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The National Evaluation of the Standards and Goals Project

Volume II
Sourcebook on Criminal Justice Standards and Practices

Prepared for the National Institute of Law Enforcement and Criminal Justice, LEAA, Washington, DC

February 1979

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INTRODUCTION TO VOLUME II

This volume, the second in the National Evaluation of the Standards and Goals (S&G) Program, is a sourcebook on criminal justice standards and criminal justice practices.

For background on the S&G Program, the reader is referred to Volume I. In this volume, our goal is to provide simple answers to some basic questions about the directions that the system is taking. On any given topic, what did the National Advisory Commission (NAC) recommend as the proper standard? How do those recommendations match up with the states' standards on the topic? How do these professions of standards accord with actual practice? How has the system been changing?

Chapters 10 to 13, dealing respectively with standards and practice on law enforcement, prosecution/defense, court processes, and corrections constitute the core of the volume. They are not meant to be read from beginning to end; presumably most readers will turn to them with a particular topic in mind. The indicated procedure is to check the Table of Contents. As noted, the chapters are arranged by LE/CJ sector. Within each sector, we have clustered the discussion around topics such as sentencing, or inmate rights, or personnel issues. Within topics, a uniform format is followed: a brief discussion of NAC's stance, a profile of the various positions taken by the states, and then a profile of national practice.

Chapter 14 presents the data on rates of change within the LE/CJ system, comparing 1967, 1972, and 1977. Elements of practice that have shifted especially rapidly, or which have reached a consensus state, are highlighted.

Chapter 15 reviews accounts of specific changes in practice as they relate to LEAA's ambitions for the American law enforcement and criminal justice system.

10: LAW ENFORCEMENT

ORGANIZATION AND PLANNING

Establishment of Police Goals and Objectives

The NAC Position. The commission urged that the objectives and priorities of law enforcement agencies be revised annually in conjunction with budget preparation. The commission's objective was to establish a direct and continuing link between allocation of law enforcement resources and a systematic assessment of needs.

The S&G Response. Of the 41 states for which data could be obtained, almost half (20) adopted the sense of the NAC standard. An additional nine endorsed the periodic revision of agency objectives and priorities, without specifying that the revisions be linked to budget preparation. Three states adopted an even more indefinite endorsement of establishment of agency objectives. Nine states included no standard on the topic.

Practice. Among the large police departments, 70 percent of the 321 responding to this item claimed to conduct annual revisions of objectives in conjunction with budget preparation. Among the sheriffs departments, 54 percent of 194 respondents claimed to do so. The question was omitted on the questionnaire sent to small police agencies.

Planning Capability

The NAC Position. The commission strongly felt that police agencies must identify the types of planning necessary for effective operations and assign specific responsibility for research development. In agencies of 75 personnel or more, the commission recommended the establishment of a planning unit with at least one full-time staff member.

The S&G Response. Of the 41 states for which data could be obtained, 16 had no standard related to planning. Ten states adopted the sense of the national standard. The remaining 15 states adopted more indefinite standards advocating establishment of a planning capability.

Practice. In our survey of current practice, 51 percent (163) of large law enforcement agencies indicated they had a separate planning unit, 12 percent (40) indicated they had at least a part-time planner, 9 percent (30) indicated they had a full-time planner but no planning unit and 28 percent (89) indicated they had no research or planning capability. Among sheriffs departments, planning capability was rarer. Fifty-six percent (107) of the 190 responding departments had no capability. Only 19 percent (37) had a full-time planner. The question was not asked on the questionnaire sent to small police agencies.

Consolidation of Police Agencies

The NAC Position. The commission's report discussed the merits of consolidation at length. Consolidation was argued to be an effective means of providing 24-hour police protection and specialized capabilities to jurisdictions that could not independently support extensive law enforcement services. The NAC adopted a standard advocating that police agencies with fewer than ten employees be merged with those of other jurisdictions.

The S&G Response. Consolidation was generally unpopular. Only seven of 41 states met or exceeded the sense of the NAC standard (one urged consolidation for police agencies with fewer than 20 employees; another took 24 employees as the cut-off point). Six states published a standard advocating that police agencies be consolidated if that is the most effective way to provide adequate police service. Nine advocated that jurisdictions consider the feasibility of consolidation. Nineteen states wrote no standard on the topic.

Practice. The response to the questionnaire item on this topic is given in the table below:

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Agency reorganized as a result of consolidation or reorganization	19%	24%	19%
Agency not reorganized	81%	76%	81%
Total responding	270	96	175

Combining Police Services

The NAC Position. In a discussion closely related to that of consolidation, NAC pointed out that police functions are becoming increasingly complex, and using increasingly expensive, specialized technology. The NAC therefore urged police agencies to consider combining or contracting for police services with other agencies, to supplement their own resources.

The S&G Response. In contrast to consolidation, which was widely rejected, 30 out of the 41 states accepted the sense of the NAC standard on combining police services. An additional four advocated that joint task forces be developed, or that personnel exchanges among police programs take place. Seven states wrote no standard on the topic.

Practice. The survey of national law enforcement practice asked agencies to specify which types of services had been combined with neighboring agencies. The results are summarized in the table below:

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Services combined with other neighborhing agencies			
communications	28%	47%	46%
records	11%	10%	12%
staff	1%	3%	2%
crime laboratory	18%	17%	20%
purchasing	5%	5%	7%
metro investigation squads	23%	14%	21%
organized crime units	13%	10%	14%
training facilities	38%	28%	39%
other	28%	16%	22%
none	27%	33%	23%
Total responding	320	110	192

OPERATIONS

Geographic Policing Programs

The NAC Position. During the 1940s, in an attempt to decrease corruption and increase efficiency, many police agencies broke with tradition and replaced the "cop on the beat" with motorized patrol and rotating assignments for police officers. But in accordance with the increasing attendance to community needs, NAC recommended that agencies of more than 75 officers resurrect stable policing assignments. Sometimes called team policing, these programs are designed to insure that police officers become familiar with their assigned territory and sensitive to its needs.

The S&G Response. Only half the states adopted standards on this topic. Thirteen accepted NAC's recommendations and implemented geographic policing programs with stable officer assignments. Seven suggested that team policing and other patrol methods be studied, and that those best suited to local needs be implemented. One suggested that the State Crime Commission develop state guidelines on the use of different types of patrol methods.

Practice. Since NAC recommended geographic policing programs [law enforcement agencies with more than 75 sworn officers], our survey did not ask this question of police agencies with jurisdictions of fewer than 25,000 people. About three-fifths of the large police and sheriffs agencies indicated that they were using geographic policing programs to ensure stable neighborhood assignments for police officers.

Patrol Function: Allocating Patrol Resources

The NAC Position. NAC recommended that patrol personnel be deployed on the basis of real need, as measured by data collected from workload studies. Such data were to be collected at least annually to start a deployment data base, and were to be classified by area and time of collection.

The S&G Response. Twenty-five states (61 percent) adopted a standard on the subject, all agreeing with the general principle (three of them, however, in a qualified form).

The commissions were more reluctant to commit themselves to the annual workload studies that NAC had urged. The breakdown was:

Conduct annual workload studies	16
Conduct workload studies, no specification of frequency	8
Use data from existing information systems	3
No standard	14

Practice. Four out of five of the law enforcement agencies reported that shift assignments varied by time of day and by location: only about one-fifth of the agencies maintained stable shift assignments. Small police agencies were slightly less inclined to vary patrol resources than were large police and sheriffs agencies.

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Number of officers assigned to shift varies by time of day and location	83%	78%	83%
Number of officers assigned to shift is stable	17%	22%	17%

There was less consistency in the application of workload studies to patrol resource allocation. Nearly 90 percent of agencies in larger cities reported using workload studies in developing their deployment schedules, but only half of them had conducted such a study since 1977. Over one-third of both small police and sheriffs agencies had never conducted workload studies.

Closure of Investigations by Patrol Officers

The NAC Position. NAC recommended that law enforcement agencies allow patrol officers to investigate those cases that did not require extensive follow-up, thereby enlarging the police officer's role and relieving detectives of some of their caseload burdens.

The S&G Response. Less than half (44 percent) of the 41 commissions adopted a standard that allowed patrol officers to close criminal investigations.

Practice. Our survey asked whether patrol officers conducted follow-up beyond preliminary investigation of crimes which occurred in their assigned area. Predictably, the answers varied with the availability of specialized investigative units, as indicated by the following breakdown:

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Patrol officers conduct follow up beyond preliminary investigation	44%	62%	69%

Telephone Investigation of Misdemeanors

The NAC Position. The dispatch of a police officer to the scene has been the traditional response of police agencies to almost all complaints. The NAC advocated that law enforcement agencies consider the collection of misdemeanor and miscellaneous incidents by telephone when appropriate, thereby reducing a major drain on manpower and equipment resources.

The S&G Response. A large majority of states avoided this topic--25 of the 41 states wrote no standard on telephone investigation of misdemeanors. Twelve adopted the sense of the NAC standard. Four advocated that law enforcement agencies develop a procedure for accepting reports of criminal incidents not requiring field investigation.

Practice. Use of the telephone to investigate misdemeanors is relatively common. Of the 321 large police agencies responding, 72 percent (231) took reports by telephone either when no invesigation was necessary or when higher priority calls occurred. Similarly, 71 of 114 responding small police agencies used the telephone for such purposes (62 percent), as did 147 of 195 responding sheriffs departments (75 percent).

Exercise of Discretion

The NAC Position. The NAC wrote standards on the exercise of discretion in both investigations and arrests. In both cases, the NAC standard called for established, written policy to govern the exercise of discretion. The commission argued that the dangers of infringing civil rights of citizens in investigation and the choice of arrest alternatives warranted explicit restrictions on police behavior in these matters.

The S&G Response. The majority of the states adopted the NAC standard in both cases: 24 states in the case of investigations, and 25 states in the case of arrests. Fourteen states wrote no standard on the exercise of discretion and investigation; 11 wrote no standard on the exercise

of discretion in selection of arrest alternatives. The remaining handful of states adopted a middle ground advocating the establishment of policy for the exercise of discretion in general.

Practice. The law enforcement questionnaires asked agencies to specify whether they had established written policy with regard to the exercise of discretion in general, and with regard to arrest procedures and conduct of investigations in particular. The results are shown in the table below.

Written Operational Policies

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Agencies having *written* policy regarding			
Exercise of discretion	70%	55%	54%
Arrest procedures/ alternatives	90%	86%	68%
Conducting investigations	81%	77%	64%
No written policy	2%	7%	12%
Total responding	325	108	195

Diversion Policies

The NAC Position. Diversion was a source of major interest to NAC's members on virtually all of the task forces, including law enforcement. The standard in the law enforcement volume called for agencies to divert offenders pursuant to written policy for certain categories of juvenile offenders, misdemeanors, and mentally ill persons.

The S&G Response. Thirteen out of 41 states adopted the sense of the NAC standard on this topic. An additional seven states restricted diversion to juvenile offenders and mentally ill persons. Eight states limited their diversion standard to juvenile offenders. Four states simply advocated that some offenders be diverted pursuant to written policy. Only nine states did not address this topic in their law enforcement standards.

Practice. Overall, almost two-thirds of the law enforcement agencies responding to this item indicated that they participate in some sort of diversion program. The table below summarizes the particulars of the responses.

Use of Citation and Summons in Lieu of Arrests

The NAC Position. Consistent with its other efforts to simplify police procedures and reduce demands on manpower, and to minimize the use of physical custody, the NAC advocated that law enforcement agencies implement programs permitting use of summons or citations in lieu of physical arrests or prearraignment confinement.

The S&G Response. Slightly more than half (22 out of 41) of the states adopted the sense of the NAC standard. Seven other states adopted standards that mention citations or summons, but not both. Standards of four states sought legislation to allow use of citations and summons in lieu of arrests. Nine states wrote no standards on the topic.

Practice. Responses to the survey indicate that the use of citation or summons is very widespread for misdemeanors, and still relatively rare for any of the felonies. The responses of the large police agencies, small police agencies, and sheriffs departments are shown below.

Diversion Policies

	Police				Sheriff	
	Cities > 25,000		Cities < 25,000			
No diversion program participated	102	32%	35	31%	88	46%
Participate in juvenile diversion program	71	22%	24	21%	21	11%
Participate in diversion program for mentally ill/drug and alcohol abusers	16	5%	3	3%	19	1%
Participate in diversion program for misdemeanants	4	1%	1	1%	5	3%
Participate in a diversion program for juveniles and for either drug and alcohol abusers or misdemeanants	39	12%	13	12%	26	14%
Participate in diversion program for misdemeanants and drug/alcohol abusers or mentally ill	3	1%	1	1%	4	2%
Participate in a diversion program for all of the above except one	49	16%	21	19%	14	7%
Participate in a diversion program for all of the above	32	10%	13	12%	13	7%
Total responding	316		111		190	

	Police				Sheriffs	
	Cities > 25,000		Cities < 25,000			
Citations and summons not issued upon apprehension	47	15%	24	21%	59	31%
Citations and summons not issued because enabling legislation not enacted	12	4%	5	4%	8	4%
Citations and summons issued for certain misdemeanors	239	74%	71	62%	97	50%
Citations and summons issued for certain serious felonies only	13	4%	8	7%	12	6%
Citations and summons issued for both misdemeanors and certain less serious felonies	13	4%	6	5%	17	9%
Total responding.	324		114		193	

SPECIALIZATION

The number of police specializations discussed in the standards is considerably smaller than the number that are in wide use among police agencies and that we thought might be of interest to the audience. Below, we discuss the NAC position and the S&G Response for five types of specialized capabilities, then present a summary table of national practice on 20 fields of specialized capability.

Specialized Capabilities: Intelligence

The NAC Position. The NAC recognized that the capacity of a police department to maintain a full-time intelligence capability is sensitive to the overall size of the agency. Therefore the standards call for a full-time intelligence capability only in agencies with more than 75 personnel.

The S&G Response. Thirteen states took NAC's position that a full-time intelligence capability was justified in agencies with more than 75 personnel. An additional eight endorsed in more indefinite terms the concept of an intelligence capability.

Specialized Capabilities: Vice

The NAC Position. The NAC called for law enforcement agencies to maintain full-time vice investigation capabilities in agencies with more than 75 personnel.

The S&G Response. The S&G response to this standard was identical to the one about intelligence capability: 13 adopting the NAC stance, eight others endorsing it more generally, and 20 choosing not to write a standard on the topic.

Specialized Capabilities: Drugs and Narcotics

The NAC Position. The standard called for agencies to maintain a full-time narcotics and drug investigation capabilty of agencies with more than 75 personnel.

The S&G Response. The need for specialized capability in drugs and narcotics was more widely recognized than some of the other needs for specialized capabilities. Seventeen states adopted the sense of the NAC standard. Two states urged that regional crime squads specializing in drug and narcotic investigation be formed. Eight states adopted indefinite endorsements. Fourteen states wrote no standard on the topic.

Specialized Capabilities: Tactical Crime Force

The NAC Position. The NAC did not see a need for full-time tactical crime force except in the largest jurisdictions. The standard it did adopt called for agencies of more than 75 personnel to maintain at least a part-time tactical crime force, consistent with an analysis of needs and available personnel.

The S&G Response. Two states exceeded the sense of the NAC standard, calling for a part-time tactical crime force in agencies with more than 50 personnel. Eight other states fell in line with the NAC position. Seven states adopted milder versions of the same standard. Twenty-four states did not write a standard on this topic.

Specialized Capabilities: Evidence Technicians

The NAC Position. The NAC standard was that all law enforcement agencies should ensure the availability of trained evidence technicians on a 24-hour basis. This could be accomplished either through resources at the individual agency level, or through cooperative arrangements.

The S&G Response. Almost half (20) of the states adopted the NAC standard on availability of evidence technicians. Two additional states specified that this be done through a state or regionl laboratory system. Four other states endorsed the notion of trained evidence technicians being available as needed, without being more specific. Fifteen states ignored this topic in preparing their law enforcement standard.

Summary of Survey Data on Specialization by Law Enforcement Agencies

The survey of national practice included questions about 20 fields of specialization in law enforcement. The table below summarizes responses of the large police agencies and the sheriffs departments. The items were not included on the questionnaire sent to small agencies.

Specialization in LE Agencies

	Police		Sheriffs	
	% w/spec.	Full time	% w/ spec.	Full time
Traffic	70%	62%	38%	31%
Communications	67%	60%	64%	54%
Criminal investigations	81%	75%	78%	67%
Canine	34%	31%	24%	19%
Tactical	36%	27%	29%	11%
Juvenile	72%	66%	41%	34%
Crime prevention	77%	62%	51%	38%
Family crisis intervention	11%	7%	9%	4%
SWAT	38%	19%	40%	14%
Bomb disposal	47%	26%	28%	13%
Helicopter	14%	12%	15%	12%
Internal affairs	48%	40%	25%	18%
Youth Service Bureau	21%	16%	11%	8%
Legal advisor	31%	25%	19%	12%
Evidence technician	64%	56%	48%	35%
Public relations	40%	30%	32%	23%
Bilingual services	8%	4%	6%	3%
Vice	52%	45%	23%	17%
Narcotics/drugs	70%	62%	51%	40%
Intelligence	51%	43%	26%	17%
Total responding	325		197	

Access to Crime Laboratories

The NAC Position. The NAC urged that every police agency have access to an adequately equipped crime laboratory, but left open the option of establishing it at a regional or state level rather than locally, if appropriate. The standard was that agencies should ensure access to at least one crime laboratory (state, regional, or local) capable of efficient processing of physical evidence.

The S&G Response. This was one of the most widely adopted standards in the law enforcement field. Thirty-three of 41 states adopted the sense of the NAC standard. Eight states did not address it.

Practice. Consistent with the wording of the NAC standard, practice indicates that crime laboratories are

almost universally available, but the bulk of them are not at the local level. The table below summarizes the percentages of respondents using laboratories at the various levels.

Use of Crime Laboratories

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Uses own agency laboratory	26%	4%	26%
Uses laboratory of another area LE agency	25%	28%	24%
Uses a regional laboratory	26%	25%	19%
Uses a state laboratory	53%	72%	56%
No utilization of crime laboratory	3%	7%	1%
Total responding	322	114	196

Public Understanding of the Police Role

The NAC Position. In an effort to encourage police agencies to keep the public informed of the agency's defined police role, the NAC strongly recommended annual classroom presentations by uniformed officers at every public and private elementary school within its jurisdiction. Further, the Commission urged assignment of officers from agencies of more than 400 employees to junior and senior high schools on a full-time basis to provide teaching and counseling assistance.

The S&G Response. Only 58 percent of the states completing standards had a standard relating to classroom presentations by uniformed officers. Even a smaller number, 46 percent, had adopted a standard related to assignment of officers in the schools.

Practice. Of 321 large police agencies responding to this item, 70 percent indicated they made annual presentations at elementary schools, while an additional 29 percent indicated they made some or a few presentations throughout

the year. Less than one percent said they made no presentations. The mail survey results were consistent with the states' reluctance to adopt a standard on the assignment of officers to schools on a full-time basis. Sixty-five percent said no assignment of personnel was made. The remainder of the sample was evenly divided on full-time assignment to all schools (18%) and some schools (17%). Only 15 percent of the sheriffs offices assigned officers to schools.

ASSIGNMENT OF POLICE OFFICERS TO SCHOOLS

	Large LE		Small LE	Sheriff	
Full-time officers assigned to each jr. & sr. high school	55	18%	N/A	13	8%
Full-time officers assigned at some jr. & sr. high schools	52	17%	N/A	11	7%
No full-time officer assigned to schools	200	65%	N/A	138	85%

Large LE: Missing data = 18; Number = 307
Sheriff: Missing data = 35; Number = 162

PRESENTATIONS BY POLICE OFFICERS AT SCHOOLS

	Large LE		Small LE	Sheriff	
Officer presentations given at elementary schools annually	225	70%	N/A	74	38%
Officer presentations given at some schools annually	63	20%	N/A	73	37%
Officer presentations given at all schools, less frequently	25	8%	N/A	29	15%
Officer presentations given at some schools but not annually	5	2%	N/A	1	1%
No officer presentations given	3	1%	N/A	19	10%

Large LE: Missing data = 4; Number = 321
Sheriff: Missing data = 1; Number = 196

PERSONNEL POLICIES

Selection of Police Officers

The NAC Position. The NAC repeatedly stressed the importance of the initial selection of police officers, in determining the character of police performance. Therefore, NAC recommended the establishment of state-level commissions to develop mandatory state standards and to conduct inspections of local compliance with these standards. NAC also proposed that every police agency formulate a comprehensive selection process including mental and physical aptitude tests, an oral interview, a physical examination, psychological screening, and an in-depth background investigation.

The S&G Response. A high proportion--26 out of the 41 states--endorsed a commission to develop state standards for police officer selection. Nine of these adopted standards comparable to NAC's. Fifteen states opted for development of the standards through legislative action. Two states sought development of state mandatory minimum standards, without specifying a development process. And one state held out for local standards selection.

On the key issue of enforcement, 22 commissions were in favor of a state-level body with enforcement responsibility. Only 17 of those, however, specified the inspection powers of that body. Nineteen states did not take up the enforcement question.

The Use of Auxiliary Personnel

The NAC Position. The Commission recommended that police agencies make use of civilians in various specialized positions throughout the agency, including clerical functions, communications, and other direct support services, and that every agency should consider establishing a police reserve force to supplement the regular force during short-term emergencies.

The S&G Response. Twenty-nine states wrote a standard dealing with civilianization. Of these, 25 adopted the position set out by NAC, although one of them limited its recommendations to larger departments. Two states limited civilianization to specific functions, and three more only encouraged agencies to consider civilianization as an "alternative policy."

The use of reserve officers was endorsed by 18 commissions (44%). Another six commissions suggested that local agencies consider their utilization.

Practice. Civilianization is apparently already widespread. Approximately 78 percent of the agencies responding to our survey indicated some use of civilians. The greatest use of civilians is in large agencies. Police generally use civilians more often than sheriffs offices. Ninety percent of the large agencies, 71 percent of small agencies, and 62 percent of sheriffs agencies reported that they had civilian positions.

The table below shows the kinds of positions for which civilians have been used.

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
Dispatch/ communication	75%	54%	45%
Clerical support	66%	51%	40%
Jail security	28%	7%	28%
Traffic control	27%	13%	3%
Motor transport	15%	2%	8%
Other	57%	15%	21%
Number responding	324	112	195

The use of reserve officers is also commonplace, more so among sheriffs agencies than among police departments. Seventy percent of the responding sheriffs agencies reported using reserve officers compared to 56 percent of large police agencies.

Law Enforcement Training

The NAC Position. Training for police and sheriffs is one of the most discussed topics in law enforcement. Training opportunities have expanded rapidly, both at the state and local levels, as new academies have been established and new links have been created between law enforcement and the educational community. Training was a correspondingly important topic in the NAC report.

The Commission asserted that states should take the lead in establishing minimum training standards and in providing direct assistance to local agencies to assure that police officers are adequately trained.

The Commission recommended that the state set a minimum standard of 400 hours of training for each newly hired police officer before giving him his first assignment. The Commission further recommended that the state require each agency to provide a minimum of 40 hours of in-service training to officers for each additional year of employment. Smaller agencies, unable to provide their own training, were to have access to regional state-supported criminal justice training centers.

The S&G Response. In general, the state standards agree with NAC's on this topic. Twenty of 41 states agreed with NAC on the need for the state to set minimum entry-level training hours, with seven additional states reporting that this had already been done. Eight states called for the establishment of a state-wide training board charged with setting and enforcing minimum training standards. Twenty-six include all the ones that NAC mentioned: written aptitude test, and interview, physical examination, psychological examination, and an in-depth background investigation. Two states omitted the psychological examination; two states omitted the oral interview; and one state omitted both. In addition, of the 31 that specified criteria, three proposed the development and utilization of a comprehensive selection process, without tying themselves to a set of criteria. Seven states did not address this standard.

Practice. Agency executives were asked to indicate which of the recommended selection screening techniques were used in their agencies. The table below reports their response. The table indicates that three practices are almost universal:

- An interview;
- A physical examination; and
- An in-depth background investigation.

Written tests are used frequently in police agencies, large and small, but less often in sheriffs agencies. The remaining devices are used by larger police agencies with more frequency than either small departments or sheriffs agencies.

	Percent of Agencies		
Device Used	Large	Small	Sheriff
Oral interview	95%	99%	97%
Physical exam	99%	96%	81%
Background investigation	95%	93%	85%
Written test	95%	86%	62%
Physical agility test	95%	52%	37%
Psychological exam	58%	50%	25%
Polygraph exam	50%	27%	29%
Total responding	324	113	197

Thirty-seven states dealt with the question of inservice training, and 34 of these adopted the sense of the NAC position. Twenty-six went all the way, setting a minimum training time of 40 hours as NAC had used. Two states set the annual inservice training minimum at 30 to 35 hours and 20 hours, respectively, while six others failed to specify any minimum requirement at all. Finally, two states called for a study to be conducted to determine what the inservice training should be.

Thirty of the 41 states endorsed the idea of developing criminal justice training centers. Twenty-four states called for their establishment, and six others already had them. The remaining 11 states failed to adopt a standard in this area.

