



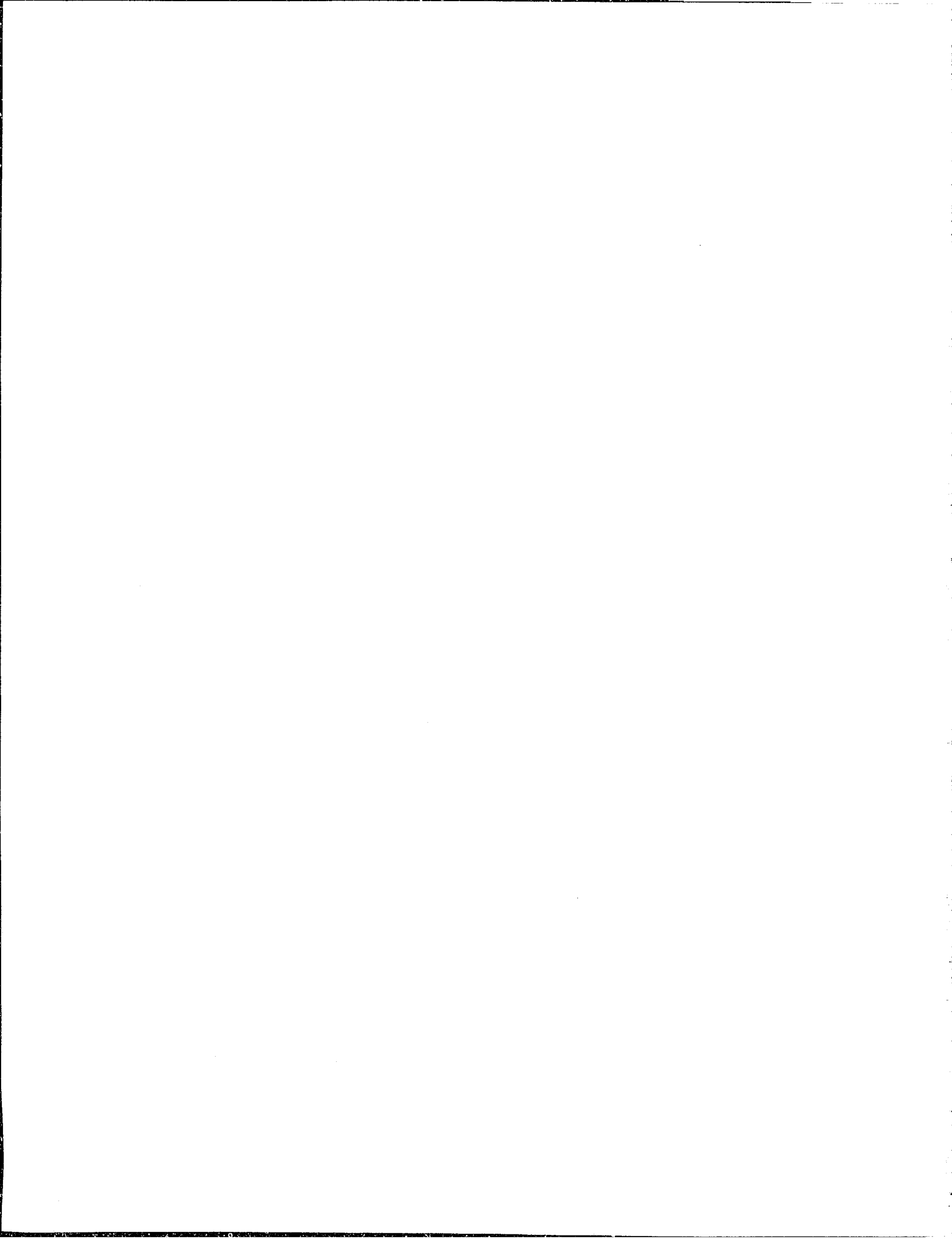
NATIONAL  
CRIMINAL  
JUSTICE  
EXECUTIVE  
TRAINING  
PROGRAM

54149

# PRISON GRIEVANCE MECHANISMS

## TRAINER'S HANDBOOK

OFFICE OF DEVELOPMENT, TESTING,  
AND DISSEMINATION  
NATIONAL INSTITUTE OF LAW ENFORCEMENT  
AND CRIMINAL JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
UNITED STATES DEPARTMENT OF JUSTICE



Office of Development, Testing, and Dissemination  
National Institute of Law Enforcement  
and Criminal Justice  
Law Enforcement Assistance Administration  
United States Department of Justice

PRISON GRIEVANCE MECHANISMS

TRAINER'S HANDBOOK

By J. Michael Keating, J.D., M.A.

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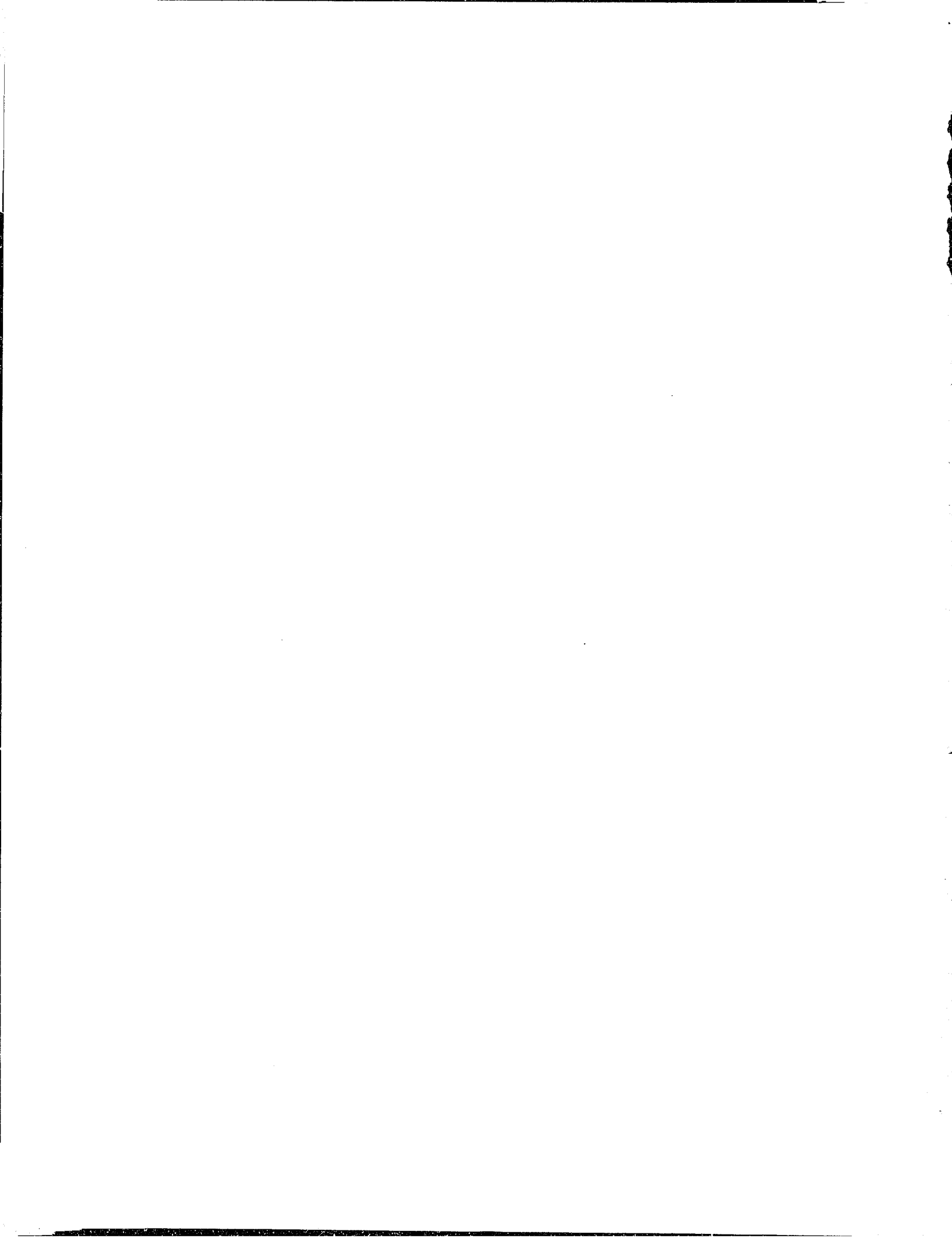
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WORKSHOP SCHEDULE

DAY I

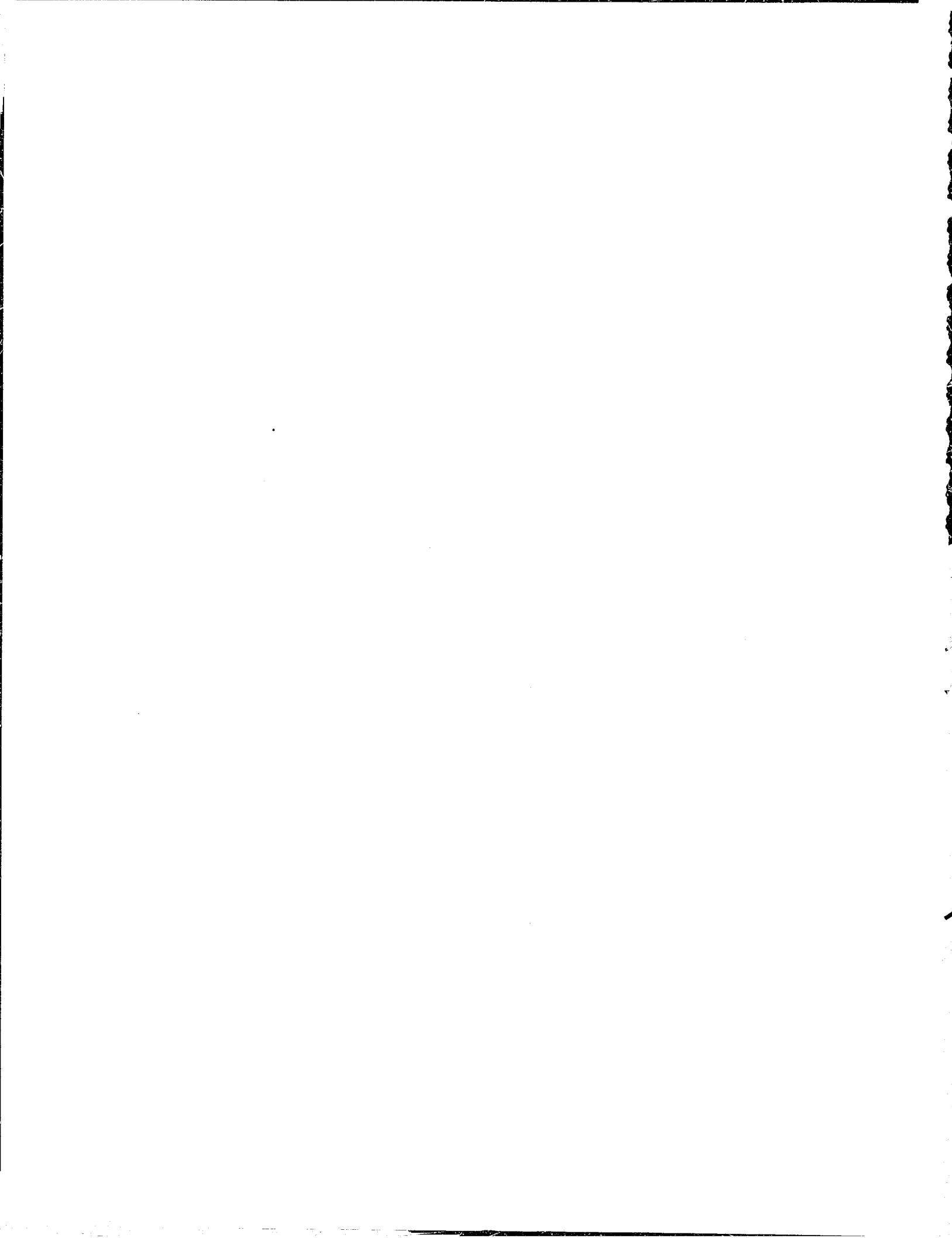
|           |           |  |
|-----------|-----------|--|
| 1:00 p.m. | Session 1 | Introduction   |
| 2:00 p.m. | Session 2 | Identification of Participants'<br>Perspectives and Concerns |
| 3:00 p.m. | Session 3 | The Principles of Design                                     |

DAY II

|           |           |   |
|-----------|-----------|---|
| 9:00 a.m. | Session 4 | Principles of Design:<br>Participation                                |
| 1:00 p.m. | Session 5 | Principles of Design:<br>Outside Review                               |
| 3:00 p.m. | Session 6 | Summary of Principles of Design:<br>Benefits of the Design Principles |

DAY III

|            |            |  |
|------------|------------|--|
| 9:00 a.m.  | Session 7  | Implementation Problems and<br>Principles                        |
| 11:30 a.m. | Session 8  | Analysis of Mechanisms with the<br>"True Grid"                   |
| 1:00 p.m.  | Session 9  | "True Grid" Applied; Force Field<br>Analysis; State Action Plans |
| 2:15 p.m.  | Session 10 | Wrap-Up  |





THE EXECUTIVE TRAINING PROGRAM  
IN ADVANCED CRIMINAL JUSTICE PRACTICES

Introduction

The Executive Training Program in Advanced Criminal Justice Practices is a nationwide training effort that offers states and local jurisdictions the opportunity to learn about improved criminal justice procedures and put them into operation. The Executive Training Program is sponsored by the National Institute of Law Enforcement and Criminal Justice (NILECJ), the research center of the Law Enforcement Assistance Administration, United States Department of Justice.

The National Institute supports wide-ranging research in the many legal, sociological, psychological, and technological areas related to law enforcement and criminal justice. It also follows through with the essential steps of evaluating research and action projects and disseminating information on them to encourage early and widespread adoption.

The Executive Training Program is one of the Institute's priority efforts at transferring research results to actual application in police departments, courts, and correctional institutions across the country. In this program, top criminal justice administrators and other decisionmaking officials of courts, corrections, and police agencies in each state are selected to participate in workshops and other training activities held across the country. The aim of the Executive Training Program is to help states and local jurisdictions develop the capacity to use new procedures derived from research findings or designed and developed by the Institute's Office of Development, Testing, and Dissemination through its Exemplary Projects Program and Program Models publication series.

Goals

The primary goal of the Executive Training Program is to enable criminal justice executives and policyshapers to bring about adoption of improved court, corrections, and police practices identified or developed by the National Institute.

As LEAA's research, evaluation, and technology transfer arm, the Institute works to devise improved methods to control crime and strengthen the criminal justice system and to train law enforcement and criminal justice personnel to use these more promising approaches.

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

- Informs influential policymakers about new practices and their potential for improving the criminal justice system, and

- Gives them the knowledge and skills needed to apply these methods in their jurisdictions.

### Approach

Techniques that have been shown to work or that promise improved effectiveness or efficiency are presented to key criminal justice executives and decision-making officials in Training Workshops, Field Test Training, Follow-On Training, and Special National Workshops. Eight topics have been identified by the National Institute for training sessions that began in late 1976 for selected senior staff and officials of state and local agencies.

The Executive Training Program was designed, and is conducted and managed, by University Research Corporation (URC), a national training organization based in Washington, D.C. Some portions of the training are conducted under URC's supervision by consulting firms experienced in criminal justice training.

#### 1. Training Workshops

Eight Workshop series are being presented across the country. Each Workshop runs for about three days. It is devoted to one topic, and is open to 60 top criminal justice policymakers from throughout the geographical area of the Workshop presentation. At the first four Workshop series, participants learned new techniques for programs on:

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

Beginning in September 1977, Workshops are being presented around the country on:

- Managing Patrol Operations
- Developing Sentencing Guidelines
- Health Care in Correctional Institutions
- Victim/Witness Services

Nationally known experts assist in developing training and present portions of the Training Workshops. URC curriculum designers, trainers, and logistics, evaluation, and media staff are working with the National Institute, the criminal justice experts, and researchers from Exemplary Projects or Program Models to ensure clear presentation of concepts and appropriate guidelines for implementation. Participants receive individual program planning guides, self-instructional materials, handbooks, and manuals. Certificates, acknowledging the competence of participants to implement the new procedures, are awarded at the conclusion of training. In cases of special need, local training support may be provided after the participants begin the implementation process in their jurisdictions.

Participants have clearly defined and specifically outlined implementation plans when they return to their jurisdictions. Each site also receives 30 days of follow-on training over an 18-month period. It is designed to provide ideas and recommendations for tailoring the program to local needs. The training helps local groups develop the capacity to solve their own problems and to share ideas and experiences with other field test projects.

### 3. Special National Workshops

Special National Workshops are the third part of the Executive Training Program. They are held for criminal justice policymakers on significant topics selected by the National Institute. The first Workshops focused on:

- Argersinger v. Hamlin - This 1972 U. S. Supreme Court decision, mandating that counsel be provided for all defendants who faced the possibility of incarceration, has had a major impact on the court system. The presentation focused on this decision and the problems associated with the delivery of legal counsel to indigent defendants.
- Update '77 - This Workshop brought mayors and county chairpersons from across the nation to Washington, D.C. to discuss the role of the local elected executives in planning and developing programs in law enforcement and criminal justice. LEAA/NILECJ Program Models, research findings, Exemplary Projects, and other resources were discussed as potential solutions to problems faced by these chief executives.
- Determinate Sentencing - A great deal of attention has recently been focused on the determinate or "fixed" sentence concept. This Workshop provided an in-depth analysis of this trend and its effect on both the judicial and correctional systems at the national and state levels. Current legislation and laws in California, Indiana, and Maine were discussed in detail together with related issues that affect police, prosecution, courts, and corrections.

Other Special National Workshops, in the planning stage, include: Stochastic Modeling (data analysis techniques for law enforcement planners and analysts); Plea Bargaining; Diversion; Mental Health in Corrections; and Update '78.

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

The training topics were selected from among the most promising models developed under NILECJ auspices, including models derived from:

- Research Results - Improved criminal justice practices identified through research findings.
- Exemplary Projects - Projects that show documented success in controlling specific crimes or that have demonstrated measurable improvement in criminal justice service.
- Program Models - Syntheses of the most advanced techniques, including operational guidelines, that can be followed in locales throughout the country.

Following each Training Workshop, up to six days of follow-on training are available, on a regional basis, to assist local agencies in direct application of skills learned in these executive training events.

## 2. Field Test Training

Each year, Workshop topics may be selected for field testing in up to 10 jurisdictions. During 1976, "field test" sites were selected to implement projects in Managing Criminal Investigations and Juror Usage and Management.

The Executive Training Program will provide assistance to three Neighborhood Justice Center (NJC) test sites in Atlanta, Kansas City, and Los Angeles. A Neighborhood Justice Center is a community-based project that seeks to resolve conflicts between people who have a continuing relationship and who generally lack recourse to the courts. The Centers will recruit and train community people to apply the techniques of mediation and arbitration to disputes. ETP will be responsible for assisting these three project sites prepare grant applications; for conducting a seminar for the project staffs at the beginning of the test period; for providing 30 days of follow-on training assistance to each center during the start-up period; and for conducting NJC Directors' conferences during the course of the contract.

The field tests focus national attention on the new procedures and evaluate their effectiveness and transferability to other jurisdictions throughout the country. The communities selected are those considered most likely to be able to carry out model projects.

Representatives from the test sites, selected by specialists most familiar with the new procedures to be implemented, receive Field Test Training designed to:

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

## Results

The Office of Technology Transfer of the National Institute anticipates that the Executive Training Program will equip criminal justice executives to return to their communities with the knowledge and skills to improve delivery of criminal justice services and thus help to shape a safer environment. It also offers participants a personal benefit--the chance to enhance their own skills and career potential.

## About OTT

The Office of Technology Transfer (OTT) is responsible for distilling research, transforming the theoretical into the practical, and identifying programs with measurable records of success that deserve widespread application. In selected instances, OTT may also provide financial and technical assistance to adapt and test these practices in several communities. The result is that criminal justice professionals are given ready access to some of the best field test programs or those experimental approaches that exhibit good potential.

OTT has developed a structured, organized system to bridge: (1) the operational gap between theory and practice, and (2) the communication gap between researchers and criminal justice personnel scattered across the country. OTT's comprehensive program provides:

- o Practical guidelines for model criminal justice programs;
- o Training Workshops for criminal justice executives in selected model programs;
- o Field tests of important new approaches in different environments; and
- o International criminal justice clearinghouse and reference services for the entire criminal justice community.

To perform these tasks, OTT operates through three interdependent divisions-- Model Program Development, Training and Testing, and Reference and Dissemination-- whose functions serve as a systematic "thoroughfare" for identifying, documenting, and publicizing progress in the criminal justice field.

## ABOUT THE AUTHORS

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

An attorney with an extensive background in administrative and correctional law, Mr. Keating was co-author of the Prescriptive Package on grievance mechanisms. He conducted numerous evaluations for the Center for Community Justice while Deputy Director of the Center and has published widely in the field of corrections. He is currently Project Director for another LEAA contract in the corrections field at University Research Corporation.

### Ann B. Horvitz, M.A.

Ms. Horvitz is Director of Special Projects for the Center for Community Justice. Before joining the Center, she had an extensive background in community corrections. Ms. Horvitz provided training in grievance procedures in California and New York, and monitored training procedures in those states.

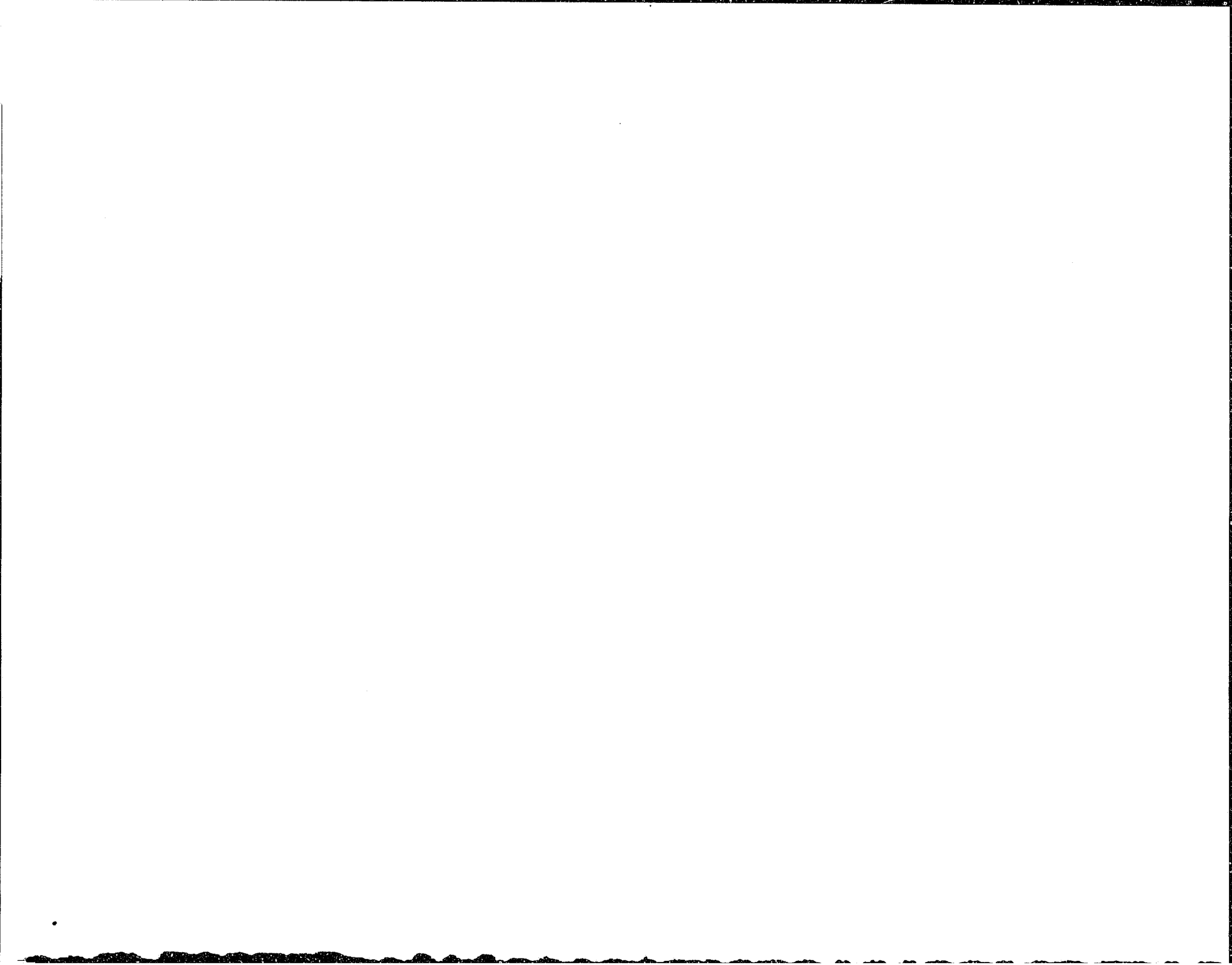
### Norma B. Gluckstern, Ed.D.

