely tied to the income level of the juvenile's family. Unfortunately, restrictions such as these eliminate many of the juveniles who are in need of work to occupy their time and who are not eligible for help because their family income is out of range. The problem of juvenile delinquency is not restricted by income levels. The Committees strongly urge the modification of labor laws in order to enable youth to obtain work.

CETA funds have been used quite extensively by other states (Illinois, New York) to develop and operate youth employment programs. The apparent benefits

of such programs include, but are not limited to: teaching youths job skills and positive work habits; providing for meaningful activity in place of idle time in the evenings and summer when most youths get in trouble; providing financial income for savings and expenses; and providing employers with capable employees.

CITIZEN RECOMMENDATIONS

	YES	NO
Should there be more flexibility in the age limitations for hiring youth?	89%	11%
Should there be special labor regulations to allow more young people to secure employment?	89%	11%

STANDARD 2.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT COMMUNITY-BASED PRE-TRIAL INTERVENTION PROGRAMS OFFERING MANPOWER AND RELATED SUPPORTIVE SERVICES BE ESTABLISHED IN ALL COURT JURISDICTIONS.

Such programs should be based on an arrangement between prosecutors or courts and offenders, and both should decide admissions criteria and program goals. Intervention efforts should incorporate a flexible continuance period of at least 90 days, during which the individual would participate in a tailored job training program. Satisfactory performance in that training program would result in job placement and dismissal of charges, with arrest records maintained only for official purposes and not for dissemination.

Other program elements should include a wide range of community services to deal with any major needs of the participant. Legal, medical, and counseling assistance, housing or emergency financial support should be readily available. In addition, ex-offenders should be trained to work with participants in this program, and court personnel should be well informed about the purpose and methods of pre-trial intervention. (See the National Advisory Commission's Report on Courts for a detailed discussion of this issue).

CITIZEN RECOMMENDATION

	YES	NO
Would you support pre-trial intervention programs in conjunction with job training and job placement	89%	11%

STANDARD 2.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT EMPLOYERS INSTITUTE OR ACCELERATE EFFORTS TO EXPAND JOB OPPORTUNITIES TO OFFENDERS AND EX-OFFENDERS.

These efforts could include the elimination of arbitrary personnel selection

criteria and exclusionary policies based on such factors as bonding procedures or criminal records. Finally, employers should institute or expand training programs to sensitize management and supervisors to the special problems offenders and ex-offenders may bring to their jobs.

The offender and ex-offender's need to secure employment is even more acute and will call for greater attention and public persuasion.

The President's Commission on Law Enforcement and Administration of Justice urged that public employment opportunities be expanded and that jobs be made more readily available to "those who would otherwise have great difficulty in finding work because of a criminal record or lack of education". The Commission also suggested areas of employment to be expanded.[8]

CITIZEN RECOMMENDATIONS

	YES	NO
Should job training and placement be stressed for institutionalized offenders?	90%	10%
Should ex-offenders be offered job training and job placement services?	91%	9%
Do you favor the "furlough system" (work release) where inmates can be released daily for outside employment?	70%	21%

STANDARD 2.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT PUBLIC EMPLOYMENT PROGRAMS BE CREATED TO PROVIDE MORE REWARDING AND PROMISING JOBS FOR EX-OFFENDERS AND OTHERS TRADITIONALLY SHUT OUT OF THE JOB MARKET.

These jobs should be genuine efforts to develop or utilize skills that will lead to future advancement, rather than dead-end make-work assignments.

Affirmative administration of these programs would require preferential hiring for the target groups to be aided, along with regulations tying the availability of public employment funds to those efforts of local governments to place members of target groups in a certain percentage of the total jobs created.

Finally, public employment legislation should provide funds for closely monitoring programs and the necessary technical assistance to assure job opportunities for those most in need.

CITIZEN RECOMMENDATION

	YES	NO
Could you support (programmatically and financially) expanded public employment programs for offenders and ex-offenders?	65%	35%

STANDARD 2.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT GOVERNMENT PROCUREMENT OFFICERS, CONTRACTORS, AND UNIONS BE REQUIRED TO COMPLY FULLY WITH THE ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION REQUIREMENTS OF EQUAL JOB OPPORTUNITY MANDATES, SO THAT MINORITY WORKERS CAN BE EQUITABLY REPRESENTED IN ALL JOB CATEGORIES OF A PARTICULAR INDUSTRY.

All governments receiving federal funds must comply with anti-discrimination and affirmative action policies in procurement and hiring. In addition, all who employ over a certain number must comply with Federal laws and regulations in the same area. There is no shortage of laws, but there is a shortage of enforcement mechanisms.

CITIZEN RECOMMENDATION

	YES	NO
Should government officers, contractors, and unions be required to comply with the anti-discrimination and affirmative action requirements of equal job opportunity mandates?	89%	11%

CHAPTER III

EDUCATIONAL POLICY

Of all areas of public policy, educational policy and practice have the most far-reaching effect on our society. Used to their maximum, they have tremendous potential to reduce crime and integrate individuals into productive life styles. Since deviant behavior is the result, in part, of learned socialization processes, the social environment, including the schools, can help to motivate either law-abiding or delinquent behavior.[9, 10]

Evidence strongly supports the link between delinquent -- criminal activity and the failings of the educational system. Of course, additional burdens have been placed upon the educational system by the failure of the home environment. The 1976 Uniform Crime Report of the Federal Bureau of Investigation (FBI) indicates that 47.6 percent of all property offense arrests involve persons of school age. Persons under 18 constitute approximately 55.1% of all persons charged with automobile theft, 53.8% of burglary, 44.6% of larceny, 18.7% of all persons charged with forcible rape, and 33.0% of all persons charged with robbery. Both the FBI and the Children's Bureau of the U.S. Department of Health, Education and Welfare present juvenile court statistics that indicate that roughly 53.4% of all youth exhibits behavior that if continued, will lead to juvenile court appearances.

The American educational system has failed to sufficiently separate its responsibility to provide learning conditions for the development of human beings from its concern with operating schools. It has not seen itself as part of a process providing different experiences for people maturing into adults. As a consequence, it has found little need to look at itself as an instrument which would contribute to either the prevention or reduction of crime.

The areas addressed by the Standards and Goals-Community Alliance in education policies and direction are:

1. Curricula development;
2. Supportive Service; and
3. Alternative education.

THE COMMUNITY ALLIANCE IS DEEPLY CONCERNED WITH THE RESPONSE OF THE EDUCATIONAL COMMUNITY TO THE NEEDS OF THE TOTAL POPULATION.

STANDARD 3.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT SCHOOLS DEVELOP PROGRAMS THAT ASSIST CAREER PREPARATION FOR EVERY STUDENT IN EITHER AN ENTRY LEVEL JOB OR AN ADVANCED PROGRAM OF STUDIES, REGARDLESS OF THE TIME HE LEAVES THE FORMAL SCHOOL SETTING.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Adoption of the basic concepts, philosophy, and components of career education, as proposed by the Office of Education;
2. Use of the microsociety model in the middle grades. Where this model is adopted, it will be important to realize that its central purpose is to create a climate in which learning is enhanced by underlining its relevance to the larger society outside the school;
3. Awareness, through experiences, observations, and study in grades kindergarten through 6, of the total range of occupations and careers;
4. Exploration of selected occupational clusters in the junior high school;
5. Specialization in a single career cluster or a single occupation during the 10th and 11th grades;
6. Guarantee of preparation for placement in entry-level occupation or continued preparation for a higher level of career placement, at any time the student chooses to leave the regular school setting after age 16;
7. Use of community, business, industrial, and professional facilities, as well as the regular school, for career education purposes;
8. Provision of work-study programs, internships, and on-the-job training;
9. Enrichment of related academic instruction-communication, the arts, math, and science through its relevance to career exploration; and

10. Acceptance of responsibility by the school for students after they leave, to assist them in the next move upward, or to re-enroll them for further preparation.

STANDARD 3.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE SCHOOLS PROVIDE PROGRAMS FOR SUPPORTIVE SERVICES---HEALTH, COUNSELING, AND GUIDANCE---TO FACILITATE THE POSITIVE GROWTH AND DEVELOPMENT OF STUDENTS.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Greater emphasis on counseling and human development services in the primary and middle grades;
2. Personnel who understand the needs and problems of students, including minority and disadvantaged students;
3. An advocate for students in all situations where legitimate rights are threatened and genuine needs are not being met;
4. The legal means whereby personnel who are otherwise qualified but lack official credentials or licenses may be employed as human development specialists, counselors, and advocates with school children of all ages; and
5. Coordination of delivery of all child services in a locality through a school facilitator.

Counseling at the public school level has been for many years an identified need but a low priority due to the lack of funding. But its inherent usefulness in coping with the dropout and/or the identified delinquent is apparent.

STANDARD 3.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT SCHOOLS PROVIDE ALTERNATIVE PROGRAMS OF EDUCATION.

These programs should be based on:

1. Acknowledgement that a considerable number of students do not learn in ways or through experiences that are suitable for the majority of individuals.
2. Recognition that services previously provided through the criminal justice system for students considered errant or uneducable should be returned to the schools as a responsibility of education.

A variety of methods and procedures could be established to meet this goal. Among them are the following:

1. Early identification of those students for whom various parts of the regular school program are inappropriate; and
2. Design of alternative experiences that are compatible with the individual learning objectives of each student identified as a potential client. The services would include:
   (a) shortening the program through high school to 11 years;
   (b) recasting the administrative format, organization, rules of operation, and governance of the 10th and 11th grades to approximate the operation of junior colleges;
   (c) creating crisis intervention centers to head off potential involvement of students with the law;
   (d) creating juvenile delinquency and dropout prevention programs;
   (e) offering private performance contracts to educational firms; and
   (f) substituting State-owned facilities and resources for regular school settings.

A major concept which would meet some needs of school populations is career education. Rather than adding on a separate program to the present educational system, career education could be an integral part of all academic, general, and vocational subjects which would provide "...a continuous opportunity for integrating talent, personal values, and economic fulfillment" from kindergarten through the 12th grade (Community Crime Prevention, 1973). Career education presents the spectrum of career opportunities to a pupil early in life, guides him to identify his personal attributes in particular careers, and instructs him in the fundamental aspects of a career.

While this career education is predominant, the pupil is also encouraged to achieve his potential in academic skills -- reading, math, writing, etc. The ultimate goal of career education is to teach the student the rudiments of personally selected occupations, to increase his retention of abstract academic material by relating it to career experiences, and to identify these goals for academic achievement, while maximizing his awareness of himself. Career education can increase a student's self-worth and image of himself, since in order to experience

one's strengths rather than just one's weaknesses, the majority of students must actively participate. This requires more than a mere mental inducement. It requires stimulation and challenge through direct experience in an area being studied (R. Laing, 1967).

CITIZEN RECOMMENDATIONS

	YES	NO
Do you feel that the school systems should take more responsibility for juvenile treatment programs?	70%	30%
Should alternative educational programs be developed to address the needs of juveniles?	89%	11%
Should special educational programs be offered to these youths who are in difficulties with the law?	81%	19%
Should schools expand their counseling services?	86%	14%
Should school systems become involved in job placement programs?	70%	30%

The school system thus becomes the center of community life and discipline, and it should, in this endeavor, attempt to strengthen the family unit.

STANDARD 3.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT SCHOOL FACILITIES BE MADE AVAILABLE TO THE ENTIRE COMMUNITY AS CENTERS FOR HUMAN RESOURCE AND ADULT EDUCATION PROGRAMS.

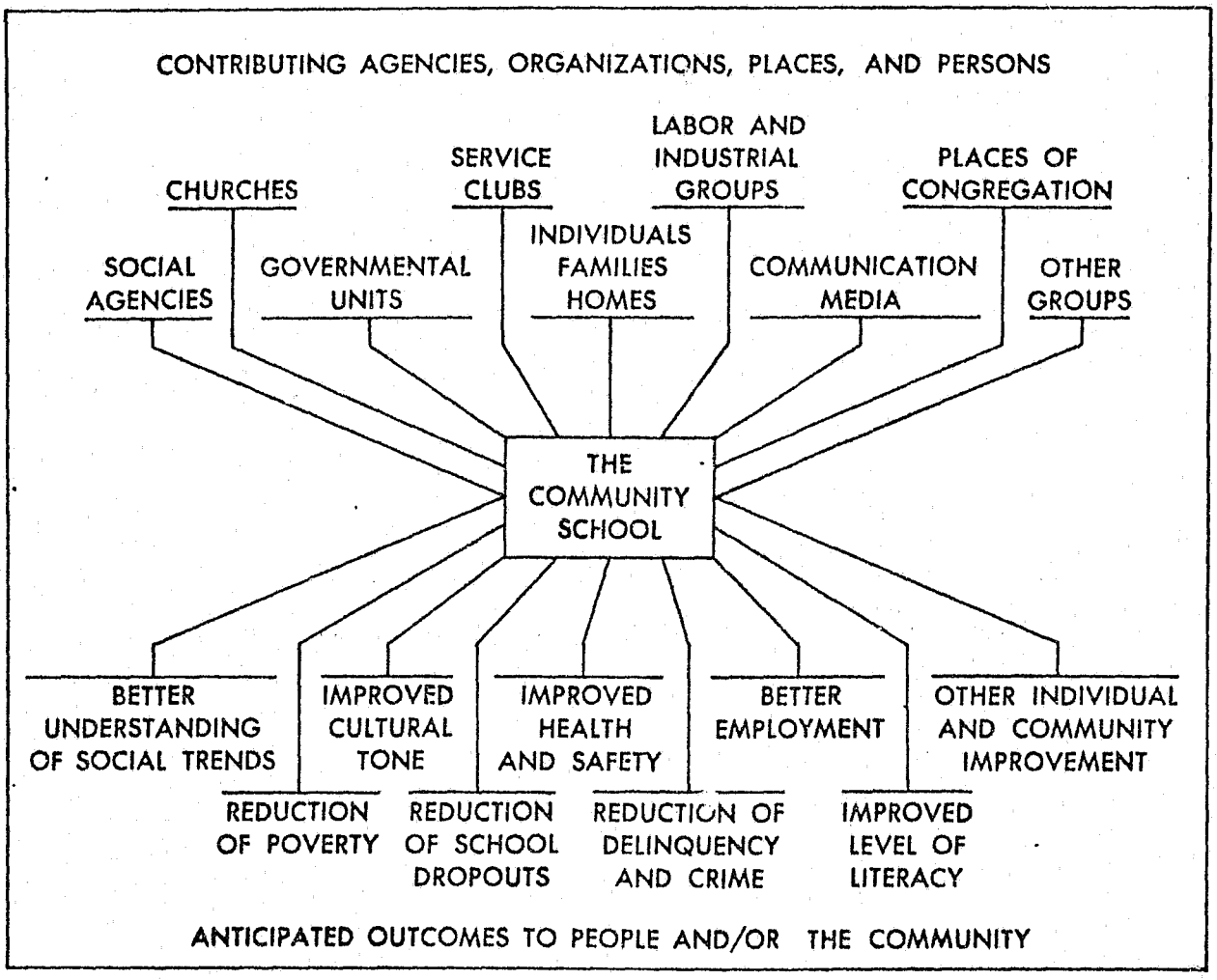
The National Advisory Commission on Criminal Justice Standards and Goals recommends that school facilities be made available to the entire community as centers for human resources and adult education programs.[11]

Further, the National Advisory Commission on Civil Disorders has recommended:

> School facilities...be available during and after normal school hours for a variety of community service functions, delivery of social services by local agencies (including health and welfare), adult and community training and education programs, community meetings, recreational and cultural activities.[12]

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. scheduling of facilities on a 12-month, 7-day-a-week basis;
2. elimination or amendment of archaic statutory or other legal prohibitions regarding use of school facilities; and
3. extended use of cafeterias, libraries, vehicles, equipment, and buildings by parents, community groups, and agencies.



The citizen has identified "Educational Policy" as one of the two (first) most effective tools in Community Crime Prevention and its use in controlling the development of crime.

CHAPTER IV

RECREATIONAL OPPORTUNITIES

> "Recreation will not solve the important social and economic problems of our time. Recreation is, in fact, trivial compared to the problems of unemployment, bad housing, hunger, disease, racism, and war. But we are heading toward a time in this country when recreation will be one of our main occupations. As the work week grows shorter the leisure week will expand to fill the time. And we will be no better for the lessening of burdensome or boring work if our leisure is only another burden and bore."[13]

The Community Alliance accepted totally the National Advisory Commission's comments and rationale on recreation and overwhelmingly supports its recommendations. The citizens do feel that recreational programs should be closely coordinated with "Youth Service Bureaus", for the effectiveness of both programs could be enhanced with this cooperation.

THE COMMUNITY ALLIANCE NOTES THE FACT THAT APPROPRIATE RECREATIONAL FACILITIES ARE NOT AVAILABLE TO ALL SOCIAL, ECONOMIC AND GEOGRAPHIC CLASSIFICATIONS OF PEOPLE IN MAINE.

STANDARD 4.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT RECREATION BE RECOGNIZED AS AN INTEGRAL PART OF AN INTERVENTION STRATEGY AIMED AT PREVENTING DELINQUENCY. IT SHOULD NOT BE RELEGATED TO A PERIPHERAL ROLE.

1. Recreation programs should be created or expanded to serve the total youth community, with particular attention devoted to special needs arising from poor family relationships, school failure, limited opportunities, and strong social pressures to participate in gang behavior.
2. Activities that involve risk-taking and excitement have particular appeal to youth, and should be a recognized part of any program that attempts to reach and involve young people.
3. Municipal recreation programs should assume responsibility for all youth in the community and emphasize outreach services involving roving recreation workers to recruit youths who might otherwise not be reached and for whom recreation may provide a deterrent to delinquency.
4. Special programs should be developed to deal with disruptive behavior and should be added to existing activities in a way that will neither exclude nor label youths who exhibit disruptive behavior.

5. Counseling services should be made available, either as part of the recreation program, or on a referral basis, to allied agencies in the community, for youths who require additional attention.
6. Participants should decide what type of recreation they desire.
7. Recreation as a prevention-strategy should involve more than giving youth something to do; it should provide job training and placement, education, and other services.
8. Individual needs rather than mass group programs should be considered in recreation planning.
9. Communities should be encouraged, through special funding, to develop their own recreation programs, with appropriate guidance from recreation advisers.
10. Personnel selected as recreation leaders should have intelligent, realistic points-of-view about the goals of recreation and its potential to help socialize youth and prevent delinquency.
11. Recreation leaders should be required to learn both preventive and constructive methods of dealing with disruptive behavior, and they should recognize that an individual can satisfy his recreational needs in many environments. Leaders should assume responsibility for mobilizing resources and helping people find personally satisfying experiences.
12. Decision-making, planning, and organization for recreation services should be shared with those for whom the programs are intended.
13. Continual evaluation to determine whether youth are being diverted from delinquent acts should be a part of all recreation programs.
14. Parents should be encouraged to participate in leisure activities with their children.
15. Maximum use should be made of existing recreational facilities-in the afternoons and evenings, on weekends, and throughout the summer. Where existing recreational facilities are inadequate, other community agencies should be encouraged to provide facilities at minimal cost, or at no cost where feasible.

STANDARD 4.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT CONSIDERATION BE GIVEN TO A REGIONALIZED OR MULTI-TOWN APPROACH TO RECREATIONAL PROGRAMS THAT MIGHT BE TOO LARGE OR COSTLY TO IMPLEMENT IN A SINGLE COMMUNITY. THE POSSIBILITY OF FUNDING PRIVATE ORGANIZATIONS TO ENABLE THEM TO UNDERTAKE OR EXPAND RECREATIONAL PROGRAMS SHOULD ALSO BE EXPLORED.

CHAPTER V

RELIGIOUS INVOLVEMENT

Organized churches and religious groups can exert great influence, and can assume leadership in creating social changes. The religious community and organized churches represent a valuable resource in buildings, recreational and educational expertise, and in manpower. These can be assets in the prevention of crime. The church can more fully recognize and utilize its existing knowledge and abilities to bring about a better understanding of the criminal justice system and reforms in the community that might prevent criminal activity.

Religious groups should organize and administer programs that are designed to prevent crime; they should encourage their members to become involved in these programs as well as to volunteer for programs administered by criminal justice agencies. Such programs should be coordinated with other community projects to avoid overlapping of services.

The church offers other valuable resources. Their buildings are usually in the midst of communities and are not fully utilized. They employ personnel trained to recognize people's needs and to help them solve their problems. The church also has facilities for educational and recreational activities, as well as communications with community organizations and state, regional and national associations.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE LACK OF ACTIVE INVOLVEMENT OF THE RELIGIOUS COMMUNITY IN CRIMINAL JUSTICE PROGRAMS AND PROJECTS.

STANDARD 5.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT RELIGIOUS COMMUNITIES WORK CLOSELY WITH ALL ASPECTS OF THE CRIMINAL JUSTICE SYSTEM.

1. The Community Alliance recommends that the religious community support and promote private and public efforts to recruit citizens for volunteer work in criminal justice programs.
2. The Community Alliance recommends that religious and lay leaders in all congregations educate their constituencies about the crime problem, so that citizens can respond more effectively.

3. The Community Alliance recommends that religious institutions use their influence and credibility in the larger community to create a climate of trust and to furnish a neutral setting for discussion of crime and criminal justice.
4. The Community Alliance recommends that congregations use their buildings, facilities, and equipment for community programs, especially those for children and youth.
5. The Community Alliance recommends that the religious community actively particiapte in and support the operations of the local criminal justice system. Assisting probation services, voluntary participation in programs designed to promote better police and community relations, and periddic visits to correctional facilities are practical examples of the type of community involvement that results in more accountability and better performance by the system.

CHAPTER VI

INTEGRITY IN GOVERNMENT

The standards by which we judge others are many times higher than the standards by which we measure ourselves. Nowhere is this more true than in the public's attitude toward its public officials. If the conduct of public officials is not exemplary, then the ripple effects cause doubts, mistrust and retaliation on the public's part. Here again, the Community Alliance accepts almost unanimously the recommendations of the National Commission on Standards and Goals.

Maine has no law requiring all public officials or candidates for public office to disclose the sources of their income. Nor does any similar requirement exist for members of the judiciary.

The law coming closest to a full disclosure requirement is that creating the Government Ethics Commission, which requires every person elected to the legislature to file with the Commission a statement of all sources of income to himself or his immediate family in excess of $300 for the preceeding year. Further, any changes in income must be reported within thirty days. However, the name of the source need not be reported. For example, if a legislator were an employee of Maine Central Railroad, he need only report his income as coming from a "railroad" or a "transportation industry". Until 1977, these reports were confidential. However, a 1977 amendment to the statute makes the report part of the public record.

Title 3 MRSA 311 requires lobbyists to disclose their employers, expenses, and remunerations.

Title 21 MRSA 1 et seq. requires candidates for county, state and federal office to disclose all contributions of cash or things of value in excess of $500.

Judges are prohibited from receiving monies from outside sources by the Judicial Code as promulgated by the Maine Supreme Judicial Court.

THE COMMUNITY ALLIANCE IS SERIOUSLY CONCERNED WITH THE STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS AND EMPLOYEES.

STANDARD 6.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THERE BE A SINGLE STATEWIDE CODE OF ETHICS IN THE STATE OF MAINE COVERING ELECTED AND APPOINTED OFFICIALS AS WELL AS EMPLOYEES AT ALL LEVELS OF GOVERNMENT.

The Code should contain but not be limited to the following:

1. Public officials shall, at all times, conduct themselves in a manner that reflects creditably on the office they serve. Public officials shall not use their offices to gain special privileges and benefits.
2. Public officials shall refrain from acting in their official capacities when their independence of judgment would be adversely affected by personal interests or duties. An official shall disqualify himself from official action when his independence of judgment is impaired by conflicting interests or duties.
3. Public officials shall refrain from accepting gifts, favors, services, or promises of future employment that could relate to or influence the performance of their official duties.
4. Public officials shall refrain from serving in representative capacities, and from offering any overt or covert assistance to any persons or businesses for any matter such persons or businesses have before a government agency or commission. This precludes representation by an official of any business or partnership with which the official is closely associated. This provision does not include the rendering of routine assistance to constituents. The provision shall continue to apply for one year after public officials leave office.
5. Public officials shall refrain from accepting other positions of employment that might interfere with the performance of public duties, because they consume an undue amount of time or because they involve possibly conflicting duties.

CITIZEN RECOMMENDATION

	YES	NO
Should strict "Codes of Ethics" for ALL public officials be enacted with proper enforcement procedures included?	96%	4%

THE COMMUNITY ALLIANCE FEELS THAT DISCLOSURES, CONFLICT OF INTEREST, CAMPAIGN INCOME AND EXPENDITURE LIMITATIONS AND SOURCE OF INCOME REGULATIONS ARE NOT COMPREHENSIVE ENOUGH NOR FULLY ENFORCED.

STANDARD 6.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT MAINE ADOPT STRONG AND ENFORCEABLE LEGISLATION REQUIRING FULL AND COMPLETE DISCLOSURE OF STATE AND COUNTY PUBLIC OFFICIALS AND CANDIDATES ASPIRING FOR THESE OFFICES IN ORDER TO ELIMINATE THE POSSIBILITY OF CONFLICT OF INTEREST.

CITIZEN RECOMMENDATION

To what degree should financial interests and conflict of interests be disclosed?

A.	Complete disclosure	70%
B.	Only source of income	14%
C.	Listings of all business and professional contacts	9%
D.	All investments	3%
E.	All debts owed	4%

STANDARD 6.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT STATES DEFINE AS VIOLATIONS OF THEIR CRIMINAL CODES CERTAIN SITUATIONS INVOLVING CONFLICTS OF INTEREST, AND SHOULD ASSIGN MEANINGFUL PENALTIES WHEN SUCH VIOLATIONS CONSTITUTE A SERIOUS AND SUBSTANTIAL ABUSE OF PUBLIC OFFICE.

State criminal codes should include the following minimum provisions:

1. No public official shall use confidential information for the purpose of financial gain to himself or to any other person. This provision shall continue to be applicable for two years after an official leaves office.
2. No public official shall accept compensation, gifts, loans, privileges, advice and assistance, or other favors from private sources for the performance of tasks within the scope of his public office.
3. No public official shall represent another person before a court, or before a government agency or commission, when such client is claiming rights against the government.
4. No public official, and no business in which a public official has a substantial interest (including, but not limited to substantial financial investments, directorates, and partnerships) shall enter into a contract with the government or with a business regulated by the government, unless the contract has been awarded through a competitive bidding process with adequate public notice. This provision shall continue to be applicable for one year after the official leaves office.
5. Any official or candidate for public office alleged to be in violation of the above criminal provisions shall be granted a prompt preliminary hearing. If tried and convicted, he shall be guilty of a felony.
6. Any elected official convicted of any felony or misdemeanor involving moral turpitude shall be removed from office. Similarly, any appointed official convicted shall be suspended from his duties.

CITIZEN RECOMMENDATION

	YES	NO
Should strong penalties be enacted to prohibit public officials from entering into unlawful or questionable practices?	94%	6%

STANDARD 6.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL SIGNIFICANT RECEIPTS AND EXPENDITURES BY EVERY STATE AND COUNTY CANDIDATE AND ALL ORGANIZATIONS SEEKING TO INFLUENCE ANY STATE-WIDE ELECTION SHOULD BE DISCLOSED PERIODICALLY BEFORE AND AFTER ELECTIONS AND BETWEEN ELECTIONS IN A MANNER THAT INSURES TRANSMISSION OF THESE DISCLOSURES TO THE PUBLIC.

A registration system for qualifying political committees is necessary. All disclosures should be made to a bipartisan Registry of Election Finance that is isolated from political pressures.

Disclosure should be considered as the cornerstone of a larger regulatory scheme. Disclosure should be as accurate and complete as possible, should occur at times when voters can use the information most effectively to judge candidates and parties, should be readily available to those interested, and should be given as wide a dissemination as possible.

1. To insure uniformity, State disclosure regulations should be at least as stringent as those of the Federal Election Campaign Act of 1971, which requires that:

   (a) candidates for nomination or election to Federal Office, and

   (b) committees raising or spending in excess of $1,000 for candidates, register and disclose their finances periodically.

2. Disclosure should be required of all candidates and of any substantial party committees, interest groups, and others who participate in elections, either directly or by raising and spending money in support of those who participate directly. The Federal Election Campaign Act also provides for a system of registering political committees, much as lobbyists must register. Thus, any committee raising or spending in excess of a specified amount ($1,000 in the Federal system) and supporting candidates or undertaking parallel campaigning must register information about the composition of the committee and its support activities. This system is being recommended so that local media, the opposition, and the electorate have ready access to the reports. Furthermore, reports should be available upon request, during regular office hours, in a manner convenient to the public.

3. Disclosure should be frequent enough to keep the public informed about the sources and expenditures of money at every stage of a political campaign, its aftermath, and between elections. Ordinarily this means disclosure should occur before and after each nominating convention or caucus, each primary or run-off primary, and each general or special election. Continuing disclosure should be required at regular intervals between campaigns.

4. Reports should be readily available. Thus they should be filed in the State capitol where they are fully accessible to the media and the public. Duplicates should be filed with an appropriate public official in the county or locality in which any contest below the statewide level is conducted.

5. Reports should meet a test of substantial completeness. They should provide all reasonably pertinent information, while at the same time avoid such bulk and volume which would make them difficult to use. Under the Federal Election Campaign Act of 1971 (Title III § 302 and 304), only receipts and expenditures in excess of $100 must be itemized; others must be reported in totals and retained on candidate and committee account books, which are subject to inspection and audit.

   Reports should be cumulative, so that the latest report provides all necessary information for a calendar year or electoral phase, such as pre- or post-nomination. This reduces the volume of reports an examiner must scrutinize, and summarizes data as fully as possible. Summaries of major categories of receipts and expenditures should be included in the reports.

6. To insure full disclosure, there should be established a bipartisan agency, isolated from political pressures to the greatest extent possible, which has the responsibility to:

   (a) receive, examine, tabulate, summarize, publish, and preserve registrations and campaign fund reports;

   (b) prescribe the forms in which reports are to be made; and

   (c) determine how the data in the reports can best be disseminated both before and after elections.

7. The agency should be vested with authority to audit any books kept separately by candidates and committees, to perform sample audits and to have subpoena powers and all other means necessary to conduct investigations.

8. Enforcement of the regulations should be vested first in the agency. Criminal prosecution should be undertaken by the agency itself, and civil redress should be permitted. Citizens also should be provided an opportunity to seek enforcement of the regulations. If the agency, candidates, and citizens can go directly to court, it should be possible to bypass partisan enforcement agents and achieve strict enforcement.

9. With such administrative and enforcement powers, the agency also should be given statutory responsibility to insure compliance with any limitations or prohibitions on contribution or spending.

CITIZEN RECOMMENDATION

	YES	NO
Should political campaign contributions be listed, itemized and publicized for all types of support?	90%	10%

STANDARD 6.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT WITH DUE REGARD FOR CONSTITUTIONAL RIGHTS, SELECTIVE LIMITATIONS BE IMPOSED ON THE SUMS THAT CAN BE SPENT TO ADVANCE THE CANDIDACY OF ANY ASPIRANT FOR OFFICE AND TO CONDUCT THE AFFAIRS OF ANY POLITICAL PARTY OR OTHER ORGANIZATION THAT AIDS CANDIDATES OR OTHERWISE PARTICIPATES IN ELECTION CAMPAIGNS.

Such limits should be reasonable and enforceable, so that they will not go unobserved nor breed disrespect for the law.

1. Limits should be enacted that reflect a generous estimate of the real costs of waging creditable campaigns in competitive electoral districts, and of performing activities to essential political committees (e.g., registration, recruitment, getting out the vote, research, and distribution of information).

2. All expenditures on behalf of a candidate, except those by his political party, should be channeled through a single committee he designates. To protect the constitutional rights of those wishing to express political views, but whose expenditures the candidate does not wish to accept as his own, all expenditures should be channeled through the candidate's authorized committee. This should exempt those spending less than a designated amount, provided that their activity has been offered to and rejected by the candidate. Such expenditures should not be regarded as part of the sum the candidate is permitted to spend. Furthermore, negative advertising should be permitted, without charge to any candidate's limit, if it is not authorized by opposing candidates.

3. Expenditure limits should be adjusted automatically to the size of the electorate and the price index change. The media spending limits under the Federal Election Campaign Act of 1971 provide such a model; these limits apply only to specified forms of advertising, which vary locally. In addition, periodic review of legitimate campaign spending, such as costs of new communications technology, should be mandatory, and this review should recommend adjustments in permissible levels.

4. Political committees should be required to disclose their accounts to the Registry of Election Finance or other public agency responsible for supervising political finance. Such an agency should be empowered to enforce expenditure limitations. There also should be a means for citizen enforcement; upon receiving a complaint a designated judicial body should be authorized to make a finding of probable cause and then to order institution of further proceedings.

CITIZEN RECOMMENDATION

	YES	NO
Should limitations be placed on all political expenditures?	90%	10%

STANDARD 6.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT STATE LAWS BE ENACTED TO LIMIT AND REGULATE CONFLICTS OF INTEREST IN CAMPAIGN FINANCING.

State laws should prohibit campaign contributions, and other spending relating to politics or campaigns for State and local offices, by persons who transact an annual business of more than $5,000 with those units of government, or who are directors or shareholders owning or controlling 10% or more of a corporation, business, or association engaged in such transactions. Further, those who own or operate any corporation, business, or association regulated by the State, or who are directors or shareholders of 10% or more of stock in it, should similarly be prohibited from making political contributions. Labor unions and their officers having contracts with the unit of government should be similarly prohibited from making campaign contributions. Such laws should carry criminal penalties and should provide procedures for initiation of citizen complaints.

STANDARD 6.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT STATE LAWS BE ENACTED TO CONTROL CORPORATE AND LABOR CONTRIBUTIONS TO CAMPAIGN FINANCING.

In addition to prohibiting government contractors from contributing, State law should prohibit other corporations, labor unions, and trade associations from contributing or making expenditures for political purposes. Corporations, unions, and associations should be treated alike. Statutes should require disclosure of

all corporate or union or association resources used directly or indirectly for or against political parties, candidates or ballot issues, including educational, registration, and fund raising activities conducted in the name of education or citizenship.

CITIZEN RECOMMENDATION

	YES	NO
Should corporations, labor unions, and trade associations be prohibited by law from making contributions or expenditures for political purposes?	65%	35%

CHAPTER VII

PROGRAMS FOR THE REDUCTION OF CRIMINAL OPPORTUNITY

Reduction of the opportunity to commit crime through control and design of the physical environment is an important part of crime prevention. This approach treats crime not as a symptom of other factors that must be corrected, but as an act that must be prevented. It attempts to inhibit illegal acts through a controlled physical environment.

There are some general areas of criminal activities that are influenced by the public attitude and this chapter attempts to address those that have been singled out by Maine people.

THE COMMUNITY ALLIANCE NOTES THE HIGH DEGREE OF AUTO THEFT IN MAINE.

STANDARD 7.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STATE ENACT LEGISLATION TO REDUCE THE OPPORTUNITY OF AUTO-THEFT.

The Community Alliance recommends that States enact legislation to require:

1. assigning of permanent State motor vehicle registration numbers to all motor vehicles;
2. issuing of permanent license plates for all vehicles that will remain in service for a number of years; and
3. affixing of more identifying numbers on automobiles to curb the automobile stripping racket.

Because of the growing problem of auto theft in Maine, the committees made several recommendations in this area. They propose that the wording of the state's auto theft law be strengthened. Presently, the prosecution must prove that the person who took the car meant to "permanently deprive" the owner of the car. This aspect can only be proven if the serial or Vehicle Identification Number (VIN) is tampered with, or the car is painted, or somehow altered to avoid detection. Otherwise, the lesser charge of taking a vehicle without the owner's consent will be cited. Leniency toward joy riding by juveniles should remain in effect, but the trappings that hinder the prosecution of older offenders should be removed.

In 1975 Maine enacted a Title law which applied to all 1975 and newer car models. Basically, it stated that all cars ('75 models on) must have a certificate of title which must be shown at time of registration. This shows proof that the

car was sold by a certain individual or dealership. A check with the alleged seller and his prior registrations can verify the legality of the transaction. Although this method has been successful in the past, the amount of checks required will increase geometrically in the years ahead. Three factors will be responsible for this increase:

1. most cars presently affected by the law will be sold as used cars and be re-registered;
2. each year new cars will be registered; and
3. the number of cars coming in from out-of-state complicates the verification process.

Therefore, the committees feels that (if the job cannot be efficiently performed by the present staff) additional personnel be added to the Title Division of the Department of Motor Vehicles.

In addition to the previous recommendations, committee members proposed that a way be found to ensure that inspection stations check Vehicle Identification Numbers (VIN). Vehicle Inspection now requires that such a check be made against the VIN included on the registration certificate. However, there are very few people who can attest that such a check is made at every sixth-month inspection. This method was favored, rather than restricting the check to people at the local level who take excise tax payments. Checks at inspection stations were considered more effective.

THE COMMUNITY ALLIANCE DEPLORES THE LACK OF CITIZEN INVOLVEMENT IN CRIME PREVENTION PROGRAMS.

STANDARD 7.2: <u>THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY LAW ENFORCEMENT AGENCY ACTIVELY WORK WITH AND INFORM INTERESTED CITIZENS OF MEASURES THAT CAN BE TAKEN TO PROTECT THEMSELVES, THEIR FAMILIES, AND THEIR PROPERTY</u>.

Local law enforcement agencies and their crime prevention units should provide citizens' groups with direction and technical assistance in areas where high crime rates have led citizens to initiate "crime-stop" or neighborhood watch programs". To preclude any vigilantism, any citizen group already established should be required to coordinate their activities with law enforcement agencies.

THE COMMUNITY ALLIANCE DEPLORES THE LACK OF CONSIDERATION GIVEN TO THE PHYSICAL CONSTRUCTION OF HOMES AND COMMUNITIES IN REGARD TO CRIME PREVENTION.

STANDARD 7.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT UNITS OF LOCAL GOVERNMENT CONSIDER THE ESTABLISHMENT OF IMPROVED STREET LIGHTING PROGRAMS IN HIGH CRIME AREAS. THE NEEDS AND WISHES OF THE COMMUNITY SHOULD BE A DETERMINING FACTOR FROM THE OUTSET AND PUBLIC OFFICIALS SHOULD CAREFULLY EVALUATE THE EXPERIENCE OF OTHER JURISDICTIONS BEFORE INITIATING THEIR OWN PROGRAMS.

STANDARD 7.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT WHERE APPLICABLE, COMMUNITIES REGULATE THE CONSTRUCTION OF LARGE-SCALE HOUSING DEVELOPMENTS THROUGH BUILDING AND ZONING CODES TO MAKE THEM CRIME-RESISTANT. LAYOUTS SUCH AS THE "CLUSTER DEVELOPMENT" SHOULD BE ENCOURAGED.

STANDARD 7.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT INSURANCE COMPANIES REDUCE THEFT INSURANCE PREMIUMS WHEN COMMERCIAL AND RESIDENTIAL STRUCTURES COMPLY WITH APPROVED SECURITY STANDARDS.

CITIZEN RECOMMENDATION

Do you feel that such items as:	YES	NO
(A) street lighting; (B) building design; (C) code enforcement; and (D) zoning contribute to crime in Maine?	63%	27%

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE AMOUNT OF SHOPLIFTING IN THE STATE OF MAINE.

STANDARD 7.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL RETAIL ESTABLISHMENTS TAKE IMMEDIATE AND EFFECTIVE MEASURES TO PREVENT SHOPLIFTING AND THAT PENALTIES BE INCREASED TO INCLUDE LIMITED SENTENCING AND/OR MAXIMUM FINES.

CITIZEN RECOMMENDATION

Should penalties for "shoplifting" be increased and prosecution enforced more strictly?	YES	NO
	89%	11%

THE COMMUNITY ALLIANCE STRESSES THE NEED FOR POSITIVE ACTION TO BE TAKEN IN THE AREA OF DRUG PREVENTION, CONTROL AND ENFORCEMENT.

STANDARD 7.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STATE FUND AND SUPERVISE PROGRAMS TO MONITOR, CONTROL AND FUND DRUG ENFORCEMENT PROGRAMS, AND DRUG TREATMENT PROGRAMS.

The Community Alliance recognizes that there is a drug problem in Maine of significant proportion, and recommends that comprehensive drug abuse treatment and prevention functions be coordinated through a central agency at the State level and through local coordinating agencies. This authority is needed to as-

sume primary responsibility for such areas as setting priorities for delivery of services, findings ways to avoid wasteful duplication, and determining the extent to which funded programs are effective.

Other key considerations are the manner in which basic standards of staffing, training, administration, and programming are met; and finding avenues for effecting research, cost benefit studies and continuing evaluation.

DRUG ABUSE PREVENTION PROGRAMMING

With respect to drug abuse prevention the Community Alliance recommends the following:

1. The roles of educating and informing youth about drugs should be assumed by parents and teachers in the early stages of a child's life. It is from these sources that a child should first learn about drugs. Information should be presented without scare techniques or an undue authoritarian approach. Parental efforts at drug education should be encouraged before a child enters school. Teachers should receive special training in drug prevention education techniques.
2. Peer group influence and leadership also should be part of drug prevention efforts. Such influence could come from youths who have tried drugs and stopped; these youths have the credibility that comes from firsthand experience. They first must be trained, to insure that they do not distort their educational mission by issuing the kind of double messages described previously.
3. Professional organizations of pharmarcists and physicians should educate patients and the general public on drug abuse prevention. They also should discuss the responsible use of drugs. These organizations should be encouraged to include factual, timely information on current trends in their educational efforts.
4. Materials on preventing drug abuse should focus not only on drugs and their effects, but also on the person involved in such abuse. That person, particularly a young one, should be helped to develop problem-solving skills.
5. Young people should be provided with alternatives to drugs. The more active and demanding an alternative, the more likely it is to interfere with the drug abuser's lifestyle. Among such activities where there is

the possibility of continued improvement in performance are sports, directed play activities, skill training and hobbies.

The Community Alliance recommends that units of local government having a significant population of drug users establish comprehensive or multimodality drug treatment systems. These systems should have central intake and diagnostic units to receive patients referred by the criminal justice system and by other sources. The centralized programs would aim at meeting each individual's physical and psychological needs by referring him to the particular treatment program best equipped to help him alleviate drug problems, and avoid criminal activities. The goal is ultimately to remove him from drug use altogether, if possible. The units thus would play a valuable role in diverting addicts before they reach the criminal justice system.

The Community Alliance recommends that coordinating agencies dealing with drug abuse become familiar with agencies in the Department of Justice, including the Bureau of Prisons, Law Enforcement Assistance Administration, and the Bureau of Narcotics and Dangerous Drugs. To secure maximum benefits, an agency should first acquaint itself with the specific functions of existing drug abuse treatment and prevention agencies in the community. Each coordinating agency should then assign its members responsibility for the following functions:

1. to review all existing and new State and Federal legislation relevant to drug abuse and crime prevention activities;
2. to relate to State and Federal agencies that are concerned with drug abuse and to provide resources and services to community agencies and programs; and
3. to establish a working liaison with other local agencies and programs fighting drug abuse and crime.

There presently exists in Maine a program called the Division of Special Investigations. D.S.I. is a centrally controlled organization, composed of county, state and municipal law enforcement personnel. DSI was designed to combat drug and narcotics traffic, and related criminal activity, on a comprehensive statewide basis, mainly through undercover operations.

The Commissioner of the Department of Public Safety currently exercises overall administrative control of DSI and is assisted in this responsibility by a twelve-man Board of Directors made up of Chief's of Police, District Attorneys, Sheriffs, a representative from the Attorney General's Office, and a representative of the State Police.

DSI became a reality on April 1, 1974 when federal and state funds were obtained through LEAA and the Maine Criminal Justice Planning and Assistance Agency. Police agencies have donated over $276,000 in salaries for 1,764 "man weeks" to support DSI's field operations. All of the donated officers, are sworn members of county, state or municipal departments. The Division has enjoyed mutual aid and cooperation believed to be unparalleled within the Maine enforcement community. DSI also works with their counterparts in other states, as well as with the Federal Drug Enforcement Administration, U.S. and Canadian Customs and Border Partol, and the Royal Canadian Mounted Police. Through the Office of Alcohol and Drug Abuse in the Department of Human Resources, the State attempts to coordinate drug abuse treatment and prevention functions.

As of January 1, 1977, 856 cases involving 652 defendants have been developed, and over 74% of those persons who have been tried have been convicted.

CITIZEN RECOMMENDATIONS

	YES	NO
Should more attention be given to the drug problem in Maine? (4)	89%	11%
Should more funds be diverted to drug treatment in Maine? (4)	77%	23%
Do you support a State supervised program (policy) to monitor, control and fund:		
A. Drug control & enforcement programs	91%	9%
B. Drug treatment programs	90%	10%

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE USE OF HAND GUNS IN THE COMMISSION OF CRIMES AND ACTS OF VIOLENCE.

STANDARD 7.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL HANDGUN SALES BE PRECEDED BY A WAITING PERIOD TO ALLOW FOR BACKGROUND CHECKS OF APPLICANTS.

The committees saw no need for handgun registrations, licenses, or minimum requirements for ownership, but they did unanimously agree that a waiting period not to exceed one week should precede the sale of any handgun. Currently a few of the larger cities in Maine require a person to wait a specified period of time before being allowed to purchase a handgun. This permits the local departments to run background checks.

THE COMMUNITY ALLIANCE QUESTIONS THE LACK OF INFORMATION, THE PUBLIC CONCERN AND THE DEGREE OF ENFORCEMENT IN THE AREA OF ORGANIZED CRIME AND WHITE COLLAR CRIME IN MAINE.

STANDARD 7.9: THE COMMUNITY ALLIANCE RECOMMENDS ON-GOING STATEWIDE CAPABILITY FOR INVESTIGATION AND PROSECUTION OF PUBLIC CORRUPTION AND ORGANIZED CRIME BE ESTABLISHED IN MAINE.

1. The office charged with this responsibility should have clear authority to perform the following functions:
   (a) initiate investigations concerning the proper conduct and performance of duties by all public officials and employees in the State, and the faithful execution and effective enforcement of the laws of the State with particular reference to, but not limited to, organized crime and racketeering;
   (b) prosecute those cases that are within the statutory purview, with the State unit determining whether it could most effectively prosecute by itself, or refer the evidence and cases to the appropriate State or local law enforcement authority; and
   (c) provide management assistance to State and local government units, commissions, and authorities, with special emphasis on suggesting means by which to eliminate corruption and conditions that invite corruption.

STANDARD 7.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT A SPECIAL STUDY ON "WHITE COLLAR CRIME" IN MAINE BE UNDERTAKEN BY A SPECIFICALLY APPOINTED TASK FORCE.

After the report of the task force is made public, it is further highly recommended that this task force be given funding to secure changes in the law and to assist the Attorney General's Office in developing a special division dealing with "white collar crime".

CITIZEN RECOMMENDATIONS

	YES	NO
Please read the National Standard 14.2 - Do you agree with its recommendations dealing with organized crime and public corruption?	85%	15%
Do you feel that "white collar crime" is serious in Maine?	72%	28%

THE COMMUNITY ALLIANCE IS DEEPLY CONCERNED WITH THE LACK OF AVAILABILITY OF EMERGENCY SERVICES FOR THE PUBLIC'S PROPER NOTIFICATION AND COMMUNICATION.

STANDARD 7.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT AN EMERGENCY TELEPHONE NUMBER SYSTEM COMPARABLE TO THE 911 SYSTEM BE IMPLEMENTED STATEWIDE.

Every police department should have a single emergency telephone number (911) by 1985. The cost of this program is to be borne by private telephone subscribers. A further suggestion endorses the use of regional communications centers for receiving and dispatching calls.

The 911 emergency call system is currently being operated in the Maine communities of Waterville, Boothbay Harbor, Camden and Lisbon. The system has several features which make it successful. First, the number is easily remembered. (If the system became operational on a state-wide basis, emergency services would be available by dialing this number in any community.) Second, the number is used only for emergency calls that require police, fire or ambulance services, and therefore has priority over other calls. Third, a callback or hold mechanism can be used in conjunction with this system. This device keeps the calling line open so that a tracer can be made to the phone in the event that incomplete information is received before the caller hangs up. This is also a built-in deterrent to those who would place a call about a false emergency situation. Waterville and Camden have had problems because the system is designed for use within one exchange. Both communities serve an area that is covered by two exchanges and the switching mechanisms sometimes do not operate as they should.

While the concept of 911 is highly valid for densely populated areas and where telephone exchanges reflect a semblance of political jurisdiction, investigation during the creation of the state-wide communication system illustrated problems in developing the 911 system in Maine. The distribution of its population, multijurisdictional exchanges, and foreign telephone companies -- are all part of the problem. This type of emergency telephone system could be expensive for the state of Maine. The only viable solution to date has been the use of IN-WATTS to the six regional communications centers established state-wide at Houlton, South Paris, Machias, Orono, Augusta, and Scarboro. Better promulgation of these emergency numbers in the telephone directories and on public telephones could increase citizens' access to emergency services. Complete co-operation from the New England Telephone Company would be necessary in this case to provide improved services.

Still the Community Alliance feels that this emergency system should be fully explored due to changing technology and the serious need in Maine. All avenues must be explored in developing the most extensive use of 911 possible.

CHAPTER VIII

SPECIAL SECTION[14]

This brief chapter contains general opinions on State-local management of criminal justice programs and on funding policy. It clearly states the need for more local control and participation in programs such as criminal justice that affect citizens' lives. It supports the new directions and concepts in the traditional criminal justice system in Maine.

THE COMMUNITY ALLIANCE FEELS THAT COMMUNITY CRIME PREVENTION, PUBLIC AND PRIVATE SECURITY, AND INDIVIDUAL RESPONSIBILITY ARE NOT GIVEN SATISFACTORY ATTENTION BY THE CRIMINAL JUSTICE SYSTEM.

STANDARD 8.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT COMMUNITY CRIME PREVENTION UNITS BE ESTABLISHED IN ALL COMMUNITIES SINCE SMALLER COMMUNITIES DO NOT HAVE THE RESOURCES OR CONTINUING NEED FOR SUCH SPECIALIZED SERVICES. THE MAINE CHIEF'S OF POLICE ASSOCIATION OR THE DEPARTMENT OF PUBLIC SAFETY SHOULD ESTABLISH A CRIME PREVENTION CAPABILITY WHICH COULD PROVIDE TECHNICAL ASSISTANCE TO SMALL COMMUNITIES ON AN "AS-NEEDED" BASIS.

1. The Community Alliance recommends that crime prevention units be carefully staffed and thoroughly trained to achieve optimal efficiency.
2. The Community Alliance recommends that crime prevention officers be extensively trained in all aspects of community crime prevention, including public relations, community organization, target hardening (i.e., locking devices, alarm systems, etc.), security systems, and building design.
3. The Community Alliance recommends that crime prevention officers be carefully selected according to their ability to fulfill the specific responsibilities described above.
4. The Community Alliance recommends that the head of the crime prevention unit in each community have authority commensurate with his responsibilities.

STANDARD 8.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY LAW ENFORCEMENT AGENCY ASSIST ACTIVELY IN THE ESTABLISHMENT OF VOLUNTEER NEIGHBORHOOD SECURITY PROGRAMS THAT INVOLVE THE PUBLIC IN NEIGHBORHOOD CRIME PREVENTION AND REDUCTION.

a. The police agency should provide the community with information and assistance regarding means to avoid being victimized by crime trends that may affect their area.

b. The police agency should instruct neighborhood volunteers to telephone the police concerning suspicious situations and to identify themselves as volunteers and provide necessary information.

c. Participating volunteers should not take enforcement actions upon themselves.

d. Police units should respond directly to the incident rather than to the reporting volunteer.

e. If further information is required of the volunteer, the police agency should contact him by telephone.

f. If an arrest results from the volunteer's information, the police should immediately notify him by telephone.

g. The police agency should acknowledge through personal contact, telephone call or letter, every person who has provided information and has identified himself.

STANDARD 8.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT CRIME PREVENTION UNITS BE INCLUDED IN DISCUSSIONS WITH CITY GOVERNMENTS, CITY PLANNERS, ZONING BOARDS, AND OTHER MUNICIPAL AUTHORITIES IN PLANNING, IMPLEMENTING, AND EVALUATING ALL COMMUNITY CRIME PREVENTION PROGRAMS.

Reported property crimes are increasing at an alarming rate throughout the State of Maine. Most prevalent and most costly among these crimes are the so-called crimes of opportunity: burglary, larceny, and vandalism. Although we can never expect to achieve completely crime-resistant communities, these crimes of opportunity are the offenses that can be most easily reduced through strong prevention programs.

It is important, however, that these programs not be developed on a fragmented or random basis. To achieve maximum effectiveness at minimum cost, all efforts should be coordinated by community crime prevention units that have formal responsibility for planning, implementing and evaluating these efforts.

STANDARD 8.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT STATE LAW BE EXPANDED TO DEVELOP APPROVED, STANDARDIZED FORMS AND RECORD-KEEPING PROCEDURES FOR PAWN SHOPS, AUCTIONEERS, SECOND-HAND AND JUNK DEALERS, AND THAT THESE RECORDS BE MADE AVAILABLE TO LAW ENFORCEMENT PERSONNEL FOR INSPECTION UPON REQUEST.

STANDARD 8.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STATE OF MAINE EXAMINE THE FEASIBILITY OF A LAW HOLDING INDIVIDUALS CRIMINALLY LIABLE FOR TRAFFICKING IN PRODUCTS WHOSE SERIAL NUMBERS OR IDENTIFICATION MARKS HAVE BEEN KNOWINGLY ALTERED OR REMOVED.

STANDARD 8.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT COMMUNITIES BE ENCOURAGED TO ESTABLISH LAWS AND ORDINANCES TO CONTROL VANDALISM. A SIGNIFICANT STEP TOWARD MAKING BUILDINGS LESS VULNERABLE TO ACTS OF VANDALISM WOULD BE THE ADOPTION OF A BUILDING SECURITY CODE PATTERNED AFTER THE LIFE SAFETY CODE OF THE NATIONAL FIRE PROTECTION ASSOCIATION. BUILDING AND SECURITY CODES THAT CONTROL VACANT AND DILAPIDATED STRUCTURES AND INADEQUATE OR SUBSTANDARD HOUSING SHOULD BE ADOPTED AND ENFORCED.

STANDARD 8.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE MAINE LEGISLATURE GIVE CONSIDERATION TO LAWS THAT HOLD PARENTS AND GUARDIANS RESPONSIBLE FOR THE VANDALISM PERPETRATED BY THEIR CHILDREN. THE LAW SHOULD REQUIRE RESTITUTION WITHIN THE MEANS OF THE CHILDREN AND PARENTS. RESTITUTION IN THE FORM OF REASONABLE WORK REQUIREMENTS AS WELL AS FINANCIAL REIMBURSEMENT TO THE VICTIMS SHOULD BE RECOGNIZED AS A LEGITIMATE ALTERNATIVE. IN THOSE CASES NOT ADEQUATELY REMEDIED BY RESTITUTION, COURTS SHOULD MAKE THE NAME AND ADDRESS OF THE DEPENDANT AVAILABLE.

COMPREHENSIVE STATEMENT

The citizen membership expressed themselves clearly on funding and management of various governmental services. These recommendations, while they were considered in the context of criminal justice, have ramifications far beyond this program's parameters.

The feelings expressed by nearly all of the citizens reflect their increased awareness of involvement in governmental processes, and local commitment not only to criminal justice, but all fields of social service. The citizen in the local community is served by a multitude of programs. Responsibility and management should involve all parties.

CITIZEN RECOMMENDATIONS

How important do you feel local control, management and funding is to the law enforcement-criminal justice field in regards to increased State activity and supervision? (check more than one below).

		YES	NO
		A, B & C PERCENTAGE	
A.	Local political unit should retain full control.	6%	19%
B.	Shared control should be established.	24%	72%
C.	The State should develop and operate.	3%	9%
		D, E & F PERCENTAGE	
D.	All funding should come from State government.	3%	8%
E.	The county should fund.	2%	7%
F.	A system of shared funding is necessary.	80%	85%
G.	Local citizen involvement in policy is vital	32%	
		100%	

	YES	NO
Should Federal funding or State funding of any criminal justice program or projects require minimum levels of community involvement in a program before approval is given?	86%	14%

IMPLEMENTATION

MAINE STATE LEGISLATURE:

Standard 1.1
Standard 2.1
Standard 6.1
Standard 6.2
Standard 6.3
Standard 6.4
Standard 6.5
Standard 6.6
Standard 6.7
Standard 7.1
Standard 7.5
Standard 7.7
Standard 7.8
Standard 7.9
Standard 7.10
Standard 7.11
Standard 8.4
Standard 8.5
Standard 8.7

LOCAL UNITS OF GOVERNMENT:

Standard 1.1
Standard 1.2
Standard 1.3
Standard 1.4
Standard 4.1
Standard 4.2
Standard 6.1
Standard 7.3
Standard 7.4
Standard 7.11
Standard 8.1
Standard 8.2
Standard 8.3
Standard 8.6

MAINE LABOR ORGANIZATIONS:

Standard 2.1
Standard 2.2
Standard 2.3
Standard 2.4
Standard 2.5
Standard 2.6
Standard 2.7

MAINE JUDICIARY:

Standard 2.4

JUDICIAL COUNCIL:

Standard 2.4

DEPARTMENT OF ECONOMIC DEVELOPMENT:

Standard 2.1
Standard 2.3
Standard 2.5
Standard 2.6
Standard 4.1
Standard 4.2

MAINE CHAMBER OF COMMERCE:

Standard 2.1
Standard 2.2
Standard 2.5
Standard 2.6
Standard 2.7
Standard 7.6

DEPARTMENT OF EDUCATION:

Standard 2.3
Standard 3.1
Standard 3.2
Standard 3.3
Standard 3.4

COUNCIL OF CHURCHES:

Chapter V

STATE INSURANCE BOARD:

Standard 7.5

ATTORNEY GENERAL:

Standard 7.7
Standard 7.8
Standard 7.9
Standard 7.10

CHIEFS OF POLICE ASSOCIATION:

Standard 7.2
Standard 7.7
Standard 7.8
Standard 7.11
Standard 8.1
Standard 8.2
Standard 8.3
Standard 8.4

DEPARTMENT OF PUBLIC SAFETY:

Standard 7.2
Standard 7.7
Standard 7.8
Standard 7.9
Standard 8.1
Standard 8.4

COUNTY COMMISSIONERS:

Standard 1.1
Standard 1.2
Standard 1.3
Standard 1.4
Standard 4.1
Standard 4.2
Standard 6.1
Standard 8.1
Standard 8.2

SHERIFF'S ASSOCIATION:

Standard 7.2
Standard 7.7
Standard 7.8
Standard 7.11
Standard 8.1
Standard 8.2
Standard 8.4

MAINE MUNICIPAL ASSOCIATION:

Standard 1.1
Standard 1.2
Standard 1.3
Standard 1.4
Standard 2.1
Standard 2.7
Standard 4.1
Standard 4.2
Standard 6.1
Standard 7.3
Standard 7.4
Standard 7.11
Standard 8.1
Standard 8.2
Standard 8.3
Standard 8.6

COMMUNITY CRIME PREVENTION REPORT FOOTNOTES

1. Committee on Appropriations, Hearings before the Subcommittee on The Departments of Labor and Health, Education & Welfare, and Related Agencies, House of Representatives, 91st Congress, 2nd Session (1970), page 270.

2. Division of Special Investigation, Drug Enforcement, Maine Department of Public Safety, January 1977.

3. William H. Robinson, Phyllis Smith, and Jean Wolf, Prison Population and Costs--Illustrative Projections to 1980, Washington, D.C., Library of Congress Congressional Research Service, April 1974, p. 4.

4. The President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: U.S. Government Printing Office, 1968, p. 77.

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11. NAC, Community Crime Prevention, supra at 170.

12. The National Advisory Commission on Civil Disorders, Report of the National Advisory Commission on Civil Disorders, Washington: Government Printing Office, 1968, p. 249.

13. Paul M. Friedberg and Ellen Perry Berkeley, Play and Interplay (Macmillan, 1970) p. 14.

14. Adapted from final Advisory Board draft of New Hampshire's Standards & Goals (9/17/76).

CROSS-REFERENCE CHART

COMMUNITY ALLIANCE STANDARD		NAC & RELATED STANDARDS
Chapter I	1.1	2.3
	1.2	Chapter XIII
	1.3	2.5
	1.4	13.1
Chapter II	2.1	5.8
	2.2	5.1
	2.3	5.2
	2.4	5.3
	2.5	5.4
	2.6	5.6
	2.7	5.9
Chapter III	3.1	6.5
	3.2	6.6
	3.3	6.7
	3.4	6.8
Chapter IV	4.1	7.1
	4.2	Chapter VII
Chapter V	5.1	8.1
		8.2
		8.3
		8.4
		8.5
Chapter VI	6.1	10.1
	6.2	10.2
	6.3	10.3
	6.4	10.4
	6.5	11.1
	6.6	11.2
	6.7	11.3
Chapter VII	7.1	9.5
	7.2	9.6
	7.3	9.3
	7.4	9.1, 9.2
	7.5	
	7.6	9.4
	7.7	Chapter IV - 4.1 to 4.12
	7.8	
	7.9	Chapter XIV
	7.10	Chapter XIV
	7.11	
Chapter VIII	8.1	
	8.2	
	8.3	All recommendations in Maine
	8.4	Standards & Goals Report of
	8.5	Chapter VIII are adopted for
	8.6	the final Advisory Board Report
	8.7	of New Hampshire (9/17/76), and the first section of the NAC Standards altered to apply to states such as New Hampshire and Maine

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YOUTH DEVELOPMENT

STANDARDS AND GOALS

SECTION "B"

YOUTH DEVELOPMENT

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YOUTH DEVELOPMENT - STANDARDS AND GOALS

INTRODUCTION

The area of juvenile justice is extremely complex. Behavior that constitutes juvenile delinquency in one community may be acceptable behavior in another and compounds the problem of which behavior to deal with and which to ignore. Varying community mores make legislation a difficult process.

Although unemployment, poor housing, and inadequate schooling are related to crime, the relationship is tenuous at best. No direct relationship between poverty and crime has yet been established.[1] The great majority of poor kids do not commit crimes. Maine is not considered predominantly urban, and its cities do not have the large population of the Boston or New York areas, but Maine does have its share of problems that the juvenile population has had to contend with.

It is fatuous and irresponsible to look upon the criminal justice system as a panacea to our juvenile problems. Yet that has been the viewpoint for many years. "Let the authorities deal with him or her" is not an uncommon cry. The problem is that the "authorities" are not the answer for many problem children, whether or not they may have committed a crime. The criminal justice system has been used as a dumping ground for everyone else's failures and not, solely, to deal with criminals. Therefore, the problem kids and the criminals are combined. Furthermore, we carry over our dilemma of how and when to punish. As a result, we again have legislated away some of the powers the system needs to deal with serious juvenile offenders.

Juvenile crime used to involve mostly mischief and unruly behavior. However, both the amount and the seriousness of juvenile crime has been steadily increasing over the past five years.[2] One-third of all arrests made in Maine in 1976 were of juveniles, and of those 36.1% were for serious offenses, i.e., murder, rape, robbery, assault, burglary, larceny and motor vehicle theft.[3] Whether this rise is a result of a focus on juveniles by law enforcement, a more sophisticated system of reporting and data collection, an increase in the ratio of juveniles to adults in terms of population, or more juveniles actually committing crimes is a moot point. The fact remains that juvenile crime has increased. The present juvenile justice system is not equipped to cope with the situation. It works well for youngsters who get into minor scrapes and only need the sobering effect of being brought before a judge once to put them back on the right track. It cannot, however, cope with the

serious juvenile offender. Steps are now being taken to alleviate the problem so that those youth who should not be involved with the criminal justice system can be diverted from it, leaving the system better equipped to handle the serious offender. The chapter on diversion details alternatives for diverting a youngster from the system, and makes recommendations on formulation of guidelines and structure as well as on funding possibilities. This is an area citizens have given a high priority to; they believe that the old adage, an ounce of prevention is worth a pound of cure, still holds true. Dollars properly spent on prevention do not need to be spent on adjudication and/or rehabilitation.

In the past two years, there has been much legislation pertaining to young people and their diversion from, or treatment within, the criminal justice system. Bills that have passed the legislature and have been signed into law provide for emergency care, child abuse and neglect, payment for care of children, long-term foster care, special education facilities at drug treatment centers, special education funding, a change in the drinking age, the placement of responsibility of habitual truants and school dropouts with the Department of Education, funding for court intake workers and the passage of a new Juvenile Code. This legislation is a first giant step in separating problem children from juvenile offenders, and in placing responsibility for dealing with problem children outside the criminal justice system. Putting the burden where it can better be dealt with, i.e., in the Department of Human Services, Department of Education, and agencies of the Department of Mental Health and Corrections, frees the Criminal Justice System to deal effectively with the true juvenile offender.

In preparing recommendations for the juvenile segment of the report, the committees not only reviewed volumes of material, but reviewed and had input into all of the bills pertaining to juveniles before the legislature. These groups testified before legislators in hearings on various bills, authored amendments to the Juvenile Code, took stands on all of the legislation relating to juveniles, and are still recommending changes and amendments to the Commission to Revise the Maine Juvenile Statutes. The Standards & Goals committees, working independently, arrived at many of the same conclusions as the professionals, and therefore, they support much of the new code.

Although the Code covers the entire spectrum of juvenile justice, there are some areas not addressed by the Code that the Community Alliance feels a need to treat. Additionally, changes in the new Code are recommended. Change does not

come easily, as we are all well aware. It is disturbing to tamper with the security of any system, even knowing that it has weaknesses. Change is unsettling and uncertain, but vitally necessary in this instance.