The survey asked law enforcement executives whether their agencies had a minimum entry-level training requirement, either as agency policy or state standard. The responses were as expected: 93 percent of the large agencies, 81 percent of the sheriffs agencies, and 73 percent of the small law enforcement agencies reported a minimum requirement. As the table below indicates, most agencies operated under a mandatory state-level training requirement, but a substantial proportion had an agency policy as well. A smaller proportion used only the recommended state requirements.

	Police		Sheriffs
	Cities > 25,000	Cities < 25,000	
No mimimum requirement	5%	27%	33%
State recommended minimum	17%	22%	19%
Agency mandatory minimum	41%	21%	24%*
State mandatory minimum	64%	64%	59%
Total responding	323	107	193

A much smaller number of agencies reported that they operated under a minimum *inservice* training requirement. Only 22 percent of large police agencies and 27 percent of sheriffs agencies had such a minimum. Small police agenices were not asked this question. In both cases, inservice training was mandatory in about six of every ten agencies with an inservice training policy.

The proportion of agencies that actually provide inservice training exceeds the proportion that require it. Although only 22 percent of the large agencies are required to give inservice training, 92 percent reported that they offer such training. Only 27 percent of the sheriffs agencies have a minimum requirement, but 79 percent reported that it was available.

The number of hours provided varies considerably. Using the NAC recommended minimum of 40 hours per year as a point of reference, 69 percent of the large police agencies and 77 percent of the sheriffs agencies met or exceeded that level, as indicated below:

Hours of Training	Police (Cities > 25,000)	Sheriffs
1 - 10 hours	5%	7%
11 - 25 hours	18%	20%
26 - 39 hours	8%	1%

*Fifteen of the large agencies reported their agency minimum had been adopted in the absence of a state minimum. Nine sheriff's agencies gave a similar response.

Hours of Training	Police (Cities > 25,000)	Sheriffs
40 hours	39%	29%
41 - 55 hours	9%	6%
56 -100 hours	12%	16%
More than 100 hours	9%	16%
Total	100%	100%
Average	44.8 hours	54.0 hours
Total responding	251	116

The issue of agency access to a regional or state-level training center is minor in practice. Ninety-five percent of all the agencies responding to our survey reported access to such a center: 94 percent of the large agencies, 99 percent of the smaller police agencies, and 97 percent of the sheriffs agencies. The responses of the smaller and more remote agencies are especially noteworthy.

Educational Requirements and Incentives for Police Officers

The NAC Position. Most law enforcement agencies will hire high school graduates. NAC urged police agencies to require at least a year of college, and their employees to attend college by adjusting shifts, helping pay for texts and tuition, and linking salary to college credits. Also, NAC has recommended that police agencies adopt educational incentives that include duty or shift adjustments to facilitate college attendance, financial assistance for books and tuition, and pay incentives for college credits, when they do not interfere with the delivery of police services.

The S&G Response. Twenty-three of the 41 states developing standards adopted some type of standard to raise the educational requirements of police officers: three states had a standard similar to NAC's; eight states proposed a requirement of two years of college education; two states proposed a requirement for three years of college; five states adopted a standard requiring a B.A. or its equivalent; three states opted for the attainment of educational standards established by a state commission; and the allowance of

local discretion on educational requirements for entry-level officers was recommended by two states. Five states maintained the requirement of a high school diploma while 13 states did not address the standard.

Thirty-three out of 40 states supported educational incentives for police officers. Nineteen of the 33 states had a standard comparable to NAC's; three states omitted pay incentives; two states deleted the use of duty and shift adjustments to facilitate college attendance; one state omitted the financial assistance part; one state favored only duty or shift adjustments. Five states adopted a standard that would provide adequate educational incentives but have no specifications on what would be deemed adequate educational incentives. The standard was not addressed by eight states.

Practice. Our survey found that about 16 percent of all 1978 law enforcement agencies responding required some college education. Twenty-two percent of the large agencies reported this requirement, compared to nine percent among small agencies and sheriffs offices.

	Large	Small	Sheriffs
At least a bachelors degree	8%	0%	1%
At least an associate degree	6%	4%	3%
Some college credit	8%	5%	5%
High school or less	78%	91%	91%
Total	100%	100%	100%
Number of respondents	353	115	197

Similarly, large law enforcement agencies more frequently provide incentives to continue their education to their employees. After entry, 82 percent of the large agencies offered such incentives, compared to 58 percent of sheriffs offices and 28 percent of smaller law enforcement agencies.

The kinds of incentives provided vary only slightly between classes of agencies. The adjustment of work hours

	Large	Small	Sheriffs
Adjustment of hours	49%	49%	46%
Financial assistance	49%	37%	24%
Incentive pay	51%	35%	22%
Criteria for promotion	19%	16%	12%
Other	5%	7%	1%
None	18%	27%	42%
Total	100%	100%	100%
Number of respondents	323	113	194

is the most popular form of incentive, most likely because it is the cheapest and easiest to provide. In all three classes, the use of educational advancement as a criterion for promotion is rare.

11: PROSECUTION AND DEFENSE

PROSECUTION PROCESS

Approval of Arrest Warrants and Guidelines for Taking Persons into Custody

The NAC Position. The NAC advocated screening individuals to ensure a fair and efficient criminal justice system. However, the Commission realized that the lack of well-defined screening criteria, or even of means to develop them, might cause mistakes and inequities in screening. Therefore, NAC established the following recommendations: (1) that the prosecutor help police establish guidelines for taking persons into custody; and (2) that no complaint should be filed, or arrest warrant issued, without the formal approval of the prosecutor.

The S&G Response. The states' responses were divided. Sixteen states only agreed with NAC that prosecutors should help police establish custody guidelines. One agreed that the prosecutor should aid the police in establishing guidelines for taking juveniles into custody. Two states recommended that the prosecutor give legal advice about their functions and duties to law enforcement agencies. Twenty-one states rejected the standard. Fourteen agreed (with the NAC proposal) that arrest warrants and filed complaints should be issued only after the prosecutor had formally approved them. Three states required prosecutor approval for arrest warrants only, and one state required prosecutor approval for complaints only. Twenty-two states did not address the standard.

Practice. Eighty-eight of 201 prosecutor offices aided the police in developing guidelines for taking persons into custody. One hundred and thirteen prosecutor offices did not help the police in establishing guidelines.

Similarly, only 87 out of 201 prosecutor offices reported that their formal approval was a prerequisite for taking a person into custody. This practice had already been established in 1955 by 33 of the 87 offices, and seven more established the practice in the 1970s. Forty-seven offices did not provide dates.

Organization and Administration

Personnel. Our survey asked prosecutor offices whether they employed any of the following: investigators, social service workers, diversion specialists, forensic consultants, or para-legals. Investigators were reported most frequently, by 165 of 202 prosecutors. Only 20 prosecutors indicated that their office employs social service workers. Diversion specialists are employed by 34 offices and forensic consultants by as few as 17 offices. Seventy-five respondents have para-legals on their staff.

Specialized Units. Prosecutors were asked about their use of Federal funds, and about whether their office has special units for investigating and prosecuting of any of the following: career criminals, drug offenders, organized criminals, white collar criminals, corrupted officials, juvenile criminals, or rapists. Of 202 prosecutors surveyed, 61 had specialized units to investigate and prosecute career criminals, with only 32 of these using Federal funds. Forty-nine prosecutors used specialized units against organized crime. Twenty-one offices used Federal funds. In 66 prosecutors' offices white collar crime is investigated by specialized units. Thirty-eight offices did not use Federal funds for this unit while 22 did so.

Thirty-three prosecutors handled the investigation and prosecution of public corruption with specialized units. Only four offices utilized Federal funds. The most commonly reported use of specialized units is for juvenile crime. This practice was established in 83 offices. Only 15 prosecutors used Federal funds, however, Investigations for rape were conducted by specialized units in 52 prosecutors' offices. Only 17 reported the use of Federal monies.

Case Screening. Our survey asked prosecutors if they have staff primarily assigned to screen cases. Of 199 prosecutors responding, 76 reported that they do not have staff to perform such functions. Of these, five indicated that the police department has staff whose primary responsibility is screening cases. Sixty-five offices have a formal screening unit and 63 assign an assistant to perform the screening function.

Criteria and Guidelines for Diversion

The NAC advocated diversion as a legitimate and appropriate part of the criminal justice system. The Commission felt that diversionary programs provide major benefits, by adjusting for overcriminalization and by broadening the resources that are used to deal with offenders. However, NAC recognized the need to legitimize and formalize existing diversionary programs by adopting explicit standards.

The NAC Position. The Commission recommended diversion even where there is a good chance of obtaining a conviction, but where the benefits to society from channeling an offender into diversionary program outweigh the harm done by abandoning criminal prosecution. NAC also encouraged prosecutor offices to publish guidelines governing the use of diversionary programs.

The S&G Response. Twenty-four out of 40 states went along with the NAC standard. Six states revised the standard for use only when the benefits of diversion of the offender outweighed the potential danger to society. Five states adopted standards stating that diversion should be used only when appropriate, but they did not define what "appropriate" meant. Two states recommended legislation legitimizing diversion. Three states ignored diversion criteria.

Again, 24 out of 39 states developed standards comparable to NAC's on publishing guidelines for diversion decision-making. Five states developed standards for the development of diversion guidelines, but did not stipulate that the guidelines be published. Ten states had no comparable standard.

Practice. Our survey asked about the states diversion of some defendants in lieu of prosecution. One-hundred forty-five out of 202 prosecutor offices used diversion instead of prosecuting, while 57 offices did not.

	Number of Prosecutor Offices	Percentage
First Offenders	59	41
Certain youthful offenders	60	41
Certain classes of misdemeanor offenders	60	41
Certain classes of felony offenders	48	33
Certain offenders suffering from some mental disease or psychological abnormality that was related to the crimes for which treatment is available	27	19
Irrespective of offense when circumstances dictate	45	31

The second survey question asked whether prosecutor offices had, in fact, developed guidelines to govern their decisionmaking on diversion. The response was mixed. Written guidelines for diversion had been developed by 82 of the 145 prosecutor offices using it, but six offices had missing data. Fifty-seven prosecutor offices did not have written guidelines.

Method of Delivery and Financing of Public Defender Services

The NAC Position. In an effort to increase private attorney involvement in the criminal justice system and its problems, the Commission recommended the provision of defense services in each locality through an assigned counsel system. Counsel should be drawn from both the private bar and from the public defender organization. Since financial support is a critical element in providing effective defender services, it was also recommended that the defense services be state-financed, to alleviate the financial burden on localities, counties, and communities.

The S&G Response. All but five of the 40 states addressed NAC's recommendation for providing defense services. Twenty-one of 40 states had standards identical to NAC's; seven states wanted to provide for defense services but with local option on the type of system; six states advocated creating or expanding a full-time state-wide public defender organization; and one state wanted to experiment with a hybrid system using both assigned counsel and public defenders.

Practice. On NAC's recommendation of provision for state financing of public defender services, 27 states had identical standards and two wanted provision for state contributions to public defender services financing. The standard was not addressed by 11 states.

Location of the Public Defender Offices

The NAC Position. To enhance community awareness of public defender functions and to improve the overall relationship between the public defender office and the community, the Commission recommended that public defender offices be located within neighborhoods where the majority of the clients reside.

The S&G Response. Only 10 states of 40 had a standard identical to NAC's. Four states deleted "in neighborhoods where most of the clients live" and substituted "in easily accessible locations." One state

revised the standard by adding that the location should be in areas that will not cause the public defender to be identified excessively with the law enforcement and judicial systems. Twenty-five states did not address the issue.

Practice. The survey asked the public defenders whether their agency maintains its main office or satellite offices in those neighborhoods where the majority of clients reside. Twenty-five of the 136 public defenders had main and satellite offices in those neighborhoods. Thirty-six public defenders had satellite offices in them. The practice had not be adopted by 72 public defender offices.

The survey also asked the public defenders whether their agency managed or coordinated a panel of private attorneys who could serve indigent defendants in their jurisdictions. Thirty-seven of the 136 public defender offices responded yes to the question, only 27 percent.

We also asked of the 37 defender offices that did manage or coordinate a panel of private attorneys whether training, investigative services, or other support services were provided to the private attorneys. Eighteen of the 37 offices provided training; 26 provided investigative services, and 29 provided other support services.

Another survey question dealt with the funding of the public defender offices. Of the 135 public defender offices responding, 33 are totally state-funded; 36 are partially funded by the local jurisdiction and partially by the state; 56 are financed totally by local funds; and 10 are financed by other means.

Use of Computers for Public Defense Management

The NAC Position. The Commission was enthusiastic about the potential of computers in helping the courts perform their role in the administration of criminal justice. It recommended that the public defender be provided access to a computer that handles administrative functions such as case scheduling and multiple indexing in high-volume criminal justice systems or where economically feasible.

The S&G Response. Sixteen of 40 states had standards identical to NAC's. Two states advocated access to an information system, without specifying that it be computerized. The topic was not addressed by 22 states.

Practice. The survey asked the public defenders whether their agency had an information system for the weighting, tracking, or calendaring of cases. Seventy-four of the 137 respondents had a manual information system. A computerized information system was being utilized by only 11 respondents. Four of the public defender offices did not have access to an information system but hoped to institute one in the near future. Forty-eight of the public defender offices did not have an information system.

Public Defender Workloads

The NAC Position. The Commission accepted the public defender caseload standards that were developed by the National Legal Aid and Defender Association, with the caveat that local conditions might warrant lower limits. The standard adopted by NAC recommended that the caseload of a public defender office should not exceed the following per attorney per year: 400 misdemeanor cases; 150 felony cases; 25 appeals; and 200 juvenile court cases.

The S&G Response. Comparative data on caseload limits were obtained only for felony cases. Of the 40 with volumes on prosecution and defense standards, only seven adopted the sense of the NAC standard, limiting felony caseloads to 150 per year. Eight additional states specified that public defender felony caseloads should be limited "to assure proper representation." The issue was not addressed by 25 states.

Practice. The survey revealed that caseload standards have been established in 42 of 137 defender offices. The practice of 13 (41%) of the public defenders surveyed conforms with the NAC recommendation of an annual caseload of 400 misdemeanor cases per attorney. Six jurisdictions set even lower limits, not permitting the caseload to exceed 300 cases per year. In four additional jurisdictions, the caseload is limited to fewer than the prescribed NAC caseload. The remaining responses were quite varied, as shown in the table below.

Public Defender Caseload per Attorney per Year

Misdemeanors			Felonies			Appeals			Juvenile		
Caseload	# of Responses	%	Caseload	# of Responses	%	Caseload	# of Responses	%	Caseload	# of Responses	%
30	1	3.1	33	2	5.7	0	2	10.5	10	1	4.5
95	1	3.1	60	1	2.9	2	1	5.3	35	1	4.5
240	1	3.1	100	3	8.6	3	2	10.5	50	1	4.5
250	1	3.1	110	1	2.9	5	1	5.3	109	1	4.5
300	6	18.8	140	3	8.6	20	1	5.3	200	5	22.8
400	13	40.6	150	8	22.9	25	4	21.1	250	3	13.7
450	1	3.1	170	1	2.9	30	1	5.3	300	4	18.1
500	1	3.1	175	1	2.9	35	2	10.5	335	1	4.5
567	1	3.1	178	1	2.9	50	5	26.3	350	1	4.5
586	1	3.1	200	7	20.0				400	1	4.5
600	1	3.1	250	1	2.9				500	2	9.1
750	1	3.1	300	1	2.9				585	1	4.5
890	1	3.1	324	1	2.9						
No Answer	2	6.2	366	1	2.9						
			600	1	2.9						
			No Answer	2	5.7						

Of the public defenders who indicated that they had established caseload standards for appeals, the majority reported limits equal to or more restrictive than those proposed by NAC. In 11 jurisdictions, attorneys are only permitted to handle 25 or fewer appeals, whereas in eight jurisdictions they are allowed to handle between 30 and 50 appeals. With regard to juvenile proceedings, nine jurisdictions are already in compliance with the NAC recommendation of limiting them to 200 per attorney per year. The table lists the complete breakdown.

Utilization of Standards
in Establishing Caseloads

Standards Utilized	Number of Responses
NAC	3
NLDA	5
Governor's Standards	1
NLDA, State, Public Defender Association	1
NAC, State, Public Defender Association	1
ABA, NLDA, State	1
NAC, NLDA	3
NAC, ABA, NLDA, State	3
NAC, Public Defenders Association	1
NLDA, Public Defenders Association	1

The survey inquired whether officially recognized standards were utilized in establishing these caseloads. Twenty respondents indicated that such standards were used. The varied combinations are summarized below.

Defense Services During Mass Disorders

The NAC Position. The Commission acknowledged that courts cannot function in their regular manner during a mass disorder and felt that an overall plan for the administration of justice was needed. As part of that plan, NAC recommended delegating authority to the local public defender for the development of a plan for providing defense services during mass disorders. If the community's primary method of providing defense services for indigents is through court-assigned counsel, it was recommended that the organized bar be charged with the responsibility for the plan.

The S&G Response. Only four states had standards identical to NAC's. Four states adopted a more general standard that the judicial council or the courts should develop a plan for court processing during a mass disorder. Another seven states adopted an endorsement that such plans should be developed by someone. Twenty-five states did not address the standard.

Practice. Only 19 of 135 responding public defender offices had formulated plans for a mass disorder; 116 offices (86%) had no plans.

DEFENSE FUNCTIONS

Extent and Costs of Representation

The NAC Position. The NAC recommended that public representation first be made available to defendants during investigatory stages in which the individual is a likely suspect or upon arrest. Self-representation was discouraged. The Commission also recommended that public representation be made available to eligible inmates. "Eligible inmates" includes a) inmates wishing to appeal; b) indigent inmates in detention facilities; c) indigent inmate parolees at parole revocation hearings; and d) indigent probationers at proceedings affecting probationary status. On the issue of costs, NAC took the position that the defendant or inmate is liable for partial costs of defense representation only if, at the time of representation, he or she is able to bear the costs.

The S&G Response. In response to the NAC recommendation making public representation available to defendants during investigatory stages or arrest, 14 of 40 states had standards identical to NAC's. Seven states reworded the recommendation to "provide representation upon arrest or at the first stage of criminal proceedings," while four other states advocated no later than the first court appearance. Fifteen states did not address the issue.

The NAC recommendation for provision of public representation to eligible inmates was supported by 16 of 40 states. One state omitted indigent probationers as being eligible and six states revised the NAC recommendation

to provide public representation only to inmates who wish to appeal, to indigent inmates of detention facilities, or in all criminal proceedings (usually limited to the first appeal). Only seven states did not address the standard.

Twenty states favored defendants paying for public representation only if they are able to afford it, while four states wanted the defendants to pay some part of the costs of representation. Sixteen states did not address the standard.

Practice. The survey asked the public defender offices when was the earliest time public representation was made available to eligible defendants in criminal cases. Sixty-eight of 136 public defender offices, 50 percent of the responses, were already complying with the NAC recommendation of making public representation available to defendants during the investigatory stage when an individual is a likely suspect or upon arrest. Fifty-six public defender offices, 41 percent, made public representation available to defendants at the first court appearance. The other 12 responses are varied and are listed in the table below.

	# of Responses (n = 136)	Percent
During investigatory stages, when client is a likely suspect	39	29
Immediately upon arrest	29	21
The morning following arrest	1	1
At the first court appearance	56	41
After the first court appearance	4	3
After bindover hearing or waiver of hearing	1	1
At hearing set for the court appointed attorney	1	1
At arraignment	1	1
As soon as defendant requests assistance	2	1
As soon as the court, police, or defendant requests assistance	1	1
At appeal	1	1

Four survey questions focused on public representation to inmates. The first survey question asked whether public defenders represented inmates at detention facilities in any proceeding affecting detention or early release. Sixty-five of 136 public defender offices responded "yes."

The second question asked whether public defenders represented indigent probationers at any proceeding affecting probationary status. The response was nearly unanimous: 131 of 137 respondents (96%) answered "yes."

The provision of legal services to inmates who desire to appeal was the third survey question dealing with public representation to inmates. Again, a large number of respondents, 102 of 137, provided the services in question while only 35 respondents did not. The last survey question asked whether public representation was provided to indigent parolees at any parole revocation hearings. The responses were divided evenly: 68 offices provided the services and 69 did not.

In response to the question of whether individuals provided public representation are required to pay any portion of the cost of the representation, 53 of 137 defender offices answered that costs are assessed on ability to pay; six offices stated that costs are assessed in full; and 14 offices had other criteria for assessing payment requirement. Sixty-three public defender offices did not require individuals to pay any portion of the representation.

PERSONNEL

Selection and Terms of Employment

The NAC Position. The Commission argued that steps should be taken to improve public representation. Several standards were designed by NAC to attract, employ, and retain qualified public defenders and to maintain their continued effectiveness. It was recommended that candidates for public defenders be selected through nomination by a commission or similar body; with final selection by the governor; that the office of public defender be full-time; and that public defenders have salaries comparable to salaries paid to prosecutors. Also, it was recommended by the Commission that public defender staff attorneys not hold civil service status but instead have their hiring, retention, and promotion based upon merit.

The SSG Response. Eight states had standards on public defender selection that were identical to NAC's; the breakdown of the responses is shown below.

Selection of Public Defenders

Method of Selection	# of Responses
Nomination through a commission or similar body w/final selection by the governor	8
Nomination through a commission or similar body w/final selection by the Supreme Court	1
Nomination through the appropriate district bar w/final selection by the governor	2
Nomination through local nonpartisan boards w/appointment by the county commissioners	1
Select public defenders through public election	3
Appoint public defenders through the board of directors or trustees of the public defender organization	2
Wanted to ensure independence and competence of public defenders through an appropriate selection process but no process was specified	2

Nineteen states had a standard recommending that public defenders be employed on a full-time basis. Three states developed standards favoring full-time public defenders only where justified by caseload. Nineteen states did not address the standards.

On the topic of compensation, 13 states adopted the NAC standard that public defenders be compensated at a rate comparable to that of prosecutor counterparts. Eight states could be said to have exceeded the sense of the NAC standard, recommending that public defenders be compensated at a rate comparable to that paid by private law firms. Two other states adopted a standard that compensation should be determined by a board or commission. Sixteen states did not address the issue.

Fourteen of 40 states had a standard identical to NAC's recommendation prohibiting public defenders from holding civil service status, while 26 did not address the issue.

Practice. On the topic of selection, the breakdown of answers for the 135 respondents is as follows:

Publicly elected	11
Appointed by the court	20
Appointed by the state public defender	10
Appointed by a commission	48
Appointed by a chief executive	4
Appointed by a county commissioner	23
Other	19

On our survey question dealing with compensation for the chief public defender in various jurisdictions, two offices of 135 responding reported that public defender salaries are equivalent to the presiding judge's salary of the trial court of general jurisdiction. Twenty-one of the offices reported public defender salaries to be equivalent to those of the chief prosecutor. Salaries were determined by other means in the other 112 public defender offices.

Only 32 of 137 public defender offices responded to our survey question on felony caseloads per attorney. Thirteen of the 32 offices reported attorney caseloads of 400, and six of the 32 reported caseloads of 300. The 13 other responses ranged from 30 to over 1,000 cases per attorney.

The final survey question for this group dealt with whether assistant public defenders had civil service status. Assistant public defenders in 60 of 136 offices did have civil service status.

Training

The NAC Position. The NAC recommended the establishment of entry-level training programs and continuing legal education programs as a step to improving the professional competence of defenders.

The S&G Response. Thirty of the 40 states responding favored having at least some type of training program for criminal defense lawyers. Eighteen felt the need for both entry level and continuing legal education programs; two states endorsed entry level programs only. Eight states

endorsed continuing legal education programs. A standard to establish a commission to advise on local training was developed by two states. Ten states did not develop any standards to establish training programs for criminal defense lawyers.

Practice. In response to our survey question asking whether public defenders were required to participate in an entry level training or orientation program, 60 of 137 public defender offices responded "yes." Seventy-six public defender offices required no entry level training or orientation. Public defender participation in a program of continuing legal education was required in 75 public defender offices. Fifty-eight offices required no participation and three offices responded that the question did not apply.

12: COURTS

COURT PROCESS

Maximum Delay on Appearance Before a Judicial Officer

The NAC Position. All jurisdictions have requirements that the accused be brought before a judicial officer within a "reasonable period" or "without delay." But, NAC noted, courts have been unwilling to enforce these requirements. The NAC advocated that the defendant have the opportunity to be informed of the charges against him and to be released, if appropriate, at the earliest possible time. To operationalize this principle, the Commission recommended that defendants be brought before a judicial officer for an initial appearance within six hours of the arrest.

The S&G Response. Only one state developed a standard similar to NAC's. Three states specified a 12-hour period between arrest and appearance. Two states allowed a maximum delay of 48 hours. One state mandated a 72-hour time limit. Nine states did not stipulate a specific number of hours but instead required the appearance of defendants before a judicial officer "without unreasonable delay." Eighteen states had not developed a standard on this subject.

Practice. The majority of the states (33) do not require that defendants be brought before a magistrate or judicial officer within a specified time period. Insofar as our survey indicates, no state is practicing a six-hour time limit between arrest and initial appearance as recommended by the NAC. One state reported a time limit of 12 hours. Twenty-four hours was the most common fixed period, reported for seven states. Three states set a limit of 36 hours. One state allowed a maximum of 48 hours.