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

## OVERALL WORKSHOP OBJECTIVES

The Workshop has been designed to help participants gain:

1. An understanding of the principles essential to creating effective prison grievance mechanisms.
2. An awareness of the potential benefits--direct and indirect--of effective grievance mechanisms.
3. An appreciation of the importance of thorough planning and implementation.
4. A grasp of the techniques that are helpful in solving problems of planning and implementation.
5. A knowledge of the resources available nationally, regionally, and locally to a correctional system that is about to implement an effective grievance mechanism.





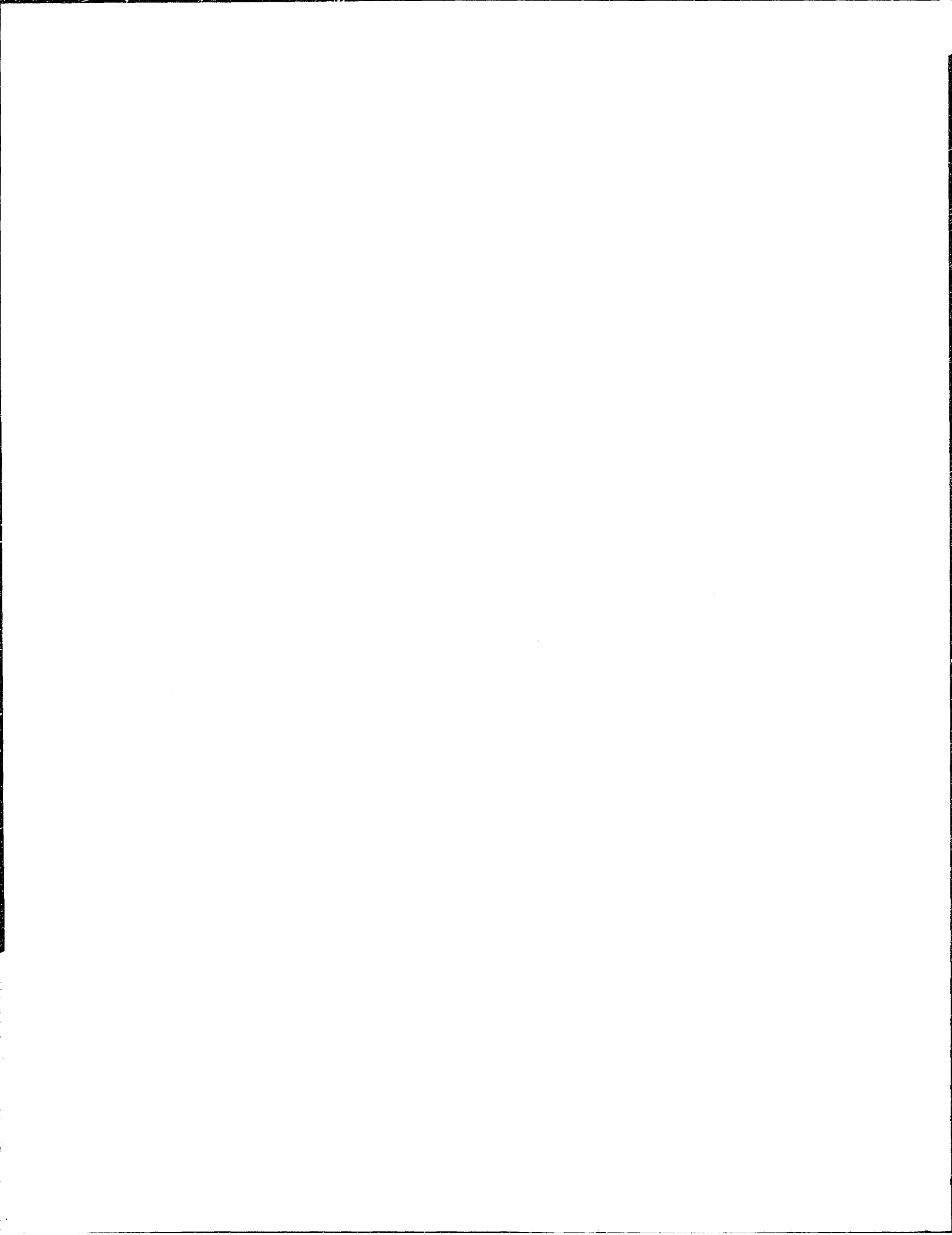
SUMMARY OF SESSION 1: INTRODUCTION

1:00 - 1:45 p.m.

| TIME                    | METHOD   | CONTENT   | VISUALS   | HANDOUTS   |
|-------------------------|--|---|---|--|
| 1:00 p.m.<br>(5 min.)   | Plenary Session<br>Lead Trainer introduces<br>LEAA Regional Office staff | Introduction of LEAA<br>Regional Office staff<br>Official greeting from LEAA  |   |  |
| 1:05 p.m.<br>(5 min.)   | Lead Trainer: Lecture  | Introduction of the training<br>organizations and sponsor:<br>NILECJ, URC, CCJ<br><br>Introduction of training<br>staff   | Chart showing<br>relationships<br>of NILECJ, URC,<br>CCJ  | Resumes of<br>training staff<br>and descriptions<br>of organizations             |
| 1:10 p.m.<br>(7-8 min.) | Lead Trainer: Lecture  | Genesis of the PGM topic.<br>NILECJ's three functions:<br><br>● Research: Prescriptive<br>Program<br><br>● Evaluation: <u>Controlled<br/>Confrontation</u><br><br>● Technology Transfer: The<br>ETP/PGM Workshops | Large graphic<br>displaying<br>NILECJ functions<br>and development<br>of PGM topic.   | 1. <u>Prescriptive<br/>Package</u><br><br>2. <u>Controlled<br/>Confrontation</u> |
| 1:17 p.m.<br>(7-8 min.) | Lead Trainer: Lecture  | Definitions:<br><br>● Grievance<br><br>● Grievance mechanisms<br><br>● Effective grievance<br>mechanisms<br><br>Need for grievance mech-<br>anisms in general is pre-<br>sumed. But refer partic-<br>ipants to:   | Two large<br>graphics with<br>definitions:<br><br>1. Grievance<br>and griev-<br>ance<br>mechanism<br><br>2. Effective<br>grievance<br>mechanism | Definitions  |

SESSION 1, SUMMARY (Contd.)

| TIME                  | METHOD                                 | CONTENT  | VISUALS   | HANDOUTS                                       |
|-----------------------|--|--|---|--|
|                       |  | <ol style="list-style-type: none"> <li>1. Survey</li> <li>2. Prescriptive Package</li> <li>3. Manual</li> </ol>                                |   |  |
| 1:25 p.m.<br>(5 min.) | Lead Trainer: Lecture                  | Basic content of the Workshop:<br><ol style="list-style-type: none"> <li>1. Design principles</li> <li>2. Implementation principles</li> </ol> | Two large graphics:<br>Design principles<br>Implementation principles | Design principles<br>Implementation principles |
| 1:30 p.m.<br>(5 min.) | Lecture                                | Overview of the Workshop schedule  | Large graphic:<br>Workshop schedule                                   | Schedule                                       |
| 1:35 p.m.<br>(5 min.) | Lead Trainer: Lecture                  | Objectives of the Workshop and the nature of the audience  | Large graphic:<br>Objectives  | Objectives                                     |
| 1:40 p.m.<br>(5 min.) | Lead Trainer: Discussion and Questions | Answer questions on any content covered so far   |   |  |



SESSION 1

INTRODUCTIONS, ORIGIN OF WORKSHOP, DEFINITIONS: OVERVIEW

1:00 - 1:45 p.m.

DAY I

---

GOALS

1. To acquaint participants with trainers.
  2. To familiarize participants with the origin and purposes of the Workshop on Prison Grievance Mechanisms.
  3. To establish basic definitions.
  4. To introduce the principles of designing and implementing a prison grievance mechanism.
  5. To provide a preview of the Workshop agenda.
- 

PERFORMANCE OBJECTIVES

Participants will understand the definitions of grievance and grievance mechanism.

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METHODS

Lecture

Discussion

---

MATERIALS/LOGISTICS

1. Room large enough for 60 participants
2. Table in front of room
3. Sufficient number of chairs
4. One flip-chart stand and charts

5. Copies of Prescriptive Package
6. Copies of Controlled Confrontation

DESCRIPTION:

| METHOD  | CONTENT   |
|---|---|
| <p>1. <u>Introduction of LEAA Regional Office personnel.</u> (5 min. limit)</p>   | <p>Regional official welcomes participants and adds appropriate brief remarks.</p>  |
| <p>2. <u>Introduction of training staff:</u> Trainers stand when introduced by Lead Trainer.</p>  | <p>Briefly describe relationship between NILECJ/OTT (LEAA), URC, and CCJ.</p> <p>Briefly list qualifications of individual trainers.</p>  |
| <p>3. <u>Genesis of PGM topic:</u> Make sure everyone has a copy of the <u>Prescriptive Package</u> and the <u>Exemplary Project materials</u>. Urge continued reference to them.</p> <p>Use graphics to explain functions of NILECJ and products related to those functions.</p> | <p>NILECJ has three functions:</p> <ol style="list-style-type: none"> <li>1. Research</li> <li>2. Evaluation</li> <li>3. Technology transfer</li> </ol> <p><u>Research:</u> <u>Prescriptive Package</u> done by CCJ.</p> <p><u>Evaluation:</u> Exemplary Project with CCJ consultation. How and what.</p> <p><u>Technology Transfer:</u> Workshop series on PGM seeks replication of ideas developed in research and proven successful in evaluation.</p>   |
| <p>4. <u>Definitions:</u> One graphic contains the definition of a <u>grievance</u> and a <u>grievance mechanism</u>. The second provides the definition of an <u>effective grievance mechanism</u>.</p> <p>Briefly explain what is meant by an inmate.</p>                       | <p>A <u>grievance</u> is a complaint about anything. It can cover any aspect of prison life.</p> <p><u>Formal definition:</u> A grievance is a complaint about the substance or application of any written or unwritten policy or regulation; <u>or</u> about the absence of a policy, regulation, or rule; <u>or</u> about any behavior or action directed toward an inmate.</p> <p>The key element is that any action is-- and should be--grievable; individual jurisdictions will have to determine what matters ought to be excluded--such as questions of parole in a department that has no jurisdiction over parole.</p> |

| METHOD  | CONTENT  |
|---|--|
|   | <p>A grievance mechanism is an administrative means for the expression and resolution of inmates' grievances.</p> <p>An effective grievance mechanism is one that:</p> <ol style="list-style-type: none"> <li>1. Operates fairly and is perceived by inmates and staff to be fair,</li> <li>2. Is used, and</li> <li>3. Actually solves problems, including those that require review, clarification, and change of policies.</li> </ol> <p>Recognition by the participants of the need for an effective grievance mechanism is presumed. A full justification can be found in:</p> <ol style="list-style-type: none"> <li>1. 1975 CCJ Survey</li> <li>2. Prescriptive Package (pp. 3-6)</li> <li>3. Manual</li> </ol> |
| <p>5. <u>Introduction of the principles:</u><br/>This is not the place for elaboration. The principles should simply be listed.</p> | <p>In its research, the Center has found that the following principles are necessary for the design of an effective grievance mechanism:</p> <ol style="list-style-type: none"> <li>1. Written responses, including the reasons for the decision taken, must be received on all grievances.</li> <li>2. Grievances must be responded to within prescribed reasonable time limits; special provisions must be made for responding to emergencies.</li> <li>3. Outside review of grievances must be available.</li> <li>4. Inmates and line staff must participate in the design and operation of the mechanism.</li> <li>5. All inmates must have access to the mechanism, with guarantee against reprisal.</li> </ol>  |

| METHOD  | CONTENT   |
|---|---|
|   | <p>6. The mechanism must be applicable to as broad a range of issues as possible and must contain means for resolving specific questions of jurisdiction.</p> <p>Design, however, is not everything. Implementation is almost as important. We will discuss a checklist of implementation principles and consider strategies for successful implementation later in the Workshop.</p>   |
| <p>6. <u>Overview of Workshop schedule:</u><br/>Use of simplified graphic to show schedule.</p> <p>Encourage participants to mingle on their own time to enjoy fullest possible benefit of the Workshop.</p> <p>Describe the materials:</p> <ul style="list-style-type: none"> <li>• <u>Participant's Handbook</u></li> <li>• <u>Manual.</u></li> </ul> <p>Plug NILECJ's materials.</p> | <p>Discuss the schedule in terms of substantive materials to be presented:</p> <p><u>Session 3:</u> Overview of design principles.</p> <p><u>Session 4 and 5:</u> The two most controversial principles and what they involve.</p> <p><u>Session 6:</u> Benefits of a mechanism based on the principles, from the point of view of an administrator.</p> <p><u>Session 7:</u> The problem of implementation.</p> <p><u>Session 8:</u> How to evaluate your current mechanism.</p> <p><u>Session 9:</u> Strategies for improvement--change/innovation.</p> |
| <p>7. <u>Objectives and audience composition.</u></p>   | <p>If objectives seem vague, it is because, in a sense, they are. We are advocating principles and concepts, not a specific model.</p> <p>The Workshop has been designed to help participants gain:</p> <ol style="list-style-type: none"> <li>1. An understanding of the principles essential to creating effective prison grievance mechanisms.</li> <li>2. An awareness of the potential benefits--direct and indirect--of effective grievance mechanisms.</li> </ol>  |



| METHOD  | CONTENT  |
|---|--|
|   | <p>3. An appreciation of the importance of thorough planning and implementation.</p> <p>4. A grasp of the techniques that are helpful in solving problems of planning and implementation.</p> <p>5. A knowledge of the resources available nationally, regionally, and locally to a correctional system that is about to implement its own grievance mechanism.</p> <p><u>Why this audience?</u></p> <p>1. <u>Administrators</u>: Easily explained. The fragmentation of innovation in corrections.</p> <p>2. <u>Judges, attorney generals, public defenders/legal aid</u>: The legal background.</p> <p>3. <u>Legislators, governors' aides, SPA specialists</u>: Need help and resources.</p> <p>Goals are to help meet the need for coordination of effort and equality of knowledge, both of which, to date, have been spotty at best.</p> |
| <p>8. <u>Discussion/questions</u>: Postpone specific questions on the principles. Deal only with questions on the Workshop schedule, objectives, and development.</p> |  |
| <p><u>Linkage to Next Session</u>:</p>  | <p>Participants will have a broad overview of the Workshop and will have been introduced to some basic definitions and the principles of design. The next session will include an exercise for the participants that will give them the opportunity to apply the principles of design in a simulated situation.</p>  |

GENESIS OF THE WORKSHOP ON PGM

NILECJ FUNCTION

PRODUCTS

Research:

Prescriptive Package Program  
Grievance Mechanisms in  
Correctional Institutions

Evaluation:

Exemplary Project Program  
Controlled Confrontation

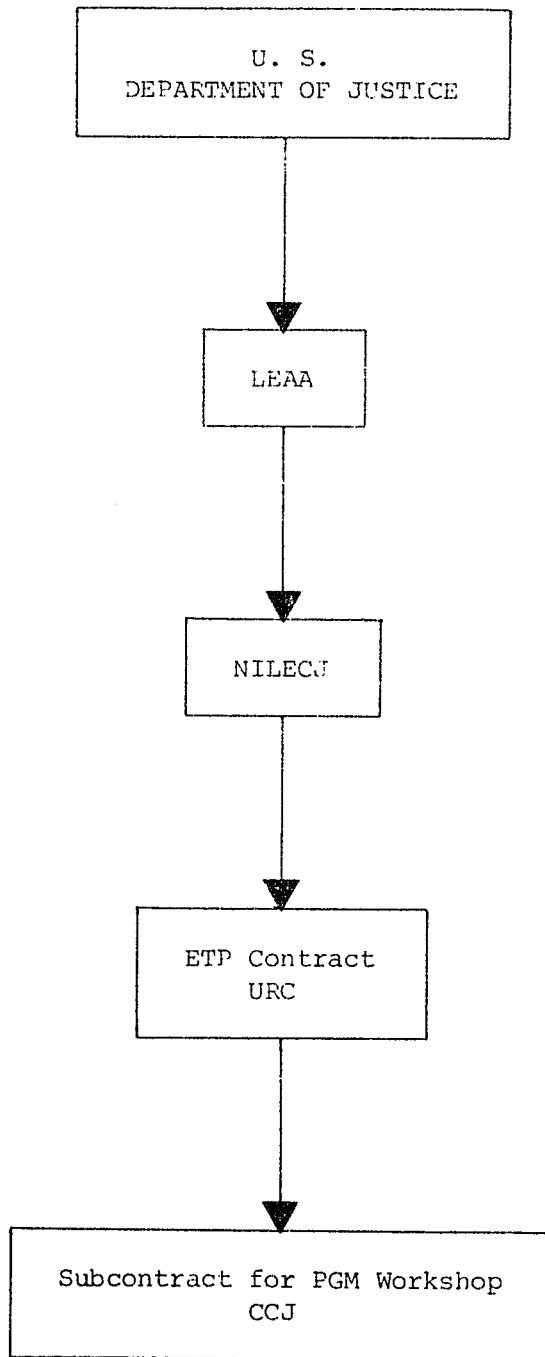
Technology  
Transfer:

ETP Workshop on Prison  
Grievance Mechanisms



Participants' Replication of  
Effective Grievance Mechanisms

RELATIONSHIP OF ORGANIZATIONS  
INVOLVED IN THE WORKSHOP



## SOME BASIC DEFINITIONS

### What is a "grievance"?

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

### What is "grievable"?

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

### What is a "grievance mechanism"?

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

### What is an "effective grievance mechanism"?

A grievance mechanism is effective:

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

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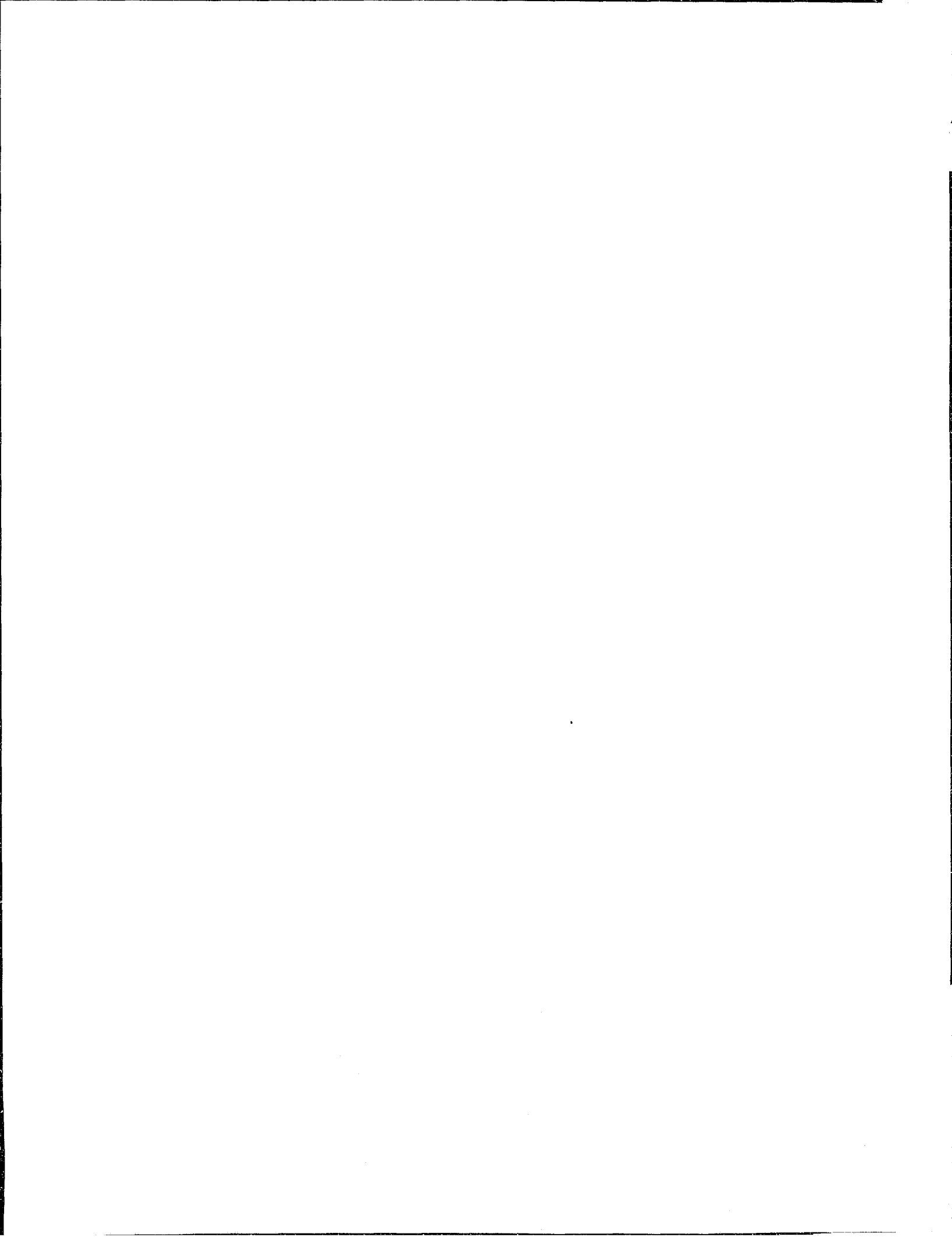
\* Whenever the term inmate is used in the Workshop, it is intended to include any individual--juvenile or adult--who is under the supervision of any correctional institution or program.

