

~~X~~ IMPLEMENTATION
STATUS
CRIMINAL JUSTICE GOALS
AND STANDARDS
FOR THE STATE OF MICHIGAN
~~X~~

SEPTEMBER, 1977

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In September, 1973 the Advisory Commission on Criminal Justice organized to develop Michigan goals and standards. From numerous task force deliberations, background papers, several full Commission meetings, and public hearings in several locations around the State, the Goals and Standards report (containing close to 600 standards) emerged in April, 1975.

In October, 1975 a new, smaller Commission - the Commission on Criminal Justice - was formed to replace the larger group which was necessary to produce the original document. This new Commission was charged by Governor Milliken to continue to advise the Governor on criminal justice matters and recommend actions to implement goals and standards. With approximately 600 standards to implement, the Commission with staff assistance set out to review the current status of each standard and to develop priorities for implementation.

An earlier status report (December 1975) indicated that 103 (17.5%) of the 588 standards had been fully implemented; 370 (62.9%) had been partially implemented; and 115 (16.6%) had not been implemented at all. This report contains the most recent review of the implementation of the standards. Commission review and revision has reduced the total number of standards to 566 and reveals that 265 (46.8%) have been fully implemented; 219 (38.7%) have been partially implemented; 66 (11.7%) have not been implemented at all; and for 16 (2.8%), implementation cannot be determined. This report presents the implementation status of each subgoal and standard and discusses briefly implementation efforts.

STATUS REPORT

PART I

COMMUNITY CRIME PREVENTION

SEPTEMBER, 1977

Status Report, September, 1977

I. COMMUNITY CRIME PREVENTION
PART I: INTRODUCTION

The 12 Sub-Goals and 69 standards in the Community Crime Prevention Section of the Criminal Justice Goals and Standards for the State of Michigan are designed to accomplish two goals. Reducing the desire to commit crime is the first goal, and reducing the opportunity to commit crime is the second. There is little doubt that the Community Crime Prevention standards, if fully implemented, would have a significant impact upon the achievement of these goals.

These recommended standards, however, have unique problems involving implementation. The past history of Community Crime Prevention programs reveals a pattern of isolated programs, with little communication or coordination. These programs have been operating in conjunction with autonomous local units of government and thus have been very independent of one another. Only with the advent of LEAA funding has any concerted effort been successful in establishing guidelines and evaluation criteria to determine the success of crime prevention efforts.

While it is true that statewide uniformity of program design would eliminate the flexibility necessary for successful operation and optimal utility of programs, it is also true that there are guidelines, criteria, and management techniques which are shared by most successful Community Crime Prevention programs. The standards in this section represent the Commission's concept of those elements which should be held in common by Community Crime Prevention programs. As difficult as it was to develop the Community Crime Prevention standards, it will be even more difficult for the Commission to gain compliance to its standards from such a large number of independent programs and governmental units.

The status of the Community Crime Prevention standards (27 partially implemented, 25 fully implemented, and 17 not implemented) demonstrates the need for a total system planning approach to Community Crime Prevention efforts in Michigan.

PART II: SUMMARY OF STANDARDS BY IMPLEMENTATION STATUS

CHAPTER 1: REDUCING DESIRE TO COMMIT CRIME

1: ALTERNATIVE EDUCATION PROGRAMS

- I. Sub-Goal 1 recommends by 1978, planning and providing for educational options within the formal school system for vulnerable youth to reduce juvenile delinquency. This Sub-Goal addresses the need for alternatives for those youth vulnerable to delinquency. Promoting educational options will increase the likelihood of success in school and this is requisite to reducing juvenile and subsequent adult crime. The benefits from these educational options for both the youth and society has been demonstrated and Michigan has promoted and funded several educational opportunity programs.
 - A. 1.1 recommends each school board should establish an advisory committee on educational options for vulnerable youth. The committee should advise the school district on program planning and implementation practices and policies. The Neighborhood Education Authority (NEA) requires such an advisory board for any program it funds, but programs funded under Section 48 of the School Aid Act (§ 48) are not required to have an advisory board. This standard is partially implemented.
 - B. 1.2 This standard is fully implemented. The Neighborhood Education Authority and § 48 require written program plans in their funding applications.
 - C. 1.3 This standard is fully implemented. All school districts submit annual plans to the Department of Education, covering all activities, not just alternative education programs.
 - D. Standard 1.4 recommends that "intermediate school districts should submit to the Michigan Department of Education recommendations for the coordination and delivery of educational programs and services to vulnerable youth". The plan should be based upon information submitted by the local school districts within the intermediate district. The Neighborhood Education Authority does not comply with 1.4 and § 48 complies with elements a, b, and c only.
 - E. Standard 1.5 recommends that "the Michigan Department of Education develop and promulgate program and administrative guidelines which school districts would use to prepare their annual plans for educational programs and services for vulnerable youth". This standard is not implemented. The Department of Education is considering establishing an Office of Alternative Education which would logically do this.
 - F. 1.6 This standard, which calls for the Michigan Department of Education to summarize local and intermediate district annual reports, is fully implemented through the Department of Education's annual report to the Legislature.
 - G. 1.7 This standard is fully implemented. Only programs specifically requesting funds (see 1.2) receive supplemental funds for alternative education programs.
 - H. 1.8 recommends "school districts provide program options within the comprehensive school district program designed to motivate vulnerable youth. Junior and senior high school programs might include such options as career and vocational education programs; work-study programs; neighborhood education centers; mini-schools (schools within schools); community-based schools or

programs; survival or coping schools; street academies; or other speciality schools." This standard is partially implemented. Not all districts have, need, or can afford 1.8.

- I. 1.9 recommends services available to vulnerable youth through the school districts should include crisis intervention, counseling, testing, diagnostic, and evaluative services, remedial or individualized instructional services, and home and community follow-up services. These are often available, but on a referral basis. Some smaller communities do not have these services at all.
- J. 1.10 recommends in dealing with vulnerable youth, school districts should insure that a quarterly review of affective and academic progress be made of each student. It also specifies the types of professional help that should be available to vulnerable youth. This standard is partially implemented, again on a local basis. The Office of Alternative Education Programs would (see C-1.5) impact on implementation of this standard.
- K. 1.11 recommends "each school district should develop and maintain a continuous assessment process to monitor and evaluate educational option programs and services. The advisory committee on educational options should receive quarterly reports on the districts educational option programs and services". This standard has not been implemented. The programs under the Neighborhood Education Authority and § 48 have no formal evaluation process as stated in 1.11.
- L. 1.12 states school districts should provide in-service training to help ascertain whether school system policies and practices operate to the benefit of vulnerable youth. This training is not being provided to the knowledge of the administrators of § 48 funds and Neighborhood Education Authority programs. It may be provided in some isolated instance, but a survey of all school districts will be necessary to determine if that is the case.
- M. 1.13 recommends the advisory committee on educational options and the district administrators should meet periodically with law enforcement agency directors, juvenile court staff, and social service agency staff to review and coordinate policies and practices for handling vulnerable youth. This standard is partially implemented. The Neighborhood Education Authority complies to a greater extent than § 48 programs. The NEA program advisory committees have members of the agencies and groups noted in 1.13, on their boards. (See 1.1 for function of advisory committee).
- N. 1.14 This standard, regarding the release of student records, is fully implemented by statute (MCLA 600.2165).
- O. 1.15 This standard is fully implemented through current policy and state statute.

II. COMMENT

- A. There are two major funding sources supplementing local districts: the Neighborhood Education Authority, which funds entire programs, and Section 48, which funds only part of the staff salaries. As a result of the funding differences, NEA programs are more uniform in their adherence to these standards than § 48 programs.
- B. Although 12 of the 15 standards under the Sub-Goal are partially or fully implemented, the 1978 deadline has not been met due to the funding requirements

implicit in this Sub-Goal.

C. Fifteen standards.

1. Three standards are not implemented - 1.5, 1.11, 1.12.
2. Eight are fully implemented - 1.2, 1.3, 1.6, 1.7, 1.9, 1.10, 1.14, and 1.15.
3. Four are partially implemented - 1.1, 1.4, 1.8, and 1.13.

D. The Crime Prevention and Juvenile Justice Committees of the Commission on Criminal Justice reviewed the program structure and results of Alternative Education projects funded by OJCP in Spring, 1976. The results of this study lead to a policy revision by OCJP to continue to fund Alternative Education projects. The previous strategy had called for state funding by the Michigan Department of Education (MDE) by 1978. Since MDE had not received such funding, OCJP agreed to continue to fund projects.

2: DIVERSION PROGRAMS

1. Sub-Goal 2 recommends establishment, in prosecutorial jurisdictions by 1978, of diversion programs for adult felons and misdemeanants who voluntarily choose to participate as part of a probation or parole sentence or in lieu of prosecution. It also recommends that special provisions should be made to treat substance abuse offenders in community treatment diversion programs which are better suited to deal with the related problems of substance abuse. The following standards are aimed at providing alternatives to incarceration for those offenders who are most likely to be rehabilitated by a diversion program. Patterned, habitual, and dangerous offenders would be excluded from such programs. The 13 standards under this Sub-Goal all deal with program operation criteria.
 - A. 2.1 recommends that the diversion programs be provided through a community agency; otherwise the prosecutor's office should implement the program. Nearly all existing diversion programs operate through the prosecutor's office. However, the exceptions operate through community agencies with assistance from the prosecutor's office.
 - B. 2.2 is fully implemented, with the help of local community service agencies.
 - C. 2.3, which calls for treatment programs to be located within the prosecutorial jurisdiction, is fully implemented, through standard practice.
 - D. 2.4 recommends each program provide screening services to all persons referred as soon as possible and no later than one week after referral. Results of an OCJP conducted evaluation of deferred prosecution projects show that most referrals were screened within the week period.
 - E. 2.5 is fully implemented, through standard practice. OCJP evaluation supports this statement.
 - F. 2.6 recommends referrals be made only to those programs which are approved by the appropriate agency; the Department of Corrections should approve regular felon and misdemeanor programs and the Department of Public Health should approve those specifically designed for substance abuse offenders. The Department of Public Health, through The Office of Substance Abuse Services, does approve (license) substance abuse programs for divertees. While the Department of Corrections supports 2.6, it does not have the authority to approve or license diversion programs.
 - G. 2.7 recommends criteria for screening be developed by representatives of local and statewide criminal justice agencies. Clearly outlined operational objectives of the screening procedures should be established. OCJP funded programs must develop written screening criteria. A significant part of the OCJP evaluation of deferred prosecution is involved in developing screening criteria to differentiate characteristics of persons who can be most successful in the program.
 - H. 2.8 is fully implemented, in that standard policy diversion programs cans or destroys the warrant upon successful completion of the terms of diversion.
 - I. 2.9 recommends each diversion agency or diversion program within an agency should have a full time director and an adequate professional and secretarial staff to handle the caseload. The caseload requirements are not met by all existing programs. Program directors are usually assistant prosecuting attorneys, often with other duties as well.

- J. 2.10 recommends all professional staff should participate in training programs which meet established training curriculum requirements. The Prosecuting Attorney's Association of Michigan has offered training programs for diversion programs and technical assistance is available from OCJP.
- K. 2.11 recommends each program should develop and promulgate eligibility criteria and should maintain a current listing of all approved community programs to which subsequent referrals can be made. Most existing programs comply with Standard 2.11. This standard, to be fully implemented, needs a mechanism to disseminate information on all approved community programs for divertees. This information should be readily available, perhaps in the form of a statewide clearinghouse. Such information is presently available for specific communities, usually through the United Way program directory.
- L. 2.12 suggests that "all arrest records regarding the offense shall be subject to the provisions of current law". This standard is fully implemented.
- M. 2.13 recommends that the offender may voluntarily choose the diversion program in lieu of continued prosecution. Defense services should be provided to protect offenders "rights while making their decision". Standard 2.13 is being complied with by all OCJP funded projects except as regards the second sentence where an assessment of the degree of compliance is very difficult.

II. COMMENT

- A. The problems associated with the implementation of the diversion standards include the following five points:
 - 1. There is an absence of clear cut guidelines for program operation and decision-making,
 - 2. It will be difficult to gain the compliance and support of the large number of criminal justice agencies necessary to implement these standards because of independent attitudes and independent status of the affected agencies,
 - 3. Resistance to placement of residential treatment facilities in most neighborhoods must be overcome,
 - 4. Funds to support statewide development and implementation of diversion programs must be found, and
 - 5. A formal referral system must be established between long-term and short-term treatment programs.

Sub-Goal 2 develops one of many viewpoints on diversion provided by the Michigan Commission on Criminal Justice in the Goals and Standards report. Other diversion standards are listed under Sub-Goals 13, 14, 33, 61, and 78. In view of the Sub-Goals on total planning, these Sub-Goals on diversion should be reconciled and implemented as a package.

B. Thirteen standards.

- 1. Four standards are partially implemented.
- 2. Nine standards are fully implemented.

- C. The Adjudication Committee has taken over this area as the courts are in a better position to deal with the diverting of offenders.

There are many local diversion programs, within prosecutor's offices, that have been set up around the state. Usually referred to as deferred prosecution or Citizen's Probation Authority projects, they are enjoying a high level of success with clients that have been diverted into various programs. As the programs continue to make progress, there seems to be a general acceptance throughout the state of diversion programs as viable alternatives to incarceration.

OCJP has funded several deferred prosecution projects throughout the state. An evaluation of five of these projects is currently being completed under the Model Evaluation Program.

3: FAMILY CRISIS INTERVENTION PROGRAMS

- I. Sub-Goal 3 recommends that family crisis intervention training programs be established in all police departments by 1980; relevant community agencies in communities of 10,000 or more should develop and implement 24-hour crisis counseling services statewide by 1980.

The following standards are aimed at preventing day-to-day family disputes, suicides and mental cases from becoming violent crimes. Social scientists and many law enforcement officials believe that quick skillful action on the part of the police and community service agencies could prevent many arrests that would have been the typical result of many family crises.

- A. Standards 3.1 through 3.7 can be divided into two distinct groups. First, Standards 3.1 through 3.4 concern training for personnel involved in crisis intervention. These standards have all been partially implemented in that some programs have implemented them.
- B. Standards 3.5 through 3.7 comprise the second group, and each deals with the services to be provided by crisis intervention programs. Standards 3.5 and 3.7 have been implemented in one or more LEAA funded projects, most notably, projects in Washtenaw County and Holland, Michigan, respectively. Standard 3.6 has not been implemented although the Holland, Michigan project came close to achieving this service level.

II. COMMENT

- A. Most of these partially implemented standards were funded through LEAA projects. Crisis intervention programs appear in the 1978 Michigan Comprehensive Law Enforcement & Criminal Justice Plan including funding of both rape and crisis interventions centers as well as training.
- B. Seven standards.
 1. The seven standards were all partially implemented.
- C. In addition to OCJP funded crisis intervention activities, many communities have established 24-hour crisis intervention programs. These programs, however, vary widely and are often targetted at the problems of medical, emotional, drug, rape, etc. crisis and often do not formally law enforcement agencies.

4: DECRIMINALIZATION OF PUBLIC DRUNKENNESS

- I. Sub-Goal 4 says "To decriminalize behaviors currently included under the criminal code relating to public drunkenness and also provide voluntary treatment programs for persons who desire assistance relating to their alcohol problems". The implementation of this Sub-Goal will be clearly watched by the criminal justice community since it is the first time in recent years Michigan has decriminalized a so called "victimless crime". The data, should it be collected and examined, on expenditures, police manpower, and effectiveness in dealing with alcohol abusers may be used to develop positions, pro and con, on possible decriminalization of other similar activities.
 - A. Standard 4.1 was fully implemented in January, 1978, when Public Act 339 of 1975 took effect.
 - B. Standard 4.2 recommends counties and cities collectively or individually should provide voluntary detoxification and treatment services, preferably through purchase of service agreements with existing community agencies. This standard has been implemented in pilot sites throughout the state and will be implemented statewide via PA 339.
 - C. Standard 4.3 recommends programs to treat alcoholics be structured to maintain separate identities from other substance abuse programs to prevent client resistance to using services. It may require legislation to insure this standard is implemented in all cases. The Office of Substance Abuse Services currently licenses substance abuse programs and says that most programs conform to 4.3 but they are not required to do so; however, with implementation of PA 339, this practice may result.
 - D. Standard 4.4 is implemented under Section 3, Paragraph 1 of Public Act 339.
 - E. Standard 4.5 is implemented under Section 4, Paragraph 1 of Public Act 339.
 - F. Standard 4.6 says referrals for more extended and prolonged treatment should be available to clients who seek further services. Referrals for prolonged treatment are usually available to persons seeking them, but not always so. Most persons requiring long term treatment for alcohol abuse also have other medical problems (i.e., cirrhosis or malnutrition) and additional medical treatment is necessary at the same time. Most community-based programs are short term (14 days or less).
 - G. Standard 4.7 recommends treatment programs for alcoholics should be available to self-referrals as well as to persons referred through police or court initiative. Although some programs are not available on a self-referral basis, the enactment of Public Act 339 of 1975 should fully implement this standard by January, 1978.

II. COMMENT

- A. Public Act 339 of 1975 is the subject of a study by an implementation group, called "The Rules Task Force for Public Act 339". Chaired by John McConnell of the Office of Substance Abuse Services, this Task Force has proposed a set of amendments designed to facilitate implementation of PA 339. The standards under Sub-Goal 4 are being considered by the Task Force and if adopted, their amendments would fully implement those standards.

B. Seven standards.

1. Two standards are partially implemented.
2. Five standards are fully implemented.

C. PA 339 was made effective January, 1978. Although the provisions of the Act are consistent with these standards lack of funding for detoxification programs has lessened the impact of the legislation. Communities are, however, developing resources to treat substance abusers.

5: INTEGRITY IN GOVERNMENT

I. Sub-Goal 5 states: "To maintain a high standard of ethical conduct that will protect the integrity of public office and increase citizen confidence in public officials by immediately adopting and enforcing a code of ethical behavior for public officials and employees."

- A. Standard 5.1 recommends the state should adopt an Ethics Code that embodies the substantive rules of ethical guidance for all public officials and employees of public corporations and authorities. (See full document for minimum code provisions) No enforceable code, as such, has been adopted by the legislature. There are individual statutes dealing with conflict of interest and the conduct of officials in public campaigns for political office, but there is no "code of ethics" in the Michigan statute.
- B. Standards 5.2 and 5.3 recommend the establishment of a Commission on Investigation to enforce provisions of the "Ethics Code" and other criminal matters which are impossible to investigate or enforce by existing techniques. These standards also establish commission membership and responsibilities. House Bill 4562 proposes the same commission with the same responsibilities and membership as Standards 5.2 and 5.3. Legislation to establish the Commission on Investigation is currently being considered by the Legislature.

II. COMMENT

A. House Bill 4562 that applied to this area was declared unconstitutional by the Michigan Supreme Court and other bills haven't passed, so the issue of integrity in government is still elusive. What we do have in effect is the:

- 1. Open Meeting Act, and
- 2. Freedom of Information Act.

It appears that the state and/or national legislatures will have to address this topic and if they're really serious about it, will enact appropriate legislation and then provide a way of enforcing it.

B. None of these standards appear to be in effect at this time.

CHAPTER 2: REDUCING CRIMINAL OPPORTUNITY

6: CRIME PREVENTION EDUCATION

- I. Sub-Goal 6 recommends "To increase citizen knowledge and understanding of civil and criminal law, consumer fraud, crime prevention, victimization avoidance and the criminal justice system through formal instruction in elementary and secondary schools and all forms of adult continuing education programs; and to incorporate by 1978, undergraduate and graduate level courses regarding crime prevention education within the college and university curriculum for teachers and students who are preparing to be teachers". This Sub-Goal, when implemented, can provide the required mechanism to increase citizen participation in reducing crime by promoting victimization avoidance. Implementation of Sub-Goal 6 would increase citizen understanding of the workings of the criminal justice system, which will in turn restore confidence in the system.
 - A. Standards 6.1 through 6.7 aim at developing programs requiring crime prevention education in secondary schools and in the adult education curricula by 1980. These standards also outline course content, establish criteria for instruction, recommend accreditation, and deal with college level and in-service teacher training for crime prevention education. All of these standards (6.1-6.7) have not been implemented. Implementation requires endorsement by the Michigan Department of Education and local school districts. Standard 6.4, requesting that the North Central Association require schools to teach crime prevention education to be accredited, is perhaps the least implementable standard under this Sub-Goal. Because of the high degree of autonomy of the North Central Association, it is unlikely any progress in implementing Standard 6.4 is possible at this time. Standard 6.6 requires the cooperation of Michigan's colleges and universities as well as the Michigan Department of Education.
 - B. Standard 6.8 recommends "Civil organizations, neighborhood associations, social and fraternal organizations, and other community service groups should place emphasis on victimization avoidance programs for members and community residents". The degree of implementation is difficult to determine, but this standard appears to be partially implemented. Operation Identification has received much support from the organizations, community and civic. In addition, many crime prevention projects have instituted neighborhood watch groups.
 - C. Standard 6.9 recommends "Local newspapers and television stations should devote time and space to public information programs dealing with victimization avoidance, crime prevention, and consumer fraud prevention". While this standard is being complied with, most electronic media devote the time periods of least viewer/listenership to public service announcements, thereby reducing their effectiveness.

II. COMMENT

- A. Sub-Goal 6 will be very difficult to implement. There are two obstacles to the successful implementation of Sub-Goal 6 and its' standards. The first problem will be securing support from the large number of institutions affected by this Sub-Goal. The most formidable obstacle is the funding required for full or even partial implementation.
- B. Nine standards.
 1. Seven are not implemented.

2. Two are partially implemented - 6.8 and 6.9, which appear in various cities throughout the state. Their support comes from both governmental and private sectors with no uniformity at the present time.
- C. Recognizing the need for local communities, businesses, and state government the Commission on Criminal Justice and the Governor has initiated the Crime Prevention Coalition. This Coalition will be involved in communicating and implementing proven crime prevention technology to various sectors of each community.

7: RAPE PREVENTION AND TREATMENT

- I. Sub-Goal 7 states "To improve the criminal justice system response to the crime of rape through new legislation, redeployment of resources, and improved services to victims by 1978". The Legislature, responding to a change in public philosophy regarding rape as an act of violence and not a sexual act, established MCLA 750.520, for first degree criminal sexual conduct, in 1975. This new statute does much to rectify the shortcomings of earlier laws on rape. It makes the relevancy of past sexual conduct of the plaintiff subject to a set of Supreme Court rules. Prior to MCLA 750.520, the victim's past sexual conduct was held up to public inspection even when it did not bear on the relevancy of the case at hand. The new law also applies to persons of either sex. Standard 7.1 addressed these issues.
 - A. Standard 7.2 says police officers with special training in crisis counseling should be responsible for completing investigations on all rape victims with emphasis that the officer be of the same sex as the victim. This standard has been partially implemented in that it was part of two projects funded by OCJP.
 - B. Standard 7.3 states that a community mental health agency should offer psychological and comprehensive counseling services to rape victims at the victim's request. One agency should be designed to provide the counseling services for each community. The services should be available within 24 hours; female professional staff should be employed. OCJP funded two projects which contains Standard 7.3 as an operational part of the program's make-up. The 1978 Comprehensive Plan also deals with 7.2 and 7.3.

II. COMMENT

- A. The combination of "Michigan's New Rape Law" and OCJP grants for rape crisis centers has provided an effective base for completing implementation efforts on Sub-Goal 7.
- B. Three standards.
 1. One fully implemented - 7.1.
 2. Two partially implemented.

8: CONSUMER FRAUD PREVENTION

1. Sub-Goal 8 states "To reduce consumer fraud by increased citizen education about consumer problems and through establishment of consumer fraud units across the state". This Sub-Goal is intended to provide a single agency with the responsibility and authority to handle consumer complaints. Also, it attempts to rectify through consumer education, the prevalent condition of the consumer being considerably less knowledgeable than the merchant about what he is buying. Most complaints are presently handled through a very large number of agencies like the Better Business Bureau. The Better Business Bureau, while ostensibly a consumer protection agency for the public, is funded by local business and resultingly owes its allegiance to those same local businesses.
 - A. Standard 8.1 recommends that every county have a consumer protection service established within the Office of the Prosecuting Attorney. OCJP has funded 10 of these units with successful results. This standard is partially implemented.
 - B. Standard 8.2 states that the state should place consumer affairs responsibility with the Office of Attorney General. This would coordinate the activities on the local level, provide technical assistance, conduct statewide educational programs, investigate complaints in counties where this service does not effectively operate, and act as a review board for those cases that are unresolved through mediation. New legislation will be necessary to implement this standard. This standard is not implemented; however, the Attorney General's Consumer Protection does provide services statewide.
 - C. Standard 8.3 recommends that training be provided on the state level for prosecutors, assistant prosecutors and consumer fraud investigators. This training would include review of the laws pertaining to consumer fraud, complaint investigation, arbitration and other techniques and strategies used in resolving conflicts. Standard 8.3 has not been implemented. Although not explicit, Standard 8.3 should be implemented through the Attorney General's Office with the cooperation of the Prosecuting Attorney's Association of Michigan.

II. COMMENT

- A. This Sub-Goal appears to have much support among the public in the form of consumers' organizations. Full implementation of Standards 8.1-8.3 would have great impact on the public and could serve to increase their confidence in the criminal justice system.
- B. Three standards.
 1. One is partially implemented - 8.1.
 2. 8.2 exists and is implemented through the Attorney General's Consumer Protection Unit.
 3. One is not implemented.

9: CRIME PREVENTION UNITS

I. Sub-Goal 9 states "To counter crime by establishing crime prevention units within police departments which would analyze crime data and patterns, disseminate information on target hardening techniques and develop crime prevention projects". This Sub-Goal is compatible with Standard 6.8 in that both standards provide for increased citizen support for criminal justice. The Crime Prevention Units in this Sub-Goal would provide a mechanism for gathering and disseminating crime prevention information, gaining citizen support and cooperation, and encouraging greater community-law enforcement interaction. These factors must become a reality before crime reduction can be accomplished.

A. Standard 9.1 recommends that every police department of sufficient size in conjunction with other agencies should establish Crime Prevention Units either by individual action or in conjunction with other agencies capable of teaching citizens crime prevention methods. Smaller cities or counties should cooperatively form a unit to cover their areas. Most Crime Prevention Units funded initially through LEAA grants, have been continued after LEAA funding ceased by using local funds. This continued local support in today's economy indicates that the Crime Prevention Units are performing a valuable service in the eyes of the public. Forty-five Crime Prevention Units have been funded to date. Further, the Michigan State Police have provided crime prevention services via the community service officers located at each post.

II. COMMENT

- A. The introduction of Crime Prevention Units in various cities has brought about an increase in reported crime. This has been attributed to increased citizen awareness of criminal justice activities and increased confidence in the system's ability to deal with crime.
- B. Standard 9.1 has been implemented throughout the state with a good record of success.

10: SCHOOL SECURITY PROGRAMS

- I. Sub-Goal 10 states "To establish by 1978, basic guidelines for school districts which employ daytime security staff to insure that the school security program promotes a crime-free school environment while assuring protection of the rights of all".
 - A. Standard 10.1 recommends "School districts which employ daytime security staff should establish written policies developed by a standing committee of parents, teachers, students, defense attorneys, and law enforcement personnel". Oak Park Schools have a set of written guidelines, but few other schools employing daytime security guards do. Lansing schools have expressed a desire to help develop a set of guidelines in conjunction with any agency willing to assist them in doing so.
 - B. Standard 10.2 lists criteria for the development of the guidelines in 10.1. This standard has not been implemented.

II. COMMENT

- A. While it is acknowledged that the selection of a school security guard vendor is the responsibility of the local school district, more attention should also be given to the experience, background, and training of the security staff. Too often, private "security guards" are paid a very low salary and have been recruited from the ranks of the unskilled, consequently they lack the training and sensitivity required to effectively deal with the students. While this problem was not specifically dealt with under Sub-Goal 10, the necessary criteria for private security guard training could be included as part of Standard 10.1 as it is presently written. This Sub-Goal and its standards would not be difficult to fully implement and could be accomplished with minimal expenditures. An alternative approach is the utilization of Police-School Liaison Officers in schools. Law enforcement agencies as well as schools prefer this concept since the officers are fully trained.
- B. Two standards.
 1. One only partially implemented - 10.1.
 2. One not implemented.

11: COMMUNITY RELATIONS AND THE CRIMINAL JUSTICE SYSTEM

- I. Sub-Goal 11 states "To develop community support for the criminal justice system by increasing citizen participation in the decision-making processes and by actively recruiting and employing personnel representatives of the community at all levels of the criminal justice system".
 - A. Standard 11.1 recommends "Agencies of the criminal justice system should take immediate steps to actively seek the participation and involvement of citizen groups and organizations". OCJP, Community Crime Prevention grants are following this recommendation and have achieved some positive results in terms of increased citizen participation in the system. In addition, the Crime Prevention Coalition will further implement this standard.
 - B. Standard 11.2 recommends "Criminal justice agencies should take immediate affirmative action to recruit and employ individuals representative of the community for all positions". All subgrantees with 5,000 or more employees who have received \$25,000 or more in LEAA grant funds since 1968 are required to have a written EEO program. All sub-grantees are required to hire without discrimination. A survey of all agencies may be required to determine exact levels of compliance with Standard 11.2. This standard has been partially implemented.

II. COMMENT

- A. Standard 11.2 should be considered part of a package including Standards 25.14, 51.1, 51.2, 67.12, and 75.2 through 75.7 which are similar in their intent.
- B. Two standards, both are partially implemented.
- C. In September, 1977 the Commission on Criminal Justice adopted the following recommendation:
 1. That the Governor shall appoint a Statewide Crime Prevention Coalition to define the role of each sector of society can perform in preventing crime, and
 2. That the Crime Prevention Coalition include, but not limited to, representatives of government, business, public media, community interest groups and crime prevention specialists.

It is the intent of this recommendation and the actions resulting from it to further implement Sub-Goal 11.

12: ENVIRONMENTAL DESIGN

- I. Sub-Goal 12 says "To inhibit burglary, larceny, auto theft and certain street crimes through target hardening and improved urban design". Target hardening is the designing of the dwelling structure or other crime target to be so crimeproof as to deter criminal attempts on it. Only recently has modern law enforcement begun to focus attention on this aspect of crime prevention. Studies by law enforcement researchers, such as the Oscar Newman Study on environmental design, show target hardening as an area of great untapped potential for reducing crime.
 - A. Standard 12.1 recommends "Units of government should consider improving urban designing capabilities by providing mechanisms to disseminate environmental design guidelines to local units of government; by amending zoning laws and construction codes pertaining to multiple dwelling housing units; and by establishing a program to improve street lighting". This standard is not totally implemented; however, some implementation is occurring (i.e., Code Commission and State Building Code amendments). It requires leadership at the state level as well as local compliance and support.
 - B. Standard 12.2 says "To prevent burglaries: building codes should include stricter requirements aimed at preventing forcible entry; minimum security standards should be required for all accessible windows and doors in existing multiple dwelling rental housing units; centrally monitored silent alarms should be encouraged in commercial business establishments; standards, controls, and licensing should be established for the security industry, serial numbers should be required on frequently stolen kinds of items; and insurance rates should be reduced for those who implement crime prevention techniques". Parts of elements a and c have been implemented, in that licensing of private guards and burglar alarm vendors are required by state law. However, the majority of 12.2 remains to be implemented.
 - C. Standard 12.3 recommends "To prevent auto thefts: local police should include in their Uniform Crime Reports data on criminal methods used in overcoming automobile door, trunk, and ignition locks; (the auto industry should improve door, ignition, steering and transmission locks) procedures should be developed to prevent identification number plates and titles of junked automobiles from becoming available for illegal use on stolen cars; and vehicle wrecking or salvaging and scrap metal processing should be licensed and monitored". This standard is partially implemented in that Ford Motor Co. has taken action to improve ignition and trunk locks. Elements b and c may require legislation, however, auto manufacturers have been working with OCJP to make these changes.
 - D. Standard 12.4 says "To reduce larcenies; retail establishments should institute more effective measures to prevent shoplifting and employee theft; and a state system should be established for registering and licensing bicycles". Senate Bill 630 has been introduced and it calls for registration and licensing of bicycles by the state.

II. COMMENT

- A. There is little doubt these standards (12.1-12.4) could, if implemented, have significant impact on larcenies in Michigan. The primary obstacles to establishing these standards are the expense involved in implementation and gaining of support and cooperation from local units that are affected by them.

B. Four standards.

1. Two standards are partially implemented - 12.2 and 12.4.
2. Two standards are not implemented - 12.1 and 12.3.

C. The Community Crime Prevention Committee has been working with the Michigan Construction Code Commission to draw up requirements for new structures to make them more burglar resistant. The Michigan Commission on Criminal Justice passed two recommendations to implement environmental design standards. The Commission supported the Seal of Security Program as one measure of improving security in new construction and recommended that the Michigan State Police work with the Department of Labor, local crime prevention bureaus and local government code enforcers in initiating the program either on a volunteer or ordinance basis. Further, the Commission supported Governor Milliken's proposal that legislation be enacted providing for the appointment of a representative of the law enforcement profession to the Construction Code Commission.

STATUS REPORT

PART II

JUVENILE JUSTICE

SEPTEMBER, 1977

II. JUVENILE JUSTICE

SECTION I: INTRODUCTION

The purpose of the Juvenile Justice Section of the Goals and Standards report can be witnessed by the three goals presented in that document.

Goal 1 - To divert those juveniles who do not need the official intervention of the juvenile justice system into programs which provide the juvenile and the community with the optimum level of intervention and service.

Goal 2 - To improve the effectiveness of the juvenile court process, including the court's role of enabling rehabilitation through adjudication.

Goal 3 - To establish a uniform system for the delivery of services to juveniles who are neglected, dependent or delinquent.

In order to achieve these objectives the Juvenile Justice Task Force developed 92 standards with 13 Sub-Goals. The major areas were broken into 3 chapters of concentration entitled Diversion of Juveniles from the Juvenile Justice System, Court Processing of Juveniles, and Juvenile Services.

The attached summary reviews the progress made to date for each Sub-Goal and standard.

In October, 1977 the Commission revised Sub-Goals 13, 14 and 15 and reduced the number of standards for those sub-goals from 35 to 26. Of the now 84 standards, 24 have been fully implemented, 41 are partially implemented, Seven have been implemented by a majority of the juvenile courts, and 12 have not been implemented at all.

SECTION 11: SUMMARY OF STANDARDS BY IMPLEMENTATION STATUS

CHAPTER 1: DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM

In September, 1977 the Commission on Criminal Justice adopted a revision of Chapter 1 which restated the Goas as: "To divert those youths from the juvenile justice system, where such diversion will benefit both the youth and the community." The following summary and commentary reflects this chapter as rewritten. Specific language as rewritten follows this section.

13: DIVERSION PROCEDURES

- I. Sub-Goal 13 provides that procedures and guidelines be established for the diversion decision to assure that diversion is used when its positive effects outweigh processing the case through the juvenile justice system.

- A. 13.1 suggests that all youth-serving and youth-contact agencies should cooperate in developing procedures and criteria for diversion. All active participants in diversion programs and referrals should agree to these established procedures. This standard has been partially implemented statewide.

Under an OCJP grant to develop police diversion guidelines, the Michigan State Police have written Order #31, which designates policies and procedures to divert appropriate cases from the juvenile justice system. This policy is followed in all areas of Michigan State Police Jurisdiction. Many local police agencies have followed the basic format of this, modifying it to meet the approval of the local juvenile court administration, i.e., Lansing, Grand Rapids, Ann Arbor, Oakland County, Detroit, Muskegon, Alpena, Traverse City, Flint and Benton Harbor.

- B. 13.2 recommends that these diversion procedures and criteria should be written and circulated to the public. This standard has been partially implemented but there has been no implementation plan developed.
- C. 13.3 recommends that policies and procedures for diversion of mentally ill or retarded persons should be developed in cooperation with mental health agencies and courts. These policies and procedures should provide referrals for professional assistance for persons who are not detained. This standard has been only partially implemented and there has been no implementation plan developed.
- D. 13.4 recommends that an explanation of the facts and reasons for the diversion should be given to the youth and the parent or guardian. This standard has been partially implemented, but no implementation plan has been developed.
- E. 13.5 suggests that when a decision is made to divert a case out of the juvenile justice system, no further legal action should be taken for that offense. School Youth Advocacy, STRIDE and Substance Abuse programs, Mandatory Special Education, Runaway Services,

etc. attempt to use existing services for status offenders before the youth is brought to court. The number of youth who actually receive the services prior to court involvement are a small percentage of those who could benefit from the services. The Department of Social Services supports a uniform state-wide implementation plan be developed with all juvenile courts, local school districts and public agencies subscribing to the plan, with heavy emphasis on the development of local diversionary services. This standard has been partially implemented, but no implementation plan has been developed.

- F. 13.6 provides that if a coordinating agency exists in the community for diversion and referrals, referrals should be made through it. This standard has been partially implemented but no implementation plan has been developed.
- G. 13.7 recommends that referring agencies should consider high risk cases for diversion. Such cases should include individual consultation with appropriate professionals. This standard has been partially implemented, but no implementation plan has been developed.

II. COMMENT

- A. As may be noticed, these standards have been partially implemented. There has been no implementation plan developed for any of these 7 standards to provide for uniform written policies to govern diversion practices of youth-serving agencies.
- B. The seven standards have been partially implemented.

14: CRITERIA AND GUIDELINES FOR DIVERSION

- I. Sub-Goal 14 seeks to establish criteria to use as guidelines in making diversion decisions in a uniform and consistent manner. In line with this sub-goal are four standards.
 - A. 14.1 provides that diversion is appropriate when there is a substantial likelihood that a conviction can be obtained and the community and the youth would benefit from diversion. When there is less than a substantial likelihood of conviction, the youth should be released without prosecution or diversion. Offenders are referred to the Runaway Facilities and substance abuse programs, from police, courts and schools before a trial. This is implemented at varying degrees by local initiative, cooperation and availability of resources. This standard has been partially implemented but no implementation plan has been developed.
 - B. 14.2 recommends that diversion should be a voluntary process. An accused youth who requests adjudication should be processed to the juvenile court. This standard has been partially implemented, but no implementation plan has been developed.
 - C. 14.3 provides that status offenders should be priority candidates for diversion. Under the Juvenile Justice Prevention and Delinquency Act, many projects have been funded to date which emphasize diversion of status offenders from the juvenile justice system. Priority for funding of JJDP projects is deinstitutionalization of status offenders. A statewide plan for deinstitutionalization has been developed by OCJP. This standard is partially implemented.
 - D. 14.4 recommends that each decision-making agency should develop written DIVERSION DECISION CRITERIA which address each of the following factors:
 1. Nature of the Offense:

Commentary: Criteria should address aspects surrounding the offense:

 - a. The seriousness of the crime;
 - b. The degree of bodily harm inflicted by the offender on self or others;
 - c. The degree of criminal sophistication utilized in the commission of the crime, such as the use of burglary tools, premeditation, and the use of a weapon or strongarm tactics;
 - d. Time of day (if the delinquent act occurred at a time of day when the youth would normally be home, this may indicate poor supervision and a lack of parental responsibility);
 - e. The desire of the victim/complainant to prosecute.

2. Age of the Offender

Commentary: Intellectual and emotional maturity do not progress hand-in-hand with chronological age and, therefore, some youth of 16 might be very immature while others at 14 or 15 would show much greater maturity. Among the very young, the offense may be an impulsive act without great significance, or it may be a danger signal and a "cry for help." Although the age of the offender plays an important part in any decision to divert, age alone should not be the sole criterion for such a decision.