Grand Jury Indictments

The NAC Position. The Commission argued that any benefits resulting from a requirement of a grand jury indictment are outweighed by the ineffectiveness of the indictment as a screening device, by the cost of the proceeding, and by the procedural complexities it entails. NAC therefore recommended that requirements for grand jury indictments be eliminated.

The S&G Response. Thirteen states of 40 concurred in advocating elimination of grand jury indictments in criminal prosecutions. Three states favored dispensing with the requirement except in capital offenses. Two states advocated that the requirement should be eliminated except in controversial or exceptional cases. Standards in six states call for continuation of existing grand jury indictment practices. The remaining 16 states had no standard on this issue.

Practice. One state reported that grand jury indictments are used by some jurisdictions, but not statewide. Two states use criminal information in the place of grand jury practices. Twelve states utilize grand jury indictments in all criminal cases. One state uses them in the investigation of criminal cases only. The most commonly reported utilization of grand jury indictments is for serious offenses (14 states). One state uses them in all criminal cases as well as for serious offenses. Three states reported that they use grand jury indictments for investigative purposes only. Five states indicated that grand jury indictments are used in the investigation of serious offenses. The remaining six states use grand jury indictments very rarely.

Use of Plea Negotiations

The NAC Position. The NAC viewed plea negotiation as inherently undesirable. It argued that the elimination of plea bargaining would encourage charges that would provide a reasonable basis for a guilty plea. The Commission argued that plea bargaining endangers the rights of innocent defendants. NAC proposed that plea negotiation practices should be eliminated altogether.

The S&G Response. No state proposed to eliminate plea negotiation practices. Only two states stated that elimination of plea negotiations was an ultimate goal. Twenty-five states supported plea negotiations when they are in the public interest. Thirteen states had no standard on the subject.

Practice. Forty-four states of the 46 surveyed had not abolished plea negotiations. The one state that has eliminated such practices did so in 1978. One state did not address the question.

Time Limits on Felony and Misdemeanor Trials

The NAC Position. The NAC viewed prompt processing of criminal cases as a priority objective. Several reasons were given: Insofar as the apprehension and punishment of offenders serves as a deterrent, the effects value of the punishment will be greater the more closely the punishment follows the crime. Prompt processing serves society's interest in incapacitating offenders. Prompt processing reduces the tensions of defendants and eases the task of pretrial detention. The Commission proposed that the period from arrest to trial should not be longer than 60 days in a felony prosecution, and not longer than 30 days in a misdemeanor prosecution.

The S&G Response. Twenty-eight of the 40 states with criminal justice standards set a definite time period between arrest and trial in both felony and misdemeanor cases. Thirteen states accepted the sense of the NAC, recommending a limit of 60 days in felony trials. Two states were in general agreement but permitted the time to be extended beyond 60 days if pretrial release occurs. Nine

states specified a time limit of 90 days. Four states extended the period from arrest to trial to 180 days for felony and misdemeanor cases alike. Four states specified no time limit. Of these, three mandated the development of time limits through court ruling or statute, and one called for eliminating delays in bringing cases to court. Eight states did not address this issue.

The variations of responses regarding time limits for misdemeanor cases were similar to that in felony cases. Sixteen states concurred with the NAC's recommendation of a 30-day time period between arrest and misdemeanor trials. Five states agreed with the 30-day period but allowed an extension if pretrial release occurs. Two states set a time limit of 60 days, and five states extended the limit to 180 days for both felony and misdemeanor cases. As in felony cases, four states specified no limit; of these, three mandated the development of time limits through court ruling or statute, and one generally called for eliminating delays in bringing cases to trial. Eight states did not address this issue.

Practice. Of the 46 state court administrators surveyed, 41 responded to this item. One state reported a time limit of 30 days. The practice of five states is consistent with the NAC recommendation of bringing felony cases to trial within 60 days. Three states have a limit of 90 days and five set it at 120 days. One state specified a limit of 150 days. Eleven states indicated that their time was 180 days. One state reported 185 days. The longest time period within which a felony case must come to trial is 270 days, reported by one state. Five states did not address this question and 13 states reported no mandatory fixed time periods for the processing of felony cases.

A slightly lower number, 37 states, responded to the question of whether they had time limits in misdemeanor cases. Four states indicated that they had a time limit of 30 days, the limit recommended by the NAC. Of these, one state has a provision stating that each day in jail counts as three days, thus lowering the limit to ten days for those defendants awaiting trial in jail. The most commonly reported mandatory time period was 60 days (seven states). Three states set a time limit of 90 and 120 days, respectively. One state reported a period of 150 days and six states indicated that misdemeanor cases must come to trial within 180 days, the longest reported time period. Nine states did not answer the question and 13 states had not established mandatory time periods.

Questioning of Jurors

The NAC Position. One of the major factors contributing to trial delay has been jury selection, and the time consumed by extensive examination of prospective jurors. NAC took the position that the delay could be alleviated by requiring the trial judge to conduct the questioning of jurors. The judge should limit his questions to the jurors' qualifications for service, and should restrict the questions by counsel to those issues not covered by the court.

The S&G Response. Seven states had developed standards comparable to NAC's. Ten states were less restrictive, allowing limited or supplementary questioning of jurors by the prosecution and defense. The majority of the states, 23, did not address this subject.

Practice. A total of 32 states (78%) indicated that the counsel for the prosecution and defense share the right to question prospective jurors with the trial court judge. Three states reported that only the trial court judge examines jurors; at the court's discretion, jurors may also be questioned by counsel. In one state, practice is identical to the NAC standard. Two states specified that only counsel conducted questioning. One state replied that the jury commissioner or clerk is responsible for the examination. Five states provided inconsistent responses, perhaps because of variations among circuit courts within the states. No responses were available from two states.

Pretrial Discovery

The NAC Position. The NAC standard required liberalized discovery by both the defense and the prosecution, to facilitate the administrative processing of cases. The Commission believed that broad disclosure would affect the early resolution of issues regarding the admissibility of evidence and would encourage administrative disposition of cases without any sacrifice of defendants' rights. The Commission's recommendations required full reciprocal disclosure between the prosecution and the defense, within the limits of constitutionally protected rights and witness safety.

The S&G Response. The majority of the states (25) adopted the sense of the NAC standard. Three states required disclosure by prosecutors only. The remaining 12 states did not address this issue.

Practice. A total of 43 states responded to our question on the utilization of pretrial discovery. Sixteen states indicated that they use unlimited discovery for prosecution and defense. Two states favored unlimited discovery if the defendant agrees. In eight states, only the defendant is entitled to full discovery. Seventeen states reported the use of pretrial discovery practices that do not fall in the above categories. The most commonly specified practices were limited and full discovery by the defendant when certain criteria were met.

Use of Pretrial Conferences

The NAC Position. NAC advocated that a pretrial conference be held following the motion hearing. The Commission believed that the conference would reduce the number of issues to be tried, provide for more order during trial, and assist in maintaining the trial calendar. Specifically, the NAC recommended that pretrial conferences would be held for all cases unless the judge determined that such a conference would serve no useful purpose.

The S&G Response. Of the 18 states that had developed standards in the topic area, 12 states reflected the NAC approach. Three states hold pretrial conferences for complex or protracted cases, or as needed and requested. Three states indicated that pretrial conferences are used, without specifying types of eligible cases. The remaining 22 states did not address this issue.

Practice. Our survey indicated that 33 states (75%) utilize pretrial conferences or omnibus hearings. Ten states reported that they do not have such practices in their criminal proceedings. In one state conferences are held in some jurisdictions only. Two states did not address this question.

Jury Size

The NAC Position. The Commission held that juries consisting of between four and 12 persons are large enough to conduct group deliberation on the issue of guilt, to resist outside influences, and to provide for a representative cross-section of the community. Reductions in the number of jurors result in a savings of time and money. The NAC therefore recommended the use of juries of fewer than 12 persons but more than six in criminal prosecutions for offenses not punishable by life sentences.

The S&G Response. The states' standards reflected a wide variety of attitudes toward the size of the jury. Five states accepted the sense of the NAC standard. Four states called for the use of 12-member juries in felony cases unless the parties approve a smaller jury. Three states advocated juries of fewer than 12 but more than six in nonfelony cases, and 12-member juries for felonies. One state proposed to study the use of juries of fewer than 12 persons. Four states affirmed support for the traditional 12-member jury requirement. The majority of states (23) did not develop a standard on this topic.

Practice. Fourteen states require juries to have 12 members. Twenty-five of the states utilize juries of fewer than 12 persons for certain classes of offenses. Only one state uses juries with less than 12 members for all classes of offenses. Three states permit use of juries of fewer than 12 persons only if agreed to by both parties. One state allows a jury of less than 12 for all except capital cases. Two states did not respond to this item.

Jury Sentencing

The NAC Position. NAC took the position that the responsibility for sentencing should be placed with the trial judge, and not with the jury. The Commission argued that jury sentencing is unprofessional and results in unjustified disparity in sentences. The defendants' future should not depend on an arbitrary decision of a jury possibly motivated by emotion. The Commission therefore strongly recommended the abolition of jury sentencing.

The S&G Response. Sixteen states developed standards advocating the abolition of jury sentencing. Two states called for eliminating jury sentencing except in capital cases. Two states developed standards indicating that jury sentencing is to be permitted. The remaining states had no standard on this issue.

Practice. Thirty-four of the states surveyed indicated that they do not use jury sentencing. Ten states reported that they do. Two states employ it in certain cases but not generally.

COURT ORGANIZATION

Unification of the Court System

The NAC Position. The NAC recommended a system of unified trial courts in which all criminal cases are tried in a single level of courts. The NAC viewed court unification as a means for improving the quality of personnel and supporting services and facilities in the lower courts. The Commission proposed to unify all courts under a state-administered and -financed system, supervised by the Chief Justice of the Supreme Court.

The S&G Response. Of 25 states with a standard, 21 accepted the sense of the NAC recommendation. One state advocated unifying all state-level courts under a state-administered and -financed system, maintaining local control of limited jurisdiction courts. Three states agreed with the Commission to organize all courts into a state-administered and -financed system, but favored the supervision by the state judicial council instead of the Chief Justice. Fifteen states had no standard on court unification.

Practice. Our survey question asked the states whether certain characteristics of a unified court system were present in their state. The two most commonly mentioned elements were: *complete administrative rule-making authority* vested in the Chief Justice, the court of last resort, or a judicial council (37 states) and *central administration* by a state court administrator (35 states). With regard to financing, 30 state court systems are partially state-financed and 14 are fully state-financed. Twenty-six states use one personnel system for the state judicial officers (judges) not including special magistrates, justices of the peace, etc. Nineteen states have one limited-jurisdiction or lower court system. Seventeen states indicated that they use one personnel system for all nonjudicial personnel. Other characteristics mentioned sporadically were: central procedural rulemaking, circuit and county courts with varying general jurisdiction, and combined calendars for superior and county courts plus two limited jurisdiction courts.

Criminal Justice Coordinating Councils

The NAC Position. NAC advocated the establishment of "coordinating councils" as a vehicle for improving court management. These councils were to include representatives of all agencies of the CJ process as well as the general public. NAC recommended that they be established at state, local, or regional levels, with an overall mandate to monitor and advise on the administration of the courts.

The S&G Response. All of the standards that were developed by the states (19) were comparable to the NAC recommendation. Twenty-one states did not set a standard on this topic.

Practice. Twenty-nine states reported that they employ a statewide judicial coordinating council. None of the states reported use of local or regional councils. Seventeen states had no councils at all.

Management Information Systems

The NAC Position. The NAC discussed the large increases in information, statutes, precedents, and other material that must be considered in court administration. It recommended that a court have access to a computer for management functions such as case scheduling and jury selection, in high volume systems or where economical.

The S&G Response. The majority of the states have developed standards mandating a management information system for the courts. Nineteen states set standards similar in content to NAC's. Seven states advocated a court management system, but without specifying that it be computerized. Fourteen states did not address this issue.

Practice. Twenty-seven states indicated that they utilize computerized or manual information systems for case docketing and calendaring statewide. Seven states use them in selected jurisdictions only. Twenty-one states use an information system for notifying parties and/or counsel statewide; six states do so in selected jurisdictions.

Prospective or paneled jurors are notified through a computerized or manual system in 21 states statewide; and in four states in selected jurisdictions. Other functions mentioned in the responses include: collection of statistics, caseload reporting, revenue and expense accounting, personnel management, inventory accounting, budget projections, purchasing and case tracking.

Family Court

The NAC Position. The Commission argued that placing jurisdiction over juveniles in a family court and abolishing a separate juvenile court would result in greater efficiency. The family court would consolidate resources dealing with family matters and administer them centrally. Duplication of services would be reduced and delinquency cases will be handled more effectively. The NAC therefore recommended establishment of a family court as a division of the trial court of general jurisdiction.

The S&G Response. Eight states had developed standards comparable to the Commission's recommendation. Two states favored establishing a family court when feasible. Four states advocated retention of a separate juvenile court. The majority of the states (26) did not address this issue.

Practice. Our survey question focused on the establishment of a separate family court or division in the states' trial court systems. Seventeen states responded that they had established a family court or division. Three states had done so, but for juvenile matters only. The remaining 26 states indicated that they had no such court or division.

Fourty-two states responded to a related question about the separation of juvenile dispositional hearings and adjudicatory hearings. Thirty-four states indicated that they hold separate dispositional hearings. One state reported that dispositional hearings are separate from adjudicatory hearings for selected jurisdictions only. In seven states, dispositional hearings are not separated from adjudicatory hearings.

PERSONNEL

Selection of Judges, Oversight of Judicial Conduct, and Continuing Judicial Education

The NAC Position. Of the many factors that influence the quality of court personnel, NAC considered selection to be the most crucial. The Commission held that the traditional method of direct election by the general population is unsatisfactory. It does not attract the most capable lawyers because of the insecurity of the elected position. To remain in office, the elected judge may decide cases to reflect the popular attitude. The voter cannot be relied upon to elect a candidate on the basis of professional skills and merits.

NAC also dealt with the topics of discipline and removal and continuing education. The Commission was not satisfied with any of the existing methods for the discipline and removal of sitting judges, criticizing them as cumbersome, expensive and stigmatizing. The Commission advocated a variety of continuing education and training programs.

As standards (or recommendations), the NAC proposed that judges be nominated through a judicial nominating commission with final selection by the governor. To ensure professional judicial conduct, the Commission advocated establishment of a commission authorized to investigate and take action on matters of judicial conduct. NAC also recommended the creation of comprehensive programs for continuing judicial education.

The S&G Response. The majority of the states advocated selection methods generally comparable to those of the NAC's recommendation. Seventeen states advocated nomination of judges through a judicial nominating commission, with final selection by the governor. Two states advocated use of a commission, then election on a nonpartisan ballot after the initial term of service. Four states proposed the adoption of a judicial merit selection system that includes members of the bench, bar, and public. Five states explicitly rejected NAC's stance and endorsed election by popular vote. Twelve states developed no standards on judicial selection.

In the area of discipline and removal, 18 states developed standards similar in content to the NAC's. Three

states wrote standards enlarging existing provisions in the state code to discipline and remove judges. Standards in five states specified that a commission would investigate allegations, then make recommendations to the Supreme Court (or Court of Appeals) for action. Fourteen states did not develop any judicial conduct standard.

Thirty-three states accepted the sense of the NAC recommendation to create or maintain a comprehensive program of continuing judicial education. A state judicial education committee to develop standards for training judges was proposed by one state. Six states had no formal standards on judicial training and education.

Practice. On the question about selection of judges, the response rate was 100 percent. In nine states, judges are elected on a partisan ballot by the public. In ten states, they are appointed by the governor with the assistance of a judicial nominating commission, bar or legislature, a method comparable to the one recommended by the NAC. The most commonly reported means of judicial selection was election on a nonpartisan ballot by the public, used in 12 states. The remaining states gave a variety of responses. Nine used another appointment scheme; three had a mix of elected and appointed judges. Two other states reported the same method, except that judges are elected on a partisan ballot.

The survey indicates that 42 of 46 states have some sort of mechanism to deal with the conduct of judges. The majority, 34 states, have a judicial conduct commission or other body that may remove and otherwise discipline judges. The other eight states recommend removal to another body.

In response to the survey question on a comprehensive judicial education program, 40 states indicated that they do maintain such a program. Six states indicated that they do not.

The NAC Position. NAC approvingly noted that court administration is a new and rapidly growing field, relieving judges of many of their administrative tasks and leaving them more time to perform their judicial duties. The Commission added that, to ensure a high level of performance, the court administrator must have skills in public administration as well as knowledge of the court system. NAC recommends use of a full-time local court administrator in trial courts with five or more judges, or where otherwise justified by the caseload.

The S&G Response. Seventeen states had set standards comparable to that of the NAC. Two states adopted a more general standard proposing to use local trial court administrators as needed. Standards in four states specify the use of court administrators in each judicial circuit or district. Seventeen states had no standard on the use of court administrators.

Practice. Our survey indicates that practice in five states is consistent with the NAC's recommendation of utilizing local court administrators for trial courts with five or more judges or a high caseload.

The most commonly reported practice is to use court administrators for general jurisdiction trial courts. This was reported by 31 states. In ten of these, court administrators are employed in selected jurisdictions only; in three, at the courts' discretion.

Twenty-one states indicated that they use local court administrators for limited jurisdiction courts. Of the 21, six states employ court administrators for limited jurisdiction courts in selected jurisdictions only and in one state they are used at the discretion of the court.

In 14 states, court administrators are used for juvenile courts. Of these, in three states the court administrators are responsible for juvenile courts in selected jurisdictions, and in one state they are used at the courts' discretion only.

Eight states do not utilize court administrators, but local court clerks perform functions similar to those of a court administrator. In two states, this occurs in selected jurisdictions only, and in one state at the court's discretion only.

State judicial systems also utilized court administrators for: municipal courts in the largest cities (one state); judicial circuits (one state), each of the three statewide courts (one state), all courts in the judicial districts (three states). One state indicated that the Family Court has a director who functions as an administrator. Another state reported that administrative judges of general and limited jurisdiction trial courts perform functions similar to those of a court administrator. Four states do not utilize local court administrators at all.

Research and Development Functions

The NAC Position. The Commission argued that one of the court administrator's functions was management of research and development, especially relating to the mechanization and computerization of court operations. NAC recommended that responsibility for research, planning, and development be explicitly assigned to the local or regional court administrator.

The S&G Response. Nineteen states had developed standards similar in content to the NAC recommendation. Three states opted for a standard that centralized research and development activities at the state level, placing the responsibility in the central administrative office. Eighteen states did not address this issue.

Practice. Our survey question focused on research planning and development activities in the state court administrator's office. Nineteen states indicated that these activities are part of the duties of an existing unit. In 19 other states, a unit with another main-line function is assigned R&D as part of its responsibilities.

Three states reported that R&D is handled by one person, on either a part-time or full-time basis. Two states did not engage in any court-related research, planning, or development.

13: CORRECTIONS

SENTENCING

Overview of the NAC Position. Two assumptions underlie the sentencing strategies outlined by NAC. The first is that the proper vehicle for sentencing decisions is the court, rather than the legislature or the parole authority. But there should be procedural limits to judicial discretion aimed at eliminating some of the sentencing disparities and insuring that a sentence is related to some correctional principle, whether it be rehabilitation, retribution, incapacitation, or deterrence. The second assumption is that there is little justification for long or strict sentences because so little is known about the effects of sanctions.

The NAC standards reflected these two assumptions. Standards advocating that jury sentencing be abolished, that the court exercise continuing jurisdiction over sentenced offenders and that the judge be allowed to set the minimum sentence to be served before parole, all supported a judicial sentencing model. Many of the other sentencing standards set limits to discretion in an effort to curb excessive sentences. Thus, NAC rejected the notion of minimum sentences, but suggested setting maximum sentences for dangerous and nondangerous felony offenders. Other standards are targeted at protecting the offender from sentencing inequities. NAC recommended that specifying the reasons for a sentence in the record, making these decisions subject to review on appeal, and utilizing sentencing councils would diminish gross disparities in sentences.

Overview of the States' Response. The NAC sentencing standards were not popular among the state S&G commissions. When the 46 corrections key elements used in the analysis were ranked according to number of states with a standard having the same "sense" as NAC's, nine of the 12 key elements ranked last related to sentencing. The states did not draw up alternative sentencing standards, but simply omitted them; on only one sentencing key element did more than 15 percent of the 41 states even have a standard.

Sentencing Models. Despite the recent trend toward greater certainty in sentencing practices, the indeterminate sentencing model remains the prevalent method for treating convicted adult offenders. Out of 45 states responding, 23 states still retain that form of sentencing practice. However, the trend toward greater sentencing uniformity is quite

evident. Nine states have adopted a presumptive or "flat time" sentencing approach, and an additional four states have adopted a mandatory sentencing policy. The remaining nine states have adopted a hybrid version of these approaches. Usually this consists of a fixed minimum and maximum sentence of varying ranges. Within this range, the judge or the paroling authority is free to determine when the offender may be released.

Setting Maximum Sentences. The maximum sentences suggested by NAC were particularly unpopular among the states standard setting commissions. Although 11 states made NAC's distinction between dangerous and nondangerous felons, they did not concur with NAC's limits. Only five states designated five years as the maximum for dangerous felons (excluding murder). The three other states using the nondangerous/dangerous criterion either raised or allowed for extensions to the NAC maximum.

Statutory maximums are prevalent, although the periods specified are generally much longer than those in the state or NAC standards. The vast majority of states have established statutory maximums; out of 45 states responding, only six do not have the maximum sentence specified in the law. But these maximums range widely. Of the 39 states indicating that the statute specifies the maximum sentence, 25 states distinguish among felons on the criterion of dangerous/nondangerous. Even for "nondangerous" felons the maximum penality is still substantial. About half the states specify a maximum up to 20 years for nondangerous felons and the remainder specify maximums up to life imprisonment. The statutory maximums for so-called "dangerous" felons are necessarily higher than for the "nondangerous" felons, although several states impose maximums in this category significantly lower than those imposed in other states for nondangerous felons.

Credit for Time Served. For many years it was the practice not to apply the time-served while awaiting trial or appeal against the sentence imposed. This practice has been criticized as a form of discrimination against persons unable to raise bail prior to trial, and as an additional *de facto* form of punishment. Our survey of corrections personnel and state volumes indicates that this practice has been substantially reversed. Twenty-one of the 41 state standard volumes followed NAC's suit in advocating that any time served before

sentencing be credited toward the sentence. And out of 40 states responding to the questionnaire, 34 indicated that state law requires full credit for time served--an increase of ten states since 1973. One state provides for full or partial credit at the discretion of the sentencing judge.

Minimum Sentences. NAC recommended that mandatory legislative minimum sentences (i.e., the time a person must remain in prison before being eligible for parole) are too inflexible, but that the court should be authorized to set minimums "in the rare instances the court finds it desirable to impose a minimum sentence to preclude early parole" (p. 157, *Corrections*). The setting of minimums would be somewhat restricted, however, in that they would not exceed one-third of the maximum or three years.

The state standards volumes divulge little support for NAC's position: only seven states advocated the NAC limits to minimum sentences. One state stipulated that there should be no limits to the length of judicially imposed minimums and two states advocated that the parole authority should set the guidelines.

State practice runs counter to the NAC's recommendations. Twenty-seven out of the 43 states responding do not permit the judge to determine minimum sentences to be served before parole eligibility. The divergence from NAC is even clearer when the 16 states who do allow judicially imposed minimums are considered. NAC's upper-bound limits to minimums reflect a fear of court punitiveness--but only three states follow this strategy. Six states set *lower* bounds to the minimums that can be imposed, reflecting a greater fear of court leniency. Of the remaining six states allowing judicial minimums, one permits the judge complete freedom in setting minimums and five set bounds according to the crime or the offender's prior record.

Concurrent Sentences. A second area where court discretion has been challenged has been in the sentencing of persons already under sentence, or persons convicted of multiple crimes. NAC favored the use of concurrent sentences for multiple offenses unless public safety requires a longer sentence. The concurrent sentencing standard, though adopted by only 15 of the 40 states' commissions, was one of the more popular of the sentencing standards. In this case neither the omission of the standard nor its adoption can be explained by the fact that existing state practice was in

accordance with NAC's standard. Only four out of 45 states reponding indicated any restriction in the ability of the courts to impose consecutive sentences on persons already under sentence for other crimes. None of the states responding indicated any limitation on the ability of courts to impose consecutive sentences on persons convicted of multiple crimes.

Sentencing Councils. A proposal made by the National Advisory Commission to help make sentencing decisions more consistent was to have judges in courts with more than one judge meet periodically to review individual cases. This proposal has met with relatively little acceptance. Only nine of the 40 state standards commissions suggested the use of sentencing councils, and two of these advocated regional councils, which could not be consulted on a regular basis. In practice, sentencing councils are virtually nonexistent. Only four states out of 35 responding indicated that sentencing councils had been established, and in two of these states, the respondents indicated that the practice was confined to only a few of the larger jurisdictions.