The threat of change can be eased by proper planning and evaluation, as well as by establishing consistent guidelines. This is a thread that citizen recommendations weave throughout all of their comments on the juvenile segment. Change cannot be initiated until there is information about present conditions, the success or failure of programs and agencies on impacting problems, and a complete analysis of data to determine whether or not the true problems have been identified. An important factor in considering change is to predict what change in one area will do to the total system. Too often programs are established which impact one aspect of the criminal justice system without regard for the domino effect, felt years later. Poor planning can have devastating effects on the total system. Also of great concern to the citizens is the lack of training of personnel throughout the system, from the judiciary on. Review of Academy curriculum revealed inadequacy in the amount of training given police officers with regard to juveniles. In the correctional area, training is haphazard at best, and non-existent for judges and attorneys. Citizens have recommended major changes in this area.

The recommendations in the courts area are the result of not only the readings and the NAC guidelines, but also of personal observation of juvenile court processes on the part of several of the citizens. Citizens also were given tours through all of the correctional facilities, as well as some of the county jails, for a first-hand look at the physical, educational, philosophical and administrative aspects of those facilities. This gave them a broader base of information from which to develop their recommendations.

Therefore, these recommended changes in the juvenile justice system do not represent change for the sake of change, but rather, change based on study and observation. Because of the vast amount of work in the juvenile area by Community Alliance, this report includes an additional section which covers areas of the Juvenile Code that were supported by the committees but not inserted as separate recommendations because they were included in the Code.

YOUTH DEVELOPMENT

GOALS

1. TO MINIMIZE JUVENILE CONTACT WITH THE CRIMINAL JUSTICE SYSTEM.

2. TO EFFECTIVELY DEAL WITH THE SERIOUS JUVENILE OFFENDER AND TO EXPAND THE COURT'S DISPOSITIONAL ALTERNATIVES FOR THOSE JUVENILE OFFENDERS.

3. TO PROVIDE EFFECTIVE CORRECTIONAL REHABILITATIVE AND SOCIAL SERVICE CARE FOR JUVENILES BUT AT THE SAME TIME TO DE-EMPHASIZE INSTITUTIONALIZATION OF JUVENILE OFFENDERS.

4. TO ESTABLISH MORE DIVERSIONARY ALTERNATIVES FOR JUVENILES.

5. TO EXPAND TRAINING, EDUCATION AND AWARENESS OF THOSE PROFESSIONALS WHO MUST DEAL WITH JUVENILES.

CHAPTER I

YOUTH DEVELOPMENT RELATIVE TO THE POLICE

At the time of an arrest the police officer must make the initial decision to detain or release. Most cases of juvenile misconduct are brought to the attention of the police by private citizens rather than the officer's personal observation of the crime.[4] These decisions, of necessity, involve considerable discretion and are not covered by statute. However, there are several alternatives open to the officer: 1) release; 2) release with field interrogation or official report; 3) official reprimand, with release to parent, custodian or guardian; 4) referral to other agencies; 5) release following voluntary settlement of property damage; 6) voluntary police supervision; or, 7) referral to a court intake worker for possible detention.[5] The decisions that officers make at this stage determine the numbers and, possibly, the characteristics of the juveniles who may either be detained or diverted.[6]

The major criterion at the time of arrest is whether or not the juvenile is a threat to him/herself or society. Statistics show that more juveniles are becoming involved in A, B, and C crimes. Whether this reflects better data gathering techniques, or better arrest procedures, or whether there is a true increase in these categories is difficult to say. However, the severity of the crime must also be considered when deciding to detain. Presently, there are no policies to assist a police officer in making the first, and probably most critical decision -- whether or not to arrest -- nor are there policies to assist the intake worker in making a detention decision. Prior to the implementation of the new Juvenile Code, the officer was responsible for contacting the parent, custodian or guardian, the juvenile service bureau (if one exists) and the state Probation Parole Department after the decision to arrest was made. At this time, custody prior to the court appearance was also decided by the arresting officer. Had custody been warranted, the arresting officer made all the arrangements which, in many cases, included transporting the juvenile to the place of detention and to court on the day of the hearing. That, alone, works hardship on the few police in the more remote areas with restricted facilities. The new Code now provides for the Court Intake Worker to make these decisions after the arrest, although transportation is still a problem with which the officer must deal. The juvenile may be held at a local or county jail; but

must be transported and housed completely separate from adult offenders. The juvenile will then remain in detention until the next session of the juvenile court in his jurisdiction convenes, which in some cases can be as long as four or five days. Any further detention will be decided by the court. Cases involving juveniles in detention take priority over those involving juveniles in the custody of parents, guardians, or custodians. While this is not, in itself, bad, a caveat should be built in so that the unintended consequence of a delay in the processing of unincarcerated juveniles is guarded against. They should be processed swiftly, while the offense is still fresh in the mind and the juvenile will better grasp the subsequent disposition of the case.

As in adult cases, the juvenile must be advised of his rights (i.e. Gault, Winship, and Kent vs. U.S.), and additionally, the juvenile must have his/her parent, guardian, custodian and/or counsel present during questioning.

This chapter deals not only with the lack of policies and guidelines, but also with the insufficient number of juvenile officers and intake workers. The juvenile services provided by the counties vary radically.[7] Seven counties provide some juvenile services and nine counties provide none at all.[8] In Androscoggin the sheriff's department has no law enforcement officer assigned to juvenile services on a full-time basis and, although the Lewiston and Auburn police departments have a Youth Aid Bureau, there are only five juvenile officers.[9] There are four juvenile officers in Aroostook county: one each in the municipal police departments of Caribou, Houlton and Van Buren and one in the sheriff's department.[10] The three municipal departments' Youth Aid Bureaus handled 324 cases in 1975.[11] In Cumberland County the 2,662 juvenile cases in 1974 were handled by the 28 juvenile officers throughout the county: sheriff's department - 3; 1 each in Cape Elizabeth, Falmouth, Scarborough, and Westbrook; 2 in So. Portland; and 19 in Portland. Portland alone, handled over half of the cases (1454).[12] In Hancock County, only Ellsworth has full-time law enforcement personnel providing juvenile services exclusively.[13] The Youth Aid Bureau services in Kennebec County are located in the Augusta Police Department, with one officer, and the Waterville Police Department, with three, handling a combined caseload of 641 juveniles in 1974.[14] The county makes no apparent expenditures on juvenile services.[15] Knox County also apparently provides no direct funding for juvenile services, and the Rockland Police Department provides the only full-time law enforcement personnel dedicated exclusively to juvenile services.[16] The Oxford County sheriff's department provides one full-time law enforcement officer for juvenile

services.[17] Although Penobscot County apparently doesn't provide direct funding for juvenile services, the municipal departments of Bangor, Brewer, Hampden, Lincoln and Old Town each have one juvenile officer.[18] Sagadahoc County has one juvenile program located at the Bath Police Department and staffed by one full-time officer while Waldo County has two juvenile officers: one in the sheriff's department and the other in the Belfast Police Department.[19] The police departments of Biddeford, Old Orchard Beach and Kittery each have one juvenile officer and York County provides funding for other juvenile services.[20] Washington, Somerset, Piscataquis and Franklin counties provide no exclusive juvenile services or law enforcement officers.[21] With a total of 52 juvenile officers statewide it is impossible to meet the needs for juvenile services in every community. Since one-third of all of the arrests made in 1976 were of juveniles,[22] there is a dire need for more police officers who are trained, specifically, to deal with juveniles as well as with all agencies concerned with delinquent behavior. In smaller communities where the police departments are limited in staff, the expertise of the existing officers can be expanded through a basic course at the Criminal Justice Academy or adult education programs. A new man need not be hired. With better training of officers, the juveniles who would be arrested now might be diverted and stand a better chance of staying out of the Criminal Justice System.

It is imperative to increase the number of intake workers since the eleven that were due to be hired in December 1977 cannot possibly handle the caseload statewide. The citizens groups favor the concept of intake workers. They worked hard to support the legislation establishing these positions, knowing the number would be insufficient, but also realizing that change has to begin somewhere. Maine law states that a juvenile may not be held in detention or shelter care longer than 24 hours without a petition being filed, alleging delinquency or neglect, and further that he be allowed an opportunity for judicial review within forty-eight hours of his replacement, excepting weekends and holidays.[23] Therefore, the committees have suggested alternatives so that the concept will work and the program not end in failure.

This chapter deals with the development of policies and guidelines, recommendations on staffing and reallocation of personnel, and the development and utilization of Citizen's Conference Committees.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE LACK OF WRITTEN POLICY OR GUIDELINES DEALING WITH JUVENILE SITUATIONS IN POLICE DEPARTMENTS.

STANDARD 1.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE AGENCIES DEVELOP WRITTEN POLICIES CONCERNING THE PROCEDURES AND DISCRETIONARY POWERS OF POLICE OFFICERS IN DIVERTING JUVENILES.

To stimulate the development of appropriate administrative guidelines and control over discretion exercised by police in juvenile operations, legislatures and courts should encourage police administrative rule-making.[24] These guidelines should be reviewed and approved by the district attorneys and the judiciary.

"Police chief executives should establish administrative procedures to structure and control the use of discretion. These should include the development of policy guidelines on the use of discretionary judgement when dealing with juveniles and the development of programs to acquaint officers with situations in which discretion may be exercised in juvenile operations."[25]

In Maine this can readily be accomplished through the Maine Chiefs of Police Association. Collectively they can develop the guidelines and help to expand the training course now offered at the Criminal Justice Academy. Without guidelines the well meaning police officer may be caught between two facets of his dual role of 'catcher' of criminals and 'helper or protector'. Guidelines provide the expression of police policy which the officer may need to handle this role conflict.[26]

Although diversion should be voluntary and not interfere with the juvenile's right to due process, it is rapidly becoming a necessity. Spiraling numbers of arrests and court cases, overcrowding of detention facilities, the number of unnecessary detentions and the lack of true rehabilitative capabilities all argue for streamlining the criminal justice system so that it deals only with the criminal and puts the onus on other agencies to carry their fair share of the burden. A coordinated effort among the courts, probation, intake, Department of Human Services, etc. to create diversionary guidelines would ensure standardized treatment statewide. Establishing policies to deal with these juveniles, rather than dumping them into the Criminal Justice System because no one wants the responsibility for them, will provide a vast range of diversionary alternatives and will free the criminal justice system to concentrate on the true juvenile offender.

One way to accomplish this purpose would be a 2-to-3 day workshop for representatives from all police agencies. These workshops should be

conducted on a regional basis and deal with those characteristics for evaluating eligibility for diversion found in Chapter IV.

The emphasis of the workshops should be twofold: the humane and rehabilitative aspects of diversion, and the cost savings of not incarcerating or adjudicating the youthful offender.

STANDARD 1.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE ATTORNEY GENERAL PROMULGATE WRITTEN REGULATIONS TO GUIDE LAW ENFORCEMENT AGENCIES IN MAKING DECISIONS TO ARREST AND REFER TO THE INTAKE UNIT A JUVENILE ALLEGED TO HAVE COMMITTED AN ACT WHICH WOULD BE A CRIME OR MAJOR TRAFFIC OFFENSE IF COMMITTED BY AN ADULT. IN DETERMINING WHETHER ARREST AND REFERRAL WOULD BEST SERVE THE INTERESTS OF THE COMMUNITY AND THE JUVENILE, LAW ENFORCEMENT OFFICERS SHOULD CONSIDER WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THE JUVENILE IS SUBJECT TO THE JURISDICTION OF THE DISTRICT COURT OVER DELINQUENCY, AND:

A. WHETHER A COMPLAINT HAS ALREADY BEEN FILED;

B. THE SERIOUSNESS OF THE ALLEGED OFFENSE;

C. THE ROLE OF THE JUVENILE IN THAT OFFENSE;

D. THE NATURE AND NUMBER OF CONTACTS WITH THE LAW ENFORCEMENT AGENCY AND THE DISTRICT COURT WHICH THE JUVENILE HAS HAD, AND THE RESULT OF THOSE CONTACTS;

E. THE JUVENILE'S AGE AND MATURITY; AND

F. THE AVAILABILITY OF APPROPRIATE PERSONS OR SERVICES OUTSIDE THE JUVENILE JUSTICE SYSTEM WILLING AND ABLE TO PROVIDE CARE, SUPERVISION, AND ASSISTANCE TO THE JUVENILE.

A JUVENILE SHOULD NOT BE ARRESTED AND REFERRED TO THE INTAKE UNIT SOLELY BECAUSE HE OR SHE DENIES THE ALLEGATIONS OR BECAUSE THE COMPLAINANT OR VICTIM INSISTS.

Presently, the law enforcement sector is left on its own as far as diversion is concerned. Many times minor disturbances or offenses are "handled within the department", which may mean informing the juvenile's parents of his/her actions and leaving further action up to the parents. Methods such as these may be effective for the percentage of kids who never turn up again but what about the juvenile who is repeatedly involved in minor offenses? Where does the officer draw the line? When should he no longer overlook, or "handle within the department"? Those youths living in populous areas are more likely to have a few services available to them--there may even be a juvenile division of the local police

department staffed with specially trained juvenile officers. The concensus of citizen opinion is that diversion can and should occur at any point between apprehension and adjudication, as well as prior to the point of contact with the criminal justice system, but that guidelines are necessary.

STANDARD 1.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE EXECUTIVE OF EACH POLICE AGENCY ESTABLISH WRITTEN POLICY ON POLICE RELATIONSHIPS WITH ALL PHASES OF JUVENILE JUSTICE.

Policies should be established specifying police roles in cooperating with all agencies concerned with delinquent behavior, violent crime and release of juveniles into parental custody. The Maine Chiefs of Police Association can be given the task of cooperatively developing these guidelines. They can also have input into the Academy to help establish the curriculum to train officers.

Involvement of other members of the juvenile justice system is necessary when these policies are developed, so that guidelines are not impossible to implement, or are not in conflict with others in the system, or are not self-defeating. Development of these policies in a vaccuum could foster these kinds of conditions.

THE COMMUNITY ALLIANCE NOTES THE LACK OF SPECIFIC PUBLISHED PROCEDURES AND STAFFING TO IMPLEMENT THE "INTAKE WORKER PROGRAM".

STANDARD 1.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT AFTER THE JUVENILE'S NAME, AGE, AND RESIDENCE IS OBTAINED BY THE OFFICER, AND THE PARENT, GUARDIAN, OR CUSTODIAN AND THE INTAKE WORKER ARE NOTIFIED, THE OFFICER SHOULD TAKE THE JUVENILE DIRECTLY TO THE INTAKE WORKER OR TO THE SHELTER PLACEMENT OR DETENTION PLACEMENT OR AGENT OF THE DEPARTMENT OF HUMAN SERVICES DESIGNATED BY THE INTAKE WORKER WITHOUT UNNECESSARY DELAY.

The citizens feel that the police officer, in the heat of the moment will not always be able to use discretion in making the detention decision. It must be done in a fair and impartial manner. Too often these decisions have been prejudicial and subjective. Prior to the enactment of the Juvenile Code, the officer, upon deciding to arrest, had to notify the parent, guardian or custodian, the juvenile officer (if there was one in his area) and the Department of Probation and Parole. At that time, too, he had to make a detention decision. The Code now calls for an intake worker to make the detention decision. However, the citizens prefer the wording of the first draft of the Code since it makes the point stronger.

STANDARD 1.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT PROGRAMS BE ESTABLISHED TO EVALUATE "ALL" JUVENILE OFFENDERS WHO ARE REFERRED TO THE INTAKE WORKER. THE INTAKE PERSONNEL SHOULD HAVE THE AUTHORITY TO:

A. SEND AN OFFENDER THROUGH THE CRIMINAL JUSTICE SYSTEM;

B. DIVERT AN OFFENDER INTO A COMMUNITY-BASED ALTERNATIVE TO INCARCERATION;

C. DISMISS A COMPLAINT WITH REASON.

The juvenile intake program suggested here by the Community Alliance is much more extensive than the one presently being implemented by the Bureau of Corrections. Not only do citizens feel that the eleven workers provided for the entire state under the Bureau's plan, will be so overcased that they will be unable to give enough time to individual cases to be effective, but that they also will be without a formalized system of local alternative programs with which to work.

In the view of citizen membership, there should be a minimum of one intake officer per county and probably more in areas of large populations or vast geographical distances. If an intake service is to be effective, every juvenile must be contacted and placed within hours of the arrest. It is questionable whether eleven workers can provide this type of service. More important is the development of alternative programs for each individual, and monitoring the progress of each participant. The Community Alliance is concerned that these functions, which are essential to the program, will be neglected because of insufficient staff.

STANDARD 1.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT EACH MUNICIPAL POLICE AND SHERIFF'S DEPARTMENT PROVIDE AT LEAST ONE JUVENILE OFFICER PER COMMUNITY.

Currently, only those localities with large populations and large police departments have juvenile officers, often leaving the smaller towns without any juvenile capabilities. The Committees feel that all communities should be provided with at least one specially trained juvenile officer. They also suggested that in towns with small police departments, one of the existing officers should receive this training, thus obviating the need of hiring a special officer. This once again points up the Committee's desire to provide juvenile services and treatment on a local level.

Specialized training for these officers can be provided during the in-service program at the Criminal Justice Academy. Smaller areas might consider sharing juvenile officers' services and cooperatively subsidizing their training.

STANDARD 1.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT A SUFFICIENT NUMBER OF TRAINED JUVENILE OFFICERS BE PROVIDED IN EACH AREA AS A SUPPLEMENT TO THE COURT INTAKE UNIT.

The original decision to hire eleven intake workers funded statewide was a step in the right direction, but it is obviously not practical to assume that eleven people will be able to handle competently all of the cases. The citizens feel that specially trained juvenile officers could prove of great help to the Intake Worker and be invaluable to the Intake System.

It will take time to establish a realistic picture of how many intake workers will be needed, and thus establish an intake worker/client ratio. Once this data is collected, an accurate projection can be made, and the proper number of officers can be assigned this function.

STANDARD 1.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT ANY JUVENILE HAVING ALLEGEDLY COMMITTED A CLASS A, B, OR C OFFENSE AND PLACED UNDER ARREST WILL BE BROUGHT TO THE ATTENTION OF THE INTAKE WORKER/JUVENILE OFFICER AND IT WILL BE HIS/HER RESPONSIBILITY TO MAKE THE APPROPRIATE DETENTION DECISION..

The citizens feel that the severity of the crime should be a major factor in making the detention decision. They realize that the intake worker must possess the discretionary capabilities necessary to fulfill his duties, however, even though the decision is the intake worker's, his main concern should be to protect the juvenile and the community.

THE COMMUNITY ALLIANCE DEPLORES THE LACK OF HOLDING FACILITIES IN THE STATE AND IS CONCERNED WITH TRANSPORTATION POLICIES FOR BOTH JUVENILES AND ADULTS.

STANDARD 1.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT A JUVENILE AND AN ADULT OFFENDER MAY BE TRANSPORTED TOGETHER IN THE SAME VEHICLE AS LONG AS THERE ARE TWO OFFICERS ASSIGNED.

Since the Maine Correctional Center and the Maine Youth Center are both located in the southern part of the state, it is extremely costly to make separate trips to transport a juvenile and an adult, especially from the northern and western parts of the state. It is more expedient and economical to send one car rather than to make two trips, as long as care is taken.

THE COMMUNITY ALLIANCE FEELS THAT CITIZENS MUST BE DIRECTLY INVOLVED WITH THE JUVENILE INTAKE PROCESS.

STANDARD 1.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT "ADULT CITIZEN CONFERENCE COMMITTEES" SHALL BE ESTABLISHED IN EVERY COURT JURISDICTION TO WORK DIRECTLY WITH INTAKE PERSONNEL.

The creation and use of Citizen Conference Committees which would work in conjunction with the Intake Workers, (based on the York Intake Model) is viewed as vitally important by the Community Alliance. The Citizen Conference Committees would be recruited locally, under guidelines established by the Bureau of Mental Health and Corrections as authorized under the new Juvenile Code. The committees would work closely with all personnel as a referral and diversionary service, and would make recommendations on cases being handled by the Intake Workers.

It is becoming widely accepted that youthful offenders should not be branded as convicted criminals, and thus put under lasting social and economic disabilities that go with that label. The primary purposes of the Citizen Conference Committees are:

1. To look into and to deal with complaints of misbehavior and to avoid adjudication of delinquency whenever possible if the offense is mild, the damage slight and the misbehavior not unusual for one in the process of growing up. Matters before these committees will be matters which can be handled without a formal juvenile hearing.
2. To reduce the amount of time that a District Court judge has to spend on minor cases, thereby allowing them more time to deal with serious offenses reaching the court.

Since Citizen Conference Committees must look into complaints about the behavior of children, it is inevitable that Committee members will learn facts about the children's family relationships, home life and parents' habits which are not usually the proper concern of friends and neighbors. Committee members have an obligation to use this information only for the purpose of helping the family, and should not reveal it to anyone for any other purpose. Therefore, the oath which is administered to all members of the Committee requires them to keep in confidence information that comes to light in the course of a Committee's conferences.

It is also important that Committee members seek to avoid any prejudice or bias against any segment of society, unfamiliar customs, and manners or unusual characteristics of speech or dress. Like a Judge, they must observe confidentiality and maintain objectivity in dealing with the situations and the people whose cases they hear.

All cases will come to the Committee by referral from the Intake Worker. It is not intended that serious delinquent acts or those by repeated lesser offenses/offenders will be referred to the Committee. No list of potential

offenses that a Committee can expect to hear will be compiled, therefore leaving a large range of possibilities for each Committee.

Eight members will be appointed for terms lasting for twelve months. Reappointment is a possibility and vacancies are filled for unexpired terms. Hopefully, Committee membership will be representative of the socio-economic, racial and religious composition of the area which it serves. Conflicts of interest are also undesireable in the determination of Committee membership. A chairman will be designated and a secretary appointed to finalize recommendations of the Committee on every case they will hear. The chairman is the presiding member at all meetings of the full Committee and is also responsible to the Court to seek the primary objectives of the Citizen Conference Committee.

When a complaint has been referred to the Committee, the Intake Worker will invite all persons involved to meet with the Committee at a specified time and place. Conferences will be held in public buildings rather than private homes or in offices. Hopefully, two rooms will be available, one for the conference and the other for a waiting room.

Participation of the juvenile and his parents in proceedings before the Citizens Conference Committee are entirely voluntary. If, at any time or at any stage of the proceedings, any party involved objects to having the complaint heard by the Committee, or to the Committee's action, or fails to cooperate with the Committee, the matter must be referred back to the Juvenile Intake Worker and possibly to Court.

The child's parents or guardian must be present at every conference. Their failure to attend and to cooperate leaves the committee no choice but to send the case back to court or the Intake Worker. The conference is not a trial, but it will be conducted in a dignified manner so as to command the respect of all concerned.

When the Committee feels that it has secured all necessary information, it should meet privately to discuss the case and to decide what action to recommend. In its deliberations, the Committee may utilize available professional advice and assistance in reaching a decision and recommendation. The child and his parents and any other interested persons present should be asked to wait in the second room while the Committee deliberates.

Having decided that a child did behave as stated in the complaint, and having inquired into the circumstances surrounding the offense, action may be recommended. The voluntary character of the proceeding rules out ordering any course of action,

but the recommendations of the Committee carry considerable weight with the parents and the child because they know that failure to comply means they must go to court for a formal hearing and disposition.

In general terms, Committee recommendations should encompass the kinds of corrective action that a Committee member might take if his or her own child were subject of the complaint. It is impossible to list all the possibilities, because each recommendation must fit the individuals and the circumstances involved. Some possibilities include counseling and warning against repetition of the bad conduct; recommendations that the child forfeit privileges for a reasonable time; imposition of a reasonable curfew; payment for damages by the child and not the parents; imposition of work. To carry out work sentences, the Committees should formulate lists of worksites as well as volunteer supervisory personnel. Punishment is not the only aim of the Citizen Conference Committee--another goal should be "help". Members should try to acquaint themselves with the "helping" agencies of the area, such as family service societies, recreational agencies, etc.. The Committee should try to bring these families and agencies together when warranted. If it is apparent that medical and/or psychological help is needed, the Committee should take steps to secure it.

A few things that a Citizen Conference Committee cannot do are listed as follows:

It cannot order confinement, impose fines, place juveniles on official probation, or remove children from their families. If any of these actions do seem to be appropriate, then the case should be referred back to the Intake Worker with this recommendation.

Parents and juveniles can be recalled at a later date to determine whether the Committee's recommendations have been carried out. Such recall is not always negative in its nature, because compliance could mean modification of the restrictions involved and dropping of the charge against the juvenile. A second conference will determine how things are going, or close the case, with encouragement given to the child and his parents if things are going well.

If things are not going well, intermediate conferences offer an opportunity to warn and to make additional helpful suggestions. Six to twelve months is about the greatest amount of time used by a Committee to work with a case--longer periods should be cleared with the Intake Worker.

The obligation to keep in confidence all information concerning individual cases does not rule out letting people know that there is a Citizen Conference Committee working in the community, the reasons for such a Committee, and in general, its functions. The more the community understands the working of the Committee, the more effective it will be.[27]

CHAPTER II

YOUTH DEVELOPMENT RELATIVE TO THE COURTS

In the State of Maine the District Court has jurisdiction over all juvenile matters and when acting in this capacity it is known as the Juvenile Court. The Juvenile Code defines Juvenile Crime, 15MRSA 3103, as any crime that would be a crime for an adult, possession of marijuana, or illegal possession or purchase of alcohol. Status offenses are no longer included as juvenile crimes and are dealt with by other departments. In addition, any juvenile adjudged delinquent in another state but found in Maine, would fall under the jurisdiction of the juvenile court (provided the offenses would be juvenile offenses in Maine).

In the past, the juvenile court has tried to provide guidance to the "wayward" children who came before it, acting more like disciplining parents (parens patriae) than officers of justice. However, even a cursory glance at the numbers of repeat offenders re-entering our courts, shows that this approach does not work in most cases.

The lack of a specific day or time for juvenile court sessions, and the lack of specially trained juvenile judges, do much to emphasize the awkward position of the juvenile court within the entire court system. Until the advent of the new Juvenile Code, hearings were informally held in the judge's chambers which, although done for the benefit of the juvenile, detracted from the severity of the situation and usually left the impression that little would be done in the way of discipline. Unfortunately, in many cases this impression is well-founded due to the lack of dispositional alternatives. These alternatives are still insufficient to meet the needs of the court, however, the new Juvenile Code provides that juvenile hearings will be conducted as they would be for adults, and that juvenile adjudicatory hearings on A, B, and C crimes will be public; all other proceedings will not.

The petition drawn up by the arresting officer (or Intake Worker) initiates the court proceedings. Also, under the new code, hearings on D and E crimes in the juvenile court are private, the records and transcripts not being available for public inspection. In the case of A, B, and C crimes, the hearings are public, therefore the records are public. Unlike adults, the juvenile does not have a jury trial, unless probable cause has been found, in which case the juvenile would be bound over for the grand jury and probably tried as an adult which entitles him to the same fights and processes due any adult. There is separation of adjudicatory and dispositional hearings, although a time span does not necessarily occur between them.

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They are also separate from criminal proceedings. The juvenile may be represented by counsel or an interested person. The adjudicatory hearing is informal, requiring no formal plea or arraignment. The court may adjourn at any time to permit further investigation. The juvenile may not waive the hearing; however, when the court deems it appropriate, the petition may be dismissed and the juvenile discharged without a hearing.

Since 1973, it has been unlawful to commit to the Maine Youth Center, or to any other place of detention, any juvenile adjudged to have committed a status offense, such as truancy or running away. The result is that the courts hands have been tied with respect to enforcing any decision it may hand down to the juvenile offender--all the "clout" has been removed. Similarly, the Pineland Center for Retarded Children no longer admits disturbed juvenile offenders. This leaves to the court virtually no placement alternatives for dealing with the juvenile in need of psychiatric or psychological assistance short of Augusta Mental Health Institute, which does not have adequate facilities to properly care for the disturbed juvenile offender.

Other dispositional alternatives include dismissing the action and releasing the juvenile; continuing the case (not more than one year) and placing the juvenile on probation; finding probable cause and binding over for grand jury action.[28] In some areas local facilities exist, such as Horizon House (formerly the Waterville Group Home), Rumford Boys Home, Little Brothers and Fair Harbor, but such facilities are too few, often private, and limited in size and the length of stay they offer. If the juvenile is adjudged to have committed a juvenile offense the judge may commit to the Maine Youth Center, or the Maine Correctional Center, or to the custody of the Department of Human Services, or to the care of a family under supervision of Probation and Parole. He may suspend sentence and place on probation, or make any other disposition the court considers in the best interests of the juvenile and the community. There is no standard policy regarding the use of restitution as a dispositional alternative.

The recommendations in the Court Section concern: the protection of the rights of the juvenile by ensuring continual representation by counsel; the establishment of information-gathering criteria; the change in appeal criteria; the establishment of determinate sentencing; restitution alternatives; specialization of D.A.'s in juvenile prosecution; and a format for juvenile court.

THE COMMUNITY ALLIANCE FEELS THAT INSUFFICIENT INFORMATION IS PROVIDED TO THE COURT IN JUVENILE CASES.

STANDARD 2.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEPARTMENTS OF MENTAL HEALTH AND CORRECTIONS MAKE A SOCIAL AND EDUCATIONAL STUDY AND PREPARE A WRITTEN REPORT ON EVERY JUVENILE ADJUDICATED AS HAVING COMMITTED A JUVENILE CRIME AND SHALL PRESENT THAT REPORT TO THE JUVENILE COURT PRIOR TO THAT JUVENILE'S DISPOSITIONAL HEARING. THE PERSON WHO PREPARES THE REPORT MAY BE ORDERED TO APPEAR. THE PARENT, CUSTODIAN OR GUARDIAN MUST BE INFORMED THAT THESE RECORDS ARE BEING GATHERED.

This recommendation differs from the Juvenile Code in that it includes the educational history as part of the pre-adjudicatory report and it requires that the parents be informed that the information is being gathered.

Information from schools could prove invaluable to the judge in determining the disposition of a juvenile case and should, therefore, be included as an integral part of any pre-sentence report. Similarly, the gathering of this information should not be a secret process: the juvenile, and his parent, custodian or guardian have the right to know that the information is being gathered.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE LIMITATIONS FOR FILING PETITIONS IN JUVENILE CASES.

STANDARD 2.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT A PETITION SHALL BE DISMISSED WITH PREJUDICE IF IT WAS NOT FILED WITHIN SIX MONTHS FROM THE DATE THE JUVENILE WAS REFERRED TO THE INTAKE WORKER. HOWEVER, ANY INTERVENTION PERIOD FOR DIVERSION, WORK-SUPERVISED RESTITUTION, ETC. WILL NOT BE CONSIDERED PART OF THE SIX MONTHS.

The lack of accountability beyond six months takes away the clout of the court in the event that an initial diversionary attempt should fail after the six month period has elapsed. If a juvenile knows he cannot be prosecuted after six months, he may opt for diversion, and plan not to follow through. There should, therefore, be some accountability beyond six months.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE PROTECTION OF THE RIGHTS OF JUVENILES.

STANDARD 2.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT A JUVENILE BE PROVIDED WITH AN ATTORNEY PRIOR TO ANY APPEARANCE BEFORE A JUDGE, AND A JUVENILE MUST BE GIVEN THE OPPORTUNITY TO BE REPRESENTED WHENEVER HE OR SHE APPEARS BEFORE A JUDGE.

The Committees expressed the opinion that the possibility exists that those juvenile who are not represented by counsel are dealt with more severely by judges than those who have counsel. The right to counsel is often waived by the juvenile and/or his parents in an effort to show a cooperative attitude, to avoid irritating the police or to avoid the expense--often at the "expense" of the juvenile.[29]

The members of the Alliance felt strongly that, "A juvenile should be represented by a lawyer at every stage of delinquency proceedings. If a juvenile who has not consulted a lawyer indicated intent to waive assistance of counsel, a lawyer should be provided to consult with him and his parents on the wisdom of such a waiver. The court should not accept a waiver of counsel unless it determines after thorough inquiry that the juvenile has conferred at least once with a lawyer and is waiving the right competently, voluntarily, and with full understanding of the consequences.

Before accepting a waiver of counsel, the court should probe deeply into the juvenile's competence, his/her understanding of the consequences of dispensing with counsel, and the voluntariness of the waiver decision. For these purposes, the court should address the juvenile personally. Counsel should be provided despite the juvenile's desire to waive the right, unless the court is satisfied that the juvenile is sufficiently mature to make the decision, and that he understands the nature of the allegations and possible defenses, his procedural rights, and the possible consequences of an adverse finding on the merits. The court also should determine whether the desire to waive counsel rests on an expectation of leniency. Throughout this inquiry, the court's language and tone should be calculated to encourage exercise of the right to counsel.

If the court accepts a waiver, it should insure that the offer of counsel is renewed at each subsequent stage of the proceedings at which the juvenile appears without counsel."[30]

Based on a study performed by Midwest Research Institute, the costs here would approximate $110.00 per case. Some youth would only need limited legal advice prior to their diversion from the system while others would warrant legal assistance throughout judicial review. In many cases, attorneys would be secured by the youth's family or guardian, thus defraying the costs to the state or community.

This standard parallels several Supreme Court decisions developed during the famous Gault decision. Several states have already adopted legislation similar

to this standard as a distinct section of their juvenile codes. An advantage of providing attorneys for youth is the reduction in incarcerations that legal counsel usually creates.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE EFFECTS OF INDETERMINATE SENTENCING FOR JUVENILES.

STANDARD 2.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE MAXIMUM TERM OF COMMITMENT TO THE MAINE YOUTH CENTER AND AFTERCARE BE ONE YEAR FOR D & E OFFENSES AND THREE YEARS FOR A, B, AND C OFFENSES.

In its study of the juvenile justice program, and the Maine Youth Center specifically, the citizens feel that indeterminate sentencing can have a detrimental effect on the juvenile. Not being able to see the end of the tunnel could easily result in a lack of enthusiasm for or participation in the many programs offered by the Center. In addition, due to the severe overcrowding of the facility, youngsters are being released before the staff feels it has had the chance to do everything it can to rehabilitate them. This results in a higher recidivism rate.

THE COMMUNITY ALLIANCE FEELS THAT JUVENILES ARE NOT MADE AWARE OF THE IMPACT OF THEIR OFFENSES OR THEIR RESPONSIBILITIES TO SOCIETY.

STANDARD 2.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT RESTITUTION BE GIVEN PRIORITY BY THE JUDICIARY WHEN DEALING WITH JUVENILES, WHETHER INCARCERATED OR PLACED ON PROBATION.

Restitution is usually thought of as repaying the victim with money, but this is only one aspect. A juvenile may donate his time, as in the case of vandalism; the victim could provide the materials while the juvenile provides the labor. There is also the possibility of the juvenile being placed in a local public service job.

Restitution can also be completed while the juvenile is incarcerated (provided there are programs designed to pay inmates for their labor). A portion of the money an inmate makes on an institutional job could be sent to the victim. Assitionally, the inmate also may contribute to his own expenses at the institution by paying room and board to the institution, as well as by performing duties relating to the upkeep of the institution, such as grounds work or general maintenance. In addition, the inmate may be compelled to sent part of his earnings home to help support his family during his incarceration, similar to what is currently done in some halfway house/pre-release programs. All of the

Committees strongly urged a variety of restitution programs for both the juveniles who are incarcerated and those on probation.

STANDARD 2.6: THE COMMUNITY ALLIANCE RECOMMENDS THE DEVELOPMENT OF A COMMUNITY BASED RESTITUTION PROGRAM TO AID THE COURT IN DEVELOPING WORK SITES AND TO PROVIDE CITIZEN VOLUNTEERS TO ACT AS SUPERVISORS. COUNSELING SHOULD BE AN IMPORTANT PART OF THIS PROGRAM.

The Citizens feel that there is a need, not only for judges to utilize restitution more frequently but also for the community to help out by offering employment and supervision of restitution cases. Treatment of the juvenile within his/her home community environment is essential for the juvenile to achieve long-lasting success within that community. The citizen volunteers could also provide the work sites, which is possibly a task for the Citizen Conference Committees. The availability of this information may encourage the judges to use restitution more frequently.

"Work assignments for delinquents in the State agency's facilities should be limited to normal housekeeping and yardkeeping tasks in the living area and work directly related to vocational training to which the delinquent has been assigned. Any other productive work that contributes to the maintenance of the facility should be remunerative. Repetitious, degrading, or unnecessary tasks should be prohibited as work assignments. Public service work need not be compensated for but should be voluntary. Facilities housing older delinquents of an employable age should provide work release programs."[31]

THE COMMUNITY ALLIANCE NOTES THAT THERE ARE NO PROSECUTORS ASSIGNED SPECIFICALLY TO JUVENILE CASES.

STANDARD 2.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT IN EACH LOCAL PROSECUTOR'S OFFICE IN WHICH THERE ARE AT LEAST SIX ATTORNEYS, THERE SHOULD BE A SPECIALIZED DIVISION OR ATTORNEY DEVOTED TO REPRESENTING THE STATE AT JUVENILE HEARINGS IN DISTRICT COURT.

Ideally, there should be a special prosecutor for juveniles for each district court, but that would be economically unfeasible in Maine, and would probably exclude all district attorney's offices except in Cumberland County. However, there is a need for prosecutors who specialize in juvenile law since it is often very different from adult prosecution. The juvenile prosecutor should be aware of the philosophy.

of juvenile court, the problems of youth, community needs and conflicts relating to juveniles, and the resources available to deal with these issues. Special training programs for prosecutors dealing with juveniles are being provided in other states and could be modified and implemented for Maine.

THE COMMUNITY ALLIANCE NOTES THAT THERE IS NO SET TIME EXPRESSLY FOR JUVENILE COURT.

STANDARD 2.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT THERE BE A SPECIFIC, NON-VARYING TIME WITHIN THE DISTRICT COURT SCHEDULE DESIGNATED FOR JUVENILE COURT.

Presently juvenile court is sandwiched among other responsibilities of the District Court. As a result juvenile matters do not receive the focus and attention they deserve. By squeezing a juvenile hearing in between traffic offenses and divorces, if time allows, inadvertantly suggests that juvenile crimes are less important to the judicial system than traffic violations or divorces. Subsequently prosecutors, defenders, advocates, parents and juveniles tend to treat the proceedings as less serious than they are intended to be. The effects of this are multiple, and include: ill-prepared counsel and prosecution, which may result in general injustice; and less respect by the juvenile and his family for the orders of the judge. Another undesirable effect of haphazard scheduling is the investment and expenditure of valuable time waiting for hearings by probation officers, social workers, and interested parties to say nothing about the juvenile and his family.

If under the Juvenile Code, juvenile court is to be like adult court with the exception of a jury, then it is imperative that specific times be set in the District Court schedule.

THE COMMUNITY ALLIANCE FEELS THAT APPEALS FOR JUVENILES SHOULD NOT BE SUBJECT TO PARENTAL CONSENT.

STANDARD 2.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT APPEALS OF JUVENILE PROCEEDINGS HAVE THE SAME BASIS AS FOR ADULTS. THEY SHOULD NOT BE SUBJECT TO PARENTAL CONSENT.

The strength of the Juvenile Court system is its ability to maintain respect. The respect of the Court is subject to erosion if harmful errors are made and the juvenile is denied an appeal that would be available if he were an adult.

Many juvenile problems stem from poor parental judgment about what is good for their child, and many more stem from the conflict between the interests of

parent and child. Thus the appeal of a child's adjudication should not be subject to the consent of a parent who may have an interest adverse to that of the juvenile. An attorney representing only the child should be allowed to make the decision as to whether an appeal should be made. An attorney in such a position would be more aware of the violation of a juvenile's rights than a parent would be, plus he would be representing only the juvenile's interest instead of some combination of the parent's and juvenile's interests.

CHAPTER III

YOUTH DEVELOPMENT RELATIVE TO CORRECTIONS

There is no one agency or system responsible for juvenile services, intake, and detention in Maine at this time, and there is little coordination, communication, or continuity among services. Most of the initial juvenile detention decisions are made by police personnel. A statewide Intake System has been enacted which provides for Intake Workers who will be available on a 24-hour basis to make initial detention decisions as well as diversion recommendations. There are only two agencies presently providing intake services: Kennebec Community Justice Project and Project YES in Aroostook County. These agencies--two extreme points of the state geographically--are provided with court referrals, although they do receive some from police, schools, lawyers, parents, doctors, the Department of Human Services, neighbors and other kids, and do not make initial detention decisions. These agencies provide counseling and referral of youth to available services such as psychiatric services, employment, hospital services and counseling. They are responsive to the needs of the community and are theoretically accessible on a 24-hour basis. These agencies are presently funded from grants through LEAA and MCJPAA. Project YES is due to expire unless other sources of funding can be established. Moreover, present youth aid officers within police departments are sworn law enforcement officers who are ultimately accountable to their law enforcement agencies and who, by virtue of their status, deal mostly with those juveniles who have been arrested.

Although a few community-based facilities are limited in size and length of stay they offer, the major facility for the incarceration of the juvenile offender is the Maine Youth Center. It is a minimum security facility located in So. Portland and has a large campus with areas for recreation (including a pool), sports, and gardening. There are separate living quarters for boys and girls, although the male population is substantially larger than the female. There are fully staffed and stocked academic and vocational classrooms, as well as a library and arts and crafts programs. An infirmary for medical and dental care is also located on the grounds, as well as an isolation unit for discipline problems.

Although the MYC is well equipped it is becoming overpopulated and thus less effective. Many times youngsters are brought to the informary or intake unit and sleep on mattresses on the floor until space can be found for them in the cottages. It cannot keep the youth as long as it should to complete the

rehabilitation needed. Its location presents a transportation problem for officials who must transport offenders from the northern part of the state. This is especially costly when the court orders a two-week evaluation done on a juvenile prior to adjudication because it means he/she must be brought to the Center and picked up at the end of the two-week period and, possibly, brought back again if sentenced. Further, these evaluations are comprehensive and take up the time of already overworked and limited staff; this interferes with their regular work with the inmates and cuts down on their effectiveness. (There is no formalized training program for staff either, and this has an effect on their efficiency and effectiveness.)

More community facilities are needed to reduce the burden at the MYC. Detention at a county jail is usually not possible because Maine law dictates that juveniles cannot be detained together with adults, and most county jails are not equipped with separate facilities. There are no maximum security facilities at all for juveniles, although statistics show that youths are committing more serious crimes each year. In 1976 nearly one-third of all arrests made, or 10,921, were juveniles.[32] Of those arrested, 36.1% were for part 1 offenses.[33]

Partly in an effort to cut down on the numbers at the MYC, many juveniles are being placed on probation. A probated sentence is presently indeterminate. Probation is usually given juveniles unless the offense is serious enough to mandate detention or unless the juvenile is a danger to himself or society. Repeat offenders may or may not receive probation. Conditions of probation are established by the court and theoretically monitored by probation officers.

As long as schooling is not interfered with, a work program is permitted. Labor laws and lack of work opportunities for youth are major hurdles, however. The summer youth program and in-school youth programs under CETA have helped alleviate part of the problem, but they have guidelines which all youth are not able to meet. Restitution is rarely imposed since judges feel that the juvenile offender will be unable to meet the terms.

Probation officers are employed by the state and hiring practices conform to state personnel rules. The job requires a college degree or equivalent or a combination of schooling and experience. Probation officers receive an initial training program, plus 32 hours of additional training in dealing with juveniles. Their duties include explanation to the juvenile of the terms and conditions of probation, supervision of family care if the juvenile is in a foster home, and

counseling and additional care services. In addition, probation officers must deal with an adult caseload as well. Obviously, all of this is not possible, and due to large caseloads and lack of funds, juveniles on probation are not adequately supervised.

The Corrections section deals with recommendations which offer alternatives to existing systems as well as suggestions for improvement. Emphasis has been placed on evaluating and monitoring of programs, agencies, and facilities, with the bulk of the burden on the Department of Mental Health and Corrections. In discussing correctional programs and Code recommendations, it is obvious that there is little accountability for large agencies and almost no evaluation.

The new Juvenile Code provides for cooperation among agencies, without designating an agency, office or department to oversee this, other than the inter-departmental coordinating committee. It builds no element of accountability into the process. It is short-sighted to believe that cooperation can be legislated, and even worse to legislate and not monitor and evaluate.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE TYPES AND AVAILABILITY OF JUVENILE PLACEMENT FACILITIES.

STANDARD 3.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT NO NEW JUVENILE CENTERS BE BUILT UNTIL A COMPLETE EVALUATION OF JUVENILE JUSTICE NEEDS CAN BE ACCOMPLISHED.

The Committee feels that it is more important to provide community-based facilities and programs rather than spend any more money on another state facility similar to the Maine Youth Center. State and local needs and problems should be carefully evaluated before any further expansion is done. The opinions of the Committees tended to lean towards community-based, non-residential treatment.

It is possible to utilize existing facilities through renovation and/or remodeling without constructing entirely new facilities. Before any decision is made regarding facilities, the following should be taken into consideration:

1. Juvenile crime rates in Maine and projections through the next ten years.
2. Pattern of juvenile offenses--are the offenses relatively minor, where youths can be diverted out of the system or maintained in group homes? Or are they relatively serious, where youths need the supervision and security of a juvenile center?

4. Philosophy of the state relative to construction of new facilities.
5. Success of diversion programs.
6. Evaluation of programs in juvenile facilities and their impact on reducing deviant behavior.

The costs of construction of juvenile facilities for the State of Maine (Portland) as computed by ORR Systems (for a 30-bed facility) would be $50.00 per sq. ft.

According to most accepted standards (ACA, ABA, AIA, and NSA) juveniles need a minimum of 200 sq. ft. per youth for both living and program space. To determine the costs of a 30-bed facility, one then multiplies 30 times 200 sq. ft., times $50,000, which equals approximately $300,000 per facility. An alternative would be to use existing structures such as large houses, apartment buildings, college dorms, etc.

STANDARD 3.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE NATURE AND SERIOUSNESS OF SOME JUVENILE OFFENSES INDICATE THAT THE PROTECTION OF THE COMMUNITY REQUIRES DETENTION IN A MAXIMUM SECURITY FACILITY FOR JUVENILES.

The only juvenile detention facility, the Maine Youth Center, is primarily designed to hold the minor juvenile offender. Its layout is that of an open-campus style institution, most of which is not fenced in. The juveniles may move freely from building to building at designated times, and are not under surveillance by armed guards. There is only one segregation unit located in the infirmary building used to house both newcomers and discipline problems, and any juvenile who escapes from the grounds in placed there upon his return.

As can be seen in this description, the Maine Youth Center is not designed or staffed to handle the dangerous, serious juvenile offender. The only alternative for a juvenile convicted of an adult offense is sentencing to Thomaston State Prison, since the Maine Correctional Center is similarly a medium-minimum security adult facility and not equipped to handle the more serious, long-term offender, whether adult or juvenile.

The Citizens expressed the need for providing a secure setting for a serious juvenile offender--one safe for both the offender and the community--where he may receive rehabilitation. Simply segregating a juvenile in a separate part of an adult facility not only is cruel but also prevents the juvenile from participat-

ing in educational or vacational programs. The Committees feel that segregation is neither successful nor fair.

STANDARD 3.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT GROUP HOMES BE AVAILABLE UNDER THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS AND THE DEPARTMENT OF HUMAN SERVICES FOR DIFFERENT TYPES OF CHILDREN. ADDITIONALLY, SPECIALIZED FACILITIES SHOULD BE MAINTAINED FOR JUVENILES WITH SEVERE EMOTIONAL PROBLEMS. THIS INCLUDES THE ESTABLISHMENT OF A SECURE PSYCHIATRIC HOSPITAL UNIT FOR APPROPRIATE ADJUDICATED AND NON-ADJUDICATED MENTALLY ILL JUVENILES.

Currently, in the state of Maine, there are no special facilities available in which a juvenile suffering from emotional, psychiatric or developmental problems may be safely and securely housed for treatment. Since the closing of Pineland Center to juveniles, the existing juvenile correctional facility-- the Maine Youth Center--has been forced to house and to attempt treatment of juveniles suffering from varying forms of mental illness. These juveniles require not only individualized treatment but must be kept separated from the general population. It is not possible for each of these juveniles to be given proper attention and treatment because of a terrible shortage of adequately trained personnel and separate housing facilities. In many cases, a different setting would be more beneficial--such as a group home--but their insufficient number and the small professional staff to run them prohibit this possibility. An emotionally disturbed juvenile has needs which differ greatly from those of either a juvenile offender or an emotionally disturbed adult and therefore should not be housed with either.

The Maine Youth Center has been over-utilized to such a degree that those juveniles detained there do not receive the training and treatment they often require. The concensus of the Committees was that more facilities, such as group homes, shelter care and foster homes for juvenile offenders be created, including a psychiatric facility. Evaluations could, and should, be done on a local level, utilizing the local community mental health centers. Medium security detention centers at various points throughout the state could eliminate detention at the Maine Youth Center. The upgrading of some local jails could fulfill this purpose. One suggestion for non-secure juvenile housing facilities was that they be patterned after the New Life Centers in York County, which are group homes with parents in each who provide for optimum involvement in the community.

Juvenile offender group home operating costs average $20.00 per day per youth, although homes for the emotionally-disturbed average approximately $24.00

per day. Additional costs include employing and training new staff to operate these facilities and the costs of state investigators who monitor and license the homes. When considering specialized facilities for juveniles with severe emotional problems, cost is an extremely important factor. Construction costs average $60.00 per sq. ft. and operating costs run approximately $41.00 per day, whereas the costs of juvenile psychiatric facilities is even greater due to the cost of a professional psychiatric staff which is necessary to operate the facility ($65.00 - $110.00 per day).

THE COMMUNITY ALLIANCE FEELS THAT PRESENT GRIEVANCE PROCEDURES ARE INADEQUATE.

STANDARD 3.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STATE AGENCY DEVELOP AND IMPLEMENT GRIEVANCE PROCEDURES TO PROVIDE A MEANS FOR JUVENILES TO CHALLENGE THE SUBSTANCE OR APPLICATION OF ANY POLICY, BEHAVIOR, OR ACTION DIRECTED TOWARD THE JUVENILE BY THE STATE AGENCY OR ANY OF ITS PROGRAM UNITS.

Complaints about the policy, behavior, or action of other organizations that exercise jurisdiction over juveniles pursuant to contractural relationships with the state agency should be covered by the grievance procedures.

A full hearing should be conducted promptly and all parties to the grievance should be given an opportunity to be present and to participate in the hearing.

The juvenile should be entitled to select a representative from among other juveniles, staff, or volunteers regularly participating in the program. Representatives should be entitled to attend and participate in any informal conferences, hearings, or reviews in which the juvenile participates.

STANDARD 3.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE RIGHTS OF A COMMITTED JUVENILE, IN AN INSTITUTION INCLUDE THE FOLLOWING:

A. THE RIGHT TO AN IMPARTIAL AND OBJECTIVE FACTFINDING HEARING WHEN ACCUSED OF A MAJOR RULE VIOLATION THAT MIGHT RESULT IN A DEPRIVATION GREATER THAN 24-HOUR RESTRICTION TO SECURE QUARTERS (ISOLATION UNIT);

B. THE RIGHT TO A WRITTEN NOTICE OF THE ALLEGATIONS AGAINST HIM OR HER AND THE EVIDENCE UPON WHICH THE ALLEGATIONS ARE BASED 48 HOURS IN ADVANCE OF THE FACTFINDING HEARING;

C. THE RIGHT TO REQUEST A SUBSTITUTE COUNSEL TO REPRESENT HIM OR HER DURING THE DISCIPLINARY PROCEEDINGS. A SUBSTITUTE COUNSEL MAY BE A STAFF MEMBER, ANOTHER JUVENILE (SUBJECT TO THE REASONABLE APPROVAL OF THE PROGRAM

DIRECTOR), OR A VOLUNTEER WHO IS A MEMBER OF A REGULAR VOLUNTEER PROGRAM AT THE INSTITUTION. FACTFINDERS SHOULD INSURE THAT JUVENILES WHO DO NOT COMPREHEND THE PROCEEDINGS DUE TO A LACK OF MATURITY OR INTELLECTUAL ABILITY OR BECAUSE OF THE COMPLEXITY OF THE FACTUAL QUESTIONS AT ISSUE ARE PROVIDED WITH A SUBSTITUTE COUNSEL. AND TRANSLATORS SHOULD BE PROVIDED WHEN THE JUVENILE DOES NOT SPEAK ENGLISH;

D. THE RIGHT TO CONFRONT ACCUSERS, CALL WITNESSES, AND PRESENT WRITTEN DOCUMENTS AND OTHER EVIDENCE AT THE FACTFINDING HEARINGS; AND

E. THE RIGHT TO RECEIVE A WRITTEN RECORD OF ANY TRUE FINDINGS AND THE EVIDENCE RELIED UPON. THIS SHOULD INCLUDE A STATEMENT OF THE DISPOSITION.

This standard is based on the assumption that the development and maintenance of juveniles' self-respect and dignity require that they have some means for influencing and changing decisions that affect their lives. It also assumes that, when provided with appropriate opportunities, each juvenile has the knowledge, ability, and skill to participate in ordering his or her own life.

The purpose of formal grievance procedures is to insure that grievances or complaints are given an opportunity for full and fair hearing, consideration, and resolution. The procedures outlined in this standard are intended to supplement but not replace existing informal channels for resolving grievances.

STANDARD 3.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT A JUVENILE ADVOCATE PROGRAM (OMBUDSMAN) BE ESTABLISHED TO REPRESENT THE INTERESTS AND VIEWS OF JUVENILES.

These interests would be represented at all decision making activities such as legislative hearings, study groups, and planning groups, and would be required to disseminate information and counterbalance information contrary to their interests.

The juvenile interest and viewpoint is presented infrequently at any gathering which is making decisions about the lives of juveniles. There are several reasons why this perspective should be presented to decision makers and to the general public.

The first reason the juvenile view should be represented is that it is capable of providing valuable insight into the cause and depth of specific problems, and an explanation and/or justification for particular juvenile behavior. Frequently adults develop solutions to problems as they see them, giving little consideration to how the juvenile may see the same situation. As a result, the "solution" becomes another failed attempt, or another problem for society to deal with.

Time, effort, and money could be saved, to say nothing about young lives, if all perspectives were presented before solutions are developed.

A second reason is that adults tend to justify their actions by believing they have the best interests of the juvenile at heart when they make decisions concerning them. This belief frequently overshadows any consideration of the protection of human rights and constitutional rights the juvenile as a person and citizen may have. It becomes a real "ends justifies the means" exercise.

Third, a democratic society professes that all views and interests have a right to be heard. As a class, juveniles are unable to compete with the myriad of organizations, groups, and special interests who are able to present their views to the decision-making bodies.

Another reason for such an office is to provide a balance of information to the general public about the activities of juveniles, particularly juvenile offenders. Report after report is issued stating the near disastrous state of juvenile crime. No one is funded or assigned the duty of stating how few juveniles commit juvenile offenses, or explaining that numbers of juveniles who committed one offense are now up-standing citizens. Someone must dispel the implications of distorted or vague statistics.

Juveniles are a significant part of this society. The problems they cause this society consume much of government's time and energy. The least that could be done is to provide them with a voice.

THE COMMUNITY ALLIANCE FEELS THAT THE FUNDING POLICIES FOR JUVENILE SERVICES ARE NOT GIVEN ADEQUATE ATTENTION AND PRIORITY.

STANDARD 3.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVALUATIONS OF INDIVIDUALS, AGENCIES AND INSTITUTIONS WHICH DEAL WITH JUVENILES BE DONE REGULARLY AND ON AN ON-GOING BASIS. THIS SHOULD BE ON A COST AND EFFECTIVENESS BASIS USING A COMMON SENSE APPROACH TO PRODUCTIVITY AND PROPER EXPENDITURE OF FUNDS. FLEXIBILITY FROM AREA TO AREA (RURAL v. METROPOLITAN) MUST BE CONSIDERED.

However, evaluation and monitoring should not be used as a means of control by the evaluation committee or the Department of Mental Health and Corrections. Cost is important, but a program that costs more might do a better job than one that costs less, so that there is a higher return on the investment. Care should be taken not to throw out a program solely on the basis of cost. Cheaper may not be better; conversely--more expensive may not be better--just more costly.

A program often takes several years to produce good quality results which can form the basis of future programs. Limited results can be obtained from

a program operated one year or less. Evaluations are needed in order to begin gathering information for future project planning and to determine if adequate services are being provided. These evaluations must be designed properly. Too many times mechanisms are designed which do not measure what they are supposed to.

Numerous types of facilities and programs are needed for juveniles in the state of Maine, each one requiring a careful planning stage and evaluation process. Unfortunately there have been very few state run programs and facilities, and many of them are transient because they were begun with federal and state matching money and closed when funding ran out. Then, when new money becomes available, a new project is designed, often with the same end results. So far, there has been very little planning, and inadequate evaluations due to the short length of time a program is in existence.

The evaluation of juvenile programs and institutions is necessary to measure the impacts of the juvenile offender. Two elements of the evaluation problem are noted and must be considered in reference to this standard:

1. The organizational support that is required to facilitate evaluation and utilize its results; and
2. The research procedures and guidelines that are needed for successful evaluation.

In conducting a cost-effective evaluative approach, which in essence is the process of determining the value or amount of success in achieving a predetermined objective, the following four steps must be executed in the designated order:

1. Formulation of the objective, i.e., measuring the impact of a program designed to intervene with serious juvenile offenders;
2. Identification of the proper criteria to be used in measuring success, i.e., reduction in serious offenses, acceptance of community laws, increase in school attendance, less contact with law enforcement officials;
3. Determination and explanation of the degree of success; and
4. Recommendations for further program, agency, or individual activity.

Since the main task in evaluation is to make comparisons, it is important to consider the ways in which comparisons may be made:

1. Real condition versus ideal,

2. Real condition versus published or official standards (Juvenile Justice Act).
3. "Before" status versus "after",
4. Program persons versus non-program persons,
5. Real outcomes versus expected outcomes,
6. Comparison of agency reactions to participant and behaviors,
7. Participant costs versus control costs, and
8. Comparing participants and controls on both benefits and costs.

The process or combination of processes will vary depending on the agency, program, or facility being evaluated.

STANDARD 3.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT A COORDINATING UNIT BE ESTABLISHED TO CONTROL THE FUND MATCHING, TO SEE THAT NEEDED SERVICES ARE MADE AVAILABLE TO THE COMMUNITIES AND TO MAKE CERTAIN THERE IS NO UNNECESSARY DUPLICATION.

The shift to local delivery of services to youth could create confusion and duplication because more funding sources and delivery agencies will be created. The vast number of programs and facilities being proposed will have varying amounts of funding sources. This could conceivably bring about the need for a clearing house or coordinating unit to monitor and keep organized what could turn into total chaos. To do this, the unit should have the responsibility to:

1. plan, organize and coordinate all juvenile services relating to juvenile justice and delinquency prevention at the state level; and
2. coordinate all federal funds in direct support of juvenile justice and delinquency prevention.

Local planning authorities and the responsible state agencies must utilize statistical data and must inventory resource analysis to develop a descriptive statement of the delinquency prevention and juvenile justice problems at the local and state level. The problem identification should include, at a minimum, data about:

1. the incidence of adjudicated delinquency and recidivism;
2. the incidence of adjudicated non-criminal misbehavior;
3. the incidence of dependency and adjudicated neglect and abuse;
4. the number of contacts with and the rates of diversion from the juvenile justice system;

5. the utilization of drug abuse, counseling, recreational and other programs serving juveniles;
6. the rate of school-related difficulties such as dropping out, suspension, truancy and problems in learning; and
7. the rate of youth unemployment.

The local planning authority and the state agency should then identify and prioritize the specific problems toward which efforts of prevention and system improvement will be directed. This statement should be updated periodically, utilizing the results of evaluations. An Interdepartmental Coordinating Committee has been proposed to operate on a state-wide basis under the supervision of the Maine Criminal Justice Planning and Assistance Agency to deal with recommendations such as these. The proposed funding is $200,000.00 over a two-year period.

STANDARD 3.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT LOCAL MONIES MUST BE MADE AVAILABLE FOR MATCHING FEDERAL AND STATE FUNDS, IF COMMUNITIES WISH, TO INITIATE AND MAINTAIN ON-GOING PROGRAMS. THE MATCHING RATIOS SHOULD BE DETERMINED BY STATE STATUTE.

An essential ingredient in any local juvenile program is commitment on the part of the community. Often "pilot programs" are begun in communities through a combination of state and federal money but with no firm commitment of continuation from the community receiving the program. This frequently results in the program ending due to a failure of the local community to continue funding. A program may be very successful, but all of its positive impact is lost if after one year the program ends with nothing to replace it. The community then ends up where it started. The consensus of the citizens is that large sums of money will be spent on juveniles in the future. It makes sense to spend a large portion of it on community-level prevention and treatment beforehand, rather than increase police, court and correctional costs, not to mention the money lost due to the crimes themselves.

Costs could range from $5,000 to $100,000 depending on the size of the communities and the extent of programming. The question of matching ratios is important, especially since the new Juvenile Justice Act proposes 100% funding in 1979. Further discussion relative to this matter should be forthcoming before the implementation of the standard.

THE COMMUNITY ALLIANCE IS CONCERNED ABOUT PROBATION POLICIES REGARDING JUVENILE OFFENDERS.

STANDARD 3.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT PROBATION BE FOR A SPECIFIC TERM; PROBATION FOR D & E OFFENSES SHOULD BE NO MORE THAN ONE YEAR.

Currently, probation officers have such enormous caseloads that they are not able to adequately follow each case as closely as they should, thus losing some of their effectiveness. In some cases, the needs of an offender may go unnoticed until another offense is committed, due to lack of adequate follow-up. Until recently, the caseload of probation officers was mixed, with each officer handling both juvenile and adult offenders. The probation officer spends the majority of his time completing investigations and reports relative to probationers in his charge. This leaves little time in which to meet and interview these probationers.

This brings up the problem of length of probation. While an adult may be sentenced to a specific term of probation, a juvenile's sentence is indeterminate, thus creating a further burden on the probation officer. The officer is forced to carry an ever-increasing caseload, with less and less time available for supervision. The Committees realized the need for more probation officers with smaller individual caseloads. They did not see the purpose of keeping a juvenile on a long probation if few services were being given. It becomes irresponsible and ineffective.

THE COMMUNITY ALLIANCE NOTES THAT THERE ARE NO PROGRAMS FOR JUVENILES IN MAINE'S COUNTY JAILS.

STANDARD 3.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT SINCE THE REVISED JUVENILE CODE ALLOWS A JUVENILE TO BE SENTENCED TO A COUNTY JAIL FOR A PERIOD OF DETENTION NOT TO EXCEED 30 DAYS, PROGRAMS FOR JUVENILES SENTENCED TO COUNTY JAILS SHOULD BE DEVELOPED. THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS SHOULD ALSO PROMULGATE AND ENFORCE STANDARDS FOR SUCH PROGRAMMING CONGRUENT WITH ITS ROLE OF "DESIGNATING COUNTY JAILS...AS A PLACE FOR THE SECURE DETENTION OF JUVENILES."

Many of the county jails in the state are not able to house juveniles due to lack of adequate facilities. Some public works funds are available to renovate or construct areas for juvenile detention, but the county must develop programs for the education, training and recreation (among others) that conform to LEAA guidelines prior to receipt of the money. It would accomplish little to have a youngster lying idle for an entire month and very likely will have a negative effect upon him.

THE COMMUNITY ALLIANCE FEELS THAT PROPER EVALUATION OF JUVENILE PROGRAMS IS NECESSARY.

STANDARD 3.12: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS MONITOR AND EVALUATE THE PROGRAMS AND AGENCIES UNDER ITS AEGIS BUT SHOULD, ITSELF, BE EVALUATED FIRST AND FOREMOST.

It is naive to expect an agency to evaluate itself fairly and impartially, although some self-evaluation should be done. It is also unfair to expect the agency's subgrantees to be monitored and evaluated without the same criteria being imposed upon the contractor agency.

Because planning and evaluation are integral parts of management, ideally each public or private agency working with juveniles should have an established system for applying planning and evaluation information to decision making. Not every agency can have a professional planner or evaluator on its staff, nor a sizable budget for consultant help in this area. Furthermore, both planning and evaluation must transcend individual agency needs and relate to multijurisdictional or systemwide concerns. Otherwise, there is no opportunity for common planning to address mutual problems. Poor cooperation and communication, empire building, narrow perspectives, and real differences in program objectives are among the obstacles to a coordinated planning and evaluation system.[34]

Adequate monies for planning and evaluation should be earmarked from the various funds allocated for operational programs. Such funding is essential if planning and evaluation are to become integral parts of management at all levels of the juvenile justice and delinquency prevention system.[35]

In general, the data collected for planning and evaluation should result from a careful analysis of elements needed and used in decision making. The data gathered should be objective, of the offender-based transaction type, and related to budgeting, in order to yield cost-effectiveness estimates. Examples of specific kinds of data needed for planning and evaluation are given below.

DATA TO SUPPORT PLANNING

1. Incidence of juvenile delinquent acts (number, nature, geocoded location, time, etc.);
2. Characteristics of alleged juvenile delinquents (personal data, data on environment, education, family situation, delinquency history, personality and interests);
3. Filings affecting juveniles, by type of petition;

4. Types of dispositions (place and length of sentence, diversions, releases of various types);
5. Workload, by element of the system (numbers served, waiting lists, backlogs, time to process);
6. Agencies, by kind of service offered and eligibility criteria;
7. System resource allocation (deployment of funds, personnel, and equipment);
8. Community demographics (size, ethnic makeup, economic level, growth rates, education, age, etc.);
9. Community attitudes and the political environment; and
10. National and community societal trends (urbanization, secularization, democratization, family structure).

DATA TO SUPPORT EVALUATION

1. Data mentioned above as necessary to the planning function are also necessary for evaluation; and
2. Performance measures.

