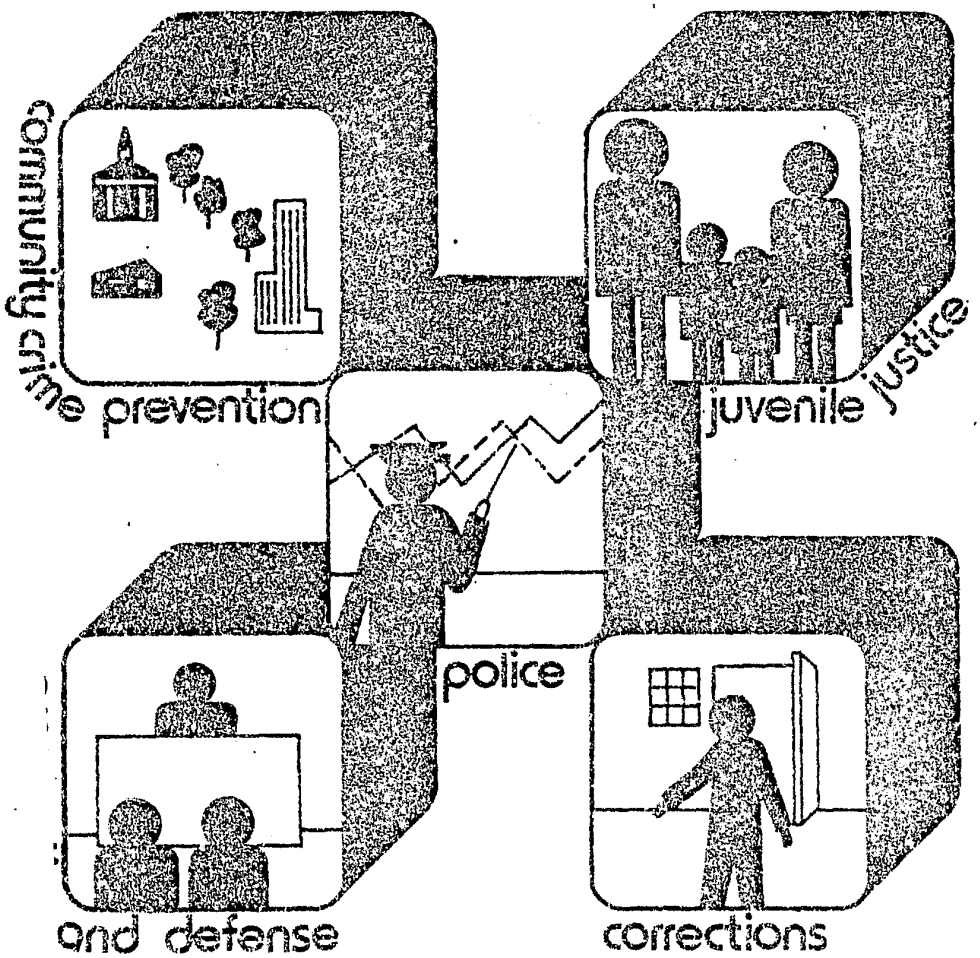
standards and goals

division of criminal justice services



new york state

final draft

NEW YORK STATE

DIVISION OF CRIMINAL JUSTICE SERVICES

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DRAFT STANDARDS AND GOALS FOR THE CRIMINAL JUSTICE SYSTEM IN NEW YORK STATE

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The following publication of Draft Standards and Goals for Criminal Justice in New York State, to be considered for approval by the New York State Crime Control Planning Board have been developed in accordance with U.S. Department of Justice, Law Enforcement Assistance Administration Grants #76-ED-02-0005 and #76-DF-02-0001, awarded to the New York State Division of Criminal Justice Services, Office of Program Planning and Assistance, and do not reflect the views of the U.S. Department of Justice, and are not in final text for promulgation as approved standards of the New York State Crime Control Planning Board.

December, 1977.

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DRAFT STANDARDS AND GOALS FOR THE CRIMINAL JUSTICE SYSTEM

The Standards and Goals Program of the New York State Division of Criminal Justice Services is a direct result of the federal initiative launched in 1973 with the development and publication of six volumes of standards for the criminal justice system by the National Advisory Commission on Criminal Justice Standards and Goals. The Commission was appointed by the Administrator of the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice, in 1971. The federal attempt was the first to establish national standards and goals for crime reduction and prevention. This structure provided a blueprint for the organization and development of federally financed efforts in most of the states over the next four years.

The object of the Standards and Goals Program is to establish a set of priority problem focused criminal justice standards that are consistent in their approach across functional lines in the system, and reflect a review and incorporation of the best and most feasible practices currently available in the field. The staff was assigned to design and implement a methodology for the development of these standards and goals that provided for maximum feasible participation of geographical units of the state, a broad spectrum of state and local criminal justice agency representation, and involvement of significant numbers of the general public, in a process of goal selection and standards design. The outcome was to be a set of propositions that would provide the grounds for agreement of the public and professionals on major issues of social policy in criminal justice, and a contribution to accountability in governmental administration.

The Goals within this document are a description of long-range changes that the Task Forces wish to see accomplished in the criminal justice system. Goals state the general direction in which change is to occur, and are considered as ends, and many do not indicate the manner in which these ends are to be accomplished. Standards, as contained herein, are statements that describe the short-range changes or steps that must take place if the goals or overall ends are to be achieved. Many of the standards permit of measurement, are short-range for paced approximation of achievements, and are as specific as possible in recommending certain changes.

The Division of Criminal Justice Services

Under NYS Executive Law, the Division of Criminal Justice Services has the function, power, and duty to advise and assist the Governor in developing policies, plans, and programs for improving the coordination, administration, and effectiveness of the criminal justice system.

At the present time, there are three major operational bureaus within the Division of Criminal Justice Services: The Office of Special Services, The Identification and Information Services Bureau, and The Office of Planning and Program Assistance (OPPA). The OPPA serves as the State Planning Agency (SPA) charged with administering the LEAA program in New York State.

Under its Executive mandate for data collection, analysis, and planning, DCJS is already performing a wide variety of design, support, and technical assistance functions for every element of the criminal justice system. For this reason, DCJS is the ideal agency for administering a standards and goals development process.

It should be understood that in assuming responsibility for a formal standards and goals development process, DCJS does not intend to interfere with the various standard setting mandates of other State and local agencies. Several other State agencies are now responsible for establishing operational standards in functional areas of criminal justice. In its standards and goals development role, DCJS works with these agencies to identify, and assess existing standards relating to priority problems. Relying heavily on these agencies to provide the data and operational insight needed for the analysis of these standards, DCJS examined the interrelatedness of standards promulgated by different agencies, but pertaining to similar problems or different dimensions of the same problem. Where different sets of standards appear inconsistent or incompatible, we have attempted to isolate the inconsistencies and work with the relevant agencies to resolve them

The staff also examined existing standards against those recommended by the National Advisory Commission, the American Bar Association, and other professional organizations. The end product envisioned was a consistent set of standards which reflect the review and incorporation of the best and most feasible practices of the day. THE LEAA guidelines for standards and goals development and implementation clearly encourage the State Planning Agency to assume these responsibilities. The SPA has

already developed a fairly extensive knowledge of problems and criminal justice operations throughout the State and will continue to do so through the development of the Annual Comprehensive Plan and the review of local criminal justice plans.

Organizational Structure for Standards and Goals Development

The Standards and Goals Unit was formed within OPPA, responsible directly to the SPA Administrator, and staffed by people who worked exclusively on the development of standards and goals. All members of this unit were supported with LEAA standards and goals grant funds.

The Standards and Goals Unit was divided into five sub-system groups: Police, Prosecution and Defense, Juvenile Justice, Corrections, and Community Crime Prevention. Each area was staffed with one administrator and one research analyst, and complemented by three support groups: a Task Force appointed by the Commissioner of DCJS; an Advisory Panel appointed by the Commissioner; and various staff specialists within DCJS.

Each Task Force was composed of 20-30 professionals and lay persons demographically balanced to reflect state-wide population and interests. The duties of each Task Force were to define priority problems to be addressed by the Standards and Goals effort, to direct staff investigation and analysis of problem areas, and subsequent draftings of problem-specific standards and goals, and to submit approved standards and goals to the Crime Control Planning Board (CCPB) for ratification.

Each Advisory Panel, too, represented a careful mix of 30-50 professionals and lay persons to reflect the diverse interests of individuals and sectors both within, and affected by, the criminal justice system. The Advisory Panels were established as a mechanism of achieving greater broad-based, state-wide input into the standards and goals development process, and participated through a consensus-building mail survey technique called Delphi. Delphi, in its initial phase, was an open-ended questionnaire process of problem identification. In secondary stages, problems were further clarified, narrowed, and given priority rankings.

Results of the Delphi were given to each Task Force for consideration, and the resultant draft Standards and Goals, developed by each Task Force will be mailed to the Advisory Panel for validation as to clarity, feasibility, etc.

Each functional area staff of the Standards and Goals project is supported by a DCJS interdisciplinary unit team. The purpose of

this arrangement was, a) to assure agency input into the standards and goals development process, and b) to assure integration of the standards and goals into on-going agency planning activities.

The participation of local planners is crucial to the standards and goals development process, and representatives of Metropolitan, Regional, and Developmental Planning areas are strategically placed on each Task Force and Advisory Panel (20% of the total sample; 11-30% on individual Task Forces).

The Planning Process

Planning for Standards and Goals is the development of system goals based upon inherently competitive purposes as determined through communication and decision making in groups. Plans select and reinforce certain values. Plans are efforts to structure actions in line with priorities. Criminal justice planning is a way of thinking about crime problems, oriented toward the future. It deals with the relationships between goals and means collectively. Planning is putting a set of elements in order. It deals with a plurality of interests and interdependent decisions; it strives for comprehensiveness in policy and program. It is more than administrative planning or allocative planning viz, the distribution of limited resources among competitive uses in terms of cost-benefits. Innovative planning for standards and goals strives for fusion of plan making with plan implementation.

In order to gain participation, mutual goal-setting, and progress towards the standards and goals projected, a careful and genuine involvement of professionals, community groups, and government agencies had to be engaged in the planning process. This planning process began with only a few principles as outlined above and built upon a community education and group problem-solving strategy, to a concerted effort focused on professional and public goals. The planning process, the principles of which are directly related to the formulation of standards and goals, is an integral component of the approach.

Such an endeavor is not mere fact gathering research. It is future oriented, and seeks to provide: (1) allocation guidelines for the maintenance of services, and (2) at the same time innovative planning seeks to promote changes within the existing institutionalized patterns. It is oriented to an action plan and the mobilization of needed resources for the implementation

The Task Force Process

Standards and Goals for Criminal Justice in New York State are primarily the product of the work of staff of the program in concert with the efforts of the members of the five Task Forces appointed by Commissioner Frank J. Rogers in March of 1977. Each Task Force was composed of representatives from all areas of criminal justice (see chart). The Task Forces began meeting in May of 1977 and met as often as bi-weekly through the month of October, 1977.

The Task Forces each adopted a uniform set of procedures for their operation which regulated voting, dissenting opinions and attendance. The procedures were followed throughout the process, with relatively little amendment or deviation.

The first several meetings of the Task Forces were concerned with designating preliminary areas of inquiry, and a committee structure. The particulars of each committee structure can be learned from the discussion of the Task Forces in each section of the document.

Each Committee of a Task Force was given a particular set of problems to deal with, selected from the Task Force members own definitions of the pressing problems of the criminal justice system, together with the results of the first and second rounds of the Delphi Questionnaire technique. These questionnaires resulted in an assessment of priority problems for the criminal justice system as defined by the joint polling of the Task Force members and the Advisory Panel members as one body of persons familiar with criminal justice across the state.

Once the priority problems were defined, staff was assigned the task of writing analysis and position papers on each major problem that reflected a number of factors for consideration in drafting goals and standards to deal with the problem. Some of the factors considered were: magnitude of the problem; population of the state concerned with the problem; research studies relevant to the parameters of the problem; applicable federal and other standards and goals generated by study commissions and reform advocate bodies, such as the American Bar Association, the National Institute of Corrections, National District Attorney's Association, and the National Commission on Criminal Justice Standards and Goals; and the agencies in the state that are responsible for the

New York State Criminal Justice Standards and Goals

PANEL COMPOSITION

Panel or CJ Area	Criminal Justice Professionals								Not CJ Professionals				
	SHERIFFS	POLICE	PROS/DEF	COURTS	CORRECT.	PROBATION	PAROLE	COMMUNITY CRIME PREVENT.	EDUCATORS	LEGISLA.	GOV'T. EXEC. BR. (Non-CJ)	CITIZENS	TOTAL
Police	4	27	2	2	0	0	0	2	5	3	3	5	53
Pros/Def	0	1	30	4	0	0	0	1	4	3	3	4	50
Corrections	4	1	5	1	14	9	4	0	5	3	7	12	65
Juven. Justice	1	1	8	7	1	2	0	0	10	2	9	8	49
Comm. Crime Prevention	0	1	3	1	3	0	0	8	6	4	15	8	49
Courts													0
Admin. of Justice													0
CJ Inform. Sys.													0
	9	31	48*	15	18	11	4	11	30	15	37	37	266
	Subtotal 147								Subtotal 119				

* Sum of two distinct interest groups

administration and development of programs concerned with the problem. A noticeable shortcoming of these analyses, due to time constraints and the lack of available data, was information on the economic factors that impinge on various problems, including the cost of various criminal justice services including defense services state-wide, as well as the cost of certain problems such as juvenile vandalism, etc. In turn the economic impact of considered reforms is a consequent shortcoming of many of the recommendations.

The Delphi Questionnaire Survey

In the early stages of the Standards and Goals program it became apparent that a strategy had to be developed to gather the opinions of more persons than the Task Force members (120) on major issues and problems in the criminal justice system. The necessity to sample the perceptions of criminal justice system personnel and lay citizens statewide became the basis of a plan whereby an additional 20-30 persons in each area of criminal justice being addressed (community crime prevention, corrections, prosecution/ defense, police, and juvenile justice) were selected statewide and appointed to an Advisory Panel. Thus, the Task Force members, as well as Advisory Panel members became the population to be sampled by questionnaire for their opinions on criminal justice problems and solutions throughout the state.

Towards this end, a plan for the use of a series of three questionnaires was designed, with each questionnaire falling at a critical point in the process of the Standards and Goals program. Delphi One, or the first questionnaire, was designed to identify the most critical problems of the criminal justice system as judged by the members of the Task Forces and the Advisory Panels, a total of about 280 people who were surveyed. The first questionnaire was accompanied by a 25 page profile of the criminal justice system in New York, drawn by staff from available crime data, and containing a description of the administration, functions, authority, organization, and resources of each of the five major parts of the criminal justice system to be considered for the standards and goals effort.

The returns of this questionnaire were better than 75% of the questionnaires mailed. The staff took each of the written statements, compared it to all written statements on that area, and summarized and consolidated similar statements into a compact list of some 396 problem statements overall. These were to be used for the second questionnaire.

The second round of the Delphi, questionnaire #2, took place as the Task Forces began to meet as a group. The second questionnaire restated the consolidated group of statements obtained from the open-ended first questionnaire, and asked each participant (Advisory Panels and Task Forces) to rate the statements obtained from them and their colleagues, on a critical order scale of 1-5, with 5 being a problem statement of the highest importance for immediate solution, and a rating of 1 designating a problem of no immediate importance. The rating sheets sent to each participant along with the list of statements were designed for electronic data processing. The return rate on this questionnaire was better than 65% of all the Task Force members and Advisory Panelists.

The results were tallied by computer in several ways. First, each individual statement rating was compared to the rating of that statement by the entire body of respondents (i.e. all Task Force and Advisory Panel members). Secondly, the individual respondent's score for that question was compared to the ratings of all respondents for only the questions that were in that one functional area (i.e. all statements on juvenile justice problems). Thus, the results initially projected how each statement was critically evaluated both as part of the overall list of 396 statements, and then as a part of the functional group to which it belonged (police, prosecution and defense, etc.). Each statement, therefore, was rated two ways.

The results of the second round questionnaire were analyzed by the staff of each functional unit and presented to the Task Forces for their guidance and information. At no point did the staff regard the Delphi questionnaire findings as restrictive to the Task Force deliberations, and in fact the Task Forces did, at many points, choose to disregard some of the findings. Rather, the results of the second questionnaire served to inform the Task Force members about the critical importance with which key problem statements were regarded by all of the members polled.

A third round questionnaire has been prepared by the staff for administration by the Division of Criminal Justice Services. This third questionnaire is designed to obtain an evaluation of the standards and goals as they appear in this document, as to their suitability for implementation according to seven criteria. The criteria to be scored in the questionnaire are: acceptability (is this standard acceptable to you?); need (is this standard needed to solve problems facing New York?); appropriateness (is the standard appropriate for meeting the problem?); benefit (will the benefits of implementing this standard outweigh the costs and disadvantages?); capability (does New York or its jurisdictions have the capability in resources, personnel, etc., to implement this standard?); likelihood (how likely is it that this standard can be adopted and implemented in New York State in the near future?); and clarity (is the intention of the standard clear?). The results of this third and last round of the Delphi survey process will provide information to DCJS staff on which to base judgments about which standards should be the subject of long-range, short-range, or revised program design implementation, and on which to base overall criminal justice planning that utilizes the proposed Standards and Goals in a practical way to approach problem solving in the criminal justice system.

Public Hearings

As an integral part of the Standards and Goals Program process, public hearings were held in four geographically distributed sites throughout New York State. The purposes of holding public hearings were: 1) to publicize the proposed Standards and Goals; 2) to solicit public and professional opinion on the suitability and acceptability of the standards; and, 3) to provide the Task Forces with information on the reception of the standards for reassessment of the recommendations in the light of problems raised by the participants in the public hearings.

The public hearings were held in Syracuse, Buffalo, Albany and New York City on October 11,12,17 & 18 respectively. Over 2000 copies of a 40 page draft of the proposed standards were distributed to organizations, agencies and individuals across NYS. The hearings were publicized widely on radio, in the press, and by notice of the staff to over 2000 persons and organizations. There an average of 75 persons in attendance at each hearing, with approximately 30 speakers per session. Results were summarized and provided to the Task Forces by the staff, who attended each public hearing, and made recommendations for changes based upon the questions and problems raised by speakers at the hearings in each of the four locations. In addition, several groups and organizations held hearings on the DCJS standards and reported results to the staff. These included the Westchester/Yonkers Crime Council, and the Nassau Coalition for Safety and Justice.

The Process of Review and Adoption for the Board

Pursuant to the LEAA grant for Standards and Goals, the next step in the grant implementation is the review and adoption of the Standards and Goals by the Crime Control Planning Board. This process must be systematic and studied, as the implications of the myriad of recommendations contained in the draft are complex and not at all readily apparent by reading the text.

The staff has taken an initial look at each of the goals and standards in the draft and categorized each according to the three possible means of implementation. Much work needs to be done to further this analysis.

The three basic vehicles for implementation are (1) the use of LEAA and matching funds, (2) legislation, and (3) administrative policy change and resource reallocation.

1. LEAA Funds and Matching Monies

Standards and Goals could be used by the Crime Control Planning Board and the SPA staff as major criteria for funding grants. The supervisory board might consider passing a resolution stating its intention to use the new standards as some of the criteria for making decisions on grant applications. A policy could also be established whereby higher points would be awarded to grant applications, that address the higher priorities among the adopted standards.

The annual preparation of planning guidelines can serve as the basis for stimulating the submission of applications that address the adopted standards and goals. SPA guidelines contain criteria, adopted by the board, to be used by the board in selecting project applications for funding. Once approved by the board, the standards and goals could readily be incorporated into the planning guidelines as additional criteria for making funding decisions.

2. Legislation

Some standards will need legislation to be effectively implemented. Examples of these are the abolition of the PINS status in the Family Court Act, or the removal of civil disabilities for released prisoners.

Entry into the legislative process has been facilitated by appointing state legislators to serve on the Standards and Goals Task Forces. If the final set of standards has the support of these legislators, they can provide tremendous leadership in sponsoring legislation to enact some of the reforms they helped develop. Legislators who served can also provide valuable insights into such things as the desirability of proposing certain types of legislation, and the possible chances of getting certain legislation passed.

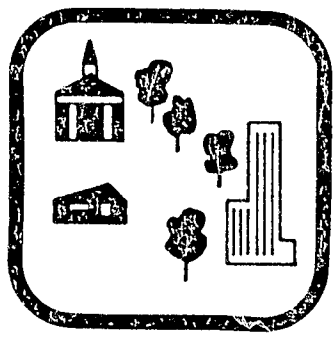
The process of moving bills through the legislature can also be expedited if the proposed legislation is supported by statewide criminal justice professional organizations, such as peace officers, district attorneys, and judicial/correctional associations. Here again, the chance of gaining the support of these groups is greater, since representatives from each serve on the Standards and Goals Task Forces. While serving, they have influenced the content of the final set of standards, and kept their respective associates informed of the progress.

3. Administrative Policy Change and Resource Reallocation

Because some standards do not need legislation to be implemented, and because LEAA funds account for only a small percentage of the total criminal justice expenditures in New New York State, some standards may be implemented through policy changes and resource reallocation. For this reason, criminal justice agencies should be made aware of the State's Standards and Goals as they are adopted, and attempts should be made to induce these agencies to make the standards a part of their operating policies. This can be accomplished through an indirect approach using special conditions or sanctions on grant applications.

Priorities and the Implementation Process

Once the basic approaches to implementation have been determined, the actual implementation of the Standards and Goals should be in accordance with the priorities set among the goals and standards earlier in the development process. In awarding SPA grants, for example, those applications that address high priority standards could be given preference over those that address a lower priority. Similarly, initial attempts to develop legislation, or to effect administrative policy change, would center on those standards and goals that had been given a high priority.



community crime prevention

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OVERVIEW

In the past, the New York State Comprehensive Crime Control Plan has distinguished crime control and crime prevention in the following manner (DCJS-b, 1976, p.252):

> 'Control' refers to those activities (detection, apprehension, prosecution, adjudication, post-adjudicatory efforts) in which society primarily engages in response to criminal acts once they have occurred.

In contrast,

> 'Prevention' of crime denotes a range of societal activities which are designed to inhibit the occurrence of criminal behavior by interrupting the social, psychological and situational processes believed to encourage it, and by supporting those processes which are believed to encourage law abiding behavior.

According to this definition, control efforts are responsive to the commission of criminal acts; prevention activities are largely anticipatory.

While the above analysis is useful, it is also limiting. For there are at least three ways in which the activities of crime control agencies (police, courts and corrections) serve preventive functions. (Ibid, 252).

First, to the extent that police patrol efforts reduce of change situational opportunities for the commission of crime, and to the extent that the apprehension of suspects results in the temporary incapacitation of would-be offenders, these activities constitute a mechanical form of prevention.

Secondly, to the extent that adjudicatory, pre-adjudicatory, and post-adjudicatory agencies are successful in preventing recidivism among offenders, they too, contribute to the prevention of crime.

Finally, to the extent that the activities of all crime control agencies exercise a deterrent effect on the inclinations of the general public to commit offenses -- if they do exercise a deterrent effect at all -- these activities would also be preventive.

Interactional Relationship. Too often proponents of a general deterrence hypothesis assume that rising rates of law violation necessarily signify deficiencies in either the certainty of

punishment or the severity of the penalty provided for such violations. However, an approach to crime prevention which emphasizes the certainty and severity of penalties more often than not ignores the entire historical, cultural, social and community context in which norms and their penalties exist. Hence, the approach lacks a scope proportionate to the problem it is intended to address.

In order to ameliorate the above problem, as well as to integrate the control and prevention models into a unified approach to crime abatement objectives, the Commissioner's Task Force on Community Crime Prevention Standards and Goals has adopted the following three-tiered model of crime prevention (Brantingham and Faust, 1976, p. 284):

a. Primary prevention refers to those efforts aimed at the modification of criminogenic conditions of the physical, socio-economic, or cultural environment which motivate or permit the commission of crime;

b. Secondary prevention is directed at the early identification of individuals or groups in criminogenic circumstances and intervention in their lives so as to reduce their potential for criminal activity;

c. Tertiary prevention is intervention into the lives of actual offenders to prevent further offenses.

Priority Issues. The top ten community crime prevention problems identified through the Delphi survey process focused on social conditions and the dearth and inadequacy of primary crime prevention efforts. These included the lack of a coordinated, multi-modal approach to social service planning and delivery, insufficient public awareness regarding crime, its prevention, and the criminal justice system's operations and capabilities; lack of comprehensive, well-integrated interdisciplinary planning in the area of crime prevention, including design of the environment; insufficient meaningful and reliable performance and impact evaluations of crime prevention programs, lack of trust, cooperation, and effective working relationships between citizen groups, schools, and criminal justice professionals; insufficiency of criminal justice system resources to prevent or deter crime, and sensationalism and glorification of violence by the media and other social institutions. The number one problem identified by all survey respondents was social conditions such as unemployment and inadequate housing, recreation, and educational-vocational opportunities for the poor, young, and minorities.

In order to address the priority issues most expeditiously, the Task Force was divided into two subcommittees for delibrations on two major themes: crime prevention and the citizen and crime prevention and social conditions. The guiding premises for this division were that a) only an educated and involved anti-crime citizenry can bolster the seriously overtaxed resources of the criminal justice system and truly plan for, and implement, programs for personal and community safety, and b) only those efforts aimed at bridging the gap between the endowed and the disadvantaged by establishing equity in the allocation of resources and equitable access to goods and services which support quality life can we hope to eradicate those socio-economic conditions believed to breed and encourage crime.

Task Force Composition. In keeping with the premise that planning and programming for community safety and the fair and expeditious administration of justice requires a multiplicity of talent and expertise, the Task Force itself was selected to represent a wide variety of professional and community-based interests and experience. The 21-member Task Force included: one private attorney, one judge, one local criminal justice planner, one local government executive, one police officer, three community crime prevention specialists in the juvenile field - one state and two local; three educators, and ten citizens representing seven diverse community organizations.

All standards and goals which appear in this section represent the consensus of the Task Force.

Acknowledgements. The Task Force and staff wish to express a special thanks to Ms. Jean Gerber, Division of Criminal Justice Services Librarian, and Ms. Norma Sue Wolfe, DCJS Public Information Officer, for their tireless help and encouragement throughout the duration of the project.

CCP GOAL 1:

INCREASE THE POLITICAL AND ECONOMIC POWER OF CITIZENS TO INFLUENCE A) COMMUNITY CRIME PREVENTION PRIORITIES; B) THE OPENING UP AND ENHANCEMENT OF CHANNELS OF CITIZEN PARTICIPATION; AND C) THE DEVELOPMENT OF NEW RESOURCES AND LINKAGES BETWEEN RESOURCES FOR MORE EFFECTIVE UTILIZATION AND COORDINATION OF CRIME PREVENTION EFFORTS AIMED AT ALLEVIATING BASIC SOCIAL PROBLEMS WHICH SUPPORT CRIME.

STANDARDS:

1.1 Greater involvement of citizens in policy-making, planning and programs of crime prevention shall be assured in the following ways:

a. By June 1978 membership on the Crime Control Planning Board shall be increased to reflect a minimum of one-third lay citizens, i.e., those individuals who are not paid providers of services in or for the criminal justice system.

b. By June 1978 membership of MPA, RCA, and DPA Boards shall be increased to reflect a minimum of one-third lay citzens as a special condition for the receipt of LEAA/DCJS funds.

c. By June 1978 each community-based organization funded by the Crime Control Planning Board shall have a minimum lay citizen representation of one-third on its Advisory Board or the board of its sponsoring agency. A minimum of 25% of these citizens shall be direct consumers of project services whenever feasible.

d. By June 1978, all public agency projects receiving LEAA grants from the Crime Control Planning Board shall have a Citizen Advisory Board with minimum lay citizen representation of one-third. A minimum of 25% of these citizens shall be direct consumers of project services whenever feasible.

Citizen appointments to each of the above boards shall be made to reflect age, sex, ethnic, and geographic distributions of the state (a), region (b),or community (c,d), respectively.

1.2 Beginning in fiscal 1979, the Crime Control Planning Board shall allocate a minimum of 10% of its annual fiscal resources to primary community crime prevention programs of a diversified nature.

1.3 By fiscal year 1979, at least 50% of DCJS resources allocated through MPA's, RCA's and DPA's to primary community crime prevention shall be awarded to citizen groups and community-based citizen coalitions.

1.4 By June 1978, all Metropolitan Planning Areas shall develop a public hearing process for the annual review of local crime control plans.

1.5 By January 1979, a public hearing process shall be established for the annual review of the State Comprehensive Crime Control Plan which addresses standards and goals, program priorities and resource allocation.

1.6 By January 1978, the DCJS Commissioner shall establish a permanent Community Crime Prevention Advisory Board to a) review and approve each community crime prevention grant application before consideration by the Crime Control Planning Board, and b) monitor the implementation of community crime prevention standards and goals.

RECOMMENDATIONS

a. Local police precincts, county sheriffs' offices, county probation and parole offices, and the New York State Police are encouraged to 1) establish a Citizen Advisory Board which meets at least bi-monthly to comment and render recommendations on plans, policies and operations of the office, and 2) assure a minimum representation of one-third lay citizens on the advisory board of the office.

b. In 1979 the Federal Crime Control and Safe Streets Act should be amended to require each state's agency responsible for crime control planning and administration to design an action plan for citizen participation in planning and policy-making.

c. The eight volunteer citizen court monitoring projects currently operating under the Fund for Modern Courts should be adopted as a model for replication in other counties of New York State.

d. Local police precincts, in collaboration with social service agencies and civic groups, are encouraged to design and implement community organization models for crime prevention, especially in high crime neighborhoods.

e. The Task Force strongly recommends that leadership training be given to all lay citizens serving on boards and councils at all levels.

f. In 1979, the Crime Control and Safe Streets Act should be amended to provide an explicit funding percentage of 25% to primary community crime prevention.

g. Town boards, municipalities and county governing boards are encouraged to provide funds for the operating expenses of community-based volunteer citizen anti-crime activities which have been determined to be effective by a bona fide evaluation.

h. Programs should be encouraged at the neighborhood level to reduce crimes against the elderly and the fear of crime currently affecting a sizeable portion of New York State's elderly population. Senior citizens, themselves, should be involved in the design, planning, and implementation of these programs.

COMMENTARY

> "All the great administrative improvements [that have strengthened criminal justice]... came through the efforts of laymen...It has to be laymen. They're the ones who are hurt by the malfunctions."(Chamber of Commerce,1973, p.1)

Early in our nation's history, the federal government did little beyond issue postage stamps, collect tariffs, and provide for the common defense. State governments did less. Instead, local citizens themselves gathered to decide public affairs (Ross, 1973, vii). Ralph Nader has argued that a logical evolution of society would have seen the corollary expansion and development of citizen-oriented governmental formats as the nation's economic, legal, and technological structures expanded, and as people and institutions became increasingly interdependent. However, something nearly the opposite of this in fact developed (Ibid.). Institutions of government and business have become larger and more distant from the constituencies they are intended to serve; and the power of citizens to govern their local affairs has been usurped--or given over--to secretive legislatures and executive bureaucracies (Ibid). In fact, says Nader, "The people's loss of power to govern themselves has deepened as the need for such self-government has risen." (Ibid., p.viii). Political scientist William Boyer (1964, p. vii) sees the issue as bureaucracy versus democracy.

The New York Division of Criminal Justice Services, the state planning agency responsible for developing and funding policies, plans, and programs for improving the administration, coordination, and effectiveness of the criminal justice system in the state, is governed by the Crime Control Planning Board. Membership on this Board is mandated to be representative of law enforcement and criminal justice agencies (including agencies responsible for the prevention and control of juvenile delinquency), units of local government, and public agencies maintaining programs to reduce and control crime. In addition, the Board must include representatives of citizen, professional, and community organizations.

At the present, of 29 voting and one ex-officio members of the Board, only 2 -- or 7% -- are non-professionals in the field of criminal justice or private citizens unaffiliated with government service. Local Criminal Justice Coordinating Councils, too, have limited--and varied--numbers of citizen representatives. No administrative policy governs minimum--or acceptable--levels of citizen participation on these boards, nor is there a policy which requires victims, witnesses and ex-offenders to be represented.

Meanwhile, a task force of the National Commission on the Causes and Prevention of Violence has announced, "Government programs for the control of crime are unlikely to succeed all alone. Informed private citizens... can make a decisive difference..." (National Advisory Commission, 1973, p.7).

No matter what their political persuasion, social philosophy, race, color, or creed, most New Yorkers agree that present crime reduction strategies are not working. Crime is pervasive and growing, justice is imperfect, victims suffer excruciating burdens, and citizens feel increasingly impotent, isolated, and some--notably the elderly--terrified. Year-end statistics just released by the New York State Division of Criminal Justice Services indicate an 11.6% rise in Part I offenses in 1976--Part I referring to that battery of major offenses including murder, negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny and motor vehicle theft (DCJS-a,1976).

The reaction of many to these rising rates of law violation is to call for increased police manpower, the assumption being that law enforcement officials are best able to combat crime and that their effectiveness is directly related to the manpower resources available for patrol and investigation (LEAA,1977, p.i). However, the sheer magnitude and incidence of crime in today's society make it mathematically unlikely that even greatly increased police patrol could deter many crimes, or that an investigation team could adequately or effectively follow up each incident (Ibid., p.1).

> The first thing to understand is that the public peace...is not kept primarily by the police, necessary as police are. It is kept primarily by an intricate, almost unconscious network of voluntary controls and standards among the people themselves...No amount of police can enforce civilization where the normal, casual enforcement of it has broken down. (Jacobs, 1961, p.33)

There are ways in which citizens themselves can prevent crime and the attendant anxiety and fear of crime by accepting shared responsibility for policy-making and planning of community safety. The first step is to assure representation of community members on those policy-making and planning boards which approve and fund programs directed at crime control and prevention. Only through representation and voting power on these boards will citizens begin to have the political and economic power to address the crime prevention needs of their communities.

CCP GOAL 2:

ESTABLISH A COMPREHENSIVE PUBLIC INFORMATION AND EDUCATION PROGRAM IN THE AREA OF CRIME PREVENTION AND OTHER CRIMINAL JUSTICE SYSTEM SERVICES TO ACCOMPLISH THE FOLLOWING:

1. INCREASE PUBLIC AWARENESS OF CRIME, ITS PREVENTION, AND THE CRIMINAL JUSTICE SYSTEM'S OPERATIONS;
2. INCREASE CITIZEN AND SYSTEM APPRECIATION OF THE IMPORTANCE OF A CLOSE, COOPERATIVE RELATIONSHIP BETWEEN CITIZENS AND SYSTEM PROFESSIONALS;
3 INCREASE CITIZEN ABILITY TO PROTECT HIM/HERSELF, FAMILY AND NEIGHBORS; AND
4. IMPROVE CITIZEN ABILITY TO PERFORM PUBLIC INFORMATION TASKS ON THE NEIGHBORHOOD LEVEL.

STANDARDS:

2.1 Public information and education shall become a priority function of the Division of Criminal Justice Services, and a specific action plan for public information and education shall be designed by April 1, 1978, and approved by the Crime Control Planning Board.

2.2 DCJS shall reorganize staff to perform the following public information functions:

a. Write and release all crime statistics and other news emanating from the five agencies other than the Office of Program and Planning Assistance, the LEAA grant-giving arm of the Division of Criminal Justice Services. These include the Bureau for Municipal Police, Office of Identification and Information, Juvenile Justice Institute, Bureau of Prosecution and Defense Services, and Special Court Programs;

b. Write and release news and features on all projects funded through OPPA;

c. Create and disseminate pamphlets and brochures on crime prevention techniques, victim-witness assistance services, and other services provided by agencies and programs of DCJS;

d. Assure coordination of public information services;

e. Provide advice and assistance to local programs concerning methods and modes of fulfilling the public information requirements indicated in Standard 2.6; and

f. Assure lay citizen participation, through liaison with community-based crime prevention programs, in determining issues to be addressed, reports issued, format of presentations, and methods of distribution of public information materials.

2.3 After one year of staffing according to the above model, the public information function shall be evaluated by the research and evaluation unit of DCJS.

2.4 1979 State purposes funds shall be allocated to DCJS to provide adequately for graphics and printing costs of public information materials.

2.5 By June 1978, each Criminal Justice Coordinating Council shall have a designated functionary with clearly defined public information responsibilities and bi-lingual public education materials available for public distribution.

2.6 By June 1978, each project proposal submitted to DCJS for funding shall include a well-defined public information component and a clear indication of who shall be responsible for this function. The public information functionary shall assume responsibility for gathering and disseminating information concerning the problem addressed, the people served, and the services provided by the program.

Information shall be made available to the people served by the local program, DCJS, appropriate local agencies and government bodies involved in the funding and evaluation of the program, and the public.

2.7 Assessment of project-based public information activities shall be included in the regular DCJS field monitoring process of examining projects prior to refunding.

2.8 By June 1978, DCJS shall establish a clearinghouse of all crime prevention and victim-witness service-related public information literature. This may be within the public information office or reference center of DCJS, or within the DCJS-BMP Mobile Crime Prevention Unit, whichever the research and evaluation unit determines to be more expeditious.

2.9 By January 1, 1979, New York shall establish a Comprehensive Criminal Justice Reference Service including the following elements:

a. Complete lending library with card catalogue;
b. Abstracts of LEAA and other criminal justice projects funded nationally, including an up-to-date notation of those projects that have been evaluated;
c. Program evaluations of projects funded nationally;
d. A bibliography compilation service;
e. Criminal justice statistics.

RECOMMENDATIONS

a. Other system components--local police precincts, county sheriffs' offices, courts and correctional facilities--are encouraged to develop public information and education materials describing agency operations and efforts to prevent criminal activity. To avoid duplication of public education efforts, copies of all public information materials developed by agencies within the system should be filed with the state clearinghouse of criminal justice information described in Standard 2.8.

b. By scholastic year 1978-79, the New York State Board of Regents of the Department of Education is encouraged to mandate the design and implementation of a curriculum dealing with crime prevention and the criminal justice system.

c. Adult, youth and community education programs; women's groups and other groups engaged in civic affairs or continuing education are encouraged to design and implement workshops on the art and practice of crime prevention and non-violent defense.

PROGRAM STRATEGIES

a. In order to save distribution costs and achieve the widest possible distribution, bi-lingual crime prevention material may be included with utility bills, printed on the back of public transit schedules, or printed on the back of school report cards.

b. One way to implement a comprehensive criminal justice reference service is to award grant funds (public or private) to a state law school library already stocked and capable of performing as a reference service with the addition of a special telephone number and staff. The service could be institutionalized

as part of the library's regular services after a year of seed funding.

Reference services should be well publicized, and should be available to students of criminal justice, public and private agencies, citizen groups, and the public. One program model suggested for replication was funded by the Wisconsin Council on Criminal Justice and institutionalized by the University of Wisconsin Law School, Madison, Wisconsin.

COMMENTARY

> Criminal justice professionals readily and repeatedly admit that, in the absence of citizen assistance, neither more manpower, nor improved technology, nor additional money will enable law enforcement to shoulder the monumental burden of combatting crime in America.(NAC, 1973, p.7).

One of the major deterrents to an active and involved anti-crime citizenry is the relative paucity of information about the many different crime reduction activities available to the public, and the ways in which citizens can cooperate in and bolster the anti-crime activities of the professionals. Among community crime prevention specialists surveyed across the state, insufficient public awareness and education regarding crime, its prevention, and the criminal justice system's operations and capabilities was rated the number three problem confronting a dangerously sagging and seriously malfunctioning criminal justice process. Failure of citizens to appreciate the importance of their participation in the early reporting and apprehension of offenders and other crime prevention efforts was ranked number six.

The Division of Criminal Justice Services does have a Public Information Office staffed by one public information officer. However, this one-person office cannot establish a meaningful link between the hundreds of projects funded by the agency and the target individuals and public intended to benefit from and support those projects--and most projects themselves lack a public information and education component.

Local Criminal Justice Coordinating Councils, too, lack public information staff, and public information occurs only to the extent that the Council Coordinator has established good media relations in his or her community.

Under a grant from DCJS to reduce crimes against the elderly, the Bureau for Municipal Police does operate a Mobile Crime Prevention Bus which displays security hardware and provides crime prevention materials and instruction for senior citizens. However, this activity is limited to eight pilot communities. Some individual police departments, too, disseminate crime prevention materials as part of specific grants or community relations programs. However, these police public information activities occur on an ad hoc basis, and there is no central repository or distribution center for all anti-crime resource materials published in the state.

Under current constraints the DCJS public information office lacks the staff and dollar resources to publish its own anti-crime materials for state-wide public distribution.

Citizens themselves, however, remain one powerful and as yet untapped resource for the education and enlightenment of others. Although the above standards indicate room for improvement within the system itself, influential citizen organizations with their roots and affiliations within the community can be instrumental in educating the public and arousing concern for needed criminal justice improvements. Methods include public forums, seminars and debates; state-wide conferences, operation of a speakers' bureau, press conferences and news releases, mass mailings on priority legislation, lobbying activities, and publication of court reform and other legislation, including legislators' voting records on issues pertaining to the prevention of crime and administration of justice.

CCP GOAL 3:

DEVELOP WELL-INTEGRATED, INTERDISCIPLINARY PLANNING AND PROGRAMMING IN THE AREA OF PRIMARY CRIME PREVENTION.

STANDARDS:

3.1 By June 1978, DCJS shall reassign staff to establish an interdisciplinary community crime prevention unit to facilitate planning and to supervise, coordinate and monitor community crime prevention programs, including the design of defensible space, neighborhood patrols, block-watch programs, tenant security programs, escort services for the elderly, child protective services, residential security education and non-violent conflict resolution programs.

3.2 By January 1979, DCJS and MPA's, RCA's, and DPA's shall establish liaison with community and neighborhood based anti-crime organizations which mobilize neighborhood residents, including youth, in citizen controlled crime prevention activities.

3.3 By January 1979, DCJS shall make community crime prevention a priority for research and evaluation by the agency:

a. DCJS shall evaluate all community crime prevention projects before refunding.

b. After one year of funding, DCJS shall intensively evaluate the program category of "Community Crime Prevention" and feed information back to the planning division and the relevant local planning offices.

3.4 By January 1979, DCJS shall integrate neighborhood anti-crime efforts with appropriate community development activities funded by the agency.

RECOMMENDATION

The Task Force recommends the implementation of the following National Advisory Commission programs for the reduction of criminal opportunity:

a. Use of Building Design to Reduce Crime. Agencies and professionals involved in building design are encouraged to seek the advice of law enforcement agencies in matters of security design to reduce criminal opportunity. Interaction with law

enforcement agencies and security experts should be sought during preliminary planning, design and construction of new buildings and reconstruction or renovation of old ones to assess the effects of architectural features and spatial arrangements--design and placement of doors, windows, elevators and stairs; lighting, building height and size, arrangement of units, and exterior site design--on building security and security costs.

b. Security Requirements for Building Codes. In consultation with community criminal justice planners, transportation and sanitation departments, architectural firms and proprietors, units of local government should amend existing building codes to include security requirements.

c. Street Lighting Programs for High Crime Areas. Units of local government should research and consider the establishment of improved street lighting programs in high crime areas.

d. Shoplifting Prevention Programs. All retail establishments should evaluate shoplifting prevention techniques and implement those which seem most effective and least alienating to consumers.

e. Auto Theft Prevention Programs and Legislation. The Task Force recommends legislation to require:

1. Permanent state motor vehicle registration numbers for all motor vehicles,

2. Permanent license plates for all vehicles,

3. More identifying numbers on autos to curb automobile stripping.

COMMENTARY

The Division of Criminal Justice Services is the state agency charged with administering the Safe Streets Program in New York State. This includes a) the establishment of crime control priorities and preparation, evaluation, and revision of an annual statewide comprehensive crime control plan, b) applying or supervising the application of the planning process to localities within the state, c) review and assessment of grant applications, and d) overall administration of LEAA funded programs in New York State.

The major plan promulgated by the Office of Planning and Program Assistance, the state planning agency within DCJS, is the annual comprehensive crime control plan. This document is based on local planning and funding priorities of the Metropolitan Planning Areas (MPA's), as well as refunding needs of currently operating projects.

In 1977 all MPA's aside from New York City selected law enforcement related priorities. These included "Situational Intervention in High Crime Neighborhoods," "Improvement of Police Resource Management," "The Combat Against Assault and Auto Theft," "Crime-Specific Strategies for Law Enforcement," "Overall Improved Delivery of Police Services," and "Specialized Support Services for Law Enforcement Agencies." Only New York City developed a more comprehensive priority of "Improved Prevention, Deterrence, Detection and Apprehension of Criminals," under which projects would be designed to a) reduce societal and environmental conditions leading to crime, b) reduce the opportunities for criminal behavior, c) prevent individuals, especially youth, from becoming involved in criminal or delinquent behavior, d) increase the risks associated with crime commission by improving law enforcement capabilities to detect and apprehend, and e) marshall community resources in efforts to prevent and/or reduce criminal behavior (NYC-CJCC, 1976-1977, p.4-4).

Among community crime prevention specialists surveyed around the state in spring of 1977, the lack of comprehensive, well-integrated, interdisciplinary planning in the area of crime prevention, including design of the environment, was rated the number 4 problem confronting the criminal justice system. More than 64% of all survey respondents indicated the problem to be either very or extremely critical. The following related problems compounded the issue:

"No coordinated, multi-modal approach to social service delivery, including services to victims and witnesses" rated number 2,

"Insufficient and inadequate social service programs and services in community crime prevention" rated number 5,

"Insufficient meaningful and reliable performance and impact evaluations of crime prevention programs" rated number 7, and

"Insufficient knowledge of human behavior, the criminal justice system, and the relationship between them for crime prevention planning" rated number 11.

Historically, the Crime Control Planning Board of DCJS has earmarked limited resources to community-based crime prevention. In fiscal 1977 this was reflected in the expenditure of approximately $750,000 of a $32 million dollar budget as follows:

a) a $483,521 Crime and Delinquency Deterrence and Senior Citizen Protection Program including distribution of home security CB systems, operation ID, youth and vehicular escort services for the elderly, and a police information Mobile Crime Prevention Bus (to the city of Rochester, implemented through the Bureau for Municipal Police), b) a $12,899 Senior Citizens Crime Prevention Program including residential security checks and operation ID, operation Block Watch, and volunteer crime prevention specialists (Albany Police Department); c) a $79,748 senior citizen escort service and emergency telephone and information service (NYC Chevra Mackzike Hashchuna, Inc.), d) a $129,450 Crime Prevention Program for the Elderly including crime prevention training for the elderly and supportive victim services (NYC Foundation for Senior Citizens, Inc.), and e) a $43,660 Community Crime Prevention Program to educate residents of a high crime neighborhood in methods of protecting themselves against crime (Niagara Falls Police Department). All of these prevention programs are "primary" to the extent that they reduce opportunity for crime. They do not, however, affect those socio-economic factors believed to cause crime.

Responsibility for primary prevention--those efforts aimed at the modification of criminogenic conditions of the physical, socio-economic, or cultural environment which motivate or permit the commission of crime--has generally been delegated to the more traditional social service agencies whose task it has been to alleviate problem social conditions through housing, education, and welfare services.

However, these community and human development agencies do not perceive their role to be one of crime prevention, and do not therefore recognize the potential impact their plans and programs could have on the reduction of crime and delinquency. For this reason it is imperative to establish an interdisciplinary approach to community crime prevention planning which acknowledges the crucial linkages between social conditions and services, environmental design, and crime.

CCP GOAL 4:

IMPROVE THE PLANNING AND PROJECT SUPERVISION CAPABILITIES OF DCJS TO BETTER EXPEDITE PLANNING, PROGRAMMING AND FUNDING OF CRIME PREVENTION EFFORTS.

STANDARDS:

4.1 By January 1979, a case classification system shall be established in each regional planning unit to provide a coordinated, systematic service delivery mechanism which provides for equity and uniformity of services throughout the state.

4.2 DCJS shall establish a timetable for the intensive evaluation of all program categories included in the state plan. Evaluation findings shall be fed back to the planning division for the development by January 1979 of state minimum program standards and yearly modification of the state plan. Program standards shall be established in consultation with local CJCC's to provide for consistent policies, procedures and administration of all projects within each program category, and shall become special conditions of funding by DCJS.

4.3 By June 1978, DCJS shall develop a coordinative mechanism for assuring the input of monitoring, research and evaluation findings into the state and local criminal justice planning process.

4.4 Newly hired employees of DCJS shall receive at least 80 hours of in-service training during their first year of employment. The in-service training shall emphasize basic state correctional history, orientation to agency philosophy, agency procedures, agency policy development, individual workload management, basic case classification, basic community organization, cultural awareness, resource development and coordination of services.

4.5 All employees who continue in employment beyond the first year shall receive at least 30 hours per year of in-service training. Training for continuing employees shall be varied, with a choice of at least two curricula in special areas such as: research and evaluation, innovations in the field of criminal justice, community organization, human growth and development, family/group dynamics, cultural awareness and economic awareness.

COMMENTARY

> "If a widget manufacturer were experiencing the kind of negative response and hostility which we are experiencing today towards the criminal justice product, that manufacturer would be taking very aggressive steps to make his product more acceptable."
>
> Criminal Justice Planner.

Criminal justice is a major American industry employing millions of people and consuming billions in public and private wealth. Yet the system as a whole and each of its major component parts--prevention, police, courts, and corrections--are seriously burdened and malfunctioning, and the current cause célèbre of public concern and debate.

Public discontent with the criminal justice system has many roots. Changing times are attended by changes in public perceptions of what constitutes criminal and delinquent behavior, and a concommitant reconstitution of priorities for enforcement and corrections resources. Additionally, new distributions of political power and influence arise among those affected by crime and criminal justice agencies. More, importantly, however, is the fact that crime continues to rise--an indication that what we are doing is just not working. The effect of all this is a demand for the system to change.

The Federal Law Enforcement Assistance Administration has accommodated this cry for change by making hundreds of millions of dollars available yearly to expedite improvements in the criminal justice system. Other federal, state, and local agencies have augmented these LEAA expenditures.

In an effort to bring order to the alterations, it is critical to establish a planning and evaluation process which assures a) that resources are obtained and used effectively and efficiently in the pursuit of agency objectives, i.e., the reduction of crime and the improved administration of justice, b) that the planning methodology itself is responsive to the needs of its users and the constraints under which those users operate, and c) that staff are assisted to use the plans and procedures properly and productively.

Research and Evaluation

Sound planning and program decisions require accurate and meaningful information, first to assist the process of rational decision-making, and secondly to evaluate whether programs and projects have had the desired effect and have been cost-effective.

LEAA considers measurement of program effectiveness to be one of its highest priorities, and has pressed for evaluation to be an integral part of the LEAA program at all levels (LEAA Office of Planning and Management, 1976, p.i). Currently DCJS does have a research and evaluation unit within the Division of Planning which provides technical assistance to contract evaluators in the localities. However, the unit does little in-house research and evaluation supportive of the planning process.

Most feedback to the agency comes from the field monitoring unit which is not an integral part of the Division of Planning. The monitoring unit assesses each project which comes to the Crime Control Board for refunding, however, there is no systematic way in which this information is integrated into the planning process. Few program categories are evaluated to determine impact and effectiveness before being re-written into the next year's state plan. Thus the Task Force sees the immediate adoption of those standards requiring development of a case classification system and integration of monitoring, research, and evaluation findings into the planning process (4.1,4.2,4.3) as critical.

Training

> "Whatever their hiring conditions, most employees feel they are given little or no orientation and view their task as 'trial by ordeal.'"(DCJS Training Unit, 1976, p.i)

Well-conceived, effective programs are possible only to the extent that a well-qualified, well-trained, and creative staff exists to plan them, administer them, and evaluate them. A well-qualified staff is not sufficient, for qualifications and experience gained elsewhere can only be of value in a new work situation to the extent that one understands the goals, policies, and procedures of that new environment. It is therefore critical that regardless of the level at which a new employee enters the organization, he or she receive an in-depth orientation to agency policies, procedures, supportive services and staff resources; a handbook of agency operations and practices for future reference, and selected other training which will assist that individual to perform his or her job better.

CCP GOAL 5:

ASSURE THE BASIC RESOURCES AND OPPORTUNITIES WHICH SUPPORT QUALITY OF LIFE IN SOCIETY.

STANDARDS

5.1 The New York State Department, through the Office of Local Government, shall advise, encourage, and furnish funding resources for initial research and staffing to establish municipal social planning commissions to assure equitable and effective distribution of resources in the following critical areas:

a. Human resources, including employment, education, welfare, housing, youth services, legal services, and health care, including mental health, home care, and substance abuse.

b. Municipal services, including police and fire services, public transportation, sidewalks, streets, and lighting; and sanitation services.

5.2 Legally constituted agencies in charge of providing the services indicated in (a) above shall, in consultation with municipal social planning commissions, 1) develop comprehensive minimum standards for all projects funded in those areas, and 2) require all project proposals to include a statement about the impact that the project anticipates having on those factors believed to contribute to crime.

As a special condition of funding, all projects funded in each of the above areas shall comply with the standards of appropriate state and national standard setting bodies.

5.3 Print and electronic media shall establish a policy regarding the reporting of crime and programming which includes violence, and that policy shall be made public. Regulatory agencies shall at least annually evaluate:

a. Acceptability of that policy and compliance with it,

b. Programming as it reflects FCC, state and local commissions' guidelines and standards on human rights, and

c. Compliance with federal Equal Employment Opportunity Commission guidelines.

5.4 By 1980, all elementary schools in New York shall institute programs guaranteeing that every student who does not have a severe mental, emotional or physical handicap will have acquired functional literacy in English before leaving the 6th grade. Special literacy and other educational programs shall be provided for those handicapped individuals or others who cannot succeed in the regular program. (cf NAC p.151).

5.5 Youth serving projects funded by DCJS shall have the authority to recommend transfer of students with identified need to alternative schools which offer reality-based curricula or career education.

5.6 Based on community need, DCJS shall make resources available for supplemental services to youth service bureaus currently operating and funded by the New York State Division for Youth.

5.7 Based upon community need, DCJS shall fund community-based multi-modal substance abuse treatment and prevention projects. (cf NAC, 1973, pp. 85-110).

a. DCJS shall establish minimum standards for all projects funded under the program title "Substance Abuse Treatment and Prevention," and compliance with these standards shall become special conditions of funding.

b. Projects shall have measurable objectives, and both individual projects and the program category shall be evaluated by the DCJS research and evaluation unit to determine impact and effectiveness.