## DESIGN PRINCIPLES

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

## IMPLEMENTATION PRINCIPLES

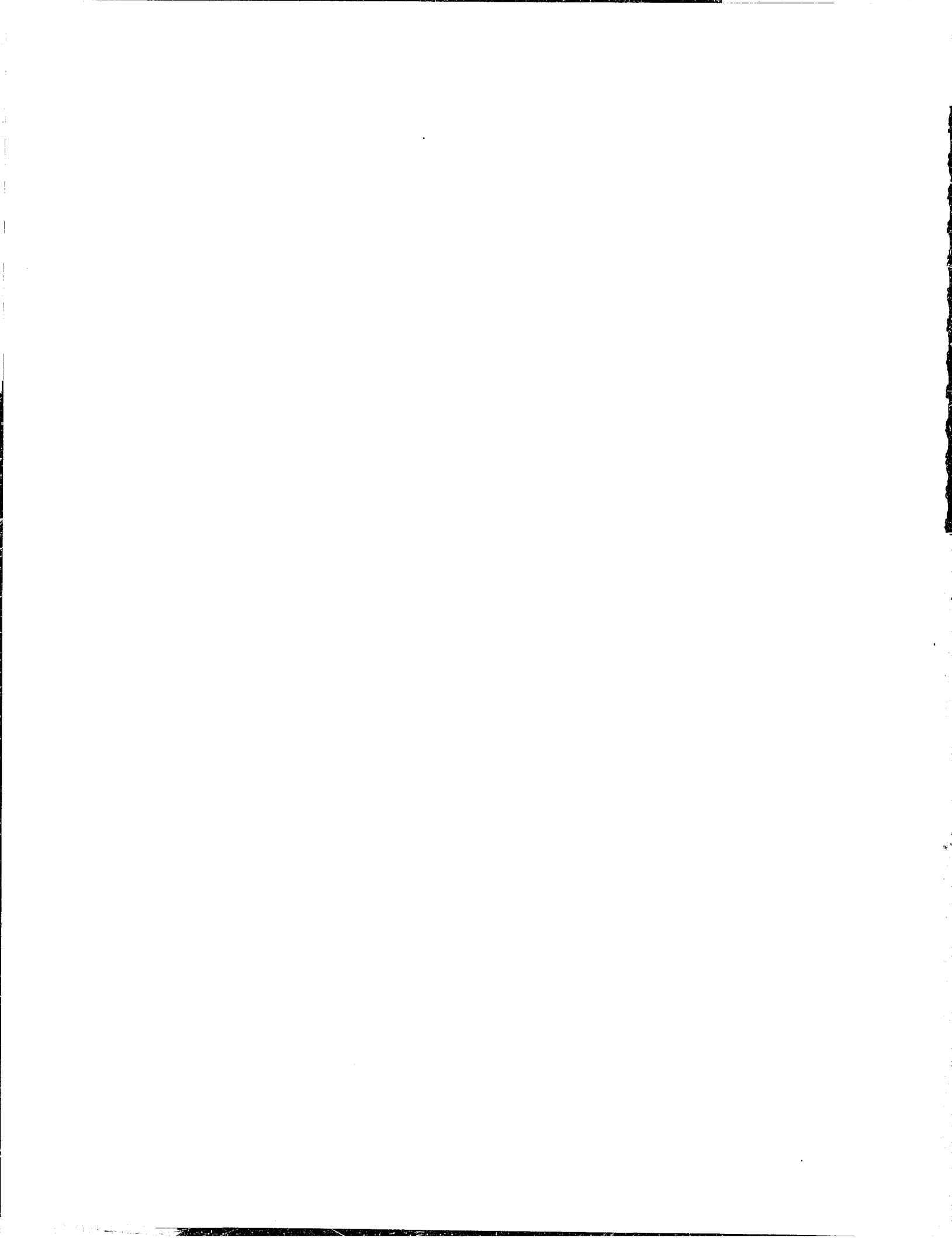
ADMINISTRATIVE LEADERSHIP AND PLANNING  
TRAINING  
ORIENTATION  
MONITORING AND EVALUATION  
INCREMENTALISM



SUMMARY OF SESSION 2: INTRODUCTIONS AND IDENTIFICATION OF PARTICIPANTS' CONCERNS

2:00 - 2:45 p.m.

| TIME                   | METHOD  | CONTENT   | VISUALS  | HANDOUTS |
|------------------------|---|---|--|----------|
| 2:00 p.m.<br>(5 min.)  | Small group<br><br>Lecture  | Introduction of task  |  |          |
| 2:05 p.m.<br>(10 min.) | Introductions   | Name and affiliation of participants  |  |          |
| 2:15 p.m.<br>(20 min.) | Division into two subgroups<br><br>Discussion and listing of concerns | Raise concerns regarding prison grievance mechanisms from point of view of constituents<br><br>Subgroups list concerns on newsprint   | In each of 4 rooms:<br><br>Easel<br>Newsprint<br>Tape<br>Magic Markers |          |
| 2:35 p.m.<br>(10 min.) | Small group<br><br>Discussion, lecture                                | Small group shares and compares data. Trainer responds by drawing material together.<br><br>Trainer identifies topics to be dealt with during Workshop and those that cannot be handled (such as legal services). |  |          |





SESSION 2

INTRODUCTIONS AND IDENTIFICATION OF PARTICIPANTS' CONCERNS

2:00 - 2:45 p.m.

DAY II

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GOALS

1. To introduce participants to each other and staff.
  2. To identify concerns that participants have about prison grievance mechanisms.
- 

PERFORMANCE OBJECTIVES

None

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METHODS

Small groups  
Lecture and discussion

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MATERIALS/LOGISTICS

1. Four break-away rooms, each large enough for up to 16 participants
  2. Newsprint
  3. Magic Markers in each room
-

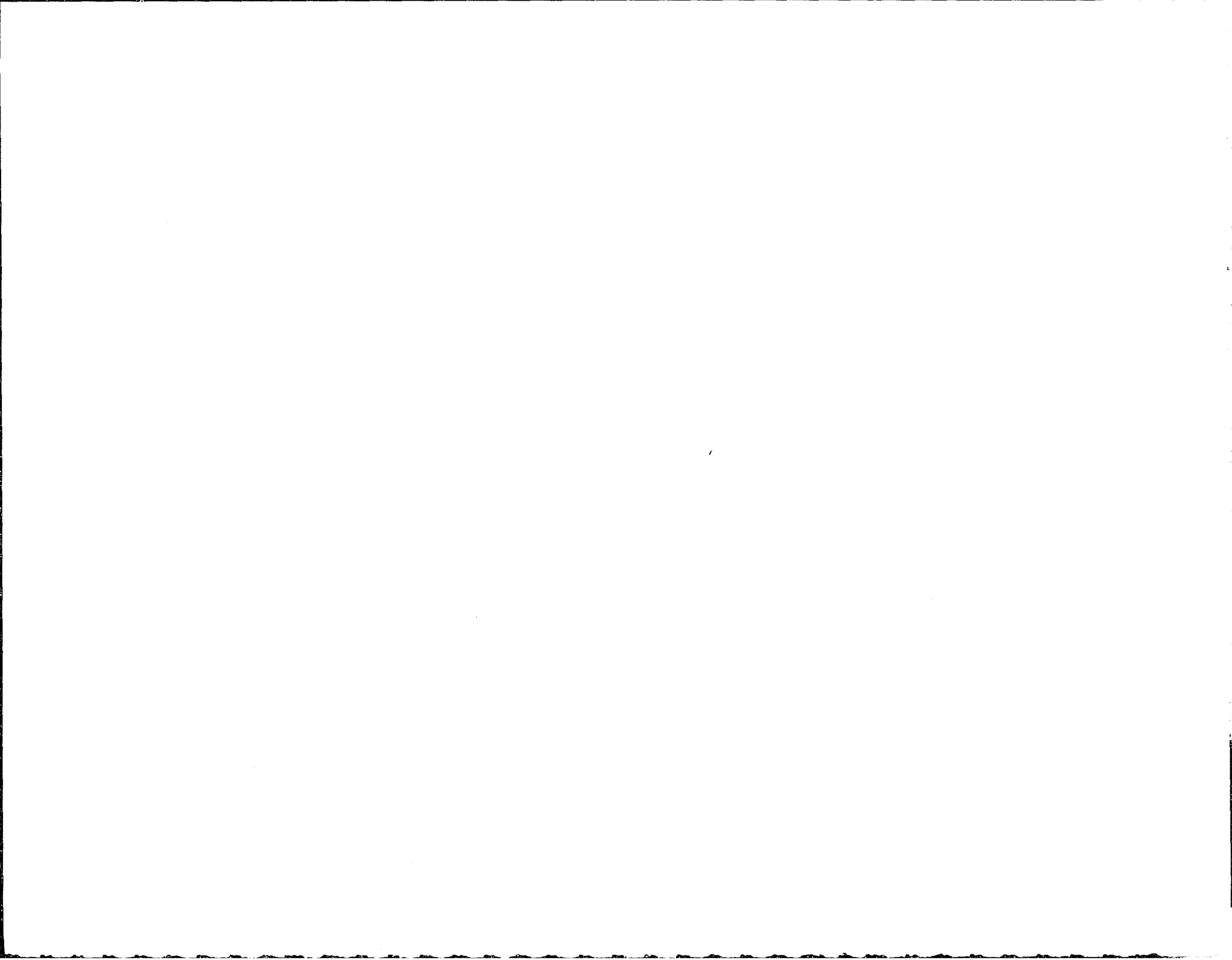
DESCRIPTION:

| METHOD  | CONTENT  |
|---|--|
| <p>1. <u>Check participants' understanding of the previous session.</u></p>   | <p>Trainer begins session by asking participants whether they need any clarification regarding Session 1, Orientation.</p>                             |
| <p>2. <u>Introduction of participants:</u><br/>Use of first names should be cleared with participants.</p>  | <p>Trainer asks participants to identify themselves by name and affiliation or role: participants should also indicate why they are here.</p>          |
| <p>3. <u>Identification of concerns:</u><br/>The group should be subdivided into two separate groups to draw up lists of concerns. Ask each group to draw up a list of concerns, interests, and needs that it would like covered or addressed during the course of the Workshop. The purpose of this list is to establish a benchmark against which participants and trainers can measure progress and the success of the Workshop in meeting participants' expectations or its failure to do so.</p> <p>The list will also alert the trainer to participants' concerns and issues that will not be addressed in the Workshop, thereby anticipating the possible disappointment of some participants who come to the Workshop with a "peculiar" or special question or interest. Trainers, of course, will be available outside of sessions to respond, if possible, to such inquiries.</p> |  |
| <p>4. <u>Discussion of concern:</u> The larger group should be re-formed for the two lists.</p>   | <p>Some examples of concerns, interests, or problems might be:</p> <ul style="list-style-type: none"> <li>● How much does a mechanism cost?</li> </ul> |

| METHOD  | CONTENT   |
|---|---|
| <p>After each group has a rough list, attempt to place priorities on the listed interests, concerns, and anticipated problems.</p> <p>The trainer will identify the concerns that will be addressed during the Workshop, as well as standards for evaluation at the end of the Workshop.</p> <p>(Use list of concerns to inform guest administrator for Session 6 of participants' concerns.)</p> | <ul style="list-style-type: none"> <li>● Should a mechanism be based on a statute?</li> <li>● How do you handle opposition to a mechanism from a strong correctional officers' union?</li> <li>● Should a court impose a mechanism on a reluctant administration?</li> </ul> <p>The establishment of priorities need not take much time. The point of the exercise is more to identify what the participants want than to establish fixed priorities of subject matter. Simply use the opportunity to get some sense of what is most important to your group and to dispel expectations that will not be met in the Workshop.</p> |

Linkage to Next Session:

Participants now have an overview of the Workshop content and have identified their concerns. The next step is a first attempt to wrestle with, understand, and apply the six principles of design.



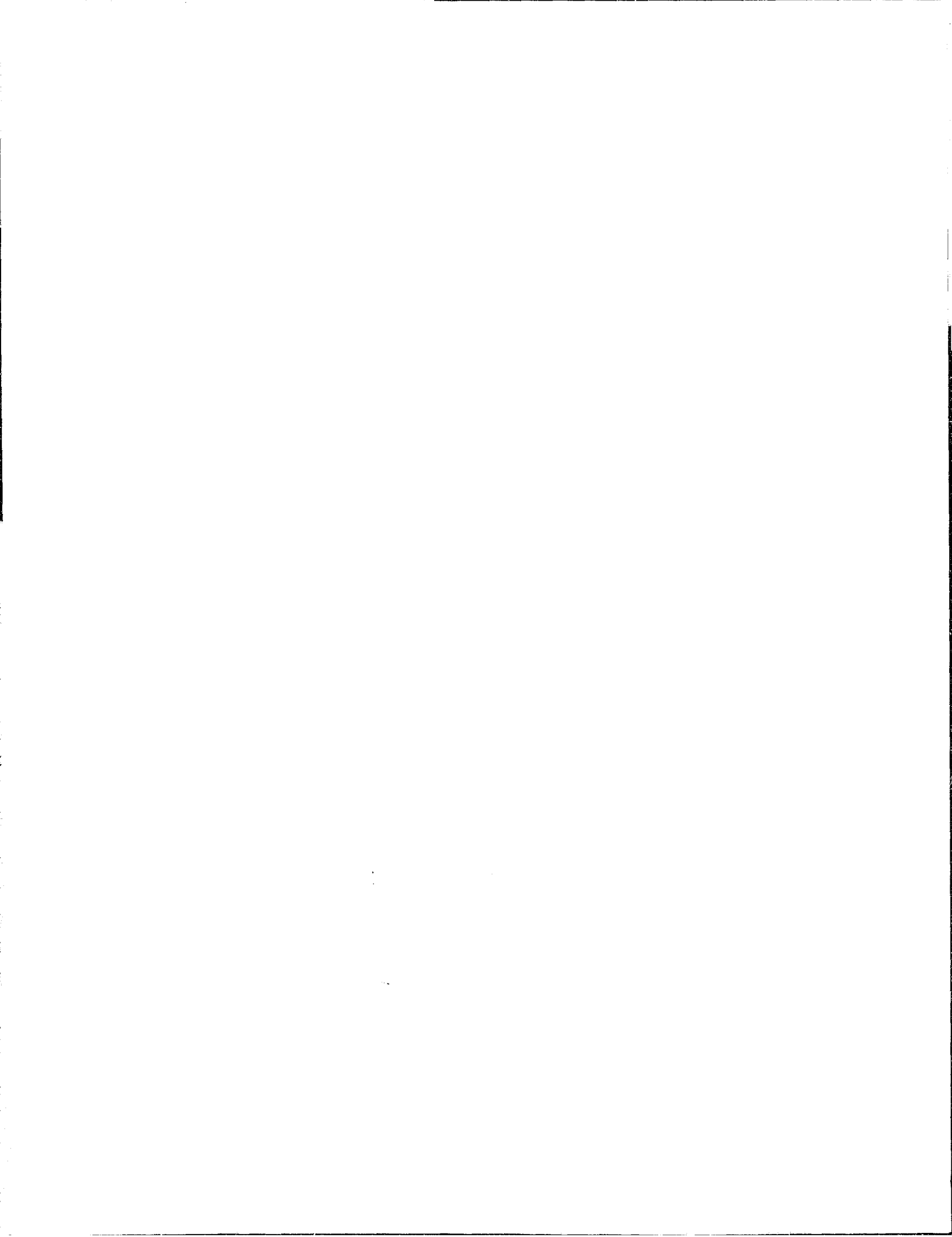
SUMMARY OF SESSION 3: DESIGN PRINCIPLES

3:00 - 5:30 p.m.

| TIME                   | METHOD  | CONTENT   | VISUALS   | HANDOUTS  |
|------------------------|---|---|---|---|
| 3:00 p.m.<br>(15 min.) | Small groups: Role play, simulation, with two subgroups required to design grievance mechanisms for a school. | <p>Introduce the role play: Discuss the purpose of the exercise. Discuss the reasons for role-playing a high school situation and the universality of the design principles.</p> <p>Allow the participants to read and digest the simulation background and roles. Give everyone a chance to ask questions about the role play. Define the terms of the role play.</p> <p>Divide the participants into two committees. Let each committee organize and discuss the task and the roles for a few moments.</p> <p>Define the task and time limits clearly: Each committee must come up with a design.</p> | <p>Newsprint</p> <p>Tape</p> <p>Magic Markers for two working groups within each of the four groups of participants</p> | <p>Background on school simulation</p> <p>Role descriptions</p> |
| 3:15 p.m.<br>(15 min.) | <p>Trainer lecture</p> <p>Brief discussion</p>  | Introduce the design principles and explain them within the context of the school situation.  | Chart of all six principles (same as in Session 1)  | Refer participants to hand-out on principles in Session 1.      |

SESSION 3, SUMMARY (Contd.)

| TIME                           | METHOD  | CONTENT  | VISUALS | HANDOUTS  |
|--------------------------------|---|--|---------|---|
|                                |   | <p>Allow some initial discussion, but only to the extent necessary to clarify the meaning of particular principles.</p>  |         |   |
| <p>3:30 p.m.<br/>(1 hour)</p>  | <p>Small groups: Within each small group, two subgroups work independently. Trainer is available, but does not interject comments unless it is absolutely necessary to do so.</p> | <p>The small working groups design a grievance mechanism for George Washington High School.</p>  |         |   |
| <p>4:45 p.m.<br/>(30 min.)</p> | <p>Small group: Subgroups reform into small groups and discuss their designs.</p>   | <p>Each subgroup describes its design.</p> <p>Compare the designs with each other then with the design principles.</p> <p>Discuss the relevance and usefulness of the principles of design. Consider how one or both designs incorporated or neglected each of the design principles. Does the practical exercise make the purpose of each principle clear? If not, clarify.</p> |         | <p>Additional material on principles is in the <u>PCM Manual</u>.</p> |
| <p>5:15 p.m.<br/>(15 min.)</p> | <p>Small groups<br/><br/>Lecture</p>  | <p>Prepare groups for next morning's exercise. Assign readings in <u>Participant's Handbook</u> and outside review readings for Session 5.</p>   |         |   |



SESSION 3

DESIGN PRINCIPLES

3:00 - 5:30 p.m.

DAY 1

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GOALS

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

LEARNING OBJECTIVES

Participants should be familiar with the six principles of design and understand their importance in the development of an effective mechanism.

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METHODS

1. Lecture
  2. Small group exercise
  3. Simulation and role play
  4. Discussion
- 

MATERIALS/LOGISTICS

1. Four break-away rooms
  2. Newsprint
  3. Tape
  4. Magic Markers sufficient for two working groups in each break-away room
-



DESCRIPTION:

| METHOD  | CONTENT  |
|---|--|
| <p>1. <u>Introduce the role play:</u> Divide the group into smaller working groups.</p> <p>Pass out background material on the school simulation.</p> <p>Pass out role assignments and description.</p> <p>Pass out materials on principles and have participants read it before the simulation.</p> <p>Make sure the participants understand the situation, their tasks, and their roles. Give them time to read the material and to ask questions.</p> <p>Make sure that those who play the role of the principal in each group understand their function and responsibility clearly.</p> <p>Answer questions on the role play, the task, or the design principles, and set the groups to work.</p> | <p><u>Purpose of the exercise:</u> Design a grievance mechanism for George Washington High School based on the principles.</p> <p>A school simulation was selected for the design exercise because:</p> <ol style="list-style-type: none"> <li>1. For our purposes, there is an effective similarity between a school and a correctional institution in terms of clientele, administration, teachers, line staff, and community groups.</li> <li>2. The neutral (for us) environment of a school will allow participants to concentrate on the procedural aspects of designing a grievance mechanism, without being distracted by the substantive issues involved in creating a mechanism specifically for corrections.</li> </ol> <p>It is our belief that the principles are universal and apply to the development of a grievance mechanism in any context in which there is a major disparity in the power of the clients of an institutional service and the institution providing the service. This exercise is designed to enable the participants, through experience, to learn the reasons underlying the various design principles.</p> <p>The school principals have decided firmly on a grievance mechanism. This meeting is to execute that decision, not evaluate or challenge it. They must drive the group to a design based on the design principles as best they can within the allotted time.</p> |
| <p>2. <u>Introduce the principles:</u> Refer participants to the list of principles presented in Session 1.</p>   | <p>Review the development of the principles:</p> <ol style="list-style-type: none"> <li>1. Basic research into the elements of successful grievance mechanisms in other environments led to development of a set of hypothetical principles.</li> </ol>  |

| METHOD   | CONTENT  |
|--|--|
| <p>Point out the additional material on principles in the <u>Participant's Handbook</u>.</p> | <ol style="list-style-type: none"> <li>2. Trial and error in corrections: Massachusetts, California, New York, Colorado, and South Carolina.</li> <li>3. Review and analysis of what made other mechanisms in corrections succeed or fail.</li> </ol> <p>Give another plug to the Prescriptive Package Program and <u>Controlled Confrontation</u>.</p> <p><u>THE PRINCIPLES</u></p> <p>Explain them within the context of a school situation:</p> <ol style="list-style-type: none"> <li>A. Written responses <ol style="list-style-type: none"> <li>1. Informal responses are not good enough since we are talking about bureaucratic reform.</li> <li>2. Written responses constitute proof that: <ol style="list-style-type: none"> <li>a. Response was made--or not made.</li> <li>b. Time limits were observed--or not observed.</li> </ol> </li> <li>3. A record of the case is necessary for rational <u>appeal</u> and <u>review</u>.</li> </ol> </li> <li>B. Time limits <ol style="list-style-type: none"> <li>1. A prod to act in timely fashion.</li> <li>2. Open-ended mechanisms are unacceptable.</li> <li>3. Enforceability; go to next level when not observed.</li> <li>4. Possibility of extension with mutual consent.</li> <li>5. Emergency grievances.</li> <li>6. The importance (paradoxically) of timeliness in prisons; National Advisory Commission's 30-day limit.</li> </ol> </li> </ol> |

| METHOD  | CONTENT  |
|---|--|
| <p>Entertain questions about the meaning of any of the principles, but limit questions and discussion to clarification of meaning.</p>  | <ul style="list-style-type: none"> <li>C. Participation               <ul style="list-style-type: none"> <li>1. Students and staff together.</li> <li>2. Design function.</li> <li>3. Operational working together of students and staff in resolving grievances as an integral, initial step in the mechanism.</li> </ul> </li> <li>D. Outside review               <ul style="list-style-type: none"> <li>1. Independent.</li> <li>2. Nature of review.</li> <li>3. Nature and status of reviewers.</li> </ul> </li> <li>E. Final appeal with or without               <ul style="list-style-type: none"> <li>1. Available to all articulate and inarticulate--on a meaningful basis; that is, all students know about it.</li> <li>2. No record of grievances in student files.</li> <li>3. Strong administrative effort to monitor, limit, and pacify appeal.</li> </ul> </li> <li>F. Jurisdiction               <ul style="list-style-type: none"> <li>1. Scope of mechanism should be as broad as possible.</li> <li>2. Disputes over jurisdiction should be resolved by the mechanism.</li> </ul> </li> </ul> |
| <p>3. <u>Working group design mechanism:</u><br/>The trainer should intrude as little as possible into the group exercise--and only at the request of the group.</p> <p>Make sure each group records its design on newsprint.</p> |  |

| METHOD   | CONTENT   |
|--|---|
| <p>4. <u>Critique and compare designs.</u><br/>Re-form the working groups into one group.</p> <p>Have the school principal or his/her designees describe each group's design. Lead a comparison of the two designs and compare both to the grievance principles. How did the groups incorporate--or fail to incorporate--the principles?</p>   | <p>A. Are written responses required at every level? Reasons? If not, why not?</p> <p>B. Were "realistic" time limits included at every level? Enforceable? Emergency provisions? Possible extensions?</p> <p>C. What is the value of participation in this design exercise? Are all constituencies included as participants? Should they be? Why or why not?</p> <p>D. Is there provision for outside review? If not, why and what is the effect on credibility? Who are the reviewers?</p> <p>E. How do people find out about the mechanisms and initiate the complaint process? What about academic reprisals?</p> <p>F. What is the jurisdiction and how are disputes about the grievability of a specific case resolved?</p> <p>Do the principles make sense?</p> <p>Pass out material with a brief description of the Session 4 role pay.</p> |
| <p>5. <u>Prepare group for next day's sessions.</u> All participants will be called on to play a role or or critique other role players in the roles described in the material for Session 4. It will help if everyone will read over this brief material before tomorrow's Session 4. Also point out the case studies for outside review in Session 5. Ask participants to read them.</p> |   |

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Linkage to Next  
Session:

Participants now have an overview of all of the design principles. The next two sessions will deal in depth with the most difficult concepts--participation and outside review.

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ADDITIONAL READING ON DESIGN PRINCIPLES  
OF AN EFFECTIVE SCHOOL GRIEVANCE MECHANISM

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

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

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

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

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

Brief, enforceable time limits are essential at every step in a grievance mechanism. They put all involved parties on notice that they must act on complaints. Mechanisms without time limits are an invitation to parties responsible to avoid dealing with tough questions and issues. Time limits should be realistic, but any procedure that requires much more than 30 days from start to finish probably will not be used or trusted by inmates.

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

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

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

must be shorter, and some levels of the mechanism may have to be bypassed to expedite handling of the grievance.

3. Outside review of grievances must be available.

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

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

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

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

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

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

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

Fear of reprisal is the objection to grievance mechanisms most often voiced by students. Of course, there can never be an absolute guarantee that threats or reprisals will not be applied informally against someone who uses the system, but

some safeguards can be built into the mechanism. For example, the importance of ensuring that no record of a grievance be placed in the complainant's school file cannot be overemphasized. Belief that a complaint about policy, programs, or teachers will appear in a student's file that goes to a college or potential employer is likely to deter him/her from making a complaint if he/she is already hesitant to use the mechanism. More subtle pressures can also be applied, especially by teachers who can make life difficult for grievants or students with participatory roles in the procedure. Another test of the good faith of administrators is whether they prevent harassment of students who use the system.

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

Some schools may already have, say, a disciplinary process and may wish to retain it, or there currently may be a method of questioning class assignments. Once the scope of a grievance mechanism has been agreed upon, the mechanism itself must contain a means for determining whether a specific grievance is grievable. Thus, when a grievance is dismissed because it is not within the ambit of the mechanism, a student must be allowed to appeal that ruling through every level of review. The mechanism thus would have jurisdiction over questions of its own applicability.



## SCHOOL SIMULATION

### General Background

George Washington High School has a student population of 2,000. It is one of three high schools in Riverwood, a large suburb of a major city.

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

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

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

The District Superintendent has been deluged with phone calls due to the recent incidents. The press has reported the lawsuit, something the superintendent had hoped could be avoided. He has decided steps must be taken immediately and that something new is necessary. A pilot project is planned for one of the high schools in the school district as an experiment. With the aid of a small foundation grant, a student grievance mechanism will be designed for the school within 30 days.