CLIENT-CENTERED DATA

1. Recidivism (arrests, filings, convictions);
2. School (attendance, grades, discipline experience);
3. Adjustment indicators (personal, family);
4. Service goals established (What did you try to do for the child?);
5. Services offered; and
6. Youth and family involvement.

AGENCY-CENTERED DATA

1. Workloads;
2. Processing/service time; and
3. Resources expended--cost per unit of service.

SYSTEM-CENTERED DATA

1. Recidivism by system element and for the system as a whole; and
2. Resources expended.

The data elements required for administrative operations are the same as those for planning and evaluation. With access to clearly presented information, juvenile justice administrators are in an excellent position to make effective resource allocation decisions. However, massive statistical reports are typically of little value.

Every agency using information of the type described above should plan for its use before information is collected and reported. In larger systems, it will be necessary to assign a staff person to synthesize and analyze the data, putting them in a form that will help, not confuse, the decision making process.[36]

STANDARD 3.13: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS, HUMAN SERVICES, EDUCATIONAL AND CULTURAL SERVICES, AND THE MAINE CRIMINAL JUSTICE PLANNING AND ASSISTANCE AGENCY COOPERATE AND COORDINATE THE PLANNING AND DEVELOPMENT OF RESIDENTIAL FACILITIES WHICH WILL PROVIDE A CONTINUUM OF TREATMENT. SPECIFICALLY, THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEVELOPMENT OF FACILITIES WHICH WILL SUBSTITUTE FOR, RATHER THAN SUPPLEMENT, COMMITMENT TO THE OVERCROWDED MAINE YOUTH CENTER BE DESIGNATED AS A HIGH PRIORITY.

Planning....is an orderly, systematic, and continuous process of applying anticipations of the future to current decision making. This definition emphasizes three elements: planning as a process, planning oriented towards the future, and planning focused on present decision making.

Planning as a process implies a consideration of functions, tasks and roles as opposed to specific plans for program implementation. Procedurally, the following steps are recommended:

1. analyze the current juvenile justice and delinquency prevention system;
2. project a desired future system;
3. determine any gap between current and future systems; and
4. develop appropriate standards and programs to fill this gap.

Finally, planning focused on the present recognizes that plans for tomorrow's juvenile justice system must be implemented in today's decision making arena. The minimal planning functions that must be performed by each governmental unit operating a juvenile....court....include policy formulation and problem analysis, as well as program design implementation and evaluation.[37]

Each juvenile justice system should develop a set of procedures and criteria for determining which programs merit expanded evaluation. Typical criteria should include the following:

1. there is a likelihood that evaluation information will influence program decisions;
2. program effectiveness is seriously questioned;
3. substantial resources are committed to the program;

4. community concern has been manifest;

5. the approach is new or untried;

6. evaluation data do not presently exist; and

7. the program is amenable to experimental design.

Once criteria are established, programs should be selected on a continuing basis for evaluation research. The actual implementation can be the responsibility of either in-house evaluators or consultants.

Evaluation research is particularly valuable in conjunction with the pilot-testing of experimental program interventions. Programs with a potential for large-scale implementation and introduced for the first time should be initiated on a limited scale and subjected to evaluation research.[38]

Three basic research approaches which may be utilized are: non-experimental, involving surveys, case studies, cohort analysis, and before/after studies; quasi-experimental, involving comparison groups and interrupted time-series; and controlled experiments, which include only those studies in which treatment results are compared with a control group consisting of randomly selected individuals eligible for but denied any form of treatment being evaluated.

Prior to each evaluation research study, the situation should be assessed in the light of three standard arguments for random selection and controlled experiments:

1. Randomization is the most equitable method of deciding the distribution of limited resources.
2. Without evidence of a program's utility, there is insufficient reason to believe that those not in the program are being denied anything of value; and
3. Cause-effect information is needed for the long-term good of society and of the juveniles served by the system.

However, regardless of the experimental design used, evaluation research should be carefully designed and conducted...The evaluation design should also incorporate management information needs and should conform to the decision-maker's time schedule. [39]

STANDARD 3.14: <u>THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PURPOSES/FUNCTIONS OF THE MAINE YOUTH CENTER BE REVIEWED/RESTATED, INCLUDING CONSIDERATION OF THE APPROPRIATENESS OF DIAGNOSTIC EVALUATION AND HOLDING FOR COURT FUNCTIONS,</u>

THE ABILITY TO DIVERT COMMITTED JUVENILES TO COMMUNITY-BASED ALTERNATIVES, AND THE RELATIONSHIP OF THE MYC TO THE JUVENILE SERVICES AND REGIONALIZED DETENTION SYSTEMS.

Since the Maine Youth Center is the only juvenile detention facility in the state, it is often over-utilized by the courts. In addition to the adjudicated population, the Center is also used as a detention placement for juveniles awaiting court appearances as well as juveniles who must be evaluated before a court appearance. These juveniles require the services of the already limited staff, which then lessehs the treatment time available to the adjudicated juveniles who are sentenced there.

Another result of the influx of pre-adjudicated juveniles is overcrowding in the cottages. The lack of space forces the staff to combine various kinds of juvenile offenders in the cottages, thus making it virtually impossible to separate adequately the "hardened juvenile" from the less serious or "first-time" offender. The "holds for court" and "evaluations" also mingle, to some extent, with the general population.

The length of stay at the Maine Youth Center has been adversely affected by the over-crowding. Since a juvenile's sentence is indeterminate, it is up to the center to decide which are ready for release.. At one time, the average stay was approximately nine months, which corresponded as closely as possible the juvenile's actual school year. The idea was that the juvenile would receive an entire, uninterrupted year of school that he might otherwise have missed. Upon his release the juvenile could then resume his regular schooling with minimal loss of continuity. Unfortunately, the demands for space over the recent years have forced the average stay to shorten steadily, so that now the average is 3-4 months.

THE COMMUNITY ALLIANCE IS CONCERNED THAT RESIDENTIAL CARE FACILITIES ARE NOT ADEQUATELY BUDGETED.

STANDARD 3.15: THE COMMUNITY ALLIANCE RECOMMENDS THAT SINCE THE DEPARTMENT OF HUMAN SERVICES PAYS ONLY 80% OF "SOME" UNIT COSTS, THE LEGISLATURE PROVIDE BLOCK FUNDING FOR RESIDENTIAL CARE FACILITIES.

At the present time residential care facilities are dependent upon reimbursement from the Department of Human Services to cover most of their costs. These reimbursements are supplemented by MCJPAA on a sliding scale which decreases every year and is limited in number of years, i.e., four maximum at a decreasing rate. To make matters worse, the Department of Human Services will only cover up to 80% of the costs it deems eligible for reimbursement, and those only for its own clients. Although a juvenile can be remanded to the custody of DHS and therefore be eligible for coverage, some juveniles are not. The funding for these youths must come from other sources. As a result, the residential care facilities' funding is tenuous at best. Block funding that would guarantee coverage of operating costs is desperately needed. This can be provided as a supplement to reimbursement, thus guaranteeing operational costs and also meeting the criteria for reimbursement with Federal monies.

CHAPTER IV

YOUTH DEVELOPMENT RELATIVE TO DIVERSION

The number of juveniles becoming involved in the juvenile justice system has increased steadily over the past five years and the most present preventive programming is reactive.[40] A great deal needs to be done to identify conditions contributing to delinquency and/or criminal behavior in order to be able to develop prevention programs that will impact the problem areas.

Further, committments and recommittments to the Maine Youth Center have risen dramatically over the past few years. The need is to develop dispositional alternatives which will significantly impact on the MYC population. The strategy is to develop or improve residential care and other alternative programs which will have the capability of providing services to those youth who would be or are committed to the Maine Youth Center.[41]

In Maine, at the present time, there are no formalized procedures for diversion and the process is currently a rather haphazard procedure, very dependent upon the officals involved and their knowledge of the few alternatives that exist. There is little or no conformity from area to area and department to department. There are only three agencies that perform diversionary functions besides the local officials: Project YES, the Kennebec County Community Justice Project, and the Somerset Youth Service Bureau. The Kennebec County Community Justice Project deals mostly with court referrals. The other agencies deal with juveniles prior to contact with the criminal justice system as well as afterward. Most communities have few or no services available for juveniles who have not come in contact with the police, which often allows smaller problems or offenses to grow into larger, more serious ones before the need for help is recognized. Although diversion should be voluntary, and not interfere with the juvenile's right to due process, it is rapidly becoming a necessity. The spiraling number of arrests and court cases, the overcrowding of detention facilities, the number of unnecessary detentions, the lack of true rehabilitative capabilities at these detention facilities--all provide the impetus to streamline the criminal justice system so that it deals only with criminals and puts the onus on other agencies such as the Department of Human Services, Department of Education and other parts of the Department of Mental Health and Corrections to carry their fair share of the burden. Status offenses, such as truancy, have been parceled out among these agencies for better handling.

Virtually no written guidelines are available to law enforcement agencies delineating their roles in the diversion process. Establishing policies and guidelines for juvenile diversion is a necessity. To date the solution has been to dump youngsters into the criminal justice system because other agencies don't want to deal with them. Hopefully, access to other agencies will provide a vast range of diversionary alternatives and will free the criminal justice system to deal with the true juvenile offender.

Since there are few diversionary alternatives available. many of the recommendations deal with different diversionary approaches. There is a strong focus on the Youth Service Bureaus, as well as suggestions for guidelines regarding which juveniles should be diverted. Suggestions on funding and planning are also included. With cost a major factor in any endeavor, the citizens feel that the money would better be used in prevention than in processing a juvenile through the system. They feel strongly that diversion and prevention have the highest priority.

THE COMMUNITY ALLIANCE FEELS STRONGLY THAT DIVERSION IS CURRENTLY A HAPHAZARD PROCEDURE, VERY DEPENDENT UPON THE KNOWLEDGE OF THE INDIVIDUAL OR DEPARTMENT INVOLVED AND ON THE AVAILABILITY OF SERVICES.

STANDARD 4.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY JUVENILE OFFENDER BE CONSIDERED FOR DIVERSION.

This can benefit society since the diverted juvenile will have limited contact, if any, with the criminal justice system, and will be unable to establish relationships with serious offenders. Further, not being removed from the community will enhance his chances of success in functioning within that community. Although it is agreed that diversion is desirable, the point in the process at which it occurs was a cause for debate. The concensus arrived at was that diversion can and should occur at any point between apprehension and adjudication, as well as prior to the point of contact with the criminal justice system. The Intake Worker plays an important role since he is the one doing the screening and making the initial recommendations to the court. The police officer also has a role in diversion since the decision of arrest or referral is in his hands. Police and sheriff's departments and all hospitals should serve as referral services in each community, too.

STANDARD 4.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE INTAKE WORKER PROGRAM KEEP THE JUVENILE COURTS APPRISED OF PROGRAMS AND AGENCIES SUITABLE FOR AIDING JUVENILES.

New programs and agencies offering diversionary and rehabilitative services to juveniles are continuously being established and abolished. The juvenile courts are not equipped to stay abreast of all of this activity. Yet to be an effective juvenile court judge one must have knowledge of all available programs and means of assistance for particular problems. Without a complete picture of available alternatives, inadequate or unsuitable dispositions may be ordered. A current description of programs, services and abilities could facilitate the judge's decision as well as help the rehabilitation of the juvenile.

In addition, this should put no extra burden on either of the suggested disseminators, since both should be fully apprised of all programs in order to perform their own function.

STANDARD 4.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT EACH JUVENILE HAVE AN OPPORTUNITY TO DISPUTE ALLEGATIONS MADE AGAINST HIM OR HER BEFORE BEING ENROLLED IN A DIVERSIONARY PROGRAM (PRE-ADJUDICATORY).

It is essential that throughout the juvenile justice system, from the time a complaint is filed to final disposition, no action occur which suggests guilt before the juvenile first has an opportunity to dispute the allegation. There are many reasons why this opportunity is essential. They include: the myriad opportunities of the complaint to be in error regarding the offender; a mistake about the actual offense which occurred; the implication of a confession by subjecting oneself to rehabilitation; the chance of future opportunities of denial not arising because the diversion is deemed to have been successful; and the considerable chance the juvenile does not know he has a right to deny and attempt to disprove the accusation made against him or her.

STANDARD 4.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE AND PROSECUTORS, IN CONJUNCTION WITH THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS, PROVIDE DIRECTION FOR CRIMINAL JUSTICE SYSTEM DIVERSION PROGRAMS. YOUTH SERVICE BUREAUS SHOULD PROVIDE DIVERSIONARY AND SOCIAL SERVICES FROM THE "NON-LAW ENFORCEMENT" SECTOR.

Hopefully, the work of the Youth Service Bureaus will obviate the need for many juveniles to come into contact with the criminal justice system. Youth Service Bureaus will also deal with these problems within the county and are seen as a much needed diversion alternative.

In order to insure a successful diversion program the community must provide resources to which juveniles can be diverted. Although the suggested Community Mental Health Agencies, State Mental Health Institutions, drug abuse and alcoholism treatment centers, Youth Service Bureaus and employment and training programs already exist in Maine, their services are limited geographically and financially. There is a great need for more detoxification centers, especially since Maine has one of the highest alcohol abuse rates in the country. Further, a majority of all arrests involving juveniles were for violation of liquor laws.[42] Expansion of counseling services at the community mental health centers both for evaluation and counseling as well as increases in the numbers of halfway houses are necessary to make diversion work. This keeps the juvenile in his own community and eliminates contact with the Maine Youth Center, and subsequently with serious offenders.

The economic feasibility of diversion must be considered. Statistics show that in Maine, in 1975, of the 10,000 juveniles arrested, 1,340 were unnecessarily detained in secure facilities at a cost of $129,000.[43] A good diversion program could have prevented the unnecessary detentions and allowed the money to be utilized elsewhere. Add to the $129,000 the savings from not processing the juvenile through the criminal justice system, from preventing unemployment and welfare, and the savings from not reprocessing offenders (since diversion programs show a decreased rearrest rate). Diversion will also reduce the demands on already-overcrowded detention facilities and courts, and ultimately will eliminate the long delay not only in disposition of juvenile cases but also in the number of days between arrest and hearing. The concensus of the Committees is that the cost of diversion must be less than that of processing a juvenile through the system, but even if it weren't, it must be a priority and the cost should not be a concern.

The impacts resulting from this standard would be numerous. Several are mentioned in later portions of the commentary relative to the standard. Other benefits of youth diversion programs include:

1. Youths are permitted to remain near family and community.
2. Youths are able to remain in school or vocational training program.
3. Youths are able to continue to provide economic resources for community businesses.
4. Youths can continue to pay taxes. (especially important if a youth is employed.)
5. Volunteers can be utilized in lieu of staff.

6. Youths can have access to such community resources as;
   a. Medical care,
   b. Recreation,
   c. Social services, and
   d. Legal counsel
7. Opportunity for victim compensation by youth is provided.
8. Maintaining youth in the community eliminates the transitional processing (and resultant costs) from the Maine Youth Center to the community.
9. Operating costs of diversion programs generally run 75-80 percent less than the costs of operating detention facilities.

The negative aspects of diversion programs include but are not limited to: new crimes committed by youths who were diverted from the system, and the resultant apprehension costs; possible public attitudes which emphasize punishment and retribution for offenses rather than diversion; the diversion of some youths who would have benefited from a short period of "shock" incarceration; and finally, the failure of diversion programs to divert youths because of community pressure.

STANDARD 4.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE OFFICERS DIVERT TO ALTERNATIVE COMMUNITY-BASED PROGRAMS OUTSIDE THE SYSTEM THOSE JUVENILES FOR WHOM THE PURPOSES OF THE JUVENILE JUSTICE SYSTEM WOULD BE INAPPROPRIATE.

> "Discretion has been defined as the power or right conferred upon them (public functionaries) by law of acting officially in certain circumstances, according to the dictates of their own judgment and conscience uncontrolled by the judgment or conscience of others".[44]

The definition of discretion by the International Association of Chiefs of Police says that, "discretion is not simply the decision to arrest or not to arrest; it is the choice between two or more possible means of handling a situation confronting the police officer".[45]

In exercising the opinion of whether or not to arrest, the police officer must decide what is best for the youngster, his family and the Community. He needs to know what alternatives are available to him should he decide not to make the arrest. The citizens' group in no way want to remove the intital decision from the authority of the officer. However, if the officer is well-informed about the services available in his community, he may decide to divert rather than arrest. Knowing how and where to divert a juvenile will provide the youth the services he really needs, will be a positive experience for the youngster, and

will deal with the situation head-on instead of allowing the matter to drop and be forgotten simply because an arrest was not made. This recommendation is an attempt to promote equality of action within the individual police departments and prevent abuse and discrepancies in the handling of juveniles.

THE COMMUNITY ALLIANCE NOTES THE COMPLETE LACK OF DIVERSIONARY PROGRAMS AND SERVICES AVAILABLE TO YOUTH.

STANDARD 4.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STATE OF MAINE ENACT NECESSARY LEGISLATION TO FUND PARTIALLY AND TO ENCOURAGE LOCAL OR COUNTY ESTABLISHMENT OF YOUTH SERVICE BUREAUS THROUGHOUT THE STATE.

Area agencies providing community services for young people can be important elements in the prevention and reduction of crime and delinquency.

The agencies are identified in this report as youth service bureaus. The National Commission of Standards and Goals believes that they have provided some of the most successful examples of the effective deliveries of social services within the framework of a social service delivery system.

Youth Services Bureaus in large part were the result of a recommendation by the 1967 President's Commission on Law Enforcement and Administration of Justice, which urged communities to establish these bureaus to serve both delinquent and non-delinquent youth referred by the police, juvenile courts, schools, and other sources. That Commission envisioned these bureaus as central coordinating units for all community services for young people.

California was the first state in the nation to establish and fund Youth Service Bureaus. California's bureaus are established under the Youth Services Bureaus Act introduced in the California Legislature in 1968. Special funding permitted the Youth Authority's Division of Research and Development to evaluate the effectiveness of these state bureaus. The results of California's evaluation show that for the areas served, juvenile arrests were substantially reduced. Also, the number of juvenile arrests referred to probation intake decreased between twenty and forty percent in four of the five bureau service areas where data were available.

In its report, The Challenge of Youth Services Bureau, the California Youth Authority stated that youth services bureaus serve as models for developing direct service to children and youth. The report indicated that these bureaus are a

pioneer example of a service delivery component of a comprehensive youth services delivery system.

The National Advisory Commission goes even further and states that the standards set forth in this chapter could serve as standards for the delivery of services within the framework of a comprehensive social services delivery system.

To create the "essence" of any social service delivery system, according to the Commissioner of the Social and Rehabilitation Service Administration for the United States Department of Health, Education, and Welfare, all resources must be marshalled in a coordinated way to bring the client to his best functioning level.[46]

Social services are made available to clients who have a need for them. These include employment, job training, education, housing, medical care, psychiatric care, family counseling, or welfare. At present, these services for adults as well as for youth are fragmented. A family with multiple problems is often seen by several agencies at the same time. Often one agency does not know what another is doing, and it is not uncommon for agencies to be working at cross-purposes to one another.

The service delivery system would solve this problem by integrating the services available to the individual through a central intake unit, which analyzes the individual's needs and refers him to the appropriate agency. It is critical to the success of these programs that the clients are involved in the actual development and operation of the programs, both in an advisory role and as employees.

Many youth services bureaus have been effective in integrating and coordinating the services available to youth and have acted as the central intake unit for analyzing a juvenile's needs and referring him to, or providing him with, services. The utility of youth services bureaus as a model for all social delivery systems highlighted by Sherwood Norman in his book, the Youth Services Bureau, a Key to Delinquency Prevention:

> The Bureau strengthens existing agencies by performing an enabling function rather than its attempting to fill gaps in service. It bridges the gap between available services of youth in need of them by referral and followup; it acts as an advocate of a child to see that he gets the services he needs. The Youth Services Bureau is not itself a service agency so much as an agency for organizing the delivery of services to children and their families.[47]

The integrated nature of the youth services bureau approach and multiple functions of the bureau are portrayed graphically in the chart on page 113. The chart shows that a youth can walk into the youth services bureau on his own or be referred by his family or a number of community agencies.

The chart also shows how the bureau itself utilizes a number of existing resources to help develop a program appropriate to the individual youth. The program might involve direct assistance such as counseling, education, training, and health checks. It might involve activities in which the youth can become involved, such as social or issue-oriented activities. And, for youths with particular difficulties, it involves utilization of drug programs, hotlines, crisis centers, and other resources.

PURPOSE, GOALS AND OBJECTIVES

Youth services bureaus should be established to focus on the special problems of youth in the community. The goals may include: diversion of juveniles from the justice system; provision of a wide range of services to youth through advocacy and brokerage; crisis intervention as needed; modification of the system through program coordination and advocacy, and youth development.

1. Priorities among goals should be locally set.
2. Priorities among goals (as well as selection of functions) should be based on a careful analysis of the area, including an inventory of existing services and a systematic study of youth problems in the individual communities.
3. Objectives should be measurable, and progress toward them should be scrutinized by evaluative research.

TARGET GROUP

Youth services bureaus should make needed services available to all young people in the community. Bureaus should make a particular effort to attract diversionary referrals from the juvenile justice system.

1. Law enforcement and court intake personnel should be strongly encouraged, immediately through policy changes and ultimately through legal changes, to make full use of the youth services bureau in lieu of court processing for every juvenile who is not an immediate threat to public safety and who voluntarily accepts the referral to the youth services bureau.
2. Specific criteria for diversionary referrals should be jointly developed and specified in writing by law enforcement, court and youth services bureau personnel. Referral policies and procedures should be mutually agreed upon.

3. Diversionary referrals should be encouraged by continuing communication between law enforcement, court, and youth services bureau personnel.
4. Referrals to the youth services bureau should be completed only if voluntarily accepted by the youth, except when treatment is recommended by the court after extensive investigation and consultation.
5. Cases referred by law enforcement or court should be closed by the referring agency when the youth agrees to accept the youth services bureau's service. Other dispositions should be made only if the youth commits a subsequent offense that threatens the community's safety.
6. Referring agencies should be entitled to and should expect systematic feedback on initial services provided to a referred youth by the bureau. However, the youth services bureau should not provide justice system agencies with reports on any youth's behavior.
7. The Youth Service Bureau is a pre-adjudicatory diversionary tool to be utilized in order to keep a youth from ever entering the juvenile justice system. If it also allowed referrals from juvenile court, it would lose its effectiveness as a diversionary program and become just another correctional facility for the adjudicated juveniles. This association with the courts and corrections would deter other troubled youth from seeking help for fear of being punished or precessed rather than helped. The autonomy and individuality of the Youth Service Bureau is essential to its effectiveness and its existence.

FUNCTIONS

Youth service bureaus should, whenever possible, utilize existing services for youth through referral, systematic followup, and individual advocacy. Bureaus should develop and provide services on an on-going basis only where these services are unavailable to the youth in the community or are inappropriately delivered. Services should be confidential and should be available immediately to respond skillfully to each youth in crisis.

1. A youth service bureau's programs should be specifically tailored to the needs of the area it serves. This should include

consideration of techniques suitable for urban, suburban, or rural areas.

2. The youth service bureau should provide service with a minimum of intake requirements.
3. Services should be appealing and accessible by location, hours of service, availability, and style of delivery.
4. The youth service bureau should provide services to young people at their request, without the requirement of parental permission.
5. Case records should be minimal, and those maintained should be confidential and should be revealed to agencies of the justice system and other community agencies only with the youth's permission.
6. The youth service bureau should make use of existing public and private services when they are available and appropriate.
7. The bureau should maintain an up-to-date listing of all community services to which youth can be referred by the bureau. This listing should be readily accessible to all bureau staff.
8. Referrals to other community services should be made only if voluntarily accepted by the youth.
9. The youth service bureau should not refer youths to court except in cases of child neglect or abuse.
10. In referring to other community agencies for service, the youth service bureau should expedite access to service through such techniques as arranging appointments, orienting the youth to the service, and providing transportation if needed.
11. The youth service bureau should rapidly and systematically follow-up each referral to insure that the needed service was provided.
12. The youth service bureau should have funds to use for purchase of services that are not otherwise available.

STAFFING

Sufficient full-time, experienced staff should be employed by the youth service bureau to insure the capacity to respond immediately to complex personal crises of youth, to interact with agencies and organizations in the community, and to provide leadership to actualize the skills of less experienced employees and volunteers.

1. Staff who will work directly with youth should be hired on the basis of their ability to relate to youth in a helping role, rather than on the basis of formal education or length of experience.
2. Staff should be sensitive to the needs of young people and the feelings and pressures in the community. They should be as sophisticated as possible about the workings of agencies, community groups, and government. Staff should be capable of maintaining numerous and varied personal relationships.
3. Indigenous workers, both paid and volunteer, adult and youth, should be an integral part of the youth service bureau's staff and should be utilized to the fullest extent.
4. Young people, particularly program participants, should be used as staff (paid or volunteer) whenever possible.
5. Volunteers should be actively encouraged to become involved in the bureau. Those working in one-to-one relationships should be screened and required to complete formalized training before working directly with youth. The extent of training should be determined by the anticipated depth of the volunteer-youth relationship.
6. Whenever possible, the youth service bureau should have available (perhaps on a volunteer basis) the specialized professional skills of doctors, psychiatrists, attorneys, and others to meet the needs of its clients.
7. Staff selection policy and procedures should be worked on by county and state officials with the day-to-day management exercised by the local or county offices.

EVALUATION OF EFFECTIVENESS

Each youth service bureau should be objectively evaluated in terms of its effectiveness. Personnel, clients, program content, and program results should be documented from the inception of the bureau.

1. Evaluation objectives and methods should be developed concurrently with the development of the proposed youth service bureau and should be directly related to the bureau's highest priority objectives.

2. Wherever possible, an evaluation to compare the effectiveness of several youth service bureaus should be implemented in order to increase knowledge of the impact of the bureaus.
3. Evaluation should focus more on changes in institutions' response to youth problems than on behavioral changes in individual youth.
4. Each youth service bureau should establish an information system containing basic information on the youth served and the services provided, as well as changes in the manner in which the justice system responds to his behavior.
5. Trends in arrest, court referral, and adjudication rates should be analyzed for each youth service bureau placing a high priority on diversion.

FUNDING

Public funds should be appropriated on an on-going basis, to be available for continuing support for effective youth service bureaus. Private funding also should be encouraged. The funding for these bureaus should be from state and county appropriations, with the individual counties making a cash match commitment.

The Community Alliance-Standards and Goals citizen membership overwhelmingly support the creation of a statewide system of youth service bureaus. They strongly recommend that these bureaus coordinate all juvenile services and act as referral centers for juvenile clients. Furthermore, these centers should be actively involved in diversionary programs for the youth.

The citizens recommend that the staff and funding be conducted on a shared basis between the county government and the State of Maine.

Obvious cost benefits include diversion of juveniles from the criminal justice system and resultant financial savings in eliminating the costs of adjudication, incarceration and aftercare; reduction in recidivism through the provision of necessary social services intervention; reduction in costs for corrections, law enforcement and courts personnel.

The psychological benefits to the juvenile and his family should also be considered. Diversion from the criminal justice system eliminates considerable time and worry about court appearances, and possible incarceration.

STANDARD 4.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT YOUTH SERVICE BUREAUS BE ESTABLISHED IN EACH COUNTY, IN CONJUNCTION WITH THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS AND WITH JOINT FUNDING IN ORDER TO AID THE SPECIAL PROBLEMS OF THE YOUTH IN ALL COMMUNITIES.

Most communities have few or no services available for juveniles who have not come into contact with the police--often allowing smaller problems or offenses to grow into larger, more serious ones before the need for help is recognized. Most of the "treatment" emphasis has focused on rehabilitation "after the fact" rather than prevention before. In many cases, a youth is forced to "get into trouble" in order to receive some help. Unfortunately, it's often too little and too late. In addition to this, it is important to have the preventive services available locally, through a Youth Service Bureau, so that they may be utilized by all youth in need of assistance.

THE LACK OF COMMUNITY-BASED FACILITIES--BOTH EMERGENCY PLACEMENT AND DETENTION--FORCES THE TRANSPORTATION OF JUVENILES TO THE MAINE YOUTH CENTER FOR DETENTION OR EVALUATION, OFTEN AT GREAT EXPENSE AND DISTANCE.

STANDARD 4.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE YOUTH SERVICE BUREAUS UTILIZE EXISTING SERVICES FOR YOUTH THROUGH REFERRAL, SYSTEMATIC FOLLOW-UP AND INDIVIDUAL ADVOCACY. THE YOUTH SERVICE BUREAUS SHOULD ALSO HELP DEVELOP AND PROVIDE SERVICES ON AN ON-GOING BASIS ONLY WHERE THESE SERVICES ARE UNAVAILABLE TO THE YOUTH IN THE COMMUNITY OR ARE INAPPROPRIATE.

Currently, the Maine Youth Center is the only juvenile detention facility in the State of Maine. Due to this fact, it must provide a variety of services, such as pretrial detention and court evaluations, as well as detention for adjudicated juveniles. Very often the juvenile could best have been helped locally by a group home setting, or by an evaluation on a local level, but instead is shuffled off to the Maine Youth Center due to a lack of these facilities and services locally. The pretrial detention and/or evaluations at the MYC also create further hardships in that the juvenile is separated not only from his community but also from his attorney, which often results in a hastily-prepared defense. The Committees voiced strong opposition to the current practice of housing pre-adjudicated juveniles at the Maine Youth Center when these functions could and should be handled on a local level to minimize the harm to the juvenile.

Local programs should be specifically tailored to the needs of the community it serves, and services should be appealing and accessible by location, hours of service available and style of delivery. Referrals to court should be avoided except in instances of child abuse or neglect. Reports should be confidential and no parental consent should be required for using the Bureau. There should be no restrictions regarding family income and availability of services since many youngster's problems are independent of family income.

STANDARD 4.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT YOUTH SERVICE BUREAUS BE OPERATED BY THE PEOPLE OF THE COMMUNITY IT SERVES INVOLVING THEM IN THE SOLUTIONS OF YOUTH PROBLEMS. ADULTS FROM THE COMMUNITY, REPRESENTATIVES OF LOCAL AGENCIES AND JUVENILE OFFICIALS SHOULD BE INVOLVED IN DECISION-MAKING BUT IN NO CASE SHOULD THE BUREAU BE UNDER THE CONTROL OF THE JUVENILE JUSTICE SYSTEM.

The citizens expressed a strong desire to deal with their youth locally, through their own programs and services rather than, for example, at the Maine Youth Center. Local mental health agencies should be able to provide evaluations and counseling on a local level. Local treatment will also eliminate the future task of trying to re-integrate the juvenile back into the community.

The services provided by the Youth Service Bureaus depend upon the cooperation and interest of the community and the community needs the services of the Bureau to aid their youth. Cooperation will exist only when the community participates willingly and feels a part of the process, not just a silent recipient.

Similarly, it is important that the Youth Service Bureau be completely independent of the juvenile justice system. Its beauty and appeal are in autonomy--it is an avenue of help, not punishment. It is imperative that the Bureau not become a referral source for juvenile court, causing it to lose its effectiveness as a diversionary program and become just another correctional program for adjudicated juveniles.

STANDARD 4.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE TARGET GROUP OF THE YOUTH SERVICE BUREAUS SHOULD BE ALL THE YOUTH IN THE COMMUNITY.

The Youth Service Bureaus should exist to aid all youth, regardless of the type of problem or family situation which may exist. The Citizens feel that the Bureau should aid all youth who come to it for help and not exclude any youth in need.

STANDARD 4.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT LAW ENFORCEMENT, COURT AND YOUTH SERVICE BUREAU PERSONNEL WORK TO JOINTLY DEVELOP IN WRITING SPECIFIC CRITERIA FOR DIVERSIONARY REFERRALS. REFERRALS TO A YOUTH SERVICE BUREAU SHOULD BE COMPLETED ONLY IF VOLUNTARILY ACCEPTED BY THE YOUTH.

Law enforcement, court and Youth Service Bureau personnel are the primary forces behind any successful diversionary programs since they are the ones to initiate and utilize them. The diversionary referral criteria must be something cooperatively developed in order that it be utilized properly and uniformly, for it would only take one aspect of the system to cause the entire concept to fail from lack of proper implementation. In addition, the Citizens strongly reiterated that referrals to a Youth Service Bureau should be purely voluntary - no juvenile should be forced or coerced into receiving help from the Bureau if it is not desired. Such actions would only detract from the effectiveness of the Bureau.

THE COMMUNITY ALLIANCE DEPLORES THE FACT THAT THERE IS NO ACCOUNTABILITY FOR AGENCIES.

STANDARD 4.12: THE COMMUNITY ALLIANCE RECOMMENDS THAT IN CASE OF POLICY OR OTHER CONFLICT AMONG AGENCIES, THE ATTORNEY GENERAL'S OFFICE WILL HAVE THE FINAL DECISION.

In view of the fact that both the Community Alliance recommendations and the Juvenile Code Revision require coordination and development of policy among agencies, as well as cooperation, it is vital that some unit be designated as the decision maker in the event disagreements occur. The citizens feel that the most logical arena is the Attorney General's office with the Attorney General, himself, acting as referee.

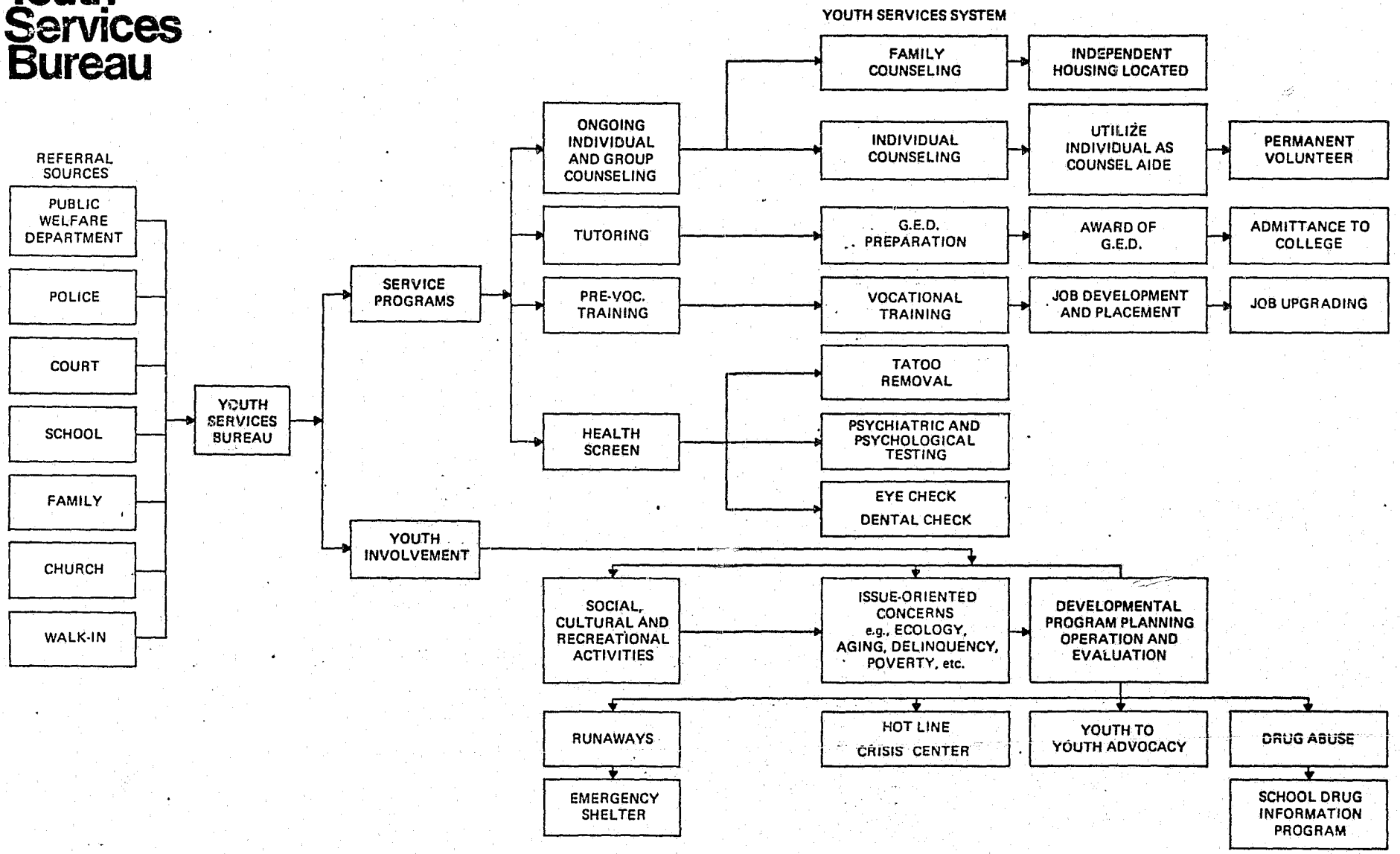
It is unwise and impractical to have responsibility without accountability. This recommendation attempts to build that accountability.

THE COMMUNITY ALLIANCE IS AWARE THAT THERE IS VIRTUALLY NO EDUCATION OF CHILDREN IN MAINE LAW.

STANDARD 4.13: THE COMMUNITY ALLIANCE RECOMMENDS THAT A PROGRAM OF LAW-FOCUSED EDUCATION BE INSTITUTED IN ALL OF MAINE'S SCHOOLS, FROM KINDERGARTEN THROUGH HIGH SCHOOL, TO TEACH YOUNGSTERS WHAT THE LAW IS ABOUT, HOW AND WHY THE SYSTEM OPERATES, AND WHAT THE CONSEQUENCES ARE WHEN IT IS VIOLATED.

It has often been said that ignorance of the law is no excuse. That may be, but few are making any attempt to dispel that ignorance, especially with school age children. The fire department has had fire prevention programs in the schools for many years. By reaching the children and developing, in them, good fire prevention habits, parents have also benefited, and perhaps many lives have been saved as a result of this program. So, too, should law enforcement provide an awareness program. Children need to know what their boundaries are in terms of the law, what options are available to them when it is broken. With knowledge of the system, they may feel less threatened by it and less anxious to challenge it. Direct contact with police officers is also beneficial. It is more difficult to threaten or be threatened by someone you know and respect.

Youth Services Bureau



Source: Derived from material developed by the Youth Development and Delinquency Prevention Administration, U.S. Department of Health, Education, and Welfare

CHAPTER V

YOUTH DEVELOPMENT RELATIVE TO TRAINING

One element that is consistent throughout Maine's Criminal Justice System is its lack of training of employees. Most employees function by a "seat of the pants" method with little or no prior training and virtually no in-service training. This does not mean that there are not good, dedicated employees; rather, it means that they could do a more effective job if they had training and were kept up-to-date in methods and trends.

Presently, the only employees of the Criminal Justice System who are receiving mandated training are the police. Even that is not necessarily beneficial, since the law states that the officer must receive the twelve weeks of Academy training sometime during his first year of employment, but it does not prohibit him from performing his duties prior to training, which does a disservice to the officer and a disservice to the community in which he is employed. Some of the municipal departments will not permit a new officer to go out on the street prior to his Academy training, but such rules are made at the discretion of the department and many, if not most, are too small to indulge in that luxury. Of the 495 hours of initial training, approximately six hours are spent exclusively on the juvenile area.[47] Since the Criminal Justice Academy cannot keep up with the demand for initial twelve weeks training, it hasn't even begun to focus on in-service training.

The correctional area has even less required formal training than the police. The State Prison runs a brief training course for all of its guards prior to actual field experience and some in-service training is done at other correctional facilities, but nothing is done on a regular basis. The Academy now has a staff person who deals exclusively with correctional training, but one person cannot possibly solve the training problems for the entire state's correctional system.

The judiciary has its own training deficit. It is apparently a given fact that the appointment of an attorney to the bench automatically instills in him the wisdom of the ages and guarantees him the power to render fair and impartial decisions, as well as to impose just sentences. This doesn't always happen. Although the bench book that was recently developed and published has aided judges immeasurably, it still does not take the place of a training program. The judicial college in Reno,

Nevada has been a source of training for Maine's judges, but usually a judge is not able to attend prior to assuming the bench and rarely during his first year as a judge. In any event, the amount of training specifically relating to juveniles is negligible and needs to be vastly increased.

In conjunction with the judiciary, training programs for district attorneys and defense attorneys are vital. Few attorneys have has specialized training in dealing with juveniles, either from the standpoint of the prosecution or defense. They need to be knowledgeable about more than just juvenile law.

The major stumbling block has been funding. With limited dollars, agencies cover basic operational costs. This should not be the case. It may be more cost-effective to spend money training staff since it would improve the quality of the work performed, lessen the frustration of the employees, and result in a lower staff turnover rate. All of this saves money over a long period of time.

The citizens are greatly concerned with the lack of training opportunities, and have recommended that this be dealt with as soon as possible. The recommendations in this section suggest methods by which this may be accomplished.

THE COMMUNITY ALLIANCE FEELS THAT THERE IS NO PHASE OF THE CRIMINAL JUSTICE SYSTEM, CORRECTIONS, COURTS OR POLICE, THAT PROVIDES ADEQUATE TRAINING FOR ITS PERSONNEL.

STANDARD 5.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT EACH POLICE AGENCY PROVIDE SPECIALIZED TRAINING IN ALL JUVENILE MATTERS, AS WELL AS JUVENILE CRIME PREVENTION, FOR ALL OFFICERS.

The citizens feel that there is a great need for all officers to be trained in juvenile crime prevention as well as in how to deal with juveniles upon arrest. Officers who are trained to properly deal with juveniles will no doubt improve the juvenile crime situation. This does not, however, preclude departments from maintaining a specialized juvenile officer--both are vital.

In addition to the training options listed in the narrative to this standard the National Council on Crime and Delinquency, and the Office of Juvenile Justice and Delinquency Prevention, provide training programs for juvenile officers.

Costs to be considered are the actual costs of developing, advertising and conducting the training program; deferred costs relative to substituting for officers who are in training and absent from their assigned work; costs of training evaluation and impact studies; and related transportation and service costs.

The impacts of this standard on large police departments would be negligible. However, smaller departments would feel the effects more directly because they would be devoting a larger share of their staff to training and subsequently carrying out the role functions of juvenile crime prevention officers.

State law enforcement training commissions should establish statewide standards governing the amount and type of training in juvenile matters given to police recruits and to pre-service and in-service juvenile officers. Training programs should include the following elements:

1. All police recruits should receive at least 40 hours of mandatory training in juvenile matters;
2. Every police department and/or State or regional police training academy should train all officers and administrators in personal and family crisis intervention techniques and ethnic, cultural and minority relations;
3. All officers selected for assignment to juvenile units should receive at least 80 hours of training in juvenile matters either before beginning their assignment or within a one year period;
4. All police juvenile officers should be required to participate in at least one 40 hour in-service training program each year, either within the department or at regional, State and/or national schools and work shops;
5. Where feasible, cities should exchange police juvenile officers for brief periods of time so those officers can observe procedures in other jurisdictions;
6. Community, regional or state juvenile justice agencies should periodically conduct interdisciplinary in-service training programs for system personnel, and police juvenile officers should actively participate in such programs. Community juvenile justice agencies also should exchange personnel on an interdisciplinary basis for brief periods of time, to enable such personnel to familiarize themselves with the operational procedures of other agencies.
7. Police departments should encourage all officers to pursue college and university education in juvenile problems and

related disciplines. Where feasible, departments should provide leaves-of-absence with pay to allow the achievement of academic objectives that can contribute significantly to the employee's professional growth and capacity for current and future assignments.[48]

STANDARD 5.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE AGENCIES WITH MORE THAN FIFTEEN EMPLOYEES SHOULD ESTABLISH JUVENILE INVESTIGATIVE CAPABILITIES BASED UPON COMMUNITY JUVENILE PROBLEMS.

There is very little training of police in juvenile problems presently. Since there are many changes in juvenile law and dealings with youth, a more comprehensive training program for police officers must be developed.

The costs of developing the capabilities, pre- and in-service training programs and possible additional staff to conduct juvenile investigations must be considered. Juvenile investigative training should include emphasis on the legal aspects of juvenile law, investigative procedures, interviewing techniques, and family and youth counseling.

The benefits of this standard parallel those found in several others, namely: having a trained juvenile investigative officer eliminates the need for investigative officers untrained in juvenile matters dealing with juvenile offenders. The costs of using detectives to investigate juvenile offenses can be excessive, as determined in several studies conducted in Seattle, Detroit and Dallas.

STANDARD 5.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT TRAINING BE CONDUCTED FOR BOTH STAFF AND VOLUNTEERS OF CORRECTIONAL INSTITUTIONS BOTH AT INITIAL HIRE AND ON AN ON-GOING BASIS. FUNDS SHOULD BE MADE AVAILABLE FOR BOTH TRAINING COSTS AND EMPLOYEE WAGES DURING ANY TRAINING PERIOD.

Staff and training facilities should be made available for the training of staff and volunteers in contractor agencies or facilities to assure effective provision of purchases services. Training should be provided by the Criminal Justice Academy in addition to in-service training.

Our experience in training criminal justice volunteers is that the responsible agencies should absorb the costs of training for not only volunteers but also staff of contractor agencies. The national cost average for training correctional volunteers has been estimated at $6.00 an hour. To compute the total cost of

training at the Criminal Justice Academy one should multiply the number of trainees times the number of hours of training by the $6.00 figure. Obviously, as the number of trainees increases, the cost per trainee is reduced.

Both pre-service and in-service training are a must for juvenile correctional personnel. The cost of staff training is comparable to that for volunteers. An element to consider is the cost of training new staff who leave their position shortly after the training experience. Here a triple expenditure is incurred; the costs of the training, housing and transporting the new staff member, the costs of staffing the position the new trainee is to fill, and the "opportunity costs" which are lost in not training staff who will assume a position on a more permanent basis.

The most generally employed training model involves a minimum of 80 hours pre-service training, including curriculum in the philosophy of the department, behavioral sciences, investigative techniques, juvenile crime causation, gang structure and adolescent psychology. In addition to the pre-service training each staff member participates in 40 hours in-service training each year, which includes training in new approaches to juvenile corrections, new department rules and regulations and specific training aimed at the particular needs of the trainee.

The cost of pre-service training per trainee including room, board and transportation would be approximately $450.00 plus related salary expenditures.

STANDARD 5.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT PROBATION OFFICERS BE HIRED ON THE BASIS OF A COLLEGE DEGREE IN RELATED AREAS OR A COMBINATION OF TRAINING AND EXPERIENCE. HOWEVER, OF PRIMARY IMPORTANCE IS A DEMONSTRATED INTEREST AND SKILL IN WORKING WITH JUVENILES.

Although a degree indicates academic achievement, it is no guarantee that the individual will be able to handle a problem child. Experience or a demonstrated ability and interest in this area is more important.

STANDARD 5.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT PROBATION OFFICERS AND OTHER CORRECTIONAL PERSONNEL WHO DEAL DIRECTLY WITH JUVENILES RECEIVE AN INITIAL TRAINING PROGRAM OF AT LEAST THIRTY-TWO HOURS, AND ADDITIONAL TRAINING WORKSHOPS IN CURRENT PROBLEMS AND SKILLS AND TECHNIQUES FOR DEALING WITH JUVENILES AT LEAST THREE OR FOUR TIMES PER YEAR.

Problems of youth change periodically and new techniques are always being developed. It is imperative that staff be kept informed of these for optimum effectiveness.

The initial or pre-service training program for probation officers should involve, as a minimum, training emphasizing supervisory skills, interviewing techniques, pre-sentence investigations and adolescent psychology. The costs would be approximately $550.00 per officer for an 80 hour training program. The 32 hour program appears to be minimal, considering the amount and type of material to be learned.

In-service training for probation officers should offer a curriculum oriented toward the latest techniques on counseling and supervising youth. These should be one to two days in length, and it would appear that, except for lost work time, the costs would be negligible.

The state agency should provide or assure the provision of comprehensive training programs for employees of the state agency and for the employees of other public and private agencies engaged in activities related to its programs.

Each new employee who is assigned responsibility for providing direct services to juveniles should receive a minimum of 80 hours in-service training per year. This training should be designed by employee and supervisor to assist the employee in achieving the professional objectives highlighted in the annual performance report, and to keep the employee abreast of new and relevant trends in the field of correctional treatment systems.

All employees promoted to supervisory and administrative levels should receive a minimum of 40 hours of in-service training during their first twelve months at the new levels.[49]

STANDARD 5.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STAFF FOR YOUTH SERVICE BUREAUS BE HIRED ON THE BASIS OF THEIR SENSITIVITY AND RESPONSIVENESS TO YOUTH AND THEIR NEEDS. THE COMMITTEE HIRING STAFF SHOULD INCLUDE PERSONS FROM THE CITIZEN CONFERENCE COMMITTEES.

The Youth Service Bureau staff should be capable of working within the agency and community structure, rather than on the basis of formal education or length of experience. In addition, there should also be sufficient, full-time experienced staff to aid the less-experienced staff and volunteers. Volunteers and youth should be encouraged to participate as staff wherever possible. There should also be available such specialized professional services as doctors, psychologists, lawyers, etc.

STANDARD 5.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT DISTRICT COURT JUDGES BE REQUIRED TO ATTEND TRAINING PROGRAMS RELATING TO JUVENILE JUSTICE, BOTH PRIOR TO ASSUMING THE BENCH AND ON A CONTINUING BASIS THEREAFTER: THESE PROGRAMS SHOULD EMPHASIZE SPECIALIZED AREAS RELEVANT TO JUVENILE AND FAMILY MATTERS.

The courts area is one in which virtually no specialized training in juvenile matters is given to the judge prior to his appointment to the bench. Judges receive their training on the job. It it assumed that a legal background instills the qualifications to render fair and impartial judgements in all cases, and that it develops the sensitivity to deal with juveniles and family matters. Unfortunately, this is not always the case. Just as some police officers are not suited to be specialized juvenile officers, some judges are not suited to be specialized juvenile court judges.

The goal of this standard is to establish training efforts, either on a statewide basis or at a national center, under the broad umbrella of the trial judge but including subject matter tailored to juvenile court concerns. Such curriculum should involve instruction in case and statutory law, juvenile court rules, judicial philosophy, mock trials, forms, the juvenile justice process, the caseflow process, counseling and rehabilitation services, and the causes of delinquency and family breakdown. Findings from the disciplines of sociology, psychology and child development should receive particular emphasis, since many judges may lack training in these fields. Judges also should be sensitized to the important influences of minority cultural values on the dynamics of family behavior.

Training programs should be available on an on-going basis and backed by a small permanent interdisciplinary staff that uses current and retired judges and other individuals recognized as leaders in their respective fields. Where resources are not available to establish such a training effort, cooperative programs with established national training institutions should be fully explored.

Any statewide training program should be supplemented by training materials that are essentially local in nature. These materials should be designed to familiarize new juvenile court judges with all relevant local procedures and practices. Also, the state judicial authority can ease the judge's educational process by developing and maintaining manuals for all new juvenile court judges.

Each new judge should visit every facility and program that may be used as a dispositional alternative, and arrangements should be made to familiarize new judges with law enforcement, probation and social service personnel. The local orientation procedures should be mandatory, and should take place within the first three months of a judge's tenure.

This standard recognizes the need to train judges after, as well as before, they take the bench. Many states are taking great strides in developing continuing education programs for judges. These efforts recognize the special needs of judges hearing juvenile matters, and structure a specialized curriculum accordingly. In order to maintain the quality of judicial education, on-going programs should be considered as part of a judge's duties and within the scope of day-to-day responsibilities, rather than as vacation time. This also holds true for participation in national programs.[50]

STANDARD 5.8: THE COMMUNITY ALLIANCE RECOMMENDS A TRAINING PROGRAM THAT PROVIDES ON-GOING, IN-SERVICE TRAINING FOR D.A.'S AND THEIR STAFF IN THE PROBLEMS OF THE COMMUNITY, PROBLEMS OF YOUTH AND THE RESOURCES AVAILABLE.

Since the D.A. is the person responsible for filing the petition that begins the juvenile's court processing, it is imperative that he be trained in the peculiarities of juvenile justice and be aware of the communities needs and the problems of the youth within the community and the resources available to help solve them. The D.A. is there to not only initiate the court process; he also could utilize diversion services.

The professional staff of the juvenile court prosecution service has a special need for legal training because of the specialized nature of juvenile and district law. This needs more than just training in trial techniques and exposure to the latest cases in substantive and procedural law. Staff members also should be trained in the basic philosophy of the juvenile court and in the social problems they must face. Staff people must know what dispositional alternatives are available in their community and state, and the quality of each in terms of care and rehabilitation; this knowledge will help to insure that the staff makes intelligent dispositional recommendations at the proper time. Staff also should receive sociological and psychological training in the problems of young people and their community.

Part of this orientation and training can be accomplished through a state-wide organization of prosecutors. This training should continue throughout the staff member's tenure.

Each staff member contributes to the overall effort of the juvenile court prosecution unit to represent the interests of the state in juvenile court. Therefore, upon taking their positions, non-professional members of the prosecutor's service should receive an informal orientation and training program. These individuals also should participate in any continuing programs of training in the philosophy and purpose of the juvenile court, the problems of young people, community needs and conflicts, and the resources available to deal with those issues. Such training can lead to a realization of the importance of properly performed duties, and perhaps to an increase in both job satisfaction and job efficiency. Training also can help reduce staff turnover. The precise nature and extent of the training to be given to the non-professional will depend on the nature of the duties to be performed. However, both the initial and continuing training that each staff member receives should not be limited to the duties of a particular position.[51]

STANDARD 5.9: THE COMMUNITY ALLIANCE RECOMMENDS A TRAINING PROGRAM THAT PROVIDES ON-GOING, IN-SERVICE TRAINING FOR DEFENSE ATTORNEYS.

Adequate training of lawyers for juvenile court representation is mandatory for the proper functioning of juvenile courts. All members of the legal community including courts, legal aid and defender agencies, educational institutions, and private practitioners share the responsibility for insuring that attorneys are competent to provide legal assistance in this forum, and that competent attorneys are made available to persons subject to family court proceedings.

1. Educational institutions, bar associations, and other legal professional groups should provide suitable undergraduate and postgraduate curricula relating to representation in juvenile court matters. These programs should include both legal and non-legal courses relevant to juvenile court representation. Other methods for training lawyers, such as apprenticeship programs with experienced counsel, also should be devised and encouraged.
2. In selecting attorneys for appointment in juvenile court proceedings, the responsible authority should carefully evaluate each lawyer's competence, taking into account his educational background and experience in juvenile court or related practice.[52]

CHAPTER VI

SUPPORT OF THE JUVENILE CODE

The recommendations in this section are included separately because they parallel the new Juvenile Code which was just passed by the Maine State Legislature. Although they were developed by the Community Alliance as a result of separate study, these recommendations were not included in the regular section because they will become law as of July 1, 1978. However, because of all of the study and hard work on the part of the citizens' groups, total elimination of the recommendations from the report was not justified. They were developed after months of poring through volumes of literature, visiting juvenile care and detention facilities, and attending juvenile hearings. Those recommendations which are in conflict with the Code are discussed in the previous sections and have been submitted to the Code Commission for study and possible implementation as amendments to the Code. Some implementation and guidelines are suggested, here, for the recommendations already in the Code, especially in the area of intake and detention.

STANDARD 6.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT MINORS TAKEN INTO CUSTODY BY POLICE BE HANDLED IN SUCH A WAY THAT THEY ARE ADVISED OF THEIR RIGHTS, THEIR PARENT, CUSTODIAN OR GUARDIAN IS NOTIFIED, AND STATEMENTS MADE WITHOUT THE PRESENCE OF THE PARENT, CUSTODIAN, GUARDIAN OR COUNSEL WILL NOT BE ADMISSIBLE AS EVIDENCE IN COURT. THE JUVENILE SHOULD NOT BE BOOKED IN AN ADULT MANNER (i.e., FINGERPRINTS AND PHOTOGRAPHS) AND THEIR RECORDS SHOULD BE STORED SEPARATELY FROM THOSE OF ADULTS.

Additionally, statewide treatment centers (a minimum of eight) should be established in areas where there is a large juvenile crime problem, as well as in areas covering large geographic areas. This should expedite treatment and evaluation of juveniles, and eliminate time and money involved in sending a juvenile to the Maine Youth Center.

STANDARD 6.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE ARRESTING OFFICER IMMEDIATELY NOTIFY AN INTAKE WORKER WHEN THE ARRESTING OFFICER BELIEVES THAT THE JUVENILE SHOULD BE DETAINED PRIOR TO HIS INITIAL APPEARANCE IN COURT, OR WHEN THE ARRESTING OFFICER BELIEVES THAT FORMAL JUVENILE COURT PROCEEDINGS SHOULD BE COMMENCED AGAINST THE JUVENILE.

The parent, custodian or guardian must also be notified, without delay, of the child's whereabouts. The juvenile may be detained by police only long enough to obtain name, age, residence and to contact the parent, custodian or guardian, and the Intake Worker. The juvenile should then be taken immediately to the Intake Worker, shelter placement or detention placement. All parties have a right to a hearing within 48 hours to determine further detention. Detention will be determined on the basis of whether or not the child presents a danger to himself or society. The juvenile may not be detained in an adult facility unless segregated from adult offenders or unless juvenile status has been waived. The Intake Worker should be notified and will decide whether a petition will be filed. The juvenile is to be advised of his rights and must have a parent, custodian, or guardian and/or counsel present during questioning. Confessions are not admissible as evidence in court unless the parent, custodian or guardian and/or counsel is present or the child is emancipated.

STANDARD 6.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE NATIONAL ADVISORY COMMISSION STANDARD CONCERNING THE PROCESSING OF CERTAIN DELINQUENCY CASES AS ADULT CRIMINAL PROSECUTIONS BE REJECTED IN FAVOR OF THE MAINE JUVENILE CODE.

Citizens feel that in order to waive juvenile jurisdiction the judge must take into consideration the previous history and record of the juvenile; how the alleged offense was committed--if in a violent, agressive, premeditated or willful manner--and whether further processing in the juvenile court will be beneficial or not.

In addition, the court must decide, by consideration of home environment, emotional attitude and pattern of living, whether the child would be more appropriately prosecuted under the general law. The nature and seriousness of the offense should indicate that the protection of the community requires detention in more secure facilities than those available for juveniles.

STANDARD 6.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE ADJUDICATORY HEARINGS BE HELD BEFORE A COURT WITHOUT A JURY BUT IN ALL OTHER RESPECTS BE CONDUCTED IN A FORMAL MANNER, AS IF THE CHILD WERE AN ADULT ACCUSED OF A CRIME.

This assumes that diversionary alternatives are properly utilized, meaning that only the more serious offenses would come before the court. The seriousness of the court would then befit the crime.

STANDARD 6.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT EMERGENCY PLACEMENT FACILITIES BE GIVEN PRIORITY UNDER THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS.

A juvenile may not be detained unless he is a danger to himself or society. Upon his apprehension an Intake worker shall be notified immediately. The Department of Mental Health and Corrections shall also establish and maintain foster home care, group home care, halfway house and other shelter and detention placements necessary. Intake Workers can recommend care or treatment other than detention and can refer to mental health services, youth service bureaus or public welfare agencies, if voluntarily accepted by the child, parent, custodian or guardian.

STANDARD 6.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT IT BE THE RESPONSIBILITY OF THE INTAKE WORKER/JUVENILE OFFICER TO DIVERT YOUTH WHO HAVE NOT YET COME INTO CONTACT WITH THE JUVENILE COURT AND SUPPORT AND REHABILITATE THOSE WHO HAVE.

The citizens further recommend that the Department of Mental Health and Corrections assist communities in providing legal services, coordinate services, stimulate the creation of volunteer services, and provide leadership in statewide program planning for services to children and families. The Department of Mental Health and Corrections should also be empowered to enter into contracts with other agencies, make grants for research, including basic research into causes of social problems of children and their parents, evaluate delivery of service in use, and develop new approaches.

STANDARD 6.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT YOUTH SERVICE BUREAUS FOCUS THEIR EFFORTS MOSTLY ON YOUTH WHO HAVE NOT YET COME IN CONTACT WITH THE JUVENILE COURT SYSTEM, INCLUDING THOSE PRESENTLY BEING DIVERTED FROM IT, AS WELL AS THOSE FAMILIES IN NEED OF SOCIAL SERVICES.

Information from schools should also be taken into consideration, and schools should be included as sources of referrals.

Early contact with youths and their families could prevent problems with the courts at a later date. Often family, social and/or economic problems can be resolved relatively easily with the proper resources. There is probably no better application of the old adage: "an ounce of prevention is worth a pound of cure". If the Youth Service Bureaus can provide that ounce of prevention, the courts and correctional facilities will see fewer juveniles to "cure".

STANDARD 6.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS MAKE PROPOSALS FOR MEETING SERVICE NEEDS THAT ARE NOT PRESENTLY BEING MET.

They should also provide some direct services, regulate and evaluate agencies that provide services to children and families, and provide a structure for appeals, fair hearings and a review of grievances of youth and their families about services provided. Once again, these recommendations aim at local control, which has been the primary concern of all the citizens involved.

STANDARD 6.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT TRAINING BE CONDUCTED FOR BOTH STAFF AND VOLUNTEERS AT INITIAL HIRING AND ON AN ON-GOING BASIS. FUNDS SHOULD BE MADE AVAILABLE FOR BOTH TRAINING COSTS AND EMPLOYEE'S WAGES DURING ANY TRAINING PERIOD.

The Code provides that the Department of Mental Health and Corrections be responsible for training department staff through in-service training, institutes, conferences and grants for educational leaves. Additionally, staff and training facilities should be made available for the training of staff and volunteers in contractor agencies or facilities to assure effective provision of purchased services. Training should be provided by the Criminal Justice Academy in addition to in-service training.

STANDARD 6.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT JUVENILE COURT NOT IMPOSE DETENTION PLACEMENT FOLLOWING ADJUDICATION, UNLESS THERE IS RISK OF ANOTHER CRIME BEING COMMITTED, OR THE JUVENILE IS IN NEED OF CORRECTIONAL TREATMENT, OR A LESSER SENTENCE WILL DEPRECIATE THE SERIOUSNESS OF THE JUVENILE'S CONDUCT.

There is also a need for more dispositional alternatives, such as placing the juvenile on probation or under protective supervision in legal custody of a parent, custodian, guardian, relative or other suitable person.

In addition, it also permits work programs (not to exceed 180 days) as a part of probation. The juvenile can also be committed to the care of the Department of Human Services for placement in foster, group or halfway homes. The court may also order restitution; committment to the Maine Youth Center; imposition of a fine; a new hearing per MCC; or sentence the youth to an indeterminate period of detention and probation.

STANDARD 6.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS BE ESTABLISHED AS PLANNING AGENT FOR NEW FACILITIES, I.E., GROUP HOMES, HALF-WAY HOUSES, ETC., AND ALSO REMODELING PROGRAMS.

In order for facilities and services such as these to become available on the local level there must be careful planning and management on the state level. It should be the responsibility of the Department of Mental Health and Corrections to aid localities in achieving the facilities and services necessary to aid their local youth problems.

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Standard 1.7 (Sec. 3003, 12)
Standard 1.8 (Sec. 3202, 4A)
Standard 1.10 (Sec. 269)
Standard 2.1 (Sec. 3311, 1)
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2. "Juvenile Justice Programming Strategy", (Maine Criminal Justice Planning and Assistance Agency, 1977), p. 1
3. Op. Cit., Crime in Maine, p. 68.
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5. Ibid.
6. Ibid.
7. "A Summary Review of County Law Enforcement", (Maine Criminal Justice Planning and Assistance Agency, 1976).
8. Ibid.
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10. Ibid.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.
16. Ibid.
17. Ibid.
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49. Ibid., p. 632-633.

50. Ibid., p. 582-583.

51. Ibid., p. 514-515.

52. Ibid., p. 568.

CROSS-REFERENCE CHART

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13.16	Courts		5.9

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POLICE

STANDARDS AND GOALS REPORT

SECTION "C"

POLICE

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POLICE REPORT

INTRODUCTION

Every Maine citizen, whether living in a rural or urban area, is entitled to have quality police services available on a 24-hour basis. However, police services vary in both substance and quality from community to community. The types of services offered depend upon the needs of the area which is served by a particular law enforcement agency; the quality of service depends upon the professionalism of each individual law enforcement officer. However, the degree of professionalism is related to the commitment made by the appropriate level of government. The recommendations contained in this report seek to establish standards which will ensure that every Maine citizen is provided with quality police services.

Police protection throughout Maine is provided by the Maine State Police, 16 County Sheriffs and 121 Municipal Police Departments. The one hundred and forty-eight law enforcement agencies employ 1,830 full-time sworn personnel to serve an estimated 1,059,000 people distributed over 30,417 square miles. In addition to the sworn personnel, there are 341 full-time civilians providing support services.

The 16 county sheriff departments employ 307 full-time sworn officers and 28 full-time civilian employees to perform their law enforcement functions in the state while the 121 municipal police departments account for 1,222 full-time sworn officers and 222 full-time civilian workers. The primary assignment of these full-time sworn officers is patrol duty, with 64% of them falling into this category. Administrative (12.7) and investigative functions (7%) complete the top three activities of this group.

From October 31, 1975 to the same date in 1976, there was an increase of 3.0% (56) of law enforcement officers throughout Maine. Many agencies have part-time personnel, working on an as-needed basis or working full-time throughout a season.

Of the 966 automobiles used in the law enforcement effort by municipal and sheriff's departments, 42% are department owned, 56% are privately owned and 1%

are leased. These 966 automobiles patrol a total of 21,073 miles of roads, one vehicle per 22 miles of road. This coverage varies greatly from county to county, with Knox County having one vehicle per 8 miles of roadway to Oxford County with one vehicle per 63 miles of roadway. A total of 120 pickup trucks, vans, motorcycles, snowmobiles, boats and Cushmans supplement these automobiles, and assist in reaching areas access to which otherwise would be difficult or impossible.

