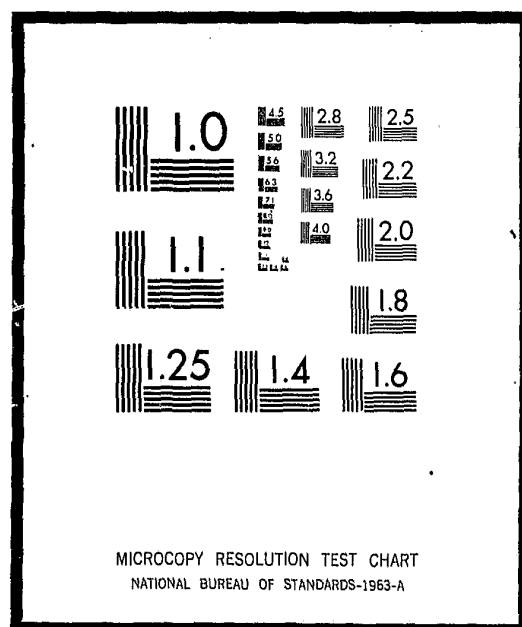


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U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

Date filmed 5/1/75

\$00996.00.000730  
ACCESSION NUMBER: 00996.00.000730  
TITLE: CRIME IN WEST VIRGINIA - PLANNING FOR A CHANGE  
PUBLICATION DATE: 6804  
AUTHOR(S): ANON  
NUMBER OF PAGES: 267  
ISSUING AGENCY: WEST VIRGINIA GOV COM ON CRIME, DELINQ AND CORRECTION  
SPONSORING AGENCY: LEAA  
GRANT/CONTRACT: 070 (239)  
SUBJECT/CONTENT: PLANNING AND EVALUATION  
COURT MANAGEMENT AND OPERATION  
CRIME DETERRENCE AND PREVENTION  
ALCOHOLISM  
STATISTICS  
WEST VIRGINIA  
DEGREE PROGRAMS  
CRIMINAL JUSTICE  
AUTO THEFT  
HALFWAY HOUSE  
SHERIFF  
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APPELLATE COURT  
FAMILY COURT  
PROBATION AND PAROLE SERVICES  
JAILS  
CIVIL SERVICE  
CORRECTIONAL REFORM  
WEST VIRGINIA

ANNOTATION:  
PROBLEMS OF LAW ENFORCEMENT, DELINQUENCY, CRIMINAL JUSTICE, CORRECTIONS, AND COMMUNITY RELATIONS IN WEST VIRGINIA ARE IDENTIFIED.

ABSTRACT:  
THIS REPORT EMBODIES THE MAJOR FINDINGS DRAWN FROM EXAMINATION OF CRIME THROUGHOUT THE STATE -- IN THE COUNTY, THE VILLAGE, AND THE CITY. IN THE BROAD PERSPECTIVE IT DEALS WITH LAW ENFORCEMENT, DELINQUENCY, CRIMINAL JUSTICE, CORRECTIONS, AND THE COMMUNITY. THE COMMITTEE HAS NOT ONLY IDENTIFIED THE MAJOR PROBLEMS IN EACH AREA AND DEVELOPED SUGGESTED ANSWERS, BUT IT HAS ESTABLISHED PRIORITIES UNDER WHICH IT BELIEVES THESE PROBLEMS SHOULD BE MET. SPECIFIC CHAPTERS HAVE BEEN INCLUDED CONCERNING IMPLEMENTED PROGRAMS AND PROPOSALS FOR WHICH FUNDS ARE BEING SOUGHT. THESE PROGRAMS ARE TAGGED WITH HIGH PRIORITY. NO EFFORT WAS MADE BY THE COMMITTEE TO DEAL WITH SPECIAL CAUSES OF CRIME WITHIN THE STATE.

NCJ-00073

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CRIME IN WEST VIRGINIA

PLANNING FOR CHANGE

070



HULETT C. SMITH, GOVERNOR

GOVERNOR'S COMMITTEE ON  
CRIME, DELINQUENCY, & CORRECTIONS

CRIME IN WEST VIRGINIA

PLANNING FOR CHANGE



HULETT C. SMITH, GOVERNOR

GOVERNOR'S COMMITTEE ON  
CRIME, DELINQUENCY, & CORRECTIONS

# CRIME IN WEST VIRGINIA

## PLANNING FOR CHANGE

A REPORT BY THE GOVERNOR'S COMMITTEE  
ON CRIME, DELINQUENCY AND CORRECTIONS

April, 1968

### PREFACE

In this era when the crack of a mail-order catalog rifle stifles the life of a President, the law enforcement officer openly charges that the high court has shackled him, rebellion in metropolitan ghettos and destruction of city blocks focuses congressional attention on anti-riot legislation, a struggle wages over the right of our government to command a citizen to war duty, and a President's Commission recommends legalizing electronic evidence to save our society from organized crime, the issues with the crime problem become very complex. But they remain and will continue to be every citizen's concern. The purpose of this work is to present a comprehensive program to meet West Virginia's crime problem.

Special credit is due Benjamin Brashears and Judge K. K. Hall for their contribution to the "Chapter on Police," to Dr. Harold Kerr and Elizabeth Hallanan with the "Chapter on Delinquency," to Charles M. Love, Jr., and Professors Willard Lorensen and Stanley Dadisman with the "Chapter on Criminal Justice," to Robert Sarver and Ed White with the "Chapter on Corrections," to N. C. Reger with the "Chapter on Minimum Standards," to Colonel T. A. Welty with the "Chapter on Central Reporting," to Dr. Bern Kuhn with the "Chapter on Law Enforcement Academic Program," to Drs. Oscar G. Mink and Joseph Moriarty with the "Chapter on a Research and Training Center for Corrections," to Karla Simon with the "Chapter on Auto Theft Prevention," and to Don Dancy and Elliot Henderson with the "Chapter on Non-criminal Treatment of Drunkenness."

The National Council on Crime and Delinquency provided the program with a consultant on numerous occasions when called upon by staff to guide and evaluate the various surveys which were made. We are especially indebted to that organization for the role it played in helping us complete this work.

The many man-hours contributed by the West Virginia Department of Public Safety in preparing IBM crime data sheets and providing consultant services in the field of law enforcement have been invaluable. We also received the unstinting assistance of the Federal Bureau of Investigation, the West Virginia Council on Crime and Delinquency, and many of the county and municipal law enforcement units and other state agencies.

We are indebted to the many resource people and advisors, whose special talents and expert knowledge have contributed to the proposal.

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## HISTORICAL

Prior to the establishment by Governor Hulett C. Smith of the Governor's Committee on Crime, Delinquency and Corrections, the previous work of similar nature made in the state was very limited. Of those making a significant contribution the following should be noted:

I. After a prison riot in 1954, Sanford Bates of New Jersey was employed by the legislature to make a survey of the penitentiary at Moundsville, and a few years later the Governor and the West Virginia Council on Crime and Delinquency employed Austin McCormick of the Osborne Association to do further study in the same area.

II. The National Council on Crime and Delinquency for several years now has continued to spend some of its resources in West Virginia. This Council is a voluntary organization of citizens and officials organized to prevent and control crime and delinquency and encourage corrective and preventive facilities and methods. Its contribution to West Virginia consists of the following:

A. In 1951 at the request of the Judge of the Intermediate Court, it made an adult probation survey in Kanawha County. It resulted in the county court's providing the criminal court in this county with adequate probation facilities. The probation department of this court gradually grew until its personnel program and facilities equalled recognized national standards.

B. In 1953 at the request of the Judge of the Domestic Relations Court of Cabell County, the Council made a study of the juvenile court and its detention home. Considerable improvement in juvenile probation and detention in that county later developed.

C. In addition to these special studies the Council made at the state level surveys consisting of:

1) A survey of juvenile court and detention services in West Virginia (1946).

- 2) A report on the West Virginia penitentiary.
- 3) A report to the public on the West Virginia Industrial School for Boys at Pruntytown (1958).

D. Sponsored the West Virginia Citizens Action Program for prevention, control and treatment of delinquency in West Virginia since 1958.

III. Under the auspices of the President's Committee on Juvenile Delinquency and Youth Crime, an in-depth survey of juvenile delinquency in Kanawha County was made. This was followed by a demonstration program for Kanawha County youth. This study was made in the name of the Charleston Youth Community, Inc., and the demonstration program was later merged into the community action program of the Office of Economic Opportunity.

IV. The West Virginia Council on Crime and Delinquency which, as previously stated, is sponsored by the National Council on Crime and Delinquency, was organized in this state on April 10, 1958. Its present chairman, Miss Elizabeth Hallanan, is also a member of the Governor's Committee. The Council is made up of 35 citizens whose objective is to fight crime with knowledge as responsible citizens. It is the action arm of the National Council on Crime and Delinquency.

The members of this organization seek to inform themselves about crime and delinquency in West Virginia, assess the adequacy of the state's correctional services, consult with correctional leaders within the state, and apply tested standards developed by the National Council on Crime and Delinquency. Fundamentally, to develop an action program to insure effective and economical services to cope with the problems.

The Council is not affiliated with any governmental group. It is non-partisan and has no vested interest in the correctional program. The Council has received private support through a grant from the Ford Foundation to the National Council on Crime and Delinquency, a grant

from the Claude Worthington Benedum Foundation to the West Virginia Council on Crime and Delinquency and through small contributions from numerous individual donors throughout the state.

Among its many accomplishments may be noted:

- A. Separation of many youthful offenders from hardened criminals in the penitentiary. It worked for improved schooling, visiting and administrative facilities in the penitentiary with the completion of construction authorized at the institution some 30 years ago but completed only when the Council pressed for it. It also helped bring about the introduction of new prison industries.
- B. At the Industrial School for Boys the goal was an extension for the school's vocational education program, plus the improvement of housing and administrative facilities and the upgrading of building maintenance.
- C. Through the Council's efforts with the Governor's Office, the Board of Probation and Parole and the legislature, a parole deficiency was corrected when a solution for release of over 600 men granted parole, but still confined because of their inability to secure employment, was found. The Council feels that this resulted in a saving to the state of more than \$100,000 in the first year.
- D. The Council tackled the delinquency prevention problem by helping to develop and support the planning project of the Charleston Youth Community, Inc., for the President's Committee on Juvenile Delinquency and Youth Crime.
- E. It assisted in arranging in cooperation with the West Virginia Council of Juvenile Court Judges and the College of Law of West Virginia University a seminar for judges with juvenile court jurisdiction -- the goal being uniform practice in the courts.

- F. A pamphlet and teaching guide on "You and the Law" for youths in junior high school classes as an attempt to reduce juvenile delinquency was prepared.
- G. Council members visited each of the state's correctional institutions, gave concentrated study to crime and delinquency problems in other states, met with judges, parole officials, legislators and the Governor, and prepared a blueprint to modernize the state's correctional structure.
- H. The Council's consultant visited 55 counties, travelled 14,000 miles in West Virginia, made 50 visits to correctional institutions, talked to groups, conducted training institutes and provided consultation at no cost to responsible officials and agencies.
- I. The Council drafted a Model Correction Act for West Virginia and sought the support of 3 administrations for its passage. In 1965 the West Virginia legislature enacted the present law creating a Division of Correction and embodying fundamentally the correctional philosophy of the Model Correction Act. Members held numerous conferences for public officials, legislators, and governors prior to the passage of the new law.

The present goals of the Council are worthy of mentioning here. It seeks to:

- . promote appointment of a policy-making Commission of Correction.
- . develop a professional career service for corrections.
- . provide effective penal management and sustained planning through career correctional leadership.
- . develop improved probation and parole services to save both people and money.
- . improve classification services in prisons to reduce escapes and increase rehabilitation.

- . improve treatment programs at all state correctional institutions.
- . eliminate the sinister effects of detention of children in county jails.
- . improve treatment services in county jails.
- . find the basic causes for delinquency and crime in West Virginia and work toward their reduction.
- . make more effective the present forestry camp, and extend the forestry camp program.
- . insure that West Virginia receives maximum benefit from its expenditures for correctional services.



## INTRODUCTION

On October 14, 1966, Governor Hulett C. Smith, in addressing the West Virginia League of Municipalities at Oglebay Park, called for a program for strengthening law enforcement in West Virginia and designed to "deal with the roots of crime and ways to stop the production of criminals." He announced the appointment of a Governor's Committee on Crime, Delinquency and Corrections charged with the task of studying the entire system in dealing with crime.

The Governor instructed his office to make application to the Office of Law Enforcement Assistance of the Justice Department in Washington for a matching grant to support a state-wide planning program. This department allocated \$25,000 to be matched by a like amount by the State of West Virginia over a 12-months' period. On September 1, 1966, work on this plan started, and then, on August 31, 1967, the Justice Department granted an additional \$18,000 on the same matching basis to be used over a 6-months' period to complete the work under way. All through this work various specialists from OLEA have spent many hours of their time consulting with staff, both in Charleston and in Washington, concerning different aspects of the state's needs and our proposal. Especially helpful has been this assistance given in the law enforcement field, including standards and training, police science and central reporting. But for the effort put forth by the Justice Department, both financial and professional, sufficient resources would not have been forthcoming to prepare this program.

This report, *Crime in West Virginia -- Planning for Change*, embodies the major findings we have drawn from our examination of crime throughout the state -- in the county, the village, and the city. In the broad perspective we have dealt with law enforcement, delinquency, criminal justice, corrections, and the community.

The Committee has not only identified the major problems in each area and developed suggested answers, but it has established priorities under which it believes these problems should be met.

Specific chapters have been included concerning implemented programs and proposals for which funds are being sought. These programs are tagged with high priority.

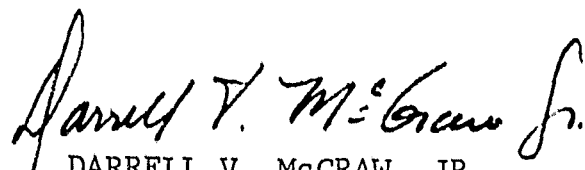
No effort was made by the Committee to deal with special causes of crime within the state. Staff and resources

would not permit this. Reference is made to periodicals and books written by leading sociologists, criminologists, and other professionals for answers to the questions that arose.

The Committee strove for a plan which would adequately meet the state's needs without respect to the difficulties that would be encountered in achieving it or the time period which would be involved before it was attained. The plan proposed here contains that type of program. It is not suggested that the changes recommended do not involve expenditures of substantial sums of tax dollars. The differences in cost, however, can be related to the degree of success to be had with the program. To settle for anything less would, for the most part, just be wasting tax money. Furthermore, many of these changes recommended involve alterations in our Constitution and statutes. For the most part we are dealing with a law enforcement and criminal justice system which has been with us long before the formation of the state. The practices have become outdated and unworkable in a modern society. True, a major surgical operation is planned for, but nothing short of this will permit us to achieve what is desired for the state.

In order to start work on one of the highest priority items, your Committee applied to the Justice Department for an outright \$15,000 grant to start a Law Enforcement Officers Minimum Standards Project. N.C. Reger, formerly with the West Virginia State Police, was employed as Executive Director on September 1, 1967. In October the Governor appointed a Police Advisory Commission of 14 members to assist in developing this program for the police. Planning for this program is scheduled for completion by June 30, 1968.

On June 30, 1967, West Virginia University made application to the Justice Department for an outright grant of \$15,000 to develop a comprehensive training program for West Virginia correctional personnel. Dr. Oscar G. Mink, Director of the Division of Clinical Studies at the University, is in charge of the program. Frank Nuzum, Deputy Director of the Division of Correction, has been employed by the school as Project Director. This program was funded by the Justice Department in December, 1967, and work is now under way.

  
DARRELL V. MCGRAW, JR.  
Chairman

## CRIME IN WEST VIRGINIA

Criminals at one time were considered sinners who chose to offend against the laws of God and man. Criminologists today regard society being in a large measure responsible for crimes committed against it. Poverty, bad living conditions, and poor education are all causes of crime. Crime is fundamentally the result of society's failure to provide a decent life for all the people and to develop a sense of social responsibility in its citizens. The trend toward urbanization, commercial exploitation, and pressures wrought by the enormous gap between our ideals and our achievements contribute to our problem. The world is rapidly changing today, and with values changing rapidly, crime increases. Crime is also higher in a society where people with different values and backgrounds are thrown together. A negative factor is that we are not a community with a settled way of life. Another problem plaguing us is that traditional respect for law is rapidly disappearing.

The President's Commission reached the conclusion that "crime is a social problem that is interwoven with almost every aspect of American life. Controlling it involves the quality of family life, the way schools are run, the way cities are planned, the way workers are hired...Controlling crime is the business of every American."<sup>1</sup> For us it is the business of every West Virginian.

One further observation can be made: of all the problems which beset West Virginia, crime is probably the most complex in nature -- the most difficult to solve. It is very often passed off with the comment "there is no solution". Yet, crime and the fear of crime in West Virginia exact a heavy toll in terms of human suffering and financial loss to both individuals and communities.

### Assessment of Crime

A great deal of effort was devoted by the committee's staff in assessing crime in the state. This was difficult because a majority of law enforcement agencies do not keep accurate, uniform records. In many instances no records are kept. The Committee used as a base for the crime assessment the reported major

<sup>1</sup>President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* xi (1967).

offense statistics of the 37 Class I, II and III cities and the West Virginia Department of Public Safety submitted to the Uniform Crime Reports of the United States Department of Justice, plus the records of 9 sheriff's departments which were made available to us. 1966 was used as the base year. The Committee relied primarily on state levy and audit statistics for cost figures for the law enforcement and criminal justice system.

**LACK OF KNOWLEDGE**

To understand crime we must have a greater knowledge of how much there is and where it occurs. But in no other area of public concern is there such a great lack of basic information on which to build a solid foundation of control, preventative, or rehabilitative programs. To illustrate, most county and smaller city law enforcement units do not keep records on crimes reported and crimes cleared by arrest. Out of a total of 128 law enforcement agencies at the state, county, and municipal levels (excluding towns and villages) only 47 of them had records available for this study. Figure 1 shows the reported major offenses crime in the state by counties.

### AMOUNT OF SERIOUS CRIMES

In 1966 there was a total of 10,926 reported major offenses committed in West Virginia.<sup>2</sup> These offenses include murder, rape, robbery, felonious assault, burglary (including breaking and entering), grand larceny, and auto theft. These are the crimes which affect West Virginians most, because their personal safety at home, at work, and on the streets is involved. Figure 2 shows the amount of this crime intermost of the number of offenses. The total offenses represent an 11% increase over 1965.

Table 1 shows the rate per 1,000 people by rural areas classes of cities. West Virginia has more than 3 times as much crime in its highly urbanized areas as in its rural communities. The rate uniformly recedes from Class I cities to rural areas. Table 2 shows the 20 cities reporting the highest rate, and Table 3 lists the 20 counties reporting the highest rural crime rate. Paradoxically, lack of educational opportunity is given as a cause of crime increase; yet the three cities with the highest crime rate have more than 60 percent of the state's higher educational students.

<sup>2</sup>Uniform Crime Reports, *Crime in the United States* 77 (1966).