5.8 Effective immediately, all DCJS funded prevention, treatment and rehabilitation projects are encouraged to include an employment assistance component in the project modality. By January 1979, an employment assistance component shall be a required program element of all secondary and tertiary prevention projects funded by DCJS. Objectives shall be measurable and shall be subject to evaluation by the DCJS research and evaluation or field monitoring unit.

RECOMMENDATION

In an effort to modify criminogenic conditions of the community, providers of goods and services in the private sector are encouraged to:

a. Perform community service;

b. Develop opportunities and training programs for the young, disadvantaged, women, ex-offenders, and ex-addicts;

c. Establish goals for the increased hiring and career mobility of those groups indicated in (b) above;

d. Establish service delivery mechanisms to assure equitable distribution of goods and services;

e. Develop and implement internal crime prevention measures;

f. Develop participatory management and other means of attacking employee alienation which may result in workplace crime;

g. Provide scholarships for minority and/or disadvantaged youth;

h. Provide financial support to non-profit and/or direct service projects that operate in the community to achieve crime prevention objectives.

COMMENTARY

> American city dwellers recognize that the urban environment has reached a stage of crisis from which it may never recover. As a result of the rapid deterioration of the central cities, many citizens who are financially able flee to the suburbs, while a substantial population of low income citizens remain locked into areas of cities least equipped to raise their standards of living. The fact that this vicious cycle of poverty is allowed to exist in a land of wealth is cause enough for our collective feelings of shame; that it is believed by some to be intentionally perpetuated by our governmental system is cause for a reassessment of our fundamental commitment to human dignity (NAC,1973,p.34).

In 1972 a study released by Lou Harris & Associates indicated a sharp rise in feelings of alienation in America, particularly on the issue of the individual's perceptions of his own power and importance, and his perceptions of the essential justice of the American economic and political system. Seven of 10 respondents indicated, "The rich get richer and the poor get poorer," and expressed a sense of social and political isolation by agreeing with such statements as "what [I] think doesn't count very much," and "the people running the country don't really care what happens to people such as [myself]." (Ibid.)

And on July 24, 1977, after the lights went out in New York City giving thousands of urban poor the opportunity to loot and burn, the New York Times noted that in "the most afflicted of the big cities, the alienation of the urban poor from the prospering majority has become deeper, more embittered and more cynical with no new tactic for change."

Criminal justice professionals around the state have rated social conditions such as unemployment and inadequate housing, recreation and educational-vocational opportunities the number one problem facing the criminal justice system.

The development of law and just social process clearly requires the consideration of social, economic, and environmental realities of a community, as well as the particular needs for speedy, equitable, and efficient administration of justice. The critical prescription is that crime prevention and other social policy planning and programming decisions be made in the best overall public interest, with special regard to specific needs of particular communities and

demographic groups. The goal is to establish an equitable planning and programming process which results in a safe and protected environment and which inspires public confidence in the system. Four basic elements are required to facilitate achievement of this goal:

Impact Identification. Potential social, economic, and environmental effects must be identified and studied early enough in the planning and project development process to allow consideration and modification of alternatives. Particularly important is the study of possible project impact on those socio-economic factors of the community believed to contribute to crime.

Consideration of Alternatives. Appropriate consideration must be given to alternative types and scales of criminal justice action and sanctions, to other preventive or corrective program modalities outside of the criminal justice system, and to the "no action" alternative. The option of no action should be used as a reference for evaluating the beneficial and adverse eco-effects of other crime prevention and social planning strategy alternatives.

Systematic Interdisciplinary Approach. An interdisciplinary approach is crucial to assure the integrated use of natural and social sciences and the environmental design arts in planning and engineering projects which clearly impact on the human environment and affect the individual's vulnerability to crime and victimization.

Public Involvement. The most efficacious way of assuring responsible and responsive government performance is to involve citizens, civic organizations, and other social and political planning agencies early enough in the planning and program development process to influence the course of study and final planning decisions. Only citizens can say what they want for their community in the way of future social, economic, industrial, recreational, and educational development; and in concert with the professionals, evaluate what this might mean in terms of forecasted crime and community-based preventive programming needs.

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juvenile justice

JUVENILE JUSTICE
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JUVENILE JUSTICE STANDARDS AND GOALS

The Task Force on Juvenile Justice Standards and Goals was given the charge of developing a set of priority recommendations for the juvenile justice system in New York State. This charge was not limited to making recommendations for the reallocation of funding through the federal Juvenile Justice Act in New York State, but encompassed recommendations for administrative and legislative action to improve the State's juvenile justice system. The Task Force has taken this responsibility very seriously, and this document is an attempt to set some priority recommendations in the several areas that comprise the field of juvenile justice.

The Juvenile Justice Task Force is composed of a representation of professionals from the family court, probation, police juvenile bureaus, rehabilitation programs, community youth organizations, and youth service bureaus. While there was an initial polarization of views due to the diverse backgrounds of the members of the Task Force, this situation did not persist. This initial difference in ideologies became one of the Task Force's greatest assets. Through a healthy exchange of ideas and viewpoints they were able to arrive at a consensus on many substantive issues by integrating the legitimate concerns of the various members.

There were several themes central to the staff work and Task Force deliberations of the standards and goals. The principles stressed are: voluntarism in the delivery and allocation of services to juveniles; minimization of state intervention in the lives of juveniles; differentiation between offenders and children in need of services; structuring discretion in decision-making in juvenile justice agencies and procedures; continuation of the concept of special treatment to be afforded children in the criminal justice system in light of the developmental phases of childhood and adolescence; fair treatment as a principle to be melded with the developmental needs of children, so that treatment will not be based upon misinformed or misplaced service concerns;and, an emphasis on the role of the family in ameliorating juvenile problems.

The Task Force was conscious of the fact that many of the recommendations did not permit of easy application of these principles, since there was a clear intent to serve numerous types of children, with differing needs, behaviors, family situations, and offenses. Many children, for instance, are suitable for diversion, either on the basis of a singular,

and minor offense, or because they have not committed a criminal act. Other children, by contrast, require secure institutionalization either for their own protection, or protection of the public.

Staff Work - Juvenile Justice

As part of the background research to inform the Task Force in the drafting of standards and goals, staff made numerous site visits to institutions in New York State and in other regions where important and related programs were underway. Prior to meeting with State directors of different social service agencies and representatives of voluntary childcare agencies, a considerable amount of literature was reviewed by staff. Included in the extensive review and central to the philosphy that informed the document were: New York State Office of Childrens Services reports on Probation; PINS; Foster Care and Violent Youth. All the standards and goals recommended by the other states of the union, particularly Wisconsin's and most importantly the National Advisory Commission and the IJA/ABA standards and goals were analysed. David Gilman, Director of the Juvenile Justice Standards Project made a two hour presentation to the Task Force. The comparative studies on extant standards and goals prepared by the American Justice Institute as working documents for the National Advisory Commission were reviewed in detail and a lengthy meeting was held in Washington D.C. with Richard Van Duzend, Director of Standards and Goals for the Office of Juvenile Justice. The most recent evaluation of Family Courts in the State, prepared by the Senate Research Service-Family Court...The System that Fails All - was examined by staff and was considered an invaluable handbook. All of the current literature that dealt with the issues surrounding the removal of Persons in Need of Supervision from the jurisdiction of Family Court was also examined. The Economic Development Council's Family Court Task Force reports on Nassau, Suffolk, Monroe, Westchester and Erie counties, describing conditions in Family Court were reviewed prior to visits to Nassau, Suffolk, Westchester and Monroe Family Court judges, and brief inspections of Family Court and the Children's Shelter in Monroe and Suffolk counties.

Subsequent to review and analysis of local crime control plans, staff met with Nassau, Suffolk and Westchester counties, and City of Yonkers Criminal Justice Coordinating Council personnel for face-to-face discussion of the problems that confront such densely populated, multi-problem areas.

Prior to all day meetings in Albany with Peter Edelman, Director of State Division for Youth, and his supervisory staff, including Regional Directors, a great deal of time

was spent in reviewing all facets of the Division's programs, in addition to analysis of its mandates, internal procedures, and future program plans for deinstitutionalization of PINS and creation of community based programs and facilities.

An entire day was spent at the Court Related Unit at Bronx State Psyschiatric Hospital for violent youth. This project, a joint venture by DFY and the Department of Mental Hygiene and funded through DCJS, is the only one of its kind in the United States and a prototype for other states. Staff met with the supervising psychiatrist of the project and the director of the entire hospital, for discussion on the singular problems that arise when directing a program for violent juveniles and what needs to be done in the future. An afternoon was spent with the head of Spofford Detention Center, who spoke to the issues attendant upon running such an institution and the need for streamlining the movement of youth from detention to family court for disposition, and then transport to residences which sometimes were already full.

Mr. Joseph Gavrin, Executive Director of the Council of Voluntary Childcare Agencies met with staff to discuss the voluntary agencies' position on removal of PINS, the potential problems that surround that action and spoke of some of the difficulties inherent in providing childcare for court related youth, in a city with diverse problems.

A meeting was also held with Ms. Rena Shulman of Jewish Board of Guardians to elicit information on programs provided, youth served, and future directions of that agency.

Site Visits/People Interviewed

Bronx State Hospital-Court Related Unit for Violent Youth
Spofford Detention Center (NYC)
Monroe County Family Court
Monroe County Children Shelter
Ms. Rena Shulman, JBG
Dr. Michael Kalegorakis, NYS DMHMRS
Dr. D. Berezin, NYC MHMRS
Mr. Joseph Gavrin, COVCCA
Nassau County Criminal Justice Coordinating Council
New York City Criminal Justice Coordinating Council
Mid-Hudson Criminal Justice Coordinating Council
Westchester Criminal Justice Coordinating Council
City of Yonkers Criminal Justice Coordinating Council
Suffolk County Criminal Justice Coordinating Council
Suffolk County Youth Board
Suffolk County Children Shelter
Suffolk County Probation Department
DFY - South Kortwright School
Manhattan Family Court (Administrative Judge)
Brooklyn Family Court

Delphi Survey - Juvenile Justice System

The Delphi Survey results were used as indicators of the areas of primary concern to juvenile justice specialists throughout the State and not as a rigid framework for the development of goals and standards.

The raw survey scores were tabulated to reflect the priority rankings of each problem statement. covering all functional areas of juvenile and criminal justice, and second, each was ranked among those problem statements covering a single functional area, such as juvenile justice.

Two rankings will always accompany each problem cited in the following analysis. One representing ranking by the members of the Juvenile Justice Task Force and Advisory Panel and will be cited as the ranking'within the functional area'. The other will reflect how the larger group of 276 individuals, comprising the five Task Forces and Advisory Panels, ranked the problem in relation to the other juvenile justice problems and will be cited as the ranking 'overall'.

The problem ranked as the number one juvenile justice priority and first of all problmes considered by all participants in the Delphi process was, "Jobs are not available for youth." The Juvenile Justice Task Force acknowledges the signal importance of this issue but sees this as a responsibility of the entire society, which cannot therefore be redressed solely through the juvenille justice system. Throughout this document, however, there is a consequent concern about the provision of quality education as a means to employability.

Of the total number of juvenile justice problems presented to the 276 persons surveyed, almost one-fifth were concerned with deliquency prevention. The significance of schools and communities in this process was continually reiterated. "Schools are not active in delinquency prevention", ranked 3rd **within** the functional area and 12th overall; "Schools do not provide adequate programs and services to juveniles", ranked 8th within the functional area and 18th overall; "Insufficient use of community outreach and organization for delinquency prevention,", was ranked 9th within the functional area and 15th overall; "Youth in the juvenile justice system cannot read, "was ranked 48th within the functional area and 47th overall. Because of the importance of delinquency prevention and the role schools and communities must play in providing meaningful curricula and programs for youth, the Task Force subcommittee on prevention wrote detailed goals and standards to reflect these concerns. The strong emphasis on the use of community resources and individuals as role models and the involvement of all community residents in delinquency prevention efforts, were guided by information from the Delphi respondents.

A major theme expressed throughout the Delphi Survey was concern about the poor planning, poor allocation of resources, poor coordination and policy making processes common to the juvenile justice system. "System-wide inadequacies in policy, personnel and procedures in juvenile justice" - ranked 14th and 17th overall; "There is no single agency responsible for monitoring and planning for juvenile justice and monitoring and planning for juvenile justice and youth services" - ranked 19th and 32nd overall; "Funding of juvenile justice programs is inadequate and inequitably distributed" - ranked 20th and 35th overall; "Agencies and services in the juvenile justice system are engaged in competition rather than coordination and cooperation" - ranked 25th and 25th overall; "Uniformly inadequate information for juvenile justice planning services" - ranked 28th and 30th overall; "State and local governments lack the capability to plan or deliver youth services" - ranked 54th and 52nd overall; "Juveniles are not involved in policy making for the juvenile justice system" - ranked 72nd and 77th overall, and "Too many resources are focused on juvenile treatment and rehabilitation" - ranked 77th and 79th overall. All point to serious reservations about the functioning of the juvenile justice system in the State of New York.

Goals 2, 5 and 17 and their standards are the beginning efforts in an attempt to streamline delivery of services and involve youth themselves in the planning process. There is also emphasis on the necessity of expending monies on youth development and delinquency prevention programs and to create, at local and state levels, monitoring and evaluation agencies to hold service provider agencies accountable for the quality and quantity of their services.

Although the issue of continuation of court jurisdiction over Persons in Need of Supervision was ranked 43rd both within the functional area and overall, 46% of all survey respondents ranked this problem as "very or extremely critical". Because of the nation-wide discussion on this subject and its significance for thousands of juveniles and their families in the State, the sub-committee on Jurisdiction and Court-Related Services chose to engage the issue and design goals and standards to reflect the opinions of the entire Task Force. The question of the least drastic alternative not being utilized by Family Court judges, although ranked in the last quarter of the Delphi, was considered another area of such significance. The sub-committee felt it necessary to review the implications and draft goals and standards to reflect their findings.

The problem which ranked second in priority, both within the functional area and overall was, "Correctional facilities and treatment for juveniles is costly and ineffective". The Post-Adjudication and Related Services sub-committee considered this response and many others related to the issue of institutional placement for juveniles. Lack of community based programs and facilities, inadequate services for juveniles in institutions,

particularly legal services, required the design of goals and standards that detailed the rights of juveniles in institutions, and emphasized the importance of having all child-caring agencies focus their resources on the creation of community based facilities and programs for court related youths.

Several highly-ranked survey questions, such as "What is the juvenile justice system?", "What is its function?" and, "What is its goal?",are representative of a system that is attempting to articulate its role in the light of past experience, and reflects another theme by all respondents. The Task Force knew that they would not be able to respond to all the problems that were evidenced through the Delphi Survey. They chose to deal with the Delphi priorities in addition to those questions that are being asked by various institutions and agencies within and without the system.

A Review of the Standards and Goals

Juvenile Justice is a term that covers a myriad of agencies, responsibilities, problems and jurisdictions. The Task Force staff adopted a structural scheme for dealing with this broad field. In the National Assessment of Juvenile Corrections Project of the University of Michigan School of Social Work, Rosemary Sarri and Robert Vinter constructed a four phase model of what they describe as the juvenile justice system (Sarri and Vinter, 1972).

These four phases are termed the developmental and preventive phase, the arrest and adjudication phase, the rehabilitative phase, and the post-rehabilitative or reintegration phase, Aside from the jargon of the terminology, these phases describe an immense area of concern for the lives of juveniles and the multiplicity of institutions and policies that intervene in their lives. The Task Force has attempted to deal with each of these phases in an economy of style, selecting those issues and policies, as well as the institutions or agencies that govern them, for which a recommendation can be drawn with some clarity in the short duration of the Standards and Goals program. Nevertheless, the breadth of the areas of concern, as well as the depth of complexity of the issues in each of the areas defined, have served to mitigate the purposes of the effort in forcing avoidance of critical issues that otherwise might not have been ignored. Those familiar with the literature and media publicity on juvenile crime, juvenile violence, and the problems of the juvenile court philosophy in the last decade can readily perceive the issues that are not addressed in this document.

In the development and prevention phase of the juvenile justice system, the Task Force addresses education as a priority, as well as the areas of youth service bureaus, comprehensive

planning for juveniles in communities, and police-juvenile services. Education was singled out as the primary institution that might hold some promise for influencing the lives of children, and if improved, exert some programmatic effects on the problem of delinquency. The objectives advocated in the construction of the standards that follow are not narrowly directed at delinquent behavior. Many of them call for fair and just treatment of the juvenile in the school setting, thus providing for an equal participation of the juvenile in the practices and policies of the school environment. This is a preventive strategy providing an incentive for the juvenile's own investment in the educational institution. Additionally, a "survival" oriented curriculm is urged, to introduce students to the skills necessary for employment and individual negotiation of a complex and often confusing social system.

The Youth Bureau program has a long tradition in New York State as a primary prevention activity for all juveniles in the community. Funded by the New York State Division for Youth for 50% of all costs for such programs, many municipalities have extensive programs for delinquency prevention. What is urged in these standards for youth bureaus, is a change of scope and strategy for dealing with delinquency on the community level. Comprehensive planning is called for, to enable local counties and cities to identify the gaps in services, the inequalities in treatment, more economical ways to allocate resources, and possibly create some innovative solutions. Not only must they plan for the youth not yet adjudicated for a crime, but also for youth in the courts, rehabilitation programs, and returning from training schools. All of these aspects must be studied carefully, and integrated into a community plan for all youth. The change in strategy contained herein is a shift in planning and programming emphasis to the county or city level, and away from exclusive reliance on State resources. This would mean a shift in emphasis towards more comprehensive programs and services, and a broadened relationship with the courts, police, and corrections agencies. It also complements a later recommendation asking youth service agencies to do more of the planning for youth in trouble, rather than relying upon the courts and corrections agencies to deal with runaways and incorrigible youth.

The standards in the prevention area also call for a renewed emphasis on the special services provided by the Police Juvenile Aid Bureaus of New York State. Also a traditional program in New York, the police juvenile aid unit is a special attempt to set the problems of juveniles apart from the adult criminal, and to deal in a compassionate and problem-solving manner with the juvenile capable of redirection and growth. The standards call for specialized juvenile police officer units, high quality officer selection, specialized assignment, and a clear

understanding of the roles and procedures that the officer must utilize to perform the complex duties assigned.

In the second phase of the juvenile justice system, adjudication, the Task Force addressed some of the most difficult issues overall. Principally, the removal of the juvenile status offender or PINS from the jurisdiction of the Family Court is recommended. This is the pivotal point around which many other recommendations flow. The court is deemed to be an inappropriate institution for resolving non-criminal misbehavior problems. This includes problems of truancy, running away, parental disobedience, and other forms of adolescent rebellion, as well as more severe personality and characterological disturbances. Intervention by the court is recommended only if the child and/or his or her family cannot obtain the services that they request to resolve the social and psychological problems or conflicts that arise in the family. The remedy called for by the Task Force is a Family With Service Needs proceeding. In addition, an entire set of procedures and services is advocated at a number of points in this document for dealing with runaway youth, a principal cause of many court interventions in juvenile cases. These actions, together with the comprehensive planning and community youth services advocated earlier are descriptive of a shift in strategy in the juvenile justice system, namely to an emphasis on the voluntary resolution of family and interpersonal conflicts before they require court intervention.

Other recommendations in the second phase call for the elevation of the Family Court in New York to the level of the Supreme Court. This is advocated to provide for stability of the court, whose members will have incentive to remain rather than seek higher paying seats in the Supreme Court, and will also serve to provide more flexibility for the assignment of judges across various court parts, and prevent the overlapping jurisdictions that cause confusion and consternation on the part of persons seeking petitions in one court or the other.

An increase in the age of minority in New York State to 18 for the purposes of the jurisdiction of the Family Court is also recommended. The reasons for this are primarily those of consistency in social policy. This complements other areas of concern with the status of juveniles in society, by requiring that a consistently fair social policy be established for youth, in education, before the courts, or for any other intervention into their lives.

The third phase of the juvenile justice system, covers rehabilitation policies and services. This includes those services for youth adjudicated by the court, such as rehabilitation, field services in probation, or other alternatives to placement. The major recommendation is the provision of voluntary services to juveniles in family conflict or crisis to replace traditional court intervention.

Emphasis is placed on the use of fairness to structure policies and procedures in institutions. The importance of probation services dealing more responsively with the individual developmental needs of the juveniles, as well as a recommendation for probation departments to decentralize into more community settings, is made with the intent of promoting the community related planning and service patterns discussed in the youth service recommendations of the first phase.

The principle of the protection of the rights of juveniles in institutions is consistently applied throughout the standards dealing with the procedures, staffing and criteria for treatment of juveniles. Clear and evident rules, regulations and procedures are recommended to permit of accountability of staff, the institution, and the juvenile for conduct and decisions. Minimum professional qualifications are set for staff to insure the availability of quality treatment programs.

The principle of fairness and minimal intervention, as utilized for the purpose of both institutional care and emergency treatment, is designed to provide the least drastic intrusion into the life of the child or family members. This focus arises from a concern for the individual dignity and person of the child, and is itself a treatment goal. The maintenance and support of the rights and privileges of the child as a person are a developmental strategy of treatment designed to enhance the growth of autonomous and responsible human beings. Even the right of refusal to participate in programs without penalty, as recommended in these standards, is a source of growth and development for children if used constructively by staff in treatment programs.

The fourth phase, of the re-entry of the juvenile into the community, has not been explicitly dealt with herein because the effect of most of these recommendations would be to have far fewer youngsters removed from the community and from the institutions that deal with them in the first place. By structuring a pattern of services and agencies willing to plan for such services, the need for a fourth intervention, namely reintegration of a youth into a community is greatly diminished. The entire notion of maintaining youth in their homes, communities, or schools, unless overtly dangerous to themselves or others, will hopefully become a credible pattern of action if consistently implemented and utilized across the many functions and agencies of the juvenile justice system.

The staff of the Juvenile Justice Task Force would like to express their deep appreciation to the Chairman of the Task Force, James E. Girzone, Commissioner of the Rensselaer County Department of Youth for his untiring efforts in the development of this document. This set of policy recommendations, which will hopefully gain the support of juvenile justice professionals is a reflection of his energy and committment.

Many other members of the Task Force also gave generously of their time and professional skills. Deputy Inspector Patrick Looney, Flora Rothman and Justice Robert Wagner, are only several of the Task Force members who have served with distinction. David Gilman, Director of the IJA/ABA Juvenile Justice Standards Project; Richard VanDuzend, Director of the National Commission on Juvenile Justice Standards and Goals Project and, Marilyn Seide and Jane Donohue of the Division of Criminal Justice Services, have been of great assistance in resource location, and sharing of other commission findings that focus on this effort.

JJS GOAL 1:

Enrich, Diversify, and Re-Structure Educational Opportunities and Programs to Provide Positive Social Integration of Youth Into Community Life, and Adaptation of the School to a Community Service Model.

STANDARD

1.1 Integrate Schools into Community Life

a. Encourage respect for learning and academic achievement within the community by using community resources to enrich school experiences for students and teachers.

b. Increase the utilization of school resources after regular hours.

c. Experiment with flexible scheduling and flexible use of facilities to maximize opportunities for community participation.

d. Utilize internships and field placements for students to provide community learning.

e. Establish a firm, cooperative relationship between school personnel and various segments of the community.

1.2 Develop Comprehensive Programs for Individual Student Learning:

a. School districts should specify educational objectives of each sequence of learning (grade level), jointly planning with students, families, teachers, and community groups.

b. A review of current methods of teaching, testing, and evaluating student progress should be undertaken, including teaching method evaluations.

c. Periodic review of student progress should be instituted to enable early identification of learning problems, with involvement of parents in these systematic reviews.

d. Individualized student plans to equip every student with acceptable levels of academic skills should be developed, reviewed, and refined on a regular basis to monitor student progress and provide necessary assistance.

1.3 Institute Survival Education

a. Integrate the teaching of basic skills in reading, writing and mathematics with practical information students require for daily living.

b. Students should be exposed to the types of skills and professional training that are valuable in the contemporary labor market.

c. Schools should provide students with the skills to be intelligent consumers.

d. Students should be provided with preparation to enter the political and governmental affairs of their communities.

e. The curriculum should be structured to teach students how to formulate their plans and goals in terms of satisfying their personal objectives.

f. Curricula should be addressed to providing students with a functional system awareness of social, governmental and financial institutions and their impact on people in the community.

1.4 Provide for Alternative Educational Experiences

a. Promote alternative ways to learn within the school setting rather than requiring that all students achieve within a regular program.

b. Design learning experiences to fit the differing needs and interests of individual children.

c. All experimental alternative educational programs should be voluntary, and not a method for punishing or ostracizing undesirable students.

d. Alternative educational programs should be evaluated to determine which methods have the most impact on learning.

1.5 Enrich the Home Learning Environment.

a. Integrate the family with the school process.

b. Enable parents to participate in the learning process as teachers, tutors, instructional aides or in the development of curricula and special programs.

1.6 Develop Bilingual and Bicultural Educational Programs

a. Schools shall hire teachers and aides from bilingual and bicultural backgrounds appropriate to the student population.

b. Parents, other students, and people in the community shall be utilized as positive role models for different cultural groups.

c. Public schools shall respect the different cultures of their students.

1.7 Provide a Full Range of Supportive Services for Students

a. Emphasize the provision of supportive counseling, educational, and social services for the individual child.

b. Supportive services shall include testing and diagnostic services in psychological and learning areas.

c. Counseling shall include career guidance, student placement advising, and personal counseling.

d. Educational services shall include academic planning, remedial programs in the basic skills areas and tutorial assistance.

e. Supportive services can include health, legal and welfare counseling, as well as delivery of services such as medical and dental screening, consumer information, and other activities effectively delivered in the school setting.

f. School districts shall utilize community resources to provide supportive services wherever possible, and encourage community agency use of the school setting to deliver services to students and community residents as well.

1.8 Develop School Programs to Diagnose and Serve Children with Learning Problems and Learning Disabilities.

a. Schools shall develop programs to diagnose and provide appropriate programs to deal with learning problems in children.

b. Teachers shall receive training in the etiology of learning problems to increase their ability to refer children for early diagnostic assessment.

c. School districts shall have teams of physicians, neurologists, and psychologists to perform diagnostic testing of children who exhibit learning problems.

d. Schools shall have multidisciplinary teams composed of health professionals, teachers, special education specialists, counselors, and social workers who can work together with the child and his family.

e. Classification categories for learning problems shall be descriptive of the characteristics of individual programs and relevant to treatment of objectives, with systematic retesting to eliminate inappropriate or prolonged labelling.

f. In no case shall a diagnostic label be applied to a child in the absence of strong proof based upon a diagnosis.

g. Schools shall develop special programs for children exhibiting learning disabilities.

h. The term learning disability shall be used in referring to children who, due to neurological impairments, have deficits of a behavioral nature, such as in perception, conceptualization, thinking, memory, speech, and in skills such as reading, writing, spelling and math.

i. A learning disability shall be specific in nature and cannot be attributed to generalized handicapping conditions such as general mental retardation, sensory handicaps, emotional disturbances, or behavioral problems resulting from environmental stress.

j. Schools shall improve their programs for early identification and treatment of learning disabilities.

1.9 Utilize School Facilities for Community Service.

a. Assess need for community programs most needed and take inventory of available space and resources.

b. Total utilization of school facilities shall be implemented in all school districts to serve community residents and their needs.

1.10 Structure Schools as Models of Justice.

a. Full participation of the total school community in the teaching-learning process shall be developed in all school districts.

b. Programs shall be designed to permit students to examine the principles of justice and morality of other cultures.

c. Schools shall establish a Student Bill of Rights and Responsibilities to foster respect for law through actual school experiences.

d. Schools shall consider providing a student advocate or ombudsman to help students meet their needs and resolve conflicts within the school bureaucracy.

e. Schools shall encourage student participation in the formulation of dress codes, student publications and student discipline.

f. School officials shall review rules regarding suspension and expulsion to insure fair and impartial hearings in these matters.

g. Schools shall experiment with educational models of moral development as a means to improve the ability of youth to make moral judgments and structure their own behavior on the basis of internalized moral standards.

1.11 Provide Basic Career Education for All Students.

a. Career education programs shall be designed to permit students to experiment with different careers and to gain practical experiences in specific areas of work.

b. Schools shall coordinate efforts in career education with local community colleges that may already have experimented with different educational techniques and approaches to career education.

c. Career education shall be introduced in the lower grades.

d. Career education shall utilize community, business, industrial, agricultural and professional resources to enrich program content. Provision should also be made for work-study programs, internships, and on-the-job training for all students through these resources.

1.12 Develop Basic Criminal Justice Education Programs at All Levels of Education

a. Each school level (primary, intermediate, high school, college) should take steps to implement basic curricula describing the history, role and problems of criminal law and the cirminal justice system in society.

b. Community law enforcement, judicial, corrections and other criminal justice system personnel should be utilized as resources for the deisgn and teaching of such curricula.

c. Field visits to criminal justice institutions should be available as an adjunct to the development of such curricula to acquaint students with their community and its criminal justice agencies.

Commentary

Schools are a primary institution of community life and serve the fundamental task of socialization of young people into the values and skills of contemporary life. Yet, many people are very disillusioned with the educational system as it now exists in the United States. Schools nevertheless loom large in the horizon of delinquency prevention programming.

> School has an often dominant involvement in the lives of children, both by contributing to the quality of justice for children and by directly tying into the juvenile justice system. Consequently, it is tempting to assume that schools can perform a critical child-saving function. Although many other once bright possibilities for juvenile justice have been given up in despair, schools remain objects of hope (IJA/ABA, Schools and Education, 1977).

Juvenile delinquency is a phenomenon that has yet to be grasped in clear perspectives by social theorists and empirical studies. The recent work done by the National Institute for Juvenile Justice and Delinquency Prevention, A Comparative Analysis of Delinquency Prevention Theory, came up with no less than five very basic theories of delinquency which have implications for program design and application. The particular ideas of "social control theory", however, lend themselves to the characterization of the schools as a focal point in the casual chain of delinquency.

Travis Hirschi, in Causes of Delinquency establishes this chain for the role of the school as primary in the link of social control for the juvenile:

> The casual chain runs from academic incompetence to poor school performance to disliking of school to rejection of the schools' authority to the commission of delinquent acts (1972, p.132).

One of the most widely held and supportable notions in delinquency theory, control theory need not be firmly established to have credibility as a place to start in the design of measures for delinquency prevention. Moreover, the empirical evidence to support the close correlation between children in

trouble in school and in trouble with the law is one of the more impressive areas of research confirmation available in an immature field (Polk and Schafer, 1972). The National Advisory Commission on Criminal Justice Standards and Goals, develops educational standards in both its 1973 and 1976 publications. In addition, recently published work of the IJA/ABA Juvenile Justice Standards Project devotes an entire volume to Schools and Education (1977), primarily with a thrust towards the guarantee of juvenile rights within the school setting.

The basic elements of school life that are recommended for reform in the foregoing standards run the gamut from an increased school-community interactive pattern, to the design of programs for criminal justice education as part of the general curricula of elementary and secondary schools.

A basic thrust is to make the school a more fundamentally integrative institution in community life than at present. School are urged to expand their efforts to foster learning and education throughout the community, with active participation of all interested groups and individuals in school functioning.

Another fundamental aim is to integrate one basic social unit, the family, with another, the school, through responsible involvement of the family in educational planning and implementation for children. The special role of home learning for parental involvement is stressed (1.5).

Both survival education (1.3) and alternative educational curricula (1.4) are urged as methods of dealing with fundamental educational needs of all children for skills required to negotiate everyday social life, as well as providing for the diverse needs for experience and development of all children in a modern technological society. A further practical remedy emphasized is the provision of a career education at all levels of primary and secondary school curricula (1.11).

Based upon the language needs of its population, schools are urged to develop bilingual educational programs for the practical purpose of skills development as well as the less evident purpose of developing positive approaches to solving curtural conflict among ethnically diverse school populations (1.6).

Standards 1.7, 1.8, and 1.9, all focus on the service needs of the school population, and urge a full range of personal social services for students, a focus on learning problems and disabilities, and a further integration of schools into community life by offering the school as a place where such services might be available to the general community.

One innovative proposal, recommended by the National Advisory Commission in 1973 (NAC, 1973, p.149) and again in 1976 is the structuring of schools as models of justice (1.10). The basic intent of this recommendation is to recognize the school as an institutional purveyor of values, and the need to build a structure of trust, responsibility, individual respect, participatory democracy, and fair treatment as an essential contribution to the education of the child. Experiments in moral development education, as designed by Hohlberg (1971) need careful consideration in future curriculum design for exploring human values as an essential part of childhood education.

Last, but hardly least, a great deal of youthful contempt and alienation may be said to be the result of a lack of familiarity with the institutional actors and procedures of the criminal justice system. This can be remedied by a lively curriculum design of both classroom work and field visits to community criminal justice agencies, to ameliorate the strange workings of a sometimes overly harshly portrayed group of institutions, the purpose of which is basic to any community members education (1.12).

Guidelines for Standard 1.12 were drawn from the ABA, Law Related Education in America Guidelines for the Future (1975) and Myren, Education in Criminal Justice (1970).

The basic standards on education presented above have been drawn from the National Advisory Commission on Criminal Justice Standards and Goals, 1976, Juvenile Justice and Delinquency Prevention: A Report of the Task Force on Juvenile Justice and Delinquency Prevention, with the exception of Standard 1.12. 1.3, NAC 3.11; 1.4, NAC 3.12; 1.5, NAC 3.13; 1.6, NAC 3.14; 1.7, NAC 3.15; 1.8, NAC 3.16, 3.17; 1.9, NAC 3.19; 1.10, NAC 3.20; 1.11, NAC 3.21.

JJS GOAL 2

DEVELOP STATEWIDE CAPABILITY FOR COMPREHENSIVE YOUTH SERVICES DELIVERY

STANDARD

2.1 Every County in New York State shall establish a Youth Board or cooperate in the establishment of a Multi-County Youth Board to provide youth services, delinquency prevention, and delinquent rehabilitation services to the youth of that county up to and including age 21, in accordance with New York State Division for Youth Rules and Regulations.

2.2 County Youth Boards shall be policy-making Boards, appointed by the Chief Executive for staggered terms of at least 2 years. This Board shall be empowered to grant project funds within a specified allocation granted by County government, and responsible to the Chief Executive of the county for program implementation, monitoring, and project effectiveness.

2.3 Every County in New York State shall have a comprehensive youth services plan by 1980.

Youth services must be located where they can provide the maximum benefit to the maximum number of youth. Counties, as the principal providers of municipal services in New York State must know about the needs of the youths in their communities, the resources available to meet these needs, and pinpoint gaps in services in an organized manner. It is important that all municipalities within a county work together to identify the target populations they serve and the types of services needed for these youths. They have to know what other agencies are doing and build on the experiences of these agencies. They have to work with other units of government that are providing services to youths on a county and statewide basis. Increasingly the federal government is designating state agencies for receipt of federal funds. The requirement that State agencies adopt State plans and that State plans require a similar county plan is the new method for delivering services that is meant to achieve maximum accountability. Planning requires knowledge of needs and services so allocations that meet the maximum number of genuine needs are met and so that services may still be effective and not duplicated.

"Comprehensive" means the requirement of planning for the full range or system of youth services and juvenile justice functions in a county. To plan for a county under the provisions of comprehensive youth services planning, is to survey, construct objectives, propose programs where none exist, and to monitor and evaluate services for agencies and programs that fall under each phase of the youth services system as it occurs in a particular county. This is a wide range of responsibility for planning, but it encompasses most of the major institutions and processes that affect the lives of children and youth in a community.

The key features of planning for youth services and delinquency prevention in the community are the following:

a. A preliminary survey of the problem areas to determine the scope of delinquency and criminogenic influences, including those which may rise from established agency service and operation patterns.

b. Canvassing constructive organizational resources of the community in order to assess the possibility of more wide-spread and intensive deployment, under central supervision or guidance, to determine the specific scope of existing relevant programs of education, training, employment, social, health, and other services, focusing on the extent of conflict, overlapping, and cooperation between them.

c. Application of a model of community action and service within the limits of power and resources available currently and in the future to the delinquency problem in its various forms and stages.

d. The development of an appropriate public or voluntary comprehensive planning structure with effective control functions, such as a Youth Board.

e. Staging planned program interventions at individual case levels, community group, organization, and institutional levels, as well as policy reformulation, specifying objectives to be attained at each appropriate level.

f. The development of various processes and procedures of operational integration of the different programs, or the formulation of comprehensive and systematic groups of services for youth.

g. Monitoring and evaluation of programs and procedures.

h. Feedback to responsible administrators and public groups for redefinition of objectives, especially in the light of anticipated and unanticipated interactions with other programs such as mental health, poverty program, etc.

i. Proposal of alternative programs to meet the revised objectives and newly acquired information as a result of the implementation of a fully comprehensive planning mechanism for solving the community delinquency problem.

STANDARD

2.4 A Youth Services System Model shall Structure Comprehensive Planning at the County Government Level in New York State.

A survey of practices reveals that for many of the leading states and national programs, including all those carried out by the New York State Division for Youth, survey research and evaluation evidence did not provide clear direction as to their effectiveness.

STANDARD

2.5 The Components A Youth Service Planning model would be required to contain are:

a. A focus in a functional manner on the various units within the juvenile justice and youth services fields;

b. A depiction of the broader youth services before and involvement with juvenile justice;

c. A perspective on the Division for Youth services as well as local services relationships;

d. A depiction of the other public and private social institutions involved in providing youth services;

e. And a combination of the range of services for an entire continum depicting levels and phases of youth involvement.

The functional analysis of parts of the systems of both youth services and juvenile justice call for analysis of institutional categories for various stages providing one basic planning tool or method to develop ideal goals for state-wide youth services.

In an attempt to depict the full range of services from youth services and delinquency prevention as well as the network of services for youthful offenders a framework of services has been developed. There are numerous agencies, and institutions that presently are designated to carry out various functions of serving youth.

STANDARD

2.6 The major phases of a Youth Services System Model for Comprehensive Planning should be the following:

I. DEVELOPMENT AND PREVENTION FUNCTIONS
II. JUVENILE COURT - ADJUDICATORY PROCESS FUNCTIONS
III. POST ADJUDICATION: REHABILATION AND TREATMENT FUNCTIONS
IV. RE-ENTRY INTO COMMUNITY: REINTEGRATION FUNCTIONS

The first category, the Development and Preventative Phase takes in those youth and family related services and programs ranging from recreation and other youth development activities, through the delinquency prevention activities of diversion programs of youth bureaus and neighborhood organizations, as well as the efforts of police juvenile aid officers to prevent delinquency by patrolling

and referring activities. All have the common link to the youth services and juvenile justice system of aiming at youths who have not yet or are not now in contact with the justice system.

The second phase of youth involvement in the juvenile justice system may be characterized as the Juvenile Court- Adjudicatory Process. This phase covers involvement of youths with the court system beginning with contact with the juvenile probation intake unit and the intake hearing of the case to determine grounds for petition, etc., through diversion efforts before an adjudication stage is reached, as well as the adjudication hearing itself, at which a petition is upheld or denied. It also involves detention of a youth during the court process.

The subsequent phase, number 3, is the phase of Post-Adjudicatory Rehabilitation and Treatment for those youth not released at adjudication. This phase of the juvenile justice system is a concentration primarily upon the process of resocialization, and involves public private agencies in the functions of counselling education, vocational training, and physical restraint.

The fourth phase of youth services and juvenile justice involves the Re-entry into Community: Reintegration process of ex-offenders. Such post-institutional programs as half-way houses, aftercare supervision, and continuing probation would be included in this phase.

STANDARD

2.7 Provide the capability for New York State Boards and community youth servicing agencies to serve the youth of New York State in a comprehensive, systematic, and effective manner for the prevention of delinquency and deterrence of anti-social behavior.

REOCMMENDATION

Legislative authorization should be established for an award of a minimum of $10.00 per youth, per municipality, through the New York State Division for Youth Local Assistance formula to be based on the current legislation allowing 50% reimbursement on expenditures to support youth services, delinquency prevention programs, and residental placement, day treatment, and other rehabilitative services.

Commentary

On July 1, 1974, New York State Legislation became effective that significantly amended Article 19-G, Section 420 of the Executive Law (Diviison for Youth Law). The major changes made in the new law are: 1) An increased State Aid formula available to municipalities in support of their youth programs; 2) an emphasis on "comprehensive planning." The intent of the legislation is clear: The State, through the Division for Youth, wishes to encourage municipalities to recognize both the need for, and the value and rewards of, comprehensive youth services planning, as they involve themselves in the planning process.

Comprehensive planning is at the same time a process and an objective. It has as its objective provision of the best and most complete complex of youth services, and the most effective and efficient system to deliver those services, that a community's available resources will allow in the face of local conditions. This objective cannot be reached without planning. More to the point, it cannot be reached without comprehensive planning. As a process, comprehensive planning seeks to bring together those persons in the community whose expertise, interest and/or positions will, through cooperative effort, most effectively work toward the achievement of the previously stated objective.

To be really effective, comprehensive planning must be true to its name. It must take into account all youth needs and problems, all youth services, and all resources as these impact on youth in the community. It is not the intent of the comprehensive planning process to alter existing areas of responsibility, but rather, to have youth bureaus, youth boards, and representative planning committees act as a catalyst and agent to achieve a truly comprehensive youth services delivery system.

The first set of the standards in this section lay out first, the reason for comprehensive planning, which is the need for a data based, systematic, management by objectives plan for dealing with youth services to achieve maximum accountability. Secondly, a definition of planning is given as a rational forecasting of viable alternative purposes together with the consideration of alternative means. Thirdly, the key features of planning in ten steps are delineated. These ten steps are taken in large measure with suitable alternations from Community Problem Solving: the Delinquency Example, by Irving A. Spergel, (1969) a recognized work in the delinquency prevention field. The steps focus on the community-centered problem-solving nature of planning for delinquency prevention. Sociologically, this methodology assumes the need to focus on the particular resources and problems of communities in bringing about a preventative and systematic pattern of youth services which addresses itself to problems revealed by community assessment.

The next item (2.6) in the section on Comprehensive Planning is a framework for youth services and the juvenile justice system. The model is an attempt to depict the possible range of statuses that youth may hold in the community, to which services pertain, and is based upon a structural-functional analysis of the roles which a youth may play in the community and the various types of services which address themselves to these statuses.

The continuumis divided into four basic steps. Each major stage of the continuum delineates a significant status that a youth may hold in the community and for which various services in the community are available. The work of George Fairweather as outlined in Method for Experimental Social Innovation (1967) deals with the methodology involved in treating a social problem, such as delinquency, as a problem of marginal status in the community. Thus, a youth who has been adjudicated as an offender, or a youth re-entering the community as an ex-offender, or a youth being detained while awaiting adjudication, are each examples of a marginal (that is other than mainstream) social status in a community. The social problem to be dealt with by services for delinquency prevention is to prevent these types of marginal statuses from occurring and resolve them once they do occur. Thus, the "problem" in Phase I of the model is to maintain youth that are in mainstream social roles as students in good standing, etc. The objectives that may be constructed under such a scheme would be to make sure that youths maintain their mainstream status and do not become "labelled" or otherwise channelled into a marginal social status. The "problem" in the fourth stage is to take a youth who is an ex-offender and to reintegrate him into the community into a mainstream social status, such as an employed youth, student, or other means of "normalizing" his existence.

These four phases have been developed with the aid of a functional model of the Juvenile Justice System developed by the University of Michigan National Assessments of Juvenile Correction (1975) study. This study is funded by the Federal Law Enforcement Assistance Administration as a major research project concerned with juvenile justice. The model is a departure from previous models of youth services, in that it attempts to focus on the entire range of youth problems and services in the community. The comprehensive plan designates youth bureaus as the planners and advocates for youth for this entire system. Each county youth bureau and its affiliate municipal agencies must analyze problems, collect data, set objectives, and evaluate services in each stage and subset of each phase for youth services in its communities. This is a broad scope for service assessment and delivery, but is nevertheless demanded by any attempt to truly become "comprehensive" in the planning scope for youth services.

The last standard in this section (2.7) calls for an increase in the NYS Division for Youth formula for local assistance reimbursement to municipalities operating youth services. The current

funding formula allows a maximum reimbursement of $4.50 per youth, per municipality, on a 50% of costs basis. In order to sustain the comprehensive set of services urged by these recommendations for comprehensive planning, an increase of over 100% to $10 per youth is recommended. If all manner of services from recreation to programs such as diversion, treatment and re-entry services are to be implemented, such a formula increase is mandatory and realistic.

Attention must be called to the IJA/ABA Juvenile Justice Standards Project, and their recently completed volume on Planning for Juvenile Justice (1977). This work focuses almost exclusively on the delinquent, and makes no recommendations for the integration of planning and services for prevention as well as rehabilitation. However, the discussion of the merits of planning and various strategies including purchase of services are well worth scrutiny. An additional volume of the IJA/ABA project, Youth Services Agencies (1977) covers similar prevention program material to these standards, but a vigorous comparison is beyond our scope.

JJS GOAL 3:

DEVELOP ADDITIONAL COMMUNITY-BASED CORRECTIONAL PROGRAMS FOR JUVENILES, USING COUNTY OPERATED OR CONTROLLED SERVICES.

STANDARDS:

3.1 Legislative authorization shall be established for an award of additional financial assistance through NYS Division for Youth Local Assistance Program funding to be based on a 100% reimbursement on expenditures to support projects that focus on youth already involved in arrest, probation, adjudication and placement.

3.2 Provide for the gradual assignment of the costs of commitment of individuals from that county to either the State Department of Correctional Services, the NYS Division for Youth, or a voluntary child care agency when such services, placement or commitment are outside of the residential area of the jurisdiction.

COMMENTARY

The intent of this goal and standards is to provide municipalities in New York State, and chiefly the municipal Youth Bureaus which operate statewide, with a specific authorization and reimbursement formula to focus on youth involved in the juvenile justice system. In a long tradition of serving all youth in the community with a diverse range of prevention programs, many municipalities have found difficulty in setting aside program monies for adjudicated youth. By recommending that a specific funding assignment be made for youth services to adjudicated youth, this new focus might be accomplished with little adverse effect on the established prevention programs.

The IJA/ABA Juvenile Justice Standards Project has recommended (Standard 7.3):

> In the determination of program placement, there should be a strong presumption in favor of retaining the juvenile within his or her own community and against disrupting the juvenile's cultural and geographical roots. The department should ensure that links between the juvenile and his or her home and community are facilitated and preserved (IJA/ABA, 1977 Corrections Administration p. 25).

The arguments made for the IJA/ABA standard (7.3) are supportive of the intent of Goal 3 of this volume and are threefold:

A. Many of the components of the safe, humane, caring environment are located within the juvenile's own community;

B. The juvenile can retain continuity in primary relationships;

C. Resources and services in the community should be fully used, and should not be duplicated by the department (IJA/ABA, Corrections Administration, 1977, p.126).

Also supportive of community-based institutions for juveniles were the (1967) Presidents Crime Commission Report, and the National Advisory Commission volume on Corrections (1973). (cf. JJS Goal 20, for a further discussion of community-based programs).

In addition, the formula change recommended in 3.2 carries with it a provision such that the "charge back" costs paid by a municipality for juvenile institutional services for adjudicated youth placed by the court (50% of costs) be increased gradually to discourage the assignment of youth to out of jurisdiction placements. An assignment of 60, 70, 80, and 90% of costs to a municipality for out of jurisdiction placement, after an initial two or three year period of the incentive formula, should be effective for developing disincentives to out-of-community placement of youth (cf. NAC, 1976, Standard 24.2, p. 701).

JJS GOAL 4:

> YOUTH BOARDS AND SERVICES AGENCIES SHALL UTILIZE A YOUTH ADVOCACY AND SYSTEMS INTERVENTION STRATEGY.

STANDARDS

4.1 Ensure the civil and constitutional rights of youth to fair treatment, due process, and equality of opportunity as these rights apply to interactions with social institutions in the community.

4.2 Programs must minimize the negative labelling of youths, especially those youths involved in the juvenile justice system.

4.3 Provide for the development of positive social roles for youths as a means of achieving equitable social status.

4.4 Each County shall design examples, designate priorities, and fund programs of "service brokerage" in the following categories of community youth activities.

a. Youth Employment
b. Education
c. Recreation
d. Health
e. Mental Health
f. Transportation
g. Juvenile Justice System
h. Systems Awareness

4.5 The guidelines of the County Youth Board, in setting priorities for local programs, shall seek to obtain a priority allocation of resources, maximum community participation, and efficient intervention into institutional patterns of service.

4.6 Develop the planning capability of local youth bureaus and youth services agencies by furnishing leadership and technical assistance to developing programs, as well as information to ongoing planning efforts of municipalities.

4.7 Provide for the county coordination of all state funded and operated services for youth development, delinquency prevention, and juvenile justice system programs, so that resources are allocated equitably within the county and set standards and goals for the coordination of such services so that they can be observed and accomplished.

4.8 Each County in New York State shall establish funding, rules, regulations and procedures for technical and planning assistance, which support the organization and operation of Community Youth Projects for the purpose of carrying out the youth advocacy task of community development at the neighborhood level.

a. Set local goals
b. Set priorities based on community analysis and inventory of services.

c. Set measurable project goals and provide evaluation feedback to program operators.

d. Revise annually, the local plan for comprehensive youth services.

e. Coordinate all locally operated youth services.

4.9 Provide youth and community responsibility for the design and implementation of youth services for the communities in which they reside.

4.10 Organize broadly representative groups for planning of services, composed of youth, adults, private and public agency representatives and juvenile justice system representatives (judges, probation officers) for such youth agencies, community-wide.

4.11 Organize community services for maximum access by law enforcement and court intake, as diversion for juveniles who are not an immediate threat to public safety and who voluntarily accept referral to community youth services. These services must be operated independently of the justice system using indirect controls and contract accountability.

4.12 Community Youth Services must be funded for individual youth advocacy on a "service brokerage" basis, with direct services operated only where none presently exist, and then as demonstration projects to be integrated into a community agency.

4.13 Guidelines for community youth services staffing shall require specific professional qualification for administrative positions, with no necessary emphasis on professional social work degrees, and a mixture of indigenous community staff and volunteers represented in agency staffing patterns.

4.14 a. Evaluation objectives and methods shall be stated on program applications for funding to the County Youth Board, and shall be related to stated local priorities.
b. The County Youth Board shall comparatively evaluate the effectiveness of different youth projects and effectiveness of programs of various types.
c. The County Youth Board shall have an information system on programs and services provided, as well as outcome and characteristic data of clients served.
d. The County shall maintain a central information system of program and youth population data, for evaluation, information and referral.
e. Trends in arrest, court referral, detention, petition, dispositions and other pertinent community information shall be obtained by the County Youth Board.

COMMENTARY

As part of the survey of the literature a recent report of the Child Advocacy Research Project of the Columbia University School of Social Work should be cited as indicative of professionsl trends in child welfare. Child Advocacy: Report of a National Baseline Study (Kahn, et.al. 1972) is a survey report of programs nationwide that deal with the general task of child advocacy. They report that despite the wide differences that can be found in the defini-

tion of the term, as well as the programs funded in its name, they find,

> a core of organized or organizable activity that is unique and continuous with the advocacy identified elsewhere in social welfare. (Kahn, et.al., p.63).

In addition, this core of activity can be defined by the following types of characteristics,

> It captures the preoccupation with rights and accountability, the self-dedication to persistence and the readiness to ask citizen volunteers and staff members to make a somewhat more activist commitment to children than has characterized most programs, whether they involve direct services or lobbying and social action ....it is defined as intervention on behalf of children in relation to those services and institutions that impinge on their lives. (ibid.)

Most precisely, they state it as follows:

> The key factor that defines advocacy...is the concept that individual children or parents, categories of children and parents, have specific rights and needs and that prevailing circumstances require that they be given support to assure their access to entitlements, benefits, and services. (ibid. p.65.)

Several other significant works in the area of youth services and community development have also supported this approach. Irving Spergel has written on community development for delinquency prevention for many years, setting out a series of steps that view delinquency as a problem of the total community. Thus, the standards under this goal give strong preference to locally organized, operated and evaluated services for youth. The basic point he makes is that,

> The value infusion in community problem solving derives from the American democratic experience-social justice, equality, and self-determination. The human relations professionals...have generally adapted and made operational only part of this tradition, that part concerned primarily with individual, rather than group or corporate interest. (Spergel, 1969, p.8.)

Sherwood Norman in his handbook on youth service organization, The Youth Service Bureau, specified two methods of services strategies (1972). First, youth services must be organized for individual youth services intervention on a case-by-case basis to obtain needed services for an individual youth. He calls

this "individual service brokerage" (Norman, 1972, p.73). Secondly, a strategy for "systems brokerage" must be organized, to attempt to deal with a systemic problem that is precipitating any number of individual cases due to a malfunctioning policy, procedure, or law that has destructive effects on a youth. An example of such a "systems brokerage" intervention might be the attempt of a local youth bureau to ameliorate a school district policy on expulsion which provides no alternative to a youth but to totally abandon educational goals. The standards attempt to set modest service organization guidelines based upon these two principles of advocacy and brokerage (both individual and systemic).

For a discussion of both design and interorganizational functioning of youth services agencies with the criminal justice system, the recent IJA/ABA volume on Youth Services Agencies (1977) should be consulted. In addition, A Design for Youth Development Policy (CAR, 1976) examines social policies towards youth development, and youth services systems strategies currently being experimented with. Specifically, the latter study deals with the fruits of a U.S. Department of Health, Education and Welfare strategy of "youth services systems" which integrate criminal justice concerns and broader issues of development.

JJS GOAL 5:

> Police procedures with juveniles shall be clear and explicit, and oriented toward diverting appropriately defined juveniles from the juvenile justice system, while ensuring public safety.
>
> Clear and explicit guidelines must be established in each of the following areas: Diversion, Custody, Detention, Move to Petition.

STANDARD

5.1 The Police role in juvenile justice and delinquency prevention shall be responsive to community needs.

5.2 The Police shall function in both an enforcement and prevention capacity, emphasizing neither role at the expense of the other.

5.3 Police Juvenile Officers and Police Officers shall Divert as many juvenile offenders as possible form the juvenile justice system using explicit criteria for diversion to the least coercive alternative which protects the public and provides supervision and services for the juvenile.