The grand total of police expenditures for the fiscal year ending on June 30, 1976 or on the date nearest to the end of calendar year 1976, was $32,783,585; of that amount $24,540,790 or 74.9% was expended by county and municipal governments. Of the $24,540,790 spent on law enforcement at the municipal and county levels, the statewide per capita expenditure for municipalities and counties in this endeavor was $23.17.

Between January 1 and December 31, 1976, there were 43,647 index offenses reported. There were 34,232 actual arrests (8,045 for Part I offenses and 26,187 for Part II offenses).[1]

The first chapter of this segment of the Community Alliance Report addresses the administration of police departments. It recommends that departments prioritize all the services which are provided, and establish the goals and objectives that each service is attempting to achieve. Once this is accomplished, the police officer's role can be defined within the context of the needs and expectations of the department and the community. At the present time such procedures are not formalized in this way in most departments.

There are other aspects which need improvement. Greater cooperation between criminal justice agencies is needed to make the system efficient. Public understanding of this system can be enhanced by increasing the number of police informational programs; they are currently being presented by only a few departments. An evaluation system which measures the efficiency and effectiveness of police departments would also help inform citizens. Such a system should take into consideration local factors--budgetary restrictions--which can limit some services

However, the public must realize that citizen involvement in crime prevention is necessary. Crime is a community problem, and every citizen has the responsibility to help reduce and/or prevent it. Besides coordinating community crime prevention programs, police departments can also become involved in community planning pro-

cesses, thereby offering suggestions which are intended to prevent crime.

Another recommendation in the first chapter concerns labor and management relations. The onset of unionized personnel has prompted many departments to establish a labor relations policy. Such a policy is needed even in non-unionized departments. Increased operating costs also necessitate establishing a funding policy that contains guidelines covering the use of all funding alternatives.

Greater cooperation between the police departments, the DA's office, and the court will ensure that each agency knows what is required of it for effective prosecution of cases.

Chapter II provides recommendations in the area of police operations. Currently, the state is serviced by a three-tier law enforcement system -- the State Police, County Sheriffs, and municipal police departments. In aggregate they total approximately 148 departments which employ nearly 2,000 full-time police officers. Every community should investigate different alternatives, to provide its citizens with 24-hour services.

Established departments should recognize the importance of the patrol officer in the delivery of police services. Every effort should be made to attract and retain the best qualified personnel for patrol positions. Beyond the patrol function, departments should initiate specialized functions only if they can be justified. By increasing the use of civilian personnel to fill positions which do not require a sworn police officer, departments will be able to use its sworn officers more effectively. Reserve officers should be used only if they have had some type of formalized police training.

The current support services which are offered mainly through the State Police are adequate to handle requests for specialized assistance. The passage of the new Juvenile Code makes it imperative that all departments establish juvenile policies that adhere to the new law. The police officer should be aware of the laws which deal with the use of discretionary powers. Laws should also be enacted to allow officers to issue citations and release a person on his own recognizance if the chances are nearly certain that the person will appear in court.

Cooperation among departments is also necessary if the present automated information systems are to be used effectively. The manpower needs of the State Police are also discussed.

In Chapter III, recruiting is addressed, and the method developed by the Maine Municipal Association is recommended for statewide adoption. Salary levels are also discussed in conjunction with the need for career development programs. Finally, certain qualifications for police chiefs and sheriffs are recommended.

In Chapter IV, recommendations are made that pertain to the administration of the Maine Criminal Justice Academy. A proposal that requires law enforcement officers to complete their basic training early in their first field assignment is also presented. Then, the curriculum of the basic training school and the present in-service training program are reviewed. Lastly, the report recommends that the Penalty Assessment Statute be enacted to provide operating funds for the Academy. This proposed surtax on fines was defeated by the past Legislature, but the committees felt that it is important enough to be resubmitted.

POLICE

GOALS

1. TO ESTABLISH MODERN, EFFECTIVE MANAGEMENT TECHNIQUES IN ALL POLICE ADMINISTRATION.

2. TO DEVELOP THE HIGHEST STANDARDS OF POLICE OPERATIONS.

3. TO MAINTAIN PROFESSIONAL QUALIFICATIONS AND FOSTER CAREER DEVELOPMENT GOALS.

4. TO STRENGTHEN COUNTY LAW ENFORCEMENT AGENCIES AND PERSONNEL POLICY.

5. TO EXPAND THE TRAINING CAPABILITIES OF THE CRIMINAL JUSTICE ACADEMY.

CHAPTER I

POLICE ADMINISTRATION

The Community Alliance accepts the basic objectives of a police department as being enforcing statutory law, maintaining public order, and community crime detection and prevention. Police departments provide many other services to a community and the Alliance believes that these additional services should be recognized, prioritized, and publicized to the general public.

Looking at the various problem areas; improvement is needed in defining departmental goals and objectives, the prioritizing of services provided to the community, and establishing a better understanding of the police role. Improvement of police-community and police-media relations is needed, along with improved cooperation among criminal justice agencies. Recommendations have also been made to improve management-labor relations and future planning activities.

The Community Alliance Project has made eleven recommendations in the area of police administration. Most can be implemented through departmental administrative changes, cooperation and coordination of agencies involved in the criminal justice system, and greater community involvement.

THE COMMUNITY ALLIANCE FINDS A GREAT LACK OF WRITTEN AND/OR PUBLISHED POLICY GUIDELINES IN ALL AREAS OF POLICE ACTIVITY. THIS DEFICIENCY TENDS TO CONFUSE THE GENERAL PUBLIC ABOUT THE FUNCTIONS OF THEIR POLICE DEPARTMENTS.

STANDARD 1.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY POLICE DEPARTMENT ESTABLISH WRITTEN POLICIES WHICH CLEARLY DEFINE THE PRIMARY GOALS AND OBJECTIVES OF POLICE SERVICES.

Standard Operating Manuals (SOP's) should clearly state the goals and objectives of a police department within the community. SOP's are in existence today and are being used by some individual police departments. These existing SOP's vary greatly in their quality, and should be upgraded to enhance a better community understanding of the goals and objectives of a police department.

Every attempt should be made to exclude those services which hinder the attainment of the primary objectives, or those that can be performed by other agencies. SOP manuals should contain guidelines which establish departmental policy in the following areas:[2]

1. administrative matters,
2. community and Press Relations,

3. personnel Procedures
4. officer Conduct
5. use of Support Services
6. arrest and Custody Procedures, and
7. use of Force and Weapons[2]

It should be noted here that the ultimate responsibility for use of force and/or weapons lies with the individual officer and depends upon his discretion.

When formulating the above guidelines, police departments should encourage participation from their officers, other governmental agencies, and community organizations. Upon completion of the SOP, a copy should be made available for local officials and the general public.

These SOP's can be developed and implemented through departmental adherence to this recommendation. Additional costs would be minimal.

STANDARD 1.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY POLICE DEPARTMENT CLEARLY DEFINE THE ROLE OF THE POLICE OFFICER SO THAT IT IS UNDERSTOOD BY BOTH THE OFFICER AND THE GENERAL PUBLIC.

The actual role of the officer within a department and community needs definition. This is a difficult area to clarify but it should be done in the context of the police departments' goals and objectives. Such a definition would give police officers an idea of who they are and what is expected of them from the department and the community. This is presently being done in larger departments that are unionized. Copies of this policy-philosophy should be available to the individual officer and other members of the community.

Courses dealing with the police role should be part of the basic and in-service training program. The importance of this should also be stressed to line supervisors and middle managers so that they can set examples for the junior officers. An officer's ability to fulfill his designated role should be one criterion on which promotions are made.

Police departments should also begin an intensive public awareness program which explains the role of the police to members of the community. Greater understanding and appreciation for police officers can only be obtained by increasing the number of informational programs and personal contacts within the community. If budgetary and manpower resources permit, police departments should develop a comprehensive

public relations (juvenile officers) program, but as a minimum elementary schools should receive at lease one classroom presentation annually by a uniformed police officer. This presentation should be tailored to each grade level, but all should include a basic description of the police role. Examples of such programs are the Law Focused Education Program (Law Related Education), sponsored by the Community Justice Project; the "Officer Friendly" programs; and summer educational institutes held at the law school in Portland to teach educators how to teach criminal justice in the local school systems.

These programs have received acclaim from police officers and school officials. Additional personal contact with youth can be made if police department personnel become more involved with youth activities and athletic programs.

Police departments should also encourage their personnel to participate in local adult evening school and community college classes. Public speaking engagements should also be part of the public awareness program. Additional use of the media to explain departmental policies and programs, along with "open-houses" and tours of police facilities, will increase public understanding. Annual reports that evaluate the departments' effectiveness should also be published. By using valuable data from the Uniform Crime Report, the department can cite crime trends, the number of arrests, and property losses.

Defining the role of the police officer, and making this role available to the officers and the general public, can be achieved by administrative adherence to this recommendation, with minimal costs to the police department.

STANDARD 1.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY POLICE DEPARTMENT ESTABLISH A WRITTEN POLICY THAT OUTLINES THE DISCRETION USED BY ITS POLICE PERSONNEL. THE DEPARTMENT SHOULD ALSO ACTIVELY ENGAGE ITSELF IN A PUBLIC EDUCATIONAL PROCESS WHICH DESCRIBES THE USE OF DISCRETIONARY POWERS IN POLICE WORK.

Every police chief should establish policy that governs the exercise of discretion by police personnel in providing routine police services that, because of their recurrence, lend themselves to the development of a uniform agency response. This written policy should encourage and invite public participation in an educational process defining the limits of police authority and the use of discretion by police officers. This educational process can be achieved through public speaking engagements for local civic and social organizations. The educational program should include such items as the nature of crime,

Maine law, the workings of the police department, and actual statutory limits placed upon police officers in regard to discretion and police authority. Educational programs are encouraged, especially for the students attending elementary schools. Increased use of the media, "open-houses", and public relations is encouraged, stressing contact of the police with the general public.

Most departments in Maine do not have specified policies regarding an officer's discretionary powers, responsibilities and limitations. The state Attorney General's office has produced guidelines defining the use of force. The U.S. and Maine Constitutions do provide explanations of the limits of police authority. With increased services being provided, police officers in Maine must now handle procedures that never before existed. Presently, there are no formalized procedures that allow for police to be adequately informed of the changes that are taking place.

STANDARD 1.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE DEPARTMENTS INITIATE OR EXPAND PROGRAMS TO IMPROVE COMMUNICATIONS WITH THE GENERAL PUBLIC AND ESTABLISH A FIRM RELATIONSHIP WITH THE NEWS MEDIA.

Programs are needed to improve the adversary relationships that seem to exist between the police and the community, and between police and the media. Re-establishing lines of communication between the police and these groups can only enhance police services and promote better relationships.

Every police department should develop and maintain a policy which insures two-way communication with the community. This policy should require all officers who have contact with the public to be knowledgeable of department policies so that they can answer questions. It should also allow the suggestions and concerns of the community to be transmitted through the chain of command, so that appropriate action can be taken. It is suggested that where there is a large non-English speaking population, police departments should provide bilingual personnel to deal with requests for police services.

Effective communications with the news media is also necessary. Policies should be established that recognize the media's right to gather information and disseminate it to the public. However, both parties should be aware of the police department's legal responsibilities, the necessity to protect evidence, and the rights of the accused in any investigation. The press should be willing to delay publication in such cases, rather than having police departments institute some form of censorship.

Regular contact with the media should be accomplished through a designated officer or in larger departments through a specialized unit. The police chief should have some means of accrediting or recognizing persons from the media who cooperate with department policy. Specific guidelines should define their relationship during unusual occurances. Both parties should recognize that a good relationship is beneficial to both the police department and the news media.

STANDARD 1.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE DEPARTMENTS BECOME INVOLVED IN TOTAL COMMUNITY DEVELOPMENT AND PLANNING.

Police departments do very little in the area of total community planning. The basic reason for this would seem to be a lack of any indication by municipal officials that their input is desired.

Police department participation should be sought in all land development planning, commercial, residential, industrial, urban and recreational planning. Departments should be concerned with building codes, redevelopment projections and situations affecting the health and safety of the public.

In addition, the department should consider administrative, operational, procedural, managerial, and tactical plans when expanding or initiating new programs. Extra-departmental efforts should be focused only on those plans that are obtainable. Every officer should be familiar with the planning process so that it can be accomplished as smoothly as possible.

There would be no costs involved with getting police department involvement in total community planning. Opening lines of communication between police administrations and other municipal officials would be the largest hurdle to overcome.

STANDARD 1.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE DEPARTMENTS ESTABLISH GUIDELINES WHICH IMPROVE LABOR-MANAGEMENT RELATIONS WITHIN THEIR OWN DEPARTMENTS.

The increased activity of unions within police departments in Maine will probably continue, and increase, in the years to come.

Police personnel have the right to organize bargaining units as described in the Public Municipal Employee's Labor Relations Act which was passed in 1968. The act does contain a clause which prohibits strikes.

Employee organizations should be run democratically and structured so that they do not interfere with an employee's oath of office. A career development program would remove from management the responsibility of having officers meet certain criteria, and would place upon the individual the requirements needed for advancement.

STANDARD 1.7: THE COMMUNITY ALLIANCE RECOMMENDS GREATER COMMUNITY INVOLVEMENT IN CRIME PREVENTION PROGRAMS.

It is becoming increasingly evident that crime and its detection and prevention is a total community problem. The Maine Chiefs Association and 15-20 local police departments are either encouraging or presently involved in community crime prevention programs.[3] Many programs are possible in this area, including developing ordinances requiring increased security provisions in existing and newly-constructed buildings. Potential problem areas could be impacted through regular inspections.

One such program could utilize a volunteer neighborhood crime prevention telephone network. This program encourages volunteers to telephone the police department to report criminal activity. After collecting all the pertinent information, officers respond to the report and not to the volunteer. Any further developments, such as arrest that might require additional assistance from the volunteer, would be carried out by the police department. Official thanks from the police department to the citizen volunteer can be transmitted in person, by telephone or by letter.

Large departments should have units that coordinate community crime prevention activities with an emphasis on decentralization and total community involvement. (Refer to Chapter VIII special section "Community Crime Prevention".)

THE COMMUNITY ALLIANCE FEELS THAT A NEED EXISTS FOR IMPROVING THE RELATIONSHIPS BETWEEN POLICE DEPARTMENTS AND OTHER CRIMINAL JUSTICE AGENCIES.

STANDARD 1.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE OPERATIONAL EFFECTIVENESS OF MAINE'S CRIMINAL JUSTICE SYSTEM BE IMPROVED THROUGH INCREASED INTER-AGENCY COOPERATION AND COORDINATION.

Currently there seems to be an "unofficial" lack of coordination and co-operation between the various criminal justice agencies in Maine. This continued

"in-fighting" can do nothing to improve the operation of the criminal justice system in this state. Steps should be undertaken to improve this situation.

Where feasible, a criminal justice coordinating council should be established which would be composed of representatives from all aspects of the Criminal Justice System and local governments, to insure a fair and effective disposition of all criminal cases and to plan for crime reduction and prevention. Active inter-agency training for those involved in the criminal justice system is encouraged so that a better understanding of respective problems, needs and concerns can be achieved. These agencies should strive to process a criminal case within sixty days from arrest to trial. Some support services are shared by the three levels of law enforcement agencies, but they can do more to coordinate their efforts.

Cooperation with the District Attorney's office and the courts could allow off-duty officers to be on call when they have been subpeonaed to testify in criminal matters. This would prevent a great deal of wasted time if the case is not going to be heard on a particular day. Further cooperation would provide for timely issuance of search warrants, arrest warrants, complaints and arraignments. Working closely with Mental Health and Correctional personnel would ensure adherence to the new juvenile code in the areas of diversion and confidentiality.[4] More cooperation is encouraged between probation/parole officers and the police so that information can be exchanged easily.

Statistical support, investigative cooperation and decisions concerning the arrest and return of fugitives can be gained through stronger ties between all agencies in the criminal justice process (i.e., Federal, State, and Local levels).

The recommendation cites the availability of specialized services within the State but greater cooperation and coordination between agencies is needed. Such services would include crime investigation units, bomb disposal units, criminal photography, crime scene search specialists, and youth aid officers. Records keeping procedures could easily be shared between departments.

Police departments should seek legal assistance and advice from the District Attorney's office. If legal services to small departments and a full or part-time legal counsel is not justified, then a multi-agency or state police legal unit should be established.

A police management consultation service should also be established to provide technical assistance to evaluate department effectiveness and to make recommendations for improvement. In addition, police departments should strive to establish working relationships with professionals from such fields as medicine, business, industry, education, the behavioral sciences and religion. Their professional suggestions could be helpful in many areas of police work.

STANDARD 1.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT STEPS BE IMPLEMENTED TO INCREASE THE COOPERATION AND WORKING RELATIONSHIPS BETWEEN THE PROSECUTOR'S OFFICE AND POLICE DEPARTMENTS.

Deficiencies that weaken a criminal case -- whether found in the police or the prosecutor's office -- should be corrected by the proper authority.

Procedures should be adopted to allow close cooperation between the District Attorney's office and police departments. Advice concerning a criminal case should be free-flowing from the prosecutor's office to the police department. Extenuating circumstances and criminal histories should be brought to the prosecutor's attention. Police attendance at judicial proceedings and close working relationship with the prosecutor assigned to a particular case is recommended. Criminal cases that the prosecutor refuses to prosecute or later dismisses, ought to be reviewed by police administrators to take action to correct any police deficiencies that may have weakened the case. Deficiencies from the prosecutor's office should be brought to their attention.

The prosecutor's office ought to periodically evaluate investigations, case preparation, courtroom demeanor and testimony of police officers in court. The results of these evaluations should be passed on to the police department concerned. This might require increased investigative experience on the part of the prosecutors in the District Attorney's office. Police officers should receive more intensive training in the areas of investigative techniques, courtroom procedures, demeanor and general case preparation. A program should be developed that will utilize paralegal teams which will work in coordination with the police departments, the D.A.'s and the courts.

Action is urgently needed for the development of a program that would lend legal assistance to police departments in Maine. The Maine State Police have developed a working relationship with a number of medical, educational,

behavioral and religious professionals. The larger municipal departments, such as Portland and Bangor, also maintain liason with various experts from other professions. Most local departments and sheriff departments employ professional expertise only on a part-time basis (and even this is very limited). The Maine Municipal Association is offering a number of professional services in their recruitment and selection program. Any municipality in Maine can use this service on an annual fee basis or a per purchase payment.

The two larger police departments and the State Police employ "regular" legal assistance in areas other than prosecution, most of the smaller departments seek this kind of advice only in a crisis. Informal legal help is often obtained from the District Attorney's office, but no provisions are made for a formal exchange dealing with such issues as legal counsel in areas of administration, review of orders and policies, and being on call to attend some disturbances, etc. Any management consultation is usually sought in response to a serious incident. There are, however, planning specialists employed by 10% of the police departments in Maine, and some Chiefs have completed some specialized management training. Planning specialists do exist within Maine but their availability to provide technical assistance is limited.[5]

THE COMMUNITY ALLIANCE IS CONCERNED ABOUT THE LACK OF ANY SYSTEM THAT COULD BE USED TO EVALUATE POLICE DEPARTMENTS.

STANDARD 1.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT AN EVALUATION SYSTEM BE CREATED TO MEASURE THE EFFICIENCY AND EFFECTIVENESS OF POLICE OPERATIONS.

Presently, very little evaluation of police department operations is done in Maine. Evaluation of operational efficiency and effectiveness could be very useful to both the police department and the community served.

We further suggest that the Maine Criminal Justice Planning and Assistance Agency establish broad guidelines which departments can use for self-evaluation.

Implementation of this standard would involve departmental cooperation and committment to self-evaluation and utilizing their findings to better improve police services in their communities.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE ADDITIONAL WORKLOAD PLACED ON THE CHIEF OF THE STATE POLICE WHO, BY VIRTUE OF LAW, MUST SERVE SIMULTANEOUSLY AS THE COMMISSIONER OF PUBLIC SAFETY.

STANDARD 1.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT LEGISLATION BE ENACTED THAT WILL PROHIBIT ANY BUREAU OR DIVISION CHIEF FROM SIMULTANEOUSLY HOLDING THAT POSITION AND THE POSITION OF COMMISSIONER OF PUBLIC SAFETY.

The Department of Public Safety is composed of four divisions:

1. The State Police,
2. The State Liquor Enforcement Division,
3. The State Fire Marshall's Office, and
4. The Maine Criminal Justice Academy.

The chief of the State Police simultaneously holds that position and that of Commissioner of Public Safety. The citizens believed that this situation could lead to conflict of interest issues. They also thought that the position of chief of the State Police requires full-time attention; he should not be distracted by concerns that are outside his department. For instance, he was recently asked to formulate a training program for firemen throughout the State. Even though this is a worthwhile project, the citizens feel that it should not involve the time and effort of the Chief of the Maine State Police.

The cost of implementing this would be $20,000+ per year for the commissioner's salary, plus the cost of office and office staff.

CHAPTER II

POLICE OPERATIONS

Chapter two concerns itself with Police Operations. The Community Alliance has made eight recommendations in this area, ranging from increased mutual aid between police departments to a recommendation that the term of sheriff be extended to four years.

The importance of the patrol officer in the delivery of police service is recognized. Emphasis should be placed upon the selection, training and advancement of patrol officers within police departments in Maine.

Employment of civilian personnel for activities not requiring a sworn officer should be increased, therefore allowing sworn officers more time to devote to the delivery of police services. Increased use of reserve officers is recommended with one stipulation, that these reserve officers be subject to "beefed up" selection standards and increased training requirements. Specialized services within police departments in Maine, after an appropriate evaluation, should, if deemed necessary, be expanded. Finally, it is recommended that all police officers be supplied with standardized equipment and uniforms that clearly distinguish them from other uniformed personnel (i.e., private security forces).

All of the recommendations in this particular chapter are aimed at increasing the effectiveness and efficiency of police operations in Maine.

THE COMMUNITY ALLIANCE HAS DETERMINED THAT THE LACK OF 24 HOUR POLICE SERVICES IN SOME AREAS OF MAINE IS POTENTIALLY A VERY GRAVE SITUATION IN TERMS OF BOTH LIVES AND PROPERTY.

STANDARD 2.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT 24 HOUR POLICE SERVICE BE AVAILABLE TO EVERY MAINE CITIZEN.

Increased mutual aid between police departments to help increase the availability of 24 hour police services is seen as being very beneficial. Communities that cannot provide 24 hour police services on their own should contract with county and/or state agencies for this service. Alternatives to structured police services should be explored if the situation would allow for this informality.

It is recommended that cooperation between departments to provide mutual aid for police services should be encouraged and permitted, but not mandated by the State. Education of the general public, town governments and department personnel should be encouraged to provide support for increased mutual aid activities. Public relations through the media should be undertaken to further the atmosphere of support for increased mutual aid between communities for law enforcement

purposes. Many local police departments in Maine do participate in mutual aid activities at the present time, but cooperation could always be improved. Presently in Maine, statutes allow a community to contract with a sheriff's department for law enforcement purposes. The State Police can "lend" a trooper to a community, or have a trooper live within a particular community, but they do not contract with the community for the services of the trooper.[3]

A police services study has recommended a variety of consolidated police service alternatives for the state of Maine.[6] The idea of total consolidation seems to be unpopular with some local police units. Many chiefs and police departments do see the advisability of sharing certain services on a regional basis, especially those costly specialized services such as drug enforcement, homicide cases, organized area or regional criminal justice activities, and, in some cases, centralized dispatching and limited record keeping. Consolidation of police departments within Maine is not a popular idea, but increased mutual aid activities is favored.

THE COMMUNITY ALLIANCE FEELS THAT THERE ARE SOME POLICE DUTIES WHICH DO NOT REQUIRE THE USE OF FULL-TIME OFFICERS.

STANDARD 2.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT POLICE DEPARTMENTS EMPLOY MORE CIVILIAN PERSONNEL AND MAKE BETTER USE OF PROPERLY TRAINED RESERVE OFFICERS.

Every police department should use generalists (patrol officers) whenever possible for the delivery of police services to the public. The use of non-police personnel (paraprofessionals) should be considered for dispatching duties, court officers, administrative clerks, and legal advisors. This could be structured around a program being implemented by the Maine Chiefs of Police Association using the Maine Municipal Association's selection process.[7] Again, the Community Alliance should carefully investigate and evaluate this proposal when completed. Increased use of civilian personnel would free full-time officers for other police functions. Officers should be recognized and rewarded for excellence in specialized fields, but they should be available to execute a variety of police duties. Chiefs should consider the public's perception of a police officer's job when assigning duties. Police departments in Maine should begin to employ civilian personnel in positions that do not require the exercise of police authority, specialized knowledge or other skills required of full-time regular police officers. Dispatchers and records keeping clerks are examples of the types of positions that could be filled by civilian personnel. It is further recommended that reserve officers be utilized by police departments in Maine. The use of reserve officers

would be contingent on improved screening of potential reserves, and mandated training (in-service) upon their acceptance as a reserve officer. Most departments in Maine have reserve officers who are used to perform a variety of jobs. These reserves are needed by smaller communities on limited budgets to supplement manpower needs. Most reserves perform the same duties as full-time personnel, however, their training is limited to that offered by their local department.

THE COMMUNITY ALLIANCE IS CONCERNED THAT NOT ENOUGH ATTENTION IS GIVEN TO THE FULL RANGE OF ADEQUATE POLICE SERVICES.

STANDARD 2.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT SPECIALIZED PROGRAMS IN POLICE SERVICES BE JUSTIFIED AND EVALUATED. IF THE PROGRAM IS JUSTIFIED, THEN THEY SHOULD BE MAINTAINED OR EXPANDED WHEN NECESSARY.

Every police department which has established specialities should conduct an annual review of each speciality to determine its effectiveness. In conducting this review, the department should examine the problem (which resulted in the creation on the speciality) as well as the cost-effectiveness of the speciality. From this examination, adjustments of manpower and equipment allocations should be made as warranted. This policy should apply to counties as well as state and municipal departments. Police chiefs should recognize the need for this recommendation since special units are affected by budget and/or grant continuation. Currently, program evaluation is often seen as a non-productive activity which only leads to administrative headaches. However, better monitoring could reduce special program problems when requesting further funding considerations. It should be evident that the existence of special units must always be justified to those who control the funding of such units.

Specialized services are available to local police departments upon request. The State Crime Lab contains a large number of specialized services that can be utilized as the situation demands. Funding of Uniform Crime Reporting (UCR) system and Division of Special Investigation (DSI) should be continued.

Every police department should establish a system for collection and analysis of patrol deployment data according to area (census, tract, reporting area, permanent grid system) and time (seasonal, daily, hourly). Furthermore, every police department should conduct a workload study in order to determine the nature and volume of the demands for police service and the time expended in all activities. This study should be made annually and should be used to develop operational

objectives for patrol personnel, and to measure patrol operation efficiency and effectiveness. Additionally, an allocating system (geographically and chronologically proportionate) should be placed on reduction of crimes, minimization of response time to calls and equalization of the patrol personnel workload (establish schedules and assign operational areas). It is further suggested that such a system might not be applicable to Maine (at least in smaller departments).

Every police department should annually evaluate its use of transportation. When acquiring new vehicles, the options of purchasing, leasing, or reimbursing for officer-owned vehicles should be considered. Group purchases from a number of agencies may also be less costly. However, the final decision should be based on the maintenance requirements, control problems, financing and overall cost-effectiveness.

When acquiring aircraft (i.e., the State Police), maintenance, service requirements, pilot training and insurance costs should be considered. Leasing and renting should also be considered.

To insure the safety of its employees and the public and to increase the department's efficiency, the police department should establish a fleet safety requirement(s). It has been suggested that quarterly inspection of emergency police vehicles be performed under the supervision of the State Police.

THE COMMUNITY ALLIANCE FEELS THAT SPECIAL ATTENTION NEEDS TO BE GIVEN TO LAW ENFORCEMENT UNIFORMS AND EQUIPMENT.

STANDARD 2.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT AUXILIARY EQUIPMENT FOR POLICE OFFICERS BE STANDARDIZED AND THAT ALL UNIFORMS BE READILY DISTINGUISHABLE FROM OTHER UNIFORMED PERSONS.

There are laws in the State of Maine that require individuals involved in private security, private watch or private patrol agencies to have uniforms that are clearly distinguishable from those of sworn officers. State law also requires that sheriffs deputies be provided uniforms that would distinguish them from other police personnel. There doesn't seem to be much adherance to these laws, especially by private security agencies.

Every police department should designate complete standard specifications for apparel and equipment to be used by every department employee when performing the duties of a uniformed police officer. Officers should be highly visible, easily identifiable and readily distinguishable from other uniformed persons (i.e.,

uniformed guards). Every police chief should specify the type of firearms, ammunition and other auxiliary equipment to be used by the departments' officers (all interchangeable). Firearms should be uniform throughout the State.

This policy should be enforced through periodic inspection and appropriate disciplinary actions. Every police department should acquire the funds necessary to provide and maintain a full uniform and equipment complement for each police officer. Fifty percent of the costs for reserve officers' uniforms should be borne by the reserve officer and the other half by the department. There also should be spare equipment available to reserves while they are on duty.

Presently in Maine, it is difficult at times to distinguish a police officer from private security guards. Many departments have no uniformity in equipment including firearms and ammunition. Many municipal officers and sheriffs deputies have to provide their own weapons and uniforms. Hopefully, these recommendations will remedy these concerns.

THE COMMUNITY ALLIANCE STRESSES THE NEED FOR ACCURATE AND SPEEDY INFORMATIONAL SYSTEMS.

STANDARD 2.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT AUTOMATIC RETRIEVAL OF INFORMATION BE AVAILABLE TO ALL POLICE DEPARTMENTS IN MAINE.

Most police departments in Maine with ten or more personnel have the use of teletypes, and therefore have the benefit of the information available to this system. With the ever-increasing need to have additional information, it is felt that local police departments should have access to the other informational systems. Steps should be implemented that would give all police departments in Maine access to this additional information.

The Chiefs of police in Maine should establish procedures that will insure simple and efficient reporting of criminal activity, assist in criminal investigations and provide complete information to other agencies within the criminal justice system. Officers should know the information which is required on each reporting form used by the department. Each department should also consider the practice of allowing reports of misdemeanors and miscellaneous incidents by telephone when: a) no field investigation is necessary; b) patrol force efforts would be diverted from higher priority duties. If the patrol force is working on higher priorities, the department should assign other personnel to conduct preliminary investigations and to write reports.

Police should also provide identifying data to the courts which insure arrest warrants. Such data should include the name, address, sex, color of hair and eyes, height and weight and date of birth. In an arrest situation, this information would give greater assurance that the right person has been arrested. The issuing court and the department who petitioned for the warrant should be notified of the arrest as soon as possible. Police departments should also be required to report to the State or other designated information-collecting agency, the identification of: a) persons known to be armed, dangerous, or those who have resisted arrest in the past; b) unrecovered stolen vehicles, the numbers of their license plates, engine and transmission numbers; c) vehicles wanted in connection with the investigation of felonies and serious misdemeanors; d) unrecovered or stolen license plates and serial numbers of weapons and property that have been stolen.

Police departments within the State must now record all information required in the Uniform Crime Reporting (UCR) system, which is viewed as one of the best reporting procedures in the country. Besides that, they also keep a record of complaints and calls which are written in a daily log.

At the present time, only the name, date of birth, address and the charges against the individual are listed on an arrest warrant.

The State Police Records system includes the State Bureau of Identification (SBI), Dept. of Motor Vehicles (DMV), the National Crime Information Center (NCIC), and the National Law Enforcement Teletype System (NLETS).[8]

Every police department in Maine, in relation to its own needs, should initiate and maintain a "reportable incident file" which would collect information on crimes and essential non-criminal incidents such as missing persons, lost and found property, suicides, accidental deaths and traffic incidents. Such a records system of operational activities is essential to systematically evaluate the departments operational effectiveness.

The State Police operate a records system and it is available for use by other police departments within the guidelines required for the dissemination of such information. Automatic retrieval of information is not always possicle. Some of the records, such as criminal ones, must be checked by hand.

Every police department in Maine should establish a cost-effective compatible information system to collect, store and retrieve information moving through the department. This system should be directed at crime reduction without sacrificing local autonomy. Statewide criminal information should be available

immediately to field personnel (for example, 3 minutes for non-computer systems ane 30 seconds for computer systems).

For those departments using computer-based systems and desiring immediate response to field personnel, priorities should be set on information available, systems implementation and established strategies. Agencies having such a system cannot hold non-conviction information on the public record.

Every police department should coordinate its information system with others to facilitate the exchange of information. All departments must maintain immediate access to law enforcement tele-communications networks. Any information center employing more that 15 persons should install a tele-communications terminal capable of transmitting to and receiving from other criminal justice information systems (network switching).

THE COMMUNITY ALLIANCE RECOGNIZES THE IMPORTANCE AND VALIDITY OF SUMMONSES AND CITATIONS.

STANDARD 2.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY POLICE DEPARTMENT MAKE MAXIMUM USE OF STATE STATUTES PERMITTING POLICE DEPARTMENTS TO ISSUE WRITTEN SUMMONSES AND CITATIONS IN LIEU OF PHYSICAL ARREST AND PRE-ARRAIGNMENT CONFINEMENT.

Today, most traffic violations and therefore the majority of the public contacts by a police department end in a citation being issued and the individuals being released on their own recognizance. This practice ought to be expanded, especially when the appearance of the defendant in court is a near certainty.

The standard arrest-warrant-jail-trial cycle must be completely revamped, not just modified, since many of the current problems in criminology--such as increasing recidivism rates--are an inherent defect of the present system. For example, one of the intrinsic defects of the criminal justice system is that by bringing all offenders together in the jail environment, even if for only the short time period pending arraignment in some cases, the system inherently insures that even non-serious first offenders will be vicariously exposed to the criminal experiences and attitudes of the more serious offenders. In this sense, the warrant process is self-defeating, for it directly encourages and promotes future criminal conduct on the part of non-serious offenders who may learn much of the ways of serious criminality, even through only a short exposure to the

guiding hand of the experienced felon. There are many other similar inherent defects in the present criminal justice system's procedure which compel a basic revision in thought by those within it, and not merely the exercise of futile effort in attempting to cure its "ills".

THE COMMUNITY ALLIANCE RECOMMENDS THAT THE MANPOWER NEEDS OF THE STATE POLICE SHOULD BE REVIEWED.

STANDARD 2.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT ADDITIONAL TROOPERS BE FUNDED TO ALLEVIATE THE MANPOWER NEEDS OF THE MAINE STATE POLICE.

With the coming of collective bargaining, the citizens of Maine can no longer expect Maine State Troopers to be on "call" 24 hours a day, 7 days a week. The manpower situation of the State Police will become more acute as time passes. There are presently troopers in Maine who patrol areas that are as large as the state of Rhode Island. Currently, with days off and vacation days, it takes 5 troopers to complete a daily shift.

The police seciton of the Community Alliance report is aimed at improving police services for the citizens of Maine. Additional personnel should be provided for the Maine State Police immediately to impact their patrol area.

An increase of 50 troopers should be funded immediately.

THE COMMUNITY ALLIANCE IS CONCERNED ABOUT THE INCREASE IN THE NUMBER OF ASSAULTS ON POLICE OFFICERS.

STAMDARD 2.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL FACTORS BE STUDIED TO DETERMINE THE CAUSES INVOLVED IN THE INCREASE OF ASSAULTS ON POLICE OFFICERS IN THE STATE OF MAINE.

The Community Alliance recommends that the Legal Affairs Committee, which has been charged with the study of Maine's high rate of assaults upon law enforcement officers, address themselves to the following considerations:

1. Maine's present statutory definition of assault as well as the definition utilized by the Uniform Crime Reporting System.
2. The current penalties authorized for assault convictions.
3. The dismissal rate, conviction rate and sentencing patterns of assault charges.
4. The effects of crisis intervention and conflict management training upon the numbers of assault reports.

CHAPTER III

POLICE QUALIFICATIONS

Chapter III of the police services section of the Community Alliance report discusses the qualifications for becoming a police officer in Maine. The selection process used by the Maine Municipal Association is endorsed and recommended for statewide use. Implementation of this would establish a standardized recruitment method for all police departments in the State. Beyond the entrance level there is a great need for departments to establish career development programs. This subject is discussed and a recommendation is made concerning such programs. Acknowledging the fact that good police officers don't always make good administrators, the Community Alliance proposes qualifications for both police chiefs and sheriffs.

THE COMMUNITY ALLIANCE FINDS A LACK OF REQUIREMENTS FOR THE HIRING, TRAINING AND CERTIFICATION OF LAW ENFORCEMENT PERSONNEL ON LOCAL AND COUNTY LEVELS.

STANDARD 3.1: THE COMMUNITY ALLIANCE RECOMMENDS STATEWIDE USE OF THE RECRUITMENT, SCREENING, AND SELECTION SERVICE THAT IS PROVIDED BY THE MAINE MUNICIPAL ASSOCIATION.

Presently, there are several techniques used to recruit police officers in the State of Maine. Local police departments often advertise job openings in newspaper ads. Applicants who respond must then be screened according to the individual department's screening criteria. Although some larger departments, such as Portland and Bangor have formalized screening processes, most have criteria that are more general and less rigid. The disparities among the different screening techniques lead to an inconsistency in the caliber of personnel who are hired across the State.

The Maine Municipal Association also has an established recruitment process which is currently being used by approximately 30% of the police departments in Maine.[9] A person wishing to become a police officer applies directly to the Maine Municipal Association. The applicants are given a battery of tests which include general knowledge, aptitude, and psychological exams. Physical examinations and background checks are also provided. An oral interview is given to the candidate who has passed the foregoing tests. Upon successful completion of the oral interview, the person's name is placed in the job bank. When requested from a city or town, a list of those successful candidates will be sent to the community for their selection of a person to fill the job vacancy. The cost to the municipality is based on:

1. whether the town subscribes to the service or wants to pay as a vacancy occurs;
2. the size of the police department; and
3. the annual turnover rate.

It can be shown that those candidates who have been recruited and screened by MMA have little trouble completing the basic police training school at the Criminal Justice Academy in Waterville. Because of this, the Maine Chiefs of Police Association is developing a recruitment program that utilizes the Maine Municipal Association system.

As mentioned above, the cost of such service varies. However, it is believed that an increase in use will result in a decrease of cost.

STANDARD 3.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT DEPARTMENTS IMPLEMENT POLICIES TO ATTRACT THE BEST POSSIBLE PERSONNEL.

Every police chief should develop written policies governing operational priorities and objectives as well as defining the role of the patrol officer.

A job description and career ladder being developed by the Maine Chiefs of Police Association should be carefully evaluated by the Community Alliance for possible future implementation. This program could establish minimum educational and experiential levels needed for each job description and personal advancement within a department.[10]

Payscales should reflect levels within each job description allowing for good patrol officers to remain patrol officers, giving them approximately the same salaries being offered personnel who go into other specialities (i.e., administration).

The Community Alliance recommends that recruitment and selection by law enforcement agencies should be broadbased and utilize the most advanced techniques to insure that all segments of the population, including minorities and women are reached.

The Community Alliance recommends that all law enforcement agencies develop an affirmative action plan, specifying remedial action where required, consistent with L.E.A.A. guidelines, state law and administrative policy.

Academy funding should be increased to allow for training before an individual enters police work. A job register of pre-trained police officers similar to the Maine Municipal Association program would be advantageous to all departments, including those with unions.[11]

STANDARD 3.3: THE COMMUNITY ALLIANCE SUPPORTS A STATEWIDE SURVEY OF SALARIES, CAREER DEVELOPMENT PROGRAMS, AND RETIREMENT SYSTEMS, FOR LOCAL AND STATE LAW ENFORCEMENT AGENCIES.

Entry level salaries vary widely throughout the State. These range from the minimum wage ($2.30/hr) to salaries above $200 weekly.[12] Career development and promotion programs also vary widely. These two factors are largely responsible for the turnover rate in police service, and must be resolved if departments want to attract and retain qualified officers.

The Community Alliance recommends that the State of Maine effect a comprehensive analysis of salaries and retirement plans of local and state law enforcement agencies. This study should be conducted by an ad hoc study commission of the Maine Legislature, Maine Municipal Association, Maine Criminal Justice Planning and Assistance Agency, the Chiefs of Police Association, and the State Police. Such a study should consider present and future law enforcement salary and retirement trends/practices and offer recommendations for:

1. The financing of law enforcement salaries where they are found to be inadequate;
2. The establishment of minimum standards concerning the salaries of police chiefs;
3. Provision of sound retirement system for all law enforcement personnel; and
4. A continual review and adjustment mechanism for all State supported benefits to law enforcement personnel and/or their families.

The Maine Chiefs of Police Association has shown an interest in this area and is currently developing a project to study this matter. The cost factors for any such program will not be known until the completion of the study. However, government officials and citizens should realize that salaries and career opportunities are essential factors in retaining qualified police personnel.

STANDARD 3.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE CERTIFICATION PROCESS WHICH IS BASED ON EXPERIENCE AND EDUCATION BE MADE MANDATORY FOR ALL POLICE CHIEFS IN THE STATE OF MAINE.

Police chiefs' duties differ from town to town and therefore the requirements for this position also differ. Essentially however, the chief's main concern

is the administration of the police department. This task becomes more complex every day, as evidenced by the need for good labor management, rising crime rates, and the sophisticated equipment used in police work. Therefore, most communities seek a person who has a balanced background in law enforcement, training, and administrative capability. Presently there is only one program which rates a person's qualifications for becoming a police chief. This is the Police Chief Certification process which the Maine Criminal Justice Academy is mandated to offer. However, this program is purely voluntary.

The individual is responsible for obtaining his own education, training and experience. Therefore, no cost would be involved in making this requirement mandatory.

STANDARD 3.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE LEGISLATURE ESTABLISH SALARY BONUSES FOR THOSE SHERIFFS WHO BECOME CERTIFIED THROUGH THE ACADEMY.

The county sheriff is an elected official and as such is protected by the Maine Constitution. This means that even though he is the chief law enforcement official in the county, he does not have to have previous experience in law enforcement. Nor does he have to possess any qualifications that may be helpful in that job. A sheriff can be certified by the Academy which uses the same criteria for certifying a police chief. Again, this is only voluntary.

Enabling Legislation should be enacted that authorizes the County Commissioners to award bonuses to sheriffs who have become certified by the Academy. A bonus of 10% of their salary is suggested.

There is strong feeling statewide (Community Crime Prevention Survey--Section "A" Chapter I) that county government and its law enforcement functions should be strengthened as one means of improving county government's services to the public and in the decentralization of total governmental functions.

STANDARD 3.6: THE COMMUNITY ALLIANCE RECOMMENDS EXTENDING THE TERM OF OFFICE FOR COUNTY SHERIFF TO FOUR YEARS.

At the present time, sheriffs are elected every two years. A bill was introduced to this past session of the legislature to lengthen the term of office for the county sheriff from the present two year term to a four year term. This particular bill was passed in the State Senate but failed in the House of Representatives. Opinions were expressed that alternate methods be explored for filling the office of County Sheriff.

This is seen as the initial step in increasing the professionalism of sheriff departments throughout the State of Maine.

CHAPTER IV

THE MAINE CRIMINAL JUSTICE ACADEMY: ADMINISTRATION AND TRAINING

The Maine Criminal Justice Academy is the principal training facility for many of the criminal justice personnel in the State of Maine. It is here that law enforcement officers and others acquire the basic skills which, in part, determine the professionalism and quality of the service that they provide. Because of this, the citizens viewed it as an essential component of the criminal justice system. They became concerned, however, about some of the current operating procedures.

They feel that the Academy's present position in the governmental structure subordinates its importance. To rectify this, they recommend that the Academy be established as a separate entity within the executive department with the Board of Trustees directly accountable to the governor. They also propose that the membership of the Board be expanded to represent all segments of the Criminal Justice System which have an inherent interest in the operation of the Academy.

They also recommend that the Academy revamp some of its current training practices. Rather than allow one year to complete the basic training program after being hired by a police department, the citizens want a person trained early in his or her first field assignment. During this training, they recommend that officers receive more courses in the category of human behavior. They also realized the duplication involved in offering the two basic training programs for State Police recruits and municipal officers. To counter this, the citizens recommend that these schools be combined in areas that are identical. Committee members also believe that a decentralized in-service training program be established to replace the current centralized one. It was felt that this would more closely meet the needs of local departments and make the program more accessible.

The lack of funding was one of the most crucial concerns of committee members because it has a direct bearing on many aspects of the Academy. With the threat of cutbacks ever present from both State and Federal souces, the citizens recommend that the Penalty Assessment Statute be enacted. This surtax on court fines would provide operating funds for the Academy and would make the users of the criminal justice system pay for the training of its personnel.

CONTINUED

2 OF 4

THE COMMUNITY ALLIANCE DEPLORES THE FACT THAT THE TRAINING ACADEMY HAS NOT BECOME IN ACTUALITY A CRIMINAL JUSTICE ACADEMY PROVIDING FULL TRAINING SERVICES AND RECEIVING ADEQUATE FUNDING.

STANDARD 4.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE CRIMINAL JUSTICE ACADEMY BE REMOVED FROM THE DEPARTMENT OF PUBLIC SAFETY AND ESTABLISHED AS A SEPARATE ENTITY WITHIN THE EXECUTIVE DEPARTMENT OF GOVERNMENT, WITH THE BOARD OF TRUSTEES ANSWERABLE TO THE GOVERNOR.

The citizens were concerned about the governmental structure in which the Academy is found, because it is not conducive to effective operation of the Academy. The Academy's Board of Trustees is the chief policy-making body, but it must act in concert with the Commissioner of Public Safety in such matters as budgetary requests and appointment of the Academy director. The citizens feel that these areas will directly affect the future of the Academy and should be determined solely by the Board of Trustees. To ensure this, they recommend that the Academy become a separate entity with the Board of Trustees answerable to the governor.

STANDARD 4.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE MEMBERSHIP OF THE ACADEMY'S BOARD OF TRUSTEES BE EXPANDED OR REALIGNED SO AS TO FAIRLY REPRESENT THOSE ELEMENTS OF THE CRIMINAL JUSTICE SYSTEM THAT HAVE INHERENT INTERESTS IN THE ACADEMY.

The Maine Criminal Justice Academy has expanded its training programs to all areas of criminal justice while maintaining their police training schools. However, the membership of the Board of Trustees does not reflect this growth. The Academy's purpose, as defined by law, is to "provide a central training facility for all law enforcement personnel of the State and also for criminal justice personnel. The Academy shall serve to promote the highest levels of professional law enforcement and to facilitate coordination and cooperation between various law enforcement and criminal justice agencies". Criminal justice personnel who receive training or instruction at the Academy include (1) State Police recruits, (2) Sheriff deputies, (3) Municipal Police Officers, (4) Probation/Parole officers, (5) Correctional Personnel, (6) Liquor Enforcement officers, (7) Maine Coastal Wardens, and (8) Court personnel. The academy also sponsors a voluntary certification process for police chiefs and sheriffs as well as various in-service training programs.

Currently, the Academy's Board of Trustees is composed of the following:

Ex-Officio members

(1) Chief of the Maine State Police

(2) State Attorney General

Members appointed by the governor

(3) A commissioned officer of the Maine State Police

(4) A county sheriff

(5) A chief of a municipal police department

(6+7) Two officers of municipal police departments

(8) An educator

(9) A representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws

(10) A representative of a federal law enforcement agency

(11) A citizen

(12) A municipal official[13]

A comparison of the Board's composition with the functions of the Academy shows that law enforcement officials are fairly well represented while other criminal justice agencies must be represented.

This would require only legislative action with no cost involved.

STANDARD 4.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT LEGISLATION BE ENACTED WHICH REQUIRES ALL LAW ENFORCEMENT OFFICERS TO RECEIVE ACADEMY TRAINING NOT LATER THAN NINETY (90) DAYS AFTER THEIR FIRST FIELD ASSIGNMENT.

Many members of the Community Alliance were amazed when informed that a full-time municipal police officer or sheriff's deputy (i.e., one who earns $2500 or more per year as a law enforcement officer) can work one year without receiving any formalized training. The present law requires only that a new officer complete the basic training course at the Academy during his first year of employment. This statutory grace period was not the only factor which aroused citizen concern over the use of untrained police officers.

The Academy can only offer three basic police training schools in a years time. Each class only has openings for 35 people, but the number of applicants continues to grow and this results in a backlog of officers needing training. The latest figures show that eighty-one people applied for admission to the September, 1976 class, eighty-two for the January, 1977 class, ninety-seven for the April, 1977 class,

and one hundred and three for the class in September, 1977.[14] The net result of this is that many officers are not receiving their statutorily required training, even within their initial year of employment.

The Board of Trustees recognized this problem and approached the past Legislature for permission and funds to operate a fourth police school. Their request for an additional $22,000 for this purpose was denied.[15] The citizens acknowledge the importance and need for fully trained law enforcement officers but see little hope of the situation improving within the present framework.

A solution will undoubtedly require the addition of another class and the expenditure of at least $22,000. However, the four training schools will permit one hundred and forty officers a year to be trained early in their first field assignment. Also, some accommodation will have to be made for those officers awaiting training now. There are various means available to accomplish this. For example, they could be exempted under a grandfather clause, or their training could be deferred to a later time, or perhaps their training could be completed through a special in-service training program.

STANDARD 4.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE BOARD OF TRUSTEES TAKE WHATEVER ACTION NECESSARY IN ORDER TO INCREASE THE HOURS SPENT ON HUMAN BEHAVIOR SUBJECTS.

The Academy currently offers four hundred and ninety-five hours of instruction in a twelve week basic training program. The major subject areas, with the respective number of hours spent in each, are as follows:

1.	Administration	42 hours
2.	Police and Criminal Subjects	24 hours
3.	Human Behavior	52 hours
4.	Legal Subjects	81 hours
5.	Traffic, criminal investigation & patrol	167 hours
6.	Police proficiency skills	129 hours[16]

In reviewing the curriculum, the citizens felt that the category of Human Behavior was too far below the national average. To increase the hours in this area, they felt courses such as crisis intervention/conflict management, juvenile delinquency, and public relations, be expanded to more closely meet the national average. The cost of making this change would be small if subjects of lesser importance were dropped.

STANDARD 4.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE BASIC TRAINING SCHOOLS OF THE STATE POLICE AND MUNICIPAL AND COUNTY OFFICERS BE INTEGRATED INTO ONE UNIFORM PROGRAM.

While reviewing the basic training schools for the State Police and Municipal officers, the citizens recognized the duplication involved in these two separate training programs. They also realized that there were different philosophies involved about the training needs of these two groups. However, they felt that such philosophies did not justify completely separate training programs. Much of the same material and many of the same instructors are used for both schools. In view of this, they recommended that the training be combined in areas that are identical to both schools. It was felt that separate training would be justified only when joint instruction did not meet the needs of one of these groups.

Presently all training for law enforcement officers (State Police trooper, local police officers and Deputy Sheriffs) is separate to a large degree (even the dining room has separate eating sections). Realizing that this creates unnecessary problems and fosters a lack of communication and understanding between law enforcement roles, the Community Alliance feels that the basic training course should be integrated.

Specific instructional needs required by only one of the law enforcement groupings should be provided separately, perhaps by extending the number of required weeks of training. It is recognized that State Police officers would require certain instructions not needed by local police officers or deputy sheriffs because of their job descriptions and service requirements. Likewise the local police officers might need certain training not required by the sheriffs

The citizens realize that this will cause difficulties in developing the curriculum and staffing at the academy, but it is felt that steps should be taken by the Board of Trustees to implement this recommendation in a prioritized program.

It is also suggested that all Criminal Justice professional receiving training at the academy (the total criminal justice system) receive special instruction as to the total criminal justice system and its interrelationships. Hopefully, this will provide a more complete understanding of the responsibilities and problems faced and shared by fellow criminal justice professionals.

There should be no additional costs involved; at the very least this integration should save both time and money.

STANDARD 4.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE ACADEMY'S IN-SERVICE TRAINING PROGRAMS BE DECENTRALIZED.

The academy is mandated by law to provide in-service training programs for law enforcement officers. These specialized training programs are offered only when time and money is available. Most of them are given at the Academy. The citizens were concerned that this centralized in-service training might be too costly, and inaccessible to smaller, outlying departments. To counter this, they recommended that a decentralized training program be initiated.

It was felt that in-service training programs could be held in regional locations, thereby easing the burden on smaller departments. It was further suggested that a pre-training survey of local departments be done to determine which courses would best meet their training needs. If the size of the present staff is inadequate to perform this service, the Academy should certify a number of regional instructors and provide them with the necessary training material.

The Community Alliance also recommends that the State should institute continuing education programs in law enforcement around the State, and the State should pay the salary of law enforcement personnel while they attend.

STANDARD 4.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PENALTY ASSESSMENT STATUTE BE ENACTED BY THE LEGISLATURE.

The citizens are concerned with the present funding allowed the Criminal Justice Academy in Waterville. To fulfill their statutory requirements, the Criminal Justice Academy needs increased funds.

The Penalty Assessment Statute was introduced in this past legislative session. It passed in the Senate but was defeated in the House, which voted for indefinite postponement of the bill. This bill would have instituted a surcharge on all fines paid to the court. This surcharged money would be earmarked as supplemental operating revenue for the Academy. Essentially, it sought to make the users of the criminal justice system pay for the training of criminal justice personnel. It had been endorsed by the Maine Chiefs of Police Association, the Academy's Board of Trustees, the Maine Municipal Association, and the Governor's Commission on Law Enforcement Problems. Such a system is currently being used in the States of California, Oregon, Arizona, Indiana, and Nebraska. The revenue for Maine was projected to be approximately $300,000 in the first year.[17]

This is perhaps the only recommendation that produces revenue rather than request revenue for the support of an integral part of the criminal justice system.

IMPLEMENTATION

MAINE CHIEF'S OF POLICE ASSOCIATION

Standard 1.1
Standard 1.2
Standard 1.3
Standard 1.4
Standard 1.5
Standard 1.6
Standard 1.7
Standard 1.8
Standard 1.9
Standard 1.10
Standard 2.1
Standard 2.2
Standard 2.3
Standard 2.4
Standard 2.5
Standard 2.6
Standard 2.8
Standard 3.1
Standard 3.2
Standard 3.3
Standard 3.4

MAINE LEGISLATIVE ENACTMENT

Standard 1.11
Standard 2.7
Standard 2.8
Standard 3.1
Standard 3.3
Standard 3.4
Standard 3.5
Standard 3.6
Standard 4.1
Standard 4.2
Standard 4.3
Standard 4.7

MAINE CRIMINAL JUSTICE ACADEMY

Standard 4.1
Standard 4.2
Standard 4.3
Standard 4.4
Standard 4.5
Standard 4.6
Standard 4.7

MAINE MUNICIPAL ASSOCIATION

Standard 3.1
Standard 3.3

SHERIFF'S ASSOCIATION

Standard 1.1
Standard 1.2
Standard 1.3
Standard 1.4
Standard 1.5
Standard 1.6
Standard 1.7
Standard 1.8
Standard 1.9
Standard 1.10
Standard 2.1
Standard 2.2
Standard 2.3
Standard 2.4
Standard 2.5
Standard 2.8
Standard 3.2
Standard 3.3
Standard 3.5
Standard 3.6

DEPARTMENT OF PUBLIC SAFETY

Standard 1.1
Standard 1.2
Standard 1.3
Standard 1.4
Standard 1.5
Standard 1.7
Standard 1.8
Standard 1.9
Standard 1.11
Standard 2.1
Standard 2.7
Standard 2.8
Standard 3.3
Standard 4.1
Standard 4.5

MAINE PROSECUTORS ASSOCIATION

Standard 1.8
Standard 1.9

POLICE FOOTNOTES

1. "The 1978 Comprehensive Plan for Criminal Justice in the State of Maine", Maine Criminal Justice Planning and Assistance Agency, Augusta, Maine, 1977, pp. A-4 to A-11.

2. "Report on Police", National Advisory Commission on Criminal Justice Standards and Goals, U.S. Government Printing Office, Washington, D.C., 1974, pg. 53.

3. Interview with the Executive Secretary of the Maine Chiefs of Police Association, Ivan LaBree, August 8, 1977.

4. Juvenile Code for the State of Maine, MRSA, JUD, to become effective July 1, 1978.

5. Op Cit, Ivan LaBree.

6. "A study of Police Services in the State of Maine"- An Executive Summary, The New England Bureau for Criminal Justice Services, Dedham, MA., 1974, pp. 25-26.

7. Op Cit, Ivan LaBree

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9. Interview with the Police Recruitment Counselor of the Maine Municipal Association, Brian Braley, August 15, 1977.

10. Op Cit, Ivan LaBree.

11. Ibid, Ivan LaBree.

12. Interview with members of the Criminal Justice Planning Division, Eastern Maine Development District, Bangor, ME., August 18, 1977.

13. Title 25, MRSA, Section 2802.

14. Interview with a Training Officer of the Municipal Police School at the Criminal Justice Academy, Steven Giorgetti, August 16, 1977.

15. Op Cit, Steven Giorgetti.

16. Municipal Police School Booklet, Maine Criminal Justice Academy, August 5, 1976, Index.

17. Penalty Assessment Statute for Criminal Justice Planning, A Legislative Proposal, Maine Criminal Justice Academy, Waterville, ME., January 26, 1977.

CROSS REFERENCE

COMMUNITY ALLIANCE STANDARD	NAC STANDARD
Chapter I 1.1	1.1, 2.2
1.2	1.5, 1.6, 2.1
1.3	9.4, Parts of 11.1-11.3 Parts of 12.1-12.4
1.4	1.4, 1.7
1.5	Parts of 18.1-18.4
1.6	Parts of 5.4-5.5 and 5.3
1.7	3.2
1.8	Parts of 4.1, 4.2
1.9	Parts of 4.1, 4.2
1.10	2.3
1.11	NONE
Chapter II 2.1	5.1, 5.2
2.2	Parts of 10.1, 10.2
2.3	Parts of 9.1-9.2, 9.3
2.4	Parts of 4.5
2.5	Parts of 24.1-24.4
2.6	4.4
2.7	NONE
Chapter III 3.1	13.1-13.3 and 13.6 annotated
3.2	8.1, 8.2, 8.3, Parts of 22.1-22.3
3.3	14.1, 14.2
3.4	13.4, 13.5 synopsized 15.1, Parts of 15.2-15.3
3.5	NONE
3.6	NONE
Chapter IV 4.1	NONE
4.2	Parts of 10.1
4.3	16.1-16.4 and 16.7 synopsized
4.4	16.1-16.4 and 16.7 synopsized
4.5	NONE
4.6	16.5 and 16.7 annotated
4.7	NONE

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COURTS

STANDARDS AND GOALS

SECTION "D"

COURTS

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INTRODUCTION

Rising crime rates have generated dissatisfaction with America's criminal justice system. Apparent deficiencies in the court system have contributed to this dissatisfaction.[1] The selection of judges, the exercise of discretion, by judges and prosecutors, case processing delay, and the financing of court personnel and resources, are major issues which have generated persistent questions about the court's performance in criminal cases. Yet, while citizens are concerned with the proper administration of justice, they are often frustrated by the lack of available information on court processes.

This section begins the chapter on courts with a description of Maine's current judicial, defense, and prosecution systems, followed by a brief discussion of the overall goals for improvement which have emerged from the Community Alliance recommendations. The following sections will deal with specific structural and procedural issues pertinent to court organization, the judiciary, court-community relations, the defense, the prosecution, and case disposition. Each issue will be examined in terms of the existing system, its problems, and the recommended solutions to these problems.

The judicial department of Maine[2] consists of the Supreme Judicial Court,[3] the Superior Court[4] and the District Court.[5] The Supreme Judicial Court, court of last resort, consists of a Chief Justice and six Associate Justices.[6] The court of general trial jurisdiction is the Superior Court.[7] Fourteen justices make up this court which sits in all counties.[8] The District Court, the court of limited jurisdiction[9] is made up of a Chief Judge, five judges at-large, and fourteen additional judges.[10] The District Court sits in 33 locations throughout the state.[11] All Maine judges are appointed by the Governor for seven year terms,[12] except the part-time Probate Judges who are elected to four year terms in their respective counties.[13]

The Maine Supreme Judicial Court sits primarily as "The Law Court" and hears appeals from decisions of the Superior Court and indirectly from the Probate Courts and the District Courts.[14] It also hears appeals from certain state administrative agencies such as the Public Utilities Commission and the Board of Environmental Protection.[15] Court sessions for oral arguments on appeals are held during eight months of the year.[16] The Court may sit anywhere in the state, but the majority of sessions are held in Portland.

The workload of the Supreme Judicial Court has risen substantially since 1964. In that year, the number of appeals filed with the court totalled 65, while the total number in 1975 rose to 268. Also, while the size of the court, six justices, remained the same during this ten year period, the number of cases completed by the court rose from 57 in 1964 to 149 in 1975.[17] Since that time an additional justice has been authorized by the State legislature, and the position has been filled by appointment. Despite this increased output, caseload increase has caused the court backlog to grow.

The Superior Court tries A, B, and C crimes (felonies), D & E (misdemeanors) cases transferred from the District Court,[18] de novo cases appealed from a District Court conviction,[19] as well as hearings on appeals from the Probate Court[20] and various state and local administrative agencies and officials.[21]

In 1974, the number of cases entered during the year was 14,604. During that period, 12,879 cases were completed, for a net increase of 1,825 cases. In 1975, there were 13,762 cases entered while 15,467 cases were completed, for a net reduction to the backlog of cases pending of 1,725.[22] Due to the programs initiated by the Administrative Office of the Courts, the accumulated backlog in the Superior Court was eliminated in 1976.[23]

The Maine District Court has been functioning since 1965 as a statewide court with modern organization and practice.[24] It operates under the administrative control of a Chief Judge.[25]

The District Court exercises broad criminal jurisdiction[26] over D & E crimes, including traffic cases, hearings for probable cause in felony matters,[27] and pleas of guilty in felony cases.[28] This court (sitting in chambers) serves as the juvenile court[29] and hears commitments to mental institutions.[30] The District Court also has jurisdiction over civil cases where damages requested do not exceed $20,000[31] and jurisdiction in domestic relations,[32] civil disclosures[33] and small claims cases.[34]

Since fiscal year 1969, the total caseload in the District Court has risen over 60%. Interestingly, the civil caseload has remained fairly constant during this time.[35] It is too early to tell whether this is a pattern which will continue.

The Maine court system is unified to a great degree. The Chief Justice is the head of the Judicial Department.[36] The court system submits a single budget and is financed by state appropriations.[37] The budget is submitted

through the office of the Governor who may comment on it but not change it. The Supreme Court promulgates uniform rules for the lower courts.[38]

The State Court Administrator is responsible for the management of court finances, records, statistical reports, case calendars and supervises non-judicial personnel.[39] The State Court Administrator has also been granted statutory authority to "investigate complaints with respect to the operation of the courts."[40] To coordinate and implement policy emanating from the Supreme Court, to be carried out by the State Court Administrator's Office, there are four regional court administrators.[41]

While the "court system" encompasses only the functionings of the judicial department, in this report the term will include both prosecution and defense, as they both play significant roles in the movement of a case through the courts, and because they are perceived by the public as part of the court system. In Maine, private counsel is appointed by the court and paid by the state to represent indigent defendants.[42] Prosecutorial services are generally provided by eight District Attorneys and their assistants,[43] except in murder cases where the State's counsel is from the Attorney General's Office.[44] The Attorney General also has the authority to prosecute cases in which he deems that public interest requires his involvement,[45] where the District Attorney has an actual or potential conflict of interest,[46] or cases of fraud against the state.[47]

After thoroughly examining the structure and procedures of the criminal courts, the Committees recommend improvements consistent with four basic goals. First, many recommendations are aimed at encouraging professionalism in the criminal justice system. Proposals for adequate support staff and physical facilities, recommendations for rates of compensation commensurate with the responsibilities of office, and endorsement of continuing education programs are included in the sections dealing with the judiciary, the prosecution, and the defense. Second, many of the recommendations seek to establish guidelines to replace informal procedures currently utilized in such areas as screening, diversion, and plea bargaining, in order to insure equitable discretionary decisions during case processing. Third, many of the recommendations are directed towards eliminating causes of delay, for example, placing time limits on the filing of pre-trial motions, or developing methods of determining case priority. Finally, the Committees feel that lack of knowledge about court processes creates frustration

among citizens who either are personally involved in a case or who wish to appraise the quality of the system in general. There are currently no formal procedures for dispensing information about court activities to the press or to concerned private citizens. Increasing access to this information is a recurring theme. The Committees propose record-keeping and provisions for accessibility of records, notification of victims and witnesses of case disposition, and public dissemination of procedural guidelines and office policies. Several of the recommendations also provide for citizen input in the study and planning of criminal justice activities as well as citizen involvement in judicial selection and removal.

COURTS

GOALS

1. TO IMPROVE THE ADMINISTRATION AND ORGANIZATION OF THE COURT SYSTEM.
2. TO ATTRACT AND RETAIN THE HIGHEST CALIBER OF JUDICIAL PERSONNEL.
3. TO FOSTER HARMONIOUS COURT/COMMUNITY RELATIONS.
4. TO ENSURE FULL AND ADEQUATE DEFENSE FOR ALL MAINE CITIZENS.
5. TO PROVIDE FULL AND EFFECTIVE PROSECUTORIAL SERVICES.
6. TO SUPPORT AND DISSEMINATE COMPREHENSIVE SCREENING GUIDELINES.
7. TO FIRMLY ESTABLISH DIVERSIONARY PROCEDURES.
8. TO MINIMIZE AND STANDARDIZE THE PLEA BARGAINING PROCESS.
9. TO REGULATE AND STANDARDIZE TRIAL PROCEDURES.
10. TO STREAMLINE THE APPELLATE PROCESS.