3. Nature of the Problem which Led to the Offense

Commentary: In many cases, the commission of the offense is motivated by emotional, psychological, physical, or educational problems. Such knowledge of the juvenile's need for professional assistance with social/personal problems should be a deciding factor in the decision to divert.

4. A History of Contacts or the Use of Physical Violence

Commentary: A review should be made to determine the contacts a youth may have had with official agencies of the juvenile justice system. The review should determine if the youth is a recidivist, if previous efforts to rehabilitate the child non-judicially have failed, or if the child has a history of the use of physical violence in the offenses committed.

5. History of Behavior in School, Family and Peer Group Settings

Commentary: A study of the character of the youthful offender should be conducted and should include such factors as: the youth's school performance; family characteristics such as parental harmony and sibling relationships; physical characteristics such as mental or physical illness or disabilities; maturity of the youth; the youth's relationships with peers, including gang membership; responsibility of the youth such as employment or job training; and evidence of drug or alcohol use or abuse.

The character study must be objective and nonjudgmental. Subculture life-styles, truculence, sullenness, posture, gestures, race, and sex should not be allowed to influence the character study and the ultimate decision to divert.

Standards have been set and implemented for Department of Social Services Delinquent wards committed under Public Act 150 in the status offender policy. This policy does not allow a youth who is committed to the Department of Social Services under a status offense to be placed at a State Training School.

"...P.A. 150 youth committed to MDSS for Status Offenses will not be admitted to a Department institution (excluding Youth Rehabilitation Camps and Arbor Heights Center);"

Status Offense - An offense which would not be criminal (felony or misdemeanor) if committed by an adult.

Status Offender - A youth committed to MDSS for a status offense regardless of earlier court adjudication.

Further, standards have been set and implemented for the Department of Social Services delinquent wards committed under Public Act 150 in the felony offender policy. This policy negates using diversionary services for serious felony offenders. "P.A. 150 youth committed and MDSS for a serious felony will be placed in a department institution. (W. J. Maxey Boys Training School or Adrian Training School)."

Serious Felony Offense - See Handbook of Michigan Criminal Law and Procedures, 1976, and page 6 of the policy for specific definitions and citations of statutes for:

Homicide
Assault
Criminal Sexual Conduct
Robbery
Kidnapping
Arson

Felony Offense - an offense which, if committed by an adult, could result in imprisonment as defined under the criminal code. (See Handbook of Michigan Criminal Law and Procedures, 1976).

Misdemeanor - an offense which is not a felony as defined in the criminal code (See Handbook of Michigan Criminal Law and Procedures, 1976).

This standard has been partially implemented, but no implementation plan has been developed.

II. COMMENT

- A. These four standards have been partially implemented. There has been no implementation plan developed for any of these four standards and such a plan will require refinement of strategy, public support and will require local initiative and cooperation.
- B. Four Standards have been partially implemented.

15: DIVERSION PROGRAMS

- I. Sub-Goal 15 recommends that there be appropriate programs provided for those youths in need of service who have been diverted from the juvenile justice system.

In line with this Sub-Goal are 15 Standards.

- A. 15.1 provides that participation by youths in programs should be voluntary. This standard has been partially implemented but no implementation plan has been developed. Diversion programs are voluntary in principle with the alternative being adjudication.
- B. 15.2 recommends that diversion programs should be established to focus on the special problems of youth in the community. This standard has been partially implemented, but no implementation plan has been developed. Diversion programs have been funded by OCJP through various structures (YSB's, Court programs, school programs, runaway services, and other community agencies). These programs are specifically developed to meet the needs of each community.
- C. 15.3 states that all diversion programs should have a community board, composed of youth, parents, referring agency personnel, and citizens from the community. Public agency boards should be advisory; private agency boards should be supervisory.

Operating Runaway Centers, Substance Abuse Programs, Youth Services Bureaus and other programs funded by OCJP and DSS have the suggested composite of personnel and boards as recommended.

Diversion decisions have been made cooperatively by police, schools, courts, prosecutors and representatives of public and private youth service agencies in the following communities: Muskegon, Grand Rapids, Huron-Tuscola-Sanilac area, Lansing, Saginaw, Bay City, Benton Harbor, Oakland County, Flint, Alpena, Traverse City, Ionia, Ann Arbor and Detroit.

This standard has been partially implemented, but no implementation plan has been developed.

- D. 15.4 recommends that administrative and policy guidelines and evaluation criteria should be carefully drawn to insure the independence and separate identity of each diversion program.

This standard has been implemented for OCJP and Department of Social Services (DSS) funded programs. Written policies, procedures, and evaluation criteria are determined at the time of grant award.

- E. 15.5 provides that every diversion program should specify in writing its objectives, specifically addressing: what particular client population will be served; what services will be available; and what the anticipated outcome will be. This standard has been implemented for OCJP funded projects and Runaway Projects funded by DSS. Other project implementation is dependent upon local initiative.

- F. 15.6 recommends that each program should develop evaluation criteria, preferably quantifiable, based on the program's objectives. In 1975 the Office of Criminal Justice Programs initiated the Model Evaluation Program (MEP). One component of that program was to develop an evaluation system for juvenile diversion programs. To date, 23 projects are being evaluated by the MEP system. Concurrently, an intensive evaluation of Youth Service Bureaus was conducted by the Michigan State University, School of Criminal Justice. Shortly thereafter, the Michigan Coalition of Runaway Services began an evaluation of all projects funded under Title XX. At the present time, progress is under way to develop a unified evaluation system for all juvenile projects funded by OCJP. This standard has been implemented.
- G. 15.7 provides that each program should develop written policy and procedures to cover internal processing and service delivery to clients. Under OCJP and DSS written policies and procedures for internal processing and service delivery to clients are required. These procedures are inherent in the evaluation and reporting systems. This standard has been partially implemented but no implementation plan has been developed.
- H. 15.8 provides that diversion programs should make periodic written status reports to the referring agency on each case, to include intake, progress, and closure reports. Some projects currently comply with this standard; however, large numbers of referrals often prohibit this practice. This standard has been partially implemented, but no implementation plan has been developed.
- I. 15.9 recommends that programs should be adequately staffed with personnel who have the necessary skills to implement the program objectives. Projects funded by OCJP and DSS comply with this standard. Local initiative must be maintained to have full compliance. This standard has been partially implemented, but no implementation plan has been developed.
- J. 15.10 provides that agencies should not co-mingle youth and adult offenders in the same programs. This standard is partially implemented. OCJP funded diversion programs are separated by youth and adults. All programs contracted through DSS, Family and Youth Service are limited to services for youth with the exception of substance abuse services which serve both youth and adults.
- K. 15.11 recommends that services should be accessible by location, hours of service, style of delivery, and intake procedures. This standard is partially implemented in that many diversion programs tailor the hours and intake procedures to meet the needs of the service population. Some runaway services, YSB's and other programs have on-call staff and 24 hour "hot lines" to accommodate client need.
- L. 15.12 recommends that diversion programs should develop reciprocal agreements with a variety of services such as: vocational, educational, employment, recreational, medical, and behavioral. This

standard is generally implemented. Under OCJP funding, projects are required to determine the availability of and utilize other community services. Problems often arise, however, due to scarcity of services and lack of funds by the diversion project to purchase such services. Project C.O.P.E. located in Oakland, Genesee, and Wayne Counties provides funds to purchase vocational, educational and employment services from existing vendors. Medical services for substance abuse programs are provided through Department of Public Health funds. Michigan Expeditions purchases educational services from Outward Bound.

- M. 15.13 recommends that diversion program staff should not initiate legal action except when either a crime has been committed against the staff or agency, or in child abuse/neglect cases. This standard has been partially implemented and no implementation plan has been developed.
- N. 15.14 recommends that the State should develop policy and appropriate ongoing funding to support diversion programs. This standard is partially implemented. State funds are utilized in several ways to provide diversion programs: 1) State buy-in for OCJP diversion projects at local levels, 2) Runaway services and other diversion programs through Title XX, and 3) Michigan Child Care Fund programs.
- O. 15.15 provides that the State should be responsible for developing the capability for providing a full range of diversion services within each community. This standard has been partially implemented. Current efforts by OCJP, DSS, and the Michigan State Police have resulted in a wide range of diversion programs in many communities.

II. COMMENT

- A. There are 15 standards for diversion programs. All of these standards require both state and local initiative to be implemented. Most of the standards have been implemented for OCJP and DSS funded projects, however, compliance of ongoing local programs is uneven.
- B. Fifteen Standards.
 - 1. Two standards were fully implemented (15.4 and 15.6).
 - 2. Thirteen standards were partially implemented.

CHAPTER 1

DIVERSION OF JUVENILES

FROM THE JUVENILE JUSTICE SYSTEM

Goal:

To divert those youths from the juvenile justice system, where such diversion will benefit both the youth and the community.

Definition:

DIVERSION CAN TAKE PLACE AT ANY POINT BETWEEN A FORMALLY RECORDED APPREHENSION AND THE FORMAL ACCEPTANCE OF A PETITION BY THE JUVENILE COURT, BUT NOT BEYOND THE POINT OF JUVENILE COURT INTAKE.

DIVERSION OCCURS WHEN, IN LIEU OF FURTHER JUVENILE JUSTICE PROCESSING, ONE OF THE FOLLOWING ALTERNATIVES OCCURS:

1. THE YOUTH IS RELEASED INTO THE CUSTODY OF HIS/HER PARENTS OR GUARDIANS.
2. THE YOUTH VOLUNTEERS TO PARTICIPATE IN A PROGRAM DESIGNED TO MEET HIS/HER NEEDS.

Commentary:

The concept of diversion is not new; it has long been a part of our juvenile justice heritage. The police, prosecutors, and courts have practiced diversion for many years in the sense that an attempt is made to minimize penetration of the offender into the criminal justice system. Nationwide, approximately one half of all juveniles arrested are "warned and released" or are "handled within the department." Police frequently release offenders without arrest; prosecutors, for a variety of reasons, do not always prosecute; and the courts more

often than not use alternatives to adjudication. It is a fact that diversion in one form or another is part of our juvenile justice tradition. (Carter and Klein, 1976: xi).

For numerous reasons, there is presently a high level of interest in diversion. Among those reasons are: 1) increasing concern regarding the effectiveness of the juvenile court in dealing with youth problems; 2) an inability of the juvenile court to deal with its case load; 3) the stigmatizing effect the court may have in labeling the offender as a delinquent; and 4) a growing interest on the part of the community to participate in the affairs of its youth.

Diversion is premised on the idea that an excessive number of children are being processed by juvenile courts, that children are unnecessarily referred to juvenile courts, and that in many cases the harm done to children and youth by contacts with these courts outweighs any benefits thereby gained. Moreover, the interaction between child and court and unanticipated consequences of the processing of a child in many instances contributes to or exacerbates the problem of delinquency. (Lemert, 1976: 123).

The definition of diversion incorporates two distinct alternatives to processing of the youthful offender in the juvenile justice system: 1) release of the youth from the juvenile justice system; and 2) release from the system and referral of the youth to a program to meet the needs of the youth.

Diversion can only occur after the youth

has formally entered the system and before the petition has been formally accepted by the juvenile court. To include in diversion those youths who are informally warned and released on the street by the police is to "widen the net" and unwisely and needlessly draw in youths who otherwise would not have entered the juvenile justice system. Similarly, those youths who are released after formal acceptance of the petition, but short of adjudication, are not diverted because penetration of the system has been too severe.

It must be remembered that juvenile diversion should be practiced primarily to benefit the youth and only secondarily to benefit the community and the juvenile justice system. Labeling theory holds that processing of a youth in the juvenile justice system frequently results in the labeling of the youth as a delinquent. Such labeling may lead to a stigmatization of the youth whereby the community perceives the youth as a delinquent or the youth has a self-perception as a delinquent. Such a stigma may become a self-fulfilling prophecy in the sense that the youth finds himself in a cycle of delinquent behavior, as a result of his having been labeled a delinquent.

Recidivism rates in the juvenile justice system have in some cases been high, especially among institutionalized youth. The incarcerated youth's perspective of the system indicates that often he views it as punitive rather than benevolently rehabilitative. Institutionalization has been a traditional method of dealing with misdemeanor and felonious youth. The effects of institutionalization indicate the need in some cases to develop community-based diversion programs for youth. Community-based programs often minimize the risk of creating barriers to reintegration and provide youth with effective rehabilitative programs rather than custodial care. (Vinter, 1967: 89).

Current trends indicate the need to promulgate new standards. Diversion programs are positive alternatives for some youthful offenders, yet they presently lack appropriate guidelines and structural policies.

The effectiveness of diversion programs is not clearly understood or proven at this time and, therefore, many of the standards presented are general in nature and should be directed toward establishing a unified and structured method for diversion. Structured programming will allow for evaluation of such programs to determine their effectiveness.

13. DIVERSION PROCEDURES

Sub-Goal:

To establish procedures and guidelines for the diversion decision to assure that diversion is used when its positive effects outweigh processing the case through the juvenile justice system.

Sub-Goal Commentary:

Diversion can occur at various levels of the juvenile justice process, which include: police, prosecutor, and court intake. Traditionally, most diversion has occurred at the police level. Police agencies in Michigan divert the majority of apprehended juveniles out of the system; however, many juveniles are diverted without any provision of service or follow-up. This type of diversion is not always appropriate and often serves no real purpose. Diversion practices must become formalized and structured in order to determine their effectiveness and to insure equality in application.

Procedures must be developed by agencies using diversion in order to coordinate the diversionary effort to achieve the maximum benefit for the affected youth and the community. Diversion procedures should include the establishment of written policies and methods for handling youths and a system to coordinate relationships among cooperating agencies. The procedures should clearly outline the objectives of diversion, the process involved, and the criteria to determine eligibility for individual offenders for diversion. The procedures must be written and available to insure that all participants, including all agency personnel and offenders, have a

clear understanding of how the diversion process functions.

Most juvenile justice agencies do not have specific policies on diversion and, thus, do not know what action, if any, is taken when a juvenile is diverted. Policies and procedures will create some uniformity in the diversion process and give the referring agency feedback concerning the results of the diversionary action. Referring agencies should involve other community agencies in developing diversion practices. All agencies involved in the process should supply the originating agency with feedback concerning the action taken and an evaluation of the case.

One area particularly applicable to the diversionary process is that of juvenile status offenses; i.e., those offenses which would not be considered criminal if the person were an adult. These include truancy, runaway, curfew violation, incorrigibility, etc. These categories have been ambiguous. The definitions have lacked clarity, and action taken by the juvenile justice system has allowed for an enormous amount of individual discretion. Law enforcement officers should refer status offenders to youth-serving agencies other than the court (unless no other community services exist or all available services have been exhausted).

Standards:

13.1 Police, schools, prosecutors, and courts, along with other youth-serving agencies, should cooperate in developing procedures and criteria for diversion. All active participants in a diversion and referral operation should agree to the established procedures.

13.2 These diversion procedures and criteria should be written and circulated to the public.

13.3 Diversion policies and procedures should allow for processing mentally ill and mentally retarded persons who come to the attention of the agencies. The

policies and procedures should be developed in cooperation with mental health agencies and the courts, and should provide for referral of those persons in need of professional assistance, but who are not detained.

13.4 Explanation of the facts and reason for the diversion should be given to the youth and the parent or guardian.

13.5 When a decision is made to divert a case out of the juvenile justice system, no further legal action should be taken for that offense.

13.6 If a coordinating agency exists in the community for diversion referrals, referrals should be made through it.

13.7 Referring agencies should consider high risk cases for diversion. Such cases should include individual consultation with the appropriate professionals, including court caseworkers, psychologists, law enforcement officers, prosecutors, etc., to determine the advisability of diversion.

Implementation Strategy:

Local communities should develop an ongoing coordinating body to develop and implement policies and procedures for diversion. Courts, police, prosecutors, and all potential referral agencies, both public and private, should be involved to assure cooperation in this development and implementation. At the state level, legislation should be introduced which provides a sound legal base for the diversion process.

14. CRITERIA AND GUIDELINES FOR DIVERSION

Sub-Goal:

To establish criteria to use as guidelines in making diversion decisions in a uniform and consistent manner.

Sub-Goal Commentary:

There are many different ways diversion

decisions are currently being made throughout the State. Some of these diversionary decisions are made on a very informal basis while others are made with prescribed criteria. The most frequent users of diversion and diversion with referral are the police, schools, and juvenile courts. In order for diversion to function effectively, criteria should be developed and written to aid in making the diversion decision in individual cases.

To achieve structure in diversion action, there must be criteria to use as guidelines in deciding which cases should be diverted. If there are no criteria for diversion, the process will be ineffective and inequities will surface in the decision-making process. Criteria must be established for all agencies using diversion regardless of their administration or association with the juvenile justice system.

The criteria for the diversion decision should be specific enough to insure that the decision does not reflect the personal prejudices of the person making the decision. Once the procedures for handling diverted youth have been developed for intra- and inter-agency use, it is then necessary to develop criteria to be used in deciding which youths are eligible candidates for diversion. The criteria should be written and distributed to involved parties to insure uniform application of the diversion process within each community.

Standards:

14.1 Diversion is appropriate when there is a substantial likelihood that a conviction can be obtained and the community and the youth would benefit from diversion. When there is less than a substantial likelihood of conviction, the youth should be released without prosecution or diversion.

14.2 Diversion should be a voluntary process. An accused youth who requests adjudication should be processed to the juvenile court.

14.3 Status offenders should be priority candidates for diversion.

14.4 Each decision-making agency should develop written DIVERSION DECISION CRITERIA which address each of the following factors:

a. NATURE OF THE OFFENSE

Commentary: Criteria should address aspects surrounding the offense:

1. The seriousness of the crime;
2. The degree of bodily harm inflicted by the offender on self or others;
3. The degree of criminal sophistication utilized in the commission of the crime, such as the use of burglary tools, premeditation, and the use of a weapon or strongarm tactics;
4. Time of day (If the delinquent act occurred at a time of day when the youth would normally be home, this may indicate poor supervision and a lack of parental responsibility);
5. The desire of the victim/complainant to prosecute.

b. AGE OF THE OFFENDER

Commentary: Intellectual and emotional maturity do not progress hand-in-hand with chronological age and, therefore, some youth of 16 might be very immature while others at 14 or 15 would show much greater maturity. Among the very young, the offense may be an impulsive act without great significance, or it may be a danger signal and a "cry for help." Although the age of the offender plays an important part in any decision to divert, age alone should not be the sole criterion for such a decision.

c. NATURE OF THE PROBLEM WHICH LED TO THE OFFENSE

Commentary: In many cases, the commission of the offense is motivated by emotional, psychological, physical, or educational problems. Such knowledge of the juvenile's need for professional assistance with social/personal problems should be a deciding factor in the decision to divert.

d. A HISTORY OF CONTACTS OR THE USE OF PHYSICAL VIOLENCE

Commentary: A review should be made to determine the contacts a youth may have had with official agencies of the juvenile justice system. The review should determine if the youth is a recidivist, if previous efforts to rehabilitate the child nonjudicially have failed, or if the child has a history of the use of physical violence in the offenses committed.

e. CHARACTER OF THE OFFENDER AND HISTORY OF BEHAVIOR IN SCHOOL, FAMILY AND PEER GROUP SETTINGS

Commentary: A study of the character of the youthful offender should be conducted and should include such factors as: the youth's school performance; family characteristics such as parental harmony and sibling relationships; physical characteristics such as mental or physical illness or disabilities; maturity of the youth; the youth's relationships with peers, including gang membership; responsibility of the youth such as employment or job training; and evidence of drug or alcohol use or abuse.

The character study must be objective and nonjudgmental. Subculture life-styles, truculence, sullenness, posture, gestures, race, and sex should not be allowed to influence the character study and the ultimate decision to divert. (Kobetz and Bosarge, 1973: 87-91, 249-250).

Diversion Criteria Commentary:

Written agency criteria should incorporate all of the above factors. Those responsible for using the agency criteria to determine a youth's eligibility for diversion should carefully integrate all of the criteria into the decision process and carefully avoid allowing any one factor to influence the decision. Any decision to divert involves a certain amount of risk-taking on the part of the referring agency. The agency should be willing to assume such a risk if the decision has been made after careful application of agency criteria.

Implementation Strategy:

The local coordinating bodies shall develop criteria for diversion based on the above standards. Each agency co-operating in the diversion process shall adopt written internal policies implementing these criteria.

15. DIVERSION PROGRAMS

Sub-Goal:

To provide appropriate programs to those youths in need of service who have been diverted from the juvenile justice system.

Sub-Goal Commentary:

Local community youth-serving agencies are a necessary link in the diversion process. In recent years, local agencies that serve youths who have been diverted from the juvenile justice system have had an impact on reducing further delinquent behavior on the part of their clients. By accepting referrals from the juvenile court and the police, these agencies have the opportunity to provide help to the young offender in lieu of the formal acceptance of a petition by the juvenile court. For many young offenders, these services are more appropriate than court processing because: 1) they typically

use paraprofessionals, as well as professionals, drawn from the same community as the youth; 2) they use crisis intervention techniques that substitute immediate short-range aid for the long, cumbersome procedures of the traditional judicial system; and 3) they use problem-solving techniques rather than determination of guilt. (Nejelski, 1976: 99).

Often, programs that are actually prevention programs for non-offenders are inappropriately called diversion programs because they focus on a population that has been labeled "pre-delinquent." The distinction between diversion and prevention is important because a program is diversionary only to the extent that it is utilized as an alternative to juvenile court processing. However, a diversion program should provide prevention services by accepting self-referrals and having an open-door policy that extends to all community youth.

Diversion services in Michigan are varied and include: police programs, court programs, youth service bureaus, runaway houses, shelter care facilities, alternative schools, employment services, etc. (This is not meant to include informal probation or consent decree procedures.) Each community must determine what range of services is needed to meet the identified needs of its youth population.

One problem common to diversion programs is acquiescing in the face of pressure to accept clients beyond their initial client population because of initial program successes. Programs should accept clients who meet stated criteria and not bend the program to fit the needs of all possible clients. If a program feels the need to provide service to a broader group of clientele, the program should do an impact study of the effects of the "new" clients on the success of the program and its ability to provide services to its "old" client population.

Regardless of the range of direct service provided in a community, each

diversion service program must include the following elements: be voluntary, have procedures for accepting referrals, have an identified target population, provide feedback to the referral source, be community based, have community support, be structured to function independently of the juvenile justice system, and be accessible to the client population.

In addition to direct services, a central coordinating agency should be established. This type of agency should receive all referrals from the police and courts, should determine what services the referred youth requires, and should act as a service broker with local agencies to obtain the needed service.

In urban areas where there are already many services available, a coordinating agency can minimize the danger of a youth "getting lost" in the service delivery system. In rural areas where few services presently exist, a central coordinating agency should have as its prime objective the establishment of new services to meet community needs.

Diversion services are in need of an ongoing source of funding. Public funds should be the primary source of funding, supplemented by and coordinated with private resources.

Standards:

15.1 Participation by youths in programs should be voluntary.

15.2 Diversion programs should be established to focus on the special problems of youth in the community.

15.3 All diversion programs should have a community board, composed of youth, parents, referring agency personnel, and citizens from the community. Public agency boards should be advisory; private agency boards should be supervisory.

15.4 Administrative and policy guidelines and evaluation criteria should be carefully drawn to insure the independence and separate identity of each diversion program.

15.5 Every diversion program should specify in writing its objectives, specifically addressing: what particular client population will be served; what services will be available; and what the anticipated outcome will be.

15.6 Each program should develop evaluation criteria, preferably quantifiable, based on the program's objectives.

15.7 Each program should develop written policy and procedures to cover internal processing and service delivery to clients.

15.8 Diversion programs should make periodic written status reports to the referring agency on each case, to include intake, progress, and closure reports.

15.9 Programs should be adequately staffed with personnel who have the necessary skills to implement the program objectives.

15.10 Agencies should not co-mingle youth and adult offenders in the same programs.

15.11 Services should be accessible by location, hours of service, style of delivery, and intake procedures.

15.12 Diversion programs should develop reciprocal agreements with a variety of services such as: vocational, educational, employment, recreational, medical, and behavioral.

15.13 Diversion program staff should not initiate legal action except when either a crime has been committed against the staff or agency, or in child abuse/neglect cases.

15.14 The State should develop policy and appropriate ongoing funding to support diversion programs.

15.15 The State should be responsible for developing the capability for providing a full range of diversion services within each community.

Implementation Strategy:

The local coordinating bodies should be responsible for the planning, development, and coordination of diversion programs in each community.

Each program board shall be responsible for implementing the above standards for its program.

State legislation should be enacted to develop and fund diversion programs and provide technical assistance to those programs in counties and groups of ~~counties throughout the State.~~

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CHAPTER 2: COURT PROCESSING OF JUVENILES

16: JUVENILE COURT ORGANIZATION AND JURISDICTION

1. Sub-Goal 16 recommends the establishment of an efficient court structure which will provide a means of adjudicating the legal problems of families as a unit.

A. 16.1 provides that each trial court of general jurisdiction should have a division known as the family court. An experimental family court has been established in the 26th Judicial Circuit (Alpena, Cheboygan, Montmorency, and Presque Isle Counties) with OCJP funding. The Commission on Criminal Justice established a Task Force to review the family court concept. Preliminary recommendations were submitted at the September, 1977 meeting. Legislation has been introduced at each legislative session since 1967 to establish a family court. This standard is partially implemented.

- B. 16.2 recommends that the proposed family court should have jurisdiction over the following:

1. Matters presently vested in the juvenile courts (i.e. delinquency, neglect, support, adoption, child custody, paternity actions, divorce and annulment, legal issues relating to mental health and retardation and assaults when both parties are members of the same family).

2. Proceedings concerning any juvenile under 18 years of age and allowing for continuing jurisdiction until age 20.

(Note - presently these proceedings under 1 and 2 above are currently mingled between the probate court with limited jurisdiction and the circuit court with general jurisdiction.)

This standard has been partially implemented on a trial basis in the 26th Circuit Court. However, no statewide implementation plan has been developed. The Commission on Criminal Justice is expected to make formal recommendations and develop an implementation plan in 1978.

- C. 16.3 provides that "the family court should be authorized to order the institutionalized treatment of a juvenile only upon a determination of delinquency or neglect and a verified finding that no community alternative disposition would accomplish the desired result." Current discussions of the Task Force indicate that status offenders would be handled by the Family Court under the concept of Families in Need of Service (FINS) implemented. Implementation of this standard is dependent on establishment of the family court.

- D. 16.4 provides that "a determination of delinquency should require the state to prove that the juvenile committed an act that, if committed by an adult would constitute a criminal act. In addition, a juvenile status type offender may be brought to court for delinquency proceedings if the court makes a finding that no voluntary community services exist or such services have been exhausted." This standard has not been

implemented to date; however, current discussions by the Juvenile Justice Services Commission, Juvenile Justice Task Force, and legislative committees drafting revisions to the Juvenile Code are consistent with this standard. Further, the concept of "last resort"-i.e., court intervention only after voluntary services have been sought-is supported by this standard. Implementation of this standard is dependent upon revision of the Juvenile Code.

- E. 16.5 recommends that "the definition of neglected children should be broad enough to include those juveniles whose parents or guardians are incarcerated, hospitalized, or otherwise incapacitated for protracted periods of time." This standard has not been implemented nor has an implementation plan been developed.

II. COMMENT

- A. To implement fully Standards 16.1 through 16.5 and Subgoal 16 will require considerable statutory revision. Currently pending legislative action are several bills which call for revision in the Michigan court structure and court jurisdiction. Among these are several bills dealing with revisions to the Juvenile Code.

- B. Five Standards.

- 1. Standards 16.1 and 16.2 are partially implemented.
- 2. Standards 16.3, 16.4, and 16.5 are not implemented.

17: INTAKE, DETENTION AND SHELTER CARE IN DELINQUENCY CASES

1. Sub-Goal 17 recommends the establishment of an intake unit in each family court. The way this Sub-Goal reads would assume there is a specific family court in effect; this is not the case. (Refer to comment 16.)
 - A. 17.1 recommends that each juvenile court jurisdiction immediately should take action to establish intake services in conjunction with the detention center. Such services should include screening and referral to diversion programs to keep detention at a minimum. This standard has been implemented by a majority of juvenile court jurisdictions but no specific implementation plan has been developed. This standard appears in the Michigan Comprehensive Plan for 1978.
 - B. 17.2 recommends that intake personnel should have authority and responsibility to:
 1. Dismiss the complaint when the matter does not fall within the delinquency jurisdiction of the court or is so minor or the circumstances are such that no intervention is required;
 2. Dismiss complaints which seem arbitrary, vindictive, or against the best interests of the child;
 3. Divert as many youngsters as possible to alternative programs, such as mental health and family services, public welfare agencies, youth service bureaus and similar public and private agencies; and
 4. Make the decision, in legal consultation with the prosecutor, whether to accept a formal petition in the family court alleging that a juvenile is delinquent and that the court assumes jurisdiction in the case.

This standard has been implemented by a majority of the juvenile courts in Michigan but no specific implementation plan has been developed. This standard has been included indirectly in the Michigan Comprehensive Plan for 1978.

- C. 17.3 provides that intake personnel should seek informal service disposition for as many cases as possible, provided the safety of the child and of the community are not endangered. Informal service denotes any provision for continuing efforts on the part of the court without filing a petition.
 1. Informal service dispositions should have the following characteristics:
 - a. The juvenile and his parents should be advised of their right to counsel;
 - b. Participation by all concerned should be voluntary;
 - c. The major facts of the case should be undisputed;

- d. Participants should be advised of their right to formal adjudication;
 - e. Any statements made during the informal process should be excluded from any subsequent formal proceedings on the original complaint;
 - f. A reasonable time limit (1 to 2 months) should be adhered to between date of complaint and date of agreement;
 - g. Restraints placed on the freedom of juveniles in connection with informal disposition should be minimal; and
 - h. When the juvenile and his parents agree to informal proceedings, they should be informed that they can terminate such dispositions at any time and request formal adjudication.
2. Informal probation should be used as a type of informal service disposition. It is supervision of a youngster by a probation officer who reserves judgment on the need for filing a petition until after he has had the opportunity to determine whether informal treatment is sufficient to meet the needs of juveniles.
3. A consent decree denotes a more formalized order for supervision and is neither a formal determination of jurisdictional fact nor a formal disposition. In addition to the characteristics listed in informal service dispositions, consent decrees should be governed by the following considerations:
- a. Compliance with the decree should bar further proceedings based on the events out of which the proceedings arose;
 - b. Consummation of the decree should not result in subsequent removal of the child from his family;
 - c. The decree should not be in force more than 3 to 6 months;
 - d. The decree should state that it does not constitute a formal adjudication; and
 - e. No consent decree should be issued without a hearing at which sufficient evidence appears to provide a proper foundation for the decree. A record of such hearing should be kept, and the court in issuing the decree should state, in writing, the reasons for the decree and the factual information on which it is based.

This standard has been practiced by a majority of the juvenile courts but no specific implementation plan has been developed. Evaluation of the effectiveness of diversion programs is currently underway.

- E. 17.5 recommends that predetention screening of children and youths referred for court action should take place in their parental home, a shelter, or nonsecure residential care for as many youngsters as may be consistent with their needs and the safety of the community. Detention prior to adjudication of delinquency should be based on these criteria:

1. Detention should be considered a last resort where no other reasonable alternative is available; and
2. Detention decisions should be made only by court or intake personnel.

One element of this screening is diversion from the juvenile justice system. Thirty-three shelter homes funded by O.C.J.P., Child Case fund monies, and local county funds are available as an alternative to detention.

- F. 17.6 provides that at the time the intake unit is determining whether to detain or not, the juvenile has the right to due process including an attorney; and a juvenile placed in detention or shelter care should be released if no petition alleging delinquency (or, in the case of a juvenile placed in shelter care, no petition alleging neglect) is filed in the family court within 24 hours of the placement. A juvenile placed in detention or shelter care should have the opportunity for a judicial determination of the propriety of continued placement in the facility at the earliest possible time, but no later than 48 hours after placement.

This standard is implemented by Juvenile Code Rule (JCR) 4 "Court Intake Procedures" in conjunction with several recent court decisions. (see Gault and Kent decisions)

- G. 17.7 recommends that the following conditions should apply to the detention of juveniles:

1. A child should be released into custody to his or her parent or parents, guardian or custodian except in the case of the following situations:
 - a. Those whose home conditions make immediate removal necessary;
 - b. Those whose offenses are so serious that release would endanger public safety; and
 - c. Runaways for whom all other alternatives have been exhausted.
2. Juveniles should not be detained in jails under any circumstances. To accomplish this end, adequate detention facilities should be built on a regional basis by the state.
3. Juveniles who are held in a detention or shelter facility should be separated into the following groups:
 - a. Status-offender juveniles;

- b. Neglected or dependent youths; and
 - c. Delinquents having committed adult-type offenses.
4. A juvenile should have a right to bond, except in those cases where home conditions constitute a threat to the child.
 5. Placement in shelter care or detention should be determined on a basis of providing the least confining placement necessary to maintain custody of the youth.

The conditions outlined generally are being followed in the detention of juveniles. P.A. 229, 1966, reads in part:

"The State Department (of Social Services) shall have...powers and duties:

to operate, under rules promulgated by the department, regional juvenile detention facilities in order to detain and diagnose children under the age of 19 years committed to the department by the juvenile division of the probate court, or children under the age of 17 concerning whom an order of detention has been issued...the county...shall be liable to the state for 50% of the cost of care of the child."

This clearly gives the legal base for the operation of regional detention facilities. To date, funds have never been appropriated, so local counties continue to operate their detention center or go without, as local monies dictate.

Further youth who are held in detention or shelter facilities are not being separated into the type of groups suggested. The only consistent factor is youth committing serious felonies are placed in detention or jail, when the worker feels the youth is a threat to himself or others. This standard is partially implemented.

II. COMMENT

A. Although these standards have been implemented by a majority of the juvenile courts in the state, some of these procedures are not mandatory. The implementation of these standards which require a change in the Juvenile Code must be included in the development of a revised Juvenile Code." There could also be implementation by a Supreme Court Rule which has not been effected as yet. Sub-Goal 17 also presupposes the establishment of a family court with general jurisdiction, which has not been developed as yet even though there is pending legislation (see Comment under Sub-Goal 16).

B. Seven standards.

1. Five standards have been implemented through the initiative of a majority of the local juvenile courts - 17.1, 17.2, 17.3, 17.4, and 17.6.
2. Two standards have been partially implemented - 17.5 and 17.7

18: THE ROLE OF POLICE IN DETENTION

1. Sub-Goal 18 recommends the establishment of policies and procedures governing the role of police in the decision concerning the detention of juveniles.

A. 18.1 recommends that the juvenile court initiate the working out with local police agencies policies and procedures governing the discretionary authority of police to divert juveniles from detention. O.C.J.P. has funded a program to the Michigan State Police to develop diversion guidelines for law enforcement agencies. There are written policies for the local police agencies in areas where runaway facilities are operating to divert juveniles from detention; also State Police Order #31 is followed in areas of their jurisdiction. These plans have been made with the local police and juvenile court administration's cooperation and approval. This standard is implemented.

B. 18.2 recommends that the police should establish written policies and guidelines to govern police discretionary authority. Dispositional decisions may include:

1. Release on the basis of unfounded charges,
2. Referral to parents (warning and release),
3. Referral to social agencies, or
4. Referral to juvenile court intake services.

This standard has been implemented by State Police Order No. 31 and implementation of these guidelines by local law enforcement agencies.

C. 18.3 states that police should not have authority to make detention decisions. This responsibility rests with the court which should assume control over admissions on a 24-hour basis. Under Juvenile Court Rule 2.2 temporary custody of a child under the age of 17 may be taken into temporary custody by any peace officer without the order of the court when:

- (1) found violating any law or ordinance, or
- (2) conditions exist which would make the arrest lawful if the child were an adult, or
- (3) the officer reasonably believes the child is evading the person or proper authority having legal custody, or
- (4) conditions or surroundings under which the child is found are such as to endanger his health, morals, or welfare, or
- (5) the officer continues an arrest made by a private citizen.

In order to implement this standard, revision in J.C.R. 2.2 is necessary.

D. 18.4 provides that when police have taken custody of a minor, and prior to disposition under Standard 18.2 above, the following guidelines should be observed:

1. Upon the provisions of Gault and Miranda, police should first warn juveniles of their rights.
2. Upon taking a child into custody, the officer shall forthwith notify the parent or parents, guardian, or custodian if they can be found. A written record of the names of persons notified and the manner and times of notification or reason for failure to notify shall be preserved and furnished.
3. Extrajudicial statements to police or court officers not made in the presence of parents, guardians, custodians or counsel should be inadmissible in court, unless the prosecutors can establish that said statements are freely volunteered and understandably given.
4. Juveniles should not be fingerprinted or photographed, unless charged with a felony or when proper consent is given. The record can be expunged when the subject is found not guilty or when the case is dropped.
5. Juvenile records should be maintained physically separate from adult case records and may be ordered expunged by a juvenile court upon hearing of proper showing of cause.

These standards are, in part, implemented by current practice and court rules. Miranda warnings are given as routine practice. JCR 2.3 requires written record of persons notified when a juvenile is taken into custody. Extrajudicial statements to police and court officers are not usually admissible as evidence in formal proceedings. JCR 10 permits fingerprinting of a child in custody or under investigation, thus, does not comply with this standard. Separate juvenile records are maintained under the present court structure. In order to fully implement this standard, revisions and additions to current juvenile court rules would be required.

II. COMMENT

- A. These standards will require revision of the Juvenile Code and Juvenile Court Rules to receive full implementation. This will require legislative action and a coordination with all police agencies who are in contact with juvenile offenders. This would, in effect, ease the police burden of supervising juvenile offenders and enable more time in the prevention and suppression of crime.
- B. Four standards.
 1. Two standards have been implemented (18.1 and 18.2).
 2. Two standards have not been implemented (18.3 and 18.4).

19: JUVENILE DETENTION CENTER PLANNING

- I. Sub-Goal 19 provides for the establishment of provisions to assure adequate and humane facilities in which to detain juveniles awaiting a court hearing.
 - A. 19.1 recommends that the detention facility should be located in a residential area and near court and community services. With the operation of 33 shelter homes throughout the State and 20 Runaway facilities youth are being kept in their own communities in lieu of being placed in a detention facility many miles away from their families. This standard is partially implemented.
 - B. 19.2 recommends that the planned population of newly constructed units should not exceed 30 residents with living areas within the unit not exceeding ten to twelve youth each. This standard is partially implemented. In the 1978 Comprehensive Plan, it is recommended that for both detention and pre-adjudication foster homes the youth/staff ratio range from 5/1 to 10/1 depending on the nature of the caseload.
 - C. 19.3 recommends that individual room occupancy should be provided. This standard has been partially implemented, but no specific implementation plan has been developed.
 - D. 19.4 provides that security should be based on a combination of staffing patterns, technological devices and physical design, rather than an indispensable quality of the physical environment. This standard has been partially implemented (see 19.2). Detention homes are licensed by the Department of Social Services and must meet stringent requirements.
 - E. 19.5 recommends that full use of community resources should be gained prior to planning the center's programming needs. This standard is generally implemented when planning for detention centers.
 - F. 19.6 recommends that new construction and renovation of existing facilities should be based on consideration of the functional interrelationships between program activities and program participants. This standard has been generally implemented.
 - G. 19.7 states that detention facilities should be coeducational and have access to a full range of supportive programs, including education, library, recreation, arts and crafts, music, drama, writing and entertainment. Outdoor recreational areas are essential. This standard has been partially implemented in conjunction with Public Act No. 228 of 1939 as amended in 1963; Public Act No. 47 of 1944; and Section 16 of the Juvenile Code. Unfortunately, even with these legislative mandates most detention units do not have access to a full range of supportive programs. Most detention units still need to upgrade their educational program, medical services and staffing. Licensing and regulating Department of Social Services has been extremely active in encouraging the counties to upgrade the programs and facilities.