DIVERSION

a. The Juvenile must not fit any of the criteria for court referral in standards 5.4 and 5.5.

b. The Juvenile Officer judges that the youth fits the following appropriate criteria:

i. The Juvenile accepts and cooperates with an agency to which he is referred;

ii. The Juvenile has committed offenses clearly accompanied by circumstances that mitigate criminal responsibility;

iii. The Juvenile's parents or guardian acknowledge an awareness of the youth's problems and are willing and able to cooperate with the police in exerting control and supervision of the youth.

iv. Protection of the Complainant victim and the community is assured by the absence of any threat that the juvenile will commit further offenses.

c. Diversion criteria shall be continuously reviewed and evaluated by the Police, jointly with the Court, Probation, Youth Services Bureau, Department of Social Services and Probation to ensure that they meet standards of public protection and diversion of cases inappropriate for Family Court action.

STANDARD

5.4 Police criteria for taking a juvenile into custody (arrest) shall emphasize the severity of the act and frequency of police contact.

a. Severity of the alleged act -- Usually youth who commit rape, arson, an offense with a gun or dangerous weapon, criminal tampering, assault, and acts which would be felonies if committed by adults, may be in need of physical custody.

b. Frequency of police contact -- A specific number of police contacts, and the quality of each, can be used to set a cut-off point after which the child is automatically processed.

POLICE-YOUTH PROCEDURES

STANDARD

5.5 Each police department shall adopt policies and issue rules and regulations favoring release of all accused juveniles who do not meet Custody Standards (5.4) or Detention Standards herein. Release of a juvenile to a parent/guardian shall be employed to the greatest degree consistent with the policies of public safety and insuring appearance in court. Older juveniles, 16-18, may be released in their own recognizance, consistent with these same criteria.

If a juvenile is taken into custody (arrested) for a serious act which if committed by an adult would be a crime and the procedure for preparing a police contact form is not used (as a police discretionary decision), the juvenile shall be released on personal recognizance to a parent/guardian for appearance at Family Court on a future date except in the following circumstances:

a. Parent/guardian or other lawful custodian is not available; or refuses to assure the child's appearance in court;

b. Child is wanted on an outstandang warrant;

c. Child is not likely to appear in court on return date, based upon past failure to appear in court;

d. Child's release would be dangerous to the community.

5.6 Policy shall use minimally coercive procedures when taking a juvenile into custody (arrest).

a. To the maximum extent possible take immediate steps to notify the juvenile's parents or guardians; and

b. Immediately notify the juvenile of his constitutional rights, specifically the Miranda warnings, and refrain from any action that would abridge or deny these rights. Also give Miranda warnings to parents.

c. The Provisions of the Family Court Act of the State of New York should be followed in all procedures.

d. In the case of physical custody the following procedures should also be utilized:

i. minimize embarrassment to the child and his family.

ii. if the child is in school, have him brought out, so that a show of force or confrontation with the youth is avoided;

iii. avoid getting the juvenile or his family out of bed in the middle of the night if possible;

iv. youth who are going to be questioned about alleged violations should be approached through their families whenever possible;

v. interviews shall be conducted in the home of the juvenile, with the parents present, if possible or the location designated and approved by court as per the Family Court Act;

vi. whenever the possibility of custody (arrest) presents itself, either before or during the interview, the parents and the juvenile shall be advised of this as soon as possible.

5.7 The duties of a police officer when interviewing/interrogating a juvenile who is the subject of a custodial investigation shall emphasize fair and clear constitutional safeguards.

Juveniles questioned in police custody shall not be unduly detained unless the reasons therefore are documented on official records maintained by the police agency.

Before questioning a juvenile about a criminal act for which he/she may be charged it is incumbent on police to advise him/her of the following warnings in presence of parent or guardian.

These warnings must be explained by police in clear, understandable language. In any situation in which the accused or his/her parents or guardian do not understand English, the police should provide the necessary information in the accused's native language; or, provide an interpreter who will assure that the juvenile and his/her parents or guardian are informed of these rights.

a. You have a right to remain silent. You do not have to talk to me unless you want to do so.

b. If you do want to talk to me, I must advise you that whatever you say can and will be used as evidence against you in court.

c. You have a right to consult with a lawyer and to have a lawyer present with you while you are being questioned.

d. If you want a lawyer, but are unable to pay for one, a lawyer will be appointed to represent you free of any cost to you.

e. Knowing these rights, do you want to talk to me without having a lawyer present? You may stop talking to me at any time and you may also demand a lawyer at any time.

After each part of the above warnings are given, the officer must determine whether the juvenile understands what he is being told.

5.8 Police officers and police juvenile officers shall use explicit criteria for referral to the Family Court in accordance with Section 724 of the Family Court Act and Uniform Rules of the Family Court.

The New York State Family Court authorizes the police to take a juvenile into custody in all cases where they are authorized to arrest an adult. However, this authorization does not necessarily mandate the same procedures for juveniles as in adult criminal cases.

Guidelines are being recommended for counseling, releasing and seeking alternatives to court referral, thus, it is only logical that guidelines also be established and explicit criteria recommended for circumstances under which children should be referred to Family Court, i.e., not diverted as follows:

1. Nature of alleged delinquent act being of a heinous nature, e.g., the designated felonies and/or serious crimes against the person, use of weapons, etc.;

2. Juvenile previous history of failure to appear at court;

3. Child commits a crime and parents/guardian are unable or unwilling to guarantee the child's appearance at court;

4. Wanted within or without the state on an outstanding warrant.

5. Desire of victim/complainant to prosecute must be respected.

5.9 Police juvenile officers shall put juvenile offenders into short term detention when the juvenile is a threat to himself or the community, or may not appear in court when ordered.

DETENTION

a. Children who are almost certain to commit an offense dangerous to themselves or to the community before court disposition, shall be detained in a secure or restrictive manner;

b. Children who must be held for another jurisdiction: e.g., parole violators, runaways from an institution to which they have been committed by the Court, or certain material witnesses, shall be detained in a secure or restrictive manner.

c. The holding of an arrested juvenile in any police detention facility for interrogation prior to release or transportation to a juvenile facility shall be prohibited, except in those areas approved by the Family Court Act (Sec. 724).

Protective Custody

a. Nothwithstanding the issuance of a personal recognizance release, the arresting officer may take an accused juvenile to an appropriate facility designated by the rules of the Family Court if the juvenile would be in immediate danger of serious bodily harm if released, or the juvenile requests such custody.

b. A decision to continue or relinquish protective custody shall be made by the Intake Probation Official.

STANDARD

5.10 The police shall be empowered to take fingerprints and photographs of juveniles for investigative purposes unless otherwise directed by state statute. A juvenile shall not be fingerprinted or photographed unless he has been taken into custody (arrested) for an act that if committed by an adult would constitute a crime, consistent with certain guidelines:

1. Any child, 13 years of age or older, taken into custody pursuant to Section 721 of the Family Court Act wherein the charge would constitute a felony if committed by an adult, shall be fingerprinted by the law enforcement agency executing said custody.

2. Said fingerprints shall be maintained by that law enforcement agency in a file separate and apart from the fingerprint file maintained on adults.

3. Such fingerprint record shall not be considered a public record and shall retain confidentiality relating to police records prescribed in Section 784 of the Family Court Act.

4. If after custody and subsequent fingerprinting, a child is not cited or referred to court; or if the child is found not to be delinquent for an offense that is adjudicated a delinquent for an offense that would constitute less than a felony, if committed by an adult, that upon an order of the court, all originals and copies of said fingerprints shall be disposed of according to law.

5. Law Enforcement agencies that have taken custody of a person under the age of 16 years and have referred the child's case to the Family Court for a disposition, shall notify said court if the child's fingerprints were taken. Such fingerprints shall be provided to the Family Court and returned to the police agency for their files upon an affirmative finding.

6. Any law enforcement agency securing the fingerprints of a juvenile shall conform to standards set forth by the Division of Criminal Justice Services in regard to the maintenance of a central juvenile identificaiton and history file within the state.

7. Juvenile fingerprint files maintained by a law enforcement agency may be used by that agency or any other law enforcement agency within New York State to make positive identification of latent prints found at the scene of a crime.

8. Said fingerprints maintained by the Division of Criminal Justice Services and any law enforcement agency, shall be destroyed when child reaches his twenty-first (21st) birthday, providing said child has not been charged with a crime since his sixteenth (16th) birthday.

COMMENTARY

The role of the police officer in an urban society involves many complex social relationships that he must clearly understand in order to be effective. Investigating crimes and bringing accused lawbreakers to the attention of the court system is an important, but not the only function of the police officer's role. He must also be cognizant of and responsive to the needs of the community. (NAC, 1976, p.9). Because of these varied aspects of the police officer's role he will often find himself in a situation where

informal handling of the case would be the most effective course of action even though an arrest could be legally instituted.

Police departments should direct their efforts to help create an environment in the community that will serve to prevent crime and delinquency.

An enforcement and prevention capability should include the following (NAC, 1976, p.197).

> A patrol arm should conduct a roving surveillance, frequently checking places where juveniles may become involved in delinquent acts or easily become victims of crimes. This enforcement arm should maintain continuous and conspicuous operations in such areas frequented by anti-social youth gangs and inspect those areas where large groups of juveniles and youths gather, e.g., recreation areas, licensed premises, etc. This patrol arm should conduct thorough investigations aimed at the apprehension and prosecution of adults who contribute to or are involved in delinquency breeding situations. Surveillance and patrol must at all times recognize the right of juveniles to lawfully congregate, and maintain an open line of communication with youth groups.
>
> For minor violations of law, the officers should be required to merely complete contact cards which adequately describe each minor incident. The parents or guardians of the juvenile should be notified that a contact card has been filed and they should be given an opportunity to question and discuss the information contained on such cards. This procedure would also allow for the police to refer the child and his family to youth serving community based services wherever the need exists. This prevention capability eliminates the negative labeling stigma that ensues with the arrest process. It also allows for all community based youth service agencies to become actively involved in a crime prevention process so desperately needed among youngsters.

Police discretion to determine who will enter the formal process of the criminal justice system is openly acknowledged. The option not to arrest is implicit in the State law covering an officers authority to arrest without a warrant. It states that a peace officer may, not shall, arrest a person he believes has committed a crime (Criminal Procedure Law, Sec. 140). They are, in a very real sense, legal and social "traffic directors." They have wide discretion and may send a person through the formal court process and ultimately into a correctional institution. Or, using their discretionary powers, they may divert individuals into numerous available alternatives and out of the criminal justice system.

A judge has remarked that the sentencing process, in which he is the one who makes the pronouncement, really begins with the initial decision of the police officer.

Nowhere is police discretion so openly exercised and so often institutionalized as in juvenile cases (Grandy, 1970). The extent of police diversion of juveniles is revealed in the FBI's Uniform Crime Reports (1975). According to the FBI during 1974, 1,709,564 juveniles were taken into custody by the police. Of this total 44.4% were handled within the respective police departments and then released. This figure represents the percentage of juveniles taken into custody by the police and subsequently released and diverted from court processing. Because this figure does not include those juveniles diverted by the police prior to being taken into custody it is a very conservative estimate of the extent of police diversion of juveniles, (Weiner, et al., 1971). Morris and Hawkins (1970) estimate that for every juvenile taken into custody there were four juveniles who were handled informally by the police rather than taken into custody. Therefore, the importance to society and to the juvenile of the wise use of police discretion cannot be overstated. There are cases in which court action and eventual confinement are clearly the only proper outcome. There are also cases in which such action would be clearly conterproductive and in which a suitable alternative must be sought. It is the responsibility of the police officer to make that decision and to find an alternative to juvenile court referral, when appropriate (Kobetz and Bosarge, 1973 p.112).

A decision as crucial as whether or not to process a juvenile to the Family Court should not operate in a vacuum. Every police agency should acknowledge the existence of the broad range of administrative and operational discretion that is exercised by all police officers and individual officers. Such acknowledgement should take the form of comprehensive policy statements that publicly establish the limits of discretion and also provide guidelines for its exercise within those limits, and that further eliminate discriminatory enforcement of the law (NAC, 1976 p.21).

As with probation intake guidelines the intent of the police diversion guidelines is to provide some general policy statements outlining which cases the department believes should normally be diverted, not to completely eliminate the individual officer's discretion in any particular case.

JJS GOAL 6:

> Each police department shall establish a unit or have an officer specially trained in the handling of juvenile cases to effect arrests of juveniles when arrest is necessary, to make release decisions concerning juveniles, and to review immediately every case in which an arrest has been made by another member of the department. All arrest warrants, summonses, and the matters involving accused juveniles should be handled by this unit.

CONTINUED

1 OF 4

STANDARD

6.1 Every police agency having more than 50 sworn officers shall establish a juvenile investigation unit, and every smaller police agency should establish juvenile investigative capabilities.

This unit shall be functionally centralized to the most effective command level; and shall be assigned responsibility for conducting as many juvenile investigations as possible, assisting field officers in juvenile cases, and maintaining liaison with other agencies and organizations interested in juvenile matters.

Police administrators with existing juvenile units shall improve the status of those units if necessary, to insure that all members of the department recognize that juvenile-related activity is a necessary and valuable component of the police organization.

6.2 Police departments shall encourage the development of interdisciplinary juvenile justice coordinating councils at the community level (city/county/regional). These councils shall work to prevent crime and delinquency by doing the following:

a. Aiding systemwide planning for service delivery to juveniles, while avoiding duplication of those services;

b. Providing for the distribution of local, State, and Federal monies to insure a maximum return;

c. Communicating with State and Federal criminal justice and juvenile justice planners;

d. Eliminating conflicts among those in the juvenile justice field;

e. Evaluating programs; and

f. Sharing information on innovative efforts with juvenile justice specialists.

6.3 All police departments shall establish a planning function and staff it with personnel who can help the department plan for the administration and management of police delinquency prevention and control services. Continuous planning shall be carried on in order to cope effectively with tactical and strategic problems involving juveniles.

6.4 Periodic evaluations and assessments of police juvenile operations shall be performed to insure that those operations are accomplishing their goals, objectives, and stated missions.

Evaluation of police juvenile operations should consist of the following steps and questions:

a. Quantify program goals and objectives in terms of measurable levels of achievement.

b. Do the quantified program goals and objectives contribute to the department's overall program goals? Use statistics, studies, reports and other data to indicate the relationships.

c. Develop evaluation measures for each project and for total police-juvenile operations in order to measure both efficiency and effectiveness. Measures of efficiency -- how well a program is executed in terms of time, personnel equipment and money spent.

Measures of effectiveness -- how well programs have impacted on target objectives.

d. Identify the data needed to perform the evaluation.

e. Determine the analytical methods used for evaluation and establish management procedures to execute the analysis.

6.5 The Police Juvenile Officer should

a. Assist the Chief of Police and administrative officers in the formulation and implementation of overall departmental policy regarding police handling of juveniles. This includes the preparation of general orders concerned with: behavior expected of all police officers in their contacts with juveniles; procedures to be followed by all officers in processing juveniles; directives on the use and confidentiality of juvenile forms and reports; explanation of the laws governing temporary custody, search and seizure, burden of proof, collection and preservation of evidence, testifying in juvenile court, questioning and interrogation, stop and frisk, as these pertain to cases involving juveniles.

b. Investigation of all crimes alleged to have been committed by juveniles taken into custody and follow-up investigation of non-enforcement complaints against juveniles referred to him by line officers. The extent to which line officers are able to handle juveniles effectively and properly, without the intervention of the juvenile officer, will depend largely on the department's philosophy of working with juveniles and operational implementation of this philosophy.

c. Review all reports dealing with police contacts with juveniles and maintain a separate records system which is under the direct control and maintenance of the youth officer. Checking these reports is one way of assuring that police decisions are followed consistently and they keep the juvenile officer abreast of the problems facing the men on the street which may indicate a need to change existing procedures.

d. Establish cooperative liaison relationships with other community agencies charged with providing services to children and youth, in particular the juvenile court, schools, and social agencies. Wherever practical, a working agreement shall be entered into between the police department and these agencies to provide a systematic and coordinated referral process. Such an agreement must be in conformance with state statutes and in keeping with the philosophy of police work with youth. This function would also entail the development of a directory on community resources for the department describing briefly the services of community agencies, their location, and how referrals are to be made.

6.6 Establishment of a formalized Statewide Training Program for Training of Police Juvenile Officers.

The New York State Bureau of Municipal Police shall develop and promulgate such statewide standards and implement a Training Program.

a. Specialized training of Juvenile Police Officers shall be mandatory and require a minimum of 40 hours of basic training in juvenile matters either before beginning their assignment or within a one-year period.

b. All officers and administrators assigned to juvenile matters, as well as all other police personnel, shall receive training in personal and family crisis intervention techniques, and ethnic and cultural relations.

c. All police juvenile officers shall be required to participate in at least one in-service training program each year consisting of topics relevant to the field of juvenile justice.

d. Community, regional, or State juvenile justice or police agencies shall periodically conduct interdisciplinary in-service training programs for system personnel.

COMMENTARY

In recent years there has been a dramatic increase in the number of police contacts with juveniles not only for serious crimes but large number of cases involving less serious delinquent or anti-social conduct.

Police frequently handle cases involving runaways, truants and a host of dependent children e.g., neglected and abused children, lost or stranded youngsters, all of whom need some form of protective services. This dual role of the police as the apprehenders of criminals or helpers or protectors of citizens is greatest in the juvenile area.

Unfortunately, many facets of police juvenile operations are gray areas in which existing law and departmental guidelines do not provide for clear-cut directions. This underscores the importance of having police officers who have a direct interest in working with troublesome children and whose formal education and special training aid in the processing of juveniles coming to their attention in terms of procedures, transportation, available facilities and knowledgeability of resources within the community that can assist these youngsters. (NAC 1976, p.195).

Police juvenile investigation units coordinate the processing of all cases involving juveniles. They gather and collate information on delinquent activities. They investigate all juvenile law violations, apprehend violators and recover property. This unit's investigators should aid the generalist patrol officers when necessary and should also be responsible for follow-up investigations of all delinquency cases that cannot be completed by patrol officers.

The specialist juvenile investigators should also seek to determine the underlying causes for law violations by juveniles, in order to provide an intelligent basis for referral or disposition of the juvenile to be effective in the rehabilitation process. (NAC 1976 p.203).

In the light of the special needs and problems of youth and the unique procedural aspects of the juvenile justice system, specialization is particularly important in juvenile matters.

There are several advantages inherent in a properly conceived specialized police-juvenile unit, particularly when the specialist is well trained. The specialist is able to develop streamlined procedures with the juvenile court, the intake unit and detention facilities. He cultivates useful contacts which not only serve as sources of needed intelligence but also act as resources for promoting rehabilitation. He can assist in training classes by informing the generalist officers about special procedures required by law when handling children. His handling of juvenile related problems will allow the generalist much more time to spend in other types of services.

In some communities the juvenile specialist is also required to handle police-community relations, school programs, safety education programs, etc.

The police role in juvenile justice and delinquency prevention should be responsive to community needs. However, the roots of delinquent behavior are too complex and diverse to be dealt with effectively by the police alone. All comprehensive planning for delinquency control and prevention programs must include community resources in addition to the public and private youth serving agencies. Because of the 24 hour per day line operations of the police, they must assume a leadership role in identifying community needs and therefore should take the initiative to encourage youth-serving programs in communities lacking them, e.g., youth service bureaus, schools, recreation programs. They should also encourage development of interdisciplinary juvenile justice agencies at city, county and regional levels working toward prevention of crime and delinquency. This systemwide planning for service delivery to juveniles will avoid duplication of the services.

Every planning function must also have a research capability in order to periodically evaluate operations and programs in order to determine that stated goals and objectives are accomplished. (NAC, 1976 p.229, KOBETZ, 1973, p.51-53)

One of the simplest ways of assessing the effectiveness of police juvenile operations is to obtain feedback from the community which it is designed to serve. Public support and cooperation indicates that the relationship between public and police are good. Since the problems of delinquency come from the community, police-juvenile programs will not by themselves prevent delinquency; no police unit, no matter how professional, can expect to correct these problems if it does not involve its clients, their parents and the community in delinquency prevention program planning and evlauation.

Many of the standards under this goal have been drawn from other sources as follows:

> 6.1 (NAC, 1976, 7.1); 6.2 (NAC, 1976, 6.1); 6.3 (NAC, 1976, 7.2); 6.4 (NAC, 1976, 7.3); 6.5 (Menella, 1972); 6.6, b, d, (NAC, 1976, 7.7):

JJS GOAL 7:

> Police juvenile officers shall be specially selected and trained to employ differential procedures for carrying out police procedures with juveniles.

STANDARD

7.1 The selection and training of police juvenile officers shall be made in accordance with standardized state guidelines to be promulgated by the New York State Bureau of Municipal Police.

The following suggestions are intended to provide some guidelines in establishing minimum criteria for assignment to such positions.

Candidates for police juvenile officers should possess the following basic qualifications:

1. General police experience in the patrol service, with demonstrated competence;

2. Desire to work with juveniles;

3. Basic understanding of human behavior;

4. Formal education, generally a college degree in the social or behavioral sciences, law enforcement, or criminal justice;

5. Ability to communicate with a broad range of people from very young children to highly sophisticated professionals;

6. Ability to write effectively; and

7. Basic investigative skills, including interrogation, interviewing, and an ability to make effective courtroom presentations.

Other factors to be considered in selection include character, personality, temperament, emotional maturity, ability to make rational decisions, patience, ability to work with minimum supervision, and a good police department record and reputation.

7.2 Juvenile officers who demonstrate appropriate skills and abilities and wish to remain in the juvenile unit shall be encouraged to do so. The department shall also provide incentives for higher education and salary increases that are commensurate with the duties and responsibilities of the job performed.

COMMENTARY

The general recommendations of this goal and standards are drawn from the National Adivsory Commission (1976, Standard 7.6) and stress the requirement of careful recruitment, screening, assignment and incentives for juvenile officers in a police department. The sensitive and complex nature of police juvenile officer duties have also been cited by the current IJA/ABA Juvenile Justice Standards Project (1977, Police Handling of Juvenile Problems, p.104).

> The work of officers dealing with juveniles, as partial officers and juvenile officers, involves judiciary considerations to an extent that goes substantially beyond what is commonly expected of the police. The decisions they are constantly called upon to make depend less often on preformulated decision-making standards than upon assessment of circumstances, on child welfare projections that defy all attempts at precise definition, and on sober but sympathetic consideration of troubled and troublesome youth (IJA/ABA, 1977 p.105).

This apt description of the role of the police juvenile officer is rationale enough for the standards set forth herein.

JJS GOAL 8

Family Court jurisdiction over juveniles involved in noncriminal misbehavior; i.e. not attend school in accord with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority should be eliminated.

STANDARD: 8.1

The New York State Legislature should repeal Section 712(b) of the N.Y.S. Family Court Act, and delete all other references in the Act which relate to the formal adjudicatory processing of Persons in Need of Supervision (PINS) cases.

COMMENTARY

In recent years no issue has aroused more discussion and controversy in the field of juvenile justice than the removal of "status offenders", known as Persons In Need of Supervision (PINS) in New York State, from Family Court jurisdiction. A "status offender" is a juvenile who engages in behavior which society deems as undesirable conduct for a juvenile (i.e. running away from home, truant from school, or disobeying the wishes of parents), but which is not sanctioned as a crime when committed by an adult.

After long deliberations, the Task Force approved the recommendation of the Jurisdiction and Court-Related Subcommittee to remove the PINS jurisdiction from the Family Court. The basis for this recommendation is an equal protection argument that an individual who has not been alleged to have committed a crime should not be subject to the coercive powers of the State, regardless of its benevolent purposes. The U.S. Supreme Court in Robinson v. California, 370U.S. 660 (1962), ruled that it was unconstitutional to impose sanctions to an adult on the basis of their status or condition (in the specific case, the individual was an alcoholic), yet this is precisely what the Family Court does when it accepts jurisdiction over a PINS case.

The cornerstone of the family court's authority over juveniles engaged in noncriminal misbehavior is that the benefits the juvenile would derive from the impositon of needed services by the court outweigh any equal protection or due process objections raised. Unfortunately, court intervention has not led to the widespread delivery of services. A California legislative committee, after investigating the State's juvenile justice system noted: "Not a shred of evidence exists to indicate that any significant number of (beyond-control children) have benefitted (by juvenile court intervention). In fact, what evidence does exist points to the contrary " (California Assembly Interim Committee, 1971).

A reading of a recent study of the New York Family Court and its ancillary services leads one to conclude that court intervention has not been very successful at securing services for the vast majority of juveniles brought into Court. (New York Senate Research Service, May, 1977).

The irony of the situation is that the Family Court, the mechanism established for the purpose of improving the delivery of services to juveniles, may actually be retarding the development of a range of services available to juveniles and their families (IJA/ABA, 1977, Noncriminal Misbehavior, p.12). The existence of the PINS jurisdiction permits parents, schools, and other social agencies to evade their responsibilities toward difficult children. Chief Judge David Bazelon, of the United States District Court of Appeals for the District of Columbia, responds to those who argue court intervention is necessary to obtain services for juveniles as follows:

> "The argument for retaining beyond-control and truancy jurisdiction is that juvenile courts have to act in such cases because 'if we don't act, no one else will'. I submit that precisely the opposite is the case; because you act, no one else does. Schools and public agencies refer their problem cases to you because you have jurisdiction, because you exercise it, and because you hold out promises that you can provide solutions." (Bazelon, 1970, p.44)

While the Task Force does believe court intervention in PINS cases is inappropriate, they strongly concur with the IJA/ABA that "the problems presented by such youth are very real and very complex, and that a variety of innovative services, both crisis-oriented and longer term, will have to be established to offer help in resolving them." (IJA/ABA, 1977, Noncriminal Misbehavior, p.15) Many of the other JJS goals and standards are attempts to adequately and effectively respond to these problems (c.f. Goal 17,18,19).

There is strong evidence that improving the system of voluntary referrals can effectively deliver services to juveniles without the threat of court action. (Sacramento County Probation, 1971, ; American Justice Institute, 1974) JJS Goal 1 focuses on school-related problems by trying to make the educational system more responsive to the individual student and to the community. JJS Goals 2 and 4 propose that localities increase their youth development and delinquency prevention services. JJS Goal 12 addresses the problem of runaways, the most frequently alleged basis for a PINS petition in New York (Note, "Ungovernability, 1974, p. 1408). The development of these services would provide many of the necessary services to juveniles in need of assistance who presently are brought to court on PINS petitions. However, the Task Force is aware that due to their dependent status in society, circumstances exist in which court intervention is justified to protect the immediate interests of the juvenile. These circumstances, and the type of court intervention permissable, are outlined in JJS Goals 17 and 19.

During Task Force discussions on PINS, the most difficult issue was whether to recommed an immediate elimination of the PINS jurisdiction or to call for its gradual elimination within five years. Those favoring gradual elimination saw a need to give agencies time to develop and put into place those new structures and services that must be operating once the option of court action over juveniles involved in noncriminal misbehavior is eliminated. Those favoring immediate elimination responded that agencies would not develop large scale changes until confronted directly with the actual elimination of the jurisdiction. Allowing five years to prepare for removal would have the same effect as the move in 1962 to give the Family Court exclusive jurisdiction over adoption cases. This move was to take effect within a year or two. Every year a bill was proposed and passed by the Legislature to delay this transfer of authority for another year. The Task Force did not want elimination of PINS to meet the same death. Any necessary changes that agencies should have operating when the PINS jurisdiction is eliminated could be accomplished during the year or 18 month lead in time that would most certainly be a provision of any bill acted upon by Legislature which would eliminate the PINS jurisdiction from the Family Court.

A centralized intake unit should be established within counties that helps coordinate all the human services resources in a county (Lewin and Associates, 1977). As an interim measure, until such a unit is functioning, it is suggested that probation intake act in the role of service broker for those cases. The rationale for this is twofold; first, probation intake probably has a better knowledge of existing resources in the community, and second, individuals, unaware of the changes in the law, will continue to bring their problems to the intake unit.

Support for the removal of 'status offenses' from family court jurisdiction has been increasing in recent years from professional and citizen organizations concerned about juvenile justice. In 1967, the President's Task Force on Juvenile Delinquency and Youth Crime recommended serious consideration be given to the elimination of the 'status offense' jurisdiction. Since that, time the NAC Task Force on Corrections (1973), the National Council on Crime and Delinquency (1975) and the IJA/ABA Juvenile Justice Standards Project (1977, Noncriminal Misbehavior) all recommend removal. More important, the International Association of Chiefs of Police, the largest professional organization of law enforcement officials in the United States, recommends removal, even though this will result in a lessening of their authority over juveniles' behavior (Kobetz,et.al.,1973). County governments, as represented by the National Association of Counties, have called for the removal of 'status offenses' from family court jurisdiction with the knowledge that such an action would increase the responsibility of counties to provide juveniles with services (1975, 3.67).

The Task Force firmly believes that by inducing the counties and the state to increase voluntary services, giving the court more authority in mandating the provision of services, and allowing court intervention in limited cirumstances, a far more equitable

and efficient system of delivering services will be created than presently exists with the PINS jurisdiction. While one cannot be certain whether these proposals will work, it is quite plain that what now exists does not work. It is unfortunate, but inevitable, that some juveniles will not get help that under the present system of court intervention they would have received. "It is believed, however, that their numbers will be relatively few and that the social costs of retaining the status offense jurisdiction as it now exists far outweigh the relatively small benefits " (IJA/ABA, 1977, Noncriminal Misbehavior, p. 20)

JJS GOAL 9

To create a Family Court Division within the Supreme Court.

STANDARDS

9.1 The court having jurisdiction over juvenile matters should be in the Supreme Court, the highest court of general trial jurisdiction, and should be a division of that court.

9.2 Judges of the Family Court Division should be assigned from among the judges of the Supreme Court. Their assignment to the family court division should be:

1. by appointment of the presiding judge of the Supreme Court;

2. with special consideration given to the aptitude, demonstrated by interest and experience, of each judge;

3. on a modified rotation basis, with indefinite tenure discouraged; and

4. on a full-time basis.

COMMENTARY

This goal and accompanying standards recommend abolishing the Family Court, as a lower court of limited jurisdiction and establishing a family division of the Supreme Court, the highest court of a general trial jurisdiction, while continuing to recognize the need for judges particularly interested in juveniles to preside in these matters.

On the Delphi questionnaire the problem statement, "Family Court judicial appointments are based on politics, not relevant skills and merit" was ranked the 10th most critical problem of juvenile justice in the State by juvenile justice professionals surveyed (DCJS, 1977, Juvenile Justice Delphi). This concern for the quality of Family Court judges was seen as directly related to the prestige of the Family Court itself and therefore, justification for the Task Force addressing the status of the Family Court in the hierarchy of the court system.

Locating the Family Court at the lower trial court level, while grounded in the historical origins of the juvenile proceeding as being non-adversarial in nature, has adversely affected the salaries, working conditions and general prestige of the court. The Family court is unable to attract or retain competent judges who often elect to run for the Supreme Court which operates with a clear mandate to function as a court of law, rather than the confusion presently surrounding the proper role of the family court. Placing jurisdiction over juvenile matters within a division of the Supreme Court would permit competent judges to handle juvenile matters without sacrificing their professional roles as legal jurists.

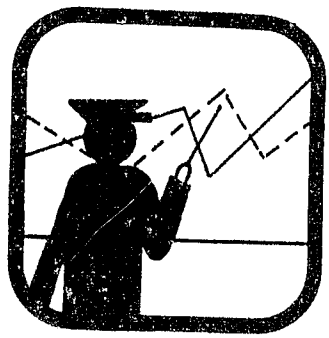
The status of the court handling juvenile matters should be equal to the adult criminal courts since both decide questions of guilt or innocence of misdemeanors and felonies and upon conviction can deprive an individual of his/her liberty.

Creating a single level for all trial courts would improve the overall administration and coordination of the entire court system (Pound, 1959). For example, the informity in job classifications that would result from these standards would allow a greater degree of flexibility in moving personnel to the courts with the heaviest caseload at any one time (Hazard, et al., 1973). Saul Moskoff, Assistant Administrative Judge of the Family Court, Queens County, believes that a single tiered court system would solve many of the problems that presently exist when the Supreme and Family Courts both have jurisdiction in a case. He cites the joint jurisdiction over modification and enforcement of alimony and child support cases an an example (Moskoff, 1977).

Judges of the family division would be selected from the general trial bench of the Supreme Court on a modified rotation basis; indefinite tenure would not be permitted. This selection process would provide time for newly appointed judges to become well enough acquainted with the family court process to be able to function effectively while not running the risk of creating 'one man empires' prevalent with indefinite terms. One recommendation worth consideration is for an initial one-year assignment to the family division with a possible two-year extension (IJA/ABA, 1977, Court Organization, Standard 2.2). After a year's sabbatical, a judge could be reassigned to the division on the same format.

Practically every standard-setting group including the three most recently promulgated juvenile justice standards; the Advisory Committee to the Administrator of Standards and Goals (1976), the National Advisory Committee Task Force on Juvenile Justice and Delinquency Prevention (1976) and the IJA/ABA Juvenile Justice Standards (1977) all recommend there be a family division within the highest court of trial jurisdiction.

The trend across the country is towards elevating family courts to the highest court of general trial jurisdiction. As of 1975, 25 states had juvenile matters handled in a court organized statewide and at the highest general level (Dineen, Juvenile Court Organization and Status Offenses, 1975). Since that time, every state which has reorganized its court system and changed



police

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OVERVIEW

The answers to fundamental police report questions provide an interesting profile of the police service in New York State and form a basis upon which the Police Standards and Goals were addressed and developed.

WHO: There are 60,525 full-time sworn police men and women, whose areas of responsibility cover a distance of 620
WHERE: miles. From the Hamptons of Long Island to Chautauqua County on the shores of Lake Erie (including the worlds' largest metropolitan police department), their purpose is
WHAT: provide police service in and on: subways, housing projects, parkways, bridges, tunnels, waterways, urban, suburban and rural areas. They are organized into 573 police agencies of state, county, city, town or village jurisdiction.
WHEN: These departments operate either part-time or full-time and 45% of them have ten or less full-time sworn personnel.
WHY: Their purpose is to fulfill a role that is as varied in theory and application as the number of departments that exist.

With this myriad of factors to consider, the Police Task Force adopted a recognized conceptualization of the police role into four basic functions: handling incidents that involve victims or potential victims of crime (e.g., reactive and proactive patrol); assisting those who are victimized by misfortunes unrelated to crime (e.g., accidents, natural disasters); regulating undesirable social conduct that does not involve victims (e.g., parking violations, prostitution); and providing other types of community services (e.g., social service referrals, crisis intervention).

Encompassing both the traditional and more expanded community service roles, this model assisted in the completion of a frame of reference upon which the Task Force was able to formulate its' strategy.

It was decided by the Task Force that due to severe time constraints, no attempt would be made to develop comprehensive standards and goals, nor to simply adopt in toto previously written national standards and goals. Instead, problem statements of the second Delphi questionnaire were grouped in order of priority, and those priority problems were selected which could be realistically addressed in the time allotted. In order to accomplish this, the Task Force, which had a composition of one judge,one prosecutor, eleven police, one social worker, four educators, three legislators and two private citizens, was divided into three sub-committees. Their general areas of concern were "Professionalism", "Community Relations", and "Development of Resources."

The problem statement which received the highest Delphi ratings was "High level organized crime is impervious to ordinary enforcement efforts." The Task Force decided that this problem could not be appropriately addressed by standards and goals, but rather through combined State and Federal action. It is the recommendation of this Task Force that applicable state and federal agencies recognize the need to focus increased efforts in their attack on high-level organized crime.

There were two other problems which ranked very high in the overall Delphi response: "The Criminal Justice System's inability to deal with defendants, diminishes incentive for police efficiency in detection and arrest" and "An excessive amount of police time is wasted in court." These are known to impact heavily on the police function, but were outside the purview of the Police Task Force. The Task Force's inability to address these two problems caused considerable concern.

The significant ranking of these two statements in the second Delphi indicates that ineffectual post-arrest processing and disposition by other components of the criminal justice system, such as the courts, impedes police performance and has a negative effect on police morale. Consequently, while the Standards and Goals of the Police Task Force will serve to improve police performance, such improvement will be futile, and possibly counterproductive, until the other elements of the system establish concomitant improvements.

The Police Task Force and Staff acknowledge the contributions and cooperation of the following persons:

William G. McMahon, Deputy Commissioner, Bureau of Municipal Police, DCJS, for providing information and support from his bureau;

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Karen Hagin, Graduate Intern, John Jay College, whose internship services were utilized throughout the project;

Patricia MacCubbin, Research Analyst, State Education Department, New York, New York, whose statistics and related information helped provide a basis for the Educational Commentary.

POL GOAL 1

PROVIDE POLICE OFFICERS WITH INCREASED EXPOSURE TO BROAD SOCIAL ISSUES AND PERSPECTIVES.

STANDARDS

1.1 Every police department in New York State should, no later than 1981, require as a condition of initial employment, the completion of a least one year (30 semester credits) of education at an accredited college or university. The area of study should include basic courses in the humanities and liberal arts.

1.2 Every police department in New York State should, no later than 1982, require as a condition of initial employment the completion of at least two years of education (60 semester credits) at an accredited college or university. The area of study should include basic courses in the humanities and liberal arts.

1.3 Police officers in service or newly hired who have or continue their college education beyond the two-year minimum should receive salary increments or other substantial incentive for every 30 semester credits completed.

RECOMMENDATIONS

a. All police administrators should give consideration to arranging duty and shift assignments to accommodate college attendance.

b. All police departments should be aware and make use of LEEP, Federal Tuition Assistance Program (TAP-State), and other available funding to help finance some of their police officers' education.

COMMENTARY

The question of whether police officers should be required to obtain a college education is one which has been vigorously debated by both police professionals and educators during the last decade. The Delphi Survey results show that the respondents feel the police-education problem is a critical one in New York State. When confronted directly with the problem, "Lack of mandatory upgraded educational and selection standards," 40% rated it either very or extremely critical. Even more revealing is the fact that close to one-half of the respondents rated the problem, "Police training and education lacks exposure to broad social issues," either very or extremely critical. The Police Task Force and Advisory Panel respondents rated both problems as less critical than the overall respondents did. Interestingly enough, they felt that the lack of upgraded education and selection standards was more critical than the lack of police exposure to broad social issues. (DCJS,July 1977)

The President's Commission on Law Enforcement and the Administration of Justice (1967), The American Bar Association (1973), and the National Advisory Commission on Criminal Justice Standards and Goals (1973) all endorsed a specified period of college work as a pre-requisite for initial police employment. The President's Commission recommended two years of college education, while the National Advisory Commission recommended four years by 1982. Two major reasons are generally advanced in support of these recommendations: first, that a college education will have a generally uplifting influence on the values, personalities, and characters of those who receive it; and secondly, that it will have specific identifiable effects on police performance. (John Jay, 1977).

Research has been conducted to test both of the above hypotheses. The latter hypothesis is supported by McGeevey (1964), Rutherford (1968; quoted by Saunders, 1970), and Baehr et al. (1968), each of whom found correlations between the performance ratings for patrol officers and their educational levels. Cohen and Chaiken (1972) further support this hypothesis in their study which produced a positive association between a college education and a greater likelihood of promotion, lower susceptibility to disciplinary action and a lower frequency of time taken on sick leave.

A greater body of data suggests that a college education exerts a significant effect on the attitudes of police officers (John Jay, 1977). Smith et al. (1976) found in their studies that police officers who attended college were less authoritarian than those who had not. Guller (1972) onfirmed this finding and suggested that this was a positive influence of higher education on police officers.

Weiner (1974), in his study of a major metropolitan upstate New York police department, has reached a somewhat different conclusion from the above studies. He found that police attitudes toward blacks were the only attitudes significantly upgraded by a college education. In his analysis, he attributes this change more to the emphasis placed on race relations by police policymakers than to education. He suggests the real value of higher education is that it exposes police officers to new ideas, new information and new values. In short, it broadens their horizons rather than changes their attitudes.

Savitz (1971), Dalley (1973) and Sterling (1972) conducted studies which support Weiner's findings and emphasizes, as he did, that the nature of police work is itself the strongest determinant of police values and behavior. Higher education alone, they conclude, cannot overcome this pervasive force.

Weiner makes one last interesting and important observation: if the goal of police education is to broaden the officers' horizons, then such broadening would not occur in a job-oriented police science program. He concludes that such exposure can only occur in a liberal arts oriented program. The International Association of Chiefs of Police supports this conclusion in a survey report published in 1968 which states:

> "We justify the requirements of liberal arts in law enforcement education on the grounds that they contribute in ways for which no substitute has been found, to the development of men as thinking, critical beings, with an awareness of their relations to the whole of mankind. We do this in the faith that this type of man is a better man--whatever occupation he pursues." (I.A.C.P. 1962).

A major objection to the requirement of two years of college for initial police employment is that such requirement discriminates against minority persons. This objection rests on the premise that minorities do not have an equal opportunity to pursue a college education due to economic limitations. New York State, however, abounds in the number of grants, scholarships, and other financial aid programs available to high school graduates who wish to go to college. There are ten separate government programs, including the state Tuition Assistance Program and federal Basic Educational Opportunity Grants, which give priority to lower and middle income people, thus enabling them to attend college(John Jay, June 1977).

Another federal program called LEEP, was specifically designed to reduce the cost of a college education for potential or actual police personnel. This program alone distributed $4,897,256 and $4,484,478 in grants and loans in 1976 and 1977 to 75 New York State colleges, which in turn allocated the money to their students (LEAA - 1977).

In addition, last year over 65 million dollars of non-repayable private grants were made to thousands of students who needed additional help to meet educational costs. This does not include hundreds of other financial grants for college students provided by civic organizations, nor the availability of special low-interest student loans. (ARIC,1977). It is evident that there are many ways, regardless of ethnicity, to finance a college education if one wished to attend.

To further aid the prospective student, there is public service under contract to the New York State Education Department, called the Admission Referral and Information Center. Its sole function is to help students choose the college that best suits their needs and arrange for necessary financial aid.

It can be further argued that there is a lack of minority students that actually complete their college education at any level. In the 1975-76 college year, 182,484 higher education degrees (e.g., Associate, Bachelor, Doctorate) were conferred upon New York State students. Of these, the ethnicity of 146,559 students is known. 17,847 minority students, which includes Blacks, Hispanics, Native Americans and Asians, received these degrees. This represents a little over 12% of all the higher education degrees conferred upon students whose ethnicity is known. Bachelor degrees accounted for 85,546 of the total degrees; of these, the ethnic background is known for 69,250 graduates. 8,124 of these degrees went to minority students, which is approximately 12% of the Bachelor degree recipients whose ethnicity is known. Associate degrees accounted for another 47,823 total higher education degrees; of these, the ethnic background is known for 43,082 graduates. 15% (6,454) of these graduates were minority students (NYSE, 1977). In 1970, 2,402,877 non-white people, or 13% of the total population, lived in New York State.(NYSDB, 1973, p.56). This shows, at least in the 1975-76 academic year, the number of minority students who received a two-year degree or higher is consistent with the percentage of the population they represent.

Another objection to a mandatory two-year degree for police officers is that there are not enough people who can meet this qualification in small upstate communities because of a lack of higher education resources. The statistics cited above show that in the 1975-76 academic year alone, over 180,000 people received at least a two-year degree. This does not include the many students who attended two years of college without receiving a degree. Although it can not be determined how many of these people are willing to live and work in small upstate communities, the availability of higher education institutions in rural areas can be determined.

As of the Fall 1976 semester, there were 247 colleges throughout New York State, of which 84 were public institutions (43 two-year schools, 41 four-year schools) and 163 were private institutions (49 two-year schools, 114 four-year schools) (NYSED, June 1977).

The majority of these schools are located in upstate New York (i.e., above Westchester County). For instance, of the 30 community colleges under SUNY jurisdiction--26 of them are located in upstate counties (NYSUT, Mar 1977). At the minimum, a two-year college is easily accessible to almost every county resident in the state. There is no data to suggest that residents of small rural communities use these higher education resources less than residents of major metropolitan areas. In fact, New York ranks second among the major industrial states in the percentage of high school graduates that go on to college (CICU, 1977).

Some will still argue that people who get a higher education do so to improve their opportunity for advance in their profession and few such opportunities exist in small rural police departments. The purpose of higher education is to increase the recipient's personal growth and development--not to guarantee their professional advancement. Other professions, such as those in law and medicine, do not lower their entry standards in rural areas. In fact, many para-professionals, e.g. dental hygienist, need a two-year degree to practice their profession regardless of where they reside. In an era when two years of college may be comparable to the high school education of a decade or more ago, the police have no reason to make exceptions to a college education requirement.

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POL GOAL 2

UPGRADE THE PRESENT POLICE TRAINING STRUCTURE IN NEW YORK STATE.

BASIC TRAINING STANDARDS

2.1 Increase the Municipal Police Training Council (MPTC) minimum basic training from 285 to 400 hours.

2.2 Endorse a curriculum revision which is based upon the New York State Civil Service Commission Task Analysis. Training must be increased in handling crisis invervention, social service calls, crime prevention techniques, community relations and police stress.

2.3 MPTC mandated firearms training must be increased from 23 to 40 hours and must include night-firing instructions and practice.

2.4 Regional training centers should be established in the MPTC training zones. All mandated training must be conducted and/or coordinated there.

2.5 All basic training mandated by MPTC must be completed by all persons before they can serve as police officers.

2.6 All mandated training must be carried out by instructors certified by the Bureau of Municipal Police (BMP).

IN-SERVICE TRAINING STANDARDS

2.7 The MPTC should mandate 40 hours in-service training per year for all police officers (part and full-time) in New York State.

2.8 Police departments should have the following options in meeting in the in-service training mandate

a. Send all police officers to an in-service school conducted and/or coordinated by their regional training center.
b. Conduct their own school which must be approved by their Regional Training Coordinator and BMP.
c. Assign a training officer to attend a regional in-service school who can in turn train police officers in their departments.
d. Develop an inter-agency cooperative system where a training officer is sent to a regional in-service school and conducts in-service training for all officers in the cooperating departments.
e. Develop and utilize individualized audio-visual training techniques and home study materials. Regional training coordinators and BMP should help develop and approve these techniques and home study materials.

SUPERVISORY TRAINING STANDARDS

2.9 The present mandated MPTC supervisory course should be maintained as a mandated course for first line supervisors (e.g. sergeants only).

2.10 The MPTC should develop and mandate a middle management training course which would be specifically designed for middle line supervisors (e.g. lieutenants and captains).

2.11 The MPTC should develop and mandate an Upper Level Police Administrator course. The course should be required for all sheriffs, police chiefs, and other chief executive officers performing a law enforcement function. The curriculum should cover organizational planning, budget preparation and presentation, management strategies, personnel administration, legislative liaison, inter-agency cooperation, employee-management relations, media relations, community relations and other subjects pertinent to the community the police administrator works in.

RECOMMENDATIONS

THESE STEPS ARE NECESSARY TO ENABLE DCJS TO IMPLEMENT MPTC TRAINING MANDATES:

a. The state legislature should financially subsidize all mandated MPTC training. This subsidy should cover all or a major portion of the salaries for those attending state mandated training schools, salaries for the instructors and all other costs relating to the operation of the schools.

b. The state legislature should enact legislation that would require each unit of government that utilizes police officers to report to the Divison of Criminal Justice Services (DCJS): the names of all police officers employed by them, their birth date, social security number, rank or title, official station and whether they are employed full or part-time. The unit of government would also be required to annually update that list and immediately notify DCJS when it establishes or abolishes a police department. These listings should be treated with the appropriate confidentiality under existing law.

COMMENTARY

New York State took a leadership role concerning the police training problem as early as 1959 when the legislature created the Municipal Police Training Council (MPTC). Its function was to develop and coordinate all municipal police training in the State. The Bureau of Municipal Police (BMP) was created to provide staff to MPTC and to carry out its directives. They have divided the state into 13 geographical zones, and have appointed training coordinators and conducted schools in each. The schools provide basic, in-service, specialized in-service, supervisory and highway safety training. While MPTC requires a certain number of hours to be spent in some courses and mandate some curriculum, a good deal of autonomy is left to the training coordinators. New York City Police Departments while included in a separate training zone, are not subject to MPTC training mandates, nor are the State Police. (Exec. Order, 1971).

Instruction is provided by State Police officers, FBI agents, BMP certified instructors and others acceptable to the training coordinators. Instructors are rarely paid by BMP for their services, especially those who teach the basic and in-service courses. Their salaries are usually paid by the agencies that employ them.

The Division of Criminal Justice Services has attempted to improve police training even further by allocating close to four million dollars of L.E.A.A. funds in the last nine years to police training programs. 67% of this money was allocated for in-service training programs, 22% for basic training programs, and the remaining 11% for management training programs (DCJS, July 1977, pp. 3,6). Most of this money went to police departments in the MPA's.

Despite this extensive allocation of money and effort, the Delphi respondents still perceive police training as a critical problem. Close to one-half of them rated the problem, "Law enforcement personnel lack a comprehensive, standardized, intensive and on-going experience" as very or extremely critical. The respondents from the Police Task Force and Advisory Panel rated this problem as more critical than the overall respondents. Interestingly, the respondents from the MPA's and New York City rated it slightly less critical than those in the DPA's and RCA's (DCJS, July 1977). These Delphi results show that all police training, basic, in-service, and supervisory, needs improvement. This is especially true in the rural areas of the State where close to 60% of the police departments are located (DCJS, Jan 1977).

Basic Training

BMP requires a minimum 285 hours of courses for the basic training of all police officers in the State. Part-time and full-time police officers are mandated to receive the same training. The period of time they can spend attending the basic schools is different. Full-time officers must attend the schools full-time for eight weeks. Part-time officers have six months to complete the course. (Executive Order, 1971).

The largest proportion of the basic training curriculum (37%(is devoted to basic criminal justice and criminal law training. Only 8% of the mandated curriculum deals with community relations and only 6% deals with the social service calls police handle (e.g., domestic disputes, social service referrals, emergency aid to injured people). There are no mandated courses in crime prevention in the basic curriculum. (BMP, 1977).

The average basic course consists of 351 hours of training. (BMP January 1977). While this amount is substantially higher than the MPTC minimum, only schools in the major metropolitan areas exceeded this amount. They were located in Erie, Monroe, Westchester, Nassau, Suffolk and Rockland counties. The schools in the rural counties tend to meet the minimum requirements and no more. (BMP, Jan. 1977).

In May 1976 BMP commissioned, with an LEAA grant, The Criminal Justice Center at John Jay College to study police training throughout the state. They are particularly concentrating their efforts on the basic training course. Their final reports and recommendations are not due until late in 1977, but their interim reports contain some interesting surveys and findings.

The Center surveyed 1,300 graduates of the classes of 1975 and 1976 on their reactions to the training they received. Approximately 40% of the surveys were returned. The most interesting finding was that while 76% of the respondents felt the academic sufficiency of the curriculum was adequate, 24% stated it was easy and no respondent felt it was too hard. The John Jay researchers interpret this to mean that perhaps the curriculum needed to be made more challenging. (BMP, May 1977). Based on this finding and their visits to training schools in all 13 training zones they, have decided to restructure the basic training curriculum to fit the police tasks described in the Municipal Police Job Analysis Project published by the New York State Department of Civil Service in January 1977. This will necessitate increasing the curriculum length to close to 400 hours. This type of restructuring is consistent with the police training standards developed by the American Bar Association (ABA), June 1973,p.14) and the National Advisory Commission (NAC). The NAC standards specifically call for a 400-hour minimum for police preparatory training, which includes police related courses in law, psychology, sociology and community relations. (NAC, 1973 384-392)

A 400-hour basic training minimum for police in New York State is not excessive compared with the training required by the State for other professions. In fact, the State requires beauticians to have a minimum of 1000 hours training before they are qualified to take the licensing examination. (NYDS, 1977).

Changing the curriculum content only begins to deal with the problems associated with basic police training in New York State. BMP acknowledges that, especially in rural areas, many police officers do not receive mandated basic training. In 1976, Zones 8 (North Country), 9 (Plattsburgh Area), and 12 (Southern Tier) conducted no basic training schools. (BMP, August 1977). The reasons for this situation are varied and include the fact that rural police departments cannot afford to pay their officers to attend school for eight weeks. To complicate matters, BMP has no authority to keep a record of the amount of training each police officer in the state receives. BMP has advocated the institution of a Penalty Assessment Tax to help finance most of the cost of police training, and the passage of the Police Registry Bill to get the authority to keep track of how much training every police officer in the State receives. Both methods are consistent with the NAC standards that deal with fiscal assistance for police training. These standards go further, however, by recommending the passage of legislation that requires all mandated basic training to be completed by all police officers before they exercise the authority of their positions. (NAC, 1973, p.384)

In-Service Training

BMP training zones conduct four different types of in-service training schools: general, intermediate, advanced and specialized. There are no MPTC mandates concerning how much in-service training police officers in New York State must complete, however, BMP will only certify an in-service course that contains a minimum of 35 hours of instruction. They also suggested curriculum for the three "core" in-service courses (general, intermediate, advanced), but considerable flexibility is allowed to the school organizers in determining their substance. Often, the only differences between the general, intermediate and advance courses are their labels.

In 1976, 125 authorized BMP inservice training schools were conducted in all BMP zones except two (New York City and Plattsburgh Area). Nine of the schools were conducted for general in-service training; seven for intermediate in-service training, 62 for specialized in-service courses); and the remaining 47 schools for advanced in-service training. New York City is not subject to MPTC mandates and does not report its training schools to BMP. Zone 9 did not run and has not proposed to run an in-service school because of a lack of resources and demand. Zones 6 (Central New York), 8, and 12 had less than 50 police officers graduate from their schools (Zone 12 had only 14 graduates) for basically the same reasons. (BMP, August 1977).

In a survey of 600 New York State sheriffs and chiefs of police (of which 235 responded), the John Jay Criminal Justice Center found that 83% of the respondent's favored a MPTC mandate for in-service training (BMP, May 1977, p.5). This finding is supported by the NAC standards relating to in-service training, which recommend 40 hours annually for all police officers. The standards also call for the development of decentralized in-service training through the use of an in-house state certified instructor, audio-visual equipment, and home study materials. (NAC, 1973, p.401). These recommendations, along with state financing of all mandated training, are designed to make it easier for all police officers, especially those from small departments, to receive the in-service training that they need.

Supervisory Training

In 1962, an Executive Order pursuant to Section 484 of Article 19-F of the Executive Law mandates that police officers in supervisory positions (first-line supervisors and above) must receive supervisory training. Excluded from that order were sheriffs, undersheriffs, police commissioners, deputy or assistant police commissioners. chiefs of police, deputy or assistant chiefs of police, or any person having an equivalent title. The MPTC has also mandated that this training must cover 70 hours of selected curriculum topics. (BMP, 1976). Its content is particularly designed for first-line supervisors.