CHAPTER I

COURT ORGANIZATION AND ADMINISTRATION

The statutory duties now undertaken by the Chief Justice and the State Court Administrator are, in general, consistent with those required in a unified court system. The attributes of such a system have been described in several earlier studies. They are as follows:

1. unified court budget financed by the state[48]
2. unified structure with a single trial court[49]
3. unified administration by state court administrator and administrative judges acting under the supervision of the Chief Justice[50]
4. uniform rules and policies promulgated by the Supreme Court[51]
5. clear lines of administrative authority[52]
   a. Chief Justice[53]
   b. Presiding Judges[54]
   c. Court Administrative Offices[55]
      i. Nonjudicial personnel administration[56]
      ii. Financial administration[57]
      iii. Continuing education[58]
      iv. Records management and statistical reporting[59]
      v. Secretarial services[60]
      vi. Liaison duties[61]
      vii. Facilities[62]
      viii. Planning[63]
      ix. Staff Management[64]
      x. Calendar Management[65]
      xi. Assignment of judges[66]
6. competent staff[67]

The National Advisory Commission on Criminal Justice Standards and Goals, Standard 8.1, recommends further that a unified court system provide for: recording of all trial court criminal proceedings, uniform appellate procedures and availability of pre-trial release, probation and rehabilitation in the trial courts. Recording is treated in this chapter; other matters are treated elsewhere in this report.[68]

Currently, the Maine system varies from the model in three significant ways. First, the trial courts are not unified; that is, the District and Superior Courts remain separate jurisdictionally. The Committees feel strongly that the maintenance of two separate trial courts is desirable in Maine. Second, due in part to the continued separation of these courts, the activities of the State Court Administrator in the District Court have been limited. Third, the Administrator has been granted statutory authority to "investigate complaints with respect to the operation of the courts."[69]

THE COMMUNITY ALLIANCE SEES A NEED FOR THE DISTRICT COURT TO AVAIL ITSELF OF ALL POSSIBLE ADMINISTRATIVE AND TECHNOLOGICAL AIDS SO THAT IT MAY EFFECTIVELY HANDLE GROWING CASELOADS.

STANDARD 1.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT NOTWITHSTANDING THE SEPARATION OF THE TRIAL COURTS, THE STATE COURT ADMINISTRATOR, PURSUANT TO STATUTE, EXTEND FULLER ASSISTANCE TO THE DISTRICT COURT SYSTEM.

The Committees regard highly the significant progress and improvements made in the Superior Court with the assistance of the State Court Administrator. Hopeful of similar successes in the District Court, the Committees strongly urge the Chief Justice of the Supreme Judicial Court and the Chief Judge of the District Court[70] to aid in the implementation of this recommendation.

STANDARD 1.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT A VERBATIM RECORDING BE REQUIRED IN ALL DISTRICT COURT PROCEEDINGS.

Recording of court proceedings is necessary to provide an accurate account of the disposition of a case, and to provide a complete record of the case on appeal. However, only 20 of 33 District Courts have recording equipment, and even in those that have equipment, recordings are not generally made unless requested.[71] Monies have been made available to the District Court for machines, staff and training.[72] Therefore, as soon as possible, all District Court hearings should be recorded.[73]

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE VARYING QUALITY OF FACILITIES AVAILABLE FOR COURT ACTIVITIES IN THE VARIOUS COUNTIES.

STANDARD 1.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE COURTHOUSE BE ADEQUATE IN DESIGN AND SPACE FOR CONDUCTING COURT BUSINESS. ALL ROOMS SHOULD BE LIGHTED AND HEATED PROPERLY AND PERSONS SHOULD BE ALLOWED IN THE COURTROOM TO HEAR THE PROCEEDINGS. THERE SHOULD BE AN ADEQUATE LAW LIBRARY.

The Committees conclude that there is a need to improve courthouse facilities in Maine,[74] while, at the same time, they express reservations regarding the availability of funds to accomplish this objective. They disagree with the suggestion of the National Advisory Commission that an adequate courthouse must be air-conditioned,[75] but support the proposition that the courthouse floor plan should be convenient to all parties and that the detention facility should be in close proximity to the courthouse. An adequate law library for attorneys and judges is a universally accepted goal, with four Committees placing particular emphasis on this item. However, the hiring of a receptionist to take attorneys' telephone calls is deemed unnecessary; current court personnel already handle this task.

Although all of the Committees recognize a need for waiting rooms for witnesses, most indicate that it is not necessary to provide a television, telephone, and other such luxury items therein. Also, all agree that although completely separate waiting areas for jurors are unnecessary, precautions must be taken to avoid encounters among jurors, parties and witnesses.

THE COMMUNITY ALLIANCE FEELS THAT IN THE PAST NOT ENOUTH ATTENTION HAS BEEN GIVEN TO THE HIRING OF COURT PERSONNEL.

STANDARD 1.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE MOST QUALIFIED PERSONS AVAILABLE BE SOUGHT FOR EMPLOYMENT IN THE COURTS. COURT PERSONNEL SHOULD BE REPRESENTATIVE OF THE COMMUNITY SERVED BY THE COURTS.

While all but three of the Committees agree that court personnal should be members of the community served by the court, most also express concern that this recommendation should not be misconstrued as obviating the need to hire well-qualified staff personnel.[76] The Committees are sensitive to the need to comply with relevant affirmative action requirements. This recommendation applies to non-judicial personnel, judicial selection is covered in Chapter II.

THE COMMUNITY ALLIANCE IS CONCERNED THAT REGULAR REVIEW OF TRAFFIC OFFENSES IS NOT OCCURRING AND THUS, OFFENSE CLASSIFICATION AND FINES MAY NOT REFLECT CHANGING ATTITUDES AND NEEDS.

STANDARD 1.5: THE COMMUNITY ALLIANCE RECOMMENDS A PERIODIC REVIEW OF MAINE STATUTES DEFINING TRAFFIC OFFENSES, TO RECONSIDER WHICH OFFENSES SHOULD BE DEFINED AS "CRIMES" AND WHICH AS NON-CRIMINAL "TRAFFIC INFRACTIONS". SIMILARLY, THERE SHOULD BE A PERIODIC REVIEW OF FINES IMPOSED FOR TRAFFIC OFFENSES.

In 1975, Maine's Traffic Court Advisory Committee presented recommendations to the Legislature for improving the manner in which traffic violations are processed in District Court. The National Advisory Commission on Criminal Justice Standards and Goals has recommended that minor traffic offenses be adjudicated outside the court system by an administrative agency.[77] The Maine Traffic Court Advisory Committee rejected this recommendation, finding it unsuitable for Maine.[78] The major recommendation by the Traffic Committee was that minor traffic offenses be reclassified under Maine law as non-criminal "traffic infractions."[79] This statutory change and other changes recommended by the Committee have somewhat improved District Court treatment of traffic matters. In addition, making minor traffic cases non-criminal has helped ease Superior Court backlogs by diminishing de novo appeals.[80]

The Citizens' Committees considering standards and goals are in agreement with these recommendations which led to the statutory creation of "traffic infractions," and they are particularly pleased with the resulting reduction of de novo trials in Superior Court. They defer to the Traffic Advisory Committee's conclusion that administrative adjudication of minor traffic offenses is not now appropriate for Maine.

The Standards and Goals Committees express their concern that changing citizen views about traffic matters and changing needs in court administration may affect the statutory distinction made between traffic "crimes" and non-criminal "traffic infractions," as well as the penalties imposed. Experience may show, for example, that procedures and penalties for certain offenses should be more rigorous than those available for "traffic infractions." Or it may be found that processing motorists through the criminal justice system may impose excessive burdens. Thus, the Committees recommend periodic review of the infraction classification and of fines imposed.

CHAPTER II

JUDICIARY

The quality of justice in Maine is directly related to the quality of individuals who serve in the Judiciary. While clearer laws, more enlightened court procedures, and more sophisticated court management are important, there is little dispute that a key factor in maintaining the quality of justice in Maine is the recruitment and retention of highly competent and capable judges.

Many factors have been cited as necessary to the development of a highly qualified judiciary.[81] Among these are: a merit selection system, a workable system for disciplining and removing judges, the availability of judicial education programs, and the prestige associated with judicial service. These factors address two broad areas: (1) defining judicial qualifications and standards of performance; and (2) encouraging the best qualified people to become and remain judges.

In reviewing the judicial area, one of the primary points of agreement among the Citizens' Committees is that judges should be selected by a non-partisan commission that would make recommendations to the Governor. It is felt that judicial selection, in the past, had too often been based on the political activities of the person being nominated. While many fine judges have been selected this way, the committees conclude that judicial selection is too important to leave to chance.

Many studies reviewed recommend initial appointment of judges, with a retention election held after four years for trial court judges and six years for appellate court judges.[82] This method is derived from the "Missouri Plan," a judicial selection model used by many states.[83] The Citizen Committees reject the idea of electing judges, believing that the existing selection process, having a long history in Maine, should not be changed.[84] They believe that the current seven-year tenure for judges is satisfactory, provides stability and affords judges a chance to learn their jobs before performance review.

The citizen members feel, however, that review of judicial performance is necessary, and that the current system -- which provides for judicial removal only by impeachment or address - is not satisfactory.[85] They conclude that the selection commission should review judicial performance at the end of each seven-year period and that a separate discipline and removal system should be established.[86]

The Committees are not satisfied with current pay[87] and retirement policies[88] for judges. They see as desirable more opportunities for elective and mandatory judicial education.[89] These items are believed to be crucial to attracting qualified persons to the judiciary.

THE COMMUNITY ALLIANCE FEELS THAT PROPER JUDICIAL SELECTION IS CRUCIAL TO THE QUALITY OF JUSTICE

STANDARD 2.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THERE BE A JUDICIAL SELECTION COMMISSION TO ASSIST THE GOVERNOR IN THE NOMINATION OF JUDGES. THE COMMISSION SHOULD PERFORM THE FOLLOWING DUTIES:

A. SOLICIT QUALIFIED CANDIDATES FOR JUDICIAL VACANCIES ;

B. INVESTIGATE EACH CANDIDATE'S BACKGROUND AND ASSESS HIS/HER QUALIFICATIONS;

C. MAINTAIN AN UPDATED FILE OF QUALIFIED POTENTIAL NOMINEES;

D. SUBMIT NAMES OF QUALIFIED CANDIDATES TO THE GOVERNOR; AND

E. REVIEW THE PERFORMANCE OF JUDGES ELIGIBLE FOR REAPPOINTMENT AT THE END OF EACH 7 YEAR TERM AND OF ACTIVE RETIRED JUDGES EVERY 3 YEARS.

In Maine, the responsibility for judicial selection rests with the Governor.[90] Since the abolition in January 1977, of the Executive Council, the Governor's judicial nominees must be confirmed by the state legislature.[91]

The Governor nominates all District, Superior, and Supreme Judicial Court judges, as well as administrative court judges and active retired judges. A nomination is sent from the Governor's Office to the Legislature's Joint Standing Committee on the Judiciary, which is composed of three Senate members and ten members of the House. This committee votes on the Governor's nominee, and its report is sent to the Senate for a final vote. If both the Joint Standing Committee on the Judiciary and the Senate approve the Governor's nomination, the candidate may be sworn in. The Senate can, by a two-thirds majority, override the rejection of a nominee by the Joint Committee.

Governor James B. Longley has created the Select Committee on Judicial Appointments to review his nominations.[92] The Select Committee is comprised of six attorneys chosen by the Governor.[93] He has pledged not to make a nomination without the concurrence of the Select Committee. So far, the Governor has

submitted his nominations for review by the Select Committee, and he has accepted its recommendations. Because the Select Committee is not mandated by legislation or by Executive Order, it can be abolished by the Governor at any time. The Citizens' Committees wish to institutionalize, with some major revisions, the method of judicial selection adopted by Governor Longley. The existing selection committee is charged only with a reviewing function; it may affirm or oppose a particular nomination. The creation of a judicial selection committee charged with responsibility for the identification and initial recommendation of qualified candidates is considered preferable. It has been observed that, "it is not enough for a system of judicial selection to aim at exclusions. It should not be designed negatively as a 'keep out' system. It should be affirmative and positive--providing the means of bringing to the bench... the very best talent available."[94] The existence of a judicial selection commission responsible for the talent search will help a governor, hard pressed for time in running the state administration, to find highly qualified judicial candidates.

STANDARD 2.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE SELECTION COMMISSION ADOPT THE FOLLOWING PROCEDURE FOR THE RECOMMENDATION OF CANDIDATES FOR JUDICIAL OFFICE.

A. THE COMMISSION SHOULD DEVELOP AND PROMULGATE THE STANDARDS AGAINST WHICH POTENTIAL CANDIDATES ARE MEASURED;

B. THE COMMISSION SHOULD ADOPT AND PUBLISH A BODY OF RULES GOVERNING ITS PROCEDURES;

C. THE NAMES OF THREE TO FIVE CANDIDATES SHOULD BE SUBMITTED TO THE GOVERNOR TO FILL A VACANCY;

D. THE LIST OF CANDIDATES SHOULD BE SENT TO THE GOVERNOR NO LATER THAN 60 DAYS AFTER NOTICE OF A VACANCY;

E. THE GOVERNOR SHOULD NOMINATE ONE OF THE CANDIDATES WITHIN 30 DAYS OF THE COMMISSION'S RECOMMENDATION;

F. IF THE GOVERNOR FAILS TO ACT AND CANNOT JUSTIFY REJECTION OF THE NAMES SUBMITTED OR DOES NOT REQUEST A REASONABLE EXTENSION OF TIME, THE POWER OF NOMINATION SHOULD SHIFT TO THE COMMISSION.

G. A LAWYER MEMBER OF THE COMMISSION SHOULD BE INELIGIBLE FOR JUDICIAL NOMINATION UNTIL THE EXPIRATION OF HIS TERM AND THE EXPIRATION OF THE TERMS OF THE OTHER COMMISSION MEMBERS SERVING WITH HIM.

Although Maine statutes specify broad qualifications necessary for jurists,[95] more specific definition is desirable. The development and public dissemination of standards for judicial appointment would allow the Commission and the Governor to better assess the qualifications of candidates. Extensive literature and guidelines in other jurisdictions are available to aid in the preparation of the standards.[96] The preparation of standards would also serve as an educational process for all members of the Commission.

Deliberations of the commission prior to the submission of the final list of candidates to the Governor should be confidential. Once the list has been transmitted, the candidates will be exposed to public scrutiny and assessment of their suitability for appointment. Information about candidates should be made available to the Governor by the Commission.

Among the major variations in this method from that currently employed is the requirement that initial selection of candidates is by the commission rather than by the Governor. The commission would be required to maintain an updated file of qualified persons, facilitating consideration for selection long before the expiration of the sixty-day deadline.[97] This practice should reduce the time a vacancy on the bench remains unfilled.

The time limits imposed on the Commission and the Governor upon receipt of the names of qualified candidates also insures that there will be no long delays in filling judicial vacancies. Here again, a departure from existing practice arises. Failure of the Governor to nominate without justification or without a request for a reasonable extension of time enables the commission to transmit the name of a selected candidate directly to the Joint Standing Committee on the Judiciary for its approval. Notwithstanding inaction by the chief executive, appointment by him following approval by the legislative committee and the Senate would be presumed.

STANDARD 2.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT NOT LESS THAN 120 DAYS BEFORE THE EXPIRATION OF A JUDICIAL TERM, THE COMMISSION SHALL BEGIN THE SELECTION PROCESS. THE COMMISSION SHALL ASK FOR NOTIFICATION OF THE JUDGE'S INTENTION TO EITHER LEAVE THE BENCH OR TO PLACE HIS NAME IN FRONT OF THE COMMISSION FOR REAPPOINTMENT REVIEW. IF THE DECISION IS TO LEAVE THE BENCH, THEN THE PROCEDURES FOR NOMINATION SHALL TAKE EFFECT. IF THE DECISION IS TO SEEK REAPPOINTMENT THEN THE FOLLOWING PROCEDURES APPLY:

A. THE COMMISSION SHOULD DEVELOP AND PROMULGATE THE STANDARDS AGAINST WHICH CANDIDATES FOR REAPPOINTMENT ARE MEASURED;

B. THE COMMISSION SHOULD ADOPT AND PUBLISH A BODY OF RULES GOVERNING ITS PROCEDURES FOR REAPPOINTMENT;

C. THE COMMISSION SHOULD REQUEST THE RECORDS OF THE PARTICULAR JUDGE FROM THE JUDICIAL QUALIFICATIONS COMMISSION. COPIES OF ALL MATERIALS PROVIDED SHOULD BE FURNISHED TO THE JUDGE BEING REVIEWED;

D. THE COMMISSION SHOULD REVIEW THESE RECORDS, AS WELL AS OTHER INFORMATION DEEMED PERTINENT. THE COMMISSION SHOULD HAVE 30 DAYS TO MAKE ITS REAPPOINTMENT DECISION: IF THE DECISION IS MADE THAT THE JUDGE SHOULD NOT BE REAPPOINTED, THEN THE NOMINATION PROCEDURES SHOULD BEGIN. IF THE DECISION IS MADE TO REAPPOINT, THEN ONLY THE NAME OF THE JUDGE TO BE REAPPOINTED SHOULD BE SUBMITTED TO THE GOVERNOR.

E. THE GOVERNOR SHOULD NOMINATE THIS CANDIDATE WITHIN 30 DAYS OF THE COMMISSION'S RECOMMENDATION; AND

F. IF THE GOVERNOR FAILS TO ACT AND CANNOT JUSTIFY REJECTION OF THE NAME SUBMITTED OR DOES NOT REQUEST A REASONABLE EXTENSION OF TIME, THE POWER OF NOMINATION SHOULD DEVOLVE TO THE COMMISSION.

Reappointment of judges at the expiration of a seven year term is now solely within the province of the Governor.[98] Reappointment is generally pro forma; rarely is a judge not reappointed.

The Committees have decided that reappointment should be subject to scrutiny by the Selection Commission. Discussions centered on whether this process should be handled by the Qualifications Commission, which would deal with discipline and removal, but it was felt that review should go beyond a determination of misconduct or incompetence. The Selection Commission, however, should have the information about a judge compiled by the Qualifications Commission to aid in its deliberation. The judge being considered should receive a copy of this material so that he may respond to it as well as comment on information that he believes incorrect.

If the judge is found eligible for reappointment, only the name of that judge should be submitted to the Governor. Submission of more than one name was seen as allowing political considerations to enter into the reappointment process. If a reappointment decision is not made, however, then the full selection process should begin so that the Governor will have a number of names from which to choose.

The same procedures outlined in this section should be used for review of active retired judges at the end of every three year period. The only difference in the review process is that upon notification that the judge does not want to be reappointed, or when a decision against reappointment is made, initiating selection procedures for a replacement is not necessary.

STANDARD 2.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE SELECTION COMMISSION BE COMPOSED OF FOUR LAYPERSONS, THREE ATTORNEYS, AND A PRESIDING BUT NON VOTING JUDGE.

A. THE LAY PERSONS AND ATTORNEYS SHOULD BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND

B. THE JUDGE SHOULD BE SELECTED BY THE JUSTICES OF THE SUPREME JUDICIAL COURT.

Lay members of the Commission should serve staggered four year terms, with initial terms of four, three, two, and one years. Lawyer members should serve staggered three year terms, with initial terms of three, two, and one years. The judge should serve a three year term.

The Community Alliance members agree that membership on the judicial selection commission should include lay persons as well as a judge and attorneys to insure a balanced cross-section of perspectives. All three groups represented on the commission can bring valuable insights to the selection process. The judge will be familiar with the demands of judicial office and can assist the commission in recognizing those qualities required of a competent judge. The lawyers will be able to apply professional standards of skill, expertise, and integrity in considering a colleague for judicial vacancies.

It is hoped that in choosing the members of the bar, the Governor will select lawyers experienced in the prosecution and defense of criminal and civil matters. The lay persons will represent the consumer of legal services. The staggered terms of lay persons and lawyers on the commission are designed to balance continuity and vitality in the judicial selection process.

STANDARD 2.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT RESTRICTIONS APPLY TO THE COMPOSITION OF THE SELECTION COMMISSION:

A. THERE SHOULD BE NO CONSECUTIVE REAPPOINTMENT OF A COMMISSION MEMBER WHO HAS SERVED MORE THAN ONE-HALF OF A REGULAR TERM;

B. NO MORE THAN TWO LAY MEMBERS AND TWO ATTORNEYS SHOULD BE OF THE SAME POLITICAL PARTY;

C. EXCEPT FOR THE JUDGE MEMBER, NO TWO COMMISSION MEMBERS SHOULD BE FROM THE SAME COUNTY; AND

D. HOLDERS OF ELECTIVE STATE OFFICE AS WELL AS ANY PERSON HOLDING AN OFFICIAL POSITION IN ANY POLITICAL PARTY SHOULD BE BARRED FROM MEMBERSHIP ON THE COMMISSION DURING THEIR TERM OF OFFICE.

A commission with its membership balanced as to politics, profession, and geography is an attempt to achieve impartiality in making nominations based on merit and ability. The Community Alliance feels strongly that representation from less populous counties must be assured.

THE COMMUNITY ALLIANCE BELIEVES THAT THE CURRENT METHODS FOR REMOVING JUDGES BY IMPEACHMENT OR ADDRESS ARE TOO CUMBERSOME TO BE EFFECTIVE AND ALSO FAIL TO PROVIDE POWER TO DISCIPLINE.

STANDARD 2.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THERE BE A JUDICIAL QUALIFICATIONS COMMISSION TO INVESTIGATE COMPLAINTS ABOUT THE JUDICIARY AND TO DISCIPLINE OR REMOVE JUDGES. A JUDGE SHOULD BE SUBJECT TO DISCIPLINE OR REMOVAL FOR:

A. PERMANENT PHYSICAL OR MENTAL DISABILITY WHICH SERIOUSLY INTERFERES WITH THE PERFORMANCE OF JUDICIAL DUTIES;

B. WILLFUL MISCONDUCT IN OFFICE;

C. WILLFUL AND PERSISTENT FAILURE TO PERFORM JUDICIAL DUTIES;

D. HABITUAL INTEMPERANCE; or

E. INCOMPETENCE OR OTHER CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE.

Maine statutory law provides that the Governor may appoint additional justices of the Supreme Judicial Court or the Superior Court upon a finding that Justice "is permanently and totally disabled by reason of physical or mental incapacity and because thereof is unable to perform the duties of his office."[99] Justices of these courts and judges of the District Court suffering from physical or mental infirmity may be retired early by their respective courts and receive full retirement benefits.[100] The Maine Constitution provides that judges may be removed by impeachment or by address of both houses of the legislature to the executive.[101] Impeachment can occur only on the grounds of "misdemeanor in office."[102]

In the past, most states have relied upon the constitutional processes of impeachment, recall, and action by the courts themselves to cope with the problem of judicial misconduct. Studies have shown, however, that these methods are generally ineffective except where the improper conduct is so grave as to amount to a major public scandal.[103] Under these traditional removal systems, there is no avenue whereby individual citizens can obtain a hearing of their grievances against judges.

Forty states have developed some procedures for removing judges from office if their conduct falls below the standards of competency and integrity that society has a right to expect from its judicial personnel.[104] Two primary models are used.[105] The first is based on the California approach. The California Judicial Conduct Commission is comprised of nine members judges, two attorneys, and two laypersons. The Commission investigates complaints and recommends to the Supreme Court an appropriate action, e.g. removing a judge from the bench, withholding a judicial pension or determining that a judge should retire.[106] The second type of judicial removal system is the Court on the Judiciary.[107] It is a separate tribunal, not subordinate to any other court, made up almost exclusively of judges. The Court has no investigatory powers but evaluates complaints brought by statutorily designated persons or bodies, such as the attorney general or the legislature, on the theory that these complainants will have performed the investigative function.

The Community Alliance prefers a modified California model, placing emphasis on the ability of the commission to discipline as well as to remove,[108] and to deal with conduct that may not be illegal but which is certainly harmful to the administration of justice.

STANDARD 2.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT COMPLAINTS ABOUT JUDICIAL CONDUCT BE SUBMITTED TO THE OFFICE OF THE STATE COURT ADMINISTRATOR. UPON RECEIPT OF A COMPLAINT, THE ADMINISTRATOR'S OFFICE SHOULD NOTIFY THE COMMISSION. THE COMPLAINT SHOULD BE REVIEWED BY THE COMMISSION, AND, IF DEEMED PRELIMINARILY VALID, THE COMMISSION SHOULD BE RESPONSIBLE FOR THE INVESTIGATION OF THE CHARGES. IF THE INVESTIGATION REVEALS THAT THE ALLEGATIONS HAVE SUBSTANCE, THE QUALIFICATIONS COMMISSION SHOULD PURSUE ONE OF THE FOLLOWING COURSES OF ACTION:

A. NOTIFY THE JUDGE UNDER INVESTIGATION OF THE CHARGES INVOLVED AND ASK FOR AN EXPLANATION. IF THE JUDGE RESPONDS IN A MANNER WHICH SATISFACTORILY EXPLAINS THE CHARGES, THE CASE MAY BE CLOSED;

B. IF NO SATISFACTORY EXPLANATION IS FORTHCOMING, THE JUDGE MAY BE REPRIMANDED BY THE COMMISSION, WHICH MAY ACCEPT A NO-CONTEST PLEA TOGETHER WITH ASSURANCES THAT THE UNDESIRABLE CONDUCT WILL NOT BE REPEATED;

C. ORDER A FULL INVESTIGATION AS A PRELIMINARY STEP IN SECURING REMOVAL OF THE JUDGE COMPLAINED AGAINST; OR

D. IF THE JUDGE IS FOUND GUILTY AS CHARGED, THE COMMISSION SHOULD REMOVE HIM OR TAKE WHATEVER DISCIPLINARY ACTION IS APPROPRIATE.

Under Maine law[109] the Court Administrator is given the duty of investigating complaints with respect to the operation of the courts. In Chapter III of this report, the recommendation is made that the availability of this service be publicized. Therefore, to simplify the complaint process, all complaints should be filed with the Court Administrator's Office rather than establishing a separate authority to receive complaints about judges.

Instead of setting up a commission with a full staff of its own, the citizens feel that investigations could be handled by the Attorney General's Office. In instances where, in the opinion of the Commission, there exists a conflict of interest or potential conflict of interest, or the interests of justice would not be served by representation by the Attorney General, the Commission may employ private counsel. The Commission would be empowered to direct the Attorney General's Office to conduct an investigation and would be given broad powers to fashion a remedy that includes both disciplinary action as well as removal.

STANDARD 2.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE QUALIFICATIONS COMMISSION ADOPT THE FOLLOWING PROCEDURE FOR DISCIPLINARY AND REMOVAL PROCEEDINGS:

A. THE COMMISSION SHOULD ADOPT AND PUBLISH A BODY OF RULES GOVERNING ITS PROCEDURES;

B. THE COMMISSION SHOULD ENSURE THAT EACH JUDGE IS GIVEN HIS DUE PROCESS RIGHTS, INCLUDING BUT NOT LIMITED TO THE RIGHT TO COUNSEL AND TO SUBPOENA, PRODUCE AND EXAMINE WITNESSES;

C. THE COMMISSION SHOULD NOT REMOVE A JUDGE WITHOUT "CLEAR AND CONVINCING" EVIDENCE NOR DISCIPLINE A JUDGE WITHOUT "SUBSTANTIAL" EVIDENCE;

D. THE COMMISSION'S PROCEEDINGS SHOULD BE CONFIDENTIAL. ITS DECISION SHOULD BE MADE PUBLIC ONLY AFTER THE EXPIRATION OF THE APPEAL PERIOD OR WHEN A FINAL DECISION IS RENDERED BY THE SUPREME JUDICIAL COURT;

E. THE COMMISSION'S DECISION SHOULD BE FINAL. THERE SHOULD BE A RIGHT TO APPEAL TO THE SUPREME JUDICIAL COURT. THE COMMISSION SHOULD SET A TIME LIMIT FOR FILING AN APPEAL WITH THE SUPREME JUDICIAL COURT. APPEALS FROM THE QUALIFICATIONS COMMISSION SHOULD BE GIVEN THE HIGHEST PRIORITY BY THE SUPREME JUDICIAL COURT AND SHOULD BE HEARD WITHOUT UNNECESSARY DELAY;

F. THE COMMISSION SHOULD HAVE THE POWER TO ACT ON ITS OWN INITIATIVE IN INVESTIGATING JUDICIAL CONDUCT; AND

G. A MEMBER OF THE COMMISSION MAY NOT PARTICIPATE IN ANY PROCEEDING INVOLVING A CHARGE AGAINST HIMSELF, OR IN WHICH HE IS INVOLVED, OR INVOLVING A CHARGE AGAINST A PERSON WHO IS RELATED TO HIM.

As with the Selection Commission, the first duty of the Qualifications Commission would be to promulgate rules covering its procedures. Certain guidelines, however, are suggested by the Community Alliance. These guidelines primarily deal with protections for judges who are being investigated, giving them due process rights, setting standards of proof, protecting confidentiality of proceedings, and instituting the right to appeal a commission decision. Further, the Commission is given the power to act on its own initiative to investigate conduct which has not been complained of but which appears to violate the standards set for judicial conduct.

STANDARD 2.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE QUALIFICATIONS COMMISSION BE COMPOSED OF FIVE LAYPERSONS, TWO ATTORNEYS AND TWO JUDGES.

A. THE LAYPERSONS AND ATTORNEYS SHOULD BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND

B. THE JUDGES SHOULD BE SELECTED BY THE JUSTICES OF THE SUPREME JUDICIAL COURT.

Lay members of the commission shall serve staggered three year terms. Initial appointments should be for three, two, and one years, with two lay members appointed for one year at the outset. Lawyer members should serve

staggered three year terms with initial terms of three, two and one year. The judges should serve a three year term, with one judge appointed initially for two years.

STANDARD 2.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT SPECIFIC RESTRICTIONS APPLY TO THE COMPOSITION OF THE QUALIFICATIONS COMMISSION:

A. THERE SHOULD BE NO CONSECUTIVE REAPPOINTMENT OF A COMMISSION MEMBER WHO HAS SERVED MORE THAN ONE-HALF OF A REGULAR TERM;

B. NO MORE THAN TWO LAY MEMBERS AND TWO ATTORNEYS SHOULD BE OF THE SAME POLITICAL PARTY;

C. NO TWO COMMISSION MEMBERS SHOULD BE FROM THE SAME COUNTY; JUDGES-AT-LARGE COUNTY OF RESIDENCE SHOULD DETERMINE THE COUNTY THEY REPRESENT; AND

D. HOLDERS OF ELECTIVE STATE OFFICE SHOULD BE BARRED FROM MEMBERSHIP ON THE COMMISSION AS WELL AS ANY PERSON HOLDING AN OFFICIAL POSITION IN ANY POLITICAL PARTY.

These recommendations are substantially in line with those made regarding the Judicial Selection Commission. They serve the same purpose: to insure a balanced cross-section of perspectives with regard to profession, politics and geography.

THE COMMUNITY ALLIANCE FEELS THAT NOT ENOUGH ATTENTION HAS BEEN PAID TO SALARIES AND RETIREMENT POLICIES FOR JUDGES.

STANDARD 2.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT A REVIEW BE MAKE OF THE JUDICIAL PENSION SYSTEM. THE PENSION SYSTEM SHOULD BE CHANGED TO ALLOW PENSION RIGHTS TO VEST PRIOR TO AGE 65. JUDICIAL SALARIES SHOULD ALSO BE REVIEWED TO DETERMINE WHETHER LONGEVITY OR COST OF LIVING INCREASES SHOULD BE UTILIZED.

Upon retirement at age 70 after seven years service, or age 65 after twelve years service, Maine judges receive seventy-five percent of the current salary for life. Families of judges who die in office or after retirement, receive three-eighths of the current salary.[110] The right to this pension, however, does not vest until the age of 65, and then only after twelve years of service. Judges who leave the bench by choice or by removal, and for reasons other than infirmity,[111] prior to earliest vesting time, get nothing even when they reach the age of 65. The Maine judicial pension system is non-contributory. Judges make no payments to the pension fund, and they consequently are seen as having no legal right to a pension before meeting statutory requirements for eligibility.

During the 1977 legislative session, two bills dealing with the pension system were introduced. The first[112] would have authorized a study of the judicial pension system by the Judicial Council of Maine and would have appropriated ten thousand dollars to conduct an actuarial study to determine the cost of the current pension system and whether there should be changes or improvements. The bill was passed by both houses, but vetoed by the Governor. The veto was sustained.

The second bill[113] proposed a revised plan which would have applied to any judge appointed after December 1, 1977, and who ceased "to serve at the expiration of any term".[114] Upon reaching the age of 65, the judge would be entitled to 3.75% of his final salary for each year served on the bench to a maximum of 75%. The bill was postponed indefinitely.

While the first bill would cost an initial sum of $10,000, a study of the system seems a logical step. The setting up of pension systems based on actuarial tables is complicated: it involves a review of individual circumstances and the devising of an appropriate system. A system devised this way may cost less than the arbitrary selection of a numerical percentage for computation.

Similarly, changes in judicial compensation should be considered. Most of the Citizens Committees favored the judicial salary increase pending before the 1977 legislature while rejecting the National Advisory Commission recommendation that federal judicial salaries should be used as a model.[115] The Committees suggested that large across-the-board raises could possibly be replaced by cost-of-living[116] and longevity increases.[117] The Commission on Maine's Future has recommended annual re-evaluation of judicial salaries to insure that they are equitable and sufficient to attract competent attorneys.[118]

THE COMMUNITY ALLIANCE FEELS THAT IT IS NECESSARY TO INCREASE EFFORTS TO PROVIDE MEMBERS OF THE JUDICIARY WITH CONTINUOUS OPPORTUNITY TO ACQUIRE SKILLS AND KNOWLEDGE RELEVANT TO THEIR JOB.

STANDARD 2.12: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL JUDGES PARTICIPATE IN EDUCATIONAL PROGRAMS. ALL NEW JUDGES SHOULD ATTEND JUDICIAL COLLEGE WITHIN THREE YEARS OF APPOINTMENT TO THE BENCH, BUT PREFERABLY WITHIN THE FIRST YEAR. FAILURE, WITHOUT GOOD CAUSE, TO PURSUE CONTINUING EDUCATION SHOULD BE CONSIDERED BY THE SELECTION COMMISSION DURING REAPPOINTMENT REVIEW.

Until recently, the State Court Administrator had the power to develop and implement educational programs for judicial personnel.[119] The first priority under this mandate has been to send new judges to out-of-state training programs, a priority aided by a $15,000 Maine Criminal Justice Planning and Assistance Agency grant for educational purposes. A second was the development of a Superior Court Benchbook.[120]

During the 1977 session of the legislature, the Court Administrator statute was amended, removing the responsibility for judicial education from the Court Administrator without reassigning it.[121] It, therefore, appears that no one has the statutory authority to develop programs for judicial education, other than for judicial support personnel.

The Community Alliance places a high priority on training for judges, especially new appointees. It is believed that law school is not a sufficient preparation for becoming a judge, and that programs should be provided when training is most needed.

Two different types are suggested: out-of-state training to be attended after becoming a judge, but preferably during the first year; and in-state programs including conferences, informal seminars, suggested readings, visits to correctional institutions and familiarization with treatment programs.

It is recognized that Maine is too small a state to support a formal judicial college.[122] Instead, it is hoped that attendance at out-of-state programs could continue and that further in-state programs be developed. Judges are urged to make use of relevant continuing education programs conducted by the Maine Bar Association and the University of Maine School of Law. In-state judicial education meetings should take place at least twice a year.

Bench manuals should be developed for the other courts. Sabbatical leaves should be allowed so that judges can pursue studies relevant to their judicial duties.

ADDENDUM TO CHAPTER II

During the second regular session of the Maine State Legislature in 1978, the Community Alliance submitted a compromise bill (House Amendment of H.P. 1900, L.D. 1957) which re-structured the original Standard as recommended in Chapter II as follows:

STATE OF MAINE

HOUSE OF REPRESENTATIVES

108th LEGISLATURE

SECOND REGULAR SESSION

HOUSE AMENDMENT to H.P. 1900, L.D. 1957, Bill, "AN ACT to Authorize the Supreme Judicial Court to Establish by Rule a Committee on Judicial Responsibility and Disability."

Amend the bill by striking out all of the title and inserting in its place the following:

'AN ACT to Establish a Judicial Qualifications Commission' Further amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 4 MRSA c. 27. is enacted to read:

CHAPTER 27

JUDICIAL QUALIFICATIONS

COMMISSION

§1201. Judicial Qualifications Commission

There is established a Judicial Qualifications Commission, hereafter in this chapter called the "commission" to investigate complaints about the judiciary and to discipline or remove judges. A judge shall be subject to discipline or removal for:

1. Certain convictions. Conviction of any crime for which a maximum term of imprisonment of one year or more may be imposed;
2. Code violation. Conduct constituting a violation of the code of judicial conduct or professional responsibility;
3. Permanent disability. Permanent physical or mental disability which seriously interferes with the performance of judicial duties;
4. Willful misconduct. Willful misconduct in office;
5. Failure to perform judicial duties. Willful and persistent failure to perform judicial duties;
6. Habitual intemperance. Habitual intemperance; or

7. Incompetence. Incompetence or other conduct prejudicial to the administration of justice.

§1202 Commission membership

1. Composition. The commission shall consist of 9 members appointed as follows:

   A. The Supreme Judicial Court shall appoint one Justice of the Superior Court, one Judge of the District Court and one Judge of the Probate Court;

   B. The Governor shall, subject to review by the Joint Standing Committee on the Judiciary and to confirmation by the Senate, appoint 2 members of the state bar; and

   C. The Governor shall, subject to review by the Joint Standing Committee on the Judiciary and to confirmation by the Senate, appoint 4 members of the public.

2. Terms. Each member appointed shall serve a term of 6 years. Vacancies occurring on the commission shall be filled in the same manner as the initial appointment for the unexpired term. No member who has served 3 or more years may be reappointed to a consecutive term on the commission.

3. Initial appointments. Initial appointments to the commission shall be made as follows:

   A. The Justice of the Superior Court shall be appointed for 6 years, the Judge of the District Court shall be appointed for 4 years and the Judge of the Probate Court shall be appointed for 2 years;

   B. One member of the public shall be appointed for 6 years, one for 5 years, one for 4 years and one for 2 years.

After the initial appointments, appointments shall be made in such a manner as to ensure that, insofar as practicable, all vacancies on the commission are filled.

4. Residence. No 2 members of the commission shall be residents of the same county.

5. Restrictions on members. No member shall hold an elective state office nor any office in a political party.

6. Per diem; reimbursements. Members not otherwise employed by any department of State Government shall receive per diem at the rate of $25 per day and shall be reimbursed for their travel and other expenses in the same manner as other state employees.

§1203. Procedures

The commission shall adopt the following procedures for disciplinary and removal proceedings.

1. Rules. The commission shall adopt and publish a body of rules governing its procedures. These rules shall be approved by the Supreme Judicial Court and published.
2. Due process rights. The commission shall ensure that each judge is given his due process rights, including, but not limited to, the right to counsel and the right to subpoena, produce and examine witnesses.
3. Standards of proof. The commission shall not recommend removal of a judge without clear and convincing evidence nor impose discipline without substantial evidence.
4. Enforceability. For purposes of discipline, the commission's decision shall be immediately enforceable unless there is an appeal to the Supreme Judicial Court.
5. Confidentiality. The commission's proceedings shall be confidential. A decision of the commission shall be made public only after the expiration of the appeal period or when a final decision is rendered by the Supreme Judicial Court.
6. Appeal. Any commission's decision may be appealed to the Supreme Judicial Court. The commission shall set a time limit for filing an appeal with the Supreme Judicial Court. Appeals from the Judicial Qualificaitons Commission shall be given the highest priority by the Supreme Judicial Court and shall be heard without unnecessary delay.
7. Power to act on its own initiative. The Commission shall have the power to act on its own initiative in investigating judicial conduct.
8. Limitation on member participation. A member of the commission may not participate in any proceeding involving a charge against himself, or in

which he is involved, or involving a charge against a person who is related to him by blood or marriage or has a business or social relationship to a member which might, in fact or in appearance, render the member incapable to render an unbiased decision. In all such cases, the member should disqualify himself.

§1204. Complaints to commission; commission's action.

Complaints about judicial conduct shall be submitted to the Administrative Office of the Courts. Upon receipt of a complaint, the administrative office shall refer the same to the Judicial Qualifications Commission. The complaint shall be reviewed by the commission and, if deemed preliminarily valid, the commission shall investigate the charges. If the investigation reveals that the allegations have substance:

1. Request for explanation. The commission shall notify the judge under investigation of the charges involved and ask for an explanation. If the judge responds in a manner which satisfactorily explains the charges, the case may be closed;
2. Reprimand. If no satisfactory explanation is forthcoming, the judge may be reprimanded by the commission, which may accept a no-contest plea, together with assurances that the undesirable conduct will not be repeated;
3. Order full investigation. The commission shall order a full investigation as a preliminary step in securing discipline or removal of the judge complained against; or institute disciplinary action; or
4. Filing of charges for removal. If the judge is found guilty as charged, the commission shall take appropriate disciplinary action or shall file charges of removal with the Supreme Judicial Court for a full hearing and final action.

Sec. 2 Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

JUDICIAL QUALIFICATIONS COMMISSION	1978-1979
All other	

Statement of Fact

The following sections of this committee amendment embody the following recommendations of the Community Alliance, Inc. on L.D. 1957.

Sec. 1201. Maine statutory law provides that the Governor may appoint additional Justices of the Supreme Judicial Court or the Superior Court upon finding that a justice "is permanently and totally disabled by reason of physical or mental incapacity and because thereof is unable to perform the duties of his office". Justices of these courts and judges of the District Court suffering from physical or mental infirmity may be retired early by their respective courts and receive full retirement benefits. The Maine Constitution provides that judges may be removed by impeachment or by address of both Houses of the Legislature to the executive. Impeachment can occur only on the grounds of "misdemeanor in office".

In the past, most states have relied upon the constitutional processes of impeachment, recall and action by the courts themselves to cope with the problem of judicial misconduct. Studies have shown, however, that these methods are generally ineffective except where the improper conduct is so grave as to amount to a major public scandal. Under these traditional removal systems, there is no avenue whereby individual citizens can obtain a hearing of their grievances against judges.

Forty states have developed some procedure for removing judges from office if their conduct falls below the standards of competency and integrity that society has a right to expect from its judicial personnel. Two primary models are used. The first is based on the California approach. The California Judicial Conduct Commission is comprised of 9 members, 5 judges, 2 attorneys and 2 laypersons. The commission investigates complaints and recommends to the Supreme Court an appropriate action, e.g., removing a judge from the bench, withholding a judicial pension or determining that a judge should retire. The second type of judicial removal system is the Court on the Judiciary. It is a separate tribunal, not subordinate to any other court, made up almost exclusively of judges. The court has no investigatory powers but evaluates complaints brought by statutorily designated persons or bodies, such as the Attorney General or the Legislature, on the theory that these complainants will have performed the investigative function.

Sec. 1202. These recommendations are made to insure a balanced cross section of perspectives with regard to profession, politics and geography.

In the Judicial Qualifications Commission, the majority of members would be professionals and the citizens feel this is necessary where a question of conduct is involved.

Sec. 1203. The first duty of the Judicial Qualifications Commission would be to promulgate rules covering its procedures. Certain guidelines, however, are suggested by the Community Alliance. These guidelines primarily deal with protections for judges who are being investigated, giving them due process rights, setting standards of proof, protecting confidentiality of proceedings and instituting the right to appeal a commission decision. Further, the commission is given the power to act on its own initiative to investigate conduct which has not been complained of but which appears to violate the standards set for judicial conduct.

Sec. 1204. Under Maine law, the State Court Administrator is given the duty of investigating complaints with respect to the operation of the courts. Therefore, to simplify the complaint process, all complaints could be filed with the Administrative Office of the Courts rather than establishing a separate authority to receive complaints about judges.

The commission would be empowered to conduct an investigation and would be given broad powers to fashion a remedy that includes both disciplinary action as well as the power to recommend removal.

LEGISLATIVE RESEARCH

Draft of Amendment to Constitutional Amendment L.D. 1943

Constitution, Art. VI, S 5 is amended to read:

Section 5. Limitation on holding other office. No Justice of the Supreme Judicial Court or any other court shall hold office under the United States or any other state, nor under this State, except as justice of the peace or as member of the Judicial Council OR AS A MEMBER OF THE JUDICIAL QUALIFICATIONS COMMISSION.

CHAPTER III

COURT COMMUNITY RELATIONS

The criminal court system arouses intense public interest. Persons directly involved with the system as victims, witnesses, defendants, or jurors, are understandably anxious to understand the performance of the courts. Since crime is a subject which stimulates widespread public concern, even individuals who are not involved in particular cases are interested in assessing the quality of the court system in general. Because the courts are of interest, it is important that affirmative steps be taken to encourage harmonious court-community relations. Members of the community will be more willing to participate in the system as witnesses and jurors if they have a positive impression of the efficiency and effectiveness of the court process.

In general, the citizens conclude that much improvement is needed in:

1. Instituting participant and public information services; and
2. Soliciting participation by the public in court planning and monitoring activities.

THE COMMUNITY ALLIANCE BELIEVES THAT DISSATISFACTION WITH THE COURT SYSTEM IS IN PART A PRODUCT OF THE LACK OF PROCEDURES FOR DISPENSING INFORMATION ABOUT AND INVOLVING MEMBERS OF THE COMMUNITY IN COURT ACTIVITIES.

STANDARD 3.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE STATE COURT ADMINISTATOR'S OFFICE PROVIDE PUBLIC INFORMATION SERVICES CONCERNING THE OPERATIONS AND ACTIVITIES OF THE COURTS.

Currently in Maine, there are no formal procedures for dispensing information about court activities to members of the press and interested private citizens. Individual reporters gather this information as best they can, with the procedure varying from county-to-county and from judge-to-judge. The membership all agree that there is a need for public education regarding the workings of the court system as well as about the disposition of individual cases. However, they feel that a separate public relations office is unnecessary and would be extravagant in a small and predominantly rural state like Maine. The consensus is that the office of the State Court Administrator should be able to handle this task. The State Court Administrator's Office is now handling complaints. The members feel that the availability of such a valuable service should be publicized. They have adopted the description of functions of a public information officer as described by the National Advisory Commission on Criminal Justice Standards and Goals.[123]

The Community Alliance agrees that court personnel should be encouraged to voluntarily inform the public about court activities, but there is a general feeling that there should be no standards requiring such action.

STANDARD 3.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PUBLIC INFORMATION RESPONSIBILITIES OF THE STATE COURT ADMINISTRATOR INCLUDE THE PROVISION OF:

A. PAMPHLETS EXPLAINING THE RIGHTS OF ALL PARTIES AND THE COURT PROCESS;

B. A PAMPHLET DESCRIBING THE COURT PROCESS FOR JURORS AND THE GENERAL PUBLIC; AND

C. INFORMATION DESKS STAFFED BY PERSONNEL FAMILIAR WITH THE CRIMINAL JUSTICE SYSTEM, LOCATED IN EACH COURTHOUSE.

The Maine Court system does not now dispense sufficient or standard information regarding proceedings to defendants, witnesses, jurors or the general public. While all of the citizens agree that public information services should be instituted or upgraded, they express reservations about potential cost and differ somewhat as to the methods to be adopted.

A consensus exists among the various committee membership that a defendant should be provided with a pamphlet explaining his rights and the court process. The membership agree that all parties involved -- complainants, defendants, counsel, law enforcement personnel -- would benefit by the establishment of information desks in the various courthouses. Particularly in urban areas, and especially in the District Courts, confusion is often observed as litigants, witnesses and jurors seek to find their way. An information booth would be an uncomplicated solution to a serious problem.

The costs of public information programs can be as extensive as the state wishes. Ingenuity in the development of programs is an important way to reduce costs. In Massachusetts, the Attorney General's Office, in conjunction with the State Jaycees, published a pamphlet which thoroughly explained the rights of arrested persons and what they would face in the court process.

This pamphlet titled "If You Are Arrested" was put together by various members of the state's criminal justice system over a three month period. These staff were essentially volunteers who were organized by the Jaycees and who met once a week during the evenings. The only costs were for the dinners, which were underwritten by the Jaycees, A private foundation paid for the costs of printing.

The Missouri Administrator for State Court Services has issued an excellent pamphlet, which is made available to prospective jurors and the general public. The costs of developing this pamphlet were approximately $18,000 for a publication rate of 40,000 copies.[124]

The costs of information desks are negligible if manned by volunteers (Junior League, League of Women Voters, Jaycees, Rotary of other individuals who are interested in the improvement of court services). The direct start up cost would be for equipment. On-going costs would include the printing of an up-to-date directory and a daily schedule of events. The use of part-time staff would increase the costs but only slightly if the minimum wage were paid. Retirees who like to assist people could do an excellent job in this capacity. Both volunteers and paid staff would need minimal training to carry out their duties. It would appear that a maximum of one week on-the-job training would be adequate.

STANDARD 3.3; THE COMMUNITY ALLIANCE RECOMMENDS THAT THE COURT AUTHORIZE THE ESTABLISHMENT OF A COURT ADMINISTRATION ADVISORY COMMITTEE TO AID THE STATE COURT ADMINISTRATOR IN THE DISCHARGE OF DUTIES.

The judicial system would benefit from additional contact with community resources in the State. An innovative approach would be the establishment, at the request of the Chief Justice of the Supreme Judicial Court, of special purpose advisory councils composed of business and professional leaders and knowledgeable citizens who could be called upon to provide, without compensation, non-binding recommendations and assistance and advice in the operation of the courts. With a sufficiently long tenure, council members would become familiar with the court environment. Assistance could be sought in the areas of data processing, financial management and personnel practices. In addition to the administrative benefits to be derived by the courts, a greater number of Maine citizens would gain a better opportunity to understand the system and to contribute their time and talent to the state.[125]

The formation of an organization called Citizens for Modern Courts was established in 1975 to address the Court System in Maine and has been active in some judicial discussion and programming.

CHAPTER IV

DEFENSE

Both the United States[126] and Maine[127] Constitutions provide an accused person with the right to be represented by counsel. In 1932, in the landmark opinion in Powell vs. Alabama, [128] the United States Supreme Court first recognized a limited right of an indigent defendant to the assistance of competent court-appointed counsel in all felony cases in the federal courts.[129] After many years of refusing to further extend this right,[130] the court in Gideon vs. Wainwright held that the Fourteenth Amendment required that the Sixth Amendment guarantee of the right to counsel was fully applicable to the states.[131] Prior to 1972, some doubt existed as to whether the right to court appointed counsel applied to misdemeanor prosecutions. By that time, the Maine Supreme Judicial Court had already developed its own criteria for dealing with "serious misdemeanors," requiring in Newall vs. State,[132] that counsel be appointed in any case where the charges carry potential penal sanctions in excess of a $500 fine or six months imprisonment, or both.[133] This issue was resolved when the United States Supreme Court, in Argersinger vs. Hamlin,[134] held that court-appointed counsel should be afforded to all indigent misdemeanor defendants who can, in fact, be sentenced to a jail term.

There are three basic methods of providing legal services for indigents: the assigned counsel system, the public defender system and a hybrid system. In the first, a judge appoints a lawyer from private practice to represent a needy defendant on a case-by-case basis. In the second, attorneys salaried by the state devote all or most of their time to representing defendants who are unable to retain counsel. A hybrid or mixed system is one employing both assigned counsel and public defenders.

Maine now relies upon assigned private counsel engaged on an ad hoc basis. Because there have been no statutory guidelines for the administration of defense services in the State, judges have had to assume responsibility for formulating their own.[135] To remedy this defect and several others observed, the Committees proposed several recommendations.

THE COMMUNITY ALLIANCE BELIEVES THAT SIGNIFICANT IMPROVEMENT CAN BE MADE IN THE CURRENT SYSTEM OF ASSIGNING PRIVATE COUNSEL FOR INDIGENT DEFENDANTS.

STANDARD 4.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE ASSIGNED COUNSEL SYSTEM BE RETAINED, BUT EXPERIMENTATION WITH ALTERNATE APPROACHES SHOULD BE AUTHORIZED IN APPROPRIATE PLACES.

Most of the citizens support retention of the present assigned counsel system. Several, however, suggest that a pilot project testing alternate means of delivering defense services be established in one county of the state. Special attention should be given the Cumberland Legal Aid Clinic Study,[136] which proposed a hybrid system which the committees regard as desirable.

STANDARD 4.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE UNIFORM AFFIDAVIT FOR THE DETERMINATION OF INDIGENCY USED IN THE SUPERIOR COURT BE USED IN ALL MAINE COURTS. THE COURT SYSTEM SHOULD ADOPT FLEXIBLE SCHEMES FOR PAYMENT AND FOR PARTIAL PAYMENT FOR DEFENSE SERVICES.

Rule 44(b) of the Maine Rules of Criminal Procedure sets forth the factors to be considered by the Court in making a determination of indigency.[137] This Rule also governs proceedings in the District Court, so far as applicable.[138] A standard form, embodying these factors, has been developed and is part of the Superior Court Benchbook. The Community Alliance believes the standardization of the determination of indigency brought about by the use of this affidavit is an important step in eliminating inequities among decisions governing who does or does not receive court appointed counsel. Its use should, therefore, be extended to all courts in the State of Maine.

Flexible payment schemes should also be developed to ease the financial burden on the state, facilitate adequate compensation of assigned counsel, and allow adjustment of fees for partially eligible defendants.[139]

STANDARD 4.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT A MASTER LIST OF ATTORNEYS ELIGIBLE FOR COURT APPOINTMENT BE COMPILED AND UPDATED BY REGIONAL PRESIDING JUSTICES IN CONSULTATION WITH SUPERIOR AND DISTRICT COURT JUDGES.

In Maine, the responsibility for assignment of counsel to indigent defendants rests with the judge.[140] The judge may draw counsel from a list of

volunteers from the private bar, or from those attorneys present in the courtroom. The Citizens' Committees feel that this system would be improved by the development of a master list of attorneys eligible for court appointment. The development of this list would help to insure that lawyers provided at the public expense would be experienced and well trained. The master list should, however, contain the names of relatively inexperienced attorneys, who could be assigned to less serious cases, and thus, gain experience. This type of system would go far to alleviate concerns that defense of indigent defendants is a training ground for new attorneys[141] or that indigents are often provided with counsel who have little criminal law training or experience.[142] The Community Alliance believes that counsel should be made available to eligible defendants from arrest through trial court proceedings and appeals.

STANDARD 4.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT CHANGES BE MADE IN THE CURRENT SYSTEM OF HANDLING GRIEVANCES AGAINST ATTORNEYS.

The Maine Bar Association has a formal attorney grievance committee. The committee is made up of attorneys and laypersons. It receives complaints against attorneys, conducts investigations and then, if formal action is necessary, makes recommendations to the Supreme Court. The Supreme Court, after notice and hearing, may then take action to discipline or disbar an attorney. The Attorney General's Office may also receive complaints about attorneys and after investigation, refer the case to the Supreme Court.[143]

The Community Alliance believes that this process could be improved. One primary problem is that most people are not aware that a Bar Association Committee exists or that the Attorney General may also handle complaints. The Citizens' Committees feel that this lack of knowledge should be remedied by intensive public education. A second problem is that the committee is a part of the Maine Bar Association. This causes many citizens to feel that they will not get a fair investigation of their complaints. They urge the Chief Justice to consider the establishment of a committee separate from the Bar Association.

STANDARD 4.5: THE COMMUNITY ALLIANCE SUPPORTS THE MAINE STATE BAR ASSOCIATION, THE MAINE TRIAL LAWYERS ASSOCIATION AND THE UNIVERSITY OF MAINE SCHOOL OF LAW IN THEIR EFFORTS TO PROVIDE CONTINUING EDUCATION FOR ATTORNEYS.

In this section of the overall report, recommendations are made regarding mandatory continuing education for judges and prosecutors. A recommendation was considered mandating continuing education for attorneys who represented indigent defendants. This suggestion was regarded as too restrictive. The committees feel that continuing education is needed for all attorneys but that any rules requiring mandatory education for all attorneys should come from the Bar and Trial Lawyer's Association, as most attorneys in private practice are not paid by tax monies.[144]

CHAPTER V

PROSECUTION

In 1931, the National Commission on Law Observance and Enforcement recommended that:

1. the position of prosecutor be full-time and unified to a greater degree;
2. prosecutors be prohibited from engaging in private practice;
3. a process be established to suspend, discipline or remove a prosecutor from office;
4. the State be able to assist and, where warranted, to intervene or supersede in a case;
5. a state prosecutor's council be established;
6. prosecutors' offices be adequately staffed and equipped; and
7. prosecutors be selected on the basis of merit through a non-partisan election.[145]

Similar recommendations have been repeated in succeeding years by most major studies of court reform.[146] An analysis of the current system for providing prosecutorial services in Maine highlights the acceptance of many of these recommendations.

Maine has two providers of prosecutorial services. The Attorney General's Office is responsible for the prosecution of homicides,[147] cases in which the Attorney General deems the public interest requires his involvement,[148] cases in which the District Attorney has an actual or potential conflict of interest[149] and frauds against the state.[150] They also handle the appeals of these cases, appeals from a District Attorney's Office where there is insufficient staff to handle their entire appellate caseload and all petitions for post-conviction relief.[151] The Attorney General must also approve any criminal appeal or cross-appeal taken by the state.[152] Part of the Attorney General's Office is the Law Enforcement Education section which is involved in educational programs for police and District Attorneys. This section publishes the "Law Enforcement Officer's Manual" and, "The Alert", which provides the latest case law on decisions regarding police officers. They are also responsible for the publishing of a bi-monthly Prosecutor's Bulletin and for the organization of the Prosecutor's annual training session.[153]

The second provider of prosecutorial services is the District Attorney system. As of January 1, 1975, Maine changed from a part-time County Attorney system to one employing full-time District Attorneys. All District Attorneys and their full-time assistants are prohibited from the private practice of law.[154] Until this past legislative session, each District Attorney was required to have at least one full-time assistant.[155] Excepting those cases noted above as part of the Attorney General's responsibility, the District Attorney's Offices prosecute all criminal cases, as well as representing the counties in their district in civil matters.[156]

With the change to the District Attorney system, compensation was increased.[157] A Maine Prosecutorial Association was established, which among many other projects, has worked on the development of training programs and sponsored legislation. In January 1977, the procedure for removal of District Attorneys was also changed. The removal process is started by complaint to the Attorney General's Office. After notice and hearing, a District Attorney may be removed by a majority vote of the justices of the Supreme Judicial Court.[158]

The recommendations in this section of the report deal primarily with the local District Attorneys' Offices, as the Citizens' Committees spent the majority of their time dealing with the problems of local prosecutors. Many of the problems experienced in the local offices are either not present in the Attorney General's Office or are not as severe. The Committees feel, however, that those recommendations dealing with guidelines, training, statistical systems and treatment of victims and witnesses should also be generally applicable to the Attorney General's Office. Because of the greater resources of the Attorney General's Office, it is hoped that they will aid local prosecutors in the implementation of many of the standards in this section.

In reviewing proposals for change made recently and in the 1931 report, it is clear that the purpose behind the recommendations is to insure high quality and professionalism in prosecution. These goals were often hampered because of the part-time status, poor pay and low visibility of the offices. Under the County Attorney system, the office was often staffed by either attorneys newly admitted to the bar or by older attorneys who took the job on a rotating basis. While improvements have been made with the new system, prosecution often remains simply a stepping stone to a more lucrative private practice.

The Community Alliance has studied and discussed the role of the prosecutor, and his important duties in the movement of a case through the court system. Most members of the committees were unaware of the power and discretion vested in the office of the Prosecutor, which has the power to initiate proceedings and determine the course of many of the cases. The limits on these substantial powers are ill-defined.[159] The decisions made in the prosecutor's office often are not visible and are not usually based on defined and written sets of criteria. State and federal courts are extremely reluctant to overturn an exercise of prosecutorial discretion.[160] These factors give the prosecutor greater power, with less scrutiny, than any other professional in the criminal justice system, save perhaps, the police officer.[161] The truth of this statement is demonstrated by the ability of the prosecutor through screening, diversion and plea bargaining to eliminate most cases without resort to the trial process.

The Community Alliance concludes that, to attain the goals expressed and to remedy some of the defects encountered, District Attorneys should be paid on a par with District Court Judges and commensurate with the important duties of their office. The Community Alliance also endorses merit selection of assistants, increased training opportunities and adequate staff and equipment for offices. Better staff and facilities were regarded as necessary to cope with the increased demands on prosecutorial offices made by the recommendations in this report.

A third area of recommendations relates to the prosecutor's relationship with the public and with other criminal justice professionals. It is concluded that the prosecutor should educate groups about the function and responsibility of his office, provide training and guidance for police officers and other law enforcement personnel, and develop programs to aid victims and witnesses.

THE COMMUNITY ALLIANCE BELIEVES THAT INSUFFICIENT ATTENTION HAS BEEN PAID TO THE ADEQUATE STAFFING AND PROVISION OF REIMBURSEMENT IN PROSECUTORIAL OFFICES.

STANDARD 5.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT ELECTION OF DISTRICT ATTORNEYS BE RETAINED AND THAT DISTRICT ATTORNEYS SHOULD BE COMPENSATED AT A RATE COMPARABLE TO THAT OF DISTRICT COURT JUDGES.

The District Attorney is the chief law enforcement officer of his prosecutorial district.[162] In addition, he bears the responsibility for prosecuting criminal cases and juvenile matters and for acting as counsel for

the county or counties within that district.[163] To attract and retain individuals of sufficient ability and expertise to perform the substantial duties and exercise the significant discretion of the office of District Attorney, an attractive salary must be paid. Comparing the salary of the District Attorney to that of the District Court Judge indicates the level of importance attached to both positions. Since the salaries of Assistant District Attorneys are required by P.L. 1977 CHAP. 579 (E),[164] and as recommended hereafter, to be a percentage of that of the District Attorney, it is all the more important in attracting competent assistants that the salary of the District Attorney be sufficient.

Although the Committees were divided, it was eventually concluded that the elective system for District Attorneys should be retained. The Committees do, however, express concern that the electorate have sufficient information upon which to judge the qualifications of candidates for the position. Given the concern expressed by a substantial minority among the citizens and the fact that election of full-time district attorneys is a new practice, it may be appropriate after a period of years to re-examine this process to determine whether the method of selection ought to be changed. On-going review of the performance of the District Attorney is available through public scrutiny of the performance of his duties and, where the required standards are not met, by voting the District Attorney out of office, by intervention and possible supercession by the office of the Attorney General[165] or by removal from office.[166]

STANDARD 5.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT ASSISTANT DISTRICT ATTORNEYS BE HIRED ON THE BASIS OF MERIT AND, WHEREVER POSSIBLE, SHOULD BE FULL-TIME EMPLOYEES. THERE SHOULD BE A SUFFICIENT NUMBER OF ASSISTANT DISTRICT ATTORNEYS TO ADEQUATELY STAFF EACH OFFICE.

In Maine, Assistant District Attorneys serve at the pleasure of the District Attorney, with no requirement of merit hiring. Salaries are determined by negotiations with the District Attorney, who pays the assistants from a set state appropriation. The District Attorney determines how many people are hired and at what salary, provided that no part-time assistant is paid more than 40% of the salary designated for the District Attorney and no full-time assistant more than 70%.[167]

Despite recommendations by the National Advisory Commission and the American Bar Association that assistants be required to serve full-time,[168] the Community Alliance concluded that to mandate this would be impractical in Maine. Combining counties enables the District Attorney himself to be employed full-time, but caseload, number of courts and size of prosecutorial districts makes part-time assistants advisable in some areas.[169] Wherever possible, the preference is for full-time assistants.

Merit hiring is endorsed because, in many areas, the number of courts and the size of the districts necessitate that assistants operate almost autonomously. They should, therefore, be qualified and able to operate in this fashion within appropriate guidelines. The Committees endorse recently enacted legislation which relates the salaries of assistants to that of the District Attorney.[170] As professionals, they must be compensated for the responsibility that they bear. The citizens hope that merit hiring and adequate salaries will increase professionalism and encourage long-term commitment to prosecution as a career.[171]

The number of assistants should not be based primarily on the population of the prosecutorial district as is now the practice. The criteria recommended by the National Prosecution Standards are:

1. The number of criminal cases that the office must deal with;
2. The amount and types of additional, non-criminal responsibilities vested with the prosecutor's office;
3. The number of specific crime-oriented programs being conducted in the office;
4. The geographic size of the jurisdiction;
5. The number of courts which the office must serve;
6. The number of branch offices in the jurisdiction;
7. The legal requirements for appearances by a member of the prosecutor's staff;
8. Stages of legal process;
9. The speedy trial rules;
10. The size and complexity of the staff and the need for intermediate supervisory positions; and
11. Population of jurisdiction, including seasonal fluctuations, correctional institutional population and other relevant considerations.[172]

While the Community Alliance does not recommend caseload levels upon which the number of assistants might be based, they conclude that the District Attorney should monitor the work of his assistants to make sure that they have adequate case preparation time.[173] The citizens are in favor of studying the application of the above criteria in Maine for the determination of staff size.

Compelled by inadequate funding, to offer lower than appropriate salaries, District Attorneys are faced with rapid staff turnover. An increase in the funds appropriated for personnel may reverse this trend.

STANDARD 5.3 THE COMMUNITY ALLIANCE RECOMMENDS THAT GUIDELINES BE ESTABLISHED TO INSURE THAT COUNTY FUNDING FOR DISTRICT ATTORNEY OFFICES IS SUFFICIENT. THESE GUIDELINES SHOULD BE USED TO EVALUATE THE EFFICIENCY OF THE DUAL SOURCE FUNDING OF DISTRICT ATTORNEYS' OFFICES.