- H. 19.8 provides that citizen advisory board should be established to pursue development of in-house and community-based programs and alternatives to detention. Under the Juvenile Justice Delinquency and Prevention Act an advisory committee must be established at the state level. Michigan has complied with this mandate. Further, the 1978 Comprehensive Plan contains a program element for funding neighborhood based advisory groups to plan and coordinate delinquency prevention projects. This standard is partially implemented.
- I. 19.9 provides that personnel policies and procedures should provide for the following:
1. A single administrative head for intake and detention to assure coordination and the pursuit of common goals;
 2. No discriminatory employment practice on the basis of race and sex;
 3. Merit criteria shall be the basis of personnel selection and promotion;
 4. Salaries shall be commensurate with comparable positions in other governmental agencies;
 5. Job functions and competency requirements shall be clearly outlined;
 6. Staffing patterns should provide for the interdependent use of paraprofessional and professionally trained staff;
 7. Personnel who provide direct services to youth shall be selected on the basis of their capacity to relate to and serve youth;
 8. Wherever possible, employment opportunities should be made available to ex-offenders and indigenous paraprofessionals;
 9. Volunteers should be actively recruited; and
 10. Staff development and training shall be provided to paid staff and to volunteers prior to the work with juveniles and continuously throughout their experience in detention.

This standard has been partially implemented and this implementation has been partially implemented through Public Act No. 288 of 1939 as amended in 1963, Public Act No. 47 of 1944 and Section 16 of the Juvenile Code. This standard was included in the 1977 and 1978 Michigan Comprehensive Plan. OCJP is currently funding one detention improvement project plus the Juvenile Training Council.

II. COMMENT

- A. The detention unit is one element in the juvenile system that is constantly in need of upgrading. There should be a plan developed with Supreme Court Administrator's Office, the Department of Social Services and pertinent participating agencies to develop a plan to improve detention facilities.

B. Nine standards.

1. Seven standards have been partially implemented (19.1, 19.2, 19.3, 19.4, 19.7, 19.8, and 19.9).
2. Two standards have been generally implemented (19.5 and 19.6).

20. PROCESSING DELINQUENCY CASES AS ADULT CRIMINAL PROSECUTIONS

1. Sub-Goal 20 provides for the establishment of uniform procedures which will insure that a complete and impartial review of all delinquency cases recommended for adult prosecution be completed prior to the transferring of jurisdiction to adult court.
 - A. 20.1 sets out that the family court (under current jurisdiction of the probate court) shall have the authority to waive a juvenile above the requisite age to circuit court to be tried as an adult for the commission of a felony. This standard is implemented by the Michigan Juvenile Code MCL 712A.4 and Juvenile Court Rule 11.
 - B. 20.2 provides that the following criteria must be considered before an order directing that a specific case be processed as an adult may be issued:
 1. The juvenile involved is above 15 years of age;
 2. ~~The court shall determine if there is probable cause to believe~~ that the child has committed an offense which, if committed by an adult, would be a felony;
 3. Upon a showing of probable cause, the court shall proceed to conduct a full investigation to determine whether or not the interests of the child and the public would best be served by granting a waiver of jurisdiction to the criminal court. In making such a determination, the following criteria shall be considered:
 - a. The prior record and character of the juvenile, his/her physical and mental maturity, and his/her pattern of living;
 - b. The seriousness of the offense;
 - c. Even though less serious, if the offense is part of a repetitive pattern of offenses which would lead to a determination that the child may be beyond rehabilitation under the regular statutory juvenile procedures;
 - d. The relative suitability of programs and facilities available to the juvenile and criminal courts for the child; and
 - e. Where it is found to be in the best interests of the public welfare and for the protection of public security, generally, that said juvenile be required to stand trial as an adult offender.

This standard is implemented by MCL 712A.4 and Juvenile Court Rule 11. There is pending legislation which would change these criteria in varying degrees. An example would be raising the age for a juvenile to be waived as an adult from 15 to 16 years old.

- C. 20.3 provides that if an order is entered directing the processing of a case as an adult criminal prosecution, the juvenile should be permitted to assert the impropriety of the order or the procedure by which the decision to enter the order was made. Then the conviction becomes final, however, the validity of the order and the procedure by which the underlying decision was made should not be subject to any future litigation. This standard has been implemented by the Michigan Juvenile Code, MCL 712A.4 and Juvenile Court Rule 11.

II. COMMENT

- A. There is a great need for uniform rules and procedures in this area to protect individual rights under the "Equal Protection" and "Due Process Clauses" of the Constitution. To assure these rights there must be a revision of the Juvenile Code to more clearly draw the guidelines to be followed and to protect against possible abuses.

- B. Three standards.

Three standards (20.1, 20.2, and 20.3) have been implemented.

21. ADJUDICATORY HEARINGS IN DELINQUENCY CASES

- I. Sub-Goal 21 recommends the establishment of uniformity and due process for a separate adjudicatory hearing.
 - A. 21.1 provides that the adjudicatory hearings should be distinct and separate from the dispositional hearing. This standard is implemented under the Juvenile Code, MCL 712A.4 and Juvenile Court Rule 8.1.
 - B. 21.2 provides that the juvenile alleged to be delinquent should be afforded all of the rights given a defendant in an adult criminal prosecution, including trial by jury. This standard is implemented through the Juvenile Code, MCL 712A.17 and Juvenile Court Rule 6.1 and 12.
 - C. 21.3 provides that in all contested delinquency cases, a legal officer representing the people should be present in court to present evidence supporting the allegation of delinquency. This standard is implemented under Juvenile Court Rule 6.1, however to be effectively and completely implemented will require the addition of prosecutors in this area to handle the additional caseload. The 1978 Comprehensive Plan permits funding of prosecutors for juvenile crime under the Juvenile Court Prosecution Improvements Element.
 - D. 21.4 recommends that in neglect cases, rules of evidence applicable in civil matters should apply. This standard has been implemented not through court rules but through legal opinion. It can be inferred from the preamble of the present Juvenile Code (MCL 712) that states these proceedings are not criminal, so we infer that civil rules of procedure and evidence will govern.
 - E. 21.5 provides that the offender must have available all data compiled during the presentence report and should have the opportunity to produce evidence on his/her behalf in the disposition hearing. This standard has not been implemented specifically in Juvenile Court Rules or present Juvenile Code though JCR 7.2 permits some examination of evidence by the court without the alleged offender's permission. There is a possibility of arguing case law as to rules of evidence. There are Federal and State discovery rules (Federal Rules of Civil Procedure, Rule 26 and Michigan General Court Rules, 302 through 315). Also, there is a Constitutional Argument of one's right to confront one's accuser. Thus, this standard has been implemented by practice.

II. COMMENT

- A. Though most of these standards have been implemented by law or court rules, there is a need to set out a procedure or guidelines to assure these rights are protected. Though in some cases there are legal opinions and arguments that can be made, there are no precise rules to be followed.
- B. These five standards (21.1, 21.2, 21.3, 21.4, 21.5) have been implemented.

22: DISPOSITIONAL HEARINGS IN DELINQUENCY CASES

- I. Sub-Goal 22 provides for the establishment of uniform procedures and criteria for dispositional hearings.
 - A. 22.1 provides that the dispositional hearings in delinquency cases should be separate and distinct from the adjudicatory hearing. This standard has been implemented by Juvenile Court Rule 8.1 which provides for a two phase process with a discretionary time separation.
 - B. 22.2 provides that the dispositional hearing should be held no longer than two weeks after the adjudicatory hearing if the juvenile is detained and four weeks if he is not detained. This standard has not been implemented as to the time span. This is handled by the courts in a somewhat discretionary fashion. In new cases the dispositional hearing is separate, i.e., first time offenders. In other cases, it usually is not. The present statute provides that the dispositional hearing must follow within 3 months (MCL 701.19).
 - C. 22.3 provides that criteria should be established for sentencing offenders. Such criteria should include:
 1. A requirement that the least confining rehabilitative alternative that is consistent with public safety be selected. The court should impose the first of the following alternatives that will reasonably protect the public safety:
 - a. release from wardship;
 - b. conditional release;
 - c. a fine;
 - d. release under supervision in the community;
 - e. sentence to a halfway house or other residential facility located in the community;
 - f. sentence to partial confinement with liberty to work or participate in training or education during all but leisure time; or,
 - g. total confinement in a correctional facility.
 2. A provision against the use of confinement as an appropriate disposition unless affirmative justification is shown on the record. The following situations would justify confinement:
 - a. there is undue risk that the offender will commit another crime if not confined;
 - b. the offender is in need of correctional services that can be provided effectively only in an institutional setting, and such services are reasonably available; or
 - c. any other alternative will depreciate the seriousness of the offense.

3. Weighing of the following considerations in favor of withholding a disposition of incarceration:

- a. the offender's criminal conduct neither caused nor actually threatened serious harm;
- b. the offender did not contemplate or intend that his criminal conduct would cause or threaten serious harm;
- c. the offender acted under strong provocation;
- d. there were substantial grounds tending to excuse or justify the offender's criminal conduct, though failing to establish defense;
- e. the offender has led a law-abiding life for a substantial period of time before commission of the present crime;
- f. the offender is likely to respond affirmatively to probationary or other community supervision;
- g. the victim of the crime induced or facilitated its commission;
- h. the offender has made or will make restitution or reparation to the victim of his crime for the damage or injury which was sustained;
- i. the offender's conduct was the result of circumstances unlikely to recur;
- j. the character, history, and attitudes of the offender indicate that he is unlikely to commit another crime;
- k. the correctional programs within the institutions to which the offender would be sent are inappropriate to his particular needs or would not be likely to be of benefit to him; and
- l. the family can provide proper guidance for the offender.

Sentencing practices have tended to be toward the least restrictive confinement. The removal of status offenders from secure detention and general overcrowding of these institutions has fostered the least restrictive philosophy. This standard has been partially implemented.

II. COMMENT

- A. The standards for dispositional hearings will need to be established through revision of the "Juvenile Code" and revised court rules as established by the Supreme Court.
- B. Three standards.
 1. One standard has been implemented - 22.1.
 2. One standard has not been implemented - 22.2.
 3. One standard has been partially implemented - 22.3.

CHAPTER 3: JUVENILE SERVICES

23: ORGANIZATION OF JUVENILE SERVICES

- I. Sub-Goal 23 addresses the current problem of the fragmented and often inequitable juvenile services in Michigan and suggests the establishment of a uniform method of delivery of these services. It argues that a uniform system would eliminate a large amount of duplication that now exists in some counties and insure adequate minimum standards of services in all counties. Three standards are prescribed that suggest the establishment of a state agency that would oversee juvenile services and establish minimum standards for programs for neglected, dependent and delinquent juveniles.

- A. 23.1 recommends the establishment of a State Department of Children and Youth Services with responsibility for: (a) institutional, probation and parole services for state wards; (b) setting minimum standards for all services for neglected, dependent or delinquent juveniles; and (c) operation of county institutional programs if the counties do not meet minimum standards. Currently the Michigan Department of Social Services has responsibility for state wards and its Bureau of Regulatory Services licenses and set standards for juvenile facilities. Public Act 280, 1975 created the Juvenile Justice Services Commission which is mandated to "coordinate programs in matters of juvenile justice services and (shall) develop standards of uniform practice for those services." This agency does not have the responsibilities as described by Standard 23.1. This standard has not been implemented.

In January, 1978 the Office of Juvenile Justice Services recommended that a Department of Children and Youth Services (DCYS) be established to serve as the central point of coordination and authority for all children and youth services. Concurrently legislation has been introduced to implement this standard.

- B. 23.2 states that a Director of the State Department of Children and Youth Services should be appointed by the Governor and serve at his pleasure. This standard is not implemented. The proposed agency, as described in Standard 23.1, has not been created. Current pending legislation would establish the Office of Children and Youth Services as a Type I agency within the Department of Social Services. The Director would be appointed by the Governor and report to the Director of the Department of Social Services.
- C. 23.3 suggests that a Youth Advisory Commission be created to give advice to the Director of the State Department of Children and Youth Services. The existing Youth Advisory Commission does provide advice to the Director of Social Services. This standard has not been implemented since it is contingent upon establishment of a separate department.

II. COMMENT

- A. Responsibility for providing juvenile services to Michigan youth falls to many sectors. Currently juvenile services are operated by the state, juvenile courts and public and private community agencies. Often there are duplicated and competing services or no adequate services available

at all. Sub-Goal 23 argues for the establishment of a State Department of Children and Youth Services with direct responsibility for providing a uniform system of services and setting of minimum standards for all state, local, private and public institutions, including probation and parole programs.

B. Three standards.

These three standards are not implemented.

24: PROBATION SERVICES FOR JUVENILES

1. Sub-Goal 24 argues for the development of a uniform and effective system of probation for juveniles who are not a threat to the safety of the community. Probation is the conditional release of a juvenile under the formal supervision of the juvenile court's probation service or other court related agency. It is probably the most frequently utilized court disposition - nationwide over 60 percent of the cases reaching the dispositional stage (sentencing stage) result in probation¹ - yet its quality is inadequate in many areas of the state. This inadequacy can in part be blamed on the fact that probation services are provided on a local (county) basis by a variety of agencies. These agencies operate independently and in most counties are not fully aware of another agencies services. Also, probation programs are not diverse enough to meet the variety of needs of probationers and often existing services are not used optimally.

Sub-Goal 24 provides four standards which would establish responsibility at the state level for providing minimum standards regarding employment of personnel and the quality of services rendered. Also, it provides for direct state control of those probation services, that do not meet the state established minimum standards.

A. Standard 24.1 provides 8 elements that establish state responsibility for:

1. Establishing statewide goals, policies and priorities that can be translated into measurable objectives by those delivering services. Currently the State provides funds, through the Department of Social Services, for some facilities and services used by probationers. Their involvement is not as encompassing or broad as suggested by this element.
2. Program planning and development of innovative service strategies. The State does not now have responsibility for this function.
3. Staff development and training. The State does not now have responsibility for this function.
4. Planning for manpower needs and recruitment. The State provides funds for local probation officers but does not have responsibility for planning for manpower needs or recruitment.
5. Collecting statistics, monitoring services and conducting research and evaluation. The Department of Social Services does perform these functions, but not for all probation services or facilities. Child Care Placement Information Services (CCPIS) collects statistics for both court wards and state wards.
6. Offering consultation to courts, legislative bodies, local executives, and encouraging adequate grants in aid to local counties so that through the local Juvenile Court, adequate local controlled probation may be provided. The Department of Social Services does provide consultation but not to the extent suggested by this element.

¹U. S. Department of Health, Education and Welfare, Juvenile Court Statistics 1970.

7. Coordinating the activities of separate systems for delivery of services to the courts and to probationers until separate staffs to perform services to the courts are established within the courts system. This element is not implemented.
8. Providing probation services to all local units which do not meet the minimum standards set forth by the State. This element is not implemented.

This standard is partially implemented. Funding for this standard is available from the Michigan Office of Criminal Justice (see Juvenile Probation, Aftercare, and Related Services, 1978 Comprehensive Plan).

- B. Standard 24.2 suggests that in those cases where probation is placed under direct State control, the State is to have further responsibility for the personnel activities of the services; evaluation of services and financial assistance through reimbursement or subsidy to those probation agencies meeting established standards. This standard is not implemented.
- C. Standard 24.3 suggests that the probation system develop by 1975 a goal-oriented service delivery system that seeks to remove or reduce barriers confronting probationers. Currently, there is no unified goal-oriented probation service delivery system. This standard is partially implemented.
- D. Standard 24.4 suggests that the State immediately develop a comprehensive manpower development and training program to recruit, screen, utilize, train, educate and evaluate a full range of probation personnel. This standard is partially implemented. OCJP funds training of probation personnel via the Juvenile Training Council.

II. COMMENT

- A. The decision to place an adjudicated youth on probation falls in the domain of the probate judges. Probate court judges have broad discretion in formulating the conditions of probation. These include, among others: getting a job; enrolling in vocational training courses; giving restitution; going to school; living with parents or in a foster home; undergoing psychiatric treatment or counseling; and commitment to the State.

Probation staff, services, and facilities are primarily provided and funded locally. Few communities have sufficiently staffed probation services and some are so understaffed that they provide almost no supervision. Supervision of the offender by a skilled worker is an integral part of probation, yet the case workers are often overburdened and lack sufficient training. Although the available evidence indicates that the size of a probation officer's caseload does not affect his success, it is reasonable to assume that the effect of token probation on a troubled youth is worse than no supervision at all. The youth sees that the end of court process was a sham and he loses further confidence in the system.

Sub-Goal 24 and its standards seeks to establish a uniform and effective system of probation for juveniles. The recommendations made for state responsibility for, and direct control of, local probation services would necessitate major departmental reorganization and expansion; statutory revision and local commitment and support. Resistance from the generally autonomous local programs and funding units to state dictated requirements and standards can be anticipated. Resistance to state takeover of local services can be expected from many sectors.

B. Four standards.

1. One standard is not implemented - 24.2.
2. Three standards are partially implemented - 24.1, 24.3, 24.4.

25: PAROLE SERVICES FOR JUVENILES

- I. Sub-Goal 25 argues for an effective statewide program for juveniles released from state training schools, camps and halfway houses. This program should be guided by a parole board that is independent from the state operated juvenile correctional institutions. It further suggests that parole programs must insure a variety of services to the parolee to facilitate a successful reintegration process. Sub-Goal 25 provides fourteen standards, many of which are currently being practiced by the existing Youth Parole and Review Board, and several of which will require revision of existing legislation or revised policy directives. The existing Youth Parole and Review Board is part of the Social Services Administration of the Michigan Department of Social Services.
 - A. 25.1 suggests that a Youth Parole and Review Board of 5 members be created within the Department of Children and Youth Services. The members are to be appointed by the Governor. The presently existing Youth Parole and Review Board has three members and is part of the Social Services Administration section of the Department of Social Services. The Office of Children and Youth Services is also part of the Social Services Administration. This standard is not implemented. Board members are currently appointed by the Director of Social Services.
 - B. 25.2 recommends that the Youth Parole and Review Board be responsible for approval of release from all state institutional programs and the return to such facilities from release status. This is to include State approval of release from training schools, camps, and halfway houses. Currently, the Board is responsible for release by parole only from the three State training schools (Adrian, Whitmore Lake, and Green Oak Center). It is not responsible for release from camps or halfway houses. If the Board paroles a youth to a camp or halfway house, release from that facility is the responsibility of the director of the facility and the aftercare worker or the community service worker. This standard is partially implemented.
 - C. 25.3 suggests that the Board be responsible for articulating and fixing policy, for acting on appeals and for issuing and signing warrants to arrest and hold alleged parole violators. Currently the Board has responsibility for articulating and fixing policy but not for issuing and signing warrants to arrest and hold alleged parole violators. This standard is partially implemented.
 - D. 25.4 provides that the Board have full-time hearing examiners appointed under Civil Service regulations. This is current practice. This standard is implemented.
 - E. 25.5 suggests that the Board establish clearly defined procedures for policy formation, hearings and appeals. This standard is complied with by authority conferred on the Department of Social Services by Section 6, 14, 115, and 121 of Act No. 280 of the Public Acts of 1939, as amended, and Section 553 of Act No. 380 of the Public Acts of 1965, being Sections 400.6, 400.14, 400.115, 400.121 and 16.553 of the Michigan Compiled Laws. This standard is implemented.

- F. 25.6 suggests that hearing examiners be empowered to hear and make initial decisions in parole grant and revocation and discharge cases and that this decision be final unless appealed to the Parole Board within five days by either the offender or correctional authority. The Board will review the case and determine whether evidence supports the decision or whether the finding was erroneous as a matter of law. Currently hearing examiners do not make decisions in parole grant and revocation and discharge cases, nor do they make appeal decisions. They hear the evidence and present it to the Board which has statutory authority to make the decisions. This standard is partially implemented.
- G. 25.7 recommends that board members and hearing examiners have close understanding of correctional institutions and be fully aware of the nature of their programs and activities of the offenders. This standard is implemented.
- H. 25.8 suggests that the Parole Board develop a citizen committee, broadly representative of the community, to advise the Board on the development of policies. There is presently no citizen committee advising the Board. This standard is partially implemented.
- I. 25.9 suggests that the state statutorily establish by 1976 the qualifications and conditions of appointment of parole board members and referees. Standard 25.9 provides six recommendations. This standard is partially implemented.
 - 1. Parole board members should be full-time. This is current practice.
 - 2. Members should possess academic training in such fields as criminology, education, psychology, psychiatry, law, social work or sociology. This is current practice as required by civil service job descriptions.
 - 3. Members should have a high degree of skill in comprehending legal issues and statistical information. This is current policy.
 - 4. Members should be appointed by the Governor to 10 year terms and be representative of both relevant professional organizations and all important ethnic and socioeconomic groups. Board members are appointed by the Director of Social Services with no time stipulation.
 - 5. Board members should be compensated at a rate equal to that of a court of general jurisdiction or the Adult Pardons and Parole Board. Also, hearing examiners should hold a law degree and be members in good standing of the State Bar. Currently, there is a disparity in compensation for the Youth Parole Board members and the Adult Pardons and Parole Board members. Hearing examiners are required to have a law degree and to be in good standing with the State Bar.
 - 6. Parole board members should participate in continuing training on a national basis. Exchange of parole board members and hearing examiners between states for training purposes should be supported and encouraged. Board members attend and participate in various conferences and seminars such as the National Conference on Juvenile Justice. There is no exchange of board members or hearing examiners for training purposes between states.

- J. 25.10 suggests that the parole jurisdiction immediately develop policies for parole release hearings. Standard 25.10 provides ten characteristics that the parole grant process should have. Currently, the parole grant process has all ten characteristics. See Department of Social Services Youth Parole and Review Board Rules, Part 3 - Releases, R400.1231. Approval of Releases, criteria. This standard is implemented.
- K. 25.11 argues for immediate development and implementation of a fast and equitable system of revocation procedures that permit prompt confinement of parolees exhibiting behavior that poses a serious threat to others. Six procedures are recommended for revocation procedures. This standard is partially implemented.
 - 1. Warrants to arrest and hold alleged parole violators should be issued and signed by parole board members. Currently, parole board members have no authority to issue warrants. Community service workers can request an apprehension order from the court for parolees. Board members must work through the Community service worker in seeking to have a warrant issued.
 - 2. Elements b and c address due process provisions that are assured juveniles through the Gault decision U.S. 387(1967). Also see p.7, Part 4, Violation of Conditions, Return From Release, Youth Parole and Review Board Rules.
 - 3. Element d addresses due process provisions assured by law. It also suggests that "hearing examiners should be empowered to hear and decide parole revocation cases under policies established by the parole board". The parole board has sole responsibility for deciding parole revocation. The hearing examiners only make recommendations to the board.
 - 4. Elements e and f are both current practice.
- L. 25.12 suggests that the State immediately begin to develop a diverse range of programs to meet the needs of parolees. Also, the services should be drawn to the extent possible from community programs available to all citizens and parolees. Standard 25.12 offers thirteen suggestions to meet the needs of parolees. Elements a, c, g, i, j, k and n are current practice but are generally not operating maximally and need further improvement or implementation. This standard is partially implemented.
 - 1. Elements a, c, f, g, h, i, j, k, m, n address the need to strengthen the linkage between community services and parolees needing or desiring them. These recommendations are current practice.
 - 2. Element b suggests that parole officers be selected and trained to fulfill the role of community resource manager. There are no juvenile parole officers per se in Michigan. Parolees are assigned to a community services worker who has responsibility in seeing that the provisions of the parole are met. Community services workers and aftercare workers function as community resource managers.
 - 3. Element d suggests that funds similar to unemployment benefits be made available to offenders at the time of their release. No unemployment type funds are currently available.

4. Element e suggests that the state use, as much as possible, a requirement that offenders have visible means of support instead of a promise of a specific job before authorizing their release on parole. The board and the community services worker work with Manpower Information Services for Troubled Youth (MISTY) and the Neighborhood Youth Corps in providing employment for the parolee.
- M. 25.13 suggests that the state take immediate action to reduce parole rules, retaining only those critical in the individual case, and to provide for effective means of enforcing the conditions established. Standard 25.13 provides four recommendations (elements). Three elements (a,b,c) have been implemented, and one (d) recommends that parole officers develop close liaison with the police agencies so that any formal arrests necessary can be made by police. Since there are no juvenile parole officers in Michigan, community services workers who function in this role have varying degrees of interaction with police. This standard is partially implemented.
- N. 25.14 argues that the state should develop a comprehensive manpower and training program which would make it possible to recruit persons with a wide variety of skills, minorities and volunteers. Nine suggestions (elements) are made: five (b,e,f,h,i) elements are currently implemented, four (a,c,d,g) are not implemented. This standard is partially implemented.

II. COMMENT

- A. Parole is one of the major components of the community-based services for juveniles currently in use in Michigan. Sub-Goal 25 and its fourteen recommended standards has as its main objective the establishment of an effective statewide parole program for juveniles released from state training schools, camps, and halfway houses. At the present time the Juvenile Parole and Review Board has responsibility for parole of juveniles from state training schools. As expansion of its current responsibility to include parole from "camps and halfway houses" would necessitate revisions of existing legislation, extensive bureaucratic reorganization and new or revised policy directives.
- B. Fourteen standards.
 1. Eight standards are partially implemented - 25.2, 25.3, 25.6, 25.9, 25.11, 25.12, 25.13, 25.14.
 2. Four standards are fully implemented - 25.4, 25.5, 25.7, 25.10.
 3. Two standards are not implemented - 25.1, 25.8.

STATUS REPORT

PART III

INVESTIGATION AND ARREST

SEPTEMBER, 1977

Status Report, September, 1977

III. INVESTIGATION AND ARREST PART I: INTRODUCTION

In order to reduce the incidence of crime and increase the utilization of law enforcement resources, law enforcement agencies must analyze their operational procedures to promote maximum efficiency. The cost of providing high quality, 24 hour service to all citizens in Michigan has skyrocketed in recent years, underlining the need for increased interagency cooperation, precise administrative policy and systematic distribution of line operations, support services and specialized personnel. These needs are addressed in the 34 Sub-Goals and 140 standards in the Michigan Goals and Standards.

The Investigation and Arrest section is organized into the following six chapters:

1. Patrol
2. Specialized Operations
3. Acquisition of Equipment
4. Transportation
5. Communications
6. Personnel Administration

The level of implementation of the Sub-Goals and standards varies greatly from chapter to chapter. To completely assess implementation for each standard, it would be necessary to survey each of the 573 law enforcement agencies in Michigan. Generally speaking, the degree to which each standard is implemented is reflected by two factors:

1. Agency size - Many organizational standards are directed toward and feasible for only the larger law enforcement agencies. Consequently, when the description "partially implemented in the larger agencies," is attached to a particular standard, no reflection on the initiative of smaller agencies is intended.
2. Number of implementing agencies - As the number of agencies involved in the implementation of a standard increases, the difficulty in obtaining implementation increases. When the implementation process requires individual adoption by all 573 law enforcement agencies, implementation becomes exceedingly difficult.

The first chapter, Patrol, reflects this problem. The 25 standards in this section deal with the development of law enforcement policies to increase the speed, efficiency, and effectiveness of patrol and deployment procedures. Generally, these standards can only

be implemented at the local level. Consequently, OCJP involvement has been limited to funding a number of local grants. The level of statewide implementation varies greatly according to the local law enforcement department's size and local resources. Urban areas and high tax base areas, because of greater resources, have tended to make further progress toward implementation than rural or financially depressed areas.

Few specific actions can be taken by OCJP to accelerate implementation of the above standards. Action money continues to be made available for local grants, and all grants require evaluation and review at the local level for continued funding. No legislation can be enacted to require local police departments to analyze and evaluate their internal procedures. Generally, these types of activities are initiated by administrative decision.

Chapter 2, Specialized Operations, contains standards which, like the previous chapter, are dependent upon local initiative for implementation. The standards for the operation of specialized units are primarily requests for review, evaluation, and policy making at the local level. OCJP, in funding these specialized units (tactical, narcotic, intelligence, organized crime, and regional detective squads) has incorporated implementation of the standards in the grant application and in annual reviews. Local implementation of these standards in non-OCJP funded units is dependent upon local law enforcement resources. Many of these standards call for an increase in cooperation and a sharing of resources to maximize efforts in specialized operations. One major exception to this generalization is the Sub-Goal dealing with the availability of state specialists to local and county agencies, which has been implemented.

With only one Sub-Goal and 2 standards, Chapter 3, The Acquisition of Equipment, provides brief objectives for this problem. The Sub-Goal has been partially implemented for certain products.

Equally brief (1 Sub-Goal, 4 standards) is Chapter 4, Transportation. These standards recommend careful evaluation of transportation alternatives before acquisition of ground

vehicles or aircraft, and the development of fleet safety programs.

The Communications chapter designs a coordinated system through three Sub-Goals and 13 standards. Implementation has been virtually completed through several OCJP funded projects. In 1971, a study was undertaken by the Kelly Scientific Corporation to coordinate the police communications. Its objectives were to alleviate interference, overcrowding of channel conditions, disproportionate distribution of frequency channels, and poor communications between the State Police and local departments. This plan provided for the establishment of 48 mobile radio districts (MRD) within three major regions. Frequency allocation and sharing would be based upon these MRDs.

OCJP has expended approximately 20 million to purchase radio equipment to bring all police departments into plan compliance. At the end of fiscal year 1976, communications update for those departments originally considered in the Kelly Plan will be completed. These grants have promoted consolidated efforts to provide 24 hour communication services where individual departments are too small to provide this service separately. Centralized dispatch is in effect in most rural counties and in some urban areas (Genesee, Muskegon, Jackson and Saginaw Counties).

Efforts have begun to provide an emergency telephone service statewide. OCJP has drafted an action plan for 911 implementation in which the first step calls for undertaking a research project to determine the location of 911 operational districts (similar to the Kelly Studies' MRDs). Funding is currently unavailable, so 911 is developing according to local resources.

The OCJP response in the mobile digital area is just beginning. Having funded a pilot program in Dearborn Heights, OCJP has drafted a plan to determine implementation priorities. Projects have been funded in Detroit and Genesee County and additional mobile digital projects will be funded according to local need and available monies.

Chapter 6, Personnel Administration, contains nine Sub-Goals and 33 standards dealing

with two primary subjects: manpower development (or personnel improvements) and personnel management. The degree of implementation of the manpower development standards is reflective of the efforts of the Michigan Law Enforcement Training Council (MLEOTC). MLEOTC was created by PA #203 of 1965 and empowered to implement minimum standards for recruitment, selection, training and/or education. Because of limited resources, (and critical needs) MLEOTC has focused its attention primarily upon the training function. MLEOTC has established a mandatory recruit training curriculum of not less than 256 hours of instruction. This training is conducted at regional academies inspected and certified by MLEOTC staff. All law enforcement officers hired after January 1, 1971 by a department of 3 or more men must complete this course. Currently, MLEOTC is undertaking a competency orientated system for the training of recruits (COSTER) which will recognize previous experience and education to allow waiving of any redundant sections of the recruit training curriculum.

MLEOTC also provides (on a limited volunteer basis) a 40 hour advanced training course, a 5 day middle management course, a 5 day executive development course, and several other courses to deal with specialized training needs. OCJP has funded these projects (along with project COSTER), consequently they are limited in number and are not mandatory.

Although MLEOTC has focused upon the training function, it does have the power to formulate standards for recruitment selection and education. MLEOTC unanimously supported the Goals and Standards dealing with recruitment, selection, and training. With a large infusion of resources, and a mandate from the council itself, MLEOTC staffers could develop programs designed to accommodate the statewide compliance to these standards.

The standards dealing with personnel management/employee relations have been adopted to a high degree relative to other standards contingent upon local implementation. This development can be traced to the expanded efforts of labor unions in the area of law enforcement. As urban departments have adopted negotiation and arbitration through labor

organizations, these departments have been induced to adopt written rules of conduct, recognized negotiations and grievance procedures, higher salaries and expanded employee benefits. In a short time these standards will be adopted at all organized departments.

PART II: SUMMARY OF STANDARDS BY IMPLEMENTATION STATUS

CHAPTER 1: PATROL

26: PATROL OPERATIONS

- I. Sub-Goal 26 calls for a careful analysis of the routine operational procedures of a law enforcement agency. The Sub-Goal recognizes that only through carefully designed day-to-day procedures can effective law enforcement services be provided to the community. Specific recommendations include:
 - A. 26.1 designates the patrol officer as the primary agent for delivering law enforcement services. Local law enforcement agencies must recognize this fact and structure their administrative policies to assist and challenge the patrol officer.
 - B. 26.2 recommends that local law enforcement agencies adopt fundamental, relevant, and expedient policies to maximize the preventive patrol function. Local law enforcement analysis will result in the implementation of this standard.
 - C. 26.3 recommends the establishment of a departmental system of priorities for response to calls for service. Local law enforcement agencies must dedicate sufficient resources to develop operational priorities. The law enforcement role definition assists departments in this effort.
 - D. 26.4 recommends the establishment of public information and public relations systems in all law enforcement agencies. While OCJP has funded both public information and public relations projects, implementation is dependent upon local law enforcement initiative.
 - E. 26.5 recommends including operational personnel in establishing the priorities for calls outlined in 26.3. Standard implementation is dependent upon the response of law enforcement agencies.
 - F. 26.6 recommends that law enforcement executives adopt programs to enhance the patrol officers image both in the department and in the community. The executive should minimally consider community relations projects, distinctive uniform insignia, in-service training to patrol officers and supervisory staff, comprehensive information systems for investigation data, and departmental commendation procedures. Implementation is dependent upon the initiation of individual law enforcement executives.

II. COMMENT

- A. With approximately 573 separate law enforcement agencies in Michigan, the implementation of these standards is totally dependent upon departmental initiative and resources.
- B. All six standards have been partially implemented statewide - primarily in the larger law enforcement agencies.

27: DEPLOYMENT OF PATROL OFFICERS

- I. Sub-Goal 27 calls for a careful analysis of crime patterns, personnel and deployment of personnel and services. The Sub-Goal more specifically makes these recommendations:
 - A. 27.1 recommends the establishment of systems for the collection and analysis of deployment data. The system should consider periodic variations in crime patterns to establish a geographic reporting region or local grid. Implementation of this standard has been enhanced by OCJP funded crime prevention units which emphasize crime analysis.
 - B. 27.2 recommends that law enforcement agencies conduct a comprehensive workload study to develop operational objections and priorities that are effective and efficient in establishing agency goals.
 - C. 27.3 recommends the implementation of a decentralized allocation system for the geographic and chronological distribution of patrol personnel. The allocation system should allocate personnel to shifts, beats, and precincts in such a manner as to reduce crime, increase apprehensions, minimize response time and equalize personnel workloads.
 - D. 27.4 recommends periodic evaluation and review of the agencies' deployment system. This procedure should include all agency personnel and be regularly conducted.

II. COMMENT

- A. All standards in this section call for systems establishment education within individual law enforcement agencies. Although OCJP has funded projects for the development and evaluation of deployment systems, implementation is contingent upon individual agency initiative.
- B. The four standards have been partially implemented in the larger law enforcement agencies.

28: SELECTING A TEAM POLICING PLAN

- I. Sub-Goal 28 calls for the review of local conditions to determine if team policing will more effectively utilize agency resources.
 - A. 28.1 recommends law enforcement agencies compare team policing systems applied by other agencies of comparable size and assess local resources for relative value to the particular agency.
 - B. 28.2 recommends law enforcement agencies evaluate possible agency disruption and relative efficiency of a team policing plan prior to implementation.

II. COMMENT

- A. All standards in this section call for evaluation and research by individual law enforcement agencies. Although OCJP has funded projects for team policing research and development, implementation is contingent upon individual agency initiative. Several LEAA funded projects and workshops in the past few years have made the research and methodology of team policing available to Michigan law enforcement agencies.
- B. The two standards have been partially implemented in the larger law enforcement agencies.

29: AVAILABILITY OF LAW ENFORCEMENT SERVICES

- I. Sub-Goal 29 recognizes the right of every resident to receive law enforcement services 24 hours a day. To maximize this goal two standards are listed.
 - A. 29.1 recommends that every governmental unit provide full 24 hour service by either hiring sufficient manpower, or entering into a contractual agreement with another agency.
 - B. 29.2 recommends that law enforcement executives initiate research to identify the most effective patrol scheme for a region.

II. COMMENT

The Law Enforcement Committee of the Michigan Commission on Criminal Justice has identified the provision of 24 hour police services with an equitable cost distribution as its primary focus for analysis. In a mission statement adopted on July 13, 1977 the Committee stated "...that the present structure of law enforcement in Michigan in which multiplicity of police agencies, conflicting and overlapping jurisdictions, and duplication of efforts impedes efficient and effective delivery of police services as well as escalating the costs to the citizens and does not provide a significant contribution to the public safety." To alleviate this situation, while still preserving a high degree of local control over police services; the Committee proposed a series of functional role definitions to clearly delineate the appropriate roles for municipal, county and state law enforcement agencies. These definitions also attempted to provide for a cost distribution based upon the actual service received by the citizens. Role definition for Michigan law enforcement agencies:

- A. The Michigan State Police shall provide at no cost to local communities:
 1. Forensic laboratory services,
 2. MLEOTC training,
 3. Law Enforcement Information Network data,
 4. Computerized Criminal Histories, and
 5. Intelligence services.
- B. The Michigan State Police shall develop a pool of troopers available for local support in emergency situations.
- C. The Michigan State Police should reestablish the trooper force to not less than the July, 1975 level.
- D. The Michigan State Police shall provide statewide patrol of the expressway system.
- E. All previously initiated supportive services provided by the State to law enforcement shall be continued. Included, but not limited to, are the following supportive services:
 1. The continuation and improvement of the Law Enforcement Information Network;
 2. Forensic crime laboratory services, which include control and satellite laboratories as recommended in the Governor's Forensic Science Committee;
 3. Basic, in-service and specialized law enforcement training as recommended and developed by MLEOTC;
 4. Specialized criminal investigative follow-up services shall be conducted with local criminal investigations, upon request. Except that there shall be no restrictions of investigations of governmental agencies;

5. Criminal investigation services in major cases and/or multi-jurisdictional investigations, including, but not limited to, narcotics, organized crime, homicide, arson and auto theft, on request;
 6. Mutual aid assistance by the Michigan State Police shall be provided to local law enforcement whenever such assistance is determined to be warranted and justified by the Michigan State Police and the sheriff and the local municipality;
 7. The Michigan State Police shall be responsible for the supervision and administration of the breathalyzer program;
 8. Central records and identification programs and services; and
 9. Computerized Criminal History and computerized management operational information data centers are to be maintained.
- F. Although the Michigan State Police has statewide jurisdiction in all areas of law enforcement, it shall have primary responsibility for high visibility patrol, enforcement, and accident investigation on all interstate, limited access highways, and state highways outside of incorporated areas.
- G. The sheriff shall provide all constitutionally and statutorily mandated functions in addition to the following:
1. Primary responsibility for custody of all adult and juvenile offenders (excluding status offenders) remanded by court action for confinement and as otherwise statutorily required;
 2. Primary responsibility for transportation of offenders when received by sheriff. The sheriff may delegate this responsibility to avoid duplication of manpower;
 3. Primary responsibility for the security of all trial courts, including Detroit Recorder's Court and Municipal Court;
 4. Primary responsibility for preservation of the peace and patrol of the unincorporated areas of the county and secondary (back-up) responsibility to police departments in incorporated areas and secondary responsibility for police services on interstate, limited access highways and state trunklines;
 5. Primary responsibility for the administration and service of civil process; and
 6. Primary responsibility to provide countywide law enforcement services, when not otherwise provided, which involves multi-jurisdictional entities and primary responsibility for subsequent contractual agreements for such services.
- H. Local law enforcement:
1. Local law enforcement shall assure within their respective jurisdictions, 24 hour minimal police services. These services shall include prevention patrol and emergency response; criminal investigation; motor vehicle accident investigation and enforcement; and local ordinance enforcement;
 2. When such services cannot be provided locally, these services shall be obtained through contractual agreements with the sheriff or other statutorily approved law enforcement agencies; and
 3. Utilization shall be made of all the supportive and investigative services provided for in the MSP and the sheriff's role definition.