Sentencing Opinions and Presentence Report Disclosure. In line with the use of sentencing councils, sentiment has been expressed to provide for a more formal process of sentence review. One aspect of NAC's proposal is to have sentencing courts specify in the court record the reasons why a particular sentence was imposed. This was one of the more acceptable sentencing standards among the state commissions. Eighteen of the 40 states endorsed it; another state suggested recording reasons for sentences that do not fall in the usual pattern for given offenses. Data from state correctional administrators indicate a slight trend toward this approach in practice. Only 11 of the 43 states responding indicated that the courts were required to specify their reasons, but in eight cases the requirement had been enacted within the last four years. In only two cases has the requirement been imposed for over ten years. Two additional states require that sentencing reasons be specified in the record under certain circumstances.

An additional proposal to safeguard against arbitrary sentencing decisions is to make the presentence report, upon which these decisions may be based, available to the defendent. This practice usually entails the procedural right of the defendent to challenge the accuracy of the information in the report and to present evidence in his or her own behalf.

Presentence report disclosure appears to be widely accepted in both theory and practice. Twenty of the 40 state standards commissions advocated making presentence reports routinely available to defendants and four other commissions favored disclosure under special circumstances. On the other hand, two state commissions suggested that the availability of presentence reports be restricted to the court and the prosecution.

In practice, presentence reports are made available to the defendant in 24 of the 43 states responding. In all but two of these states the reports are also available to the prosecutor. Five states make the report available to prosecutors only and five allow the judge to determine report disclosure. In only nine states is the report not made available to either the prosecutor or the defendent.

Appeal and Modification of Sentence. There are at least two ways in which requiring a sentencing court to specify its reasons for imposing a particular sentence can affect the convicted offender. First, it can provide a basis for an appeal to another court to review the decision. Second, the stated reasons could be used to determine whether the conditions under which the sentence is served are appropriate or if the sentence should be modified.

Although appellate review of sentencing decisions was advocated by only 15 of the state standards commissions, it is currently permitted in 27 of the 46 states that responded to the survey. Grounds for appeal are that a sentence is excessive, inappropriate, or unjustifiably disparate when compared to decisions made in other cases. States varied as to which court would hear the appeal. Twenty states permit appeal to a higher court, two states permit appeal to a court at the same level as the sentencing court, and one state has established an independent review body to hear such appeals.

Sentence modifications do not appear to be as widely accepted as sentence appeals. Only five of the 40 states standards volumes advocated that the court have continuing jurisdiction over all sentenced offenders, including the authorization to adjust sentences in accordance with new circumstances. Four additional states advocated that the court maintain jurisdiction for limited periods of time, and one state limited the policy to misdemeanants. Only 29 states responded to the question on sentence modification. Of those responding, 19 indicated that the courts were

authorized to modify or reduce a sentence after an offender had been put into the custody of the Department of Corrections. In seven of these states the court can change the sentence for any reason, whereas in the remaining 12 a sentence can be revised only for a specific set of reasons. These reasons include: the discovery of new factors relating to the sentence imposed (19 states), the presence of undesirable conditions under which the sentence is being served (8 states), and the fact that the purpose of the sentence is not being fulfilled (8 states).

CORRECTIONAL PROGRAMS

Availability of Treatment Programs

The NAC Position. The NAC clearly held that rehabilitation was the ultimate goal of corrections. Thus it endorsed the availability of a broad array of programs and services, both in and outside the institution. These included:

- Educational Programs
- Vocational Training
- Drug Treatment
- Recreational Programs
- Job Placement Services
- Work Release Programs
- Educational Release Programs
- Home Furloughs
- Community-based Partial-release Centers
- Prison Industries.

The S&G Response. The state standards generally agreed with the NAC formulation. Table 13.1 reports how the states responded in six treatment areas.

Table 13.1. State Standards Regarding Availability of Treatment Programs

	Accepted NAC	Accepted w/ Qualification	No Standard	Total
Educational Programs	33	7	10	41
Vocational Training	28	2	11	41
Drug Treatment	25	5	11	41
Work Release	29	2	10	41
Home Furlough	18	0	23	41
Community-Based Partial-Release Center	31	2	8	41

Practice. We asked correctional administrators to indicate what forms of treatment were available to inmates in their system. Table 13.2 presents the results of that survey. In three areas--Education, Vocational Training, and Recreational Programs--all 46 states responding to the

survey reported the existence of a program. In the remaining areas, only a small number of states fail to provide the service or program. Only two states do not have some form of drug treatment, and the same number lack a prison industry program. Work release is provided by all but three states; pre-release job placement by all but four states; education release by all but five states; and home furloughs by all but seven states. Community-based partial-release centers have been established in all but 11 states responding.

Table 13.2. The Availability of Treatment Programs in Adult Corrections

Program:	PROGRAM AVAILABLE: Yes (n)	Yes (%)	No (n)	No (%)	DK/NA (n)	DK/NA (%)	Σ
Education	46	(100.0)	0	(0.0)	0	(0.0)	46
Vocation	46	(100.0)	0	(0.0)	0	(0.0)	46
Recreation	46	(100.0)	0	(0.0)	0	(0.0)	46
Prison Industries	44	(95.7)	2	(4.3)	0	(0.0)	46
Drug Treatment	42	(91.4)	2	(4.3)	2	(4.3)	46
Work Release	42	(91.4)	3	(6.5)	1	(2.1)	46
Job Placement	42	(91.4)	4	(8.7)	0	(0.0)	46
Education Release	40	(87.0)	5	(10.9)	1	(2.1)	46
Home Furlough	39	(84.8)	7	(15.2)	0	(0.0)	46
Community-Based Partial-Release Center	33	(71.7)	11	(23.9)	2	(4.3)	46

The Mix. The mix of programs provided in most states is fairly comprehensive. Table 13.3 shows the mix of programs provided in adult corrections. Slightly less than half the states responding provide all the programs we asked about, and an additional 30 percent provide all but one.

Table 13.3. The Mix of Programs Provided in Adult Corrections

	No. of States	%	Cum. %
All programs (10 of 10)	22	47.8	47.8
Nine of Ten	13	30.4	78.2
Eight of Ten	6	10.9	89.1
Seven of Ten	2	4.3	93.4
Eight of Eight*	1	2.2	96.5
Seven of Seven*	1	2.2	97.8
Six of Nine*	1	2.2	100.0
	46	100.0	100.0

*Reflects no response on some questions.

A more interesting pattern develops with regard to the dates when the various programs were developed. In five program areas we asked the date when the program was first implemented:

- drug treatment
- work release
- education release
- home furloughs
- community-based partial-release centers.

In all five program areas the pattern was very similar. Before 1967 relatively few states had any of the programs we asked about. The most prevalent was the work release program, which was operated by a maximum of 12 and a minimum of five states. The least prevalent was the educational release program operated by a maximum of seven and a minimum of one state.*

*The minimum and maximum numbers reflect the possible range of states that provided a program before 1967. All states that reported having a particular program but failed to report a year were placed in the pre-1967 category.

Table 13.4 presents the chronological development of programs in adult corrections between 1967 and 1978. It is clear that development has been rapid in all five program areas. Work release was the fastest initially. Between 1967 and 1970, the number of work release programs doubled, and by 1970 over half the states had a program in place. Between 1971 and 1974, the pace accelerated slightly with the addition of 15 new programs, for a cumulative increase since 1967 of 29. Between 1975 and 1978, only one additional program was developed. By 1978, the total proportion of agencies with a work release program was over 91 percent.

Table 13.4. Number of Programs Established in Adult Corrections by Year

	Drug Treatment			Work Release			Education Release			Home Furlough			Community-Based Center		
YEAR EST.	N:	N:	%	N:	N:	%	N:	N:	%	N:	N:	%	N:	N:	%
PRIOR TO 1967	9	9	19.6	12	12	26.1	7	7	15.2	10	10	21.7	9	9	19.6
1967	0	9	19.6	3	15	32.6	3	10	21.8	5	15	32.6	0	9	19.6
1968	1	10	21.7	4	19	41.3	2	12	26.1	0	15	32.6	1	10	21.7
1969	1	11	23.9	5	24	52.2	3	15	32.6	2	17	36.9	2	12	26.1
1970	1	12	26.1	2	26	56.5	5	20	43.4	5	22	47.3	3	15	32.6
1971	2	14	30.4	6	32	69.5	2	22	47.8	3	25	54.3	6	21	45.7
1972	6	20	43.7	6	38	82.6	5	27	58.7	5	30	65.2	4	25	54.3
1973	3	23	50.0	2	40	86.8	6	33	71.7	3	33	71.7	1	26	56.5
1974	2	25	54.3	1	41	89.0	1	34	73.9	1	34	73.9	3	29	63.0
1975	7	32	68.5	0	41	89.0	2	36	78.3	3	37	80.4	2	31	67.4
1976	5	37	80.4	1	42	91.2	3	39	84.8	1	38	82.6	0	31	67.4
1977	5	42	91.3	0	42	91.2	0	39	84.8	1	39	84.8	2	33	71.7
1978	0	42	91.3	0	42	91.2	1	40	87.0	0	39	84.8	0	33	71.7
No Program	2			3			5			7			11		
No Answer	2			1			1			0			2		
TOTAL	46		100.0	46		100.0	46		100.0	46		100.0	46		100.0

It is interesting to compare the development rate of work release and drug treatment programs. The former built up rapidly between 1967 and 1974, with very little activity after that. By contrast, drug programs developed slowly between 1967 and 1970, with only three programs starting during that period. After 1974, however, the number of programs increased rapidly; 13 were developed between 1971 and 1974, and 17 between 1975 and 1978. Thus, despite a lag period of four years, both programs were offered by the same number of states by January 1978.

Home furlough and educational release programs developed at about the same rate. Both began slowly in 1967, developed steadily until 1974, and have continued to expand since, but at a slower pace. By 1978, both programs were offered by over 80 percent of the states responding to the survey.

An anomaly is the pattern of program development in community-based partial-release centers. Like drug treatment programs, community-based centers developed slowly between 1967 and 1970, but accelerated rapidly between 1970 and 1974. After 1974, however, they followed the decelerating pattern of programs other than drug treatment. Consequently, this area was the least prevalent of the five reported in 1978.

Individual Agency Patterns

Adult corrections agencies do not tend to adopt new treatment programs singly. Rather, they tend to add two, three, or four new programs within a fairly short time. For example, in 1972 the agencies responding to our survey reported that 26 new programs of all types were established. However, only 13 agencies actually made these changes. Similarly, between 1970 and 1972, 61 programs were established by 28 different agencies. This clustering effect differs greatly among agencies. The overall average time between program additions was 2.5 years.

Reception and Diagnostic Centers

The NAC Position. The Commission recommended that the states discontinue placing newly convicted offenders in reception and diagnostic centers for the initial period of their incarceration. The Commission argued that the premise on which these centers operated--that inmates could be "diagnosed" and that appropriate treatment could be prescribed--was ill-founded and often abused in practice. The present state-of-the-art, it suggested, did not permit an adequate screening of inmates and consequently most of these centers merely presented the facade of scientific selection and classification.

The S&G Response. Only 13 states wrote a standard in this area and only six of these accepted the NAC position. Two other states indicated that inmate classification was already conducted at the institution where an inmate was to serve his or her sentence, and that no special diagnostic center existed. Five states directly contradicted the NAC and called for the continued use of R&D centers.

Practice. Despite the concerns expressed by the National Advisory Commission, the results of our survey indicate that the use of reception and diagnostic centers is widespread. Out of 37 states responding to this question, 28 states reported operating such a center. Of these, 18 operate under a specific authorization of the state legislature while ten operate on their own authority--that is, without state authorization or prohibition. Only three states reported that state law prohibits such centers.

Drug Prevention and Treatment

Although drug-related services are available in all but two of the states, the way in which these services are delivered varies between states. There are three general patterns of service delivery:

- in-house treatment programs;
- outside programs utilized by corrections agencies; and
- combined in-house and outside program utilization.

The most common of the three patterns is the in-house approach. By January 1978, 32 states had established some form of in-house drug program: 18 as the only form of treatment and 14 in combination with an outside program. Ten states provide drug-related services only through external programs.

The external programs can be categorized into two groups: those operated by public welfare or social service agencies, and those operated privately. These two sources of drug services are equally common in adult agencies. In the 10 states using external services only, there is virtually an even split between those using other public programs, private programs, or both. A similar pattern appears in corrections agencies that use external programs to supplement an in-house drug program.

Date of Program Development. The current pattern of drug service delivery is the result of very rapid program development. Most of the growth occurred between 1971 and 1977, when between 25 and 34 states added drug services to their systems. No clear relationship exists between the type of delivery system adopted and the date of program establishment. Most states stick with the method they originally adopted, whether it be a purely in-house approach, an external source approach, or a combination. There has been, however, a slight trend toward greater use of external treatment programs during the last four years.

Coordination with Community-Based Programs. The NAC recommended that state drug treatment programs coordinate their efforts with locally-based programs to insure a continuity of services to inmates after release. Our survey results indicate that most states have adopted such a policy. Out of 36 states responding to the question, 32 reported that they had coordinated with community drug treatment programs. Only two states with an active drug treatment program had not--a state with only an in-house treatment program and a state with a combined in-house and external agency arrangement.

In the 32 states cooperating with local drug treatment centers, the date this relationship was forged generally coincides with the date the initial agency program was established. In only one state was there a lapse of more than two years between the program establishment and coordination with local facilities. In two states, the local agreement was made before the agencies started their own programs.

The survey indicates that Federal funds have played an important role in the development of correctional drug treatment programs. Out of 32 states with in-house drug treatment programs, 24 states reported using Federal funds, either initially or currently. Of the 16 states using other public welfare agencies to provide drug services, nine states reported using Federal funds. Only in the case of the privately operated drug programs was there a lack of Federal involvement. Only six of 16 states used Federal funds.

Co-Corrections Programs

The NAC Position. The NAC, as well as others in the field of corrections, have urged the creation of programs in which men and women inmates could meet together periodically. The rationale is that the traditional all-male and all-female institution creates an unnatural atmosphere--encouraging homosexual behavior and creating unnecessary tension and incipient violence. Another argument is that co-correctional arrangements make more efficient use of limited facilities and resources.

The S&G Response. The states responded rather coolly to the concept of coeducational correctional institutions. Only 12 states addressed the topic at all. Seven of these adopted the position set out by the NAC. The other five states adopted a recommendation to study the feasibility of co-corrections in their system.

Practice. Our survey results indicate that co-correctional programs are a growing trend. Twenty-one of the 46 states responding reported developing such a program. However, four other states reported that a co-correctional program had been tried and abandoned.

Date of Program Development. Co-corrections is a very recent development. According to our survey, 14 of the 21 programs were established between 1976 and 1977, and all but three programs were established since 1974. Unfortunately, we do not have dates on the four programs that were subsequently abandoned, but given the patterns in other states, it is unlikely that they were established before 1970.

Program Composition. The survey asked correctional administrators to describe which aspects of their institutions were co-correctional. Most common was the sharing of eating facilities, a practice reported by 14 states. Twelve states reported the sharing of recreational facilities; nine reported the sharing of common buildings; and nine the joint use of work, education, and other treatment programs. Two states reported shared work release programs and one state reported that men and women attended pre-release instruction classes together.

Program Mix. The extent to which a state is committed to the co-correctional concept can be roughly determined by the mix of areas shared by men and women. By this criterion the states vary considerably. Five states permit contact only in treatment-related programs such as work release, furlough, or educational programs--that is, only in fairly structured circumstances. Ten states allow contact only in somewhat unstructured settings such as dining halls, recreational facilities, and/or common buildings. Six states permit contact in both structured and unstructured situations.

EMPLOYMENT RELATED PROGRAMS

A major program area in every state correctional system concerns the employment and employability of inmates. These programs tend to fall into one of three broad categories: prison maintenance programs, in which inmates help with the upkeep of the prison; prison industries, in which inmates produce goods and services to offset the cost of operating the prison; and vocational training, in which inmates learn marketable skills that they can apply after release.

These programs are virtually universal. All states meritably operate prison maintenance programs. All but three of those that responded to our survey reported some form of prison industries program. And all that responded have some form of vocational training. With four exceptions, job placement services are also available. Below we review standards and practices on various aspects of these employment-related programs.

Prison Wages

The NAC Position. In 1973, the NAC recommended that states should consider paying prison inmates at rates comparable to those paid in private industry for similar work.

The S&G Response. The states were less than enthusiastic about NAC's position. Twenty states wrote a standard relating to inmate compensation, but only five of these adopted the NAC position, even in modified form. Eight states favored the payment of wages at an unspecified level, but wanted inmates to reimburse the state for the expense of feeding, clothing, and housing them--in effect, a reversal of NAC's approach. Six states favored the payment of wages at rates high enough to encourage inmate participation. In two of these latter six states, the S&G Commission further recommended a sliding scale of compensation based on either the prevailing economic conditions in the state, or on the difficulty of the work performed. One state favored setting inmate compensation at the level of the Federal minimum wage. Another state indicated only that inmates should be paid for the work they performed--something that was already being done.

Practice. Our survey indicated that few states have picked up the NAC recommendation on prison wages. Only four states reported that the NAC policy had ever been attempted or contemplated. The earliest of these was begun in 1969, but was limited only to inmates in an extended work furlough release program. Two additional programs were started in 1976, and one was to be started in 1978. The latter involved the cooperation of a private industry that employed inmates as regular, full-time employees at a rate of $2.85 per hour. The latter program and one started in 1976 use Federal funds to underwrite expenses.

It can be added that no one is getting rich working in prison industries. Only two states are paying a maximum wage over the national minimum wage, and the vast majority are paying considerably less than that. At the overall average of about $.27 per hour, a typical prison inmate is receiving a gross annual salary of approximately $562.00 by working full-time.

Use of Private Industry in Prison Programs

The NAC Position. The National Advisory Commission recommended that vocational and prison industries programs make more extensive use of private industries and businesses. The Commission reasoned that vocational training would be better and more relevant if the barrier between private industry and prison programs was bridged and resources and knowledge shared.

The S&G Response. Nineteen states wrote a standard on the use of private industry in prison vocational programs. In each state the NAC standard was accepted without major revision. One state, however, modified the language of the standard, deleting the reference to specific forms of private industry involvement.

Practice. To date, efforts in this direction have been rare. Only 12 states reported that private industries were used in the agencies' vocational training programs. The extent of private industry involvement was examined in the following areas:

- The donation of training personnel to correctional programs;
- The donation of machinery and equipment;
- The donation of plant space; and
- The commitment of job slots for released offenders.

Table 13.5 reports a variety of sharing arrangements between private industries and correctional training programs. The most common form of cooperation is the donation of machinery and equipment and training personnel to the state. However, no two states have developed identical arrangements, and the mix of services defies easy categorization. The states range between those for whom private industries are strictly advisory to those for whom the private sector has committed itself to provide material, personnel, advice, and eventually jobs.

Work Release

The NAC Position. The concept of releasing inmates temporarily so that they can find or continue regular employment gained rapid acceptance in corrections during the late 1960s, and has continued to expand as an alternative to continuous incarceration during the 1970s. The idea is seen as having a number of advantages, both for the inmate and the correctional system. As a rehabilitative approach it helps the inmate maintain a semblance of normal life outside the prison. It also relieves the state from providing the intensive and costly supervision required by continuous incarceration--a help to states with an overcrowded prison system. The NAC standard called for adoption, expansion, and continuation of a work release program in every correctional institution.

The S&G Response. This standard was one of the most popular: 29 of the 40 states with correctional standards wrote one similar to NAC's. Two others wrote modified endorsements of work release. Only nine states omitted this topic.

Practice. The popularity of work release was also evident in the survey results. Only three states reported that they did not operate such a program, and one of these had tried but subsequently abandoned the idea. The two other states without work release said that they lack statutory authority to set up the program.

Table 13.5. Use of Private Industry in Corrections Vocational Training Programs

STATE	MACHINES & EQUIPMENT	TRAINING PERSONNEL	PLANT SPACE	JOB SLOTS	OTHER
(1)	YES	YES	YES	YES	a
(2)	YES	YES	YES	YES	o
(3)	YES	YES	YES	o	o
(4)	YES	YES	o	o	b.
(5)	YES	YES	o	o	c.
(6)	YES	YES	o	o	o
(7)	YES	o	YES	YES	o
(8)	YES	o	o	YES	o
(9)	o	o	o	YES	o
(10)	o	o	o	o	d.
(11)	o	o	o	o	e.
(12)	o	o	o	o	f.
N =	8	6	4	5	

a. Private industry executives serve on the State's Vocational Training Advisory Board.

b. Private industry participates in joint planning and provides technical assistance to the State.

c. Released inmates are allowed to interview for full-time employment.

d. Private industry provides advisory services.

e. Private industry provides job slots for the work release program.

f. Private industry provides advisory services and assists in the placement of released offenders in regular employment.

The states differ widely in the number of inmates on work release. The reported range is from less than one percent to 25 percent of the total inmate population. The mean proportion is 6.7 percent, agreeing with the most recent prison population figures that show approximately six percent of all inmates were on work release in January, 1978.

Table 13.6 presents the distribution of states by the proportion of inmates participating in work release.

Correctional administrators were asked if there had been any change in the percentage of inmates in work release over the last three years. Twenty-three states said that the percentage had increased, ten states reported no change, and seven reported a decrease.

The magnitude of the increase or decrease in the states is shown in Table 13.7. These changes have not been trivial over the last three years. Half the states have increased the percentage of inmates on work release, affecting approximately 42 percent of all inmates. The average proportional increase is 66 percent. The seven states that reduced the proportion affected over 20 percent of all inmates with an estimated average decrease of 28 percent.

The pattern of changes reported in Table 13.7 indicates that the greater proportion of increase in work release participation occurred in the smaller states, while the decreases took place in relatively larger states. Correctional administrators were asked what the principal reasons were for the changes. The most frequently reported reason for an *increase* in participation was that the state had made more resources available to the work release program. Twelve states, with an average increase of 57 percent, cited this factor. Seven states, with an average increase of 76 percent, attributed the growth to revised eligibility rules for the work release. Two states cited improved economic conditions statewide and one state, with an increase of 100 percent, said that the number of prisoners had suddenly boomed, forcing rapid expansion.

Reasons for *decrease* in the participation rate included: an adverse economic situation in the state (one state), a revision of eligibility rules (three states), and an increase in the incarcerated population (two states). The latter reason suggests a statistical rather than an absolute decline in program participation.

Table 13.6. Percentage of Inmates on Work Release, January 1978

% ON WORK RELEASE	NUMBER OF STATES	PERCENT OF STATES	PERCENT OF INMATES AFFECTED
LESS THAN 1 %	1	2.2%	1.9%
1-2	8	17.4	14.7
2.1-4	6	13.0	15.2
4.1-6	5	10.9	6.8
6.1-8	5	10.9	3.3
8.1-10	6	13.0	12.4
10.1-15	4	8.7	16.8
MORE THAN 15%	2	4.3	3.7
NO ANSWER	6	13.0	13.4
SUB-TOTAL	43	93.4%	88.1%
NO PROGRAM	3	16.6%	11.9%
TOTAL	46	100.0%	100.0%

$\overline{X}$ = 6.7%

Table 13.7. Changes in Percentage of Inmates on Work Release Since 1974

	NO. OF STATES	% OF STATES	% OF ALL INMATES AFFECTED
INCREASED:			
1 - 24%	2	4.3%	1.0%
25 - 49	3	6.5	5.1
50 - 74	10	21.7	25.2
75 - 100	6	13.0	9.0
OVER 100%	1	2.2	0.1
NO ANSWER	1	2.2	1.2
SUB-TOTAL	23	50.0	41.6
$\bar{X}$ = 66.0%			
DECREASED:			
1 - 24%	3	6.5%	15.5%
25 - 49	0	0.0	0.0
50 - 74	1	2.2	2.4
75 -100	0	0.0	0.0
OVER 100%	0	0.0	0.0
NO ANSWER	3	6.5	5.6
SUB-TOTAL	7	15.2%	21.1%
NO ANSWER	3	13.0	15.2
NO CHANGE	10	21.7	9.7
NO PROGRAM	3	6.5	11.9
TOTAL	46	100.0%	100.0%

Voluntarism in Treatment

The NAC Position. The Commission suggested that an inmate's right to treatment entailed a right to no treatment as well. Coerced treatment was thought to violate this principle and to have questional value as a rehabilitative approach. NAC therefore recommended that the participation of prisoners in institutional treatment programs be on a strictly voluntary basis.

The S&G Response. Only 22 states wrote a standard relating to the right of an inmate to reject available treatment programs. Of these, 20 states adopted the sense of the NAC standard. One state called for incentives to encourage inmates to participate in treatment. And one went the opposite direction from NAC, and called for mandatory participation in adult corrections treatment programs.

Practice. The response to our survey indicates that voluntarism is a common policy, at least on paper, in adult corrections. Out of 45 states responding to the question, 35 states indicated that inmate participation was voluntary as a matter of agency policy. An additional nine states characterized their policy toward treatment participation as being essentially voluntary but with exceptions. In three cases, educational training was required for persons with prior education below a certain minimum level. In two cases, participation was voluntary with the exception of prison labor. (Only a marginal "treatment," this may be an artificially low number.) One state indicated that treatment was voluntary except for persons convicted under the "youthful offender" category. Finally, three states responded that their policy fell "somewhere between" a strictly voluntary and a strictly mandatory participation approach. Taken together, 42 out of the 45 states indicated that their policy tended toward a voluntary participation position. The remaining three states characterized their policy as requiring participation.