Although the District Attorney and Assistant District Attorneys are now paid by state appropriation, the remaining costs of the offices are borne by the counties.[174] Currently, funding of District Attorney offices varies greatly among counties, with some counties failing to meet even minimum standards. The Community Alliance recognizes that a well-functioning District Attorney's office requires adequate funding for support personnel, supplies, equipment, facilities and training.[175]

The Citizens' Committees discussed moving either to a purely state funded system or to a system where the state would set minimum standards and provide the money to meet these standards. With the passage of P.L. 1977 CHAP. 579 (E), the committees decided to table those proposals, preferring to wait to see whether the new law will increase standardization in the State. This new law requires that county commissioners allow to the District Attorney "sufficient funds for all office expense, clerk hire and travel, including, but not limited to, funds for consultation and services of experts, rendition of prisoners, training and reference books and treatises". The effect of the enactment of P.L. 1977, CHAP. 579 (E) should be examined in the future to determine whether formulas for distribution of funds should be adopted or whether the system of part funding by individual counties should be abolished and replaced by another system.

THE COMMUNITY ALLIANCE FEELS THAT THE TREND TOWARD INCREASING PROFESSIONALISM IN PROSECUTORIAL OFFICES SHOULD BE ACCELERATED BY THE ADOPTION OF PROPER MANAGEMENT TECHNIQUES.

STANDARD 5.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT EACH PROSECUTORIAL OFFICE DEVELOP WRITTEN GUIDELINES CONCERNING SCREENING, DIVERSION, PLEA BARGAINING AND ALL OTHER AREAS OF PROSECUTORIAL DISCRETION. EVERY ASSISTANT SHOULD RECEIVE A COPY OF THESE GUIDELINES WHICH SHOULD BE CONTAINED IN A COMPREHENSIVE OFFICE MANUAL. PROSECUTORS SHOULD MONITOR THE WORK OF THEIR ASSISTANTS TO INSURE THE GUIDELINES ARE BEING FOLLOWED.

As was noted in the introduction to this chapter, prosecutors are granted wide discretion. While a large amount of discretion is necessary to maintain professionalism and flexibility, arbitrary actions can be limited by the development of procedures formalizing the decision-making process.[176]

The setting of guidelines will result in the articulation of general standards. They will serve to cut down the chances of assistants working on cases without uniform direction, insuring that the difference in treatment of individuals results from their individual characteristics and crimes rather than from a lack of uniform standards. In all offices, the guidelines will serve to increase the visibility of the exercise of prosecutorial discretion, informing citizens as well as assistants of the Chief Prosecutor's philosophy. As pointed out by the American Bar Association, the very process of articulating policies in itself contributes to the formulation of sound policies by compelling consideration of practices and policies which have outlived their usefulness.[177]

These guidelines should be available to the public. They should be contained in an office manual that not only addresses the whole area of prosecutorial discretion but also contains information on office procedures, the duties and functions of a prosecutor, and description of the local criminal justice system. This manual should be used by all prosecutors and should prove particularly valuable in training new assistants.

STANDARD 5.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT ORIENTATION AND YEARLY FOLLOW-UP TRAINING FOR THE PROSECUTORIAL STAFF BE MANDATORY.

No formal training requirements, other than being admitted to the practice of law in the State, are imposed on Maine prosecutors and their assistants.[178] Funds for education must come from the counties or from the Maine Criminal Justice

Planning and Assistance Agency and are often inadequate. The Attorney General, through his Education Office, has held training seminars for prosecutors to inform them about major changes in the law, such as the new criminal code. This office also publishes a prosecutor's handbook and a bi-monthly publication, The Alert.[179]

Each year, the Maine Prosecutors' Associaton holds a training seminar during the first week in December.[180] For those prosecutors who are able to obtain funding, generally from the Maine Criminal Justice Planning & Assistance Agency rather than the counties, out-of-state training courses are available. The National District Attorney's Association offers short, basic courses, as well as continuing education programs dealing with legal issues, innovative techniques and management of prosecutorial offices.

The prosecutor is the attorney for the people, and as such, should be well qualified and capable. Law schools provide few courses designed to develop prosecutorial skills.[181] A wide range of legal skills are needed as the District Attorney's Office is also responsible for representing the counties of the district in civil cases and for prosecuting juvenile matters.[182] There is no guarantee that prosecutors will have trial experience or that such experience will be in relevant areas. Often, the assistant prosecutors are relatively new to the practice of law and therefore have little, if any, practical experience. The lack of training and orientation programs componds these problems:

> "The newly hired Assistant, fresh out of law school, reports for work on Monday, gets a quickie indoctrination by the office manager, a pep talk by the DA, reads the office policy file, is assigned to an experienced trial assistant and within a week is a fully functioning cog in the system. It never quite works out that way, does it?"183

In Maine, with no prosecutor's office manager, no compilation of office policies and limited opportunity to work with experienced attorneys, the young lawyer is provided little support or guidance.

The Community Alliance supports two types of training courses for the new assistants.[184] One is an orientation program to deal with the policies and procedures of the individual office, the mechanics of the local court system and police agencies. This can be accomplished informally within the office, and should not consume an inordinate amount of time. The second type of training should deal with substantive law, ethics, and trial tactics. Given the small number of new prosecutors who need to be trained at any time, it is probably best to continue sending new prosecutors to the National District Attorneys Association training sessions. Training of new prosecutors and

their assistants was given the highest priority by the Committee, particularly since new prosecutors generally spend only a short time, two to three years, in their jobs before moving on to private practice. As noted by the National District Attorneys Association:

> "Formal training cannot, certainly, turn an inexperienced lawyer into a highly skilled prosecutor at once, but it can significantly shorten the period necessary to reach a satisfactory level of skill and performance."[185]

Another aspect of training is continuing education. The Community Alliance concludes that yearly follow-up training should be required of each prosecutor, although no specific number of hours was set.[186] Much of this education might be handled within the state, through the Law Enforcement Education Division of the Attorney General's Office. The organization should be aided in conducting courses by the University of Maine Law School or other appropriate groups and funds should be provided. If it is not possible for an individual to obtain a particular kind of training within the state, then a suitable program should be sought elsewhere.

STANDARD 5.6 THE COMMUNITY ALLIANCE RECOMMENDS THAT PROSECUTORIAL OFFICES COLLECT STATISTICAL INFORMATION AND DEVELOP A FILE CONTROL SYSTEM. RECORDS SHOULD BE CENTRALIZED AND ACCESS SHOULD BE CONTROLLED.

Like so many areas in the discussion of prosecutorial practices, filing and statistical systems vary with the individual office.[187] In many cases, no systems exist at all.

With the additional burden to be assumed by prosecutors because of recommendations in this report, the maintenance and preservation of the case file becomes even more important. As noted by the National Advisory Commission on Criminal Justice Standards and Goals:

> "The importance of a well designed file control system needs no documentation. The case file is the only record the prosecutor has for the litigation of criminal cases. The misplacing of files can result in the continuance or outright dismissal of serious criminal charges because the prosecutor is not prepared. Thus, prosecutors and their staffs must take special precautions to preserve the accuracy, completeness, and accessibility of all case files."[188]

The file jacket can be used for checklists, dates, and other information that needs to be readily accessible; confidential information can be contained within the file.[189] Centralizing and indexing the files helps to maintain

proper records management.[190] Noting possession of the file with an in-out card system will insure that the file can be located rapidly and that confidential material will be protected. As Maine prosecutorial offices grow, institution of this type of system will avoid confusion.

The compilation of statistics will enable the prosecutor to monitor and evaluate the performance of his office and enable him to present an accurate view of his office to funding agencies and the public. The National Advisory Commission identifies five areas that would be improved through the use of a statistical system:

1. Resource allocation;
2. Operational processing;
3. Management control;
4. Research and Analysis; and
5. Interagency coordination[191]

Through statistics the prosecutor may be able to identify crime trends because of an increase in a certain type of crime, may discover that his screening process is not working effectively because of the number of "No Bills" the grand jury is returning, or he may learn that there is a high percentage of pleas to a lesser charge being offered.

While the types of data which should be gathered may depend upon the individual office, included should be:

1. Number of complaints from police;
2. Number of complaints from citizens;
3. Number of cases filed;
4. Number of hours spend preparing and trying criminal cases;
5. Number of hours spent preparing and trying civil cases;
6. Number of convictions;
7. Number of cases disposed of by pleas;
8. Number of cases where the plea was to a reduced charge;
9. Number of cases dismissed by the court;
10. Number of cases resulting in acquittal;
11. Number of charges filed for each type of crime;[192]
12. Number of cases where the grand jury returned a "No Bill;" and
13. Number of cases where the grand jury returned a "True Bill."

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE TREMENDOUS VARIATION IN THE QUALITY OF PUBLIC RELATIONS AND EDUCATION AMONG THE PROSECUTORIAL DISTRICTS.

STANDARD 5.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DISTRICT ATTORNEY TAKE AN ACTIVE ROLE IN EDUCATING CRIMINAL JUSTICE PROFESSIONALS AND THE PUBLIC ABOUT HIS OFFICE AND ITS FUNCTION IN THE CRIMINAL JUSTICE SYSTEM.

"The prosecutor is both an administrator of justice and an advocate."[193]

The District Attorney is the chief law enforcement officer in his district,[194] but his relationship to other criminal justice professionals and members of the community is ill-defined. As a result, the involvement of the prosecuting attorney in information and education programs varies widely.

The District Attorney should maintain a regular liaison with the police departments in his district,[195] particularly to advise them about the legal requirements for evidence. He should work with the police on screening and diversion and keep them informed about legal developments regarding police responsibilities. His office should develop models that the police can use in drafting complaints and warrants.[196] While a District Attorney should, wherever possible, review complaints and applications for search warrants, training police in the legal requirements for such documents will improve the quality of these documents.[197] In the past communication has been sporadic, occuring only with major events like the passage of the new criminal code. Police/Prosecutor communication should occur regularly.

The District Attorney should also maintain lines of communication with personnel of correctional institutions and treatment programs, enabling him to understand what kinds of programs are available, with which types of offenders they have been successful, and what effect prosecution policies may have on these institutions and programs.

The Citizen's Committees feel that the low visibility of the prosecutor's office in most areas of the state, coupled with a lack of understanding about the court system, has contributed to a negative impression of the criminal justice system. The prosecutor is in a strategic position to improve public understanding of his office and its role in the courts. He should make every effort to provide information to local government personnel and community and citizens' groups. While he cannot express publicly the reasons for individual screening, diversion and plea bargaining decisions, he can inform the public about these procedures and the general guidelines used.

THE COMMUNITY ALLIANCE IS DEEPLY CONCERNED WITH THE TREATMENT AND CONSIDERATION OF VICTIMS AND WITNESSES.

STANDARD 5.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT PROSECUTORIAL OFFICES DEVELOP PROGRAMS DESIGNED TO AID VICTIMS AND WITNESSES. AT THE VERY LEAST, THE CHIEF PROSECUTOR SHOULD ESTABLISH A VICTIM/WITNESS NOTIFICATION PROGRAM. VICTIMS SHOULD BE INFORMED OF THEIR RIGHTS AND AIDED IN FINDING HELP FOR PROBLEMS CAUSED BY THEIR VICTIMIZATION.

> "If there is one word that describes how the criminal justice system treats victims of crimes, and witnesses to crimes, it is badly."[198]

For the past decade, the public and government have been involved in an attempt to reduce the ever-increasing crime rate. Studies have been done and pilot projects begun: to attempt to educate police, professionalize the prosecution and defense functions, improve caseflow management and rehabilitate offenders. Until recently, however, victims and witnesses have been largely ignored.

In a courtroom setting, almost all the participants are criminal justice professionals. They work with the system on a day-to-day basis and are often unmindful that others do not understand it as well as they do. Often, even the defendant has had some experience with the court process. Thrust into this situation, the victims and the witnesses are at a decided disadvantage. Frightened, confused by the court process and discouraged by the number of times they must appear when they feel that no progress is being made, they become frustrated by the experience and cynical about the justice system.[199] A fairly common result is that the victims and witnesses fail to appear, often bringing about dismissal of the case.

For the large majority whose cases do not reach court,[200] the confusion felt by many citizens in a courtroom setting is avoided but replaced by an almost total lack of knowledge about the disposition of the case.[201] Often, the case is screened out, or a plea bargain has been reached, and no contact is made with the victims or witnesses to explain what has happened.

Establishing a victim/witness assistance project has three purposes:

1. To treat victims and witnesses as individuals interested in seeing justice done;
2. To gain the cooperation of victims and witnesses in case preparation and scheduling; and
3. To afford further opportunities for education and understanding of the system.

In cities and counties where such programs have been tried, they have been meeting with success. More victims and witnesses are appearing as scheduled and continuances have declined.[202]

The treatment of victims and witnesses is a primary concern of Community Alliance members. Programs discussed ranged from those dealing with problems caused by specific violent crimes to the availability of community agencies which could help victims of crime. Chapter III deals with some public information suggestions for victims, witnesses, and jurors. Notification however, should be the responsibility of the Prosecutor's Office.

The citizens took the position that victims and witnesses should be notified of all major occurrences in a case. These occurrences include, but are not limited to:

1. Acceptance or rejection of a complaint during screening;[203]
2. The results of probable cause or grand jury hearings, whichever is the final stage of the indictment process;
3. Bail decisions;
4. Pre-trial disposition whether through diversion, plea bargaining or dismissal;[204]
5. The trial date; and
6. The outcome of the case.

Notification can be accomplished in most cases by a form letter, apprising the victims or witnesses of the disposition of the case and telling then they can get further information by contacting the District Attorney's office.[205] The police officer involved in the case should also be notified.

Another way to assist victims is by referring them to community programs that offer counseling, help with housing or health care, or that provide any of the myriad of social services which the victim may need. This referral service may be implemented by the compilation of a social services referral manual.[206] Victims can be informed of the existence of this manual by means of a "victims' rights" card prepared by the District Attorney's Office. This card could be modeled after that used in the Victims' Rights Project of the National District Attorneys Association, and should be given not only to all prosecutors but to police officers, who often make the initial contact with the victim.

STANDARD 5.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT WITNESSES BE CALLED TO TESTIFY ONLY WHEN THEIR PRESENCE IS NECESSARY. STEPS SHOULD BE TAKEN TO MINIMIZE THE BURDEN OF TESTIFYING IMPOSED UPON WITNESSES.

Under current Maine practices, the Prosecutor's Office is in charge of notifying prosecution witnesses when they will be needed to testify in Superior Court and local police departments given notice in many District Court cases. Because of scheduling difficulties, witnesses, both private citizens and police officers often appear in court when their presence is not necessary and may return several times before their testimony is needed. This needless waste of peoples' time should be decreased through the adoption of the following corrective measures:

1. Witnesses should be summoned only when their testimony is actually required at a particular proceeding. There is no need, for example, for the arresting officer to attend the defendant's initial court appearance.
2. A "telephone alert" system should be utilized to cut down on waiting time for witnesses. Both police and citizen witnesses can be informed that they should remain near the telephone and stand by for a message that the court is ready for their testimony.
3. Both the prosecutor and the defense attorney should ascertain from prospective witnesses inconvenient appearance dates. The office responsible for scheduling should be apprised of the preferences of witnesses.

The Community Alliance agrees on several recommendations regarding police officer witnesses. First, the arresting officer should be excused after producing the defendant before a magistrate, unless he is needed by the prosecutor for some special purpose. Second, police agencies should develop procedures whereby officers can carry out certain routine duties, and still be available to appear promptly in court when called. Third, a central court police liaison officer should be available at the courthouse to relieve the arresting officer of some of the duties of processing a case, and to improve communications between the police and prosecution. A county deputy sheriff or an officer assigned on a rotating basis from among several departments might be assigned to perform this function.

Finally, the citizens support the concept that a police officer need not constantly provide the court with a list of dates when he will be available to testify.[207] The consensus was that the Maine court system is still sufficiently small to enable the officer merely to reply, when asked to testify on a certain date, that the date is inconvenient.

STANDARD 5.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT GOVERNMENT EMPLOYEES SERVING AS WITNESSES IN THE COURSE OF THEIR DUTIES BE COMPENSATED BY THEIR EMPLOYING BODY AT THEIR REGULAR RATE OF PAY. ALL OTHER WITNESSES, WHETHER APPEARING IN COURT OR BEFORE THE GRAND JURY, SHOULD BE COMPENSATED AT THE RATE OF AT LEAST $20 PER DAY AND SHOULD RECEIVE COMPENSATION FOR MILEAGE AT A RATE EQUAL TO THE RATE PAID BY THE STATE TO ITS EMPLOYEES.

In Maine, government employees, primarily police officers, are paid the standard witness fee of $10 a day. Each municipality has a different procedure for dealing with this payment. The result of this variance is that some officers receive only the $10 witness fee, while others are compensated at their regular rate of pay, including overtime provisions when applicable. The Committees feel that a standard procedure is necessary and that all government employees should receive, from the governmental body that employs them, their regular rate of pay for court appearances.

The Community Alliance further concludes that the $10 rate for witnesses is too low and does not cover the expenses incurred in court appearances. Some discussions did cover payment of half day or hourly rates, but the decision is that these types of systems would be unwieldy and burdensome.[208]

CHAPTER VI

SCREENING

Screening refers to the decision to stop formal proceedings against an accused person, allowing the prosecutor to eliminate cases and charges in appropriate circumstances.[209] Charging discretion is useful in limiting the number of cases to comport with enforcement priorities and resources available. Case backlog and costs incurred in processing cases can be reduced by screening unnecessary complaints from the courts.

The police officer, exercising significant discretion, makes an informal screening decision when determining whether or not to arrest. Prosecutors and their staff routinely review complaints and eliminate those deemed frivolous.[210]

The Community Alliance agrees that the prosecutor is the party with the requisite legal expertise to make the formal screening decision. Several groups remarked that the authority of the prosecutor was more extensive than they had initially realized. The absence of screening guidelines often results in a lack of uniformity in decision-making by assistant prosecutors. Consistency in screening decisions would seem more likely if the prosecutor attempts at the outset to articulate general standards.

The Committees determined that the adoption of specific screening guidelines by the prosecutor and his staff could prevent inequities in decision-making, and curb abuses of the prosecutor's discretionary privilege.

The Maine Legislature recently passed a bill which places responsibility for the screening decision with the prosecutor and which sets some guidelines for the screening process. Public Law 1977 Chapter 579 (E) requires the prosecutor to prepare complaints for all criminal homicide and Class A, B, and C crimes and for all complainants who are not law enforcement officers. Under this law, each District Attorney shall establish written guidelines for the approval and issuance of complaints. In those guidelines, the District Attorney may extend the above procedure to class D and E crimes. Whenever a complaint is screened out of the criminal justice system, the prosecutor must, if requested, inform the complainant, orally or in writing, of the reasons.

Althouth this legislation mandates several beneficial practices, the citizens feel that it falls short. While the law requires that the screening

decision and rationale be provided to the victim on request, the citizens agree that information about screening practices should be made more accessible to the public.

THE COMMUNITY ALLIANCE BELIEVES THAT RECENT CHANGES IN THE LAW REGARDING SCREENING ARE NOT COMPREHENSIVE ENOUGH.

STANDARD 6.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT RECORDS OF SCREENING DECISIONS BE KEPT ON FILE IN THE PROSECUTOR'S OFFICE. PROSECUTORS' OFFICES SHOULD DEVELOP FORM LETTERS WHICH CONTAIN A LIST OF THE ORIGINAL CHARGES MADE AND THE SCREENING DECISION, TO BE SENT TO ALL VICTIMS AND WITNESSES INVOLVED IN A CASE.

Under the present system, no records are kept of the screening decision.[211] Complainants are informed of the screening decision randomly, usually only when the information is requested. The Community Alliance agrees that it is the responsibility of the prosecutor to inform the victims and witnesses of case disposition, beginning with the screening decision. A similar letter should be sent to the arresting officer.

STANDARD 6.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT SCREENING GUIDELINES BE MADE PUBLIC.

The membership concludes that increasing the accountability of the prosecutor through public education would help to eliminate public misconceptions and enable public awareness to act as a check upon the broad discretionary privilege of the prosecutor.

While the Prosecutor's Association is currently formulating guidelines to determine factors which should be considered in the screening decision, the citizens recommended the following criteria:

1. Insufficient evidence to obtain a conviction;
2. The impact of the proceedings on the accused and his family which outweighs the interest of society in securing a conviction;[212]
3. Lack of deterrent value of further proceedings;[213]
4. High cost of prosecution and excessive court time;
5. Improper motivations of the complainant or expressed wish of the victim not to prosecute;[214]
6. Prolonged non-enforcement of law on which the charge is based;[215]
7. Likelihood that prosecution will occur in another jurisdiction or another district within the state;[216] and
8. Help from the accused in apprehending others.[217]

CHAPTER VII

DIVERSION

Diversion refers to the practice of encouraging and directing selected accused individuals to participate in rehabilitation or restitutional programs in lieu of formal criminal prosecution. Those selected for diversion may be offered counseling, career development, education, work projects, or a combination thereof.[218] The principal advantage of diversion is that it avoids certain stigma of formal adjudication, such as curtailment of employment opportunities, harmful results of a criminal record, harm to personal reputation in eyes of family and friends, and reinforcement of anti-social tendencies.[219]

The authority to divert an individual out of the criminal justice system lies with the prosecutor.[220] Again, the Community Alliance committees remarked on the extent of the prosecutor's discretionary powers, and all feel that guidelines should be established to govern diversion. The Committees advocate diversion whenever appropriate, and recommend public education regarding diversion as a means of promoting public understanding of diversion.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE LACK OF DIVERSIONARY PROGRAMS IN PROSECUTORIAL OFFICES.

STANDARD 7.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT APPROPRIATE OFFENDERS BE DIVERTED WHENEVER POSSIBLE.

Maine has not formalized the diversion process. Several diversion programs exist on an ad hoc basis. For example, the York County Juvenile Intake Bureau arranged, as alternatives to criminal proceedings, counseling or restitution work for first time juvenile offenders. The Intake Bureau operated under a working agreement with the York County police, courts, and prosecutor.[221] The Kennebec Valley Mental Health Association operated a pre-trial intervention project, a pre-sentence diversion project, and a sentencing alternative project. These programs constitute rehabilitative alternatives to trial and incarceration for adult offenders. The Kennebec Valley program operated under an agreement with the District and Superior Courts of Kennebec County and the District Attorney.[222] Due to the fact that diversion programs are not

sanctioned by legislation in Maine, they can be terminated if their working agreements with the criminal justice system should break down.

The citizens desire that the State Legislature sanction the process of diversion. Diversion programs represent a humane and flexible approach to criminal justice; their rehabilitative services can be better suited to individual needs than incarceration.[223] Furthermore, court caseloads and costs incurred processing cases can be reduced when diversion programs are operative.

STANDARD 7.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT WRITTEN GUIDELINES FOR DIVERSION BE FORMULATED, ESTABLISHED, AND MADE PUBLIC BY THE PROSECUTOR'S OFFICE.

To insure that assistants will make uniform decisions, the prosecutor should compile and make available to his staff written guidelines regarding diversion. Consistent decisions are more likely when the prosecutor uses written standards.[224] The membership agrees that establishing guidelines for diversion could prevent inequities in decision making and encourage diversion whenever possible. They feel that if diversion practices were made known to the public, misunderstanding of diversion could be reduced.

Diversion programs in Maine operate with the cooperation of the police, the courts, and the prosecutor. For example, it was usually the police officer who directed a youthful offender to the York County Intake Bureau.[225] The Kennebec Valley project received participants as a result of decisions made by judges or the prosecution.[226] The prosecutor retains final authority to divert offenders out of the criminal justice system.[227] The Committees agree that, because the prosecutor has access to evidence and possesses legal expertise, he should continue to have final authority in the diversion decision.

STANDARD 7.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT AN ACCUSED BE ALLOWED TO PARTICIPATE IN A DIVERSION PROGRAM ONLY AFTER HE HAS BEEN INFORMED THAT PARTICIPATION IN A DIVERSION PROGRAM INVOLVES A WAIVER OF HIS RIGHT TO A TRIAL AND ITS SURROUNDING CONSTITUTIONAL SAFEGUARDS, AND HE KNOWINGLY AND VOLUNTARILY WAIVES THESE RIGHTS WITH DEFENSE COUNSEL PRESENT.

When an accused person opts for participation in a diversion program

rather than participation in formal criminal proceedings, he forgoes his right to trial and to the constitutional safeguards which surround that right, e.g. the right to remain silent, the right to counsel, and the right to a speedy trial. In order to insure that the offender is not arbitrarily denied his constitutional rights, a diversion agreement should be made between the prosecutor and the offender.[228] For example, a written agreement setting forth diversion program responsibilities, waiver of certain constitutional rights, and consequences of breaking the agreement, should be signed by both parties. The signing should not occur until the offender understands the consequences and has then chosen to participate in the diversion program.

STANDARD 7.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PROSECUTOR HAVE THE AUTHORITY TO REINSTITUTE CRIMINAL PROCEEDINGS IF THE DIVERSION AGREEMENT IS VIOLATED OR IF THE DEFENDANT COMMITS A CRIME DURING THE PERIOD OF THE DIVERSION AGREEMENT.

Equally important as the protection of the rights of the individual is the necessity to protect the interests of society. It must be remembered that the accused allegedly has committed a criminal act and is avoiding prosecution only because diversion is thought to be more beneficial for the defendant and for society. The right of the prosecutor to reinstate formal criminal proceedings, should the defendant fail to live up to the diversion agreement, should be preserved.[229]

CHAPTER VIII

PLEA BARGAINING

Plea bargaining is the process by which the prosecuting attorney and the defense attorney, or the defendant, if he is appearing pro se, negotiate a settlement of a case before a verdict is entered. Plea bargaining may take many forms, from dropping some charges in cases where a defendant is charged with several offenses, to agreeing to a specific sentence or treatment. Proponents argue that plea bargaining enables cases to be processed expeditiously in a court system that is overloaded. Its increasing use has caused much concern among citizens who have been brought up to believe that an adversary proceeding in a courtroom is the best way to achieve a just result.

The Community Alliance members devoted more time and discussion to this area than to any other. They conclude that Standard 3.1 of the National Advisory Commission Courts Report which calls for the abolition of plea bargaining by the year 1978, should not be implemented in Maine. The National Advisory Commission calls this standard "the most far reaching in the Courts report."[230] Initially, the Citizen Committees of Community Alliance were attracted by this position. The majority viewed plea bargaining with suspicion and distrust, feelings enhanced by the closed-door informal approach to plea bargaining that has been taken over the years. For many, plea bargaining was the epitome of the type of practices that have made them distrust the way criminal cases are handled. The reasons for their decision to retain plea bargaining were practical in nature. It is estimated that nationally over 85% of criminal cases are disposed of by pleas, with some jurisdictions having as high a rate as the 95% estimated by the American Bar Association.[231] Statistics on the number of cases disposed of by pleas in Maine are not available. Various speakers at the Committee meetings set the percentage as somewhat below the national average, probably around 75 - 80%. While the citizens feel that the court system is processing cases more expeditiously, it does not appear feasible for the court system to deal with a possible eight-fold increase in trials without a comparative increase in resources.

If it is not realistic to eliminate plea bargaining, then it should be

retained, but with priority for reform placed in two areas:

1. Decreasing the amount of and necessity for plea bargaining in the long term; and
2. Opening up and standardizing the plea bargaining process in the short term.

Decreasing reliance upon plea bargaining depends upon implementation of systemic changes that are dealt with throughout this report. Adoption of careful screening policies, increased diversion, streamlined trial practices, and guidelines governing plea bargaining can result in a substantial reduction in its use.[232]

Standardization of plea bargaining and public disclosure of negotiations have been goals adopted by most of the studies of the court system that have been undertaken in the last ten years. Numerous law review articles have been written with suggestions for reform.[233] Various prosecutors have developed programs which change plea bargaining procedures for certain types of offenders[234] or certain types of offenses.[235] Minimum constitutional standards have been set for the acceptance of a plea.[236] In Maine, steps have been taken through the adoption of Rule 11, Maine Rules of Criminal Procedure, to have judicial review of the plea in open court. The judge, before accepting a plea, must determine whether it is voluntary, i.e., made with an understanding of the nature of the charge, and whether the defendant in fact committed the crime charged. The following recommendations expand these safeguards. They concentrate first on the discretionary powers of the prosecutor in handling plea negotiations, and, second, on the review process by the court.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE USE OF PLEA BARGAINING IN CRIMINAL CASES AND THE DISTRUST AND SUSPICION ITS USE ENGENDERS IN THE COMMUNITY.

STANDARD 8.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PROSECUTOR'S OFFICE ESTABLISH A WRITTEN GUIDELINE GOVERNING PLEA NEGOTIATIONS. THIS POLICY SHOULD BE MADE AVAILABLE TO THE PUBLIC. THE DISTRICT ATTORNEY SHOULD REVIEW PLEA AGREEMENTS TO INSURE THAT THE GUIDELINES ARE BEING FOLLOWED.

One of the most frequent criticisms of plea bargaining is the disparate treatment received by defendants who appear to be similarly situated. A reason

for this criticism is that different prosecutors within the same jurisdiction may be employing different plea bargaining practices. Guidelines provide a means to achieve more equitable treatment.

In Maine, the District Attorney is the elected representative of the people. He hires Assistant District Attorneys and he should set the policy as to what kinds of cases can be negotiated and in what cases pleas to a reduced charge would not be allowed. Guidelines for plea bargaining are not commonly found in Maine. Often Assistant District Attorneys are not even given a verbal outline of acceptable plea bargaining practices. Guidelines would result in more equal treatment of both the state and the defendant. Publishing these guidelines would serve to make plea bargaining more visible, thereby enabling citizens to better assess their District Attorney's performance.[237]

The plea bargaining guidelines should take into consideration:

1. Crime patterns in the community;
2. The effect of the agreement on the victim and the community;
3. The need for full information on the offense and the offender; and
4. The avoidance of obtaining a plea agreement from a defendant through coercion or deceit.

The District Attorney should consider several factors which are relevant to plea bargaining policy. The prosecutor in any discussion directed toward securing a plea should be sensitive to the effects on the community of a plea to a lesser charge, as well as to the procedures required by the courts to assure that the negotiations are fairly conducted and comply with the court's policies as to acceptance of pleas. Undoubtedly, congested court calendars are relieved considerably by plea bargains. While expediency ought not be a prime concern in dispensing justice, it is certain that swift and sure punishment of offenders is critical to the well-being of the community. This is particularly true in the movement of cases involving serious repeat offenders.[238] Regardless of the type of offender, if the plea negotiation process permits fair and speedy disposition, the ends of justice will be served.

In addition to the prosecutor's responsibility as an officer of the court in furthering justice, he has a great responsibility in the maintenance of public order. When certain crimes occur with great frequency in an area, he may elect

to vigorously prosecute these cases without plea bargaining. Of course, in the exercise of sound discretion, the prosecutor's reliance upon plea bargaining should remain unimpeded where the sufficiency of evidence may be questionable.

The ability to negotiate pleas provides the prosecution with a powerful tool to use in gaining the assistance of an offender in apprehending others and in conducting investigations. Fair treatment in the plea bargaining process may also have favorable results in the future behavior of the defendant.

As previously noted, the community-at-large views the plea bargaining process with distrust and suspicion, and generally does not understand its complexities. These feelings are aggravated by the treatment of victims, witnesses and police officers, who are left out of the plea bargaining process. To assure continued cooperation of the law enforcement community and to safeguard the interests of victims and witnesses, the prosecutor should inform them of the outcome and reasons for plea agreement. The Community Alliance feels strongly that, particularly in cases of serious crimes against the person, the feelings of the victim should be considered fully before the plea agreement is made.[239]

Even though the judge reviews the plea agreement, the prosecutor has become, in a majority of cases, the person who, as a practical matter, sets the sentence for an offense. If the judge, in reviewing the pre-sentence investigation, the statutory sentencing guidelines, or otherwise in the exercise of his sentencing responsibility, determines that the agreement reached by the parties is not appropriate, he may refuse to accept the plea, permitting retraction of the tendered guilty plea and requiring resumption of negotiations or a trial.

At present, prosecutors do not have guidelines, nor do they always have sufficient information on the individual defendant. To increase the likelihood that the sentence proposed by the prosecutor reflects the severity of the crime committed as well as the defendant's individual characteristics, the prosecutor should rely upon guidelines and have full information before entering into a plea agreement.

Plea agreements should not be used by the prosecutor to coerce the defendant into entering a guilty plea that the evidence does not warrant. No prosecutor should:

1. Charge the defendant where there is insufficient evidence to support a guilty verdict;
2. Charge the defendant with a crime not ordinarily charged for his conduct;
3. Threaten the defendant with a more severe sentence if he pleads not guilty; or
4. Fail to disclose all exculpatory evidence.[240]

Prohibitions 1 and 2 deal with overcharging. While the prosecutor is not always responsible for the initial charge as prepared by the police, he can:

1. Screen cases where the evidence is insufficient;
2. Alter the charge where the facts accord with the essential elements of another offense; or
3. Provide guidance to the police in their charging responsibilities. By doing so the prosecutor controls proper charging and avoids the use of overcharging as a lever in plea bargaining.[241]

Prohibition 3 is an expansion of the prohibition, implied by the Court in Brady v. United States,[242] against judges threatening defendants with harsher sentences if they choose to exercise their right to trial.[243]

Prohibition 4 reflects the constitutional mandate of Brady v. Maryland,[244] which requires the prosecution to disclose exculpatory evidence to the defense, i.e., evidence which is material to disproving or lessening the punishment. The Maine Bar Association has adopted, with some changes, the American Bar Association Code of Professional Responsibility. Disciplinary Rule 7-103 (B) requires the prosecutor to make timely disclosure of the existence of evidence, known to the prosecutor, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment. The Code has not been formally adopted by statute or court rule in Maine.

STANDARD 8.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT TWO LIMITS BE PLACED ON PLEA NEGOTIATIONS. INTERNALLY, THE PROSECUTOR'S OFFICE SHOULD ENCOURAGE EARLY PLEA NEGOTIATIONS BY ESTABLISHING A TIME LIMIT AFTER WHICH SUCH NEGOTIATIONS WOULD NOT BE CONDUCTED. THE COURT SHOULD PROMULGATE A RULE WHICH WOULD PROHIBIT A NEGOTIATED PLEA FROM BEING ENTERED WITHIN 24 HOURS OF THE TRIAL, EXCEPT IN EXCEPTIONAL CIRCUMSTANCES.

The primary intent of the citizens in suggesting a time limit on plea bargaining is to eliminate the administrative problems caused by the acceptance of plea agreements up to and during the trial, thereby impeding proper administration of the trial docket, wasting case preparation time,[245] and, most importantly, forcing prosecutors to try cases for which they are not prepared. Under the current system, it is not generally known if a case is to be tried until it is called on the day of trial. Prosecutors prepare a number of cases for trial, but may end up trying cases with which they are entirely unfamiliar if plea agreements are reached in the cases for which they have prepared.

The National Advisory Commission on Criminal Justice Standards and Goals and the National District Attorneys Association both recommend the establishment of a definitive time limit, after which pleas should not be accepted.[246] The American Bar Association Prosecution Standards express a preference for discussions well before the trial date, but do not suggest a specific time limit.[247] The American Law Institute also recommends early conferences, stating that the prosecution should advise the court of the plea agreement before the time when the plea is to be tendered.[248]

Wayne County, Michigan, has adopted plea bargaining time limits in the prosecutor's office and in the courts. The rules in the prosecutor's office center around a prosecutorial pre-trial conference, formally set up with the defendant and his attorney. If the defendant decides not to plead by the end of this conference, then a time limit of up to 60 days after the conference is set. The defendant must plead within this time or the prosecutor will be disinclined to bargain.[249]

The second time limit prevents bargains from being made on the day of the trial. The defendant who wants to plead guilty on trial may do so but only to the offense charged and with no sentence considerations given.[250]

It will be necessary in Maine to develop slightly different standards, as Maine does not have pre-trial conferences in criminal cases, nor do cases take as long to get to trial. It is hoped by many Citizen Committees, however, that the adoption of a time limit will encourage prosecutors to formalize plea bargaining sessions with the defendant as soon as possible after the charge is brought.

STANDARD 8.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT RULE 11 OF THE MAINE RULES OF CRIMINAL PROCEDURE REQUIRE THAT THE JUDGE'S REASONS FOR ACCEPTING OR REJECTING A PLEA SHALL BE SPECIFICALLY ENTERED ON THE RECORD. THE ALLIANCE FURTHER RECOMMENDS THAT THE JUDGE NOT CONSIDER THE GUILTY PLEA IN REVIEWING A SENTENCE, BUT RATHER, DECIDE WHETHER THE SENTENCE IS WITHIN THE BOUNDS OF A SENTENCE HE WOULD GIVE TO A SIMILAR OFFENDER.

In Brady v. United States,[251] the United States Supreme Court expressly approved of the practice of plea negotiations, viewing the process as an exchange of benefits. In McCarthy v. United States,[252] Rule 11 of the Federal Rules of Criminal Procedure was interpreted to require that a judge must inquire of a defendant who is entering a guilty plea if he understands the nature of the charge against him,[253] and whether he is aware of the consequences of his plea. It was found particularly important to explain to the defendant that the right to appeal following the entry of a guilty plea is limited to challenging the trial court's jurisdiction, the sufficiency of the indictment or the legality of the sentence.[254] This information must be entered on the record along with the factors establishing the voluntariness of the plea.

Boykin v. Alabama[255] requires that Federal standards for a voluntary plea must be applied to state court proceedings. The Court stated that it could not presume from a silent record that the defendant voluntarily waived his federal constitutional rights: to a jury trial, to confront his accusers and to the privilege against self-incrimination.[256] Thus, a state judge must inquire whether the plea was made voluntarily and this inquiry must be placed on record.

Rule 11 of the Maine Rules of Criminal Procedure, which governs Superior Court proceedings, is in substantial compliance with these constitutional standards and with the standards for plea bargaining set forth by the National Advisory Commission on Criminal Justice Standards and Goals.[257] This rule is further elaborated in the Superior Court Benchbook which provides a checklist of factors for the judge to use in determining the validity of a plea.

Neither Rule 11, nor the Benchbook checklist, however, require the judge to state the reasons for accepting or rejecting a plea so that they may be entered on the record.[258]

The Community Alliance strongly feels that the judge's reasons for accepting or rejecting a plea should be contained in the record. This practice raises the visibility of the process and provides a way to monitor problems that may be encountered. As the judge is the sentencing authority in Maine, his review of the plea should be for the purpose of determining whether the sentence proposed is within the bounds of sentences he would give to similarly situated offenders.[259]

STANDARD 8.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT RULE 11 OF THE MAINE DISTRICT COURT CRIMINAL RULES BE AMENDED TO REQUIRE DISCLOSURE OF A PLEA AGREEMENT IN OPEN COURT AT THE TIME A PLEA IS OFFERED AND TO REQUIRE THAT THE JUDGE'S REASONS FOR ACCEPTING OR REJECTING A PLEA BE SPECIFICALLY ENTERED ON THE RECORD. FOR CLASS D CRIMES, THE RULE SHOULD BE AMENDED TO REQUIRE THE FULL INQUIRY COVERED BY RULE 11 OF THE MAINE RULES OF CRIMINAL PROCEDURE.

Rule 11 of the Maine District Court Criminal Rules currently provides the type of pleas that a defendant may enter and the right of the court to refuse to accept a plea of guilty. The Community Alliance believes that the rule should go further in all cases to require open disclosure of plea agreements and to record the judge's reasons for accepting or rejecting a plea.[260] This will increase the visibility of the plea bargaining process.

The Alliance further believes that the uniform practices mandated in the Superior Court by the practice of holding Rule 11 hearings should be extended to Class D crimes.[261]

CHAPTER IX

TRIAL PROCEDURE

A large number of federal constitutional rights have been extended and applied by the doctrine of incorporation to state court criminal proceedings.[262] Many of these rights are set forth in the Bill of Rights. The Fifth Amendment provides, in part, that a person need not testify against himself[263] and that an individual cannot be placed in jeopardy of criminal sanction twice for the same offense.[264] The Sixth Amendment guarantees the right to a speedy trial by a jury of one's peers,[265] to be informed of the charge,[266] to confront and cross-examine witnesses in open court,[267] to have the assistance of legal counsel,[268] and to subpoena witnesses for the defense.[269] The Eighth Amendment prohibits the setting of excessive bail for those who are awaiting trial.[270]

Whether or not a defendant chooses to invoke his right to trial, he has an interest in the trial process because it represents to him a constitutionally guaranteed legal option. The opportunity to go to trial, therefore, provides a valuable safeguard against possible abuse in the more informal processing procedures such as screening, diversion, and plea-bargaining.

This chapter principally addresses steps the Community Alliance feels should be taken to alleviate delay in processing cases through the trial courts. Reducing trial delay is an important goal for several reasons. First, to the extent that the criminal justice system performs a deterrent function, this deterrence is diminished if trial and punishment are far removed from the commission of the crime. In addition, prompt case processing serves society's interests by reducing the risk that a defendant released from custody will commit another crime while awaiting trial. Also, problems of proof, such as witnesses moving away or dying or memories dimming, are aggravated by lengthy pre-trial delay. Moreover, reducing such delay will reduce pre-trial detention. Finally, prompt case processing will encourage community confidence in the criminal justice system and foster a sense of security.

THE COMMUNITY ALLIANCE FEELS THAT STEPS NEED TO BE TAKEN TO REDUCE PRE-TRIAL DELAY IN ALL TRIAL COURTS AND TO INSURE THAT THE SERIOUS PROBLEMS ENCOUNTERED WITH DELAY IN OTHER PARTS OF THE COUNTRY DO NOT OCCUR IN MAINE.

STANDARD 9.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PERIOD FROM ARREST TO THE BEGINNING OF TRIAL GENERALLY NOT EXCEED 60 DAYS IN A FELONY PROSECUTION AND 30 DAYS IN A MISDEMEANOR PROSECUTION.

The Community Alliance concludes that most criminal cases should be scheduled within the foregoing time limitations.[271]

The citizens recognize, however, that some cases, because of their complexity or difficulty in the preparation by the prosecution or defense, will take longer to process. The recommendation does not suggest that automatic dismissal should follow where the prescribed time periods are exceeded[272] because the citizens feel that by implementing the remaining recommendations in this chapter, the average time for processing a case should be lowered sufficiently to fall within or near the guidelines. In those cases where the time limits are exceeded and delay is not justified, the court may dismiss an indictment or complaint.[273]

STANDARD 9.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT STATISTICS BE COLLECTED REGARDING BAIL AND THAT THESE STATISTICS BE USED TO EVALUATE THE CURRENT STATUTORY PROVISIONS ON BAIL.

In reviewing the Maine bail statutes, Community Alliance members were frustrated by the lack of statistics on bail decisions. While the Maine statutes were generally in line with those recommended by national studies, there was concern as to whether bail standards were being uniformly applied. Bail, along with plea bargaining, is an area that the majority of members of the community do not understand. Even after Community Alliance members understood the constitutionally allowed reasons for denying bail, many questions remained about bail decisions.

It was felt that there were problem areas in the current bail system: the training of bail commissioners, the commission of crimes by persons out on bail, the perceived failure of judges to revoke bail after a defendant has failed to appear. The Community Alliance would like to know whether these problems felt by citizens are, in fact, a reality. If they are, then the statutes should be changed to remedy them. If they are not, then the statistics collected should be widely disseminated by the court system to prevent misconceptions on the part of the public.

The Community Alliance recommends a mandatory jail sentence be meted in addition to any penalty assigned if a person is found guilty of having committed a crime while on bail, pending a hearing on a prior charge.

STANDARD 9.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL MOTIONS IN MISDEMEANOR CASES BE FILED WITHIN SEVEN DAYS AFTER APPOINTMENT OR RETENTION OF COUNSEL AND SHOULD BE HEARD IMMEDIATELY PRECEDING TRIAL.

Implementation of this recommendation [274] would do away with hearings on motions in misdemeanor cases on motion day.[275] By so-doing, pre-trial delay will be reduced because all motions for any one case will be heard at the same time, and motions not filed on time would not be heard, if extenuating circumstances are absent.

This motion practice is designed to minimize inconvenience to all concerned. If a motion is testimonial in nature, then holding the hearing on the day of trial will prevent multiple appearances by witnesses. Even where a motion will not involve testimony of witnesses, its argument just before trial will nevertheless eliminate multiple appearances on the same matter by counsel and the prosecution.

STANDARD 9.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT WHEREVER POSSIBLE, PROBABLE CAUSE HEARINGS BE HELD WITHIN TWO WEEKS OF APPOINTMENT OR RETENTION OF COUNSEL.

Preliminary examinations, often called probable cause hearings, are appearances before a District Court judge in felony cases at which the prosecution attempts to establish that sufficient evidence exists to warrant holding the defendant to answer in Superior Court.[276]

Maine currently requires only that the preliminary examination be scheduled within a reasonable time.[277] The Committees conclude that the establishment of the two week time limit would help to avoid pre-trial delay while, at the same time, providing defense counsel adequate time to become familiar with the case.[278]

STANDARD 9.5 THE COMMUNITY ALLIANCE RECOMMENDS THAT GRAND JURY INDICTMENT NOT BE REQUIRED IN CRIMINAL PROSECUTIONS. THE GRAND JURY SHOULD REMAIN IN EXISTENCE FOR INVESTIGATIVE PURPOSES AND FOR CHARGING, AT THE DISCRETION OF THE PROSECUTOR. PROBABLE CAUSE HEARINGS SHOULD BE HELD IN ALL CASES NOT BEING

SUBMITTED TO THE GRAND JURY, AND IN CASES WHICH WILL BE SUBMITTED TO THE GRAND JURY BUT WHICH WILL NOT BE HEARD BY THEM WITHIN A REASONABLE AMOUNT OF TIME. IF PROBABLE CAUSE IS FOUND, THE DISTRICT ATTORNEY MAY BEGIN PROCEEDINGS IN SUPERIOR COURT THROUGH THE FILING OF AN INFORMATION OR ELECT TO TAKE THE CASE TO THE GRAND JURY. IF PROBABLE CAUSE IS NOT FOUND, THE PROSECUTOR SHOULD RETAIN, WITHIN LIMITS, THE OPTION TO BRING THE CASE BEFORE THE GRAND JURY.

The Maine Constitution,[279] specifies that "no person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury".

A capital or infamous crime, is defined as one where the period of confinement by which the crime is punishable exceeds one year.[280] Thus, all crimes classified as A, B, or C Crimes[281] must be prosecuted by a bill of indictment, unless the accused waives indictment and is arraigned by information in the Superior Court. Defendants charged with first or second degree murder may not waive indictment.[282]

The Grand Jury is a panel of citizens, empowered by state law, to bring criminal indictments (charges) against individuals. The Grand Jury dates back to twelfth century England and was brought to this country by English settlers as part of their common law heritage.[283] According to a survey, twenty-five states require use of indictment in felony prosecutions, about twenty states allow use of either information or indictment (relying heavily on the filing of an information), and the remainder reserve grand juries for initiation of prosecution in special classes of cases.[284] The trend seems to be in favor of bypassing the grand jury, allowing the prosecutor to initiate proceedings through the filing of an information. This trend has been brought about by increasing focus on major problems in the grand jury process. Critics of the grand jury process argue that it is inefficient, causes delay, is duplicative and expensive, and serves as a rubber stamp for the prosecutors.[285]

In Maine, grand juries meet intermittently.[286] If a person is arrested for a crime and the grand jury is either not meeting or will not meet for a substantial period of time, then a hearing will be held to determine whether probable cause exists to hold the person over for the Superior Court.[287] The hearing is of an adversary nature, held before a judge, and both parties have the right to introduce evidence and cross-examine witnesses.

The Community Alliance concludes that the probable cause hearing is sufficient to protect both the interests of the state and those of the defendant. They recommend, therefore, that in the majority of cases, a probable cause hearing should be held, and if probable cause is found, then the prosecutor may initiate proceedings in the Superior Court through the filing of an information. If probable cause is not found, then the prosecutor should retain, within limits, the option to bring the case before the grand jury. The citizens do not recommend specific limits but suggest that the prosecutor develop guidelines in this area, or that limits be set by statute, providing that right to appeal is preserved.

The Community Alliance, however, stops short of recommending the abolition of the grand jury. They conclude that the grand jury should remain in existence for investigative purposes and for charging, at the discretion of the prosecutor.[288] To make the grand jury more effective, they further recommend the development of a thorough orientation program to school grand jurors about the grand jury, its functions and its powers.

STANDARD 9.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT, AT THE INITIAL APPEARANCE BEFORE A JUDGE, THE ACCUSED BE INFORMED OF THE CHARGES AGAINST HIM AND OF ALL OF HIS RIGHTS BOTH ORALLY AND IN WRITING.

This recommendation makes certain that the defendant will have written material[289] to which to refer regarding the charges against him and his constitutional rights, should he forget what he was told at the initial appearance or if he was represented there by counsel who inadequately explained those matters to him. It calls for the modification of Rule 5, Maine Rules of Criminal Procedure, which now requires only an oral explanation of the defendant's rights.

STANDARD 9.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL PRE-TRIAL MOTIONS IN CASES INVOLVING A, B, & C CRIMES BE FILED WITHIN FIFTEEN DAYS:

- OF THE PROBABLE CAUSE HEARING, OR WAIVER THEREOF; OR
- SERVICE OR APPREHENSION FOLLOWING INDICTMENT, WHICHEVER IS EARLIER.

THE HEARING ON THE MOTION SHOULD BE HELD ON THE NEXT REGULARLY SCHEDULED MOTION DAY AFTER THE SEVEN DAY FILING DEADLINE REQUIRED BY MAINE LAW.

The Committees conclude that a needless source of pre-trial delay could be eliminated by implementation of this recommendation. Under the present system,[290] delay often results because there is no deadline on the filing of motions and because all motions in a single case do not have to be filed at once. If such a deadline were imposed, prosecutors and defense attorneys would have no choice but to file all of their motions within fifteen days of the earliest of the events listed above.[291]

STANDARD 9.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT CONTINUANCES BE LIMITED, ESPECIALLY WHERE A DEFENDANT IS INCARCERATED BEFORE TRIAL. ADVANCE APPLICATION IN WRITING, SIGNED BY THE REQUESTING PARTY, SHOULD BE REQUIRED FOR CONTINUANCES. IF A CONTINUANCE IS NECESSARY IN A MISDEMEANOR CASE, A NEW TRIAL SHOULD BE HELD WITHIN TEN DAYS.

Continuances constitute a major source of delay in the criminal justice process.[292] Judges have unlimited discretion to grant continuances, and have been known to do so as a matter of routine. This practice contributes to delay and frustrates efficient administration. Requests for a continuance should be in writing, submitted within a specified time before the commencement of the proceeding sought to be continued, should show good cause for the request[293] and should also require that the request of counsel for a continuance be countersigned by the client.

It must be remembered that defendants, especially those released on bail pending trial, usually do not desire a speedy trial. Prosecutors, because of their heavy caseloads, often acquiesce to defense requests for continuances.

The Community Alliance feels that, since misdemeanors are less serious offenses, attorneys need less time to complete necessary pre-trial preparation; thus the ten day limit on continuances set forth above.

STANDARD 9.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT DISCOVERY BY THE PROSECUTION BE ALLOWED WITHIN LIMITS. ALL DISCOVERABLE EVIDENCE SHOULD BE PROVIDED AS A MATTER OF COURSE WITHOUT THE NEED FOR A MOTION.

> "The Adversary system of trial is hardly an end in itself; it is not yet a poker game in which players enjoy an absolute right always to conceal their cards until played."[294]

Discovery is the disclosure by one party to another of information about a case before the trial begins. Its purpose is to facilitate the gathering of evidence, sharpen issues, and avoid surprise and inefficiency during the trial.

Rule 16 (a) of the Maine Rules of Criminal Procedure provides for discovery and inspection by the defense of evidence which is controlled by the prosecutor and which is "material to the preparation of the defense". Evidence need not be admissable at trial to be considered material. Before discovery can proceed, the defense attorney must make a motion to the trial judge who, after a hearing, must grant an order specifying the scope of discovery in each case. There is no list of items which are absolutely discoverable in every case, because the court retains discretion in each instance to rule on the materiality of a certain item.

Under Rule 16 (b), Maine Rules of Criminal Procedure, discovery by the prosecution is limited to a request, no less than ten days before trial, for a statement by the defendant if he plans to rely upon an alibi defense at trial. If such a defense is planned, the defendant must respond, stating the place where he claims to have been during the commission of the crime.

The trend in discovery rules and statutes has been to make discovery more informal and to allow increased rights of discovery to the prosecutor. Recommendations along these lines have appeared in the National Advisory Commission,[295] American Bar Association[296] and National District Attorneys Association Reports.[297] Rule 16 of the Federal Rules of Criminal Procedure has been amended [298] to allow a much broader degree of prosecutorial discovery than is permitted by the Maine Rule. The Federal Rule allows the defense to obtain such items as tangible objects and the results of scientific tests. If the defense makes such a request, the prosecution may make a similar request of the defense. Several states have adopted similar discovery rules.[299]

The traditional argument against prosecutorial discovery has been that it violates the Fifth Amendment provision that "no person shall be compelled in any criminal case to be a witness against himself". The United States Supreme Court, in a series of decisions, has dealt with the relationship of the Fifth Amendment to prosecutorial discovery. The Court has upheld the constitutionality of requirements that a defendant who intends to rely on an alibi defense must disclose to the prosecutor the names of alibi witnesses on the theory that such disclosure involves only the timing of an otherwise voluntary act; a provision requiring the defense to disclose a written report used to impeach a witness; [300] a requirement that a driver involved in an accident must notify the owner of the other car of his name and address unless those

facts alone implicate him;[301] and that evidence of physical characteristics is non-testimonial in nature and thus can be compelled.[302]

In an article[303] dealing with the new Minnesota discovery rule,[304] it is asserted that these cases form a standard and that the Fifth Amendment privilege is violated only if:

1. The government compels disclosure of evidence that the defendant does not plan to reveal at the trial;
2. The evidence itself is incriminating; and
3. The evidence is testimonial.

With these standards in mind, the Community Alliance concludes that, in Maine, the prosecutor should be able to discover, as a matter of course without making a motion for discovery before the court, the following items:

1. Names and addresses of witnesses and their statements;
2. Results of reports and tests that will be introduced in court;
3. Tangible evidence which will be used;
4. Non-testimonial evidence about the person of the defendant; and
5. Any defense other than not guilty the accused intends to use at trial.

Additional materials may be obtained upon petition to the court and a showing that the request is reasonable and that the evidence is material. If either party requests evidence which the adversary party feels is not discoverable, then that party may petition the court for an appropriate protective order.

There is currently a proposal by the Criminal Rules Committee which has been presented to the Maine Supreme Court. This proposal is substantially in line with the recommendation made by Community Alliance. It does not, however, provide for discovery by right on the part of the prosecution nor for discovery by the prosecution of the names and addresses of witnesses and their statements. The Community Alliance urges the Supreme Court to adopt this proposed rule, with the additions noted.

STANDARD 9.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT JURY EMPANELLING TAKE PLACE, AT THE LATEST, AS SOON AS THE JURY IN THE PRECEDING CASE HAS RETIRED TO CONSIDER A VERDICT.

The citizens conclude that time could be saved by empanelling the jury for the next case while the current jury is still deliberating an another

case. Often, all parties and participants wait until a prior jury returns from its deliberations; more effective use of juror time may be made by earlier empanelling.[305]

STANDARD 9.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE JUDGE BRIEF EACH JURY PANEL IMMEDIATELY PRIOR TO THE COMMENCEMENT OF A CASE, CONCERNING THE RESPONSIBILITIES AND CONDUCT OF A JUROR, AND THE PROCEEDINGS OF A TRIAL. A STANDARDIZED JURY INSTRUCTION FORMAT SHOULD BE UTILIZED IN ALL CRIMINAL TRIALS AS FAR AS IS PRACTICABLE.

Maine's judges already follow the practice of orienting jurors to their duties and responsibilities at the beginning of their term of service. The Committees feel that this practice should continue, and, additionally, that in both civil and criminal cases the judge should brief the jury prior to the commencement of the case. Furthermore, as is discussed in the Chapter Court/Community Relations[306] they feel that this information should be contained in a juror's handbook.

A consensus supports the idea that judges should, to the extent possible, utilize a standardized jury instruction format which covers the various legal points upon which the jury must be instructed in each case. Such a practice, probably in the form of a checklist in the benchbook, would serve to decrease the possibility that an important instruction would be omitted. Of course, judges would and should remain free to present various points of law in the manner in which they feel will be most easily and clearly understood by the jury.

STANDARD 9.12: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE COURT RETAIN CONTROL OF CASE SCHEDULING. THE PROSECUTOR SHOULD, HOWEVER, HAVE INPUT INTO THE SCHEDULING OF HIGH PRIORITY CASES.

Guidelines should be drawn up specifying the factors that determine whether a case is to be given priority status. These guidelines should be disseminated to all prosecutors and calendar clerks. If a case is given priority status by the prosecutor, it shall be placed at the beginning of the docket. In those cases where there is difficulty in obtaining witnesses or a sensitive matter is involved, the prosecutor should be able to have the case set for a date and time certain. The court clerks, acting under the policy guidelines of the court, should continue the control of case scheduling in Maine.

This control, within guidelines which are explicit and public, should allow the calendar clerk to take due regard of the responsibilities of the prosecution. In instances of special public interest or where witness utilization is a concern, the prosecutor should be able to move a case to a priority position or, in exceptional circumstances, to set a case or a date and time certain.

Existing guidelines and those contemplated should be subject to comment by the District Attorneys. Continued cooperation in the sound administration of justice should be the outcome.

Standards have been set for calendar clerks in the Superior Court. They are as follows:

1. Criminal cases are given priority over civil cases;
2. Criminal cases involving defendants who are incarcerated are given priority over cases involving defendants who are free on bail;
3. Juvenile appeals have the same priority as criminal cases;
4. All other cases are set in chronological order unless, within the discretion of the calendar clerk, there is valid reason to do otherwise; and
5. A "special setting" may be obtained for good cause by notifying the calendar clerk of the special circumstances involved in the case.[307]

The Community Alliance agrees with these standards. They conclude, in addition, that prosecutors should be able to give a priority status when the following factors are present:

1. The defendant constitutes a significant threat of violent injury to others;[308]
2. The defendant is a recidivist or a professional criminal who substantially derives his livelihood from illegal activities;[309]
3. The defendant is a public official;[310]
4. The defendant was arrested in the act of committing a felony;[311] or
5. Any significant problem or interests of particular concern to the community.[312]

This list is not exhaustive, but is presented as the general types of criteria to be considered, with input from prosecutors, in drawing up guidelines. These guidelines will serve to structure the discretionary decisions of calendar clerks. The citizens feel that the emphasis on the serious offender in these factors would encourage prosecutors in the development of programs dealing with major offenders.

CHAPTER X

APPEALS

The right to appellate review of criminal convictions principally operates at two levels.[313] Defendants convicted of crimes within the jurisdiction of the District Court have a constitutional right to a trial de novo -- a completely new proceeding in Superior Court.[314] Defendants convicted of crimes in the Superior Court (whether on de novo trial of D & C crimes first tried in District Court or on charges initiated in Superior Court) may appeal to the Supreme Judicial Court sitting as the Law Court.[315]

The Maine Constitution[316] requires that all criminal defendants have a right to a jury trial. The Maine Law Court in State v. Sklar,[317] has held that this right extends to even the most minor D & E case, even though the Federal Constitutional standard is less restrictive.[318] Because the Maine District Court does not provide jury trials and because its proceedings are not routinely recorded, a defendant convicted in District Court has the right to a new trial with a jury in Superior Court.[319]

The Maine Constitution vests judicial power in the Supreme Judicial Court and any courts that the legislature may establish. The Supreme Judicial Court is thereby given power to make final determination of all questions of Maine Law.[320] Appeals in criminal cases may be made by defendants or, on questions of law only, by the State.[321] But it is important to note that the Court has broad appellate jurisdiction, hearing a great variety of cases.[322] In fact, slightly over fifty percent of its appellate work each year consists of civil cases.[323] Thus, while the standards presented in this volume involve only the criminal justice system it should be remembered that any consideration of the appellate process in the Supreme Judicial Court should address both criminal and civil matters.

Under the present system, the appeals process in Maine is cumbersome and beset with delay. In the Law Court, it often takes as long as six months for a case to be heard, and yet another six months for a decision to be rendered. It is not uncommon for the whole appeals process to consume twelve to eighteen months. Delay in the original appeals process can have four negative results.

First, innocent individuals may be incarcerated pending appeal of their case, and thus spend long periods of time in jail. The Community Alliance fears that some defendants might be unfairly deprived of liberty during lengthy appeals where the outcome proved their innocence. Second, convicted offenders may be released on bail pending their appeal for an unduly long period. The Committees are concerned about the possible dangers to society where a convicted person is out on bail while awaiting appellate review.[324] Third, delays penalize a defendant as long as the stigma of conviction remains unresolved, and involve costs to the justice system, in the extended case processing time. Finally, judicial guidance to the police, prosecution and bar as to the state of the criminal law is delayed. The citizens primary concern in this chapter is with expediting the appeals process.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE USE OF THE TRIAL DE NOVO SYSTEM AND THE DELAY, EXPENSE AND UTILIZATION OF COURT RESOURCES THAT RESULT FROM A DEFENDANT HAVING TWO TRIALS.

STANDARD 10.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE MAINE CONSTITUTIONAL GUARANTEE OF TRIAL BY JURY BE RETAINED FOR THOSE OFFENSES PUNISHABLE BY IMPRISONMENT IN EXCESS OF SIX MONTHS OR A FINE EXCEEDING $500. DEFENDANTS CHARGED WITH CRIMES WITHIN THE JURISDICTION OF THE DISTRICT COURT, WHO ELECT TO EXERCISE THE RIGHT TO JURY TRIAL, SHOULD BE REQUIRED TO REQUEST TRANSFER TO THE SUPERIOR COURT PRIOR TO DISTRICT COURT PROCEEDINGS.

The trial de novo system has been criticized for a number of years.[325] It gives the defendant "two bites at the apple", allows for extensive discovery of the prosecution's case at the District Court level, and has been used to delay execution of a sentence. The system is more expensive than a process with a trial and then a right to an appeal. It takes up the Superior Court's time with what may often be rather minor crimes and clogs the Superior Court's schedule.[326] While it may be argued that the de novo system is beneficial to the defendant, the system serves to insulate the District Court from appellate review of its trial proceedings. Thus, unconstitutional and abusive practices may occur or continue without any check on them.[327]

Numerous reports have urged the abolition of trial de novo. Indeed, this was the initial recommendation of the Committees. Further consideration of constitutional guarantees and changes in the Maine Criminal Code have resulted in a modification of this view.

While the Maine Constitution affords jury trial in all cases,[328] federal constitutional standards require jury trials only in those cases punishable by imprisonment of over six months or a fine greater than $500.[329] Amendment of the Maine Constitution will achieve a balance between an individual's rights and the citizens' interest in the sound administration of justice. This balance was achieved under the English common law, through distinctions between petty and serious offenses, and has been adopted in thirty-nine other states and in the federal courts.[330]

Since the Maine District Courts are not authorized to conduct jury trials, and because that court has jurisdiction over Class D and E offenses carrying maximum penalties of one year and six months, respectively,[331] the adoption of a transfer provision in furtherance of the jury trial limitation recommendation is essential. Although earlier attempts were unsuccessful in Maine, the categorization of offenses in the new criminal code will enable trial of infractions without reliance upon juries and will permit ready transfer of matters triable to a jury in the Superior Court. The citizens recognize that the change in the classification of offenses, as well as the fact that there has been a reduction of Superior Court backlog, will make the reintroduction of the transfer system less burdensome than either the present system or the old system.

THE COMMUNITY ALLIANCE BELIEVES THAT CHANGES SHOULD BE MADE IN THE APPELLATE PROCESS TO DECREASE THE BACKLOG IN THE LAW COURT AND INCREASE ITS OPERATING EFFICIENCY.

STANDARD 10.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT A STUDY OF THE APPEALS PROCESS BE CONDUCTED.

Due to the complexity of the appeals process and the unfamiliarity of most Committee members with the Maine appellate process, it is agreed to delegate the responsibility for formulating recommendations to a group of professionals who have both the time and the expertise to grapple with the problem of expediting and improving the appeals process.

The State Court Administrator's Office has conducted studies, authorized by the Supreme Court, and has made improvements in the trial courts. It would seem to be within its purview to work toward the improvement of the appeals process as well.

Although the citizens agree that a thorough study must be done by professionals, they wish to propose several basic recommendations.

STANDARD 10.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT SPECIAL EMPHASIS BE PLACED ON DEVELOPMENT AND IMPLEMENTATION OF TECHNIQUES WHICH WILL EXPEDITE APPEALS WHILE MAINTAINING THE HIGH QUALITY OF APPELLATE DECISIONS.

The citizen membership highly regard the work of the Supreme Judicial Court and expect that the work of the Court will continue at the same standard. They recognize, however, that the press of greater caseload volume and of increasingly complex matters creates strain in the Court. Processes for expediting cases were urged as important items for study.

STANDARD 10.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT A REVIEW PROCESS BE DEVELOPED SO THAT THE LAW COURT DEVOTES MINIMAL TIME TO CASES WHICH DO NOT PRESENT QUESTIONS OF LAW.

A substantial portion of state funds and court resources are allocated to appellate matters. The citizens support the right of convicted offenders to at least one appeal, but urged this adoption of a method for weeding out groundless cases so that court time can be devoted to the determination of meritorious cases.

STANDARD 10.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL SUPREME COURT JUSTICES BE HOUSED IN ONE BUILDING.

The Clerk of the Law Court maintains court files at the Cumberland County Courthouse where three of the seven justices and the courtroom are located. The remaining justices have chambers elsewhere in the state.

Virtually all states in the union have a central location for their Supreme Court Justices.[332] Housing the justices together facilitates more effective communication among justices and better coordination of Supreme Court processes. The Community Alliance stresses that Supreme Court housing need not be a new building but that any appropriate available building with room for offices, a library, and courtroom space should be found.