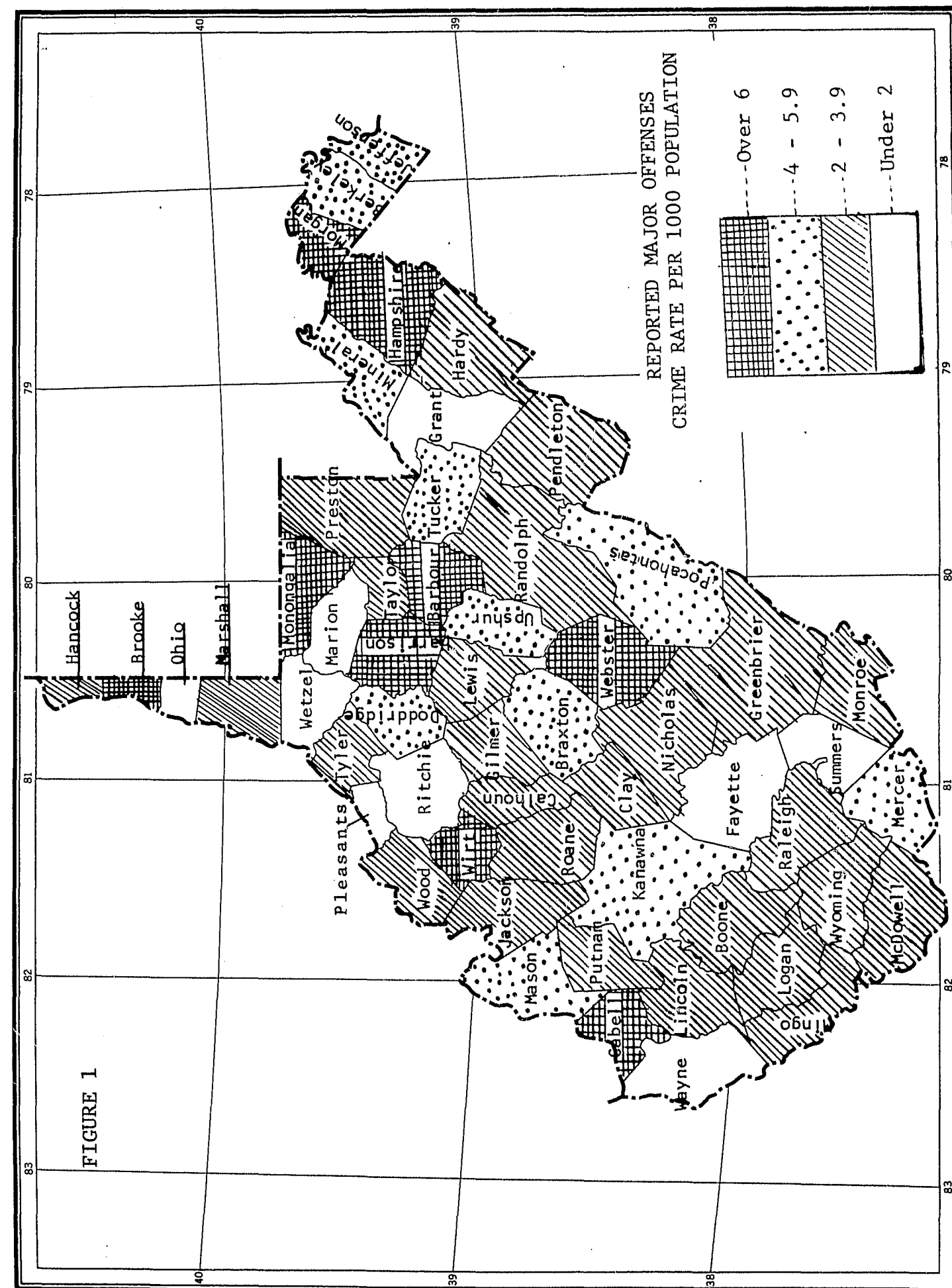
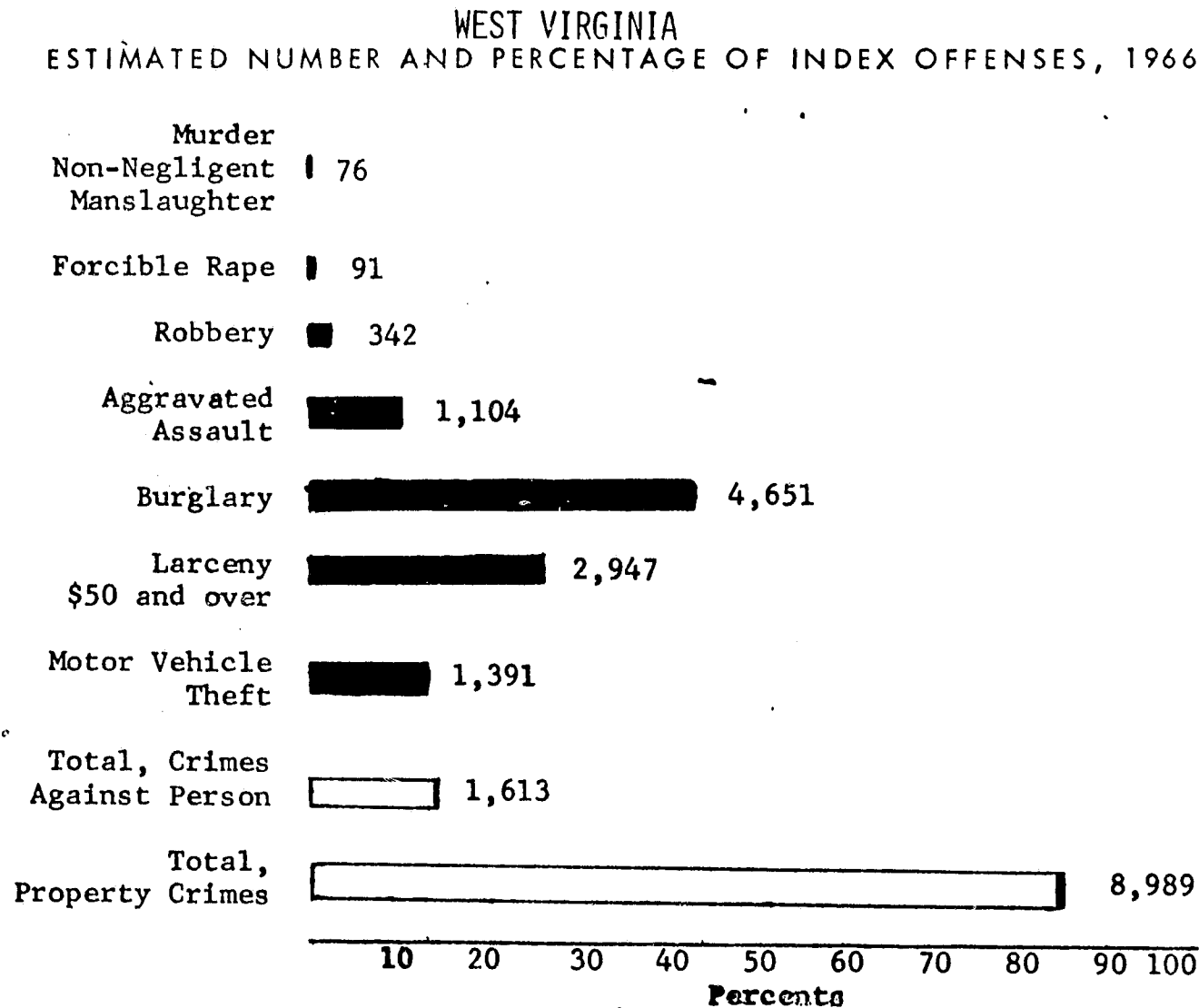


FIGURE 2



Source: Uniform Crime Reports, 1966, p. 77

TABLE 1 W.Va. MAJOR OFFENSES CRIME - 1966

CITIES	TOTAL OFFENSES	RATE PER 1000 POPULATION
Class I - Over 50,000	3820	11.42
Class II - 10,000 - 50,000	2346	9.09
Class III - 2,000 - 10,000	941	4.45
RURAL	3819	3.49

Source: Survey made by staff

TABLE 2 MAJOR OFFENSES CRIMES (CITIES) 1966

CITY	RATE PER 1000
1. Huntington	21.03
2. Charleston	18.58
3. Morgantown	15.18
4. Kenova	13.93
5. Parkersburg	9.86
6. Wheeling	9.18
7. Princeton	8.23
8. Bluefield	8.13
9. Logan	8.01
10. Beckley	7.95
11. Dunbar	7.54
12. Shinnston	7.07
13. New Martinsville	6.83
14. So. Charleston	6.38
15. Pt. Pleasant	6.32
16. Charles Town	5.39
17. Elkins	5.23
18. Chesapeake	5.03
19. Benwood	4.55
20. St. Albans	4.26

Source: Survey made by staff

TABLE 3 MAJOR OFFENSES CRIMES (COUNTIES) 1966

COUNTY	RATE PER 1000
1. Monongalia	8.32
2. Brooke	8.23
3. Cabell	7.58
4. Wirt	7.44
5. Barbour	7.25
6. Morgan	7.20
7. Hampshire	7.06
8. Webster	6.86
9. Harrison	6.11
10. Tucker	5.87
11. Jefferson	5.51
12. Mason	4.84
13. Kanawha	4.72
14. Berkeley	4.62
15. Upshur	4.33
16. Mercer	4.30
17. Braxton	4.25
18. Doddridge	4.14
19. Pocahontas	4.04
20. Mineral	4.03

Source: Survey made by staff

## ECONOMIC IMPACT

One authority estimates that employee dishonesty is responsible for 30 percent of the business failures in the nation.<sup>3</sup> Insurance is available for protection against some crimes, but not all. Some of the policies are:

TYPE OF POLICY	PREMIUMS WRITTEN - W.VA. 1966
Burglary & theft	\$ 511,643
Fidelity	751,307
Fire	13,043,059
Glass	184,141
Multiple line	13,966,179
Auto: Fire, theft Collision, etc.	24,973,184

(Source: W. Va. Insurance Commission)

## AUTO THEFT

In 1966 there were 1,391 auto thefts in West Virginia.<sup>4</sup> Based on an average value arrived at by the President's Commission of \$1,030, this amounts to \$1,432,730 in stolen property. The Commission also estimates that roughly 88 percent of the cars stolen are recovered eventually,<sup>5</sup> leaving an estimated value of \$172,010 in cars never recovered. Total losses exceed this figure, however, because of the recovered cars that have been damaged.

## BURGLARY

In 1966 there were 4,651 burglaries known to the police<sup>6</sup>--approximately 44 percent of the total offenses in the state. Cost data in the President's Commission Report indicate an average loss of \$242 per burglary<sup>7</sup>--a projected state total of \$1,125,542. The Commission estimated that 88.4 percent of the stolen goods are never recovered--a value of \$944,862.

## ARSON

The damage and destruction of property from this crime is an area in which there is very little cost data on which to base a reliable estimate. The Fire Marshal's Office reports

<sup>3</sup>Picone, "Insurance Today", *Journal of Commerce* 9 (Aug. 15, 1967).

<sup>4</sup>*Supra* note 1 at 77.

<sup>5</sup>President's Commission on Law Enforcement, Task Force Report *Crime and Its Impact--An Assessment* 49 (1967).

<sup>6</sup>*Supra* note 1 at 77.

<sup>7</sup>*Supra* note 5 at 46.

that there were 1,251 fires in West Virginia for 1966. Out of this total, 109 cases were investigated, and it is estimated that 8.7 percent of the total fires are attributed to arson -- at a loss of \$295,350.

## SHOPLIFTING

The amount of loss to business in inventory shrinkage as a result of shoplifting, employee theft, and embezzlement is very difficult to gauge, because only a small percent are reported to the police. The President's Commission estimates that Americans pay a crime tariff of about 1 to 2 percent of the value of all retail sales because of inventory shrinkage as a result of dishonesty.<sup>8</sup> According to the best estimate of the West Virginia Department of Commerce, the retail sales in the State for the year 1965 amounted to \$2,023,364,000. Using the 1 to 2 percent example the crime tariff for inventory shrinkage in the state for that year was somewhere between \$20,233,640 and \$40,467,280 or \$11 or \$22 for each person in the state.

The West Virginia Retailers Association conducted a survey on shoplifting in the Kanawha Valley -- Charleston and metropolitan surrounding area -- and found that stores reported a 56 percent increase in shoplifting in 1966 over 1961. Food markets reported an increase of 53 percent, and hardware stores, an increase of 100 percent. The total amount of loss in 1966 for these three groups in the Kanawha Valley was approximately one million dollars. Similar increases in shoplifting were found over the entire state.

From Charleston and three other cities a loss of \$690,000 was reported. On the basis of this figure, it is estimated that the total loss from shoplifting in Class I, II and III cities in West Virginia amounts to \$4,140,000.

## EMBEZZLEMENT

Another crime which is infrequently reported -- and difficult to detect -- is embezzlement. Businesses are afraid that public disclosure will be harmful to their reputation. The American Bankers Association, which records embezzlement in excess of \$10,000 in all the states, recorded three embezzlements in West Virginia for 1966, totalling \$342,140.

<sup>8</sup>*Id.* at 48.

## LARCENY

For the crime of larceny, if we use the figure of \$84, which is the average arrived at by the President's Commission, the loss from this crime in West Virginia for 1966 was \$703,164. The average amount recovered is 11.6 percent, with a net loss of \$621,997.

## ASSAULT

Personal injuries resulting from crimes against the person include: time lost from work, medical bills, and, in some instances, permanent impairment. According to the President's Commission: "no reliable estimates or average loss values have been computed for crimes against the person .... The percentage requiring hospitalization ... in the case of Index crimes against the person, occurring in as many as one-fifth to one-sixth of all such crimes."<sup>10</sup>

If a \$100 loss of one week's wages and medical bills of \$250 were assumed for each victim hospitalized as a result of crimes against the person in West Virginia, assuming that one-fifth of all such crimes require hospitalization, the loss figure for 1966 would be \$113,050. Assuming that limited injuries occur in two-thirds of all crimes against the person, not counting those hospitalized, and allowing a \$50 loss for each victim,<sup>11</sup> the total loss for 1966 would approximate \$54,050. Additional injuries not reflected here occur in non-Index offenses, such as simple assault.

These are but a few of the many crimes involved in the loss picture. Figures for losses from others were not available.

## POTENTIAL EARNINGS OF PRISONERS

The Division of Correction reported that the average daily adult population of correctional institutions in 1966 was 1,465. If these prisoners were out leading a productive life in society and earned the state's median wage of \$5,107,<sup>12</sup> the total earnings would be \$7,431,755.

## PUBLIC EXPENDITURES FOR PREVENTION AND CONTROL OF CRIME

It is conservatively estimated that \$21,984,121 tax dollars were spent for law enforcement and criminal justice in 1966.

<sup>9</sup>Id. at 47.

<sup>10</sup>Id. at 45.

<sup>11</sup>Id. at 45.

<sup>12</sup>Source: W. Va. Department of Labor.

The state spends 9.2 million dollars, the counties 4.3, and the cities 8.5 million dollars. (See Figure 3) Another breakdown of this total shows a 13.5 million dollar expenditure for police protection; 1.5 each for prosecution and courts; and 5.5 million on corrections. For each dollar so spent another 4 million dollars is estimated to have been lost to the state in potential tax earnings, welfare benefits, losses to victims and so forth, bringing the total cost of crime to well over 100 million dollars each year. This represents a per capita loss of over \$55 for each person in the state.

## RISING CRIME RATE

In the twentieth century science has amassed a great amount of knowledge to eradicate killing and crippling diseases, however, we do not seem capable in our nation of preventing a forcible rape every 21 minutes, a robbery every 3½ minutes, an assault every 2 minutes, a car theft every minute, and a burglary every 23 seconds.<sup>13</sup> In West Virginia a serious crime is committed every hour, one murder every 3½ days, a forcible rape every 4 days, a robbery every 24 hours, an aggravated assault every 4 hours, a burglary every 2 hours, a grand larceny every 3 hours, and an auto theft every 6 hours. (See West Virginia Crime Clocks -- Figure 4)

These figures are startling -- and yet, we know that far more crime is committed than is ever reported, and in many instances the same faces parade before the judge every year -- career offenders. Present criminal justice procedures generally fail to protect society from further violations by the same offenders. Our traditional methods of controlling crime, a majority of which predate the birth of our state, are failing.

## TRENDS IN CRIME

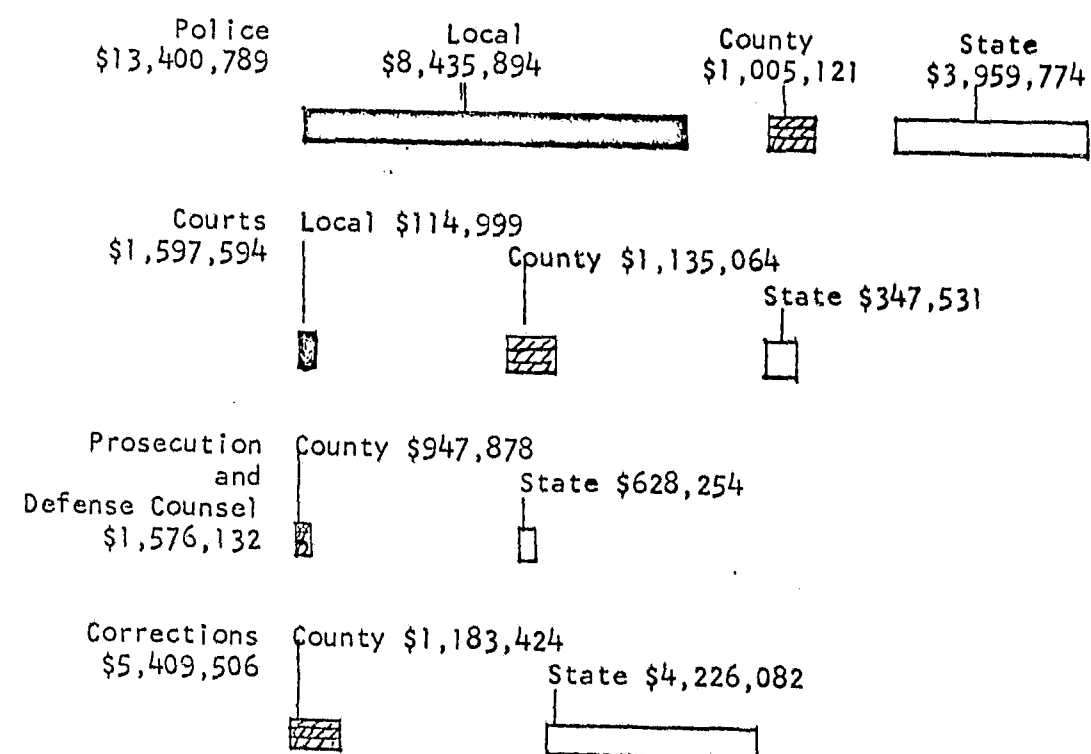
Table 4 shows the "Major Offenses Crime Trends" in the state from 1958-1966. In the metropolitan areas there was an increase of 35 percent; in the "other cities" the increase was 60 percent. The rural figures show a decline of 8.8 percent. However, if we start with the year 1959, then in 1966 there was an increase of 33 percent. For the state as a whole for the total period, the increase was 24 percent. The crime index figure in 1958 was 433.8, and that has risen now to 591.1.<sup>14</sup>

<sup>13</sup>Supra Note 2 at 21.

<sup>14</sup>Source: Uniform Crime Reports.

FIGURE 3

## WEST VIRGINIA EXPENDITURES FOR PREVENTION AND CONTROL OF CRIME



Source: West Virginia Tax Department

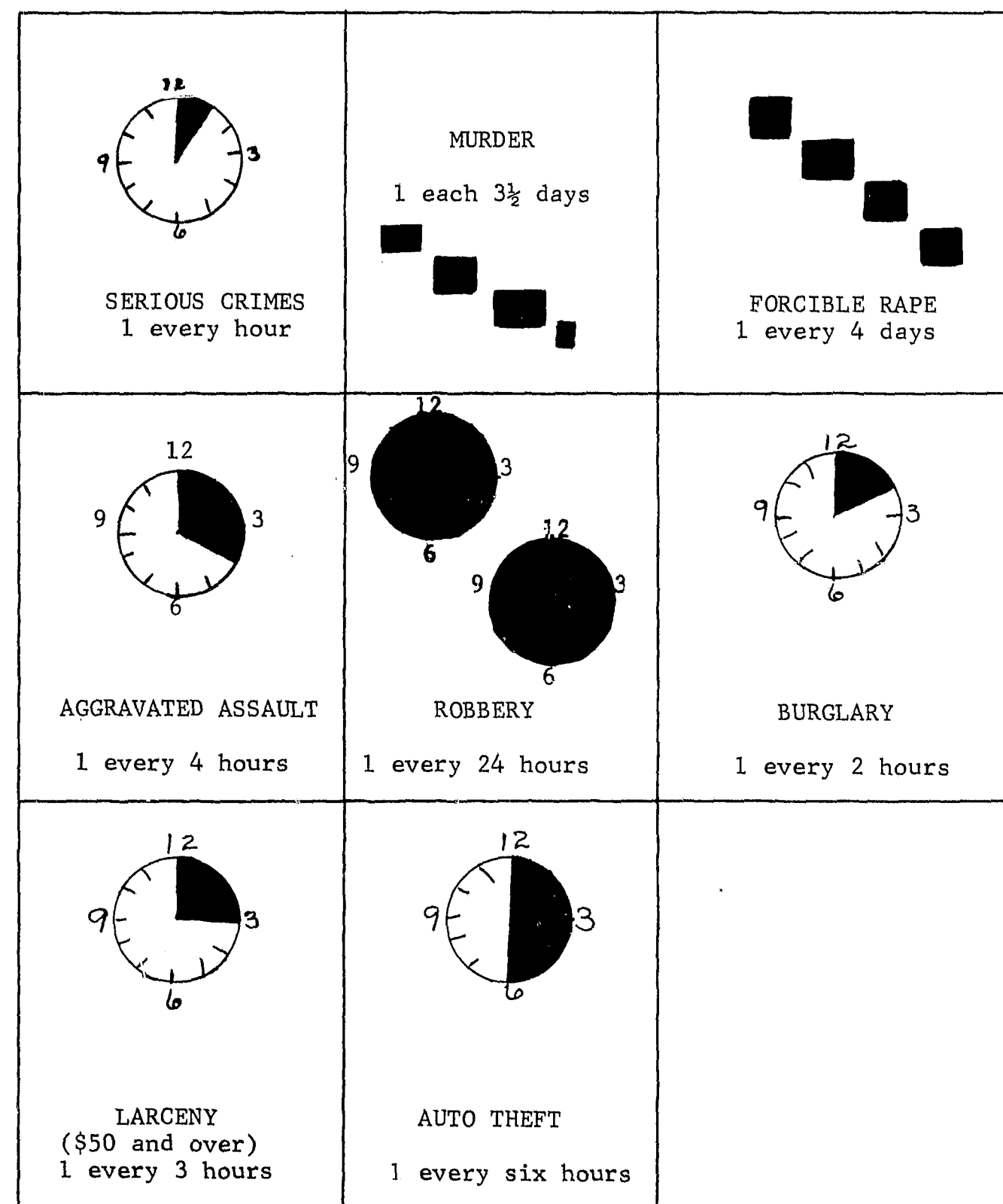
TABLE 4 MAJOR OFFENSES CRIME TRENDS - W. Va.

	1958	1959	1960	1961	1962	1963	1964	1965	1966	Percentage of Change
METROPOLITAN....	4067	4157	4089	3928	3867	4248	4775	4907	5527	+35%
OTHER CITIES....	1440	1600	2079	1860	1902	1726	2261	2215	2309	+60%
RURAL .....	3034	2081	2513	2524	2330	2448	2636	2459	2766	-8.8%
STATE.....	8541	8438	8681	8312	8099	8422	9672	9581	10602	+24%
RATE.....	433.8	456.8	466.6	449.3	456.8	473.7	538.2	528.8	591.1	

Source: Uniform Crime Reports

FIGURE 4

## WEST VIRGINIA CRIME CLOCKS - 1966



SOURCE: Uniform Crime Reports, 1966



TABLE 5 TRENDS FOR EACH OFFENSE (W.Va.)

OFFENSE	YEAR	1959	1960	1961	1962	1963	1964	1965	1966
Murder		81	82	82	66	95	67	72	76
Rape		110	81	81	75	74	89	77	91
Robbery		238	251	216	273	260	303	261	342
Burglary		581	660	629	584	603	718	1003	1104
Feloneous Assault		4157	4446	4396	3837	4023	4818	4600	4651
Grand Larceny		1880	1881	1645	2000	2051	2267	2310	2947
Auto Theft		1391	1330	1263	1264	1316	1410	1258	1391

Source: Uniform Crime Reports

Table 5 shows the trends by offenses in the state for the period 1959-1966. Murder decreased 20 percent, rape decreased 3 percent, robbery increased 12 percent, burglary 9 percent, aggravated assault rose 71 percent, grand larceny climbed 85 percent, and auto theft decreased 10 percent during this period. The population fell from 1,968,734 to 1,794,000.<sup>15</sup>

#### PUBLIC PROTECTION

Under lying any system of law enforcement and criminal justice is the number one objective: to protect the citizens from the criminal. Yet, according to a survey made by the President's Commission, one-third of all Americans are fearful of being attacked by a stranger while walking alone in their own neighborhoods at night.<sup>16</sup> Hardly a person can be found who feels he is immune to harm from any criminal. One standard for ascertaining how much protection we are getting is to take a look at the public outlay in dollars and cents. All units of government in the state spend \$12.15 per person for law enforcement and criminal justice. The national average of \$19.40 for state and local expenditures<sup>17</sup> is 67 percent higher than what we spend.

The law enforcement officer in West Virginia has been sadly neglected for many years now. Modern science and technology in this field have had much to offer him for some time but it is expensive. We have been reluctant to make use of innovative measures for detecting and solving crime. This is borne out by the figures in the preceding paragraph. There is a patent

<sup>15</sup> Source: W. Va. Dept. of Commerce.

<sup>16</sup> *Supra* Note 1 at x.

<sup>17</sup> *Supra* Note 2 at 54.

shortage of law enforcement manpower and training in all of the 128 state, county, and municipal units. Thus, much depends on our willingness to close this gap between what we are spending and what is needed to be spent to purchase the protection essential to our peace and tranquility.