In 1976, 13 supervisory schools were conducted in all training zones except Zones 2, 8, 9, and 12. 234 police officers graduated from these schools and received an average of 70 hours of training. (BMP, August 1977). Newly-appointed sergeants made up the majority of these graduates. New York State lacks further mandated training for police officers who are promoted to middle management positions.

The John Jay Survey of chiefs and sheriffs contains two major findings related to supervisory training. 81% of the respondents felt that the present mandate of 70 hours was sufficient for first-line supervisors. Interestingly enough, 74% of them favored a mandate for a separate middle management course (DCJS, May 1977, p.5).

In another survey conducted by David Maxwell for his master thesis, chiefs of 109 departments in New York State were asked questions about executive problems and training (60 responded). An overwhelming majority of the respondents indicated that managerial training should be mandatory for all officers in executive positions. They also indicated the curriculum topics they preferred, which are incorporated in Police Standard 2.11. The respondents also indicated that maximum attendance would be attained if training sessions were held locally, condensed into periods no longer than two weeks, and kept to a minimal cost (John Jay, October 1977).

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GOAL 3

PROVIDE SERVICES AND TRAINING FOR POLICE OFFICERS WHICH CAN MINIMIZE THE INHERENT ADVERSE AFFECTS WHICH THE STRESS OF THEIR DUTIES HAS UPON THEIR PHYSICAL AND PSYCHOLOGICAL WELL-BEING.

STANDARDS

3.1 The MPTC should conduct a state-wide study of the problem of stress in police departments. The study should examine how such stress may differ in urban, suburban and rural police departments and suggest programs to deal with the adverse effects of stress upon police officers.

3.2 All police departments should make a determination of stress upon their operations and implement programs to reduce the negative aspects of such stress.

Program Strategies (CF Standard 3.2)

A. Police departments should consider examining the effects of rotating shifts on their police officers and experiment, where appropriate, with more innovative methods of deploying their manpower.

B. Police departments should consider examining the adverse effects their reward systems might have on their police officers and consider restructuring, with the active participation of line officer, those that are shown to cause an undue amount of stress. (NYPD, April 1977).

C. Police departments, especially those in large urban and suburban areas, should consider conducting periodic management seminars that deal with how to identify and handle factors that cause unnecessary stress in their organizations. Participative management techniques should particularly be discussed and explained in these seminars. Smaller departments should consider combining their resources to organize joint management seminars similar to those described above. (NYPD, April 1977).

D. Police departments should consider conducting family seminars as an addition to the basic training curriculum. These seminars would be led by experienced police officrs, (e.g., five and ten years experience) and their spouses who are trained as group leaders. All recruits and their spouses would attend this informal seminar and be encouraged to ask questions relating to the problems police families experience.

E. Police departments, especially those in large suburban and urban areas, should consider providing peer counseling services for police officers who are having stress related problems. The major components of these types of programs which have been instituted by some police departments in New York State include: provision of counseling without the stigma of departmental penalties or its inclusion on the officers' official records; adequate specialized training for peer counselors in individual and group counseling; the availability of these services to police officers on a voluntary basis, and a consistent department policy for supervisors to follow in referring police officers to peer counselors (usually firearms use and citizen complaints are important factors in such a policy). (DCJS, September 1976)

COMMENTARY

Police stress is a problem that has become an increasing concern of police professionals in the past few years. There has been a growing awareness of the abnormally high rates of disability, disruptive social relations (e.g. high divorce rates), behavioral problems (e.g. alcoholism), and medical problems (e.g. heart disease) associated with police work (Bennet-Sandler, et al., March 1977). In 1975 the Nassau County Police Department lost 46,051 man-days due to illness and line-of-duty injuries. This represents the equivalent of having 184 fewer officers on the job for all of 1975 which cost the department $5,704,000. In addition, 35 members of the department had severe coronary problems and had to be placed on limited duty which cost the department an additional $1,085,000. The Nassau County Police Department feels, based on recent and developing research, that many of these losses are stress-related (DCJS, June 1977).

The Delphi Survey shows a substantial amount (over 40%) of the overall respondents felt that the police stress problem was very or extremely critical. The Police Task Force and Advisory Panel respondents felt that this problem was even more critical than the overall respondents' rating. There was no significant difference in the criticality rating between respondents who live in New York City, the other M.P.A.'s and D.P.A.'s. The respondents from the R.C.A.'s, however, rated this problem slightly less critical than the other respondent subgroups (DCJS, July 1977).

Many studies have been conducted in and outside of New York State that attempt to isolate the causes of stress on the individual patrolman. Their findings have identified the following major causes: irregular tours of duty (NYPD, April 1977, Kroes et al., 1974); lack of administrative support (Reiser, 1974; Kroes, et al, 1975); lack of external support from the public, media, and courts (Kroes et al., 1974, NYPD, April 1977); reward and recognition systems (NYPD, April 1977); Reiser 1974); line-of-duty/crisis situations (Kroes et al., 1974; Chposky, 1976); and lack of organizational outlets for job-related problems (Reiser, 1974).

The above stress-causing factors fall into two general categories, those that affront the officer's self image and professionalism (e.g. the lack of administrative and external support) and those that arise from the nature of police work (e.g. crisis situations). All of the studies cited, particularly the one by Kroes, indicate that police officers are willing to tolerate the stress-causing factors in the second category if they perceive that appropriate action is being taken to ameliorate the problems in the first category. The conclusions drawn suggest that police departments should direct themselves primarily to alleviating stress that arises from the lack of administrative and external support and providing organizational outlets for other stress-related problems.

Many studies have recommended various methods to accomplish the above and most of them emphasize three basic approaches. One approach is participative management, which is necessary for a variety of reasons. Some police stress studies point out that patrol officers feel strongly that their administrators add job pressures rather than alleviate them. This frustration manifests itself in their specific disillusionment with departmental reward and recognition systems (Kroes et al.,1974; Reiser, 1974; NYPD, 1977). An added irritant is that patrol officers are not routinely given the opportunity for their professional input regarding decisions and policies that directly affect them. These forces pose a serious affront to patrol officers' self-image and sense of professionalism (Kroes et al., 1974; Reiser, 1974). Kroes and Reiser, who have conducted the major studies in this area, as well as the Police Leader, advocate a more democratic method of administration as a necessary step in alleviating the administrative causes of stress. Such a process would afford patrol officers input in departmental decision-making and inform them of the reasons for administrative policies which affect them.

Another significant approach to dealing with police stress is a proactive public relations mechanism, which is necessary because police receive negative feedback from a large segment of the public. This negativism strongly disturbs their positive professional self-image (Kroes et al., 1974). Such a mechanism would supply communities with highlights of their personnel's achievements and information about their diverse responsibilites (NYPD, April 1977). Beyond this, however, effective police-community relations and involvement programs must be developed and instituted.

Another external cause of police stress is the activity of the balance of the criminal justice system, particularly the courts. Kroes has found that police perception of court leniency toward "criminals" and lack of consideration of police officers (e.g. court scheduling and judicial reprimands) are some of the strongest negative input their professional self-image suffers (Kroes et al., 1974, pp. 152-3). Assertive action on the part of all police departments and organizations to speak out on such problems and aggressively advocate methods to alleviate them is warranted.

The utilization of peer group influence is another approach that can be used to reduce stress in police organizations. The reasons for its use are varied and include the theory that identification with the group as "one of the boys" is a powerful, profound force operating in all police departments (Reiser, 1974). This force not only serves to bolster individual officers' self-esteem and confidence, which enables them to better tolerate external pressures and abuse, but often replaces individual values and attitudes with group values and attitudes. This process of value replacement is itself often a source of stress to most police officers, as it frequently brings them into conflict with the values and attitudes of their families and non-police friends (Reiser, 1972 and 1974; Kroes et al., 1975). Peer group pressure may also prevent police officers from seeking help

for their stress-related problems due to their fear of peer group and departmental stigma. It has been hypothesized that police departments can use peer group pressure to alleviate this and other types of stress through the use of peer-counselling programs. Police departments are presently testing this theory and all available evidence indicates it is a program well worth experimenting with (DCJS, September 1976).

Most of the effort to identify and combat police stress in New York State has come from the larger metropolitan police deparments. Their efforts have primarily centered on the problems of the individual patrol officer. The Rochester Police Department has received an LEAA grant to test peer counselling as a stress-reducing method. The Nassau County Police Department has also received an LEAA grant to medically identify and treat officers who have potential stress-related physiological problems. The New York City Police Department has already conducted a stress study and begun to implement stress-reducing programs.

Despite the ground-breaking efforts of the Rochester, Nassau and New York City departments, there remains a need for more study of the causes of police stress and how to reduce it. This is particularly true in the small rural departments where there is a conspicuous lack of data concerning their stress-related problems, if any. All available evidence suggests that all police departments in the state should build on previous findings and develop stress studies and stress-reducing programs of their own.

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POL GOAL 4

TO PROVIDE POLICE DEPARTMENTS WITH AN INCREASED CAPABILITY TO ASSIST IN MOTIVATING THE COMMUNITY TO BECOME INVOLVED IN THE PROGRAMS OF THEIR POLICE DEPARTMENTS.

STANDARDS:

4.1 Police departments should encourage all their police officers to recognize the need and importance of community relations and involvement with all segments of their community.

4.2 MPTC mandated Basic, In-Service, and Supervisory Training curricula should include courses that deal with community involvement and how it relates to police work.

4.3 Police departments should have the capability to accomplish the following community involvement objectives as they relate to police problems; analyze community needs and resources and respond accordingly, participate in the development and organization of citizen involvement and community service programs, and maintain a liaison with all community organizations in their jurisdiction.

POL GOAL 5

THE DEVELOPMENT OF EFFECTIVE POLICE-COMMUNITY INVOLVEMENT PROGRAMS IN ALL POLICE DEPARTMENTS.

STANDARDS

5.1 Every police department should immediately establish a liaison with representatives of all segments of the community, including youth, to provide commanding officers with the capability to consult with them on police problems in the community.

5.2 The commanding officer should meet with these representatives as-needed; but in no event, less than on a quarterly basis.

5.3 Police departments should encourage and support crime prevention programs which directly involve citizens in the design and implementation of those programs.

PROGRAM STRATEGIES

A. Police departments should consider establishing a form of community council at the most decentralized level (precinct) of their departments. (CF. Std. 5.1).

   (1) All people who live or have a business in the community where the council is organized should be eligible to join the council. The councils should be representative of the community.

   (2) Police representatives should attend open public meetings with their community councils on a regular basis.

B. All police departments should consider developing and using auxiliary forces as a method of involving community people in aiding and supporting their police. The auxiliaries should operate at the most decentralized level of ther police departments and be under the supervision of a regular full-time superior officer. They should be given continuous training. (Cf. Std 5.3).

C. All police departments should consider developing and using a Civilian Motorized Patrol. The program should train citizens, especially those who operate taxi cabs and other public transit vehicles, to report over their civilian band radios criminal activities that warrant police attention. (cf. Std 5-3) In no way should the use of auxiliary forces or civilian patrols be considered a substitute for the use of the necessary amount of regularly appointed professional police.

COMMENTARY (CF POL GOAL 4 & 5)

The problem of police community relations was represented by three problem statements in the Delphi survey. One dealt with the unsuccessful motivation of the community by police departments; the second one dealt with the failure of police departments to recognize the importance of community involvement and participation; and the third and last question dealt with the low level of public confidence in police. 50% or more of the overall respondents rated each of these problems as very or extremely critical. The range between their respective ranks and means was very slight. The non-white respondents (Blacks and Hispanics) rated all three problems as more critical than the overall respondents did. The Police Task Force and Advisory Panel respondents, however, rated the three problems slightly lower (an average of .24) than the overall respondents. This was not unusal since they gave a lower rating to 48 of the 59 police problems. There were no major statistical differences between respondents who lived in the MPA's, DPA's and RCA's and their ratings of the community relations problems. (DCJS, July 1977).

An analysis of these results shows all of the Delphi respondent subgroups saw a relationship between the three community relations problems. It seems evident that most of them felt that the low level of public confidence in police and police failure to motivate the community to work with them resulted from the failure of police to recognize the importance of community involvement and participation.

The Division of Criminal Justice Services (DCJS) has appropriated, mostly to police departments in the MPA's, over $4.5 million of LEAA monies, from 1968 to August 1977, to community relations projects. The bulk of this money ($3.5 million) was spent on community-service officer and specialized ethnic (i.e., minority recruitment) programs. A large majority of the remaining money funded programs and specialized units that attempted to break down communiciation barriers and instill a feeling of mutual trust between the police and the community, especially the minority community. (DCJS, August 1977).

The balance of the money, slightly less than $200,000, was used to fund projects that attempted to involve the community in crime prevention programs. These projects, which operated in Utica and Niagara Falls, organized various citizen patrols and conducted community education and "Operation Identification" programs. (DCJS, August 1977). Programs of this nature have been generally successful in involving citizens in their operation. Unfortunately, they have not received priority funding from DCJS. Thus, their weaknesses and strengths have not been properly evaluated.

In order to involve the community in crime prevention programs, police departments need a sensitivity and capability to motivate community people to work with them. The President's Commission on Law Enforcement and the Administration of Justice advocated the establishment of specialized units to be responsible for initiating and coordinating all department community relations and involvement efforts. (Pres. Comm., 1967, 151-156). The National

Advisory Commission on Criminal Justice Standards and Goals (NAC) recommended the use of police-community relations units only in departments with 400 or more personnel and only for the exclusive purpose of maintaining communication with all segments of the community. (NAC, 1973, p. 24).

The problems with community relations units are varied, and in addition, small police departments do not have the personnel to allocate to this responsibility on a full-time basis. Departments that have instituted community relations units have found that their relationships with other department personnel are poor. These units, especially, find themselves in conflict with patrol officers who often feel that community relations personnel have lost touch with the reality of the street. Another problem is the accomplishments of these units are not routinely generalized by the community to the rest of the department. This often results in the community trusting only community relations officers, while maintaining their animosity towards regular patrol officers.

The generalist approach to community relations, which advocates that every police officer be considered a community relations officer, solves the problems inherent with specialized units but has faults of its own. A 1966 nationwide survey conducted by Michigan State University found that departments without community relations units tended to concentrate their community activities on improvement of their public image. (Black et al., 1966, p.66). This approach presents another problem in that there is no central unit accountable to the head of the department for organizing and coordinating communities relations efforts. This forces chiefs of police to become directly responsible for the obtainment of specific community relations objectives including citizen involvement.

In order to insure that their departments are "community-conscious," police chiefs must maintain a liaison with representatives from all segments of the community. To obtain this objective, the aforementioned President's Commisison recommended the use of citizen advisory committees, composed of representatives from hostile as well as friendly portions of the community (Pres. Comm., 1967, 156-158). The National Advisory Commission (1973, p.75) and the American Bar Association (1973, p. 18) advocated a different approach which would bring patrolmen and members of the public together to solve crime problems on a local basis.

The problems with Citizen Advisory Committees are numerous--a major one is that representatives of minority communities, especially the more hostile segments, are often not included on these committees. This occurs chiefly because such people are not readily attracted to or actively sought for participation in such programs. The committees are also used by some members for personal advancement and political purposes. Another major problem is that police officers strongly resist any type of citizen advisory committee (Am. Inst., 1971). It is believed that a more informal liaison between chiefs of police and representatives from all segments of

the community coupled with periodic open community meetings will sufficiently accomplish community liaison objectives. This approach, however, only begins to address the citizen involvement problem.

The National Advisory Commission strongly advocated police programs that encourage all community people to take an active role in crime prevention programs (NAC, 1973, 66-69). They recommended the use of volunteer neighborhood security programs, "Operation Identification" programs and specialized units to coordinate department crime prevention efforts. The 1967 President's Commission also endorsed this approach and suggested the use of police reserve programs (i.e., volunteer/auxiliary police) (Pres. Comm., 1967, p. 16).

Many police departments in New York State have instituted crime prevention programs similar to those recommended by the aforementioned national commissions. For example, volunteer police programs are currently operating in 21 cities and 95 villages in the State (Conf. of Mayors, 1976). The New York City Police Department, among others, also developed civilian motorized patrols to aid in their crime prevention efforts.

Most police departments are comfortable with this type community involvement program. The only strong resistance comes from police unions who vigorously oppose auxiliary or volunteer police programs. Their opposition is a result of their legitimate concern about the safety of the public when untrained citizens are used to replace regular police officers. Properly trained auxiliaries, with limited responsibility, under police control and supervision should reduce this concern.

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POL GOAL 6

PROVIDE ALTERNATIVE METHODS AND AGENCIES TO HANDLE THE SOCIAL SERVICE CALLS TO WHICH POLICE RESPOND.

STANDARDS:

6.1 The process of investigation, arrest and prosecution, commonly viewed as an end in itself should be recognized as but one of the methods used by police in performing their overall function, even though it is the most important method of dealing with serious criminal activity. Among other methods police use are, for example, the process of informal resolution of conflict, referral, and warning. The alternative methods used by police should be recognized as important and warranting improvement in number and effectiveness; and the police should be given the necessary authority, where it does not already exist, to use such methods under circumstances in which it is desirable to do so.

6.2 The traditional use of arrest and the criminal process as the primary or even the exclusive method available to police should be recognized as causing an unnecessary distortion of both the criminal law and the system of criminal justice.

(is not)

6.3 Police discretion to use methods other than arrest should be recognized as an integral part of police work especially in situations involving family or neighborhood disputes, self-destructive conduct (i.e., persons who are helpless by reason of mental illness or persons who are incapacitated by alcohol or drugs), and other social problems.

6.4 Police administrators should create an environment where the use of alternatives to arrest by police officers is recognized and valued as a proper exercise of police authority.

6.5 Police should be provided with effective social service agencies that are available on a twenty-four hour basis and can assist in the handling of social service calls as required by their communities.

6.6 Within the field of criminal justice administration, legislators should, prior to defining conduct as criminal, carefully consider whether adequate authority and resources exist for police to enforce the prohibition by methods which the community is willing to tolerate and support. Criminal codes should be reevaluated to determine whether there are adequate ways of enforcing the prohibition. If not, noncriminal solutions to all or a portion of the problem should be considered and necessary resources should be provided for implementation.

PROGRAM STRATEGIES

A. Counties in New York State that have a high frequencey of social service calls should consider establishing, in a centralized location within their county or participate with other counties in establishing a regional mental and social health service referral center. (cf. Std 6.5)

(1) Police officers should be able to use these centers directly or through department social workers (see Program Strategy B).

(2) The services provided by these centers should include: a 24-hour social and mental health emergency referral system which could be used by police officers and/or department social workers in cases where they feel these types of social services would be more helpful to the client than official criminal action (domestic disputes, child neglect cases etc.); direct emergency psychiatric services where mental health professionals would immediately visit a client if deemed necessary by on-scene police personnel; a tracking system which would be able to feedback to the police what referrals were made for what clients and whether clients went to the referral agencies; and a capability to jointly train police and mental health personnel on how and when to use the services provided by the center.

(3) All agencies and organizations that can provide social and/or mental health services in the county or region where the center is located should be included in the referral system.

(4) In the absence of a centralized social and mental health regional center, existing social service agencies should give consideration to establishing a more formalized relationship with the police.

B. Police departments that have a high frequency of social service calls, should consider developing Police-Social Work Teams within their departments. Social workers would be available on a 24-hour basis to provide counselling to clients who the police officers feel could benefit from such services. (CF Standard 6.1, 6.4).

C. Police departments, whose workloads justify this approach, should consider using full-time, paid Community Service Officers, in addition to Police Officers and Police Agents, in handling service calls (animal nuisance calls, emergency aid for sick or injured people, assisting citizens etc.) This program is not an endorsement of a Volunteer Police program. (cf. Standard 6.1). Under this program:

(1) Community service officers would be high school graduates or would have passed the high school equivalency test.

(2) They would receive appropriate B.M.P. training but substantially less than the suggested mandate of 400 hours.

(3) They would be uniformed personnel (different from the one regular police officers wear) and would not carry firearms.

(4) They would also be used to help better the communication between the department and community, particularly youth.

(5) They would not be used for clerical duties.

Commentary

As stated in the Overview police have four major functions: handling incidents that involve victimizing crimes, regulatory violations, victimizing emergencies, and community service. The last two functions call for a service response by the police whose authority to act in these situations is largely undefined by law (Brown 1976). There has been much dispute as to how much police time is spent making service responses to victimizing emergency and community service incidents. In 1967 an analysis was conducted of 33,422 incidents in Manhattan's 20th precinct. It was determined that 75% of the total incidents involved community service and victimizing emergency situations. A later analysis of the Buffalo Police Department's 1974 "911" calls revealed that 47% of the 283,679 calls involved community service or victimizing emergency incidents (DCJS 1977). While these analyses are of metropolitan police departments there is no available evidence that has indicated that rural police departments' incident percentages would vary below the Buffalo figures. It is therefore safe to assume that almost one-half of all incidents handled by the police in New York State call for a service response.

It is generally agreed that there are a lack of alternatives and agencies available to police in handling service incidents. The Delphi survey contained a problem statement to that effect and slightly over 65% of the total respondents rated it either very or extremely critical. There were no significant differences in the problem's ratings when respondents were grouped according to the planning area they lived in. The Police Task Force and Advisory Panel respondents rated the problem lower (.31) than the overall respondents but a majority of them still felt that it was very or extremely critical. These concerns made the "alternative" problem the second most critical in the law enforcement area (DCJS July 1977).

The Division of Criminal Justice Services (DCJS) has allocated a little over 4 million dollars of LEAA monies from 1968 to August 1977 to programs which provided alternatives to handling service calls received by police. The vast majority of this money, close to 3½ million dollars, funded Community Service Officer (CSO) programs which, for the most part, served the metropolitan police departments. The major objectives of most CSO programs were to attract more minority people to the police profession and to serve as a liaison to the minority community. In order to obtain these objectives, Community Service Officers often relieved regular police officers from handling some service calls. (DCJS Aug. 1977). This type of CSO program was recommended by the Presidents Commission on Law Enforcement and the Administration of Justice (Pres.Comm.1967, P.123-124).

$474,989 of the remaining money funded crisis intervention units in Rochester and Niagara. The personnel in these units were specially trained to handle crisis situations especially domestic disputes. An important component of both programs was the units' ability to refer disputants to agencies which could provide them with professional assistance (DCJS Oct. 1976, DCJS July 1976).

The remaining money, $106,887, funded a Community Referral Center in Buffalo. The purpose of this program was to provide community residents with a centralized service which could refer their requests for service to appropriate public agencies (DCJS June 1970). More programs of this type are needed in New York State. The Nassau County Police Department has recognized this need and has attempted to secure funds for a Mental Health Referral Center which would provide necessary mental health services to people referred to it by police (NCPD 1977). This program is similar to one in Dayton, Ohio which was endorsed by the National Advisory Commission on Criminal Justice Standards and Goals (NAC) (NAC 1973 P81).

DCJS has not funded any police-social work team programs despite their success in other parts of the country. The Illinois Law Enforcement Commission funded one of the first of these programs with LEAA monies in 1970. It provided two suburban police departments with separate social service units, available on a 24-hour basis and staffed by professional social workers and graduate students of social work. Their purpose was to assess whether they could help clients referred to them by police, through their own counselling services or referral to other social service agencies. A little over 40% of the program's clients had committed criminal offenses that initiated police referral, another 35% were referred for non-criminal problems, and the remainder were referred because of nuisance violations (Trager et al July 1974, P.281-285).

Initial police reaction to the program was negative and often hostile. Social workers in the program also brought with them negative attitudes and sterotypes about police. After several months of interaction through the program an attitude survey documented a dramatic turnaround in police-social worker attitudes towards each other. 97% of the police officers in both departments, many of whom originally opposed the social service unit concept, favored the program after several months of operation. In addition to this success, 67 of the first 76 clients referred to the program completed it without committing another offense (Trager et al July 1974, P.283,287-290).

Other police-social work programs have been successfully developed and implemented across the country. Erie County Pennsylvania, for example, successfully instituted a family crisis intervention

program that had a social work-mental health component (Henderson October 1975). In light of these successes New York State should experiment with various types of police-social work programs.

The Presidents Commission on Law Enforcement and the Administration of Justice agreed that there was a lack of alternative agencies to handle the many social service calls received by police. They recognized, however, that such agencies would be slow in developing and that alternative methods that did not rely on the regular criminal justice process were needed to handle many service incidents (eg. domestic and other minor disputes). They recommended that police departments develop policies that elucidated what alternative methods should be used by police officers when dealing with certain types of incidents (Pres. Comm. 1967, P.13-25). It should be noted that legislatures and courts have not traditionally recognized the police department's right to formulate policies of this kind, especially those that deal with selective enforcement of the law.

This position did not deter the NAC and American Bar Association (ABA) from recommending essentially the same approach as the 1967 Presidents Commission. The NAC recommended that police departments should develop policies that guide police officers in using arrest alternatives (eg. citation and release on own recognizance) and referral of youth, the mentally ill and some misdemeanants to agencies that could provide needed professional assistance (NAC 1973, P.80-85). The ABA agreed with those recommendations but went further by encouraging discretion by police to informally resolve conflicts or use warnings in lieu of criminal sanctions (ABA 1973, P.6-7,88-95).

The ABA and NAC also pointed out the need for legislative concern for the feasibility of enforcing criminal prohibitions. The NAC put the burden on police chiefs to advise legislatures on enforcement aspects of proposed legislation (NAC 1973, P.21). The ABA, however, placed the responsibility on legislatures to hold hearings and otherwise seek information regarding the practical problems of enforcement (ABA 1973, P.7,114-116).

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POL GOAL 7

INCREASE THE UTILIZATION OF CIVILIAN EMPLOYEES FOR NON-LAW ENFORCEMENT DUTIES WITHIN POLICE DEPARTMENTS.

STANDARDS:

7.1 Every police department should assign civilian personnel to positions which do not require the exercise of police authority or the application of the special knowledge, skills, and aptitudes of the professional police officer.

7.2 To determine the proper deployment of civilian and sworn personnel, every department should immediately identify those positions which:

a. Do not require that the incumbent have police officer status under local, or state statutes;

b. Do not require that the incumbent exercise the full police power and authority normally exercised by a police officer; and

c. Do not require that the incumbent possess expertise which can be acquired only through actual field experience as a sworn police officer.

7.3 Police departments should designate those positions that can be filled by a civilian employee, according to the foregoing criteria, and staff such positions with qualified civilian personnel. They should also provide a continuing audit of all existing and future positions to determine the feasibility of staffing with civilian personnel.

7.4 Police departments should also:

a. Develop a salary and benefit structure for civilian personnel commensurate with their position classifications;

b. Insure that an opportunity for career development exists within each civilian position classification where the nature of the position does not limit or bar such opportunity;

c. Conduct in-depth personal background investigations of civilian applicants for confidential or sensitive positions. These background investigations should be as thorough as those of sworn applicants;

d. Provide civilian training programs that insure the level of proficiency necessary to perform the duties of each assignment; and

e. Provide training programs for both civilian and sworn personnel to inculcate all members with the the necessary cooperative spirit.

COMMENTARY

The problem of underutilization of civilian employees for non-law enforcement duties was highly ranked by the overall Delphi respondents. Close to 60% of them felt that it was very or extremely critical. The average mean given by the respondents did not differ significantly when grouped according to the planning area they live in. (N.Y.C., M.P.A., D.P.A., R.C.A.). The respondents from a separate line officer survey did rate this problem significantly lower than the Delphi respondents (1.40 lower). This is probably because these respondents felt that their job security was threatened by utilizing civilians in police departments. The Police Task Force and Advisory Panel respondents rated the problem much higher (1.00) than the line officers in the separate police survey but a little lower than the overall Delphi respondents. (DCJS July 1977).

These results show that while line officers are extremely resistant to the increased use of civilians, police adminstrators are more prone to support their use. Other people within the criminal justice system support the increased use of civilians in police departments for non-criminal work, even more so.

Civilian personnel have also proven useful in the area of police administration. In Buffalo, and Erie, Monroe, and Niagara Counties, LEAA has funded the employment of Planning Specialists to assist in planning and research, and to ultimately make recommendations for management planning in department operations. These programs have been successful at increasing overall efficiency, effectiveness, and scope of planning and management. (DCJS 1862A August, 1977). The NAC has recommended the continued development of this type of civilianization program. (NAC 1973 P260).

Another successful civilian transition operation is that of the Legal Advisor. It has proven to be a useful operation in New York State, where Legal Advisors hired through the use of LEAA funding are part of New York City and Newburgh police departments (DCJS 833A and 1659, June 1977). The American Bar Association (ABA), the President's Commission on Law Enforcement and the Administration of Justice, and the NAC all support the concept of Legal Advisor.

The ABA and NAC favor in-house legal advisors who aid police administrators in matters of planning and development. They also recommend the legal advisor develop law-related training programs pertinent to the understanding of the nature of the police function (NAC 1977 p. 261, ABA 1973, P. 238).

The President's Commission also suggests using legal advisors in recruit and inservice training, and to keep police informed on judicial and legislative matters. (President's Commission P.64).

One of the major benefits of civilianization is that when uniformed police officers are replaced in positions which do not require their particular expertise, the officer is then free to "go out on the street", where he is needed the most. Additionally, as the NAC notes, employing citizens costs less, as a trained police officer generally demands a higher salary than does his civilian co-worker. (NAC,1973 P. 261).

It is important to point out that while civilianization is highly beneficial, it remains so because of careful staffing practices. Civilian personnel do not serve in positions which require a trained police officer. They cannot be used for activities such as regular patrol functions, traffic enforcement, vice investigation, or special investigative assignments.

While the initial reaction of police to civilians is often one of cynicism, after working together for a while, the officer's attitude tends to improve. According to a survey conducted of Yonkers police officers, police who supervise civilians or have more contact with them and who are more secure in their job are more agreeable to the use of civilians than those who have little or no contact with the civilians. (Mapp,1976 P4).

All evidence available, including the NAC standards, agree that identification should be made of those positions not requiring full police power, or the expertise of a police officer. The department should then designate these positions as civilian, and accordingly assign civilians to them. In depth personal background investigations of civilian applicants for sensitive and confidential positions should be conducted. In addition, the NAC recommends the provision of civilian training programs to insure the level of proficiency necessary for the performance of duties.

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POL GOAL 8

DEVELOP AND IMPLEMENT PROACTIVE PATROL METHODS IN POLICE DEPARTMENTS.

STANDARDS

8.1 Uniformed proactive patrol should be directed rather than performed randomly or left to the individual judgment of police officers.

8.2. A rational plan should be devised, based on crime analysis, community service factors and other pertinent knowledge, which relates to the most effective use of proactive patrol time.

8.3 Patrol methods which bring police officers into more contact with community members should be increased.

RECOMMENDATIONS

All legislation which inhibits police administrators' flexibility to deploy their resources to meet community needs for police service should be immediately repealed (e.g., portions of Section 971-Volume 68 Unconsolidated Laws of the State of New York).

PROGRAM STRATEGIES (cf Standards 8.1 and 8.2)

A. Police departments should consider developing a "Deterrent Patrol" program which structures non-committed proactive patrol time through the use of crime analysis. Some of the components of this program include the development of written instructions for patrol strategies which target supressible crime that is public in nature; the use of planning teams which,include representatives from all levels of the police department, to develop the written patrol instructions and help implement the program; and the use of feedback sheets that allow police officers to forward to the planning teams tactical suggestions they feel would improve specific Deterrent Patrols. Small police departments that do not have the resources to implement a program of this type (e.g., no planning or crime analysis capability) should consider combining resources with other police agencies and jointly develop such a program.

B. Police departments where there is a need for this approach (i.e., urban and some suburban police departments), should consider developing a plainclothes "Anti-Crime Patrol Force" as well as other "low visibility" patrol programs. Many police departments in New York State have developed excellent programs of this type whose major components include:

(1) Assigning plainclothes police officers to patrol areas that have a high incidence of street crime (e.g., robberies, (taxi and street), muggings, auto thefts, truck hijackings etc.) which are identified through crime and administrative analysis.

(2) Procedures that allow a high degree of mobility and flexibility in the assignment of personnel to permit responsiveness to emerging crime patterns;

(3) Tactics such as decoy teams, plainclothes foot patrol and plainclothes motor patrol in unmarked vehicles (taxis, trucks, vans etc.); and

(4) Specialized training for all members of the units which focuses on tactics, Penal Law, Criminal Procedure Law, court procedures, corruption hazards, preservation of evidence and criminal "modus operandi."

C. Police departments should consider using neighborhood team policing strategies in deploying their manpower and resources. Some components of this strategy include giving the responsibility for handling all investigations and calls as well as community relations and involvement in a command area to a supervised team of police officers, and deploying the team's manpower according to workload demand rather than traditional shifts.

COMMENTARY

Police patrol methods were represented by many problem statements in the Delphi survey. The two rated most critical by the overall respondents were: The inadequate use of innovative patrol techniques and the inadequate use of foot patrol in certain areas. Both of these problems were rated either very or extremely critical by 50% of more of the total respondents. Both problems' ratings did not vary significantly when grouped according to where the respondents lived (M.P.A. D.P.A., or R.C.A.). Both problems, however, were rated significantly less critical by the Police Tasks Force and Advisory Panel members. (DCJS, 1977).

The Delphi respondents' concern about Police patrol problems is shared by the Division of Criminal Justice Services which has allocated well over 5-1/2 million dollars of LEAA monies in the last ten years in an attempt to improve patrol deployment and methods. The programs funded with this money included neighborhood police teams, crime analysis units, low visibility patrols (e.g. use of plainclothes and decoys), scooter patrols, specialized equipment for regular patrol (i.e.: night vision devices), and specialized units deployed through crime analysis to target certain types of crime (e.g. anti-burglary units). A large majority of these programs were conducted in police departments within the M.P.A.'s. In fact, the New York City department received close to 60% of all LEAA patrol monies to fund its Anti-Crime Patrol Units. Most of this money went towards hiring laid-off police officers to allow other patrol officers to participate in the anti-crime program (DCJS August 1977). Despite all these efforts most of the Delphi respondents still found patrol problems as very or extremely critical.

Patrol methods or, more specifically, traditional preventive patrol was first seriously studied by a Police Foundation funded experiment conducted in Kansas City in 1972. This experiment did not, as popularly believed, attempt to determine the net effect of increasing or decreasing patrol resources in an area. Instead it selected patrol sectors (Larsen 1976). It did this by measuring the differences in crime, victimization, and arrest rates in patrol sections which had varied patrol strengths (Kelling et al 1974).

One of the experiment's most valid and important conclusions is that undirected preventive patrol, regardless of its numerical strength, has little or no effect on the amount of criminal activity in an area (Gervasio May 1977). Its conclusions about differences in patrol strength and visibility and their effect on criminal activity are less valid. They have, however, stimulated further studies that have built a convincing case against the belief that

saturation patrolling alone will reduce crime (Schnelle et al 1977).

Many suggestions have been made by police experts on how to improve the performance of the regular patrol force. The National Advisory Commission (NAC) and the President's Commission on Law Enforcement and the Administration of Justice both strongly support the use of team policing in this endeavor (NAC 1973, P154-158, Pres. Comm. 1967, p.53). Though the types of team policing differ in many aspects, all give more responsibility to a team of police officers for certain police functions in specific geographic areas. The NAC also recommends the increased use of recurring crime analysis in deploying all patrol resources (NAC 1973, p.199-205). The President's Commission recommends the increased use of scooter patrols and one-man patrols in order to bring police closer to the community they serve (Pres. Comm. 1967 p.54-55).

Many police departments in New York State have implemented the programs recommended by the NAC and President's Commission with varying degrees of success. Only the crime analysis programs, however, give any direction to patrol officers on what to be particularly aware of when patrolling in specific areas. Often these directions are too general to be of any great help to the patrol officer. To combat this problem police departments in the New Haven, Conn. region have developed a program which uses crime analysis and line officer input to structure non-committed patrol through the use of specific deterrent patrols. While this program is highly praised by many police professionals only a minor displacement of crime has occurred in the deterrent patrol sectors (Gervasio May 1977).

If traditional preventive patrol cannot meet its major objectives of decreasing crime and increasing arrests then specialized patrols are needed to help accomplish these objectives. There are three major types of specialized patrols: low visibility, which uses plainclothes police officers, unmarked cars, decoy methods, and specialized equipment, high visibility, which uses increased uniformed patrol officers in an area targeted as one with a specific crime problem, and combined high/low visibility which use increased uniformed tactical patrols along with plainclothes patrols and/or mechanical units (Webb et al 1977).

The NAC has advocated the use of special crime tactical forces. These forces belong to the combined high/low visibility patrol family. The NAC emphasizes that such units should be flexible, used to augment the regular patrol force and deployed on the basis of recurring crime analysis (NAC 1973, p.238-239).

The National Institute of Law Enforcement and Criminal Justice (NILE) has conducted an intensive evaluation of all specialized patrol project families. All projects were evaluated on their arrests, convictions, clearance rates, cost-effectiveness, efficiency, crime reduction, and the amount of change they effected. The high visibility patrols generally did not meet their objectives and were not cost-effective despite some positive changes in crime reduction, arrests, and clearance rates (Webb et al 1977, p.30-35). The low visibility patrols were more successful in increasing arrests, reducing crime, and effecting positive change. The New York City Anti-Crime Patrol was the most successful and cost-effective of the low-visibility patrol projects (Webb et al, 1977, p.30-35).

High/low visibility patrols were the most successful in attaining their objectives and effecting positive change. They were particularly successful in increasing arrests and decreasing crime. The evaluators felt that the patrols' flexibility was their greatest asset. They cautioned, however, that the displacement of crime, which was a liability of all patrol projects, was more likely to occur in patrols of this type (Webb et al 1977, p.43, 48, 56).

The evaluations yielded even more important information. It was determined that mechanical devices and equipment (e.g. helicopters and silent alarm systems) were costly, ineffective, and often unused by police. It was also found the impact of specialized patrols on the community was not often considered by the designers of the projects. Most importantly, gaps in the data base were found in all projects because of the use of poor study designs, failure to use adequate comparison groups, and use of noncomparable measures for studying the same phenomenon (Webb et al. 1977, p. 62, 6, 68). <u>The NILE evaluators urge that all these factors be seriously considered when police departments develop their own specialized patrols.</u>

Specialized patrols like those previously discussed are particularly suited to larger metropolitan police departments. Smaller departments, however, can and should adopt some of the concepts (e.g. plainclothes patrol) generated by those programs. This can be accomplished by using innovative approaches that best suit the department's resources and the community need for such patrols. For example, the Ramapo Police Department successfully used decoy patrols to stop the harassment and assault of Hasidic Jews in their community (New York Times July 11, 1977, p. 29). These and other innovative patrol methods can and should be used by the smaller, as well as the larger, police departments.

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POL GOAL 9

INCREASE THE CENTRALIZATION OF SPECIALIZED POLICE SERVICES.

STANDARDS

9.1 Police departments should periodically evaluate their staff, supportive and specialized line services to determine if they are adequate and cost effective. They should then consider whether these services would meet operational needs more effectively and/or efficiently if they were combined with those of other police or criminal justice agencies, or if they were secured from another agency by mutual agreement.

Commentary

The Delphi survey contained three problem statements that dealt with various strategies of consolidating police services. One (A030) dealt with inadequate coordination of personnel and equipment across jurisdictional lines, another (A031) with the excessive number of police departments, and the last (A032) with inadequate centralization of specialized services. A031 was rated highest by the overall Delphi respondents with almost 50% rating it very or extremely critical. There was, however, a low consensus among respondents as to the criticality of A031. The respondents from the more rural areas (D.P.A,R.C.A.) tended to rate it higher than those from the metropolitan areas (M.P.A). The Police Task Force and Advisory Panel respondents rated A031 significantly lower (.43) than the overall respondents (DCJS July 1977).

A032 (Centralization of specialized services) had a higher consensus among the overall respondents than A031 with a slightly lower mean rating and rank (a little over 40% rated it very or extremely critical). The Police Task Force and Advisory Panel respondents rated it higher than A031(excessive number of departments) but lower (31) than the overall respondents. As with A031 the respondents from the D.P.A's and R.C.A's rated this problem higher than the M.P.A. respondents (DCJS July 1977). An analysis of these results yields that the Delphi respondents, especially those in law enforcement, prefer the centralization of specialized services as a consolidation method. This strategy is particularly preferred in the more rural areas of the state.

The Division of Criminal Justice Services (DCJS) has allocated, from 1968 to August 1977, over 5 million dollars of LEAA monies to programs that have dealt with the problem of centralizing police services. Most of the money, over 3½ million, has funded information systems which centralize arrest records and other data for police agencies on either a state-wide or regional basis. Another $463,955 has been spent on regional forensic and toxicology services. An additional $617,796 has funded a county-wide training programs for police departments in Erie, Monroe, and Rockland counties. Most of the above mentioned programs have serviced police departments in the M.P.A's. The remaining money, $356,913, has funded consolidation studies and resident trooper programs in primarily the D.P.A's and R.C.A's (DCJS August 1977).

The Presidents Commission on Law Enforcement and the Administration of Justice and the National Advisory Commission (NAC) dealt extensively with police consolidation and centralization problems. The NAC recommended, "At a minimum, police agencies that employ fewer than 10 sworn employees should consolidate for improved efficiency and effectiveness."(NAC 1973 P108). The Presidents Commission did not specify the size of the departments that should consolidate but did advocate the consolidation of departments that were primarily staffed by part-time police (Pres. Comm.1976 P90-99).

Since those recommendations, a growing amount of research studies have questioned the benefits of consolidation. The two National Commissions assumed that larger departments could provide more professional police service with the same or higher levels of output at lower costs from smaller departments. Ostrom, Parks and Whitaker (1975) in their study of police service in the Indianapolis region, have found that smaller departments generally provide better service to their communities at slightly higher expenditure levels than larger departments (Ostrom et al. 1975 P.16). The study also found that smaller departments concentrated more of their resources on patrol service and put more patrolmen on the street than larger departments (Ostrom et al. 1975, P.22). These findings have been made and supported by other studies by the same authors who have cautioned that their findings cannot be safely generalized to departments that were not included in their various studies. (Ostrom and Parks 1973, Ostrom and Whitaker February 1973, Parks 1976, Workshop November 1976).

One of the major faults of the previously mentioned studies is that they do not consider the type and quality of specialized services. Their data show that smaller departments put more patrolmen on street and citizens are more satisfied with the smaller departments patrol presence and response. It does not show that smaller departments can provide necessary investigative, forensic, planning, training, communication, and record system capabilities. In fact, two of the studies advocated that larger departments should provide specialized services on a regional basis while smaller departments maintain control over their patrol services (Ostrom et al.1975 P.26, Ostrom and Parks 1973 P.397).

The NAC and Presidents Commission has also supported the centralization of staff, auxiliary, and specialized police services. The NAC did not specify what services should be centralized, preferring to leave that decision to individual department evaluation (NAC 1973, P.109,113-115). The Presidents Commission, however, advocated the centralization of recruitment, selection, training, planning, communications, crime laboratory services, criminal investigation, and vice control (Pres. Comm.1967, P.71-72). Recent evidence has indicated that centralization of these kind of police services has increased across the country (Skoler 1976).

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and efficient system of delivering services will be created than presently exists with the PINS jurisdiction. While one cannot be certain whether these proposals will work, it is quite plain that what now exists does not work. It is unfortunate, but inevitable, that some juveniles will not get help that under the present system of court intervention they would have received. "It is believed, however, that their numbers will be relatively few and that the social costs of retaining the status offense jurisdiction as it now exists far outweigh the relatively small benefits " (IJA/ABA, 1977, Noncriminal Misbehavior, p. 20)

JJS GOAL 9

To create a Family Court Division within the Supreme Court.

STANDARDS

9.1 The court having jurisdiction over juvenile matters should be in the Supreme Court, the highest court of general trial jurisdiction, and should be a division of that court.

9.2 Judges of the Family Court Division should be assigned from among the judges of the Supreme Court. Their assignment to the family court division should be:

1. by appointment of the presiding judge of the Supreme Court;

2. with special consideration given to the aptitude, demonstrated by interest and experience, of each judge;

3. on a modified rotation basis, with indefinite tenure discouraged; and

4. on a full-time basis.

COMMENTARY

This goal and accompanying standards recommend abolishing the Family Court, as a lower court of limited jurisdiction and establishing a family division of the Supreme Court, the highest court of a general trial jurisdiction, while continuing to recognize the need for judges particularly interested in juveniles to preside in these matters.

On the Delphi questionnaire the problem statement, "Family Court judicial appointments are based on politics, not relevant skills and merit" was ranked the 10th most critical problem of juvenile justice in the State by juvenile justice professionals surveyed (DCJS, 1977, Juvenile Justice Delphi). This concern for the quality of Family Court judges was seen as directly related to the prestige of the Family Court itself and therefore, justification for the Task Force addressing the status of the Family Court in the hierarchy of the court system.

Locating the Family Court at the lower trial court level, while grounded in the historical origins of the juvenile proceeding as being non-adversarial in nature, has adversely affected the salaries, working conditions and general prestige of the court. The Family court is unable to attract or retain competent judges who often elect to run for the Supreme Court which operates with a clear mandate to function as a court of law, rather than the confusion presently surrounding the proper role of the family court. Placing jurisdiction over juvenile matters within a division of the Supreme Court would permit competent judges to handle juvenile matters without sacrificing their professional roles as legal jurists.

The status of the court handling juvenile matters should be equal to the adult criminal courts since both decide questions of guilt or innocence of misdemeanors and felonies and upon conviction can deprive an individual of his/her liberty.

Creating a single level for all trial courts would improve the overall administration and coordination of the entire court system (Pound, 1959). For example, the informity in job classifications that would result from these standards would allow a greater degree of flexibility in moving personnel to the courts with the heaviest caseload at any one time (Hazard, et al., 1973). Saul Moskoff, Assistant Administrative Judge of the Family Court, Queens County, believes that a single tiered court system would solve many of the problems that presently exist when the Supreme and Family Courts both have jurisdiction in a case. He cites the joint jurisdiction over modification and enforcement of alimony and child support cases an an example (Moskoff, 1977).

Judges of the family division would be selected from the general trial bench of the Supreme Court on a modified rotation basis; indefinite tenure would not be permitted. This selection process would provide time for newly appointed judges to become well enough acquainted with the family court process to be able to function effectively while not running the risk of creating 'one man empires' prevalent with indefinite terms. One recommendation worth consideration is for an initial one-year assignment to the family division with a possible two-year extension (IJA/ABA, 1977, Court Organization, Standard 2.2). After a year's sabbatical, a judge could be reassigned to the division on the same format.

Practically every standard-setting group including the three most recently promulgated juvenile justice standards; the Advisory Committee to the Administrator of Standards and Goals (1976), the National Advisory Committee Task Force on Juvenile Justice and Delinquency Prevention (1976) and the IJA/ABA Juvenile Justice Standards (1977) all recommend there be a family division within the highest court of trial jurisdiction.

The trend across the country is towards elevating family courts to the highest court of general trial jurisdiction. As of 1975, 25 states had juvenile matters handled in a court organized statewide and at the highest general level (Dineen, Juvenile Court Organization and Status Offenses, 1975). Since that time, every state which has reorganized its court system and changed

the level of court handling juvenile matters (Alabama, Indiana and Kansas) has raised juvenile cases to a higher court of jurisdiction (U.S. Department of Justice, National Survey, 1977).

Creating a family division within the Supreme Court will not automatically result in a higher quality of juvenile proceedings. It will, however, for the first time, provide the court charged with handling juvenile matters the same status and resources given to the Supreme Court to establish a high professional standard of operations.

JJS GOAL 10

To broaden the jurisdiction of the Family Court in New York State to encompass individuals under the age of 18 who are alleged to have committed a criminal act.

STANDARDS

10.1 The New York State Legislature should amend Section 712(a) to read "Juvenile delinquent means a person over seven and less than eighteen years of age who does an act which, if done by an adult, would constitute a crime or violation of the Penal Law, except in the case of a licenced juvenile driver who violates any section of the Vehicle and Traffic Law. These latter violations shall be handled by the appropriate adult court. Penalties for a violation of the Penal Law, other than a crime, shall never exceed the sanction permissible for an adult.

10.2 The family court should order a jury trial in a juvenile proceeding when:

1. The juvenile was 16 years or older at the time of the alleged commission of the delinquent act; and
2. The alleged delinquent act would constitute one of the following crimes: murder 1, murder 2, kidnapping 1, arson 1, assault 1, manslaughter 1, rape 1, sodomy 1, kidnapping 2, (where abduction involved force or threat of), arson 2, robbery 1, or attempt to commit murder 1, 2, or kidnapping 1, if done by an adult.

10.3 At a dispositional hearing of a juvenile who was found guilty by a jury trial the judge should have all the dispositional alternatives available under the Family Court Act and as a sentencing judge under the Criminal Procedure Law.

10.4 The judge should examine the following factors in deciding whether to sentence the juvenile under the Criminal Procedure Law:

1. The seriousness of the alleged offense;
2. A prior record of adjudicated delinquency, especially those crimes involving the infliction or threat of significant bodily injury;

3. That all previous dispositions were fully implemented and proven to be unsuccessful as evidenced by the juvenile's continued appearances in family court;

4. Public safety can not be provided by processing the juvenile in the juvenile justice system; and

5. The appropriateness of the services and dispositional alternatives available to the adult criminal justice system for dealing with the juvenile.

COMMENTARY

The goal and accompanying standards attempt to extend the possible benefits available in the juvenile justice system to individuals 16 and 17 years of age, while not reducing the ability of the justice system to respond effectively to individuals who have committed serious crimes.

The age at which an individual is legally considered an adult is known as the age of majority. Almost every New York State Statute has its own definition of the age of majority. Prior to 1974, there was tremendous variation between statutes with reference to when an individual should be considered an adult. In that year, the legislature sought to establish eighteen as the uniform age of majority. (L.1974, c. 889-940.) In New York State an individual, under the age of 18 cannot enter into a binding contract (General Business Law, § 130); marry without parental consent (Domestic Relations Law, §11); sue the State (Abandonded Property, §103); or enter into any type of general obligation (General Obligations Law, §1-202). In fact, the only instance where a person is treated as an adult prior to their eighteenth birthday, is the area of criminal responsibility (Family Court Act, §712).

The effect is that a person is liable for adult criminal sanctions at 16, but cannot partake in any of the other duties, privileges or responsibilities of an adult for at least another two years. By recommending that Family Court jurisdiction extend to individuals under the age of 18, the Task Force is merely establishing a definition of majority for criminal responsiblity, which is consistent with the New York State age of majority for all other facets of life, and which parallels the 1973 legislative action of creating a uniform definition of a minor.

As Jerome Goldsmith, Executive Director, Jewish Board of Guardians, pointed out in a written statement commenting on these Standards and Goals:

> The line of demarcation between a youth and an adult is substantially arbitrary. This broadening of jurisdiction will at least provide for more consistency between the Family Court Law and other state and federal laws defining the age of majority as 18. (Goldsmith, 1977)

As of January 1, 1974, 35 states and the District of Columbia defined a juvenile as an individual under 18 (Davis, 1974). New York is one of only five states that have the age of juvenile jurisdiction set at 16; the lowest in the country (Davis, 1974).

Despite the fact that New York State has the lowest age of criminal responsibility, the Legislature has considered lowering the age even further to 14 or 15. Support for this action can be attributed to the public perception of the rise in juvenile crime and the inability of the juvenile justice system in New York State to effectively deal with serious juvenile offenders, even after they have a history of convictions. The Task Force is, therefore, well aware that its endorsement of raising the age to 18 is not a politically popular position. However, they believe that the age can be raised without hindering the ability of the justice system to effectively deal with the older juvenile who is a persistent serious offender. To deal with this type of offender, the Task Force recommends the court have the option of utilizing adult sanctions. Presently, New York is the only state which has an absolute bar to waiver of juveniles to Criminal Court. (Family Court Act, Sec. 713). This recommendation would make New York State consistent with the practices in every other state and the District of Columbia where there is a waiver procedure for transferring jurisdiction over certain juveniles for processing in the criminal courts. (Note, 1968). The utility of this procedure is that it provides a safety valve by allowing the justice system the flexibility of handling the young violent offender in the adult system without requiring the establishment of an unrealistically low age of criminal responsibility across the board. (IJA/ABA, 1977, Transfer Between Courts, pp. 17-19).

While the Task Force agrees with the concept operating in every other state that some juveniles should be treated as adults, they do not agree that the only way this can be accomplished is by waiving the juvenile to the criminal courts for processing, which is the procedure in the other states. If the rationale for processing the juvenile in the criminal courts is to insure that they have the same rights as adults because they will be liable to the same type of punishments if convicted, then the emphasis should be on the securing of those rights, and not on on which court the proceeding is held. The unmistakable conclusion drawn from this nationwide practice is that the family (juvenile) courts are not capable of securing those rights. Not wanting to give that impression, the Task Force opted for a proceeding in Family Court which has all the legal safeguards available in Criminal Court; most notably, the right to a jury trial. In fact, if the JJS GOAL 10 was accepted and there was a family division of the Supreme Court, it would make even less sense to waive the case merely to another division of the same court.

The Task Force is aware that trial by jury is only one the rights afforded to adults and not to juveniles and suggests that before these standards are implemented, there be an analysis to insure that all other constitutional rights are safeguarded. One area not mentioned in the standards, but one which most certainly would have to be included is the right to a grand jury hearing leading to an indictment or no bill.

The standards clearly outline that the only individuals affected by the special proceeding are 16 and 17 year olds who are alleged to have committed what is presently a Class A or B felony. If found guilty, the judge, utilizing the criteria outlined in the standards, which are basically consistent with NAC recommendations (1976, Standard 9.5), could order the juvenile to serve an adult sanction, including a prison term. A juvenile found guilty and sentenced to serve a prison term would not be comingled with adults over the age of 21, according to state law (Corrections Law, Sec. 485).

By providing a proceeding for handling those juveniles who are persistently violent offenders in the adult system, the Task Force's goal of broadening the jurisdiction of the Family Court can be accomplished without hindering society's ability to effectively deal with violent juveniles.

JJS GOAL 11

To create a Family With Service Needs jurisdiction in New York State to assist juveniles and their families in voluntarily obtaining services.

STANDARDS

11.1 All juveniles and their families should have access to all services necessary for the juvenile's individual growth and development.

11.2 The New York State Legislature should create a Families With Service Needs jurisdiction by enacting a new Article within the Family Court Act.

A proceeding under this jurisdiction should be invoked by a petition that is a formal request for family court intervention to secure appropriate services.