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

M E M O R A N D U M

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

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

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

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

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

### ROLE DESCRIPTION: PRINCIPAL

You are in your mid-thirties. You are completing your doctorate at the local university. You did undergraduate work in sociology with honors and hold a master's in secondary education. Your first job was as a social science teacher; you were an Academic Vice-Principal for six years. You came to George Washington High as Principal two years ago, after the district had made a statewide search. You are resented by some older faculty and administration members but have developed a strong base of support among younger teachers. The students, you feel, are somewhat cynical about you. They liked what you said when you arrived and reacted favorably to your rather relaxed manner with them, but they seem to have lost faith in you as a result of the school newspaper censorship issue.

Your role in this committee will be advisory. Many of the participants have had trouble in the past working together. Your main function will be to facilitate rational discussion and the development, at least, of procedural framework for the mechanism. While you will have to check periodically on the results of implementing a mechanism, the basic decisions to initiate one have already been made. The task of the committee will be to design a specific mechanism.

ROLE DESCRIPTION: HEAD GUIDANCE COUNSELOR

You see the grievance mechanism as a serious threat to your professional integrity. It interferes with treatment programs, such as group counseling, and undermines the counselor's authority to determine what is best for students.

You have a master's in school psychology and are president of the local chapter of the School Psychologists Association. You have just returned from a one-week in-service training workshop on adolescent drug and alcohol abuse.

ROLE DESCRIPTION: VICE-PRINCIPAL FOR ACADEMICS

You are older than the principal, have been at George Washington a long time, and are seeking a higher administration post elsewhere. You are caught between a faculty that is basically unreceptive to the grievance mechanism and an administrator who wants it to succeed. You pride yourself on your open mind. You are deeply disturbed by the deteriorating morale throughout the school, the conflicts between and within groups, and the drop in academic standards. You have a son who is a senior at George Washington who argues vociferously for more student participation in school policymaking.

ROLE DESCRIPTION: DEAN OF STUDENTS

You are a former physical education teacher. You take pride in your rapport with students and believe that a grievance mechanism will open up communications between rival factions. You led a small group of faculty dissidents in the censorship fracas. You believe there is no place for litigation in resolving student disputes with the school system.

ROLE DESCRIPTION: TEACHERS' UNION REPRESENTATIVE

You see the new mechanism as a threat to the teacher's authority and the right to establish rules for class behavior and decorum. You also see it as potentially a threat to the teacher's prerogative to design curriculum and are afraid that it might even lead to public censure of a teacher's actions. A majority of the union members agree. On the other hand, you are receiving increasing pressure from teachers who are concerned about the rapid deterioration of the learning environment and the threat of litigation, and who believe that teachers may find in a grievance mechanism the tool they need to restore confidence in the classroom situation among their students.

ROLE DESCRIPTION: STUDENT COUNCIL PRESIDENT

An incoming senior, you have just taken office. You are an honor student who is aiming for a prestigious college, law school, and a political career in the tradition of your family. You are defensive about the Council's losing its credibility as the forum for airing student concerns and are afraid that a grievance mechanism would further erode the Council's status. However, you know that the Principal wants a grievance mechanism and you do not want to be left out of the mainstream if one succeeds. You want to ensure a role for the Student Council in the procedure.



ROLE DESCRIPTION: PRESIDENT OF JUNIOR CLASS

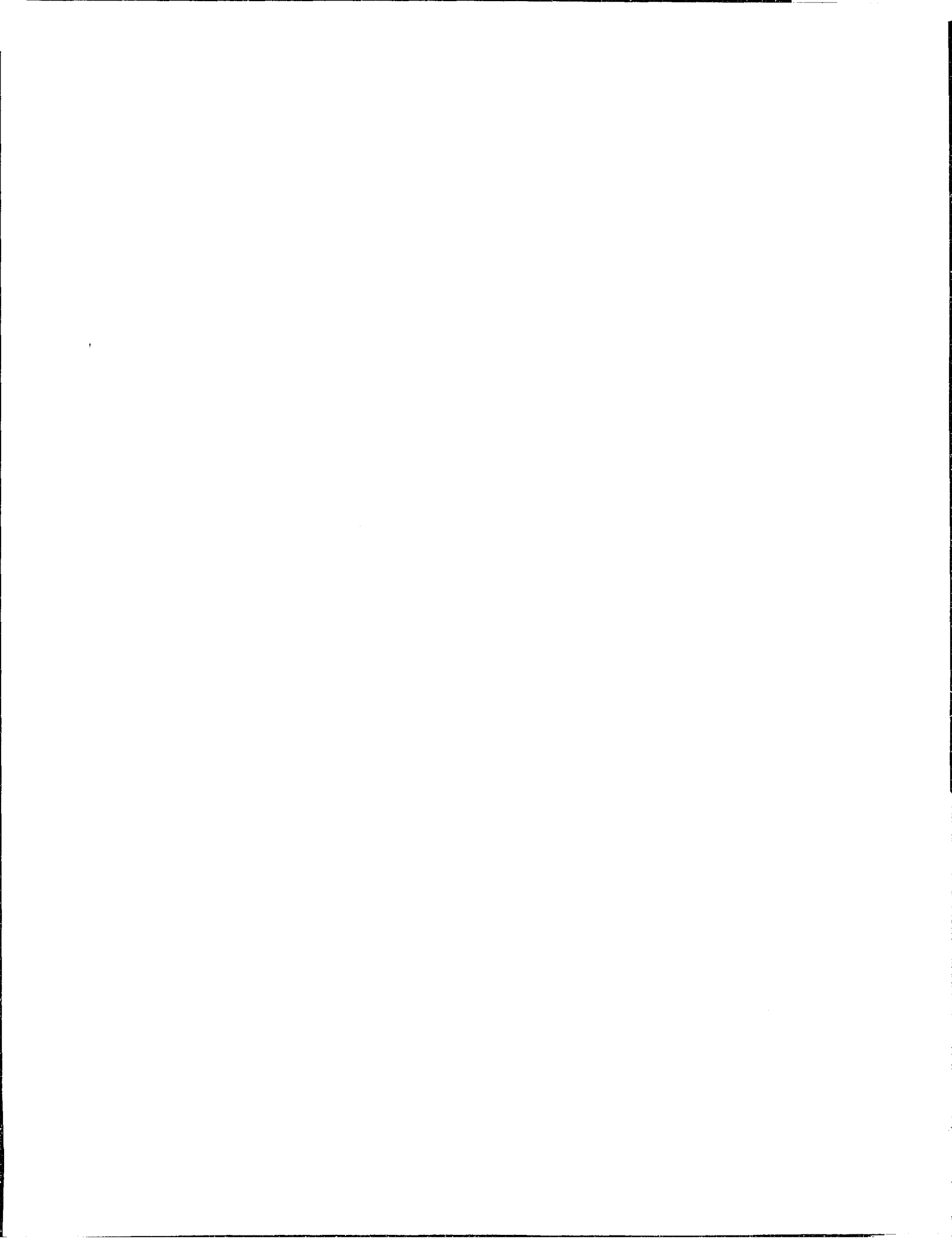
You are an incoming junior who has recently become an "A" student. However, you used to be a disciplinary problem in junior high. You are active in extra-curricular activities and over the summer organized a Teenage Hotline in the community. You are tentatively in favor of a new grievance mechanism because it might provide students with a real voice in school affairs and disputes for the first time. But you doubt very much that the administration and teachers will permit a mechanism that limits their decisionmaking power. You have your own ideas on how the mechanism should function, but take a "show me" attitude toward all school authorities.

ROLE DESCRIPTION: P.T.A. PRESIDENT

You are deeply troubled by the diminishing quality of education at George Washington High School, the increasing alienation of the children from school and the learning process, and a breakdown in communication between school and home, as evidenced by the recent rise of litigation. You are delighted that the school superintendent wants a grievance mechanism because you see it as a means of forcing the school to initiate communication with the home and community. Suspicious of the biases of staff and administration, you favor neutral outside review of grievances at some stage if they haven't been resolved internally.

ROLE DESCRIPTION: VICE-PRINCIPAL FOR ADMINISTRATION

You got your B.A. from a local teachers college 25 years ago, your Master's in Business Administration over a period of time. You are viewed primarily as a good fiscal manager by the central administration. You are outraged by the destruction and theft of property and believe it is the product of permissive attitudes toward the young. You are a strong believer in discipline and in adhering to rules and regulations. You are cynical about student participation in school affairs; you feel that students are just children who should be in school simply to learn.



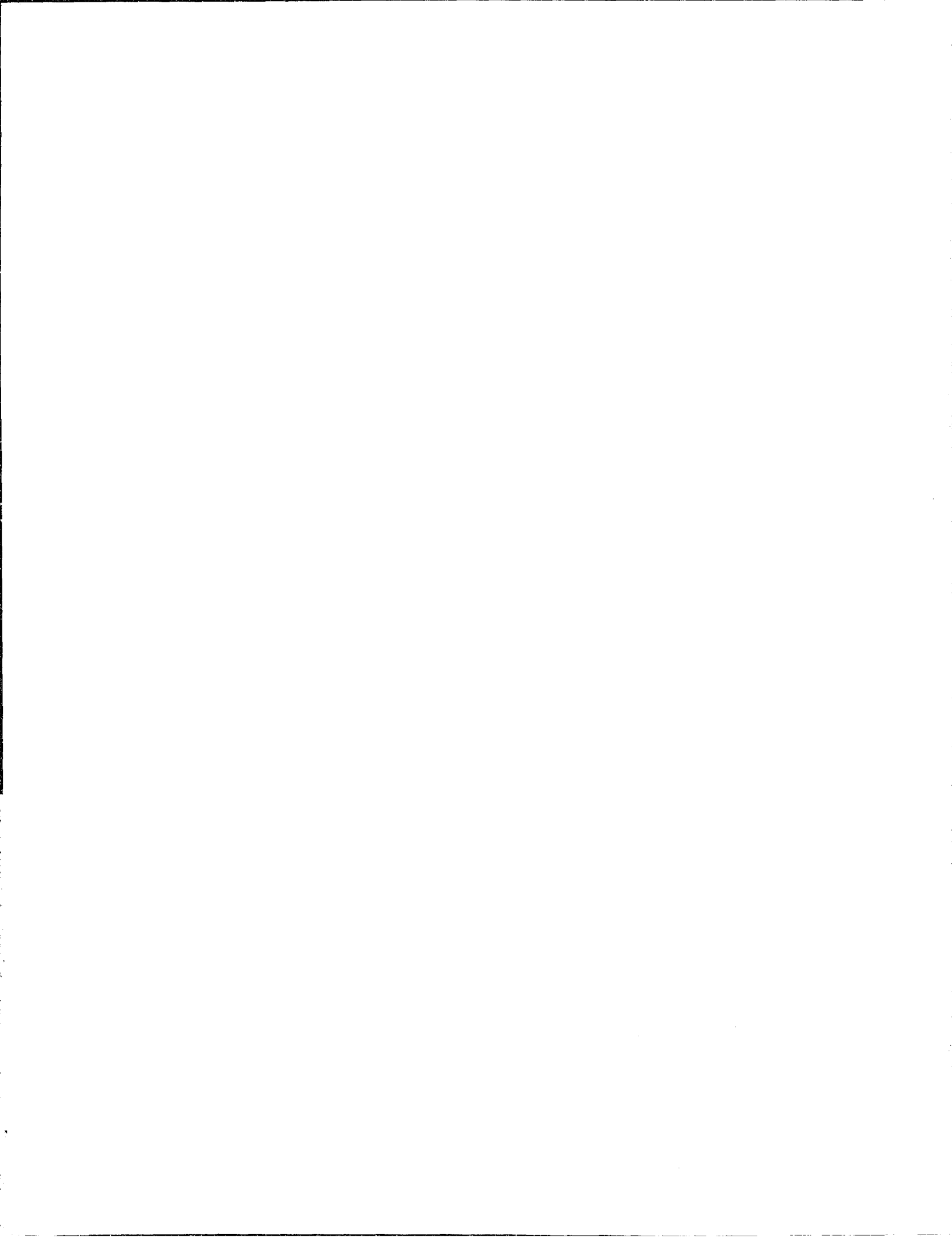
SUMMARY OF SESSION 4: PARTICIPATION

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

| TIME                   | METHOD  | CONTENT  | VISUALS                          | HANDOUTS   |
|------------------------|---|--|----------------------------------|--|
| 9:00 a.m.<br>(15 min.) | Small groups<br><br>Lead trainer: Lecture<br><br>Discussion/question period             | Recapitulation of the principles, focusing on areas that were of particular concern to the group in Session 3.<br><br>Entertain questions.<br><br>Explain purpose of upcoming exercise.  | Chart on the principles on wall. |  |
| 9:15 a.m.<br>(30 min.) | Small groups<br><br>Trainer: Lecture<br><br>Discussion<br><br>Preparation for role play | Explain the form of inmate and line staff participation that will be demonstrated. Show a procedural framework.<br><br>Explain mediation to some extent. Briefly go over the material handed out at the end of Session 3.<br><br>Pass out role assignments. Explain the observer sheets. Pass out the grievance. Make sure everyone understands the grievance, the role play, and the committee's task, which is to resolve the grievance. |                                  | Role descriptions (distributed at end of Session 3)<br><br>Grievance Form and Fact Sheet<br><br>Observer's Checklist |

SESSION 4, SUMMARY (Contd.)

| TIME                    | METHOD  | CONTENT  | VISUALS | HANDOUTS  |
|-------------------------|---|--|---------|---|
| 9:45 a.m.<br>(30 min.)  | Small groups<br><br>Role play in simulated grievance committee hearing                | Simulated committee attempts to resolve the grievance. Make sure committee comes up with a response.   |         |   |
| 10:15 a.m.<br>(30 min.) | Small groups<br><br>Trainer leads a critique and discussion of the simulation         | Trainer solicits input from observers and reviews the committee's performance, points out the critique worksheet and elicits responses to the points covered.  |         | Critique worksheets (Grievance Committee Hearing Questionnaire) |
| 11:00 a.m.<br>(15 min.) | Break   |  |         |   |
| 11:15 a.m.<br>(45 min.) | Plenary session<br><br>Lead trainer: Lecture<br><br>Discussion<br><br>Showing of film | Place preceding exercise in reality. Introduce film with little fanfare. The film shows participants how the same grievance was actually handled by an operating grievance committee. Discuss the film, using the critique worksheet. Dwell on the benefits of participation. Elicit reactions and comments, answer questions. |         | Critique worksheets   |



## SESSION 4

### DESIGN PRINCIPLES: INMATE AND LINE STAFF PARTICIPATION

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

#### DAY II

---

#### GOALS

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

#### PERFORMANCE OBJECTIVES

Participants will know and understand the design principle of participation.

---

#### METHODS

1. Lecture
  2. Role Play
  3. Discussion
  4. Film
- 

#### MATERIALS/LOGISTICS

1. Four break-away rooms
2. Large room for plenary session with tables and chairs for four trainers



3. Flip-chart stand
4. Newsprint
5. Magic Markers
6. Projector and screen for film viewing

DESCRIPTION:

| METHOD  | CONTENT   |
|---|---|
| <p>1. <u>Recapitulation of principles:</u><br/>Participants are in their small groups of 10-15.</p> | <p>Each group trainer will respond to problems or questions that emerged from the discussion of principles in Session 3 and will recapitulate any principles that remain unclear.</p> <p>In one or two lines, describe the purpose of the next session--that is, to show one way in which the principles of inmate and line staff participation have been structured successfully.</p>  |
| <p>2. <u>Prepare for the role play:</u> Use the chart on p. 62 to describe mechanism.</p>           | <p>Restate the purpose of the exercise.</p> <p>Describe the mechanism in which the inmate/staff committee is a component:</p> <ul style="list-style-type: none"> <li>A. First level--Committee</li> <li>B. Second level--Administrative review</li> <li>C. Third level--Appeal to outside review.</li> </ul> <p>Discuss the background steps that precede a committee's hearing:</p> <ul style="list-style-type: none"> <li>A. Informal resolution</li> <li>B. Investigation</li> <li>C. Notice to parties and witnesses.</li> </ul> <p>Describe the committee and its structure:</p> <ul style="list-style-type: none"> <li>A. Inmate members</li> <li>B. Staff members</li> <li>C. Chairpeople</li> <li>D. Functions and duties of each.</li> </ul> <p>Describe the process of mediation:</p> <ul style="list-style-type: none"> <li>A. Third-party intervention</li> </ul> |

| METHOD  | CONTENT  |
|---|--|
| <p>Give role assignments. Go over the material on roles and spend some time explaining the meaning of mediation.</p> <p>Explain observers' role; give out observers' checksheets and explain them.</p> <p>Make sure everyone understands roles, situations, and tasks.</p> <p>Take enough time to set up the exercise so participants are comfortable with their roles and they know what is expected of them. Take special care to explain to the chairperson the nature of his/her task and responsibilities.</p> | <p>B. Powerlessness of mediator; power of persuasion only</p> <p>C. Purpose is to solve problems</p> <p>D. Executive sessions.</p>   |
| <p>3. <u>Grievance committee simulation:</u><br/>The trainer may take part in the simulation to provide additional background information, if requested. For example, the trainer may assume the role of package room clerk.</p>  |  |
| <p>4. <u>Grievance committee simulation critique:</u></p>   | <p>The observer's checksheet focuses on how well the committee did its job--that is, on the dynamics of the hearing itself. The trainer should go over the checklist with the observers and elicit their reactions and comments. This portion of the critique should focus on points such as:</p> <p>A. Was the issue defined clearly?</p> |

| METHOD   | COMMENT  |
|--|--|
| <p>After the critique of the committee's work, point out the list of review questions on the concept of participation and lead the participants through a consideration of the points raised in the questionnaire.</p> | <p>B. Did the committee have all the information it needed to resolve the grievance?</p> <p>C. Was the committee responsive to the grievant?</p> <p>D. Did "mediation" occur?</p> <p>E. Did the resolution seem reasonable to you? To the grievant?</p> <p>F. Did everyone do his/her job?</p> <p>The questionnaire focuses on the general purpose of the committee hearing. Go through the questions with the participants. Do not demand answers, but make sure the questions and their impact are understood.</p> |
| <p>5. <u>Plenary Session: Film of actual grievant committee hearing and critique of the film.</u></p>  | <p>The purpose of the film is primarily to relate the preceding exercise to reality. We are not talking about hypothetical principles. They do work, and they are working.</p> <p>Committee performance is the single most successful aspect of the mechanism adopted in California, New York, and South Carolina.</p> <p>A critique of the film should begin by focusing on the questionnaire answers, which can be compared and discussed.</p>   |

## BACKGROUND INFORMATION: INMATE GRIEVANCE COMMITTEE

(Note: Participants should read this section before attending Session 4.)

### SIMULATION NOTES FOR SESSION 4

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

#### Background: Committee Structure

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

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

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

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

#### Roles

##### Committee Members

The role of committee members is to hold grievance hearings and make recommendations for the resolution of the grievances they hear. Suggested resolutions should be considered on the basis of their reasonableness and responsiveness to the problem. Thus, staff and inmate committee members must approach hearings objectively and unemotionally.

Specific duties of the committee members include:

1. Attending and being on time for all committee hearings.
2. Listening attentively and impartially to all presentations.

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

#### Suggestions for Committee Members in Conducting Hearings

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

The role of a committee member is to:

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

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

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

1. Get all the facts: Both parties to a grievance will have issues to discuss and points of view to explain. They should have a full opportunity to do so at the grievance committee hearing. It is sometimes difficult, in the midst of so much talk, to pinpoint the specific problem. Sometimes, moreover, the real problem will be subtle or hidden, and committee members must make sure they understand both the obvious and hidden dimensions of the grievance. By asking questions, committee members should strive for a clear understanding of both the problem and the grievant's suggested remedy.
2. Keep an open mind: Committee members should try to avoid a fixed, preconceived notion of merits of the grievance. They must be alert to efforts on the part of grievants, responding parties, or witnesses to misrepresent, exaggerate, or obscure the facts. Most important, committee members must resist the

urge to believe whatever their fellow inmates or fellow staff tell them, while discounting whatever their opposites may say.

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

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

#### Non-Voting Chairperson

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

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

Specific duties of the chairperson of the committee include:

1. Convening all hearings as scheduled in such a way as to ensure that required time limits are met.
2. Establishing the order of business for hearings, convening when necessary, adjourning when necessary, and guiding discussions.
3. Seeing that all hearings are conducted in a full and fair fashion so that the rights of inmates and staff are protected and all inmates and staff have an opportunity to express themselves completely.

4. Helping committee members formulate reasonable solutions to problems that are responsive to the complaint and acceptable to the involved parties.
5. Writing the response to the grievant's complaint and making sure that the grievant fully understands the decision of the committee and the reasons for the decision.

#### Suggestions for the Committee Chairperson

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

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

1. Did I explain the purpose of the hearing to the grievant and others present?
2. Did I allow full expression by both sides?
3. Did I appear to be open and objective or did I appear as if I knew what the answer was or had made up my mind beforehand?
4. Was the hearing orderly or was there a great deal of cross-talk and chaos?
5. Did I stick to the issue (or issues) or, knowing that some ventilation must occur, did I nevertheless let parties wander unnecessarily?
6. Did I give other committee members a chance to ask questions after the presentations had been concluded?
7. Did all the facts and arguments get on the table? If not, was it the fault of the parties, or the committee members? Did the members understand the issues, were they perceptive, did they probe?
8. Did all parties feel that they had every opportunity to tell their side of the story?

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

To achieve this goal, the chairperson (mediator) must keep open communication between staff and inmate members of the committee. Inmate and staff members obviously will have different perceptions of some grievances and their



proper solution. By positioning himself/herself in the middle, the chairperson becomes a translator for those different perceptions.

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

1. Did I retain objectivity?
2. Did I look beyond the "recommended action" and search for other alternatives that might be more acceptable?
3. Did I let solutions come from the other committee members or did I seek to impose my solution on the committee?
4. What was the approach of the members--were they open, did they try to understand and reach toward the other viewpoint, or were they rigid? Was there a feeling that they were seeking a solution or only "their" solution?
5. If a solution was reached, was it understood? Was it clearly set down so that others could understand it? Assuming it was not perfect (most solutions are not), did it appear to meet the problem?
6. Was "authority" used to pressure anyone, or did the solution appear to be the best the committee members felt they could get under the circumstances?

#### Grievant

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

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

### The Definition of a Grievance

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

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

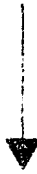
Individual disciplinary matters are not grievable under this procedure. However, policies and rules of the disciplinary process, as generally applicable to inmates, may be the subject of a grievance.

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

EASIC OUTLINE OF  
HYPOTHETICAL GUIDANCE MECHANISM

FIRST LEVEL

Some Form of Inmate/Staff Committee



SECOND LEVEL

Management Decision  
(Superintendent, Director)



THIRD LEVEL

Outside Review

GRIEVANCE FORM

DATE: \_\_\_\_\_

NAME John Doe No. 76543 HOUSING UNIT CB4

THIS FORM MUST BE FILED WITHIN 72 HOURS OF GRIEVANCE INCIDENT

DESCRIPTION OF PROBLEM: I arrived at this facility approximately eight days  
(Please make as short as possible)  
ago and have yet to receive my personal property. There have been a number of  
inmates who arrived after I did and they have already received their property.  
This is a very unhealthy situation for me since I cannot shower and change  
clothes while waiting to receive my personal property.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

GRIEVANCE CLERK: \_\_\_\_\_

ADVISOR REQUESTED:  Yes  No WHO: \_\_\_\_\_

ACTION REQUESTED BY INMATE: That I be given my personal property immediately  
and that the institution adopt a more consistent method of issuing personal  
property. This should not be left to the whim of the package room officer.

This Grievance has been informally resolved as follows:

Attempts at informal resolution were inconclusive.

This Informal Resolution is accepted:  
(To be completed only if resolved prior to hearing)

GRIEVANT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

## INMATE GRIEVANCE COMMITTEE HEARING

### Factual Background

A newly arrived inmate must appear at the package room during its normal business hours--that is, from 11:30 a.m. to 3:00 p.m. daily. The package room clerk is required to go through the inmate's belongings in the inmate's presence and check those belongings against the institution's approved list of possessions.

The package room also is responsible for checking all packages received through the mail and the visiting room. Lines at the package room frequently are long. The package room clerk also serves as mail clerk, however, and these duties prevent keeping the package room open for longer hours.

Approved lists of possessions vary from institution to institution throughout the system.