The Impact of Participation

Although almost every state responding to the survey described their policy toward treatment participation as tending toward the voluntary approach, the willingness of an inmate to participate in treatment may have an impact on the

inmates' status in the institution. Correctional administrators were asked if inmate participation "formally and explicitly" affected the following:

- The probability that the inmate would be granted parole
- The eligibility of the inmate to receive special privileges
- The rate at which the inmate was awarded "good time"
- Any other factors affected.

The word "affected" may have two meanings in this context. It may mean that the participation improves the status of the offender, but that nonparticipation does not adversely affect the inmate. Or, it may mean that unless the inmate participates, his or her status is somehow lowered. Under both definitions, "something good" happens to the participating inmate, even if it is only the avoidance of "something bad." We are not able to distinguish which states apply which definition to the word "affected," based on our survey results.

Table 13.8 presents the distribution of states in terms of the areas affected by participation or nonparticipation, cross-tabulated by the general policy of the agency toward voluntary vs. mandatory participation. But the responses call into question just how "voluntary" treatment participation is. Only 11 of the 33 states with a voluntary participation policy indicated that parole, good time, or inmate privileges were unaffected by participation in treatment. The probability of parole is affected in 18 of these states. The rate at which "good time" is awarded is affected in 12 of these states. The eligibility for special privileges is affected in 11 states. Even presuming that no adverse effects are created for the inmate because of nonparticipation, it is clear that the majority of agencies with "strictly voluntary" policies provide powerful incentives for the inmate to participate.

Sentencing Mode and Inmate Participation in Treatment

One of the principal arguments against the indeterminate sentencing approach has been that it deals with criminal behavior as if it were an illness that can be treated through direct intervention. This so-called "medical model" has been attacked as placing too much discretion in the hands of the persons who make or advise on parole decisions. It

Table 13.8. Areas Affected by Participation In Treatment, by State Aency Participation Policy (Number of States)

	"Voluntary"		Voluntary with Qualifications		Mandatory		Total	
AREAS AFFECTED	N	%	N	%	N	%	N	%
None	11	23.9	2	4.3	2	4.3	15	32.5
Parole, Good Time, and Privileges	4	8.7	2	4.3	1	2.2	7	15.2
Parole and Privileges	6	13.0	1	2.2	0	0.0	7	15.2
Parole and Good Time	4	8.7	1	2.2	0	0.0	5	10.9
Good Time and Privileges	1	2.2	0	0.0	0	0.0	1	2.2
Parole Only	4	8.7	2	4.3	0	0.0	6	13.0
Good Time Only	3	6.5	1	2.2	0	0.0	4	8.7
Privileges only	0	0.0	0	0.0	0	0.0	0	0.0
SUB TOTAL	33	71.7	9	19.6	3	6.5	45	97.8
					No Answer		1	2.2
					TOTAL		46	100.0

has been also criticized as placing the inmate in a state of uncertainty about when or if release will be granted, thus contributing to the level of tension in institutions.

The reform of sentencing practices in recent years has been aimed at reducing the amount of discretion exercised by paroling authorities and the degree of uncertainty over when an inmate will be released. However, the responses to the survey indicate that treatment participation is still a major criterion in release decisions, even in states where changes in sentencing practices have been made.

One survey found that there were five major sentencing models in use in the United States: the *indeterminate model*, in which an inmate is sentenced for a period to be determined by the paroling authority; the *indeterminate with statutory maximum model*, in which only the upper bounds of the sentence to be served is specified by law; the *mandatory sentence model*, in which the lower or minimum sentence to be served is specified by law; the *presumptive* or *flat-time model*, in which the specific sentence to be served is specified by law, with lower and upper bounds dictated by extenuating or aggravating factors; and the *mixed model*, in which certain crimes are assigned specific or minimum sentences, and others all passed under the indeterminate formula. While none of the latter models necessarily eliminate the use of discretion on the part of paroling authorities, the implication is that the amount of time to be served should be based on pre-established criteria rather than on evidence that the inmate has been "cured." Thus, it is worth noting that parole decisions are still influenced by the criterion of treatment participation, even in states with statutorally established release criteria.

Of the 21 states that have retained the indeterminate sentencing model, only 11 use treatment participation as a criterion for parole decisions and/or award of good time--a remarkable finding considering the philosophy that underlies the indeterminate model. By contrast, of the nine states that adopted a presumptive or fixed sentence model, seven states use participation as a criterion for release. The remaining states follow a similar pattern. This pattern of practice among the states suggests that the more deterministic sentencing models do not necessarily reduce the level of discretion available to paroling agencies. The range of discretion may have been narrowed, but the basic assumptions about the efficacy of treatment appear to remain strong.

OFFENDER RIGHTS

The rights of convicted offenders have long been the subject of considerable attention from state legislatures, public interest groups, professional associations, and most recently, the courts. The NAC echoed the general concern to expand the rights of inmates, addressing a range of specific topics:

- Access to the courts and legal services
- Protection from abuse
- Physical conditions in prisons
- Right to rehabilitation
- Retention of civil rights
- Disciplinary procedures
- Grievances
- Free expression and association.

Several of these topics have been covered elsewhere in this report. In this section we will focus on:

- The separation of adjudicated and nonadjudicated offenders
- The use of solitary confinement
- The availability of grievance procedures
- Procedural rights in disciplinary hearings
- Access to criminal records
- Restoration of civil rights
- Employment barriers to ex-offenders.

The Physical Separation of Offenders

The NAC Position. NAC recommended that all correctional facilities should separate adjudicated from nonadjudicated offenders. The logic of this position was that persons awaiting trial should be treated with a minimum of restraint until convicted; the indiscriminate mixing of adjudicated and nonadjudicated offenders would insidiously label possibly innocent person as criminals.

The S&G Response. Twenty out of 41 states addressed the topic. Thirteen of them accepted the NAC position. One state accepted the premise of the standard, but added the conditional phrase, "where possible," to accommodate potential problems in meeting the standard. Seven states broadened the standard by mandating the separation of diverse categories of inmates, including dangerous and nondangerous.

Practice. Offender types are seldom segregated in practice. Only 16 of the 46 states responding to our survey legally require the separation of adjudicated and nonadjudicated offenders. Correctional administrators were asked whether such requirements existed for three broad categories of offenders:

- Adults
- Delinquent juveniles
- Juvenile status offenders.

Forty states responded to the question. Two states require the separation of all three categories of offender--convicted and unconvicted alike. Three states separate only adjudicated and nonadjudicated adults. Six states separate only adjudicated and nonadjudicated status offenders. Three states separate convicted and unconvicted adults and delinquent juveniles. Two states separate convicted and unconvicted juvenile delinquents and adjudicated and nonadjudicated status offenders.

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The NAC Position. Reflecting on the importance of open communication between inmates and correctional administrators, NAC recommended that every state immediately set up some means for inmates to lodge grievances and have a fair chance of redress. The Commission's reasoning was simple--unattended and unredressed grievances are an unnecessary source of tension in an institution. To ensure an effective procedure, the Commission recommended that a specific person be designated to receive and investigate every complaint. That person preferably was to be independent of the correctional authority, and at the minimum, was to have no direct responsibility for the area of the institution brought under question.

The S&G Response. The states responded favorably to the NAC's recommendation. Nineteen of the 41 states writing standards on this topic accepted the Commission's formulation. Four other states recommended formal grievance procedure but did not specify the means to implement it.

Practice. Formal grievance resolution is usually handled through one of two vehicles: a grievance procedure within the institution or an independent ombudsman. Forty-one of the 46 states responding to our survey use one of these vehicles. Twenty-three states use the in-house grievance procedure only. Ten states use an independent ombudsman. Only eight states have neither procedure.

The 18 states with an ombudsman system were asked to indicate to whom the ombudsman reported. Early programs of this type were criticized as being a facade because the ombudsman reported directly to the head of the institution against whom the complaint was lodged. Based on the response to our survey, only one state continues to place the ombudsman under the authority of the institutional head. In nine states this authority is the head of the department of corrections. The remaining eight states have appointed a body independent of the department of corrections to whom the ombudsman reports. In three states this body is responsible directly to the governor. In one state the ombudsman reports directly to the legislature.

The use of grievance resolution systems is very much a phenomenon of the last ten years. Based on our best estimates, there were not less than two, and no more than eight

of these programs before 1967. Then beginning in 1969 and accelerating rapidly after 1972, more and more states adopted such a system.

The in-house grievance procedure has grown more rapidly and steadily than the ombudsman approach, which had a comparatively short-lived popularity. Of the 18 ombudsman programs we found, 11 were started between 1971 and 1974 but only three since 1974. By contrast, 11 have added an in-house program since 1974.

Disciplinary Procedures

The NAC Position. In line with its concern for offender rights, the National Advisory Commission mandated the states to make access to legal materials, legal counsel, and the courts a matter of right. Of particular concern was an inmate's right to counsel when major changes were to be made in his sentence or in the conditions of the sentence. The Commission recommended that counsel be available during post-conviction hearings related to inmate grievance proceedings, parole and probation revocation hearings, and major disciplinary hearings. The Commission further recommended that an inmate be furnished with counsel by the state if he could not afford to hire one.

The S&G Response. Twenty-eight states wrote a standard on inmate access to counsel during disciplinary hearings. Of these, 14 states accepted the sense of the NAC standard. Seven states agreed to allow access to legal counsel or to some appropriate equivalent such as law students, correctional staff, inmate paraprofessionals (jailhouse lawyers), or paralegals. Four states approved the concept of inmate access to counsel without specifying procedures. One state would permit counsel only during preparation for a disciplinary hearing.

Twenty states wrote a standard on the question of whether the state should provide counsel for inmates without means to obtain one. Only 11 states accepted the NAC position. Three other states would provide staff assistance to prisoners during hearings. The six remaining states were more chary: three would provide legal services only insofar as required by current court rulings and administrative policies; and three would help "facilitate" inmate access to legal counsel.

Practice. Eleven out of 45 states responding said they allow inmates to have legal counsel at major disciplinary hearings. Two other states permit an attorney at the hearing only if the charges could result in a felony indictment. The remaining states do not let an inmate have an attorney.

Of the 13 states permitting an attorney, ten responded to a follow-up question about whether an attorney was provided to indigent inmates. Four states said they do provide

an attorney, and another provides inmate paraprofessional as defense counsel. One of the two states permitting an attorney only in felony cases will provide the attorney if requested by the inmate.

The Use of Inmate Segregation

Segregation, or solitary confinement, is a common device in institutions. *Administrative* segregation is usually distinguished from *disciplinary* segregation. The former is imposed for a variety of reasons: to protect an inmate from other inmates, to separate one who poses a danger or incitement to others, or to protect an inmate from self-inflicted injury.

Disciplinary segregation is imposed as a punishment. Inmates who commit serious infractions are sentenced to a period of solitary confinement, usually in a facility designed for that purpose. Administrative segregation, by contrast, may be served in the inmate's own cell.

The NAC Position. The NAC echoed the concerns of other commissions, professional groups, and correctional practitioners--that segregation is a frequently abused tactic: the conditions under which it is served are often unnecessarily harsh, or harmful; and the use of lengthy confinement for keeping order defeats its own purpose by embittering the inmate. The Commission recommended that disciplinary segregation be used only as a last resort, and further that it should last no more than ten days. The Commission did not deal with the use of administrative segregation.

The NAC's position was somewhat at odds with the standards set by the ACA, as the Commission itself acknowledged in its commentary on the standard. The ACA recommended that disciplinary segregation be imposed rarely for more than 15 days and never beyond 30 days.* In other respects, the NAC standards agree generally with the ACA's position.

The S&G Response. Twenty states wrote a standard on the use of segregation. Seven states accepted the NAC's position intact, including the ten-day limit on disciplinary segregation; one state shortened the maximum period to seven days, and four states extended it to 15 days.

The remaining eight states confined their discussion to administrative policies rather than specific time limits.

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*American Correctional Association, *Manual of Correctional Standards*, 3rd Ed. Washington, D.C., 1966. pp. 414-419.

Two states mandated the development of policies and procedures, including time limits. Four states required sentence reviews after set periods: ten days in the case of three states, and three days for the rest. The remaining two states simply prescribed that segregation be used only as a "last resort" and made no other recommendations on the issue.

Practice. Segregation practices vary considerably. Table 13.9 presents the maximum periods of disciplinary solitary confinement that can be imposed, and the number of days between reviews of whether further confinement is necessary.

Table 13.9. Maximum Length of Solitary Confinement for Disciplinary Purposes by Period Between Sentence Reviews. (Number of States)

	PERIOD BETWEEN REVIEWS								
MAXIMUM	1 Day	2 to 5	6 to 10	11 to 15	16 to 20	More Than 30 Days	No Review	No Answer	TOTAL
0 Days or Less	-	-	1	-	-	-	5	2	8
11 to 15 Days	-	3	-	-	-	-	2	3	8
16 to 30 Days	1	-	-	-	1	-	3	2	7
31 to 60 Days	-	-	-	-	-	-	1	-	1
61 to 90 Days	-	-	1	-	1	-	-	-	2
91 to 180 Days	-	-	1	-	1	-	-	-	2
More Than 180 Days	-	-	-	-	2	-	-	1	3*
No Maximum	-	-	1	-	4	2	1	-	8
No Answer	-	-	-	-	-	-	-	7	7
TOTAL	1	3	4	0	9	2	12	15	46

*Maximum over 180 days are: 1 year (2 states) and 3 years (1 state).

As the table indicates, extensive periods of disciplinary solitary confinement can still be imposed in several states. Only eight states meet the NAC maximum of ten days or less. Sixteen states meet the ACA's recommended limit of 15 days or less. Twenty-three states meet the ACA's maximum limit of

30 days. Of the 15 remaining states, over half have no upper limit (eight states), and three others have upper limits of one year (two states) and three years (one state).

The periods between decision reviews vary as much as the maximum sentences. The most common practice is to have no fixed period between reviews--a practice that may reflect flexibility or an absence of safeguards. However, most of the states with no fixed review period have relatively lower maximum sentences. Only two states can impose a segregation sentence over 30 days without any review requirement. Only one state has no upper limit on sentences *and* no review requirement.

Table 13.10 presents the maximum periods for *Administrative Segregation* decisions. There is far less variation

Table 13.10. Maximum Length of Solitary Confinement for Administrative Purposes by Period Between Sentence Reviews. (Number of States)

MAXIMUM PERIOD OF CONFINEMENT	PERIOD BETWEEN REVIEWS: 1 Day	2 to 5	6 to 10	11 to 15	16 to 20	More Than 30 Days	No Review	No Answer	TOTAL
0 Days or Less	-	2	-	-	-	-	1	2	5
11 to 15 Days	-	-	1	-	-	-	-	-	1
16 to 30 Days	1	-	-	-	2	-	-	-	3
31 to 60 Days	-	-	-	-	-	-	-	-	2
61 to 90 Days	-	-	-	-	-	-	-	-	0
91 to 180 Days	-	-	-	-	1	-	-	-	1
More Than 180 Days	-	-	-	-	1	1	-	-	2
No Maximum	-	-	1	1	16	4	3	-	25
No Answer	-	-	-	-	-	-	-	7	7
TOTAL	1	2	2	1	20	5	4	11	46

in practice in this area than in disciplinary segregation. Twenty-five of the 39 states who responded to this question have no upper limit on the period of administrative segregation. Of the 14 states with stated maximums, nine have limits of 30 days or less. The two states with maximums over 180 days have both set them at one year.

Although there are fewer limits on administrative segregation than on disciplinary segregation decisions, the former make much greater use of regular reviews. Only four states have no review requirement for administrative confinement, and three of those four have no maximum limit.

The most popular review period by far is 30 days. Shorter periods are used in six states, longer in five; but with 20 states using it, 30 days is the standard.

Cell Occupancy

The NAC Position. In 1973, NAC recommended that, as a long-term goal, correctional institutions should be designed to provide "each inmate with his own room or cell of adequate size." Recognizing that this standard would be difficult to meet immediately, the Commission expressed concern over the effect of existing over-crowding on the physical and mental health of inmates. A general decrease in time-served, as recommended, was supposed to make realization of a long-term goal possible. If no progress was made after a reasonable time, the Commission recommended that substandard facilities be condemned and closed.

The recent rise in inmate population size has created serious over-crowding problems. Recent reports of temporary housing, the conversion of recreational areas to dormitories, and similar measures have underscored this problem.

The S&G Response. The NAC's recommendation was given cool reception. Only 18 states wrote a standard dealing with the subject. Of these, only five accepted the sense of the NAC recommendation. Six states accepted the concept of individual cells, but did not add any mandate to close sub-standard facilities. Two states responded in a similar fashion by limiting the single-person cell concept only to new facilities. Five states would only go so far as to mandate that each inmate should be provided with "adequate" space.

Practice. Despite the reports of over-crowding and record prison populations, a number of states meet or approach the standard. Table 13.11 presents the distribution of inmates housed in individual cells or rooms in adult and juvenile corrections agencies. The average percentage among the 37 states responding is 47.5 percent of adults and 35.5 percent of juveniles.

Table 13.11. Percentage of Inmates Housed in Individual Cells or Rooms in Adult and Juvenile Corrections Agencies. (Number of States)

Percent in Individual Cells or Rooms	Adult Agencies	Juvenile Agencies
0.0%	0	3
1-10%	7	4
11-20%	7	1
21-30%	0	5
31-40%	4	2
41-50%	1	1
51-60%	4	0
61-70%	4	3
71-80%	2	0
81-90%	3	2
91-99%	2	0
100%	3	1
SUBTOTAL	37	22
No Answer	9	24
TOTAL	46	46
Mean	47.5%	35.5%
Median	42.5%	30.0%

Access to Records

The NAC Position. As part of its review of issues relating to the maintenance of criminal justice information systems, the Commission expressed concern about inaccurate personal information and the inability of persons with criminal records to check or challenge those records. Insofar as these records could affect the future of an offender, both inside and outside the criminal justice system, the Commission recommended that offenders be given access to all records kept on them, excluding intelligence files.

The S&G Response. Sixteen of the 21 states that do provide access indicated the date when this policy was established. These data suggest that access policies have been developed only recently. One state had such a policy prior to 1967. Within the last ten years, 15 states have adopted record access policies: one state in each of the years 1970, 1971, and 1972; two states in 1974; three states in 1975; six states in 1976; and one state in 1977.

Practice. Our survey found an almost even split among the states in this area of practice. Twenty-one states permit access to criminal records, 24 do not. (One state did not respond to this question.)

The Restoration of Civil Rights and the Elimination of Occupational Restrictions

The NAC Position. The historical practice of depriving convicted offenders of certain civil rights and placing restrictions on their occupational choices has been criticized as an unnecessary additional form of punishment. The Commission took the position that ex-offenders should not be adversely affected in their civil status, and that laws depriving them of these rights should be repealed. The Commission took special cognizance of laws automatically barring ex-offenders from occupations requiring a state license. These laws, the Commission said, should be restructured to permit a case-by-case review to determine whether or not an ex-offender should be granted a license. The Commission did accept the concept that occupations directly related to the offense for which an offender was convicted could be barred to that offender.

The S&G Response. Twenty-four states wrote a standard relating to the restoration of an offender's civil rights. Eight states adopted a standard essentially equivalent to the NAC standard. Eleven states adopted the position that correctional agencies should assist inmates in the restoration of their civil rights by providing related services. Five states would only support the concept that offenders' rights should be restored, but did not specify any specific legislative or other action to be undertaken.

The states' response with respect to the removal of employment barriers was generally unfavorable. Eleven states adopted standards calling for the removal of all unreasonable employment barriers, including the exclusion of ex-offenders from public employment. Four states called for the enactment of legislation to protect ex-offenders from discrimination in employment. Of the remaining seven states writing a standard in this area, five made only vague reference to the employment rights of ex-offenders, one called for the vigorous enforcement of existing anti-discrimination laws, and one actually called for the passage of new laws creating limitations on ex-offender employment. The remaining 18 states wrote no standards in this area.

Practice. The actual practice of the states in these areas is extremely varied. In eight states there is no legal provision for the restoration of civil rights after release. In ten states, an inmate may have his or her rights restored, but only after all obligations to the state (sentence or parole) have been served. In 15 states an inmate's rights are only partially restored, and in 11 states all rights are restored at release. One state reported that inmates do not lose any rights and thus have none to be restored.

Employment restrictions on ex-offenders remain common. Only eight states reported that ex-offenders are not barred from any occupations. Seventeen states bar ex-offenders from occupations requiring a state license. Ten states bar ex-offenders from occupations related to the specific offense the offender committed. Eight states bar ex-offenders from both forms of employment.

FACILITY CONSTRUCTION

New Construction in Adult Corrections

The NAC Position. NAC recommended that new construction in corrections, both adult and juvenile, be limited as much as possible. The Commission believed that wherever possible noninstitutional alternatives should be sought by the states. If an expansion became necessary, new construction should be limited to small community-based facilities. New major facilities were to be prohibited unless a thorough systems analysis demonstrated that no alternative existed.

The S&C Response. Of the 41 states for which criminal justice standards are available, 22 states adopted the sense of the Commission's position. Three additional states endorsed new construction if a need were demonstrated. One state adopted a standard that new construction be planned so that inmates could be housed in institutions with a homogeneous population. Two states rejected the standard, arguing that new construction should be allowed. One of these limited any new construction to a maximum of 400 beds per unit.

Practice. The standards were written in the mid-1970s. Since 1975 prison populations have increased rapidly, and several states have been forced to begin major construction programs to keep up with the demand for bed space. This trend is clearly demonstrated in the data current as of January 1978.

Correctional administrators were asked to indicate whether construction or renovation was underway or planned. Only two of the 46 states responding said no. One of these indicated that its present facilities were considered adequate, but the other reported that the lack of construction was due primarily to a lack of funds.

In the remaining 44 states, various types of construction were underway. Overall, 490 separate correctional units were being constructed, renovated, or planned, affecting approximately 62,500 beds. Although three states reported that the new construction was merely to replace out-dated facilities and would not result in any increase in capacity, the data presented here suggest a major increase in overall prison capacity during the next few years. Even presuming

that none of the renovation programs involve an increase in capacity, and subtracting the planned capacity in the three states already mentioned, the estimated increase in capacity will be approximately 48,000 beds.

Tables 13.12, 13.13, and 13.14 present the current level of planning, renovation, and construction in adult corrections. Partial responses explain the discrepancies in the numbers reported.

Table 13.12. Adult Correctional Facilities Being Planned in January 1978

	Number of States	Number of Units	Total Capacity	Average Capacity
Community Based	18	286	9,545	32.0
Temporary Quarters	4	2	370	185.0
Minimum Security	10	10	1,477	147.7
Medium Security	21	41	16,270	397.8
Maximum Security	12	18	5,114	300.8
TOTAL	34*	357	32,776	91.8

*Refers to the number of states planning at least one type of facility in 1978.

Table 13.13 Adult Correctional Facilities Renovated in January 1978.

	Number of States	Number of Units	Total Capacity	Average Capacity
Community Based	8	6	789	131.5
Temporary Quarters	3	2	300	150.0
Minimum Security	9	8	1,340	167.5
Medium Security	11	27	4,430	164.1
Maximum Security	7	11	5,154	468.5
TOTAL	21*	54	12,013	222.5

*Refers to the number of states that are renovating facilities.

Table 13.14 Adult Correctional Facilities Constructed in January 1978.

	Number of States	Number of Units	Total Capacity	Average Capacity
Community Based	4	2	110	55.0
Temporary Quarters	3	32	1,024	32.0
Minimum Security	8	6	925	154.2
Medium Security	18	27	8,778	325.1
Maximum Security	13	12	6,844	570.3
TOTAL	26*	79	17,844	223.8

*Refers to the number of states with facilities under construction.

The NAC Position. NAC emphatically opposed new major construction in juvenile corrections. Institutionalization was considered to be an inappropriate disposition for all but a small number of juveniles. The Commission recommended a complete moritorium on new construction, except to replace substandard facilities. Suitable alternatives in the community were to be developed.

The Commission also dealt with the construction of juvenile detention facilities. If analysis indicated a clear need to construct or renovate such facilities, that Commission recommended that they be limited to a capacity of no more than 30 residents, and that individual rooms be provided.

The S&G Response. The states responded very unevenly to the NAC recommendations. Ten states accepted the sense of the NAC standard and called for a complete moritorium. Nine states allowed themselves more latitude, making the initiation of new construction contingent on a thorough analysis of other alternatives or of the total needs of the system. The remaining states--22--did not address this standard.

The states were generally silent on limiting the capacity of new detention facilities. Only 12 states wrote standards on this topic. Eight accepted the sense of the NAC standard as written. Three made the requirement more stringent by lowering the limit of 20 residents. The remaining state merely stipulated that standards for the general operation of juvenile detention facilities should be developed.

Practice. Although the states responded to the NAC proposal with muted enthusiasm, our survey indicates that little new construction or renovation is now underway or being planned in juvenile corrections. A total of 31 states responded to our question about new construction. Of these, 13 indicated that no new construction was planned or underway. Present facilities were considered adequate for the demands put on them, according to nine states. Three indicated that the lack of new construction was a matter of policy. Only one state reported that a lack of revenues prevented new construction.