#### SOME SPECIAL PROBLEMS

##### ORGANIZED CRIME

Organized crime is described by the President's Commission as a society which seeks to operate without the control of government. The core of the activity is the supplying of illegal goods and services -- gambling, loan sharking, narcotics and other forms of vice -- to countless numbers of citizen customers. It may be syndicated or of the Cosa Nostra "family" type, or it can consist of an organization wholly within the state. Whatever its organizational makeup, its nature and goals, it constitutes a serious threat to any society. We should ever be on our guard to detect it and destroy it.

No state can be said to be immune from its threat. The President's Commission said that "organized crime cannot be seen as merely a big city problem." But it is the most difficult kind of crime to combat -- to detect, ferret out and destroy. To exist for any appreciable time, it must have corrupted public officials.

Often the only evidence which can lead to successful prosecution is what is said by word-of-mouth over the telephone. For this reason the President's Commission has recommended legalizing the use of wiretapping and electronic evidence in organized crime cases, similar to what is now done in cases involving national security.

The Governor's Committee had neither the time, the staff, nor resources with which to assess intelligently organized crime in West Virginia. The President's Commission pointed out that organized crime in small cities is difficult to assess. The criminal records themselves reveal little or nothing of significance in an organized crime assessment. The fact that no figures on the extent of organized crime in West Virginia appear in this report by no means is to be taken as an indication the Committee does not believe it to be important to the crime problem in the state.



## PORNOGRAPHY

West Virginia Code §61-8-11 prohibits the importing, publication, sale or distribution of pornographic materials. Such materials are defined as those tending to corrupt the morals of youth or the public morals. Many argue with some validity that a more realistic definition of what is prohibited is needed. Difficulty arises when we try to spell out the specifics, and each person finds himself advocating a law embodying his own code of morals.

The limitation with respect to obscenity legislation is found in the 1st Amendment to the United States Constitution, which guarantees the right of free press. The Supreme Court of the United States in *Roth v. United States*<sup>18</sup> held that a finding of obscenity must be supported by the following conditions:

"whether to the average person applying contemporary community standards the dominant theme of the material, taken as a whole, appeals to the prurient (inclined to lascivious thoughts and desires) interest," and if the material is "patently offensive" or "whose indecency is self-demonstrating." (*Manual Enterprises v. Day*)<sup>19</sup>

Many would argue that these judicially defined criteria do not go far enough to protect their personal concept of what constitutes pornography.

Every citizen has at some time encountered pornographic pictures or publications which were unlawful even under the most liberal interpretation of the high court's decision. The State Police records, however, in the year 1966 show only 7 arrests for obscenity and 23 arrests for 1965.

Pornographic materials are indeed damaging when circulated among youth. They constitute a most serious threat when passed among school children. Often pornographic materials are found under the counter of some disreputable newsstand, where they may be had at a premium price. Occasionally some sex deviate will attempt to circulate them among school children just for the "kick" he gets from doing it.

Parents are reluctant to prosecute in obscenity cases. Even school officials hesitate to get involved. They insist that the police take the initiative by getting the warrant, and when they do, the case can very easily fail for lack of cooperation. The picture or publication is seized, but identity of those responsible for its distribution cannot be traced.

A trained police investigative unit offers the best protection the public has from exposure to pornography. Alert and

<sup>18</sup>Roth v. United States, 354 U.S. 476 (1957).

<sup>19</sup>Manual Enterprises v. Day, 370 U.S. 478 (1962).

responsible school administrators should always be on guard for pornographic materials, and then when discovered, these officials should work closely with the law enforcement investigators to reach the source of distribution, disregarding the fear of embarrassment or concern for the personalities involved. This type of criminal activity has to be dealt with openly and not in secret if it is to be combatted successfully.

## HIGHWAY SAFETY

In reading this chapter and, in fact, the full report, one might wonder why the Committee has not dealt with the subject of highway safety. Two reasons should be given: 1) the President's Commission categorizes traffic arrests as noncriminal, as opposed to criminal arrests, and authorities argue that the state could better deal with traffic violations through some administrative procedure, rather than the courts, which in West Virginia are constitutionally barred from administratively suspending the driver's license and; 2) the State's Highway Safety Program, which is being administered in conjunction with the National Highway Safety Act, is funded to develop a comprehensive highway safety program, not only in the law enforcement field, but with the traffic courts. Guidelines established by the national program call for full-time, qualified, salaried traffic judges in a court system within the framework of our present judicial system. These criteria have such force and effect under the law that if not complied with, the U. S. Bureau of Public Roads can penalize the State of West Virginia up to 10 percent of the public road monies coming into the state. This penalty, if imposed, could cost the state millions of dollars.

The highway traffic cases are a serious concern to both state and local law enforcement, particularly with the traffic death rate rising as it is. It is estimated that approximately 45 percent of the manpower hours of the Department of Public Safety are devoted to highway patrol and other traffic work. As the State Highway Safety Program emerges, it is the intent of the Governor's Committee to work in close cooperation with it. However, federal funds for implementing each program will come from different sources -- the Governor's Committee's funds from the Justice Department and the Highway Safety Program from the U. S. Bureau of Public Roads.

## ASSESSMENT OF PUBLIC ATTITUDE

Before developing an implementation program for the Committee's recommendations, an assessment of the public attitude toward crime as it relates to the various criminal justice areas must be made. Such information at or near the time of implementation is a prerequisite to the preparation of the public education design of the implementation program.

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POLICE

In this age of ever increasing criminal activity and social unrest, the work of the law enforcement officer is particularly significant. The task of enforcing the laws and maintaining order does not fall to the police alone, for such a task is the responsibility of the entire criminal justice system. It is, however, the police who have the most difficult and direct contact with crime--contact in the streets.

As it was so aptly stated in the President's Commission report:

It is he who directly confronts criminal situations and it is to him that the public looks for personal safety. The freedom of Americans to walk their streets and be secure in their homes---in fact, to do what they want when they want---depends to a great extent on their policeman.<sup>1</sup>

It is for this reason that any study of crime and crime prevention must necessarily involve a study of the existing system of law enforcement. It is for this reason that any movement to combat crime in our society must necessarily involve the means to preserve the best of what we have and to acquire the new and innovative techniques that quality law enforcement demands.

A study of the existing system of law enforcement in West Virginia revealed two significant problems--lack of available information about crime in West Virginia and the need for a more effective use of existing police manpower. It is the intent of this committee to establish some guidelines for meeting these problems. The guidelines, however, must be accepted with the realization that quality law enforcement demands continual high level planning which anticipates changes in technological and methodological techniques based on our increasing knowledge of the nature of crime and the means to combat it.

## THE PROBLEMS IN CRIMINAL STATISTICS

Basic to the implementation of improved crime prevention and control programs is a knowledge of the amount and nature of

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<sup>1</sup> President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 92 (1967).

crime. The collection and interpretation of criminal statistics is essential in law enforcement for determining such factors as manpower needs, necessary specialized services, training and facility requirements, and personnel distribution. We cannot combat crime without knowing what crime is---its volume, its trends, its nature---when it occurs, where it occurs, how it occurs.

The President's Commission on Law Enforcement and Administration of Justice, which recently focused attention on many problems surrounding the collection and interpretation of crime statistics, pointed out that the best source of crime information is "crimes known to the police"---that is, offenses officially reported to the police. While crimes known to the police are the best we have, they leave much to be desired in terms of reflecting the true amount of crime or criminal behavior.

In West Virginia the only available statistical information relates to crimes reported to the police. The validity of any conclusions based on these statistics is challenged by the volume of unreported crime. The President's Commission on Law Enforcement and Administration of Justice commissioned the National Opinion Research Center of the University of Chicago to survey 10,000 households. Every person was questioned concerning whether he or any member of his household had been the victim of a crime during the past year, whether the crime had been reported, and, if not, the reasons for the failure to report to the responsible law enforcement agency. These detailed surveys were conducted in Boston, Chicago and Washington. The results revealed great disparity between reported and unreported crimes. In one particular precinct in Boston, the survey revealed that about three times more crime actually occurred than was reported to the police. Those people interviewed who had failed to report crimes premised their action upon police indifference, fear of reprisal, personal involvements, and a reluctance to jeopardize the life pattern of the offender.

The validity of existing statistics is further challenged by sources of error in collection and presentation. Lack of uniformity and variations in the definitions of individual crimes among the various jurisdictions makes meaningful comparisons impossible.

## UNIFORM CRIME REPORTS (UCR)

The Uniform Crime Reports published by the United States Department of Justice offers the best source of crime statistics. This Committee made generous use of these reports, but they are only available for 38 of the 213 law enforcement units in West Virginia. These statistics are based on crimes known to the police and are formulated on the basis of uniform reporting procedures by the various participating agencies.

But even the Uniform Crime Reports do not provide the whole answer. There is no clear definition of what is a "major" or "serious" crime. Moreover, many serious crimes against or involving personal risks to victims are not included in the UCR's Index--the seven serious crimes that the FBI considers as indicative of the general crime trends in the nation. Many other factors combine to make the UCR a less meaningful statistical yearstick, but the UCR still remains the best available yardstick we have.

## LAW ENFORCEMENT SURVEY

The staff of this Committee devoted a great deal of effort to making an assessment of crime. The task was a difficult one because a majority of the law enforcement agencies do not keep accurate or uniform records--in some instances they keep no records at all. The Department of Public Safety is the only law enforcement agency that provides a reporting service which attempts to accumulate the records of the numerous law enforcement units so that meaningful projections can be derived.

The survey was made in an attempt to relate the police manpower situation to the needs of the locality. The staff was ever mindful of the discrepancies which it knew would occur when the UCR crime index was used as a base. There was, however, no other source of information available. For the time being, at least, many of the questions being asked must go unanswered; for instance, the reported crime figures for Wheeling were quite low considering its population, geographic location, and its position of a major east-west highway. Thus, a number of unknown factors may be operating there. The best that can be said is that in any planning for future law enforcement in the state, crime statistics must be used with great caution and only as a broad guide for indicating the incidence of crime in the state.

*The Committee recommends:*

The establishment of a central statewide uniform records and data collecting system with provision for instant dissemination and interchange of information to every law enforcement unit. Provision shall be made for participation by all law enforcement units.

#### TWENTY-FOUR HOUR QUALITY LAW ENFORCEMENT SERVICE

Fundamental to the concept of quality law enforcement is the idea that every area of the state--rural, small town, urban--should have twenty-four hour law enforcement service. This means twenty-four hour availability of law enforcement personnel in each county and town. In many areas, there is not sufficient manpower to provide twenty-four hour coverage, and in other areas lack of communication between the various operating law enforcement units prevents its establishment.

Quality law enforcement also demands that each jurisdiction's law enforcement unit meet minimum standards of selection and training. This envisages a system in which the state must assist the local agencies in maintaining standards and in providing specialized services. The state will also have to take a greater role in financing the cost of improved law enforcement. Financing the cost of law enforcement as it is now practiced in smaller communities is financially unsound and results in a lower quality of law enforcement than is desirable. This does not imply that the present law enforcement officials will be replaced; it does, however, mean that they must be upgraded to meet basic standards.

*The Committee recommends:*

That steps be taken in local and state law enforcement in West Virginia to provide quality, twenty-four hour law enforcement throughout the state at the municipal, county and state levels.

#### A LAW ENFORCEMENT PLAN FOR WEST VIRGINIA

One of the powers reserved to the states under the Federal Constitution and expressly mentioned in our State Constitution as being vested in the people is the police power. The framers of the Constitution divided the state into counties and provided a sheriff for each county. Under the Constitution he is the law enforcement officer for the county. The legislature

has also created a Department of Public Safety and given its officers statewide law enforcement powers. Thus, as a practical matter, local law enforcement exists with the municipal police in a municipality and with the sheriff's department in areas outside the confines of the city. The present strength of the state agency is 315; of the county agencies 220; and of the municipal agencies 1,014.

A plan has been developed which incorporates a number of basic ideas for the implementation of law enforcement on a statewide basis into the present overall constitutionally and legislatively delegated police authority. Major changes, however, are needed in the law to implement the plan. Moreover, the Committee realizes that any plan that might be proposed at this point must be a flexible one. For as time progresses and new concepts in law enforcement arise, West Virginia must be able to meet the challenges imposed by them.

#### THE ROLE OF THE SHERIFF

As this plan proposes 24-hour law enforcement coverage for all areas of the state, the question arises whether this coverage will be provided by the state or through the local county and municipal government. At this point in time the best answer to that question is to provide local law enforcement through the aegis of the sheriff's department. Under the plan, then, the sheriff's office would be responsible for law enforcement coverage for all rural areas and for all towns with a population of 5,000 and under. Municipalities with a population of 5,000 and over would work cooperatively with the sheriff's department, but would be responsible for providing 24-hour law enforcement coverage for their own communities, unless they decide to join the sheriff's enforcement unit. The tax collecting function of the sheriff's office would be removed, in order to allow his office to devote itself completely to full-time law enforcement. Another county agency could be created to collect taxes. All members of the sheriff's department and members of municipal departments would have to comply with the minimum recruitment and training standards program. The sheriff, an elected official, would not be required to meet these requirements, but all of his staff would. Deputies would have to be insured tenure in order to justify the outlay for training.

Until such time as the county courts are willing to pay for quality local law enforcement in the rural areas, the state must of necessity fill this gap as it is attempting to do now with the State Police. The state has an interest in seeing that law enforcement does not break down in any county or municipality. Poor law enforcement in any one area will tend to erode the entire system and subsequently affect other areas.

Until such time as the local people choose to bring county law enforcement up to acceptable standards, a system to coordinate the efforts of the county sheriffs and the State Police should be provided at the local level. Both local units must work together to accomplish maximum protection for the citizen.

*The Committee Recommends:*

That steps be taken to provide for sheriffs' succession, the establishment of a separate county office for tax collection, and a merit-tenure system for deputy sheriffs.

THE ROLE OF THE DEPARTMENT OF PUBLIC SAFETY

With these basic ideas in mind we will now turn to the role of the State Police in the overall plan. A fundamental part of the state's role is providing assistance to law enforcement at the county and municipal level. This includes local cooperation and coordination in maintaining standards and a statewide law enforcement network. Secondly, the state must provide the needed specialized services which are uneconomical for each community to maintain.

INVESTIGATIVE AND LABORATORY ASSISTANCE

Because of the high cost of equipment and shortage of skilled personnel, the function of major crime investigation and laboratory assistance cannot be handled adequately by every local or county department. Several possibilities suggest themselves here. First, a central laboratory can be established where all criminalistic work is performed and where specialists in crime investigation could be disbursed throughout the state. Regional crime laboratories could be created with a larger central facility to perform highly technical and specialized criminalistic work; however, the regional facility would also perform routine criminal investigations. Moreover, specialists in criminal investigations would be stationed at the regional level to provide assistance to local and county departments.

The regional concept seems to offer more promise in that the specialized personnel would be closer to the scene, and the personnel involved in the specialized services are able to become more intimately acquainted with the local department personnel. It is felt that training local personnel in the details of crime investigation is not economically feasible in terms of time and money, but through good basic recruit and in-service training they will be well versed in preservation of the crime scene, etc. Determination of numbers of personnel needed for both the laboratory and investigative sections and geographic location should await detailed study by the state or the Governor's Committee of the number of major crimes occurring, their location, etc., over a period of several years. Provision should be made to employ civil personnel (non-sworn), such as chemists, laboratory technicians, and so forth. Some thought should be given to locating the various regional laboratory facilities at or near universities or colleges throughout the state in order to make use of the specialized talents within the appropriate departments.

*The Committee recommends:*

Expanding the laboratory and technical facilities of the State Police Criminal Investigation Bureau in Charleston, preferably on a regional basis, and supplying the department with the best police science and crime detection equipment and technical staff capable of coping with the most complex and difficult crime situation that could arise anywhere in the state.

PLANNING AND RESEARCH

Planning and research are functions too expensive to maintain locally in West Virginia with the state's present population base. This important function can give direction and guidance to the various departments in such areas as manpower allocation, use of available resources, patrol distribution, financial resources, financial administration and planning, and equipment needs and utilization, to mention just a few. The planning and research function should be geared to examine the needs of law enforcement in the entire state, yet it should be able to give individualized assistance to the needs of each county and municipality. The planning and research group should be an instrument for change and improvement in law enforcement. The planning and research unit also provides the opportunity for employment of non-sworn personnel.



## RECORDS AND COMMUNICATIONS

Centralized records are a must in the state for rapid records search, for planning and administrative purposes. In addition, with the advent of National Communications Information Center (NCIC), the tie-in with a national records center offers great advantages for rapid information retrieval. The Governor's Committee has recommended the establishment of just such a unit to provide "instant dissemination and interchange of information to every law enforcement unit in the state". An adjunct to this system would be the improvement of local records. Civilian personnel could be hired in many capacities at both the local and state levels. The need for improvement of record keeping and maintaining common definitions has been noted previously, and in order for the planning and research unit to be most effective, this information is mandatory.

## ORGANIZED CRIME INVESTIGATION UNIT

It is now impossible to determine even the extent of organized crime activity in the state. Reliable sources feel that there is organized crime activity in certain sections of the state, but few facts are known. The function of this unit would be to determine the extent, location, types of activity, persons involved, etc., in organized crime, to conduct investigations and seek prosecution. Again, the provision of such a unit at the local level would not be feasible economically; moreover, lack of enough skilled investigators might hamper the efficiency of such a unit on the local level. Housing such a unit on the state level would tend to protect against bribery and influence on the investigators and also help to lessen the chance of leaks of information.

*The Committee recommends:*

That the legislature establish an organized crime unit within the framework of the State Police to be constantly on the alert for organized crime. This unit should be staffed with at least one person who is knowledgeable and trained in the organized crime field. Further, the Attorney General's Office should be provided with funds for a special unit charged with the responsibility of prosecuting organized crime cases throughout the state.

## CENTRAL INVESTIGATION

A central investigation unit would perform the function of an internal investigations unit such as found in large, modern police departments. This unit's function would be to investigate

complaints against police, charges of corruption and the like in those local departments involved. Most departments from small to medium size cannot afford to free men for this function, therefore a state unit is recommended. In addition, a state unit would lessen the influences of personal loyalties, bribes, etc. In other words, it would offer more objective investigations. This unit is mandatory in the state if the desire is there for professional law enforcement. This unit can be phased in over a period of the time; and this phasing-in period should focus on indoctrination of all law enforcement personnel concerning its function, utility, and contribution to better law enforcement and improved police community relations. Likewise, the public should be apprised of the role and function of this unit and its (the public's) role in increasing the unit's efficiency and utility.

The President's Commission recommends:

"Every department, regardless of size, should have a comprehensive program for maintaining police integrity and every medium and large-sized department should have a well-manned internal investigation unit responsible only to the chief administrator. The unit should have both an investigative and preventive role in controlling dishonest, unethical, and offensive actions by police officers."<sup>2</sup>

This is an unpleasant assignment for any unit, and the people charged with the responsibility of doing the work are not likely to be very popular among the other members of law enforcement. However, it is believed that if the local sheriff or chief of police could call upon the services of such a unit any time he felt he had a problem requiring such an independent investigation, then this would be the cheapest and most practical way of handling such problems within the state. Once the head of a local law enforcement unit called for such service, the investigator would be answerable solely to the person requesting his service, and his reports and findings would be made to the sheriff or chief calling for the investigation.

<sup>2</sup>Supra Note 1 at 116.

## STATE SERVICES

## RECRUITMENT

All recruitment of personnel for all law enforcement agencies within the state must meet the uniform standards set by the Police Standards and Training Commission. All applicants for positions will be subject to screening by this body, thus assuring meeting minimum entrance requirements, such as physical standards, mental ability, background check, etc. This will be accomplished through a cooperative effort with the State Department of Employment Security, which would be responsible for testing and preliminary screening, while the local law enforcement agency would be responsible for background checks, psychological screening, and so forth. The final decision on whether the applicant can qualify for the eligibility list will be for the Commission. The recruiting effort would include screening personnel for patrolman level, administrative positions and for technical personnel. This would assure conformance with statewide standards, would enhance voluntary lateral entry and movement of personnel around the state and conform to the goals of the State Law Enforcement Officers Standards and Training Program.

## RECRUIT TRAINING

The entire responsibility for all recruit training (for all departments in the state) lies with the state. The extant Standards and Training Commission would have this responsibility. The training could be done at a central location or on a regional basis. In conjunction with the statewide study of the law enforcement officer's job and the design of a curricula to best train these officers for their job, the most appropriate training arrangements can be determined. One of the goals of a present proposal is to design the course so that the maximum amount of study can be accomplished at the home community and a minimum amount of time spent away at some central or regional training facility.

## IN-SERVICE TRAINING

In-service training is the responsibility of the Commission. The goal is to bring all currently employed law enforcement officers in the state up to minimum standards in terms of training. This will undoubtedly be one of the immediate

goals of the current Standards and Training program -- including curriculum design and determination of the most feasible method of implementing the project.

## SUPERVISORY AND ADMINISTRATIVE TRAINING

In line with the Commission's responsibility in recruitment at the basic and advanced levels, it should also have the responsibility for conducting appropriate promotional examinations for all supervisory and command level positions throughout the state. After selection has been made, it will be responsible for administering a training curriculum designed for supervisors and administrators. Ideally, all new supervisors and administrators should receive the training before assuming their new positions. Lateral entry and lateral or advanced movement throughout the state are assumed. It is also assumed that all agencies will conform to state civil service standards. Again, the appropriate agency to administer and conduct this program is the Standards and Training Commission. This commission is now conducting a study to determine the present need for this training, the expected demand with increased personnel in the various departments, and to design appropriate supervisory and administrative curricula.

*The Committee recommends:*

**The establishment of statewide minimum standards of selection, training, compensation and tenure for all state, county and municipal law enforcement officers supported by adequate training facilities and programs to meet the needs of the local law enforcement officer.**

Already the Governor's Committee has been very active in planning for minimum standards and training. It has been responsible for receiving a grant from the Office of Law Enforcement Assistance to plan for statewide minimum standards and training for law enforcement officers. In line with this, an application is now pending with the Office of Law Enforcement Assistance for a grant to study on a systems analysis basis the job of a policeman in West Virginia and to design a training program to best fit his needs.

## POLICE SCIENCE ACADEMIC PROGRAM

An application for a grant from the Office of Law Enforcement Assistance has been made for a planning grant to inaugurate a degree program in law enforcement at West Virginia State College.<sup>3</sup> With the establishment of a degree program within the state, the academic staff of the college could be utilized to design and to present aspects of the course. It is within the realm of possibility that college credits could be given for the supervisory and administrative courses or, for at least part of the curriculum.