Final adoption of these recommendations is pending a September 29, 1977 Commission review.

30: TRAFFIC LAW ENFORCEMENT

- I. Sub-Goal 30 suggests that law enforcement agencies reorganize their traffic law enforcement procedures to increase voluntary compliance, to reduce traffic accidents and provide maximum protection of individual rights and property in a crash situation.
 - A. 30.1 recommends explicit and inclusive traffic policies.
 - B. 30.2 recommends that law enforcement executives develop policies for personnel action at the scene of a traffic accident; specifically guidelines in emergency first aid, evidence protection, report preparation, follow-up investigation and enforcement policies. The executive shall see that these guidelines are followed and provide any necessary supervision. Executives shall also analyze traffic accident reports to identify high accident locations, engineering defects or additional enforcement needs.
 - C. 30.3 recommends utilizing the above mentioned data to develop a tactical plan to reduce traffic accidents.
 - D. 30.4 recommends the establishment of an index to measure the point of diminishing returns for traffic enforcement.
 - E. 30.5 recommends the establishment of a feedback system from police to the education system, engineering agencies and the community at large.

II. COMMENT

- A. Implementation of the standards in this section is dependent upon local initiative and has proceeded according to local resources.
- B. The two standards have been generally implemented by local and county law enforcement agencies and coordinated statewide by the State Police and the Highway Department.

31: ARREST

- I. Sub-Goal 31 calls for arrest procedures with a minimum of risk for all concerned individuals. The single standard specifically calls for guidelines for officer discretion based upon the constitutional law, the relative type and seriousness of the crime, and post arrest options (bond, diversion, citation or warning).

II. COMMENT

Because of recent court decisions dealing with the rights of the accused in relation to arrest, most departments have developed written guidelines for officer action, therefore, implementing this Sub-Goal. In addition, the Michigan State Police is currently developing guidelines and providing training to local law enforcement agencies for diversion of juveniles at initial contact, thus, minimizing arrests where unnecessary.

32: SEARCH

- I. This Sub-Goal and the single standard recommends that law enforcement agencies develop written policies concerning searches of persons, property and crime scenes to afford maximum safety and accordance with constitutional law.

II. COMMENT

The police recruit training deals heavily with the correct procedure to legally and safely undertake a search. If the training recommendations are followed, this Sub-Goal will be implemented.

33: DIVERSION

- I. This Sub-Goal urges every law enforcement agency, where permitted by law, to divert from the criminal and juvenile justice systems any individual who comes to the attention of the law, and for whom the purpose of the criminal or juvenile process would be inappropriate or where other resources would be more effective. Written policies, established and coordinated with the Prosecuting Attorney's Office, should be developed to assure fairness and uniformity of treatment.
 - A. Standard 33.1 calls for written juvenile diversion policies and procedures to be developed for each law enforcement agency. Under an OCJP funded grant, the Michigan State Police has developed guidelines for juvenile diversion and provided technical assistance to local agencies to implement policies and procedures. In addition, the Juvenile Justice Committee has revised substantially the Sub-Goals 13, 14 and 15 to address the goal of "to divert those youth from the juvenile justice system, where such diversion will benefit both the youth and the community." These revised standards establish procedures, criteria and guidelines, and diversion programs for law enforcement as well as other community agencies. These revised standards were adopted by the Commission in September, 1977.
 - B. Standard 33.2 calls for the establishment of written policies and procedures for mentally ill persons who come to the attention of law enforcement agencies. Many law enforcement agencies have written procedures and work closely with community mental health officials.
 - C. Standard 33.3 suggests diversion as an alternative for some misdemeanor offenses. Legislation is currently pending to decriminalize both public intoxication and certain traffic offenses. Demonstration projects, funded by the Office of Substance Abuse, have been operating in three communities to refine procedures for public intoxication.
 - D. Standard 33.4 states that criminal justice agencies diverts cases from the justice system, no further law enforcement action is needed. This standard is current practice for the majority of communities.

II. COMMENT

The current trend of the criminal justice system is to divert from formal processing those cases in which the individuals and the community would benefit from alternatives to further processing. Law enforcement agencies throughout Michigan have informally been involved in diversion of juveniles and adults for years. Recently, formal procedures have been developed with criminal justice agencies and community groups.

CHAPTER 2: SPECIALIZED OPERATIONS

34: SPECIALIZED ASSIGNMENTS

1. Sub-Goal 34 deals with the use of specialized operations in law enforcement. Although the patrol divisions are deemed of primary importance, certain needs can be only fulfilled through the implementation of specialized operations. Law enforcement executives should examine the relative needs of the department, compared to their available resources. The standards provide a more definite blueprint for action.

In 1975-77 OCJP conducted an evaluation of specialized police units which involved 42 jurisdictions. General findings of this effort indicate that projects lacked a clarity as to the goals they were working toward and as to the methods of operation they utilized. Compliance with the standards outlined in this section could have drastically improved the effectiveness of those units.

- A. 34.1 recommends defining the particular problem in terms of severity, length of time, community perception and characteristics effecting specialization and alternative action to specialization. Evaluation results show that this standard has not been implemented effectively.
- B. 34.2 recommends assessing organizational resources for manpower, equipment, and training in terms of availability, duration and organization changes. A source of project failure for the programs evaluated was the inability of projects to integrate or coordinate the efforts of the special units with the result of the department. This shortcoming could have been reduced with adequate training and revising the organizational structure. This standard has been partially implemented in that some departments were able to effect the necessary changes.
- C. 34.3 recommends assessing the impact of specialization upon fiscal resources, community attitudes, patrol services and the actual problem by the chief executive of the department. Evaluation results showed that other parts of the criminal justice system did not think the special units had provided increased effectiveness. This finding could have been minimized by involving affected parts of the system in the planning phase. This standard is partially implemented in that these issues must be addressed prior to OCJP funding.
- D. Standard 34.4 calls for regular evaluation of specialized operations to assure that they are goal oriented and on schedule. This standard has been only minimally adhered to. Quarterly reports from subgrantees to OCJP often minimized or omitted major problem areas. Thus, by the time of the intensive evaluations, projects had substantially deviated from their original goals. This standard was minimally implemented.

- E. Standard 34.5 calls for the termination of specialized operations when the problem no longer exists or can be handled through other operations. Evaluation results indicated that rather than terminate projects (while under OCJP funding) under these conditions, project administrators chose to allocate project resources to other activities (usually general patrol or detective operations). This project is partially implemented in that some projects did terminate or reorder efforts.

II. COMMENT

- A. OCJP requires implementation of these standards on all specialized projects currently funded. Unfortunately, some previously existing specialized units have become organizationally entrenched removing them from the recommended process.
- B. Specialized units are generally utilized by larger departments. Due to budgetary constraints, the five standards are generally being implemented for all new specialized operations and minimally implemented for other projects.

35: FORMAL PERIODIC REVIEW

- I. Sub-Goal 35 recommends a formal review of every specialized operation at least once a year. This cost-benefit analysis should be used to determine if expenditures are adequate or warranted.

II. COMMENT

- A. Periodic review and inspection is required for all OCJP specialized operations grants.
- B. The two standards are being implemented only for OCJP grants and for new specialized operations in large departments.

36: STATE SPECIALISTS

- I. Sub-Goal 36 recommends that the State of Michigan shall by 1975 provide specialists to law enforcement agencies lacking the resources to provide them locally. These specialists shall be properly equipped and trained; functioning in support of local agencies. Services available should be published with a description of the procurement procedure.

II. COMMENT

- A. The following specialized services are currently made available to local agencies by the Michigan State Police.
 1. Intelligence operations
 2. Forensic Science analysis
 3. Arson investigation
 4. Investigative support for extraordinary crimes
 5. Organized criminal activity investigation
- B. OCJP has funded projects for local control for the following specialized services:
 1. Intelligence operations
 2. Narcotics operations
 3. Forensic science analysis
 4. Detective services
 5. Organized crime units.
- C. Technical assistance is available directly from OCJP or LEAA in the area of specialized police services.
- D. Standards 36.1, 36.2, and 36.3 are implemented by the methods discussed above.

37: CRIMINAL INVESTIGATIONS

1. Sub-Goal 37 recommends the establishment of priorities in investigative efforts to insure the location and preservation of evidence for future presentation in court. Specific recommendations from the six standards refer to personnel allocation (patrol or specialized), response priorities, quality control procedures, preparation and presentation to the prosecutor, and interagency coordination.

- A. Standard 37.1 calls for the patrol officer to conduct a detailed preliminary investigation on all but very serious or complicated cases. Consistent with the discussion of Standard 29, local law enforcement should provide direct investigative services unless the crime calls for specialized services from the Michigan State Police. This standard is partially implemented to the extent the local agencies willingly comply.
- B. Standard 37.2 requires that special investigative units be controlled by number and size dependent upon the number of cases which require specialized investigations. This standard is implemented via 1) the OCJP project funding process, and 2) state and local budget reviews.
- C. Per this standard (37.3) investigative priorities should be established according to the seriousness, recency, knowledge of and community attitudes toward crimes. This standard is implemented. Recent emphasis on the career criminal program forces both law enforcement agencies and communities to address the more serious, repeating felonies with attention and resources.
- D. 37.4 requires that quality control procedures be established to insure that every crime receives the investigation it warrants. This standard is generally implemented by large and intermediate jurisdictions and the Michigan State Police.
- E. 37.5 requires the establishment of policies and procedures for all evidence preparation and presentation to the prosecutor. OCJP requires such written documentation for all grants funded involving evidence gathering or preparation.
- F. Standard 37.6 calls for coordination of all criminal investigation operations among law enforcement agencies. The Role Definition statement (Standard 29) was developed to facilitate both specialization and cooperation among agencies for both investigative and patrol functions. This standard is generally implemented.

II. COMMENT

- A. The six standards in this section have been generally implemented in law enforcement agencies.
- B. OCJP has required implementation for all OCJP funded investigative units.

38: CRIMINAL INTELLIGENCE OPERATIONS

1. Sub-Goal 38 calls for a cooperative effort between law enforcement agencies in the establishment of reliable and secure systems for gathering, evaluating, and disseminating intelligence information.
 - A. 38.1 spotlights awareness as the basic component of an intelligence network. This awareness (intelligence) is vital to effective law enforcement. Local implementation of this standard is supplemented by Michigan State Police efforts (Michigan Intelligence Network).
 - B. 38.2 calls for stringent security precautions to prevent dissemination of information to unauthorized people. This standard was implemented nationwide December 31, 1977 with federal regulations (Title 28 - Judicial Department, Federal Registrar, Vol. 40, No. 98 - Tuesday, May 20, 1975 requiring a security plan for criminal justice information systems.
 - C. 38.3 recommends the deployment of intelligence operations to be determined by local threatening activities. This standard has been implemented through OCJP grant requirements, citizen law suits restricting police activity, and local budgetary constraints.
 - D. 38.4 provides for a statewide system for gathering, analyzing, and storing information. This standard has been partially implemented through the establishment of the Michigan Intelligence Network, the Law Enforcement Information Network, and Computerized Criminal History files (MIN, LEIN, and CCH). Final implementation will be completed when the judiciary system and the Department of Corrections complete their data input to CCH.

II. COMMENT

- A. The state security and privacy plan was developed by OCJP in December 1977.
- B. OCJP has funded and will provide additional funds for hardware and software acquisitions for the Law Enforcement Information Network and Computerized Criminal History systems.
- C. All four standards have been implemented by local and state efforts.

39: JUVENILE OPERATIONS

See Chapter 11 (Juvenile Justice), Standards 13 through 25.

40: SPECIAL CRIME TACTICAL FORCES

- I. Sub-Goal 40 analyzes the need for the creation of highly mobile tactical forces to be dispatched in accordance with the current crime patterns in a region. The seven standards call for careful crime analysis and deployment of tactical forces, staffing and equipping in accordance with local needs, and close cooperation with other law enforcement agencies in the area.

II. COMMENT

- A. All seven standards are required by OCJP for grant approval.
- B. Implementation of these seven standards have been generally completed by law enforcement agencies in their own operations.

41: VICE INVESTIGATIONS

1. Sub-Goal 41 recommends that every law enforcement agency develop a capacity to conduct vice operations. Vice operations pose difficult law enforcement problems because 1) vice involves consensual acts, 2) many communities exhibit a high degree of tolerance for vice activities, and 3) organized crime is often involved in vice. The six standards recommend organizational objectives for the efficient operation of a vice unit. Specifically, they recommend that vice policies be written to reflect local laws, attitudes and resources; close liaison and control be guaranteed over vice units through interdepartmental cooperation, close executive control and required written reports of investigations; and staffing and equipping of vice units reflect local needs.

II. COMMENT

OCJP has never funded a vice unit so the implementation of the six standards is only partial; and totally reflecting the efforts of the particular local law enforcement executive.

42: NARCOTICS AND DRUGS

- I. Sub-Goal 42 establishes a correlation between narcotics and drug abuse and other crime problems. Based upon that correlation law enforcement agencies should develop narcotics enforcement capability relative to the community problem. The five standards recommend projects to help develop effective narcotics enforcement.
 - A. 42.1 calls for the inclusion of narcotics investigation procedures in police recruit training. This standard has been implemented by the Michigan Law Enforcement Officers Training Council in their recruit training program.
 - B. 42.2 calls for the development of drug education programs. This standard has been substantially implemented through local initiative and OCJP grants.
 - C. 42.3 recommends close liaison between narcotics investigators and other agencies. Implementation has been partially achieved through local initiative and OCJP requirement of standard implementation in all federally funded narcotics squads.
 - D. 42.4 recommends the establishment of written policies governing narcotics investigations to include written progress reports and written records of all complaints. Implementation has been substantially achieved through local initiative and OCJP grant requirement.
 - E. 42.5 recommends that narcotics squads receive adequate funding. This standard has been generally implemented.

II. COMMENT

- A. Five standards.
 1. One completely implemented - 42.1.
 2. Four generally implemented - 42.2, 42.3, 42.4, 42.5.
- B. The Model Evaluation Program underway in OCJP has focused on the effectiveness of narcotics units. Final results are still pending.

43: EMERGENCY PREPAREDNESS

- I. Sub-Goal 43 deals with the need to develop special operational procedures to deal with emergency situations during natural disasters or civil disorders. To deal with such emergencies, extensive planning and coordination is necessary. The standards in the section establish a checklist for law enforcement agencies to develop a comprehensive emergency procedures plan.
 - A. 43.1 designates governmental executives responsible for developing preparedness plans. These plans should include:
 1. Plans to quickly mobilize all law enforcement resources.
 2. Written mutual assistance agreements between law enforcement agencies, considering the additional resources of private agencies such as public utilities, corporations, and private security forces.
 3. The plan should be distributed to all involved personnel to insure familiarity.
 - B. 43.2 and 43.3 recommend a command structure for emergency situations.
 1. The command structure (including succession of command) should be clearly designated.
 2. A control center to coordinate all command activities should be established.
 3. A field command post should be designated for command operations at the emergency site.
 4. Centers for crisis information, logistics, and intelligence shall be designated previous to emergency situations.
 - C. 43.4 recommends that procedures be developed to process, transport and detain large numbers of persons in such a manner as to preserve security, suspect needs and civil rights and public information flow.
 - D. 43.5 recommends drafting new legislation to:
 1. provide financial reimbursement of local law enforcement agencies for cost incurred in mutual aid requests to emergency situations;
 2. allow mutual aid agreements between communities and the National Guard;
 3. place strict controls on explosive and incendiary devices;
 4. place strict restrictions on the size, location, and activity of public parades and demonstrations; and
 5. allow the enactment of special emergency statutes to deal with local situations.

- E. 43.6 recommends that every law enforcement agency should participate in emergency procedure training programs. The courses, both recruit and in-service in nature, familiarize personnel with departmental emergency procedures (such as those recommended in the previous standards), human relations training, teamwork and military drills, special laws and special weapons.

II. COMMENT

- A. Again this Sub-Goal requires substantial local initiative. Almost all law enforcement agencies have developed mutual aid pacts, either formally or verbally. These pacts have been contractualized in most urban areas.
- B. OCJP has funded research and development projects in this area in specific departments.
- C. Through OCJP funding, the State Police have developed a manual for agency use in developing emergency procedures as outlined in these standards.
- D. MLEOTC has certified training programs in emergency procedures.
- E. Six standards.
 - 1. Five generally implemented - 43.1, 43.2, 43.3, 43.4, 43.6.
 - 2. One not implemented - 43.5.

CONTINUED

1 OF 3

44: ADJUNCT STAFF

- I. Sub-Goal 44 suggests alternative methods to maximize personnel efficiency. In many agencies, sworn personnel is used to perform tasks which could be done by paid civilian, reserve, or volunteer professional personnel. In the case of civilians and reserves, great cost savings can be realized; while with volunteer professionals from the community, additional expertise can be obtained. Because of the current economic situation, this Sub-Goal has been generally implemented.

II. COMMENT

- A. Rising costs for law enforcement have resulted in the increased use of paraprofessionals to perform some duties currently performed by sworn personnel. In many cities, however, utilization of civilians in lieu of sworn personnel is a matter of collective bargaining making implementation subject to the local labor environment.
- B. OCJP has funded a variety of programs utilizing non-sworn personnel to reallocate sworn officer time to crime reduction efforts. These projects include: police cadets, evidence technicians, and police support personnel. This standard is generally implemented to some degree in every community.

45: CRIME LABORATORIES

- I. Sub-Goal 45 recommends that the state consolidate its forensic science services under one state agency to assure funding and provide quality control.
 - A. 45.1 recommends the establishment of a policymaking Forensic Sciences Resources Council. Although a special committee was appointed in 1970 to develop a state plan, and this plan was reviewed by an ad hoc committee in 1973, no ongoing policy board was established.
 - B. 45.2 recommends that the state assume all funding for forensic services approved by the Forensic Sciences Council. Although state assumption of forensic services is increasing, some cities do still maintain their own facilities.
 - C. 45.3 recommends a Bureau of Forensic Science Services be established in the State Police to coordinate funding and policy. In October, 1977 all state crime laboratory services were merged within the MSP Forensic Science Division which is in the Bureau of Technical Services. This standard has effectively been implemented.
 - D. 45.4 recommends that the Bureau of Forensic Science Services implement the recommendations of the Forensic Services Council. Under the Forensic Science Division the recommendations for training and certification of personnel and some facility expansion recommendations have been implemented.
 - E. 45.5 recommends an annual review of the equipment, manpower, and functions of each crime lab by the Forensic Services Council. This review was done in 1970 by the original Forensic Services Committee and reviewed in 1973 by an ad hoc committee. Annual review of forensic science programs occurs as a part of the state budget review process.
 - F. 45.6 and 45.7 recommend implementing a standard statistical reporting system for all crime labs to be performed by the lab director. Reporting requirements are in place for MSP operated facilities.
 - G. 45.8 recommends that the Forensic Services Council should determine expansion sites for crime labs. This has been performed by OCJP and the MSP.
 - H. Under 45.9 the Forensic Services Council should study the local needs in a crime scene investigation and make recommendation to provide local services in conjunction with the existing systems. This standard has not been implemented.
 - I. The Forensic Services Council should develop a means to provide forensic services to defendants. This standard has not been implemented.

II. COMMENT

- A. The standards in this section arose from two committees that studied the forensic science problems. The first, appointed by the Governor in 1970, submitted a state plan that was reviewed by an ad hoc committee in 1973. The recommendations were submitted to the Governor in June, 1974. Legislation was drafted and submitted. Forensic science labs have been

consolidated at the state level and assumption of some local labs is under way.

- B. OCJP has updated this report regularly.
- C. All new forensic labs that have been funded since the report was submitted to the Governor have been under the control of the State Police.
- D. Ten Standards.
 - 1. Four standards have been completely implemented - 45.3, 45.4, 45.5, 45.8.
 - 2. Three standards have been partially implemented - 45.2, 45.6, 45.7.
 - 3. Three standards have not been implemented - 45.1, 45.9, 45.10.

CHAPTER 3: ACQUISITION OF EQUIPMENT

46: PURCHASING OF EQUIPMENT

- I. Sub-Goal 46 recommends that by 1978, the state shall provide the ability for standardized purchases of equipment in accordance with the state procurement plan and competitive bidding practices. Through the superior purchasing power of large quantities substantial savings to individual agencies can be realized.

II. COMMENT

- A. The Michigan Department of Management and Budget maintains lists of commodities utilized by the state departments which are available to local municipalities for purchase. Many items utilized by the State Police are available to local government providing they will accept the equipment under the state specifications.
- B. This standard has been partially implemented; however, no statewide procurement plan has been developed.

CHAPTER 4: TRANSPORTATION

47: EVALUATION, USE, AND MAINTENANCE OF TRANSPORTATION VEHICLES

- I. Sub-Goal 47 recommends that every law enforcement agency review its transportation system to maximize effective response and cost effectiveness.
 - A. 47.1 recommends an annual pre-budget analysis of all transportation equipment purchases to determine if new equipment will increase efficiency.
 - B. 47.2 recommends exploring the cost effectiveness of purchasing, leasing, or officer reimbursement plans.
 - C. 47.3 recommends a careful analysis by any agency considering aircraft purchases for cost effective methods.
 - D. 47.4 recommends the adoption of fleet safety programs to minimize accidents.

II. COMMENT

- A. OCJP requires standard compliance in all federally funded projects.
- B. Economic constraints have encouraged local adoption of standards.
- C. Four standards, all generally implemented.

CHAPTER 5: COMMUNICATIONS

48: TELEPHONE SYSTEMS

1. Sub-Goal 48 recommends that all law enforcement agencies maximize their usage of telephone systems.
 - A. 48.1 recommends that all agencies implement 24 hour telephone service. This standard has been implemented.
 - B. 48.2 recommends that by 1980 a statewide 911 system should be implemented with the following capabilities:
 1. uniform policy;
 2. toll free calls;
 3. all public phones marked for location and 911 dialing procedure;
 4. all 911 dispatch centers should include trace and hold, force interrupt, tone application, automatic number identifier, and party hold;
 5. all 911 centers should be staffed by no less than two operators, 24 hours a day;
 6. all 911 calls should be tape recorded.
 - C. 48.3 recommends that all law enforcement telephone systems be secure from sabotage or natural disaster.

II. COMMENT

- A. No statewide 911 system is currently envisioned, however, Detroit, Oak Park, Sterling Heights, Taylor, Muskegon County, Grand Rapids, Ann Arbor and Plymouth have implemented 911 through local efforts. Other communities studying the feasibility of 911 include Bay County, Saginaw County, Jackson County, Oakland County and Ingham County.
- B. Current conversion costs for toll free calls from a pay telephone are approximately \$500 per phone.
- C. Systems capacities described in 1-B, 4 above, are currently not technically feasible statewide.
- D. Three standards.
 1. Two have been implemented - 48.1 and 48.3
 2. One has not been implemented - 48.2.

49: COMMAND AND CONTROL OPERATIONS

1. Sub-Goal 49 recommends that all law enforcement agencies adopt operations to assure a continuous communications and information flow. Communications centers should be physically secure, continually operational, and linked to state and federal criminal justice information systems.

II. COMMENT

- A. Standard 49.1 calls for 24 hour, two-way radio capability for each law enforcement agency. OCJP has funded the development of the State Police Communications and data access plan, thus implementing this standard.
- B. Standard 49.2 provides that each agency insure delay time in emergency calls not to exceed two minutes and six minutes in non-emergencies. OCJP has funded all communications acquisitions necessary to bring agencies into compliance with the plan.
- C. Standards 49.3 and 49.4 require suitable speedy equipment adequately secured. OCJP has encouraged the centralization of radio dispatch centers whenever feasible.
- D. All four standards have been satisfactorily implemented.

50: RADIO

- I. Sub-Goal 50 recommends that all law enforcement agencies make efficient use of radio frequencies. With radio congestion becoming more acute, all agencies should provide every officer with mobile and portable equipment for communication to a base station. This base station will be physically secure and operate in compliance with a state frequency plan. The state should also stimulate development of advanced communications systems such as mobile digital devices and vehicle locator devices.

II. COMMENT

- A. OCJP has funded the development of the state plan for police communications. OCJP has purchased the necessary radio equipment to bring local agencies into plan compliance.
- B. OCJP has drafted, and is purchasing, advanced communications equipment.
- C. All six standards have been implemented (50.1 through 50.6).

CHAPTER 6: PERSONNEL ADMINISTRATION

51: RECRUITMENT

- I. Sub-Goal 51 recommends that every law enforcement agency should insure equal employment opportunities to all applicants. When qualified applicants are not available, recruitment efforts should be made to obtain quality personnel.
 - A. Standard 51.1 calls for establishment of remedial employment procedures to assure adequate representation in the workforce of the community served. Minority recruitment or intern programs have been funded by OCJP to assist in implementing equal employment programs. In addition seminars have been conducted by OCJP with funded departments to assist them in establishing and maintaining EEO guidelines and programs.
 - B. Standard 51.2 discusses establishment of recruitment programs. Possible recruitment and techniques to be used are: 1) search of college graduates, 2) elimination of a residency requirement, 3) applicant and testing at decentralized locations, and 4) student worker programs. OCJP has successfully funded many student cadet and paraprofessional support service projects. This standard is implemented.
 - C. Minority representation has become a goal of all agencies where substantial minority communities exist. Court decisions in many major cities have hastened the efforts of most urban law enforcement agencies, and the possibility of legal action stimulated efforts in the rest. Currently, all cities with substantial minority populations have undertaken some efforts to attract minority candidates.
 - D. Two standards (51.1 and 51.2) are both implemented.

52: SELECTION

- I. Sub-Goal 52 recommends the adoption of a formal selection process for the selection of qualified law enforcement applicants.

II. COMMENT

- A. Standard 52.1 requires that selection criteria include minimum educational requirements. Requirements should be increased across time with the goal by 1980 of a 4 year education at an accredited college or university. With the growing number of law enforcement and criminal justice programs available at community colleges, colleges, and universities, law enforcement agencies are moving to hire more qualified persons. Many agencies encourage pre-selection training as a way of reducing later training costs. This standard is partially implemented.
- B. Standard 52.2 outlines minimum examination of applicants as:
1) written test of mental ability or aptitude, 2) an oral interview, 3) a physical exam, 4) a psychological exam, and 5) an indepth background investigation. Some agencies currently utilize all of these recommended procedures. Court decisions concerning the validity of some of the recommended selection procedures precludes their statewide implementation.
- C. Two standards, partial implementation

53: SPECIALIZED ASSIGNMENTS

- I. Sub-Goal 53 recommends that all law enforcement agencies develop formalized procedures for matching personnel to specialized assignments.

II. COMMENTS

- A. Standard 53.1 calls for every agency to maintain a continually up-dated, comprehensive personnel file. This practice is generally implemented.
- B. 53.2 requires each agency to establish written specifications for every specialized position stipulating necessary experience, education, and special skills or knowledge required. OCJP requires written specifications for all LEAA funded positions. This standard is generally implemented.
- C. Standard 53.3 requires command personnel to interview candidates for specialized positions. This standard is implemented.
- D. Standard 53.4 would require specialized personnel to complete an internship prior to regular assignment to such a position. Routinely specialized training is required for specialized personnel. This training may be either classroom or on-the-job; however, formal internships are rarely used. This standard is partially implemented.
- E. Standard 53.5 calls for rotation of specialized personnel. This standard is partially implemented; however, due to specialized training required, rotation is rarely the usual procedure. Narcotics, vice, and other special units often need to rotate undercover persons to minimize "burning" of officers.
- F. These five standards (53.1 through 53.5) have been partially implemented.

54: TRAINING

- I. Sub-Goal 54 recommends providing law enforcement personnel with the appropriate training before field placement, in-service for refresher purposes and before promotion on specialized assignment.
 - A. 54.1 recommends that all officers complete 400 hours of basic training before field placement. This training should include instruction in law, psychology and sociology. Training should include field placements, remedial courses, and trainee evaluation. The Michigan Law Enforcement Officers Training Council requires enrollment in a 256 hour basic recruit training course of all officers in agencies of more than three people (P.A. 203 1965). This standard is partially implemented.
 - B. 54.2 recommends that every officer be provided with refresher training, rotation of assignments, employee service ratings, and self paced training courses. MLEOTC provides a 40 hour refresher training course. Implementation is partial since on-the-job training above the 40 hours is carried out by each agency.
 - C. 54.3 recommends that the individual agency provide job specific and agency particular training. This standard is generally implemented.
 - D. 54.4 recommends that agencies encourage college level education through shift assignments, financial assistance for education costs and incentive pay. This practice is generally accepted by most law enforcement agencies. Financial assistance is available through the LEEP program.
 - E. 54.5 recommends that all training facilities meet minimum standards for curriculum, instructors, teaching methods, and classroom conditions. MLEOTC currently provides these inspections and certifications; thus, implementing this standard.
 - F. 54.6 recommends that all personnel receive training in personnel administration, financial management, community development, and administration prior to promotion. MLEOTC currently provides seminars in management and executive training, and correspondence courses in supervisory training. This standard is generally implemented.

II. COMMENT

- A. MLEOTC programs, with the exception of recruit training are voluntary in nature.
- B. OCJP funds many post recruit training programs through MLEOTC and other agencies.
- C. Six Standards
 1. Four standards are generally implemented - (54.3, 54.4, 54.5) and 54.6).
 2. Two are partially implemented - (54.1, 54.2)

55: REGULATION OF CONDUCT

1. Sub-Goal 55 deals with the need for unrepachable conduct by law enforcement officers. To accomplish this, every agency should develop formalized rules of conduct as a condition of employment. These written policies should define which actions are justifications for discipline. These policies should be included in training procedures and organized into a systematic disciplinary system encouraging employee participation.
 - A. 55.1 recommends brief written rules of conduct. These rules are general practice for all law enforcement agencies.
 - B. 55.2 recommends that exemplary behavior be rewarded. Many communities and associations provide this type of recognition for outstanding law enforcement efforts.
 - C. 55.3 recommends disciplinary procedures be incorporated in training. All public complaints should be investigated by a specialized unit which will proceed swiftly, dignifiedly, and rationally. With the advent of unionization of law enforcement, disciplinary procedures are well defined. This standard is implemented.
 - D. 55.4 recommends that the law enforcement executive be granted final disciplinary authority, but the departmental procedures be conducted in a quasi-judicial manner to provide for the preservation of employee rights. Close scrutiny has been the rule in the development of disciplinary authority and rights. This standard is generally adhered to.
 - E. 55.5 recommends programs for minimizing misconduct problems. This standard remains a goal toward which to work.
 - F. 55.6 recognizes that only through constant efforts by the law enforcement executive to improve conduct, will the previous programs be effective. The standard recommends that through increased communications, increased personnel benefits, set grievance procedures and collective bargaining, conduct problems can be minimized. This standard is implemented in that continual efforts are being exerted to minimize misconduct.
 - G. 55.7 recommends that all law enforcement associations formalize policies to protect the rights of their members through publicity of activities and adherence to rules for internal democracy and fiscal integrity. This standard is implemented.
 - H. 55.8 recommends the development of codes of personnel appearance for both uniformed and non-uniformed personnel. This standard is implemented. Union contracts determine the nature of uniform requirements.
 - I. 55.9 recommends the development of formal policies concerning firearms, ammunition, and maintenance. Most Michigan law enforcement agencies have developed written policies for firearms type and use.

II. COMMENT

- A. The nine standards in this section can be implemented only through individual agency action. All nine standards have been implemented in the larger, urban departments.
- B. Seven of the nine standards (55.1, 55.3, 55.4, 55.6, 55.7, and 55.8) are generally implemented.

56: LABOR RELATIONS

- I. Sub-Goal 56 deals with the need to develop labor procedures that will maximize communications and bargaining without endangering the security of the community.
 - A. 56.1 recommends that by 1975 all employees be allowed to collectively bargain for wages and work conditions. Local jurisdictions should develop rules for the negotiation process that prevents circumvention of the negotiation process, retain certain management rights, prohibit work stoppages, and develop training procedures for all involved in collective bargaining. The Michigan State Police are currently excluded from collective bargaining under the Michigan Constitution. A current effort by the Michigan State Police Troopers' Association would amend the Constitution by initiative to permit collective bargaining.
 - B. 56.2 recommends the actions that the law enforcement executive take to prevent work stoppages. Under union contracts, these procedures are well defined.

II. COMMENT

- A. MLEOTC has developed a labor relations training program funded by OCJP.
- B. The collective bargaining process requires employee balloting and designation of a bargaining unit. This process can't be manipulated by the executive. Consequently, the two standards are only partially implemented.

57: SALARY ADMINISTRATION

- I. Sub-Goal 57 recognized the need to develop salary scales that will attract and retain high quality personnel.
 - A. 57.1 recommends establishing entry pay at levels which allow law enforcement agencies to compete with other employers.
 - B. 57.2 recommends the establishment of a broad salary range with multiple pay classifications to allow promotion by both generalists and specialists.
 - C. 57.3 recommends that pay scales be established that encourage opportunities in the patrol ranks such as multiple pay grades, proficiency pay, pay parity between patrol and specialized personnel.

II. COMMENT

- A. Implementation of these standards is totally dependent upon the results of local collective bargaining agreements. State intervention in this process is limited to efforts at mediation or arbitration. However, the current contracts which have resulted from this process have tended to include substantial pay raises.
- B. These three standards are all partially implemented.

58: EMPLOYEE SERVICES

1. Sub-Goal 58 recommends that every law enforcement agency develop health care, retirement, and injury or loss of life programs for its employees.
 - A. Standard 58.1 calls for each agency to establish an employee services unit to assist employees in obtaining various benefits for which they are entitled. This standard is implemented in large law enforcement agencies. In smaller agencies, this function is performed through city, township, county, or state personnel offices. A Federal program, the Public Safety Officers Benefit Act, was established in September 1976 to provide funds to survivors of officers killed in the line of duty. Further, SB 1283 has been introduced at the state level to provide similar benefits.
 - B. Standard 58.2 calls for provision of health benefits to law enforcement employees and their families. Most agencies currently provide substantial benefits.
 - C. Standard 58.3 requires the establishment of an actuarially sound law enforcement retirement system for sworn personnel. This standard is generally complied with.

II. COMMENT

Implementation of this sub-goal is primarily contingent upon local labor agreements. Current labor contracts have tended to result in sub-goal implementation.

59: LEGAL ASSISTANCE

1. Sub-Goal 59 recommends that every law enforcement agency obtain legal assistance according to its need. Where possible, agencies should use local prosecution or state attorney general staff. When this is not sufficient, an attorney can be retained or solely employed. If the attorney is engaged in private practice, a careful analysis should be undertaken to assure that a conflict of interest does not occur. The advisor will provide legal council for administration, provide liaison with local prosecutors, state and federal attorney generals, and the courts, review agency regulations and training procedures, consult arresting officers, attend major disturbances to provide on the spot council, draft action guidelines in response to new laws or court decisions and provide council for special projects. The size of the advisory staff will be determined by local need.

II. COMMENT

- A. OCJP has funded legal advisors for several agencies.
- B. The single standard has been implemented partially, depending on local resources and needs.

STATUS REPORT

PART IV

ADJUDICATION

SEPTEMBER, 1977

Status Report, September, 1977

IV. ADJUDICATION
SECTION 1: INTRODUCTION

The purpose of the Adjudication Section of the Goals and Standards report is to provide programs to improve "...the overall fairness, efficiency, and effectiveness of the process of adjudication in Michigan."¹ Originally, a total of 141 standards with 11 Sub-Goals was developed. These standards have been significantly modified in certain areas. The topics within the Adjudication Section are divided into two chapters. Chapter 1: The Processing of a Criminal Case, discusses Screening, Diversion, Plea Negotiation, the Litigated Case, Sentencing and Appellate Review. These areas delineate various programs to be used prior to trial through post-trial review that can provide the utmost flexibility in the adjudication of an accused. Chapter 2: Organization, Personnel and Institutions, relates to the administrative aspects of the various institutions found within the process of adjudication. The subjects covered are the Judiciary, Courts, Court Organization and Community Relations, the Prosecution, the Defense, and finally, Victims, Witnesses, and Jurors.

This report summarizes the status of the standards to date.

¹Criminal Justice Goals and Standards for Michigan, p. 91.

SECTION II: SUMMARY OF STANDARDS BY IMPLEMENTATION STATUS

CHAPTER 1: THE PROCESSING OF A CRIMINAL CASE

60: SCREENING

1. Sub-Goal 60 has as its purpose "the stopping of formal proceedings prior to trial or pleas, against certain persons involved in the criminal justice system, as soon as practicable, in all state courts." Screening generally involves the "decision to abandon coercion over the accused." A judgement whether or not to prosecute, based upon the balancing of the possible harm to society and the benefit to the accused is made at an early stage in the adjudication process by the prosecutor's office.

While these standards were developed using this traditional screening concept, it is important to explore the other major function of screening also, the "screen-in" process. The "screen-in" process assures that the most dangerous offenders will be swiftly and justly be given the attention of the justice system. In a balanced system, it is necessary to devote adequate resources to case screening for both "screen-in" and "screen-out" cases to assure that prosecutorial and judicial resources are used most effectively. In implementing standards 60.1 - 60.5, dealing with the "screen-out" concept, the "screen-in" standards (Sub-Goal 63) should be kept in mind particularly as they relate to the priority prosecution programs.

- A. Standard 60.1 lists several factors to be considered when a determination is made as to the suitability of screening for a particular accused person. Included are doubt as to the accused's guilt; the direct cost of prosecution; and any improper motives of the complianant; and the impact of further proceedings upon the accused and those close to him (especially the likelihood and seriousness of financial hardship or disruption of family life).

Through an OCJP technical assistance grant, PAAM (Prosecuting Attorney's Association of Michigan) has assisted many prosecutors in developing screening guidelines. Of major importance in the establishment of screening guidelines is input from the community itself in terms of what crime problems are and what resources are available to deal with these problems efficiently. This standard has been implemented in many communities.

- B. Standard 60.2 states that "police, in consultation with the prosecutor, should develop written guidelines for the taking of persons into custody in accordance with factors in 60.1."

Michigan statutes permit writing of summons and posting of appearance bond. The Kalamazoo Lower Court Processing grant has developed procedures for processing citations and summons. This standard has been partially implemented.

- C. Standard 60.3 states that the "decision concerning whether to proceed with formal prosecution should rest solely with the prosecutor." Screening should take place before any arrest warrant is issued. This standard has been implemented. See comment.

- D. Standard 60.4 states that the guidelines should be as specific as possible taking into consideration "local attitudes and conditions." These guidelines are to be periodically reevaluated "by police and the prosecutor, and should be readily available to the public." This standard has been implemented.

Under the priority prosecution programs operating in most Michigan cities, it is necessary to both develop guidelines and periodically review them by a community

advisory body which includes police, prosecutors, defense, judiciary and private agency and community representation.