INMATE GRIEVANCE COMMITTEE HEARING SIMULATION

OBSERVER'S CHECKLIST

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

1. What is at issue in this grievance? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

|                             | Yes | No  |
|-----------------------------|-----|-----|
| 2. Does it concern policy?  | --- | --- |
| If so, is it institutional? | --- | --- |
| departmental?               | --- | --- |

3. What was the recommendation(s) arrived at by the committee? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

|   | Yes | No  |
|---|-----|-----|
| 4. Did the committee members:   |     |     |
| a. Listen attentively to all sides?   | --- | --- |
| b. Behave impartially?  | --- | --- |
| c. Ask pertinent questions and get all facts?   | --- | --- |
| d. Identify the issues?   | --- | --- |
| e. Work well together?  | --- | --- |
| f. Find a solution that responds to the grievant while protecting the interests of inmates and staff? | --- | --- |

|   |     |     |
|---|-----|-----|
| 5. Did the non-voting chairperson:  |     |     |
| a. Make sure everyone understood the grievance?                                 | --- | --- |
| b. Give all committee members a chance to ask questions?                        | --- | --- |
| c. Give the grievant a chance to discuss the case?                              | --- | --- |
| d. Get all the facts and issues out?  | --- | --- |
| e. Guide the committee discussion of possible solutions fairly and effectively? | --- | --- |

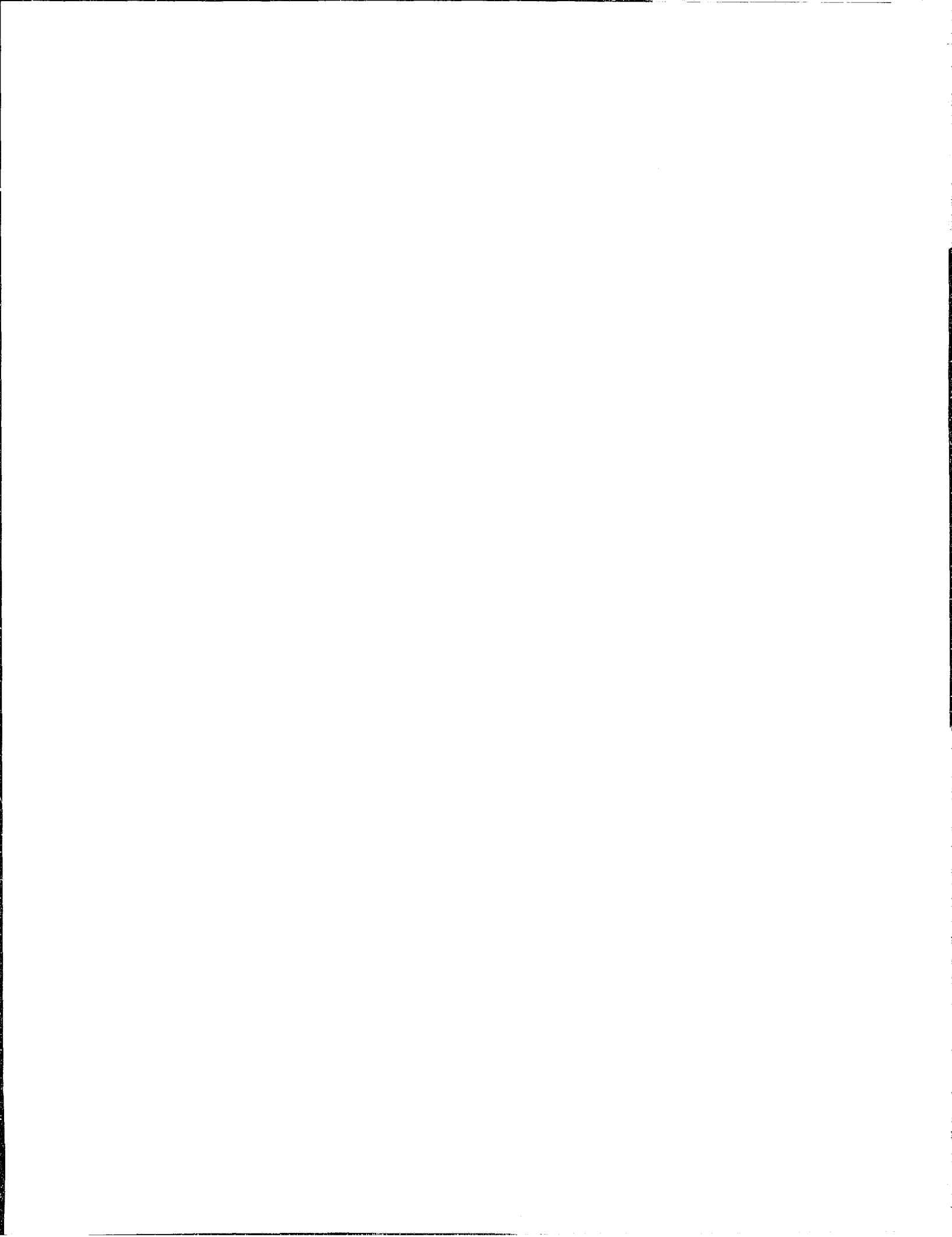
6. Was the solution that was reached clearly understood by all members? \_\_\_\_\_

7. Was the solution clearly written down for the grievant? \_\_\_\_\_

8. Did there seem to be any undue pressure on either the grievant or on some committee member(s)? \_\_\_\_\_

GRIEVANCE COMMITTEE HEARING QUESTIONNAIRE

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





SUMMARY OF SESSION 5: OUTSIDE REVIEW

1:00 - 3:00 p.m.

| TIME                   | METHOD                                       | CONTENT   | VISUALS  | HANDOUTS  |
|------------------------|--|---|--|---|
| 1:00 p.m.<br>(30 min.) | Plenary Session<br><br>Lead Trainer: Lecture | <p>Introduction to principle of outside review:</p> <p>What do we mean by outside review:</p> <ul style="list-style-type: none"> <li>● Independence</li> <li>● Skilled reviewers</li> <li>● Advisory nature of review</li> </ul> <p>Prevalence of outside review</p> <ul style="list-style-type: none"> <li>● <u>Ombudsmen</u>: Minnesota, Iowa, Connecticut, Michigan, Hawaii</li> <li>● <u>Procedures</u>: Wisconsin, Maryland, North Carolina, Illinois</li> <li>● <u>Arbitration</u>: California Youth Authority, New York, South Carolina.</li> </ul> <p>Advantages vis-a-vis litigation</p> <p>What happens to arbitrations</p> | <p>Chart: Definition of outside review</p> <p>Chart on prevalence of outside review</p> <p>Chart on litigation</p> <p>Chart on CYA arbitrations</p> <p>Chart on benefits</p> | <p>Reprint of chart on outside review</p> <p>Reprint of chart on prevalence of outside review</p> <p>Reprint of chart on cost of litigation</p> <p>Reprint of chart on benefits</p> |

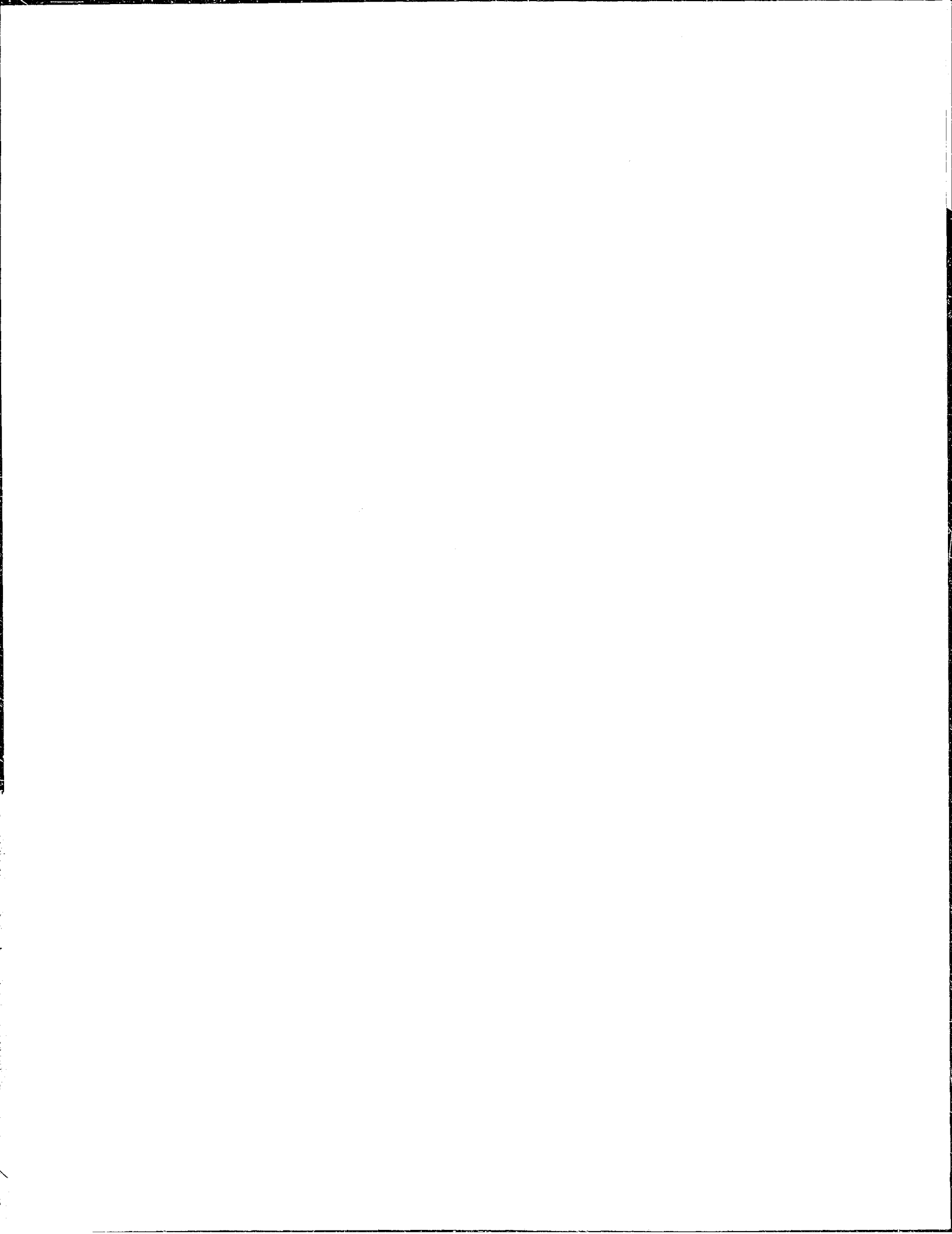
SESSION 5, SUMMARY (Contd.)

| TIME                           | METHOD  | CONTENT  | VISUALS  | HANDOUTS                |
|--------------------------------|---|--|--|-------------------------|
|                                |   | <ul style="list-style-type: none"> <li>● Benefits<br/>Credibility<br/>Reasonableness<br/>Low-cost catalyst for reform<br/>New constituency</li> <li>● <u>Ad hoc</u> vs. permanent review<br/>Cost<br/>Co-optation reduced<br/>Geography<br/>Expertise</li> </ul>   | <p>Chart on <u>ad hoc</u> vs. permanent review</p> | <p>Reprint of chart</p> |
| <p>1:30 p.m.<br/>(90 min.)</p> | <p>Small groups</p> <p>Review and discussion of case studies</p> <p>Small groups will be broken down into four smaller groups each of which will consider and report on one case study.</p> <p>Groups will be reassembled to report on and discuss the four case studies.</p> | <p>Case studies of arbitration cases:</p> <ul style="list-style-type: none"> <li>● One approach: Does not preclude use of other existing means of review</li> </ul> <p>Describe CYA and New York approaches</p> <p>Case studies (4)</p> <p>A. Showers Case</p> <p>B. Sunni Beards Case</p> <p>C. Fire Case</p> <p>D. Disciplinary Process Case</p> |  | <p>Case studies (4)</p> |



**CONTINUED**

**1 OF 2**



SESSION 5

DESIGN PRINCIPLES: OUTSIDE REVIEW

1:00 - 3:00 p.m.

DAY II

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GOALS

1. To explain the principle of outside review.
  2. To acquaint the participants with the different forms of outside review.
  3. To show how outside review has worked in the form of ad hoc arbitration to resolve diverse, difficult issues.
  4. To give participants an understanding of the benefits of outside review in a grievance mechanism.
- 

PERFORMANCE OBJECTIVES

Participants will understand the nature and benefits of outside review.

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METHODS

1. Lecture
  2. Case studies
  3. Discussion
- 

MATERIALS/LOGISTICS

1. Four break-away rooms
2. Room large enough for 60 participants

3. Two flip-chart stands and charts

4. Case studies

DESCRIPTION:

| METHOD   | CONTENT   |
|--|---|
| <p>1. <u>Introduction of outside review:</u></p><br><br><br><br><br><br><br><br><br><br><br><br><br><br><p>Refer participants to the <u>Prescriptive Package appendices.</u></p> | <p>What do we mean by outside review?</p> <p>A. Independence of the reviewer from:</p> <ol style="list-style-type: none"><li>1. Corrections</li><li>2. Government</li></ol> <p>B. Nature of the review:</p> <ol style="list-style-type: none"><li>1. Binding</li><li>2. Advisory</li><li>3. Both</li><li>4. Efforts to limit rejection to advisory opinion</li></ol> <p>C. Nature of the reviewers:</p> <ol style="list-style-type: none"><li>1. Education and experience</li><li>2. Exclusion of the knee-jerks</li></ol> <p>D. Status of the reviewers:</p> <ol style="list-style-type: none"><li>1. Permanent</li><li>2. Ad hoc</li></ol> <p>Prevalence of outside review in a variety of forms--not an exhaustive list:</p> <p>A. Ombudsman</p> <ol style="list-style-type: none"><li>1. Minnesota</li><li>2. Iowa</li><li>3. Connecticut</li><li>4. Michigan</li></ol> |



| METHOD  | CONTENT   |
|---|---|
| <p>Graphic on CYA arbitration figures; participants will have a copy in their <u>Handbooks</u>.</p> | <ul style="list-style-type: none"> <li>B. Procedures               <ul style="list-style-type: none"> <li>1. Wisconsin</li> <li>2. Maryland</li> <li>3. North Carolina</li> <li>4. Illinois</li> </ul> </li> <li>C. Arbitration               <ul style="list-style-type: none"> <li>1. California Youth Authority</li> <li>2. New York</li> <li>3. South Carolina</li> </ul> </li> <li>D. Judicial Review               <p>Cost of arbitration vis-a-vis litigation. Use the chart to explain.</p> <p>What happens with outside review: Use the graphic to describe the effects in one jurisdiction.</p> <p>Trend to uphold administrators' decisions after a mechanism has been operating for a period of time.</p> <p>Benefits of outside review:</p> <ul style="list-style-type: none"> <li>A. Credibility</li> <li>B. Reasonableness of participants' decisions</li> <li>C. Low-cost catalyst for reform</li> <li>D. Building a new constituency</li> </ul> <p><u>Ad hoc</u> vs. permanent review:</p> <ul style="list-style-type: none"> <li>A. Cost factor</li> <li>B. Co-optation reduced</li> <li>C. Constituency development potential</li> </ul> </li> </ul> |

| METHOD   | CONTENT  |
|--|--|
|  | <p>D. Geography: easier to cover large area</p> <p>E. Expertise: problem cut both ways</p>   |
| <p>2. <u>Case studies on outside review:</u><br/>The participants separate into small groups, where the group trainer again explains the purpose of the session.</p> <p>Use graphic on CYA and New York mechanisms.</p> <p>Each small group is further split into four subgroups, each of which is given a case study. The subgroup will review its case and report to the reassembled group on:</p> <ol style="list-style-type: none"> <li>a. The issue in the case</li> <li>b. Development of the case</li> <li>c. The subgroup's opinion of the decision</li> <li>d. Advantages of outside review illustrated by the case.</li> </ol> | <p>Arbitration, as indicated, is only one of many forms of outside review. Our emphasis here on arbitration does not preclude use of other existing means of review to satisfy this principle.</p> <p>Describe N.A and New York procedures.</p> <p>Give case studies:</p> <p>A. <u>Showers Case:</u> Explanation of development of case.</p> <p>Points:</p> <ol style="list-style-type: none"> <li>1. Type of issue: administrative; suggestion for improvement</li> <li>2. Arbitrator as fact-finder, mediator, decisionmaker</li> <li>3. Ability to ensure compliance</li> <li>4. Nature of review: advisory.</li> </ol> <p>B. <u>Sunni Beards Case:</u> Explanation of development of case.</p> <p>Points:</p> <ol style="list-style-type: none"> <li>1. Nature of reviewer: <ol style="list-style-type: none"> <li>a. Familiarity with the law</li> <li>b. Investigates personally</li> <li>c. Familiarity with preceding arbitration opinions</li> </ol> </li> <li>2. Using arbitrator as an "excuse" for desired reform: institutionalizing a "lightning rod"</li> </ol> |

| METHOD | CONTENT  |
|--------|--|
|        | <ul style="list-style-type: none"> <li>3. Jailhouse lawyers seem to have "bought into" the New York system</li> <li>4. Compare the costs between administrative and judicial handling of grievances.</li> </ul> <p>C. <u>Mysterious Fire Case</u>: Explanation of development of case.</p> <p>Points:</p> <ul style="list-style-type: none"> <li>1. Applicability to a juvenile institution</li> <li>2. Nature of issue; group discipline</li> <li>3. Mechanism as a tool for justice--that is, recompense.</li> </ul> <p>D. <u>Disciplinary Process Revisions Case</u>: Explanation of development of case.</p> <p>Points:</p> <ul style="list-style-type: none"> <li>1. Nature of the issue</li> <li>2. Nature of the reviewers: not pushovers; legal experience and knowledge</li> <li>3. Impact on subsequent litigation.</li> </ul> |

Linkage to Next Session:

This concludes the in-depth treatment of the two most difficult principles. The next session will include a review of all the design principles, together with an effort to lay out all of the reasons the principles should be adopted--no matter what the difficulties.

OUTSIDE REVIEW:  
WHAT IS IT?

"OUTSIDE"



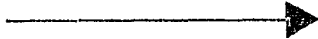
INDEPENDENT OF:

INSTITUTION

DEPARTMENT

STATE

"REVIEW"



RECOMMENDATION:

BINDING v. ADVISORY DECISIONS

APPLICATION v. SUBSTANCE

POSSIBILITY FOR COMPROMISE

OUTSIDE REVIEWERS

Who are they?

REVIEWERS' STATUS

Permanent or ad hoc?

OUTSIDE REVIEW: NO LONGER AN INNOVATION

INDEPENDENT OMBUDSMAN:

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

MULTI-LEVEL PROCEDURES WITH SOME FORM OF OUTSIDE REVIEW:

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

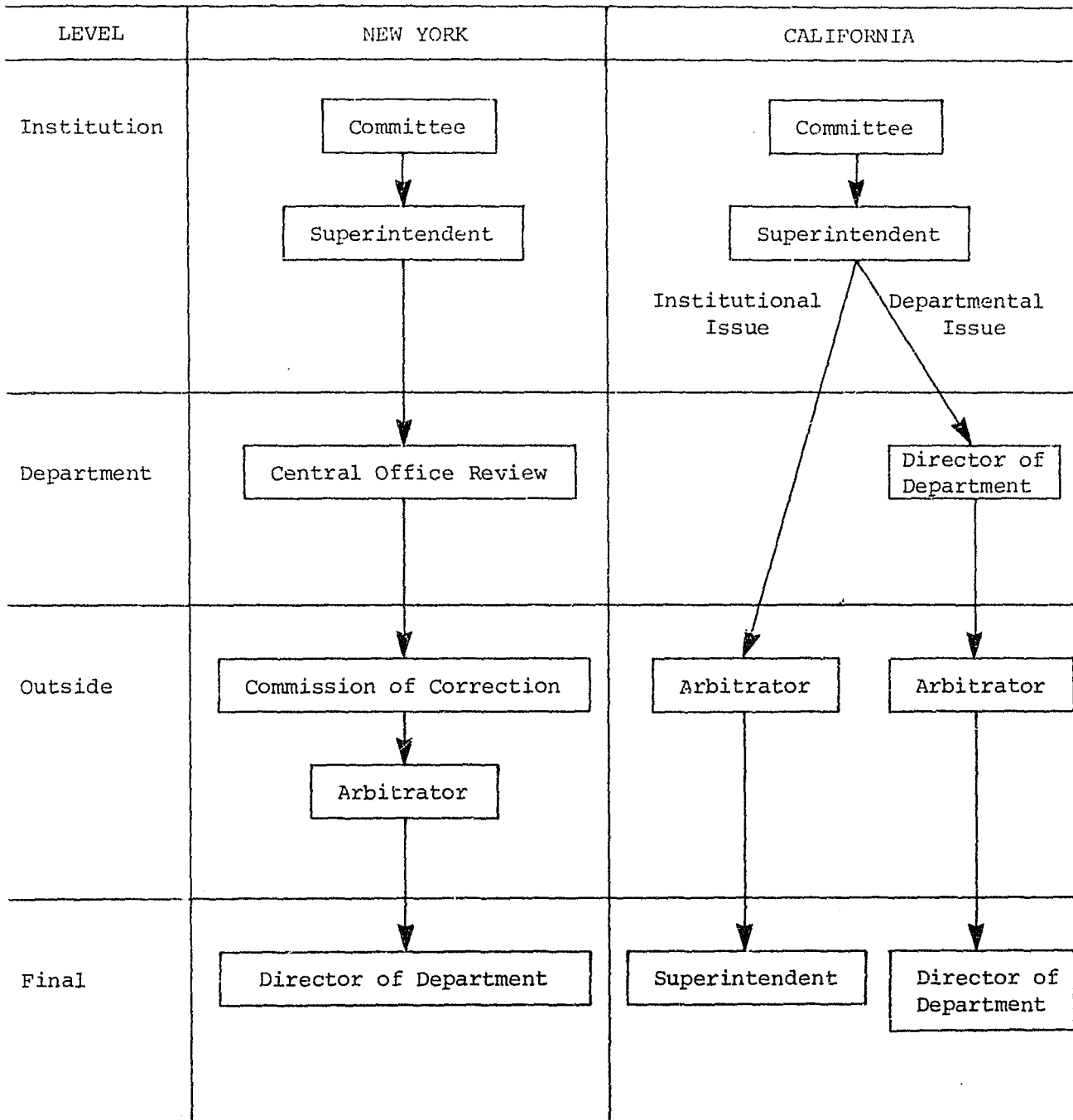
MECHANISMS WITH REVIEW BY OUTSIDE ARBITRATORS:

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

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TOTAL: Twenty-four (24) percent of the 50 states have mechanisms with outside review; 100 percent of the 50 states and the Bureau of Prisons have judicial outside review!

STEPS LEADING TO OUTSIDE REVIEW



ARBITRATION NO. 1

CASE OF THE SHOWERS (PART I)

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

ISSUE

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

STATEMENT OF FACTS

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

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

During earlier stages of processing this grievance, the inmate and staff members of the Grievance Committee unanimously recommended a shower at the end of the work day, between 2:30 and 3:15 p.m. The Superintendent neither accepted nor rejected that proposal but referred it to the Correction Department's Central Office Review Committee. That committee remanded the grievance to the Superintendent with instructions to develop a shower schedule suited to the needs

of his particular institution but consistent with the official work day, which technically (although not actually) ends at 3:00 p.m.

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

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

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

Finally, and most important, upon discussion by the representatives of both sides and by staff and inmate members of the Grievance Committee, it became clear that there was no significant difference in the "policy" goals of the institution and the remedy desired by the grievant. The grievant seeks a reasonable number of showers per week; the Superintendent's representative indicated that for health and sanitation reasons the administration hoped ultimately to be able to schedule daily showers if desired.

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

By reason of the foregoing, I hereby issue the following:

#### INTERIM AWARD

1. Within two weeks following issuance of this interim award, but no later than Friday, November 28, 1975, the Superintendent of the Green Haven Correctional Facility shall take the following steps to resolve this grievance:
  - a. Schedule at least three showers per week for inmates in cellblocks D, E, F, G, H, and J, where new showers have been installed;



- b. Enforce the former Superintendent's directive enabling night school students to shower at their option at the gym following the end of night school classes; and
  - c. Schedule no less than three showers per week in the bathhouse for inmates in cellblocks A and B who desire showers.
2. I hereby retain jurisdiction of this case for the purpose of determining whether compliance with the foregoing directive resolves the complaints raised by the grievant.