In the 18 states that were planning, constructing, or renovating juvenile institutions, the level of activity was low, particularly when compared with the level found in adult corrections. Only 415 units were being planned or constructed, affecting slightly more than 2,100 bed spaces. Of these, 361 units were being renovated (accounting for 1,388 beds). An additional 46 units were in the planning stage, accounting for 589 beds. Thus, new construction was taking place for only eight units containing 140 beds.

Tables 13.15, 13.16, and 13.17 show the current level construction in juvenile corrections. The table does not show construction activity on one type of unit, "temporary" quarters. No state reported activity in this area. Discrepancies in numbers shown are due to partial reporting from two states, both in the planning of nonsecure detention facilities.

Almost all of the construction reported has a capacity of less than 100 beds, and the great majority have a capacity below 50 beds. Only the more secure facilities tended to be of substantial size.

Table 13.15. Juvenile Corrections Facilities Being Planned in January 1978.

Type of Facility	Number of States	Number of Units	Total Capacity	Average Capacity
Community Based	5	21	329	15.7
Secure Detention	2	2	170	85.0
Nonsecure Detention	2	2	Not Reported	--
Maximum Security	2	2	66	33.0
Training Schools	1	1	24	24.0
Camps & Ranches	0	0	0	0.0
TOTAL	12	28	589	22.7

Table 13.16. Juvenile Corrections Facilities Being Renovated in January 1978.

Type of Facility	Number of States	Number of Units	Total Capacity	Average Capacity
Community Based	0	0	0	0.0
Secure Detention	0	0	0	0.0
Nonsecure Detention	2	354	760	2.1
Maximum Security	1	2	30	15.0
Training Schools	2	3	440	146.7
Camps & Ranches	2	2	128	64.0
TOTAL	7	361	1,358	3.8

Table 13.17. Juvenile Corrections Facilities Being Constructed in January 1978.

Type of Facility	Number of States	Number of Units	Total Capacity	Average Capacity
Community Based	0	0	0	0.0
Secure Detention	1	1	50	50.0
Nonsecure Detention	0	0	0	0.0
Maximum Security	1	1	36	36.0
Training Schools	1	6	54	9.0
Camps & Ranches	0	0	0	0.0
TOTAL	3	8	140	17.5

LOCAL CORRECTIONAL FACILITIES

State Control of Local Facilities

The local correctional facility has been the focus of much criticism and concern in corrections. Yet, conditions in local jails, by all accounts, continue to defy reform. The accepted wisdom is that the heart of the jail problem lies in its local (city or county) base of control and support. Reports of neglect, poor conditions, brutality and lack of programming in jails are usually accompanied by recommendations for increased funding and greater administrative oversight ingredients that tend to be in short supply at the local level.

The NAC Position. Reflecting on the decades of criticism and efforts to reform the local jail, the NAC rejected simple reform. The Commission called on the states to take over direct control of local facilities by 1982. It called for the integration of local jails into a statewide program of community-based programs, using regional rather than county-based facilities to assure adequate resources.

The S&G Response. The states accepted the concept of statewide planning for local correctional agencies, but overwhelmingly rejected the idea of state control over local facilities. Twenty-two states wrote a standard relating to statewide planning, and every one of them accepted the sense of the NAC standard. In contrast, 33 states wrote a standard relating to state control over local facilities, and only nine accepted the sense of the NAC standard. In one of these states the transfer of control to state authority had already been accomplished. Four states mandated a study of the feasibility of incorporating local jails into the state system. Pending the conclusions of such a study, these state commissions called for the development and enforcement of state jail standards.

The largest group of states rejected the idea of state control and substituted instead the use of state-enforced jail standards. Eighteen states fell into this category. One state called for the continuation of local control over jails without state interference.

Practice. Forty-three of the 46 states responding to the survey provided information about state-level activity relating to local correctional facilities. In all but 11 of these states some type of state involvement was reported.

Only three states reported that state control was established as a policy, and in one of these it was purely a voluntary program available to local governments. The latter was a response to the state's policy of placing its prisoners in local jails to relieve overcrowding in state-run facilities. It was tied to a program of mandatory state jail standards and inspection.

Local control is maintained in the remaining 29 states with varying degrees of state intervention and overight. In two states this involvement is limited to the provision of a state subsidy to local jails, with no additional oversight or requirements.

Eight other states also provide a subsidy to local jails, but with additional constraints. In at least four of these states (we only have partial information on this), the subsidy is purely voluntary, and in at least two states it is mandatory. But, voluntary or mandatory, the subsidy is conditioned by mandatory state-level inspection and/or standards in all but one instance.

Apart from direct state control, the most vigorous form of oversight is through state-level standards and inspection programs. Table 13.18 presents the distribution of states according to the kinds of standards and/or inspection systems they maintain.

Table 13.18. State Jail Standards and Inspection Systems.

		STATE JAIL INSPECTION				
STATE JAIL STANDARDS:		YES			NO	TOTAL
		Mandatory	Voluntary	No Answer	Inspection	
YES	Mandatory	11	1	0	1	13
	Voluntary	1	4	1	0	6
NO STANDARDS		5	3	2	14	24
TOTAL		17	8	3	15	43
NO ANSWER					TOTAL	3 / 46

The most common pattern is for a state to maintain a mandatory state standard and inspection system. Under the assumption that standards are meaningless unless there is some way to enforce them, it is useful to note that only two states with mandatory jail standards fail to impose an inspection requirement on local jails. States that have adopted voluntary state jail standards also tend to adopt voluntary inspection systems.

TRAINING AND EDUCATION

Like most of criminal justice, corrections is a labor-intensive institution. Consequently, the standards and practices relating to personnel issues are among the more important aspects of corrections. Our survey touched on the following personnel topics:

- Entry-level educational requirements for corrections officers
- Minimum training requirements
- Agency policies toward the educational advancement of employees
- Collective negotiation between employees and management
- Work stoppages and penalties.

Educational Requirements

The overwhelming majority of correctional agencies require at least a high school education or its equivalent as a minimum educational requirement for entry-level corrections officers. Thirty-four states out of 46 states responding reported that requirement. One state requires a high school education plus some evidence of previous supervisory experience.

The presence of EEO and other anti-discrimination policies were said to have caused some states to eliminate or lower their educational requirements. Four states require an educational attainment of less than 12 years; two states require a 10th grade education; one state requires an 8th grade education; and one state requires only a 4th grade education at entry level. Two states only require new corrections officers to pass an examination on the basic skills required on the job (reading and writing, speaking English). Five states have no minimum educational requirements whatsoever.

Educational Incentive

The NAC Standard. Although the Commission did not state any minimum educational standard for correctional employees, it did strongly urge the development of incentives for employees to enhance their education after employment. The kinds of incentives it proposed include:

- The revision of work schedules and hours to permit employees to attend classes
- Provision of financial assistance to employees to defray the costs of additional education
- Salary incentives to obtain more education
- Provision of promotions to employees who go on for more education

The States' Response. Nineteen states signed off on the NAC's proposal with little revision. Five states would only endorse the concept of educational incentives, without specifying what they were to be. One state limited the incentives to appropriate salary increases, and a second only wanted the state to encourage participation in in-house training opportunities. In all, 25 of 41 states indicated a basic agreement with the idea of encouraging employees to continue their education.

Practice. Practice appears to run ahead of standards on this issue. Thirty-eight states provide incentives to their employees to further their education. Thirty states will adjust an employee's hours to permit class attendance. Twenty-one states make education a criteria for promotion. Fifteen states provide financial assistance. Four states provide pay incentives for higher educational attainment.

Table 13.19 presents the mix of incentive provided by correctional agencies to encourage educational enhancement.

Table 13.19. Mix of Incentives Provided to Correctional Employees to Continue Their Education.

Incentives Provided	Number of States
• Adust Hours and Promotion	11
• Adjust Hours only	8
• Adjust Hours and Financial Assistance	6
• Adjust Hours, Financial Assistance and Promotion	4
• Financial Assistance only	2
• Financial Assistance and Promotion	2
• Adjust hours, pay incentive, and Promotion incentive	1
• Financial assistance, pay incentive and promotion	1
• Pay incentive and promotion	1
• Promotion incentive only	1
• Pay incentive only	1

Adjusting work hours is the easiest type of incentive to provide, and also the most widespread. But most states that adjust an employee's hours also provide some other incentive as well. Incentive pay is the most costly form of incentive to provide, and is the least widespread. But only one of the four states that provide incentive pay fails to provide some other form of incentive as well.

Training

The NAC Standard. The Commission set a flat standard of 60 hours of training for all newly hired correctional employees, and an additional 40 hours of in-service training for all employees each subsequent year of employment. The Commission provided no explanation for these levels.

The S&G Response. Thirty-six of the 41 states wrote a standard relating to minimum training levels in corrections. Of these, 25 states specified an exact number of hours each employee was to be trained. Three states set minimums over the recommended NAC levels, and three states reduced the minimum number of hours. Nineteen states adjusted the levels recommended by NAC.

The remaining 11 states did not set a specific number of hours, but endorsed the notion that employees should receive training (eight states), or called for the creation of a commission to advise on correctional training needs and levels (three states).

Practice. Tables 13.20 and 13.21 present the results of our survey of correctional administrators with respect to minimum training entry-level and in-service training hours for certain classes of employees. The correctional occupations in question are:

- Correctional Officers
- Classification Counselors
- Probation and Parole Officers
- Caseworkers
- Other Employees in contact with inmates.

The tables indicate that most states have set minimum training standards and that most states meet or exceed the levels suggested by NAC. Correctional officers and probation and

Table 13.20. Hours of Entry-Level Training Provided, January 1978.

Number of Hours	Correctional Officer	Classification Counselor	Probation/ Parole	Caseworker	Other
	Correctional Personnel Position				
Less than 20	0	1	1	1	1
20-39	1	2	1	2	2
40-79	3	4	4	3	3
80-119	13	7	7	7	8
120-159	6	4	3	3	2
160-239	5	2	3	2	3
240 or more	7	1	3	0	0
SUBTOTAL	35	21	22	18	19
No Minimum	3	10	10	12	11
No Answer	7	15	14	16	14
Other Answer	1	0	0	0	2
TOTAL	46	46	46	46	46
Average	129.3 hrs.	90.4	121.8	83.2	84.0
Median	108.0 hrs.	80.0	80.0	80.0	80.0

Table 13.21. Hours of In-Service Training Provided, January 1978.

Number of Hours	Correctional Officer	Classification Counselor	Probation/ Parole	Caseworker	Other
	Correctional Personnel Position				
Less than 20	0	0	1	0	0
20-39	7	5	8	4	5
40-59	11	7	6	6	5
60-79	3	0	0	0	1
80-119	5	1	3	1	3
120-159	0	0	0	0	0
160-239	2	1	2	1	1
240 or more	1	1	0	1	1
SUBTOTAL	29	15	20	13	16
No Minimum	4	15	12	15	14
No Answer	10	14	11	16	14
Other Answer	3	2	3	2	2
TOTAL	46	46	46	46	46
Average	61.8	62.5	51.8	65.5	67.7
Median	40.0	40.0	40.0	40.0	40.0

parole officers tend to receive more training than the other occupations, as can be seen by examining the average hours reported. In-service minimums tend to be lower than entry-level minimums by a considerable margin in all cases, and there is a greater likelihood that a state will have set a minimum for entry-level training than for in-service training.

The NAC Position. Unionization is one of the explosive issues in corrections. Many in corrections oppose the very concept of public employees negotiating collectively with administrators, and many more oppose the idea that public employees should have the right to strike. But unions have been created in several jurisdictions, and strikes have occurred. The National Advisory Commission skirted the issue of collective bargaining by emphasizing what management should do to handle employee relations. The Commission did come down hard on the problem of job actions by correctional workers. It called for both administrative and legislative steps to prohibit work stoppages, and encouraged management to draw up plans to meet concerted strike activities.

The S&G Response. Nineteen states wrote a standard relating to employee work stoppages in corrections. Of these, 13 adopted the sense of the NAC standard calling for a legislative prohibition. Two states called for formal administrative policies to prohibit work stoppages. The remaining four states merely urged correctional administrators to discourage such job actions, and to make plans to meet such a contingency.

Practice. Our survey reveals how far the states have come in dealing with the reality of correctional employee unionization. Twenty-three states, or exactly 50 percent of our respondents, indicated that collective bargaining was not permitted between employees and management under current state law. The other 23 states do permit collective bargaining--four states as a matter of administrative policy, and 19 states under the authority of state law.

The acceptance of collective bargaining has grown steadily since 1970. In 1967 no more than nine states had such a policy. Between 1967 and 1970 only one state was added to this group. But after 1970, there was a sharp and steady rise to 23 states.

On the question of work stoppages, the states reported widespread compliance with NAC. Thirty-six of the 46 states reported the existence of a law prohibiting correctional employees from striking. An interesting pattern develops when the states are compared on whether they permit collective bargaining and whether they prohibit strikes.

Exactly half the states in our sample that prohibit work stoppages permit collective bargaining. The other half do not. Exactly half the states that *do not* prohibit work stoppages permit collective bargaining. The other half do not--a remarkable lack of correlation between two intuitively related factors.

Prohibition of strikes has been a long-standing policy in most states. At least 18 of the 36 states with such a prohibition established it before 1967. Of the remaining 18 states with a prohibition, 11 did not give information on the date the prohibition was established. This suggests that many of these were also set up some time ago. The seven who did report a date established the policy in 1969 (one state), 1972 (two states), 1973 (one state), 1975 (two states), and 1976 (one state).

The potency of an anti-strike policy depends on the penalties that may be imposed if the policy is violated. States that reported the existence of a strike prohibition were asked to indicate which of the following penalties would or could be imposed under the policy:

- termination of employment
- suspension
- demotion
- loss of pay
- legal prosecution
- other

The most frequently cited penalty was termination of employment (22 states). Other penalties used or available, in order of frequency, are: suspension (18 states), loss of pay (17 states), prosecution (14 states), demotion (11 states), and loss of seniority (eight states).

Program Evaluation

The NAC Position. The Commission held that each correctional agency should adopt a policy of reviewing overall systems performance every six months. This evaluation, the Commission felt, should be based on recidivism rates as the most universally recognized measure of correctional effectiveness.

The S&G Response. Twenty-two states wrote a standard in this area. Fourteen states adopted NAC's formulation. Five states accepted this formulation for the six-month requirement. Three states called only for a "periodic" review of performance without specifying a basis for measurement.

Practice. We asked correctional administrators to indicate whether or not they collected, or had access to, basic information about how their system was operating and whether those data were assessed on a regular basis. Their responses indicated that a substantial majority of the states do use basic performance data to determine their performance. Of the 46 states responding, 31 indicated that they do some form of periodic performance review using recidivism or some other indicator. Recidivism was used as a measure of system performance in 23 states--the most common approach reported. However, 13 states use some other measure of performance such as parolee return rates (a variant of recidivism), prison assaults, fiscal data, informal in-house evaluations, employment after release, and formal program evaluations.

Recidivism has been criticized as a measure to correctional systems performance, and several states indicated that other measures were considered more germane in assessing how well their system was doing.

Most states evaluate their performance annually (14). A small number (2) evaluate themselves "periodically," or "as needed" indicating no fixed pattern or schedule of review. The remainder conduct their evaluation every six months (1), quarterly (2), or monthly (3). One state described its performance review process as "ongoing," indicating either a continuous process or none at all.

Utilization of modern data processing has spread rapidly. Correctional administrators were asked to indicate whether their agency operated or had access to an information system that maintained offender-based transaction statistics (OBTS), or computerized criminal histories (CCH). Forty-five states responded to the question, and of these 22 states reported access to both OBTS and CCH data. An additional four states reported access to OBTS data only, and one state reported access to CCH only. Consequently, 27 states of the responding states indicated the presence of one or both of these basic data sets. In addition, two states indicated that this capability would be available in 1979.

In the early 1970s, LEAA made the development of correctional information systems a priority goal. Since that time several states have utilized the funding and technical assistance LEAA has offered to develop these systems. Table 13.22 presents the pattern of growth since 1967 of OBTS and CCH systems. As the table shows, the two systems have developed in an almost parallel manner, and almost exclusively within the last ten years.

Table 13.22. Date That OBTS and CCH Data Systems Were Established. (Number of States)

	OBTS	CCH
PRIOR to 1967	3	1
1967 to 1970	1	2
1971 to 1974	7	8
1975 to 1978	13	9
1979 (Projected)	2	1
SUBTOTAL	26	21
OTHER STATES WITH A SYSTEM	2	3
TOTAL	28	24

Federal funding has played an important role in the development of these two data systems. Of the 28 identified OBTS systems, only four were said to have been established without Federal funding. (Six states did not answer the question regarding the use of Federal funds.) Of the four systems that did not use Federal funds, one was established prior to 1967, one was established in 1971, and two were established in 1977.

In the case of the CCH systems, only three states reported the development of the system without Federal funds. An additional six states, of which two developed their program prior to 1967, did not answer the question regarding Federal funding.

The NAC Position. The NAC recommendation for a moritorium on the construction of new major institutions for juveniles was linked to a general reduction in the use of existing institutions. The Commission saw the institution as a dehumanizing and ultimately a self-defeating approach to the rehabilitation of juvenile offenders. This was a primary theme throughout the report.

The S&G Response. The states' own standards reflect a similar attitude toward incarceration. Twenty-four of the 41 states favored the development of a plan and timetable for creating alternatives to incarceration for both adults and juveniles. Seven other states mandated a study of existing gaps in noninstitutional service--a lesser commitment, but in the same direction. The remaining states did not address this issue.

Practice. Our survey focused on the deinstitutionalization of juvenile offenders. Thirty-five states responded to a question asking about current efforts to remove juveniles from state institutions. Of these, four states reported that a deinstitutionalization program had been completed, and an additional 19 states were in the process. Thus, 23 of the 35 states responding reported an active effort to deinstitutionalize juveniles. Of the remaining 12 states, four indicated that a deinstitutionalization program was being considered. Eight states reported no activity in this area whatsoever.

The methods of deinstitutionalization used by the states are by no means standardized across the states, as indicated in Table 13.23. The most commonly reported method is the use of private residential facilities under contract with the juvenile corrections agency (15 states). The next most common approach was the use of local public facilities under a contract arrangement (13 states). Other approaches are: an acceleration in the release of juveniles in custody (nine states), the closing of state institutions (seven states), and the use of subsidy incentive to local governments (six states). Under the latter method, local agencies are subsidized to develop local programs for juveniles, and are encouraged to use those programs rather than commit juveniles to the state system.

Table 13.23. Methods Used to Deinstitutionalize Juvenile Offenders, January 1978 (Numbers of States).

	Deinstitutionalization		
Method Used:	Completed	In Process	Total
Private Facilities	2	13	15
Local Facilities	3	10	13
Accelerated Release	3	6	9
Closed Institutions	2	5	7
Local Subsidy	1	5	6
Other States' Facilities	1	1	2
Federal Facilities	0	1	1
Number of States	4	19	23

Other, infrequently used methods include: use of facilities in other states (two states), establishment of smaller, regionally based facilities (two states), development of locally based group homes (two states), reduction in the design capacity of existing institutions (one state), and the use of Federal facilities under contract with the state (one state).

The dates when deinstitutionalization efforts began is shown in Table 13.24. As the table reveals, the bulk of programs have been started since 1970. The states have apparently set different schedules for completing their deinstitutionalization efforts. One state that began its program in 1968 contemplates its completion in 1979. A second state which began in 1972 also anticipates completion in 1979. Two states began their programs in 1975 and 1976, and had already completed them by the end of 1977. Ten states had no definite target date for completing the program or indicated that the effort would be an ongoing part of the system.

The impact of deinstitutionalization on the total number of juveniles in custody was reported by 11 states. Of these, one state reported no change in the percentage of juveniles

Table 13.24. Date Deinstitutionalization Efforts Began (Number of States).

Date:	Number of States		
	Completed	In Process	Total
Prior to 1967	2	0	2
1967 to 1970	0	3	3
1971 to 1974	0	5	5
1975 to 1978	2	5	7
Subtotal	4	13	17
Other Program (No Date Provided)	0	6	6
	4	19	23

in custody. Six states reported a decrease of between five and 25 percent, and three states reported a drop of between 26 and 50 percent. Only one state reported a drop in excess of 50 percent.

Thirteen states reported the impact of deinstitutionalization on the number of status offenders in custody. This appears to be the area in which deinstitutionalization has had the greatest impact. Six states reported that all status offenders had been removed from institutions. Two other states reported a drop of 95 percent in the status offender population, and two states reported drops of 60 and 75 percent, respectively. In the three remaining states the decrease was reported to be between eight percent and 25 percent.

Five states reported that the number of adjudicated delinquents in custody dropped less than 25 percent; one state reported a drop of 25-50 percent.

Finally, the two states able to report impact in terms of the number of preadjudicated juveniles in custody reported drops of 75 percent and 100 percent, respectively.

Court Jurisdiction Over Status Offenders

The NAC Position. The Commission took the position that the nondelinquent offenses of juveniles should not be adjudicated by the juvenile courts, but should be handled outside the juvenile justice system. The Commission reasoned that problems of neglect, truancy and noncriminal unruliness did not warrant the stigmatizing effects of disposition by a court of law.

The S&G Response. Very few states accepted NAC's reasoning. Only 18 states wrote a standard in this area, and only eight of these mandated a limitation on the jurisdiction of the courts. The remaining ten states rejected the limitation of the court's jurisdiction, but they did urge the courts to prevent the incarceration of status offenders.

Practice. The practices of the states match the sentiments expressed in the standards. Eleven states reported that they have limited the jurisdiction of the juvenile courts. Twenty-seven states have not. All of the states taking this action have done so since 1970; six states between 1970 and 1974, and five states since 1975.

Correctional Code Revisions

The changes that have been made in corrections over the past ten years often required more than just minor "tinkering" with the organizational structure and statutory authority within which correctional agencies operate. Our survey indicates that since 1967 at least 27 states have comprehensively revised the state code that governs the correctional system. Table 13.25 presents the frequency distribution of states by the year they last revised their correctional code.

The table shows a definite trend toward major code revisions during the last ten years. Over half the states that have revised their codes since 1967 did so last between 1975 and 1978.

Respondents were asked to indicate briefly what the major changes were that resulted from the revision of the code. Only 18 states responded to this question, but their answers are indicative of the kinds of changes that have been made. Four different types of change were identified: changes in sentencing policies, changes in correctional programs, changes in organizational structure, and changes in the format and content of the code itself. The latter change was generally characterized as a "clean up" of the

Table 13.25. Year of Last Correctional Code Revision (Number of States)

Year Revised	Number of States
MORE THAN 10 YEARS AGO	8
1967	1
1968	2
1969	1
1970	2
1971	1
1972	1
1973	2
1974	3
1975	2
1976	2
1977	7
1978*	3
No answer	6
Total:	46

*Respondents indicated that the code revisions would become effective in 1978, although the legislation was passed earlier.

code--drawing together all of the various pieces of legislation dealing with corrections that had been passed over the years, eliminating out-dated or superceded laws, and revising the language and style of the law.

Ten states reported that the change involved a revision of sentencing policies, such as the criteria for parole eligibility, the awarding of "good time," and in one state the abolition of parole. Seven states reported a change in program availability and/or treatment philosophy. Changes in this category included: a reemphasis on rehabilitation in correctional programs; changes in inmate pay allowances; changes in prison industries; the authorization of additional programs, such as a community-based corrections program; and the transfer of medical treatment services.

Six states reported changes in the organizational structure ofcorrections, such as: the creation of a separate department of corrections, the transfer of parole functions to the department of corrections, the decentralization of correctional service administration, and the restructuring of management and administration arrangements in the agency. Seven states reported that the code revision entailed a "clean up" of the code. Only two of these states indicated that this was the only impact of the code revision.

Creation of a Correctional Master Plan

In 1973, the National Advisory Commission recommended the development of a correctional "master plan" that would cover all aspects of corrections in the state: probation, parole, local correctional facilities, and major institutions. Our survey indicates that the response of the states has been positive to these initiatives. Of the 36 states responding to the survey, 29 reported the existence of a master plan and an additional seven states reported such a plan was being developed. Table 13.26 shows the pattern of master plan development since 1967. As the table indicates, most of the master plans have been developed with or without Federal funds. Six of the seven plans currently under way are being developed with Federal funds.

Table 13.26 Number of States With a Correctional Master Plan by Year Plan was Developed and Whether Federal Funds Were Used.

Year Plan Was Developed	Federal Funds Used? Yes:	No:	No Answer:	Total:
Prior to 1970	0	0	0	0
1970	2	0	1	3
1971	0	0	0	0
1972	1	0	0	1
1973	0	0	0	0
1974	1	1	0	2
1975	0	2	0	2
1976	3	4	1	8
1977	3	5	0	8
1978	2	1	1	4
No Answer	1	0	1	2
Plan Under Development	6	0	1	7
No Plan	--	--	--	9
TOTAL:	19	13	5	46

14: CHANGE IN PRACTICE, 1967-77

APPROACH

This chapter presents the degree to which practices appear to have recently changed. The data are taken from the national survey of practice. Unlike the presentation in Chapters 10-13, we now focus on the years that respondents cited as the advent of practice.