- E. Standard 60.5 states that "a written statement of the prosecutor's reasons for screening...should be kept on file." If a defendant is screened, then a private complainant or the police "should have recourse to the court to determine whether the prosecutor's discretion has been abused." At the present time, the prosecutor's decision as to prosecution and plea negotiation is generally unchecked. Under MCLA 775.12 a private complainant can post security for costs and cause the prosecution of the accused. This standard has been partially implemented. In cities where the PROMIS (Prosecutor's Management Information System) is used, this procedure is standard practice.

II. COMMENT

There are currently several screening projects in Michigan funded by OCJP. Among these are Kalamazoo, Ingham and Barry counties. Attributed to these projects are more guilty pleas and a higher conviction rate.

One of the explicit aims of the Goals and Standards publication is the establishment of a unified and coordinated statewide criminal justice system. And, since implementation of screening programs takes place at the local level these proposed standards are general in scope. This will allow local units to implement specific programs that are structured to the unique geographic and demographic characteristics of the region and still provide for statewide coordination. Again, screening should be instituted to reflect community values and standards and to prioritize those cases which should be removed from further proceedings and those which should be given priority for prosecution.

61: DIVERSION

- I. Sub-Goal 61 states that the purpose of diversion is to "halt or suspend before conviction the formal criminal proceedings against a person on the condition that the person will participate in an approved diversion program, in all courts in Michigan." Generally, a diversion program involves a written, court-approved, agreement which has been voluntarily and knowingly agreed to by the accused and the prosecutor's office. The accused can be channeled into two types of diversion programs: 1) those not outside the criminal justice system itself, such as Alcoholics Anonymous, Family Service-Association, or others, and 2) those programs operated within the criminal justice system (usually within the prosecutor's office).

Specifically, the objective of diversion is to divert eligible individuals, at either the prewarrant or post-warrant stage, out of the normal criminal justice process thereby reducing caseloads and enhancing the individual's chance for rehabilitation.

- A. Standard 61.1 states that appropriate cases should be diverted into noncriminal justice programs when the benefits to society outweighs the harm to society. This standard is being implemented in several ways: 1) diversion programs within prosecutor's offices, 2) informal probation programs, 3) decriminalization of certain traffic offenses and public intoxication; and 4) diversion of first time minor drug (marijuana) offenders from the criminal justice system.
- B. Standard 61.2 lists certain factors to be considered favorable to a decision to divert, (including youth) and the relationship of the crime to any social or mental influence. This standard is being implemented. See comment.
- C. Standard 61.3 lists certain factors unfavorable to a decision to divert. These include any history of physical violence, antisocial conduct, etc. This standard has been implemented. It is important to note that those persons denied diversion on this criteria are then screened as possible candidates for priority prosecution.
- D. Standard 61.4 states that limited contact with the criminal justice system may in itself have the desired deterrent effect. This standard has been implemented. See comment.
- E. Standard 61.5 states that the decision to divert should be based upon written guidelines and should be "promulgated by the police or other agency concerned after consultation with the prosecutor," or by the prosecutor's office itself, when appropriate. This standard has been implemented.

LEAA has developed guidelines for agencies interested in operating diversion programs. Further, OCJP has funded numerous diversion and priority prosecution programs both of which require community involvement and criminal justice agency cooperation in the establishing of project guidelines. See commentary.

- F. Standard 61.6 states that "unless a diversion agreement between the defendant and the prosecution has been utilized, a written statement of the reasons for the decision as to whether or not to divert should be maintained. This standard has been partially implemented as some of the diversion programs now in existence utilize the written agreement. See comment.
- G. Standard 61.7 states that a diversion program necessarily involving a "significant deprivation of an offender's liberty" should only be utilized under a court-approved diversion agreement insuring the defendant's constitutional rights. This standard has been implemented.

In diversion programs operating in Michigan, 1) offenders have the right to be represented by counsel; 2) suspension of prosecution is limited to one year, 3) the Holmes' Youthful Trainee Act provides statutory authority for institutionalization and taking of a guilty plea; 4) prosecutorial discretionary authority as to the offender's compliance with the agreement; and 5) dismissal of prosecution upon expiration of the agreement.

- H. Standard 61.8 states that written diversion decisions should be used to enable the prosecutor's office to review the decision. "The decision by the prosecutor not to divert a particular defendant should not be subject to judicial review." Presently, there is no review procedure of the prosecutor's decision. This standard has been implemented. See comment.

II. COMMENT

Although most of the standards for diversion have been implemented, no one project seems to encompass all the standards. Therefore, a diversion program, according to Goals and Standards, has not actually been implemented statewide.

Diversion can occur not only within the prosecutor's office but also within the police department. Police diversion can be readily used in situations such as public intoxication, minor family fights and cases involving mentally ill minor offenders. This is an area where those "outside agencies" can be readily utilized.

As is true with screening programs, diversion programs are implemented on a local basis. These standards provide for variances in each program to provide for the specific needs of a particular area. Therefore, uniform statewide implementation is difficult.

62: THE NEGOTIATED PLEA

- I. Sub-Goal 62 states that plea bargaining is to be abolished "within five years from the date of adoption of this recommendation." The attempt is to phase-in screening and diversion programs within this time period while eliminating plea bargaining. Screening and diversion are two of the procedural safeguards recommended to insure fairness to the defendant while not overburdening the courts. If a defendant is not accepted into a diversion program, there can still be no plea bargaining according to this program. Standards 62.1 - 62.12 as originally written recommend other steps that can be taken until the negotiated plea is abolished.

In February, 1977, the Commission on Criminal Justice appointed a task force to review these standards and to make recommendations to the Commission. The Task Force concluded that Sub-Goal 62 and its standards were in need of substantial revision. General consensus was: 1) that under the present criminal justice system, plea negotiations were necessary in certain situations; 2) that there was a need to expand 62.3 (intraoffice prosecutor standards); 3) that emphasis should be placed on communicating the decision to plea back to law enforcement agency making the arrest; and 4) that the victim should have input into the plea negotiation process. Thus, Sub-Goal 62 and standards 62.1 - 62.13 were revised by Commission action in September, 1977 to read as follows:

- A. 62.1 Plea negotiations should be used to further justice and to seek a disposition that reflects the criminal act. Plea negotiations should never be used solely to reduce case back logs or reallocate manpower.
- B. 62.2 Where a negotiated plea of guilty or nolo is offered, in cases punishable by more than 1 year, the agreement on which it is based should be presented in its entirety to the judge in open court for the court's acceptance or rejections. In each case in which such a plea is offered, the record should contain a full statement of the terms of the underlying agreement and the judge's reasons for accepting or rejecting the plea.
- C. 62.3 Prior to exercising discretionary authority to authorize criminal charges, a prosecutor should obtain as much information as possible regarding the alleged offense, the offender, the victim, and the evidence of guilt. Absent special circumstances subsequently revealed, a prosecutor should be prepared to try, as charged, defendants who do not plead guilty as charged. Prosecutor-authorized reductions of the charges initially authorized may further the purposes of the criminal justice process if such reductions are based on considerations made known to the prosecutor subsequent to the original authorization. Appropriate considerations include:
 1. Legal or factual deficiencies in the prosecutor's case;
 2. The role that a plea and negotiated agreement might play in rehabilitating the offender;
 3. The guilt or innocence of the defendant, on the merits, with respect to the particular charges assessed or possibly included or lesser charges;
 4. The facts preceding and surrounding the commission of the offense;
 5. The history of the offender;
 6. The attitude and mental state of the accused at the time of the crime, and time of arrest, and the time of plea discussion;
 7. The age and circumstances of the victim, the impact of the offense upon him or her, and his or her view with regard to bringing the offender to justice; and
 8. The assistance rendered by the offender in:

- a) The apprehension or conviction of other offenders;
- b) The prevention of crimes by others;
- c) The reduction of the impact of the offense on the victim; and
- d) Any other socially beneficial activity.

- D. 62.4 Each prosecutor's office in Michigan should formulate a written statement of policies and procedures governing all members of the staff in plea negotiations. This statement of prosecutorial plea negotiation practices should be available to the public.

The statement of policies and procedures concerning plea negotiation practices should direct that before finalizing any plea negotiations, a prosecutor's staff attorney should obtain full information on the offense and the offender. This should include information which is obtained in light of the factors described in 62.3, *supra*.

All this information should be considered by the attorney in deciding whether to enter into an agreement with a defendant. This statement should be an internal, intraoffice standard only. Neither the statement of policies, nor its applications should be subject to judicial review. The prosecutor's office should assign an experienced prosecutor to review negotiated pleas and to insure that the guidelines are applied in a proper and fair manner.

- E. 62.5 A time limit should be established after which plea negotiations may no longer be conducted. At the latest, all negotiations should cease within one day prior to the sending out of the jury call for the jurisdiction. An earlier date is desirable. The sole purpose of this limitation should be to insure the maintenance of a trial docket that lists only cases that will go to trial. After the specified time has elapsed, only pleas to the official charge should be allowed, except in unusual circumstances and with the approval of the court and the prosecutor.
- F. 62.6 No plea negotiations should be conducted until a defendant has been afforded an opportunity to be represented by counsel. If a defendant is represented by counsel, the negotiations should be conducted only in the presence of counsel.
- G. 62.7 Plea negotiation should not be conducted without the appropriate law enforcement agency being given reasonable notice and an opportunity to present or communicate its views on the plea negotiation.
- H. 62.8 Plea negotiation should not be conducted without the victim being given reasonable notice and an opportunity to have his/her views considered in the negotiation.
- I. 62.9 No prosecutor should, in connection with plea negotiations, engage in, perform, or condone any of the following:
- 1. Charging or threatening to charge a defendant with offenses for which the admissible evidence available to the prosecutor is insufficient to support a guilty verdict;
 - 2. Charging or threatening to charge a defendant with a crime not ordinarily charging in the jurisdiction for the conduct allegedly engaged in by a defendant;
 - 3. Threatening a defendant that if he or she pleads not guilty, the sentence may be more severe than that ordinarily imposed in the jurisdiction in similar cases on defendants who plead not guilty;
 - 4. Failing to grant full disclosure before the disposition negotiations of all exculpatory evidence material to guilt or punishment; and

5. Conditioning a plea bargain on the agreement by the defendant that the plea-based conviction not be appealed.
- J. 62.10 The court should not participate in plea negotiations. It should, however, inquire as to the existence of any agreement whenever a plea of guilty is offered and carefully review any negotiated plea agreement underlying an offered guilty plea. It should make specific determinations relating to the acceptability of the plea before accepting it.

Before accepting a plea of guilty, the court should require a defendant to make a detailed statement concerning the offense in the event that the plea is not accepted, this statement and any evidence obtained through the use of it should not be admissible against the defendant in any subsequent criminal prosecution.

- K. 62.11 The review of the guilty plea and its underlying negotiated agreement should be comprehensive. If any of the following circumstances is found and cannot be corrected by the court, the plea should not be accepted:
 1. Counsel was not present during the plea negotiations and should have been;
 2. Defendant is not competent or does not understand the nature of the charges and proceedings;
 3. Defendant was reasonably mistaken or ignorant as to the law or facts related to the case and this affected the decision to enter the agreement;
 4. Defendant does not know his/her constitutional rights and how the guilty plea will affect those rights; rights that expressly should be waived upon the entry of guilty plea include:
 - a) Right to the privilege against self-incrimination (which includes the right not to plead guilty);
 - b) Right to trial in which the government must prove defendant's guilt beyond a reasonable doubt;
 - c) Right to a jury trial;
 - d) Right to confront one's accusers;
 - e) Right to compulsory process to obtain favorable witnesses; and
 - f) Right to effective assistance of counsel at trial.
 5. During plea negotiations defendant was denied a constitutional or significant substantive right which was not knowingly and intelligently waived;
 6. Defendant did not know at the time of entering into the plea agreement the mandatory minimum sentence and the maximum sentence that may be imposed for the offense, or defendant was not aware of these facts at the time the plea was offered;
 7. Defendant was offered improper inducements to enter the guilty plea;
 8. Defendant continues to assert facts that, if true, establish that he or she is not guilty or the offense to which he or she seeks to plead; and
 9. Accepting the plea would not serve the public interest. Acceptance of the guilty plea would not serve the public interest if it:
 - a) Places the safety of persons or valuable property in unreasonable jeopardy;
 - b) Depreciates the seriousness of defendant's activity or otherwise promotes disrespect for the criminal justice system;
 - c) Gives inadequate weight to defendant's rehabilitative needs; or
 - d) Would result in conviction for an offense out of proportion to the seriousness with which the community would evaluate defendant's conduct upon which the charge is based.
- L. 62.12 When a guilty plea is offered in cases punishable by more than one year and the court either accepts or rejects it, the record must contain a complete state-

ment of the reasons for acceptance or rejection of the guilty or nolo plea.

- M. 62.13 The fact that a defendant has or has not entered a plea of guilty should be considered in determining sentence.

II. COMMENT

- A. Plea negotiation is an easy, money-saving device to use. It can be an important tool in certain types of cases. The use of plea negotiation would allow for trading of a plea to a lesser crime for the testimony of the defendant against a more "wanted individual." Also, if there should be an unavoidable delay in the trial and as a result a witness should become unavailable for testimony, the negotiated plea may be needed to salvage the case. Perhaps, in these limited situations, with approval of the court, the negotiated plea could be retained as a vital device.

Perhaps the best approach to abolishing plea negotiation would be to make screening and diversion, in effect, two parts of a unified program. This would coordinate the two programs needed for the reduction in the number of cases where plea bargaining occurs and allow for its speedier demise.

- B. Revised Standards. The revised standards are believed to be closer to what can realistically be implemented than the earlier standards. Due to the recency of the revision of these standards, implementation status has not been determined.

63. THE LITIGATED CASE

1. Sub-Goal 63 states that the purpose of its standards is to eliminate unnecessary delay from arrest through trial. This will become especially important if plea bargaining is abolished. With a reduction in plea negotiations, there is expected to be a sharp increase in criminal trials. Screening and diversion will alleviate this problem somewhat. The standards in this section will still be needed, however, to expedite matters between arrest and trial to avoid overcrowding of jails and trial dockets, which is one intent of these standards.

In January, 1977, the Commission on Criminal Justice passed the following recommendations to reduce unnecessary delay in the litigated case:

- A. Michigan Statute, MCLA 766.11, should be amended such that the filing of the transcript of the preliminary exam should not be a condition precedent to circuit court arraignment or vesting of jurisdiction.
- B. The concept embodied in HB6012, SB1457 and Chapter 6 §11, District Judges Bill, which would amend to require the demand for transcript be made within ten (10) days AFTER the preliminary exam is supported. The statute should be further amended to abolish the requirement of presenting the transcript to the witness, he or she being given an opportunity to read it and sign the same.
- C. The Commission recommends transcripts of the preliminary exam should only be required in cases where there are motions pending in preparation of trial.
- D. The concept of pre-trial discovery in criminal cases, i.e., disclosure of the contents of counsels' files, except defendant statements to his/her attorney or agent and work product is supported. Disclosure should be an ongoing obligation by both counselors. The Commission recommends the Supreme Court adopt rules to implement such discovery.
- E. HB5864 provides community-based treatment programs of supervision and services for persons charged with offenses against the State. The Commission recommends adoption of this bill only after these amendments are made.
 1. §6 (2) should be amended to allow the prosecutor to terminate an individual from the program at his/her discretion. Presently, the bill requires a criminal hearing prior to termination. If this is not possible, the bill should be amended to state that in those jurisdictions in which there is only one district, probate, and circuit judge, then the requirement that a judge preside over the termination proceedings, should be deleted.
 2. The bill should require automatic termination of an individual who commits a crime while participating in the program. Presently, there is no such requirement.
 3. §7 (1) of the bill should be amended to avoid those situations in which the judge (in a one judge circuit as described, supra) who has original criminal jurisdiction, also sits on the advisory committee. This situation is, at best, tolerable. Presently, the bill permits a judge who has original criminal jurisdiction to always sit on the advisory committee.

4. The bill should make reference to the Michigan Administrative Procedures Act for promulgation of rules. There is no such reference, presently.
 5. The bill should be amended to provide that a warrant not be issued when there is no court hearing prior to diversion.
- F. In order to correct the time consuming and inefficient procedure by which guilty pleas are presently administered, the following amendments to the court rules and statutes should be made:
1. GCR 785 and MCLA 775.16 should be amended to clarify the question of who appoints a lawyer for the defendant. The judge who arraigns on the arraignment and warrant should be given the authority to appoint indigent counsel: the district judge.
 2. The present statutes and court rules should be amended so that when a defendant wants to plead guilty, the district judge should have jurisdiction to accept felony and high court misdemeanor guilty pleas without a preliminary hearing, provided the defendant is fully advised of his rights. The judge should have authority to immediately refer all defendants directly to the presentence division of the circuit court.
 3. The statutes and court rules should be amended so that at this point, the circuit judge should receive a verbatim transcript of the guilty plea. Upon satisfying himself that the plea was voluntary, and in full compliance with GCR 785, the circuit judge should sentence the defendant based on the Department of Corrections' Probation Staff's presentence report.
- II. A. Standard 63.1 gives time limits between arrest and the beginning of trial. For a felony - 60 days, a misdemeanor - 30 days. Under the present court rules, GCR 789, a delay of six months is allowed in felony cases, and 30 days in misdemeanor cases. This applies only to incarcerated defendants and not those out on bond. These time periods are between arraignment or indictment and the start of trial and not as in the standards, between arrest and trial. In the twelve career criminal programs a goal of 60 days is set for habitual felony offenders. This standard is partially implemented.
- B. Standard 63.2 makes provision for the use of a citation or summons in minor misdemeanor cases in lieu of arrest. Also certain situations where the citation would not be suitable are listed. The procedure for the issuance and contents of a citation or summons are described. This standard has been implemented, by MCLA 764.9(b)(c). However, it is not now widely practiced. There is a Kalamazoo project "Lower Court Improvement" testing the effectiveness of this standard.
- C. Standard 63.3 states that if a citation is not used and the defendant has been arrested, the defendant should be brought before a judge without delay to be advised of the charges and to be released if appropriate. This standard has been implemented, by MCLA 766.4 and 766.1.
- D. Standard 63.4 states that defendants are to be released from custody prior to trial whenever possible. Also, private bail bond agency participation should be abolished. This standard has been partially implemented by MCLA 764.9a et. seq., the release on recognizance programs

and the 10% bail bond requirement. Private bail bond agencies have not been abolished as yet.

- E. Standard 63.5 lists alternatives to pretrial detention and some governing considerations. This standard has been implemented, by MCLA 764.9 et. seq., the release on recognizance programs and the 10% bail bond requirement.
- F. Standard 63.6 states that background information on a defendant in question should be gathered in such areas as current employment status, residency, prior criminal record, etc. This standard has been partially implemented. There are ROR projects now in Genesee County, Ingham County, Kalamazoo County and Washtenaw County, funded by OCJP. In addition, such practices are utilized for formal diversion programs and in career criminal projects.
- G. Standard 63.7 states that pretrial detention should not be used unless necessary. This standard has been partially implemented, by ROR projects.
- H. Standard 63.8 states that where pretrial conditions "substantially infringe upon the accused's liberty," the accused should have recourse to both judicial and, if necessary, appellate review of that decision. Possible recourses that are available now are Habeas Corpus proceedings and superintending control actions. This standard has been implemented.
- I. Standard 63.9 lists the factors to be considered in revoking a defendant's pretrial release. This standard has not been implemented.
- J. Standard 63.10 deals with those offenders under a pretrial release program, who fail to appear for trial. Specific sanctions against such offenders are suggested. There is a statute in Michigan which places sanctions against those who jump bond. The standard also calls for the establishment of an Apprehension Unit within a law enforcement agency to secure arrests of defendants who fail to appear. This standard has been partially implemented.
- K. Standard 63.11 states that there should not be an opportunity for preliminary hearing in misdemeanor cases. It also delineates the procedure for motions prior to trial. This standard has been implemented, by MCLA 764.26 and by court decision.
- L. Standard 63.12 states that the "grand jury indictment should not be required in criminal prosecution in Michigan." If the grand jury is used, no preliminary exam should be available. However, "the grand jury should remain available for investigation and charging in exceptional cases..." This standard has been implemented because preliminary exams are still required by GCR 788 in all felony cases indicted by a grand jury.
- M. Standard 63.13 states that when a preliminary hearing is held, no longer than 12 days should elapse after arrest before it is held. Also, other guidelines regarding the type of information to be presented are given. This standard has been implemented by MCLA 766.4, but, in practice, doesn't routinely occur.

- N. Standard 63.14 states that arraignment should be eliminated as a step in the criminal prosecution of a defendant. This standard has been implemented, generally by GCR 785.5(2) which states that a defendant represented by a lawyer may enter a plea of not guilty without arraignment by filing a written statement signed by the defendant and his lawyer acknowledging the defendant's understanding the substance of the charge and that he waives arraignment in open court.
- O. Standard 63.15 states that the prosecution should disclose to the defendant all relevant evidence within five days of the preliminary hearing or apprehension if no preliminary hearing is used. Presently, according to GCR 785.1(2) discovery is not available in criminal matters. But, under GCR 787, the accused is entitled to a portion of the record of grand jury proceedings. Federal Rules of Criminal Procedure 16a and 16b could provide guidance for discovery in criminal proceedings. Generally, discovery of evidence is within the discretion of the trial judge, People v Maranian, 359 Mich. 361 (1960). This standard has been partially implemented.
- P. Standard 63.16 establishes that a defendant, where the penalty is more than one year in jail, may make use of depositions for testimony if leave of the court is obtained and certain other stipulations are met. Under GCR 785, depositions to perpetuate testimony are presently allowed. This standard has been partially implemented in that GCR 785.1(2) allows depositions to perpetuate testimony.
- Q. Standard 63.17 states that all pretrial motions should be filed within 10 days of the preliminary hearing, the waiver thereof, or apprehension, or service of summons after indictment, whichever form the prosecution follows. The hearing on the motions should be held within five days of the filing of such motions. A ruling on them should be made within 72 hours. "Failure to raise any issue concerning the admissibility of evidence," etc., should preclude a defendant from raising the issue at trial unless the information concerning such issue was not available at the time of the hearing. Generally, time limits such as these are now promulgated on a local basis, so there is not statewide implementation.
- R. Standard 63.18 states that there should be a pretrial conference; which should be held subsequent to any hearing of motions. GCR 301 in conjunction with GCR 785.1(1) allows for the pretrial conference in criminal matters. Pretrial conferences are in practice handled locally in an informal manner; however, conferences are currently held in felony cases. This standard has been partially implemented.
- S. Standard 63.19 states that certain types of cases should be given priority when being assigned to the trial docket. These involve cases such as when the defendant is in custody, or when the defendant constitutes a "significant threat of violent injury to others," et.al. The philosophy of GCR 789.1 corresponds to this standard. This standard has been partially implemented.
- T. Standard 63.20 limits the granting of continuances "except upon verified and written motion, and a showing of good cause." This standard has been partially implemented by Act No. 63, Public Acts of 1974 and GCR 503. Many continuances are currently granted by court request due to the backlog of cases.

- U. Standard 63.21 states the questioning of prospective jurors should generally be done by the judge. According to People v Solis, 32 Mich. App., 191 (1971), the trend is in favor of the judge questioning the jurors. This standard has been partially implemented.
- V. Standard 63.22 deals with the proper size of juries: for misdemeanors at least six, for felonies 12. This is consistent with present Michigan Law. Under Const. 1963, Art. 1, §20, unanimous consent of the jury is required for conviction. M.S.A. 27a.1307(2) allows those 70 years of age or older to disqualify themselves from jury duty if so desired. This standard has been implemented.
- W. Standard 63.23 requests the full utilization of a trial day. Also the standard speaks of:
 - 1. Limited opening statements;
 - 2. The admitting of relevant and material evidence only;
 - 3. Limited closing arguments; and
 - 4. The use of standardized jury instructions.

A, B, and C along with the full utilization of trial day are generally implemented in courts throughout the state. GCR 516.6 created a Standard Jury Instruction Committee which shall adopt and publish standard jury instructions.

III. COMMENT

- A. The Federal Rules of Criminal Procedure can lend guidance within the area of the Litigated Case. Some of the standards not yet implemented appear to have substantial public backing for their implementation. However, problems of implementation may be encountered in those areas which involve the discretion of the trial court, for example, Standards 63.20 and 63.23.
- B. Twenty-three standards.
 - 1. Ten standards have been implemented - 63.2, 63.3, 63.5, 63.8, 63.11, 63.12, 63.13, 63.14, 63.22, 63.23.
 - 2. One standard has not been implemented - 63.9.
 - 3. Twelve standards have been partially implemented - 63.1, 63.4, 63.6, 63.7, 63.10, 63.15, 63.16, 63.17, 63.18, 63.19, 63.20, 63.21.

64: SENTENCING

- I. Sub-Goal 64 is "to insure that sentences in all Michigan courts are rationally based and related to effectiveness and equality." Specific recommendations to achieve this include:

- A. 64.1 suggests Michigan retain its present practice which prohibits jury sentencing in all cases. This standard is implemented via MCLA 769.1, which authorizes and empowers judges to pass sentence, and concomitant case law which impliedly bars juries from so doing.
- B. 64.2 Commission action of February, 1977 would amend this standard to read: "The Michigan Criminal Code should be revised to provide for the following sentences of imprisonment:
 1. Life imprisonment for murder in the first degree;
 2. For a Class A felony, assaultive crimes resulting in grievous injury, the maximum sentence shall be 20 years, up to 10 years minimum, and 5 years mandatory minimum;
 3. For a Class B felony, serious assaultive crimes, the maximum shall be 10 years, up to 5 years minimum, and a 2 year mandatory minimum;
 4. For a Class C felony, lesser assaultive crimes and major property offenses, the maximum shall be 5 years, up to 2 1/2 years minimum, and probation possible; and
 5. For a Class D felony, less serious property offenses, the maximum shall be 2 years, up to a 1 year minimum, and probation possible.

Implementation of this revised standard would require Criminal Code revision. This standard is similar to Section 1401 of the Michigan Revised Criminal Code (MRCC) which has been introduced in the Legislature annually since 1967.

- C. 64.3 requires the least drastic sentencing alternative be imposed that is consistent with public protection, ranging from an unconditional release to total confinement in a State correctional facility. Presently, Michigan employs indeterminate sentencing wherein the trial judge, at his discretion, sets a minimum term of imprisonment. There is no rule which requires the judge to order the least drastic sentence compatible with public safety. However, the rationale of People v Tanner, 387 M 683 may be interpreted to require the least drastic sentencing. This standard is thus partially implemented, but would require the designing of a new statute which insists a sentence be only as long as public protection demands.
- D. 64.4 and 64.5 suggest confinement should be avoided unless affirmative justification is shown on the record. These standards list factors that would justify imprisonment and factors that would weigh against it. In essence a sentencing judge should be persuaded imprisonment is necessary before ordering it. The present inherent judicial power to exercise discretion in the imposition of sentences may include consideration of these factors, via GCR 785.8 which requires the court to give the defendant a reasonable opportunity to advise it of any circumstances which it should consider in imposing sentence. Thus the factors enumerated in 64.4 and 64.5 may presently be already considered as the GCR is obeyed. These standards are thus in practice partially implemented

although complete implementation would require statutory revision making the consideration of these factors mandatory and revising the burden of considering these factors from the defendant to the court as per the Michigan Revised Criminal Code 1215. The Commission recommendation would require a written statement by the sentencing judge as to reasons for their decision.

- E. 64.6 recommends the criminal code be revised so as to classify felonies into four categories, misdemeanors into three and not to classify violations. Commission action expands the classification of felons to five categories; 1st degree murder and Classes A-D. Maximum sentences for each category are given. (See 64.2 for Commission revision of 2/77.)

The Commission also revised 64.6(g) to read: "If after a full hearing, it is determined that the offender has served a previous prison term, the sentencing court may supplement the sentence, both minimum and maximum terms, by 50 percent. An offender serving a prior prison term, convicted of a misdemeanor, may only be sentenced to a term for a misdemeanor. A person convicted of a violation may only be sentenced to a maximum of 15 days."

Further sections (h), (i) and (j) deal with sentencing of persistent, professional, and dangerous offenders. While the current habitual offender statute turns on number of prior convictions rather than the forementioned categories, the Career Criminal programs are currently giving special prosecutorial priority and recommending harsher sentences for those felons. This standard has been partially implemented.

- F. 64.7 asks: (1) the code be revised to provide specific periods of probation for felonies, misdemeanors, and violations. These may be terminated earlier by a court rule as justice requires. (2) The trial judge should be authorized to impose conditions on probation tailored to each defendant, although a mechanical imposition of certain conditions is alright if provided by statute. These conditions must be explained to the individual. (3) The standard also suggests procedures be established authorizing revocation of probation including: a preliminary hearing to determine whether there is a probable cause to believe probationer violated probation, authorization of informal alternatives of alleged violations, a full hearing on the charges with notice and counsel and authorization to resentence in accordance with options that are available to the court at the time of initial sentencing. Finally, the probation should not be revoked for commission of a new crime, until conviction is obtained on that crime.
1. Within the confines of the present criminal code which places crimes only into two divisions: felonies and misdemeanors, the first part of this standard is implemented by MSA 28.1132; MCLA 771.2; which sets identical maximum probationary periods.
 2. This aspect is implemented via MCLA 771.3; MSA 28.1133 which requires certain mandatory conditions as well as any "other lawful conditions." Existing case law also states one placed on probation has a right to know the conditions with which he is required to comply, a presumption of knowledge existing only with respect to statutorily prescribed conditions. People v Pippin, 316 Mich 191 (1946).

3. This portion of the standard is only partially implemented. The present statute MCLA 771.4; MSA 28.1134 requires no preliminary hearing, although it does require defendant receive a written copy of the charges against him. The statute too, does not require counsel at the revocation hearing, yet present case law does state the defendant be advised of his right to counsel and if indigent, to appointment of counsel. People v Brown, 17 Mich 396 (1969).

The statute does not provide authorization for alternatives to formal revocation proceedings yet it does permit the court to sentence in the same manner as if such probation order had never been made.

Thus this standard is partially implemented in Michigan, via statute and case law. Complete implementation would require statutory amendments and/or relevant court rules.

- G. 64.8 recommends an intricate set of fines payable as punishment. The amounts vary according to whether the crime is a felony, misdemeanor or violation and still further depending on the class within each category. A separate scale of fines exists for corporate defendants. Although the court should be permitted to imprison persons who intentionally refuse to pay a fine, imprisonment solely for inability to pay should not be authorized. Hence, "30 dollars or 30 days" is expressly prohibited, because the theory is to impose fines only where it appears the defendant has the ability to pay.

This standard is not implemented. For example, presently the statutory limit of fines for felonies is \$10,000, MCLA 750.505, MSA 28.773. The standard limits this amount to \$2,500. Also, Michigan does not fine specific amounts for a particular class and category offense, but instead this amount is largely left to the discretion of the trial judge. Finally, the "dollars or days" theory is widely used within the present court structure.

Implementation would require vast revision of the criminal code by the legislature, similar to that proposed in the MRCC 1501 and 1505.

- H. 64.9 recommends the use under normal circumstances of concurrent sentences when an offender is convicted of multiple offenses. This standard is implemented. Except for a few specifically designated crimes and crimes committed while on bond or parole, Michigan law precludes the imposition of a sentence to commence at the expiration of another sentence. In Re Allison, 322 Mich 491; 33 NW 2d 916 (1948).
- I. 64.10 authorizes courts to impose consecutive sentences where the Michigan legislature has so authorized. Presently, the legislature has approved consecutive sentences in the following situations: escape and prison breaking, MSA 28.390; crimes committed by a prisoner, MSA 28.1030 (1); a felony committed by a person charged with a felony pending disposition of the prison charge, MSA 28.1030(2). Thus, this standard is implemented.
- J. 64.11 permits the sentencing court to allow a defendant, who is to be sentenced for one crime, to plead guilty to any other offenses he has committed within the county. The court may then take each of these offenses into consideration in setting the sentence, but thereafter

defendant is no longer accountable for the other crimes to which he has pleaded guilty. This standard is not implemented. Currently, a plea must officially be confined to the offense charged in the information. However, it is common practice for a defendant to make a "deal" with the police whereby defendant admits to committing crimes not in the complaint and the police agree to not charge the defendant for them. To implement this, on an official basis, statutory revision is required.

- K. 64.12 authorizes (1) the Department of Corrections to allow for the serving of sentences from a Michigan court concurrently with out-of-state sentences, even though the time will be served in the out-of-state institution. (2) It also permits a court of Michigan jurisdiction to hear and accept guilty pleas to charges pending in other jurisdictions, via interstate agreement.
1. This aspect is not implemented. Implementation via MRCC 1430(4) would partially meet the requirements of this standard, although 1430 was designed for the case where a defendant after conviction in Michigan but before imprisonment, is actually imprisoned in another state, whereas this standard requires specific statutory authority for planned concurrent sentencing between jurisdictions.
 2. This too is not implemented, but would require either federal enactment or individual agreements between states.
- M. 64.14 requires courts, automatically and as a matter of right, to credit against a defendant's sentence, time spent in custody. Presently, Michigan statutes require credit for time served in jail pending conviction when the defendant was unable to raise bail. MCLA 769.11b; MSA 28.1083(2). However, under all other circumstances, where time is spent in custody, there is no such requirement. This partially implemented statute, then may be fully enacted by passage of MRCC 1430.
- N. 64.15 was revised by the Commission in February, 1977 to read: "The maximum penalty for all offenses should be specified by the Michigan Legislature. The court should be authorized to impose a minimum term of imprisonment up to $\frac{1}{2}$ of the statutory maximum for A, B and C felonies, provided that the Michigan Legislature authorizes a maximum of 5 days per month "good time" for periods spent in incarceration — regardless of the length of the sentence imposed. The recommendations in this standard are to be implemented in conjunction with those granting appellate review of sentences. Parole eligibility standards should be set jointly by representatives of the sentencing judge in the State and parole authorities." Presently, Michigan judges may impose a minimum of $\frac{2}{3}$ the maximum, although current good time law may in fact mean that a defendant spends only $\frac{1}{3}$ of the maximum in jail. Legislation has been introduced, but not passed, which could implement this standard.
- O. 64.16 requires the court system and the Michigan Department of Corrections to cooperate so as to acquaint judges with the State's correctional facilities via visits by the judge to the institutions. While judges do from time to time visit correctional institutions, the practice is not routine. Judges are informed of institutional conditions and practices via Department of Corrections mailings. This standard is partially implemented.

- P. 64.17 was revised by Commission action (2/77) to read: "The following procedures should be implemented as soon as practicable by court rule or legislation, to promote equality in sentencing. In no event should this period prior to enactment exceed 5 years from the date of the adoption of this standard.
1. Use of sentencing councils are urged for all individual sentences in felony cases where feasible.
 2. Periodic sentencing institutes for all sentencing and appellate judges.
 3. Procedures for implementing the review of sentences on appeal should contain the following precepts:
 - a. whether the sentence imposed is consistent with statutory criteria;
 - b. whether the sentence is unjustifiably desperate in comparison with cases of similar nature;
 - c. whether the sentence is excessive or inappropriate and constituted an abuse of the sentencing court's discretion; and
 - d. whether the manner in which the sentence is imposed is consistent with statutory and constitutional requirements.

Currently in Michigan, sentences are not subject to review as long as the sentence is within the statutory limit; provided it is not cruel and unusual punishment and it doesn't violate the 2/3 rule of Tanner or Commis v People, 42 Mich 14. However, some argue that the cases of Sinclair (387 Mich 91) and Lorentzen (387 Mich 167) suggest that the appellate court has inherent jurisdiction to review sentences. Definitely, to clearly implement this standard, a statute is necessary to clarify the limitations of review.

A study is currently underway funded by OCJP and administered by the Supreme Court Administrator's Office to determine what current felony sentencing practices are and to recommend guidelines for sentencing. Only once written guidelines are utilized can appeal of sentence become a reality.

- Q. 64.18 asks the court system to conduct sentencing institutes which provide judges with information in order that they may fulfill their sentencing responsibilities knowledgeably. Presently, no such practice exists, but implementation would require funding of a program which sets up such meetings on a regular basis providing judges with recent information regarding the prison system.
- R. 64.19 recommends judges in courts with more than one judge meet in sentencing councils to discuss individuals awaiting sentence so that an appropriate sentence may be determined. This standard is not implemented, the current practice being limited to a presentence report filed by a probation officer as the major element by which a sentence is determined. Implementation would require judges to adopt such councils in the regular course of business.
- S. 64.20 recommends the adoption of a court rule which provides for pre-sentence reports. These reports are to include a complete background on the offender. They may be divided into long or short term reports, depending upon potential length of imprisonment, they may become part of a defendant's file, but are not to be prepared until the defendant has been adjudicated guilty of the offense charged, and they must be

made available to both parties within a reasonable time. Currently, GCR 785.12 adopts the use of presentence reports, and the probation department has, as of April 1, 1976, adopted a presentence investigation format which does divide reports into long and short forms. However, the line of demarcation for use of a long term report is any potential imprisonment over one year, not five years as required in the standard although in all other ways the reports are identical to those required in the standard. This standard is thus implemented.

- T. 64.21 requires sentencing courts to adopt the practice of holding a hearing prior to the imposition of sentence in those cases where the defendant may be sentenced to more than 6 months. Presently, this is not done, but implementation may occur through the adoption of a General Court Rule.
- U. 64.22 suggests the implementation of guidelines as to the role of defense counsel and prosecution in achieving sentencing objectives. Included are: the duty of both counsels to avoid undue publicity of the defendant's background, the opportunity of the prosecutor to make recommendations and the duty of defense counsel to protect his clients interests. Such guidelines are nonexistent now on a formal basis, however, in practice such objectives may be followed in the regular course of handling sentencing. Full implementation would require establishment of judiciary guidelines, perhaps written by the State Bar Association. Under the career criminal programs, prosecutors are preparing written "presentence" statements and do attend the sentencing hearings. This standard is partially implemented.
- V. 64.23 promulgates the practice of basing all sentencing decisions on an official record of the sentencing hearing in order that the appellate court have a substantial basis for review. Presently, this is not done and implementation would require passage of a court rule.

II. COMMENT

- A. Twenty-three standards were recommended for sentencing:
 - 1. Six standards were fully implemented: 64.1, 64.7, 64.9, 64.10, 64.13, 64.22.
 - 2. Seven standards were partially implemented: 64.3, 64.4, 64.5, 64.6, 64.14, 64.16, 64.22.
 - 3. Ten standards were not implemented: 64.2, 64.8, 64.11, 64.12, 64.15, 64.17, 64.18, 64.19, 64.21, 64.23.
- B. The Commission on Criminal Justice adopted a 12 point policy statement on revising the sentencing structure. These recommendations are:
 - 1. Modification but retention of the concept of indeterminate sentencing;
 - 2. Recodification of the Michigan Criminal Code to establish five classifications of felonies and requiring mandatory minimum prison term and mandatory maximum prison term for certain serious felonies;

3. Judicial discretion to set minimum sentence up to one half of the maximum. (The parole board would retain discretion over release between the expiration of minimum and maximum sentences);
4. Establishment of written sentencing and parole guidelines and written statements by both the sentencing judge and parole board outlining the basis for their sentencing and parole decision in each case;
5. Review of sentences and parole decisions where the decision is inconsistent with established guidelines;
6. Allowance of judicial supplemental sentences for any felon who has previously been convicted of a felony by supplementing both the minimum and maximum by up to fifty percent;
7. Requirement that upon conviction of any felony in which a firearm was used or brandished, there be a mandatory minimum of no less than two years;
8. Classification of attempted felonies as one class lower than the consummated felony;
9. Establishment of good time at a flat rate of five days per month on both maximum and minimum sentences;
10. Requirement that those convicted of felonies resulting in serious personal injury receive a five year mandatory minimum. Other serious assaultive injuries shall receive a mandatory minimum of two years;
11. Establishment of guidelines for priority prosecution of serious felony offenders; and
12. Assignment of capable prosecution and defense attorneys for criminal proceedings for serious felony offenders (1st degree murder, Class A and Class B).