STANDARD 10.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE SUPERIOR COURT BE NOTIFIED WHEN A PERFECTED APPEAL IS FILED WITH THE LAW COURT. CASE TRACKING SYSTEMS SHOULD BE INSTITUTED TO PREVENT CONVICTED OFFENDERS FROM USING APPEALS AS A DELAYING TACTIC.

Under the present system, when an individual is convicted by the Superior Court, he may appeal to the Supreme Judicial Court.[333] If he chooses to appeal, he must "perfect" and file his appeal with the Supreme Judicial Court within ten days of his conviction (sentencing date) by the Superior Court.[334] There is no requirement that the Superior Court be notified of the perfection of appeal. Court rules, however, provide that if the defendant is unrepresented by counsel or is represented by assigned counsel, the court will advise him of the right to appeal and, if the defendant requests, cause a notice of appeal to be filed on his behalf.[335] Notwithstanding this protection, a convicted offender could express an intention to appeal, obtain release, neglect to carry forward the appeal and thus be out on bail despite the failure to perfect an appeal. If a monitoring system were developed, the court could track cases to insure that appeals are diligently pursued and not used as a tactic for obtaining a few months freedom.

IMPLEMENTATION

MAINE STATE LEGISLATURE

Standard 1.5
All of Chapter 2 & Addendum
All of Chapter 5
All of Chapter 6
Standard 9.5
Standard 10.1
Standard 10.5

CONSTITUTIONAL AMENDMENTS

Standard 2.1 - 5
Standard 2.6 - 2.10
Standard 9.5
Standard 10.1

MAINE JUDICIARY

All Standards in Courts Section

JUDICIAL COUNCIL

All Standards in Courts Section

MAINE CRIMINAL JUSTICE ACADEMY

Standard 2.12

CRIMINAL RULES COMMITTEE

Standard 8.2
Standard 8.3
Standard 8.4
Standard 9.1
Standard 9.3
Standard 9.4
Standard 9.6
Standard 9.7
Standard 9.8
Standard 9.9

MAINE BAR ASSOCIATION

All Standards in Courts Section

MAINE TRIAL LAWYER'S ASSOCIATION

Chapter 4
Chapter 5
Chapter 6
Chapter 7
Chapter 8
Chapter 9
Chapter 10

MAINE PROSECUTOR'S ASSOCIATION

Chapter 5
Chapter 6
Chapter 7

MAINE PROSECUTOR'S ASSOCIATION, Con't.

Chapter 8
Chapter 9
Chapter 10

OFFICE OF ATTORNEY GENERAL

All Standards in Courts Section.

COURTS FOOTNOTES

1. Community Alliance, Criminal Justice Standards and Goals, Criminal Justice System: Northeast Market Survey, questions 20, 21, and 22 (1976)
2. The judicial authority in Maine is derived from the Maine Constitution, M.R.S.A Constitution, Art. VI, § 1, which establishes the Supreme Judicial Court and such other courts as the legislature deems necessary to create.
3. Governed by 4 Me. Rev. State Ann. (hereinafter M.R.S.A.) § 1-57.
4. Governed by 4 M.R.S.A. §§ 101-118.
5. Governed by 4 M.R.S.A. §§ 151-180.
6. 4 M.R.S.A. § 1.
7. 4 M.R.S.A. § 105.
8. 4 M.R.S.A. § 101.
9. 4 M.R.S.A. § 152.
10. 4 M.R.S.A. § 157.
11. 4 M.R.S.A.
12. M.R.S.A. Const., Art, V, Pt. 1st., § 8.
13. M.R.S.A. Const., Art. VI, § 6. It should be noted that Probate Judges are not part of the judicial department.
14. 4 M.R.S.A. § 57.
15. Id.
16. Community Alliance, Criminal Justice Standards and Goals, Police and Courts Packet, (hereinafter Courts Packet) (1976).
17. Courts Packet.
18. 15 M.R.S.A. sec 2114
19. 4 M.R.S.A. sec. 105, 15 M.R.S.A. sec. 2111, Rules 37-39, Maine District Court Criminal Rules.
20. 4 M.R.S.A. y 401; Rule 81 (2), Maine Rules of Civil Procedure.
21. Rule 80B, Maine Rules of Civil Procedure.
22. Courts Packet.
23. Id.
24. If.
25. 4 M.R.S.A. sec. 164
26. 4 M.R.S.A. § 152.
27. Rule 5, Maine Rules of Criminal Procedure.
28. Rule 11A, Maine Rules of Criminal Procedure.
29. 15 M.R.S.A. § 2551.
30. 15 M.R.S.A. § 2211, et seq.
31. 4 M.R.S.A. § 152.
32. Id.; 19 M.R.S.A. § 661 et seq.

CONTINUED

3 OF 4

33. 14 M.R.S.A. § 3302 et seq.

34. 14 M.R.S.A. § 7452.

35. Courts Packet.

36. 4 M.R.S.A. sec. 1.

37. 4 M.R.S.A. secs. 22 and 24.

38. 4 M.R.S.A. secs. 8, 9, and 9A.

39. 4 M.R.S.A. sec. 17.

40. 4 M.R.S.A. sec. 17 (3).

41. 4 M.R.S.A. sec. 19.

42. Rule 44, Maine Rules of Criminal Procedure; Rule 44, Maine District Court Criminal Rules.

43. 30 M.R.S.A. sec. 454.

44. 5 M.R.S.A. sec. 200-A.

45. 5 M.R.S.A. sec. 199.

46. Letter from Stephen L. Diamond, Assistant Attorney General, to Kathryn R. Lunney, November 7, 1977.

47. 5 M.R.S.A. sec. 200-C.

48. National Advisory Commission on Criminal Justice Standards and Goals, Courts (hereinafter, NAC, Courts), Standard 8.1; American Bar Association, Standards Relating to Court Organization (hereinafter, ABA, Court Org.), sections 1.10 and 1.50, National Center for State Courts, Administrative Unification of the Maine State Courts (hereinafter, NCSC, Admin. Unification), recommendation 5 (1976; 4 M.R.S.A. §§. 22 and 24.

49. NAC, Courts, Standard 8.1; ABA, Court Org., §§ 1.10, 1.11 (a), (b), and 1.12.

50. NAC, Courts, Standard 8.1; ABA, Court Org., SS 1.10, 1.111 (e), 1.12 (d), 1.32, and 1.33; NCSC, Admin. Unification, recommendation 1 and 6; 4 M.R.S.A. §§ 1, 15-17, 19, and 164.

51. NAC, Courts, Standard 8.1; ABA, Court Org., SS 1.10, 1.111(c), (i), (ii) and (v), (d), and (e), 1.12 (a) (iii), and 1.30; NCSC, Admin. Unification, recommendation 1, and 1A; 4 M.R.S.A. §§ 8, 9 and 9-A.

52. NAC, Courts, Standard 8.1; ABA, Court Org., §§ 1.10, 1.11(c), 1.11(c) (i), 1.11 (c) (v), 1.11 (e), 1.12 (c), 1.30, 1.31, 1.32, 1.33, and 1.40; NCSC, Admin. Unification, recommendations 1, 2, and 6; 4 M.R.S.A. §§ 1, 15 and 19. Also, see 4 M.R.S.A. § 164, as amended by P.L. 1977 Chap. 544.

53. ABA, Court Org., § 1.33 (a); NCSC, Admin. Unification, recommendation 1; 4 M.R.S.A. § 1.

54. ABA, Court Org., § 1.33 (b); NCSC, Admin. Unification, recommendation 2; 4 M.R.S.A. §§ 19 and 164.

55. ABA, Court Org., S 1.40; NCSC, Admin, Unification, recommendation 6; 4 M.R.S.A. §§ 15, 16, and 17.

56. NAC, Courts, Standard 9.1, subparagraph 2; ABA, Court Org. § 1.41(a) (ii) (1); NCSC, Admin. Unification, recommendation 6B; 4 M.R.S.A. §§ 17 (12) and 23.

57. NAC Courts, Standard 9.1, subparagraphs 1 and 4; ABA, Court Org., § 1.41 (a) (ii) (2); NCSC, Admin. Unification, recommendation 6A; 4 M.R.S.A. §§ 4, 17 (7) and 24.

58. NAC, Courts, Standard 9.1, subparagraph 2; ABA, Court Org., sec. 1.41 (a) (ii) (4); NCSC, Admin. Unification, recommendation 6G; 4 M.R.S.A. 17 (13).

59. NAC, Courts, Standard 9.1 subparagraph 3; ABA, Court Org., § 1.41 (a) (ii) (4); NCSC, Admin, Unification, recommendation 6C; 4 M.R.S.A. §§ 17 (4), 17 (5) and 17 (10).

60. ABA, Court Org., § 1.41. (a) (ii) (5); 4 M.R.S.A. § 17 (9).

61. NAC, Courts, Standard 9.1, subparagraph 5; ABA, Court Org. S 1.41 (a) (ii) (5); NCSC, Admin, Unification, recommendation 6D; 4 M.R.S.A. 17 (11).

62. NAC. Courts, Standard 10.1; ABA, Court Org., § 141 (a) (ii) (7) NCSC, Admin. Unification, recommendations 7 and 8; 4 M.R.S.A. § 17 (8).

63. NAC. Courts, Standard 9.1, subparagraph 6; ABA, Court Org., § 1.41 (a) (ii) (8); NCSC, Admin. Unification, recommendation 6E, 4 M.R.S.A. § 17 (1).

64. NAC, Courts, Standard 9.1, subparagraph 2; ABA, Court Org. § 1.41 (a) (ii) (9); NCSC, Admin. Unification, recommendation 6H; 4 M.R.S.A. § 16.

65. NAC, Courts, Standard 9.4; ABA, Court Org., § 141 (b) (ii) (i); NCSC, Admin. Unification, recommendation 6F; 4 M.R.S.A. §§ 17 (2), 17 (5) and 17 (12).

66. NAC, Courts, Standard 9.1, subparagraph 7 4 M.R.S.A. § 17 (6). But see § 4 M.R.S.A. §§ 164 (2) and 164 (5), as amended by P.L. 1977 Chap 544, which vest sole authority to assign District Court judges in the chief judge of

67. NAC, Courts, Standards 7.1, 7.2, 7.3 and 7.4; ABA, Court Org., § 1.20, 1.21, 1.22, 1.23 and 1.24.

68. See below, X Appeals, and Corrections portion of overall Standards and Goals Report

69. 4 M.R.S.A. § 17 (3).

70. P.L. 1977, Chap. 544.

71. Recording in the District Court is governed by Rule 39A, Maine District Court Criminal Rules, which is expressly controlled by Rule 76, Maine District Court Civil Rules. See also, State of Maine, Administrative Office of the Courts, Memorandum to District Court Chief Judge and District Court Planning and Advisory Committee, "District Court Recording" (August 2, 1976).

72. Telephone discussion, November 15, 1977, between Elizabeth D. Belshaw, State Court Administrator and Kathryn R. Lunney.

73. NCSC, Admin. Unification, recommendation 9, pp. 95-97, and Maine Traffic Court Study, (hereinafter, NCSC, Traffic), recommendation 9 (1975).

74. NCSC, Admin. Unification, recommendations 7 and 8.

75. NAC, Courts, Standard 10.1.

76. NCSC, Admin. Unification, pp. 71-76.

77. NAC, Courts, Standard 8.2.

78. NCSC, Traffic, recommendation 2.

79. Id., recommendation 1, 29 M.R.S.A. § 1 (17-c).

80. See below, X, Appeals, for further discussion of Maine's trial de novo practice.

81. See American Judicature Society, The Key to Judicial Merit Selection (1974), and Judicial Selection and Tenure, Selected Readings (1973). Also, see ABA, Court Org. 1.20 and 1.21, and NAC, Courts, Standard 7.1.

82. See, for example, NAC, Courts, Standard 7.2.

83. See American Judicature Society, Judicial Selection and Tenure, pp. 17-42 (1975).

84. M.R.S.A. Const., Art. VI, § 6.

85. Id., Art. VI, § 4, and Art. IX, § 5.

86. See Burke, "Judicial Discipline and Removal: The California Story," 48 Judicature 167 (1965).

87. For the Supreme Judicial Court, see 4 M.R.S.A. § 4; for the Superior Court, 4 M.R.S.A. § 102; and for the District Court, 4 M.R.S.A. § 157.

88. For the Supreme Judicial Court, see 4 M.R.S.A. § 5; for Superior Court, 4 M.R.S.A. § 103; District Court, 4 M.R.S.A. § 157-A.

89. Maine currently has no established judicial training program, although limited funds have been obtained for sending judges to conferences. For a comparison of judicial training programs in all American jurisdictions, see National Center for State Courts, State Judicial Training Profile (1976).

90. M.R.S.A. Const., Art. V, § 8.

91. Id.

92. This commission was created by the Governor in August of 1975 and is referred to by him as a "blue ribbon" committee. It has no legal status; it was formed on an ad hoc basis and its members are unpaid.

93. These six members are:

Charles W. Smith, Sr., Esq., a past president of the Maine Bar Association; Thomas F. Monahan, Esq., a past president of the Maine Trial Lawyers Association and the Governor's personal attorney; John Kelly, Esq., Vice President of the Maine Trial Lawyers Association; Richard Solman, Esq., President of the Maine Trial Lawyers Association; Lewis Vafiades, Esq. past president of the Maine Bar Association; and Carl Bradford, Esq., president of the Maine Bar Association. Herbert T. Silsby, Esq., a past president of the Maine Bar Association, was a member of the Select Committee until his recent appointment by the Governor to the Superior Court bench.

94. Rosenman, "A Better Way to Select Judges," 48 Judicature 86 (1964).

95. 4 M.R.S.A. §§ 1, 1, 101 and 157.

96. See, for example, Rosenberg, "The Qualities of Justice--Are They Strainable?" 44 Tex. L. Rev. 1063 (1966), and ABA, Court Org., § 1.21 (a), Commentary.

97. See NAC, Courts, Standard 7.1, Citizens for Modern Courts, Proposal on Judicial Selection, and Commission on Maine's Future, Final Report (hereinafter, Final Report), p. 128 (1977).

98. M.R.S.A. Const., Art. VI, § 5, and Art. V, Pt. 1st., § 8.

99. 4 M.R.S.A. § 2.

100. 4 M.R.S.A. § 5, 103 and 157-A.

101. M.R.S.A. Const., Art. VI, § 4.

102. M.R.S.A. Const., Art. IX, § 5.

103. See Burke, "The California Commission Story," reprinted from the Journal of the American Judicature Society, and Hays, "An Oklahoma View: The Discipline and removal of Judges," Selected Readings: Judicial Discipline and Removal, The American Judicature Society (1973).

104. American Judicature Society, Fifth National Conference of Judicial Disciplinary Commissions, Resource Materials pp. 118-119 (1976).

105. Comment, "Procedures of Judicial Discipline," 59 Marq. L. Rev. 190 (1976).

106. See Burke, "The California Commission Story," reprinted from the Journal of the American Judicature Society; and "Judicial Discipline in California: A Critical Re-evaluation: 10 Loyola U.L. Rev. 192 (1976). A California type system is also recommended by the NAC, Courts, Standard 7.4.

107. This process is used in New York and Oklahoma. See Hays, "An Oklahoma View: The Discipline and Removal of Judges", and Braithwaite, "New York's Court of the Judiciary", Selected Readings: Judicial Discipline and Removal, The American Judicature Society (1973).

108. An initial problem with the commission system was that the commission was empowered only to remove a judge. In many cases, this was too severe a penalty for the conduct complained of and the result was that no action was taken.

109. 4 M.R.S.A. § 17 (3).

110. 4 M.R.S.A. §§ 5, 103 and 157.

111. See 4 M.R.S.A. §§ 5, 103 and 157-A for statutory provisions regarding pensions for judges leaving the bench because of infirmity.

112. L.D. 1501, sponsored by Representative Spencer of Standish and Representative Tierney of Lisbon Falls.

113. L.D. 1776, sponsored by Senator Huber of District 6.

114. Id.

115. The 108th Legislature enacted a $6,000 salary increase for Maine judges. P.L. 1977, Chap. 579 (B) (7). Before that increase, Maine Supreme Judicial Court judges' salaries were 50th in the nation, and Superior Court judges' salaries were 46th in the nation. Maine per capita income ranks 42nd in the nation, and the state is 38th in population. The national averages for state courts of last resort and general trial courts are, respectively, $39,761 and 33,616 per year. National Center for State Courts, Survey of Judicial Salaries in State Courts, (April 1977); NAC, Courts, Stnadard 7.3.

116. See California Government Code section 68203 (1964, as amended 1976), Massachusetts General Laws, Chapter 30, section 46 (1956, as amended supp. 1976-77), and Tennessee Code, section 8-2303 (1973, as amended supp. 1975).

117. See Rhode Island, Personnel Rules and Regulations: Judges, as well as other court personnel are entitled to longevity increments. Longevity after seven years 5%, after eleven years 10%, after fifteen years 15%, after twenty-five years 20%.

Many states build cost-of-living increases into their retirement systems, or, like Maine, tie the percentages received to current judicial salaries. As of 1974, fourteen states had compensation commissions setting judicial salaries as well as those of nonjudicial officials. 58 Judicature (1974).

118. Final Report, p. 128.

119. 4 M.R.S.A. § 17 (13).

120. See National Center for State Courts, Maine Superior Court Benchbook (1976).

121. P.L. 1977, Chap. 544.

122. See NAC, Courts, Standard 7.5, which the Committees substantially adopted except for the concept of a formal, in-state, judicial college.

123. NAC, Courts, Standard 10.3, subparagraph 1, enumerates the following functions of a public information officer:

a. prepare news releases about case dispositions of public interest;

b. prepare releases describing items of court operation and administration that may be of public interest;

c. answer inquiries from news media; and

d. prepare guidelines for media coverage of trials.

124. Letter from Bob Buchanan, Midwest Research Institute, to Kathryn R. Lunney, November 14, 1977.

125. See NAC, Courts, Standards 9.5 and 9.6. The Committee's recommendation differs from the NAC in that it includes citizens as members of the advisory committee.

126. United States Constitution, Amendment VI: In all criminal prosecution, the accused shall enjoy the right...to have the assistance of counsel for his defense.

127. M.R.S.A. Const. Art. 1, § 6. In all criminal prosecutions, the accused shall have the right to be heard by himself and his counsel, or either, at his election.

128. 287 U.S. 45 (1932).

129. Johnson V. Zerbst, 304 U.S. 458 (1938).

130. Betts V. Brady, 316 U.S. 455 (1942).

131. 372 U.S. 335 (1963). The doctrine of incorporation is the means whereby decisional law of the United States Supreme Court has held federal constitutional safeguards applicable to certain state court proceedings through the due process clause of the Fourteenth Amendment.

132. 277 A, 2d 731 (Me. 1971).

133. The procedure for assignment of counsel in Maine is governed by 15 M.R.S.A § 810 and Rule 44 of the Maine Rules of Criminal Procedure. See Comment, "Appointment of Counsel in Misdemeanor Prosecutions in Maine", 27 Me. L. Rev. 169 (1975).

134. 407 U.S. 25 (1972).

135. Anderson, "Defense of Indigents in Maine: The Need for Public Defenders", 25 Me. L. Rev. 6 (1973).

136. Cumberland Legal Aid Clinic, Public Representation in Maine Volume I; Proposal for Combined Public Defender-Coordinated Assigned Counsel System, (1973) (hereinafter, the Cumberland Study). The committees chose this study as a model rather than the less specific model of a hybrid system outlined by the National Advisory Commission NAC, Courts, Chapter 13.

137. Rule 44, Maine Rules of Criminal Procedure, lists the following factors to be considered in determining need for assigned counsel:

a. defendant's income;
b. defendant's credit standing;
c. availability and convertibility of any assets owned by defendant;
d. living expenses of defendant and his dependents;
e. defendant's outstanding obligations;
f. financial resources of parents if defendant is a minor residing with parents; and
g. cost of retaining competent counsel.

The Rule does not specify how to interpret these factors. For example, criteria "d" does not indicate what expenses are allowable, whether the defendant's family is entitled to mere physical survival or something more.

The Maine Judicial Council has developed a set of suggestions for better organization of the present assigned counsel system. They include:

> Standardize determination of indigency. Reduce role of judge in discretionary determinations of indigency. Use a standard affadavit, to be evaluated in light of published standards of indigency. Maine Judicial Council, Report on Committee on Improvement of Assigned Counsel System (hereinafter, Judicial Council Report) (1977).

138. Rule 44, Maine District Court Criminal Rules.

139. See National Center for State Courts, Defense Services in New Hampshire, (1976); NAC, Courts, Standard 13.2.

140. 15 M.R.S.A. § 810 states that in the District or Superior Court, the judge may "appoint counsel when it appears to the court that the accused has not sufficient means to employ counsel."

141. The Cumberland Study, at 156.

142. Id. The Judicial Council Report recommends that the court:

1. Compile master list of attorneys eligible for court appointment. Determine eligibility on receipt of uniform applications which have been made available to all attorneys in the State.

2. Master list should be compiled and updated by regional presiding justices, in consultation with District and Superior Court judges.

3. All attorneys on master list should be required to attend an annual seminar on criminal law and procedure to be sponsored by the Maine State Bar Association or the Maine Trial Lawyers Association.

143. "Disbarment in the United States: who shall do the noisome work?, 12 Column J L and Soc. Prob. 1-75 (1975).

144. See fn. 186.

145. National Commission on Law Observance and Enforcement, quoted in State of Georgia Crime Commission, Criminal Justice Standards and Goals Study, Courts, CT2, "The Prosecution Function", p. 9 (1975).

146. See NAC, Courts, Chapter 12; American Bar Association, Standards Relating to the Prosecution Function (hereinafter, ABA, Prosecution), sections 2.1, 2.2 and 2.3; NAC, Community Crime Prevention, Standard 14.1; National District Attorneys Association, National Prosecution Standards (hereinafter, NDAA, Prosecution), Chapters 1, 2 and 3..

147. 5 M.R.S.A. sec. 200-A.

148. 5 M.R.S.A. sec. 199.

149. Letter from Stephen L. Diamond, Assistant Attorney General to Kathryn R. Lunney, November 7, 1977, (hereinafter referred to as Diamond Letter).

150. 5 M.R.S.A. sec. 200-C.

151. Diamond Letter.

152. Rule 39F (a), Maine Rules of Criminal Procedure.

153. Diamond Letter, Conversation between Stephen L. Diamond, Assistant Attorney General, with Kathryn R. Lunney, November 17, 1977.

154. 30 M.R.S.A. § 454.

155. 30 M.R.S.A. §§ 454 and 554-A1 were amended by P.L. 1977, Chap. 579 (e), to eliminate the requirement of at least one full-time assistant.

156. 30 M.R.S.A secs. 501 and 502.

157. 30 M.R.S.A. §§ 2 and 554-A.

158. 30 M.R.S.A. § 455. Before the enactment of this section, which went into effect January 4, 1977, removal of district or county attorneys was brought about by Attorney General complaint and hearing before the now-abolished Governor's Council.

159. See Comment, "Prosecutorial Discretion -- A re-evaluation of the Prosecutor's Unbridled Discretion and its Potential for Abuse", 21 De Paul L. Rev. 485 (1971).

160. See, for example, Pugach v. Klein, 193 F. Supp. 630 (S.D.M.Y. 1961); People v. Adams, 43 Cal. App. 3d 697, 117 Cal. Rptr. 905 (1974); State in Interest of F.W., 130 N.J. Super, 513, 327 A. 2d. 697 (1974).

161. See LaFave, Arrest. The Decision to Take a Suspect into Custody (1965), and Goldstein, "Police Discretion not to Invoke the Criminal Process: Low Visibility Decisions in the Administration of Justice:, 69 Yale L.J. 543 (1960).

162. His power is, however, subject to the rights and duties of the Attorney General as enumerated in 5 M.R.S.A. § 199 and discussed in the text at n. 7 above.

163. 40 M.R.S.A. §§ 501 and 502.

164. Under the new system, full-time assistant district attorneys will receive up to 70% of the district attorney's salary set by 30 M.R.S.A. § 2.

165. 5 M.R.S.A. § 199.

166. 30 M.R.S.A. § 455.

167. 30 M.R.S.A. § 554-A (2) and (3), as amended by P.L. 1977, Chap 579 (E).

168. NAC, Courts, Standard 12.2; ABA, Prosecution, § 2.3.

169. This recommendation is consistent with NDAA, Prosecution, Standard 3.1E, which suggests that the assistant be full-time when possible, but that the assistant may be part-time where there are budgetary or geographical constraints.

170. See L.D. 1785 (1977), "An Act to Improve Prosecution Services:, enacted as P.L. 1977 Chap. 579 (E). It makes maximum salaries for assistant district attorneys proportional to the salary set by 30 M.R.S.A. § 2 for district attorneys. Under this system, deputy district attorneys will receive up to 80%, full-time assistants up to 70%, and part-time assistants up to 40%, or $10,000, whichever would be greater.

171. See NDAA, Prosecution, Standard 3.10 Commentary.

172. Id., Standard 3.1 A.

173. Both NAC, Courts, Standard 12.2, and NDAA, Prosecution, Standard 3.10 Commentary, recommend two full-time attorneys for each trial judge conducting felony trials on a full-time basis within the District.

174. 30 M.R.S.A. 555-A as amended by P.L. 1977, Chap. 579 (E) (6).

175. NAC, Courts, Standard 12.3.

176. For a discussion of the development of guidelines in three areas, see below, VI. Screening, VII. Diversion, and VIII. Plea Bargaining. In addition to these areas, the National District Attorneys Association suggests that guidelines cover:

a. relations with victims, witnesses, the public and the press;

b. sentencing recommendations policy;

c. conflicts of interest;

d. investigative role of prosecutorial personnel;

e. limits of assistants' discretion; and

f. case scheduling policy.

NDAA, Prosecution, Standard 6.1 Commentary. (Legislation enacted in 1977 mandated the preparation of written guidelines for screening. P.L. 1977, Chapter 579 (E)).

177. ABA, Prosecution sec. 2.5 Commentary; see also NAC, Courts, Standard 12.7.

178. District attorneys must be admitted to the practive of law in Maine under 30 M.R.S.A. § 554-A (1), and by construction of that section together with 4 M.R.S.A. § 807, assistant district attorneys must also be admitted to practice in Maine.

179. Telephone discussion, March 1977, between Arthur Stilphen, Esq., former Assistant Attorney General, and Kathryn R. Lunney, Esq., Area I Director for Maine Standards and Goals project.

180. Telephone discussion, June 1977, between Thomas Delahanty, Esq., District Attorney for Androscoggin, Oxford and Franklin Counties, and Ms. Lunney.

181. Because criminal law is the basis for prosecution, NDAA, Prosecution, Standard 4.1, urges that criminal law certification be required of prosecutors, with certification requirements set by each state. Several states are developing certification plans, and numerous law review articles have discussed the subject. See, for example, Riger and Morrison, "Legal Specialization in Illinois: Designation, Certification or Stagnation", 63 Ill. B.J. 296 (1975); Derricks, "Specialization in the Law: Texas Develops Pilot Plan for Specialization in Criminal Law, Labor Law, Family Law", 36 Tex. B.J. 393 (1973); and Note, "Legal Specialization and Certification", 61 Va. L. Rev. 434 (1975).

182. It should again be noted that a wide range of cases are assigned to District Attorneys. See 30 M.R.S.A. §§ 501 and 502.

183. Gelber, "Individualized Orientation Program for New Prosecutors", 9 Prosecutor 386 (1974).

184. For training recommendations, see NAC, Courts, Standard 12.5, ABA, Prosecution, § 2.6, and NDAA, Prosecution, Standard 4.1.

185. NDAA, Prosecution, Standard 4.2 Commentary.

186. See Parker, "Periodic Recertification of Lawyers", A Comparative Study of Programs for Maintaining Professional Competence", 1974 Utah L. Rev. 463, at 477 (1974), where mandatory continuing education is called "the only practical basis of recertification".

Minnesota and Iowa have both enacted mandatory continuing education programs. In Minnesota, each attorney must complete a minimum of 45 hours of course work during a three year period. State of Minnesota, "Rules of the Supreme Court for Continuing Legal Education of Members of the Bar" (1975). In Iowa, both lawyers and judges are required to take 15 hours of courses annually.

187. Each District Attorney is required by 30 M.R.S.A. § 505 to prepare for the Attorney General an annual report of business done in his office. But the statute does not specify the nature of such reports, and they now consist of historical information about case dispositions.

188. NAC. Courts, Standard 12.6 Commentary.

189. NDAA and the National Center for Prosecution Management (hereinafter NCPM) have designed a "Model Case Jacket". See NDAA, Prosecution, Standard 6.2 Commentary.

190. See NDAA and NCPM, Managing Case Files in the Prosecutor's Office (1973), for helpful material about recordkeeping, policy and planning, system development and administration and recordkeeping operations.

191. NAC, Courts, Standard 12.6 Commentary.

192. NDAA, Prosecution, Standard 6.3.

193. ABA, Prosecution, § 1.1 (b).

194. His power is, however, subject to the rights and duties of the Attorney General as enumerated in 5 M.R.S.A. § 199 and discussed in the text at 7 above.

195. See, for example, National Institute of Law Enforcement and Criminal Justice pamphlet, The Dallas Police Legal Liaison, An Exemplary Project (1976).

196. THe Cumberland County District Attorney's Office has checklists drawn up deal with the necessary elements of the most common crimes. Telephone discussion, March 1977, between Richard Kelly, Esq., Cumberland County Assistant District Attorney, and Ms. Lunney.

197. A search warrant and arrest review project in Philadelphia resulted in an increase in accuracy and a decrease in successful search warrant challenges. NDAA, Prosecution, Standard 7.3 Commentary. One complaint often heard from the citizens' committees was the dismissal of cases, particularly misdemeanors, Administrative Office of the Courts, Maine District Court Recommendations (1976), which suggests prosecutorial review of all complaints.

198. NDAA, Prosecution, Standard 27.3 Commentary.

199. The National District Attorneys Association, Commission on Victim Witness Assistance (hereinafter, NDAA V/W Commission, An Annual Report: Help for Victims and Witnesses (1976). (Hereinafter cited as Annual Report). Three of these projects engaged in limited survey research. In all three cities, around 50% of those polled felt that they did not know what to expect in court. In Philadelphia, witnesses (by a 7-1 margin) said that trial delay was the most discouraging part of their experience; 40% complained of unnecessary trips to court. NDAA V/W Commission, July 1976 Narrative, p. 11.

200. In Philadelphia, 45.1% said their participation in the criminal justice system was not worth the effort. July 1976 Narrative, p. 11.

201. In Oakland, California, 80.5% wanted to know the outcome of their case, 91.5% wanted to know if the defendant was found guilty and 88.4% wanted to know the sentence. NDAA V.W Commission, July 1976 Narrative, p. 11.

202. Id., p. 12. See also materials from Philadelphia project, in Annual Report, note 41 above, p. 44.

203. See below, VI. Screening

204. See below, VIII. Diversion and Plea Bargaining, where it is suggested that in serious crimes of the person, the defendant be contacted personally before a bargain is made.

205. THe Victim Witness Assistance Project in Multnomah County (Portland, Oregon) notifies victims of the date, time and place of sentencing so that the defendant can participate in the sentencing process. District Attorney's Office, "Victims...Who Cares?", Annual Report (1976).

206. With the increased interest in victims, programs designed to specifically aid them are coming into existence. See NDAA V/W Commission panphlets, "Social Service Referral: An Idea to Help District Attorneys Help Crime Victims and Witnesses of Crime." Assistance to victims and witnesses can be aided by such publications as the directory of social service agencies in Maine prepared by the Maine Municipal Association, Welfare Manual (1973).

A Victim-Witness Assistance program, similar to the one described here, has just been instituted in the Androscoggin-Oxford-Franklin Prosecutorial District.

207. See NAC, Courts, Standard 10.6, subparagraph d: "Police agencies should provide to the authority scheduling court appearances the dates on which each police officer will be available".

208. See NAC, Courts, Standard 10.7.

209. NDAA, Prosecution, Introduction to Chapter 8, "Screening".

210. Telephone conversation, Marth 1977, between Mr. Richard Kelly, Esq., Cumberland County Assistant District Attorney, and Ms. Lunney.

211. NAC, Courts, Standard 1.2.

212. THe prosecutor should consider the likelihood and seriousness of financial hardship or family life disruption. Under certain circumstances it may be more beneficial to divert the person into a rehabilitative or restitutional program. See NDAA, Prosecution, Standard 8.2, where "undue hardship caused the accused", "any provisions for restitution", and "the availability of suitable diversion programs" are listed among relevant screening criteria. See below, VII, Diversion.

213. If conviction is likely, formal proceedings may, in the long run, foster recidivism rather than deter future offenses. See NAC, Courts, Standard 1.1, subparagraph 4. The stigma of conviction cuts off legitimate opportunities for success and recognition. The label "convicted criminal" becomes a self-fulfilling phophecy as the offender finds himself rejected by employers, ostracized by his community, and accepted only by fellow "criminals". Under such circumstances, a convicted person becomes prone to recidividm.

214. NAC, Courts, Standard 1.1, (7) refers to "any improper motives of the complainant" as a proper screening criterion, while NDAA, Prosecution, Standard 8.2 (J), cites "improper motives of a victim or witness". The NDAA standard (subparagraph F) also cites "the expressed wish of the victim not to prosecute" as a criterion.

215. NAC, Courts, Standard 1.1 (8); NDAA, Prosecution, Standard 8.2 (K).

216. NAC, Courts, Standard 1.1, (9).

217. Id., (10).

218. See President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Courts, pp. 5-6 (1976).

219. Ferster, Courtless and Snethen, "Separating Official and Unofficial Delinquents: Juvenile Court Intake", 55 Iowa L. Rev. (April 1970), (hereinafter Iowa Juvenile Article).

220. 30 M.R.S.A. § 502 leaves the decision whether or not to proceed with formal criminal proceedings to the discretion of the prosecutor.

221. Telephone conversation, August 10, 1977, between Roland Sirois, Director, York County Juvenile Intake Project, and Ms. Lunney.

222. Kennebec Valley Mental Health Association, Department of Mental Health & Corrections, Community Justice Project Court Programs Manual, (hereinafter Court Programs Manual).

223. State of Georgia, Governor's Commission on Standards and Goals, "Diversion, Recommendation Memo Ct. 1-B", at 1.

224. NDAA, Prosecution, Standard 11.8 Commentary, NAC, Courts, Standard 2.2.

225. Telephone Conversation, note 221 above.

226. Courts Programs Manual.

227. P.L. 1977, Chap. 579 (E) places responsibility for disposition of complaints with the prosecutor.

228. Ferster, Courtless, and Snethen, Iowa Juvenile Article, at 21, 22. The National Crime Commission considers it necessary to have a "consent decree" when diverting an offender out of the criminal justice system into a rehabilitative or restitutional program. The "consent decree" should operate as follows: a) only the prosecuting official or counsel for the juvenile may request a consent decree; and b) the provisions in the consent decree must be agreed to by all parties. See also NAC, Id. Courts, Standard 2.2 (1-7).

229. The National Crime Commission recommendations for "consent decrees" (i.e., diversion agreements) include the following safeguards: a) if the prosecuting official objects to the procedure, the court is to hear arguments and decide whether a consent decree would be appropriate; and b) the original charge may be petitioned to the court "as if the consent decree had never been entered" if the offender violates the decree.

230. NAC, Courts, Standard 3.1.

231. American Bar Association, Standards Relating to Pleas of Guilty (hereinafter, ABA, Pleas), Introduction; Newman, Conviction: The Determination of Guilt or Innocence Without Trial (hereinafter, Newman, Conviction), p. 3 (1966)

232. NAC, Courts, Standard 3.1.

233. For example, Borman, "The Chilled Right to Appeal from a Plea Bargain Conviction: A Due Process Core", 69 N.W.U.L. Rev. 5 (1975); Comment, "The Influence of the Defendant's Plea on Judicial Determination of Sentence", 66 Yale L.J. 204 (1956); Comment, "Official Inducements to Pleas Guilty: Suggested Morals for a Market Place", 32 U. Chi, L. Rev. 167 (1974); Dash, "Cracks in the Foundation of Criminal Justice", 46 III, L. Rev. 385 (1951); Folberg, "The 'Bargained for' Guilty Plea -- An Evaluation", 4 Crim. L. Bull. 201 (1968); Note, "Plea Bargaining and the Transformation of the Criminal Process", 90 Harv. L. Rev. 564 (1977); Vetri, "Guilty Plea Bargaining: Compromised by Prosecutors to Secure Guilty Pleas", 112 U. Pa. L. Rev. 865 (1964).

234. Bronx County (New York) District Attorney's Office, An Exemplary Project: The Major Offense Bureau (1976) (hereinafter Bronx Major Offense Bureau). The Bronx Major Offense Bureau is a specialized unit within the District Attorney's Office organized to target and prosecute particularly heinous crimes and felony cases involving serious repeat offenders. Prosecution through the Bureau is characterized by immediate case preparation, a clearly defined, limited plea bargaining policy, and separate trial sessions providing prompt access to the court for Major Offense Bureau cases. The Bureau has a median time of 97 days from arrest to case disposition compared to a median time of 400 days for other bureaus within the D.A.'s office. The Bureau has an overall conviction rate of 96%. See also, Newman, Conviction, Chapter 8.

235. Multnomah County (Portland, Oregon) District Attorney's Office, No Plea Bargaining Unit, (1976), Newman, Conviction, Chapter 10.

236. Boykin v. Alabama, 395 U.S. 238 (1969); McCarthy v. United States, 394 U.S. 459 (1969).

237. See NAC, Courts, Standard 3.3.

238. Bronx Major Offense Bureau.

239. While it is not customary to include the victim in the plea bargaining process, some District Attorneys have attempted to consider the victim's feelings, at least in more serious cases. The Davidson County District Attorney's Office in Nashville, Tennessee has a policy that where they are thinking of accepting a plea to a lesser charge in a serious case, the District Attorney talks to the victim, explains the bargaining process and why the tendered plea seems desirable. The victim's opposition to the plea can influence the District Attorney to not enter into agreement; more weight is given to the victim's feelings in more serious cases. See Note, "Role of Victim in Prosecution", 28 Vand. L. Rev. 31 (1975). Furthermore, NDAA, Prosecution, Standard 16.3C, recommends that the prosecutor "examine and take into consideration the circumstances of the victim individually", including "the feelings and attitude of the victim".

240. NAC, Courts, Standard 3.6; also, see ABA, Prosecution, secs. 3.9 (3), 3.11, 4.1(c), and 4.2, and Brady v. Maryland, 373 U.S. 83 (1968).

241. Cf. Furman v. Georgia, 408 U.S. 238 (1972), and North Carolina v. Pearce, 395 U.S. 711 (1969).

242. 397 U.S. 742 (1970).

243. See American Law Institute, A Model Code of Pre-Arraignment Procedure, sec. 350 (3) (b) and (c) (Tent. Draft No. 5, (1972).

244. 373 U.S. 83 (1968).

245. Case preparation involves not only the individual prosecutor's research but investigation, contacting and interviewing witnesses, the cost of bringing in witnesses and victims to testify, etc.

246. NAC, Courts, Standard 3.4, and NDAA, Prosecution, Standard 16.7, have similar wording except that the NAC Standard specifically states that "The sole purpose of the limitation shall be to insure the maintenance of a trial docket that lists only those cases going to trial". Compare NDAA Standard 16.7:

> Each jurisdiction should set a time limit after which plea negotiations may no longer be conducted. After the specified time has elapsed, only pleas to the official charge should be allowed, except in unusual circumstances where the effective administration of justice would be served.

247. ABA, Prosecution, sec. 4.1, Comment a.

248. American Law Institute, "A Model Code of Pre-Arraignment Procedure", sec. 350.3; see also Federal Rules of Criminal Procedure, Rule 11 (E) (5): "The prosecution shall notify the court of plea agreements by arraignment or such other time prior to the trial as the court might fix".

249. There are generally no formal scheduled plea bargaining sessions in Maine.

250. Telephone conversation, Spring 1977, between Riley Wilson, Esq., Wayne County District Attorney's office, and Ms. Lunney.

251. 397 U.S. 742 (1970).

252. 394 U.S. 459 (1969).

253. Note that in Henderson v. Morgan, 426 U.S. 637, (1976), the Court held that failure to inform a defendant of an essential element of the crime to which the defendant had tendered a guilty plea made notice of the charge inadequate so that his plea was "involuntary", and that the judgment of conviction had been entered without due process of law.

254. See also Morgan v. Vane, 287 A.2d 592 (Me. 1972) and State v. Vane, 322 A.2d 58, 62 (Me. 1974); 14 M.R.S.A. sec. 5502 et. seg.

255. 395 U.S. 238 (1969).

256. Id. See Morgan v. State, 287 A.2d 592 (Me. 1972).

257. NAC, Courts, Standard 3.7.

258. NAC, Courts, Standard 3.2.

259. NAC, Courts, Standard 3.8.

260. NAC, Courts, Standard 3.2.

261. NAC, Courts, Standard 3.7.

262. The doctrine of incorporation is the means whereby decisional law of the United States Supreme Court has held federal constitutional safeguards applicable to certain state court proceedings through the due process clause of the Fourteenth Amendment.

263. Malloy v. Hogan, 378 U.S. 1 (1964).

264. Palko v. Connecticut, 302 U.S. 319 (1937), overruled by Benton v. Maryland, 395, U.S. 319 (1969).

265. Klopfer v. North Carolina, 386 U.S. 213 (1967), Harrison v. United States, 392 U.S. 219 (1968), and Smith v. Holly, 393 U.S. 374 (1969) deal with the right to a speedy trial; Duncan v. Louisiana, 391 U.S. 145 (1968), concerns the right to a trial by jury.

266. In re Oliver, 333 U.S. 257 (1948), and Cole v. Arkansas, 333 ULSL 196 (1948), cited with approval in Duncan v. Louisiana, 391 U.S. 145 (1968).

267. Pointer v. Texas, 380 U.S. 400 (1965).

268. Gideon v. Wainwright, 372 U.S. 335 (1963), and Argersinger Hamlin, 407 U.S. 25 (1972).

269. Washington v. Texas, 388 U.S. 14 (1967).

270. Chambers v. Mississippi, 405 U.S. 1205 (1972).

271. See NAC, Courts, Standard 4.1. See also State of Maine Administrative Office of the Courts, Annual Report 1977, pp. 24-30.

272. See ABA, Speedy Trial, section 2.1 which recommends mandatory dismissal after the expiration of the time limit. Although this section does not recommend a specific time limit, other standards within the section define how the time limit should be computed. See also NDAA, Prosecution, Standard 15.3 which sets longer time limits than are recommended here but states that, where the limit is exceeded, the court may unconditionally discharge the defendant.

273. Rule 48(b), Maine Rules of Criminal Procedure: State v. Brann, 292 A.2d 173, 184 (Me. 1973).

274. See NAC, Courts, Standard 4.3.

275. Rule 47 (b), Maine Rules of Criminal Procedure; Rule 47 (b), Maine District Court Criminal Rules.

276. See Rule 5 (c), Maine Rules of Criminal Procedure.

277. Id.

278. See NAC, Courts, Standard 4.8.

279. M.R.S.A., Const., Art. 1, Sec. 7.

280. Opinion of the Justices, 338 A.2d 802 (Me. 1975).

281. 17-A M.R.S.A., Sec. 1252.

282. 15 M.R.S.A., Sec. 811.

283. Spain, "The Grand Jury, Past and Present: A Survey", 2 Am. Crim. L.Q. 119 (1964).

284. NDAA, Prosecution, Standards 14.1-4, Commentary.

285. See NAC, Courts, Standard 4.4, commentary. NDAA, Prosecution, Standards 14.1-4, commentary.

286. The grand jury process is governed by Rule 6, Maine Rules of Criminal Procedure and by 15 M.R.S.A., Sec. 1251, et, seq.

287. Rule 5 (c) Maine Rules of Criminal Procedure.

288. NAC, Courts, Standard 4.4, NDAA, Prosecution, Standards 14.2-3. This system has been implemented in California and has proven effective. One in 400 cases is brought before the grand jury and both prosecution and defense have reacted favorable. Lindsey, "California Has Learned to Sidestep the System", New York Times, sec. 3, p. 20, Sunday, June 26, 1977.

289. See NAC, Courts, Standard 4.5.

290. Rule 47 (a), Maine Rules of Criminal Procedure.

291. NAC, Courts, Standard 4.10.

292. Banfield and Anderson, "Continuances in Cook County Criminal Courts," 35 U. Chi. L. Rev. 259, 262 (1968). The authors found that "the clearest relationship between the number of appearances and conviction is that the conviction rate decreases as cases lengthen".

293. See Rule 40 (b), Maine Rules of Civil Procedure. See also NAC, Courts, Standard 4.12 and ABA, Speedy Trial, Section 3.1.

294. Mr. Justice White in Williams v. Florida, 399 U.S. 78, 82 (1969).

295. NAC, Courts, Standard 4.9.

296. American Bar Association, Standards Relating to Discovery and Procedure Before Trial, Section 2.1.

297. NDAA, Prosecution, Chapter 13.

298. The 1975 amendment changed Rule 16 of the Federal Rules from the court ordering discovery to take place to "the government or the defense shall permit" discovery to take place.

299. Arizona R. Crim. P., Rule 15;
Illinois Supreme Court 4., Rules 411-13;
Minn. R. Crim. R., Rule 9;
Oregon Rev. Stat., Sections 801-873 (1974).

300. Williams v. Florida, 399 U.S. 78 (1970).

301. United States v. Nobles, 422 U.S. 225 (1975).

302. California v. Byers, 402 U.S. 424 (1971).

303. Allyn, Pretrial Discovery in Minnesota, : 60 Minn. L. Rev. 725, 727 (1975-76).

304. Minn. R. Crim. R., Rule 9.

305. Pabst and Munsterman, A Guide to Juror Usage, Byrd Engineering (1973), NAC, Courts, Standard 4.15.

306. See above Court-Community Relations.

307. Letter From Elizabeth D. Belshaw, State Court Administrator, to Kathryn R. Lunney, August 15, 1977.

308. NAC, Courts, Standard 4.11 (2); NDAA, Prosecution, Standard 15.2 (2).

309. NAC, Courts, Standard 4.11 (3,4), NDAA, Prosecution, Standard 15.2 (3,4).

310. NAC, Courts, Standard 4.11 (5), NDAA, Prosecution, Standard 15.2 (5).

311. NAC, Courts, Standard 4.11, NDAA, Prosecution, Standard 15.2 (7).

312. NDAA, Prosecution, Standard 15.2 (8).

313. There are two additional and more limited means for review of criminal proceedings, but they will not be discussed here. A defendant convicted in Superior Court of a felony may seek review of the sentence imposed, but not the conviction itself, by the appellate division of the Supreme Judicial Court. 15 M.R.S.A., sections 2141-2144. The second means for review is through post-conviction habeas corpus proceedings, which are technically "civil" in nature. See M.R.S.A.Const. Art. 1, Section 10; 14 M.R.S.A., Section 5501.

314. 15 M.R.S.A., Section 2111; Rules 37-39, Maine District Court Criminal Rules.

315. 15 M.R.S.A., Section 2115; Rules 37-39, Maine Rules of Criminal Procedure.

316. M.R.S.A., Const. Art. 1, Section 6.

317. 317 A.2d 160 (Me. 1974).

318. Baldwin v. New York, 399 U.S. 66 (1969).

319. 15 M.R.S.A., Section 2111; Rules 37-39, Maine Rules of Criminal Procedure.

320. M.R.S.A., Const. Art. VI, Section 1; Mailman v. Record Foundry & Machine Co., 118 Me. 1972, 106 A. 606 (1919).

321. 15 M.R.S.A., Sections 2115 and 2115-A and Rule 39 (F) of the Maine Rules of Criminal Procedure.

322. See 4 M.R.S.A., Section 57 (basic statutory source of jurisdiction); 4 M.R.S.A., Section 401 (probate appeals by agreement of parties); 14 M.R.S.A., Section 1851 (civil appeals from Superior Court); 15 M.R.S.A., Section 2667 (questions of law in juvenile cases); 35 M.R.S.A., Section 303 (questions of law on appeal from Public Utilities Commission); 35 M.R.S.A., Section 305 (Public Utilities Commission rate orders); 38 M.R.S.A., Section 487 (certain orders by Board of Environmental Protection); 39 M.R.S.A., Section 103 (decisions of the Workmen's Compensation Commission); Maine Rules of Civil Procedure, Rule 80 (b) (questions of law in Superior Court review of actions by governmental agencies).

323. See, for example, State of Maine, Administrative Office of the Courts, Annual Report 1977, Appendix III, "State of Maine Annual Statistical Reporting Form" (1976).

324. Post-conviction bail is governed by Rules 38 and 46 of the Maine Rules of Criminal Procedure.

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326. In May 1974, 70% of the cases filed in the Cumberland County Superior Court were transferred from the District Court. See Administrative Unification, p. 37, for a discussion of the legal problems in a trial de novo system.

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328. See above, fn. 13.

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193. Washington vs. Texas, 338 U.S. 14 (1967).

194. Weeks vs. State, 250 A. 2d. 827 (Me. 1969).

195. Wheatley, "Plea Bargaining - A Case for Its Continuance," 59 Mass. L. Q. 31 (1974).

196. White, "A Proposal for Reform of the Plea Bargaining Process," 119 Pa. L. Rev. 439 (1971).

197. Williams vs. Florida, 399 U.S. 78, 82 (1969).

CORRECTIONS

STANDARDS AND GOALS

SECTION "E"

CORRECTIONS

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CORRECTIONS - STANDARDS AND GOALS

INTRODUCTION

Perhaps paramount among the factors contributing to an alarming crime rate in the state of Maine, is the inability of our correctional system to guarantee that those convicted offenders released from our institutions are successfully integrated back into society. The stark reality is that every time an offender is incarcerated, his chances of returning to prison again, increase. This problem is not unique to Maine, however, it seems rather, to be a characteristic of correctional programs nationwide. The National Advisory Commission's (NAC) report on corrections stated the problem as follows:

> The failure of major institutions to reduce crime is incontestable. Recidivism[1] rates are notoriously high. Institutions do succeed in punishing, but they do not deter. They protect the community, but that protection is only temporary. They relieve the community of responsibility by removing the offender, but they make successful reintegration into the community unlikely. They change the committed offender, but the change is more likely to be negative than positive.[2]

The problem of recidivism in Maine is further complicated by the fact that reliable data are not available. Although some statistics have been promulgated by various agencies, the scope of these reports is limited.[3]

The public has increasingly come to realize that incarceration does not deter crime nor prevent habitual repetition of criminal behavior. As a result, concern has been expressed over the disparity between the high costs and low success rates of incarceration as compared to the reduced costs and increased success rates of community-based systems.[4] This is not to say that all offenders should always be diverted from incarceration or even from maximum security internment. Rather, it provides more effective and less expensive programs for non-dangerous offenders, while maintaining and upgrading facilities for incarcerating those offenders who are a threat to the general public.

The following standards and goals are designed to revive and renovate corrections in Maine via classification and redirection of inmate populations, the use of existing jails and prisons, and the creation of a system of comprehensive community-based programs. Prior to the presentation of these Community Alliance recommendations, however, a brief and admittedly sketchy review of existing correctional agencies, facilities and programs in Maine is necessary for an understanding of the thrust of this section of the report.

A clear picture of corrections in Maine is facilitated by differentiating programs and facilities provided by the State from those provided by county authorities. The State of Maine operates three major correctional institutions: The Maine State Prison (MSP), the Maine Correctional Center (MCC), and the Maine Youth Center (MYC)[5]. Each of these facilities operates a number of community programs, including work release and halfway houses.

MSP[6], in Thomaston, is a maximum security facility for adult male offenders. Felons of any age may be committed there, and all convicted 1st and 2nd degree murderers must be confined there. This diverse population is classified into: 1) The Maximum Security Facility (prison), which has a capacity of 450 and an average overnight population of approximately 350 men; 2) The Minimum Security Unit (MSU) with an average overnight population of 60 men and a capacity for 70; and 3) The Bangor Pre-Release Center with a capacity for 30 men and an average overnight population of 20.

The Prison (maximum security unit) offers a number of single occupancy cells, and six dormitories (only three are presently operational, dropping the capacity to 409) ranging in size from 6-40 beds each. There is a dispensary and a fifteen-bed hospital, with dental and medical services provided by part-time professionals.

The education program provides instruction in all grades up through high school and offers the High School Equivalency Program. Correspondence school materials in secondary and college courses are available, but there have been some problems with getting the materials to the inmates. Some college courses are taught in the prison by University of Maine, Augusta faculty members and an inmate professor. Vocational programs are offered through Central Maine Vocational Technical Institute.

The prison has two full-time psychologists and four inmates with some psychological training to provide counseling services to the entire population of this facility. Even though as many as 20%[7] of those incarcerated at MSP are mentally retarded, no special programs exist for these people.

A variety of athletic-recreational programs are available, and are in use. The furlough and work-study release programs have been very successful with over 100 men assigned to work release, and less than a 2% incident rate in the furlough program.

The MSU, at the site of the old prison farm, accepts residents with 12 months or less left to serve before being eligible for parole or release. Involvement in educational,[8] vocational, work release and/or therapeutic programs is also a criteria for MSU admittance. MSU residents work on the grounds outside of the prison, or in the surrounding communities in work release programs.

The Bangor Pre-Release Center provides for the gradual reentry into the community for men on work or study release. The turnover rate is approximately five men per month.

The Maine Correctional Center[9] in South Windham is a minimum to medium security institution housing both men and women over the age of 17. Both misdemeanants and felons are incarcerated here, if their sentences are under five years.

In the main building complex, there are 125 single occupancy cells and four open dormitories with a total operational capacity of 185 males. The pre-release, work-release center, on the site of the old honor barracks, has a capacity of 48 male residents. As many as 15 women may be housed here, but this maximum may be manipulated by returning women prisoners housed for other states or opening another cottage at the facility. The average overnight population is 166 inmates.

Educational offerings at MCC stress an individualized approach and include a full pre-high school equivalency program ending in G.E.D. and college courses offered by the University of Maine in Portland-Gorham. With funds provided by the State and Federal Governments, vocational opportunities are offered in such areas as small engine repair, automobile front end alignment, construction skills, graphic arts, printing, and basic electrical skills.

A psychiatrist is available for counseling a half day a week and a psychologist one day a week. An active Alcoholic Anonymous program operates two nights a week, with approximately 80%[10] of the inmate population participating.

The Maine Youth Center in South Portland was built in 1853, and is the nation's third oldest juvenile correctional facility. Boys and girls between the ages of eleven and eighteen may be committed to the Center for the duration of their sentences, usually 3-4 months. The Superintendent is guardian to all juveniles committed and may place any child in the community with a suitable sponsor. MYC has total capacity of 275, with an average overnight population of 176, about

20 of whom are female. Residents are housed in cottages, grouped according to age, sex and maturity. Presently seven cottages are used for boys and one for girls, with two empty because of lack of staff.

Services provided to the male and female residents of the Youth Center include accredited academic and vocational programs. The Educational program offers courses in English, Mathematics, Science, Social Studies, Arts and Crafts, Special Education, and Physical Education. A G.E.D. program is also available for those offenders not wanting to continue attending classes.

The Vocational program offers courses in graphic arts, building trades, drafting, auto mechanics, welding, electricity, sheet metal and general shop. There is also a vocational rehabilitation division in this program that provides evaluation services, individual counseling, medical examinations, physical therapy, job training, room and board, transportation, and tools to those offenders with physical or psychological problems which might be employment barriers.

Although dental hygenic aides and nurses are available, all other medical and dental services are contracted out. A part-time psychiatrist provides diagnosis and treatment of severely disturbed residents. He also provides training and advice to staff involved in individual and group counseling. There are three Social Workers working inside the institution, and eight more are responsible for the youngsters in the community. These eleven staff members provide counseling, case history development for the incarcerated juvenile, and aftercare services following release. Recommendations concerning the Youth Center are in the Youth Development section of this report.

In addition to the three institutions, the Bureau of Corrections operates a division of Probation and Parole[11] (parole is only in effect for offenders sentenced prior to May, 1976, at which time it was abolished), which serves approximately 3,000 probationers and 500 parolees, with a staff of 44 officers. The average caseload of a Probation and Parole officer is 85, with some as high as 150. More than 60% of an officer's time is used to write the various reports required by the courts and the Bureau. As a result of large caseloads, most "supervision" of clients is concentrated on those probationers who are in crisis or complaint situations. The result is that many probationers who represent only a minimal threat to the community recidivate, even though supervision might have prevented it. For those clients who receive the officer's services, there are family and individual counseling, referrals to community services such as employment agencies, job training, drug/alcohol abuse therapy, and social services.

County corrections is comprised of 13 county jails which, according to the 1976 County Jail Report issued by the Department of Mental Health and Corrections, employ 128 full-time and 84 part-time personnel, while housing on the average of 278 offenders nightly. Of the 15,069 people detained in the county jails during the 1975-76 fiscal year, 2,412 were sentenced offenders serving terms specified by the courts, the remaining 12,657 were being held awaiting bail or court appearance.

These statistics, however, do not accurately represent each individual county facility. The buildings, for instance, range from the 1856 Hancock County structure to the 1976 Waldo County Jail. Although many of the older jails have had renovations in the last five years, many health and security hazards still exist. The permanent closing of the York County Jail (construction of a new jail is underway) in 1975 documents the problems of an older facility. Because of numerous escapes and safety problems that institution was found to be "totally inadequate". There were twenty escapes, two deaths, and two suicides reported during the 1975-76 fiscal year in that facility alone.

The program curriculum also varies from county to county. Nine counties for instance, reported work release programs netting statewide totals of almost $200,000.00 paid to prisoners, and over $30,000.00 of that paid as board to the institution. Other programs offered at all of the jails include Alcoholics Anonymous, High School Equivalency tests, counseling at all of the institutions and the Aroostook and Oxford County Jails operate halfway houses. Although these program offerings appear to be adequate, the reality of the situation is that many county facilities do not actively provide information concerning them, and some sheriff department policies even discourage inmate participation in programs.

Assuming that this discussion of the correctional facilities and agencies in Maine has provided the reader with some minimal familiarity with the existing system, it is justified to say that an analysis of the following substantive recommendations will be easier to comprehend.

In general, the material to follow was developed with two concerns in mind. First, the substantive material produced by the citizens' committees has been grouped into problem areas, and secondly, a goal setting and successive approximation procedure was used. Each of the major topic headings represents one or more long range goals, and the ensuing standards recommended in each chapter are the initial steps to be taken to achieve these goals.

CORRECTIONAL

GOALS

1. TO PROVIDE A WIDE RANGE OF EFFECTIVE SERVICES TO ALL CLASSIFICATIONS OF OFFENDERS IN BOTH COUNTY AND STATE CORRECTIONAL INSTITUTIONS;

2. TO DEVELOP, IMPLEMENT AND MONITOR A COMPREHENSIVE COMMUNITY-BASED SYSTEM OF ALTERNATIVES TO INCARCERATION;

3. TO INSURE THE HIGHEST QUALITY OF TRAINED STAFF FOR ALL CORRECTIONAL AGENCIES AND PROGRAMS;

4. TO INSURE THE HUMANE TREATMENT AND LEGAL RIGHTS OF ALL OFFENDERS;

5. TO PROVIDE A MORE EFFICIENT AND EFFECTIVE PROBATION FUNCTION; AND

6. TO UPGRADE, STANDARDIZE AND COORDINATE ALL STATE AND COUNTY CORRECTIONAL PROGRAMS.

CHAPTER I

INSTITUTIONS

The prime focus of the Maine Correctional system is on institutions. The Bureau of Corrections spends more monies staffing, maintaining and operating the institutions than in all other areas combined.[12] The same situation exists at the county level, where virtually all corrections funds are spent directly on county jails. In spite of this financial bias, the institutions in Maine are by no means uniform across the state. They vary from some of the older jails which are literally falling down, to some newer facilities with many modern conveniences for both the staff and the inmate population. The types of programs available and the opportunity to participate in them depends upon the institution to which an offender is sentenced. Even policy concerning the rules of the institution and the appropriate remediation for infractions vary significantly from county to county and facility to facility. One thing the various jails and prisons do have in common is a tremendous diversity of inmate population.

The success of such an approach to corrections must necessarily be limited in scope. Not even the best institution in Maine can adequately deal with the myriad of problems and needs of inmate populations which represent a continuum from burglars to murderers. And what of the fact that almost 80% of the county jail population being held are awaiting trial or sentencing? How do we reconcile these huge differences in individuals with the limited scope of the facilities and programs offered, without demanding the public provide an unreasonable amount of tax monies?

Considering both the problems of diversity of facilities and the reality of inmate population diversity, the Community Alliance takes the position that the legislature should provide funding for a major renovation of the system[13] before any more monies are spent building new facilities, etc. Following some systematic renovations, transfers and diversions, the needs for future funding will be easier to establish,[14] and inmate populations will be somewhat homogeneous. In effect, this means that the majority of inmates in each institution will have very similar security and program needs, resulting in a more efficient method of delivering services.

THE COMMUNITY ALLIANCE IS CONCERNED THAT MAINE'S JAILS AND PRISONS OFTEN DO NOT PROVIDE THE MOST EFFECTIVE AND EFFICIENT PROGRAMS FOR MANY OFFENDERS FURTHERMORE, MANY OF THE FACILITIES ARE NOT FIT TO HOUSE PEOPLE.

STANDARD 1.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE CONSTRUCTION OF ALL NEW CORRECTIONAL INSTITUTIONS BE POSTPONED UNTIL INMATE POPULATIONS ARE CLASSIFIED AND TRANSFERRED TO EXISTING FACILITIES AS OUTLINED IN THE "ADULT MASTER PLAN".[15]

The Community Alliance is in concert with many of the concepts put forward by the Adult Master Plan. The renovation and use of existing structures wherever possible, and the coordination of both county and state correctional efforts are areas of common interest. Perhaps the most important area of agreement, however, is the grouping of offenders into relatively homogeneous populations.

The Master Plan material which reflects some of the views of Community Alliance members may be summarized as follows:

1. At the institutional level of correctional service delivery, specialize the functions of the institutions so that Maine State Prison would be able to isolate hard core offenders, high security risks, or long termers (5 years +); Maine Correctional Center would be able to emphasize vocational and educational programs for males with medium sentences (6 mos. - 5 years) as well as females with sentences of over six months, and the county jails would offer short-term programs for those sentenced to less than six months.

2. Also at the institutional level, but as a transfer rather than direct sentencing alternative, create a forensic unit at Augusta Mental Health Institute for treatment of severely disturbed offenders.

3. At the alternative living arrangement level create three regional correctional facilities each to provide a) 60 beds for direct sentencing alternative for Class D and restitutionable offenses (6 months - one year), emphasizing community-based restitution programs, but including a variety of correctional programs such as work-release; and b) 40 beds for a transfer program for pre-release clients needing gradual reintegration into the community.

4. At the community services level of correctional service delivery, expand primarily non-residential programs to include pre-sentence diversion as a direct sentencing alternative for Classes B-E, and implement a formal classification system as a caseload management tool to allow varying levels of supervision according to a risk assessment.

5. At the Home Services level of correctional services delivery, expand non-residential programs to include conditional discharge as a direct sentencing alternative, allowing judges to utilize certain program services, such as restitution, without having to commit the offender to either long-term probation or the institution.

6. County jails under the proposed system, become facilities for short-term sentencing of minor offenses, i.e. Class E offenses with sentences of 6 months or less. This does not pose a major change in that sentences of over 6 months only comprise about 10% of the commitals to the county jails.[16]

The Community Alliance further feels that the jails should be mandated to

provide some program alternatives, as designed by the classification teams,[17] for all inmates. Another possibility for the jails might be as a transfer alternative for pre-release offenders who would like to set up a work release program in their own respective communities. A statewide system of juvenile detention facilities is badly needed in Maine and properly designated county jails could provide the room and staff needed for such a program.

Integral to the success of any county jail program is the physical renovation of those substandard structures which now exist in some counties.[19]

The Community Alliance, concerned with the geographic isolation of Northern areas from the proposed Regional Correctional Facilities in Portland, Augusta, and Bangor, also recommends establishing a sub-regional center in Presque Isle.[20]

The cost factors of implementing and operating these programs have been identified in the Master Plan:

MAINE STATE PRISON

> ... No additional money is necessary. The reduction of population, the limitation on intake and a zero based staffing pattern could realize a per client stay savings.

MAINE CORRECTIONAL CENTER

> ... Savings in turnaround costs should be realized as part of the six months limitation on intake. Past use of split sentence should not effect this adversely. The Corrections Economics Project will formalize per client costs. Staff and budget should reflect this increase in population over a five year period. Additional case requirements are foreseen in the first two years of system change operation to build and staff additional male housing units. Staff of the pre-release center will be transferred to Area I Administrator. As these positions are federally funded, the Area I budget will reflect assumption of costs. The capability of direct sentencing of women to the Regional Correctional Facilities and other proposed alternatives should, based on past and current sentence practices, reduce that population at the Maine Correctional Center drastically. Recently, four of the six women whose minimum sentences were for one year or more were from other states. Discontinuation of this practice coupled with new sentencing alternatives would allow for consolidation of the women's program to one building and for the reassignment of staff to the Regional Correctional Facilities. The objective is to contain the women's program to one cottage. If this can be done now without returning women to their sending states, only a contingency plan is necessary.

REGIONAL CORRECTIONAL FACILITIES

The annual operating budget for three facilities with total staff of between sixty-three and seventy-five employees is estimated at 1.5 million.