The petition may be brought by the juvenile, parent or guardian, but may never be the result of any agency trying to coerce an individual to accept services.

The Families With Service Needs petition should allege:

1. That the services requested are both necessary for the individual growth and development of the juvenile and are appropriate requests to be made of public monies; and

2. That reasonable attempts to secure such services from all available and appropriate agencies have been exhausted; and

3. That the respondent agency is a public or publicly funded agency operating programs that would meet the needs of the petitioner.

If the court finds the allegations in the petition to be valid, the court shall order the respondent agency to provide the requested services.

11.3 The Legislature should provide the family court with the means to enforce a Families With Service Needs order, such as the authority to hold an agency in contempt for not obeying a court order.

COMMENTARY

In recommending the removal of PINS from Family Court jurisdiction, the Task Force is expressing the opinion that the court should not be used to coerce juveniles who have not been found guilty of committing a crime into accepting court-ordered services. Every member of the Task Force, irrespective of their position on the removal of the PINS jurisdiction, agreed that many of the juveniles and families presently involved in PINS priceedings are in need of, and are not now receiving, a wide array of services The results of the Delphi survey echoed this concern. Of the 20 most critical problems in juvenile justice in New York State, as ranked by professionals in the field, seven speak directly to the problem of inadequate delinquency prevention and development services. (DCJS, 1977 Juvenile Justice Delphi).

After years of effort and the expenditure of millions of dollars, adult correctional authorities have finally come to the conclusion that, for the most part, individuals will not be helped by services they do not wish to receive. (Fogel, 1976, and Martinson, et al., 1976). If this assumption is true for adults, it should also be valid for juveniles. The most effective and equitable strategy for providing services to individuals, juveniles or adults, is to remove the power of the court to order individuals to accept services and to shift the burden onto the public and voluntary sector to develop quality services which are readily accessible to individuals who might seek such services. Under this scheme, the proper function of the Family Court would be to insure that agencies are held accountable for providing promised services.

This is the thrust of the goal and accompanying standards; to legislatively create a Families With Service Needs (FWSN) jurisdiction within a new article of the Family Court Act, which would give the Family Court the authority to assist a juvenile or family who has been unable to voluntarily obtain desired services.

While the wording for the jurisdiction is taken from the recently released NAC Task Force on Juvenile Justice and Delinquency Prevention Report, there are two major differences which distinguish this task force's FWSN jurisdiction from that endorsed by the national task force. First, while the commentary of the NAC (1976) points out that 'status offender' jurisdictions focus too much on the actions of the juvenile, instead of the problems within the family as a whole, their FWSN petition, for the most part, continues to utilize the behaviour of the juvenile as the basis for court intervention. The standards of the New York State Task Force are oriented toward the intervention of the court, only at the request of the entire family unit and for services that the family sees themselves as needing. Secondly, the NAC (1976) permits agencies to file a FWSN petition. This is a re-definition of the PINS jurisdiction. Under the New York standards, only a juvenile or parent would be allowed to file a FWSN petition. The intent is to provide legal recourse to individuals in their efforts to obtain voluntary services, and to avoid reintroduction of the PINS jurisdiction in another form.

Creation of the jurisdiction would be consistent with the intent of the 1972 amendment to Section 255 of the Family Court Act (Family Court Act, 1975, pp. 189-194). The amended Section 255 read that a Family Court judge:

> . . . may order any agency or other institution to render such information, assistance, and cooperation as shall be within its legal authority concerning a child who is or shall be under its care, treatment, supervision or custody as may be required to further the objects of this act.

Since 1972, courts have uniformly held that Sec. 255 give a Family Court judge the power to affirmatively order commissioners of agencies and institutions dealing with children under its jurisdiction to render such assistance as the Court deems appropriate. This position is supported by a concept paper on the powers of the Family Courts (Schoenbach, December 1974) and a letter written by Douglas Besherov, executive director of the Select Committee on Child Abuse which drafted the 1972 revision, to Judge Follett of the St. Lawrence Family Court (In re Edward M., 351 N.Y.S. 2d 601 (Fam. Ct., St. Lawrence Co., 1974) at 606 n. 12). In this particular case, In re Edward M., the court ordered the county department of social services to develop an adequate program to provide foster homes for juvenile delinquents.

The Task Force is aware that by giving the Family Court the authority to order a voluntary agency to provide services to an individual filing a Families With Service Needs petition, it is endorsing a position that goes beyond the letter of the law, as defined in Section 255. Under this section, the Family Court has the authority

to order public agencies to provide services; it can only request the assistance of private or voluntary agencies. The Task Force took the position that this extension of the law was both necessary and justified. For the proceeding to be viable, the judge must be able to utilize the services of the voluntary agencies, which are far more diverse than those offered by the public sector. This action is justified since voluntary agencies should be considered publicly funded agencies and subject to the authority of the Family Court in a FWSN proceeding when a substantial percentage of their costs to provide services is reimbursed with public monies. The precise definition as to what constitutes 'a substantial percentage of their costs to provide services' to qualify a voluntary agency as a publicly funded agency should be a matter for legislative action or case law.

Under these standards, for a court to intervene and order services provided, an individual must prove the services they request are an appropriate use of public funds. This could be interpreted as a service which is either required by the legal mandates of the agency; mentioned in any official document promulgated by the agency detailing the services it proves; or show to be a service provided by the agency on a regular basis. The petitioner must also prove they have requested the needed services from all appropriate agencies prior to filing a petition. Probation intake, because of their knowledge of services available to a community, might be give the responsibility of screening cases to insure that all avenues have been exhausted. The type of services a court might order includes: special education, drug counseling, foster care, homemaker or mental health services.

In conclusion, this goal creating the Families With Service Needs, would completely change the role of the Family Court in the process of service deliver. Presently, agencies can obtain a court order on a PINS petition to coerce a juvenile into accepting various services. The Familes With Service Needs jurisdiction reverses this process; individuals would be able to bring agencies to court and hold them accountable for not providing services.

JJS GOAL 12

Development of alternate voluntary residential facilities to provide temporary shelter and a stabilizing environment for juveniles who have run away from home.

STANDARDS

12.1 Runaway houses should be operated by a voluntary agency or a not-for profit organization.

12.2 No runaway house should house more than 20 juveniles.

12.3 Admission to a runaway house should be effected in one of two manners:

1. Juveniles who have run away from home can admit themselves on a walk-in basis.

2. If a juvenile is found by a law enforcement officer to be absent from home without parental or custodial consent, and it is impracticable to secure the juvenile's return home, or the juvenile does not wish to return home, the juvenile should be taken to a runaway house or an alternative residential facility licensed by the State for such purposes.

As soon as practicable, the staff of the facility shall reasonably attempt to notify the juvenile's parent or custodian of his or her whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement, unless there are compelling circumstances why the parent or custodian should not be notified.

12.4 Staff should attempt to get the juvenile to voluntarily return home. This may include counselling the juvenile individually or mediating differences between the juvenile and parents or custodian.

12.5 If agreement cannot be reached on the juvenile's voluntary return to his or her home the staff shall facilitate some type of alternative living arrangement agreeable to the juvenile. Staff should have access to a network of services established for this purpose. These services shall include:

1. group homes
2. foster care
3. independent living (with or without an order of responsible self-sufficiency as described in JJS Goal 16).

COMMENTARY

One issue that has attracted interest in recent years, both nationally and in New York, is the increasing number of juveniles running away from home and the best response to the problem.

Official statistics report that during 1968 nationwide 100,000 youths were 'arrested' for running away from home. By 1972 the number of 'arrests' had soared to 260,000 (FBI, 1968, 1972, Uniform Crime Reports). Informed estimates of the actual number of runaways place the annual figure at over 1 million for 1973 and 1974 (California Senate Select, 1973-74, p. 112). Runways clearly constitute a major problem for New York State. In a study commissioned by IJA/ABA on the New York PINS jurisdiction runaways accounted for 51% of the PINS petitions studied (Note,"Ungovernbility",1974, p.1408). While statistics are not maintained on the number of runaways held in secure detention in New York State it is an accepted fact that many of the juveniles filling the detention centers across the state are there for being runaways.

Data collected from various services established to aid runaway youths provide some insight into the runaway problem. A study of the calls received by the National Runaway Switchboard, a HEW funded project which functions as a national hot line for runaways, reported that 35% of the youths calling the Switchboard had been away from home for less than 5 days, and 53% for less than 10 days. (Palmer, 1973). As far as distance is concerned, the experience of many runaway facilities is that their clientele come from the surrounding area; a 25 to 50 mile radius. Runaway House in Memphis reports 89% of its youths are locals. (Don Strauss, Director of Runaway House, cited in National Council of Jewish Women, 1976, p.73).

Youths who run away from home are often involved in a highly emotional conflict with their parents. Running is often the juvenile's only avenue to remove themselves temporarily from the conflict. Chances are that the juvenile will return home before traveling a great distance or being away for a long time. The danger is, however, that the juvenile is vulnerable to many abuses when they run away from home and have no one or no place to turn for aid or shelter. Warren McGuiness, a police officer with the NYPD who specializes in runaway youths, views teenage prostitution as only one of the dangers confronting a runaway youth lacking any legitimate avenues of assistance (National Council of Jewish Women, 1976, pp.31-99).

Runaway houses, as proposed in these standards, could provide the youth with a safe and stable environment where they would be able to calm down and begin to think their situation thru without the constant threat of being victimized. Coupled with fulfilling this immediate purpose, a runaway house could be of assistance in improving the relationship between the juvenile and his or her parents. The staff of the house could offer their services as neutral third parties in facilitating communication between parents and the youth. The house itself could be utilized as a meeting place for the conflicting parties.

Unlike the parent's home, which the youth may view as the parent's 'turf', the runaway house is nonthreatening to either side; analogous to a no man's land in a war.

Past experience with ongoing runaway facilities has shown they can be effective at both reducing the immediate dangers confronting runaway youths and assisting the child and parents in reaching a more lasting solution. Runaway House in Memphis has reduced the time a juvenile, who has run away from home, is on the streets from six days to two hours since its inception (National Council of Jewish Women, 1976, p.74). Of the 1253 youths coming to the House for assistance, all but 12 eventually returned home voluntarily. A survey of runaway houses across the country report that 74% of the youths who went to a facility were either returned home or placed in the home of a relative or foster parent (National Council of Jewish Women, 1976, p.71).

The runaway houses proposed in these standards were written to comply with the requirements of the Runaway Youth Act. This Act, passed in 1974, authorizes the Department of Health, Education, and Welfare to fund programs that provide temporary shelter, care and counselling to runaway youths and their families. Facilities funded under this Act must be nonsecure, temporary shelters with a capacity of less than 20 which have provisions for parents to be notified of their child's condition and whereabouts. During 1975 HEW appropriated $5 million for the funding of 65 runaway facilities in addition to the Chicago-based National Runaway Switchboard. Presently there are 125 such facilities operating around the country that are funded under the Runaway Youth Act.

One major advantage to these standards is that their implementation will not depend on gaining a share of the shrinking LEAA monies. A community wishing to establish a runaway house consistent with these standards could apply for funding directly to HEW. The existence of this funding source is assured since Congress recently voted to extend the Runaway Youth Act for three years and appropriated $24 million for the funding of such facilities during that time.

JJS GOAL 13

New York State shall improve the means for diversion of cases from formal court processing by coordinating existing mechanisms of diversion in probation more efficiently and effectively, and where necessary, by developing new mechanisms for diversion at the probation intake level.

STANDARDS:

13.1 The State Division of Probation should revise the intake diversion criteria to achieve a greater degree of consistency of intake decisions within and across county probation departments. Criteria should be based on objective information and narrowly defined factors whenever possible.

13.2 Issues that the review of intake diversion should address are:
1. possible diversion of all 1st misdemeanant offenders; and
2. greater weight given to the seriousness of the alleged offense in petitioning the court.

13.3 Within the framework of the Division's guidelines, county probation departments should establish explicit intake diversion criteria.

13.4 Every county in New York State should develop a centralized juvenile intake unit to assist in the delivery of services to juveniles, in lieu of court processing.

Staff for the centralized juvenile intake unit should come primarily from existing positions of county probation departments. Staff from other sources should be added as are deemed necessary.

13.5 Local probation departments should establish decentralized neighborhood probation offices in counties having more than one geographical concentration of probation caseloads. This decentralization would permit probation officers to gain an extensive knowledge of the conditions of the neighborhood, and of available services within the community, and enable officers to have closer contact with juveniles on probation supervision.

The decentralized office should perform the following functions:

1. services planning - assessment of a juvenile's needs followed by a matching of the juvenile with an appropriate service provider;
2. resource management - monitoring the progress of individuals who were referred to services and the general effectiveness of service agencies to deliver needed services.

13.6 Resources available to probation offices should include:

1. crisis intervention - 24 hour coverage to arrange emergency services for walk-ins, call-ins, police apprehensions and other requests. Such services should include temporary housing, medical assistance, and counseling;

2. community resource information directory - compilation of information on all available resources in the community including type, cost and eligibility requirements of those services. This information should be available in a looseleaf version and distributed to each probation officer in each decentralized office.

13.7 Local probation should supply reports detailing the following information: the number of juveniles coming into probation, the type of services needed by these juveniles, the type of services provided and by which agencies, and the agencies unwilling to provide mandated services. The report should also suggest where gaps exist between needed services and delivery of services. The information for these reports should come from reports of each decentralized probation office.

COMMENTARY

The thrust of the goal is to improve the diversion process of probation intake. The accompanying standards strive to attain this goal by developing more explicit and equitable criteria for the adjustment of cases; improving probation officers' knowledge of community resources; and increasing the capability of probation intake to respond to crisis situations.

Diversion of cases from the Family Court process is an integral part of the juvenile justice system. Both LEAA, on the federal level (Office of Juvenile Justice, April 1976). and DCJS, on the state level (NYS DCJS, April 1977, Comprehensive Crime Control Plan, 265), recognize the importance of diverting as many youth from the juvenile justice system as is possible without endangering the safety of the community. The Family Court Act explicitly provides for the informal adjustment of juvenile cases by probation intake prior to the filing of a petition (Family Court Act, § 734). The same cannot be said for the adult system where pre-adjudicatory diversion of cases occurs not in accordance with specific section of the Criminal Procedure Law, but rather, through a joint exercise of discretion by the judiciary and prosecutors. Probation intake should attempt to divert cases brought to them when the available evidence is not legally sufficient to support the filing of a petition or when the case can be informally adjusted to the satisfaction of all parties involved. The diversion of these cases serves two purposes: (1) it eliminates much of the negative labelling of juveniles by limiting their penetration into the formal family court process; (2) it eliminates the legally insufficient or minor cases from court processing, permitting the court to utilize its scarce resources on more serious cases.

Just how widespread is the practice of diverting cases at the probation intake level across New York State? In 1976, there were 59,126 delinquency and PINS cases brought to probation intake statewide. Of these, 32,016 or 54% were adjusted at the intake level. (NYS DCJS, September, 1977, 1978 Comprehensive Crime Control Plan, V-23,24) However, the adjustment rate was not uniform among counties.

The Task Force is not necessarily questioning how many cases are adjusted at intake, but the process by which cases are adjusted or petitioned to court. Evidence from numerous sources demonstrates the wide disparities that exist in the handling of cases at intake. In 1977, "the number of PINS cases adjusted varied substantially around the State, with some counties adjusting virtually all cases and others sending virtually all cases to court. . . . The handling of delinquency cases also reflected considerable variation from county to county, with Erie County adjusting 77% of their delinquencies; Monroe, 55%; Onondaga, 60%; Nassau, 56%; Suffolk, 44%; Westchester, 54%; and New York City, 57%." (DCJS, September 1977).

Not only do the overall adjustment rates differ among counties, but there is considerable variation among counties in the adjustment rates for the same crime. This is demonstrated most convincingly by a study of the Family Court process (New York State Senate Research Service, May 1977). Using 1974 data, the study shows that for burglary cases, Erie County's adjustment rate was 87%, while Onondaga's was 60%. The handling of robbery cases shows even greater variation among counties. Erie County adjusted 34% of all robbery cases brought to intake, while Nassau County adjusted 78% of its robbery cases. (p.31) Most importantly, when the adjustment rates for different types of crimes are compared, it becomes clear that the decision to petition a case to court had little to do with the seriousness of the offense. In the counties surveyed, while 60% of the arson and assault cases were adjusted, only 25% of runaway cases and 40% of truancy cases were adjusted. (Appendix C-9).

It should be evident that there is a critical need to institute more explicit guidelines for the intake decision than were operative in 1974. Unfortunately, the recently issued Family Court rules for adjustment of cases at intake (Rules and Regulations, Title 22, Judiciary, Sec. 2507.5) are not the type of guidelines required to prevent the type of inconsistencies in intake adjustment demonstrated in the study on the family court process mentioned earlier. These rules merely list an array of factors that should be considered; they give no indication of the importance of each factor or how they should interact. Guidelines must be specific enough to function as a strong guide to the probation officer indicating which cases should normally be adjusted and which ones petitioned, without eliminating an officer's use of discretion to consider other factors. For example, the standards suggest: that greater wieight be given to the seriousness of the crime; that there be a presumption that serious crimes be petitioned and minor crimes adjusted. While every assault should not be peptitioned or every runaway adjusted, there should be some indicators which alert the system to a situation where 60% of assault cases are adjusted, while 75% of its runaway cases are petitioned to court. By issuing intake guidelines that outline what is expected the New York State Division of Probation would be helping to promote fairness and consistency in the intake process.

When a juvenile is diverted from the court process by the intake officer, the implication is that the juvenile will be referred to a service provider. The problem is that probation officers are unaware of the community agencies that exist. In the Family Court process study, the officers admitted to an unfamiliarity with community services. In the six counties surveyed, only 10% of cases at intake were actually referred to community agencies and 90% of the officers indicated that even when they made a referral they did not even inquire to see if the juvenile

had made an initial visit to the agency. One recommendation mentioned by many of the probation officers surveyed was the establishment of satellite probation offices. (New York Senate Service, May 1977, pp.40, 42). The Task Force agrees that such decentralization would improve probation officers' ability to divert cases. Officers in a decentralized probation office would become more knowledeable about the needs of the juvenile, and of the community resources willing to accept referrals, because he would be responsible for a more immediate community--not an entire county--which is presently the practice in most probation departments. The NAC (1976, p.676) also recommends a decentralization of probation in order to improve the delivery of services.

To improve the delivery of services at the probation intake level, the Standards recommend two types of services be provided. First, intake should be operating on a 24-hour basis to handle emergency situations. Where this capability does not exist, juveniles are often placed in detention overnight because the only alternative available to the police is to release the juvenile to the parents. The Superintendent of Monroe County Children's Shelter estimated that 90% of the juveniles brought to the Shelter at night should not be in detention. In fact, they are released by the Family Court the next day. For other juveniles, it is not just a question of unnecessary time spent in detention--it is a delay in the provision of badly needed services. Secondly, there is a need for each probation officer to have more extensive and reliable information on community resources. A directory of such resources should be develped, constantly updated and widely distributed to all officers. This directory should contain information not only on what services agencies purport to provide, but data on the past performance of those agencies; the number of referrals they have taken, their willingness to handle difficult cases, and the types of services they have provided.

Diversion has been, and should continue to be, an important and widely utilized function of the juvenile justice system. Recent attempts to limit its use result from a belief that too many juveniles who should be processed through the court are diverted and that those juveniles who are diverted receive little in the way of services. These Standards are directed at those criticisms. They recommend some guidelines which would help to insure that diversion is administred in a more equitable maner, and consistent with the other goals of the system. The decentralization of probation offices and the development of new resources should improve the ability of probation to obtain services for juveniles without court intervention.

JJS GOAL 14

The family court should utilize the least restrictive alternative as the rationale for ordering a disposition in a juvenile proceeding.

STANDARDS

14.1 The purpose of a juvenile delinquency disposition should be to determine that course of action which will develop individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just; should recognize the unique physical, psychological, and social characteristics and needs of juveniles; and should provide juveniles access to opportunities for individual growth and development, while insuring that such dispositions will:

1. Minimize the risk to society;
2. Deter conduct that unjustifiably inflicts or risks the infliction of substantial harm to individual or public interests.

14.2 In choosing among statutorily permissible dispositions, the court should employ the least restrictive alternative as modified by the seriousness of the offense, the degree of culpability indicated by the circumstances of the particular case, and by the age and prior record of the juvenile. Since placement in a secure residential facility is the most restrictive disposition available to the court, it should be utilized only after all lesser dispositions have been investigated and judged inappropriate or unavailable.

14.3 At the dispositional hearing, probation must, and other agencies may, submit a treatment plan for the juvenile which includes the ability and willingness of agencies to implement the plan. The plan must specify whether the disposition involves:

1. Dismissal
2. At home services or out-of-home placement;
3. If placement, in community or out-of-community;
4. If placement, secure or non-secure
5. Special services and/or treatment to be provided.

14.4 A copy of any such plan shall be made available to the juvenile and legal counsel to enable them to make an informed and intelligent decision whether to accept the placement order or construct an effective defense against such an order, or to present an alternative plan

14.5 The court shall make findings on the plan submitted and shall state its reasons for its order of disposition.

The purpose of the goals and accompanying standards is to improve the process used at the dispositional hearing. If implemented it would provide the family court with the mechanism for obtaining much of the information it should have before ordering a disposition. The standards propose what the goal of the dispositional order should be and the concerns which the goal must not overlook. Further they put forth a guiding principle which structures the debate on what disposition would attain the goal. Lastly, the standards ensure the juveniles and his/her counsel an opportunity and the means to effectively participate at the dispositional hearing.

The goal of a delinquency disposition, as defined in Standard 14.1, is to promote the individual growth and development of the juvenile. This goal can be carried out by impressing upon the juvenile his/her responsibility to abide by the law and by providing various opportunities to juveniles to better themselves. In implementing this goal the court must not lose sight of the expectation of society to be protected from individuals who are a danger to the community. This definition is consistent with the purpose of a disposition recommended by the NAC (1976, Standard 14.1).

The standards require the family court to ensure that the disposition it orders does not violate the principle of the least restrictive alternative. The least restrictive alternative is a legal doctrine requiring the "State to demonstrate that the chosen course that abridges personal liberties is the least drastic means for achieving a desired end." (IJA/ABA, 1977, Dispositions, p. 37). This principle has been accepted by the courts as a fundamental right of due process when there is a possibility of an infringement of the individual's personal liberty. As explained by the U.S. Supreme Court in Shelton v. Tucker, 364, U.S. 479,488, (1960):

> In a series of decisions this Court has held that, even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose. (footnotes omitted)

New York courts have recognized the juvenile's right to be sentenced in accordance with the least restrictive alternative (e.g. Matter of Cecilia R., 36 N.Y. 2d 316 (1975); Matter of John H., 369 N.Y.S. 2d 196 (1975).

Many people involved in the court process in New York often argue that the least restrictive alternative is already the accepted practice in most family courts across the State.

However, the discussion at the dispositional hearing usually involves the relative merits of probation supervision versus placement with a public or private agency. Unconditional release with a reprimand is rarely considered as a dispositional alternative, even though it is the least restrictive alternative. As a result juveniles who could be unconditionally released are placed on probation even when supervision is not required. The NAC Corrections Task Force (1973, Standard 5.2) the NAC Task Force on Juvenile Justice (1976, Standard 14.1) and the IJA/ABA (1977, Dispositions, Standard 2.1) all recommend the adoption of the least restrictive alternative doctrine.

Too often family court will approve a dispositional order recommending particular services without any knowledge of the feasibility of obtaining those services for the juvenile. The family court may also approve an order recommending placement of the juvenile in the custody of the county department of social services or N.Y.S. Division for Youth without knowing specifically what the placement will involve. Placement with DFY can run the gamut from day care services to placement at a training school. A juvenile might be amenable to a placement with DFY in a nonsecure setting close to his/her home, but might not agree to a placement if it meant being sent to a forestry camp hundreds of miles from home.

Standard 14.3 would require the probation department to include, as part of the treatment plan, detailed information on the services that would be provided, the nature of any placement being recommended (e.g. home v. out-of-home, community v. out-of-community, secure v. nonsecure), and the ability or willingness of an agency to fulfill the disposition if ordered. This plan would be available to the family court judge, the juvenile, and his/her legal counsel prior to the dispositional hearing.

If the treatment plan included this type of information, and was available to the juvenile and his/her legal counsel prior to the dispositional hearing, the juvenile would be in a position to make an intelligent and informed decision on whether to accept the recommendation of the probation department. If the juvenile does not agree with the probation department's recommendation, he/she with the aid of legal counsel can construct an argument against the probation recommendations and propose an alternative. At the dispositional hearing the defense would be entitled to the right to call its own witnesses, cross examine the state's witnesses, and present testimony. However, none of these due process protections are useful unless the defense has specific information on the intended services or placement recommended in the probation report.

Having detailed information of the treatment prior to ruling on a dispositional order is as important to the family court judge as it is to the juvenile. To the extent that the family court limits the juveniles' liberty when the court orders a disposition, it has a stake in knowing specifically what restricition will be placed on the juvenile. The court also has a duty to insure that all services ordered are provided. This affirmative right to receive promised services is known as the 'right to treatment'. In Rouse v. Cameron, 373 F. 2d 451 (D.C. Cir. 1967), the court held that an adult involuntarily committed to an ins itution for the purpose of treatment has the statutory right to receive the promised treatment or be released from the institution. This rationale was directly applied to juveniles in New York by the federal courts in Martarella v. Kelly, 349 F. Supp. 575 (S.D.N.Y. 1972). Queens County Family Court in In re Ilone, 316 N.Y.S. 2d 356 (1970), removed a girl from Hudson because she had not received services mandated in the dispositional order. The court held that "the training school's refusal or inability to abide by the court's original order of placement is sufficient grounds to terminate said placement" (316 N.Y.S. 2d 356, 357). The NAC (1976, Standard 23.4) recommends this course of action. They recommend that when specific services ordered by the family court are not provided the case should be returned to court for further dispositional action. Under this scheme the court must wait until a petition is filed in behalf of the juvenile before taking any corrective action. The Task Force took the position that the court should be more aggressive in ensuring full implementation of its dispositional orders. This could be accomplished by requiring the court to make an initial determination at the dispositional hearing that services recommended by probation have a realistic chance of being provided if ordered. This would be more effective than the alternative as suggested by the NAC Task Force (1976).

A District of Columbia court held in In re Elmore, 382 F. 2d 125 (D.C. Cir, 1967) that it would not place a juvenile with the D.C. Youth Center unless the agency could guarantee that services specified in the dispositional order would be provided. The contention has been made that the family court does not have the authority to inquire as to how the service agency intends to carry out the court order. The N.Y.S. Appellate Division, Second Department held in Matter of Francisco R., 391 N.Y.S. 2d 1015 (1977), that the family court has the ultimate authority to specify the type of placement order, even in light of recent legislative revisions of the Family Court Act (L 1976 C.514). The family courts in Oneida and Monroe Counties have an unwritten policy of not ordering placement unless and until the particulars of where the juvenile would be placed are known.

The standards do not recommend that family court revert to the role of 'expert clinician' determining what services the juverile should have provided. The Task Force agrees this is the proper domain of the service agencies. The court, however, should pursue a course which ensures that what is promised by the service agencies is delivered.

JJS GOAL 15

New York State shall encourage the use of restitution as a viable dispositional alternative available to the Family Court.

STANDARDS

15.1 To encourage the court's use of restitution DCJS should fund pilot community restitution programs to develop and monitor restitution plans.

These programs should be established and administered by non-governmental not-for-profit community organizations.

15.2 Restitution should continue to be a court function. When ordering monetary restitution the amount of restitution should be directly related to the juvenile's offense, actual harm caused, and should be ordered only when there is a reasonable expectation that the juvenile will have the means to earn the amount of restitution the court intends to order.

15.3 When service restitution is contemplated, however, the court should refer the case to the community restitution center which will have the responsibility for developing a particular restitution plan.

15.4 Service restitution, in the form of community service, should be the preferred form even when monetary restitution is feasible.

Community service may include, but not be limited to, the following type of activities:

1. working at a home for the physically handicapped
2. working at a home for the elderly
3. working at a home for the mentally handicapped
4. working at a community youth center
5. maintaining a public park
6. working with a not for profit organization.

15.5 The development of the restitution plan should be the responsibility of a panel which includes a cross representation of the local citizenry including youth.

15.6 The type of community service ordered, the nature of any work and the number of hours required should all be clearly stated in the restitution plan. When the panel presents the restitution plan to the juvenile, he or she has the option of either accepting the plan, trying to renegotiate the plan with the panel, or having the case referred back to the family court with a report that a restitution plan could not be worked out.

When the panel and juvenile are in agreement on a restitution plan, that plan should be transmitted to the probation department and incorporated into the recommendations for disposition.

15.7 A restitution monitor, who would be a full-time employee of the community restitution program, would have the responsibility of monitoring the successful completion of the restitution plan.

Once the juvenile begins fulfilling the restitution order, non-compliance with such order shall be the only grounds for referral back to court.

COMMENTARY

Restitution has not been widely utilized as a sanction for juveniles in New York State. While monetary restitution has been authorized as a condition of probation in the case of a juvenile delinquent since 1970 (Family Court Act, Sec. 757) and was recently expanded to encompass service and monetary restitution as a condition of placement, or an order of probation of suspended judgement (Family Court Act, Sec. 758-a), juvenile restitution in New York State remains a virtually untapped dispositional alternative.

Restitution has gained tremendous support in recent years as a sanction that could be successfully utilized in a variety of cases. The Office of Juvenile Justice and Delinquency Prevention in response to this growing interest is scheduled to announce the establishment of a Special Emphasis project for the development by localities of juvenile restitution programs.

An often-cited argument for the increased use of restitution is to make the victim whole. However, because most offenders, especially juveniles, have limited financial resources, "victims interests can better be served by victim compensation programs, which rely on State resources rather than those of offenders; further, such resources are not hamstrung by stringent problems of criminal proof" (Edelhertz, 1975, p. 59). The most important reason to increase the use of restitution is the positive effects such an order can have on the juvenile. As Fogel, Galaway and Hudson suggest, a restitution order requires "the offender to engage in constructive acts that may lead to greater integration with, as opposed to alienation from, the larger social order." (Fogel, et al., 1972, p. 683)

The Task Force believes restitution should be encouraged throughout the State primarily for the possible effects it can have on the juvenile as described by Fogel, et al. The limited use of restitution in the past can most likely be traced to the low priority given to the developing and monitoring of restitution orders by probation officers. Restitution has been unsuccessful because it is viewed by probation officers as only one of many conditions of a probation order, not because of an unwillingness of judges to consider restitution as a disposition. The establishment of a separate program with

the sole purpose of devising and administering restitution orders is viewed by the Task Force as showing the best chance of convincing judges that restitution could be effectively carried out if ordered by the court.

The Task Force took the position that restitution in the form of unpaid work at a charitable or public organization was preferable to monetary restitution even when possible for two reasons. First, in keeping with the idea that restitution demonstrates to the juvenile how they are integrated into the community, service restitution gives the juvenile the opportunity to be involved with community efforts. Second, monetary restitution by its very nature discriminates against the poor. The middle class juvenile ordered to pay restitution has more opportunities to earn money than the lower-class individual. There is also the possibility that the parents will pay the restitution ordered, leaving the juvenile with the impression of not being held responsible for their actions. Service restitution requires a proscribed amount of hours of work, regardless of the juvenile's economic background

The prospects of successfully implementing this goal and accompanying standards are quite good. Funding of juvenile resitution projects would not come out of the monies given to DCJS by LEAA of New York State's share of criminal justice block grant funds. When the Office of Juvenile Justice and Delinquency Prevention announces its Special Emphasis Project on Juvenile Restitution, a community group will be able to apply directly to LEAA for a discretionary grant to fund a juvenile resitution program. As far as could be determined, a juvenile restituion project which is consistent with the standards would not contravene any of the guidelines being proposed by the Office of Juvenile Justice and Delinquency Prevention.

JJS GOAL 16

Provisions should be established to allow for the early emancipation of juveniles capable of being self-sufficient.

STANDARDS

16.1 The New York State Legislature should enact a law allowing a person under the age of 18 to bring a petition of responsible self-sufficiency before the family court.

16.2 The family court should have the power to enter an order of responsible self-sufficiency in favor of any juvenile. Before making such an order, the court must determine:

1. That the juvenile wishes to be free from parental control; and
2. That he or she understands the consequences of being free from parental control; and

3. That he or she has an acceptable plan for independent living and self-support and the apparent ability and maturity to implement such a plan.

16.3 The legal effect of an order of responsible self-sufficiency is the complete emancipation of the minor.

COMMENTARY

This goal and accompanying standards establish a mechanism to dissolve the parent/child relationship prior to the juvenile reaching the age of majority. The premise is that individuals mature at different rates, and that some are fully capable of managing their lives prior to the legal age of majority.

There is also the assumption that some juvenile who run away from home or are in constant conflict with their parents are demonstrating a healthy response to an intolerable situation. By implication, therefore, these are instances where the juvenile's best interest would be served by releasing him/her from the control of his/her parents by issuing an order of self sufficiency.

Juveniles who are presently employed and living independent of any parental control are in practical terms already emancipated. However, legally these individuals are still considered minors, and therefore whenever they require any medical attention they are unable to receive such services without parental permission.

The purpose of the goal and standards are to help the juveniles caught in these type of situations.

Before entering an order of self-sufficiency, the court must make the following findings: that the juvenile has first, given thorough consideration to his/her request for independence; second, fully understands the legal privileges and responsibilities resulting from emancipation; and finally, has a viable plan outlining how he/she intends to support him/herself upon emancipation. The burden of proof would be on the juvenile to support his/her request for early emancipation.

Both the National Advisory Committee's Task Force (1976) and the IJA/ABA (1977, Rights of Minors) recommend creating an order for the early emancipation of a juvenile. Two states, Kansas (Kansas Revised Statutes,Sections 38-108, 1971) and Oklahoma (Oklahoma Statutes Annotated, Chapter 10, Sections 91-94, 1966) allow a child to petition the court for early emancipation.

The Task Force does not anticipate that many juveniles would be eligible for an order, but believes the option should be available to those exceptional individuals for whom the order would be a viable solution to an otherwise unresolvable conflict.

JJS GOAL 17

Provide adequate services to juveniles in intra-personal or family conflict.

STANDARDS

17.1 Designate a city/county public human services agency to provide intake, referral and case management services to juveniles and families in need of services.

17.2 Designate a state-wide public human services agency to supervise, monitor, and evaluate local delivery of services to juveniles and their families.

17.3 A broad spectrum of services shall be provided which are reasonably designed to assist a juvenile in conflict with her or his family to resolve their conflicts.

17.4 Services shall be offered on a voluntary basis, and the juvenile and the family shall not be required to receive such services.

17.5 The spectrum of services provided shall include both crisis intervention and continuing service components. All persons providing services or otherwise communicating with a juvenile and his or her family pursuant to these standards shall take care to use language understood by the juvenile and the family.

Crisis intervention services consist of an interview or series of interviews with the juvenile or her or his family, as needed, conducted within a brief period of time by qualified professional persons, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the juvenile or the family. Crisis intervention services shall include the arrangement of temporary alternative nonsecure residential care, if required. Alternative residential care shall be provided in a family or small group setting through the use of relative homes, foster homes, runaway shelters, group homes, and similar resources.

Crisis intervention services shall include, but not be limited to, the provision of a referral to services for suicide prevention, psychiatric or other medical care, psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the juvenile and the family.

Continuing services shall include, but not be limited to psychiatric or other medical care, psychological, welfare, legal, educational or other social services, and the arrangement of an alternative residence.

17.6 Services shall be provided in a variety of ways that maximize accessibility and responsiveness to the needs of juveniles, families, and the community.

It is desirable that the means by which such services are provided include, but not be limited to, the following:

a. Publicized crisis switchboards (hot lines) for juveniles and for parents staffed on a twenty-four hour basis with personnel who have language skills appropriate to the needs of the community served. Conversations on such switchboards should be confidential and should be neither monitored nor recorded.

b. Publicized walk-in service centers which accept self-referrals by juveniles and their families, as well as referrals from law enforcement and other community agencies and groups. Such centers shall be run with minimum formality and will in most cases provide essentially short term assistance, acting as brokerage centers for referral to more long-term and specialized services. It is desirable that such centers utilize multidisciplinary staffs, both regularly employed and volunteer, including para-professionals and persons from the community area served. In larger cities, such centers should be located in various neighborhood areas.

COMMENTARY

When in accordance with the recommendation of the Juvenile Justice Task Force, jurisdiction over Persons in Need of Supervision (PINS) cases is removed from Family Court (cf JJS Goal 8), there arises a direct and immediate problem of the continuing provision and access to existing services for these children and their families without the present screening and referral mechanisms of probation intake units of Family Court. Goal 17 and its accompanying standards are concerned with the replacement of these administrative and operative mechanisms with adequate and meaningful non-judicial services and management. It is clear, that the removal of the PINS jurisdiction without careful planning and program development could result in numerous unresolved social problems. The management of needed resources will require the establishment of alternative screening and referral mechanisms as well as lateral communication and exchange between service providers. In addition, it is crucial that agents involved in screening and referral, including law enforcement officials, be fully informed as to the existence and availability of services particularly on an emergency basis. Thus, the Task Force acknowledges the significant role which community and professional involvement must play in these services in order to guarantee successful delivery.

To achieve these ends, assure cohesive planning, and avoid duplication of services in one locality and lack of services in another, an appropriate state-wide agency (e.g. Department of Social Services, Board of Social Welfare, etc.) must be designated to monitor the entire process. This agency should also serve as a central clearinghouse and referral mechanism, allowing local agencies the opportunity to obtain information on the nature of services offered in other areas. The state-wide agency should be resonsible for monitoring and evaluating local services to assure high standards.

JJS GOAL 18

Provision of non-coercive alternative residential opportunities for juveniles in intra-personal or family conflict.

STANDARDS

18.1 The services rendered to a juvenile in intra-personal or family conflict shall include, in appropriate cases and upon the agreement of the juvenile and his or her parents or custodian, the arrangement of an alternative residence in a relative home, foster or group home, or other suitable family setting. No alternative residential placement should be arranged over the objection of a juvenile or of his or her parent or custodian.

18.2 An alternative residential placement for a juvenile in conflict may be arranged only in a non-secure 20 bed or smaller residence.

18.3 The state shall be responsible for providing financial reimbursement, on a scale comparable for court related youth placement, for non-coercive alternative residential opportunities for juveniles in conflict.

COMMENTARY

On any given day in New York City there are approximately 15,000 (COVCCA) homeless youths on the street. There must be provided, well publicized, non-coercive residences, to which these juvneiles may go. The potential for involvement in crime that exists on the streets of the city has been well documented. Youths who have not place to sleep, no access to adults who may be able to assist them in dealing with their confusions, are open to becoming involved in prostitution, drug use or petit larceny. Where possible a youth should be encouraged to return home. However, in the case of a habitual runaway there is no point in returning the individual to his parental/custodial home without the provision of psychological, legal, or other appropriate services. Very often, "running away" is a healthy reaction to a negative environment and this factor must be taken into consideration when working with a juvenile toward identifying and solving his problems. In addition, if a

youth is unable to live with his parents or custodian, he must have the option of living elsewhere in an environment which contributes to his healthy growth and development.

JJS GOAL 19

Provide emergency services for juveniles in crisis.

STANDARDS

19.1 Any law enforcement officer may take into temporary custody any juvenile who upon reasonable cause he believes has a mental illness which is likely to result in serious harm to himself or others. "Likelihood to result in serious harm" means:

1. "Substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or

2. A substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm." (N.Y.S. Mental Hygiene Law, §31.39, 1976)

19.2 As soon as is practicable, the officer or staff member, shall notify the parent, guardian, or custodian of the admission of the juvenile for emergency evaluation and treatment.

19.3 Any receiving facility shall require a written report stating circumstances under which the juvenile's condition was called to the attention of the officer or staff member.

19.4 When a determination is made that the juvenile can be treated without being detained, the juvenile shall be released and services provided on a non-residential basis.

19.5 A juvenile must be provided the opportunity for independent legal counsel in any voluntary or involuntary admission to a mental hygiene facility to be appointed by the court if necessary, such as would be provided in any adult proceeding under the law.

19.6 Nothing in these standards shall be construed as limiting in any way the right otherwise given by law of any juvenile, or of the parent, guardian, or custodian to make voluntary application for medical or mental health services on an inpatient or outpatient basis.

COMMENTARY

It is recognized that juveniles, upon informed consent, have the right to such services as are deemed necessary to preserve life. However, the issue of the extent to which a juvenile may receive medical or psychiatric services without parental consent or knowledge is an area which needs extended discussion. The Task Force has not treated the topic of the full spectrum of services that juveniles have a "right" to because of constraints on time and the scope of this document. Nevertheless, the importance of access on a voluntary basis to a substantial range of emergency services (cf JJS Goal 17) is recognized. This access would encourage juveniles who feel themselves to be in need of various kinds of assistance to seek and participate in, of their own volition, processes to ameliorate their circumstances. This is in keeping with the stated philosophy of this document to motivate young people to become self-responsible.

JJS GOAL 20

Reallocate government and voluntary chidcare placement agency staff and financial resources to focus on the development of community based treatment and residential alternatives for juveniles in need of services.

STANDARDS

20.1 Government childcare placement agencies, including DOP, DFY and DSS, shall examine present allocations of childcare resources and develop priority reallocation for community based treatment services based upon present and predicted populatien needs.

20.2 Voluntary childcare placement agencies shall examine present allocations of childcare resources and develop priority reallocation for community based treatment services based upon present and predicted population needs.

20.3 Particular attention shall be focused on the development of Day Treatment Services; Foster Care Placements and probation alternatives for court-involved juveniles.

20.4 Educate and involve communities in the planning and development of community based facilities for treatment and residential needs of the community's juveniles.

COMMENTARY

James M. H. Gregg, Acting Administrator of LEAA, in a news release on Operation Sisters United, a non-residential community-based diversion program for delinquent girls, made the following observation. "It (this program) demonstrates that funds are only part of the solution--the real way to rehabilitate youth is through caring communities that direct the energies of citizens toward helping their own youth." (LEAA, 10/77)

Historically delinquents had been placed in residences great distances from their neighborhoods, primarily as a result of the desire to remove the juvenile from criminogenic influences. In addition to the consequences of deprivation of liberty as a form of punishment, this displacement results in the disruption, or, more extremely, the severance of familial, cultural, and geographic roots (Rothman, 1971; Platt, 1969).

Since the late 1960's a number of issues have accelerated the trend toward small, community-based residential and treatment alternatives for court involved juveniles. First has been the growing disillusionment with the ability of the more traditional institutions to rehabilitate the nation's youth; second, the energence of "labelling theory" with its identification of the undesirable effects of institutionalization, (Schur, 1971; Coates, Miller & Ohlin, 1974) and increasing recognition of the importance of the juvenile's ability to be reintegrated into his/her own community (Goldstein, Freud & Solnit, 1973).

The concept of community-based services must not be limited to the provision of residential facilities. Experimental schools, counseling, jobs, and recreation/ resources are all valid elements of a community-based program of services that can provide the necessary links for the offender to discover a legitimate role in the community and mitigate against further delinquency (Ohlin, Miller & Coates, 1977). Nor does community-based mean only that these services are provided in the midst of a busy urban/residential area. Rather, that the people and institutions within a specific area have assessed their service needs, and have committed themselves to obtaining and supporting those services. Clearly the role of the local community is to identify problems, suggest possible solutions, operate specific programs and provide feedback on those programs. (For fuller discussion on the definition of community-based services see generally, publications of the Juvenile Correctional Reform Project, Center for Criminal Justice, Harvard Law School). A key element in the efficacy of community-based alternatives is the nature of the relationships that develop between the service-users

and the other individuals and institutions of the community (Coates, 1977).

Three elements are central to the argument advocating greater development of community-based correctional facilities and services: one, that the processes of these programs are more humane than the traditional institutions; two, the belief that the deeper a person penetrates the formal criminal justice system the more difficult it is for her to return successfully to her community; and finally, that community based programs are less costly to the taxpayer. (President's Commission, 1968) Furthermore, a number of studies have shown that community-based programs are no less effective than traditional institutional incaceration in terms of recidivism rates, "....and that many [offenders] can be handled in the community without presenting a higher risk to the community." (Ohlin, Miller & Coates, 1977, p. 31.)

The Task Force is cognizant that not all juveniles may be best helped within their own communities. For a short period of time a youth may need to leave her original environment for a variety of reasons, but ultimately that youth must return and must be assisted in learning new ways of dealing with that environment.

However, there is nationwide concern that: "The development of community corrections is not associated with reduced rates of institutional incarceration.... In general as the number of offenders in community-based facilities increases, the total number of youth incarcerated increases." (Rutherford, Bengus, p. 30,1976). This development is antithetical to the concept of community-based services, the cornerstone of which is the decrease in the number of juveniles institutionalized in non-urban and or out-of-community secure and non-secure facilities.

JJS GOAL 21

Rights and procedures for juveniles in residential care shall be explicitly defined and systematically enforced.

STANDARDS

21.1 The rules and regulations to be enforced against or on behalf or a juvenile placed in a residential facility shall be posted in each living area of that facility.

21.2 Corporal punishment shall be prohibited. However, use of physical force should be permited:

a. For self protection;
b. To separate juveniles who are fighting;
c. To restrain juveniles in danger of inflicting harm to themselves or others; or
d. To restrain juveniles who have absconded or who are in the process of absconding, and were placed under court order.

When use of physical force is authorized, the least force necessary under the circumstances should be employed.

Staff members of residential and non-residential programs who are assigned to work with juveniles shall receive written notice that corporal punishment is prohibited and that, in accordance with staff disciplinary procedure, loss of employement may result if use of corporal punishment is proven.

21.3 Juveniles shall be placed in room confinement only when no less restrictive measure is sufficient to protect the safety of the facility and the persons residing or employed therein. No juvenile shall be placed in room confinement for more than one hour unless the procedures for extended room confinement have been followed.

Procedures for extended room confinement or privilege suspension:
A chronological record of all disciplinary actions taken against juveniles placed in residential facilities shall be maintained. This record shall contain the name of the juvenile disciplined, the name of the person imposing the discipline, and the date of, the duration of, the actions leading to, and the reasons for the disciplinary action.

Before juveniles in a residential facility may have a privilege suspended for more than 24 hours, they shall be given notice of the alleged infraction, access to the facility ombudsman or a person in an equivalent capacity, and an opportunity to respond to the allegations.

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In the event that a juvenile exhibits unmanageable behavior, i.e., self-destructive or assaultive, which necessitates the employment of room-confinement for the purposes of short-term control, such confinement shall not be greater than two hours. Should a juvenile require longer confinement, at the end of each two-hour period the facility's senior supervisory personnel shall be apprised of the specific conditions which require further confinement and shall be responsible for determining the appropriateness of such confinement. If at the end of a 24-hour period, the facility director, in consultation with the ombudsman, staff, medical director, and the juvenile (provided she/he is competent), determine that such confinement has been insufficient to modify the unmanageable behavioral problem, the juvenile shall be returned to Family Court for transfer to a psychiatric hospital pursuant to Article 31 of the Mental Hygiene Law. No juvenile shall be confined to her/his room for longer than 24 hours unless it is a weekend or holiday and court is not in session.

Juveniles placed in room confinement for more than 12 hours should be provided with at least two hours of recreation and exercise outside the room of confinement.

21.4 Place of confinement should be the juvenile's own room. When this is not possible, the place of confinement should be lighted, heated, cooled and ventilated the same as other living areas in the facility and should be examined at least once daily by a physician; and visited at least every hour by a child care worker or other menbers of the treatment staff.

21.5 The temporary suspension of a privilege enjoyed by a juvenile who is detained or subject to the dispositional authority of the Family Court shall be an authorized form of discipline. A juvenile shall be advised of the privileges subject to suspension and a list of such privileges should be posted in each residential facility. Suspension of a privilege shall be a proper subject for inquiry by the ombudsman.

21.6 Written grievance procedures shall be established for all residential and non-residential programs. Each juvenile shall be provided with an explanation and a copy of these procedures at the time the juvenile is admitted to the facility.

Although the form of grievance procedures may vary, all such procedures shall provide for:

a. Review of grievance by an agency official above the level of the facility director, and by an independent review board, or an impartial individual not employed by the agency;

b. Time limits for resolution of the grievance; and

c. Involvement of staff and juveniles.

21.7 Transfers of juveniles from youth agencies to adult correctional agencies shall be prohibited.

21.8 A juvenile shall have the right to send mail without prior censorship or prior reading. A juvenile shall have the right to receive a mail without prior reading or prior censorship. However, if the institution suspects the delivery of contraband or cash, it may require the juvenile to open the mail in the presence of a staff member.

A juvenile shall have the right to mail a minimum of two letters per week at agency expense and any number of additional letters at his or her own expense.

All cash sent to juveniles shall be retained by the juveniles or held for their benefit in accordance with the procedures of the institution. However, such procedures shall be in writing and approved by the agency.

Packages shall be exempt from these provesions and be subject to inspection in the presence of the juvenile at the discretion of the insitution.

21.9 Telephone Access - Juveniles shall have reasonable access to a telephone to speak with counsel, ombudsman or the court. Calls to family and friends shall be allowed subject to predetermined rules determining reasonable hours and restrictions.

21.10 Restrictions on the right of juveniles to determine the length and style of their hair shall be prohibited, except in individual cases where such restrictions are necessary for reasons of health or safety.

Restrictions on the right of juveniles to grow facial hair shall be prohibited, except in individual cases where such restrictions are necessary for reasons of health or safety.

Juveniles shall be required to observe reasonable precautions where the length and style of their hair could possibly pose a health or safety problem unless prescribed precautions are taken.

21.11 Juveniles shall have the right to wear their personal clothing if they choose, or wear combinations of their own clothing and clothing issued by the facility in cases where their own clothing does not meet all of their clothing needs. Clothing issued by the facility shall be available to those children lacking personal clothing or who choose to wear issued clothing.

Juveniles shall also have the right to wear items of jewelry. However, reasonable restrictions may be imposed which prohibit juveniles from possessing items of clothing or jewelry that could

be used to inflict bodily harm on themselves or others, or endanger safety in employment or other such circumstances.

21.12 Ombudsmen shall be available to all juveniles in residential facilities at all times, upon reasonable request, pursuant to clearly stated and posted access rules.

For standards relating to duties and procedures of ombudsmen, see JJS Goal 23.

21.13 The control of juveniles placed in a residential facility shall be solely a staff responsibility. Under no circumstances shal residents of the facility be used to control other juveniles.

The return to a facility of juveniles who leave without authorization shall be the responsibility of staff and law enforcement agencies. However, the staff shall be authorized to allow residents of the facility to assist in carrying out this responsibility if:

a. The presence of the resident would aid in inducing the juvenile to return voluntarily;

b. The resident is accompanied by a staff member at all times; and

c. The use of physical force by the resident to secure the absent juvenile's return is prohibited.

21.14 A juvenile shall have the right to receive any and all visitors at the times fixed for visits. However, a facility may deny access by a visitor if the visit would present a substantial danger to the health of the juvenile or the safety of the institution. Whenever a visitor is denied access, a written report shall be prepared describing the danger which the visit would pose and the basis for believing that the danger exists. The report shall be kept on file and a copy shall be given to the juvenile.

21.15 All institutions shall afford the juveniles placed therein, the right to participate in the religious observances of their choce, or not to participate at all.

Counseling to members of their faith by authorized representatives of religious denominations shall be permissible at all facilities. However, the use of physical force, punishment or coercion to compel attendance or participation in religious observances shall be prohibited.

21.16 Under no circumstances shall stimulant, tranquilizing, or psychotropic drugs be used for purposes of program management or control, or for purposes of experimentation and research. In emergency situations and when the consent of the juvenile cannot be obtained, drugs may be administered subject to the 24-hour room confinement provisions. In these circumstances when drugs are prescribed, the following procedures shall be adhered to:

1. In addition to the consent of the juvenile, the consent of the parents or guardian, of any juvenile under the age of 16 is obtained;

2. Such drugs are prescribed by a licensed physician and administered by a registered or licensed practical nurse;

3. The program has a procedure, approved by the department for recording all adminstrations of such drugs to juveniles, and for monitoring the short and long term effects of such drugs (the record maintained by the program shall include the type and quantity of the drug administered, together with the date and time of day; the physician's detailed reason for the prescription; the physician's detailed observations of the effects of the drug, together with the written observations of other personnel and those of the juvenile).

21.17 Limit on techniques that manipulate the environment of the juvenile.

There shall be a limit on the use of techniques that manipulate the environment of the juvenile, or are of an intrusive nature. Such methods, which include behavior modification techniques, shall only be used when:

1. In addition to the consent of the juvenile, the consent of the parents or guardian of any juvenile under the age of 16 is obtained;

2. None of the rights set forth in these standards is infringed;

3. There is no reduction in the safe, humane, caring environment required by other standards;

4. Food, including snacks, toiletries, and other items necessary for a minimum quality of life, as well as the rights enumerated, should not be diminished or denied for any purpose.

21.19 An external review board, including medical, psychiatric, legal and social work professionals, shall be appointed to monitor the administration of medication within juvenile residential facilities. (See generally, IJA/ABA Corrections Administration, 1977).

COMMENTARY

> "The juvenile correctional process has long remained immune from basic concepts of due process. Only recently have the courts had occasion to examine some of the myriad discretionary decisions involving juveniles under correctional supervision. The isolation of juvenile corrections from due process concerns is well illustrated by the fact that the leading texts and casebooks in juvenile justice pay little or not attention to the corrections phase. (IJA/ABA, Corrections Administration, p. 79, 1977).

This goal and its accompanying standards, in concert with JJS Goal 23, is guided by the principle that the basic concepts of due process law must apply to juveniles under correctional supervision. Any alteration in the status or placement of a juvenile that might result in less freedom, more security or extention of time under court jurisdiction, must be first subject to formal procedure designed for challenge. The more severe the potential change the more formal must be the challenge process.

JJS GOAL 22

Provision of adequate facilities and services for juveniles in residential care. Adequate facilities and services being defined as those which contribute to the individual growth and development of juveniles.

STANDARDS

22.1 Residential facilities to the greatest extent possible, shall be located in or near the communities from which they draw their population. Such facilities shall not be on the grounds of an institution used to house adults accused or convicted of committing a criminal offense.