The tables present three categories of figures. First is the *cumulative percentage of responding agencies that had adopted the practice* by 1967 or earlier, by 1972, and by 1977. Second is the *proportionate increase in the prevalence of the practice*, over a given period, calculated as $d = (a/b)-1$, where d is the increase, a is the percentage in period $t+1$ and b is the percentage in period t. The proportionate change is presented for the periods 1967-77 and 1972-77. Third is the *absolute increase in prevalence of the practice*, as percentage of respondents who adopted the practice in a given period (calculated through simple subtraction), presented for 1967-77 and 1972-77.

For each LE/CJ sector, we also present highlights, pointing out (in descending order of prevalence and growth) those elements of practice that appear to be *traditional consensus* (already adopted by 75+% of the respondents in 1967), a *recent consensus* (reaching the 75% level during the decade), an *emerging consensus* (adopted for the first time by at least 33% of the respondents during the decade, but still not adopted by an aggregate of 75%), and *growth items* (adoption doubled between 1972 and the end of 1977, to an aggregate of at least ten percent).

As in the descriptions in Chapters 10-13, we are assuming that readers come to this chapter with interests in specific items, and the presentation has been developed with that in mind. Readers who wish to explore the patterns of change in detail may obtain a copy of the data tape, which contains the changes in adoption on a year-by-year basis, and enables analyses of agencies in specific regions or agencies in cities of varying populations.

Technical Note

In some cases, it may be that an agency adopted a practice, then discontinued it during the decade. The survey did not capture that sequence.* In all cases, we believe it can be assumed that the number is small, as an examination of the items will reveal.

A more troublesome question is how to handle responses on the first half of an item in the survey (asking *whether* a practice was currently in use), with missing data on the second half (asking *when* it came into use). We have made two related assumptions: (1) dates were more likely to be given for more recent changes; and (2) dates were more likely to be unknown--and omitted--when the change occurred some years in the past. Therefore, missing data on dates can be expected to systematically bias the results toward an inflation of the real rate of change.

Together, these technical considerations led us to employ a conservative procedure. In the tables that follow, all responses that indicated a practice was in use, but omitted the year of adoption, *have been coded as "adopted in 1967 or earlier."* The procedure provides an estimated rate-of-change that tends toward a lower bound.** Thus, high as the magnitude of change in practice appears to be on many items, the reader can assume that the real magnitude is usually even higher than shown.

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* Given the large number of items, we feared that requests for historical reconstruction of practices once in use then discontinued would produce data of questionable accuracy and decimate the response rate.

** In practice, it is extremely likely that the estimate is in fact a lower bound. We use the qualifier "tends toward" because, theoretically, it is possible that an estimate of the 1967 rate of practice would still be inflated if a large enough number of agencies adopted, then discontinued a practice.

HIGHLIGHTS: POLICE PRACTICES IN CITIES LARGER THAN 25,000

Traditional Consensus

(Already at least 75 percent "Yes" in 1967). All of these elements fell in one area: recruitment and selection procedures. More than 75 percent of the responding agencies had been using a mandatory physical examination (93%), written test of mental aptitude (85%), oral interview (82%), and background investigation (79%). In the subsequent ten years, these consensus practices have become essentially universal--95 percent or higher "yes" on each of them as of 1977.

Recent Consensus

(Reached at least 75 percent "Yes" during 1967-77). Only five reached 75 percent during the decade. In each case, very rapid growth in acceptance is indicated. Programs to mark valuables with traceable numbers were the growth leader, by far. Only 13 percent of the responding agencies said they had one in 1967; 95 percent reported such programs in 1977--a remarkable increase from near nothing to near unanimity. The five were:

	% "Yes"			Difference,
	1967	1972	1977	1967-77*
Programs to mark valuables with traceable numbers	13	38	95	82
Access to regional or state training center	56	82	93	37
Civilianization of positions formerly held by sworn officers	46	66	88	42
Distribution of crime prevention materials	28	43	83	55
Variation in shift assignment by time/area	42	59	82	40

*Differences were calculated from the unrounded percentages.

Emerging Consensus

(At least 33 out of every 100 agencies *started* this program during 1967-77). The following still have not

reached the "consensus" limit of 75 percent. But they grew very rapidly, with at least 33 of every 100 agencies adding it during the decade:

	1967%	1977%	Difference
Target-hardening programs for homes	10	74	65
Target-hardening programs for commercial establishments	11	72	61
Systematic collection and analysis of patrol data by time/area	18	66	48
Annual written goals linked to budget planning	25	70	44
Diversion programs for juveniles	17	59	43
Use of a locally based computer system	12	51	39
Incentive pay for college credits	12	50	38
A separate unit for research and planning	14	51	37
Facilities for physical conditioning	16	51	36
Use of telephone reports when no investigation appears necessary	27	62	35
Computerized information system linked to state and national systems	17	50	33

Growth Items

(Use has at least doubled during 1972-1977). These measures are still not in wide use, but they show signs of catching on. On the basis of proportionate increase, they are apparently growing very rapidly. Note that we include only items in use by at least ten percent of the agencies in 1977, to eliminate ones with a large change from an insignificantly small base.

	1967	1972	1977	Change, 1972-77
Combined communications with neighboring agencies	7	10	26	+160%
Combined records with neighboring agencies	3	4	10	+150%
Diversion programs for drug/alcohol offenders	8	16	35	+120%
Expand job classification to provide advancement through patrol rank	9	15	30	+100%

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1974	1977	1967-77	1974-77	1967-77	1974-77
Operations							
Patrol officers conduct follow-up investigations	20	27	45	129	66	25	18
Shift assignment varied by time of day and location	42	59	82	96	39	40	23
Use of telephone reports in lieu of dispatch of an officer when no investigation appears necessary	27	37	62	128	66	35	25
Use of summonses or citation in lieu of taking into custody:							
For certain less serious felonies.	3	4	8	160	100	5	4
For certain misdemeanors (other than traffic).	23	38	77	240	102	54	39
Use of diversion programs for certain classes of:							
Juvenile offenders	17	29	59	255	107	43	31
Drug/alcohol offenders	8	16	35	367	120	28	19
Mentally ill offenders	13	18	26	105	46	13	8
Misdemeanants.	7	12	21	205	81	14	9
Crime prevention programs:							
Marking valuables with traceable numbers	13	38	95	616	150	82	57
Target-hardening: homes	10	21	74	674	248	65	53
Target-hardening: commercial establishments	11	23	72	566	219	61	49
Police auxiliary	53	59	64	21	8	11	5
Distribute crime prevention materials	28	43	83	197	96	55	41
Use of a crime laboratory:							
Use own laboratory	19	23	26	35	15	7	3
Use other local laboratory	20	22	25	28	15	6	3
Use a regional laboratory	11	15	26	147	75	16	11
Use a state laboratory	43	48	53	22	10	10	5
Do not use a crime laboratory	--	--	3	--	--	--	--
Police and the public schools:							
Annual (or more) presentation(s) at every school	39	57	69	78	22	31	12
Assigned officers at all junior and high schools	10	17	23	124	37	13	6
Use of geographic policing that ensures stable assignments for individual officers.	31	38	59	91	54	28	21

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1974	1977	1967-77	1974-77	1967-77	1974-77
Organization and Training							
Annual written goals linked to budget preparation	25	37	70	177	88	44	33
Planning capability:							
At least one part-time planner	7	13	20	167	52	12	7
At least one full-time planner	7	18	35	409	96	28	17
Separate research and planning unit	14	30	51	262	68	37	20
System for collection and analysis of patrol data by time and/or geographic area	18	30	66	264	120	48	36
Locally based computer system	12	28	51	332	82	39	23
Computerized information system linked to state and national systems	17	37	50	198	34	33	13
No research and planning capability	--	--	10	--	--	--	--
Existence of criminal justice coordinating councils:							
At the state state level	18	35	39	114	12	21	4
At the regional level	22	43	40	120	12	26	5
At the county level	11	20	28	151	42	17	8
At the municipal level	4	9	12	225	39	9	3
No CJ coordinating council at any level	--	--	24	--	--	--	--
Combined any of the following services with neighboring agencies?							
Communications	7	10	26	290	148	19	15
Records	3	4	10	230	136	7	6
Crime laboratory	8	11	17	104	57	9	6
Purchasing	1	3	5	275	88	3	2
Metro investigation squads	5	14	22	367	59	17	8
Organized crime units	3	8	13	300	67	9	5
Training facilities	18	27	38	110	42	20	11
Officer Selection							
Existence of commission to develop and enforce state minimum standards for selection of sworn personnel	41	60	72	74	20	31	12
Requirements for college training:							
Some college credit	3	5	8	200	80	6	4
At least an associate degree	1	3	6	950	110	6	3
At least a BA	0	1	1	100	0	0	1
No requirement for college training	--	--	85	--	--	--	--

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1974	1977	1967-77	1974-77	1967-77	1974-77
Elements in the employee recruitment and selection process:							
Written test of mental ability or aptitude	85	91	95	11	4	10	4
Oral interview	82	89	95	15	7	13	6
Physical examination	93	97	99	7	3	7	3
Physical agility	45	50	73	62	44	28	22
Psychological examination	26	39	57	116	45	31	18
Polygraph examination.	25	35	49	95	40	24	14
Indepth background investigation	79	88	95	21	8	16	7
Personnel Policies							
Provision of formal in-service training to sworn personnel	57	74	92	60	25	34	18
Access to regional or state training centers	56	82	93	66	15	37	12
Incentives to obtain college training while in-service:							
Adjustment of work hours to accommodate classes	26	41	48	86	17	22	7
Financial assistance to defray expenses.	28	45	49	75	10	21	4
Incentive pay.	12	34	50	305	47	38	16
College credit is a criterion for promotion	7	13	18	176	35	11	5
In-service physical checkups at least every two years	11	14	23	121	63	13	9
Available facilities for physical conditioning	16	24	51	228	113	36	27
Has civilianization occurred?.	46	66	88	91	34	42	23
Expanded job classification to provide advancement through the patrol rank.	9	15	30	243	100	21	15
Extent of collective bargaining:							
With representatives of sworn officers only.	25	36	49	97	35	24	13
With representatives of nonsworn personnel only.	7	10	15	100	55	7	5
With representatives of both	14	19	22	59	13	8	2
Prohibition of work stoppages by law enforcement personnel	74	78	82	11	4	8	3
Existence of a reserve officer program	48	53	56	16	6	8	3

Note: Rates and changes were computed from unrounded figures.

HIGHLIGHTS: POLICE DEPARTMENTS IN CITIES OF FEWER THAN 25,000

Traditional Consensus

The only practice that was used in 1967 by more than 75 percent of the respondents was physical examinations for new employees (82%). Most items were reported to have been in use by fewer than 20 percent.

Recent Consensus

Six more of the 51 items gained at least 75 percent acceptance by 1977. One--access to regional or state training center--enjoyed virtual unanimity, with 99 percent of the respondents reporting it. Three others came from the area of employee recruitment and selection. They were (1) a required written test of mental ability (87%); (2) a required oral interview (100%); and (3) an in-depth background investigation of potential employees. The use of physical examinations, which had been the only "traditional consensus," rose from 82 percent in 1967 to 97 percent in 1977. The final two items achieving "recent consensus" were variation in shift size with time of day and location (79%); and the establishment of programs for marking valuables with traceable numbers (82%).

Emerging Consensus

Three of these items come from the same area: helping the public fight crime through specific programs.

They are

- target-hardening of homes (4%-40%)
- target-hardening of businesses (6%-41%)
- provision of general crime-prevention information (16%-63%)

The remaining items of emerging consensus are

- use of workload studies (10%-59%)
- participates in a formal diversion program for certain delinquents (19%-65%)

- issuing citations or summonses in lieu of arrests for certain nontraffic misdemeanors (25%-68%)
- civilianization of positions (32%-72%).

Growth Items

Nearly a quarter of the items had doubled in use between 1972 and 1977, reaching a total of at least ten percent. Of these, most fell under the "emerging consensus" classification, with anticrime programs and citations in lieu of arrests the leading areas. But there were four additional growth items:

- crime prevention among the elderly (7%-36%)
- issuance of citations or summonses for some less serious felonies (3%-12%)
- diversion programs for certain drug or alcohol offenders (15%-40%)
- use of polygraph examination (13%-27%).

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Operations							
Patrol officers follow up crimes from their assigned areas beyond preliminary investigation	37	43	63	71	46	26	20
Shift size varies with time of day and location	37	49	79	115	60	42	29
Have conducted workload studies	10	14	59	464	313	49	45
Takes some complaints by telephone without immediately dispatching a police officer:							
When no investigation appears necessary	36	39	53	46	36	17	14
When higher priority calls for service occur	16	17	31	33	26	26	05
Issues citations or summonses in lieu of arrests:							
For some less serious felonies	02	03	12	600	367	11	10
For some nontraffic misdemeanors	25	32	68	175	114	43	36
Participates in a formal diversion program:							
For certain delinquents	19	29	65	238	122	45	35
For certain drug or alcohol offenders	09	15	40	340	159	31	25
For certain mentally ill offenders	15	19	33	112	71	17	14
For some misdemeanants	07	09	18	150	100	11	09
Has established programs to help the public fight crime:							
Marking valuables with traceable numbers	12	32	82	608	156	71	50
Target-hardening of homes	04	11	40	800	275	36	29
Target-hardening of businesses	06	14	41	557	187	35	27
Police auxiliary/reserves	39	45	59	50	32	20	14
Crime prevention among elderly	04	07	36	700	400	31	29
Provides general crime prevention information	16	23	63	294	173	47	40
Uses a crime lab:							
Operates its own	00	01	04	00	300	03	03
Uses another agency's	19	23	28	45	23	09	05
Uses a regional lab	06	14	25	300	75	19	11
Uses a state lab	60	65	73	21	11	12	07
Has criminal justice coordinating councils:							
At the state level	13	23	28	107	19	14	04
At the regional level	14	27	35	144	30	21	08
At the county level	15	23	30	100	31	15	07
At the municipal level	01	04	04	400	25	04	01

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Has combined services with neighboring agencies:							
Communications	25	29	46	85	56	21	17
Records	02	04	10	450	175	08	06
Staff	01	02	03	200	50	02	01
Crime laboratory	07	13	17	137	36	10	05
Purchasing	02	03	05	150	67	03	02
Metro investigation squads	04	10	14	275	36	10	04
Organized crime units	03	06	10	267	83	07	05
Training facilities	13	19	28	121	48	16	09
State has commissioned standards regulation for selection of sworn personnel	34	45	64	89	43	30	19
Employee recruitment and selection include:							
Written test of mental ability	68	74	87	28	17	19	12
Oral interview	73	86	100	37	17	27	14
Physical examination	82	89	97	18	09	15	08
Physical agility test	29	36	51	73	42	21	15
Psychological examination	19	29	49	162	67	30	20
Polygraph examination	08	13	27	233	114	19	14
In-depth background investigation	68	78	93	37	20	25	15
Requires new police officers to have some college education	01	02	05	500	200	04	04
At least an associate degree	01	03	04	400	67	04	02
At least a backelor's degree	00	00	00	---	---	--	--
Has access to regional or state training centers	70	91	99	42	09	29	08
Helps officers through college:							
By adjusting work hours to accommodate classes	21	34	49	129	45	28	15
Gives financial assistance	13	27	38	180	40	24	11
Provides incentive pay	11	21	36	233	67	25	14
Uses college credit as a criterion for promotion	06	10	16	157	64	10	06
Has civilianized positions	32	45	72	122	60	40	27

Note: Rates and changes were computed from unrounded figures.

HIGHLIGHTS: SHERIFFS DEPARTMENTS

Traditional Consensus

No traditional consensus had emerged on any of the items by 1967. The closest any item came to uniform adoption by 1967 was the requirement of an oral interview to potential employees, with only 59 percent of the respondents reporting that it was required in 1967. (We assume that oral interviews were more common in practice, even if not formally stipulated as a requirement.)

Recent Consensus

Seven of the 64 items (not quite 11%) reached a three-fourths majority by 1977. One of these was the oral interview, which had been the most widespread practice back in 1967: over the decade, it rose from 59 to 97 percent. Two more of the seven items came from the same area (employee recruitment and selection procedures): in-depth background investigation of potential employees spread to 84 percent of the sheriffs agencies; while a mandatory physical examination reached 80 percent. Two of the remaining four items attaining recent consensus came from the area of personnel policies: they were

- provision of formal in-service training to sworn personnel (78%); and
- access to regional or state training ceters (97%).

The final two items were from "Operations":

- variation in shift assignment by time of day and location (81%)
- marking valuables with traceable numbers (80%).

The *least* popular items were requirements for college credit. None of these requirements got even as high as 5% by 1977.

Emerging Consensus

Ten new items qualified. Four were from "Operations," and three of these, in turn, were crime prevention programs. They were

- use of citations or summonses in lieu of arrests for certain nontraffic misdemeanors (19%-58%)
- target-hardening of homes (4%-39%)
- target-hardening of businesses (4%-39%)
- distribution of crime prevention materials (17%-72%).

The remaining items of emerging consensus were

- annual written goals linked to budget preparation (28%-53%)
- patrol data analysis system (9%-42%)
- existence of enforcement commission for mininal state personnel selection standards (34%-74%)
- adjustment of work hours to accommodate classes (29%-62%)
- civilianization (21%-60%)
- expanded job classification to provide advancement through patrol rank (9%-41%).

Growth Items

Twelve of the 58 items reaching at least ten percent by 1977 were growth items. The most active area was planning capability, followed by diversion programs. The growth items were as follows:

- use of diversion for certain juvenile offenders (18%-39%)
- use of diversion for certain drug/alcohol offenders (12%-32%)
- use of diversion for certain misdemeanants (8%-18%)
- marking valuables with traceable numbers (27%-80%)
- use of at least one part-time planner (9%-21%)
- use of at least one full-time planner (7%-19%)
- use of separate research and planning units (9%-19%)
- merging of records with those of neighboring agencies (5%-11%)
- use of a psychological examination for recruits (11%-25%)
- use of a polygraph examination for recruits (14%-28%)
- use of college credit as a criterion for promotion (6%-12%)
- availability of physical conditioning facilities (10%-26%)

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Operations							
Patrol officers conduct follow-up investigation.	38	52	68	81	32	30	16
Shift assignment varied by time of day and location.	39	56	81	111	45	43	25
Use of telephone reports in lieu of dispatch of an officer when no investigation appears necessary	33	44	59	77	32	26	14
Use of summons or citation in lieu of taking into custody:							
For certain less serious felonies.	04	08	14	300	87	11	07
For certain misdemeaners (other than traffic).	19	33	58	208	78	39	26
Use of diversion programs for certain classes of							
Juvenile offenders	10	18	39	289	111	29	21
Drug/alcohol offenders	05	12	32	500	161	26	19
Mentally ill offenders	07	12	19	164	61	12	07
Misdemeanants.	03	08	18	600	133	16	11
Crime prevention programs:							
Marking valuables with traceable numbers	11	27	80	618	198	69	53
Target-hardening: homes	04	10	39	1000	285	36	29
Target-hardening: commercial establishments	04	11	39	850	245	35	27
Police auxiliary	38	52	66	73	27	28	14
Distribute crime prevention materials.	17	34	72	327	114	55	38
Use of crime laboratory:							
Use own laboratory	13	18	25	96	36	12	07
Use other local laboratory	16	20	24	47	17	08	04
Use a regional laboratory.	09	13	19	111	46	10	06
Use a state laboratory	40	50	56	38	11	15	06
Do not use a crime laboratory.							
Police and the public schools:							
Annual (or more) presentation(s) at every school	15	27	38	147	40	22	11
Assigned officers at all junior and senior high schools.	02	03	08	367	180	07	05
Use of geographic policing that ensures stable assignments for individual officers	23	33	54	130	63	31	21

	% "Yes"			Proportionate Change		Raw change	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Organization and Planning							
Annual written goals linked to budget preparation	28	38	53	197	89	35	25
Planning capability:							
At least one part-time planner	03	09	21	550	117	17	11
At least one full-time planner	02	07	19	800	177	17	12
Separate research and planning unit	03	09	19	517	118	16	11
System for collection and analysis of patrol data by time and/or geographic area	09	16	42	371	158	33	26
Locally-based computer system	08	18	32	300	76	24	14
Computerized information system linked to state and national systems	14	24	39	174	64	25	15
No research and planning capability							
Existence of criminal justice coordinating councils:							
At the state level	10	26	31	205	18	21	05
At the regional level	15	36	44	193	22	29	08
At the county level	05	15	27	456	72	22	11
At the municipal level	01	03	06	1000	120	05	03
Combined any of the following services with neighboring agencies?							
Communications	16	23	43	165	82	27	19
Records	04	05	11	200	110	07	06
Crime laboratory	06	11	19	236	68	14	08
Purchasing	02	04	07	225	86	05	03
Metro investigation squads							
Organized crime units	02	08	14	800	69	13	13
Training facilities	14	24	38	170	55	24	14
Officer Selection							
Existence of commission to develop and enforce state minimum standards for selection of sworn personnel	34	57	74	116	29	40	17
Requirements for college training:							
Some college credit	01	03	04	700	60	04	02
At least an associate degree	01	01	03	400	400	02	02
At least a B.A.	01	01	01	100	100	01	01
No requirement for college training							
Elements in the employee recruitment and selection process:							
Written test of mental ability or aptitude	35	45	62	79	39	27	17
Oral interview	59	76	97	63	28	38	21
Physical examination	48	62	80	67	29	32	18
Physical agility	16	22	36	119	63	19	14
Psychological examination	05	11	25	390	133	20	14
Polygraph examination	09	14	28	224	96	19	14
In-depth background investigation	45	61	84	87	38	39	23

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Personnel Policies							
Provision of formal in-service training to sworn personnel	32	49	78	142	60	46	29
Access to regional or state training centers	51	83	97	89	17	46	14
Incentives to obtain college training while in-service:							
Adjustment of work hours to accommodate classes	29	46	62	114	34	33	16
Financial assistance to defray expenses	10	18	24	142	31	14	06
Incentive pay	06	14	22	291	59	16	08
College credit is a criterion for promotion	02	06	12	500	118	10	07
In-service physical check-ups at least every two years	10	13	22	121	75	12	09
Available facilities for physical conditioning	04	10	26	525	150	22	15
Has civilianization occurred?	21	32	60	185	89	39	28
Expanded job classification to provide advancement through patrol rank	09	19	41	381	114	33	22
Extent of collective bargaining:							
With representatives of sworn officers only	06	12	21	255	70	15	09
With representatives of nonsworn personnel only	05	09	10	90	19	05	02
With representatives of both	06	11	18	183	70	12	07
Prohibition of work stoppages by law enforcement personnel	57	62	68	20	10	11	06
Existence of a reserve officer program	45	55	70	55	27	25	15

Note: Rates and changes were computed from unrounded figures.

HIGHLIGHTS: PROSECUTION

Traditional Consensus

No item had reached 75 percent of all prosecutors by 1967. The leader was the practice of discussing pre-trial release of defendants with the courts, which 57 percent of the respondents were using as standard procedure by 1967.

Recent Consensus

By 1977, two items had crossed the 75 percent threshold. Eighty percent of the respondents required plea negotiations to be entered on the court record; and 80 percent issued citations or summonses for some misdemeanors (apart from traffic violations), instead of making arrests (consistent with the police data on this topic).

Emerging Consensus

Three items fell in this category. Two of them barely made it: the use of written guidelines governing diversion (7%-39%); and the requirement that prosecutors must serve full time (30%-63%). The third item was use of information tracking systems (17%-67%).

Growth Items

Despite the low overall conformity to common policies and programs, growth *toward* such conformity was substantial. More than half of the items doubled in use between 1972 and 1977, as the list below indicates.