One time start-up costs to include purchases and rentals of buildings, equipment and renovation, is estimated at between $800,000 and 2.7 million dollars. Both of these figures are mitigated by the fact that the department has resources to include buildings, equipment and the reassignment of personnel. Revenue for a

purpose such as this had been attached to P.L. 756, but the current Department Work Plan shows allotment of these funds to Maine State Prison to cover an insufficient budget allocation. The Department will identify matching funds, federal LEAA Part E monies, that will cover the development of a Regional Correctional Facility in the Portland area. In the same period, the Department will identify funds presently allocated to the Bangor Mental Health Institute/Bangor Pre-Release Center that can be used as match for a Regional Correctional Facility in the Bangor area. The third Regional Correctional Facility will be located in the Lewiston-Auburn area and will be developed as part of the Jail Regionalization Plan.[21]

Although the citizens express concern over the costs of the proposed changes, they see the Master Plan as a model which provides programming alternatives which may prove to be more efficient and effective than the present system.

STANDARD 1.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE LEGISLATURE FUND, AND THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS COORDINATE, THE EFFORTS OF THE APPROPRIATE STATE AND COUNTY CORRECTIONS AGENCIES IN THE DEVELOPMENT OF AN EXTENSIVE SYSTEM OF COMMUNITY-BASED PROGRAMS FOR SELECTED INSTITUTIONALIZED OFFENDERS.

The focus of this system should be on providing direct community contact programs for those offenders in the three proposed area residential centers, and the county jails, while maintaining present availability of such programs at the MSP and the MCC.

The Community Alliance recommends that the programs offered at the three area residential centers provide sufficient work-release, study-release, and training release slots to accommodate the institutions' populations. Restitution should be a frequently used sentencing alternative by judges, as the centers would provide a setting for those offenders who need supervision and would not qualify for restitution under a diversion program.

The Community Alliance members feel that the scope and the availability of programs at the county jails need upgrading urgently. When the proposed transfer of inmates has been implemented and the county jails are housing only offenders with sentences of six months or less, jail administrators should make contacts in the community to provide programs appropriate to the jail population. Extensive work and study release and victim restitution should be the main tools of the programming, with reintegration of offenders back into the community as the primary purpose.

The Master Plan purports that the costs of non-residential alternatives to ceration will be minimal.[22]

The benefits of community programs may include:

1. The offender is permitted to remain near family and community;
2. Welfare payments may be reduced;
3. The offender is able to retain job and/or obtain vocational/educational training;
4. Operating costs are reduced due to;
    a. Lower staff-offender ratio (in most cases),
    b. Offenders pay room, board, transportation and other personal costs,
    c. Lower construction/rent and general operating costs.
5. The offender and center provide economic resources for community businesses;
6. The offender can continue to pay federal, state and local taxes;
7. Volunteers can be utilized in lieu of paid staff;
8. General reduction in recidivism rates may ensue;
9. Access is provided to such community resources as;
    a. Medical care,
    b. Recreation,
    c. Legal counsel,
    d. Social services,
10. Minimal disturbances and internal violence reduction;
11. Opportunity for victim compensation by the offender is provided; and
12. Maintaining the offender in the community eliminates the transitional process from institutions to the community.[23]

Community-based employment programs provide some hidden benefits. First, the institution at which a work-release offender is interned can collect a fee for room and board, thereby relieving some of the operating costs of the institution, Secondly, the private business concerns in the community will often provide most of the administrative work and the facilities of such a program.[24] Another money saver for the community would be the enforced support of an offender's family out of the work-release pay. This would relieve the welfare and public assistance rolls of some of the burden of supporting these families, while promoting family responsibility in the offender.

In developing this recommendation, the citizens expressed the opinion that corrections in Maine should try to provide a vehicle for the successful reentry of offenders into the community. Furthermore, this programming should provide the offender with experiences which will enhance his chances of success outside the institution.

STANDARD 1.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE LEGISLATURE MANDATE MINIMUM STANDARDS FOR CORRECTIONAL FACILITIES. THESE STANDARDS SHOULD INSURE THAT INSTITUTIONS MEET THE REQUIREMENTS OF THE STATE HEALTH AND SANITATION LAWS, AND SHOULD PROVIDE EACH INMATE WITH ADEQUATE LIVING SPACE, AND FACILITIES FOR PERSONAL HYGIENE AND PHYSICAL RECREATION. THE AVAILABILITY AND QUALITY OF MEDICAL CARE SHOULD BE DELIVERED AT A LEVEL EQUAL TO THAT AVAILABLE TO THE GENERAL PUBLIC.

The written standards for the state institutions and the county jails[25] have been compared with those of the National Sheriff's Association, The American Bar Association, The American Correctional Association, The American Medical Association, The American Institute of Architects, and the State Standards of California, Kansas, Nebraska, Ohio, Texas, and Iowa. A review of Maine's Standards by a private research concern[26] found the standards to be adequate in most areas. Those areas requiring modifications or additions have been addressed in standards to follow and will be so identified.

The major problem with minimum standards in the State of Maine was identified in a question from Robert Buchanan, Senior Corrections Consultant in Midwest Research Institute, "A question I would have is how the present standards are monitored and what enforcement powers exist. The rationale for this question is essentially that the standards are only as good as the regulatory procedures backing them up."[27] Community Alliance felt that if the minimum standards for the institutions were mandated by law, meaningful sanctions could be identified and utilized for cases of noncompliances. These standards should be published as a matter of public record, and posted in all institutions.

Although the cost of mandating minimum standards is nominal, the biggest issue to consider in the development of correctional standards is the costs that compliance with standards create. The basis for most noncompliance can be found in budgetary deficiences and not in an administration's willful neglect of inmate rights and the humane operation of the facility.

Compliance with many correctional standards does not create additional costs or if it does the financial repercussions are minimal. (e.g., written policies for disciplinary action, duty descriptions for staff, clean and well-lighted living units). It is important to determine those standards which will create additional costs; the estimated amount of these costs and if possible monetary sources to fund these newly incurred costs.[28]

STANDARD 1.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT ALL CORRECTIONAL INSTITUTIONS BE INSPECTED ANNUALLY ON A SURPRISE BASIS BY A TEAM OF SPECIALISTS NOT REGULARLY EMPLOYED BY THE STATE. THIS TEAM WILL BE RESPONSIBLE DIRECTLY TO THE GOVERNOR'S OFFICE.

The Community Alliance stresses that the inspection team be made up of personnel with expertise in the following areas:

1. Counseling,
2. Human Services,
3. Health and Sanitation,
4. Administration,
5. Building Safety, and
6. Information Systems.

Two possible mechanisms have been suggested for providing the staffing for this team. The first proposes renting staff from appropriate state agencies on a part-time basis. The other, calls for volunteers from the community with appropriate experience. Both methods assume enforcement powers for the team and meaningful penalties for noncompliance to minimum standards by any institution.

A report of inspection findings should be filed directly with the Governor's office annually. The report should then become public information, and be available to the general public. Copies should be sent routinely to correctional administrators and inmate councils statewide.

This differs from the existing system in that the jail inspector is presently an employee of the Department of Mental Health and Corrections and does not have final authority over recommended changes. In point of fact, the 1976 Jail Report identifies problems that have existed at various institutions for three or four years, without being corrected, despite notation in multiple jail reports. An inspection team responsible to the Governor's office rather than to Department Administrators would be in a better position to enforce minimum standards, as the power to effect change will be placed outside of the Department Administration.

The cost of implementing and operating such an investigative body could be accomplished by using the funds appropriated presently for the salary and fringes of the full-time position of jail inspector.

STANDARD 1.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT A STATEWIDE CLASSIFICATION POLICY BE IMPLEMENTED. THIS POLICY SHOULD HAVE AS ITS PRIMARY PURPOSE THE SCREENING OF OFFENDERS FOR SAFE AND APPROPRIATE PLACEMENT.

The Community Alliance members feel that for the prison system to be efficient, it should, as a first step, identify its clientele and provide programs appropriately. The Bureau of Corrections is currently implementing a new classification system at the Maine State Prison[29] which is very similar to the one recommended by the Community Alliance. In it three full-time classification officers will use a variety of tests, biographical information, and interviews to evaluate each new admission. To evaluate each new admission, this committee would be responsible for:

1. Intake procedure,
2. Security-level classification.
3. Problem identification,
4. Treatment program planning,
5. Work assignments,
6. Housing assignments,
7. Tracking of inmate progress,
8. Evaluation of program effectiveness, and
9. Changes in inmate status.

An alternative to having a team at each institution could be provided by community classification programs. This concept is relatively new and involves classification of the offender by select criminal justice representatives from law enforcement, courts, and corrections prior to formal transfer to an institution. Such a classification process, if operated by the county or some other local authority, eliminates the need for correctional classification staff which could substantially reduce the costs to the Maine Bureau of Corrections. It has further advantage in that the personnel conducting the classification often know the offender much better in terms of his institutional needs (work assignment, security classification, educational/vocational needs, counseling possibilities and special problem areas) and thereby may be able to provide a more realistic diagnosis. Community classifi-

cation programs should utilize institutional correctional personnel on a regular basis to enable them to understand current departmental philosophy, institutional problems and unique facility problems which could effect the classification of an offender.

The Kennebec Community Justice Project is trying a community classification model and the director feels that the success of the program predicts a spread of community classification in Maine's future.

The Community Alliance, then, foresees a two-tiered classification system. First, an offender is classified by the court according to severity of crime and criminal history. This produces inmate populations that are somewhat homogeneous. Subsequent to placing an offender into the appropriate institution, he will be classified according to his own problems and program needs. This should provide a more effective correctional experience for offenders. Because this system is not foolproof, transfer proceedures should be established to move violent or troubled offenders to maximum security at the Maine State Prison in Thomaston.

STANDARD 1.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT CORRECTIONAL INSTITUTIONS APPLY ONLY THAT AMOUNT OF SECURITY NECESSARY FOR THE PROTECTION OF THE PUBLIC, STAFF AND INMATES.

It is the opinion of the Community Alliance that funds are unnecessarily spent maintaining security over inmates for whom it is inappropriate.[30] The Master Plan deals directly with this problem. The prison at Thomaston will handle about 265 Class A, B and 1st and 2nd degree homicide offenders, whose sentences are five years or longer. The Maine Correctional Center will handle Class D and C offenders with sentences of six months to five years. The three area residential centers will provide 300 beds for work and study release and pre-release offenders. Class E offenders with sentences of six months or less will be sentenced to one of the county jails. This categorizing of offenders serves to segregate most maximum security risks from those offenders requiring less supervision. This provides direct savings in staffing and operating costs because only a single institution will be providing blanket maximum security compared to the present system which provides maximum security for a majority of the inmates at all of the institutions.

STANDARD 1.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE BUREAU OF CORRECTIONS IDENTIFY THOSE OFFENDERS REQUIRING SPECIAL TREATMENT, REMOVE THEM FROM THE CORRECTIONAL FACILITY AND DIVERT THEM INTO APPROPRIATE SERVICES, PROGRAMS, OR INSTITUTIONS.

Members of the Community Alliance feel this recommendation to be imperative and express concern that correctional institutions are dealing with people they are not prepared to handle. Although over 20% of the inmates at the Maine State Prison are mentally retarded, only minimum program offerings deal with the special problems of the retarded. Presently over 80% of the population at the Maine Correctional Center attend Alcoholics Anonymous meetings.[31] Although many offenders attend such meetings for reasons other than obtaining alcohol counseling, the magnitude of the attendance figures indicate that a large proportion of the inmate population has alcohol-related problems. Offenders with drug problems or alcohol addiction should be treated for their respective problems before becoming full-time residents of an institution. When this type of problem has been eliminated, the offender should be returned to the appropriate institution to serve the remainder of his sentence.

The Community Alliance proposed renovation recommends the addition of a Forensic Unit for the treatment of violent or disruptive offenders or those who are mentally ill or mentally retarded. The unit would provide 10 beds for the mentally retarded and 20 beds for the placement of those offenders found not guilty by reason of mental defect, the observation of certain offenders as part of the pre-trial process, and the internal transfer of those prisoners with severe behavioral disorders or psychosis.[32]

Essentially this standard is concerned with the right to rehabilitative treatment (and the right to refuse it). The courts already consider the presence or absence of rehabilitative services to be an important factor in determining whether conditions in prison meet constitutional standards--i.e., Rouse v. Cameron,[33] and Wilson v. Kelly.[34] These decisions must be considered in the implementation of this standard.

STANDARD 1.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY CORRECTIONAL FACILITY PROVIDE EXTENSIVE EDUCATIONAL AND VOCATIONAL PROGRAMS WHICH ARE FLEXIBLE AND DIVERSIFIED ENOUGH TO MEET INDIVIDUAL INMATE'S NEEDS. THESE PROGRAMS SHOULD BE GEARED TO PROVIDE SKILLS WHICH WILL EXPEDITE REENTRY INTO THE COMMUNITY.

The existing system at the state level is minimally adequate, providing high school remedial and equivalency courses, college credit courses, a variety of vocational programs in auto mechanics, woodworking, etc. The largest gap in program offerings in the educational and vocational areas exists at the county level. Programming at the jails is minimal, and most offenders incarcerated in Maine's

county facilities do not participate in any formal programs. Sheriffs should provide inhouse and referral services at a level equal to that at the state level.

Although the Community Alliance is in unanimous agreement that educational programs should be provided, a minority report was requested. Some counties feel that the educational programs offered free in the community should be provided in the institution but those programs not free to the general public should not be free to offenders. Hence, they would like to see an upper limit of a high school education offered in the institutions, unless the offender can personally pay for college courses.

STANDARD 1.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT WHENEVER POSSIBLE SELECTED OFFENDERS BE PLACED IN WORK STUDY RELEASE PROGRAMS AND FURLOUGH PROGRAMS.

Existing work release programs in Maine's corrections facilities speak for themselves. Besides bringing in over $30,000.00 to the county jail budgets in room and board payment,[35] money has filtered back to families who otherwise might have been on public assistance. These programs also provide the training, and outside contacts essential to successful reentry into the community.

Work release, study release, pre-release, and restitution are the primary program functions of the proposed area residential centers and the updated county jails. The three centers will provide 100 slots each for offenders who are eligible for alternative living programs. The major difference between what exists now and what will exist under the proposed plan is that the new facilities will be located in urban areas in close proximity to the labor market etc., while most facilities now in use are removed from the urban area and its job opportunities. The jails will have to provide these programs to all sentenced offenders.[36]

STANDARD 1.10: THE COMMUNITY ALLIANCE RECOMMENDS THAT EACH CORRECTIONAL FACILITY REVIEW AND REVISE ITS POLICIES TO STIMULATE THE OFFENDER TO PARTICIPATE IN THE CHANGING OF HIS STATUS AND CLASSIFICATION, INCLUDING TREATMENT, EDUCATIONAL AND WORK PROGRAMS. COMPENSATION SHOULD BE PROVIDED AND EXEMPLARY GOOD TIME SHOULD BE DEPENDENT ON PARTICIPATION IN PROGRAMS PROVIDED.

Citizen members express concern that some offenders can sit in their cells and never participate in any of the programs offered or any of the communal work done routinely by each prisoner. It is reasoned that an incentive will have been added for participation in work and programs if this participation is to produce good time accumulation.[37]

Similarly, monetary compensation for work performed in the institution would provide incentive for offenders to participate. The committee feels that the

money could be used to pay a minimal room and board fee, help support the family, make restitution, and buy sundries at the commissary.

STANDARD 1.11: THE COMMUNITY ALLIANCE RECOMMENDS THAT CORRECTIONAL FACILITIES DEVELOP AN ONGOING COUNSELING PROGRAM INCLUDING BOTH INDIVIDUAL AND GROUP THERAPY. RELIGIOUS AND SPIRITUAL COUNSELING SHOULD BE INCLUDED, AS WELL AS PSYCHOLOGICAL COUNSELING. COUNSELING STAFF SHOULD BE APPROPRIATELY TRAINED, EDUCATED AND LICENSED. ANY OFFENDER FOR WHOM THE COUNSELING PROGRAM PROVES INEFFECTIVE OR INEFFICIENT SHOULD BE REVIEWED FOR TRANSFER TO A MENTAL HEALTH PROGRAM.

Community Alliance members are not satisfied with the counseling services available at the state level. Maine State Prison has two full-time psychologists and three or four inmates who have had some psychological training to counsel other inmates.[38] The Maine Correctional Center has a psychiatrist available half a day per week and a psychologist once a week.

Although the present system represents a commitment to therapy for disturbed offenders, the citizens feel that at least one psychologist or psychiatrist should be employed full-time at each of the three institutions. Additional professional and paraprofessional staff could be retained or added as needed. State licensing and/or training and education appropriate to the duties of the counseling staff should be mandated.

The county level delivery of counseling services, however, is not even equal to that of the state system. Most of the county jails provide counseling services via referrals to local mental health centers. This is an inexpensive way to provide these programs, but in reality non-professional jail employees make referral decisions in many cases, often defeating the purpose of providing services by screening out some offenders for whom counseling would be appropriate. The realistic availability of these programs is often inadequate as a result of the untrained referrals and some sheriff department's policies.

A Forensic Unit, as proposed by the Master Plan, is needed to draw out the offender with serious mental and behavioral problems from the general prison population. There should also be an expedient, cooperative method of transferring offenders with special problems out of the corrections system and into mental health institutions where the appropriate programs are or should be available. The Forensic Unit would be housed on the grounds of the Augusta Mental Health Institute and costs would involve staffing and operating expenses.

STANDARD 1.12: THE COMMUNITY ALLIANCE RECOMMENDS THAT A WIDE VARIETY OF RECREATIONAL PROGRAMS BE PROVIDED BY CORRECTIONAL INSTITUTIONS. COMMUNITY INTERACTION IN THESE PROGRAMS SHOULD BE ENCOURAGED AND COMMUNITY FACILITIES SHOULD BE USED WHENEVER POSSIBLE. A FULL-TIME RECREATIONAL DIRECTOR SHOULD BE EMPLOYED AT THE LARGER FACILITIES AND A PART-TIME COORDINATOR SHOULD BE ON THE STAFF OF THE SMALLER INSTITUTIONS.

Medical literature indicates that recreation is essential to good health. All standard correctional literature recognizes the value of a well-designed and comprehensive recreation program for incarcerated offenders. Nevertheless, what most often stands out about correctional institutions--especially jails--is the amount of time when no program is being conducted and no organized recreation program is available. Courts have included recreation programs in evaluating the adequacy of institutions, particularly access to physical exercise by persons solitary confinement.[39]

Recreational programs statewide are inadequate. The gymnasium at the Correctional Center collapsed under heavy snow, severely limiting athletic programs at that institution. The athletic field at Maine State Prison is at the bottom of a quarry and floods with every rain. The county jails are totally inadequate in providing recreational programs. Many jails do not even have outside space for recreation.

The citizens feel that these deficiencies should be remedied as a high priority. They feel that offenders who are incarcerated with little to do are more dangerous than if they were busy at some hobby, project, or sport.

CHAPTER II

COMMUNITY-BASED CORRECTIONS

Maine has a limited number of correctional alternatives to which an offender can be referred.[40] Judges are faced daily with the problem of handing down effective sentencing, because their options are often limited to incarceration, limited probationary supervision,[41] or release.[42] Although these are valid approaches to the problems of some offenders, these limitations in the scope of corrections deprive many offenders of programs appropriate to their individual cases and needs.

The community is also a victim of this problem. Offenders who are released by having cases filed etc., should receive some attention from corrections to demonstrate that crime does not pay. Swift and appropriate action by the Criminal Justice System is the best possible deterent to further criminal behavior. People released without some form of remediation,[43] do not come to respect the criminal justice system; rather, they are likely to commit more crimes because they have successfully "beat the system".

Further, the overwhelming caseloads handled by probation officers demand a crisis approach to those offenders remanded to the Division of Probation by the Courts. Most probationers receive limited supervision and services because the officers must spend much of their time writing various reports and dealing with the small percentage of probationers who are in constant trouble. In effect, this produces a situation where a majority of probationers are required to depend upon themselves, even though they were not successful at this as exemplified by the offense they originally committed. They are often allowed to recidivate through neglect, and end up incarcerated.[44]

Probably the largest burden the community has to bear as a result of limited community alternatives, stems from the incarceration of offenders who are not a threat to society and probably could be successfully integrated back into the community. When an offender is serving a prison sentence the family has been broken up. If there are children, they are raised in a one-parent home, and their chances of developing criminal behavior are increased. The spouse often seeks companionship with others or acquires a divorce. If the offender was employed, the job is lost, and often the spouse and family seek public welfare. Tax revenues which may have been collected by federal, state, and local governments

are also lost. Most costly, however, is the effect prisons have on offenders. An ever growing aggregate of data indicates that our prisons are actually "Schools of Crime", and often release prople who are more dangerous than they were when admitted.[45] Thus, the public bears the cost of the initial incarceration, public assistance, and tax losses, while simultaneously increasing the likelihood of bearing those same costs for the same offender and/or his children at some future date.

These problems with the existing system are integral in the development of a positive argument for a community-based system of correctional programs. Residential centers, halfway houses, diversion programs, and work-release programs all have the benefits of being both less expensive and more effective than incarceration in an institution.[46]

Cost figures released by the Maine Bar Association[47] show a range of total per capita cost from $25,558 for women at the Maine Correctional Center to $300 for restitution and probation. A listing of Maine's correctional alternatives from the least cost-effective to most cost-effective was provided:

Table I displays cost-benefit data with respect to a range of correctional alternatives for adult offenders.

> The rank order of the range of correctional placements (with their cost-benefit ratios) reviewed in this report, from worst to best, is:
>
> | Alternative | |
> |---|---|
> | Women's Correctional Center | 5.74/1 |
> | Maine Correctional Center | 3.38/1 |
> | Halfway Houses | 2.69/1 |
> | Pre-Release Center-Bangor | 1.92/1 |
> | Maine State Prison | 1.46/1 |
> | Minimum Security Unit | 1.27/1 |
> | County Jail | .62/1 |
> | Area Residention Center | .50/1 |
> | Pre-Trial Diversion (With Employment Training) | .32/1 |
> | (Without Employment Training) | .14/1 |
> | Community Justice Project | .14/1 |
> | Pre-Sentence Diversion | .07/1 |
> | Probation/Restitution | .02/1 |
> | Conditional Discharge | .01/1[48] |

The table reveals the nonresidential alternatives to be the most cost-effective programs in Maine during the fiscal year 1976. It is noted that the halfway house settings are less cost-effective than the Maine State Prison. The report postulates that this juxtaposition of expected cost-benefit ratios is due to small halfway house populations and "policies or practices which may unduly restrict access"[49] to halfway houses.

The National Advisory Commission on criminal justice standards and goals summarized two administrative aspects of the pro-community based corrections argument:

> "The restorative aspect concerns measures expected to achieve for the offender a position in the community in which he does not violate the laws. These measures may be directed at change, control, or reintegration."
> "The managerial goals are of special importance because of the sharp contrast between the per capita costs of custody and any kind of community program. Any shift from custodial control will save money, but the criterion of correctional success is not fiscal. A major objective of correctional programs is to protect the public. Therefore, any saving of public funds must not be accompanied by a loss of public protection. When offenders can be shifted from custodial control to community-based programming without loss of public protection, the managerial criteria require that such a shift be made."[50]

Of primary concern to the citizens, is successful reintegration of offenders back into the community. They feel that programs based in the community and geared to provide participants with skills, jobs, family ties, and social contacts are the most effective methods of preparing an offender for reentry into the community.

THE COMMUNITY ALLIANCE STRONGLY NOTES THAT THE RANGE AND AVAILABILITY OF PROGRAMS IN THE COMMUNITY FOR THE NON-DANGEROUS OFFENDER ARE INADEQUATE.

STANDARD 2.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE BUREAU OF CORRECTIONS ANALYZE NEEDS, RESOURCES AND GAPS IN SERVICE AND DEVELOP A SYSTEMATIC PLAN FOR IMPLEMENTING A WIDE RANGE OF ALTERNATIVES TO INCARCERATION. FURTHERMORE, WORKING RELATIONSHIPS SHOULD BE ESTABLISHED WITH A VARIETY OF LOCAL AGENCIES, ORGANIZATIONS AND BUSINESSES TO PROVIDE THIS PROGRAM OF COMMUNITY-BASED ALTERNATIVES.

The argument for developing a range of community-based alternatives to incarceration has been presented in Chapter I (Standard 1.2) and in the problem analysis preceeding this recommendation.

The development of referral capabilities to agencies and businesses in the community will provide an informal program structure for use by probation officers in dealing with probationers. It also provides an alternative to suspended sentences and filed cases for judges.

The cost-benefit factors involved in community-based systems have also been outlined in the problem statement preceeding this standard. It is worth repeating, however, that nonresidential alternatives to incarceration were the most cost-effective correctional programs in the State of Maine for the fiscal year of 1976.[51]

STANDARD 2.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT A COMMUNITY-BASED CORRECTIONS PROGRAM WILL INCLUDE AS A MINIMUM THE FOLLOWING PROGRAM OFFERINGS:

SUBSTANCE ABUSE PROGRAMS
VOCATIONAL TRAINING PROGRAMS
EDUCATIONAL PROGRAMS AVAILABLE ON THE SAME BASIS AS TO THE GENERAL PUBLIC
EMPLOYMENT OPPORTUNITIES (RELEASE AND PRE-RELEASE)
MENTAL HEALTH PROGRAMS

Community Alliance members feel that local social service agencies, businesses, factories, municipalities, labor unions and education-vocational facilities should be actively recruited to provide services, training and gainful employment for offenders. Again, they feel that experience in the community is the best method of preparation for reentry into the community.

STANDARD 2.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT THOSE ADULT OFFENDERS WHO DO NOT REPRESENT A THREAT TO SOCIETY, BE DIVERTED OUT OF CORRECTIONAL INSTITUTIONS AND INTO APPROPRIATE COMMUNITY-BASED PROGRAMS.

This provides a mechanism for implementing the operations of a community-based system of alternatives to incarceration. Offenders may be placed into such programs from any point in the continuum from arrest to sentencing.

Those offenders who are selected for diversion prior to adjudication, should participate voluntarily and under the power of a contract specifying the responsibilities of the offender and remediation for failure to comply. Return to the adjudicatory process should be a routine procedure for those who do not successfully complete the contracted obligations. Preadjudication diversion not only saves the costs of incarceration, it also produces savings in court costs.

For those offenders who are not placed in alternative programs prior to the court process, the system of programs should be used as a term of probation. Failure to keep the terms of probation should result in incarceration when warranted.

STANDARD 2.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE PROGRESS OF OFFENDERS PLACED IN COMMUNITY-BASED ALTERNATIVE PROGRAMS, BE FREQUENTLY MONITORED. PROGRESS THROUGH THE PROGRAM SHOULD BE BASED ON SPECIFIED BEHAVIORAL CRITERIA, RATHER THAN ON SUBJECTIVE REPORTS, TIME SERVED OR SENTENCE IMPOSED.

The Community Alliance is adamant that each offender's progress be checked frequently. The development of individualized programs for adult offenders and the subsequent monitoring of progress through these programs should be handled by the classification teams or probation officer as appropriate.

The citizens also felt that evaluation of an offender's progress should not be subjective. Specific behavioral criteria should be established as terms of probation or as contractual agreements and progress reports should be directly related to these criteria.

If an offender is found to have violated the agreement, he should be returned to incarceration or adjudication, depending upon where the original diversion occurred.

THE COMMUNITY ALLIANCE IS CONCERNED WITH THE LACK OF COMMUNICATIONS BETWEEN THE BUREAU OF CORRECTIONS AND OTHER STATE AGENCIES.

STANDARD 2.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT LEGISLATION MAKE MANDATORY THE PROVISION OF SERVICES TO THE CORRECTIONAL CLIENT FROM THE DEPARTMENTS OF HUMAN SERVICES AND EDUCATION AND THE BUREAUS OF MENTAL HEALTH AND RETARDATION.

The citizens felt that without the cooperation of these state agencies, a community-based system of corrections is impossible. The programs which are already operating in the community are under the auspices of these various agencies and should provide the foundation of the community-based delivery system.

The present lack of coordination between the Bureaus of Mental Health and Corrections caused Community Alliance members to speculate about dissolving the Department of Mental Health and Corrections and establishing two new separate departments. Many questions are being raised concerning the logic of incorporating the two into a single department when they have so little in common.

CHAPTER III

PROBATION

As alternatives to incarceration are developed, the probation function will need an updating. Increased use of community-based programs will not only inflate caseload levels, but it will also expand the scope of an officer's job.

The main problem with the Division of Probation in the State of Maine is located in budgetary limitations. The 44 officers serve an average population of 3,000 probationers, with some caseloads running as high as 150. In addition to the caseload burden officers have to write pre-sentence reports, etc., and spend time in court. The result is that the Probation Officers spend most of their client contact time dealing with a few probationers in crisis situations. Many others are quietly allowed to recidivate through neglect.

THE COMMUNITY ALLIANCE IS CONCERNED THAT THE DIVISION OF PROBATION AND PAROLE CANNOT ADEQUATELY SERVE THE PROBATION POPULATION, GIVEN CURRENT STAFFING AND PROJECTED INCREASES IN THAT POPULATION.

STANDARD 3.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE LEGISLATURE PROVIDE FUNDING TO INCREASE THE STAFFING OF THE DEPARTMENT OF PROBATION AND PAROLE TO A LEVEL WHERE OFFICERS CAN PERFORM PRACTICAL SUPERVISION AND ONE-TO-ONE COUNSELING OF INDIVIDUAL CLIENTS.

This expansion should provide adequate personnel to supervise and monitor offenders assigned to community-based programs including special misdemeanants.

STANDARD 3.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DIVISION OF PROBATION AND PAROLE BE REORGANIZED SO THAT SPECIALIZED JOB FUNCTIONS MAY BE PERFORMED FULL-TIME BY PERSONNEL WHO HAVE BEEN APPROPRIATELY TRAINED.

These recommendations for increased staffing and reorganization, represent the citizens' attempt to provide a probation function which is adapted to a community-based corrections system.

The American Correctional Association recommends a maximum caseload of 50 per probation officer. This number should be increased or decreased as a function of the type of offenders being supervised i.e., a larger caseload for officers supervising offenders needing minimum supervision, and smaller caseloads for officers dealing with offenders who are in crisis situations. A.C.A. further recommends that caseworkers specialize as much as possible in the types of probationers served (juvenile, substance abusers, repeat offenders and offenders who are having trouble adapting to probation).[52]

The Community Alliance felt that specialized jobs in addition to client contact positions should also be developed. Specially trained officers should be assigned to positions in court related matters, such as writing pre-sentence reports and case studies of new probationers. There should be community relations experts who specialize in developing, maintaining, and revising community-based programs in a district. Specialists should be employed in any other positions warranting a full-time employee.

The initial and largest cost involved in these standards is the cost of adding and maintaining more personnel. Recruiting and training costs and payroll and fringes will be the most expensive of these.

A one-time cost of restructuring the division and creating specialized training programs will also have to be considered.

The benefits of probation in Maine for the fiscal year 1976 are as follows:

BENEFITS	Estimated Annual Per Capita Benefits[53]
Employment	$ 747
Education	2,557
Welfare	448
Central Services	1,572
Averted Prison & Court Costs	10,012
Total Per Capita Benefits	$15,336

STANDARD 3.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT VOLUNTEERS AND SELECTED OFFENDERS BE CONSIDERED FOR, AND HIRED INTO, PROBATION POSITIONS, IF QUALIFIED.

STANDARD 3.4: THE COMMUNITY ALLIANCE RECOGNIZES THE PRIMARY FUNCTION OF THE PROBATION OFFICER TO BE THE PROTECTION OF SOCIETY. TO FULFILL THIS FUNCTION THE OFFICER WILL PROVIDE SUPERVISORY SERVICES AND ACT AS A COMMUNITY RESOURCE COORDINATOR FOR HIS CLIENTS.

This recommendation provides a skeleton structure for the job description of probation officer under an extensive community-based system. In effect, those officers doing direct casework will be equally responsible for supervisory services and offender programming. The emphasis is now on supervisory responsibilities.

This redirecting of personnel energies should provide effective and meaningful programs, and maintain supervisory security over probationers at the present level. This is possible because the caseloads will be reduced.

CHAPTER IV

INSTITUTIONAL PERSONNEL

The Community Alliance points out that the professional corrections officer will be an important factor in the success or failure of the correctional effort. He will be the contact point between the offender and the system, and must understand his role and the role of the institution.

THE COMMUNITY ALLIANCE RECOGNIZES THAT THE PROFESSIONALISMS OF CORRECTIONS PERSONNEL WILL BE AN INTEGRAL FACTOR IN THE SUCCESS OR FAILURE OF THE CORRECTIONAL EFFORT.

STANDARD 4.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT MINIMUM STANDARDS FOR CORRECTIONAL PERSONNEL BE ESTABLISHED AND MANDATED. THESE CRITERIA SHOULD INCLUDE:

HIGH SCHOOL DIPLOMA OR EQUIVALENT

PRESERVICE AND INSERVICE TRAINING

TRAINING, EDUCATION AND SUPERVISION IN POSITIONS

REQUIRING PROFESSIONAL EXPERTISE (i.e., COUNSELING)

STANDARD 4.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE LEGISLATURE ESTABLISH, MANDATE AND FUND A CORRECTIONAL PERSONNEL SCHOOL AT THE MAINE CRIMINAL JUSTICE ACADEMY. THIS SCHOOL SHOULD PROVIDE PRESERVICE TRAINING TO EVERY NEW OFFICER WITHIN SIX MONTHS OF HIS APPOINTMENT, AND A MINIMUM OF EIGHTY (80) HOURS OF INSERVICE TRAINING PER YEAR THEREAFTER.

Community Alliance members feel the preservice training session should include at a minimum: counseling, training, crisis intervention experience, first aid, corrections theory, behavioral science, security concerns, and skills development (i.e., shakedowns, cell searches). The in-service training program is envisioned as an updating process, presenting information on ideas or technology in the field of corrections.

The State of Maine should make adequate funding available to provide this training. The Board of Directors of the Academy should be expanded to include representation of corrections personnel.

STANDARD 4.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT INSTITUTIONS ESTABLISH IN-HOUSE STAFF DEVELOPMENT AND TRAINING PROGRAMS.

The programs should provide specific training concerning the organizational goals of the institution and job skills. Incentives, such as increased pay and promotional considerations, should be provided to reward all personnel who participate in voluntary training.

The Community Alliance feels it is important that each officer understand the responsibilities and acquire the job skills of his position to effectively perform the job. An understanding of the goals of the institution is considered to be an important tool in working with offenders.

STANDARD 4.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT MINIMUM SALARIES SHOULD BE ESTABLISHED FOR ALL CORRECTIONS PERSONNEL. THE SALARIES SHOULD BE COMPETITIVE WITH THOSE OF COMPARABLE CRIMINAL JUSTICE OR STATE EMPLOYEES. PROMOTIONS AND PAY RAISES SHOULD BE BASED ON A MERIT SYSTEM.

Fair pay is the most effective way of attracting and keeping good personnel. The tremendous turnover of staff at the prisons probably is a function of a pay scale starting at approximately $150.00 per week.

A merit system of promotion and pay raises is a necessity if the best personnel are to be identified and used effectively.

The costs of recruiting, training, and salary increases will all be direct and ongoing. The benefits, however, should be realized in a more efficient and effective body of personnel. Savings should be realized in areas of training and reduced staff errors.

STANDARD 4.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT CORRECTIONAL INSTITUTIONS PROVIDE AN EXTENSIVE VOLUNTEER SERVICES PROGRAM TO COMPLEMENT FULL-TIME STAFF. TRAINING AND INSURANCE SHOULD BE PROVIDED.

The cost savings of trained volunteers over a comparable increase in paid staff was a major consideration of the Alliance in formulating this recommendation. It is also pointed out that contact with people not directly involved with the operation of the institution is healthy for incarcerated offenders.

People applying to be volunteers should be screened and evaluated according to a set of criteria developed by inmates and correctional administrators. Accident, liability and life insurance should be provided during the hours that the volunteer is performing services.

The Bureau has such a program in operation presently. The program is hampered, however, by insufficient monies to provide adequate staff and services statewide. Another problem is that major institutions are somewhat isolated from urban centers which have a larger volunteer potential.

THE COMMUNITY ALLIANCE NOTES THAT THE PUBLIC'S LACK OF KNOWLEDGE AND SUPPORT FOR CORRECTIONAL PROBLEMS AND GOALS OFTEN TENDS TO SLOW CORRECTIONS REFORM.

STANDARD 4.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS ESTABLISH A PUBLIC INFORMATION/EDUCATION PROGRAM, DESIGNED TO INFORM THE PUBLIC OF CORRECTIONAL ISSUES AND ORGANIZE SUPPORT FOR GENERAL REFORM AND SPECIFIC COMMUNITY-BASED PROJECTS.

Community Alliance members feel that the only way to provide a community-based system of corrections, and attract high quality personnel and volunteers, is to launch a statewide education-information effort. Citizens' groups, local governments, chambers of commerce, and schools should be provided with information and speakers.

Citizens should be encouraged to participate in the development, implementation and day-to-day operation of the community-based system.

CHAPTER V

OFFENDERS RIGHTS AND RESPONSIBILITIES

The development of formal rules and regulations for prisons is necessary to clarify and codify acceptable/unacceptable inmate behavior. Prisoners and prison personnel must have written guidelines of expected behavior if subjective discretionary decision making is to be prevented.

In formulating the rules and regulations recommended here, the Community Alliance followed the general theme that inmates have a right to humane and fair treatment. Furthermore, abridgement of the rights of the individual should be confined to those areas necessary for security.

THE COMMUNITY ALLIANCE IS CONCERNED THAT, ALTHOUGH MOST OF THE INSTITUTIONS IN MAINE HAVE WRITTEN POLICY CONCERNING THE RIGHTS AND RESPONSIBILITIES OF INMATES, THESE POLICIES VARY FROM JAIL TO JAIL AND PRISON TO PRISON. SOME ARE INADEQUATE, SOME ARE NOT READILY AVAILABLE TO INMATES, AND MANY FRONTLINE PERSONNEL AT VARIOUS INSTITUTIONS ARE NOT FAMILIAR WITH THEIR OWN RULES AND REGULATIONS.

STANDARD 5.1: THE COMMUNITY ALLIANCE RECOMMENDS THAT A CODE OF THE RIGHTS OF OFFENDERS BE DEVELOPED AND MANDATED BY THE LEGISLATURE. THIS CODE SHOULD INCLUDE A CLAUSE PROVIDING FOR ADEQUATE ENFORCEMENT OF ALL RIGHTS AS DEFINED; AND REMEDIES FOR VIOLATIONS OF THOSE RIGHTS.

Correctional administrators will insure that every inmate can exercise his or her constitutional rights of free expression, and free association to the same extent and subject to the same limitations as the public as large. Included in these categories will be:

1. freedom of speech,
2. freedom of religion,
3. sending or receiving mail,
4. visitation,
5. access to the public via the media,
6. engaging in peaceful assembly, and
7. participating in organizations.

The citizens feel the Constitution is quite clear in its mandate of free speech and, therefore, included it as an unabridged right for inmates. They also equate free speech with the freedom to send and receive uncensored mail, and free access to the public through the media. The same logic supports freedom of religion, but some additional commentary is necessary.

Not only do the citizens support the rights of offenders to practice any religion freely, but they feel that space should be provided for services, and authorities should encourage religious leaders in the community to participate in spiritual program development. Furthermore, the Community Alliance feels that a clinical training and qualification program should be established using input from offenders, corrections administrators, and members of the clergy. The program should inform the clergymen of corrections goals and procedures and prepare them for dealing with offenders. The program should also be used to identify and eliminate those men of religion who are inappropriate for work in a correctional institution.

The citizens feel that inmates should have frequent contact with the family, but did not feel that conjugal visits with wives or husbands would achieve any correctional goal. Their emphasis in the visitation question is that the correctional process should encourage offenders to maintain close ties to the family (at which point organizations within the private sector could provide transportation for the family to the institution) and to encourage acceptance of responsibilities appropriate to supporting the family after release.

Freedom of association and participation in groups is viewed as a morale booster, but the Community Alliance recognizes some dangers inherent in this policy. Abridgement of this right should be used in some cases where cause can be shown that organizations or relationships between individuals endanger the staff, inmates, or institutional security.

STANDARD 5.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY CORRECTIONAL INSTITUTION DEVELOP WRITTEN RULES OF CONDUCT FOR ITS INMATES.

It is important that written rules of conduct be developed for inmates and that copies of these rules be provided to inmates upon admission. Explanations of complex rules or regulations which may be subject to interpretation should be provided. Verbal explanations of the facility's rules of conduct should be available to illiterate inmates or inmates who are able to read only foreign languages.

Copies of rules and regulations pertaining to conduct in correctional institutions should also be available to the public at large.

The costs of developing written rules of conduct and distributing them to inmates is generally minimal, especially when one considers the confusion and uncertainty they eliminate for both staff and inmates.

It is recommended that the rules be updated on a regular basis to insure their compliance with new court decisions and case law, changes in national and state correctional standards and the specific needs of the institution. An up-to-date loose-leaf manual should be maintained in inmate living units and program areas and copies of new rules should be posted as they become effective. All staff should likewise be apprised of all rules and regulations and any changes which may effect their work performance.

STANDARD 5.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT MINOR RULES VIOLATIONS BE PUNISHABLE BY REPRIMAND OR LOSS OF COMMISSARY ENTERTAINMENT, OR RECREATIONAL FACILITIES FOR NOT MORE THAN 24 HOURS OF FREE TIME. ACTS OF VIOLENCE OR OTHER SERIOUS MISCONDUCT SHOULD BE PROSECUTED CRIMINALLY.

Administrators should retain the authority to separate an offender accused of serious misconduct, to protect the accused, the staff, or the inmate population in general.

Continued infractions should have an effect on the classification status and program eligibility of the offender.

Currently, rules of conduct vary from facility to facility. The same is true of the penalties incurred when these rules are broken. The citizens feel that the rules and their appropriate sanctions should be as homogenious statewide as the variety of inmate populations will permit. The presentation of the rules and penalties to each new inmate is an essential action to be taken at every institution. Not only will this inform the offenders of their responsibilities, but it will protect the action of the institution if it is reproached concerning a disciplinary decision.

The Community Alliance is concerned that an offender committing an act considered as serious misconduct could be subject to double jeopardy, if the court were to impose a sentence and the institution's administration also initiated institutional sanctions. They also recognize that a problem could arise if the only judiciary penalty utilized is time of incarceration. Rather than always adding time onto the end of an offender's sentence, judges should be encouraged by correctional administrators to employ such penalties as isolation, and massive abridgement of program availability in special cases where a period of incarceration is a meaningless sentence.

STANDARD 5.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT INDIVIDUAL INMATES HAVE ACCESS TO AN INMATE ADVOCATE, LEGAL MATERIALS, LEGAL COUNSEL, AND THE COURTS.

All inmate contact, including mail with the courts, legal counsel or public officials, shall be considered confidential and therefore not subject to censorship by correctional officials.

All institutions will have copies of the "Maine Revised Statutes Annotated" inhouse. Other legal materials will be provided by an interagency library loan system. Legal assistance provided by one inmate for another will not be prohibited.

Reasonable regulations as to time, place and duration of legal assistance may be imposed by prison officials, but such regulations should be based in some identifiable correctional interest and not curtail the inmates' right to legal assistance.

Punishment should not be imposed upon an inmate for asserting or attempting to assert any of his rights to the courts or legal counsel.

The inmate advocate (or ombudsman) should be available to hear both individual and mass action grievances. The advocate should not be an employee of the Bureau of Corrections, and information passed between an inmate and the advocate should not be subject to censorship by correctional personnel. The advocate should spend a large portion of working time in the institutions with inmates and prison personnel. This will insure the advocate's availability, while providing an ongoing monitoring of institutional conditions. An inmate advocate backed by a grievance procedure with meaningful remediation for institutional failures can provide the impetus for a continual upgrading of the institutions.

STANDARD 5.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT EVERY CORRECTIONAL FACILITY ESTABLISH POLICIES AND PROCEDURES TO INSURE THAT EACH INMATE IS FREE FROM PSYCHOLOGICAL AND PHYSICAL ABUSE BY OTHER OFFENDERS, OR MEMBERS OF THE CORRECTIONAL STAFF.

The citizen members believe this to be a standard that the existing system authorities would feel has been already implemented. Members feel, however, that in many instances offenders and personnel are not adequately screened to identify violence-prone individuals, or those who cannot function properly in positions of authority. The citizens feel that "psychological abuse" is identifiable and should be eliminated.

STANDARD 5.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE LEGISLATURE MANDATE A GRIEVANCE PROCEDURE FOR ALL INSTITUTIONS WHICH WILL ENABLE INMATES TO REPORT A GRIEVANCE DIRECTLY TO AN INMATE ADVOCATE. THIS ADVOCATE SHOULD ALSO BE THE REVIEWING AUTHORITY AND SHOULD INSURE THAT AN INMATE WOULD NOT RECEIVE ADVERSE TREATMENT FOR FILING THE GRIEVANCE.

Although the Bureau of Corrections provides inmate advocates, their role and authority is limited. Grievances are reviewed by administrators, and at some facilities with the help of inmate councils. The citizens feel that an agent neutral to the biases of both corrections personnel and offenders would provide better evaluation of grievances. A report should be prepared and forwarded to the correctional authority and the complaining offender. The correctional authority should be required to respond to such a report, if the complaint was not found to be frivolous, and to indicate what remedial action will be taken.

STANDARD 5.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT CORRECTIONAL ADMINISTRATORS INSURE THAT NO OFFENDER IS DEPRIVED OF ANY PROGRAM OPTIONS OR AFFECTED BY ANY DECISION-MAKING PROCESS BASED ON RACE, SEX, RELIGION, NATIONALITY OR POLITICAL PHILOSOPHY.

Community Alliance citizen members expressed the opinion that programs should be assigned based on the individual's needs. If any of the aforementioned considerations were to be used as an evaluative tool in providing program options the entire program system would be undermined, and the potential effectiveness thereof would be severely limited.

STANDARD 5.8: THE COMMUNITY ALLIANCE RECOMMENDS THAT PERSONS SUPERVISED BY CORRECTIONS PERSONNEL, BOTH IN INSTITUTIONS AND IN THE COMMUNITY, BE SUBJECT TO SEARCH AND SEIZURE AS APPROVED BY A JUDICIAL AUTHORITY. RULES CONCERNING SEARCH AND SEIZURE SHOULD BE PROVIDED TO THOSE INCARCERATED, AND INCLUDED IN ANY PROBATION AGREEMENT BETWEEN THE COURT AND THE OFFENDER.

The Community Alliance citizens point out that it would be unreasonable for corrections administrators to obtain a warrant to search a cell and seize contraband. They feel that searches should be conducted when there is documented "Probable Cause" that a search will turn up contraband.

In a similar light, the citizens feel that probation officers should be able to use search with probable cause as a tool of supervision. They do feel, however, that each search and its outcome should be reported along with the

documented probable cause that initiated the search. Administrative action should be taken to eliminate the use of search as a harassment or scare tactic.

STANDARD 5.9: THE COMMUNITY ALLIANCE RECOMMENDS THAT NO PERSON SHALL BE DEPRIVED OF ANY LICENSE, PERMIT, EMPLOYMENT, OFFICE, POST OF TRUST OR CONFIDENCE, OR POLITICAL OR JUDICIAL RIGHT BASED SOLELY ON ACCUSATION OF CRIMINAL BEHAVIOR.

The Community Alliance makes these recommendations based on the philosophy that a man is "innocent until proven guilty" and that released offenders have "paid their debt to society". A danger is identified concerning the returning of all rights following release from a correctional authority. Should convicted child molesters be given teacher certificates? Should a convicted embezzler be bondable? The citizens' solution to this problem focused on maintaining and making available to the appropriate agencies criminal records information. They felt that this information is valuable to the community's safety, in spite of nationwide efforts to purge criminal records.

CHAPTER VI

SENTENCING

The role of Corrections in the criminal justice system is to carry out court ordered sentences. It is important that the sentencing process be effective and take into account factors contributing to a successful correctional effort.

A large number of people plead guilty on their own initiative or as a result of plea negotiation. Nationwide this figure represents about 90% of all adjudicated cases.[55] This means that only 10% of convicted offenders participated in formal procedures to determine guilt. For the other 90% formal sentencing guidelines are crucial to insure equal justice from court to court.

THE COMMUNITY ALLIANCE IS CONCERNED THAT AN INFORMAL APPROACH TO SENTENCING DEPRIVES SOME OFFENDERS OF EQUAL JUSTICE, AND OFTEN UNDERMINES THE CORRECTIONAL EFFORT.

The Sentencing Institutes proposed by the Community Alliance differs in degree from the annual meetings currently held by Maine's Judiciary. Rather than informal get-togethers, designed to promote sentencing equality through communication between judges, the Community Alliance envisions a seminal approach designed to provide a program of continuing education concerning sentencing issues and alternatives.

The Sentencing Institute should meet biannually at the Maine State Prison. All trial court judges should be required to attend the Institute, and other select criminal justice personnel (Police, Corrections) should be encouraged to attend.

The Institute should focus primarily on acquainting judges with the available sentencing alternatives. The agenda should include:

1. discussion of the purposes of sentencing and how these purposes might best be served;
2. the kinds of dispositions for various types of offenders;
3. alternative dispositions that should be available to the courts;
4. resources that the courts may use in obtaining additional information needed to make appropriate dispositions;
5. the relative effectiveness of alternative types of corrections programs;
6. procedures for minimizing pre-trial detention;
7. evaluation of corrections programs observed through judicial visitations;

8. recommendations for penal code revisions;

9. rights of offenders throughout the correctional process; and

10. comparative sentencing practice (nationwide) and other pertinent issues.

Recognized experts in fields related to sentencing and corrections should be invited to attend as resource persons.[56]

STANDARD 6.2: THE COMMUNITY ALLIANCE RECOMMENDS THAT A COMPLETE RECORD OF ALL SENTENCING PROCEEDINGS BE KEPT BY THE COURT. THIS REPORT SHOULD CONTAIN THE JUDGE'S RATIONALE FOR THE SENTENCE DECISION.

The report should be similar to a trial record. Verbatum transcripts of sentence hearings should be made and preserved. The record should show findings of fact, reasons justifying the sentence, and the purpose the sentence is intended to serve. Recorded explanations of sentencing decisions should help the court to be more careful and less mechanical in imposing of sentences.

Implementation of sentencing reports will create an important appeal tool and may reduce the number of appeals. In addition, the court will be kept up to date on correctional programs, etc.

The official record of the sentencing hearing should be part of the offender's trial record and should be available to the defendant for appeals, and to correctional agencies for guidance. The information in the reports will be useful in classifying offenders for appropriate programs.

THE COMMUNITY ALLIANCE RECOGNIZES THAT IF SENTENCING REPORTS ARE REQUIRED, JUDGES WILL NEED EXTRA INFORMATION CONCERNING EACH OFFENDER, THE CASE, AND APPROPRIATE CORRECTIONAL ALTERNATIVES.

STANDARD 6.3: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE COURTS ESTABLISH CRITERIA FOR PRE-SENTENCE REPORTS. PRE-SENTENCE REPORTS SHOULD BE REQUIRED IN ALL CASES WHERE INCARCERATION MAY BE THE SENTENCE.

Pre-sentence reports are currently available at the request of the judge, but the Community Alliance feels that all offenders facing possible incarceration should have the benefit of pre-sentence reports.

Pre-sentence reports should contain the following minimal information:

1. synopsis of trial transcripts and the offender's version of the offense, including an explanation for it;

2. offender's educational background;

3. offender's employment background, including military service records;

4. offender's social circumstances, including family relationships, marital status, and interests;

5. residence history of offender (1 year minimum);

6. information about resources (correctional or otherwise) available to the offender;

7. the offender's adult criminal record; and

8. medical and psychological history of offender.

The presentence report should provide the court with pertinent information concerning the offender, information that could not be obtained from the offender in court proceedings. Information of this kin , will produce more effective sentencing decisions.

All information in presentence reports must be verified. Erroneous statements which lead to a harsher sentence than otherwise might have been handed down, are grounds for sentence appeal. Considering this, all unverified information should be eliminated from the report.

STANDARD 6.4: THE COMMUNITY ALLIANCE RECOMMENDS THAT PRESENTENCE REPORTS SHOULD NOT BE AVAILABLE TO THE PROSECUTOR, THE COURT, OR THE JURY PRIOR TO ADJUDICATION, UNLESS THERE IS A QUESTION THAT THE OFFENDER MAY BE UNABLE TO STAND TRIAL BECAUSE OF PSYCHOLOGICAL ILLNESS.

Although preparing presentence reports is time consuming, citizens feel that the prohibitive cost of the reports requires that a plea or verdict of guilty be entered prior to preparation of the report.

The information gathered is considered prejudicial if released to the jury, judge, or prosecutor prior to adjudication.

In cases where there is a question concerning the offender's mental stability, and subsequent ability to stand trial, presentence reports containing psychological evaluations are a necessity.

THE COMMUNITY ALLIANCE IS VERY CONCERNED THAT MANY OFFENDERS ARE NOT GIVEN CREDIT ON THEIR SENTENCES FOR THE TIME SERVED AWAITING TRIAL AND SENTENCING.

STANDARD 6.5: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE TIME AN OFFENDER SPENDS INCARCERATED WHILE AWAITING TRIAL OR SENTENCING BE AUTOMATICALLY CREDITED AGAINST HIS SENTENCE.

This recommendation places upon the courts the responsibility for insuring that proper time credit is awarded the offender. Presently, time credit is awarded or revoked at the discretion of the judge.

An increasing number of courts are deciding that the refusal to grant credit for pre-trial detention violates the equal protection and due process clauses of the Constitution. This is particularly true where the reason for detention is that the accused is indigent and unable to make bail. In Workman v. Cardwell, 338 F. Supp. 893 (N.D. Ohio 1972), the court held unconstitutional the statute authorizing the granting of good time because it limited credit for time served to the period following the verdict, thus denying equal protection to the indigent who had to serve time before the verdict because he could not make bail.[57]

THE COMMUNITY ALLIANCE RECOGNIZED THAT IF TIME CREDIT, AND APPROPRIATE CORRECTIONAL PROGRAMS ARE TO BE THE RESPONSIBILITY OF THE COURT, THE SENTENCING JUDGE WILL HAVE TO MONITOR THE PROGRESS OF OFFENDERS SENTENCED IN HIS COURT.

STANDARD 6.6: THE COMMUNITY ALLIANCE RECOMMENDS THAT THE SENTENCING COURT EXERCISE CONTINUAL JURISDICTION OVER THE SENTENCED OFFENDER.

The court should also exercise its jurisdiction to determine if an offender is subjected to conditions, requirements, or authority that are unconstitutional, undesirable, or not directly related to the purpose of the sentence.[58]

The sentencing court should also have jurisdiction over major offense charges made by correctional agencies against the offender.

This standard mandates that the court should exercise its jurisdiction after the sentence has been determined and imposed, rejecting the teachings of early judicial precedent that the judiciary should keep hands off correctional institutions. The hands-off doctrine has been consistently rejected by many courts during the last five years. This standard substitutes the view that the sentence is analogous to decrees in equity cases, subject to further judicial scrutiny if the conditions of the decree are breached.

Based upon reverence for federalism and separation of power, the hands-off concept permeated litigation during the 1950's and early 1960's. The courts' belief that no effective judicial remedy was available by which complaints of prisoners concerning their incarceration could be heard, intensified this point of view. Today, however, these tenets no longer are viable. A series of Supreme Court cases, first in other areas and then in the field of correctional law have addressed the issue, and both Federal and State courts now are examining prison conditions in light of constitutional standards.

Many aspects of corrections, however, still are deemed beyond the scope of judicial review, including, for example, decisions as to the substance of institutional punishment, parole release, and others. Courts hesitate, moreover, to review simple negligence in medical service and tort cases. This Standard recognizes that a sentence of incarceration implicitly carries with it stipulations that the inmate will receive decent medical treatment, fair nutrition, and that, in other words, he will be treated as a human being with human and constitutional rights.[59]

STANDARD 6.7: THE COMMUNITY ALLIANCE RECOMMENDS THAT MAXIMUM EFFORT AND FUNDING BE DIRECTED TOWARD DEVELOPING COURT REFERRAL SERVICES AND ALTERNATIVE SENTENCING TREATMENT CENTERS AND PROGRAMS.

The 1975 Maine Criminal Code, as amended in 1976 and 1977, provides courts with a wide variety of alternatives to be used in sentencing persons convicted of serious crime.

Generally, the Code provides that a convicted criminal may be: sentenced to a definite term of imprisonment, fined, placed on probation, unconditionally discharged, required to make restitution to the victim of his crime, sentenced to an intermittant sentence, which may result in serving his time on weekends, and in the case of a convicted organization, required to publicize the conviction to potential customers or patrons. With a few significant exceptions, these alternatives may be combined into one sentence to fit a particular circumstance.

For example, the Code allows the Court to authorize probation coupled with a short period of incarceration in an institution to give the convicted person an appreciation of the "consequences of law violations"(17 MRSA 1203).

A court may make an order of restitution part of any sentence of incarceration, probation or any discharge or parole. (17 MRSA 1152, 1204, 1321-1328).

The Community Alliance membership feels that one of the major problems facing corrections in Maine, and also the Judiciary, is the complete lack of facilities and programs for alternative sentencing for those who commit less serious crimes, those needing special treatment, and minor or first offenders. The needs are evident and recognized by professionals and legislators, but little funding or active planning has emerged in this area.

IMPLEMENTATION

MAINE STATE LEGISLATURE

Standard 1.1
Standard 1.2
Standard 1.3
Standard 2.5
Standard 3.1
Standard 4.1
Standard 4.2
Standard 4.4
Standard 5.1
Standard 5.6
Standard 6.1
Standard 6.7

DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS

All Standards in Correctional Section

MAINE JUDICIARY

Standard 6.2
Standard 6.3
Standard 6.4
Standard 6.5
Standard 6.6

DEPARTMENT OF EDUCATION

Standard 2.5

MAINE PROSECUTORS ASSOCIATION

Standard 6.2
Standard 6.3
Standard 6.4
Standard 6.5
Standard 6.6

DEPARTMENT OF HUMAN SERVICES

Standard 2.5

MAINE TRIAL LAWYERS ASSOCIATION

All of Chapter 6

MAINE CRIMINAL JUSTICE ACADEMY

Standard 4.2
Standard 6.1

CORRECTIONS FOOTNOTES

1. Relapse into criminal behavior and subsequent criminal justice processing.

2. Corrections, The National Advisory Commission of Criminal Justice Standsrds and Goals; 1973, Washington, D.C., pp. 350-351

   The information and statistics used in the existing systems throughout the introduction section are taken from the following sources:

   Batten, Batten, Hudson and Swab, Comprehensive Correctional Study: State of Maine, Vol. I - Existing Systems, 1972.

   Department of Mental Health and Corrections, Adult Corrections Master Plan, 1977.

   Governor's Task Force on Corrections, In the Public Interest - Digest of Findings, 1975.

   Preliminary High Crime Area Assessment Report, 1977.

3. Figures currently available from the various correctional agencies characteristically identify only those offenders who are again sentenced to the same institution in which they were previously incarcerated. Offenders who are first sentenced to one institution and then subsequent to release convicted and sentenced to another institution are usually not considered in the data.

4. Corrections, The National Advisory Commission of Criminal Justice Standards and Goals, pp. 73-77.

5. Programs and facilities dealing with juveniles have been reviewed in the Youth Development section of this report. Appropriate standards and goals will also be found there.

6. The following statistics concerning MSP were provided by Sgt. Linwood Willians, a member of the MSP Frontline Staff Team, and Lauren Ruybal, an inmate at MSP, during the September 26, 1977 meeting of the Lincoln/Sagadahoc Counties Corrections Sub-Committee. Maine State Bar Assoc., Costs of Maine Correctional Institutions, 1977.

7. M.C.J.P.A.A., "Comprehensive Criminal Justice Plan", Vol. I: Existing Systems, 1976, p.91.

8. Presently unused because of lack of interest.

9. The following statistics concerning Men's Correctional Center were found in the "Costs of Maine State Correctional Institutions" prepared for the Maine State Bar Association by the Committee on Correctional Facilities and Services in March 1977.

10. MC.CJ.P.A.A., "Comprehensive Criminal Justice Plan", Vol. I: Existing Systems, 1976, p. 92

11. The following statistics concerning the Division of Probation and Parole were obtained from: M.C.J.P.A.A., "Comprehensive Criminal Justice Plan," Vol. I: Existing Systems, 1976, pp. 83-84.

12. For the 1976-77 fiscal year, the Department of Mental Health and Corrections has provided estimates of expenditures for FY 1975-76 as they were reported to the Department of Finance for inclusion into the State's Annual Report.

13. System of state facilities and county jails.

14. This problem is exemplified by York County Deputy Sheriff George Simard's statement that the new facility now under construction in York County is already too small for the existing inmate population.

15. Department of Mental Health and Corrections, Adult Correctional Master Plan, 1977.

16. Department of Mental Health and Corrections, Adult Correctional Master Plan, 1977, pp. I-II, 9.

17. See Standard 1.7 of this chapter.

18. Any transferred inmates or detained juveniles would be subsidized by state funds on a per diem basis.

19. M.C.J.P.A.A., County Jails, 1973, provides a working model for the appropriate action.

20. Batten, Batten, Hudson & Swab, Comprehensive Correctional Study; State of Maine, 1972.

21. Department of Mental Health and Corrections, Adult Correctional Master Plan, 1977.

22. Ibid.

23. Midwest Research Institute, 425 Volker Blvd., Kansas City, MO.

24. The correctional concerns will not have to create factory setups, etc. They will only have to ferret out positions in private companies.

25. Department of Mental Health and Corrections, County Jail Standards, 1977.

26. Midwest Research Institute.

27. Ibid.

28. Ibid.

29. Maine State Prison Model Tracking System.

30. Under the existing method of providing a single level of security some offenders do not need as much as is in effect while some offenders could use more.

31. M.C.J.P.A.A., Existing Systems: Comprehensive Criminal Justice Plan, Vol. 1, 1976, pp. 91-92.

32. Department of Mental Health and Corrections, Adult Correctional Master Plan, 1977, p. 10.

33. Rouse vs. Cameron 373 F. 2d 451 (D.C. Cir. 1966).

34. Wilson vs. Kelly 294 F. Supp. 1005 (N.D. Ga. 1968).

35. Jail Inspection Report 1976.

36. Approximately 10% of the present county jail population.

37. This will require a statute to provide both the existing "Statutory Good Time: and the suggested Exemplary Goodtime. See footnote #31.

38. Conversation with Warden Oliver, 8/11/77

39. Corrections, The National Advisory Commission on Criminal Justice Standards and Goals; 1973, Washington, D.C. p. 35.

40. Some scattered programs exist which provide alternatives in excess of those listed. The Kennebec Community Justice Project in Waterville and Project YES in Aroostook County are examples.

41. See Chapter III, Probation.

42. The Residential Centers proposed in Chapter I: Prisons and Jails, should provide sentencing alternatives for inmates who need some supervision but would benefit from community programs and contacts. These centers will not be discussed in this chapter, however, as they have received substantial attention in Chapter I.

43. Incarceration is often not a valid sentence for an offense and probation personnel caseloads are already unworkable. The Maine Youth Center has even requested that judges not sentence any more juveniles there during periods of serious overcrowding.

44. See Chapter III, Probation.

45. National Center for Crime and Delinquency Research Center; Community-based Alternatives to Traditional Corrections, State of Iowa, 1974, p. 3.

46. Corrections, The National Advisory Commission of Criminal Justice Standards and Goals, pp. 74-76

47. Cost-Benefit Analysis of Alternatives to Incarceration in Maine. Maine Bar Association, Committee on Correctional Facilities and Services, 1977.

48. Ibid., p. 221

49. Ibid., p. 222.

50. Corrections, The National Advisory Commission of Criminal Justice Standards and Goals, p. 222.

51. Cost-Benefit Analysis of Alternatives to Incarceration in Maine, p. 221

52. Correspondence with Bob Buchanan, Midwest Research Institute, Kansas City, MO., November 13, 1977.

53. American Bar Association, Cost-Benefit Analysis of Alternatives to Incarceration in Maine, p. 59-61.

54. Model Rules and Regulations on Prisoner's Rights and Responsibilities, Krantz, Bell, Brant, Magruder, Center for Criminal Justice, Boston University Law School, 1973, pp. 1-2.

55. Corrections, The National Advisory Commission of Criminal Justice Standards and Goals, pp. 141.

56. Ibid., pp. 181

57. Ibid., pp. 171

58. See Standard 5.

59. Corrections, The National Advisory Commission of Criminal Justice Standards and Goals, p. 141.

CORRECTIONS

CROSS-REFERENCED

COMMUNITY ALLIANCE STANDARD		NAC AND RELATED STANDARDS
Chapter I	1.1	9.10, 11.1
	1.2	3.1, 7.1, 11.1, 9.10, 16.4, 16.14
	1.3	2.5, 2.6
	1.4	9.3
	1.5	2.13, 6.12, 16.2, 9.4, 9.7
	1.6	2.11, 11.3
	1.7	6.1, 6.2, 11.5, 9.7
	1.8	11.5, 9.9, 11.10, 11.4
	1.9	6.2, 11.4
	1.10	11.3, 11.10, 2.9
	1.11	11.9, 6.2, 9.8
	1.12	11.8, 9.8
Chapter II	2.1	7.1, 7.2, 7.4, 3.1, 4.4
	2.2	7.1, 7.2
	2.3	3.1, 6.1, 7.1, 7.4
	2.4	6.2, 6.3
	2.5	
Chapter III	3.1	10.3, 10.4
	3.2	10.1, 10.2
	3.3	10.4, 14.1, 14.5
	3.4	10.2
Chapter IV	4.1	8.4, 9.6, 14.1, 14.4
	4.2	14.7, 14.9
	4.3	14.11
	4.4	14.9
	4.5	9.6, 14.6
	4.6	7.3, 14.8
Chapter V	5.1	2.14, 2.18, 11.7, 16.3
	5.2	2.11, 2.12
	5.3	2.12, 16.2
	5.4	2.1, 2.3
	5.6	2.4
	5.7	2.14, 16.2
	5.8	2.8
	5.9	2.7
		2.10

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