*The Committee recommends:*

An interdisciplinary police science academic program with a curriculum in police administration similar to the one now in the police administration school at Michigan State University leading to (1) a two-year Associate Degree in Police Science, and (2) a four-year Bachelor's Degree in Police Administration be established.

## POLICE STANDARDS AND TRAINING COMMISSION

The present Police Training Advisory Commission, which was created by the Governor in 1967, expects to ask the 1969 Legislature for a state minimum standards and training law. Approximately 20 states already have such legislation and 5 others are in the process of developing training programs which will lead to the enactment of a law. This body will direct the statewide standards and training program as it develops. The Commission is also in a position to offer leadership and work for the general improvement of all law enforcement in the state.

*The Committee recommends:*

That there be a legislatively created Standards and Training Commission for West Virginia.

A suggested make up of the membership for such a commission would be two representatives each from the chiefs of police, sheriffs, state police, Fraternal Order of Police, one representative each from the League of Municipalities, the

<sup>3</sup>For details of such a program, see Chapter 9, Law Enforcement Academic Program.

Judicial Association, Bar Association, Prosecuting Attorneys Association, College of Police Science and two citizens-at-large.

## INSPECTION

The Commission would have the responsibility of inspecting all local units in order to determine if they were maintaining minimum standards in working conditions, equipment, etc. It would also provide advisory service regarding improvement of the functions of each department. If the department in question is not meeting specified standards, then the Commission would recommend changes and be responsible for seeing that the appropriate changes were made within a reasonable period of time if the locality were to continue to receive state funds.

## LOCAL RESPONSIBILITY

Basically, the local unit (municipality of 5,000 or over, or county unit) has the responsibility of providing law enforcement to its citizens. State support in the nature of the previously outlined services together with supplemental state funds for minimum wages, uniforms, and essential equipment would be highly desirable. All jurisdictions meeting the state standards should qualify for state support. Precedent for this type of assistance is found in the educational program of the state. Law enforcement, however, continues to remain a local function under this plan. Nothing in this proposal is to be construed as authorizing any state agency to exercise any direction, supervision, or control over any local law enforcement unit. However, to receive support the local unit must meet the standards prescribed by the legislature and the Standards and Training Commission acting with legislative authority.

## COMMUNITY SERVICE OFFICER

The President's Commission recommended for large and medium-sized urbanized police departments the employment of a community service officer. This person is seen as a young man, typically between the ages of 17 and 21 with the aptitude, integrity and stability necessary to perform police work. He is, in effect, an apprentice policeman replacing the present police cadet. He would work on the street under close supervision and in close cooperation with the police officer and police agent. He would not have full police powers or carry arms. Neither would he perform only clerical duties as many police cadets do today. He would be uniformed, perform some



investigative duties and maintain close contact with the juveniles in the neighborhood where he worked. Whether there is a need for such a person in West Virginia law enforcement is a question on which there is considerable difference of opinion. Uniquely, it would offer a very fertile force of recruitment, just as the cadet program can be. The Police Advisory Commission should give further study to the matter of determining whether there is a legitimate role for the community service officer in West Virginia law enforcement organization.

#### MINIMUM STANDARDS AND WORKING CONDITIONS

Pending further study, the Governor's Committee has tentatively determined that the minimum size of a jurisdiction to maintain its own law enforcement agency is one with a population of 5,000. With a minimum force of 6 for a city of 5,000 this provides manpower at the rate of one for every 800 plus people. Assuming that the crime rate is normal for a Class III city, this does not seem to be out of line with what can be found in other communities of similar size in the nation. Our per capita expenditure for law enforcement is already far below the national per capita average. To reduce the population base very much would raise the per capita expenditure for law enforcement in that community to a prohibitive point. In order to afford smaller communities the opportunity of joining forces and pooling their resources in the law enforcement effort,

#### *The Committee Recommends:*

**Permissive legislation authorizing the creation of central police authority, whether by municipalities, counties or a combination of the two.**

In addition to the minimum population base, the municipality must be guaranteed 24 hour police protection and meet such minimum working conditions as 40 hour week, paid vacations and sick leave. It is of the utmost importance that jurisdiction be able to provide the necessary manpower to attain these standards. Likewise, the county must also maintain these standards for its coverage of rural areas and for its coverage of all towns in the county with a population base of less than 5,000. The Committee in its further study will determine the minimum number of personnel needed to provide this coverage based on the crime rate, population, size of the area to be covered and topography.

At best, for the moment, it is estimated in order to provide twenty-four hours police service with minimum working conditions in a community of 5,000, a minimum number of law enforcement personnel needed would be six plus the addition of appropriate civilian personnel to operate communications equipment, keep records, etc. There is no rule of thumb for determining the appropriate number of policemen per 1,000 population. Numbers alone are misleading, for it is more reasonable to expect that efficient law enforcement is the result of well selected, well trained personnel who have the respect and confidence of the citizens they serve. By attaining the suggested state standards it is trusted that improved law enforcement will result.

#### COMPLIANCE WITH STATE PERSONNEL PRACTICES

As previously implied, the municipality or county must comply with certain statewide standards and personnel practices. In addition the Commission is charged with the responsibility, along with the local community, of insuring that these standards are maintained. Compliance with state personnel practices as the following are mandatory:

##### Lateral Entry

May include change in local ordinances regarding residence in a community, but this insures qualified persons occupying positions at all levels.

##### Minimum Manpower

Maintenance of a minimum number of personnel on the force at all times, to provide 24-hour law enforcement coverage of a given jurisdiction while meeting minimum working conditions for the employees. Minimum manpower for any jurisdiction will be determined by study by the Governor's Committee on Crime, Delinquency and Corrections which will recommend this to the state legislature for implementation. Assistance in this effort will be by the state law enforcement agency.

##### Equal Employment

Compliance with state equal opportunity employment laws.

### Retirement

All law enforcement personnel will be on the state retirement system, and each jurisdiction will contribute to this system. In those jurisdictions where retirement systems are extant, they should be transferred to the state system or allowed the choice of remaining under the present system or transferred to the state system. The state standards and training commission should initiate a survey of all retirement systems and recommend a system which incorporates the best features of all such systems.

### Minimum Education and Standards

Compliance with such training and selection standards as established by the State Standards and Training Commission, for all new recruits. Also includes participation in lateral entry system, and in-service training for all officers presently in service. Includes participation in all in-service training, supervisory and administrative training officially sponsored by the Standards and Training Commission.

Each jurisdiction will comply with broad guidelines issued by the Standards and Training Commission as regards minimum standards for uniforms, radio equipment, automobiles, motorcycles, firearms, riot equipment, etc. All forms used by all departments will be uniform according to state specifications.

### ORGANIZATIONAL REQUIREMENTS

Each jurisdiction will follow broad organizational guidelines developed by the state standards and training commission. The sheriff, in rural areas and in towns of less than 5,000 population will be the principal law enforcement official and will have no other responsibilities including tax collection. The sheriff himself will not be required to conform with the minimum standards, nor take the basic recruitment course; however, he should be encouraged to take all the courses available -- particularly those concerned with administration. All deputy sheriffs will come under state regulations regarding standards, training, working conditions, and the like. All municipal departments will comply with state organizational standards and working condition regulations.

The state will require local contribution in the form of salary, retirement, equipment in compliance with all minimum standards and training regulations; however, it will assist those areas where it can be established that the tax base is not sufficient to support the minimum standards.

### SUMMARY

The plan as described would place with the Standards and Training Commission the responsibility of statewide recruitment, training (recruit, supervisory, administrative and in-service) with the State Police and for assisting local departments in specialized areas such as planning and research, central records, traffic, organized crime investigation and control, investigative and laboratory facilities and central investigation. Basic law enforcement would remain the responsibility of the county or municipality (over 5,000 population) with assistance from the state in the above mentioned specialized function. This plan allows for provision of twenty-four hour law enforcement coverage to all rural areas, as well as municipalities, and provides for minimum working conditions, voluntary lateral movement of personnel throughout the state, and minimum standards and training for all officers.

The plan, as presented, allows for variation depending on studies of feasibility of one method of operation over another. In some cases alternative approaches have been suggested. However, many of the recommendations require a thorough, detailed study as to feasibility and method of implementation, and these should be carried out by the Governor's Committee on Crime, Delinquency and Corrections or the state Standards and Training Commission. It is felt that the plan as presented offers a goal for the state to try to achieve, yet the plan allows for flexibility and alternative approaches which may be more politically and economically feasible. The plan also ties in with the findings and recommendations of the President's Commission and with the current projects of the Governor's Committee, such as the Standards and Training Commission, and the proposals currently pending with the Office of Law Enforcement Assistance for a study of law enforcement in the state, the creation of a degree program in law enforcement, etc.

A great deal of responsibility for specialized service has been placed with the State Police, but the responsibility for and maintenance of adequate law enforcement remains with the local community. (See Appendix E for a suggested planning and implementation schedule for this program.)

## CRIMINAL JUSTICE

This chapter deals primarily with the court system, its operation and the basic body of criminal law which the system implements. There is a basic constitutional commitment at both the state and federal levels that criminal justice is to be administered by a court system functioning within the framework of an adversary tradition. Renewed concern for the problems of criminal justice administration, spurred by a growing crime rate, have raised serious challenges to the operation of the present system. However, there have been no serious suggestions that the fundamental commitment to judicial administration of criminal law grounded upon the adversary system should be abandoned. The thrust of present-day concern is toward the improvement of the existing system, not an abandonment of it. That is the premise of this chapter.

### STRUCTURAL ASPECTS OF COURT SYSTEM

The court system is then the focus of present concern for the administration of criminal justice. The courts are the prime decision-making agencies. They are the pace-setters of the system. The court system is a structured hierarchy, with courts of limited jurisdiction at the bottom of the scale, courts of general jurisdiction occupying the center ground determining the vast majority of the more serious criminal cases, and with the Supreme Court of Appeals exercising ultimate reviewing authority within the state system. Operating through this system and upon it at all levels is the public prosecutor, the county attorney. The role of defense counsel throughout the State of West Virginia is a function performed by the bar generally. The aim of the opening portion of this chapter is to examine briefly the court structure in the light of the demands of criminal justice administration in the later years of the twentieth century and to examine the prosecutor and defense counsel functions within the state.

## JUSTICE OF THE PEACE COURTS

The justice of the peace courts dominate the bottom rung of the judicial ladder. There are about 625 positions for justices in the State of West Virginia. Slightly more than a third of these remain vacant for lack of contestants seeking election to the post. Justices must be residents of the district from which they are elected and are elected for a four-year term after nomination in a partisan primary election. The jurisdiction of a justice in a criminal case is generally quite limited, but special grants of jurisdiction are sprinkled throughout the West Virginia Code. An estimate based upon fee reports by justices throughout the state indicates that as many as 81,000 cases per year are handled by justices, of which about 51,000 are brought to them by members of the state police. This volume of judicial business handled by the justice courts indicates the sizeable impact that this court has upon the administration of justice in West Virginia. Courts of general criminal jurisdiction entertain a mere 4,100 cases each year.

In addition to actually disposing of many criminal cases, the justice of the peace acts as the committing magistrate for most felony prosecutions. When indictment by a grand jury is anticipated, the justice determines, in many instances following arrest, whether there is probable cause to hold the man for grand jury action. A defendant is entitled to a preliminary hearing by the justice to determine this issue. The role the justice plays at this point in the criminal proceedings in serious cases takes on increasing importance as the matter of appointment of counsel and other important rights need early explanation to one accused of crime.

There are two major flaws with the present justice of the peace system which raise grave doubts as to the adequacy of its operation. First, there is no legal training or knowledge of law required for the office. All that is required is that the justice be a resident of the district in which he is elected and a voter in that district. The second major criticism of the state's justice of the peace program is the fee system by which it operates. There is no fixed salary for the justice, and he earns money only for the services he actually performs. The fee system encourages the justice to cooperate with police authorities which tends to

continue bringing a large volume of business to his court.<sup>1</sup> This promotes a bias which undermines faith in the magistrate as the objective and impartial arbitrator of important decisions affecting the liberty and security of the citizenry. Increasing stress is being placed upon the necessity of "probable cause" before arrests of individuals or search of private belongings may be undertaken by police. With an obvious economic temptation to agree with the police point of view in rendering these delicate decisions, the justice of the peace may be indeed institutionally incapable of providing a neutral testing ground in regard to these matters. In addition to this not too subtle bias that erodes the liberty of us all, more flagrant abuses are encouraged by the fee system. Since the justice is paid per case, the total fees earned may be aggrandized by multiplying the number of cases involved in essentially a single complaint. In some instances a single transaction may be splintered into multiple complaints so that large numbers of warrants issue against a single individual. The high cost of these multiple causes sap the strength of a defendant and put the justice who is willing to abuse his public trust in a position to bargain for a compromised settlement that means a substantial fee.

There is a national move to bring about the demise of the justice of the peace system which is in fact a historic legacy that has long since become obsolete.<sup>2</sup> The lack of training promotes a kind of "common sense" justice that may sometimes range far from the actual law and raises grave doubts as to the ability of the present system to make sophisticated discriminations at the threshold of important felony cases. The fee system builds in a bias that undermines the system generally and encourages truly grievous abuses of justice on occasion. The general lack of dignity and decorum moreover contributes to the general lack of quality of the administration of the law at this level.

*The Committee recommends:*

**Justice of the peace courts as they now exist should be abolished and in their stead county-wide or regional courts with qualified personnel should be provided.**

<sup>1</sup>See Note, *The Justice of the Peace: Constitutional Questions*, 69 W. Va. L.R. 314 (1967).

<sup>2</sup>President's Commission on Law Enforcement and Administration of Justice, Task Force Report: *The Courts*, 34-37.

## TRIAL COURTS OF RECORD

General criminal jurisdiction is exercised by the circuit courts throughout most of West Virginia and by special statutory courts in seven counties. The annual number of new criminal cases filed in these courts has varied from 4,980 to a low of 4,107 during the last five fiscal years, according to figures kept by the West Virginia Judicial Council. The highest number during that five-year span occurred in fiscal 1963 and there has been a steady decline in the number of new criminal cases filed since that year. However, the number of cases pending at the end of each fiscal year has tended to grow steadily over the same five-year period. While there is some indication that the courts are tending to fall a bit behind in the disposition of cases, the crushing burdens of a huge backlog of cases does not burden the administration of criminal justice in courts of general jurisdiction in West Virginia as it does in some areas. While West Virginia voters have seemed reluctant to change the Constitution to allow the expansion of a number of circuit judges, the legislature has created a number of special statutory courts to provide adequate judicial manpower within the state. In sum, West Virginia seems adequately supplied with judicial manpower and adequate means seem available for making adjustment as caseloads may indicate an increasing demand.

While West Virginia circuit court judges and judges of special statutory courts exercising general criminal jurisdiction are elected in partisan elections, the length of terms for these offices seems to provide substantial insulation from undue pressure to respond to transient emotional reactions that sometimes well up within the public. The eight-year term of office for circuit judges allows the judge to act in a dispassionate judicial manner even though the criminal cases coming before him may be charged with substantial emotional overtones.

West Virginia trial courts exercising general criminal jurisdiction have had broad authority to grant probation since 1939. Probation officers, who are required to provide pre-sentence reports and supervise probationers, are appointed in some cases by the judges exercising criminal jurisdiction, but most of them are furnished by the Director of Correction. The general statute providing for this appointment fixes limitations on the amount of compensation to be paid but does not fix any training or professional standards for the probation officer. That the role of probation officer is looked upon as a political appointment is evidenced by the fact that the *West Virginia Bluebook* lists the political party affiliation of probation officers in the county

register in many instances. Probation services of high quality have been developed in some parts of the state but this important adjunct to the proper functioning of the criminal courts of the state has not reached its full potential. While the direct appointment by the judges concerned, with no limitations of significance imposed by law, promotes close cooperation between the probation officer and the court, some degree of professionalism on the part of the probation officers throughout the state guaranteed by some minimum training requirement or effective in-service training program should be required by statute.

## APPELLATE COURT

The Supreme Court of Appeals exercises the ultimate appellate jurisdiction within the state judicial system. This court, composed of the five judges elected on a partisan ballot for overlapping terms of 12 years, exercises appellate jurisdiction on a discretionary basis unique among the states. A person convicted of crime has a right to seek a writ of error following his conviction, but this involves only the opportunity to seek appellate review and does not provide assurance that appellate review will in fact take place. The number of criminal cases actually reviewed by the Supreme Court of Appeals in recent years has been extremely low. In the fiscal years 1961 through 1966 the number of appeals actually granted in criminal cases in any one year ranged from a low of 5 in fiscal 1966 to a high of 18 in fiscal 1961. The number of instances in which appellate review was sought in criminal cases ranged from about 20 to about 40 during these years.

It is quite clear from the limited number of cases in which appeal is sought, and the even smaller number in which a fully briefed and argued appellate review of cases occurs, that an extremely small number of criminal cases in West Virginia are ever subjected to the scrutiny of a court beyond the court of original jurisdiction. This is quite out of keeping with common practice throughout the United States where at least one appeal as of right is almost automatically available to any defendant convicted of crime. There are substantial advantages to be gained from broadening and strengthening the appellate review of criminal cases. The operational advantages of this policy will be discussed in a later portion of this chapter.

## INTERMEDIATE APPELLATE COURT

In light of the limited size of the Supreme Court of Appeals (five members, so limited by the constitution) and the



long-standing tradition of a very limited exercise of the discretionary appellate jurisdiction granted to that court, the most feasible method of insuring at least one review as of right by an independent appellate tribunal in criminal cases in West Virginia would involve the creation of a new intermediate appellate court between the courts now exercising general criminal court jurisdiction and the Supreme Court of Appeals.

*The Committee recommends:*

A new intermediate court of appeals made up of at least three judges be established to insure at least one appeal as a matter of right in all criminal cases without disruption of the jurisdiction of existing courts. No reasons appear which would prohibit this court, if established, from also exercising civil jurisdiction.

PROSECUTING ATTORNEY

The prosecutorial function in West Virginia is performed by the county attorney elected on a partisan basis for a four-year term in each of West Virginia's 55 counties. The pay for this office varies widely across the state ranging from a low of \$2,600 per year to a high of \$17,000 per year. The recent high at \$17,000 authorized by the legislature in 1967 for the Kanawha County prosecutor stands considerably above the rate provided for most prosecutors in the state. However, the Kanawha County prosecutor is the only prosecutor in the state required by statute to devote full time to his office. He is forbidden to carry on any private practice. West Virginia also provides for 42 assistant prosecutors around the state who along with secretarial assistance in the prosecutor's office operate at a cost at nearly three-fourths of a million dollars per year.

An important aspect of the prosecutor's office in West Virginia is the predominant commitment to a part-time prosecutor assisted by a part-time assistant. By tradition, the criminal justice system in West Virginia operates in surges that build up to intensive periods of activity just before and during each term of court. Thus, a prosecutor and an assistant may be heavily burdened with criminal work for a short period of time, but once the term of court is over and the trial calendar cleared, the demands of the office are substantially reduced and the attorneys have time to devote to private practice matters. The inherent shortcoming of the part-time prosecutor system is quite obvious. With compensation for the public duties fixed by statute, the temptation to devote additional effort to the private sector of

his business to enhance income and push it toward more truly professional levels is very considerable. The dilemma created by the challenge of public responsibility on one hand and the obvious and intriguing opportunities to enhance personal income by devoting greater efforts to private practice on the other hand should not be forced upon a man with such an important public responsibility.

*The Committee recommends:*

That West Virginia abandon the policy of part-time prosecutors and require regional prosecuting attorneys to devote full time to their public responsibilities. Appropriate work loads could be arranged for such officers by combining the criminal prosecutorial functions in smaller adjacent counties and by increasing the responsibility of the county attorney to represent various public agencies locally in their civil legal matters. The continuation of part-time assistant prosecutors could be continued to supplement the work force created by the full-time prosecutor.

INVESTIGATORS FOR PROSECUTING ATTORNEYS

County prosecutors presently do not have direct supervision over any investigative agency. Their ability to obtain adequate investigation services in the preparation of criminal cases depends upon their own personal ability to develop the cooperation of various local police agencies. The operation of this office could be improved considerably by the addition of a trained investigator who is responsible directly to the prosecutor who could serve as liaison with existing police investigative agencies and provide independent investigative capability to the prosecutor's office when deemed necessary.

*The Committee recommends:*

Trained investigators responsible directly to prosecutors should be authorized for that office.

DEFENSE OF THE INDIGENT

The provision of defense services to persons accused of crimes is a matter of growing concern. The minimal requirements established by the United States Constitution and demanded of state criminal justice systems have been expanded considerably in recent years. West Virginia has long required that counsel be

appointed to defend individuals charged with felonies within this state, but the administration of these provisions has varied considerably throughout the West Virginia counties. The state attorney general of West Virginia joined in filing an *amicus curiae* brief with the United States Supreme Court in the important case of *Gideon v. Wainwright*<sup>3</sup> which established as a Constitutional mandate that states provide defense counsel for all indigent criminal defendants accused of serious crimes. There is increasing emphasis being placed upon the role of counsel across the full range of criminal justice administration from the time of arrest until the time of ultimate release to society. In more and more instances, the United States Supreme Court is demanding that the right to counsel be afforded. The right to counsel must be afforded to a criminal defendant (free of charge if he is indigent) during in-custody interrogation,<sup>4</sup> trial, appeal,<sup>5</sup> probation revocation hearings<sup>6</sup> and, since the case of *In re Gault*,<sup>7</sup> in juvenile proceedings where a substantial interference with the freedom of the juvenile involved is a possible consequence.

The appointment of counsel for indigent criminal defendants in West Virginia is within the power of any court of record in West Virginia having criminal jurisdiction. The authority is buried obscurely in a statute which was amended in 1966 to assure the courts of this state that their authority to appoint occurred "at any time."<sup>8</sup> There is no statewide systematic method whereby counsel is appointed for indigent accused. There is no clear understanding of the scope of the obligation of an appointed defense counsel. Practices in regard to the appointment of counsel vary from court to court. The lack of clear-cut guidance as to the terminal point of an appointed counsel's obligation leaves the matter of representation of indigent defendants on appeal or in probation revocation proceedings very much in doubt. Still, it seems quite clear now that the spirit of the right to counsel and equal protection doctrines of the United States Constitution clearly command adequate and vigorous representation of

<sup>3</sup>372 U.S. 335 (1963).

<sup>4</sup>*Miranda v. Arizona*, 384 U.S. 436 (1966).

<sup>5</sup>*Douglas v. California*, 372 U.S. 353 (1963).

<sup>6</sup>*Mempa v. Rhea*, 389 U.S. 803 (1967).