Has specialized units for investigating and prosecuting:
- Career criminals (2%-29%)
- Drug offenders (10%-24%)
- Organized crime (11%-24%)
- Rape (4%-25%)

Has staff primarily to screen scaes:

- Formal screening unit (10%-31%)
- Assistant (11%-32%)

Has information tracking system (17%-67%)

Issues citations or summonses in lieu of arrests for certain serious felonies (8%-20%)

Sometimes uses diversion in lieu of prosecution:
- For first offenders (13%-34%)
- For certain delinquents (14%-37%)
- For certain misdemeanants (15%-37%)
- For certain felons (8%-28%)
- For certain mentally ill (8%-17%)
- When circumstances dictate (13%-28%)

Has written guidelines governing plea negotiations (9%-33%)

Assistants and prosecutors must participate annually in continuing local education (15%-36%)

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Operations							
Has specialized units for investigating and prosecuting the following:							
Career criminals	02	02	29	1350	1060	27	26
Drug offenders	04	10	24	512	145	20	14
Organized crime	03	11	24	586	118	20	13
White collar crime	06	12	33	450	164	27	20
Public corruption	04	09	16	267	74	12	07
Juvenile crime	17	26	40	131	53	23	14
Rape	03	04	25	750	467	22	21
Has staff primarily to screen cases:							
Formal screening unit	05	10	31	589	210	27	21
Assistant	08	11	32	294	186	24	21
Uses police department's	01	02	03	150	67	02	01
State has formal ethics code for police department	14	14	21	54	48	07	07
Has information tracking system	17	28	67	297	141	50	39
Has criminal justice coordinating councils:							
At state level	21	34	38	82	11	17	04
At regional level	15	24	29	97	21	14	05
At county level	10	19	27	165	47	17	09
At municipal level	03	05	08	167	60	05	03
Has helped police write guidelines for arrests	20	28	44	115	57	23	16
Issues citations or summonses in lieu of arrests:							
For certain misdemeanors	33	49	80	142	63	47	31
For certain less serious felonies	07	09	20	193	128	13	11
Allows filing of complaints and issuing of arrest warrants without formal approval	40	41	43	09	06	03	02
Interacts with the court concerning pre-trial release	57	67	87	51	30	29	20
Sometimes uses diversion in lieu of prosecution:							
For first offenders	07	13	34	386	162	27	21
For certain delinquents	10	14	37	252	155	26	22
For certain misdemeanants	10	15	37	270	147	27	22
For certain felons	06	08	28	338	256	22	20
For certain mentally ill	06	08	17	192	106	11	09
When circumstances dictate	10	13	28	185	118	18	15

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Has written guidelines governing diversion.	07	12	39	500	225	33	27
Has eliminated preliminary hearings for misdemeanants	60	62	67	13	09	08	06
Has abolished plea negotiations:							
For certain offenders or offenses	00	01	03	600	250	03	02
For all defendants.	00	00	02	000	000	02	02
Has written guidelines governing plea negotiations.	05	09	33	560	267	28	24
Requires plea agreements to be placed in open court:							
but need not be placed on the record.	04	04	07	87	87	03	03
and must be placed on the record.	34	47	80	132	68	45	32
All prosecutors must serve full time.	30	44	63	108	44	33	19
Prosecutors must participate in entry-level training:							
Prior to taking office.	04	05	06	50	33	02	02
In first year	16	23	38	134	63	22	15
Never, but participation is recommended	04	05	11	214	144	08	07
Assistants and prosecutors must participate annually in continuing legal education	10	15	36	243	140	25	21
Such participation is only recommended.	16	26	41	152	57	25	15

Note: Rates and changes were computed from unrounded figures.

HIGHLIGHTS: PUBLIC DEFENDER OFFICES

The following table presents the public defender data in the format used for the other LE/CJ sectors, but it requires a different interpretation. Widespread use of public defender offices is a recent phenomenon. Many of the offices responding to our survey did not exist in 1967. Thus many if not most of the practices that show high rates of growth are reflecting increased numbers of public defender offices as well as increased use of the practice in question. The confounding also means that the "consensus" categories are meaningless in this instance, and they are omitted.

	%"yes" Pre 1967	%"yes" 1972	%"yes" 1977	Proportionate Change 1967-77	Proportionate Change 1972-77	Raw Δ % 1967-77	Raw Δ % 1972-77
Operations							
Funding of Public Defender's Office:							
By state only	10	18	24	136	37	14	07
Local and state	07	15	25	240	70	18	10
Local only	23	33	41	81	27	19	09
Offices located where most clients reside:							
Main office only	10	21	26	157	29	16	06
Main office and satellites	05	12	18	257	56	13	07
Satellite offices only	02	02	02	00	00	00	00
Supervises a panel of private attorneys to defend indigent defendants	06	16	26	350	64	21	10
Part of a statewide system	18	28	34	84	21	15	06
Locally based	09	14	18	100	26	09	04
Locally based and independent	22	35	43	97	23	21	08
Caseload standards	08	16	31	282	91	23	15
Has an Information Tracking System:							
Manual	16	33	54	236	64	38	21
Computerized	00	00	07	00	00	07	07
Has Criminal Justice coordinating councils:							
At state level	14	20	23	61	12	09	02
At regional level	09	14	16	82	11	07	02
At county level	07	12	19	167	60	12	07
At municipal level	02	03	04	67	25	02	01
Public representation is available at investigatory stage for:							
Likely suspects	09	18	24	154	32	15	06
Immediately upon arrest	10	18	23	128	28	13	05
At first court appearance	27	38	47	73	23	20	09
Represents inmates in all detention or early release proceedings	18	38	47	167	25	29	10
Has formal written policy for plea negotiation	02	06	10	367	75	08	04

	% "yes"			Proportionate Change		Raw Δ %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Represents Indigent Probationers at probationary status proceedings.....	45	76	96	115	26	51	20
Provides legal services to inmates who wish to appeal or collaterally attack convictions.....	39	61	74	89	23	35	14
Represents indigent parolees at any parole revocation hearing.....	15	31	50	240	62	35	19
Public representation partially funded by defendant:							
On the basis of ability to pay.....	06	16	39	562	141	33	23
In full.....	04	04	04	20	00	01	00
Uses diversion programs for certain classes of							
Juvenile offenders.....	19	31	44	132	41	25	13
Drug offenders.....	24	38	63	165	64	39	24
Mentally ill offenders.....	27	36	50	86	38	23	14
First offenders for certain offenses.....	26	37	63	141	71	37	26
Has planned for defense services during mass disorders.....	05	13	14	171	12	09	01
Selection of Public Defender:							
Elected.....	06	07	07	25	00	01	00
Appointed by court.....	09	13	15	54	11	05	01
Appointed by Commission.....	20	31	50	146	60	30	19
Appointed by a State Public Defender.....	03	06	07	150	25	04	01
Public defender employed full time.....	28	52	79	184	52	51	27
Public defenders served on fixed term.....	10	20	32	238	63	23	12
Public defenders are Civil Service employees.....	08	11	17	109	53	09	06
Public defenders must continue their legal education.....	10	25	43	354	74	34	18
Assistant public defenders must continue their legal education.....	13	28	54	311	95	41	26

Note: Rates and changes were computed from unrounded figures.

HIGHLIGHTS: COURTS

Traditional Consensus

No item achieved traditional consensus. Use of commercial bailbonding without substantial restrictions was the most widespread practice prior to 1967: 61 percent of the courts reported using it.

Recent Consensus

Only four of the 55 items attained a three-quarters consensus, even by 1977. Those were

- use of a centralized administrative rule-making authority (76%)
- use of pretrial conferences (77%)
- existence of a comprehensive judicial education program (87%)
- separation of dispositional and adjudicatory hearings (80%)

Emerging Consensus

There were eight items in this category; the first five of these came from the area of organization and administration. The eight items were

- use of central administration (state court administration) (30%-74%)
- state use of local court administrators for general jurisdiction courts (33%-67%)
- use of some of the time of already existing units for research and planning
- use of full-time research and planning unit (4%-43%)
- use of case docketing and calendaring information systems (36%-73%)
- statewide authorization of the use of summonses or citations in lieu of arrests, for certain misdemeanors (26%-67%)
- mandatory time limits for trying felony cases (29%-62%)
- removal and discipline of judges by a commission (30%-74%)

Growth Items

There were only three growth items, all of which were in the area of policy, process, and procedure. They were

- statewide authorization of the use of summonses (2%-17%)
- use of severely restricted bailbonding (13%-28%)
- standard juries with fewer than 12 persons (5%-11%)

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Organization and Administration							
Characteristics of a unified court system:							
Fully state-financed system	37	43	46	24	5	9	2
Partially state-financed	54	57	70	28	23	15	13
Central administration (state court administrator)	30	48	74	143	55	43	26
Centralized administrative rule-making authority	36	50	76	113	52	40	26
Centralized personnel system for judges	26	30	43	67	43	17	13
Centralized personnel system for non-judicial personnel	17	22	37	112	70	20	15
One state general trial court system	33	41	54	67	32	22	13
One state limited jurisdiction court system	13	22	38	183	70	24	16
Existence of state-wide judicial coordinating councils	48	52	63	32	21	15	11
Use of local court administrators by the state system:							
For general jurisdiction trial courts	33	48	67	107	41	35	20
For limited jurisdiction courts	22	33	46	110	40	24	13
For juvenile courts	24	30	33	36	7	9	2
Research and planning capability:							
One person part-time	2	7	9	300	33	7	2
One person full-time	2	4	9	300	100	7	4
Part of duties of an existing unit	4	17	43	900	150	39	26
Unit assigned full-time	2	4	41	1800	850	39	37
Use of information systems:							
Case docketing and calendaring	36	43	73	100	68	36	30
Notice to parties and/or counsel	39	45	57	47	25	18	11
Notice to prospective or paneled jurors	36	45	64	75	40	27	18
Policy, Process, and Procedure							
Statewide policy authorizing summonses or citations in lieu of taking suspects into custody:							
For certain felonies	2	2	17	700	700	15	15
For certain misdemeanors	26	35	67	158	94	41	33
None	--	--	24	---	---	--	--
Use of commercial bailbonding:							
Without substantial restrictions	61	61	65	7	7	4	4
With severe restrictions	9	13	28	225	117	20	15
No	--	--	7	---	---	--	--

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Mandatory time limits for processing a case:							
Appearance before a magistrate	18	20	38	112	89	20	18
Trial date = misdemeanors	27	31	53	100	71	27	22
Trial date = felonies	29	38	62	115	65	33	24
None	--	--	29	---	---	--	--
Use of grand jury indictments:							
In all criminal cases	36	36	36	0	0	0	0
For serious offenses only	47	47	49	5	5	2	2
For investigative purposes only	24	24	24	0	0	0	0
Not at all	--	--	11	---	---	--	--
Use of pretrial conferences	50	52	77	55	48	27	25
Use of pretrial discovery:							
Unlimited for both parties	18	24	36	100	45	18	11
Unlimited if defendant agrees	2	2	4	100	100	2	2
Full discovery for defendant only	13	18	18	33	0	4	0
Abolishment of plea negotiations	0	0	0	---	---	--	--
Jury size:							
12 persons in all cases	32	32	32	0	0	0	0
Fewer than 12 in certain instances	32	45	57	79	25	25	11
Always fewer than 12 persons	5	5	11	150	150	7	7
Distribution of presentence reports:							
Counsel only	11	13	18	60	33	7	4
Both counsel and defendants	38	47	60	59	29	22	13
Personnel Policy and Practice							
Selection of general jurisdiction judges:							
Partisan ballot	28	28	28	0	0	0	0
Non-partisan ballot	28	30	37	31	21	9	7
Elected by state legislature	4	4	4	0	0	0	0
Appointed by governor acting alone	4	4	4	0	0	0	0
Appointed by governor with assistance	24	28	43	82	54	20	15
Existence of a comprehensive judicial education program	17	41	87	400	111	70	46
Removal and discipline of judges:							
Requires action by legislature	4	4	4	0	0	0	0
Commission	30	52	74	143	42	43	22
Commission empowered to discipline only	0	2	9	---	300	9	7
Commission empowered to remove only	2	4	4	100	0	2	0

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1972	1977	1967-77	1972-77	1967-77	1972-77
Juvenile Justice							
Existence of a separate family court.	33	36	39	20	12	7	4
Separate dispositional and adjudicatory hearings.	59	73	80	35	9	20	7

Note: Rates and changes were computed from unrounded figures.

HIGHLIGHTS: CORRECTIONAL ADMINISTRATORS

The questionnaire sent to correctional administrators produced detailed information on many topics other than those covered by the attached table of change rates. The reader is referred to the discussion in Chapter 13. Note also that the table uses 1974 as the breakpoint rather than 1972 as in the preceding tables. The figures for the 1974-77 period isolates quite recent changes in the state correctional systems.

Traditional Consensus

None of the practices was reported to have been in use by 75 percent of the respondents prior to 1967. The closest was "prohibition of work stoppages by correctional employees" (65%).

Recent Consensus

Five of the items were reported as common among 75 percent or more of the responding states. The highest was work release programs, with 93 percent. Remarkably, this increase occurred almost entirely within the period 1967 to 1974, when 61 of the responding states started such a program. Even more dramatic increases, to a 1977 level of 89 percent, were recorded by drug treatment program: those available for inmates while in the institution, and those available in the community on a post-release basis. The other two items that now qualify as a "consensus" are prohibitions of work stoppages by correctional employees (78%) and credit given for time served while awaiting final disposition (90%).

Emerging Consensus

Five additional changes had not reached the 75 percent mark by 1977, but had been added in at least 33 percent of the responding states during the decade. These were:

- establishment of formal grievance procedures for inmates (13%-67%)

- maintenance of offender-based transaction statistics or computerized criminal histories (11%-63%)
- presentence reports made available prior to sentencing (25%-67%)
- establishment of state-wide jail standards (9%-44%)
- establishment of an ombudsman's office for inmates (7%-39%)

A sixth item, establishment of reception and diagnostic centers, barely missed inclusion. It increased from 43 to 76 percent, an increase involving 32 percent of the states when unrounded figures were used to compute the change.

Despite the truncated period for defining "growth items" in this section (1974 to 1977), five items qualified. Three of them involved co-corrections programs, which have enjoyed a vogue: establishment of co-corrections programs using common buildings (from 4 to 20% during the period), that share eating facilities (from 9 to 30%), and that share recreational facilities (from 9 to 26%). The other two were programs to close state institutions for juveniles (from 9 to 20% during 1974 to 1977, and from 0 to 20% for the decade); and requirement that status and nonstatus juvenile offenders be separated (from 13 to 25%).

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1974	1977	1967-77	1974-77	1967-77	1974-77
Sentencing							
Courts authorized to specify minimum sentence	19	23	37	100	60	19	14
Presentence reports made available prior to sentencing	26	47	67	164	45	42	21
Full credit given for time served while awaiting final disposition	38	78	90	140	16	53	13
Courts required to specify reason for sentence	7	7	26	267	267	19	19
Multi-judge courts use sentencing councils	6	9	11	100	33	6	3
Appeal of sentence is permitted	50	52	59	17	13	9	7
Courts retain jurisdiction over sentenced adult offenders	20	22	26	33	20	7	4
Courts authorized to modify sentences on basis of:							
Newly discovered information	45	55	66	46	19	21	10
Conditions under which sentence is being served	24	24	28	14	14	3	3
Purpose of sentence not being fulfilled	24	28	28	14	0	3	0
Programs							
Deinstitutionalization of juvenile offenders via:							
Contracts with local facilities	9	23	37	333	63	29	14
Contracts with private facilities	17	31	43	150	36	26	11
Closure of state institutions	0	9	20	---	133	20	11
Accelerated release	11	20	26	125	29	14	16
Reception and diagnostic center	43	70	76	75	8	32	5
Drug treatment programs available for inmates	16	54	89	300	60	70	32
Post-release drug programs available in community	22	56	89	300	60	67	33
Cocorrections program exists:							
Share common building	2	4	20	800	350	17	15
Share eating facilities	2	9	30	1300	250	28	22
Share recreational facilities	2	9	26	1100	200	24	17
Work-release program in operation	30	91	93	200	2	63	2
Physical separation required for:							
Status and nonstatus offenders (juveniles)	5	13	25	400	100	20	13
Adjudicated and nonadjudicated juveniles	10	15	18	75	17	8	3
Adjudicated and nonadjudicated adults	8	13	15	100	20	8	3
Formal grievance procedure for inmates	13	43	67	417	55	54	24
Ombudsman's office for inmates	7	33	39	500	20	33	7
Inmate right to counsel in disciplinary hearings	9	20	24	175	22	16	4
Right to examine one's own criminal record	16	24	47	200	91	31	22

	% "yes"			Proportionate Change		Raw change, in %	
	Pre 1967	1974	1977	1967-77	1974-77	1967-77	1974-77
Administration and Personnel							
Maintains offender-based transaction statistics or computerized criminal history	11	30	63	480	107	52	33
Collective bargaining permitted for correctional employees	22	37	50	130	35	28	13
Prohibition of work stoppages by correctional employees	65	72	78	20	9	13	7
Local Correctional Facilities							
State-wide jail standards exist	9	26	44	375	73	35	19
State conducts inspection of local facilities	33	53	60	86	13	28	7
Jails transferred to state control	0	7	7	---	0	7	0

Note: Unrounded figures were used to compute rates and raw changes.

15: LE/CJ CHANGE AND LEAA DOCTRINE

INTRODUCTION

In defining policy for allocating resources, LEAA must struggle to balance two sometimes competing objectives: to *shape* the way LE/CJ change takes place, to produce a superior system; and to *ride* with the way LE/CJ change takes place, to maximize the institutionalization of its program.

The S&G program itself reflects a distillation of the competing forces that LEAA must try to reconcile. On the one hand, rational standards and goals should guide LE/CJ change; on the other hand, local (meaning state) interests must be given a voice. So LEAA offers to sponsor 51 separate goal- and standard-setting efforts, accompanied by declarations that LEAA endorses not any particular set of standards, but the process itself. This could lead to problems, should egregiously "wrong" standards be adopted by one or more of the states. Until that situation arises, LEAA can be argued to have sidestepped the opposition to Federally imposed standards while still encouraging an improvement over the existing, standardless situation--a balancing act that LEAA must continually practice.

Typically, LEAA has shifted toward a position in which it mandates a process for spending *its* resources, and hopes that the attractiveness of the process will rub off on the far greater LE/CJ community beyond LEAA's control. In doing so, LEAA has developed something akin to doctrine. Below, we extract some key elements of that doctrine, and then examine how they match up with the way that the rest of the LE/CJ change process appears to behave.

LEAA DOCTRINE

The first and perhaps signal element of the doctrine is that *criminal justice should be regarded as a system.* LEAA has consistently emphasized the need to consider the "systemic" impact of its program. Plans for change in any one sector or component are not to be undertaken in isolation. Hence LEAA's demands for comprehensive planning on a system-wide basis, and its encouragement of interagency cooperation.

A second doctrinal element is that *change should be guided by a set of rationally developed objectives* within a framework of planning and objective evaluation. Change should occur in a timely, pro-active context, not as a series of haphazard, crisis-oriented reactions to events. This notion is behind LEAA's efforts to develop criminal justice planning. Systemic "planning" has been required for the resources LEAA allocates through the state planning agencies. Planning capability has been supported in numerous grants to individual criminal justice agencies as well. And, of course, LEAA's planning doctrine was at the bottom of the Standards and Goals Program itself--an effort to have the states develop the framework within which rational planning could take place.

An important subcomponent of this element of doctrine is the concept that *priorities should guide the allocation of scarce LE/CJ resources*. Needs for programs cannot only be identified; they can be ordered--or, in bureaucratese, "prioritized." Money and attention should be directed first at the problems with the highest priority.

Third, *change should be innovative*. This element of doctrine pertains most directly to LEAA's stance toward its own resources--the Federal Government should not be in the business of subsidizing LE/CJ functions that should be sustained by states and localities. But in a larger sense too, LEAA is in favor of innovation. It has been widely felt (with substantial evidence) that the problems of LE/CJ in this country reflect inadequate procedures as well as inadequate implementation of existing procedures.

Fourth, LEAA doctrine holds that *technology transfer* can occur widely in LE/CJ. If Des Moines develops a better system for processing misdemeanants, other jurisdictions can and will adopt that improvement if information about its virtues is properly disseminated.

LEAA doctrine could be argued to contain other elements; but these four form its basis. We compare these aspirations and assumptions with the way that major LE/CJ changes occurred in the 27 states of the sample.

THE SAMPLE OF CHANGES

The analysis is based on information gathered about a large number of discrete changes, or attempted changes, in criminal justice agencies during the past five years. The

details of the data base are given in Chapter 2 (Volume I). Briefly, information was gathered from the officials we interviewed in criminal justice agencies, from members and staffs of state legislatures, criminal justice planning agencies, professional associations, and, in some instances, well-informed private individuals. Where possible, documentary materials were also searched to identify specific changes and to clarify the details of those changes. Overall, information was obtained about 525 individual changes from the 27 states covered in the S&G field work, relating to virtually every level and aspect of criminal justice. Of these, 347 contained enough information to be included in the analysis.

The approach was a simple one. Each person we interviewed who occupied a position in an LE/CJ agency was asked to identify "the three most important" changes in that agency's policy or operations during the last five years,* explicitly avoided defining "important," asking the respondents to apply their own sense of the word. Thus, we make no assumptions about how representative the sample is in terms of the frequency or the absolute importance of the changes in the overall system. What we do know is that the changes were regarded as important by the persons we spoke to, and that we spoke to a large number of people at all levels in the system.

The sample of changes was broken down into a number of simple and fairly obvious categories. First, the changes were broken down by criminal justice sector: law enforcement, judicial process, prosecution, defense, and corrections. Three additional categories were added at this level to meet certain logical problems in the sample. These categories were labelled "juvenile justice," a category that reflects the distinctive characteristics of juvenile and adult criminal justice; "crime prevention," to properly separate programs aimed at the general rather than the criminal population; and "systems," a category that encompasses changes affecting more than one sector in the system. The breakdown among the sample was as follows:

*Often the respondents had been associated with the agency for fewer than five years; in other cases, the respondent cited a change that had occurred more than five years ago. The time period was a device to set a context for the response, not a formal sampling criterion.

Law Enforcement	95
Judicial Process	43
Prosecution	24
Defense	7
Corrections	76
Juvenile Justice	45
Crime Prevention	17
Systems	40

Second, each change was categorized as *statewide or local*. Statewide changes included those involving state-level criminal justice agencies such as the state police, the state attorney generaly, the state courts, or the state correctional authority. It also includes changes in local agencies that were mandated on a statewide basis, such as a state jail standards programs. A third category, "regional" changes, was established to separate examples of regional program from the remainder of the sample. Relatively few examples in this category were identified.

Statewide	283
Regional	5
Local	59

Third, each change was categorized by the *"mode" or vehicle by which it was implemented*. The categories distinguished among legislative, administrative, and "ordered" changes. The first two categories, legislative and administrative, are self-explanatory. The category of "ordered" changes requires some explanation. It includes all changes made as a result of a legally binding ruling by some authority outside the agency, such as a court or a regulatory commission. Although in a technical sense these changes may have been implemented through the passage of a legislative act, or through an administrative directive, the circumstances surrounding these changes were sufficiently distinctive to warrant a separate category for them.

Legislative	158
Administrative	167
Ordered	22

Fourth, each change was categorized by the *primary function of the agency affected by the change*. That is, an effort was made to describe what was different about the agency after the change was made. An initial basic distinction was drawn between "line-related" changes and "support-related" changes. This distinction reflects the idea that some changes--changes in line operations--relate primarily to the way the agency behaves vis-a-vis its

clientele. A citizen can tell the difference. Other changes--"support-related" changes--affect primarily the internal workings of the agency, and have minimal or indirect significance for the public. Under these two broad categories further distinctions were drawn.

The category of "line-related" changes was broken down into two subcategories: "program" changes and "procedural" changes. *Program* changes were defined as those relating to the particular set of services, goals, and objectives the criminal justice agency provides or pursues. It includes changes in the kinds of services the agency produces (e.g., the creation of a diversion program in a police department, or the establishment of a drug-counseling service in a juvenile detention center.) *Procedural* changes are those relating primarily to *how* the agency carries out its goals or services. That is, it refers to changes in tasks that eventually produce the desired objective, but which do not actually alter that objective. For example, to set sentencing guidelines does not affect the overall function of the judge as the person responsible for passing sentence on convicted offenders. It does, however, determine what steps the judge must take in reaching a particular sentence.

"Support-related" changes were divided into the areas of personnel, training and education, physical facilities and resources, and general organizational structure. Changes in the area of *personnel* practices refer to those involving selection, recruitment, promotion, compensation, benefits, and management-employee relations. Changes in the area of *training and education* refer to the general policies and practices of an agency toward the preparation and development of its employees. Changes in the area of *physical facilities and resources* refers to the "hardware" aspects of a criminal justice agency--the buildings it occupies, and the equipment it utilizes. Finally, under the category of *general organizational* changes, are included those involving shifts in structure and responsibility, lines of authority, decision-making procedures, and internal discipline.

Line support changes were evenly divided: 175 for the line category, 172 for the support category. The more detailed breakdown was:

Line-related	(175)	
Programs		108
Procedures		67

Support-related (172)	
Personnel	42
Training and Education	27
Physical Facilities & Resources	13
General Organizational	87
Unclassifiable	3

We now move from these basic descriptors to a consideration of how these 347 changes fit in with the four elements of doctrine listed earlier.

CHANGES AND THE ELEMENTS OF DOCTRINE

Our objective in the analysis was to focus on each element of doctrine separately, and isolate the set of actual changes in LE/CJ practice that reflects its application. By examining these cases, we could then identify the conditions under which such changes came about, the factors that encouraged them, and derive from that analysis some useful guidelines for promoting similar changes through LEAA programs.

The assumption behind this procedure--an unwarranted assumption, we found--is that the sampling procedure would provide us with examples of doctrinally relevant changes: changes based on system-wide considerations; changes that developed in the context of rational, rank-ordered objectives; changes that were conspiciously innovative; and changes that were prompted by a technology transfer process.

The sampling procedure yielded almost no cases that exemplified these characteristics. To illustrate, let us take the doctrinal element of "systemic change." The essential feature of this element is that the nature of the change takes systemic characteristics into account--that the planners have thought through the way to make the elements of the system mutually reinforcing. We found only four examples among our sample of 347 that even possibly possessed this characteristic: two statewide criminal justice information systems, the creation of a statewide department of criminal justice, and the creation of a statewide research and technical assistance capability.

Even if these four changes had been perfect examples of systemic change, a sample of four is extremely small. But, as it happened, only one of the four changes had been fully implemented by the end of 1977. And an examination of the nature of the four indicates how prosaic they were.

END