22.2 Each living unit within the facility shall not exceed a bed capacity of 20. The design of the living unit shall provide for a mixture of private and semi-private rooms to be assigned on the basis of the needs and preferences of the juvenile. Each living unit shall make provisions for game rooms, study areas, and staff offices. In addition, the facility shall provide for indoor and outdoor physical activities. Facilities shall make provision for and be co-educational in nature.

22.3 Residential facilities defined as a facility with a bed capacity in excess of 50 where juveniles are either placed or committed by the court, shall have the appropriate staff necessary to provide for the care, treatment, and supervision of the juveniles residing therein.

Recommended minimum, treatment staff to youth ratios are:

a. One (1) psychiatrist for at least 20 hours a week per 100 juveniles;

b. One (1) psychologist per 100 juveniles;

c. One (1) associate psychologist per 50 juveniles;

d. One (1) caseworker per 20 juveniles;

e. One (1) child care worker on duty per 10 juveniles during waking hours;

f. One (1) child care worker on duty per 20 juveniles during normal sleeping periods;

g. One (1) educational diagnostician per 100 juveniles;

h. One (1) diagnostic classroom teacher for every 8 juveniles in need of special education;

i. One (1) teacher per 12 juveniles;

j. One (1) vocational counselor per 100 juveniles;

k. One (1) academic counselor per 100 juveniles.

In addition, a registered nurse shall be in attendance on a 24 hour, 7 day per week basis, and a medical doctor and dentist should be available on staff or on call at all times.

22.4 The state shall develop rules and regulations setting forth the qualifications for the positions necessary to provide care, treatment, and supervision of juveniles. It is recommended that at a minimum, these rules and regulations should require that:

a. Academic Counselor

Persons employed as academic counselors should be licensed or certified pursuant to the law of the State of New York to teach in public schools and should have experience in teaching children;

b. Associate Psychologist

Persons employed as associate psychologists should be licensed or certified as a psychologist under the law of the State of New York;

c. Caseworker

Persons employed as caseworkers should, in earning a bachelor's degree, have taken courses in social work, psychology or the behavioral sciences, and should, in addition, have had at least one year of full-time paid employment experience working with adolescents in institutions or the community;

d. Child-Care Worker

Persons employed as child care workers shall have a high school degree or its equivalent and at least one year of full-time paid experience in working with adolescents in institutions or in the community;

e. Dentist

Persons employed as dentist shall be licensed to practice dentistry in the State of New York;

f. Educational Diagnostician

Persons employed as educational diagnosticians shall have earned a master's degree in special education and have taken graduate level courses on formal and informal assessment techniques;

g. Medical Doctor

Persons employed as medical doctors shall be physicians licensed to practice in the State of New York;

h. Psychiatrist

Persons employed as psychiatrists shall be physicians licensed under the law of the State of New York who have successfully completed the requirements of a full-time, supervised and accredited psychiatric residency in an accredited psychiatric program, plus six months full-time work with children or adolescents whether during such residency or during any two-year period thereafter;

i. Psychologist

Persons employed as psychologists shall be licensed or certified to practice psychology under the law of the State of New York and have experience working with troubled adolescents;

j. Vocational Counselor

Persons employed as vocational counselors shall be licensed or certified pursuant to the law of the State of New York to teach in public schools and have experience in teaching children and in job development.

Except in the case of psychiatrists, medical doctors, dentist, and medical nurses, the necessity for advanced academic credentials shall be forgiven when an individual has an appropriate number of years experience in direct service work with juveniles or is under appropriate professional supervision.

22.5 An assessment shall be performed for each juvenile entering a facility by an assessment team composed of a child care worker, teacher, psychiatrist, psychologist and institutional ombudsman or other person within the facility serving in the capacity of juvenile advocate.

The assessment shall include: Family history, developmental history, physical examinations, psychological testing, psychiatric interviews, language and education analysis and information concerning the nature and circumstances of the conduct on which the adjudication is based. It shall be the responsibility of the family court and/or appropriate placement agency to ensure that any of the above material in its possession is forwarded to the facility.

22.6 Within 10 days of the juvenile's admission, an institutional assessment report shall be completed. This report shall provide an evaluation of the juvenile's specific problems, deficiencies and resources, and contain an individual treatment plan. The treatment plan shall become part of the juvenile's file and a copy shall be forwarded to the family court.

The plan shall be reviewed monthly by appropriate staff including members of the assessment team and other members of the treatment staff with knowledge of the juvenile's progress under the plan. Any change in the plan shall be noted in the juvenile's file and notification of the modification forwarded to the placing family court. The juvenile shall be involved in this process, and her/his own goals be a primary consideration in the formulation of the treatment plan.

22.7 Education programs shall provide for the diverse educational needs of the juveniles placed therein, and shall include academic, vocational, and special education components.

22.8 A curriculum substantially equivalent to that required under the law of the State of New York for public school students shall be available to all juveniles placed in a residential facility. The academic program shall meet all requirements necessary for the transfer of earned credits to public schools within the state and shall be qualified to award academic diplomas to juveniles who meet the requirements for the award of such diplomas during their placement.

22.9 Residential facilities shall provide a wide-range of mental health services which are flexible enough so as to be adaptable to the different needs of juveniles in care. For limits on use of drugs see Standard 21.16.

When therapeutic mental health services are provided, the juveniles family involvement shall be emphasised insofar as is possible and consistent with the needs of the juvenile.

Therapy shall only be conducted by psychiatrists, psychologists who have a doctoral or masters degree in psychology, or individuals with masters degrees in social work and counselling. The necessity for these credentials shall be forgiven when an individual has an appropriate number of years experience in direct service work with juveniles or is under appropriate professional supervision in accordance with the above stipulations.

22.10 Residential facilities shall provide opportunities for exercise and constructive and entertaining leisure time activity. The opportunities shall be in addition to the physical education requirements that may exist under the education laws of the jurisdiction. Activities shall be balanced between individual type and team type activities of both indoor and outdoor varieties. At least two hours of recreation shall be provided on school days and three hours on non-school days, not including unsupervised periods spent primarily in such activities as watching television.

22.11 All juveniles shall receive career counselling to provide them with knowledge of a wide-range of career options and with sufficient information to choose between vocational and academic areas of emphasis.

On-the-job training through work release programs as well as job placement services shall be provided for all juveniles participating in vocational education programs.

Limits shall be established for "work experience" training consisting of institution-maintenance activities. In no case shall those activities constitute the primary focus of a vocational education program.

22.12 Special education programs shall be available to meet the needs of juveniles who are educationally disadvantaged. Juveniles who shall be provided with special education include, but are not limited to, those who:

a. Exhibit significantly sub-average general intellectual functioning concurrently with deficient adaptive behavior;

b. Exhibit an inability to read understandably due to brain lesions;

c. Exhibit an impairment in their ability to learn because of organic brain damage;

d. Exhibit general or language disabilities; and,

e. Exhibit emotional disturbances which inhibit their ability to learn.

In utilizing intelligence quotient and achievement tests to determine whether a juvenile requires special education, primary reliance should be placed on those tests which are appropriate for the juvenile's ethnic and cultural background.

22.13 Residential facilities shall provide adequate, varied diets and well-prepared and well-served meals supervised by a licensed dietician who shall receive special training pertaining to allergic reaction, hyperactivity and other mental, emotional and physical reactions of susceptible youths to particular food substances.

To the extent possible, food ordering and preparation shall take into consideration ethnic tastes and religious and personal food preferances of the juveniles.

22.14 Residential facilities shall provide programs designed to protect and promote the physical and mental well-being of juveniles placed therein, to discover those in need of short-term and long-term medical and dental treatment, and to contribute to their rehabilitation by appropriate diagnosis and treatment.

Residential facilities shall undertake treatment of health problems without cost to the juvenile or his family including medical care and correction of health defects of a cosmetic nature. Procedures shall be established for assuring the continuation and completion of treatment begun in a facility whenever a juvenile remains subject to the disposition of the family court following release.

Health services available to juveniles should be of equal quality to that available in the community.

22.15 Each juvenile, as part of the admittance procedure shall be examined for apparent injuries, and for fever or other signs of illness. The examining officer shall also note the juvenile's level of consciousness and level of gross motor function. Written standing orders shall define the conditions which require prompt medical or nursing attention.

All juveniles shall undergo a health assessment at the first possible opportunity after admission. Exceptions shall only be made for juveniles with a written record of a thorough health assessment which is sufficiently current so that no substantial change can be reasonably expected. Health assessments shall include a physical examination within 24 hours of admission, the taking of a medical history, the taking of a mental health history if necessary, screening for vision and hearing defects, immunization status, and a dental examination. Health conditions which might affect behavior, such as epilepsy or diabetes, shall be reported to the appropriate assessment team in a manner compatible with medical ethics and the rights of the patient.

22.16 Appropriate permission shall be obtained for the performance of significant medical and dental procedures. Permission for such procedures shall be obtained from a juvenile's parents, or guardian unless the juvenile has a legal right to receive the medical or dental service without that consent.

All medical and dental care shall be rendered with consideration for the juvenile's dignity and feelings. Medical procedures shall be performed in privacy, and in a manner designed to encourage the juvenile's subsequent utilization of appropriate medical, dental and other health services.

COMMENTARY

The juvenile justice system is burdened with a dual responsibility which potentially implies an inherent contradiction. On the one hand the system is obligated to provide protection of the community from delinquent youth and on the other to assure an environment which contributes to the development of personal and social responsibility. Whether it is possible to inculcate the latter while guaranteeing the former is questionable. (Morris, 1974, p. 26) However, given that we do incarcerate juveniles, the underlying principles of "treatment" must be the observation and protection of the rights due a juvenile. The right to refuse, without penalty, rehabilitative services must be respected. Alternatively, appropriate opportunities for work, and educational advancement should be provided. Concommitant with those opportunities there must be free and open access to counselling services, therapy programs, religious programs, self-governing associations and other activities which might encourage the development of a sense of self-responsibility. Since there is no evidence to support the contention that coercive treatment encourages the development of such responsibility, such coercion must be prohibited (Fogel, 1976).

These standards specify what the Task Force believes to be the minimal requirements for a residential facility. The establishment of a humane environment in such facilities is attendent upon a wide variety of technical and support services. While these support services cannot supplant a positively supportive attitude on the part of the staff, the lack of these minimally stipulated staff-resident ratios, professional training and experience requirements and assessment and service procedures would severely aggravate any attempt at developing responsible attitudes on the part of the juveniles. These standards reflect the consensus of major professional groups and individuals.

JJS GOAL 23

Establish ombudsman youth advocacy services for youth in public and voluntary childcare agency residential facilities.

STANDARDS:

23.1 This service shall be funded with public monies and directly responsible to the Attorney General of the State of New York.

23.2 All ombudsmen shall be licensed attorneys in New York State and have extensive experience in Family Court proceedings and juvenile matters.

23.3 Primary responsibility of an ombudsman is to ensure that the legal rights of juveniles within facilities are not abrogated and that juveniles are living in a safe, humane environment.

23.4 Duties of an ombudsman will be: facility visits on a regular bases, with a minimum of two vists per week to each facility; accessibility by an emergency telephone number during traditional working hours, evenings and weekends.

23.5 Associate ombudsmen, under ombudsmen supervision, may supplement the work of the ombudsman in the tasks of interviewing intial investigation of complaints and counseling of juveniles. Minimum qualifications for such a position shall be completion of a certified paralegal program of education or an appropriate number of years of experience in legal research, case investigation and legal counseling.

23.6 An independent review board of five people, shall be formed who will meet every two months to review all grievances collected by ombudsmen.

23.7 At least two members of the independent review board shall not be past or present employees or any child caring institution or agency.

23.8 Ombudsmen shall not be assigned to facilities operated by one specific agency, but shall be responsible for a selection of facilities operated by different agencies.

23.9 Hiring of ombudsmen will be solely the responsibility of the review board.

23.10 There will be an ombudsman office and posted hours and telephone number so that residents will know where and when the ombudsman is in the facility. She/he will visit residents in their cottages and around the grounds.

COMMENTARY

"In July 1971, 13 training schools in New York State, plagued by allegations of rampant child abuse and chaotic conditions were transferred from the Department of Social Services to the New York State Division of Youth (DFY). Concerned by the charges and committed to defending the legal rights of juveniles newly placed under his jurisdiction, the director of the DFY ordered the design and implementation of the first departmental ombudsman program for juveniles in the United States." (Goddard, 1973, p. 22).

The essence of the rationale for the provision of ombudsman services to juveniles in institutions was stated succinctly in DFY's discretionary grant application to LEAA, "The problem we are facing is that the young people residing in the Division's various facilities...often feel that they have been lost in the system, that there is no one protecting their rights or to whom they can present their grievances." (Goddard, 1973, p.121).

As early as the mid-sixties, the President's Commission on Law Enforcement and Administration of Justice urged all correctional agencies to "establish just and effective procedures for dealing with prisoner grievances" (Keating,Jr. et al. 1975 p.v). A 1973 survey of over 200 adult correctional institutions showed that a majority of the responding institutions had already implemented some type of formal grievance mechanism (McArthur, 1974, p.41). In 1973 a grievance procedure involving independent arbitration was introduced into their system by the California Youth Authority (CYA). The then director of the CYA, Allen F. Breed, cited the worth of the program as a means of promoting justice and demonstrating a democratic process within an authoritarian setting; "Kids who turn delinquent have a very keen sense of fairness, maybe because they've learned to recognize the lack of justice in how they've been handled before they got to us. Young offenders ask themselves why they should act in a law-abiding manner when they are constantly treated in a way that doesn't seem fair." (Keating, Jr. 1975 p.5). The National Advisory Commission on Criminal Justice Standards and Goals (1973),The American Correctional Association (1970), The Group for the Advancement of Corrections (1974), The National Council on Crime and Delinquency (1972), and the American Assembly (1972), have all acknowledged the critical need for and strongly recommend the creation and implementation of grievance mechanisms, ombudsman services, or inmate councils in all correctional facilities to provide prisoners with non-violent processess by which to have

JJS GOAL 24

Develop and adopt explicit release criteria for juveniles in care in public agencies, voluntary agencies and on probation.

STANDARDS:

24.1 The general release criteria of the institution or probation shall be written and specific.

24.2 State Division of Probation and State Office of Court Administration shall be responsible for the development of release criteria for juveniles on probation.

24.3 The juvenile shall be clearly advised of all penalties, i.e., loss of privileges, extension of stay within the facility or continuing supervision or transfer to another facility, for infringement of rules.

24.4 The release criteria shall be used in a research program to evaluate the value of those criteria in achieving the goals of the institution and of the individual juvenile.

COMMENTARY

The goals and standards regarding explicit release criteria for juveniles, were formulated in accordance with the general concern for due process rights of all persons under the authority and/or care of the State (cf. JJS Goal 21). The extension and guarantee of these rights for juveniles particularly with regard to release criteria must be considered a crucial part of the juvenile's development of self-responsibility.

On the one hand, a juvenile facing what appears to be arbitrary and ambiguous rules about release is afforded no incentive or opportunity for self-development. Alternatively, the coercive authority of indefinite release may aggravate self-development and encourage further disbelief in any principles of justice.

JJS GOAL 25

Probation supervision and the delivery of services shall be responsive to the needs of the juvenile and the community.

STANDARDS:

25.1 Local probation departments shall establish decentralized neighborhood probation offices, as outlined in JJS GOAL 13, to encourage closer contact between the community supervision staff and the juvenile on probation supervision.

25.2 Differential supervision of juveniles placed on probation, as outlined in the Division of Probations' Rules and Regulations, shall be instituted.

25.3 Probation officers shall not have workloads which exceed 25 intensive supervision cases or their equivalent in work hours. As defined in the Rules and Regulations for intensive supervision cases, the officers must personally visit the juvenile at least four times monthly.

25.4 A services plan shall be developed for each juvenile ordered to community supervision by the Family Court. The components of the plan shall be derived from all available dispositional reports, the comprehensive community assessment, the input of significant others in the delinquent's life, and the wishes of the delinquent. The plan shall be developed by the worker with the assistance of other resources available at the time the case is assigned. Its objectives shall be clearly stated and in keeping with the needs outlined in the dispositional order.

25.5 The adjudicated juvenile referred for services shall be given full opportunity to participate in creating the services plan and have a voice in setting his own goals. He shall be present, when possible, at case staffings and should participate as a member of the staffing team. Significant others, including parents, spouses, or others, shall also be included in these staffings whenever possible.

25.6 All adjudicated delinquents shall receive the level of supervision and services identified in the services plan. Where specific services ordered by the Family Court are not available, it shall be the responsibility of the community supervision staff to return the case to Family Court for further dispositional consideration.

25.7 Citizen advisory boards, representing a cross-section of the community, including juveniles, shall be established to participate with the community supervision staff in developing services for juveniles on probation supervision.

COMMENTARY

Like most other aspects of the juvenile justice system, the Department of Probation has suffered from an over-extension of its resources and an inability to fulfill the high expectations of those it serves. In response, like so many other agencies, probation has become highly bureaucratic and has been accused of being unsympathetic either to the needs of the juvenile or the community.

The decentralization of probation services, strict maximization of caseloads, full availability and utilization of reports and assessments, and the active participation of the community and the juvenile in the probation supervision process are all incorporated in the standards of this goal. This plan is intended to begin the development of a more responsive and sympathetic relationship between the juvenile, the juvenile justice system and the community as they interface through the probation process.

DISSENTING OPINION

STANDARD 4.5

The 5th standard under the goal, "to develop statewide capability for comprehensive youth services delivery", indicates that there are four major phases of a youth services system model. The standard set forth above should be limited to Phase I "development and prevention functions", and that Phase II, "juvenile court - adjudicatory process functions", should have its own standard relating to the organization of community services and access by court intake (Probation).

In sum, therefore, removal of the statement" ... and court intake ...", would more closely set forth, from my perspective, what phase the standard should apply to.

STANDARD 4.11

Although I endorse the overall stand that community services be organized for maximum access by court (Probation) intake as diversion for juveniles who are not an immediate threat, I find it necessary to point out that indirect controls would seem impractical in the light of the diversion experiences of Probation. Voluntary acceptance of an offer to be referred to a community youth services program would be the normal reaction of any juvenile faced with the possibility of entry into the formal juvenile justice system. In fact, it is desirable that this type of voluntary referral be made much earlier than at the time of initial contact with the juvenile justice system. Once a complaint has been received by the court's representative handling preliminary procedures (Probation Intake), the responsibility for the decision to refer or not to refer becomes a shared one of the court (Probation Intake) and the juvenile. Accountability at this point cannot

be left to some sort of "indirect control" as set forth in the above-cited standard. It is granted that the "contract accountability" set forth in the standard would be useful for monitoring overall agency performance. However, accountability would be reinforced through individual case monitoring.

William P. Benjamin.

Goal 8

I cannot accept the immediacy of the removal of PINS from the Family Court jurisdiction as being in the best interests of either the individual youth involved, the family of that youth, or the community. Finite resources demand priority-setting and it is highly unlikely that there will be the fiscal resources to set up a service delivery system that could achieve the standards and goals of good care, training and treatment.

The issue of a time-table for the removal of PINS from the Family Court must be brought into sharp focus. Pressure to change a system is untimely if it is true that the State is divided on the PINS issue. The need for systemic change, one requiring the design, development and implementation of a new service delivery system, coupled with fiscal deficits the size of which are currently undetermined, represents a combination of factors not conducive to achieving the professional goals desired.

Roslyn G. McDonald.

It is my position that removal of the status offender from the Family Court would be a tremendous disservice to the community. My position is based on a study made in Suffolk County during the years of 1974-1975 regarding the county's juvenile population, which found that the PINS population displayed greater needs, more severe dysfunctions, and an increased propensity for recidivism, than the juvenile delinquent population.

It is obvious to me that the removal of the status offender from Family Court would be a severe disservice to children from minority group and poor families. These are the families in which we find a dearth of community resources for meeting their needs. We have further found that most of the funding is going to help middle class children who have never been a part of the system.

While there have been some inequities in the placement of PINS children, there have also been many services extended to those children who were never placed. In Suffolk County, over 50% of the status offenders are diverted from the Family Court and receive service in community agencies. Most of the time these services are not available in the communities of the families in need. It is necessary that Probation staff advocate for the family to see that they receive services from agencies in other communities.

William P. Benjamin

Standard 13.3

In 1975, the New York State Division of Probation promulgated the rule that probation administrators shall develop criteria for the selection of participants for diversion programming. However, experience over the past two years has significantly demonstrated that just requiring a set of criteria is not enough. Moreover, the results of a recent survey conducted by the Division to determine the existence, scope and content of local departmental criteria has demonstrated that, although criteria exist, they reflect intake procedural guidelines. In most instances, the criteria are devoid of specific decision-making factors, the creation of which was the original intent of the Division's rule.

More recently, the absence of specific and uniform criteria has been viewed as a serious deficiency in service delivery. It is believed to tacitly perpetuate inequities in determining which cases are suitable for which disposition. Additionally, the lack of uniformity fosters the disparate handling of intake cases which are identical or similar in nature. This condition is underscored by the recent studies of the family court system and probation intake entitled; Family Court....The System That Fails All , and Report on Family Court Operations in New York City .

Inasmuch as the Division of Probation is the standard setting agency for probation in New York State, it has the distinct responsibility to develop and promulgate uniform, standardized criteria for decision-making at the intake level. Developing a "framework" for criteria, as suggested by Standard 13.3, would fail to adequately address the problem of statewide disparity in decision-making. Indeed, the "framework" would continue to allow each local department to proceed with its own individualized criteria.

Standard 13.3 should be revised to reflect that the State Division of Probation will develop uniform criteria for statewide implementation and use; that the criteria will be promulgated in the form of a General Rule. Furthermore, that any deviation in its content would require a variance approved by the State Division. In this respect, unique characteristics of a local community, in which the criteria are to be used, may require such a variance.

J. Michael O'Connell

Standard 15.1

Probation has the statutory responsibility to monitor and, where possible, guide the activities of juveniles placed under its jurisdiction by the courts. In those instances where service or monetary restitution is ordered by the court, it becomes an integral part of probation's overall supervision program for the juvenile. As such, any restitution program that is formulated must be monitored by the probation agency involved. Additionally, where restitution is a factor in a probation intake-diversion case, an agreed upon plan to satisfy the restitution requirement is vital to the outcome of the diversion service.

In view of its importance as a viable dispositional alternative to the Family Court, service and monetary restitution plans formulated as part of a formal probation supervision program or as an essential element of a diversion program, must and should remain under the scrutiny of the probation agency providing the service. This will help insure the full and complete satisfaction of the restitution requirement as ordered by the court or as developed under a jointly approved diversion action plan.

J. Michael O'Connell

Goal 22

(Develop mutual agreement program planning for adjudicated juveniles in residential placement or on probation.)

This goal was removed by a Task Force vote, from the draft text of the Standards and Goals for the Juvenile Justice System. The basis for this removal consisted of the argument that mutual agreement program planning was "coercive" in nature.

It has long been recognized that, under statutory authority, coercive intervention is critical to the basic structure of the criminal justice system. Indeed, it provides the framework within which decisions are made and judgments are rendered. The authority to intervene "coercively" in the lives of individuals and families has given justification for courts of law to render, in most cases, unilateral decisions affecting the future lives of those individuals who appear before them. It might be said that many of these unilateral decisions are frequently counter-productive and may result in irreversible damage. The concept of mutual agreement program planning, in which individuals and families are afforded the opportunity to participate in decisions affecting the reconstruction of their own lives, is a distinct movement away from "coercive intervention". The idea of joint formulation of program plans is gaining nationwide recognition as a viable and highly desirable practice. Unquestionably, it minimizes the element of coercion and attempts, through mutual participation of all interested parties, to develop relevant, meaningful and realistic goals. Mutual agreement programming, used in this way, will enhance the chances for success. Individuals who participate in their own planning are likely to invest more of their energies to insure a successful outcome. Moreover, the National Committee on Criminal Justice Standards and Goals, in its 1976 report on Juvenile Justice and Delinquency Prevention strongly support this contention under Standard 23.3, "Formulation of Services Plan", in which it asserts that "The adjudicated juvenile referred for services should be given full opportunity to participate in creating the services plan and have a voice in setting his own goals."

The Goal relating to Mutual Agreement Programming should be reinstituted in its entirety and should remain an integral part of the Standards and Goals for Juvenile Justice.

J. Michael O'Connell

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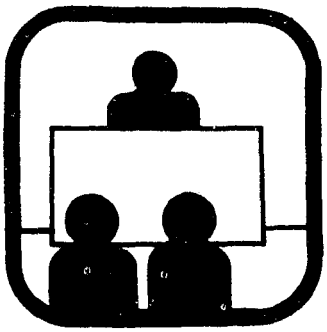

prosecution and defense

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THE REPORT OF THE TASK FORCE ON STANDARDS AND GOALS FOR PROSECUTION AND DEFENSE

OVERVIEW:

The Prosecution and Defense Task Force was appointed on March 2, 1977. There are currently nineteen members of the Task Force, and twenty-nine members of the Prosecution and Defense Advisory Panel. Six members of the Task Force are from upstate, thirteen from downstate; five from rural New York, five from suburban New York, and nine from New York City.

A number of members of the Task Force have varied experience in criminal justice but, as represented by their current affiliations, there are five prosecutors, six defense attorneys, one academician, an executive director of a pretrial services agency, two judges, one court administrator, one court planner, a state executive official, and a deputy police commissioner.

The Prosecution and Defense Advisory Panel is comprised of lay persons, public and private defense attorneys, academicians, judges, court personnel, prosecutors, legislators, planners, and professionals from the private sector. Of the twenty-nine members of the Advisory Panel, 34% are from upstate New York.

Certain principles guided the work of the Task Force and its

staff and they elucidate not only what has been done, but also, how the Task Force did, and will continue to do, its work.

Standards and goals serve many constituencies. Their incorporation into the Comprehensive Crime Control Plan assists in determinations concerning the allocation of resources. Promulgation of standards and goals facilitates legislative change. Voluntary adoption of standards and goals by agencies of government creates uniformity, expands the opportunities for evaluation, and hastens the day when, should they prove to be not feasible, standards and goals can be consensually amended.

With these thoughts foremost in mind, the Task Force chose to expand the sources of its information and to draw on the expertise of as many people as possible throughout the state. It rejected an "ivory tower" approach and sought to expand rather than constrict its sources of information whenever possible. The Task Force sought to link with individuals and organizations to create a more open and better informed process. This need arose from the nature of the state itself.

New York extends from New England waters nearly to the Ohio border. Arrests in Chautauqua County, for driving while intoxicated, are often of Pennsylvania students who cross the border from a state where the drinking age remains twenty-one. Underscoring the

scope and diversity of criminal justice problems in this state is the fact that with respect to some issues in the administration of criminal justice, the northernmost counties of Clinton, Franklin, and St. Lawrence may have more involvement with Canada than with Nassau County. Problems in the criminal justice system in the Town of Southampton appear more akin to the problems of Madison County than they do to those of the west end of Suffolk County. Public officials in eastern Columbia County probably have more contact with Massachusetts authorities than with the public officials of Greene County. The regional problems of the state in some respects appear to substantially outweigh statewide problems existing in either the prosecution or defense function. A prosecutor in Hamilton County appears to have more in common with a defense attorney in Wayne County than either has with functional counterparts in Bronx, New York. Obviously, as the Task Force sought, and seeks, data on clients, courts, police practices, and community participation in criminal justice activities, examination of regional differences is fundamental. The influx of summer residents to Sullivan County, for example, in the form of hotel workers and patrons, creates strains on the system which appear quite similar to those seasonally generated differences in the state's apple belt. Suffolk County, whose summer population is increased by migrant workers and vacationers, may hold answers for

the problems of Sullivan County, but no qualitative information is available on this subject. It is known that Suffolk County has, traditionally, had substantially more personnel in the area of prosecution and defense than Sullivan County has had, but it is not known how successfully either county deals with the population influx. More than numbers needs to be known.

Viewing prosecution and defense issues through a regional prism has helped the Task Force define its task but, as can be seen, more questions have been raised than have been answered. Thus, the Task Force early realized that there existed neither a comprehensive picture of the state's defense and prosecutorial delivery systems, nor an incomplete picture which took the foregoing factors into account at all. By themselves, quantitative data cannot totally illuminate qualitative problems. In particular, the quantitative elements, periodically catalogued by the Division of Criminal Justice Services and the New York State Office of Court Administration, fail to reveal the kinds of regional problems discussed above. Furthermore, reporting procedures required by state law frequently fail to yield useful information even when assiduously followed. Understandably, annual reports and budget requests from prosecutors and public defenders in a state where most funding is generated at the county level, often emphasize aspirations rather than achievements.

Task Force members find the enormity of the distinctions in practice throughout the state a matter of primary importance. What can be learned by gathering appropriate data will be vital to the state and the country. New York State is a microcosm of the nation. It has ultra rural counties, the fastest growing suburb in America, and the ultimate urban environment. Its defense system combines public defender systems, Legal Aid Societies, counties with assigned counsel plans only, and counties with mixed systems. Its prosecutorial delivery system includes - side by side with a city supporting five relatively well-funded district attorneys - counties that cannot afford to prosecute crimes and villages that contract on a case by case basis for prosecutorial services in justice courts.

Given these realities, initial certitude as to solutions gave way to a humble appreciation of the complexities involved in fulfilling the Task Force's charge. To adequately discharge its mandate to develop standards and goals for the state, the Task Force recognized that the lessons hard learned elsewhere applied here. One writer, commenting on diversion in Illinois, for example, has stated that "... [I] n the cities implementation of the diversion concept often tends to take the form of establishing the legal bases for authority.... [while] [i] n the rural setting... the need is not legal justification... but rather a program which makes more feasible... the implementation of a system

...already...inherently diversionary." (Brakel, 1969, p. 67) Predictably, as diversion was discussed in Task Force meetings, it was seen that practices in certain parts of New York State already implemented ideas which, elsewhere in the state, were just evolving. The Task Force soon realized that an intensive examination of actual practice was necessary. Lessons learned throughout the nation pointed up that, despite constitutional requirements and what statutes may provide, practices, including those in New York State, may well fail to meet constitutional and statutory standards. Four years ago, a nationwide survey revealed that officials in 57% of the counties with populations under 50,000 could not implement the non-felony right to counsel requirements of the United States Supreme Court decision in Argersinger v. Hamlin, 407 US 25 (1972). (NLADA, 1973) A second study, published three years later, indicated that even where Argersinger was being implemented, token compliance was creating little or no "coherent development of defense systems to meet the need for quality representation mandated by Argersinger." (Krantz, et al., 1976, pp. 4-5)

Further, despite case law supporting the nearly unfettered exercise of prosecutorial discretion, the Task Force is aware that systemic problems create limits on the exercise of such discretion in New York. In some counties, despite a recent statute designed to alleviate the problem, some prosecutors continue to remain unaware

of arrests until they are served with defense motions to dismiss.

The implementation of Argersinger and the exercise of prosecutorial discretion are but two of hundreds of significant questions the Task Force feels constrained to examine. Knowledge that twenty-two of the most rural counties of New York have only assigned counsel plans; that there are counties with but one part-time public defender or prosecutor; that seventeen rural counties have only 701 lawyers *in toto*, (Cox, 1977) while the New York City Legal Aid Society has more than 480 attorneys in its Criminal Defense Division alone, alerted the Task Force to the compelling need to investigate more deeply and more diligently the delivery systems of prosecution and defense services.

The Task Force, recognizing that its charge involved the development of statewide standards and goals, necessarily took into account the foregoing realities. It was, and will be, guided by two principles - first, that while goals should be uniform, standards - the means by which goals are reached - may, of necessity, differ by region or jurisdiction. Second, that there should be systematic and continuing assessments of the prosecution and defense delivery systems to provide information for intelligent and informed decisionmaking, including, but not limited to, continuing development of standards and goals. A method should be devised to insure that this information is continuously updated. Such assessments can test the premises upon which standards

and goals are developed; they can provide important feedback to constrain subjective legislative judgments, and they can assure that future planning in New York State will be based on adequate, timely, and relevant data.

TASK FORCE PROCEEDINGS:

Beginning in December of 1976, staff began preparing materials for the Task Force that would amplify the results of the Delphi survey and provide information concerning prosecution and defense services in New York. Staff began the year by orienting groups and individuals within the State of New York to the development of standards and goals. Channels of communication were opened with the National Legal Aid and Defender Association, the National District Attorneys Association and the American Bar Association.

In January, 1977, conversations were held with the New York State Bar Association Special Committee on Implementation of the American Bar Association Standards and contact was made with the Criminal Justice Section of the state bar, as well as with other local and state bar committees. Requests were made to the New York State District Attorneys Association and the New York State Defenders Association to form Standards and Goals Committees in their organizations. At the Annual Meeting of the New York State Bar Association, the Criminal Justice Section adopted a resolution to work cooperatively

with the Standards and Goals Program. Plans were made to update the Comparative Analysis of the American Bar Association Standards for Criminal Justice with New York Law, Rules, and Legal Practice (1972), and to hold regional meetings throughout the state to garner critical comment on model standards and information on actual practices. Invitations were extended to numerous individuals and groups to participate in the development of Standards and Goals.

In February, presentations were made to town justices at the Association of Towns Annual Meeting, as well as to town clerks. Representatives of the New York State Magistrates Association were invited to assist standards and goals development. and visits to defense and prosecution offices throughout the state were planned. Recognizing the need to assess prosecution and defense services statewide, as an integral element in standards and goals development, the State Planning Agency requested the National Center for Defense Management (NCDM) to meet with interested persons in New York to plan an assessment of defense services.

In March, a meeting was held in Albany with Task Force representatives, public defense attorneys, assigned counsel administrators, and members of the Defenders Standards and Goals Committee. At that time, the New York State Defenders Association voted to pay the required match money to bringNCDM consultants to

New York to develop a research design for a statewide assessment of the defense delivery system.

In April, after consultation with the National District Attorneys Association, the Task Force requested the Law Enforcement Assistance Administration (LEAA) to send a team of consultants from the Midwest Research Institute (MRI) and Stanford Research Institute (SRI) to New York to work with the Standards and Goals Committee of the District Attorneys Association, to create a design for a statewide assessment of prosecutorial services.

In May, the consultant team from the National Center for Defense Management came to New York and spent a week gathering materials, interviewing lay and professional persons in New York City and the counties of Onondaga, Sullivan, Chautauqua, and Saratoga. Defenders and assigned counsel administrators from all sixty-two counties were invited to regional cluster meetings in each of these five locations, and judges, prosecutors, sheriffs, county legislators, county executives, and court personnel were extensively interviewed. Two teams, consisting of a consulting defense attorney, a management consultant, an NCDM staff attorney, and a member of the Standards and Goals Prosecution and Defense staff conducted the interviews. Inmates at the Auburn Correctional Facility and the Sullivan County Jail were interviewed in attempts

to develop designs to test, among other things, client satisfaction with the system of public defense representation in New York State.

In June, the joint team from MRI/SRI came to New York and interviewed prosecutors from representative jurisdictions. On behalf of the Prosecution and Defense Task Force, an application was made to a private foundation to fund the New York State Bar Association Standards and Goals Comparative Analysis Project and to secure funds to assist in performing statewide assessments of prosecution and defense services. On June 13, 1977, the Prosecution and Defense Task Force convened its first meeting and voted unanimously to proceed with the projects and liaisons then developing across the state.

In July, the second meeting of the Task Force convened in New York City, and the research design for an assessment of defense services was presented. The Task Force decided to focus on the funding of the defense assessment and to consider, as one of the goals for the State of New York, the implementation of such an assessment. A projects Subcommittee was formed to deal with these issues and, after a discussion of the Delphi results and problems in the criminal justice system, five additional working subcommittees of the Task Force came into being: Provision of Counsel and Other Services; Screening; Arbitration and Mediation; Sentencing;

and, Consumer Relationships. Subcommittee Chairpersons were later named, and the work of the Task Force began in earnest.

In mid-August, the Projects Subcommittee decided to pursue federal funding for the defense assessment. In late August, meeting at Cornell University, the Task Force discussed at length various working papers that had been prepared for the session. Among these were: A sixty-five page tentative draft of standards and goals for Provision of Counsel and Other Services; a working paper on community dispute settlement centers; draft sentencing standards covering due process pre-sentence hearings, and written questions raised by the Consumer Relationships Subcommittee. A resolution from the New York State Defenders Association Standards and Goals Committee, concerning the scope and nature of the defense assessment, was disseminated and discussed, and the deadlines for standards and goals development were outlined. At this same meeting, it was resolved to meet with Commissioner Frank J. Rogers to request an extension of the life of the Task Force so that it could complete its work.

In September, the Task Force conducted a two-day meeting at the Summit Hotel in New York City and covered, in depth, all the topics assigned to subcommittees. Draft proposals were reviewed, concepts refined, and the interrelationships between subcommittee

inquiries were expounded upon. Commissioner Rogers and First Deputy Commissioner Henry Dogin attended and discussed the progress of the Task Force, graciously assuring the Task Force that the time and staff resources necessary in the months ahead, in order to complete its work, would be forthcoming. The Task Force adopted resolutions concerning both the prosecution assessment and the defense assessment, and authorized staff to file a grant application to fund the defense assessment.

In October, while public hearings were being conducted in Syracuse, Buffalo, Albany, and New York City, the Task Force invited thirty-nine witnesses from throughout the state to Special Prosecution and Defense Hearings to extensively discuss tentative draft Standards and Goals for Prosecution and Defense. These witnesses also responded to questions put forth by two subcommittees seeking public input prior to drafting even tentative standards and goals. On October 31, 1977, the Task Force considered one goal and a set of related standards to be sufficiently well-developed to be presented at this time. That goal, concerning the statewide establishment of community dispute settlement centers and standards to implement it, was adopted by the Task Force.

In mid-November, as this report goes to press, the staff of

the Task Force is involved in cementing relationships with legislative committees, other state agencies and national groups, to ensure that in the ensuing months the Standards and Goals being developed for Prosecution and Defense will be subjected to informed public hearings, statewide review and comment, and national exposure.

SOME PERSPECTIVES ON THE DELPHI RESULTS, THE PARADIGM OF THE CRIMINAL JUSTICE SYSTEM AND THE FUTURE OF THE TASK FORCE

The paradigm of our criminal justice system posits the commission of a crime, a report of the event to state authority, and the subsequent arrest, prosecution, and trial of an offender. A finding of guilt is routinely theorized, under this model, to be the sole prerequisite to post-conviction governmental intrusion upon the constitutionally protected liberty interest of a defendant. Despite perennial attacks concerning virtually every element of the traditional model (Wickersham, 1931; Silverstein, 1965; President's Commission on Law Enforcement and Administration of Justice, 1967; National Advisory Commission on Civil Disorders, 1968; National Advisory Commission on Criminal Justice Standards and Goals, 1973; Dominick, 1973; Krantz, et al. 1976; Twentieth Century Fund, 1976; National Center for State Courts, 1977) governments continue to rely on that model to plan the future of the criminal justice system.

Prevention of crime is constrained by the use of traditional tools and their inherent limitations. We tend to forget that those tools have not always been relied upon. It is easily forgotten that for centuries, Rome knew no true system of criminal law; similarly, England. The object of those early systems was compensation and resolution of interpersonal disputes. However, the fiscal interests of the state gradually introduced government into what were theretofore essentially interpersonal matters. Later, this developed into a government monopoly characterized by public police, public prosecution, and public corrections. A corps of professionals came, by accident, to totally direct and control the system. Common sense approaches, despite historic experience, now are rejected by "experts". Truths are regarded as cliches and cliches as truths. Unexamined normative values take on paramount importance, despite excessive cost. The relatively recent reliance on expert credentials and the power of licensure has prevented a necessary dialogue between everyday people and professionals from occurring. The Task Force may end, some months hence, having developed a framework for reformation when what was warranted was a prototype for reconstruction. Nevertheless, it has been a sub rosa recognition that, though volunteers, the Task Force is employed on behalf of the People of this state and one question it needs always to

pursue is whether the public truly has a vested interest in things as they are.

All of the foregoing becomes compelling when it is recognized that the Delphi survey group, 75% of which consisted of criminal justice professionals, legislators, and executive branch officials, listed the number one problem contributing to crime in New York State as social conditions, such as unemployment, inadequate housing, and the lack of recreational, educational, and vocational opportunities for the poor, the young, and the minorities. Significantly, overall responses in each category were similar.

The third highest ranking statement in the Prosecution and Defense area concerned a lack of accountability for the prosecution, defense, and judiciary.

The second most critical problem in the Police area focused on the lack of alternatives for social service problems.

The second highest problem in the area of Courts was that the citizenry lacked knowledge, confidence, and participation.

The absence of a well-planned network of community-based corrections ranked as the fourth most critical

Corrections problem.

The unavailability of jobs for young people was deemed to be New York's most critical Juvenile Justice problem.

In the Systemwide category, which contained cross-functional problem statements, the eighth most critical problem was deemed to be the criminal justice system's failure to address the needs of crime victims and witnesses.

Within the functional area of Prosecution and Defense, in addition to the lack of accountability, the lack of preparation by lawyers, delay and adjournments, an absence of non-judicial alternatives such as restitution, mediation and arbitration, and the problems of plea bargaining all ranked high. Additionally, the unavailability of quality defense services to the poor and middle class, inadequate staffing and budgets for defense services, excessive caseloads, the underdevelopment of diversion, and the lack of standards for diversion were all deemed critical.

When the Delphi data was controlled from the standpoint of who was responding, and only the responses of the Prosecution and Defense Task Force and the Advisory Panel were examined, two

changes occurred: The problems of plea bargaining dropped lower on the scale, and the lack of community resources, utilized as alternatives to probation, took on increased importance as a critical problem.

This latter point, in conjunction with the overall responses to the Courts and Corrections section of the Delphi, yields significant support for the approach to the issue of sentencing taken in a preliminary report to the Task Force by its Subcommittee on Sentencing. In substance, the Subcommittee approach would require the application of the least drastic alternative in imposing sentence.

Additionally, overall, sentencing disparities were deemed to be the most critical Court problem; the lack of sentencing guidelines and standards ranked fourth. The failure to provide sentencing courts a wide variety of alternatives to probation and incarceration ranked twelfth. The inadequacy of the indeterminate sentence ranked lower on the scale of critical problems, and much lower, came the problem of judicial discretion in sentencing. At the same time, in the overall ranking of Corrections problem statements, the problem of institutional overcrowding resulting from rising inmate populations, ranked highest. An underdeveloped and underutilized system of alternatives to incarceration and the absence of a well-planned network of community-based corrections ranked,

respectively, third and fourth most critical.

While the Delphi data alone did not determine the Task Force areas of inquiry, they do present a helpful perspective. When read together, the Prosecution and Defense, Courts, and Corrections data suggested that while the exercise of judicial discretion and the indeterminate sentence are critical problems, sentencing disparity and a lack of sentencing standards were deemed far more critical. The responses supported the maintenance of an individualized sentencing model which, through the exercise of structured and reviewable discretion is directed at non-incarceration and the use of community-based alternatives.

The Delphi results also reflected the concerns of the Consumer Relationships Subcommittee, which is currently examining the subject of victims and witnesses. The Screening Subcommittee, currently drafting standards and goals for screening and diversion, found ample support for its work, upon examination of the Delphi data. From the Delphi results, the Subcommittee on Provision of Counsel and Other Services, which is now attempting to concretize an aspirational set of fairly well-developed goals, can easily determine the perceived critical problems concerning the current provision of defense services. Delphi support was strongest concerning the standards and goals

developed by the Subcommittee on Arbitration and Mediation.

Once again, when the Delphi data were analyzed and controlled for who was responding, it was seen that of the sixty-seven problem statements covering the functional area of Prosecution and Defense, the Task Force and Advisory Panel ranked, as the most critical problem in the State of New York, the "...lack of alternative, non-judicial programs such as restitution, mediation, arbitration, and victim/offender encounter for the resolution of family, neighborhood, and interpersonal disputes." (Delphi Problem Statement CO14). When the entire Delphi survey group rankings of the Prosecution and Defense problem statements were examined, this same problem ranked as the second most critical. When the responses of the entire Delphi survey group concerning all 396 problem statements were examined together, the statement ranked as the fourteenth most critical problem in the state. As can be seen from the commentaries to the standards and goals developed for community dispute settlement centers which follow, these responses parallel a national movement for the development of alternatives to traditional criminal justice system processing.

In the months ahead, as the Task Force seeks to build on its accomplishments and develop a comprehensive set of standards and goals for Prosecution and Defense, it expects to work closely with

the Assembly Minority Task Force on Crime Victims; the New York State Crime Victims Compensation Board; the New York State Defenders Association; the New York State District Attorneys Association; the Defender Committee of the National Legal Aid and Defender Association; the Sentencing Committee of the New York Civil Liberties Union; the National Pretrial Services Resource Center; the National District Attorneys Association; the New York State Criminal Justice Coalition; and, the New York State Bar Association.

The Task Force expresses its thanks to all who helped guide its work to this point and, particularly, to Commissioner Frank J. Rogers, who, because of his understanding of the scope of the task, has generously authorized the work to continue.

PAD GOAL 1.0

THROUGHOUT THE STATE, ALTERNATIVES TO THE CRIMINAL JUSTICE SYSTEM SHOULD BE ESTABLISHED AND UTILIZED FOR THE RESOLUTION OF INTERPERSONAL, CRIMINAL, QUASI-CRIMINAL, CIVIL, AND COMMUNITY DISPUTES.

STANDARDS

1.1 The State of New York, in cooperation with counties, local municipalities, and voluntary agencies, should stimulate the development of community-based dispute settlement centers. Such centers should be established throughout the state and should constitute a priority area for the allocation of state funds and federal funds provided through the LEAA block grant program, or any successor funding program providing federal monies to the state.

1.2 Community dispute settlement centers should be administered by non-governmental institutions, but may be planned, organized, and developed by governmental institutions and should have the assistance, cooperation, and resources of federal, state, county, and local government.

1.3 Community dispute settlement centers should be developed with the active cooperation and commitment of criminal justice personnel, including juvenile justice officials, police officials, prosecutors, private and public defense attorneys, judges, probation officers, correctional officers, and parole officers.

1.4 Community dispute settlement centers, where possible, should be decentralized and organized as neighborhood institutions. Lay persons should have a substantial measure of involvement in such centers, and community participation should be encouraged in their genesis and perpetuation.

1.5 Community dispute settlement centers, with the consent of the parties, should provide mediation and arbitration services for interpersonal disputes, family disputes, criminal and quasi-criminal disputes, consumer disputes, and community disputes. The services of such centers should be routinely available at such times as are most convenient to the public and the parties to disputes. Centers should be located in structures which, in appearance and in reality, are neutral.

1.6 Community dispute settlement centers should have an interdisciplinary approach to problem solving and should be sufficiently funded to employ, or routinely purchase, the services of needed professionals and paraprofessionals.

1.7 Primary emphasis in community dispute settlement centers should be placed upon the non-coercive facilitation of self-resolution, by the parties, of their own dispute. Mediation and arbitration should be conducted by specially trained third party neutrals who are advocates for the process of conciliation.

1.8 Community dispute settlement centers should be designed with utmost flexibility and should have a twenty-four hour crisis service capacity, seven days per week, and officials, including the police, should have the power to make referrals to such centers.

1.9 Services of community dispute settlement centers should be available prior to, as well as after, intervention of criminal justice personnel, and prior to, as well as after, the attachment of a court's jurisdiction. In addition to providing walk-in services, centers should be designed to receive referrals from all segments of the criminal justice system.

1.10 Staff of community dispute settlement centers, in cooperation with county agencies, the judiciary, and criminal justice system personnel, should routinely provide training to criminal justice system agency personnel. Such training, at a minimum, should fully orient trainees to the services provided by community dispute settlement centers, the method of referring cases or clients, and the philosophy of conflict resolution. Criminal justice system line personnel should be provided with readily understandable information concerning the center, as well as with printed cards bearing referral information.

1.11 In cooperation with the staff of community dispute settlement centers, criminal justice system agency administrators and executive, legislative, and judicial officials should promulgate guidelines concerning referrals to community dispute settlement centers. Such guidelines should maximize the exercise of discretion by line agency personnel.

1.12 Memoranda of agreement should be entered into between community dispute settlement centers and public officials concerning issues of mutual concern, including confidentiality of matters occurring at the center.

1.13 Staff of community dispute settlement centers should actively work with community groups, civic associations, social service agencies, governmental officials, and bar associations to develop additional alternative dispute processing mechanisms.

1.14 Experiments with conflict resolution and mechanisms for the settlement of everyday grievances and disputes should be encouraged by governmental agencies. State and local officials should utilize their best efforts to provide economic incentives for the development of alternative non-governmental conciliation mechanisms.

PROGRAM STRATEGIES:

A good number of programs operating nationwide are deemed to be "community dispute settlement centers". The Task Force has drafted Standards and Goals designed to establish non-bureaucratic, community-based forums that cooperate with government at all levels, have a substantial measure of lay involvement, and possess the potential to become credible and trusted neighborhood or community institutions. "Community", under these Standards and Goals, means several things - who runs the center, where the center is located, and who mediates the disputes. The Task Force has opted

for non-governmental administration while nationally, other programs, including the LEAA exemplary project, have not. (LEAA, 1974)

New York State has three programs which provide mediation or arbitration services to adults in interpersonal criminal disputes. A program in Rochester, begun in 1973, administered by Community Dispute Services of the American Arbitration Association, was initially funded by the Division of Criminal Justice Services and is now on the road toward institutionalization. The IMCR Dispute Center, begun in Manhattan in 1975, is administered by the Institute for Mediation and Conflict Resolution. It now takes city-wide summons cases and cases in Manhattan and Bronx. Recently, IMCR expanded into Brooklyn in conjunction with the Vera Institute and deals almost exclusively with interpersonal felony disputes. In 1977, the YMCA of Long Island established the Community Mediation Center in Coram, New York. This program, uniquely situated in a suburban county, takes walk-in cases and referrals from the police, the District Attorney, and the court. Additionally, the Community Mediation Center deals extensively with community referrals of domestic dispute cases.

These three programs use lay people trained in the technique of third party neutral mediation. The latter two programs

are still funded by the Division of Criminal Justice Services, and all three are administered by non-governmental agencies. In the course of the Standards and Goals Public Hearings conducted in October, 1977, the Task Force discovered that people in Erie, Albany, and Onondaga Counties are actively considering the development of community dispute settlement centers, and discussions are currently underway in Nassau County among representatives of community agencies, the district attorney's office, the probation department, and the police department concerning the development of a program in that jurisdiction.

COMMENTARY:

The inability of the adversary system to deal adequately with minor disputes arising between people who have necessarily ongoing relationships has been the subject of much discussion (Stulberg, 1975; Danzig, 1973, 1975; Sander, 1976; Vera Institute, 1977) and a source of great difficulty in the administration of justice. The loss of a sense of community and the erosion of neighborhoods and neighborhood institutions has, likewise, had far-reaching effects. (Lerner, 1964; Gottman, 1961; Gans, 1962; Vidich, 1968) Viewed in light of each other, these interrelated concepts are at the core of Goal 1.0.

Minor criminal cases, as well as felony cases, arising between neighborhood residents who know each other, forced into court, often transform the criminal justice system into the ultimate dumping ground for the essentially non-criminal problems of a troubled society. Frequently, neither the "victim" nor the "defendant"

is totally without blame, and the one charged with "crime" may depend upon who reaches the precinct or the courthouse second. In the vast majority of these cases, an ongoing relationship, for some reason, has broken down. When the "criminal" act occurs, it is a clarion call for help, a call that should be answered without resort to a forum or process ill-equipped to determine, let alone resolve, the underlying dispute. In high volume jurisdictions concerned with efficiency and the speed of adjudication, such cases are often administratively processed through judicial machinery.

It is often said that citizens have lost faith in the ability of the system to function. They refuse to report crime, believing that it is either too unimportant, or that nothing will be done about it. (LEAA, 1973) They refuse to follow through on crimes they do report.(Vera Institute, 1977, pp. 19-20, 135-138; Police Foundation, 1977, p. 45) They refuse to assist their neighbors while crime takes place. Unfortunately, as the criminal law has come to envelop more and more inappropriate behavior within its domain, the growth of meaningful institutions, capable of empowering people and their neighborhoods, has been retarded. The criminal justice system, not designed as a social service entity, has frequently attempted to operate as one. The result has been that until recently, there have evolved "...few doctrines or principles by which a court [could] announce to the public: 'this case does not belong here'." (Stulberg, 1975)

In recent years, diversionary programs, recognizing the need for such a doctrine, have provided courts with a means to prevent the processing of inappropriate cases. In one or all of its forms, diversion has been the recommendation of the President's Commission on Law Enforcement and the Administration of Justice (1967), the American Bar Association (1971), and the National Advisory Commission on Criminal Justice Standards and Goals (1973).

Community dispute settlement is a recent arrival on the platform of criminal justice reform, having been shaped by several forces. The first of these has been the inability of communities to handle large-scale social conflagrations. The second has been the inability of courts to adequately resolve long-simmering interpersonal disputes. The third has been the inability of society to provide readily accessible solutions for everyday citizen grievances, both civic and interpersonal. These multi-directional forces underscore the recently resurrected (70 FRD 79, 1976) observation of Roscoe Pound - that there is indeed popular dissatisfaction with the administration of justice.

In the wake of national riots in 1968, the National Advisory (Kerner) Commission on Civil Disorders recommended that communities develop alternative institutional forms for dispute resolution. It was projected that trusted neighborhood institutions could

significantly curtail or eliminate episodic violence that traditional law enforcement seems incapable of dealing with. In addition, the Commission Report (Kerner Commission Report, 1968, pp. 297-313) specifically stated:

> ...[W]e believe that meaningful community participation and a substantial measure of involvement in program development is an essential strategy.... The democratic values which it advances - providing a stake in the social system, improving the accountability of public officials - as well as the pragmatic benefits which it provides... outweigh... costs.
> ***
> The formal remedies of law... are inappropriate for many common problems. A family quarrel or a street fight, followed by an arrest, would give the parties a record and, typically, a suspended sentence; it would not solve the problem.
> ***
> The Commission recommends the establishment of guidelines covering, at a minimum:
> ***
> The handling of minor disputes - between husband and wife, merchant and customer, or landlord and tenant.

A myriad of programs, utilizing various dispute resolution techniques, have since evolved. Through the use of arbitration awards, providing judgments enforceable in civil court, some convert "criminal" cases into "civil disputes". Some use mediation agreements signed by the parties. Certain programs use a combination of techniques and still others are even less formal. At the root of these programs, designed actually to resolve disputes rather than reduce criminal court caseloads, there is a common ingredient.