<sup>7</sup>387 U.S. 1 (1967).

<sup>8</sup>W. Va. Code ch. 62, art. 3, § 1 (Michie 1966).

the accused at these stages of his confrontation with public authority. A recent study of the problems involved in providing adequate defense services to the poor undertaken by the American Bar Association strongly recommends that the appointment process be made very systematic so that the failure to provide counsel at any important point in a criminal proceeding does not result from lack of clearly defined responsibility.<sup>9</sup> Furthermore, the report suggests that the obligation of the defense counsel be precisely stated to avoid doubt as to when the responsibility of the counsel comes to an end. These matters deserve serious consideration.

Underlying the problem of providing adequate defense services to indigent accused persons is the matter of cost. West Virginia has now provided a token payment to appointed counsel -- \$50 in the case of felony and \$25 in the case of misdemeanor. Truly adequate defense services are available to the poor only at exorbitant personal sacrifice by attorneys. The quality of legal services provided in many instances is substantially compromised simply because the attorney, no matter how public spirited he may be, cannot indefinitely perform services for such totally inadequate pay. The federal government in the Criminal Justice Assistance Act of 1964 abandoned the policy of expecting lawyers to represent indigent defendants in federal criminal proceedings without fee and adopted a more pragmatic program of paying on a modest but adequate scale according to the time actually devoted to the representation of the individual involved.<sup>10</sup> One of the vexing constitutional problems facing the nation today is that of implementing the spirit of the *Gideon* decision so that every poor man accused of crime is not only represented by counsel but adequately represented by legal counsel. It is the duty of the state to face this obligation and respond to this challenge in a meaningful way.

*The Committee recommends:*

A program of ample compensation for counsel representing indigent persons accused of crimes, delinquency and neglect of children providing for a time necessary to investigate and prepare a case, in court appearances, and appropriate appellate actions, be undertaken by this state. It should be clearly established that it is the responsibility of the state and not the bar to provide counsel for indigent persons accused of crimes, delinquency or neglect of children.

<sup>9</sup>American Bar Association, *Providing Defense Services* (Tent. Draft 1967).

<sup>10</sup>Criminal Justice Act of 1964, 18 U.S.C. § 3006A (1964).

## OPERATIONAL ASPECTS OF COURT SYSTEM

To this point, this chapter has devoted itself essentially to the structural aspects of the criminal justice system--the court system and the professional legal personnel, prosecutors and defense counsel, who operate in that system. The focus now shifts to the operational aspects so that other facets of the criminal justice system of the State of West Virginia may be examined.

### INITIATING CRIMINAL CHARGES

The focus here will be on the process from the initiating of the criminal charge to the ultimate disposition of the charge following trial and appeal.

The machinery of the criminal justice system may be set in motion by either a private citizen or a police officer. The police officer acts either upon observed infractions of the law or official information given to him. West Virginia is fortunate in escaping the kind of strained relations between large segments of the population and the police force that plague the urban centers of our nation. Sporadic complaints do arise within the state, but these are in fact sporadic rather than persistent and would not seem to require any kind of sweeping change involving the criminal justice system generally.

The situation is different in the area of private complaint. Any private citizen may initiate the criminal process by swearing a complaint before a justice of the peace. This sets in motion a hearing process which at a minimum can cause great inconvenience to the individual accused. Here again the fee system of the justice of the peace courts tends to encourage abuse of legal process. The justice does not receive a fee for refusing to issue a warrant but receives a fee for issuing the warrant and holding a hearing upon it. The justice generally feels justified in issuing the warrant compelling the accused person to appear so that the matter might be resolved upon a fair hearing. Presently, the only restraint is the fear of a civil action in damages for false arrest or malicious prosecution.

The difficulty is, of course, that the tradition of our legal system cautions against the interference of the liberties of the private citizen unless there is probable cause to summon him before a magistrate. The fee system encourages total disdain for the probable cause standard and the setting in motion of the machinery of criminal justice upon the merest of suspicion and motivated by nothing more than a moment's anger. To reduce the possible abuses within this area--

The Committee recommends:

Legislation should require, subject to certain exceptions, the approval of the appropriate prosecuting attorney prior to the issuance of a warrant.

### RELEASE ON PERSONAL RECOGNIZANCE

When there is probable cause to hold a person for grand jury action and subsequent disposition by a court exercising general criminal jurisdiction, another problem arises within the criminal justice system. By strong tradition within our system every man is entitled to bail prior to his trial on noncapital offense, thus allowing him freedom during the time that elapses between the initial arrest and the disposition of the case by a court of competent jurisdiction. By common practice bail has operated much to the disadvantage of the poorest members of our society since they are least able to meet the economic demands of bail. As a consequence, the man with the least job security, the least likely to have any economic cushion to tide him and his family over difficult times, the person frequently faced with the most desperate needs in terms of providing the necessities of life, is most frequently retained in jail pending disposition of the criminal charges against him. The grievous disadvantages this works upon the poor have been carefully documented elsewhere.<sup>11</sup>

On the brighter side of the picture, however, there are programs operating in two West Virginia cities, Charleston and Huntington, which have demonstrated productive new means of dealing with this problem. Both of these cities have developed bail projects patterned after the now famous Manhattan bail project sponsored by the Vera Foundation in New York City. These projects fix responsibility on a specific individual to make brief examination of each new person lodged in jail pending criminal charges to ascertain and verify certain background information in regard to the individual. A simple scale has been developed which has proved quite effective in identifying those persons who would be good risks to release from jail on personal recognizance without the demands of an immediate outlay of money which lays beyond the capabilities of most of these men. There is obviously an immediate benefit to society as a whole in the operation of these programs.

<sup>11</sup>President's Commission on Law Enforcement and Administration of Justice, Task Force Report: *The Courts*, 37-41 (1967).



*The Committee recommends:*

Bail projects patterned after the Vera Foundation type projects in Charleston and Huntington should be developed on a state-wide basis.

#### NOTICE IN LIEU OF ARREST

An alternative mode of reaching much the same problem in regard to minor criminal offenses and thus further reducing the unnecessary pre-trial incarceration of individuals charged with crime can be accomplished by expanding use of a notice system rather than an arrest system to bring offenders before courts of justice. Many traffic and parking violations are handled by a summons instead of an arrest. The possibility of expanding this practice should be seriously investigated so that guidelines may be drawn and proper adjustments in legal procedures made to facilitate the maximum use of these. Informal and less burdensome means may be employed to initiate the criminal process.

*The Committee recommends:*

An appropriate study should be undertaken to determine under what conditions a summons may be used in lieu of a warrant.

#### WAIVER OF INDICTMENT

We have addressed ourselves to several means by which the burdens of pre-trial incarceration may be ameliorated. There is another aspect of this problem which deserves attention. By reducing the time span between the initiation of the criminal process and the disposition before a court of competent jurisdiction, many advantages may be gained. The resolution of the criminal charge will clear the doubt that hovers over the individual. More importantly, to those individuals who failed to gain release from jail pending this disposition, the advantages of shortening the waiting time are doubly important. One stumbling block in reducing this time span is the reliance in West Virginia upon the indictment as the sole means to initiate criminal prosecutions in all felonies and by custom in serious misdemeanors.

Since the indictment may be returned only by a grand jury and grand juries convene at only infrequent intervals throughout the year, much of the pre-trial time is devoted to merely awaiting the convening of a grand jury so that the formal charge may be made and some definite action in disposition begun. Many states prosecute by information, a criminal charge sworn to by the public prosecutor. The information also initiates many prosecutions in federal criminal proceedings where a waiver of an indictment is allowed in all but capital cases.<sup>12</sup>

<sup>12</sup>Federal Rules of Criminal Procedure, Rule 7(b). See *Smith v. United States*, 360 U.S. 1 (1959); *Barkman v. Sanford*, 162 F2d 592 (5th Cir. 1947).

The grand jury originated as an instrument whereby the people of the locality concerned could report offenses formally to the visiting judges sent out by the king. It evolved into a body in the United States today which serves two primary functions: It may serve as a check on hasty and unwarranted criminal charges thus saving a potential criminal defendant the burdens of standing criminal trial where there is totally inadequate evidence to justify this; and second, it can serve as an investigative body representing an unbiased cross-section of the community which can be particularly effective when public doubts are raised as to the unbiased quality of investigations that may be made by other public agencies. The grand jury continues to hold out potential and significant advantages. However, channeling every significant criminal charge to the grand jury is not necessary to reap the substantial advantages of a grand jury system. By recognizing the validity of the information as a valid means of starting a criminal prosecution as an alternative to the indictment would allow its use in those cases where there is no advantage to be gained by waiting for grand jury action. No right is lost when a defendant makes a knowing and intelligent waiver of indictment by grand jury and submits to trial on information.

In the vast majority of instances, there is no doubt at all that there is sufficient evidence to warrant trial on charges involved. In these instances it is much to the advantage of the accused to proceed promptly to a disposition of the case. To allow a waiver of an indictment by a defendant under such circumstances would promote the expeditious disposition of criminal cases and would reduce the pressures of the cyclical nature of criminal court activity presently produced by the surge of business set off by a meeting of the grand jury.

*The Committee recommends:*

Steps should be taken to authorize public prosecutors to proceed by information where there is a valid waiver of an indictment.

#### NEGOTIATED PLEA OF GUILTY

Most criminal cases are disposed of without trial by jury. This fact makes it all the more important that the waiver of indictment be recognized as valid in West Virginia. Since the grand jury is usually followed promptly by the petit jury, much of the advantage and smoothing out the court's criminal caseload would be lost if the cases merely piled up awaiting action by a petit jury. However, it is abundantly clear that the vast majority of criminal cases are disposed of without a jury trial on the merits

and thus the waiver of indictment would be doubly effective in moving criminal cases along to a rapid disposition.

The practice of disposing of criminal cases without trial is one about which much of the legal profession and the court system manifests ambivalent feelings. Several factors contribute to the commonness of the plea of guilty. First, most people who are arrested and indicted are in fact guilty of a criminal offense. Frequently, their criminal activity will involve violation of more than one criminal statute, and thus they are subject to prosecution for several different criminal offenses. Secondly, the present criminal code is premised upon an approach which might be labeled "overkill" in common vernacular of our day. That is, a single episode of unlawful behavior may involve several acts which, though relatively innocuous in themselves, amount to independent felonies each subjecting the individual to very substantial periods of incarceration. In short, the present criminal law provides for penalties which are disproportionately large for most offenses. Thirdly, the public prosecutor frequently feels that public justice is adequately done if only a portion of the potential penalties which may be levied against the individual are in fact imposed upon him. All these factors contribute to the common feeling that a willing admission of guilt as to part of the criminal offense does not belie the truth, adequately serves the needs of public punishment, and avoids the necessity of criminal trial which would produce little advantage for either prosecution or defense in most instances. As a consequence, the negotiated plea of guilty, sometimes more disparagingly called bargained pleas or bargained justice, accounts for the disposition of the many criminal cases.

#### AMERICAN BAR ASSOCIATION POSITION ON NEGOTIATED PLEAS

A study by the American Bar Association recently published suggests minimum standards to be observed in the activities surrounding this process. The underlying premise of the American Bar Association position is that plea negotiation is legitimate, that it serves a useful purpose, and that justice is better served by the process being performed openly and above board with the acknowledgement of court approval and supervision. This report deserves serious study by the bench and bar in West Virginia.<sup>13</sup>

<sup>13</sup>American Bar Association, *Pleas of Guilty* (Tent. Draft 1967).

Jury trials in West Virginia of criminal cases are relatively low in number, but their impact on the system as a whole remains terribly important. Much of the defendant's willingness to plead guilty or a prosecutor's willingness to drop charges in view of the nature of evidence is gauged by anticipated jury reaction to the particular situation involved. The jury trial thus tends to be a pace setter for the system as a whole, a kind of barometer against which the less formal and more obscure decision processes within the criminal justice system operate. At the heart of the jury system, of course, is the method by which the jury panels are drawn from the community at large. At present the system by which this most important termination is made varies considerably in important detail from county to county within the state.

The federal government has recently undertaken a study of the jury selection systems of the federal courts and the system involved in various states courts with a view toward expanding civil rights legislation to insure selection of juries on nondiscriminatory bases.<sup>14</sup> It would seem appropriate that West Virginia should, in light of its own strong and serious commitment to state initiative in human relations,<sup>15</sup> undertake to review the jury selection processes within this state to reassure itself that the legal rules surrounding the selection of juries insure a fair cross-section of the communities involved. This is an area in which objective rules of law could seem to assure the public of truly nondiscriminatory practices better than a system which places faith upon procedures which are conducted largely beyond the view of the general public.

#### PREJUDICIAL EFFECTS OF PUBLICITY

There is one further striking development in regard to the jury trial in recent years that has not missed the State of West Virginia. This problem grows from the increasing difficulty to conduct important criminal trials free of intense pressures which are generated by the vast amount of public media attention that is focused upon such events. Recent cases in the United States Supreme Court such as *Shepherd v. Maxwell*<sup>16</sup> and *Texas v. Estes*<sup>17</sup> have underlined the basic constitutional dimensions

<sup>14</sup>See, "President's Special Message to Congress on Civil Rights" Feb. 16, 1967, House Doc. No. 56, 90th Cong. 1st Sess. See also, "Hearings, Federal Jury Selection," Senate Subcommittee on Improvement of Judicial Machinery, Mar. 21 - July 20, 1967.

<sup>15</sup>W. Va. Code ch. 5, art. 11, § 1 (Michie 1966).

<sup>16</sup>384 U.S. 333 (1966).

<sup>17</sup>381 U.S. 532 (1965).

of this question. In our own state, serious problems of the prejudicial effects of publicity were raised in the recent cases of *State v. Hamrick*,<sup>18</sup> *State v. Dandy*<sup>19</sup> and *State v. Maley*.<sup>20</sup> Developing a sound and mature policy in this area which will promote the even-handed administration of justice while allowing the legitimate distribution of public information and avoiding the aborting of the criminal process as does so dramatically occur from time to time raises a challenge of substantial importance. Again, a recent report by the American Bar Association has focused upon this matter and makes useful suggestions which deserve careful consideration.<sup>21</sup> The recommendations of this report have been vigorously attacked by a broad segment of the American Press attesting to the probability of very serious problems that would have to be faced in any serious adjustment of policy in this area.<sup>22</sup> The bench, bar, and news media sources of the State of West Virginia should be challenged to look seriously to the issues raised by this report and consider carefully what kind of policy would be best for the state of West Virginia.

#### SENTENCING POLICY

The final step of the trial stage of a criminal case is the sentencing action taken by the trial judge. Here, the legal policy of West Virginia has undergone a major, but quiet revolution. West Virginia has, since the adoption of its first constitution, been committed to the policy that "penalties shall be proportioned to the character and degree of the offense."<sup>23</sup> Over the years, the Supreme Court of Appeals has refused to exercise the potential power of this phrase and has allowed the legislature to do as it pleased in regard to the disposition of persons convicted of crime in West Virginia. And, it has pleased the legislature of West Virginia to make wide-ranging changes in the basic approach to sentencing in this state. The most significant innovations came about in 1939 with a granting of broad probation authority to criminal courts and with the commitment to the indefinite sentence.<sup>24</sup>

<sup>18</sup>151 S.E.2d 252 (W. Va. 1966).

<sup>19</sup>153 S.E.2d 507 (W. Va. 1967).

<sup>20</sup>152 S.E.2d 827 (W. Va. 1967).

<sup>21</sup>American Bar Association, *Fair Trial and Free Press* (Tent. Draft) (1966).

<sup>22</sup>American Newspaper Publishers Association, *Free Press and Fair Trial* (1967).

<sup>23</sup>W. Va. Const. art. III, § 5.

<sup>24</sup>Brown, *West Virginia Indeterminate Sentence and Parole Laws* 59 W. Va. L.R. 143 (1957).

This legislation shifted a very large measure to the control of the maximum term of imprisonment out of the hands of the courts and into the hands of the administrative agency--the Board of Probation and Parole. More recently another legislative innovation has shifted West Virginia still further from its initial policy of fitting the punishment to the crime. A new Division of Correction was created in 1965 and specifically charged with developing programs that would return convicted persons to normal productive lives at the earliest possible date.<sup>25</sup> Thus, the current posture of the State of West Virginia is to promote to the fullest degree a rehabilitative program in lieu of a retributive program. In this process the importance of the sentencing role of the court has been substantially reduced. The gross length of a prison sentence is determined by fixed limits within statutes. The sentencing court still has some degree of discretion in its choice of consecutive or concurrent sentences where multiple offenses are concerned. It still has considerable discretion in granting or denying probation to a convicted person. And, there are some offenses as to which the trial court is specifically authorized to choose between incarceration in the jail or commitment to the penitentiary.

Courts exercising criminal jurisdiction in West Virginia have available the pre-sentence report as a tool to facilitate enlightened disposition of offenders.<sup>26</sup> The quality of these reports varies considerably from county to county depending upon the capabilities of the probation officer involved (recall that these officers are appointed by the judge and need to meet no specific professional training requirement by law) and the community resources available to support the presentence investigation. (Local mental health clinics are sometimes called upon by some courts to provide psychological or psychiatric analyses of individuals involved.)

The sentencing policy manifested by West Virginia statute is somewhat incongruous. The indeterminate terms fixed by West Virginia statutes in regard to various specific offenses are not altogether consistent. There are more than 200 different

<sup>25</sup>W. Va. Code ch. 62, art. 13, § 1 (Michie 1966).

<sup>26</sup>Lorensen, *Disclosure of Presentence Reports to Defense in West Virginia*, 69 W. Va. L.R. 159 (1967).

specific penalties fixed for various offenses in Chapter 61 of the West Virginia Code. The indefinite sentence policy which makes release contingent upon approval by the Board of Probation and Parole tends to dilute the significance of the terms fixed by the statute. Moreover, the trial judge has no authority to adjust even the minimum period of time that an offender must serve before he is eligible for release on parole. Additionally, some crimes have unusually high minimum terms fixed and are no doubt the result of emotional reactions to a short lived waive of public concern for particular crimes.

#### MODEL SENTENCING ACTS

Several new models concerning the sentencing problem have been developed by agencies of national repute in recent years. The American Law Institute has evolved a thorough going sentencing policy as a part of its Model Penal Code.<sup>27</sup> The National Council on Crime and Delinquency recently published a Model Sentencing Act,<sup>28</sup> and the American Bar Association has recently published a tentative report on Appellate Review of Sentences and another on Sentencing Alternatives and Procedures. That West Virginia has been willing to innovate in the area of correction is commendable, but the role of the sentencing court, the prime concern of this chapter, seems to have become quite ambiguous and uncertain. With prestigious national models providing a platform from which an intelligent evaluation may be made, the time would seem right for a careful reconsideration of the proper role of the sentencing judge in the correction system generally.

#### APPELLATE REVIEW

As previously recommended, it is felt that there is need for intermediate appellate court that would provide one appeal as of right in all criminal cases. As noted, the Supreme Court of Appeals has not in recent years engaged in an aggressive review of criminal cases in this jurisdiction, and has disclaimed authority to review sentencing decisions by trial judges with the result that frequently the most important determination made in a case is not subject to any subsequent re-evaluation. Certainly,

<sup>27</sup>American Law Institute, *Model Penal Code*, Arts. 6, 7 (Proposed Official Draft 1962).

<sup>28</sup>The Model Sentencing Act is published in 9 *Crime and Delinquency* pp. 345 et. seq. (1963).

one of the major reasons for the lack of a healthy persistent overview of the administration of criminal justice in West Virginia has been the lack of effective demand upon the Supreme Court of Appeals for the review of criminal cases. This lack of demand arises from several causes. There seems to be considerable doubt as to the responsibility of appointed counsel to pursue appellate remedies for an indigent accused. Certainly, there is no adequate compensation, and out-of-pocket expenses for appellate review in West Virginia outstrip the compensation that is allowed by statute at a very early point. Moreover, the speculative nature of gaining review on the merits, in light of the discretionary review policy of West Virginia appeals, discourages many from even seeking review where it might otherwise be pursued with vigor. All of these factors contribute to the present policy that finds only a handful of West Virginia criminal cases being subjected to the dispassionate and objective review of an appellate court in the normal year's operation of the judicial system.

The consequences of this lack of appellate review are not altogether healthy. Trial court practices on many points vary from county to county. No doubt some local variation is bound to occur within every judicial system, but the disparities that occur in West Virginia are considerable. The lack of effective appellate review lodges extraordinary power in West Virginia trial judges. This simply means that an enormous number of decisions within the criminal justice system operates upon a basis of discretion exercised by the local trial judge. While a certain degree of discretion is necessary in order to insure adequate flexibility and efficiency, an excessive reliance upon it invites suspicion. The basic commitment of our system, that it should be in a government of laws and not of men, runs quite counter to the proposition that so many important decisions go unreviewed and unreviewable. It is one thing to isolate the trial judge from emotional or partisan pressures by providing a long term on the bench and infrequent election. It is quite another to insulate the trial judge from effective review of his legal decisions by another competent court. The present system encourages an overpersonalized administration of the law which is fundamentally incompatible with a system in which objective rules should reign supreme.

#### APPEAL AS A MATTER OF RIGHT

Appeal as of right in criminal cases is quite common throughout the United States and discretionary granting of review in West Virginia is unique. To promote respect for law and standardized practices throughout the state, an

appeal as of right in every criminal case should be provided. It is to be hoped that the new court suggested by this report could, with its fresh start, seek to innovate in appellate practice to make the review of criminal cases quick and inexpensive. It would certainly be appropriate considering the operation of such a court to weigh the merits of having the court sit at various points throughout the state to reduce the time and travel expense of litigants to reach it; to consider the appellate review services of this court in connection with a review of the sentencing policy in light of the growing view that there is nothing inappropriate in the review of sentencing decisions; and considering the possibility of automatic review of every criminal case to some extent whether requested or not to forestall the question of whether rights have been prejudiced by failure to press for appellate review in specific cases and to promote the maximum standardization of practices throughout the state as a whole.

#### POST CONVICTION RELIEF

A problem that has plagued the operation of the criminal justice system in recent years has been the increasing resort to post-conviction relief. The growing concern of the United States Supreme Court for minimum due process standards applicable in state criminal proceedings has been paralleled by a broadening of the procedural means by which federal courts can eventually review the adherence to federal minimum standards.<sup>29</sup> Most states, including West Virginia, have broadened their own state post-conviction remedies, abandoning the ancient narrow limits upon the writ of habeas corpus in order to accord the state courts a "first crack" at complaints by prisoners that constitutional standards were not met in their conviction. West Virginia recently adopted a post-conviction relief act that should serve to provide an expedient means to make accurate factual determinations in regard to allegations of abuse of federal constitutional rights.<sup>30</sup> Whether this statute is operating effectively is not yet known. It should be noted, however, that an intermediate appellate court which could automatically review promptly after

<sup>29</sup> See Lorensen, *New Scope of Federal Habeas Corpus for State Prisoners*, 65 W. Va. L.R. 253 (1963).