CASE OF THE SHOWERS (PART II)

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

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

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

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

By reason of the foregoing, I hereby issue the following:

AWARD

1. The Superintendent of the Green Haven Correctional Facility shall continue to take the following steps to resolve this grievance:
  - a. Schedule at least three showers per week for inmates in all cell-blocks where new showers have been installed;

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

ARBITRATION NO. 2

CASE OF THE SUNNI BEARDS

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

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

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

ISSUE

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

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

CONTENTION OF THE GRIEVANT

In support of his case, the grievant, a member of the Sunni Muslim sect for 12 years, contends that the issue of not being allowed to wear a beard for security purposes at the Attica Correctional Facility is a violation of the Sunni Muslim religion, which states that the wearing of beards is mandatory. He states that in the Sunni Muslim religion a beard is a sign of manhood, rank, and dignity and that a clean-shaven face opposes his beliefs.

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

some practices are allowed and some are not and that the security-oriented arguments are inconsistent.

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

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

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

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

#### CONTENTIONS OF THE ADMINISTRATION

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

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

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

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

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

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

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

#### OPINION

One of the controlling aspects of my decision in this case is the question of whether the wearing of beards by Sunni Muslims is a mandatory tenet of their religion. The delay in the issuance of this arbitration must be attributed to the Arbitrator's conviction that this case could not be decided without full information on the religious beliefs of the sect in this respect. By letter of June 6, 1976, grievant cited material that would settle this issue. The material was requested by the Arbitrator from the Ansaru Allah Community in Brooklyn, New York, and received on July 18, 1976. The Arbitrator is aware that in a traditional labor-management arbitration situation she would not have the burden of securing additional necessary items of evidence, but she is additionally aware of the special problems and responsibilities of the Arbitrator in this case. For that reason, she chose to reserve her decision pending receipt of the book, Why the Beard.

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

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

And additionally, on page 1:

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

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

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

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

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

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

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

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

My award is based on the additional consideration that there are no two precedents that may be cited as comparable. The information offered in testimony for the grievant that beards are allowed on Riker's Island was not disputed by the administration, which indicated that beards apparently do not interfere with security there. Although the precedent of prior awards is not controlling, I cite with approval and note that I am in agreement with the award of Arbitrator Joel Douglas in the Matter of the Grievance between Inmate of F-Block, Green Haven Correctional Facility, and State of New York Department of Correctional Services, November 5, 1975, when he recommended that Native American Indians be allowed to wear headbands at all times while in prison.

First Amendment freedoms are among the most dearly cherished rights that we have as a people...the Amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...." This Federal Amendment was extended to the states in 1840 when the United States Supreme Court in Cantwell v. Connecticut, 310 U.S. 296, held this provision binding on the states by virtue of the due process clause of the Fourteenth Amendment.

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

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

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



ARBITRATION NO. 3

CASE OF THE MYSTERIOUS FIRE

In the Matter of Arbitration between

Mike W \_\_\_\_\_

and

Fred C. Nelles School

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

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

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

Upon the failure of the parties to resolve this grievance through the grievance procedure instituted at the Fred C. Nelles School, George E. M \_\_\_\_\_, Jr. was appointed as impartial Arbitrator, and the matter was set for arbitration. A hearing was held on August 27, 1975, at which time both the grievant and the staff were given a full opportunity to present evidence and arguments on the issues.

ISSUES TO BE DECIDED

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

#### WARD POSITION

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

In addition, the grievant feels that the teaching assistants and Group C should be given some form of compensation for the approximate five-hour loss of program on the day in question. The grievant suggested that 1,500 cash points be awarded the individuals deprived of their evening program.

#### STAFF POSITION

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

#### DISCUSSION AND CONCLUSIONS

There is no dispute between grievant and staff as to the facts. This grievance seeks to ensure that discipline, when imposed, will be fair and reasonable and not arbitrary and capricious. The staff is charged with the responsibility of implementing fair and reasonable discipline without compromising institutional security and the safety of wards and staff.

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

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

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

AWARD AND DECISION

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

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

ARBITRATION NO. 4

CASE OF THE DISCIPLINARY PROCESS

In the Matter of Independent Review between  
Steven W \_\_\_\_\_, Ward  
  
and  
  
California Youth Authority,  
(O. H. Close School)

ISSUE

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

STATEMENT OF FACTS

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

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

On November 7, 1975, the Superintendent of the School denied the grievance with the following explanation: "Department policy is clear the preponderance of evidence may be used." Because departmental policy was involved, however, he referred his decision to the Director of CYA in Sacramento for final determination. In a letter to the grievant, dated November 26, 1975, the Director concurred in the Superintendent's decision and informed the former that he could appeal the decision to independent review if not satisfied with the decision.

Grievant then appealed his grievance on November 26, 1975.

## DISCUSSION

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

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

The California Youth Authority admits that injustices can occur under the "preponderance of evidence" standard but argues that the security interests of correctional institutions require a standard of certainty below that of proof beyond a reasonable doubt. The Director, in denying the grievance in this case, had this to say:

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

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

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

#### OPINION

After hearing the testimony offered by both parties at the hearing and reviewing the documentary evidence submitted by them, the Panel, in executive session, unanimously agreed that the preponderance of evidence standard, with whatever shortcomings it may have, should not be disturbed.

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

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

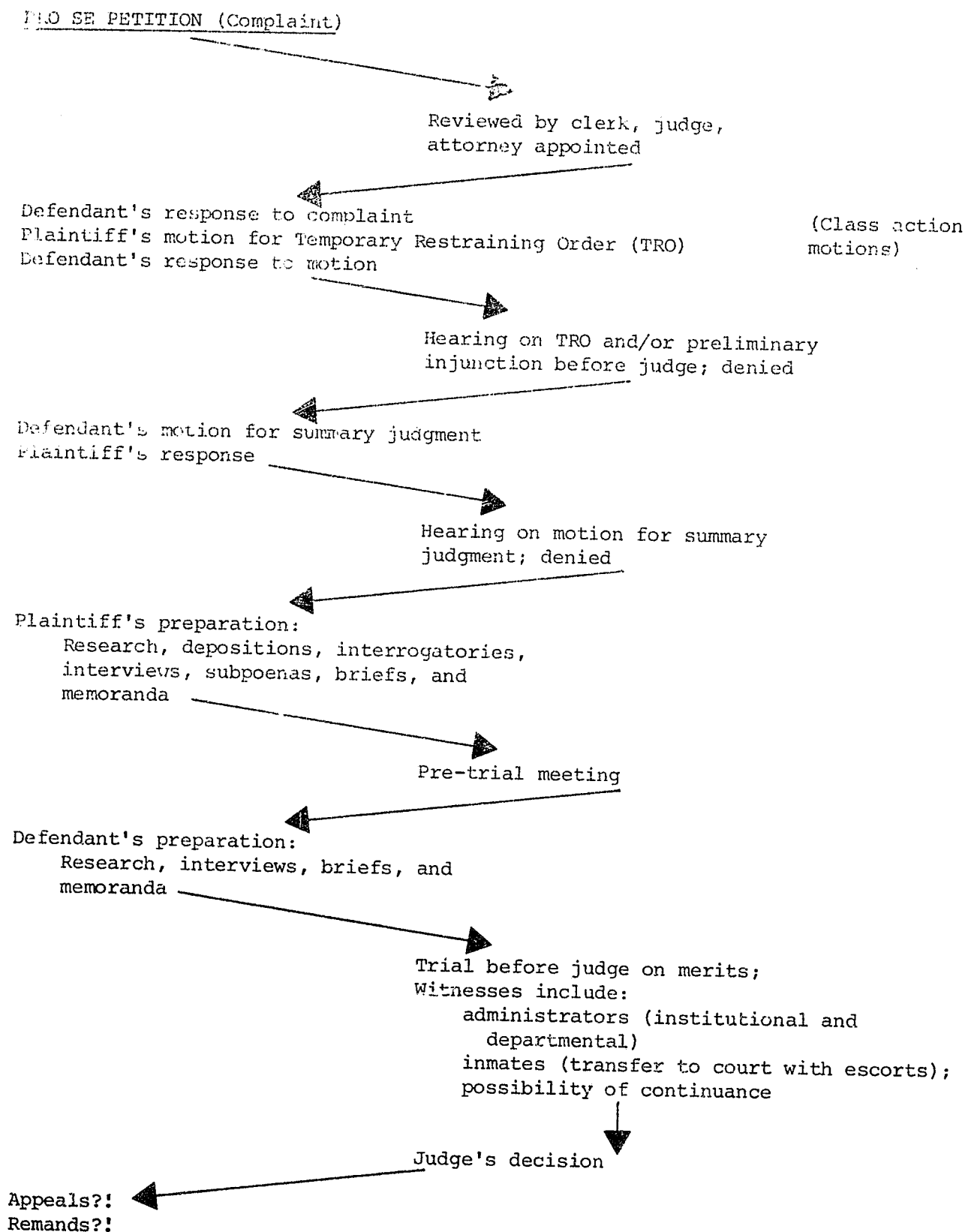
The DDMS provides all the necessary and appropriate due process safeguards. Any failure by the Youth Authority to comply with the DDMS procedure is grievable.

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

#### RECOMMENDATION

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

CHARTING THE COURSE (AND COSTS) OF LITIGATION



ARBITRATION TRACK RECORD

California Youth Authority

Period: First 29 months of operation

Grievances Filed: Over 7,000

Grievances appealed to outside review: 58 (0.8 percent)

In 58 cases heard by arbitrators:

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

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

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

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



BENEFITS OF OUTSIDE REVIEW

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

AD HOC v. PERMANENT OUTSIDE REVIEW

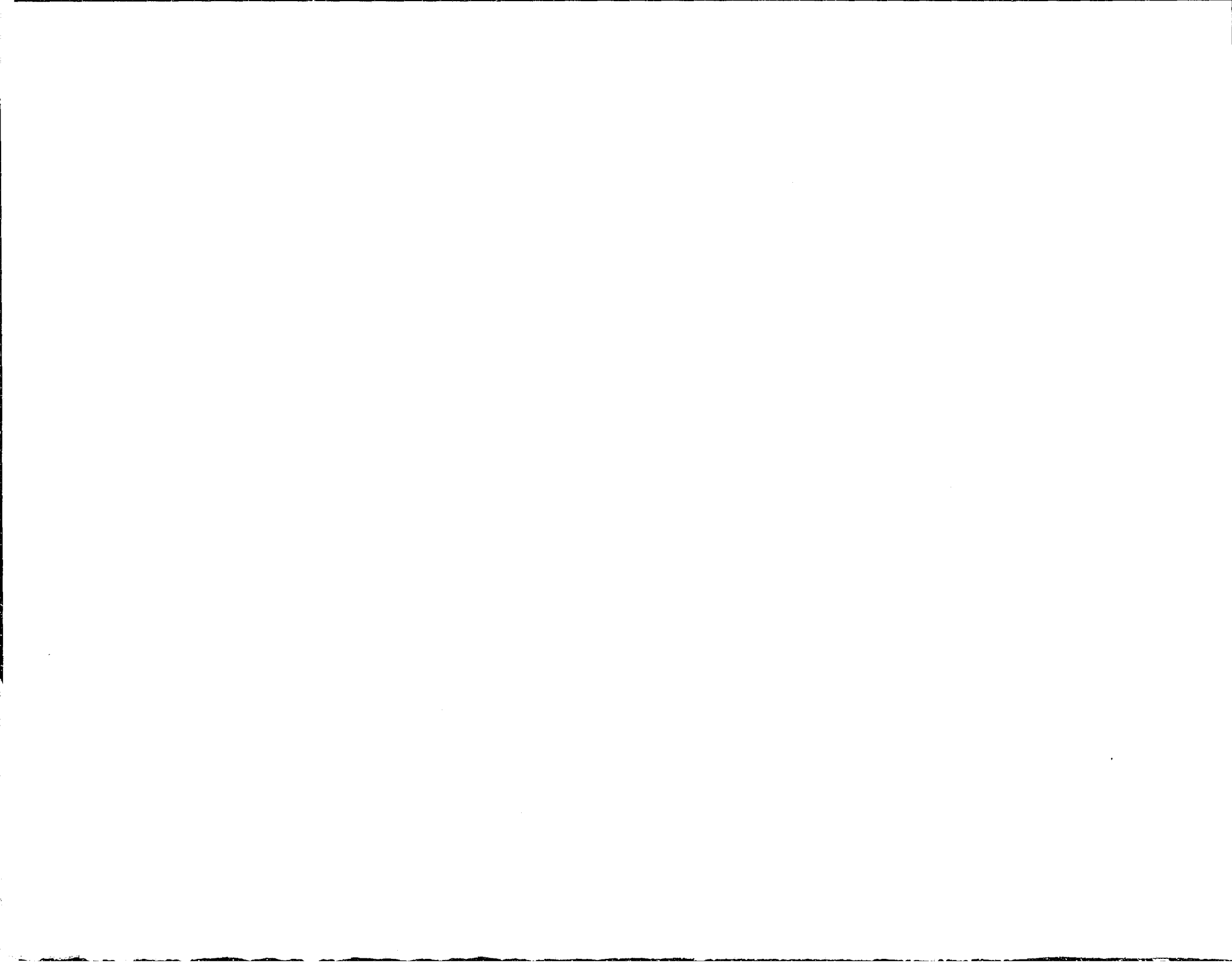
\* C O S T

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

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

\* G E O G R A P H Y

\* E X P E R T I S E



SESSION 6: SUMMARY OF PRINCIPLES; BENEFITS

3:00 - 5:30 p.m.

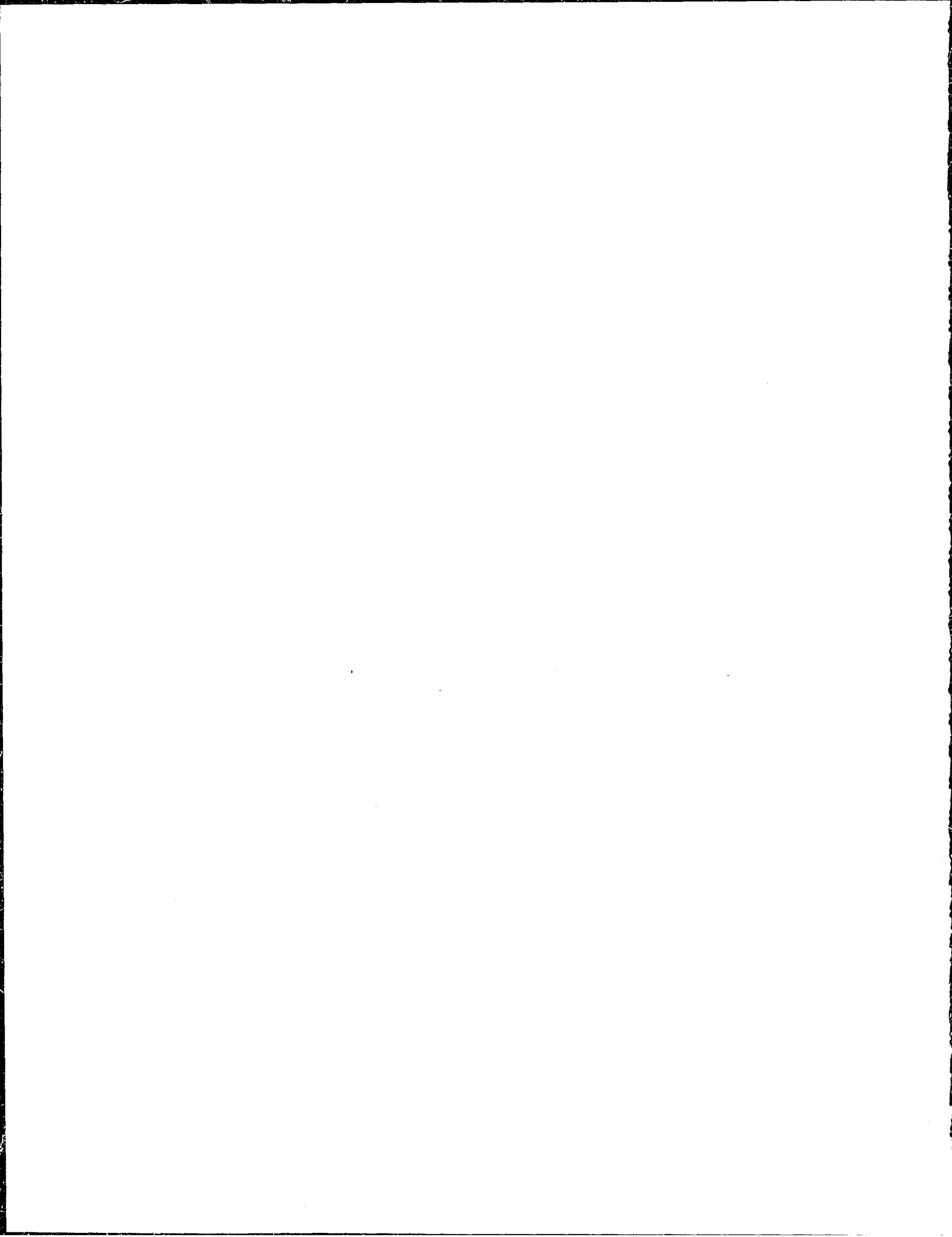
| TIME                           | METHOD  | CONTENT   | VISUALS  | HANDOUTS |
|--------------------------------|---|---|--|----------|
| <p>3:00 p.m.<br/>(15 min.)</p> | <p>Small group session: Discussion of "package deal" concept.</p> <p>Summary of principles.</p> | <p>Review of principles:</p> <p>1 and 2: Written responses; time limits: generally conceded</p> <p>3 and 4: Problems with participation and outside review</p> <p>5 and 6: Generally OK, once explained.</p> <p>A package deal! Adopt all of them or you probably shouldn't bother at all.</p> <p>Refer participants to the <u>Prescriptive Package</u> data.</p> | <p>Six principles: charts posted prominently around room</p> |          |

SESSION 6 , SUMMARY (Contd.)

| TIME                   | METHOD   | CONTENT   | VISUALS   | HANDOUTS                     |
|------------------------|--|---|---|------------------------------|
| 3:30 p.m.<br>(90 min.) | Plenary Session<br><br>Guest administrator: lecture and discussion | Benefits of the design principles package: Why should an <u>administrator</u> adopt the principles:<br><br>1. Improved administration:<br><br>A. "Window-in"-- balanced information<br><br>B. Clarification of policies<br><br>C. Review and evaluation of new programs<br><br>D. "Participation" for line staff<br><br>E. "Lightning rod" theory of sharing the heat for reform<br><br>F. Building a constituency.<br><br>2. Alternative to violence and litigation:<br><br>A. Anticipate the future; work to create an effective mechanism<br><br>1) Exhaustion | Chart(s) on benefits:<br><br>1. "Window-in"<br><br>2. Clarification of policies<br><br>3. "Participatory" management<br><br>4. "Lightning rod"<br><br>5. Constituency building<br><br>6. Alternative to violence<br><br>7. Alternative to litigation<br><br>8. Rehabilitative<br><br>9. Justice model | Reprint of benefits chart(s) |

SESSION 6, SUMMARY (Contd.)

| TIME                           | METHOD  | CONTENT  | VISUALS                                   | HANDOUTS   |
|--------------------------------|---|--|---|--|
|                                | <p>Guest administrator leads question-and-answer period; entertains group questions first, then general questions, if time permits.</p> | <p>B. Preserve right to handle complaints internally.</p> <p>3. Possibly rehabilitative</p> <p>A. Inmate buy-in</p> <p>B. "Positive" form of inmate participation and its limits</p> <p>C. Justice model.</p> <p><u>Legislators, judges, executives:</u></p> <p>Value of informed collaboration with administrators to structure an effective mechanism.</p> |   |  |
| <p>5:00 p.m.<br/>(30 min.)</p> | <p>Plenary Session</p> <p>Lead Trainer: Lecture</p>   | <p>Description of next day's sessions; preparation for Session 7, the implementation case study; preliminary discussion of the implementation principles.</p>  | <p>Chart on implementation principles</p> | <p>Implementation case study materials</p> <p>Handout of chart on implementation principles.</p> |



SESSION 6

DESIGN PRINCIPLES SUMMARY: BENEFITS OF AN EFFECTIVE MECHANISM

2:45 - 5:30 p.m.

DAY II

---

GOALS

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

PERFORMANCE OBJECTIVES

Participants will know the six principles of design.

---

METHODS

Lecture

Discussion

---

MATERIALS/LOGISTICS

1. Four break-away rooms
  2. Room large enough for 60 participants
  3. Table in front of room with five chairs for trainers
  4. Flip-chart stand
-



DESCRIPTION:

| METHOD   | CONTENT   |
|--|---|
| <p>1. Review of principles: Small group discussion and lecture.</p>  | <p>Go over the six principles. Make sure they are clearly understood.</p> <p><u>Procedural</u>: Written responses; time limits--nuts and bolts of an administrative system.</p> <p><u>Difficult to understand</u>: Access/reprisal and jurisdiction have derived from experience.</p> <p><u>Difficult to accept</u>: Outside review and participation; without them, you have nothing.</p> <p>It is a PACKAGE DEAL!</p> <p>Why? Look at the <u>Prescriptive Package</u> data, especially Chapter 3.</p> |
| <p>The group trainer should go over the list of principles and elicit questions, objectives and problems and concerns relevant to each. Then, with the help of the group, the trainer should place them in priority order.</p>                 | <p>This is the opportunity for the group to pinpoint its problems with, and questions about, the principles. The result of this group meeting should be a list of questions expressing those objections to the principles that are most important to the group.</p>   |
| <p>2. <u>Benefits of the package</u>: Introduce the guest administrator, who will explain and lead discussion on benefits. After a description of the benefits, questions from the participants will be used to elaborate on the benefits.</p> | <p>Why bother to adopt:</p> <p>Administrators:</p> <p>A. "Window-in:" Problem of communication of information and directives up and down in a large organization. An effective grievance mechanism permits:</p> <p>1. <u>Better communication</u>: An administrator who reads grievances knows pretty quickly where the problems are.</p>   |

## METHOD

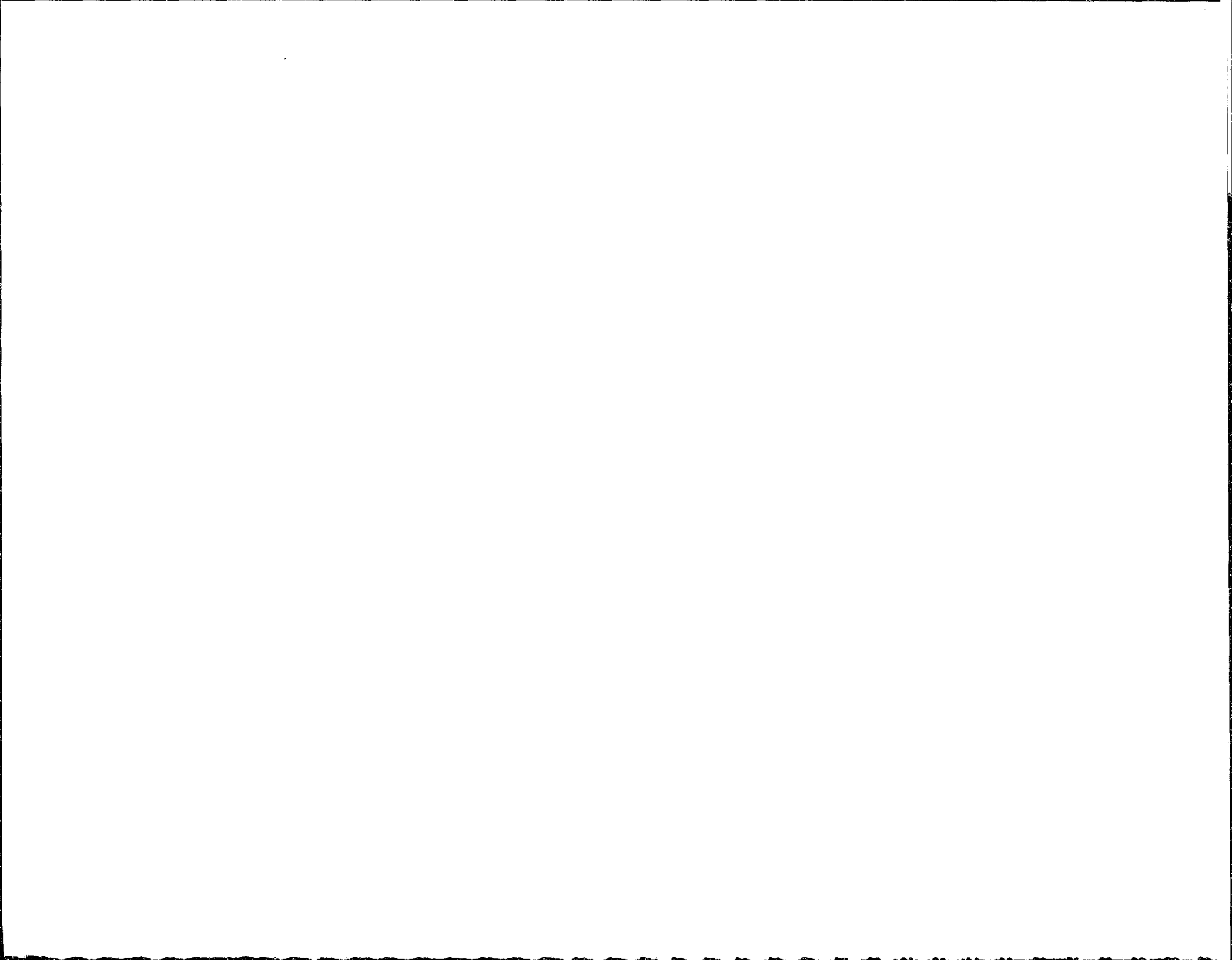
## CONTENT

2. Balanced information: Source of information is not just supervisors; top administrators have direct input from line staff and inmates.
- B. Clarification of policies; "traditions" weeded out; actual policies identified and cleaned up.
- C. Balanced review of new programs from others than those dedicated to keeping and expanding them.
- D. Participation: Beginnings of a response to what management theorists have been urging for 40 years.
- E. "Lightning rod" theory: Let outsiders take some of the heat for reform.
- F. Build a new constituency for corrections.
- G. Alternative to violence and litigation:
1. Anticipate the future
  2. Build now on a collaborative basis with courts and legislators and keep control of the ultimate form of a grievance mechanism
  3. "Positive" form of inmate participation, but it will be "positive" only so long as the mechanism is credible and honest
  4. The "Justice Model."
- Legislators, judges, executives:
- A. Informed collaboration with administrators is invaluable.

| METHOD   | CONTENT   |
|--|---|
|  | B. Leadership and commitment<br>C. Resources  |
| 3. <u>Guide question and answer session:</u> Training staff should help administrator field questions. |   |
| 4. <u>Wind-up session:</u>   | Describe the implementation case study that will occur in Session 7. Assign reading of case study materials.                                    |
| <u>Linkage to Next Session:</u>  | This session completes the Workshop treatment of the design principles. The next session will consider the difficult process of implementation. |

## BENEFITS OF EFFECTIVE GRIEVANCE MECHANISMS

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



SESSION 7: IMPLEMENTATION PROBLEMS AND PRINCIPLES

9:00 - 11:30 a.m.

| TIME                    | METHOD  | CONTENT   | VISUALS  | HANDOUTS   |
|-------------------------|---|---|--|--|
| 9:00 a.m.<br>(15 min.)  | Small groups<br><br>Trainer: lecture<br><br>Discussion                | Introduce the group exercise on implementation. Make sure all group members understand the case study situation and the group's task. Review implementation principles. | Chart on implementation principles: one for each small group | Case study material<br><br>Reprint of principles chart |
| 9:15 a.m.<br>(90 min.)  | Small group subdivided into subgroups for the implementation exercise | Each group designs an implementation plan for a grievance mechanism based on the principles.  |  |  |
| 10:45 a.m.<br>(45 min.) | Small group re-formed for trainer lecture, critique, and discussion   | Review and critique of the group's implementation plans within the framework of the development of a typical mechanism based on the principles.                         |  |  |



## SESSION 7

### IMPLEMENTATION PROBLEMS AND PRINCIPLES

9:00 - 11:30 a.m.