It is third party neutral facilitation, a process designed to assist the parties to resolve their own dispute. In an informal environment - away from the courthouse - parties permitted to tell their stories in depth to trained third party neutrals usually reveal the actual source of the criminal charge - an impasse, unrelated to the crime - in an ongoing personal relationship. Resolution of the underlying dispute, as a result of structured exchange of views, tends to occur with little guidance from arbitrators or mediators. Because guilt or innocence is deemed irrelevant, no one is found guilty of a "crime" and a pattern for future conduct is devised. The important word in Goal 1.0, therefore, is "resolution".

Although the Prosecution and Defense Task Force is charged with developing standards and goals for the criminal justice system, it has, intentionally, included within Goal 1.0 language covering "...civil and community disputes". The Goal recognizes that people need remedies which are inexpensive, effective, and responsive to everyday needs, and that access to traditional dispute processing mechanisms such as courts remains, for the poor and middle class, relatively unavailable. (Nader, 1975) Absent such mechanisms, every unresolved incident, despite its label as civil, quasi-criminal, or community dispute, potentially creates the possibilities for violent "self-help" remedies, and this is a matter of preeminent

importance to the criminal justice system.

Two commentators analyzing America have taken pains to propose the development of "community moots" (Danzig and Lowy, 1975) as alternatives for handling interpersonal disputes. This informal variation of community dispute settlement amplifies the basis for Standard 1.2, which requires that community dispute settlement centers be "administered by non-governmental institutions". It also explains the basis, under Standard 1.1, not only for making community dispute settlement centers a priority, but also, for requiring government to stimulate their development. In Africa, tribal moots operated side by side with the British court system, performing a conciliatory function in the face of the court's primarily adjudicatory role. (Gibbs, 1963):

> Whereas the court was characterized by social distance between judge and litigants, rules of procedure which narrowed the issues under discussion, and a resolution which ascribed guilt or innocence to a defendant, the moot emphasized the bonds between the convenor and disputants, it encouraged the widening of discussion so that all tensions and viewpoints psychologically - if not legally - relevant to the issue were expressed, and it resolved disputes by consensus about future conduct, rather than by assessing blame retrospectively. The consensual development of solutions was aided by the fact that while the "court" emphasized the trappings of authority and coercive power, the moot [took] place in the familiar surroundings of a home. The robes, writs, messengers, and other symbols of power which subtly intimidate and inhibit the parties in the courtroom, by reminding them of the physical force which underlies the procedures, [were] absent.

Since the tendency in New York is to administratively process even serious cases - witness the 92% felony plea rate in 1975 (DCJS, 1976) - it is hard to conceive the court system accommodating new forms of resolution for cases in which guilt is made even more irrelevant. In response to the suggestion that "gemeinschaft" institutions (Tönnies, 1887) like community dispute settlement centers, can be injected into "gesellschaft" society, it has been suggested (Felstiner, 1974) that citizens in America's technologically complex society are capable of withdrawal from "dispute-producing relationships" and, therefore, may escape the need for devising new grievance mechanisms. This approach not only completely disregards consideration of the rising number of cases presently coming to court (Sander, 1976, p. 117) but also neglects to measure the price of such avoidance which, personally and societally, is far too high. (Danzig, et al., 1975)

There is an important lesson for community dispute settlement centers, arising from the discussion of avoidance. It is impossible, as well as undesirable, to conceive of probation officers, assistant district attorneys, or police officers who may be inexperienced, overworked, or overextended, engaging in a three to four hour mediation session designed to fully resolve a dispute. Cost factors alone suggest that if performed by criminal justice agencies,

mediation will consist of brief, unsatisfactory endeavors to meet system needs, not the needs of disputants.

We already have significant evidence of, and legal support for, the system's willingness to weed out those cases which fail to fit the arrest/prosecution/conviction model of criminal justice. Far fewer than the total number of actual crimes which take place are reported; far fewer than those reported result in arrest; and, of those cases where there is an arrest, fewer still, are prosecuted. (Arnold, 1932; Wright, 1959; Goldstein, 1960; Breitel, 1960; La Fave, 1965, 1970; President's Commission on Law Enforcement and the Administration of Justice, 1967; Hall, 1969; National Advisory Commission on Criminal Justice Standards and Goals, 1973) There is reason to believe that the subtle influences which now inspire criminal justice officials to weed certain cases from the system will be translated into inadequate resolutions if criminal justice system agencies administer community dispute settlement centers. (LEAA, 1974; Vera Institute, 1977a)

Nothing in the Standards will prevent police officers, assistant district attorneys, or probation officers from qualifying as mediators or arbitrators, but Standards 1.2, 1.5, and 1.7 make clear that neither court, police, prosecution nor probation agencies should administer community dispute settlement centers. These

agencies are intimately identified with the traditional processing of cases through the criminal justice system. They are not perceived as neutral and are not realistically permitted, by law, to be neutral. As they seek needed system improvements, each of these agencies should recognize that its role, under Standards 1.1 - 1.3 and Standards 1.9 - 1.14, is both meaningful and vital, but remains complementary to that of non-governmental community institutions.

The long-range possibilities for community dispute settlement centers are citizen self-reliance, the empowerment of neighborhoods, and the development of community. The current paradigm of the system which, necessarily, incorporates a concept of "downtown" justice delivered by credentialed professionals, (Wahrhaftig, 1976) removes from the victim the power to seek, in criminal proceedings, anything more than a public remedy for a private wrong. A willing defendant can provide a private remedy to the victim, but the price for doing so is high, as long as the case remains in court. While, arguably, these ingredients of our adversary system may be necessary - and perhaps even preferable - for the bulk of legal matters, they are, nonetheless, experienced as destructive by the parties to interpersonal disputes. Their long-term effects on the parties to such disputes are not known. The alien language of the court, the mystical rules required to process "matters", and the

bureaucratic procedures which, when routinized and institutionalized, become second nature to system actors , (Blumberg, 1967) all take their toll on litigants.

In his year-end report for 1976, the Chief Justice of the United States, in describing the formulation of the American Bar Association Special Committee on the Resolution of Minor Disputes, took occasion to point out that "... disputes that seem minor, when set against the panoply of national problems, are nonetheless critical to those affected." (Burger, 1976)

We stand at a watershed in jurisprudence where the seemingly dichotomous choices of providing open access to traditional institutions and creating uniquely different institutions are, fortunately, both blessed by attempts to demystify the law for the laity; nor does this appear to be an accident. A well-known anthropologist (Nader, 1975, p. 1), noting the need for courts that are cheap, effective, and responsive to everyday problems, stated:

> While many lawyers are intellectually aware of the need for improved dispute processing, most do not behave as if they were cognizant of the magnitude of the problem. What would happen if the medical system would not handle a ten dollar cut or a twenty dollar burn? What would happen if the dental profession would not accept a dental problem under $200. ? Lawyers are probably the only profession that repudiates the majority of its potential customers and refuses to entrust them to anyone else.

In the last decade, prepaid legal services, designed to provide consumer access to the courts, have been expanding, but their ultimate success in holding down costs appears to be intimately related to holding down usage. (PLI, 1977) Argersinger, which requires the provision of counsel to defendants unable to hire lawyers in non-felony cases, as previously stated, appears difficult, if not impossible, to implement. (Krantz, et al., 1976) Recognizing the need for improved dispute processing, both the Better Business Bureau and the Federal Trade Commission have experimented extensively with arbitration, and the New York State Court of Appeals appears to share their sentiment. (Prinze v. Jonas, 38 NY2d 570, 1976) The Attorney General of the United States, the American Bar Association, and the Chief Justice of the United States Supreme Court have all placed their imprimaturs on experimentation with alternative forums.

To discuss many of the foregoing issues, the American Bar Association, the Judicial Conference of the United States and the Conference of Chief Justices jointly sponsored, in April of 1976, the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice. Following the Conference, the President of the American Bar Association appointed a Pound Conference Follow-Up Task Force, chaired by the Honorable Griffin Bell.

The report of the Pound Task Force (American Bar Association, 1976, pp. 1-2) supports the need for a thorough pruning of the adversary system and the development of broad, far-reaching alternatives. Three Pound Task Force recommendations are relevant here and specifically underscore Goal 1.0 and Standards 1.1, 1.2, 1.3, 1.5, 1.6, 1.13, 1.14:

1. We recommend that the American Bar Association, in cooperation with local courts and state and local bar associations, invite the development of models of Neighborhood Justice Centers, suitable for implementation as pilot projects. Such facilities would be designed to make available a variety of methods of processing disputes, including arbitration, mediation, referral to small claims court as well as referral to courts of general jurisdiction.

2. We recommend that the American Bar Association undertake to stimulate research and experimentation designed to develop criteria by which to identify disputes most likely to profit from mediation, fact-finding and other alternative mechanisms of dispute processing.

3. We recommend that the American Bar Association undertake to stimulate research and experimentation designed to encourage resolution of disputes without resort to governmental agencies, particularly in the area of consumer complaints.

Significantly, in his keynote address at the Pound Conference, (70 FRD 93-94, 1976) Mr. Chief Justice Burger stated, in pertinent part:

> It is time to consider a new concept that has been approached in other countries. To illustrate rather than propose, we could consider the value of a tribunal consisting of three representative citizens, or two nonlawyer citizens and one specially trained lawyer or paralegal, and vest in them final unreviewable authority to decide certain kinds of minor claims. Flexibility and informality should be the keynote in such tribunals and they should be available at a neighborhood or community level and during some evening hours. (emphasis added)

The particular emphasis of the Chief Justice on the location of the tribunals is specifically addressed in Standard 1.4, requiring that community dispute settlement centers "where possible, should be decentralized and organized as neighborhood institutions." Standard 1.5 would lead centers, in setting their hours of operation, to take into account the convenience of the parties to disputes.

The Task Force, under Standard 1.4, recognizes that in certain rural counties decentralization may be years away, and that centralized community dispute settlement centers may, therefore, be initially required if the concept is to be implemented at all. As long as lay people have a "substantial measure of involvement in such centers", these initial efforts would meet the terms of Standard 1.4.

Four priorities for reaching the crime reduction goals of the National Advisory Commission on Criminal Justice Standards and Goals were promulgated in 1973: (1) minimizing the involvement of young offenders in the system; (2) improving the delivery of social

services to groups which contribute higher than average proportions of their numbers to crime statistics; (3) reducing court delays; and (4) increasing citizen participation in the criminal justice system, with the active encouragement and support of criminal justice agencies. Each of these priorities can be furthered by the development of community dispute settlement centers, and Standard 1.3 solicits "the active cooperation and commitment of criminal justice personnel" in that effort.

Great potential exists for community dispute settlement centers to reduce the caseloads of police officers, bring into being referrals needed by prosecutors, provide ready alternatives for judges, and establish trustworthy community institutions for juvenile justice officials. Corrections personnel, who have need to experiment with the development of grievance mechanisms, juvenile probation officers, who must attempt "adjustments" under the Family Court Act (FCA § 734) and defense attorneys, who are often aware of the relationship between defendants and complaining witnesses, should also be enlisted in the development of community dispute settlement centers.

Across the state, as well as the nation, dispute resolution programs have begun by taking minor criminal cases between people who know each other. Such cases include, neighbors, friends,

teachers and students, landlords and tenants, patrons and merchants, and even couples "in love". They involve assaults, larcenies, and harassment. They arise between the husband and wife of a common law marriage, between mere acquaintances, and between members of a family. Experience has shown, however, that dispute resolution need not be limited to minor cases, nor to people with ongoing relationships. Some programs, experimenting with mediation and arbitration as alternatives to prosecution, have naturally expanded the process to felony cases and disputes between total strangers.

The Brooklyn IMCR Dispute Center has successfully mediated and arbitrated cases of rape, endangering the welfare of a minor, burglary, robbery, menacing, grand larceny, assault, possession of a deadly weapon, criminal possession of stolen property, and unlawful imprisonment - all charges, the names of which alone strike fear in the hearts of the public. In each of these cases - and in similar "felonies" elsewhere - the actual basis of a charge lies in the relationship between the parties and not in the incident generated by dysfunction within that relationship. These cases, without limitation on the defined "seriousness" of the offense or the prior record of the offender, should be handled by community dispute settlement centers because there is evidence that they are open to the beneficial effect of confrontation between "defendant" and

"complaining witness". It is obvious that the real problem between the parties, which becomes, under the criminal law, a different yet real problem for society, cannot be exposed in court. Such cases clog calendars, frustrate the system , and result, eventually, in dismissals. (Vera Institute, 1977) They leave the parties without an appropriate resolution mechanism. The festering irresolution we see in these cases is more acute in domestic cases, a category custom-tailored for third party neutral dispute resolution. The police are plagued by domestic service calls (National Institute of Law Enforcement and Criminal Justice, 1971; Reiss, 1971; Suffolk County Conference on Juvenile and Criminal Justice, 1976; DCJS, 1977) and, sadly often, by parties whose earlier unresolved dispute, disposed of by the court, has resulted in violence. Not only are such unresolved disputes dangerous to the parties, disquieting to the courts, and frustrating to the society - they are a source of real danger to line police officers. (Police Foundation, 1977, p. 1) Despite recent attempts to strengthen them, (FCA § 812) statutes covering domestic disputes have been uniquely subjected to prolonged non-enforcement. As the demand for criminal justice system intervention into the problems of spouse abuse, battered women, and sexual assault has intensified, it has heightened the recognition of the system's failure to resolve relationship-generated disputes. Parties in such cases

are left without solutions.

Similar problems are present in community disputes, where serious cases, obstensibly between strangers, arise from racial or school-related incidents. Frequently, arrests for assault, property damage, or criminal trespass thrust the disputants toward irresolution. Although strangers, victim and offender find themselves in a criminal court, each knowing that the essence of the dispute has been left smoldering. Often, the violation of law represents only the tip of an iceberg of community upheaval or distrust. More often than not, the adjudication process, which must fix blame and make a Hobson's Choice between right and wrong, merely reinforces and re-establishes the original problem.

Minor consumer disputes, traditionally left unresolved, have the ingredients of aggravation present in these other cases and they, too, should be handled by community dispute settlement centers. As previously stated, there is a significant criminal justice system need to see to it that resolution of all these disputes takes place. Beyond this range of disputes lie cases of bad checks between strangers (LEAA, 1974) where restitution is often a more satisfactory resolution for both the parties and the system. Community dispute settlement centers should not become collection agencies. They can, however, work with government to encourage, under Standard 1.14,

the development of mechanisms outside the criminal justice system to provide alternatives to the prosecution of routine bad check cases and minor crimes of a larcenous nature.

The foregoing discussion makes clear why the Task Force, in drafting these Standards, refused to define more specifically the cases which ought be subject to mediation and arbitration in community dispute settlement centers. Neither the label attached to offenses, nor the purported magnitude of them, nor the distinctions between them, substantially assist the creation of criteria. Though experience has shown that the willingness to seek dispute resolution as an alternative arises more readily in cases where the parties are acquainted, it is equally recognized by program administrators that disputing strangers ought to be permitted to voluntarily seek the process. Thus, pursuant to agreements with appropriate officials, the voluntary and consensual submission of a dispute to third party neutrals - the operative ingredient in successful dispute resolution - is the most important caseload criterion. In line with these considerations, Standard 1.5 requires as an absolute precondition to the provision of mediation and arbitration services, "... the consent of the parties...."

Since family disturbance and dispute calls do escalate, and since such calls appear to be common in rural, as well as urban areas, (Bard, 1970) certain communities have begun experimenting

with providing unique forms of crisis intervention services. New York City has trained police officers in family crisis intervention, and Chicago has permitted social workers and police officers to jointly respond to domestic service calls. With these thoughts in mind, Standard 1.8 uses the words "crisis service capacity" to inspire either the development of such services, or the creation of relationships between community dispute settlement centers and such services where they already exist. Obviously, not all crisis situations will benefit from an eventual referral to a community dispute settlement center and few, if any, crises will permit of an "on the spot" mediation session, but Standard 1.8 recognizes that community dispute settlement centers with a capacity to provide crisis service twenty-four hours a day, seven days a week would, nevertheless, be an asset in all communities.

The community dispute settlement centers envisioned by these Standards are not designed to be fly-by-night operations, but rather, trustworthy and trusted institutions, capable of rectifying some of the most difficult problems faced in the state. For this reason, such centers should not be constrained by rigid guidelines. They should be designed with flexibility (Standard 1.8) and be "...sufficiently funded to employ, or routinely purchase, the services of needed professionals and paraprofessionals" such as

lawyers, psychiatrists, and mental health workers (Standard 1.6).

The intent of the Standards is that centers will be designed to accommodate referrals from all segments of the criminal justice system, at whatever point the referral is desirable (Standard 1.9), and that all criminal justice system personnel will be made aware of the potential for using such centers (Standard 1.10).

To assure utilization of community dispute settlement centers, Standard 1.11 envisions the development of guidelines which "maximize the exercise of discretion" in the referral process. Standard 1.12 is drafted to permit community dispute settlement centers and criminal justice agencies to iron out problems early in the process of development, and suggests the creation of confidentiality agreements between such centers and district attorneys. Just as evidentiary privileges are designed to assure openness between attorney and client, these memoranda of agreement would be created to protect the parties and assure full disclosure in the dispute resolution process. It is anticipated that prosecutors will voluntarily agree, as some already have, to bind themselves from the issuance of process for witnesses, as well as records, in the interest of justice and the successful operation of community dispute settlement centers.

Under our system, in dealing with personal disputes, courts

are forced to impose meaningless edicts, prosecutors are compelled to attempt settlements, police are inspired to avoid confrontation, and citizens are left with larger-than-life problems. Each system actor, concentrating on legal rules and corollary roles, is helpless to help parties help themselves. Little grievances grow and possibilities for simple resolution fade into the background. We have a system without remedies and citizens with nowhere to go.

The essence of these Standards is expressed in Standard 1.7: "Primary emphasis in community dispute settlement centers should be placed upon the non-coercive facilitation of self-resolution, by the parties, of their own dispute." Under these Standards, the ultimate resolution of an ongoing dispute becomes the responsibility of the parties to that dispute. A process is created whereby the parties can fulfill that responsibility. Sometimes that process will fail and sometimes disputes will "blow up". The current success rate for community dispute settlement is high and promises to improve, as government assists in sponsoring the process.

Because the parties will enter community dispute settlement centers without labels, without lawyers, without coercion, and because the process by which resolution will be promoted will be designed to achieve it, the Prosecution and Defense Task Force expects these centers to succeed.

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corrections

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CORRECTIONS STANDARDS AND GOALS

The history of corrections in this country can only be described as a national tragedy. The administrators of our correctional systems, operating in a void of applicable standards and goals, are often reduced to perpetuating a patchwork of inconsistent and self-defeating programs and procedures.

This is not to say that correctional administrators are to blame for this condition. To the contrary, they have frequently been the most vocal proponents of measures to upgrade and humanize the correctional process. Rather, the absence of accepted correctional goals is attributable to the neglect and indifference of our citizenry and to our national confusion over such basic issues as what conduct should be classified as criminal, what factors are likely to cause or deter criminal activity, and what steps should be taken with those who commit criminal acts.

Should victimless actions be treated as crimes? Should corrections seek to "punish" convicted persons, or "rehabilitate" them? Is incarceration the proper sentence for most convicted persons? The Task Force on Corrections does not claim to have provided definitive answers to all of the questions plaguing the corrections system. However, given its diverse membership, it has achieved noteworthy consensus on many issues crucial to the future success of corrections in this State.

The Task Force on Corrections, appointed by the Division of Criminal Justice Services' Commissioner Frank J. Rogers, was composed of thirty-two individuals, including representatives from the Division of Parole as well as the Citizens' Inquiry on Parole, the Division of Probation and persons who have served probationary terms, criminal court judges and defense attorneys, corrections officers and administrators and past and present prisoners, sheriffs and concerned citizens. These individuals represented the entire spectrum of attitudes concerning corrections.

Their assignment was to contribute the knowledge they had gained through their different involvements in the criminal justice system, as well as their personal experiences as private citizens. The object was to promulgate standards and goals to guide the development of corrections in this State in the years to come.

Individuals who agree with the conclusions of such advisory groups inevitably seek to discredit their work by claiming that the views of the public at large were not represented. Therefore, it must be stressed that all of the member of the Corrections Task Force are also members of the general public. They live in

this State and walk its streets, they read about crime in local newspapers, here about it on television and talk about it with their neighbors. Most have been the victim of one or more crimes. Consequently, the standards and goals adopted cannot be dismissed as the views of a small minority of correctional aberrants. Rather, this document represents the seriously considered conclusions of a representative and sizable group of concerned citizens who live in this community and have a personal stake in its welfare.

At its first meeting in June 1977, the Task Force formed three sub-committees--Institutional Operations, Probation and Parole, and The Rights of Pre-trial Detainees and Convicted Persons. Between that time and October 1977, the Task Force met seven times and the individual sub-committees a total of 13 times. Several of these meetings were held inside Green Haven Correctional Facility to allow participation by several current prisoners Some of the adopted standards were, of course, more widely supported than others. The final document, as set forth in the succeeding pages, was approved with only one dissenting vote.

The starting point in the Task Force deliberations were those corrections-related rights and conditions which have been judicially mandated. "There is no iron curtain between the Constitution and the prisons of this country." Wolff v. McDonnell, 418 U.S. 539, 555-556 (1974); Burgin v. Henderson, 536 F.2d, 501,502 (2d Cir.1976). Rather, "a prisoner retains all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law." Coffin v. Reichard, 143 F.2d 443, 445 (6th Cir.1944).

Many assume that New York State correctional programs already comply with minimum constitutional standards. Unfortunately, such is not the case. As recently as October 31, 1977, the United States Court of Appeals for the Second Circuit, in Todaro v. Ward, Dkt.No.77-2095, affirmed yet another in a long list of district court decisions holding conditions in New York State correctional facilities unconstitutional. In so doing, Chief Judge Irving Kaufman took cognizance of the pervasive scope of this problem. Referring to "the sad--often desperate-- plight of many incarcerated in our nation's prisons", he stated:

> It is too late in the day to argue [with the contention] that penal incarceration reduces an individual's humanity. Although the public may only become aware of the demeaning reality of prison life when frustrations explode into riot, it is important to accord the basic amenities of human existence to those whom we expect one day will assume a productive role in society. The evolving standards of decency embodied by the Eighth Amendment have been refined in response to these vital needs . . . Todaro v. Ward, Dkt No.77-2095 slip op. at 147 (2d Cir.Oct.31,1977).

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Although they have played a valuable role in ordering solutions to specific problems, the courts are a wholly inappropriate vehicle for formulating general correctional policy. Their approach is necessarily piecemeal, with different judges litigating different conditions in different institutions. Moreover, the courts are limited for the most part to claims of constitutional dimension, and thus are empowered to remedy only the most "inhumane or barbaric conditions." Todaro v. Ward, supra, slip op. at 147.

It would be unsatisfactory in the extreme if the shapers of our state's correctional policies were to aspire only to those minimal standards mandated primarily by the constitutional proscription against cruel and unusual punishment. Thus, courts are and should be the last resort in remedying the problems of the correctional system. As such, their holdings were only an embarkation point for the Task Force in its efforts to develop a comprehensive and effective corrections program.

In formulating that program, the Task Force sought to balance a variety of diverse and often competing considerations. The protection of society was always a paramount concern. Temporary incapacitation through incarceration obviously offers one form of such protection. The Task Force felt that it is equally important to insure that correctional programs do not produce more criminal activity than they prevent. To paraphrase Judge Kaufman, most of those who pass through our correctional sytem will one day be expected to assume a productive role in society. The nature of their experience in that system will be a significant factor in determining whether the goal is achieved.

The limited resources of the criminal justice system were also continually weighed. The high per capita costs of judicial proceedings and incarceration motivated Task Force members to seek alternatives which could reasonably be expected to achieve the desired goals less expensively. Numerous proposals, including pretrial diversion, decriminalization of victimless acts and the use of non-institutional alternatives to incarceration will, if implemented, result in substantial monetary savings. However, the most important savings will be in the reduction of crime and a safer environment for all.

Administrative feasibility was also taken into account and numerous proposals were rejected as impractical. To the extent that certain standards appear difficult to implement, the Task Force found that the justifications for those requirements far outweigh any administrative inconvenience or increased cost..

The Task Force was conscious of the limitations on its potiential effectiveness. Whatever the quality of the adopted correctional standards and goals, they will not eliminate crime or even recidivism. The principal causes of crime in this country are

inextricably intertwined with current social and economic problems. Absent substantial changes in those areas, serious crime will continue regardless of correctional policy.

Finally, consideration was given to the massive number of human lives affected by the successes and failures of the correctional system. The State incarcerates approximately 30,000 persons. This number includes approximately eighteen thousand prisoners housed in the twenty major correctional institutions, eight community residences and five camps operated by the State, seven thousand housed in New York City facilities, and four thousand in the fifty-seven county jails under the jurisdiction of local county law enforcement agencies. Additionally, approximately seventy-seven thousand persons are under non-institutional supervision, including sixty-three thousand on probation and another fourteen thousand on parole.

Correctional policy does not affect only those persons accused or convicted of crimes. It also has a substantial impact on their families and dependents, the past and future victims of crimes, the twenty-two thousand employees of the State's correctional system and society generally. In the face of these overwhelming numbers, Chief Justice Warren Burger's observations about incarceration, which are equally applicable to all forms of correctional activity, frame the basic issue in appropriately personal terms:

> We take on a burden when we put a man behind walls, and that burden is to give him a chance to change. If we deny him that, we deny his status as a human being, and to deny that is to diminish our own humanity and plant the seeds of future anguish for ourselves.
>
> W. Burger, No Man is an Island, 56 A.B.A.J. 325 (1970)

In September 1971, the Attica Correctional Facility experienced the most serious prison uprising in this country's history. Six years later, New York became one of the last states in the country to utilize the resources made available to state criminal justice planning agencies through the Federal LEAA Standards and Goals office to develop correctional standards and goals. New York State has been a leader in many areas of economic and social endeavor. Since it operates one of the largest correctional systems in the country, it is only appropriate that it should take

the necessary steps to become a leader in the development of sound and effective correctional policies. The following document is submitted as an important first step in that direction.

December 1, 1977

NEW YORK STATE STANDARDS AND GOALS TASK FORCE ON CORRECTIONS

STAFF PROJECTS AND ACTIVITIES

The Corrections Unit of the Standards and Goals Program was composed of a Unit Chief, a Research Analyst and two summer Research Interns. The staff began by developing working relationships with all relevant State and local agencies including the New York State Department of Correctional Services, the New York City Department of Correction, the New York State Commission of Correction, the New York City Board of Correction, the New York State Parole Board, the New York State Division of Probation and the various "Liaison Organizations" listed in this report. From these agencies and organizations the staff gained insight into the existing operations of corrections in the State.

Numerous field visits to correctional institutions were made to see first hand the temper and mood of the State prisoner population and correctional employees. The staff was well received by all institutions visited and persons interviewed. Both prisoners and correctional officers expressed a sense of urgency about the need for well defined corrections standards that could lead to constructive change. The institutions visited are listed below under "Field Visits to Institutions."

A comprehensive understanding of the "state of the art" concerning existing standards and goals was a necessary task for the staff to relate to task force members. All existing standards and goals promulgated to date were examined. At the suggestion of the Commissioner of the New York City Department of Correction, Benjamin Malcolm, the staff developed a Comprehensive Compendium of all recent standards, goals and case law. The staff drew on standards and goals that had been put forth by the American Bar Association, the American Correctional Association, the American Law Institute, the Commission of Accreditation for Corrections, the New York State Commission of Correction, the Federal Bureau of Prisons, the National Advisory Commission on Criminal Justice Standards and Goals, the National Sheriffs' Association, the Minimum Standards Committee of the New York City Board of Correction and the United Nations. This Compendium of approximately 500 pages was divided into 19 categories and distributed to all the members of the Task Force for their use.

The staff also provided the Task Force with the results of the statewide Delphi questionnaire concerning correctional problems. The staff conducted an additional survey of prisoners and correctional officers. This effort could not have been accomplished without the cooperation and assistance of the following people: Commissioner Ciuros - sampled state facilities, Commissioner Gaston - sampled New York City facilities, Sheriff Finnerty and Nicholas Antoncic - Suffolk County Jail, Sheriff Lombard and Superintendent Stanwick - Monroe County Jail, Sheriff Eaton and Undersheriff Nowik - Rensselaer County Jail, Sheriff Villella - Niagara County Jail, and Carol Whelan.

The three most important correctional problems in New York State according to the survey of the Task Force and Advisory panel are: (1) rising prisoner population has produced serious overcrowding, (2) existing prisons do not meet the needs of the prisoners placed in them and (3) alternatives to incarceration are underdeveloped and underutilized. Correctional officers ranked the lack of individualized supervision for parole and probation and the ineffective reintegration of offenders as serious problems. Prisoners placed the absence of effective programs and constitutional rights in correctional institutions high on their lists.

In an effort to explore different philosophies the staff sponsored a debate on the issue, "Is Rehabilitation Possible in Prison?" The debate included presentations by Dr. David Fogel, former Director of the Illinois Law Enforcement Commission; the Honorable Stephen Chinlund, Chairman of the New York State Commission on Correction; the Honorable Ben Ward, Commissioner, New York State Department of Correctional Services; George Camp, First Deputy Commissioner, Division of Criminal Justice Services; Ms. Sylvia McCollum, United States Bureau of Prisons; Ken Whelan, Executive Director, Creative Alternatives, John Delaney, Director, New York University CLEAR Center, and former State prisoner Roger Whitfield. It was chaired by the Division of Criminal Justice Serivces' Commissioner Frank Rogers, moderated by Harvey Alter, Chief of Corrections Standards and Goals and co-sponsored by the CLEAR Center and Professor John Delaney.

The staff developed and presented a paper at the National Clearinghouse on Criminal Justice Planning and Architecture held in New Orleans in April, 1977. This paper was presented by Corrections Chief, Harvey N. Alter and dealt with the issue of "Screening for Risk" in correctional institutions. The staff also participated in many local correctional forums and conferences over the period of the grant.

The staff viewed its role as that of facilitators in providing the Task Force membership with all necessary and relevant information and resources. The final document represents the combined efforts of the staff and the Task Force. Several individuals deserve special credit. Their commitment and extra hours of work enabled us to achieve a document that far exceeded expectations in terms of scope and impact. Those are:

William Ciuros
Commissioner
New York State Department
of Correctional Services

Michael Mushlin, Director
Prisoners' Rights Project
Legal Aid Society

Dan Pochoda, Director
Minimum Standards Unit
New York City Board of Correction

Michael Young, Esq.
Goldberger, Feldman &
Breitbart

Anthony Czarnecki, President
New York State
Probation Officers
Association

Special appreciation is given to all of the prisoners who participated in the development of the standards and goals. Those who deserve specific recognition are:

Rafael Amengual	-	Green Haven Correctional Facility
Gary McGivern	-	Green Haven Correctional Facility
Shulaib Raheen	-	Green Haven Correctional Facility
Theresa Simmons	-	Bedford Hills Correctional Facility

Special appreciation is also given to those correctional personnel who were directly involved in the transportation of these inmates in the course of the standards and goals project.

The staff also wishes to thank the administration and personnel of Green Haven Correctional Facility for hosting four task force meetings and two sub-committee meetings.

The staff wishes to express its appreciation and acknowledgement of George M. Camp, Task Force Chairman, whose expert experience in local state and federal systems provided the Task Force with proactive leadership and direction.

Field Visits to Institutions

Coxsackie Correctional Facility
Great Meadow Correctional Facility
Green Haven Correctional Facility
Men's House of Detention (The Tomb)
Ossining Correctional Facility
New York City Adolescent Reception-Detention Center
New York City Correctional Institution for Women
The New York City House of Detention for Men on Rikers Island
Suffolk County Jail
Westchester County Jail; Penitentary & Women's Unit

Liaison Groups Consulted by Staff

Aspen Institute for Humanistic Studies
Cayuga County Action Program
Citizens' Inquiry on Parole & Criminal Justice
Community Service Society
Correctional Association of New York
Creative Alternatives
Fordham University
Fortune Society
Human Rights Commission of Onondoga County
Judicial Process Commission, Rochester, New York
Manhattan Court Employment Project
New York City Board of Correction
New York City Department of Correction
New York Civil Liberties Union
New York State Assembly
New York State Board of Parole
New York State Commission of Correction
New York State Council of Churches
New York State Department of Correctional Services
New York State Division of Alcoholism Services
New York State Division of Probation
New York State Office of Drug Abuse Services
New York State Probation & Parole Officers Association
New York State Probation Commission
New York State Senate
New York University Law School
Offender Aid & Restoration
Parole Revocation Defense Unit, New York City Legal Aid Society
Prisoners' Rights Project - New York City Legal Aid Society
Quaker Information Center
Religious Coalition of Criminal Justice
Security & Law Enforcement Employees Council 82
State University of New York at Albany
Westchester County Department of Correction

Corrections - Standards and Goals

There are approximately 18,000 prisoners housed in 20 major correctional facilities, eight community residences and five camps operated by the State of New York through the Department of Correctional Services. 7,000 are housed in New York City correctional facilities operated by the New York City Department of Corrections and 4,000 in the 57 county jails and penitentiaries under the jurisdiction of local law enforcement agencies.

COR GOAL 1

THE PURPOSE OF INCARCERATION IS TO CARRY OUT THE MANDATE OF THE COURTS WHICH IS TO HOLD AN INDIVIDUAL APART FROM SOCIETY IN A SAFE, SECURE AND HUMANE ENVIRONMENT.

STANDARD

1.1 Size of institution shall be consistent with the purpose of the facility and should never be larger than five hundred persons. By 1979 each facility administrator should submit a plan to limit their institution to 500 and by 1983 said plan should be implemented.

1.2 Basic human rights and dignity of prisoners and staff must be respected within all institutions.

1.3 Courts, institutional officials, staff and prisoners must have a clear understanding of the purpose, conditions and length of sentence.

1.4 A classification system should be created to take into account the needs of the individual and the needs of society.

1.5 Humane Care: The following kinds of basic opportunities and services must be provided.

1.5a Opportunity for human growth, development and self-determination on a voluntary basis -- through a wide range of programs and activities initiated by Administration or prisoners.

1.5b Opportunity for prisoner privacy;

1.5c Health care;

1.5d Food;

1.5e Recreation;

1.5f Clothing and shelter;

1.5g Maintenance of communication, including family, religious and community ties.

STANDARD

1.6 Security: A wide range of levels of custody with only the constraints applied necessary for the safe operation of the institution.

1.6a Individuals should have the opportunity to demonstrate the capacity to live in increasingly less-supervised facilities -- on the basis of prisoner performance, not sentence.

1.6b Levels of security shall range from maximum security to open facilities with regular furloughs.

STANDARD

1.7 When considering the safety of the institution, the following things must be considered;

1.7a Rule of law, procedural due process;

1.7b Prisoner and staff discipline - mutual responsibilities and sanctions for non-performance.

1.7c Opportunity for staff - prisoner communication and interaction in a non-confrontal manner.

1.7d Personal -- life and property for prisoners, employees and visitors.

1.7e Sanitation -- maintenance.

COMMENTARY

Correctional administrators today are facing a different institutional population than in the past. As a result of the creation of diversion and community based programs, the offender committed to a secure institution is more experienced in criminal activity and more difficult to work with. The staff of our institutions will therefore have to be more skilled and personnel standards have to change to meet these new needs.

Traditionally, institutions have been very large, often accommodating between one and two thousand inmates. Norman Carlson, Director of the United States Bureau of Prisons, has stated in testimony before various congressional subcommittees that the housing of more than five hundred people in a correctional facility

is unacceptable as it constitutes a mere "warehousing" operation (1976). As a warehouse for people, it provides no space for an inmate to have adequate recreation, to work off frustration, anger or simply energy, or for privacy. Large populations require regimentation, impersonal management and cause perpetual crises in control.

The National Sheriff's Association, in their Handbook on Jail Administration, states that "no institution should be planned for a total population of over 400" (1974). The Commission of Accreditation for Corrections in its "Proposed Standards for Long-Term Adult Institutions" states that new facilities should not be assigned to accommodate more than five hundred inmates; where a larger institutional complex exists, there should be decentralized units of no more than five hundred inmates each. The Commission further states that "efficient administration and adequate attention to the needs of inmates are materially diluted in facilities of over five hundred inmates. Inmates become relegated to the anonymity of numbers and individual dignity and respect is virtually non-existent in facilities exceeding this size" (1977).

The task force recognizes that there are those adults who cannot be supervised in the community without endangering public safety and will have to be incarcerated.

The National Advisory Commission on Criminal Justice Standards and Goals states that the size of the inmate housing unit is of critical importance because it must satisfy several conditions: security, counseling, inmate social and informal activities and formal program requirements (1973). The institutions that must remain in use should be modified in order to minimize the harmful effects of the environment on the prisoners.

COR GOAL 2

CREATE MORE EFFECTIVE PERSONNEL MANAGEMENT PERFORMANCE AND EFFICIENCY WITHIN CORRECTIONAL INSTITUTIONS, CONSISTENT WITH EXISTING GOALS AND OBJECTIVES ESTABLISHED BY THE N.Y.S. TASK FORCE ON CORRECTIONS.

STANDARD

2.1 Establishment of an effective recruitment and selection system which places appropriate weights on relevant areas of education, experience, knowledge, skills and abilities.

2.1a Advocate changing Civil Service exam to include more relevant areas and a background search with personnel interviews.

2.2 Every correctional facility shall employ sufficient number of qualified persons to provide a humane, safe and secure environment for all prisoners, employees, visitors, and to perform all other necessary facility functions.

2.3 Correctional agencies shall take immediate, affirmative action to recruit and employ qualified minority personnel to reflect the minority composition of the inmate population and recruit female personnel.

2.4 Establishment of a program of on-going evaluation of all Correctional staff.

2.4a Superintendents and supervisory staff must be held accountable for competent performance of their jobs.

2.5 Establishment of objective criteria and an effective career ladder governing promotions based on merit and performance.

2.6 Establishment of pay scales reflecting higher pay for persons who work directly with the inmates and the public.

2.7 Establishment of precise job descriptions and requirements and encourage lateral transfers within the System to match position with capabilities.

2.8 Establishment of on-going training and skill development programs for all correctional employees at all levels.

COR GOAL 3

DISPOSITIONAL ALTERNATIVES IN CRIMINAL PROCEEDINGS: THE CRIMINAL JUSTICE SYSTEM SHOULD HAVE A VARIETY OF ALTERNATIVE DISPOSITIONS AVAILABLE FOR DEFENDANTS IN CRIMINAL PROCEEDINGS, WHICH SHOULD BE OF SUFFICIENT QUALITY AND DIVERSITY TO MEET THE PARTICULAR NEEDS OF EACH DEFENDANT AND OF SOCIETY.

SUBGOALS

3.a The principal goals of disposition should be (1) to deter future crimes through programs aimed at solving the problems which induced the past criminal activity, (2) to provide restitution to the victims and (3) to protect society.

3.b If more than one dispositional option is appropriate to an individual defendant, the option chosen should be the one which is the least restrictive of the defendant's liberty interests. Dispositional options which provide for the defendant to remain in the community should be given priority over options which do not. Incarceration, as the most restrictive dispositional option, should be considered only after every other available option has been considered and rejected as inappropriate.

3.c The percentage of defendants sentenced to incarceration as opposed to other dispositional alternatives should be substantially reduced.

3.d Defendants have the right to dispositional alternatives proportionate to the crimes of which they are convicted. These alternatives should meet the needs of each particular defendant and of society.

STANDARDS

3.1 Between the present time and December 31, 1982, a principal funding priority of the Criminal Justice System should be to work in conjunction with other social institutions to develop a broad variety of community-based, non-institutional programs designed to meet the needs of individual defendants and society to help solve the problems which induce criminal activity.

3.2 By December 31, 1982, every community should have sufficient non-institutional programs in operation to meet the needs of defendants and society.

3.3 By December 31, 1982, every county where more than 10% of all defendants sentenced are being incarcerated, should undertake studies to determine if the most effective use of alternatives to incarceration is being made.

3.4 The sentences of all prisoners incarcerated as of December 31, 1982, shall be reviewed by the court of appropriate jurisdiction to determine if incarceration is the least restrictive available disposition and to modify the sentence imposed where appropriate.

3.5 Between January 1, 1979 and December 31, 1988 all steps shall be taken by the relevant legislative and administrative bodies to insure that no additional bed spaces are added to the total in existence on January 1, 1979, in the detention and correctional facilities in this State. For all bed spaces added in new or existing facilities a corresponding number of bed spaces in existing facilities should be eliminated.

COMMENTARY

Even the most cursory inspection of our current corrections system discloses a virtual obsession with incarceration, to the exclusion of most other forms of dispositional alternatives. The task force recognized that incarceration will continue to be necessary for a certain percentage of convicted persons. However, it was felt that for the large majority of convicted persons, community-based, non-institutional programs were more appropriate and more likely to be successful. Because of this State's failure to develop a satisfactory complement of such programs to date, it was concluded that their development should be a principal funding priority of the correctional system and related agencies over the next several years.

COR GOAL 4

PRE-TRIAL STATUS: PRE-TRIAL DEFENDANTS ARE PRESUMED INNOCENT AND ARE ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS EXCEPT WHEN CURTAILMENT IS COMPELLINGLY NECESSARY TO INSURE THEIR PRESENCE AT TRIAL. WHEN CURTAILMENT IS NECESSARY, IT SHOULD BE LIMITED TO THE LEAST RESTRICTIVE FORM.

STANDARDS

4.1 By December 31, 1979, legislation should be adopted which requires that criminal charges be initiated by summons rather than arrest, except in those instances where arrest is necessary to preserve the defendants presence and to protect society.

4.2 Defendants who are arrested should be released in their own recognizance, released to a program, released to a third party, or released to a probation agency for supervision, except for those occasions where, after a hearing with appropriate due process safeguards, bail or detention is found to be essential to insure the defendant's presence at trial or protect the general public.

4.3 All pre-trial detainees are entitled to a bail which is in proportion to their income and which they can post, unless it is compellingly demonstrated that no such bail would reasonably insure the defendant's presence at trial or protect the general public.

COMMENTARY

Many persons are presently punished before trial through long months of pre-trial detention. Moreover, a defendant who is incarcerated awaiting trial is incapacitated in aiding in the preparation of his defense; studies have established that such

persons, because of their pre-trial detention, and more likely to be convicted than their bailed counterparts. The task force sought to remedy these problems by proposing that an increased emphasis be placed on the use of summons (as an alternative to custodial arrests) and on a defendant's right to pre-trial release whenever possible.

COR GOAL 5

PRISON CONDITIONS: PRE-TRIAL DETAINEES AND CONVICTED PERSONS SENTENCED TO TERMS OF INCARCERATION SHOULD BE HOUSED UNDER CONDITIONS WHICH INSURE THAT THEIR RIGHTS WILL BE MET AND THEIR DIGNITY AS HUMAN BEINGS WILL BE PRESERVED.

SUBGOAL

5.a Pre-trial detainees and convicted persons sentenced to terms of incarceration or waiting trial should enjoy all of the rights, privileges, opportunities and conditions of free citizens except for those restrictions which are compellingly necessary to the legitimate governmental goals relevant to their incarceration or to protect the general public. The only legitimate governmental goal relevant to the incarceration of pre-trial detainees is to insure their presence at trial. The only legitimate governmental interest relevant to the incarceration of convicted persons is to remove the convicted person from society, in a safe and secure manner. Deprivations of the liberty of pre-trial detainees and convicted persons to meet these goals should be done in the least restrictive manner possible,

STANDARD

5.1 Overcrowding - The following steps should be taken to eliminate overcrowding in New York correctional and detention facilities:

a. Effective immediately, the maximum inmate capacity for each facility should be the design capacity of that facility. The maximum inmate population of each facility should not be permitted to rise above 80% of design capacity except when a temporary state of emergency is certified by the Commissioner of Corrections or appropriate correctional administrator and reviewed promptly by the appropriate regulatory authority. In the event of such an emergency, the population of a facility may be increased to not more than 100% of design capacity for a period not to exceed 30 days.

b. By December 31, 1979, an appropriate independent, non-governmental body should evaluate the design capacity of each institution and set new maximum capacities where needed.

c. Effective immediately all rooms or cells in facilities other than those rooms designed for dormitory housing (with separate bathroom facilities), should be limited to single person occupancy.
d. After December 31, 1981, at least 35% of all prisoners in each jurisdiction should be housed in single rooms containing at least 80 square feet of floor space, a solid door with a viewing panel and a window; by December 31, 1983, at least 70% of all prisoners should be housed in such rooms, and by December 31, 1985, all prisoners should be housed in such rooms.

By January 1, 1979, dormitories or multiple occupancy housing shall be utilized only if: (1) they contain at least 75 sq. ft. per prisoner in the sleeping area and (2) they are used for those involved in release programs and the prisoners involved have voluntarily chosen such housing over a single room in the same jurisdiction, or they are used on a temporary basis because of medical necessity. By January 1, 1981, no more than six prisoners shall be housed in a dormitory or multiple occupancy housing area.

STANDARD

5.2 Maintenance of Institutions.

a. Every correctional institution shall:
   i. comply with health, sanitation, fire, and industrial safety codes applicable to private residential facilities or other public buildings such as schools and hospitals;
   ii. comply with applicable correctional standards;
   iii. be inspected regularly, not less than annually, by food, medical, housing, fire and safety inspectors who are independent of the agency being inspected;
   iv. be subject to enforcement penalties and procedures applicable to other institutions subject to such codes including abatement procedures and noncompliance. All prisoners' living quarters should be designed to allow prisoners substantial privacy consistent with their security classification.

b. Correctional authorities shall provide prisoners

   i. heat or cooling appropriate to the season to maintain temperatures in the comfort range;
   ii. natural and artificial light in their living quarters sufficient to permit reading;
   iii. a balanced diet developed by a trained nutritionist which insures at the least the Recommended Daily Dietary Allowance as developed by the National Academy of Sciences. Menus should conform to the Moderate Cost Food Plan of the United States Department of Agriculture for the region in which the institution is located;
   iv. adequate, clean, functioning and private toilet and other facilities for the maintenance of personal cleanliness

v. supplies for the maintenance of personal cleanliness; vi. freedom from excessive noise; vii. clean bedding, appropriate to the season; viii. medical and dental care.

STANDARD
5.3 Recreation

1. Recreation Areas: Indoor and outdoor recreation areas of sufficient size to provide substantial opportunities for recreation and exercise shall be established and maintained by each institution. An outdoor recreation area must allow for direct access to sunlight and air and a view of the surrounding landscape. Prisoners shall be allowed access to these areas at any time they are not locked into their living areas.

2. Recreational Equipment: Prisoners shall be provided an adequate amount of equipment during the recreation period, including but not limited to:
   i. basketballs and baskets;
   ii. table tennis tables, balls and paddles;
   iii. barbells and weight sets;
   iv. volleyballs and nets; and
   v. footballs and soccer balls.

STANDARD
5.4 Movement within the Institution.

Any restriction on the prisoners' right of movement inside the institution should be as minimal as institutional security and order require. Except in maximum security institutions, prisoners should not be locked in their rooms at any time, except for institutional emergency, administrative detention or punitive segregation. Maximum security prisoners shall not be locked into their rooms more than eight hours in any twenty-four hour period. All prisoners should be provided with a key or means of access to their rooms during periods when they are not required to be locked in their rooms.

STANDARD
5.5 Access to the Judicial Process, Legal Services, and Legal Materials.

1. Access to the Judicial Process
   a. Prisoners should have free and effective access to the judicial process; governmental authorities should take affirmative steps to assure such access. Regulations or actions should not unduly delay or adversely affect the outcome of a prisoner's claim for relief or discourage prisoners from seeking judicial consideration of their grievances.
   b. To implement the principles in (a), the following standards should apply:

i. Access should not be restricted by the nature of the action or the relief sought. Prisoners should be entitled to present any judicially cognizable issue, including (a) challenges to the legality of their conviction or confinement; (b) assertions against correctional or other governmental authorities of any rights protected by constitutional, statutory, or administrative provision or the common law; (c) pursuit of remedies in connection with civil legal problems; and (d) assertions of a defense to any action brought against them.

ii. Judicial procedures should be available to facilitate the prompt resolution of disputes involving the legality, duration, or conditions of confinement. The doctrine of exhaustion of administrative remedies should apply only where a reasonable administrative process is available for presenting and resolving disputes, where prisoners are fully advised of the process, and where past practice or other facts have not demonstrated the futility of the process. An administrative process unable to reach a decision within 30 days is presumptively unreasonable.

iii. Prisoners should be allowed to prepare and retain legal documents. Although the time, place or manner of preparation or retention may be regulated for purposes of institutional security and scheduling, such regulations should not operate to prevent or discourage preparation or retention.

iv. Legal documents should not be read, censored, or altered by correctional authorities, nor should their delivery be delayed.

v. Prisoners' decisions to seek judicial relief should not adversely affect their program status within a correctional institution, or opportunity for release.

2. Access to Legal Assistance

a. Correctional authorities should insure that prisoners have access to legal assistance in connection with all personal legal matters including, but not limited to:

i. post conviction proceedings challenging the legality of their conviction or confinement;
ii. court proceedings challenging conditions of confinement, correctional treatment or supervision;
iii. parole grant and revocation proceedings;
iv. hearings to determine the length of sentences to imprisonment.
v. civil matters; and
vi. grievance, disciplinary, classification, and other administrative proceedings within a correctional institution.

b. Prisoners should be entitled to retain counsel or an advisor of their own choosing when able to do so and when indigent, to have legal assistance provided for them.

c. Legal assistance from other prisoners should not be prohibited. The availability of such assistance should not be considered a fulfillment of these standards.

d. Prisoners shall not be restricted in their communications with attorneys. The fact that a prisoner is represented by one attorney shall not be grounds for preventing him or her from communicating with other attorneys. Any properly identified attorney may visit any prisoner with the prisoner's consent.

e. Visits between prisoners and attorneys shall be kept confidential and protected. Legal visits shall be scheduled at least eight hours per day between 9 a.m. and 9 p.m.

f. Law students, legal paraprofessionals, and other attorney assistants working under the supervision of an attorney representing a prisoner shall be permitted to communicate with prisoners, by mail, telephone, and personal visits, to the same extent and under the same conditions, that the attorney may do so for the purpose of representing the prisoner. Law students, legal paraprofessionals, and other attorney assistants working under the supervision of an attorney contacted by a prisoner shall be permitted to communicate with that prisoner by mail, telephone or personal visits to the same extent and under the same conditions that the attorney may do so. In addition, legal assistance may be provided by a person authorized by law to give legal advice or representation in free society. In institutional

administrative proceedings other than those involving an allegation of a "major rule" violation, legal assistance may be provided by counsel substitutes who should be trained by an attorney or educational institution and receive continuing supervision from an attorney.

g. The relationship between a person providing legal assistance and a prisoner should be protected by the attorney client privilege. Correctional authorities should facilitate confidential contact and communication between prisoners and persons providing legal assistance.

3. Access to Legal Materials

a. Prisoners should have access to legal materials, including a law library which may be visited for reasonable periods each day to conduct legal research, as well as to duplicating facilities and typewriters. The assistance of counsel should not be a substitute for independent access to legal research materials.

b. Prisoners should be entitled to acquire law books and other legal research material from any source. Regulations for the storage of legal material in personal quarters or other areas should not unreasonably interfere with access to or use of these materials.

c. Correctional authorities should have the affirmative duty of providing access to law books and other legal research materials. The scope and depth of the legal materials maintained at the institution should be governed by the number of prisoners, the nature of their legal problems and the extent of use of library resources. As a guideline, each correctional institution with an average daily population of 100 or more should maintain a collection at least as extensive as that recommended by the American Association of Law Libraries. In addition, prisoners should have access to research materials not maintained by the institution but necessary for the adequate preparation or prosecution of a claim or defense.

STANDARD

5.6 Institutional Discipline

1. Rules of Conduct

a. Correctional authorities should establish clear written rules for prisoner conduct. These rules and standards should include:

i. a specific statement of offenses, and a schedule indicating the minimum and maximum possible penalties for each offense, proportionate to the offense: and
ii. specific standards and procedures for prison discipline and classification decisions, including decisions involving security status and work and housing assignments.

b. A personal copy of the rules for each prisoner and an oral summary of their supstance, in all languages spoken by a significant number of prisoners, should be provided upon entry to the institution.

2. Punishments for Misconduct; Hearing

a. Permissible punishments for violation of institutional rules should be limited to the following which are listed in increasing order of severity.

i. Loss of privileges for a maximum of 30 days;
ii. Confinement to assigned quarters for a maximum of 30 days;
iii. Placement in a more secure housing unit for a maximum of 30 days;
iv. A recommendation to the good time board that the prisoner lose future good time for a maximum of 30 days; accrued good time may not be taken away by any tribunal, board or official.

In appropriate cases, restitution for damage to the institution or to a prisoner, not to exceed five days' wages, may be ordered. As used in this section, "privileges" does not include mail, visitation, physical exercise at least one hour per day, access to the judicial and grievance processes, and religious advice and services.

b. The least severe punishment appropriate to the offense should be imposed.

c. No prisoner should be confined in "solitary confinement" either as a classification or punishment.

d. A prisoner confined in either his or her assigned quarters or in a more secure housing unit may be physically separated from other prisoners, but should not be deprived of books or other reading matter, mail, physical exercise, items of personal care or hygiene, light, ventilation, regular diet, visiting, or oral communication with other prisoners.

e. At a hearing concerning a violation of a "minor rule", where maximum possible punishment is (1) confinement to personal quarters or placement in more secure housing for no more than five day ;

(2) loss of privileges for no more than twenty days; or (3) restitution, a prisoner should be entitled to

i. written notice of the charge, in a language he or she understands, within three days of the time he or she is suspected of having committed an offense; within another twenty-four hours he or she shall be given copies of any written information which the tribunal may consider;

ii. a hearing within 72 hours of the time he or she has received the written notice of the charge;

iii. warnings required by law concerning any possible criminal proceedings that might eventuate from the charged violation;

iv. appear and give evidence;

v. legal assistance as defined above;

vi. a written decision based upon a preponderance of the evidence, with specified reasons. The decision should be rendered promptly and in all cases within 5 days after conclusion of the hearing.

vii. appeal, within 5 days, to the chief executive officer of the institution, and the right to a decision by him or her within 30 days, based upon the verbatim record of the hearing. He or she may, in writing, either affirm or reverse the determination of misconduct and decrease or approve the punishment imposed. Execution of the punishment should be suspended during the appeal.

f. In all other disciplinary hearings ("major rule" violation hearings), in addition to the rights specified in subsection (e), prisoners should be entitled to compel the attendance of any person within the prison community, and to confront and examine or cross-examine that person, except where the hearing officer(s) makes a written finding, based upon specific, recited facts, that the physical safety of a witness, other than a correctional employee, would be endangered by disclosure, or that the evidence would be cumulative.

g. Where necessary as an emergency matter, pending the hearing required by section (f), correctional authorities may confine separately a prisoner alleged to have committed a "major rule violation." This confinement should not extend more than 48 hours unless necessitated by a request for continuance by the prisoner, in which case another 24 hour delay is permissible.

h. Unless the prisoner is found guilty, no record relating to the charge should be retained in the prisoner's file, or used against him or her in any way.

i. Charges of "major rule violations" should be heard by one or more impartial persons not directly involved in the prison setting or employed by correctional authorities. Charges of "minor rule violations" may be heard by any correctional official not directly involved in the incident.

j. In the event of a situation requiring the chief executive officer to declare all, or a part of an institution, in a state of emergency, the rights provided in this section may be temporarily suspended for up to 24 hours after the emergency has terminated.