<sup>30</sup> W. Va. Code 53-4A (Michie Supp. 1967). See Note, "Habeas Corpus in West Virginia" 69 W. Va. L.R. 283 (1967).

trial every criminal case in West Virginia could serve to forestall much of the anguish engendered by stale complaints of prisoners who challenge the details of procedure by which they were convicted many years after those events have occurred.

#### PROBLEM OF DELAY

Underlying the entire criminal justice system is one problem that seems to infect the administration of criminal law throughout the United States in varying degrees. The problem is the pace at which the system operates. Justice delayed is justice denied in many instances and contravenes the requirement of Section 17 of Article III of our State Constitution which requires that "...justice shall be administered without sale, denial or delay."

The delay in prompt disposition of a criminal case can frequently mean a loss of job and a loss of status in a community that is wholly disproportionate to the criminal offense involved. This kind of delay can only serve to embitter the individual involved so that any corrective action taken by the court is due to fail no matter how well informed. If a person who violates society's rules is to feel the sting of public indignation for the wrong that he has done, that response should follow close upon the misconduct that is involved. A great lapse of time between the crime and the punishment stretches the cause and effect relationship beyond plausible bounds and reduces the efficacy of any rehabilitative effect that the punitive action might have. In short, the system should operate as quickly as dispassionate, careful and balanced judgment will allow.

#### CAUSES OF DELAY

The causes for delay within the system are sometimes subtle and sometimes obvious. One obvious cause for delay is the grand jury system which creates an unnecessary gap of time between the original complaint and the formal charging of a crime against a defendant. We have already suggested that much of this problem can be alleviated by recognition of the validity of the information in West Virginia. Another more subtle cause for delay is the almost automatic advantage in terms of defending against the formal charge against the accused, that accrues to his benefit by delaying official action upon it. Reaction to the original wrong wanes, enthusiasm for the charge peters out,



witnesses' recollection dulls and concern ebbs, as the provoking event further recedes in the past. The result is that there seems to be an automatic advantage to the defense to delay prompt disposition of a criminal charge when it is brought. But in the larger picture the defendant may suffer considerably from this delay. So long as a criminal charge hangs over his head unresolved, many affairs of productive aspects of his personal life must hang in limbo. Reasons for delay abound, but the public is entitled to swift disposition of public business and the constitutional guarantees of speedy trial should not be played off indiscriminately against the hopes of benefiting from procrastination. The means by which a new force can be injected into the system to promote speedy disposition are not altogether clear. The desirability of the end is hardly open to question, but the technique by which to achieve it raises some difficult problems.

*The Committee recommends:*

The felony timetable recommended by the President's Commission on Law Enforcement and Administration of Justice be given further study as a possible guide to promote the expeditious disposition of criminal cases. This timetable sets forth a worthy goal demanding a program that should be developed within the framework of the judicial and bar association in order to insure proper support. (See Figure 7)

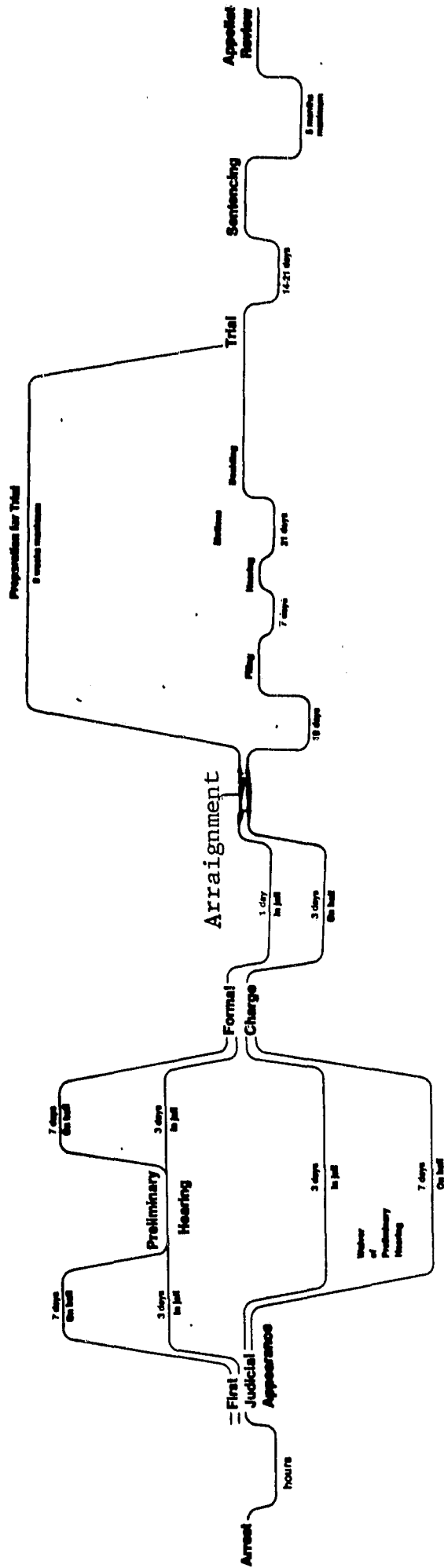
SUBSTANTIVE CRIMINAL LAW

To this point various structures and processes have been observed and evaluated and a number of recommendations have been made bearing upon adjustments that might be implemented to improve the operation of the criminal justice system. Another element of this picture that deserves consideration is the criminal law which is in fact administered by the system. The substantive criminal law itself can hardly escape examination. The basic body of West Virginia criminal law was absorbed from the West Virginia Code of 1849. While there has been a good deal of tinkering and patching up done in the past century, there has been no careful thorough going review of this important body of law.

Much of the substantive criminal law reflects the common law of England of the 17th Century that was more oriented toward a metaphysical mode of thought. The pragmatism of the latter

FIGURE 7

Model Timetable for Felony Cases



these steps should take no more than 17 days, in most cases it should be possible to accomplish them in substantially less time.

Arraignment to Trial. Many of the increasing number of motions require the judge to hear and decide factual issues. Discovery orders may require time for the assembling and screening of documents. The recommended standard would allow slightly more than 5 weeks for these steps and would allow a total of 9 weeks between arraignment and trial. Where complicated motions are not involved, the period before trial should be shortened. Trial to Sentence. During this period a pretense investigation should be completed.

Sentence to Appellate Review. This standard is based on the time periods of the proposed Uniform Rules of Federal Appellate Procedure. Many jurisdictions would have to change existing practices concerning printing and preparation of records to meet this standard.

Arrest to First Judicial Appearance. Many States and the Federal courts require appearance "without unnecessary delay." Depending on the circumstances, a few hours—or less—may be regarded as "unnecessary delay." Compliance with this standard may require extension of court operating hours and the continual availability of a magistrate.

First Judicial Appearance to Arraignment. Standards here are complicated because: (a) a shorter period is appropriate for defendants in jail than for those released; (b) preliminary hearings are waived in many cases and the formality and usefulness of the hearing varies; (c) formal charge in some cases is by grand jury indictment, while in others by prosecutor's information—usually the right to indictment can be waived by the defendant; and (d) in many jurisdictions proceedings through preliminary hearing in felony cases are in one court while grand jury charge and subsequent proceedings are in another. While in all cases

half of the 20th Century makes some of this quaint. Our criminal law today is encumbered with many sophisticated discriminations. Many basic determinations are encumbered by archaic language.

The rather indiscriminate process by which the substantive criminal law of today has evolved into its present condition has created a situation in which the criminal law is called upon to deal with problems which are patently inappropriate for its sphere of concern. The public has all too often reacted to an equation which suggests that anything deemed offensive by a majority of the citizens should be officially condemned -- and if it were condemned it should be made criminal and the burden cast upon the criminal processes to eradicate it. There seems a clear consensus today that there are certain types of problems that have been shouldered by the criminal processes for too long and with disastrous results. It would be wise that immediate steps be taken to acknowledge the inability of criminal processes to effectively meet these kinds of problems.

*The Committee recommends:*

**Drunkenness and narcotic addiction should be excluded from the criminal justice system and an alternative means of dealing with such problems should be provided.**

One approach to the alcoholism problem is the Court School for Alcoholism Prevention.<sup>31</sup> Judge Levin, of the Superior Court of California, City and County of San Francisco, describes the unusual school established by him to which persons with the problem of excessive drinking are sent as a condition of their probation. The school is run the year around for four one-hour sessions on successive Wednesday evenings. Each session emphasizes a different theme -- (1) the medical aspect of alcoholism; (2) social-psychological factors involved in alcoholism; (3) Alcoholics Anonymous and its program; and (4) community treatment resources. Similar schools have been conducted in other parts of the country with some degree of success.

<sup>31</sup>See Levin, *Alcoholism Prevention School* 53 A.B.A.J. 1043 (1967).

The President's Commission recommended civil detoxification centers, along with civil legislation authorizing the police to pick up those drunks who refuse to, or are unable to, cooperate and provide for their detention until sober. Counseling and other programs to assist the intoxicated person are offered all brought to the center. The Division of Alcoholism of the Department of Mental Health has prepared for the Governor's Committee an alternative plan for handling the drunken offender, which appears in Chapter 12.

#### DISTINCTION BETWEEN CRIME AND SIN

There is a growing body of opinion that suggests the time has come when the law should recognize the distinction between crime and sin and stop employing the tools of the criminal law to attach to matters of essentially private moral concern. The criminal law is, of course, but a small part of the arsenal of weapons used by society to shape and mold the ethical and moral conduct of its members. The law threatens grievous punishment and public condemnation.

In a pluralistic society which is fundamentally committed to recognize and tolerate differences of opinion, there is considerable doubt of the propriety of using criminal penalties to punish persons for acts which do no objective harm to others or to society as a whole but tend only to contravene the moral principles of the majority.<sup>32</sup>

In the light of the fact there has been no thorough going evaluation of the scope of the criminal law in West Virginia since the inception of this state, the time would seem right for either careful readjustment of the perimeters of the criminal law in those areas where the criminal law seems to be of doubtful efficacy; gambling, abortions, private sexual practices; either separately or as a part of a broader re-evaluation of the criminal code of the state as a whole.

#### CONCLUSION

This chapter has sought to deal with the broad problems of the criminal justice system in West Virginia generally. Specific recommendations have been made where particular steps have offered the opportunity for productive

<sup>32</sup>See Lorensen, *Abortion and the Crime-Sin Spectrum*, 70 W. Va. L.R. 20 (1967) and sources therein cited.



change. Some matters have been touched upon in detail, others have been addressed in only the broadest fashion. This chapter has been concerned with essentially the institutional form of the criminal justice system. With this structure we have found much that merits further examination and the possibilities of improvement seem very real. That the processes of criminal justice operate as well as they do within the state speaks well of the quality of the men who make it work.

## JUVENILE DELINQUENCY

Some time ago in a statement on crime, President Johnson said: "We cannot tolerate an endless, self-defeating cycle of imprisonment, release and reimprisonment which fails to alter undesirable attitudes and behavior." If any one point of view related to the defeat of this cycle nears universal acceptance, it is the simple belief that the best hope for reducing adult crime is to find a way to prevent or reduce juvenile or youth crime. Thus, probing for ways to implement this point of view is in fact probing at the very heart of the problem.

Some insight into the magnitude of this task that lies ahead can be gained by observing that with approximately 22,000 inmates in our 34 federal institutions today, another 1,000 in Public Health Service hospitals, and still another 3,000 in the custody of non-federal facilities, the Bureau of Prisons is responsible for the care of about 26,000 inmates. In addition, there are about eight times this number confined by the 50 states. Since the present United States population is approximately 200 million people, the ratio of those imprisoned to the total population is 100 in every 100,000 people. A substantial number of these imprisoned individuals are young people or older offenders with juvenile records.

### NEED FOR STATISTICAL EVIDENCE

It has been suggested by many experts that a significant component in the prevention and control of delinquency is to know as many facts about delinquency as it is possible to assemble. This means that we should have knowledge of how many youthful offenders exist, the kinds of offenses committed, the number of arrests and the disposition of juvenile cases. In addition, we should know the number and kinds of institutions available for handling juvenile offenders, programs for treating those institutionalized, significant shifts in the kinds of acts committed, recidivism rates, and any other aspects of apprehension and treatment that will cast more light upon what to do to, for, with, or about delinquency and delinquents.

The task of securing needed statistical data, however, is fraught with difficulties. The President's Commission reported that:

"But we are severely limited in what we can learn today. The only juvenile statistics regularly gathered over the years on a national scale are the FBI's Uniform Crime Reports, based on arrests statistics, and the juvenile court statistics of the Children's Bureau of the United States Department of Health, Education, and Welfare, based on referrals of juveniles from a variety of agencies to a sample of juvenile courts. These reports can tell us nothing about the vast number of unsolved offenses, or about the many cases in which delinquents are dealt with informally instead of being arrested or referred to court. Supplementing this official picture of delinquency are self-report studies, which rely on asking selected individuals about their delinquent acts. While efforts are made to insure the validity of the results by such means as guaranteeing anonymity, and verifying results with official records and unofficial checks, such studies have been conducted only on a local and sporadic basis, and they vary greatly in quality. Clearly, there is urgent need for more and better information."<sup>1</sup>

#### AVAILABLE STATISTICS

Available statistics related to juvenile offenders in West Virginia are at their best inadequate. Reporting is sporadic and lacking in uniformity. The effective use of available data in the pursuit of solutions to delinquency problems is adversely affected by the fact that the quantity and quality of available data suffers not only from inconsistencies in the classification of various behaviors held to be of a deviating nature, but also from variations in the definition of the term "delinquent".

The West Virginia Department of Education estimates that there are 272,163 children between the ages of 10-17 living in this state. Of these 272,163 children, it is estimated that 10,866 were arrested in 1966. This figure is based on the West Virginia Judicial Council statistics which show that 3,622 cases involving juveniles were referred to the courts for the fiscal year ending June 30, 1966. Experience has shown that for every one child referred to the courts, two are not referred. Judicial Council statistics also reveal that only 1.33 percent of these children in the 10-17 age group appear before the juvenile courts of this state.<sup>2</sup> This figure compares favorably with the national average

<sup>1</sup> President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 55 (1967).

<sup>2</sup> A compilation of available delinquency statistics in West Virginia is contained in Appendix F.

of 2 percent estimated by the United States Children's Bureau. It must be noted that about one-half of the juveniles appearing in the courts of this state are repeaters.

In 1966 the West Virginia State Police arrested 2,439 juveniles while 902 were arrested by the Charleston City Police Department. Of the nine sheriff's reporting, 109 juvenile arrests were tabulated for 1966. This represents a combined total of 3,450 of the projected 10,866 arrests for 1966. The types and frequency of offenses for which arrests were made are reflected in Tables 6 and 7. These tables have particular significance as they are indicative of the nature of this deviating behavior.

Officially designated delinquents are predominately male. The United States Children's Bureau projects that if present trends continue, one in every six boys will be referred to a juvenile court before his eighteenth birthday. In West Virginia this means that with the present population of 136,000 males in the 10-17 age group, 22,000 of these boys will be appearing in juvenile courts before they are 18.

We cannot rely too heavily on the statistics presently available on juvenile delinquency in this state. It follows, therefore, that we cannot be too sure of the seriousness of the delinquency problem. To develop a more effective way to reduce or eliminate delinquency, we must have reliable and uniform statistical data.

*The Committee recommends:*

**Standardization by all courts exercising juvenile jurisdiction of statistical information record forms.**

#### THE EXPERIMENTAL APPROACH

Since our American culture changes with almost kaleidoscopic rapidity, the underlying principle governing the development of any recommendations for solving juvenile problems is that such recommendations must be viewed as a basis for change within a short period of time. Such a position is essential if an experimental attitude toward new programs for the effective resocialization of delinquents is maintained.

Insistence on an experimental approach to the social phenomenon called juvenile delinquency stems from four simple

TABLE 6 - NUMBER &amp; RATE OF ARRESTS FOR THE 10 MOST FREQUENT JUVENILE OFFENSES - 1966

Rank	Offense	Number	Rate (per 1000 population)	Percent of total Arrests
1	Breaking and Entering	300	2.7	7.0
2	Petit Larceny	208	1.9	4.9
3	Auto Theft	205	1.8	4.8
4	Juvenile Delinquency	169	1.5	3.9
5	Burglary	157	1.4	3.7
6	Destruction of Property	107	.9	2.5
7	Grand Larceny	91	.8	2.1
8	Drunk	71	.6	1.7
9	Assault	51	.4	1.2
10	Weapons	28	.2	.7
Total, 10 most frequent offenses		1387	1.27	32.45
Arrests for all offenses		4287	3.92	100.00

Source: State Police Juvenile Arrest Records, 1966  
Rural W. Va. population approximately 1,092,072

TABLE 7 - NUMBER &amp; RATE OF ARRESTS FOR THE 10 MOST FREQUENT JUVENILE OFFENSES - CHARLESTON, W. VA. - 1965

Rank	Offense	Number	Rate (per 1000 population)	Percent of total arrests
1	Shoplifting	173	2.00	19.2
2	Violation - Curfew	154	1.80	17.1
3	Drunk	61	.70	6.8
4	Disorderly Conduct	55	.63	6.1
5	Petit Larceny	51	.58	5.7
6	Dest. of Property	43	.50	4.8
7	Incorrigible	38	.43	4.2
8	Missing/Runaway	36	.41	4.0
9	Grand Larceny	29	.33	3.2
10	Missing/Runaway (out of state)	26	.30	3.0
Total, 10 most frequent offenses		666	7.68	74.0
Arrests for all offenses*		902	10.40	100.0

Source: Charleston Police Dept., Juvenile Bureau, 1965.  
Charleston population estimated at 86,621.  
\* Does not include traffic arrests.

truisms: 1) social institutions are, in essence, relatively crystalized sets of behavior habits; 2) culture is dynamic, not static; 3) social institutions are co- (or inter)-related in any social system; and 4) when change takes place in one social institution, change will inevitably occur in one or more of the other institutions. Adherence to these truisms fosters the development of recommendations that will fit a changing, moving milieu rather than unrealistic, definitive proposals that would be better suited to a static, non-changing social setting.

#### FRESH CONCEPTS AND APPROACHES

Although unanimity cannot be expected on all suggested procedures for affecting resocialization, those people who are in a position to know and understand juvenile problems in this state are in complete agreement that there is a need for fresh concepts and approaches in most areas. There is a serious need for developing ways and means by which an effective program for the resocialization of the juvenile offender can replace simple custodial care. This does not infer that the institutionalized offender is given only custodial care by the existing correctional personnel in West Virginia. This does mean, however, that because juvenile delinquency is on the rise and the recidivism rates for youthful offenders are higher than for all other age groups of violators, we must be continually alert to new ways of rehabilitating and resocializing the young law violator.

It should be distinctly understood that the strong emphasis on the adoption of new programs that will result in the effective resocialization and rehabilitation of the deviating child is not an advocacy of a soft or permissive approach. People and property must be protected against mistreatment by juveniles as well as adult offenders. However, if a juvenile's cycle of violation, incarceration, violation, incarceration *ad infinitum* is to be permanently interrupted, a way must be found to produce a positive change in the delinquent. It is of the utmost importance that those people who work with juvenile offenders be able to expose them to a set of experiences that will motivate these offenders to slough off their anti-social tendencies in favor of a socially useful pattern of behavior.<sup>3</sup>

<sup>3</sup> Already plans are underway for the establishment of a correctional and research training center at West Virginia University in Morgantown. For details of concept, see Chapter 10.

Essential to the program recommended here is a continuing program of research and experimentation for new concepts and approaches to the delinquency problems in the state. Only with the help of a research and training component can the sought-after goal be achieved.

## COMPREHENSIVE APPROACH

The resocialization of a deviating juvenile represents but half of the total need. If the state's concern with the institutionalized delinquent ends with the child's demonstration of a readiness to return to society, and nothing is changed in the social milieu to which he or she must return, then the state is indeed guilty of what might be called a "piecemeal" attack upon the problem of delinquency.

For example, a child is picked up in "X" locality and is committed to a correctional institution after repeatedly demonstrating indifference to social responsibility. He is kept in the institution until such time as the offender demonstrates that he has substituted acceptable behavior habits for the undesirable behavior habits that caused him to be sent away in the first place. If the staff is successful in the efforts to rehabilitate or resocialize that young person, he is released. If he simply returns to an unchanged social climate in which the interest and motivation to delinquency originally was generated, then that youthful offender will soon show the need to be institutionalized again.

If the "piecemeal" approach is to be avoided in favor of a total attack, then the full might of all community resources must be enlisted and brought to bear in an effort to stop communities from being contributors to the perpetuation of delinquency.

## THE FAMILY COURT

A family court having jurisdiction over such matters as delinquency, divorce, adoption, non-support, bastardy, contributing, and foster home placement can make a significant contribution to the solution of many problems related to juvenile and youth crime. The inadequacies inherent in the circuit court prevent it from being an instrument of maximum effectiveness in dealing with problems of juvenile and youthful offenders. However, it is not any shortcoming of the present handling of young law violators that prompts the recommendation that the system of family courts be established. Rather, it is the keen sensitivity of the Committee to the deep involvement of the home in the etiology of most delinquent behavior that stimulates them to look upon the juvenile or family court as the *sine qua non* in any program intended to solve deviating behavior problems of young people. There are many reasons why this is so. Some of the more obvious ones are:

- A. Delinquency is a highly complex phenomenon of unlawful behavior committed by children and youth.
- B. Because of the complex nature of the development of a delinquent, rehabilitating the delinquent can be

achieved most frequently by professionally trained persons capable of developing and implementing programs which incorporate the latest findings of the social scientist. A family court, staffed by professionals, can provide this.

- C. Although a thousand juveniles may commit the same delinquent act, no two of them will commit that act for exactly the same set of reasons. Therefore, it is essential for effective resocialization or rehabilitation of juvenile offenders to have readily available an instrument that recognizes the need for and has the capability of providing justice based on individual case need.

Individualized justice is not an easy thing to accomplish. This awareness is shared by many who work in the field of juvenile delinquency. William H. Sheridan, Assistant Director, Division of Juvenile Services, Children's Bureau, makes the following recommendations for a juvenile or family court structure:

1. A judge and a staff identified with and capable of carrying out a nonpunitive and individualized service.
2. Sufficient facilities available in the court and the community to insure:
  - a. that the dispositions of the court are based on the best available knowledge of the needs of the child.
  - b. that the child, if he needs care and treatment, receives these through facilities adapted to his needs and from persons properly qualified and empowered to give them.
  - c. that the community receives adequate protection.
3. Procedures designed to insure:
  - a. that each child and his situation are considered individually.