65: APPELLATE REVIEW

1. In September, 1977 the Commission acted to revise Sub-Goal 65 as follows:

"To provide unified appellate review of criminal proceedings to promote a fair and expeditious determination of claims of error or to promote finality in the judicial process."

In addition, standards 65.1 through 65.6 were rewritten as follows:

65.1 The Michigan Court of Appeals should provide every convicted defendant the opportunity for a full and fair judicial review of the criminal proceedings. This judicial proceeding should be a general review of the entire proceeding including:

- a. Legality of the proceedings leading to the conviction.
- b. Legality of the sentence and any abuse of discretion in the imposition thereof as provided by law.
- c. Matters previously asserted in motions for new trial.

The court should consider an issue that was not raised in the court below only where necessary to prevent manifest injustice or where it concerns the jurisdiction of the court below.

65.2 The reviewing court should have a full-time professional staff of attorneys who would be directly responsible to the chief judge of the Appeals Court for the following functions:

- a. Monitoring of each case to insure full compliance with the court's rules and an expeditious review process.
- b. Insuring that the reviewing court is provided with the full trial transcripts, trial court papers, and other matters of record that are essential to a fair adjudication of all of the issues raised on appeal.
- c. Preparing case summaries, including procedural history, facts, and principle issues and authorities, for the court's use in managing its caseload and conducting its deliberations.
- d. Screening all cases before they are considered by the appellate court in order to:
 1. Identify the cases that contain only insubstantial issues, thereby providing the opportunity for efficient disposition by the court.
 2. Prepare recommended procedural and dispositional orders.

65.3 The reviewing court should use a standard scope of appellate review on each case to insure maximum fairness and expedition through a review of the trial court proceedings. These procedures should allow the review court to:

- a. Refer to the trial court those issues that it deems appropriate for that court's consideration.
- b. Decide only those issues raised in the court below and apparent on the record that are raised on appeal except when it is necessary to prevent manifest injustice or where it concerns the court's jurisdiction or that of the court below.

65.4 The reviewing court should have discretionary authority, defined by court rule to:

- a. Control the written briefs and oral argument. This discretionary, internal flexibility would allow for resolution of the case without oral argument or without written brief.
- b. Affirm or reverse a conviction upon motion.

65.5 A reviewing court should establish time standards for the processing of criminal cases as follows:

- a. Request for appointed counsel must be initiated within 60 days from imposition of sentence.
- b. Counsel shall be appointed, or a hearing held to determine indigency within 10 days of the filing of the request for appointment of counsel.
- c. A claim of appeal must be filed within 20 days of the trial court's decision or the appointment of counsel.
- d. The transcript should begin being prepared by the time counsel is appointed and should be completed within 30 days from the appointment of counsel.
- e. Appellant's brief should be filed within 45 days of the filing of the transcript or the filing of the claim of appeal, whichever is later. The appellee's brief should be filed within 30 days from service upon him of appellant's brief.
- f. The appeal should be submitted for hearing and decision within 30 days after the appellee's brief has been filed or after the time for filing has expired, whichever first occurs.
- g. The reviewing court shall render a decision in cases containing only insubstantial issues within 30 days after submission.
- h. The reviewing court of appeals shall render a decision in cases presenting substantial and complex issues within 60 days after submission; the Supreme Court should render a decision within 6 months after the decision.

65.6 Circumstances which justify further review once a review has been concluded in the Court of Appeals, include:

- a. The Supreme Court determinations that further review would serve the public interests in the development of legal doctrine, in the administration of justice, that the matter involves a question that is novel or difficult, or that the matter is the subject of conflicting authorities within the jurisdiction, or that the Court of Appeals errors.
 - b. The defendant asserts a claim of constitutional violation which undermines the basis for, or the integrity of, the entire trial or review proceedings, or impairs the reliability of the fact-finding process at trial.
- A. 65.1 states that the "Michigan Court of Appeals should provide every convicted defendant the opportunity for a full and fair judicial review of the criminal proceedings. The proposed scope of judicial review is consistent with current statutory authority. This standard has been implemented.
- B. 65.2 Standard provides for the establishment of a full-time professional staff of attorneys to aid in expediting the Court of Appeals. This standard has been implemented and further augmented by the use of paralegal personnel.

- C. Standard 65.3 calls for the use of a standard scope of appellate review to insure maximum fairness and expedition on the review procedures. This review would be limited to matters of record except when necessary to prevent manifest injustice. This standard is in accord with current practices.
- D. Standard 65.4 would allow judicial discretion by court rule to control written briefs and oral arguments and affirm or reverse a conviction upon motion. GCR 819 implements this standard.
- E. 65.5 establishes time standards for the processing of criminal cases. GCR 803 establishes (1) that a request for appointed counsel must be initiated within 60 days from imposition of the sentence; and, (2) that a claim of appeal must be established within 20 days of the trial court's decision or the appointment of counsel. Filing dates for transcripts and briefs are more restrictive than current court rules (812.2, 813.1, 815.1). At the present time, the time limit on rendering decisions by the Court of Appeals is 6 months after the filing. This standard has been partially implemented.
- F. Standard 65.6 outlines the circumstances under which further review (once a review has been concluded in the Court of Appeals) is warranted. This standard is implemented by GCR 853.
- G. There are some exceptional circumstances according to Standard 65.7 that justify further review. These are: if it is in the public interest, if there is newly discovered evidence, or if there is a claim of a constitutional violation. GCR 712, MCLA 637.7 and GCR 853 are effective here. This standard has been implemented.
- H. Discussion of Standard 65.8 has been deleted, because it applies to the jurisdiction of the Federal courts.
- I. Under Standard 65.9 if a defendant seeks further review alleging the exceptional circumstances in 65.7, "the reviewing court should not adjudicate the claim if it has been adjudicated previously on the merits by any court of competent jurisdiction within that judicial system." This standard has not been implemented.
- J. Standard 65.10 states that the determination of basic facts previously made by a court is conclusive when evidenced by written findings, unless the defendant can show that there was a "constitutional violation that undermined the integrity of the fact-finding process." This standard has been implemented.
- K. Standard 65.11 lists situations in which the reviewing court should not exercise its powers. This includes disclaimer, nonassertion, and noncompliance with procedural rules. Noncompliance with procedural rules has always been a basis for dismissal. The court generally looks to the merit of the appeal if compliance with the procedural rules has been met. This standard has been implemented.
- L. Standard 65.12 provides for the statements of the court of its opinion to be as brief as possible. This standard has been implemented.

- M. Standard 65.13 speaks to the issue of publishing opinions and flatly states that "publications of opinions should not exceed 20% of all criminal cases disposed of by a reviewing court." GCR 821 limits the length and publication of many opinions, but not necessarily to the 20% level. This standard has been partially implemented.

II. COMMENT

- A. A necessary prerequisite to the implementation of many of the standards in this area is adequate funding. The time provisions as used in the United States Supreme Court, dealing with the filing of briefs and the hearing of oral arguments, could be used in Michigan to expedite the proceedings.
- B. Thirteen standards.
 - 1. Nine standards have been implemented - 65.1, 65.2, 65.3, 65.4, 65.6, 65.7, 65.10, 65.11, 65.12.
 - 2. One standard has not been implemented - 65.9.
 - 3. Two standards have been partially implemented - 65.5 and 65.13.
 - 4. Standard 65.8 has not been reviewed.

CHAPTER 2: ORGANIZATION, PERSONNEL, AND INSTITUTIONS

66: THE JUDICIARY

- I. Sub-Goal 66 provides for a statewide judicial system of "unquestioned integrity and competence for the settling of legal disputes, including contested criminal prosecutions." In order to accomplish this, the following standards are suggested to be implemented:
 - A. 66.1 promulgates a selection of judges based on merit qualifications for judicial office and a selection system which seeks out the best potential judicial candidates. The Michigan Constitution provides for the election of Supreme Court judges, Court of Appeals judges, and Circuit Court judges, (Mich Const 1963, art 6 § 2, 6, 12). Some argue this system currently works to seek out the best potential candidates, and thus the standard is implemented; others disagree. This standard is implemented only to the degree that one concurs with the present system of judicial selection.
 - B. 66.2 provides that all judges of statewide appellate courts and tribunals should be appointed by the Governor of the State following a formal screening process. The thrust of this standard is that selection of judges is shifted from the general population, as it now exists under the present constitution, to the Governor who is aided by both lawyers and non-lawyers in making the selection. Implementation would require a constitutional amendment. The adoption of a plan similar to that urged by the Michigan State Bar Representative Assembly would be necessary. This plan provides for evaluation of potential nominees to be made by a judicial nominating commission. The Governor would then make an appointment from this list.
 - C. 66.3 requires a judge at the end of his term, to run in an uncontested election, at which time the general population is given the option of voting for or against his/her retention. Here the judge does not run against another candidate but only on his record. A condition precedent to adoption of this standard, is establishment of the appointment system of judges via a constitutional amendment. Once this is completed, then statutory enactment will fully implement this standard by establishing such an election as necessary procedure.
 - D. 66.4 requires that a mandatory retirement age should be set for all Michigan judges. However, judges over this age may sit thereafter at the discretion of the presiding judge for limited periods. Currently, the constitution prevents a judge from being re-elected after he has reached the age of 70. (Mich Const 1963, art 6 § 19.) However, there is presently no mandatory retirement age as the Governor may appoint a judge to fill vacancies notwithstanding his age. (Mich Const 1963, art 6 § 23.) This standard is thus only partially implemented because it allows for continuance beyond the maximum age in the case of vacancies, but it does not set a mandatory retirement age. Implementation would require legislation setting this mandatory age.
 - E. 66.5 requires judges to be compensated at a rate that reflects their judicial responsibilities. The rate may be increased where appropriate. This standard is implemented. Salaries of judges shall be uniform and

may be increased, but shall not be decreased. (Mich Const 1963, art 6 § 18.) Furthermore, case law prohibits legislatures from placing a ceiling on salaries paid to circuit judges. (Deneweth v Green, 32 Mich App 439; 189 NW2d 10 (1971).) Thus judges' salaries may be increased, and since no limit can be placed on their salaries, a rate which reflects the judicial responsibilities is not precluded.

- F. 66.6 lists items for which judges should be subject to discipline including: permanent physical or mental disability, intentional misconduct, willful and persistent failure to perform judicial duties, habitual intemperance, and any conduct prejudicial to the administration of justice. As it stands now, the Michigan Judicial Tenure Commission may recommend judicial discipline and removal to the State Supreme Court based on these problems. (GCR 932.4) Thus the standard is implemented.
- G. 66.7 urges the creation of a judicial conduct commission empowered to investigate charges bearing on judges' competence to continue on the bench, and should have the authority to take appropriate action regarding judicial conduct, including discipline and removal. Presently, the Judicial Tenure Commission (as provided by Mich Const 1963, art 6 § 30) consists of nine members pursuant to the standard. Its authority, however, as delineated by GCR 932 does not include authority to take appropriate action regarding judicial conduct. Thus this standard is only partially implemented, full implementation requiring an amendment to the constitution giving the Tenure Commission direct authority to remove a judge.
- H. 66.8 promulgates the creation of a comprehensive program of continuing judicial education including orientation programs and the establishment of a judicial college. Presently, under the auspices of the State Court Administrator, there are three annual Judicial Conferences, Regional Judicial Conferences, and a Probate Registers Seminar. Also, through receipt of a grant from OCJP, the Office of the State Court Administrator has subcontracted with the Center for the Administration of Justice (CAJ) to provide judicial and court personnel training seminars for judges on the constitutional law of search and seizure, criminal trial evidence, impact decisions, trial practice, and mental health procedures. Mandatory attendance at training programs is not currently required; thus, this standard is partially implemented.
- I. 66.9 requires the state to prepare a bench manual on procedural rules which includes much information a judge should have readily available. Presently, no such manual is published. Implementation may require funding of such a program from OCJP.
- J. 66.10 requires the State to publish a newsletter with information from the Chief Justice of the Michigan Supreme Court, the State Court Administrator, correctional authorities and others. Presently published nine times a year is "Focus" which substantially meets the requirements of this standard.

II. COMMENT

A. Ten standards.

1. Three standards are implemented - 66.5, 66.6, and 66.10.
2. Four standards are not implemented - 66.1, 66.2, 66.3, and 66.9.
3. Three standards are partially implemented - 66.4, 66.7, and 66.8.

67. COURTS, COURT ORGANIZATION AND COMMUNITY RELATIONS

- I. Sub-Goal 67 requires Michigan courts to reorganize the court system to provide for professional statewide court administrators to manage judicial resources, assure efficient court functioning, and enhance court-community relations. This is to be accomplished by the following standards:
 - A. 67.1 requires the unification of the judicial system, financed by the state, under the direction of the Michigan Supreme Court. Under this plan, all trial courts would be unified into one, and court rules would be adopted concerning the conduct of all criminal prosecutions. This standard is not implemented. Implementation would require amending Art. 6, § 18 of the Michigan Constitution. A Commission recommendation was passed in March, 1977 to provide for state financing of all courts in Michigan. Similar legislative action has reoccuringly been introduced. Governor Milliken has requested that OCJP conduct a study of this issue.
 - B. 67.2 provides for the noncriminal disposition of all nonserious traffic violation cases. This is done by permitting violators to enter pleas by mail, by making jury trials unavailable although allowing hearings before an official, and by granting appeals only for abuse of discretion. This standard is partially implemented. MCLA 257.728(d) permits an individual charged with certain traffic offenses to make his appearance by mail. However, MCLA 725.301 requires that alleged offenders be advised of their right to a trial by jury. MCLA 257.732 refers to appeals, but no statutory definition limits appeals to abuse of discretion. If the standard, when referring to hearings before an "official," means magistrates, then this aspect of the standard is partially implemented. If however, the word "official" refers to administrative hearings to handle such traffic violations, then the standard is not implemented. A legislative package has been developed to implement this process.
 - C. 67.3 promulgates the establishment of a state court administrator's office. The administrator is to be selected by the Chief Justice of the Michigan Supreme Court. This standard is implemented by GCR 901.
 - D. 67.4 describes the function of the State Court Administrator which includes establishing policies and guidelines concerning: budgets, personnel policies, information compilation, control of fiscal operations, liaison duties, evaluation, and assignment of judges. This standard is implemented by GCR 901.
 - E. 67.5 rests ultimate local administrative authority in the trial courts. Each jurisdiction shall be headed by a chief judge, selected on the basis of administrative ability rather than seniority, with whom the ultimate authority is vested. Currently, Michigan has a presiding judge system. Under GCR 925.6 this standard is implemented.
 - F. 67.6 suggests each trial court with five or more judges or a sufficiently large enough caseload, have a local full-time trial court administrator. Those jurisdictions which do not meet these requirements should combine into administrative regions and have a regional court administrator. All such local administrators are to be appointed by the State Court Administrator. Presently, Michigan has 13 court administrators for courts of

general jurisdiction, five regional court administrators; in addition each District Court has a court clerk or administrator and each probate court has a probate register. Implementation of this standard is partially achieved; however, full implementation is dependent upon state-wide court financing. In March, 1977 the Commission passed a recommendation to "urge favorable Executive and Legislative Branch consideration of the Supreme Court's proposal for state funding of judge's salaries as the first step toward full state funding of the courts." The Adjudication Committee has been charged to work with OCJP in the development of an implementation plan.

- G. 67.7 expounds upon 67.6. This standard describes the functions of local and regional court administrators which include: preparation and submission of local courts' budgets; recruiting, hiring, training of local court personnel; management of space, equipment, and facilities; custody and disbursement of funds; juror management; study and improvement of caseflow, time standards, and calendaring; and research and development of effective methods of court functioning. This standard is contingent upon control of all local court administrators by the State Court Administrator, which presently is not fully implemented. To the degree that regional court administrators are employed by the State Court Administrator this standard is implemented. Complete implementation requires all court administrators to be under the State Court Administrator's supervision and statewide financing of the court system.
- H. 67.8 promulgates the establishment of coordinating councils to survey the organization, practice and methods of administration of the court system consisting of representatives from all agencies of the criminal justice system. This standard is implemented currently through the 14 regional criminal justice coordinating councils and three local planning unit coordinating councils. Although the emphasis of these councils is not specific to judicial practices but rather the total criminal justice concerns, they do meet the need discussed in this standard. Further, in 1977, the Judicial Planning Committee was established with representation from all courts, defense, and prosecution to deal explicitly with judicial concerns.
- I. 67.9 attempts to open communications between the general public and representatives of the criminal justice system by having Michigan courts support whatever means are appropriate locally to facilitate such exchange. This standard is implemented as explained in 67.8 via RPU's and LPU's Coordinating Councils and the JPC.
- J. 67.10 suggests adequate physical facilities be provided for court processing of criminal defendants including conveniences for witnesses, jurors and attorneys. This standard is partially implemented on a local basis but no statewide program has been developed. The Commission recommended in March, 1976 that adequate space be provided for jurors, witnesses and victims during the adequate process. Victim/Witness Assistance projects funded by OCJP also emphasize this requirement.
- K. 67.11 places a burden on the courts, news media, and the bar, to establish facilities and procedures to educate the public concerning the functioning of the courts. Educational programs have been developed

through the Judicial Education projects with the Center for the Administration of Justice. These programs center on the needs of jurors, witnesses, and victims in the adjudication process. This standard is partially implemented.

- L. 67.12 requires (1) court personnel to be representative of the community served by the court and thus encourages active recruitment of minority group members. This standard also recommends (2) court personnel be trained with respect to the court proceedings and its relationship to parties and witnesses.
 - 1. This standard is implemented. The Civil Rights Act as amended in 1972 requires the percentage of governmental employees, including state employees, be in parity with 70% of the service population: Failure to meet this requirement presents a prima facie case of discrimination.
 - 2. This portion is partially implemented. Beginning in the fall of 1972, the Center for the Administration of Justice has developed a series of extension courses for court employees with the purpose of acquainting these individuals with problems encountered by their profession. This program was funded by OCJP, the Kellogg Foundation, and registration fees from participating employees. This standard is implemented through continuing Judicial Education provided through the Supreme Court Administrator's Office. Further, the Commission recommended (August, 1976) that "...any OCJP funding of judges and prosecutor training packages must include program content regarding treatment of jurors, witnesses, and victims."
- M. 67.13 suggests judges and court personnel participate in criminal justice planning activities as a means of disseminating information and better coordinating the various criminal justice system agencies. This standard is implemented through the regional and local coordinating councils, the Judicial Planning Committee, and the Commission on Criminal Justice.
- N. 67.14 This standard would reduce the amount of nonessential time required for defense and prosecution witnesses to spend in court. The implementation of the one day/one trial concept in Wayne County has resulted in more efficient use of both witnesses and jurors. In August, 1976 the Commission recommended that this concept be implemented within two years in jurisdictions of 200,000 or more population and as soon as practicable in other jurisdictions. In February, 1978, Public Acts 11, 12, 13 and 14 established the one-day/one trial provisions.

Witness-victim assistance programs are established in several jurisdictions with either LEAA or local funding. These programs utilize telephone alert procedures. This standard is partially implemented.

- O. 67.15 This standard requires reasonable compensation for witnesses to include a per diem allowance, travel, and subsistence expenses. This standard is implemented, however, legislation is pending to raise the current rates.

II. COMMENT

Fifteen standards.

1. One standard is not implemented - 67.1.
2. Six standards are partially implemented - 67.2, 67.6, 67.7, 67.10, 67.11, 67.14.
3. Eight standards are fully implemented - 67.3, 67.4, 67.5, 67.8, 67.9, 67.12, 67.13, 67.15.

68: THE PROSECUTION

- I. Sub-Goal 68 provides for a full-time prosecutor with adequate support personnel in order to efficiently administer the screening, diversion, and other programs and also have communication with the public.

This Sub-Goal addresses the need for proper funding and the instituting of a district attorney concept in areas where the prosecutor does not have a full-time workload. It is also suggested that within districts, at least one assistant prosecutor have regular office hours and be on call at other times in every county contained therein.

- A. Standard 68.1 states the necessity of having a proper salary level for a prosecutor of proper professional competence. Legislation requiring a full-time prosecutor for each county has been introduced and would implement this standard. The current trend is toward full-time prosecutors, however, some counties currently are not complying.
- B. Standard 68.2 provides for the necessary support personnel and, if necessary, the use of a district attorney. Also there should be present an assistant prosecutor at all times. This standard has been partially implemented.
- C. Standard 68.3 states that there should be training programs and continuing education programs for the personnel of the prosecutor's office and the prosecutor himself. OCJP has funded the Prosecuting Attorney's Association of Michigan for both specific and general training programs. This standard is implemented in that ongoing training is now being provided by state financing.
- D. Standard 68.4 states that the Prosecuting Attorney's Association of Michigan should continue and expand its programs for the coordination of local prosecutor's offices. This standard has been implemented.
- E. Standard 68.5 states that the prosecutor should be provided with adequate funding and proper authority for the coordination of investigations, compelling specific investigations, and conducting independent investigations. The prosecuting attorney does not have subpoena power, but otherwise the authority now generally exists. The Career Criminal Programs currently funded provide the funding and investigative resources to implement this standard.
- F. The prosecuting attorney, under Standard 68.6, should have the authority to compel potential witnesses to appear for questioning. This standard has not been implemented, except for the use of the grand jury proceedings.
- G. Approval of the prosecuting attorney for application of arrest and search warrants is necessary under Standard 68.7. In practice, this is being done. However, only the prosecutor's approval of arrest warrants is required by law (MCLA 764.1). This standard has been partially implemented.
- H. Under Standard 68.8, it is advised that the prosecutor should have communication with both the public and other concerned state agencies for the interchange of ideas and views. This standard has been generally implemented through the community advisory boards established for the Career Criminal projects and deferred prosecution (citizen's probation authority) projects.

- I. State funding of the Prosecuting Attorney's Appellate Service is advised under Standard 68.9. This standard has been implemented.

II. COMMENT

- A. Proper implementation of all the standards in this area is especially dependent upon sufficient funding, proper staff and the concurrent implementation of screening and diversion programs. In order to properly implement the "district attorney" concept, a constitutional amendment would be required. A necessary corollary to this is the requirement of the funding of the courts by the state.
- B. Nine standards.
 1. Five standards have been implemented - 68.3, 68.4, 68.5, 68.8, 68.9.
 2. One standard has not been implemented - 68.6.
 3. Three standards have been partially implemented - 68.1, 68.2, 68.7.

69: THE DEFENSE

1. Sub-Goal 69 states that there is a need for skilled representation of eligible defendants in all criminal cases in Michigan; commencing at the time when "an investigation has focused on a particular person as a suspect..." As a result of Gideon v Wainwright, 372 US 335 (1963) and Argersinger v Hamlin, 407 US 25 (1972), legal counsel must be provided indigent persons at public expense or imprisonment is not possible. Reimbursement of the state by the individual defendant is required to the extent possible.

Two distinct defender services should be established within the state. First, a State Public Defender Office for a particular vicinity would be established. In conjunction with this would be a system for the appointment of private legal counsel at public expense.

Secondly, any post-trial defense proceedings would be handled by the State Appellate Defender's Office. The work of this office would include administrative hearings as well as post-conviction appeal.

In conjunction with this recommendation, the Commission on Criminal Justice recommended the following at its September, 1977 meeting:

1. The Commission recommends the creation of a State Public Defender Office funded with state money. This office is to be governed by an appropriately constructed commission which sets policies for the office and appoints the State Public Defender.
2. The State Public Defender's duties are: (1) to see that the National Legal Aid and Defender Association (NLADA) standards, or substantially equivalent standards, are adopted in Michigan and adhered to by local offices, (2) to provide continuing legal education programs to maintain a high level of competence among trial lawyers, and (3) to utilize outside agencies, e.g., NLADA, to conduct evaluations of various offices throughout the State.
3. Local public defender offices staffed either by salaried attorneys or on a contractual service basis should be created at the local level and geographically commensurable to judicial circuits. The primary responsibility to fund local defender offices rests with the State.
4. The director of the local defender's office is responsible for delivery of competent legal services. Nominations for local director are submitted to the state public defender by a committee convened by a major bar association designated by the presiding judge of the circuit court within the jurisdiction of which the local office functions, consisting of a majority of lawyers in private practice, one judge of a court of record and one or more lay representatives from the community in which the local defender's office functions. The state public defender selects the local director from among the nominees. After appointment, the local director employs assistant defenders and staff.
5. The local public defender may be discharged by an unanimous vote of the local committee, after a hearing is held. If only a majority favor discharge, the final decision rests with the State Public Defender.

6. A local group may retain ultimate authority to select the public defender. However, in such cases, the complete financial burden of the office rests on local government.
7. Not all indigent defender services should be performed by the local defender office. A certain percentage, varying according to local circumstances, shall be handled by attorneys who are appointed by some other appointing authority and who have no connection with the local defender office.
- A. 69.1 states that there should be established the Office of State Public Defender and State Appellate Defender. The system of appointing private legal counsel at public expense should be continued. Presently, Public Defender Offices are generally funded on a county basis. OCJP has funded several defender projects. The use of private legal counsel is generally maintained by the counties.

The State Appellate Defender is now in existence and has had some OCJP funding also. There being no State Public Defender Offices, but generally only local units and provision for appointment of private legal counsel, this standard has been only partially implemented.

- B. 69.2 states that "public representation should be made available" when an investigation has focused on a particular person as a likely suspect. This is in keeping with the general mandates of Escobedo v Illinois, 378 US 478 (1964), and Miranda v Arizona, 384 US 436 (1966). Presently, counsel is assigned at the arraignment stage with a few counties appointing counsel only after arraignment has taken place; thus, this standard is partially implemented.
- C. 69.3 states that the Office of State Appellate Defender should be established, with the provision for various officers "in the larger metropolitan areas." The Office of State Appellate Defender has been established thus implementing this standard.
- D. 69.4 states that defender services should be supported by the state, and in smaller jurisdictions, "provision should be made for the use of defender serving more than one local unit of government." This standard has not been implemented but is however consistent with the Commission recommendation.
- E. 69.5 states that adequate funding should be instituted to allow for a regular staff of investigators and other support personnel. This standard is partially implemented as counties vary considerably in the amount of funding designated for defender services.
- F. 69.6 requires that anyone provided representation at public cost should be required to reimburse the public any amount that can be paid "without causing undue hardship to the individual or his family, as determined and implemented by the court." This provision covers the partially indigent. This is presently being done in some counties, therefore, this standard has been partially implemented.
- G. 69.7 points out that the Offices of State Public Defender and State Appellate Defender, as well as the local public defender should be full-time positions. Personal integrity and competence are necessary

prerequisites for lawyers that are to be employed in these offices. This standard has been partially implemented and is consistent with the Commission recommendations.

- H. 69.8 requires that the compensation of the attorneys employed in defender's offices "should be comparable to that paid by private law firms in the area, at least for the first five years of practice..." This has not been implemented.
- I. 69.9 makes provision for the establishment and funding of training programs for the attorneys and staff of defender's offices. These programs would include continuing education programs at both the national and local levels. This standard has been implemented through programs sponsored by local bar associations and seminars conducted by ICLE.
- J. 69.10 states that the local court administrator, or in the absence of such a person, the court, "should have the responsibility for compiling and maintaining a panel of attorneys from which a court may select an attorney to appoint for a particular defendant." Compensation should be reasonable "within limits set by court rule on a state schedule." This standard has been partially implemented in that many counties use such a system.
- K. 69.11 states that the public defender should be aware of his difficult position in relation to the client community. The legal community should reflect "professionalism, mutual respect and integrity." This standard has been implemented in that attorney's assigned defense cases must be cognizant of these factors.

II. COMMENT

- A. Court rules 785.4 and 785.13 implement the intent of Sub-Goal 69.

It would seem more reasonable under Standard 69.8 to match the compensation of attorneys in defender's offices with those of attorneys in the prosecutor's offices. This would allow for easy access to the pay scale and the two offices are generally more easily compared as to workload requirements.

The "reasonable compensation" as mentioned in Standard 69.10 for private attorneys who are appointed is generally not considered as such by more capable attorneys. This causes many of them to decline appointment and, as a result, the defendant may suffer. This low compensation causes many attorneys to plea bargain their clients in order to at least break even on appointments.

- B. Eleven standards.

- 1. Six standards are partially implemented - 69.1, 69.2, 69.5, 69.6, 69.7, 69.10.
- 2. Two standards are not implemented - 69.4, 69.8.
- 3. Three standards are fully implemented - 69.3, 69.9, 69.11

70: VICTIMS, WITNESSES, AND JURORS

1. Sub-Goal 70 requires the criminal justice system to adequately provide for the needs and protection of the rights of witnesses, jurors, and victims of crimes arising from their involvement within the system.

In August, 1976 the Commission on Criminal Justice passed the following recommendations regarding the rights of witnesses, jurors, and victims:

1. The Commission recommends implementation of one-day one-trial in all jurisdictions of 200,000 population or more within two years.
2. The Commission recommends the concept of one-day one-trial be implemented in all other jurisdictions as soon as practicable.
3. The Commission recommends that any OCJP funding of judges and prosecutor training packages must include program content regarding treatment of jurors, witnesses and victims.
4. Canon 3(A) (3) of the Code of Judicial Conduct should be amended so as to include, neither judges (nor counsel) should berate or praise a jury because of its verdict.
5. The Commission recommends mass distribution of a presentation which may be shown to jurors for the purpose of explaining jury functions in relation to the judicial system, as for example, the various audio visual projects developed by the Center for the Administration of Justice including the distribution of jury pamphlets, etc.
6. The Commission recommends a physical space be provided for jurors during their course of duty and if there are eating facilities within the courthouse, that a separate and exclusive eating area be provided for jurors.
7. The Commission recommends juror badges should always be worn by jurors during their tour of duty.
8. The Commission subscribes to the principle of victim compensation as was signed into law on July 30, 1976, Public Act 223 of 1976 and as was embodied in 70.1, Goals and Standards. The Commission urges prompt consideration of sufficient federal and state money to fund this legislation.
 - A. Standard 70.1 requires the state to establish a comprehensive program to compensate innocent victims of crimes. In 1976 the Victim's Compensation Act was passed establishing the Crime Victim's Compensation Board effective October 1, 1977.
 - B. Standard 70.2 urges the courts to experiment with various docketing systems in order that nonessential time for witnesses be reduced. This process includes: requiring attendance of only those witnesses necessary to proper prosecution, placing certain witnesses on telephone alert, asking witnesses the dates that are convenient, and altering responsibility for custodial duties from the arresting officer to a central court officer. The recently passed one-day/one-trial partially implements this concept.

- C. 70.3 asks for the establishment of procedures and facilities which provide information to witnesses and the general public. Included are: information desks, telephone information, wallet size cards stating all the needed information. Witness Assistance Programs funded by OCJP or local funding implements this standard in part.
- D. 70.4 provides for waiting rooms for witnesses whereby prosecution and defense witnesses are separated. These rooms should be comfortably furnished and free parking for witnesses should be provided. Currently, there are no such programs funded by OCJP, although in specific jurisdictions this may be done. Complete implementation would require funding by an agency whereby courtrooms are set up in a manner consistent with the standard.
- E. 70.5 asks both prosecution and defense counsel to interrogate all witnesses fairly, objectively and with due regard for the personal dignity and legitimate privacy of the witness. Canon 7 of the Code of Professional Responsibility and Canons, DR 7-106(C)(2) states that an attorney shall not ask any question that he has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness. To the degree that the lawyers within this state obey this directional ruling, this standard is implemented. Complete implementation requires full cooperation by individual attorneys, as no statute or rule can guarantee complete implementation.
- F. 70.6 requires witnesses and jurors receive reasonable compensation for their services which includes a per diem allowance to prevent undue hardship and reimbursement for travel, parking and subsistence expenses. MCLA 775.13 provides that the court may pay a witness such sum of money as shall seem reasonable for his expenses if the person has come from out of state or is poor. MCLA 600.1344 is the corresponding statute for compensation to jurors. This standard is implemented, to the degree that one believes the compensation authorized by statute is "reasonable." Legislation has been introduced to increase these fees.
- G. 70.7 promulgates the creation of a juror orientation film coupled with a juror handbook which is approved by the local bar association and which informs jurors of the nature of their duties. The Center for the Administration of Justice has developed a film with an accompanying juror orientation handbook using actual courtrooms in Wayne County. Also, the State Bar publishes a handbook for jurors. This standard is thus implemented.
- H. 70.8 attempts to assure juror privacy by the establishment and maintenance of separate courtroom entrances, food service facilities, assembly rooms and lounges for the jurors' exclusive use. Currently there are no such programs funded by OCJP, however, this standard is partially implemented in specific jurisdictions, but no statewide program is presently in existence.
- I. 70.9 bars counsel from communicating privately with persons summoned for jury duty concerning the case prior to or during trial. Canon 7 of the Code of Professional Responsibility, disciplinary ruling (DR 7-108(A)(B)) reiterates this standard. It is thus fully implemented. Commission recommendations requiring separate facilities for jurors and the wearing of a juror badge while on jury duty assists this implementation.

- J. 70.10 requires counsel treat jurors with respect and deference, but does not allow counsel to attempt to curry favor by a show of undue solicitude for the jurors' comfort or convenience. In theory, this concept dates back to People v Montague, 71 Mich 447; 39 NW 585 (1888) and to the degree that individual attorneys practice this in the regular course of business it is implemented. However, no statute or ethical canon (See Canon 7, DR 7-108(A)(B)) can guarantee this concept is fully obeyed. Complete implementation thus requires full and honest cooperation from attorneys.
- K. 70.11 places the burden of questioning jurors primarily on the trial judge although challenges are allowed in equal numbers to both prosecution and defense. Presently the burden of examining jurors rests primarily on counsel, although it has been held that the trial judge may undertake examination of jurors on voir dire. People v Lahey 256 Mich 250 (1931). The standard is thus partially implemented varying from jurisdiction to jurisdiction and complete implementation may require the passage of a statute or court rule which expressly places the burden of questioning jurors on the trial judge.
- L. 70.12 states that after entry of a verdict counsel should not make comments for the purpose of harassing or embarrassing the juror in any way. This is implemented in Canon 7 of the Code of Professional Responsibility DR 108(D) which reiterates the standard.

II. COMMENT

A. Twelve standards.

- 1. Seven standards are implemented - 70.1, 70.5, 70.6, 70.7, 70.9, 70.10, 70.12.
- 2. Five standards are partially implemented - 70.2, 70.3, 70.4, 70.8, 70.11.

STATUS REPORT

PART V

REHABILITATION

SEPTEMBER, 1977

V. REHABILITATION

PART I: INTRODUCTION

The purpose of the Rehabilitation section of the Goals and Standards report was "...to provide meaningful direction to the process of correctional reform."¹ In order to achieve this objective, the Rehabilitation Task Force developed 107 standards with 15 sub-goals.

Major areas for which standards were developed are: Legal Framework and Individual Rights, Organization and Administration, and Offender Programming.

The attached summary reviews the progress made to date for each sub-goal and standard. Considerable documentation is available for most standards detailing what implementation has taken place, the date of implementation and further actions necessary. Of the 107 rehabilitation standards, 74 have been fully implemented; 25 are partially implemented; only 7 have not been implemented at all; and 1 standard is no longer applicable.

¹Criminal Justice Goals and Standards for Michigan, p.139.

PART II: SUMMARY OF STANDARDS BY IMPLEMENTATION STATUS

CHAPTER 1: LEGAL FRAMEWORK AND INDIVIDUAL RIGHTS

71: THE STATUTORY FRAMEWORK OF CORRECTIONS

1. Sub-Goal 71 provides that its purpose is "to immediately insure that the powers of government are allocated or modified, where necessary, to provide reasonable protection for those under the jurisdiction of the correctional system, while allowing flexibility and effectiveness in the administration of the system." In line with this Sub-Goal are four rather diverse standards.
 - A. 71.1 suggests that the Department of Corrections review its administrative policies and procedures, and identify all those which properly belong in the Administrative Code. It recommends formalization of procedures and that existing rules be given a public hearing and adopted according to existing procedure under the State's Administrative Code. This standard has been implemented. Effective November, 1977 the Department of Corrections published administrative rules which both codify its policy directives and describe standards for Department operations. These rules (R791.1101 through 791.10001) were developed under an OCJP funded grant and cover the major areas of: (1) general provisions; (2) organization and operation of the Department; (3) client hearing and grievance procedure; (4) resident classification and transfer; (5) resident misconduct; (6) residents' rights; (7) parole, pardon, reprieve, and commutation of sentence; (8) youthful trainees; (9) probation; and (10) interstate compact on parole and probation.
 - B. 71.2 recommends clarification of existing legislation or enactment of new legislation that would require a presentence investigation and written report in: (1) all cases where the offender is a minor; (2) all felonies; and, (3) all misdemeanors leading to terms of incarceration. This standard is partially implemented in that MCLA 771.14 requires that a presentence report be prepared for any person charged with a felony and, if directed by the court, in any other cases where any person is charged with a misdemeanor within the jurisdiction of the court.
 - C. 71.3 recommends statutory amendments that would allow the sale of prison industry products on the open market and the employment of incarcerated offenders by private industry at full market wages. In 1977 the Correctional Industries Act of 1968 was repealed and replaced with the New Correctional Industries Act. The statute (MCLA 800.331) cites among its statements of intent "...to eliminate all competitive relationships between inmate labor or correctional industries products and free labor or private industry." This statement is in conflict with the standard; thus, the standard is not implemented.
 - D. 71.4 recommends the expungement of the record of an ex-offender with a single criminal conviction five years after the serving of sentence if there is no evidence of criminal behavior. This standard has not been implemented. Recently, the Michigan Senate defeated proposed legislation that would have enacted this standard.

II. COMMENT

- A. As may be noticed these standards are quite different from one another and appear to be placed under this Sub-Goal only because of a lack of a better place. In effect they are more like Sub-Goals themselves.
- B. Four standards.
 - 1. One standard has been implemented - 71.1.
 - 2. One standard has been partially implemented - 71.2.
 - 3. Two standards have not been implemented - 71.3, 71.4.

72: RIGHTS OF OFFENDERS

- I. Sub-Goal 72 seeks the institution of reasonable and necessary standards to assure the protection of offenders' rights after incarceration. The responsibility for overseeing prisoners within the corrections system falls upon the Corrections Department. The Director is, therefore, invested with wide-ranging powers of regulation over prisoners' rights.

- A. 72.1 calls for development and implementation of policies and procedures to fulfill the right of persons under correctional supervision to have access to the courts including (1) challenging the legality of their conviction or confinement; (2) seeking redress for illegal conditions or treatment while incarcerated under correctional control; (3) pursuing remedies for civil rights problems; and (4) asserting other rights protected by constitutional or statutory provision or common law.

Department of Corrections Administration Rule 791.6615 states:

(1) Residents shall have reasonable access to the courts for the resolution of legal grievances, including, but not limited to: (a) challenge to the legality of conviction or confinement; (b) suits for redress of allegedly illegal conditions of confinement or treatment while incarcerated or under correctional control; (c) suits in connection with civil legal problems; (d) asserting any other constitutional or statutory rights against a government authority; (2) a communication between a resident and the following persons or agencies shall be confidential: (a) designated attorneys; (b) courts; (c) public officials; (d) the director of the Department of Corrections; (e) the Corrections Commission; or (f) the Corrections Ombudsman; (3) a legal document filed in court by a resident shall not be included in a resident's case history files at any level; and (4) a resident shall not be punished in any way for exercising the right of access to the courts.