3. Criminal Misconduct

a. Where a prisoner is alleged to have engaged in conduct which would be a criminal offense under state or federal law, the prosecutor in consultation with the chief executive officer, should promptly determine whether to charge criminally the prisoner. If a decision is made to charge, all institutional proceedings against the prisoner should be halted.

b. If required by institutional order and security, the prisoner to be charged criminally may be confined in his or her assigned quarters or in a more secure housing unit for no more than 90 days, unless during that time an indictment or information is brought against him or her. If a charge is made he or she may be so confined during the pendency of the criminal prosecution.

c. After disposition of the criminal charge, the prisoner may be reclassified. He or she should not, however, be subjected to further disciplinary proceedings.

STANDARD

5.7 Classification

1. Level of Security. Each jurisdiction individually, or in conjunction with other levels of government shall develop, construct, or acquire facilities and programs appropriate for the care and custody of prisoners who are classified as minimum, medium, or maximum security risks respectively. By December 31, 1980 no more that 20% of bed spaces shall be utilized for maximum security.

2. Classification Processing

a. Within 30 days of conviction and sentence, a properly trained classification committee should classify prisoners according to (1) security risk status and (2) job or other assignment. Although the process should be sufficiently informal to facilitate an agreement on both issues, prisoners should be entitled to

i. call witnesses:

ii. confront and cross-examine any person giving adverse written evidence against him or her not previously subject to cross-examination;

iii. timely discovery of any written information which the committee may consider;

iv. legal assistance as defined above;

v. a written decision, explaining in detail the considerations and factors that led to the committee's conclusions.

b. The initial classification decision should be reviewed not less frequently than every six months by the classification committee based upn the written record of the prisoner's conduct in the institution for the most recent six month period. The prisoner may request a de novo hearing at which he is entitled to the rights provided in subsection (a) above.

c. In any classification decision, the presence of a detainer based on a charged, but as yet unproved, criminal offense or parole violation should not be considered if the detainer has been pending for more than six months without formal action by the responsible authority after demand by the prisoner. All other detainers may be considered by the committee, but the mere presence of any detainer should not be given conclusive weight in deciding the prisoner's security classification.

d. Provisions shall be provided for written notice and reasons for involuntary transfers from one institution to another. A hearing shall be held, at the inmates request, within a reasonable period of time to discuss the reasons for the transfer. Whenever feasible this hearing shall be held at the original institution.

e. Prior to the initial classification decision, a prisoner should be asked to designate his or her city or town of residency. After the classification decision, that prisoner should be housed in the

facility of his or her security status which is closest geographically to that place of residency, unless there are no vacancies in that facility or the prisoner must be housed in another facility to be available for court proceedings or for medical or psychiatric reasons. If a prisoner's place of residence changes, he or she should be permitted to change his or her designated place of residency upon sixty days notice.

f. As of this date, any newly constructed, acquired or renovated facilities shall be at or within twenty-five miles of the city or community that at least 75% of its prisoners have designated as their place of residence.

STANDARD

5.8 Prisoner Employment:

1. Availability of Remunerative Employment.
Correctional authorities should ensure that prisoners have access to remunerative employment while confined. To implement this principle, the following standards should apply:

a. Correctional authorities should establish furlough and work release programs to provide employment opportunities for prisoners.

b. Prisoners not employed outside the institution on furloughs or work release programs should be provided with remunerative employment within the institution.

c. Legal provisions that restrict the goods that can be produced by prisoners or the type of employment that can be offered to prisoners should be repealed.

d. Legal provisions that restrict the marketing, sale and transportation of goods produced in correctional institutions or by prisoners should be repealed.

e. Private enterprise should be authorized and encouraged to operate within correctional institutions and to employ prisoners.

f. None of the provisions of this section are intended to require that correctional officials permit prisoners to organize or participate in labor unions.

2. Wages and Hours of Employment
Prisoners should be entitled to receive compensation and other benefits for employment within correctional facilities comparable to what they could receive if the employment occurred in free society. The following, standards should apply to all prison employment.

a. Prisoners should be governed by provisions comparable to those of the Fair Labor Standards Act.

b. Prisoners should receive the same wages and be required to work no more than the number of hours that prevails in free society for similar work for persons of like training and experience.

c. Prisoners should receive the same fringe benefits including vacations that prevail in free society for similar employment. A prisoner may choose an equivalent number of good time days in lieu of vacation days.

3. Conditions for Employment
Prisoners should be entitled to work under the same conditions that prevail in similar employment in free society. Prisoners working at remunerative employment within an institution should not be exempted from:
a. The Occupational Safety and Health Act.
b. The Applicable Worker's Compensation System.
c. The Federal Unemployment Tax Act.
d. The Federal Social Security Act.
e. The Pension Reform Act.
f. The National Labor Relations Act and other legal provisions regulating labor-management relations in private employment, unless employed by a state agency in an occupation that provides essential services to the prison community.
g. Any legislation authorizing, prohibiting, or regulating the unionization or collective bargaining of public employees if engaged in employment excluded in Subsection (f).
h. Any other law or program relating to the wages, hours and conditions of employment of persons in similar occupations in free society.
i. None of the provisions of this section are intended to require that correctional officials permit prisoners to organize or participate in labor unions.

4. Prisoner Payment
Upon implementation of the above standards, prisoners working at remunerative employment should be required to pay the following:
a. The costs of their room and board. Correctional authorities with the assistance of the jurisdiction's public auditing agency or a private accounting firm should determine periodically the charge to be made for housing which may include an allocation for depreciation of personal living quarters, utilities, and other services provided primarily for personal comfort and benefit. Costs related primarily to custody and programs should not be included.
b. Any contributions or withholding required by law or normally paid by workers in private industry working at comparable employment at comparable wages.
c. Taxes.

5.9 Medical Treatment

1. Right to Medical Services
Prisoners should be entitled to proper medical services, including, but not limited to, dental, physical, psychological, psychiatric, physical therapy, and other accepted medical care.

2. Prompt Medical Treatment
Correctional authorities should implement a written plan for each institution to assure:

i. Immediate emergency treatment by a medically trained correctional officer. Within thirty minutes of the discovery of the emergency the prisoner should be seen by a licensed health care provider at the institution or a nearby medical facility;
ii. That prisoners who cannot be adequately treated at the correctional institution shall be transferred to an appropriate facility;
iii. That no correctional official shall inhibit or delay a prisoner's access to medical personnel or interfere with medical treatment;
iv. That upon request a prisoner will be seen by a licensed health care provider within twenty-four hours. All medical complaints should be communicated to the physician in charge, or his medically trained delegate, as soon as possible. A detailed written record should be kept of each complaint and its disposition and reviewed by the physician in charge.
v. That prisoners will not be required to waive any right or privilege as a prerequisite to seeking or receiving medical attention;
vi. That accommodations for all necessary pre-natal and post-natal care and treatment are available. Arrangements should be made whenever practicable for children to be born in a hospital outside the institution. That a child was born in an institution should not be mentioned in the birth certificate. Nursing infants should be allowed to remain in the institution with their mothers, and provision should be made for a nursery staffed by qualified persons.

3. Emergency Medical Treatment
All correctional institutions should have basic first aid and emergency equipment. Whenever arrangements for prompt medical treatment cannot be made with a non-prison medical facility, or whenever correctional authorities determine to provide more than emergency and first aid care, the provision should meet any legally imposed health care requirements for hospitals

consistent with the size of population served.

4. Periodic Medical Examinations
a. Immediately upon entrance to any correctional institutions, prisoners should be examined for communicable disease and to determine the need for first aid or emergency medical care.
b. Prisoners should, within 48 hours of admission to the correctional institution be required to undergo a thorough medical examination by a physician containing at least the elements contained in the New York City Department of Correction's medical examination unless, within the past twelve months, they have had such an examination, and the relevant medical records are readily available to the institution Prisoners should not be housed in general population until they have received such an examination.
c. Prisoners should have access to a thorough medical examination periodically.

5 Confidentiality of Medical Records
The physician in charge should assure that complete, accurate, and confidential records of all medical examination, findings, and treatment are made and maintained for at least three years after the prisoner's release, in conformity with normal medical practice. Methods for confidentially transferring these records each time a prisoner is transferred should be established.

6. Control of Medication
All drugs should be under the control and supervison of the physician in charge. Only a licensed health care provider should distribute or dispense potentially addictive or habit forming drugs. In no instance should prisoners or unqualified or unauthorized correctional officials dispense or distribute drugs.

7. Experimental Programs
Experimentation, including but not limited to, behavior modification, psychosurgery, drug testing, electrical stimulation of the brain, and psychopharmacology, should not be allowed under any circumstances.

STANDARD
5.10 1. Availability of Programs
Correctional authorities should consult prisoners and prisoner representatives to determine the

types of self-improvement and education programs desired by the prisoners, and should thereafter seek to provide access to such programs preferably by contracting with outside agencies or individuals for such services. Correctional authorities should not penalize prisoners for refusing to participate in any program or activity.

2. Prisoner-Manager Media

a. Prisoners' media and internal communications mechanisms should be managed exclusively by prisoners. Correctional authorities should not censor material unless it is libellous or creates a clear and present danger of violence, disruption, or substantial threat to personnel or prisoners, or constitutes a specific attempt to organize a strike or other unlawful activity. The editorial staff may reject material because it does not meet quality standards or for economic reasons.

b. Persons or groups attacked in prisoners' media should be afforded equal opportunities to respond. In newspapers, the response should be in the same issue, and in an equally prominent place. Prisoners not connected with the medium should have access to the medium to express their views.

c. Any person or group aggrieved by a decision refusing access, or denying an opportunity to respond to an attack, may use applicable grievance procedures.

STANDARD 5.11 Communication with the outside world

Prisoners' communications should be as protected as those of free citizens. There should be no restrictions on length, language or content of letters, or on persons to whom a prisoner may write, except as provided in general laws. Other restrictions on communications should be the least restrictive necessary to serve the legitimate interests of prison security and order. Specifically:

a. All letters, incoming and outgoing, should not be read. Incoming mail should only be opened in the presence of an inmate or inmate representative to check for contraband.

b. Indigent prisoners should be afforded sufficient stationery and free mailing privileges.

c. All prisoners shall be allowed at least two collect telephone calls per month.

d. Any package or tape brought or sent to a prisoner may be opened and inspected for contraband in his or her presence.
e. Prisoners shall be entitled to receive publications from any source including family friends and publishers. Incoming publication may not be read by correctional authorities except pursuant to a lawful search warrant.

STANDARD
5.12 Visitation
a. Correctional authorities should accommodate and encourage visiting by establishing reasonable visiting hours, including time on weekends, holidays and evenings suited to the convenience of visitors.
b. Effective immediately, all visits shall be contact visits. Each prisoner shall be entitled to receive a total of six hours of visits per week. Each visit shall last a minimum of one hour in the visiting room. At least one visit shall be on evenings or during weekends. By December 30, 1979 each prisoner shall be entitled to daily visits of at least one hour's duration per visit.
c. Prisoners shall be permitted to visit with at least three visitors at the same time, with the maximum number to be determined by the institution.
d. Visitors shall be permitted to visit with at least two prisoners at the same time, with the maximum number to be determined by the institution.
e. Visits shall be confidential and unmonitored unless a lawful warrant is obtained, although visual supervision should be maintained.
f. Prisoners should be able to cumulate visitation periods to permit extended visits. Visits with attorneys, clergy, and public officials should not be counted against visiting periods, and should be unlimited except as to time and duration.
g. Visitors may be subjected to non-instrusive forms of a personal search solely to ensure they possess contraband, provided that such searches are conducted only through the use of electronic detection devices.
h. The visitation rights of a prisoner with a particular visitor may be denied, revoked or limited only when it is determined that the exercise of those rights constitutes a serious threat to the safety or security of an institution provided that visitation rights with a particular visitor may be denied only if revoking the right to contact visits would not suffice to reduce the serious threat.

i. This determination must be based on specific acts committed by the visitor during a prior visit that demonstrate his or her threat to the safety and security of an institution. Prior to any determination, the visitor must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond.

j. Prisoners who are ineligible for furloughs should be able to participate periodically in a suitable family reunion program with members of their family in a part of the institution separate and apart from the general population to permit private visits for the inmate and his or her family. Family members shall include any children of the prisoner and the parent of such children. It shall also include any individual with whom the prisoner has established a familial relationship.

k. Correctional authorities should facilitate and promote visitation by providing transportation for visitors at least from terminal points of public transportation. Where the prisoner and the family are indigent, authorities should pay transportation costs for periodic visits by up to three members of the prisoner's immediate family.

l. Consistent with security and time considerations, any individuals or group should be able to visit the prison and tour any and all parts of the facility. The privacy and dignity of prisoners should be scrupulously protected. Conversations between prisoners and visitors should be unmonitored.

m. Properly identified media representatives shall be entitled to interview any prisoner who consents to such an interview. "Properly identified media representative" shall mean any person who presents proof of his or her affiliation with the media.

n. Media interviews shall be scheduled promptly but not later than 24 hours from a request made between 8 a.m. and 4 p.m. The 24-hour period may be extended if necessitated by the prisoner's absence from the institution.

STANDARD

5.13 Religious Freedom

a. Prisoners may pursue any legal religious practice or belief. No prisoner should be required to engage in religious practices or services. No information, written or oral, concerning a prisoner's religious activities while serving his or her sentence should be maintained or used by correctional authorities for any purpose.

b. Correctional authorities should provide prisoners with religious diets and nutritious food consistent with their religious beliefs. Prisoners should be entitled to observe special religious rites, including fasting and special dining hours, on holidays generally observed by their religion.

c. Funds allocated for religious purposes should be apportioned according to the proportion of prisoners adhering to each faith.

d. Modes of dress or appearance, including religious medals and other symbols related to religious observance, should be permitted.

e. Consistent with regualtions on all mail, prisoners may obtain and retain religious materials.

f. Prisoners should be allowed religious counselling by recognized religious leaders including other prisoners and attendance at congregate services even while being disciplined. The priest-penitent privilege provided by state law should protect such communications.

g. Whether an organization seeking religious status is a religion should be determined not by correctional authorities, but by a court of proper jurisdiction or by the Religious Corporation Act of the State of New York.

STANDARD

5.14 Freedom of Association

a. Prisoners should be entitled to form organizations for any lawful purpose, provided that such organizations do not demonstrate by their actions a clear and substantial threat to prisoners or personnel. Such organizations should be entitled to reasonable use of institutional facilities and should have access without charge to available resources and materials. A refusal by the chief executive officer to permit such access, on the basis that the group's purpose and actions are unlawful, should be considered by the grievance committee.

b. The chief executive officer may assign staff employees to observe group meetings but should seek to accommodate the group's requests for the assignment of specific employees.

c. Individual prisoners, or prisoner organizations, should be permitted to circulate petitions for signature, or to peacefully distribute lawful materials, subject to reasonable time and place limitations, so long as no intimidation is practiced.

d. Prisoners should be entitled to peacefully assemble to discuss any lawful subject, or to seek redress of grievances. Correctional authorities may disperse such assemblies to conform with reasonable time, place and manner regulations previously set, or to prevent a clear and present danger to institutional security.

e. None of the provisions of this section are intended to require that correctional officials permit prisoners to organize or participate in labor unions.

STANDARD

5.15 Rights of Privacy

a. Any area of the institution, except prisoners' living quarters, amy be searched by any correctional employee without specific information or cause at any time.

b. Routine visual inspections of personal living quarters to determine whether they are being maintained in accord with health, safety and security regulations may be conducted periodically by any correctional employee without prior authorization.

c. The chief executive officer may, without specific cause, authorize an intrusive search of any area, including prisoners' living quarters or belongings. After any such search, a full report of the scope of the search, any item damaged or seized, and the names of witnesses, should be made to him or her. A copy should be given to a prisoner whose property was seized or damaged.

d. Instrusions into the personal living quarters of a prisoner, other than authorized by subsection (c), should be based upon a reasonable belief that contraband is located there. Except where the correctional officer having such a belief reasonably fears that the prisoner will dispose of the contraband in the interval, written permission from a supervisor should be obtained. The authorization should also contain the reason for the search, including the name of the person, if any, upon whose information the correctional officer is relying. A copy of this report should be given to the prisoner during, or immediately after, the search. The name of the informant may, in the discretion of the officer, be deleted from the copy given the prisoner, but should be present in the official copy on file with the chief executive officer.

e. Except in an emergency, the prisoner whose quarters are being searched should be present and observe when the search is made.

f. Without specific cause, correctional authorities may employ nontouching methods such as metal detectors to detect contraband.

g. In conducting searches of the person, correctional authorities should strive to preserve the dignity and integrity of the prisoner. The following rules should be followed:

i. A prisoner should be patted down only if there is reasonable suspicion that he or she is carrying contraband.
ii. A search requiring a prisoner to disrobe should be conducted only where there is articulable suspicion that the prisoner is carrying contraband. It should be conducted by a supervisor or higher official in a private place, out of the sight of others.
iii. Visual or manual inspection of the anal or vaginal cavaties should be conducted only where there is probable cause to believe that the prisoner is carrying contraband there, and in the presence of a supervisor of the same gender in a private place out of the sight of others. Manual search should be conducted by a medically trained person other than another prisoner, in the prison hospital or other such facility in a manner designed to assure the greatest possible privacy and dignity to the prisoner.
iv. Immediately following a personal search, a full report should be filed with the chief executive officer, and a copy given to the prisoner searched. Only evidence seized in accord with these rules may be used in disciplinary proceedings.

STANDARD
5.16 Personal Grooming
Subject to medical necessity, prisoners should be entitled to choose any hair style or clothing they wish.

STANDARD
5.17 Confidentiality of Prisoners' Records
a. Directory information in a prisoners' file should be available to the public, without the prisoner's consent. All other information should be disclosed only upon the prisoner's written consent, executed for each specific disclosure, unless:
i. The disclosure is to an agency involved with investigation, prosecution, disposition, or custody of criminal offenders, and the head of the agency specifies in writing the particular portion desired and the specific current law enforcement investigation or activity for which the record is required; or
ii. The material is sought for statistical research or reporting purposes only and is not in a form containing the prisoner's name, number, symbol, or other identifying particular; or
iii. The disclosure is made pursuant to a valid court order; or
iv. Disclosure is to the penal ombudsman.

b. Prisoners should be entitled to examine and copy information in their files, challenge its accuracy, and request its amendment. Upon notice to the prisoner, correctional authorities may withhold information that might endanger others, or jeopardize prison security.
c. Information given by a prisoner to any employee of the correctional authority in a counselling relationship should be privileged, except where the information concerns a contemplated crime, or disclosure is required by court order.

STANDARD
5.18 Physical Security
Prisoners should be entitled to a healthful place in which to live and to protection from personal injury, disease, property damage, personal abuse or harassment whether caused by correctional staff, other prisoners, or the conditions of confinement.

STANDARD
5.19 Use of Force or Deadly Force
a. Correctional authorities should plan for and provide reasonable ways to reduce the need for the use of force or deadly force. Special consideration should be given to minimize any use of deadly force and the discretion for the utilization of force and deadly force should be placed at the highest level possible within the institution. Force should not be used as punishment for violation of any rule or regulation.

STANDARD
5.20 Non-Discriminatory Treatment
a. Prisoners should not be subjected to discriminatory treatment based solely on age, race, sex, sexual preferences, religion, national origin or political belief.
b. Statutory requirements that prisoners be segregated by sex should be repealed. Separate institutions and programs for male and female prisoners may be maintained provided that there is essential equality of:
i. institutional program;
ii. living conditions;
iii. access to community programs and resources;
iv. employment opportunities;
v. access to families and other outside associations and
vi. decision-making processes affecting the status, activities, and terms of prisoners.
c. All remedies available to free citizens who believe themselves to be victims of discrimination should be open and available to prisoners; where no such remedies are available or appropriate, jurisdictions should provide appropriate remedies.
d. Pursuant to correctional regulations concerning correspondence, telephones and visitation, prisoners

shall be permitted to communicate with other prisoners and with persons outside by mail, telephone, or in person in any language, and may read and receive written materials in any language.

e. Provisions shall be made for prompt access to translation services for non-English speaking prisoners, particularly at the time of initial intake, transfer, disciplinary proceedings, or family or personal emergencies.

STANDARD

5.21 Implementing Prisoners' Rights: Administrative, Judicial, And Legislative Oversight.

1. Administrative Rights

a. Prisoners should be guaranteed effective exercise of the right to petition for redress of grievances. Although informal procedures should be encouraged, correctional authorities should establish and maintain formal procedures to:

i. Respond to prisoners' desire for information regarding their status or the condition of their confinement;

ii. Evaluate recommendations by prisoners for changes in institutional rules, policies, and practices;

iii. Insure meaningful prisoner participation in the determination of the conditions of confinement; and

iv. Swiftly and fairly resolve specific prisoner grievances.

b. Procedures adopted for the purposes set out above should be designed to insure the cooperation and confidence of both prisoners and correctional officials.

2. Prisoner Participation in Rulemaking

Prisoners should be entitled to make recommendations in the development of rules and policies of the correctional system. Correctional authorities should be required to conform to administrative procedures comparable to the Model State Administrative Procedure Act. Such procedures should require the use of administrative rules and provide a formal procedure for their adoption or alteration that should include:

a. Publication of proposed rules prior to their adoption;

b. An opportunity for interested or affected parties, including prisoners and their representatives, to submit data, views, or arguments orally or in writing relating to the proposed rules;

c. Public filing of adopted rules;

d. Post, distribution and explanation of adopted rules to prisoners.

3. Ombudsman; Created

a. Each correctional system should be monitored by a specially designated penal ombudsman.

b. The procedure for appointment of the ombudsman should insure his or her independence and should include mechanisms for participation by prisoners and correctional officials.

c. The ombudsman should be appointed for a single fixed term of no fewer than six years; removal prior to the expiration of this term should require a finding, after a hearing, of malfeasance or incapacity.

d. The ombudsman should not be responsible to or under the control of any correctional official.

4. Ombudsman: Duties

The Ombudsman should be responsible for monitoring all aspects of the correctional system and should be granted statutory authority to:

a. Receive and respond in appropriate fashion to petitions submitted by any affected individual or group of individuals concerning the rules, policies, and practices of correctional authorities or prisoners according to the following guidelines:

i. All informational requests from prisoners should be answered directly or through reference to or intercession with the relevant agency, organization or individual;

ii. All recommendations from prisoners for change in institutional policies and practices should be evaluated and forwarded, with any comments, to both correctional authorities and appropriate prisoner representatives;

iii. All grievances for which the ombudsman believes a hearing would be appropriate should be forwarded to an internal grievance committee for consideration by that committee;

b. Investigate any matters raised in a petition or to initiate his or her own investigations of any matter related to the correctional system, its employees, or persons in its custody.

c. Have access to all facilities, files, records, personnel and prisoners of the correctional agency and any other state agency as may be necessary to conduct his or her investigations and to compel the production of evidence and testimony of witnesses if necessary. The ombudsman with respect to such files should have access to confidential information but should be prohibited from disclosing such information to any person or agency without the the consent of the person about whom the information relates.

d. Recommend any changes in the rules, policies, practices and procedures of the correctional system and its employees.

e. Publicize any and all investigate findings and recommendations, as well as the response of correctional authorities, other than material deemed confidential for medical, psychiatric, and/or security reasons. Where his or her investigation discovers evidence of criminal activity the findings should be transmitted to prosecution authorities and publication suspended while criminal proceedings are pending.

f. Report annually to the public, the legislature and the chief executive.

5. Ombudsman; Procedure

Although the ombudsman should be allowed considerable discretion in developing his or her own procedures the following should be required;

a. Either the ombudsman or a designated representative should be present on a daily basis in every major institution, and in other institutions clearly marked receptacles should be available to allow prisoners to communicate in confidence with the ombudsman;

b. Petitions should be reduced to writing by prisoners alone or with the assistance of the ombudsman of his or her representative:

c. The files of the ombudsman should not be accessible to correctional authorities;

d. Prior to closing his or her file on a petition the ombudsman should ascertain that the filing party has received a written explanation of the final disposition.

e. Any petition that indicates a prisoner's health or welfare is threatened should be treated as an emergency. In all other cases a response or progress report should be made initially within a reasonable time, not generally to exceed one week, and thereafter the petitioner should be continuously and contemporaneously advised of the progress on his or her petition until it is resolved.

6. Grievance Procedures

a. Correctional officials should be authorized and encouraged to resolve prisoner complaints on an informal basis whenever possible.

b. Every correctional insititution should adopt a formal procedure to resolve specific prisoner grievances, including any complaint arising out of institutional policies, rules, practices, and procedures or the actions of any correctional official. Grievance procedures should not serve as an appeal procedure from individual decisions reached by other adjudicative board, e.g., parole, classification, and disciplinary boards, although a complaint involving the procedures or general policies employed by any adjudicative board should be subject to grievance procedures.

c. Simplified forms should be made available to initiate the grievance procedure. The grievant either alone or with the assistance of the ombudsman should describe briefly the nature of the grievance, the persons involved, and the remedy sought.

d. The grievance procedure should include the following:

i. a grievance committee composed of an equal number of elected prisoner and staff representatives with one person not associated with the corrections systems selected by the other members of the committee:

ii. an appeal from the grievance committee to the chief executive officer of the corrections system;

iii. a hearing at the initial stage before the grievance committee. Procedures should maintain the informal nature of the hearing, although the grievant should be allowed to present witnesses and to have an adviser present.

iv. reasonable but strict time limits for resolution of grievances with a maximum of thirty days from the filing of a grievance through a decision by the chief executive officer of the corrections system.

v. a requirement that initial and appellate decisions and the reasons therefor be in writing and sent to the grievant. Written decisions resolving prisoner grievances should be published in a manner preserving the privacy of the prisoner involved and should be considered as precedent for resolving similar grievances.

e. Where a grievance cannot be satisfactorily resolved by the administrative grievance procedure, authority should exist for voluntary binding arbitration by a tri-partite panel with one member selected by the grievant, another by the person or head of the specific agency involved and a professional arbitrator selected by the other two panel members. The arbitration proceeding should be governed by provisions comparable with the Uniform Arbitration Act and should be binding on both parties provided that the prisoner had the advice of counsel prior to consenting to the arbitration.

7. Sentencing Court Oversight

Prisoners' sentences should be carried out consistently with the purpose and intent of the sentence imposed by the sentencing court. To implement this policy, the following standards should apply:

a. During their first year of tenure and annually thereafter judges should visit each correctional institution or type of institution within their jurisdiction to which persons they sentence are likely to be sent.

b. Judges should not be excluded from visiting and inspecting any part of the institution at any time or from talking in private with any person inside the institution, whether prisoner or staff.
c. Judges should not sentence defendants to confinement unless correctional authorities have certified in writing that facilities, programs, and personnel are available to reasonably carry out the purpose and intent of each sentence.
d. Correctional authorities should be required annually to provide each sentencing court with a report on:
i. The status of individual prisoners sentenced by it; and
ii. The availability and effectiveness of programs for prisoners generally, the conditions within each correctional institution, the nature and length of sentences being imposed throughout the jurisdiction, and any other information that will assist sentencing courts in imposing sentences.
e. Sentencing courts should be authorized on their own motion or at the request of any interested person to reduce a sentence or modify its terms whenever the court finds after an open hearing that the treatment of the prisoner or the conditions under which he or she lives are not related to the purpose of the sentence.

8. Implementation of Court Orders
To remedy a violation of a prisoner's rights a court should, where appropriate:
a. Issue an injunction prohibiting a practice or requiring affirmative action on the part of governmental officials. The court should require correctional authorities to report periodically to the court on the progress of implementing the court's order;
b. Require correctional authorities to produce a detailed plan to bring an institution or program into compliance with appropriate standards;
c. Award damages against either the state or, in appropriate circumstances, the official involved to compensate the prisoner for loss caused by a violation of his or her rights.
d. Award punitive damages against an official for willful violation of a prisoner's rights or of a court order;
e. Appoint a special master responsible to the court to oversee implementation of the court's orders:
f. Appoint a citizen's committee to oversee or supervise the implementation of the court's order.
g. Prohibit further acceptance of commitments to an institution or program;

h. Impose criminal contempt for intentional violation of a court order;
i. Take any other necessary action; or
j. Whenever a court finds that a condition or conditions of confinement fall below those standards acceptable for the continued confinement of prisoners:

i. prisoners should be credited against their minimum and maximum term with twice the amount of time actually served under such conditions; and
ii. prisoners adversely affected by such conditions should be released under some form of community supervison or transferred to another institution.

9. Legislative Responsibilities
New York State legislature should enact legislation implementing the legal rights of prisoners. Such legislation should:
a. Define the legal rights of prisoners and set standards and rules for the maintenance and administration of all correctional institutions including local jails:
b. Establish means for enforcing the legal rights of prisoners including authorizing prisoner suits to enforce state standards and rules; and
c. Provide sufficient resources to insure implementation of the legal rights of prisoners.

COMMENTARY

Those individuals who must be incarcerated are entitled to a clean humane and safe prison environment. In developing standards to insure such conditions, the task force relied heavily on the American Bar Association's tenative draft on the Legal Status of Prisoners (1977). The reader is therefore referred to that document for its thoughtful and persuasive commentary on the issues addressed here.

Probation is a community-based correctional system of pre-adjudicatory and post adjudicatory services. Its functions include juvenile intake/diversion, adult/ pre-trial intervention, and post sentence supervison.

As a judicial disposition, probation is a cost-effective alternative to institutionalization of the juvenile and adult offender. Within the legal framework of revokable conditions, probation supervision aims to provide community protection, reduce crime and delinquency and facilitate offender reintegration.

GOAL 6:

TO ACHIEVE THE APPROPRIATE UTILIZATION OF PROBATION SUPERVISION SERVICES IN NEW YORK STATE.

STANDARDS

6.1 New York State should strengthen the development and use of less-restrictive and neglected dispositional alternatives.

6.2 Educational efforts should sensitize probation and judicial personnel regarding the availability of other appropriate legal sanctions including fines, conditional and unconditional discharge, victim restitution, and adjournment in contemplation of dismissal (ACD).

6.3 New York State should establish a strong new financial commitment to probation as a cost-effective alternative to imprisonment.

6.3a Matching state reimbursement funds to local probation agencies should be increased and other financial alternatives should be explored.

6.3b The management and administrative capabilites of the state probation agency shall be strengthened.

6.3c Direct budgetary incentives shall be established to expand the supervision function of probation agencies without reallocating probation staff in related probation work areas such as juvenile intake/diversion, pretrial supervision.

6.3d If a person is sentenced to incarceration at a state prison the county he or she is from should bear some of the cost for that prisoner.

6.4 Pre-sentence investigation and ROR investigation should be handled by an independent agency under the jurisdiction of the courts separate from the probation department.

COMMENTARY

The issue of the supervisory versus investigatory function of the probation officer was widely debated among the task force membership. The State now mandates that probation departments perform a variety of services. The most time consuming of these services is the pre-sentence investigation report. With the aid of this report the court determines an appropriate sentence for the defendant. Services performed for the court system prior to the imposition of sentence should be unified and coordinated. Adult pretrial ROR and pre-sentence functions are court related services that can be performed outside of probation agencies. Administrative coordination will maximize probation resources for community based supervision and minimize court delay in the processing of adult offenders from arrest to disposition.

> "When the Probation Department participates in the investigation, it clouds its image and fragments its priorities. It becomes responsible to two taskmasters. The courts request and need good information on which to base their decisions and they need it as quickly as possible. They can put pressure on probation personnel through court administration and the media to produce investigation reports in a certain length of time. How can the Probation Department make service to clients its top priority when pressure by the courts makes investigation a top priority?
>
> Philosophically, this dual role obscures the image of probation personnel by making them appear to the client to be part of a punitive system. This makes it more difficult for clients to perceive their probation officers as friends and helpers and enter into a trust relationship. In addition, it makes no more sense to have the Probation Department do investigations than it would to have the Sheriff's Department do them. Probation and incarceration are two optional sanctions of the court. No department to which a defendant may be assigned for supervision should be performing investigations or recommending a sanction."
>
> Judicial Process Commission, Rochester, New York 1977, pp.6.

Once a separate agency, none of whose personnel need be probation officers, is trained to interview, investigate and report to the judge, the Probation Department would be relieved of its court focused responsibilities and would devote more of its resources to its clients. In a commentary under "New Careers for ROR Reports" the National Advisory Commission makes the following statement:"If probation is to provide the information judges need at arraignment to consider possible release on recognizance of adult defendants awaiting trial, new career opportunities should be introduced. For example, a separate group of staff members, none of whom need be probation officers, could be trained to interview, investigate, and report to the judge on ROR investigations." (1973, pg. 329)

GOAL 7:

NEW YORK STATE SHOULD PROVIDE SUFFICIENT RESOURCES FOR A STATEWIDE COMPREHENSIVE TRAINING PROGRAM FOR THE PROBATION PROFESSION.

STANDARDS

7.1 The State should provide for the establishment of a probation training and research center which accomplishes the following:

7.1a Assembles a central body of knowledge and research regarding probation practice.

7.1b Organizes training programs to prepare staff for professional careers in probation work.

7.1c Improves the service delivery capability of probation officers.

7.1d Enhances the professional status of probation work.

7.1e Training functions of the center will be promoted by the State providing:

1. Scholarships
2. Release time
3. Professional and pay incentives.

7.2 The State should develop a five year comprehensive probation training plan which will coordinate the educational efforts and in-service training activities that impact upon probation practice.

GOAL 8:

THE STATE SHALL DEVELOP A COMPREHENSIVE STATEWIDE PROGRAM OF PRE-PLEA ASSESSMENT AND ADULT DIVERSION AS AN EFFECTIVE COMMUNITY BASED ALTERNATIVE TO PRE-TRIAL DETENTION.

STANDARDS

8.1 Pre-plea assessment services shall be provided for the primary purpose of providing a verified evaluation for pre-trial decision-making.

8.2 Appropriate guidelines, standards and protections will be developed to safeguard the individual and society.

8.3 Each probation agency shall plan and implement a program of adult diversion and pre-trial supervision to provide the judiciary with an alternative to current practices of bail and detention.

In light of the recent legislation continuing Parole in New York State, the Task Force on Corrections has not addressed the question of whether parole should continue to exist, but rather has confined itself to spelling out standards and goals which address a more effective operation of the State Parole System.

Parole in New York State embodies several interrelated functions, that allow the service of a sentence to a correctional institution to be partially completed in the community. The Board of Parole in New York State renders discretionary decisions, within legislatively defined parameters, concerning the release of all prisoners in New York State prisons, and of prisoners in county jails serving sentences of ninety days or over who apply for such release. Parole field services provide supervision for the released offender, facilitating the transition from incarceration to reintegration into the community.

GOAL 9:

TO IMPROVE SERVICE DELIVERY TO PERSONS UNDER THE JURISDICTION OF THE DIVISION OF PAROLE AND TO THE COMMUNITY.

STANDARDS

9.1 The continuing evaluation of service delivery needs and the concomitant allocation of adequate personnel and resources.

9.2 To adopt as a major priority a policy of increasing employability and employment for those persons under the jurisdiction of the Division of Parole.

9.3 To develop community resources for the purpose of providing for a system where persons released to parole supervision may go through residential programs of graduated levels of custody and supervision.

9.4 To expand upon and improve access to programs, the purpose of which is to provide specialized services to those persons with identifiable needs such as, but not limited to, persons with chronic alcoholism and substance abuse histories, and those persons identified to be in need of intensive psychiatric or psychological services.

GOAL 10:

THE REDUCTION OF DISPARITY IN PERIODS OF IMPRISONMENT IN THOSE CASES WHERE THE BOARD OF PAROLE HAS JURISDICTION THROUGH THE UTILIZATION OF STANDARDS BASED ON BOTH FAIRNESS AND JUSTICE.

STANDARDS

10.1 The Board of Parole shall develop and monitor specific criteria upon which Board decisions concerning periods of imprisonment are based.

10.2 The Board of Parole shall develop and monitor procedures whereby inmates may obtain administrative review of the Board's decisions that affect periods of imprisonment.

10.3 The Board of Parole shall establish and maintain a management information system that will permit the Board to effectively monitor its operations.

GOAL 11:

THE DIVISION OF PAROLE SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF CORRECTIONAL SERVICES TOWARD THE GOAL OF PREPARING PRISONERS FOR RELEASE TO THE COMMUNITY BY ASSISTING THEM OBTAIN AND DEVELOP VOLUNTARY INSTITUTIONAL PROGRAMS THAT WILL BE CONSISTENT WITH THE CONTINUATION OF PAROLE SERVICES AFFORDED UPON RELEASE..

STANDARDS

11.1 At the time of the initial meeting of the prisoner with institutional parole staff, the institutional program shall be discussed and efforts will be made by institutional parole staff to assist the prisoner in obtaining appropriate program placement. It shall also be made clear that participation in a program will not effect decisions for release on parole.

11.2 Institutional parole staff shall discuss with the prisoner the policies of the Board of Parole concerning factors to be considered in granting release on parole. An inmate's decision not to participate in a program shall not be used against him or her by the parole authorities when making the parole release decision.

GOAL 12:

RESOURCES AND PERSONNEL AVAILABLE FOR PAROLE SUPERVISION SHALL BE UTILIZED IN A MANNER THAT ATTEMPTS TO REDUCE THE RATE OF REINCARCERATION OF PERSONS UNDER THE JURISDICTION OF THE DIVISION OF PAROLE.

STANDARDS

12.1 Rules and regulations regarding restricted behavior on the part of persons under the jurisdiction of the Division of Parole shall be re-examined and updated to reflect changes in community attitudes and standards, and to the extent possible shall be tailored to the needs of individual parolees.

12.2 Parole field staff shall develop effective methods for enforcement of the rules and regulations indicated in Standard 12.1.

12.3 A person under the jurisdiction of the Division of Parole should not be reincarcerated for technical violations of parole but only for the conviction of a new crime.

COMMENTARY

It is the direction of the task force recommendations on parole that if the parole officer can reduce emphasis or surveillance and control and stress his concern for assisting the parolee, he probably will be more successful in reducing crime.

The National Advisory Commission calls for each state to "reduce parole rules to an absolute minimum." (1973, pg.433)

> "Ideally, conditions should look to the protection of society as well as the successful reintegration of the parolee into society. In practical effect, multitudinous prohibitions, limitations, and compulsions end up serving one or the other goal, but rarely both, and the burden ultimately rests on the parolee's good fortune in being able to cope with street life without becoming ensnared by overprotective, over-enforced or vague and ambiguous rules."
> (American Bar Association, 1973, pg. 4)

The Final Report of the National Commission on Reform of Federal Criminal Laws (Brown Commission, 1971) establishes a prohibition on commission of another crime as the only mandatory federal parole condition (§3404, Appendix F).

The task force adopted a standard calling for reincarceration of a parolee only upon conviction for a new crime. By eliminating the rest of the nineteen conditions under which reincarceration may be ordered, primary emphasis would be placed on the supportive role the parole officer should provide to the parolee.

COR GOAL 13:

CIVIL DISABILITIES: MANDATORY PROVISIONS IMPOSING COLLATERAL DISABILITIES OR PENALTIES, OR DEPRIVING CONVICTED PERSONS OF THEIR CIVIL RIGHTS SHOULD BE REPEALED. ANY COLLATERAL DISABILITY OR PENALTY OR DEPRIVATION OF A CIVIL RIGHT RESULTING FROM A CRIMINAL CONVICTION SHOULD BE IMPOSED ONLY AFTER A DETERMINATION IN EACH INDIVIDUAL CASE THAT THE DISABILITY OR PENALTY ADVANCES AN IMPORTANT GOVERNMENTAL INTEREST.

STANDARDS

13.1 All New York State statutes imposing mandatory collateral disabilities, penalties or bars to employment upon release or marriage while incarcerated should be repealed.

13.2 New York Correction Law § 700 et seq. and 750 et seq. should be amended to provide that barriers to employment and licensing of convicted persons based solely on a past conviction may be imposed in individual cases only when the offense committed bears a substantial relationship to the functions and responsibilities of the employment. Among the factors which should be considered in evaluating the relationship between the offense and the employment are the following:

i. the likelihood the employment will enhance the opportunity for the commission of similar offenses;
ii. the person's conduct subsequent to conviction;
iii. the circumstances that led to the crime and the likelihood that such circumstances will recur.

When such a disability is imposed, the following should apply:
i. The procedures for imposition of the disability should be comparable to the Model State Administrative Procedure Act.
ii. A disability should be imposed for a stated period after which the person subject to the disability should be entitled to have the appropriateness of the disability reconsidered. Within the stated period of the disability, if a person can present evidence that the disability imposed no longer effectuates an important governmental interest, there should be a reconsideration.
iii. The burden of proving the appropriateness of the disability should be on those seeking to impose it.

Past convictions should not bar a person from running for elected office or being named to an appointive office, although statutes providing that conviction of specified offenses will result in the automatic forfeiture of such offices may remain in effect. Except as herein specified, no other disabilities may be imposed solely because of a criminal conviction.

STANDARD

13.3 New York Correction Law § 700 et seq. and 750 et seq. should be amended to provide a mechanism whereby all convicted persons may apply for expungement of their records in appropriate circumstances.

COMMENTARY

A record of conviction, by itself, constitutes a serious handicap to employment and to most forms of legitimate financial and social success. New York State statutes add to this burden by imposing certain collateral disabilities, with only limited provision for exemptions. The task force adopted the proposed American Bar Association position that convicted persons would be aided in becoming productive members of society if mandatory collateral disabilities were abolished, and disabilities imposed in individual cases only in accordance with due process protections to insure that they were necessary and justified.

COR GOAL 14:

ALLOCATION OF RESOURCES WITHIN THE CRIMINAL JUSTICE SYSTEM: STEPS SHOULD BE TAKEN TO INSURE THAT SOCIETY DERIVES MAXIMUM POSSIBLE BENEFIT FROM THE LIMITED RESOURCES AVAILABLE TO THE CRIMINAL JUSTICE SYSTEM. TOWARD THAT END, CONSIDERATION SHOULD BE GIVEN TO WHETHER SOCIETY'S INTERESTS WOULD BE BETTER SERVED IF CERTAIN ACTIVITIES CURRENTLY DESIGNATED AS CRIMES AND PROCESSED THROUGH THE COURTS AND CORRECTIONAL PROCESS WERE DECRIMINALIZED AND/OR MADE THE RESPONSIBILITY OF SOME OTHER MORE APPROPRIATE SOCIAL AGENCY.

STANDARDS

14.1 New York State Penal statutes imposing criminal sanctions on adults who willingly engage in gambling, prostitution, possession of drugs, and sexual acts in private should be repealed. Addiction and other physical and mental problems related to these activities should be treated as medical problems.

14.2 Legislation should be adopted which provides for the disposition of minor offenses and property crimes through mediation and restitution rather than criminal prosecution.

COMMENTARY

A principal concern of the Task Force was that maximum benefit be derived from the limited resources of the corrections system. Every year, massive amounts of money are expended to prosecute and punish actions which could more appropriately be addressed by other of our society's institutions. Toward that end, the task force proposed the decriminalization of certain victimless acts and the diversion of certain crimes to extra-judicial proceedings.

Dissenting Opinion - Goals 3,4,5,13&14

The Report of the Subcommittee on the Rights of Pre-trial Detainees and Convicted Persons serves to discredit the D.C.J.S. Task Force on Corrections.

1. The bulk of the work in Goals 3,4,5,13&14 is essentially a draft document, borrowed verbatim from the "Unannotated Tentative Draft of Standards Relating to the Legal Status of Prisoners" (1977) which has yet to be presented, debated, amended, and adopted by the House of Delegates of the American Bar Association, scheduled to convene in New York City in August 1978.
2. Many of the recommendations are self-defeating. They fail to achieve any possible consensus for realistic implementation. Proposals such as fixing a quota system of 10 percent on the Judiciary for prison sentences, replacing the arrest process with a written summons, providing that all inmates be given the keys to their cells, and removing all criminal penalties for possession of addictive drugs are proposals that simply will not be taken seriously by the criminal justice community.
3. The report fails to address itself to the legal status of probationers and parolees and needed improvements in the state of community-based corrections, narrowly confining itself to the condition of inmates in correctional institutions. As such, it is an incomplete document.
4. The report fails to parallel, complement, or integrate its recommendations, fixing inconsistent and unworkable timetables and failing to comprehend the legislative mandate of the State Commission on Correction and the New York City Board of Correction.
5. The report fails to accomplish its assigned task of setting achievable planning goals and funding priorities for serious consideration by the State Crime Control Planning Board.

Anthony J. Czarnecki

Dissenting Opinion - Goals 4 & 5

The section on Inmate's Rights is totally unacceptable to me as Sheriff of Monroe County and Chief Administrator of the County Jail, which houses sentenced, and non-sentenced, and unarraigned city prisoners. In a jail such as we have in Monroe County and also knowing the conditions and structures of most of the jails in New York State, they are certainly not conducive to allowing inmates to operate their own business at the institution while they are incarcerated. Also, to provide for paid vacations for inmates at the going rate of pay for a job that is comparable to a job outside of the institution is completely afar from from the purpose of a jail. The right of inmates to assemble for the

purpose of organizing for any reason except union business is at the least ridiculous and a threat to the orderly operation of the institution. To provide visits between homosexuals in privacy is totally unacceptable.

Some of the glaring recommendations are contary to the purpose of incarceration, as an example, Correction Goal 4, which states, "Pre-trial status: pre-trial defendants are presumed innocent and are entitled to all of the rights and privileges of other citizens except when curtailment is impellingly necessary to insure their presence at trial. When curtailment is necessary, it should be limited to the least restrictive form."

Under sub-goal 5A, which states that pre-trial detainees and convicted persons sentenced to terms of incarceration or waiting trial should enjoy all of the rights, privileges, opportunities, and conditions of free citizens except for those restrictions which are compellingly necessary to the legitimate governmental goals relevant to their incarceration or to protect the general public, the only legitimate goal relevant to the incarceration of pre-trial detainees is to insure their presence at trial. This again is contradictory to the purpose of incarceration and the purpose of a jail. Furthermore, to allow prisoners to have keys for their cells is utterly irresponsible because of the entire locking system that exists within county jails.

In addition, when a person is sentenced to a state institution as a result of his violating a State Law and after being tried in a state court, to have the County from which the person was sentenced bear some of the cost for that inmate is totally unacceptable.

William M. Lombard

Dissenting Opinion - Standard 6.4: Pre-sentence investigation

The pre-sentence probation report is an inseparable component of cost-effective probation services to the New York State Court System. The investigatory funcion of probation agencies serves multiple correctional purposes. It assists the Judiciary in the decision-making process leading to sentencing by providing a verified social/legal history with evaluative analysis on criminal offenders, following a determination or finding of guilt. It insures continuity of probation service delivery by framing a program plan for community-based supervision. It provides correctional and parole agencies with information necessary for classification and release decision-making. Probation agencies

in New York State have the statutory authority, legislative mandate, and professional expertise to conduct pre-sentence evaluation of juvenile and adult offenders awaiting judicial disposition. We therefore wish to disassociate ourselves from the ill-advised recommendation of the Corrections Task Force to remove the pre-sentence investigation function from probation agencies.
Our position is supported by the President's Commission on Law Enforcement and Administration of Justice (1967), the National Advisory Commission on Criminal Justice Standards and Goals (1973), the American Bar Association's Standards Relating to the Administration of Criminal Justice (1974), and the Manual of Standards for Adult Probation and Parole Field Services, published by the Commission on Accreditation for Corrections (1977).

Anthony Czarnecki	Edward Hammock
John Bonn	Douglas McCuen
Michael Falk	Avis Mulvaney
John Finnerty	Peter Sissons
Andrew Criscolo	Robert Stanwick

Dissenting Opinion - Standard 6.4: Presentence Investigation

Chapter 372 of the Laws of 1901 includes among the duties of probation officers the responsibility to "inquire into the previous history of any defendant when so directed by the court." The Division of Probation does not advocate the maintenance of tradition for tradition's sake. However, a legal practice that spans more than 75 years should not be cast aside without careful study and sound reasons. The role of probation in the preparation of pre-sentence reports in particular as well as other investigations for the court is well accepted nationally. In addition to those cited above see the following: National Council on Crime and Delinquency, Model Sentencing Act, Section 2, Standard Probation and Parole Act, Section II, and American Law Institute, Model Penal Code, Section 7.07 (3)

The primary purpose of the pre-sentence investigation is to aid the court in the sentencing process. However, it also forms the basis for the supervision program of those individuals sentenced to probation. During 1976, probation departments in New York State completed 79,774 regular pre-sentence investigations and an additional 76,644 other investigations, (supplemental, ROR, Relief from Disabilities, Collections). Thus, the investigation function is a major aspect of probation services.

Thus, it is argued that investigative services are appropriately a probation function based upon tradition, practice and expert opinions and that probation services should be organizationally placed in the executive branch of state goverment.

RECOMMENDATION
It is recommended that Standard 6.4 be rewritten to recognize investigative services as a probation function and that probation should be organizationally placed in the executive branch of state government.

J. Michael O'Connell

Dissenting Opinion Standard 12.3

Clearly Standard 12.3 cannot exist as a standard for a Task Force on Parole in New York State. The present New York State Correction Law Section 215 provides "the Board of Parole in releasing an inmate on parole shall specify in writing the conditions of his parole and a copy of such conditions shall be given to the parolee. A violation of such conditions may render the parolee liable to arrest and reimprisonment." In Section 216 New York State Correction law provides "if the Parole Officer having charge of a paroled prisoner or a person received under the Uniform Act for out of state parole supervison shall have reasonable cause to believe that such person has lapsed, or is probably about to lapse, into criminal ways or company or has violated the conditions of his parole in an important respect, such Parole Officer shall report such fact to a member of the Board of Parole or to any officer of the Division of Parole designated by such Board, who thereupon may issue a warrant for the retaking of such prisoner and for his temporary detention or return to a designated prison." Section 259 I 3 (a) (i) of the Executive Law to become effective January 1, 1978 provides "if the Parole Officer having charge of a paroled or conditionally released person or a prisoner received under the Uniform Act for out of state parole supervision shall have reasonable cause to believe that such person has lapsed into criminal ways or company or has violated one or more conditions of his parole, such Parole Officer shall report such fact to a member of the Board of Parole, or to any officer of the Division designated by the Board, and thereupon a warrant may be issued for the retaking of such person and for temporary detention in accordance with rules of the Board."

Release to parole supervision in New York State is not a right. "Discretionary release on parole shall not be granted merely as a reward for good conduct or efficient performance of duties

while confined, but after considering if there is a reasonable probability that, if such inmate is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society and will not so deprecate the seriousness of his crime as to undermine respect for law." (Correction Law Section 213, Executive Law Section 259 I 2 (c)).

Personson parole supervision in New York State are still serving a state sentence. While on parole they remain in the legal custody of the Board of Parole until the expiration of their maximum term, or until discharged from parole supervision, or until returned to a State Correctional Facility. The right of persons released to parole supervision to remain in the community is contingent upon good behavior. Current and future conditions of parole will be clearly reflective of the legislature's intent that behavior short of new criminal conduct where a parolee is charged with the commission of a crime can result in termination of parole. Proposed Standard 12.3 suggests that the Division of Parole work toward a violation of that legislative intent. It is, therefore, unacceptable and unworkable. Proposed Standard 12.3 is so narrow that it not only requires a releasee to be involved in criminal conduct but provides that parole cannot be forfeited unless a parolee is officially charged in a court of law with the conviction of a new crime.

As written, Standard 12.3 is inconsistent on its face with the previously approved portion of goal 12. Finally, law enforcement and community protection are the essence of parole in this state and the removal of that essence would result in the abolition of parole in its present form in New York State.

Edward R. Hammock

Dissenting Opinion - Preamble to Parole & Goal 12

The majority of the Task Force adamantly refused to accept the Preamble to the Goal of Parole as promulgated by a majority of the sub-committee on parole. That Preamble is hereby being submitted as part of this Report:

> The Criminal Justice System in the State of New York relies upon parole in dealing with the many problems of crime. The strengthening of this vital component will improve the administration of justice while simultaneously providing for a more efficient and effective method of insuring the communities' right to safety.

At a parole sub-committee meeting the committee unanimously agreed upon its final goal with the three standards developed as follows:

GOAL:

PAROLE FIELD STAFF SHALL PROVIDE COMMUNITY PROTECTION SERVICES.

STANDARD

The community is protected by parole field staff assisting releasees in an adjustment to a law abiding life in the community.

STANDARD

Parole field staff shall develop procedures to determine as to whether a releasee has regressed to anti-social behavior that is threatening to the community.

STANDARD

It shall be the responsibility of parole field staff to affect the custody of releasees who are determined to be a threat to the community or who have absconded fron parole supervision.

The original Goal and its three standards, cited above, as developed and agreed upon by the parole sub-committee, should definitely be included as the most important goal for parole. The final draft Goal 12 and its three standards should be deleted. Goals 9,10,11 and their attendant standards are quite satisfactory. The following ammendment was adopted to Standard 12.3 "a person under the jurisdiction of the Division of Parole should not be reincarcerated for technical violations of parole but only for the conviction of a new crime. A devastating statement which subtly subverts the basic objective of parole thereby eventually destroying the system altogether. This standard, if forced into practice, will not only destroy parole, but more importantly, it will unquestionably expose the public to a greater increase in the crime rate, especially violent crime. The effect of Standard 12.3 cannot be minimized, for it is completely devastating and repugnant to those who have devoted so much to making parole a success in this state. The inconsistancy with regard to an interest in the public's right to safety is obvious.

Michael L. Falk

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