- b. that the legal and constitutional rights of both parents and child and those of the community are duly considered and protected.<sup>4</sup>

One of the most important features of such a court is that it offers a wide range of possible dispositions of children's cases. A family or juvenile court, structured to provide a "team approach", an experimental spirit, a professional staff dedicated to keeping abreast of new knowledge discovered in the physical, biological, social and health sciences, will give West Virginia an instrument that will help the state to take a major step in meeting its obligation to all its socially and culturally handicapped children, whether they are delinquent or not.

A point worth reemphasizing is that approaching the needs of delinquent children in a humanitarian manner should not be equated with "mollycoddling" those who violate the law. Reestablishing in a delinquent child a desire to live a useful and productive life should be the aim of any program for treating a law violator.

*The Committee recommends:*

Family courts with jurisdiction over all matters normally found in this type of court, such as delinquency, divorce, adoption, non-support, bastardy, contributing, etc., and with a sufficient population base to justify a full-time judge or judges.

#### ORGANIZATIONAL STRUCTURE OF THE DELINQUENCY PROGRAM

The development and implementation of a comprehensive juvenile program presupposes the existence of an effective organizational structure. The organizational structure must reflect the established goals and philosophies of the program.

This is not always an easy thing to accomplish. For example, in West Virginia the accepted theory of juvenile treatment is that the handling of juvenile problems is fundamentally a task that must be coped with at the local level. However, many areas of this state are too thinly populated to justify the development of costly programs that are required if we are to meet the juvenile problems in our state adequately. Yet, at the same time, an effective delinquency program must provide high quality services to all youths regardless of the population area from which they come.

<sup>4</sup> Sheridan, *Juvenile and Family Courts* 2 (1966).

A majority of the counties in West Virginia do not have a population base to justify the establishment of separate juvenile facilities, such as courts and detention housing with appropriate personnel. In addition, there are not enough youngsters who require these services in most counties to justify the expense. A multi-county approach, therefore, seems to be the most logical answer. Under this system a geographical area with a sufficient population base (300,000 to 500,000) would provide specialized services for all youngsters in that area. The counties could join together and be served by a family court, a youth service bureau, a detention facility, and other appropriate services. With the advent of improved roads in West Virginia, the small inconvenience caused by traveling to reach a given facility would be balanced by the improvement in youth services.

The establishment of juvenile services on a regional basis necessitates the creation of some coordinating body to assure uniformity in approach and equal opportunity for all individuals. The Committee realized the need for a centralized youth authority committed to the task of providing leadership and direction on the development and implementation of local youth services. Though the prevention and control of delinquency is essentially a task to be met by local governmental units, it is the responsibility of the state to assure uniform standards for the operation of various delinquency facilities, courts, detention housing, probation and parole personnel and to provide equal opportunities for every child.

By providing state leadership for local government, as with state programming throughout, a comprehensive attack on delinquency problems is made possible. Sporadic and fragmented implementation is eliminated. Responsibility for action is fixed.

*The Committee recommends:*

The organizational structure of the delinquency program in the state should be as follows:

- a. Department of Corrections responsible for all services to the delinquent, including youth service bureaus and regional detention facilities programs.
- b. A Division of Delinquency within the Department of Corrections to administer the state delinquency program.
- c. Division of the state into regions with regional centers.

- d. A legislatively created Advisory Commission to advise on the program.
- e. A delinquency component within the Correctional Research and Training Center to be established at West Virginia University in conjunction with the state correctional program.

#### YOUTH SERVICES BUREAU

Scanning juvenile arrest records of the average municipal police department in the state will reveal that about one-half of the arrests are made by the police for such conduct as fighting, incorrigibility, hitchhiking, disorderly conduct, drunk, loitering, runaway, playing pool, starting a fire without a permit, truancy, trespassing, violation of curfew and firecracker law.

The thinking of many of the juvenile delinquency authorities in the nation today is that both the police and the schools should have some community agency to which it can refer such juveniles. These people recommend the test for referral to this agency be such that if the conduct for which the juvenile is detained had been engaged in by the adult and the adult would not be answerable to the criminal laws, then referral to this agency could be had by the police and the schools. Even in the court-accepted cases referral can be made by the juvenile court.

Such a procedure would avoid the stigma of being processed by an official agency regarded by the public as an arm of crime control by substituting for the official agencies organizations which are better suited for redirecting conduct. It has been proven many times that it is possible to achieve greater success with this type of program. Also, the utilization of these locally sponsored organizations heightens the community awareness of need for recreation, employment, tutoring and other youth development services. This in turn brings a greater appreciation of the complexity of the delinquent's problems on the part of the community.

The President's Commission recommended the establishment by the committee of neighborhood youth services agency -- youth services bureaus, to act as central coordinators of all community or neighborhood programs, specifically, ones designed for less seriously delinquent juveniles.

# CONTINUED

## 1 OF 4

A primary function of this agency would be individually tailored work with troubled youths which might include group and individual counseling, placement in foster homes, work and recreational programs, employment counseling and special education (remedial, vocational).

*The Committee recommends:*

Youth Service Center Bureaus of the type recommended by the President's Commission on Law Enforcement and Administration of Justice, as an alternative referral source for the police and schools for those juveniles whose delinquent conduct, if committed by an adult, would not cause him to be answerable to an adult court, and also as an alternative referral source for the family courts in all juvenile cases.

REGIONAL DETENTION

Under the present law in West Virginia no child under the age of 16 can legally be housed in a county or city jail. However, because of the overwhelming lack of separate detention facilities for children in West Virginia, the present custom is that a room or two is set aside in a county or city jail and described as the "juvenile section". No matter what you call this section, the fact remains that these youngsters are being housed in jails in violation of West Virginia law, not to mention the obvious harmful effects on the youngsters confined therein. Nevertheless, judges must have a place to detain temporarily many of the youngsters who are referred to their courts, pending final disposition of their cases. Frequently this is necessary for the protection of society and other times for the protection of the youngster.

*The Committee recommends:*

Regional detention facilities equipped with adequate programs to meet the needs of the detained children, and approved overnight holdover facilities for children requiring immediate secure custody locally. Jails will be eliminated as a source of detention for juveniles.



### SPECIALLY TRAINED PERSONNEL

Any structure or system dealing with people is entirely dependent upon personnel for its effectiveness. In an area as complicated as that of delinquency, specially trained staff members are imperative. National statistics reveal that for every one person arrested by a law enforcement officer two others have been contacted by that officer. Certainly a child's first contact with a law enforcement officer can have a great deal to do with his future conduct. Similarly, once a child has been referred to a court, his relationship with court personnel such as probation officers or later, his contacts with institutional personnel, all have a direct bearing on his chances for rehabilitation. In any serious illness one would not consider seeking help from anyone other than a professionally educated and trained person.

*The Committee recommends:*

All personnel employed to work in any agency dealing in any way with delinquency should have specialized training.

### IN-SERVICE TRAINING FOR JUDGES

Like any other scientific field, new techniques are constantly being discovered or discussed in the field of juvenile delinquency. As is the case with other professional persons, it is highly important that judges dealing with juveniles and other family matters keep up to date in their knowledge of new materials and methods.

*The Committee recommends:*

An in-service training program for family court judges.

### ADEQUATE PROBATION AND PAROLE SERVICES

The best trained probation and parole personnel cannot perform their duties effectively unless they have a realistic number of youngsters under their supervision. The National Council on Crime and Delinquency recommends a caseload not to exceed twenty for juvenile probation officers and a caseload not to exceed thirty for juvenile parole officers.

*The Committee recommends:*

An adequate probation and parole service available to family courts and the juvenile parole system.

### PROTECTION OF RIGHTS OF JUVENILE

In recent cases the United States Supreme Court has ruled that certain constitutional rights apply in cases involving juveniles charged with acts of delinquency. These rights which are required to be respected in all cases include the right to counsel, written notice of charges against the juvenile, the privilege against self-incrimination and confrontation and cross-examination of witnesses. The Committee wholeheartedly concurs with the recognition that these rights apply to juvenile delinquency cases.

*The Committee recommends:*

The establishment of a system of juvenile justice to provide a juvenile with all constitutional facilities.

### COMMUNITY PROGRAMS

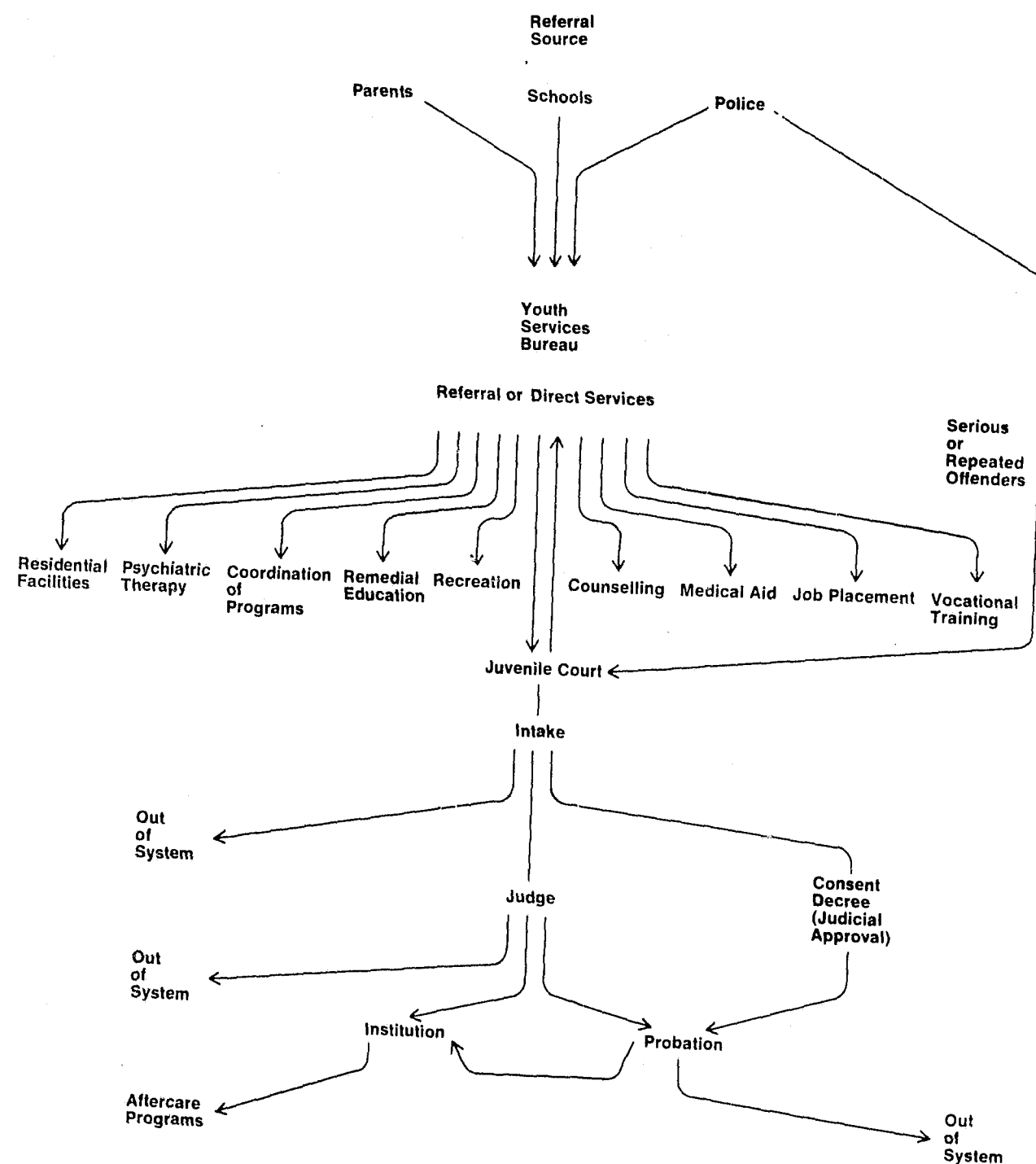
All the court, detention, and institutional services in the world will not prevent or decrease juvenile delinquency without the support of the community as a whole. Parents, teachers, all who come in contact with children, play a key role in determining behavior patterns. Society must have an abiding interest, accompanied by appropriate community action programs -- schools, recreation, churches, etc. Only by working together can this serious state and national problem be solved.

*The Committee recommends:*

The extension of appropriate community action -- extra judicial delinquency prevention, disposition, and after-care facilities and programs.

FIGURE 8

## Proposed Juvenile Justice System



Source: *Challenge of Crime in a Free Society*, op. cit., p. 89.

## CORRECTION

## OUR PRESENT SYSTEM

Traditionally, society has been most reluctant to look at the correctional machinery which it supports with its tax dollars. Not only is correction difficult to see, because of the very nature of its purpose and function, but also unattractive to view. The impersonal atmosphere of the typically steel and concrete institutional buildings is not pleasing to the eye, and those residing within are not the types with whom the average law-abiding citizens in our society would want to associate. Inhabitants of correctional institutions in West Virginia represent the hard-core segment of the most troublesome, quarrelsome, bothersome, and criminally inclined element of our society. They have been officially declared, for all practical purposes, misfits and failures and are enrobed in a cloak of disrespectability and irresponsibility.

Even the families of those who have been sentenced to our correctional institutions prefer not to think or talk about the institutions and often ignore, or forget entirely, the family member who has been ostracized from society.

## PRE-INSTITUTIONAL CARE OR PROBATION SERVICES

Of course, the correctional process machinery is not limited to correctional institutions. It includes pre-institutional care (probation) and after-care (parole).

Persons who find themselves in pre-institutional care or probation services, are so interspersed within our society that we are scarcely aware of them. The stigma of institutionalization has not yet attached to the young, impressionable, first offender. He has not yet acquired the more sophisticated criminal attitudes of the "old timer" who has been through the institutional process. The degrading, debasing and often humiliating experiences of the prison have not yet befallen the average probationer. There is still a high degree of hope that he will change his attitude toward society and toward himself and emerge from the probation process as a law-abiding, peaceable

member of society. Indeed, perhaps the greatest ray of hope on the correctional horizon is the intensified supervision and professionalized counseling available through pre-institutional services.

#### AVERAGE PAROLEE IN OUR SOCIETY

Although similarly interspersed among our society, the average parolee is not as obscure as the probationer. Having acquired certain specific habits and traits within the institution and often possessing the tell-tale "love", "hate", and "born to lose" finger tattoos, he is readily identifiable by most law enforcement and correctional personnel and other sociologically informed members of the community. For the average parolee, authority is a thing to be feared and fought. Society as a whole is considered an enemy. Anti-social attitudes and beliefs have been reinforced in the correctional setting. Prisons, as we understand them in West Virginia, have done very little to change the attitudes of those committed to their charge or to prepare them for the almost inevitable return to the community. Until recently, no psychiatric services at the institutions were available, there were no treatment-oriented personnel employed in the institutions, training programs were minimal and highly inadequate, and the administrations were entirely content with security efforts aimed at keeping the charges within the confines of the institutions.

#### SCOPE OF THE DIVISION OF CORRECTION

In West Virginia, until March of 1965, each of the six correctional institutions and probation and parole services were operated as separate entities, independent of each other. In March, 1965, the West Virginia Legislature established the Division of Correction within the office of the Commissioner of Public Institutions. The Division of Correction is made up of the following institutions:

1. West Virginia Penitentiary, Moundsville, West Virginia -- a maximum security prison for adult, male felons, with a present population of 850;
2. West Virginia Medium Security Prison, Huttonsville, West Virginia -- a medium security prison for adult, male felons, with a present population of 300;
3. West Virginia Prison for Women, Pence Springs, West Virginia -- a medium-minimum security facility for adult female felons, with a present population of 31;

4. West Virginia Industrial School for Boys, Pruntytown, West Virginia -- for male juvenile delinquents, with a present population of approximately 190;

5. West Virginia Industrial Home for Girls, Salem, West Virginia, for female juvenile delinquents, with a present population of approximately 60;

6. West Virginia Forestry Camp for Boys, Davis, West Virginia, -- a minimum security facility for youthful, male offenders, with a present population of 85.

Also included in the Division of Correction is full responsibility for the supervision of all persons on parole within the State of West Virginia and all adult probationers except those assigned to a county court probation staff.

On any given day, the State Division of Correction is responsible for approximately 4,000 people in the institutions or on probation and parole. There are some 700 employees in the division, 33 of whom are probation and parole officers.

The responsibility for granting, denying or revoking adult parolees, remains exclusively within the purview of the West Virginia Board of Probation and Parole. Responsibility for juvenile probationers rests with the West Virginia Department of Welfare and the juvenile courts.

#### FACILITIES NOW INADEQUATE

The jail facilities, juvenile detention facilities, juvenile training schools, and the prisons of the state are generally totally inadequate. Most of our jails are disgustingly dirty, ill-equipped and poorly managed facilities. There are only three counties in the state with juvenile detention facilities outside of the county jails. In all other counties, juvenile and youthful offenders are housed in the county jail along with adult offenders.

There is no system of centralized routine jail inspection in West Virginia. The jails operate autonomously and are not generally favored by substantial appropriations for their operation. Indeed, the system of criminal justice, including correction, has not been one of those favored areas of legislative concern, as far as financial appropriation is concerned. Our need for roads, schools, development of natural resources, better mental health facilities, increased welfare benefits and the like, have all taken priority over our system of criminal justice and correction.

## BEGINNING OF A NEW ERA IN WEST VIRGINIA CORRECTION

The establishment of the West Virginia Division of Correction was the beginning of a comprehensive plan of dealing with public offenders. However, virtually all the personnel employed in the institutions falling under the jurisdiction of the Division of Correction had as their primary aim security and custody. There were very few treatment or rehabilitation-oriented people within the institutions. Lack of financial opportunity, lack of job security, and less than attractive physical surroundings within which to work, have badly hampered the recruitment of treatment and rehabilitation personnel in our correctional system.

While the concept of rehabilitation and treatment of the public offender is not novel, it is a relatively new idea in the historical development of penology in this country. Even to the uninformed, it is obvious that there is no panacea to the complex problems of crime and the criminal. Indeed, correction has not corrected a great many offenders. On the contrary, the conditions which have existed in our correctional institutions have probably been a positive detriment to self re-evaluation and rehabilitation.

## FIVE BASIC TRUTHS OF A CORRECTIONAL PROGRAM

There are five basic truths or premises upon which any successful, comprehensive correctional program or plan must be based. First, that the people who have the greatest influence, either positive or negative, upon people in our correctional institutions are their fellow inmates. Secondly, that 98% of all persons in correctional institutions in West Virginia today, will one day return to society. Thirdly, that rehabilitation is largely a matter of the mind; we may have the most modern physical plant and the most qualified professional staff, but if the offender does not want to be rehabilitated and has not determined that it is economically and socially better to be outside than in, no rehabilitation program will work for him. Fourthly, that the transition from a correctional institution back to society must be made as gracefully and realistically as possible. Lastly, correctional institutions should be places where people are sent as punishment, not for punishment, and should be used only as a last resort.

The legislative purpose stated in the act establishing the West Virginia Division of Corrections is that the,

...article shall be liberally construed, to the end that persons committed to institutions of the State for crime and delinquency shall be afforded individual and group treatment to re-establish their ability to live peaceably and, consistent with the protection of the community, to release such individuals at the earliest possible date, and to establish a just, humane and efficient program, and to avoid duplication and waste of effort and money on the part of public and private agencies.<sup>1</sup>

It becomes immediately apparent that it is incongruous to expect our institutions to prepare the public offender to return to society to live peaceably and to re-establish his ability to live in a peaceful society with the rest of us, when we must accomplish this purpose by removing him from our society and placing him in an utterly abnormal environment.

## PROBLEM OF EVALUATION PROGRAM

A major problem has been that of evaluating the worth of individual correction programs. How does one measure the worth of a correctional system? When is it succeeding at its task and when is it failing? One answer might be that a successful correctional program is one which reduces crimes or results in a reduction of the number of offences against society. Even more specifically, it seems that a correctional system could best be measured by the end-products which it returns to society. Are those in the correctional system being returned to society as self-sufficient, self-respecting, trustworthy, confident, responsible, self-reliant people? If they are not, it is a good bet that they will return to our institutions for the commission of another offense against society, soon after release. Trustworthiness, confidence and a sense of responsibility are developmental matters. If one is to be trustworthy and responsible, trust and responsibility must be reposed in him as he develops. Most people are capable of assuming trust and responsibility, but many fail themselves and fail

<sup>1</sup> W. Va. Code, Ch. 62, Art. 13, §1 (Michie 1966).

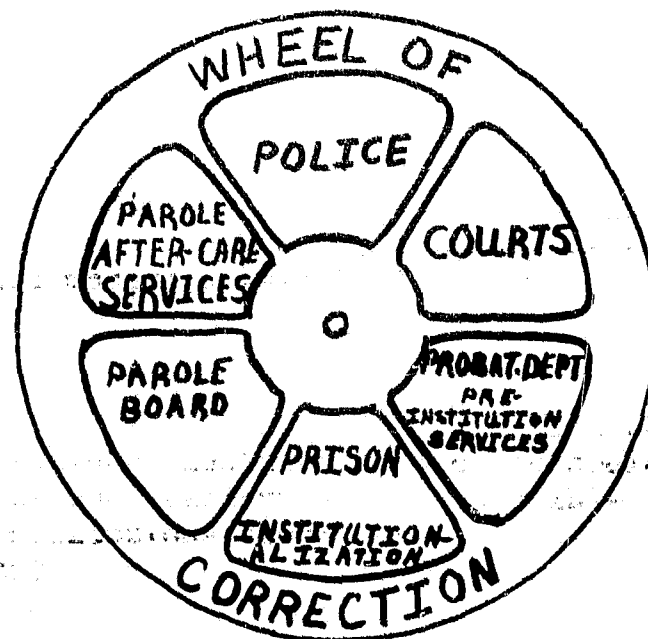
society as well. They are the ones who make the headlines in our newspapers when they breach their trust and escape the custody of the institutions.

Making responsible citizens out of public offenders is difficult at best, but it is even more difficult when we realize that each individual human being must be approached and handled in a different way because he is not like any other human being. Therefore, our institutional programs must be geared to the needs of the individuals rather than gearing the individuals to the needs of the institutions.

How the police officer performs his tasks will very often determine the image of government held by those who have come in contact with him. It can and often does predetermine the attitude of the offender toward the rest of the system of criminal justice.

#### THE WHEEL OF CORRECTION

Our system of criminal justice is made up of six segments, all of which are so intertwined and interspersed within each other that the policies, procedures and programs of one will greatly and directly affect the workings of all the others. It must function as a well-oiled piece of machinery with the cooperative efforts of the six segments involved.