DAY III

---

#### GOALS

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

#### PERFORMANCE OBJECTIVES

At the end of the session, participants will be able to identify the principles of implementation.

---

#### METHODS

1. Lecture
  2. Case study
  3. Discussion
- 

#### MATERIALS/LOGISTICS

1. Four break-away rooms
2. Four chart stands
3. Newsprint
4. Magic Markers for four groups



DESCRIPTION:

| METHOD  | CONTENT   |
|---|---|
| <p>1. <u>Identify and describe implementation principles:</u> Group trainer reviews the implementation principles with each group, using a chart.</p> | <p>Describe the principles for a successful implementation:</p> <p>A. <u>The administrator must lead the overall planning process.</u></p> <p>Correctional administrators must take a central role in ensuring effective planning and leadership. Planning necessarily involves an <u>accurate assessment of needs, determination of resource requirements, and the allocation of sufficient resources to create successful mechanisms.</u> Administrators also must participate actively in an effort to win the commitment of subordinate administrators to establishing effective mechanisms.</p> <p>B. <u>Everyone who will be involved with the mechanism must be trained.</u></p> <p>Administrators, line staff, and inmates who will be key participants in the procedure must be thoroughly trained in the skills and techniques needed for effective investigation, hearings, and disposition of grievances.</p> <ol style="list-style-type: none"> <li>1. Training must be ongoing.</li> <li>2. Key roles--administrators, staff, and inmates must learn skills necessary for investigation, hearings, resolutions/dispositions, supervision, monitoring, and evaluation.</li> </ol> <p>C. <u>Staff and inmates must be introduced to the mechanism and kept informed about its purpose, nature and function.</u></p> <p>Every institution and program must develop an effective, persuasive,</p> |

| METHOD | CONTENT   |
|--------|---|
|        | <p>continuing program for the orientation of staff and inmates to the nature, purpose, and functions of the mechanism. Key personnel (inmates and staff) must be involved in this orientation program.</p> <p>D. <u>Operations must be monitored and evaluated.</u></p> <p>There must be a continuing system for monitoring and evaluating the effectiveness of the procedure. At a minimum, the monitoring and evaluation should operate at the institutional and departmental levels. Some outside monitoring should be done--at least occasionally--of compliance with principles, number and type of resolutions, and evaluation of credibility/effectiveness.</p> <p>E. <u>The mechanism should be activated in increments.</u></p> <p>Mechanisms must be introduced on an incremental basis--that is, first on a single living unit or in an institution or program, then gradually extended to other units, institutions, or programs after a period of testing. The reasons for each of the implementation principles in this list derive from common sense, basic management science and experience.</p> <p><u>Coordination and Supervision</u></p> <p><u>Central Office</u>--technical access line</p> <p><u>Administrative</u>--overall support/assistance/monitoring</p> <p><u>Line supervision</u>--responsibility for operation</p> <p><u>Outside consultant</u>--full involvement in all stages.</p> |

| METHOD   | CONTENT  |
|--|--|
| <p>2. <u>Introduce the group exercise:</u> Trainer will give participants time to read the case study materials and ask questions. Divide the group into two subgroups.</p>  | <p>The group is to think of itself as a top-level administrative task force assigned to formulate an implementation blueprint, schedule, or plan for the department.</p>   |
| <p>3. <u>Group exercise on implementation:</u> Group trainer will explain the guide sheet for the exercise and use it to make sure all of the principles of implementation are covered.</p>  | <p>The job of the task force/group is to design an implementation plan within a relatively short period of time. It is less important that the group resolve every implementation problem than it is for it to identify them all. The trainer must make sure each principle is addressed in the time allotted.</p>   |
| <p>4. <u>Review and critique implementation plan:</u> Group trainer leads the critique and tries to get input from the participants; sums up critique with recital of steps in introducing successfully a mechanism based on the principles.</p> | <p>Using the plan formulated by the group, critique its work and then compare it with the way a successful system handled similar problems--successfully or unsuccessfully.</p> <p>Here is a suggested chronological outline for the description of a successful implementation, together with notes illustrating the importance of the chronological events for effective implementation:</p> <ul style="list-style-type: none"> <li>A. <u>Task force on principles</u>--Designs principles, not a procedure, and leaves tasks to be accomplished by the institutions.</li> <li>B. <u>Selection of one experimental unit</u>--Reasons for incrementalism; reasons for selection of the experimental unit.</li> <li>C. <u>Educating administrators</u>--Need to convince key institutional administrators of desirability of the mechanism; getting outside help to carry the burden of re-education.</li> </ul> |

| METHOD | CONTENT  |
|--------|--|
|        | <p>D. <u>Selection of a design committee</u>-- Importance of building on what exists; need to include power groups in the institution, both inmates and staff; size of the design committee.</p> <p>E. <u>Actual design</u>--Use of outsiders to help; importance and difficulty of innovation; participation of administrators.</p> <p>F. <u>Training</u>--Use of outsiders to help; building a cadre of experts; "natural" mediation simply will not work; chairpeople, their character, and selection.</p> <p>G. <u>Orientation</u>--Importance of peer orientation; learning process for people crucial to the operation of the mechanism.</p> <p>H. <u>Monitoring</u>--Need for a multi-level, sophisticated monitoring effort; importance of grievance clerks to the monitoring process; the resources required.</p> <p>I. <u>Evaluation</u>--Importance of a linkage between evaluation and monitoring components; developing a complete recordkeeping system.</p> <p>J. <u>Institutionalizing the mechanism</u>-- Development of adequate legislation (should it come first or last?).</p> <p>K. <u>Incrementalism</u>--Advantages of a deliberate approach.</p> <p>L. <u>Special design problems</u>--Importance of inmate and line staff participation in design; the need for flexibility.</p> <p>Avoid a straight narrative, which will be given in the <u>Controlled Confrontation</u> handout.</p> |

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Linkage to Next  
Session:

Participants have considered the principles of implementation, which, combined with the design principles, prepare them to evaluate other kinds of mechanisms. The next session will provide an analytical tool with which to gauge the effectiveness of mechanisms currently operating within the participants' jurisdictions.

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IMPLEMENTATION PRINCIPLES

ADMINISTRATIVE LEADERSHIP AND PLANNING

TRAINING

ORIENTATION

MONITORING AND EVALUATION

INCREMENTALISM

IMPLEMENTATION PLAN

Planning

Identification of resources:

Schedule of implementation:

Training

Who needs to be trained for what tasks?

Plan for delivery of training to:

Administrators

Line staff

Inmates

Outside reviewers

Orientation

Who needs to be oriented?

Plan for delivery of orientation to:

Administrators

Line Staff

Inmates

Monitoring

Who needs to monitor what?

Plans for establishing monitoring programs:

Institutional/program

Department

External

Evaluation

Plan for Developing:

Data on grievances

Data on mechanisms

Analysis of data

Standards



## FACT SHEET

### STATEWIDE DEPARTMENT OF CORRECTIONS CASE STUDY

#### Background Information and Early History

The Statewide Department of Corrections has a population of 4,300 inmates. Two-thirds have been convicted for violent crimes; one-third for crimes against property.

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

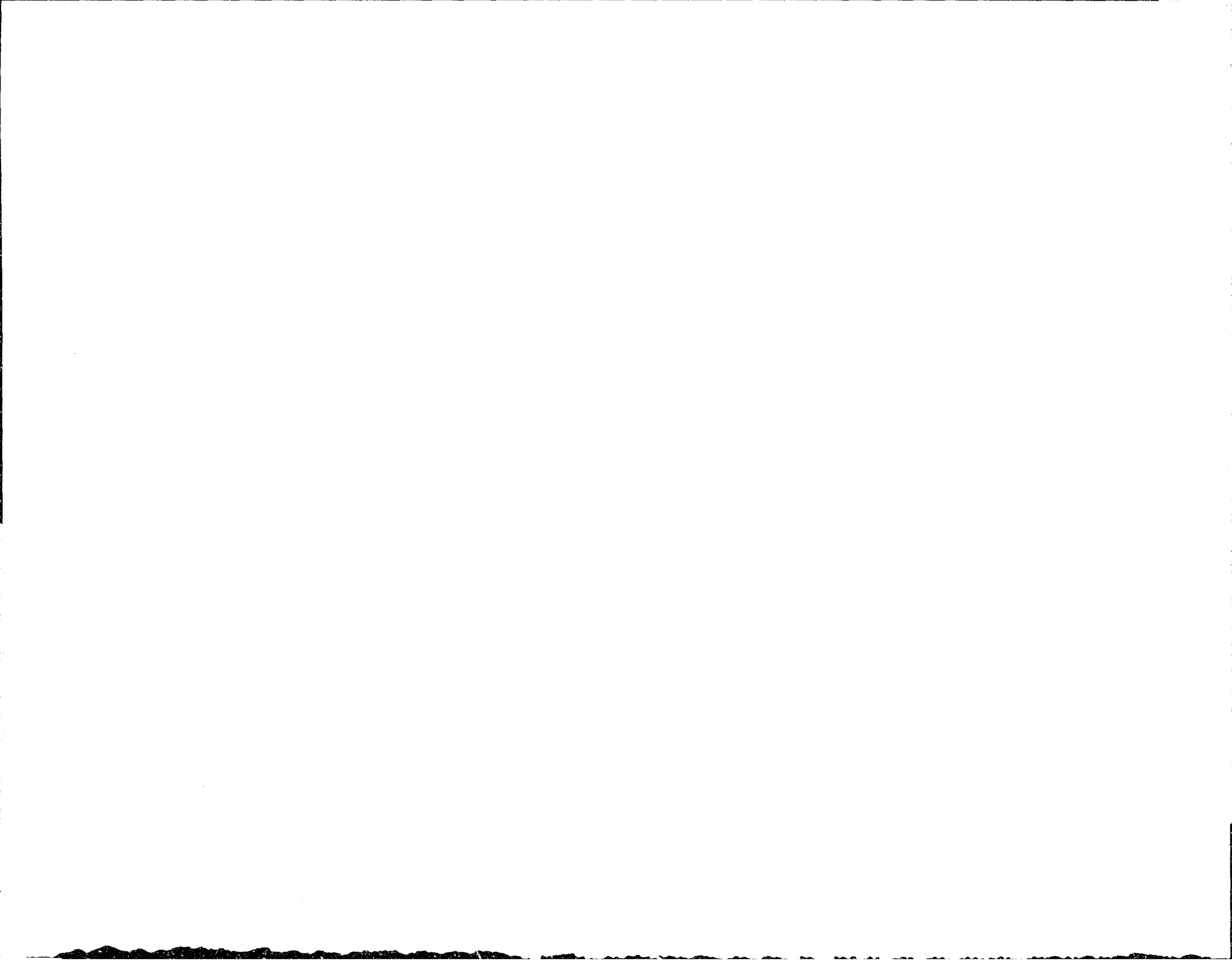
In late 1975, Statewide inaugurated a Disciplinary Decisionmaking System (DDMS). In the course of designing this procedure for appealing disciplinary decisions, Statewide administrators came to recognize that inmates had no way to appeal nondisciplinary matters. Over the previous several years, several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

All of the formal methods either have never gotten off the ground or have proven ineffectual. In August, 1976, a committee from one of the maximum security institutions submitted a three-page list of unresolved complaints. Upon examining the complaints, the administration recognized that the majority of them had merit and had been plaguing the institution for a long time. As a result, it set up a task force to design an inmate grievance procedure in the fall of 1976.

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

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

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



SUMMARY OF SESSION 8: "TRUE GRID": EVALUATION OF EXISTING MECHANISMS  
IN LIGHT OF DESIGN AND IMPLEMENTATION PRINCIPLES

11:30 a.m. - 12:00 noon

| TIME                    | METHOD   | CONTENT   | VISUALS   | HANDOUTS                             |
|-------------------------|--|---|---|--------------------------------------|
| 11:30 a.m.<br>(30 min.) | Plenary Session: Lead<br>Trainer<br><br>Lecture and discussion | Analysis of different kinds<br>of existing mechanisms<br>through the use of "True<br>Grid." Describe nature and<br>purpose of "True Grid."<br><br>Explanation of "True Grid."<br><br>Walk-through with one sample<br>grievance mechanism. | "True Grid"<br>charts for:<br><br>1. Design<br><br>2. Implementa-<br>tion | Reprints of<br>"True Grid"<br>charts |



SESSION 8

EVALUATION OF EXISTING MECHANISMS IN LIGHT OF DESIGN  
AND IMPLEMENTATION PRINCIPLES

11:30 - 12:00 noon

DAY III

---

GOALS

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

PERFORMANCE OBJECTIVES

Participants will have a better understanding of the strengths and weaknesses of their own mechanisms and know what improvements are necessary to make their mechanisms more effective.

---

METHODS

1. Lecture
  2. Discussion
- 

MATERIALS/LOGISTICS

1. Large room for plenary session
  2. "True Grid" charts
  3. Flip-chart stands
  4. Magic Markers
-

DESCRIPTION:

| METHOD   | CONTENT   |
|--|---|
| <p>1. <u>Describe the nature and purpose of "True Grid."</u></p>                           | <p>"True Grid" is an analytical tool to help participants understand and rate their mechanisms vis-a-vis the principles. Through its use, participants can come to a better understanding of what they must do to improve their own mechanism.</p>  |
| <p>2. <u>Explain "True Grid": Use the chart to help explain the different entries.</u></p> | <p><u>Overall:</u></p> <p>Two categories:</p> <p>A. Are elements in the design?</p> <p>B. Do they exist in fact?</p> <p><u>Design Principles:</u></p> <p>A. Written responses:</p> <ol style="list-style-type: none"> <li>1. Every case?</li> <li>2. With reasons that are complete and meaningful?</li> </ol> <p>B. Available to all inmates:</p> <ol style="list-style-type: none"> <li>1. Intake point--staff or inmate or both?</li> <li>2. Protection against reprisals?               <ol style="list-style-type: none"> <li>a. What efforts are made to check?</li> <li>b. What happens when a reprisal is reported or claimed?</li> <li>c. Records kept in inmate's file?</li> </ol> </li> </ol> <p>C. Participation: Inmates? Staff?</p> <p>D. Outside review: Independent? Permanent or <u>ad hoc</u>? Who are the reviewers?</p> |

| METHOD | CONTENT  |
|--------|--|
|        | <p>E. Jurisdiction:</p> <ol style="list-style-type: none"> <li>1. Scope of the mechanism?</li> <li>2. How are disputes about jurisdiction resolved?</li> </ol> <p>F. Time limits:</p> <ol style="list-style-type: none"> <li>1. At all levels?</li> <li>2. For all responses?</li> <li>3. Emergency provisions?</li> </ol> <p><u>Implementation Principles:</u></p> <p>A. Administrative leadership/planning</p> <ol style="list-style-type: none"> <li>1. What is the priority for the mechanism?</li> <li>2. How active is the leadership?</li> <li>3. How much planning went into the design? Implementation?</li> </ol> <p>B. Incrementalism: Was it observed?</p> <p>C. Training</p> <ol style="list-style-type: none"> <li>1. Enough?</li> <li>2. Continuing?</li> <li>3. Trainers or trained?</li> </ol> <p>D. Orientation</p> <ol style="list-style-type: none"> <li>1. Enough?</li> <li>2. Continuing?</li> <li>3. Who does it?</li> </ol> <p>E. Evaluation/monitoring</p> <ol style="list-style-type: none"> <li>1. Who conducts?</li> <li>2. Internal? External?</li> </ol> |



| METHOD   | CONTENT   |
|--|---|
|  | 3. Data structure?  |
| 3. <u>Apply "True Grid" to a sample mechanism.</u> | Use "True Grid" on a specific mechanism. Explain again the meaning of the various headings and give the mechanism a numerical rating based on the presence or absence of each element. Maximum score is 40. |

Linkage to Next Session:

Participants in the next session will apply the grid to their own mechanisms and use the data uncovered by the application to plan future actions.



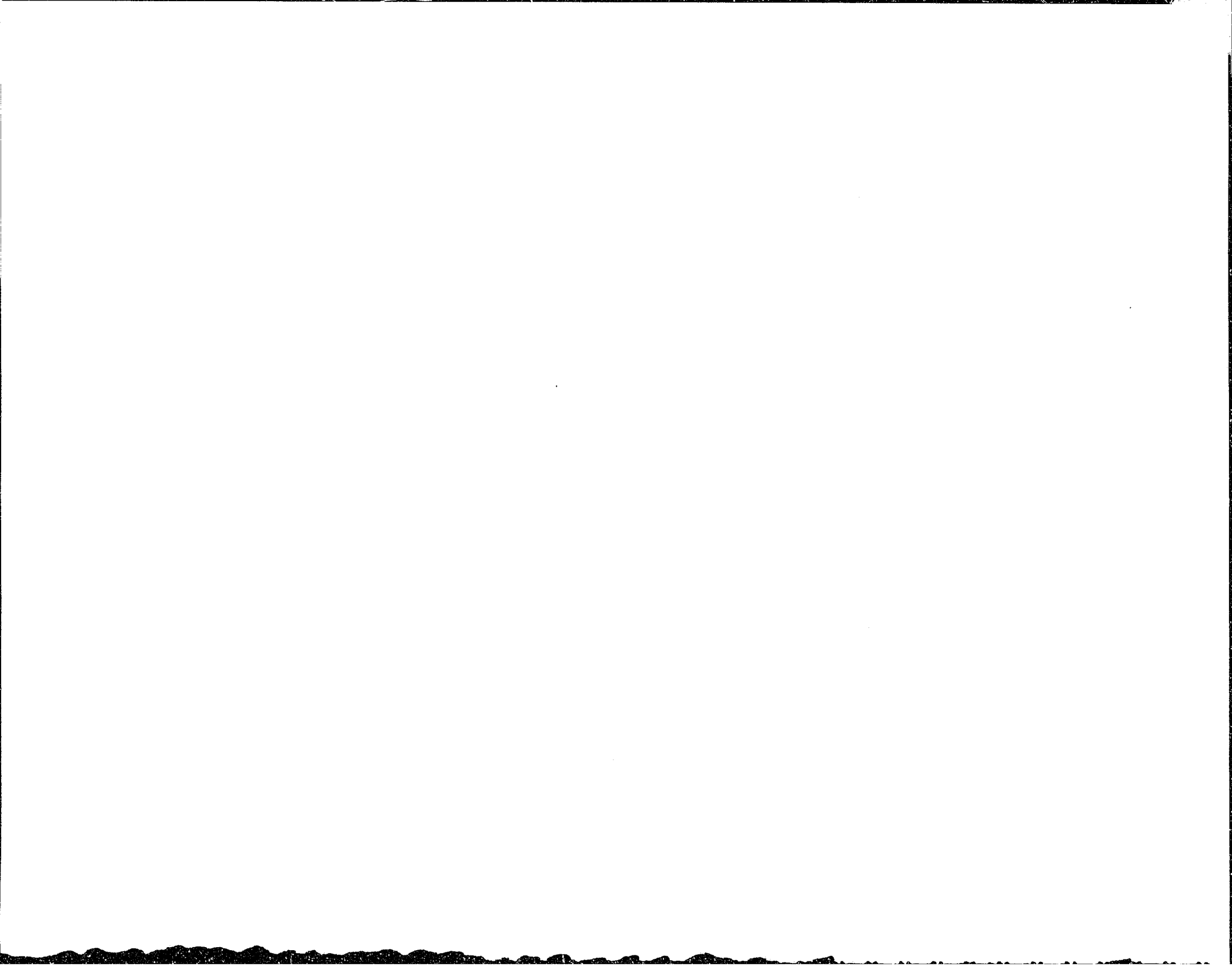
TRUE GRID

I. DESIGN

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

II. IMPLEMENTATION

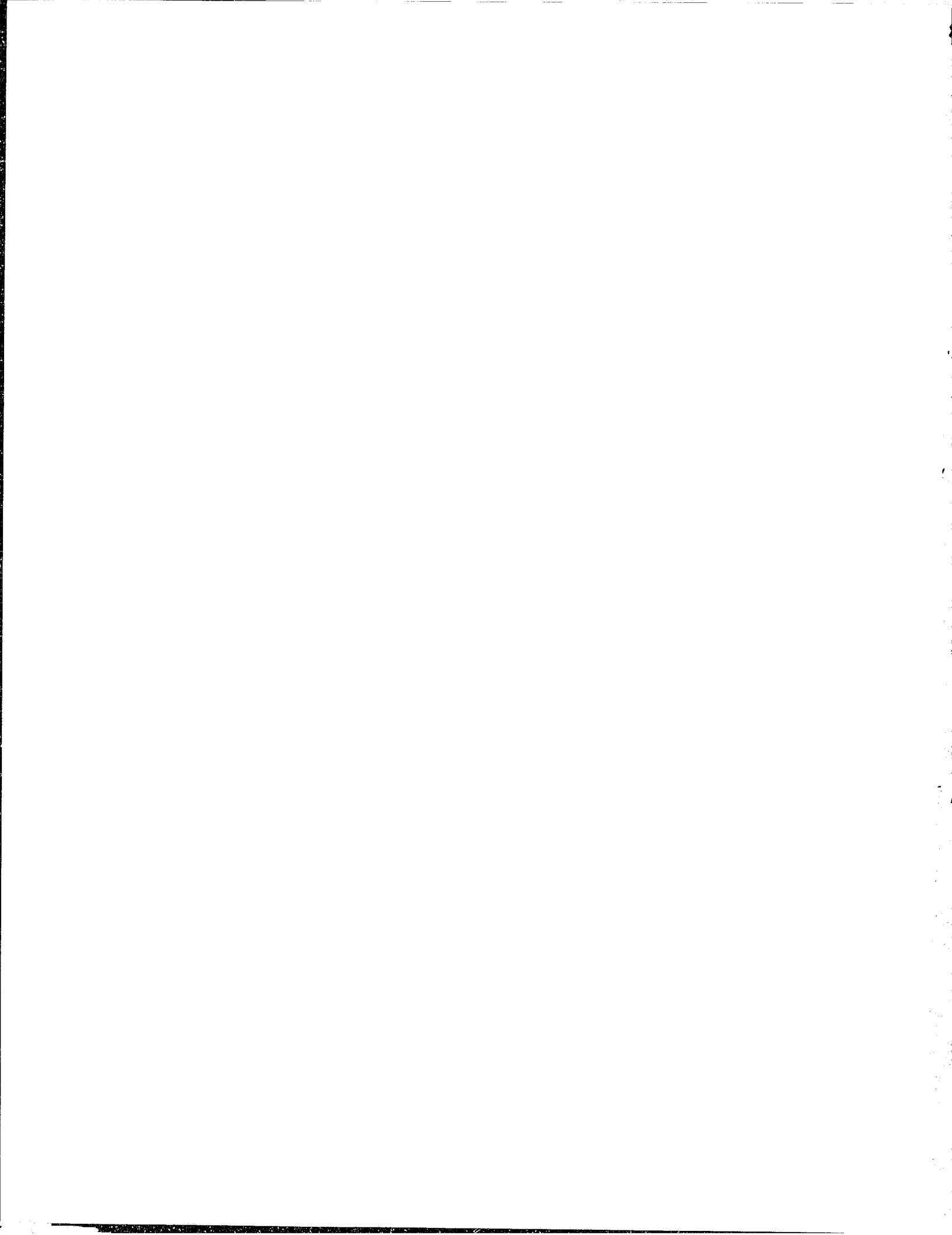
|                      | DEMONSTRATED COMMITMENT | CONTINUING ALLOCATION OF RESOURCES | PLANNING | INCREMENTALISM | SUFFICIENT START-UP TRAINING | CONTINUING TRAINING PROGRAM | SUFFICIENT INITIAL ORIENTATION | CONTINUING ORIENTATION PROGRAM | MONITORING | EVALUATION |
|----------------------|-------------------------|------------------------------------|--------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