Rule 791.6617 provides that inmates may receive legal assistance from other inmates providing a written agreement for that assistance exists. Rule 791.6619 requires major institutions to maintain a law library. Access and use of legal materials is further defined by this rule.

These Administrative Rules implement standard 72.1.

- B. Standard 72.2 outlines due process safeguards to be available to inmates. This standard is implemented by Rules 791.6615 through 6619. (See 72.1).
- C. Standard 72.3 provides for establishment of policies and procedures to provide inmates reasonable access of legal materials. This standard is implemented by Rule 791.6619.
- D. Standard 72.4 calls for establishment of policies and procedures to fulfill the right of offenders to be free from personal abuse by correctional staff or other offenders. This standard is implemented via several rules:
 1. Rule 791.4401 defines classification of inmates and each inmate is classified according to security requirements necessary for their protection, the safety of others, the protection of the general public, prevention of escape, and maintenance of control and order.

2. Rule 791.5505 outlines the sanctions for major and minor misconduct.
 3. Rule 791.5510 defines the punitive segregation regulation and procedures including those deprivation factors which are not permitted.
 4. Rule 791.2245 provides rules for employee conduct.
- E. Standard 72.5 prescribes the institutional living environment as meeting the following requirements: (1) all new construction shall provide single occupancy rooms or cells; (2) existing multiple occupancy housing shall be retained only under close surveillance or, if minimum custody, where occupants are carefully screened to exclude predatory types. This element is partially implemented by Rule 791.6641 which provides that "a resident shall be housed in a living unit which meets accepted standards for institutional life in nonprison settings..." However, due to current overcrowding in Michigan prisons, even some new units cannot meet the single occupancy goal.
- F. 72.6 calls for provision of adequate health care. This standard is implemented by Rule 791.6629 which states: (1) The department shall maintain a health care system consistent with standards for non-correctional public institutions; (2) all residents shall be given physical and mental examinations by qualified medical personnel upon initial commitment; (3) each facility shall establish procedures to ensure that: (a) medical attention is provided residents by qualified personnel in a reasonably prompt manner; (b) adequate first aid equipment, and personnel training in its use, are available to residents; (c) treatment ordered by health care professionals is administered as prescribed; (d) seriously ill or injured residents are taken to a suitable medical facility as soon as safely possible; (e) prescriptions can be filled in accordance with the requirements of the state board of pharmacy as needed; (f) emergency medical treatment is available on a 24-hour basis; and (g) the health care system is periodically reviewed and inspected by appropriate representatives of the medical and public health professions; (4) Any resident claiming to be aggrieved through the operation of the departmental or institutional health care policy may seek redress through the grievance procedure established in Rule 791.325.
- G. Standard 72.7 calls for development of policies governing search and seizures. This standard is implemented by Rule 791.2210 which outlines conditions for search and seizure as follows: (1) The Department shall conduct periodic and spontaneous searches of housing units and other areas within all institutions and facilities; (2) Searches shall be conducted for the following purposes: (a) to maintain security; (b) to preserve order and discipline; and (c) to insure the safety of the facility; (3) Contraband, stolen property, or other material possessed in violation of department rules shall be seized and recorded; (4) The department shall conduct a body search of a resident whenever such is warranted by the paramount interest of security, discipline, and order; (5) No search shall be conducted for the purpose of harassing or humiliating a resident; (6) The head of each facility shall develop procedures for implementing this rule for the approval of the appropriate deputy director.
- H. Standard 72.8 calls for development and implementation of policies and procedures assuring that offenders are not subjected to discriminatory treatment based on race, religion, and background or national origin. This standard is partially implemented by Rule 791.6601 which deals with resident's religious rights. No rules exist regarding race, background

or national origin specifically but Rule 791.6637 excludes discrimination in general.

- I. Standard 72.9 states that policies and procedures should be developed to provide opportunities for rehabilitation through appropriate programming for all inmates. This standard is implemented by Rule 791.4435 which prescribes classification by school or work assignment. Emphasis is given to providing assignments to maintain or increase the resident's ability to obtain gainful employment after release.

Further, at its March 1977 meeting the Commission on Criminal Justice acted on four recommendations to facilitate inmate rehabilitation:

1. To coordinate ex-offender employment services, to maximize ex-offender employment and integration into society. Principle agencies to be coordinated with the Department of Corrections are the Department of Education, Department of Labor, Department of Licensing and Regulation, and Department of Social Services.
 2. To fund community colleges for the instruction of parolees as well as inmates;
 3. To facilitate employer participation in inmate work release programs by providing for the state to assume any increase in unemployment compensation incurred by the employer hiring correctional inmates; and,
 4. To amend every occupational licensing statute of the State of Michigan so that the restrictions in obtaining licenses because of prior criminal conviction bear a reasonable relationship between the substance of the former offense and the occupation or profession for which the applicant seeks to be licensed.)
- J. Standard 72.10 calls for removal of licensing restrictions based upon offenders as a class of people and to include ex-offenders under the general umbrella of state civil rights laws. This standard is partially implemented by Commission action and legislation currently pending before the House Judiciary Committee.
 - K. Standard 72.11 calls for promulgation of rules of conduct for offenders under correctional jurisdiction. Rules of conduct and what constitutes misconduct are inherent in Rules (1) 791.501-510, Resident Discipline; and (2) 791.601-645, Residents' Rights. This standard is implemented.
 - L. Standard 72.12 requires that rules governing both minor and major violations of rules of conduct be promulgated. This standard is implemented by Rules 791.501-510 (Resident Discipline) and Statutes MCLA 750.193-197c, 768.7a, 800.61, 800.33, 800.41, 800.42, and 800.281-283.
 - M. Standard 72.13 calls for each correctional agency to promulgate written rules and regulations to prescribe the procedures for determining and changing offender status, including classification, transfers, and major changes or decisions on participation in treatment, education, and work programs within the same facility. This standard is implemented by Rules 791.401 through 791.440.

- N. Standard 72.14 requires the implementation of a grievance procedure to provide each client with a timely and effective administrative remedy for alleged violations of rights. This standard is implemented by Rules 791.301-325 which establishes the grievance procedure.
- O. Standard 72.15 mandates each correctional agency to develop policies and procedures to assure individual offenders the opportunity to exercise the constitutional rights of free expression and association, subject only to limits necessary to maintain order. This standard is implemented by the following Rules: (1) R 791.6603 spells out the mail rights of inmates; (2) R 791.6605 delineates prisoners rights to access to the media; (3) R 791.6607 states rights of visitation; (4) R 791.6615 states access to courts; (5) R 791.6619 states conditions under which inmates may make use of legal assistance from other residents; and (6) R 791.6623 defines resident publications criteria.
- P. Standard 72.16 calls for establishment of procedures and policies to guarantee inmates the right to exercise freedom of religion. This standard is implemented by Rule 791.601, Religious Beliefs and Practices.
- Q. Standard 72.17 states that policies and procedures should be developed to provide inmates with access to the public, and assistance in preserving family and personal relationships. This standard is implemented by Rules 791.603, 791.605, and 791.607-613 which define: (1) resident mail; (2) access to media; and (3) visits.
- R. Standard 72.18 requires a written statement of policies and procedures regarding involving prisoners in medical experimentation. This standard is implemented by R 791.6631 which outlines procedures by which residents may volunteer in research projects. Projects must conform to the principles expounded in the Nuremberg Code; the Helsinki resolutions; the guidelines of HEW; and the rules of the Federal Food and Drug Administration.

II. COMMENT

- A. In response to a recent Michigan Court of Appeals decision (Lundberg v Corrections Commission, January 6, 1975) a grant from OCJP was made to promulgate administrative regulations in a form appropriate for incorporation in the Michigan Administrative Code. Rules were formally promulgated in November, 1977.
- B. On May 16, 1975, Governor Milliken signed into immediate effect PA 46 of 1975. This act established the Office of Legislative Ombudsman for the correctional system. This is seen as a further safeguard of the rights of offenders after incarceration.
- C. Eighteen standards.
 - 1. Fifteen have been fully implemented by the Administrative Rules. 72.1, 72.2, 72.3, 72.4, 72.6, 72.7, 72.9, 72.11, 72.12, 72.13, 72.14, 72.15, 72.16, 72.17, 72.18.
 - 2. Three standards were partially implemented. 72.5, 72.8, 72.10.

CHAPTER 2: ORGANIZATION AND ADMINISTRATION

73: ORGANIZATION FOR CORRECTIONS

- I. Sub-Goal 73 seeks to remedy the haphazard and piecemeal development of programs and the wasteful use of scarce resources by establishing a single statewide system of corrections. The establishment of a single, state coordinated and financed system of corrections which would provide uniform delivery of services to all jurisdictions and correctional components is a long way from being realized. Certain areas are already under the aegis of the Michigan Department of Corrections (e.g., state institutions, some probation, parole) but to fully implement this one Sub-Goal/Standard would require inestimable amounts of money and state takeover of local prerogatives.

II. COMMENT

- A. This standard is partially implemented, in that state institutions and parole and some probation functions are already under one system.
- B. One standard is partially implemented.

74: ADMINISTRATION OF CORRECTIONS

- I. Sub-Goal 74 is an area in which the Department of Corrections is making progress. The Sub-Goal seeks improved services for offenders through the adoption of more flexible organizational policies managed by more highly trained personnel. The subjectiveness of these standards makes them difficult to measure and the best which can be accomplished is the institution of the policies as outlined where and when they are reasonably adaptable to the Michigan system.
 - A. Standards 74.1 through 74.5 provide suggestions for correction personnel relations, operation and administrative functions, cost accounting functions and correction/offender relations. The Department is moving in these directions but due to the nature of management training it is difficult to assess the levels of implementation.
 - B. 74.6 suggests a continuous reevaluation and assessment of available resources in order to coordinate and integrate services. The task of administering correctional facilities requires continual reevaluating of available resources. The difficulties inherent in mobilizing and coopting local resources require staff and funding to achieve such an end even on a temporary basis let alone as an on-going process. Substantial gains have, however, been achieved in the establishment of community correctional centers. Resistance to utilization of established community facilities is gradually being overcome. In January, 1977 the Commission recognizing this problem recommended that "when the use of premises complies in all regards with the applicable local zoning laws, a permit for such use shall not be denied on the sole basis that the user is a state or local agency." This standard is partially implemented.
 - C. Standard 74.7 suggests that correctional administrators have knowledge of the theories underlying systems of offender classifications. Administrators are knowledgeable of current classification policy. However, it is difficult to provide opportunity for continuous reassessment of such developing theories and to provide communications for continuous relay of such to other staff. Civil service requirements for correctional administrators require knowledge in the field of corrections theory. Various publications are circulated regularly to departmental staff to update their knowledge. In-service training sessions are always routinely held. This standard is implemented.
 - D. Standard 74.8 suggests in-service training programs addressing administrative and managerial theory and practices for upper level correctional staff. To the maximum extent possible, given staff and funding constraints, this is presently being done.
 - E. Standard 74.9 suggests the establishment of plans that would correct work stoppages by correctional employees and insure for continuing correctional operations. Such plans are in existence at every correctional agency.

II. COMMENT

- A. It is within the presently existing power of the Department to fully implement each of the standards. However, there is a need for additional

appropriations to support such an endeavor. There would also be a need for the Department to make a concerted effort to fully achieve the Sub-Goal.

B. Nine standards.

1. Three standards are fully implemented - 74.7, 74.8, 74.9.
2. Six standards are partially implemented - 74.1, 74.2, 74.3, 74.4, 74.5, 74.6.

75: MANPOWER FOR CORRECTIONS

- I. Sub-Goal 75 recommends that by 1976, correction agencies develop contemporary management policies and techniques which will aid in analyzing manpower needs. It must be remembered that implementation on a state level is not tantamount to implementation on the local level. In the area of manpower, correctional agencies exist on several levels. Of necessity these comments are limited to the state correctional system.

- A. Standard 75.1 suggests adoption of personnel policies and practices to improve the image of corrections. Suggestions include: (1) reduce the use of paramilitary uniforms; (2) replace military titles with names appropriate to tasks; (3) reduce the use of badges and minimize carrying of weapons except where necessary; (4) abolish military terms such as "company", "mess hall", etc.; and, (5) abandon unnecessary regimented behavior for personnel and inmates.

This standard has been implemented to a great extent. Correctional officers (guards) now wear blazers rather than uniforms. Military regimentation and titles are minimized. In 1968 the Department developed a correctional specialist program aimed at training prison officers for integration into the treatment staff. Paraprofessionals are now utilized in treatment roles in a team approach with professionals throughout the state.

- B. Standard 75.2 states that recruitment of correctional personnel should eliminate all political patronage and nepotism. This standard is implemented through State Civil Service selection processes.
- C. Standard 75.3 suggests immediate development of remedial employment proceedings that assure adequate representation of the work force in the community they serve. This standard contains several elements: (1) analysis of jobs to determine skill level required; (2) validated selection procedures; (3) adequate training for employees; (4) affirmative action plans; and, (5) supportive services (housing, transportation, and education) for minority staff where these factors are such as to discourage their recruitment.

This standard is generally implemented. The department's affirmative action program has utilized a variety of techniques to recruit women and minorities: (1) enlisting assistance from community colleges and universities for referrals; (2) providing financial assistance to help pay moving expenses to job locations for minorities; (3) employing former prisoners; (4) downgrading jobs for training purposes to open doors to positions that might previously been closed; (5) establishing the Corrections Cadet 04 position to allow the recruiting of applicants under 21 who have not completed high school; and, (6) extensive use of rescheduled examination procedures. These procedures resulted in an increase to 18 percent minorities by June, 1977.

New employee and in-service training are well institutionalized. A 160-hour corrections specialist course, a 240-hour new employee orientation course, and in-service training (40 hours/year) are provided. Further,

in September, 1977 the Commission on Criminal Justice recommended a minimum of 80 hours of training be required of entry corrections personnel and an equivalent level of training for in-service corrections personnel. It was the Commission's intent that this recommendation apply to both state and local level correctional personnel. An implementation plan is currently being developed for this recommendation.

- D. Standard 75.4 suggests the development of policies for the recruitment of women for all types of positions in corrections. The official policy has been changed with regard to hiring women but there are many improvements which can be made when dealing in such an area. By July, 1977 the Department had 188 women corrections officers working in custody assignments in all institutions. Considerable progress has been made in implementing this standard.
- E. Standard 75.5 suggests an affirmative action program by 1975 for the hiring and promotion of women and minorities. This standard is implemented.
- F. Standard 75.6 suggests the recruitment and employment of rehabilitated and qualified ex-offenders. This standard is implemented. (See 75.3.)
- G. Standard 75.7 Volunteers are being used in community correctional agencies with regard to county jails and probation services. The Michigan Department of Corrections is using these facilities. This is being supplemented by a grant from OCJP to develop more such centers in the Wayne-Oakland-Macomb area and this grant includes the development of volunteers.
- H. Standard 75.8 suggests reexamination of personnel practices to eliminate legitimate causes of employee dissatisfaction. Policies are constantly being revised and these considerations are a continuing part of such evaluations.
- I. Standards 75.9 through 75.13 suggest competitive salaries, opportunities for advancement, policies for workload distribution, career pension system and adoption of contemporary management systems. The major difficulty is obtaining finances. Advancement opportunities are available and attempts are being made to open up the area of lateral entry. The standard requires additional staff which are not presently available for a number of reasons. Within the present staffing constraints as much flexibility as possible is being used. The management model for the Department is being evaluated constantly to assure the best service possible. These standards are generally implemented.
- J. Standard 75.14 suggests that a study be undertaken to examine any redistribution of manpower from institutional to community-based programs. This standard is partially implemented by departmental directives. With the current problem of overcrowding in the institutions as well as the concurrent need for community correctional centers, there is no immediate need to redistribute manpower.
- K. Standard 75.15 calls for a state plan for coordinating all criminal justice training and education. This standard has not been implemented although OCJP has coordinated educational and training programs funded with LEAA funds.

- L. Standard 75.16 suggests that correctional agencies develop work-study programs to attract students to corrections as a career. Present recruitment policies have implemented most of these elements, other require student access and money to support the programs.
- M. Standard 75.17 suggests a staff development program that prepares and sustains all staff members. Several staff development programs are underway currently:
 - 1. Four regional training centers were operative in 1976-77 with a fifth planned for 1978;
 - 2. 160-hour training program for corrections specialists (over 288,000 hours of training since 1972);
 - 3. 240-hours new employee training;
 - 4. Orientation training for all new probation and parole agents as well as an in-service program;
 - 5. An evaluation of training methods;
 - 6. Specialized training sessions (administrative process, emergency control, unarmed self-defense techniques, crisis intervention, drug control, report writing techniques, supervisory skills, management skill development, etc.). This standard is implemented.

II. COMMENT

- A. The area of manpower is dynamic not static. This creates a constantly changing environment requiring a constant reassessment of the policies governing this area. Once certain objectives have been reached they are done but others such as minority recruitment may occasionally require changes to adjust with the needs of the moment. Reevaluation and updating of policies and changes in approach will also account for a never-ending need to reassess manpower needs.
- B. Seventeen standards.
 - 1. Sixteen standards are fully implemented - 75.1, 75.2, 75.3, 75.4, 75.5, 75.6, 75.7, 75.8, 75.9, 75.10, 75.11, 75.12, 75.13, 75.14, 75.16, 75.17.
 - 2. One standard is partially implemented - 75.15.

76: RESEARCH DEVELOPMENT

1. This Sub-Goal seeks "To develop, by 1978, research units in each correctional agency to promote effective development, evaluation and future planning."
 - A. Standard 76.1 requires each correctional agency at the state level to have a working research unit. This standard is implemented by the Michigan Department of Correction's Research Unit within the Bureau of Programs. This unit (originally funded by OCJP) has been responsible for such significant research efforts as recidivism and parole risk prediction studies.
 - B. Standard 76.2 outlines the responsibilities of a research unit. The Department's Bureau of Program is involved in 1) coordinating federal grants, 2) preparing program for new facilities, 3) developing experimental programs, 4) analysis of proposed legislation, and 5) coordination and implementation of research and evaluation efforts.
 - C. Standard 76.3 calls for assistance to smaller agencies and jails by larger state agencies and universities in research efforts. This standard is implemented 1) through OCJP funding of research and evaluation efforts at the local effort, 2) direct assistance to locals such as the Model Evaluation Program, and 3) technical assistance by OCJP or other agencies.

II. COMMENT

All three standards have been implemented.

CHAPTER 3: OFFENDER PROGRAMMING

77: TOTAL SYSTEM PLANNING

- I. Sub-Goal 77 speaks to the need for unified planning by the Department of Corrections to facilitate the building and maintaining of functional institutions which reflect current thinking in modern penology.
 - A. Standard 77.1 requires that total system planning be undertaken by each correctional agency and be mandatory when a principle detention facility is contemplated. This standard includes the element of: (1) problem definition; (2) data survey and analysis; (3) program linkages with other community services; (4) definition of the correctional delivery system; and, (5) program and facility design. This standard is implemented by common practice for state and local correctional facilities. The recent rise in expenditures for corrections has drawn the attention of legislators and local politicals who now require extensive documentation prior to commitment of funds. OCJP has funded several correctional need studies and works with the National Clearinghouse for Correctional Facilities.
 - B. Standard 77.2 requires consideration of the National Environmental Policy Act of 1969 in regard to physical, social, and aesthetic impact imposed by any facility or network. This standard is implemented by the Department of Corrections and any local unit of government utilizing federal funds for construction. In effect, this standard is implemented fully.
 - C. Standard 77.3 calls for the establishment of a master plan for all locally controlled correctional facilities by 1978. This standard has not been implemented.
 - D. Standard 77.4 requires that attention to individual program needs, such as detention centers, be considered in the development of a plan. This standard is contingent upon the development of a statewide plan.
 - E. Standard 77.5 emphasizes the need to give the highest priority to diversion from the criminal justice system and utilization of community resources. For implementation of this standard see Sub-Goal 61.

II. COMMENT

Five standards.

- A. Two standards are fully implemented - 77.1 and 77.2.
- B. Two standards are not implemented - 77.3 and 77.4.
- C. Standard 77.5 is discussed under Sub-Goal 61.

78: DIVERSION

- I. Sub-Goal 78 views diversion programs from the corrections perspective. It addresses the inadequacies of the present criminal justice system and suggests that each local jurisdiction, in cooperation with related state agencies, develop and implement by 1976, formally organized programs of diversion. The topic of diversion is addressed in other sections of the Goals and Standards publication: Community Crime Prevention Section (Sub-Goal 2), Juvenile Justice Section (Chapter 1), Investigation & Arrest Section (Sub-Goal 33), Adjudication Section (Sub-Goals 60 and 61). Each section views the process of diversion from its own perspective. In order to establish a systematic and formally organized process of diversion, the input from each section should be considered to facilitate total system planning as suggested in Standard 78.1.
 - A. Standards 78.1 through 78.3 suggest direction for a coordinated effort of diversion programs including written guidelines for review of policies and decisions and criteria for granting diversion. The use of diversion programs and other alternatives are on the increase, but the need to coordinate these efforts in a time of overfilled facilities is greater than ever. Legislation, adequate funding and the support of the Commission are necessary to getting these programs operational.

II. COMMENT

- A. All standards under this Sub-Goal have been partially implemented. Full implementation will not be achieved until a fully systematized diversion policy has been implemented for the whole criminal justice system.
- B. Three standards.

All standards have been partially implemented.

79: PRE-TRIAL RELEASE

- I. Sub-Goal 79 seeks to establish equitable pre-trial release alternatives. It argues that a system which detains accused persons during the period of presumed innocence, heightens citizen disrespect for the law. This Sub-Goal recommends that "Each state or local criminal justice jurisdiction shall develop and authorize the use of alternatives for the detention of persons awaiting trial which encourage the use of nonfinancial conditions and limit the use of detention."
 - A. Standard 79.1 suggests guidelines for selecting alternatives to detention that will reasonably assure the appearance of the accused for trial. This standard is implemented in that the courts have the discretion to select alternatives, by the Eighth Amendment of the U.S. Constitution.
 - B. Standard 79.2 is implemented and the process of considering the nature and circumstance of the offense charged, the weight of the evidence, ties to the community, as suggested by this standard, is the process presently in existence throughout the State of Michigan.
 - C. Standard 79.3 suggests that no person be allowed to act as surety for compensation. This standard is not implemented. Legislative action would be required for implementation.
 - D. Standard 79.4 recommends that willful failure to appear before any court or judicial officer as required be made a criminal offense. This standard is fully implemented by statute.

II. COMMENT

- A. The establishment of equitable pre-trial release alternatives is a sensitive topic. Public concern centers around the possible release of potential criminals after they have already been charged with one offense and may possibly be guilty of several prior offenses.

Standards 79.1, 79.2, and 79.4 (MCLA 750.199A) are fully implemented. Standard 79.3 requires legislation to do away with the surety system. Difficulty with this proposal arises from the inability of large numbers of those charged to raise the necessary cash for bail without the assistance of the bail bondsmen.

Additionally, due to inadequate information regarding those charged with crimes the judges are extremely limited in setting low bail or in prescribing bail alternatives.

Therefore, bail is very often set not according to the individual but according to the crime. Such a system fails to allow the alleged offenders the opportunity for release while seeing to the protection of society.

- B. Four standards.

1. Three standards are fully implemented - 79.1, 79.2, 79.4.

2. One standard is not implemented - 79.3.

80: CLASSIFICATION OF OFFENDERS

- I. Sub-Goal 80 argues for the development of a comprehensive diagnostic and classification system by each correctional agency by 1976. Classification is the second phase of the diagnostic process and is inseparable from it in many respects and is the process by which human and fiscal resources are applied to each individual case.

Standard 80.1 suggests objectives that should be considered in the development of a diagnostic and classification system for management and rehabilitative purposes. This standard is implemented by Administrative Rules 791.401 through 791.440 which define factors to be considered in classifying inmates.

II. COMMENT

Standard 80.1 is implemented.

81: LOCAL ADULT INSTITUTIONS

- I. Sub-Goal 81 seeks to ensure that the county jail is an integral part of the total statewide correctional system and that correctional programs are adequate to support the objectives of successful offender reintegration. Currently, jails are a county responsibility administered by a county sheriff. Total system planning, as described by Sub-Goal 77, should be undertaken to ensure the objectives of this Sub-Goal.

- A. Standard 81.1 states that the State should empower the Department of Corrections to inspect local correctional facilities and enforce compliance with statewide standards in the following areas: (1) administrative functions including record keeping procedures; (2) space allocations for operations and programs; (3) inmate classification; (4) medical and food service; (5) offenders' employment, housing and education and work programs; (7) observation of rights of offenders; and, (8) visiting correspondence and disciplinary practices and procedures.

By authority conferred on the Department of Corrections by § 16a of Chapter 13 of the Revised Statutes of 1846, as added, § 62 of Act No. 232 of the Public Acts of 1953, as amended, and § 277 of Act No. 380 of the Public Acts of 1965, being sections 45.16a, 791.262, and 16.377 of the Michigan Compiled Laws; the Department promulgated Administrative Rules 791.501 through 791.665 to facilitate regulation of local facilities.

The Office of Jail Services (OJS), a division of the Bureau of Correctional Facilities, is responsible under these rules for inspecting and regulating county and city jails and lockups. To enforce statewide jail standards, OJS conducts an annual inspection which identifies major operational and physical plan deficiencies as well as actions taken to comply with standards. OJS can initiate court action to enforce changes; however, generally compliance is achieved through technical assistance and negotiations. Jail rules (791.501 through 791.665) cover all the specific elements in this standard.

- B. Standard 81.2 suggests that each judicial jurisdiction establish centrally coordinated and directed adult intake services that: (1) provide investigative pre-trial screening; (2) emphasize diversion of alleged offenders; (3) provide assessment, evaluation, and classification services that assist in programming sentenced offenders; (4) arrange secure residential detention where needed; and, (5) establish minimum behavior guidelines for persons on pre-trial release.

This standard is not currently implemented. Three major components are involved with the intake, screening, diversion, and programming of pre-trial detainees. The probation officer is involved in pre-trial screening for possible release; the prosecutor's office is involved in screening for deferred prosecution; and the jail rehabilitation staff screen detainees for program needs.

- C. Standard 81.3 calls for county, city or regional jails and community correctional centers to organize admission processing for residential care. Specific factors to be included are supervision, physical separation, cleanliness, medical inspection, record keeping, etc.

This standard is implemented by Rules 791.601 through 791.663.

- D. Standard 81.4 establishes criteria for locally based correctional institutions and program staff.

This standard is partially implemented. Rule 791.602 states:

"(1) It is recommended that the selection, appointment and promotion of corrections personnel should be made on the basis of demonstrated ability. (2) It is recommended that officials responsible for selecting facility staff should apply standards requiring experience, aptitude, a minimum of a high school education or equivalent, training, maturity, psychological stability and good character. It is recommended that there should be a probationary period before an appointment is made permanent. (3) It is recommended that personnel assigned to correctional duties in the facility should meet physical standards to accomplish correctional objectives."

While these rules are generally applied, local corrections staff are often sworn sheriff's deputies of low seniority or near retirement age. OJS does provide training to correctional personnel; however, no current mandatory training exists. The Commission on Criminal Justice has recommended a mandatory of 80 hours for entry corrections personnel and an equivalent amount for in-service personnel.

- E. Standard 81.5 requires that local correctional institutions develop internal policies governing: (1) a classification system; (2) rules and regulations; (3) visitation rights; and, (4) medical resources. This standard is implemented by R 791.604 which requires written policies, procedures, and regulations for the operation of a facility. This Rule is enforced through the OJS inspection process.
- F. Standard 81.6 calls for the local correctional institutions to develop programs to include: (1) a classification system; (2) educational component; (3) vocational component; (4) job placement services; (5) counseling services; (6) volunteer component; (7) physical exercise; (8) community program use; and, (9) inmate input into programming.

Jail Rules 791.648 through 791.652 outline parameters for programs; however, full realization is given to the fact that not every jurisdiction will immediately be able to comply. OCJP has funded numerous jail inmate rehabilitation programs. A current evaluation involving six of these projects is underway. OCJP funded programs and larger jails are complying with this standard.

- G. Standard 81.7 calls for local correctional facilities to develop release programs to allow inmates to participate in community educational, social, vocational, and employment programs.

Many communities are currently operating such programs. Due to security problems caused by the released inmates re-entering the jail, some jails are, however, unable to operate these programs

- H. Standard 81.8 requires that prior to new construction, a total system planning and state inspection be completed. This standard is implemented.

II. COMMENT

- A. These standards are generally implemented by Administrative Rules promulgated by the Department of Corrections and administered by the Office of Jail Services. Specific application of these rules, however, varies among jurisdictions.
- B. Eight standards.
 - 1. Four standards are implemented - 81.1, 81.3, 81.5, 81.8.
 - 2. Three standards are partially implemented - 81.4, 81.6, 81.7.
 - 3. One standard is not implemented - 81.2.

82: PROBATION

1. Sub-Goal 82 argues that the present framework of probationary services varies between and within states and the lack of adequate staff, necessary resources, and clear operational goals has hindered the effectiveness of the probationary system. It suggests that "The Department of Corrections will establish by 1975, statewide goals and policies that will provide uniformity in probation and ensure proper manpower and resources for an effective service delivery system."

- A. Standard 82.1 outlines the state correctional area of responsibility for 1) providing all felony-level probation, 2) establishing statewide goals, policies, standards and priorities, 3) program planning and development of innovative service strategies, 4) staff development and training, 5) planning for manpower needs and recruitment, 6) collecting statistics, monitoring services, conducting research and evaluation, and 8) offering consultation to courts, legislative bodies, and local executives.

This standard is implemented by MCLA §771.7 which assigns responsibility for felony probation to the Michigan Department of Corrections (MDC). Further, Administrative Rules 791.9901 through 791.9930 define specific duties of probation officers and MDC for probation services.

- B. Standard 82.2 calls for local government to elect to provide misdemeanor and juvenile services in accordance with state standards. This standard is implemented by voluntary compliance of some local governments in the provision of probation services for misdemeanants and juveniles.
- C. Standard 82.3 seeks to provide adequate manpower and resources for local jurisdictions so probation can be used where appropriate. Manpower is presently provided by many local jurisdictions. Further, OCJP has funded several misdemeanor probation projects. This standard is partially implemented.
- D. Standard 82.4 suggests the development of a goal-oriented service delivery system that seeks to remove or reduce barriers confronting probationers. There are goals set in cases of probation with regard to each client but uniformity and formality would require assistance, manpower and funding. Again this standard is partially implemented by local and OCJP funding.
- E. Standard 82.5 calls for reduction in service duplication to probationers by limiting services provided by probation staff to those not available elsewhere in the community. This standard is being implemented in many communities. Project START, funded with LEAA discretionary monies, is demonstrating this concept in Detroit/Wayne County and will be presenting evaluation findings to the Michigan legislature soon.
- F. Standard 82.6 requires probation staff to be located in the communities where probationers live and in service centers with access to programs of allied human services. This standard is generally implemented.

- G. 82.7 suggests the organizing of staff and probationers into workloads or task groups rather than case loads. This standard has been implemented by MDC. In 1977 additional probation staff was hired to reduce work units to not to exceed 75 for each agent. In four judicial circuits - Washtenaw, Kalamazoo, Calhoun, and Ottawa - the work units were cut to 50 for experimental purposes.
- H. 82.8 suggests the development of a comprehensive manpower development and training program for probation personnel. There are presently existing standards for probation personnel. In order to implement this standard completely the probation system (both felony and misdemeanor) should be unified under state control. The hiring practices of the Department of Corrections already meet these recommendations.

II. COMMENT

- A. The probation standards outlined are implemented by the MDC for felony probation. Due to the scarcity of local resources and often low priority given to misdemeanor probation, progress is slow for district courts.
- B. Eight Standards
 - 1. Four standards (82.k, 82.2, 82.6, and 82.7) are fully implemented.
 - 2. Four standards (82.3, 82.4, 82.5 and 82.8) are not implemented.

83: MAJOR INSTITUTIONS

1. Sub-Goal 83 calls for the MDC to examine its institutional policies, procedures, and programs and make any necessary revisions to achieve the primary goal of offender rehabilitation and reintegration.

While offender rehabilitation and reintegration has remained an important goal for the corrections system, the recent increases in population has diverted attention to the more critical issue of adequately housing prisoners. Equally important at this time of strain on the system has been the issue of providing maximum public protection and at the same time working toward improving the existing system. Thus, a philosophy emerges which allows for the development of additional facilities and builds into those facilities assets which will remain when the crisis subsides.

- A. Standard 83.1 requires that a comprehensive analysis be undertaken prior to building new major institutions. Specific issues to be addressed are: 1) physical plant, 2) population size, 3) location of the institution, 4) physical environment of the institution, 5) programming needs, and (5) individual rooms or cells.

The MDC has undertaken several efforts to alleviate the current housing problems. Each proposed addition or renovation includes substantial planning prior to appropriation of funds. In July, 1977, there was estimated to be a deficiency of 2200 beds in the system. Proposed additions or renovations for 1978-80 are:
1) Kincheloe Air Force Base (Kinross) - 700 bed medium-security;
2) Riverside Correctional Facility - 300 beds; 3) Evangeline Hall - 100 bed community status; 4) Holland facility - 400 bed medium security; 5) Southeast Michigan - 100 bed minimum security;
6) Ypsilanti - 400 bed maximum security; 7) Detroit - 500 prisoners;
8) 200 beds in community correctional centers.

- B. Standard 83.2 suggests modification of institutions, where possible, to minimize the deleterious effects of excessive regimentation and negative physical environments. This standard is being implemented as new facilities are developed. Further, additional use of community correctional centers are one example of this effort.
- C. 83.3 suggests that each correctional institution undertake to bring about an institutional social setting that would stimulate offenders to change their behavior. Specific elements suggested to bring about such changes are: 1) open communication, 2) explicitly stated goals, 3) policies and practices to preserve individual identity, 4) programming for minority offenders, 5) community interaction where feasible, and 6) only the minimum security required. This standard has been implemented through legislation and administrative rules. Public Act 46 of 1975 established the Office of Legislative Ombudsman and granted it authority to investigate complaints from prisoners. Other elements are all implemented through Administrative Rules. (See 791.401-440, Resident Classification and Transfer; 791.601-.645, Residents' Rights).

- D. Standard 83.4 suggests that each institution should examine its educational and vocational training programs to ensure that they meet standards that will individualize education and training. Specifically, 1) each institutions should have a comprehensive, continuous educational program, 2) each institution should have pre-vocational and vocational training programs, 3) education and training should include programmed instruction and a variety of instructional materials. This standard is implemented through the program review process which examines program requirements, outcomes, and costs.
- E. Standard 83.5 calls for the establishment of programs for handling special offenders (addicts, alcoholic, security problems, and emotionally disturbed). This standard is implemented by the present classification system which assigns inmates to appropriate institutional and community programs. Full implementation is dependent upon availability of a range of adequate facilities and resources.
- F. Standard 83.6 calls for specific facilities, programs, a classification system, and diversionary alternatives for female offenders. This standard is currently implemented. In April, 1977 Huron Valley Women's Facility (the first prison designed in Michigan solely for female felons) was opened. This facility has a capacity of 390 multi-security beds and offers a variety of educational and vocational programs.
- G. Standard 83.7 requires that each facility implement policies and procedures for the provision of recreation activities as an important resource for changing behavior patterns of offenders. This standard is generally implemented in that each facility does provide recreational activities; however, due to overcrowding, utilization of such facilities is less often than adequate for individual inmates.
- H. Standard 83.8 recommends that each institution begin immediately to develop planned, organized, and ongoing counseling programs for individuals and groups. This standard is fully implemented since each institution does have counseling programs available.
- I. Standard 83.9 calls for institutions operating industrial and labor programs to organize their programs to support the reintegrative purpose. This standard is implemented. Prison industry jobs, work release programs, and training assignments are integral parts of a total rehabilitation process.
- J. Standard 83.10 recommends that institutions develop provisions for temporary release to give carefully selected prisoners an opportunity to engage in programs of work or training, real employment, etc. to facilitate reentry preparatory to release. This standard is implemented through work release and community-based corrections. In 1976, 2769 persons were placed in corrections centers and resident homes. Temporary release programs consist of: 1) compassionate furloughs (to visit ill relative or attend funeral), 2) health care furloughs, 3) family furloughs (5764 persons in 1976) and 4) work pass programs (701 persons in 1976).

II. COMMENT

A. Total system planning of the corrections system has been emphasized with the recent upsurge in commitments to already limited facilities and resources. A balance between institutional and community-based programs has been achieved.

B. Ten Standards

1. Eight standards (83.1, 83.2, 83.3, 83.4, 83.6, 83.8, 83.9, 83.10) have been fully implemented.
2. Two standards (83.5 and 83.7) have been partially implemented.

84: PAROLE

- I. Sub-Goal 84 directs itself to developing statewide goals and objectives for release procedures. It suggests that the Department of Corrections establish by 1975 statewide goals, policies, and operational procedures designed to improve parole services and insure proper manpower and resources for an effective delivery system. Through a grant from the Office of Criminal Justice Programs, staff for the Contract Service Program has been increased. This tends to ease the burden on the Parole Board. In addition Public Act 188 of 1976 increased the membership of the Parole Board from five to seven members.
 - A. Standard 84.1 calls for decision-making bodies for both adults and juvenile offenders to be a part of the statewide adult and/or juvenile correctional service agency. These Boards should establish procedures to 1) insure reasonable and acceptable standards; 2) have adequate staff to perform functions; 3) use hearing examiners, and 4) perform other compatible functions. This standard is implemented by the Adult Parole Board by Statutes (MCLA 791.233 through 791.245) and Administrative Rules 701 - 760.
 - B. Standard 84.2 requires that Parole Board members be selected on a competitive basis; have an educational background in the area of social or behavioral science; and participate in ongoing training. This standard is fully implemented under the Michigan Civil Service System.
 - C. Standard 84.3 calls for establishment and publishing of policies for parole hearings and decisions. The parole grant process should include: 1) individual goals, 2) rehearings at yearly intervals for those denied parole, 3) limitation of 20 hearings per day, 4) public records regarding interceding parties, 5) consideration of statutory eligibility, degree of risk to society, satisfactory arrangements for release, fairness of release, 6) review of appropriate records and materials by the Board, and 7) rules for conducting the parole hearing.

This standard is fully implemented. Administrative Rules 701-760 define the parole process in Michigan. Further, criteria considered by the Board includes: 1) prior record, 2) high and low risk identifiers, 3) seriousness and nature of offense, 4) circumstances of the offense, 5) the placement situation, and 6) institutional records.

- D. Standard 84.4 requires that apprehension and detention of parolees whose behavior indicates a threat to human life or property be prompt. Conditions for apprehension and detention are to include: 1) right to counsel, 2) preference of a conviction for new offenses over revocation proceedings, 3) parole violation warrants for parole violations, and 4) development of alternative plans for violators whose behavior does not warrant return to an institution.

This standard is implemented by Michigan statute. When the Parole Board grants a parole, it is for a specific time period and under certain conditions. General parole rules apply to all parolees

and special conditions are added to deal with specific potential problems of the parolee. Violation of any condition could cause the violator to be returned to the institution for imprisonment up to the maximum of the sentence. After a violation occurs, the current statute provides for a 30-day period, within which the full parole violation process may be conducted. Approximately 500 persons are returned to prison as parole violators each year in Michigan.