SUMMARY OF SESSION 9: APPLICATION OF "TRUE GRID,"  
FORCE-FIELD ANALYSIS, AND ACTION PLAN

1:00 - 2:15 p.m.

| TIME                   | METHOD  | CONTENT  | VISUALS                        | HANDOUTS           |
|------------------------|---|--|--------------------------------|--------------------|
| 1:00 p.m.<br>(15 min.) | <p>Plenary Session</p> <p>Lead Trainer: Lecture, discussion</p>   | <p>Having seen the application of the grid to one system, participants will be asked to apply the same method to their own system.</p> <p>Trainer will briefly discuss with each group the usefulness of the "True Grid" as a diagnostic tool. Trainer will explain use of force-field analysis as a diagnostic tool in problem solving.</p> | "True Grid"                    | "True Grid" sheets |
| 1:15 p.m.<br>(60 min.) | <p>Small groups by state:</p> <p>Apply "True Grid" and force-field analysis and plan state action.</p> <p>Groups remain in state sub-groups</p> | <p>Participants will apply "True Grid" to their own system and, if appropriate, the force-field analysis.</p> <p>Participants will decide on some strategy for action that they will take to implement procedures defined in the PGM Workshop upon returning home.</p>   | Force-field analysis inventory | Inventory sheets   |



SESSION 9

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

1:00 - 2:15 p.m.

DAY III

---

GOALS

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

PERFORMANCE OBJECTIVES

By the end of the session, participants will have:

1. Some idea of the nature of the mechanisms that are already being used. They will also know the difference between their mechanisms and new ones based on the design principles and the principles of implementation.
  2. Analyzed the implementation process from a different, analytical perspective.
  3. Designed a plan for implementing new or improved grievance mechanisms--individually and in state groups.
-

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METHODS

1. Lecture
  2. Small group interaction
- 

MATERIALS/LOGISTICS

1. Four break-away rooms
  2. Newsprint
  3. Magic Markers
-



DESCRIPTION:

| METHOD   | CONTENT   |          |  |                      |                  |
|--|---|----------|--|----------------------|------------------|
| <p>1. <u>Instruction on "True Grid" application, force-field analysis, and state action plans</u>: Lead trainer describes purposes and nature of this final substantive session.</p> | <p>The "True Grid" is an analytical tool that should be applied to existing mechanisms. It represents the ideal design and implementation.</p> <p><u>Force-Field Analysis</u>: Describe Kurt Lewin's theory and analytical structure.</p> <p>Force-field analysis enables one to look at the forces working both for and against change (driving or restraining forces). It provides a framework for problem solving and for implementing planned change affecting a wide range of group and organizational issues. In physics, there is a concept that a body is at rest when the sum of all the forces operating on it is zero. The body will move in a direction determined by the unbalancing factors. For example, suppose you are a member of a committee in which one member remains silent and uncommunicative. In an effort to understand his or her behavior better, you might make up a force-field analysis inventory form looking like this.</p> <div data-bbox="812 1297 1437 1522" data-label="Diagram"> <table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">Problem:</td> <td style="width: 50%;"></td> </tr> <tr> <td>Restraining forces →</td> <td>← Driving forces</td> </tr> </table> </div> <p>Once you have identified the driving and restraining forces, there are three approaches you can employ to help the silent member on the hypothetical committee. <u>One</u> is to increase the strength of the driving forces (for example, by applying more pressure). This could raise temporarily his/her frequency of talking. The difficulty with this strategy is that it tends to increase tension and resistance. A</p> | Problem: |  | Restraining forces → | ← Driving forces |
| Problem:   |   |          |  |                      |                  |
| Restraining forces →   | ← Driving forces  |          |  |                      |                  |

| METHOD   | CONTENT  |
|--|--|
|  | <p><u>second</u> approach involves an attempt to reduce the restraining forces. In this case, the chances are good that the member's rate of talking will increase without excessive tension or resistance. <u>Third</u>, both strategies may be applied simultaneously.</p> <p>The participants will meet in state groups to apply both the "True Grid" and force-field analysis to their own state-wide grievance mechanisms. Based on the results of these analyses, the participants will draw up an action plan for their states.</p>   |
| <p>2. <u>Apply "True Grid" and force-field analysis to state systems; plan state action.</u></p> | <p>Explain to the groups that the training staff are available to answer questions and participate in the discussion <u>if</u> asked. Once or twice during the session, trainers may wish to walk over to each state group to ask how it is progressing and whether assistance is needed.</p> <p>The state action plan is meant to encourage the participants to think through the specific application of what they have learned. It should not be structured, and you should not interfere or participate unless invited to do so.</p> <p>Make the purpose of the exercise clear by instructing the state groups to be as specific as possible. What do they think should be done in their state? What is feasible? Is a new mechanism needed? Where? What institution would be best suited for a pilot project? Is there an existing mechanism that might be improved? How? What does it lack? What are its strong points?</p> <p>Ask the state groups to plan within a time frame. What can they accomplish in three months? A year? How would they like to use any available follow-on training time?</p> |

| METHOD | CONTENT  |
|--------|--|
|        | <p>Refer to the grid as a possible point of departure for the state groups. Ask them to draw up a plan on paper if they can, but make it clear that this is not obligatory. If a state group cannot come to an agreement, encourage its members to list the suggestions and objections that have been raised. Avoid making the state groups feel that they must come up with a plan. Rather, make it clear that this is a time set aside for the groups to use as constructively and specifically, as possible, as they see fit.</p> |

Linkage to Next Session:

Prepare group for wrap-up session.

KURT LEWIN'S  
"FORCE FIELD ANALYSIS" \*

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

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

Definition of the Problem

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

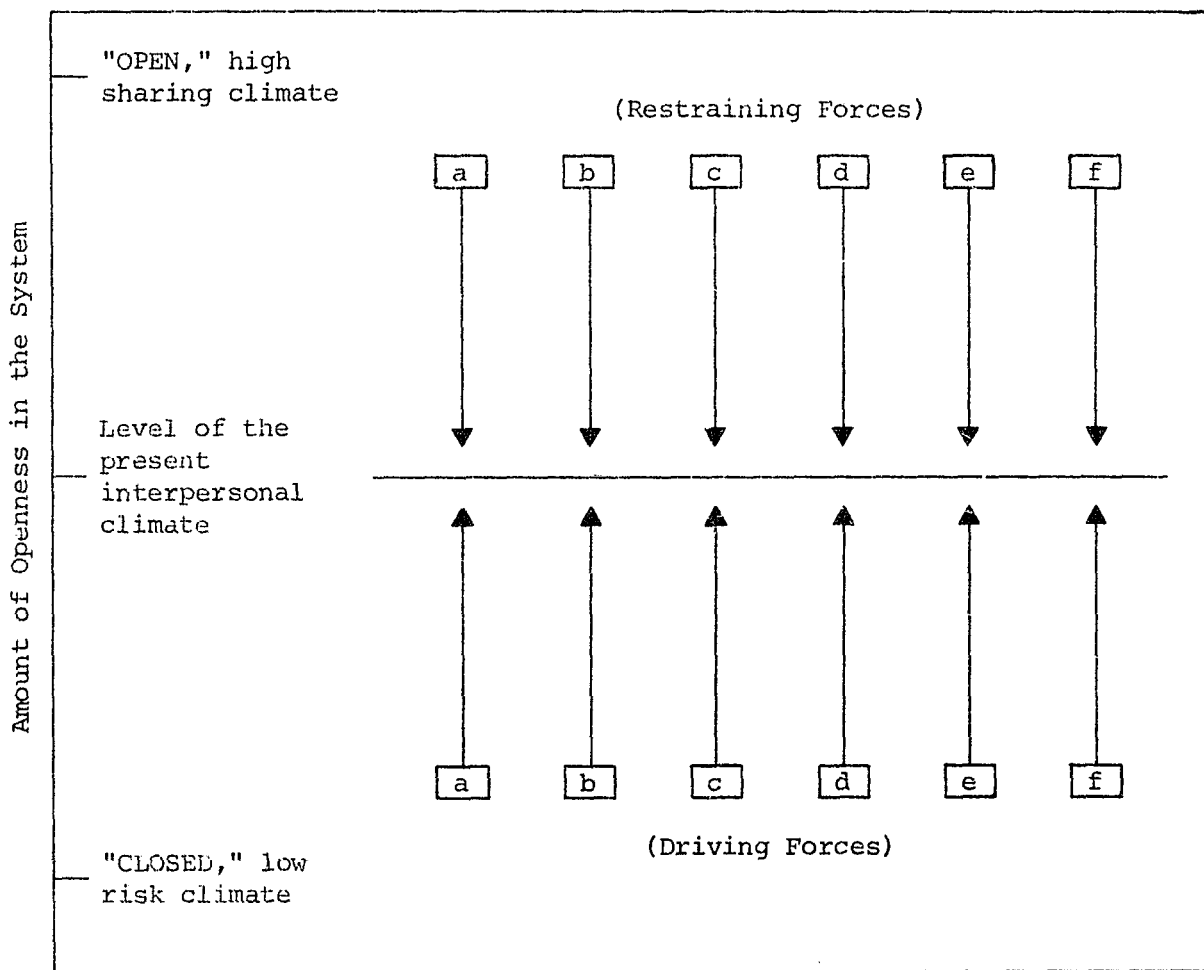
As they continued their analysis, the managers also identified pressures that acted as powerful obstacles to change: (a) many of the group members lacked experience and skills in dealing with conflict and more open feedback; (b) the risk of the "unknown" was high in terms of "What will we open up?" and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

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\* Excerpt from The 1973 Annual Handbook for Group Facilitators.

Figure 1 summarizes this "diagnosis" of the problem. The top and bottom of the figure represent opposite ends of a continuum of a team's functioning in terms of its interpersonal climate. The environmental conditions and pressures supportive of more openness in the system are the driving forces represented by the arrows pushing upward which, at the same time, act as barriers to the team's movement backward toward a more closed system. The arrows pushing downward represent the restraining forces which are keeping the system from moving toward a higher degree of openness and, at the same time, are driving forces toward a climate of lower interpersonal risk.

FIGURE 1  
The Force Field



A group of forces as shown in Figure 1 may be called a "force field." The length of the arrows in the force field describes the relative strength of the forces: the longer the arrow the stronger the force. For descriptive purposes, the forces in Figure 1 are shown as equal in strength, but a force field can be made up of forces of varying strengths. Indeed, the strength of any single force may itself vary as we get closer to either end of the continuum of openness. A group or organization stabilizes its behavior where the forces pushing for

change are equal to the forces resisting change. Lewin called the result of this dynamic balance of forces the "quasi-stationary equilibrium." In our example, the equilibrium is represented in Figure 1 by the line marked "level of the present interpersonal climate." It is at this level of functioning that the system is not completely "closed" in terms of a total lack of openness, feedback and risk-taking, but neither is there the degree of each needed to work together as effectively as might be. The arrows meeting at the line indicate that the current state is being maintained somewhere between the end points on a continuum of team functioning by a balance of discernible driving and restraining forces.

### The Implementation of Change

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

Any of the basic strategies may change the level of the team's functioning, but the secondary effects will differ depending on the method used. If a change in the equilibrium is brought about only by strengthening or adding driving forces, the new level may be accomplished by a relatively high degree of tension which itself may reduce effectiveness. In Figure 1, the line representing the "level of the present interpersonal climate" will move upward toward more openness under the pressure of strengthened driving forces. The additional pressures upward, however, will be met by corresponding increases in resistance. The resulting increase of tension in the system will be characterized by a lengthening of the arrows pushing upward and downward at the new level.

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

One of the most efficient ways to get change is to change the direction of one of the forces. If the managers in our example can be persuaded to "test" top management's support for a more open climate, they might find more encouragement

than they previously thought existed. Thus, the removal of a powerful restraining force (expected top management disapproval) becomes an additional, strong driving force (actual top management support) in the direction of change.

Morris S. Spier

#### REFERENCES

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- Jenkins, D. H. "Force Field Analysis Applied to a School Situation." In Bennis, W. G., Benne, K. D., and Chin, R. (Eds.). The Planning of Change. New York: Holt, Rinehart & Winston, 1969, pp. 238-244.
- Lewin, K. "Quasi-stationary Social Equilibria and the Problem of Permanent Change." In Bennis, W. G., Benne, K. D., and Chin, R. (Eds.). The Planning of Change. New York: Holt, Rinehart & Winston, 1969, pp. 235-238.

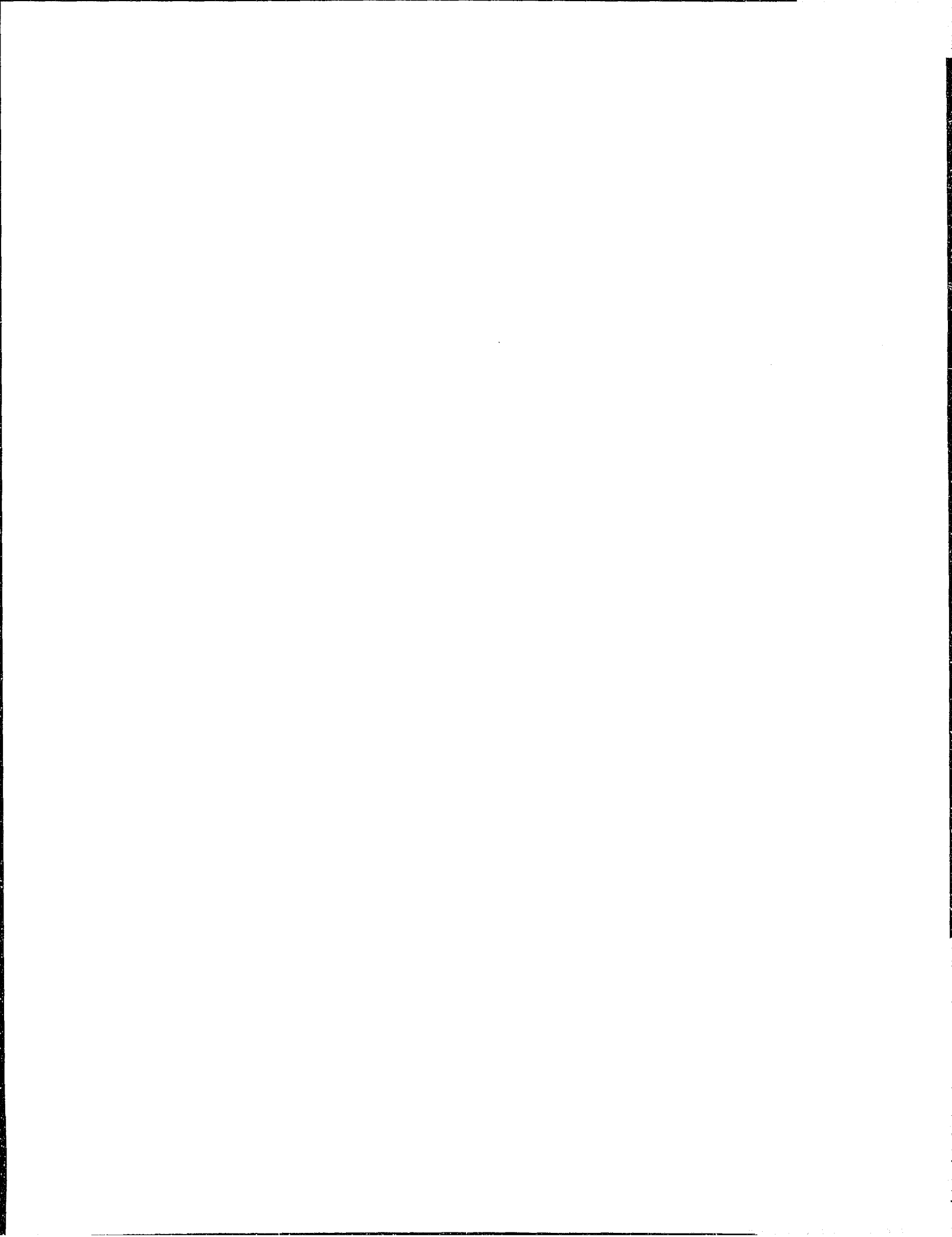
FORCE-FIELD ANALYSIS INVENTORY

Working individually or as a group, members should identify in the space below the driving and restraining forces that they see operating in implementing or changing existing grievance mechanisms. Rank them according to importance. Identify at least one restraining or driving force that the members might begin to work on when they return to their own jurisdictions.

| <u>Rank</u> | <u>Driving Forces</u> |
|-------------|-----------------------|
| _____       | _____                 |
| _____       | _____                 |
| _____       | _____                 |
| _____       | _____                 |
| _____       | _____                 |
| _____       | _____                 |
| _____       | _____                 |

| <u>Rank</u> | <u>Restraining Forces</u> |
|-------------|---------------------------|
| _____       | _____                     |
| _____       | _____                     |
| _____       | _____                     |
| _____       | _____                     |
| _____       | _____                     |
| _____       | _____                     |
| _____       | _____                     |

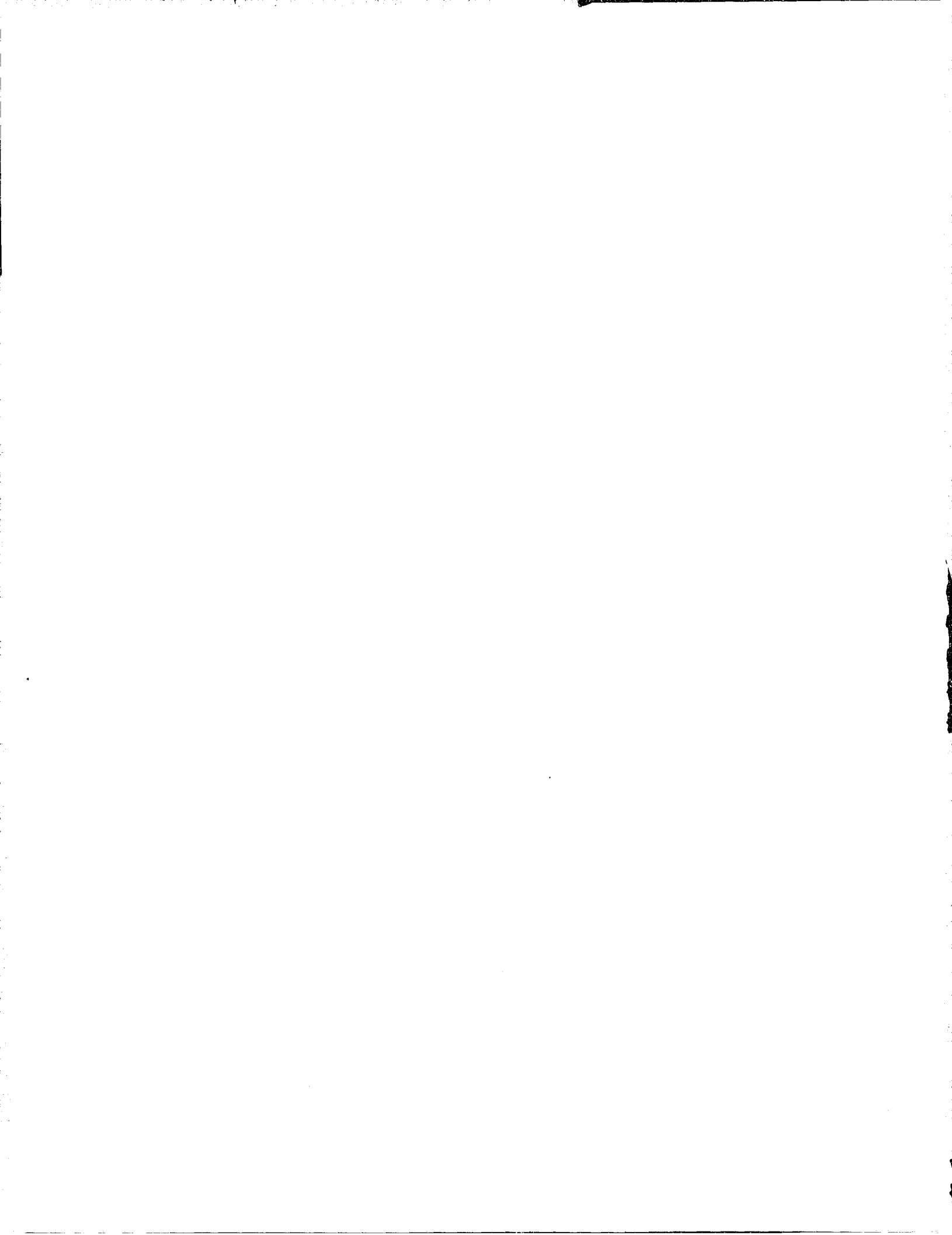




SUMMARY OF SESSION 10: WRAP-UP

2:15 - 2:45 p.m.

| TIME                   | METHOD  | CONTENT                              | VISUALS | HANDOUTS |
|------------------------|---|--------------------------------------|---------|----------|
| 2:15 p.m.<br>(20 min.) | Plenary Session<br><br>Questions                          | Answer questions                     |         |          |
| 2:35 p.m.<br>(10 min.) | LEAA representative or<br>Lead Trainer addresses<br>group | Thank participants for<br>attending. |         |          |



SESSION 10

WRAP-UP

2:15 - 2:45 p.m.

Day III

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GOALS

To wrap-up loose ends and thank participants for attending.

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PERFORMANCE OBJECTIVES

None for this session.

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METHOD

Lead trainer addresses group.

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MATERIALS/LOGISTICS

None

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DESCRIPTION:

| METHOD                                     | CONTENT   |
|--|---|
| Plenary session                            | To answer any final questions.  |
| Lead trainer <u>or</u> LEAA Representative | Thanks to one and all. Hope the Workshop message will be carried home and that participants have been stimulated to make changes and improvements in their systems. |



**END**