- E. Standard 84.5 calls for coordination of field service and institutional staff working with the same individual. This standard is generally implemented via the Regional structure in that the four field service regions are analogous to the penal institutions. This reorganization occurred mid-1977 and provides closer coordination of field service and institutional services.
- F. Standard 84.6 requires that field agents should cultivate private and public resources to assist parolees in their adjustment efforts. Substantial gains have been made in implementing this standard by expanding the use of resident homes and community corrections centers. Further, use of the work-pass program has increased due to the efforts of 12 new employment specialists.
- G. Standard 84.7 recommends that parole conditions should be the minimal number required for protection of society and individual responsibility. This standard is implemented by Administrative Rule 791.7730.
- H. Standard 84.8 requires the Department of Corrections to develop a comprehensive manpower and training program and to recruit persons with a wide variety of skills, minorities, and volunteers to assist in parole programs.

This standard is generally implemented. In 1976-77 appropriations were made to the Department to reduce work units to 75 per agent. Further, an addition of 12 employment specialists was made. Civil Service procedures require appropriate education and experience and defines the selection procedures.

II. COMMENT

- A. The Department of Corrections has made considerable progress in developing the parole process and programs. The addition of two members to the Parole Board and more adequate funding of field services staff have been primarily responsible for these gains.

- B. Eight Standards

All eight standards have been fully implemented.

85: CORRECTIONS IN THE COMMUNITY

1. Sub-Goal 85 offers an alternative to traditional incarceration sanctions. The rationale for community-based corrections lies primarily with the realization that the benefits attained from traditional sanctions are minimal or transient at best. This Sub-Goal provides for the immediate development of policies and programs to insure effective community support and participation in the offender reintegration process. It supports the proposition that no one should be subjected to incarceration or custodial control unless absolutely necessary.

- A. Standard 85.1 calls for the State correctional system to analyze its needs, resources, and gaps in service and to develop by 1978 a plan for implementing alternatives to institutionalization.

This standard has been implemented by the Department's attempt to promote a wider range of sound, community-based programs for non-dangerous offenders. Increased field service staff, increased use of community correctional centers, and utilization of community educational, vocational, and medical services have been responsible for this implementation.

- B. Standard 85.2 outlines minimum alternatives to be included in the plan. This standard is met as defined in "A" above.
- C. Standard 85.3 calls for the development of coordination and working relationships with community social, employment, educational, law enforcement and private organizations. Current efforts are underway to implement this standard. Relationships exist for educational, vocational, employment, mental health, and social services at the state level.
- D. Standard 85.4 requires management level coordination of community correctional planning. This standard is implemented via working agreements developed at the state and local levels.
- E. Standard 85.5 calls for local level operational procedures to provide services to offenders. This standard is met by community correctional center staff and field services staff working in each community.
- F. Standard 85.6 recommends that the State Correctional system should create a public information and education unit to develop citizen involvement in a variety of ways. This standard is partially implemented by the establishment of a public information office. However, the emphasis on volunteer involvement has not been emphasized by this office.
- G. Standard 85.7 recommends that procedures be established by which offenders can assume increased responsibility and community contact. This standard is implemented in several ways: 1) parole performance contracts (Administrative Rule 725); 2) work and school assignments (R 435-940); 3) work release; and 4) community corrections center placement.

- H. Standard 85.8 requires the arrangements and procedures of an institutional classification system be specified. This standard is fully implemented by statute (MCLA 791.264) and Administrative Rules 401-440.

II. COMMENT

This Sub-Goal contains eight standards, all but one of which (85.6) are fully implemented. Standard 85.6 is partially implemented.

STATUS REPORT

PART VI

CRIMINAL JUSTICE MANAGEMENT

SEPTEMBER, 1977

Status Report, September, 1977

VI. CRIMINAL JUSTICE MANAGEMENT SECTION I: INTRODUCTION

The purpose of this status report is to provide an update of the implementation and evaluation of the Sub-Goals in the Criminal Justice Management Section of the Goals and Standards report. The categories followed in this process are:

- A. A brief statement of the Sub-Goal including its objectives,
- B. The implementation status of the Sub-Goal and its standards, and
- C. A commentary explaining and evaluating how Sub-Goal objectives relate to the other areas of the criminal justice system and the need for further developments.

No issue within the criminal justice system has become more apparent in recent years than the lack of communication within and between the functional parts of the system itself.

The Criminal Justice Management Section of the Criminal Justice Goals and Standards for the State of Michigan recommends 10 Sub-Goals and 39 standards aimed specifically at creating a better working relationship between the numerous sectors of the system. The recommendations combine to form a three-pronged attack on the problems of: 1) planning and organization for each functional component; 2) criminal justice information systems; and 3) education and manpower development for the criminal justice system. The task of implementing standards for the management of criminal justice are difficult because each single point in the system must be considered and coordinated with the others. In addition, an intricate balance between state and local responsibilities and funding must be maintained to effectively deliver services to communities.

Many standards have been implemented in concept but differ in specifications in practice. Since the writing of Goals and Standards in 1974-75, increased emphasis has been given to criminal justice issues and organization by both state and local governments. Public concern and response has been responsible for numerous system changes for the criminal

justice programs beginning with state level management and permeating every local community. A summary of these changes by standard follows.

CONTINUED

2 OF 3

SECTION II: SUMMARY OF STANDARDS BY IMPLEMENTATION STATUS

PART I

86: COMPREHENSIVE PLANNING FOR THE CRIMINAL JUSTICE SYSTEM

- A. "To coordinate the criminal justice planning processes in order to assure a systematic approach to the delivery of equitable, efficient, and economical criminal justice services at the local, regional, and statewide levels."

Sub-Goal 86 recommends action which would eliminate much of the disunity currently found in the criminal justice planning structure at all governmental levels. In order to accomplish this end, Sub-Goal 86 provides for a policy advisory board and a state level planning mechanism utilizing local and regional level inputs.

- B. This Sub-Goal is partially implemented.

1. Standard 86.1 which provides for a 25 member Criminal Justice Commission, has been fully implemented by an executive order, dated 9-26-75. The membership was increased to 32 plus adjunct members serving limited terms on the various committees. An Executive Committee consisting of 10 members representative of the spectrum of criminal justice agencies was appointed in January, 1976.
2. Standard 86.2 provides for a Council of State Criminal Justice Agencies. The function of this council is presently being performed by the recently appointed Criminal Justice Sub-Cabinet. The executive office has appointed the sub-cabinet in lieu of the council composed of the heads of major criminal justice departments (MSP, Corrections, Attorney General, Court, OCJP).
3. Standard 86.3 prescribes the duties and organizational placement of OCJP within the criminal justice system and within state government. This standard is partially implemented. Since 86.3 was written, OCJP has been reorganized within the Department of Management and Budget and placed in the Bureau of the Budget. OCJP is performing all of the duties stated in 86.3; however, total staff resources has diminished with the decrease in LEAA funds.
4. Standard 86.4 recommends that input be made by local and regional criminal justice agencies into the state planning process. This standard is fully implemented. Current operational procedures provide for regional inputs to an annual comprehensive plan for criminal justice. In addition, there are local/regional inputs through adjunct membership on each committee of the Commission on Criminal Justice.

C. Commentary

The achievement of this sub-goal is essential to meeting the goal of a statewide coordinated system of criminal justice planning and organization. When fully implemented, Sub-Goal 86 will affect the planning processes of all the functional areas of criminal justice. It will then affect Sub-Goal 23 (Organization of Juvenile Services), Sub-Goal 16 (Juvenile Court Organization), Sub-Goal 67 (Court, Court Organization and Community Relations), Sub-Goal 68 (The Prosecution), Sub-Goal 69 (The Defense), Sub-Goal 70 (Victims, Witnesses and Jurors), Sub-Goal 73 (Organization for Corrections), Sub-Goal 77 (Total System Planning) and Sub-Goal 85 (Corrections and the Community).

It has been recognized by the Commission on Criminal Justice that the planning function must be an on-going process. Several resolutions supporting continued funding

by LEAA have been unanimously passed by the Commission.

The planning oriented recommendations of the Commission number almost thirty over the last year. Each of the five committees, sub-committees and various issue-oriented task forces have held numerous meetings to develop further standards and implementation guidelines which are discussed throughout each section's status report.

PART II

87: ORGANIZATION FOR LAW ENFORCEMENT

- A. "To develop an integrated and effective system for the uniform delivery of improved law enforcement services throughout the entire state."

Sub-Goal 87 was conceived as a remedy to the widely disparate police service levels existing in Michigan. Many citizens do not even have 24 hour police protection in their community. The standards following Sub-Goal 87 are not intended to weaken local control of police services. They are designed to encourage local government to upgrade law enforcement services to meet the minimum requirements set forth in the Goals and Standards report.

- B. This Sub-Goal has not yet been fully implemented.

1. Standard 87.1 describes the state's law enforcement responsibilities' as assuring the availability of highway patrol and support services for law enforcement. The Michigan State Police currently provided highway patrol and some support services to many local law enforcement agencies. This standard is partially implemented. In January, 1977, the Commission recommended that the State Police should provide statewide expressway patrol and supportive services.

Specifically, the Commission recommended the role of the Michigan State Police as follows:

- "a. To provide at no cost to local communities:

- 1) forensic laboratory services,
 - 2) MLEOTC training,
 - 3) Law Enforcement Information Network (LEIN) data,
 - 4) computerized criminal histories, and
 - 5) intelligence services.
- b. The MSP shall develop a pool of troopers available for local support in emergency situations.
 - c. The MSP shall provide statewide patrol of the expressway system.
 - d. The MSP should reestablish the trooper force to not less than the July, 1975 level.
 - e. All supportive services presently provided by the state to law enforcement shall be continued including:
 - 1) continued and improved LEIN services,
 - 2) forensic crime laboratories, including control and satellites recommended by the Governor's Forensic Science Committee,
 - 3) basic in-service and specialized law enforcement training developed and implemented by MLEOTC,
 - 4) criminal investigation on request from local law enforcement agencies in major cases and multi-jurisdictional investigation, including narcotics and other dangerous drugs, organized crime, homicide, arson and auto theft,
 - 5) mutual aid to local law enforcement agencies on their request when justified by the MSP,
 - 6) breathalyzer program administration and supervision,
 - 7) central records and identification programs, and,
 - 8) computerized criminal history (CCH), computerized management and operations information data centers.

- f. Primary responsibility for high visibility patrol, enforcement and accident investigation on all interstate and limited access highways and all other state highways outside of incorporated areas."
- 2. Standard 87.2 encourages local government to maintain law enforcement agencies containing no fewer than 20 sworn officers who are involved in the delivery of police services. Implementation of this standard has been addressed by the Commission. Their recommendations for the role of local law enforcement are:
 - "a. Although the local law enforcement agency shall have authority in every area of law enforcement within its jurisdiction, the local unit of government shall provide 24 hour basic police services including preventive patrol and emergency response, criminal investigation, motor vehicle accident investigation and enforcement and local ordinance enforcement,
 - b. When these services cannot be locally provided, they shall be obtained through contractual agreement with the sheriff or other statutorily approved law enforcement agency, and
 - c. The local law enforcement agency may provide a full range of police services but should utilize all supportive and investigative services provided in the role definitions for the MSP and sheriff."

These recommendations do not specify a minimum number of sworn officers but fixes the responsibility for 24-hour basic service.

- 3. Standard 87.3 encourages confederation of police authorities in counties over 100,000 in population to provide regional support services and, by contract, basic services. This standard is being implemented in concept via the role definition division of labor. In addition to the MSP and local role recommendations noted above, the Sheriff's role is delineated as: "The Sheriff shall perform all Constitutional and statutory functions with primary responsibility for the following:
 - a. custody and transportation of all adult and juvenile offenders, excluding status offenders, when remanded by court action, or otherwise received by the sheriff. Transportation may be delegated,
 - b. security of all courts except the Supreme Court and Court of Appeals,
 - c. preservation of the peace and patrol of unincorporated areas for police services on interstate, limited access, and other state highways,
 - d. administration and service of civil process, and
 - e. countywide law enforcement services, involving multi-jurisdictional matters and any subsequent contractual agreement for these services."

The combined role definition for law enforcement was designed to address the problem of overlapping jurisdiction and duplication of efforts and costs in the delivery of services. Although confederation is not explicitly stated, the provision for contracting and emphasis on specialization rather than duplication accomplishes the same result. Contractual arrangements are currently utilized by many jurisdictions.

- 4. Standard 87.4 provides for state funded financial incentives to encourage law enforcement agencies to comply with these standards. This standard is not implemented; however, provision of both direct and supportive services are provided by the MSP to communities at state expense. The source of revenue to fund the incentives in Standard 87.4 is not specified.
- 5. Standard 87.5 permits local jurisdiction to provide services above minimum state and regional standard levels utilizing their own resources. Many jurisdictions are currently providing services beyond a minimal level; however, given the lack of a formula for determining the level of need for law enforcement services, of

6. Standard 87.6 establishes a five year limit after state financial incentives are applied for law enforcement agencies to comply with minimum standards. Since state financial incentives have not begun, this standard can not be implemented.
7. Standard 87.7 provides for the establishment of a standing committee of commissioners and other law enforcement interests appointed by the Commission to develop a strategy to implement standards for section 87.

The Law Enforcement Committee of the Commission accepted this function in January, 1976 and has been working toward implementation of these standards. In addition, in October, 1977 a legislative committee has been called for to continue this effort.

C. Commentary

Sub-Goal 87 relates directly to Sub-Goal 29 (Availability of Law Enforcement Services). Standard 29.2b provides for 24 hour law enforcement services for all Michigan residents while suggesting that law enforcement agencies contract with one another to provide adequate police services. Sub-Goal 87 was also intended to serve as the mechanism for assuring that all law enforcement agencies provide the basic law enforcement and support services at the levels specified in the Investigation and Arrest Section of the Goals and Standards report.

The Commission on Criminal Justice has long recognized the need to establish a law enforcement system which provides complete and competent services while at the same time avoiding duplication of services and competition between departments. The problem of overlapping jurisdiction has received increased concern as local tax dollars become less available. Thus, the Law Enforcement Committee began in January, 1976 to review these issues. In July, 1976 a Sub-Committee on Role Definition was appointed to study the problems and present recommendations for the major components of law enforcement: Michigan State Police, Sheriffs, and local law enforcement agencies. The Sub-Committee involved key organizations in their deliberations and are continuing to work with state, county, and local officials to implement the recommendations as cited earlier.

PART III

88: ORGANIZATION OF ADJUDICATION

- A. "To provide equal, uniform and high quality statewide judicial services in order to fulfill the constitutional mandate of one court of justice."

Sub-Goal 88's recommendation is consistent with the viewpoint of the Michigan Supreme Court's recommendation regarding state financing of Michigan's court system. It also recommends the appointment of appellate, tribunal and supreme court judges.

- B. This Sub-Goal has not been implemented, however, legislation has been recommended for statewide financing of all courts.

1. Standard 88.1 recommends statewide financing of Michigan's court system. It also recommends that all judges of statewide appellate courts and tribunals be appointed to office and subject to periodic approval or rejection by the voters. Standard 88.1 also delegates certain policy functions to the Supreme Court. This standard has not been implemented despite attempts to pass such legislation. In a positive move, the Commission recommended study of state financing of judge's salaries in March, 1977.

While implementation of standard 88.1 as written is dependent upon state financing, the Supreme Court through its Administrative offices is currently involved in: 1) establishing management, recruitment, classification, and performance policy for non-judicial personnel, 2) approving and control of the state share of local courts, 3) establishing record keeping and reporting systems for courts, and 4) making recommendations to the legislature regarding court organization.

2. Standard 88.2 expands on the section in standard 88.1 regarding the appointment of certain judges, it includes a formal screening process by a group with a substantial number of non-lawyer members. Standard 88.2 places no limit on the number of terms a judge may serve. This standard has not been implemented.

C. Commentary

Sub-Goal 88 has not yet been implemented. While there appears to be substantial support, in the legislature and the court system, for the concepts of appointed appellate judges and statewide financing of the court system, those concepts have failed to receive adequate support to prompt any decisive action.

Sub-Goal 88 has a direct relationship to standard 66.2 (Appointment of Appellate Judges) and 67.1 (Unified Judicial System, Financed, and Administered by the State). Sub-Goal 88 should be merged with Sub-Goals 66 (Organization, Personnel, and Institutions) and 67 (Courts, Court Organization and Community Relations) for purposes of implementation. Both Sub-Goals 66 and 67 use very similar language and recommend the same activities as Sub-Goal 88.

The revised Safe Streets Act created the requirement for the Judicial Planning Committee appointed by and responsible to the Supreme Court. The Committee will be carrying out planning functions for the total judicial branch as it becomes functional.

PART IV

89: ORGANIZATION FOR PROSECUTION

- A. "To provide adequate prosecutorial service for quality judicial proceedings through the state."

The Sub-Goal commentary notes the pivotal role of the prosecutor in the criminal justice system and identifies the lack of full-time prosecutors in many counties as a shortcoming which should be corrected.

- B. This Sub-Goal is partially implemented since the Attorney General's office has superintending authority over local prosecutors as recommended in Standard 89.2.
1. Standard 89.1 provides for full-time prosecutorial services throughout the state. An OCJP funded pilot project is recommended in the implementation strategy, to test the "district attorney" concept in Michigan. Specifically, the implementation strategy recommends prosecutorial districts conforming to the criminal justice districts of the state. This standard has not been implemented since a constitutional amendment would be required to allow for the district attorney concept.
 2. Standard 89.2 recommends that the Attorney General more strongly exercise his superintending authority over local prosecutors. It appears to be partially implemented through the assistance being offered local prosecutors in specialized areas. The Prosecuting Attorney's Association of Michigan (PAAM) has received a grant to provide technical assistance to local prosecutors. Being housed within the Attorney General's office, this mechanism permits a closer role between the prosecutors and Attorney General.

C. Commentary

This Sub-Goal is consistent with and amplified by standard 68.1 (Full-Time, Skilled, Adequately Compensated Prosecutors) and 68.2 (Provide Sufficient Staff and Facilities). Sub-Goal 89 should be implemented in conjunction with Sub-Goal 68 (The Prosecution).

The creation of the Prosecutor's Association of Michigan (PAAM) has been a viable force in participation with projects of the Commission on Criminal Justice. It most recently participated with the Plea Bargaining Task Force and is instrumental in the ongoing priority prosecution effort.

PART V

90: ORGANIZATION FOR INDIGENT DEFENSE SERVICES

- A. "To provide adequate counsel for the indigent defendant on a uniform statewide basis."

Sub-Goal 90 is aimed at rectifying the basic inequities between local communities, in the provision of defense services for indigent defendants. To achieve this end, Sub-Goal 90 recommends establishing full-time public defenders offices and appellate defenders offices in Michigan. The major barrier to implementation is the lack of funding for such an organization.

- B. This standard is partially implemented since the Appellate Defender's Office currently operates at the state level; however, the structure called form 902 is contradictory to the recommendations of 69.1 and 69.3 which call for separate offices of defender services and appellate defender services. Current practice in Michigan has established a separate Office of Appellate Defender Services and recommendations of the Commission in September, 1977 concur with this separation.

1. Standard 90.1 recommends the establishment of full-time public defenders' offices in local jurisdictions throughout the state. This standard has been implemented in Detroit/Wayne County and part-time public defenders are available in other jurisdictions.
2. Standard 90.2 recommends a state Office of Public Defender including an Appellate Section. The State Appellate Defender's Office currently performs some of the functions implicit in this standard; however, separation of the Defender Services and Appellate Defender Services are urged.

C. Commentary

This Sub-Goal is in direct conflict in Sub-Goal 69 (The Defense) which states in 69.3 that the Office of State Appellate Defender should be a separate office.

The Supreme Court appointed in 1976 a Blue-Ribbon Committee to review the use of defense services for indigent persons. Their report is scheduled for release later this year.

Since August, 1976, the Crime Commission's Adjudication Committee has been revising Sub-Goal 90 by writing implementation recommendations. On September 28, 1977 the Commission on Criminal Justice adopted the following recommendations:

1. The creation of a State Public Defender Office funded with state money. This office is to be governed by an appropriately constructed commission which sets policies for the office and appoints the state public defender.
2. The duties of the State Public Defender are: a) to see that the National Legal Aid and Defender Association (NLADA) standards, or substantially equivalent standards, are adopted in Michigan and adhered to by local offices, b) to provide continuing legal education programs to maintain a high level of competence among trial lawyers, and c) to utilize outside agencies, e.g., NLADA, to conduct evaluations of various offices throughout the state.
3. Local public defender offices either by salaried attorneys or on a contract basis should be created at the local level and geographically commensurate to judicial circuits. The primary responsibility to fund local defender offices rest with the state.

4. The Director of the local defender's office is responsible for delivery of competent legal services. Nominations for local Director are submitted to the State Public Defender by a committee convened by a major bar association designated by the presiding judge of the circuit court within the jurisdiction of which the local office functions, consisting of a majority of lawyers in private practice, one judge of a court of record and one or more lay representatives from the community in which the local defender's office functions. The State Public Defender selects the local Director from among the nominees. After appointment, the local Director employs assistant defenders and staff.
5. The local public defender may be discharged by a unanimous vote of the local committee, after a hearing is held. If only a majority favor discharge, the final decision rests with the State Public Defender.
6. A local group may retain ultimate authority to select the public defender. However, in such cases, the complete financial burden of the office rests on local government.
7. Not all indigent defender services should be performed by the local defender office. A certain percentage, varying according to local circumstances, shall be handled by attorneys who are appointed by some other appointing authority and who have no connection with the local defender office.

PART VI

91: ORGANIZATION FOR CORRECTIONS

- A. "To establish a single statewide system of corrections that would provide improved and more consistent services for the reintegration of the offender into the community."

Sub-Goal 91 recommends that control of nearly all types of incarceration facilities for adult and youth convicted of non-status offenses. It also includes parole and probation. This Sub-Goal has not been implemented; however the Commission has established a task force which is reviewing the concept of an unified court and correctional system.

- B. This standard is not implemented.

1. Standard 91.1 describes the activities to come under state control. This standard has not been implemented. Probation activities at the felony level are, however, being state financed for the most part at this time.

- C. Commentary

This standard also appears in the Goals and Standards as standard 73.1 (Single Statewide Corrections System).

The Corrections Committee of the Commission has been reviewing such topics as reform of the probation system, training of correctional personnel and inmate job readiness programs. It has been realized that further work is needed to accomplish Sub-Goal 90. The cooperation of local courts and jails is imperative to this process.

PART VII

92: STATEWIDE ORGANIZATION OF CRIMINAL JUSTICE INFORMATION

- A. "To establish an organizational structure to plan, coordinate, operate and control criminal justice information systems, in order to support criminal justice management within Michigan by 1980."

Sub-Goal 92 recommends the development of a structural mechanism to provide policy guidance and direction for the development and use of criminal justice information systems. Many separate criminal justice information systems are currently in different stages of development with only loose coordination between them. If overlaps, gaps, and inefficiency among systems are to be eliminated, a guiding mechanism must be set up to perform those functions mentioned in this Sub-Goal.

- B. Major progress toward achieving this goal was begun in January, 1977 with the establishment of the Statistical Analysis Center (SAC) within OCJP. The goal for the SAC is to provide information to top level decision makers, the Governor, legislature, working with each information subsystem to establish the necessary coordination and linkage for a state information system. Both an information system coordinating body and users group have been established to assist in this task.
1. Standard 92.1 states "The state should create an organizational structure for criminal justice information systems." The standard lists many criteria and components of the structure. This standard is implemented via the SAC structure.
 2. Standard 92.2 recommends "The state should adopt enabling legislation for protection of security and privacy in criminal justice information systems." This standard contains very lengthy and detailed elements on privacy and security. This standard is partially implemented. This Sub-Goal is partially implemented in that OCJP is performing and encouraging criminal justice agencies to perform the duties Sub-Goal 92 suggests.
 3. Standard 92.3 recommends that "The state should establish a master plan for the development and execution of information and statistical systems at state and local levels." The intent of this standard is being achieved with the Statistical Analysis Center.

C. Commentary

The Sub-Goals and standards concerning the development, operation, and evaluation of information systems were originally perceived to be within the domain of the Criminal Justice Management Section, hence, there is no direct correlation between Sub-Goal 92 and the rest of Goals and Standards. Standards 38.2 (Safeguarding Intelligence) and 38.4 (Comprehensive Systems) have some relevancy to Sub-Goal 92 in terms of privacy and security implications.

PART VIII

93: SYSTEMS DEVELOPMENT AND IMPLEMENTATION FOR POLICE, COURTS, AND CORRECTIONS

- A. "To develop, implement and maintain a comprehensive and integrated statewide criminal justice information system for police, courts and corrections by 1980."

Sub-Goal 93 in conjunction with Sub-Goal 92 recommends action to provide for leadership in a period of rapid growth in criminal justice information systems. The intent of these actions is to prevent duplications, gaps, and inefficiencies when viewing all Michigan criminal justice information systems as a whole. In addition, the Statistical Analysis Center has the responsibility for integrating existing criminal justice subsystems into a single system.

- B. This Sub-Goal is partially implemented through the many information system programs being funded in whole or in part with LEAA funds.
1. Standard 93.1 recommends in detail, that the state develop and maintain a statewide inter-agency criminal justice information and statistical service. This standard is implemented through two elements in the 1978 Plan (pp VII-2 through VII-5) entitled System and State Level Criminal Justice Statistical System and the Statistical Analysis Center.
 2. Standard 93.2 recommends implementation of a statewide police information system. This standard is implemented through LEIN, SPARMIS and LENIS.
 3. Standard 93.3 recommends a comprehensive statewide court information system. This standard is partially implemented through (BMCS) or Basic Michigan Court System (see 1978 Plan, pp VIII-8-10). BMCS is a computer based data communication system; however, not all local courts are currently participating.
 4. Standard 93.4 recommends a statewide corrections information system. This standard is partially implemented through (CMIS) or Corrections Management Information System, which is being developed by the Department of Corrections (see 1978 Plan, pp VII-10-12). This system links all major correctional facilities, field offices, and the central office for data collection, storage and retrieval.

C. Commentary

All recommendations concerning information systems were originally made the responsibility of the Criminal Justice Management Task Force. For that reason, there are no other standards or Sub-Goals with which this Sub-Goal and its' standards may be combined. The standards under Sub-Goal 93 do however correspond to the Police (93.2), Courts (93.3) and Corrections (93.4) Sections of the Goals and Standards. Only standard 93.2 presents any difficulties in placement vis-a-vis Goals and Standards.

The Commission has addressed the concern of confidentiality of data and information especially as it relates to juvenile records.

PART IX

94: EDUCATION AND TRAINING

- A. "To assure that all persons in the criminal justice system achieve the appropriate level of skills and cognitive knowledge commensurate with their job specifications and responsibilities."

The criminal justice system viewed as a business, falls into the same category as labor intensive business, meaning the major costs incurred in the operation of this system are personnel costs. It is, therefore, sound managerial logic to allocate resources and to promote, through education and training, increased efficiency in all employees of the criminal justice system. In order to achieve the optimum in efficiency, the Criminal Justice Management Task Force has recommended this Sub-Goal and its' eight included standards.

- B. This Sub-Goal has not been fully implemented.

1. Standard 94.1 recommends "Identify specific and detailed roles, tasks, and performance objectives for each criminal justice position in agencies of various jurisdiction, size and locale and in relation to other positions in the criminal justice system and the public. These perceptions should be compared with actual practice, and an acceptable level of expected behavior established." This standard has not been implemented as written.
2. Standard 94.2 recommends "Establish clearly the knowledge and skill requirements of all criminal justice positions at the operational, support, and management level on the basis of roles, tasks, and performance objectives identified for each position." This standard has been partially implemented.
3. Standard 94.3 recommends "Develop educational curricula and training programs only on the basis of identified knowledge and skill requirements; terminate all unnecessary programs." This standard is implemented for OCJP funded training in the following areas:
 - a. Law enforcement training
 - 1) advanced training
 - 2) specialized training
 - 3) administrative management training
 - b. Prosecution and defense
 - 1) prosecutor training
 - 2) defender training
 - c. Training for judiciary and support personnel
 - d. Correctional training
 - 1) adult correctional in-service training
 - 2) jailor training
 - 3) juvenile services training
4. Standard 94.4 recommends "Develop implementation plans that recognize priorities and constraints and use the most effective learning techniques for these education and training programs." This standard has not been implemented.

5. Standard 94.5 recommends "Develop and implement techniques and plans for evaluating the effectiveness of education and training programs as they relate to on-the-job performance." This standard has been implemented in most LEAA/OCJP funded projects.
6. Standard 94.6 recommends "Develop for all criminal justice positions recruitment, and selection criteria that incorporate the appropriate knowledge and skill requirements." This standard has been implemented in many areas of the criminal justice system.
7. Standard 94.7 recommends "Develop techniques for a continuous assessment of education and training needs as they relate to changes in social trends and public needs on a national and local basis." This standard has been implemented in many program areas. In September, 1977, the Commission recommended that a minimum of 80 hours of training be required of entry corrections personnel and an equivalent level of training for "in-service" corrections personnel. Such training is to come under the umbrella of MLEOTC with the training programs being certified by the Office of Jail Services.
8. Standard 94.8 recommends "Require all criminal justice personnel to possess the requisite knowledge and skills prior to being authorized to function independently. Require personnel already employed in these positions to obtain the requisite knowledge and skills within a specified period of time as a condition of continued employment." This standard has not been fully implemented. However, each training component listed above incorporated specialized workshops into their curricula.

C. Commentary

Although the recommendations made by this Sub-Goal and its' standards are unique to the Criminal Justice Management Section, they complement many other Sub-Goals and standards throughout the Police, Courts and Corrections Sections.

Specifically, Sub-Goal 94 complements:

Sub-Goal 27 (Deployment of Patrol Officers)
Standard 29.2 (Identification of Patrol Methods)
Sub-Goal 39 (Juvenile Operations)
Standard 43.6 (Training Programs)
Sub-Goal 51 (Recruitment)
Sub-Goal 52 (Selection)
Sub-Goal 53 (Specialized Assignments)
Sub-Goal 54 (Training)
Sub-Goal 55.1 (Written Policy)
Standard 67.12 (Training of Court Personnel)
Standard 68.3 (Training Programs for Professional Competence)
Standard 74.1 (Training Management Staff)
Standard 74.8 (In-Service Training Programs)
Sub-Goal 75 (Manpower for Corrections)

The Commission, while in the process of revising sections of Goals and Standards, has realized the need for expertly trained personnel. Without well trained staff, programs are not able to achieve their objectives adequately.

The Adjudication Committee through its Task Force on Plea Bargaining and Sub-Committee on Defense Services has strengthened guidelines calling for more experienced prosecution and defense counsel. Training elements have been re-emphasized in the 1978 Plan (IV-6; IV-14, and V-4).

The Juvenile Justice Committee through its Committee on Juvenile Diversion has also realized the need for training of police officers to deal with juveniles and their families. The 1978 Plan includes an element for juvenile services training programs (VIII-30).

PART X

95: PRODUCTIVITY IN THE CRIMINAL JUSTICE SYSTEM

- A. "The criminal justice system and each of its components individually should strive to achieve maximum productivity through proven management techniques and the development of a manpower model."

Sub-Goal 95 is the Michigan Advisory Commission on Criminal Justice's recommendation for improving productivity without a proportional increase in expenditures. The standards under this Sub-Goal constitute a "long-term process that should be an integral part of the criminal justice systems' management."

- B. This Sub-Goal has been partially implemented.

1. Standard 95.1 recommends that objectives of each agency and individual staff members must be established. This standard has been fully implemented. The work of the Commission Committees has begun to define more specifically objectives for the criminal justice components. Among these are: 1) law enforcement role definitions, 2) defender services criteria, 3) juvenile diversion guidelines, etc.
2. Standard 95.2 recommends progress in achievement of objectives must be assessed on a systematic and ongoing basis. This standard has been partially implemented with the OCJP Model Evaluation Program and the evaluation element of each LEAA grant. Further, program evaluation by state and local agencies is an integral part of the budget review process.
3. Standard 95.3 recommends that improved operating methods and techniques must be constantly sought and exchanged with other agencies. This standard has been partially implemented with the expansion of the Commission to include adjunct members and regional conferees.
4. Standard 95.4 recommends that managers must be willing to experiment with new techniques and innovative approaches to improving productivity. This standard has been partially implemented. The Detroit Recorder's Court Crash Program exemplifies efforts in this area.
5. Standard 95.5 recommends that as new methods are developed, tested, and proven effective, they must be implemented. This standard has been implemented as fiscal restraints permit. The Comprehensive Plan for Criminal Justice annually presented tested concepts for implementation. Technical assistance to agencies is available from OCJP to assist in implementation.
6. Standard 95.6 recommends that a manpower model be developed. This standard has not been implemented.

C. Commentary

This Sub-Goal complements:

Sub-Goal 67 (Courts, Court Organization and Community Relations)
Sub-Goal 70 (Victims, Witnesses, and Jurors)
Sub-Goal 74 (Administration of Corrections)
Sub-Goal 75 (Manpower for Corrections)
Standard 82.3 (Manpower for Probation)
Standard 84.8 (Comprehensive Manpower and Training Requirements)

Sub-Goal 95 also has a correlation with Chapter 6 (Personnel Administration) in the Investigation and Arrest Section, however, because of its organization, the specific items are not as readily identifiable as those elements in the Adjudication and Rehabilitation Sections. It is suggested that the Investigation and Arrest Committee or its staff make the specific correlation as they interpret the subject matter.

Many projects have recognized the need for staff development and specific job descriptions. Since most programs are in a developmental stage, staff is called upon to fulfill many varying responsibilities. As programs become more established, specific descriptions will come into their proper places.

OCJP has realized that funds must be directed toward hiring adequate and competent staffs so that program objectives can be executed in the best manner possible.

Number	Title	Implemented	Implementation Plan Developed	Effective Date	Imp. Contingent upon:
					1. refinement of strategy 2. legislative action 3. identification of funding 4. public/group support 5. feasibility study required 6. other

11. Criminal Justice Management
 Chapter 1: Planning and Organizing
 for Criminal Justice
 86. Comprehensive Planning for the
 Criminal Justice System

36.1 Smaller commission on criminal justice

yes

Oct. 1975

36.2 Create council of criminal justice agencies

no

no

4

36.3 Bureau status for OCJP

no

no

OCJP was reassigned with Management and Budget

Number	Title	Imple- mented	Implemen- tation Plan Develop- ed	Effec- tive Date	Imp. Contingent upon: 1. refinement of strategy 2. legislative action 3. Identification of funding 4. public/group support 5. feasibility study required 6. other
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86.4	Role of regions and local units	yes		1968	Part of current planning process
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87. Organization for Law Enforcement

87.1	State assure uniform law enforcement statewide	no	no		1, perhaps 2, 3, 4, 5
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87.2	Establish pattern of metro, local and rural policing	no	no		5
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87.3	Metropolitan police authorities	no	no		5
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87.4	Rural consolidation and state agency	no	no		5
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87.5	Others join rural system if desired	no	no		5
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87.6	State finance all policing costs in state	no	no		1, 2, 3, 4, 5
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87.7	Statewide personnel standards	no	no		1, 4
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88. Organization of Adjudication

Number	Title	Imple- mented	Implemen- tation Plan Develop- ed	Effec- tive Date	Imp. Contingent upon: 1. refinement of strategy 2. legislative action 3. identification of funding 4. public/group support 5. feasibility study required 6. other
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88.1	Statewide funding and ad- ministration of courts	no	Legislation has been proposed in the past year		1, 2, 4	
88.2	Appointment of judges	no	Legislation has been pro- posed in past		2, 4	
89. Organization for Prosecution						
89.1	Full-time prosecution ser- vice statewide	no	no		1, 2	Require consti- tutional amend- ment
89.2	Attorney General super- vision of local pro- secutor	yes			Standard recommends doing existing job move vigorously-subjective criteria	
90. Organization for Indigent Defense Services						
90.1	Full-time defender ser- vices statewide	no	no		1, 2, 3, 4, 5 exists on a fragmented local level	
90.2	State Office of Public Defender & Appellate Defender	no, <u>yes</u>	no	Late 1972	Appellate Defender exists already 2, 3, 4	
91. Organization for Corrections						
91.1	Single statewide correc- tions system, state fi- nanced	no	no		1, 2, 3, 4, 5	
Chapter 2: Criminal Justice Infor- mation Systems						

Number	Title	Imple- mented	Implemen- tation Plan Develop- ed	Effec- tive Date	Imp. Contingent upon:
					1. refinement of strategy 2. legislative action 3. identification of funding 4. public/group support 5. feasibility study required 6. other

92. Statewide Organization of Criminal Justice Information

92.1	State structure for information systems	No	Yes-1976 Plan Element pp VII-7		3, 4
92.2	Legislation for security and privacy	No	No		3, 4
92.3	State and local statistical systems	No	No		3, 4

93. Systems Development and Implementation for Police, Courts & Corrections

93.1	Automated statewide interagency services	Partially	1976 Plan pp VII-3		
93.2	Statewide police information system	Partially	SPARMIS		6-SPARMIS is beginning to be implemented (1976 Plan)
93.3	Comprehensive statewide court information system	Partially	BMCS		6- 1976 Plan (VII-18)
93.4	Statewide correctional information system	Partially	CMIS		6-Being developed by Department of Corrections

Chapter 3: Education and Manpower Development for the Criminal Justice System

94. Education and Training

Number	Title	Imple- mented	Implemen- tation Plan Develop- ed	Effec- tive Date	Imp. Contingent upon: 1. refinement of strategy 2. legislative action 3. Identification of funding 4. public/group support 5. feasibility study required 6. other
94.1	Identify agency tasks and objectives	no	no		1, 3; See implementation strategy
94.2	Establish skill requirements	no	no		1, 3
94.3	Base curricula and training on identified skill needs	no	no		1, 3
94.4	Recognize priorities in developing learning techniques	no	no		1, 3
94.5	Evaluate effect of education & training on performance	no	no		1, 3
94.6	Develop selection criteria based on skill requirements	no	no		1, 3
94.7	Assess changing needs for training and education	no	no		1, 3
94.8	Require skills prior to independent functioning	no	no		1, 3
95.	Productivity in the Criminal Justice System				

Number	Title	Imple- mented	Implemen- tation Plan Develop- ed	Effec- tive Date	Imp. Contingent upon: 1. refinement of strategy 2. legislative action 3. identification of funding 4. public/group support 5. feasibility study required 6. other
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95.1	Individual objectives must be established	no	no		1, 4 Vague and general
95.2	Assess individual achievement of objectives	no	no		1, 4
95.3	Improve operating techniques and methods	no	no		1, 4 Vague and general
95.4	Experiment to improve productivity	no	no		1, 4 Vague and general
95.5	Implement proven methods	no	no		1, 4 Vague and general
95.6	Develop a manpower model	no	no		1, 4 Vague and general

III. Program Development

A. What has been the OCJP effort in program development in each area?

Standard	In the Plan 73, 74, 75, 76	# Projects funded in 1975	Indications of success in attaining goal	Would you recommend continued funding?
95.6 Develop a manpower model	1976 - no funds allocated	None	None	N/A
92.1 State structure for information systems	1976 - no funds allocated	None	None	N/A
93.1 Automated statewide inter-agency services	Yes	18258-1D75 CCH 18358-1F75 CCH	Yes Yes	Yes Yes
93.2 Statewide police information system	Yes	17186-1A75 SPARMIS 16671-1A75 SPARMIS	Yes Yes	Yes Yes
93.3 Comprehensive statewide court information system	Yes	907-4 CT TECHNOLOGY	Yes	Yes
93.4 Statewide correctional information system	Yes	17867-a CMIS	Yes	Yes

END