Locking each person in a cell or a room and keeping him under close security in that cell or room is the easy way to operate a correctional facility. No one ever escapes, society feels secure, and the correctional staff does not have its ingenuity overtaxed. However, the end product of such a system will scarcely be better able to live peaceably in our society for his having been through such an experience.

It is when we open the doors and cells and repose trust, confidence and responsibility in the inmates of our correctional institutions that the need for competent, professional treatment and rehabilitation oriented staff becomes critical. The job becomes much more difficult, and we realize that we must have highly trained people to provide the treatment so desperately needed and compassionate, patient people, filled with love for their fellow men, to serve as security officers, charged with the responsibility of keeping the public offenders away from society during the period of treatment and rehabilitation.

#### CORRECTIONS BEGIN AT MOMENT OF ARREST

A truly comprehensive and effective correctional system must be based upon one additional premise; i.e., that the correctional process must begin at the moment of first arrest. The person with whom the average member of society is most familiar in the criminal justice system is the policeman on the local beat. He represents authority. He represents the "establishment", the "administration" or the "institution", in the most comprehensive sense of the word; he represents "government", and he is often the only member of our state or local government with whom the average citizen comes in contact directly.

When the public offender is first apprehended by the police, the manner in which he is handled may very well determine his attitude when he goes before the court. The efforts of the police will directly affect the operation of the courts. For example, if the police avoid making arrests or cut down on the number of arrests they are making, the dockets of the courts will be much smaller. If the police increase the arrest rates, the dockets of the courts will become larger. Similarly, if the judges place more public offenders on probation, the population of the correctional institutions will lower. If the courts use probation sparingly, on the other hand, and tend to increase prison or institutional sentences, there will be fewer persons on probation and the population of the prisons and other institutions

will be increased. Also, if the Parole Board tightens up its paroling policies and paroles fewer people, the populations of the prisons will be higher and the case load of the parole officer in after-care services will be reduced. A liberal paroling policy of the parole board will result in reduced population at the institutions and increased case loads for after-care supervisors. Lax supervision of parolees or reluctance to revoke parole may very well result in increased arrests by police of persons who have already been incarcerated in correctional institutions. Similarly, tight parole supervision and revocation policies will result in lower parole officer case loads and increased prison or institutional populations.

It is obvious, therefore, that a truly comprehensive system of criminal justice and correction must begin at the moment of first contact with the wheel of correction and must encompass all segments of the wheel.

#### HISTORICAL CONCEPTS OF CRIME AND CRIMINAL RESPONSIBILITY

Historically, theories of crime and criminal responsibility have been closely associated with theories of the objectives of punishment. In primitive times, it was believed that crime was largely the responsibility of evil spirits influencing the person who had committed the crime. Therefore, the major purpose of punishment was to satisfy the gods.

Later, crime was considered to be the willful act of a free agent. Thus, punishment was laid on as a social revenge. Therefore, society retaliated, often quite harshly, when it became indignant and outraged at an act of voluntary perversity.

Of course, an additional function of punishment was to deter potential wrongdoers from committing further crimes. The theory of deterrence is really only a rationalization of revenge. Under this theory the person being punished becomes examples to others.

In recent years, new concepts of crime and criminals have developed along with the growth of new philosophies regarding social responsibility and the development of the biological sciences. These new concepts have sharply challenged the doctrine of free will and have produced a shift from theories of revenge, retribution, expiation and deterrence, to those of reformation of the offender and the protection of society. Emphasis has been shifted to the individual committing the crime rather than on the crime itself.

#### ILLS OF PRESENT SYSTEM

The ills which have so long plagued our correctional system and its institutions formed the basis for a study by the American Correctional Association, shortly after the period between 1950 and 1956, during which almost 100 riots and serious disturbances swept the nation's prisons. Property destruction as a result of these riots was estimated at more than ten million dollars, and only a few states escaped these riots. The committee reported that,

The immediate causes...are usually only symptomatic of more basic causes. Bad food usually means inadequate budgets reflected in insufficient supplies, poor equipment, poor personnel and often inept management. Mistreatment of prisoners, or lax discipline usually has behind it untrained employees and unwise or inexperienced management. The fundamental causes of prison maladministration may be categorized under a number of general heads, (a) inadequate financial support, and official and public indifference; (b) substandard personnel; (c) enforced idleness; (d) lack of professional leadership and professional programs; (e) excessive size and over-crowding of institutions; (f) political domination and motivation of management; and (g) unwise sentencing and parole practices.<sup>2</sup>

However, even above and beyond these so-called fundamental causes of institutional maladministration, there lies an even deeper and more critical matter. Robert Frasure, having reviewed the above monograph of the American Correctional Association stated:

I make bold to suggest that until we make the prison a more human habitation, in a psychological sense, prison riots are inevitable for the very reasons which the monograph cites. Certainly, there must be qualified personnel, classification, full employment, smaller prisons, all the essential elements of a dynamic, positive program, and with all these, that which the committee fails even to suggest, a psychological setting in which 'The prisoner's self-respect can be cultivated to the utmost.' No authoritative statement on prison riots in this day and age can ignore or should it fail to emphasize the feeling aspect of prison life.

<sup>2</sup> 33-2 *Prison Journal* 23-24 (1953).



Should one not reasonably expect an authoritative statement on the subject of corrections today to include some reference to individual help and the process by which it is made available to the prisoner? The monograph sets down widely accepted theories of prison management. It resorts to a hackneyed, but still popular pasttime by placing the blame on 'politicians' and an indifferent public for the ills which afflict the prison. I suggest that we in the correctional field give an up-to-date interpretation to the challenging and too long neglected principles of the 'Declaration of Principles'.<sup>3</sup>

It would appear, therefore, that prison riots, and general ineffective correctional institutional management and administration will continue so long as the personality of the individual inmate is ignored as a result of a mass-treatment concept which insists on regimentation and monotony of day-to-day existence, in a setting where suspicion and fear and contempt pervade the atmosphere surrounding the personnel and in which custody and treatment are at constant loggerheads with treatment always subservient to custody. In such circumstances the "jail psychosis" is most firmly imbedded. Inmates in such surroundings are reduced to little more than animal status. The only creature of God with the power of speech is silenced; the only creature with the power of independent judgment is deprived of the opportunity of exercising such power; a societal creature is placed in a circumstance wherein betrayal of his fellows results in reward, and group conduct is governed by the dread and deadly inmate code. Such codes are in operation in correctional institutions of all types for adults, juveniles, male and female.

#### THE COUNTY JAIL AND CITY LOCKUP

The county jail and often the city lockup are as important as a state prison. The city lockup or the county jail is only a step away from the first spoke in the wheel of correction and the majority of those who are later sent to prison have already spent time in jail while awaiting trial. Hundreds of our citizens have served time in jail for minor offences and in many instances innocent persons have had jail experience. Many of those acquitted by judge or jury have already been required to serve detention, sometimes for months or even years, in jail.

<sup>3</sup>Supra Note 2 at 23-24. See *Proceedings, American Correctional Association*, 1956, CIIICIC, for an enumeration of the principles laid down at the Cincinnati Congress in 1870.

Of all facilities designed to handle public offenders, the jail is probably the most vile from the standpoint of sanitation, the most functionally absurd and the most administratively inefficient.

Idleness is the rule in county jails and city lockups. No attempt is made at rehabilitation or treatment.

Myrl Alexander, the Director of the Federal Bureau of Prisons has stated:

Far too many jails...are little more than the enforced meeting place for social derelicts who find there the greatest opportunity to infect the casual offender, the unsophisticated, the morally retarded, and the socially inadequate. Moreover, such jails are often unsuccessful in performing the basic mission of security detention. In them jailers' responsibilities are delegated to the most sophisticated and experienced criminals who proceed to prey upon the majority of other prisoners through tacitly approved kangaroo courts, 'sanitary courts,' and other devices and insidious methods concocted by those morally corrupt criminals schooled in the slimy culture of mankind's social backwash.<sup>4</sup>

Jail reform has come very slowly. If the people of West Virginia had the will, the jail could be abolished. However, jails are deeply rooted in local politics, and any suggestion that they be merged into a wider and more efficient system under regional or statewide control has, heretofore, been rigidly resisted from local pride and suspicion. However, it should not be inferred that all jail administrators in West Virginia are deaf to jail reform. Many of them are sincerely concerned with the problems of their establishments and cooperate fully with the leaders in the reform movement to abolish or at least radically change jails and all that they represent.

#### PLIGHT OF PRISONERS IN PRESENT INSTITUTIONS

Professor John L. Gillin wrote:

What monuments of stupidity are these institutions we have built - stupidity not so much of the inmates as of free citizens. What a mockery of science are our prison discipline,

<sup>4</sup>Barnes and Teeters, *New Horizons in Criminology* (3d ed. 1959).



our massing of social iniquity in prisons, the good and bad together in one stupendous potpourri. How silly of us to think that we can prepare men for social life by reversing the ordinary process of socialization - silence for the only animal with speech; repressive regimentation of men who are in prison because they need to learn how to exercise their activities in constructive ways; outward conformity to rules which repress all efforts at constructive expression; work without the operation of economic motives; motivation by fear of punishment rather than by hope of reward or appeal to their higher motives; cringing rather than growth and manliness; rewards secured by a betrayal of a fellow rather than the development of a large loyalty.<sup>5</sup>

It is obvious that we shall not make any substantial progress by merely advocating better correctional institutions. The rational treatment of criminals demands primarily programs that are non-institutional. We must develop constructive public attitudes to replace inordinate fear and contempt and to allow comprehensive and inclusive use of probation, conditional release and parole.

#### TIME FOR SECOND REVOLUTION IN PENOLOGY

The first major revolution in handling the public offender was the replacement of corporal punishment by institutionalization. We are long overdue for the second revolution which will see the abolition of prisons and like institutions and their replacement by a flexible program of reformative treatment based on reason and science.

It is well and good to talk of reformative treatment based upon reason and science, but it is another thing to reasonably and scientifically develop rehabilitation and treatment programs which will effectively alter the attitudes of the public offender. Talking of new methods and criticizing old methods will not accomplish the task. Definite action must be taken.

<sup>5</sup> *Supra* Note 4.

#### A COURSE TO FOLLOW

##### NEED FOR RESEARCH AND TRAINING

We have long recognized the value of research in the etiology of delinquency and crime. However, we have been sorely hampered by lack of sufficient finances to support any type of comprehensive study. Much satisfactory work has been done, and the results have had important impact upon programs both within and without correctional institutions. There is much more to be done, and we must have trained people to engage in such important work.

The establishment of a research and training center in Morgantown, West Virginia, would enable our state to obtain college and university students for work in the field of correction. It would also provide excellent laboratory facilities for the clinical training of students, inasmuch as the new National Training School for Boys is being constructed in Morgantown. Also, the West Virginia Industrial School for Boys is located within 25 miles of the university, and the West Virginia Industrial Home for Girls is within easy driving distance.

Furthermore, with the facilities of the university, a continuing in-service training center staffed by university faculty personnel and personnel of the West Virginia Division of Correction could provide much needed training for personnel already employed in the Division of Correction.

Although the determination as to development of the curriculum for under-graduate and graduate students of the university would remain a problem for the university leadership, it is proposed by the committee that a correctional core curriculum would provide a double-barreled approach to the training of the future professional correctional worker. That is, under-graduate students would choose a degree field from one of the standard disciplines, i.e. psychology, sociology, penology, education, guidance and counselling, etc., with a major in correction. Thereby, the student would have alternative selections for job opportunities. In the event that the student would determine after graduation that correction was not his cup of tea, he would still have available the alternative field of endeavor. Of course, it would be anticipated that the university would eventually develop a graduate program for intensified study in the narrower field of correction. It would be hoped that in the future a master's and doctoral program in correction would be developed at the university.

*The Committee recommends:*

Expansion of West Virginia University's "Comprehensive Training Program for West Virginia Correctional Personnel" into a Correctional Research and Training Center at the University.

#### JAIL REFORM

As has been discussed heretofore, the deplorable conditions of most of our county and city jails must be eliminated and a more effective means of detention devised. Although your committee has considered innumerable ways of expressing the needs of the state with regard to its jail system, it was unable to improve upon those words used by the National Jail Committee of the American Correctional Association when, in 1937, it issued the following 14 points or propositions representative of the phases of the overall objectives of jail reform. These objectives have as much, or more meaning today as they did when they were first enunciated:

##### I. Measures to Keep People out of Jail

1. By law direct that the courts adopt a more extended use of bail, recognizance and other approved measures for release from custody.
2. Secure a law providing for collection of fines by installment and for sufficient personnel to enforce it.
3. Develop an approved probation system, not only to prevent people from getting into jail, but to supervise and guide offenders released from custody.

##### II. Fundamental Changes in Jail Set-up.

4. Abolish the locally controlled jail as a place for convicted prisoners.
5. Place the jail and all its present functions wholly within the State Correction system and under centralized control.
6. Reorganize the system to provide for secure and suitable detention places, properly staffed and equipped for segregation, classification of prisoners charged with law breaking.
7. Establish regional custodial centers for care, training, and needed treatment, with a regular work program under rigid discipline.
8. Eliminate the fee system in connection with the arrest, trial, and custody of prisoners, and place all the officers on fixed salary.

#### III. Reform in Law and Court Action

9. Simplify law and court procedure with regard to all arrested persons.
10. Adopt measures and reforms to shorten time spent in detention quarters by prisoners awaiting trial, witnesses, appeals, etc.
11. Secure an indeterminate sentence law with specified minimum sentence.

#### IV. Standards and Records

12. Fix minimum standards for custodians of prisoners and probation workers with merit system safeguards.
13. Establish a central state bureau of identification and record.
14. Create a uniform system of records and statistics for the whole correctional setup, jails included.<sup>6</sup>

As has been stated before, the county jail is as important as the state prison. Many misdemeanants in West Virginia serve up to one year in the county jail for their offenses. During this year, however, no effort is made to train or educate these people, formally or vocationally, and most of the time is spent in stark idleness. Operated within the program of the West Virginia Division of Correction, psychiatric treatment could be afforded these people. They could be trained during this year of confinement in vocational rehabilitation training programs, formal education programs, and work release programs. The barren futility of jail confinement could be eliminated effectively. With a system of regular, periodic inspections, with full authority to close a jail which fails to comply with minimum standards, the Division of Correction would eliminate much of the unsanitary conditions which now prevail.

#### REGIONAL DETENTION AND EVALUATION CENTERS

By eliminating the 55 county jails and several hundred city lockups, and consolidating all state jail requirements into perhaps 10 or 15 regional facilities, much unnecessary economic waste will be eliminated, competent, professional custodial and treatment personnel could be acquired for the operation of the jails, and effective retraining and rehabilitation programs could be instituted. Indeed, in connection with work release programs,

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<sup>6</sup>Supra Note 4.

maximum security type facilities could be constructed in the regional jail facility to house penitentiary inmates from the area who are trustworthy enough to participate in a work release program in the particular region. Thereby, the inmate could remain gainfully employed, continue to support his family, and be a useful member of society rather than another useless, idle mouth for society to feed.

*The Committee recommends:*

Replacement of the present jail system with regional detention and evaluation centers, operated program-wide by the West Virginia Division of Correction.

#### AN EFFECTIVE PROBATION SYSTEM

The development of a comprehensive correctional program for the State of West Virginia requires that we begin at the moment of first arrest or first contact with the authorities within the system of criminal justice. In addition to re-vamping bail and recognizance laws, consolidating and upgrading jail and regional detention facilities, we must further utilize the probation machinery of the state. A truly effective probation system must be coordinated with the law enforcement officials, jails, courts, and correctional institutions. It should be operated from a central point to provide for coordinated planning and development.

*The Committee recommends:*

That all adult and juvenile probation services be centralized under the control of the West Virginia Division of Correction.

Centralized probation services for the entire state would eliminate much economic waste. Counties which are now required to support court probation departments would be relieved of this obligation. Comprehensive program planning for probationers would be more readily facilitated by a central planning agency. Recordkeeping on public offenders would be centralized and would be more readily available when necessary. Policies, procedures and philosophies would be more uniform. Program evaluation would be more effective. Duplication of effort and records would be eliminated.

Centralized pre-institutional or probation service offers the greatest ray of hope in the entire correctional process. An upgraded probation staff operating within a sound probation policy offers, perhaps, the best alternative to increased institutionalization of adult as well as juvenile public offenders.

#### NEED FOR EXCHANGE OF INFORMATION

Communication between the arms of the various agencies of the correctional process -- the police, the courts, the parole board, and the probation and parole field staff, has long been a problem in West Virginia and in the United States. Exchange of information is vital to a comprehensive program of law enforcement. It is equally vital to an effective classification system within a correctional system. Storage of vital records and classification information and data and its subsequent effective dissemination among interested agencies is a matter of major concern in the development of the overall comprehensive correctional process.

*The Committee recommends:*

A uniform statewide correction reporting system with instant dissemination to all arms of the correctional process.

A central storage facility of all correction data and material should be established within the data processing equipment of the state of West Virginia. Such information should be made available only to necessary, interested state or federal agencies or other arms of the correctional process. Thereby, law enforcement agencies, courts, correctional personnel and the parole board would have available within a matter of seconds, information vital to the performance of their respective functions.

This committee believes that by operating the reporting system in conjunction with other state data processing needs, we would avoid unnecessary duplication of effort and economical functioning of the process would result.

With such a uniform, statewide correction reporting system, we would have detailed personal history and classification data on all persons convicted of public offenses, including those convicted in the minor court system. This information would greatly facilitate coordination of the efforts of various state and local agencies concerned with the correctional process or related processes.

By taking and maintaining complete personal history and full classification data on all persons convicted of public offenses, including those convicted in municipal and justice courts, and storing such information in a central data processing facility, the work of law enforcement officers, the courts, probation staffs, and the West Virginia Board of Probation and Parole would be much more effective and efficient.

An effective and comprehensive classification system for adult male offenders has been instituted at West Virginia Penitentiary, and it is now operative. The personal history and data collected by the classification committee will be maintained in uniform files. Transfer of this information to data processing equipment is a transition not too difficult to accomplish; more difficult will be the taking of personal histories and classification data from those convicted in minor courts. However, with a beefed-up probation field staff the necessary history could easily be made available and forwarded to the central information storage areas.

#### CONTINUITY OF TREATMENT

Another of the major pressing problems of correction today is that of the continuity of treatment or follow-up treatment. All too often the person coming within the purview of the correctional process receives only temporary professional help for a limited period of time and is then thrust back into society to make his own way. No effort is made to follow up on his progress or to offer assistance once he has been discharged from the jurisdiction of the process. It is all too obvious for words that many people who have been within the correctional system have returned to society in dire need of professional treatment and help. This treatment has not been available and is not now available. Furthermore, many juveniles who come into the correctional process as juveniles return to the process as adults, and no attempt at continuity of treatment has been made heretofore. Those correctional personnel responsible for his later treatment as an adult could benefit greatly by having at hand the treatment history including medical and personal at the time he was in the correctional process as a juvenile.

#### *The Committee recommends:*

**Continuity of treatment at the professional level in institutional and community facilities with a view toward affecting complete rehabilitation.**

To change one's attitude toward society or to affect a complete self re-evaluation requires much time and much professional competence. Above all it requires follow up. It requires periodic re-evaluation of the subject. It requires comprehensive record keeping.

Records of professional treatment within correctional institutions must be made available to treatment facilities within the community and vice versa. Once again, the need for a comprehensive correctional system under a central head is made obvious. Without continuity of treatment from the jails and lockups, the probation, correctional institutions, the Parole Board and community-based facilities, the job of rehabilitating the public offender will never be effectively and comprehensively accomplished.

#### PROFESSIONAL PERSONNEL NEEDED

Understanding the public offender, the operation of correctional institutions, the needs of the offender, coordinating the efforts of the various arms of the correctional process with the agencies within the community, and planning effective treatment and rehabilitating programs for public offenders requires competent, professional personnel. It is a rare individual who finds enjoyment working within the confines of correctional institutions as we know and understand them today. Working constantly with the misfits, the failures and the irresponsible members of our society is depressing, to say the least. Seeing only the seamy side of life day after day, being more often betrayed than not, suffering enumerable failures in search of just one success, and devoting one's life to helping those who do not seem to want help requires a special breed of cat. One may utilize professional training in the fields of psychology, sociology, penology, criminology, and other related fields to much more of an economic advantage in many other areas than in correction. The attendant dangers are not present in a university setting or in a public or private

clinic. The hours are not nearly so long in a private psychological clinic, and one is not subject to the all too critical scrutiny of the news media and often unwarranted criticism of those who are ill-informed concerning the correctional process.

Attracting and keeping qualified, professional correctional personnel has been most difficult in the past and continues to be difficult at this writing.

*The Committee recommends:*

**Immediate Civil Service status for all employees of the West Virginia Division of Correction, eventual complete professionalization of the staff, and competitive salaries for all correctional personnel in the West Virginia Division of Correction.**

It is interesting to note in this regard that the starting salary of a correctional officer at the Federal Reformatory for Women at Alderson, West Virginia, is \$1,300.00 more than the salary of the superintendent of the West Virginia Prison for Women at Pence Springs, West Virginia. Additionally, two or our neighboring states pay the Director of Correction \$10,000.00 more per year than West Virginia pays its director. At West Virginia Penitentiary, there are 170 guards, or correctional officers, and the turnover is 100 per year. With an excellent training program, these correctional officers are trained at West Virginia Penitentiary. After this comprehensive training, they remove to the State of Ohio where they are employed with a beginning salary substantially in excess of what they can reasonably expect to earn at West Virginia Penitentiary during their first year of employment.

There is no job security within the West Virginia Division of Correction at this time. Many thousands of dollars have been spent during the past two years training the personnel who are operating the correctional institutions of the state and who are operating the probation and parole machinery of the state. However, most of this training will have gone for naught in the event of a change in the administration of the state government.

Until the disrupting effects of petty politics can be effectively removed from the correctional system, no truly effective continuing professional treatment program can be implemented. We must raise salaries, provide job security,

either through civil service or a similar merit system and thereby eventually completely professionalize the field of correction in West Virginia

#### ADEQUATE EVALUATION MUST BE PROVIDED

Determining whether or not a correctional system is performing its task or is an effective correctional system is a very difficult thing to do. One may leave a correctional institution in West Virginia, return to society, and not be heard from in the West Virginia correctional system again. One might safely assume such released inmate had made a quiet and effective readjustment to societal living and was once again living peaceably within the community. On the other hand such inmate may very well be in a penitentiary in another state. Keeping tabs on persons who have been in the correctional process is difficult. Evaluating the worth of correctional programs is concomitantly difficult for the reason that no effective evaluation of such programs can take place without access to those persons who have come through the process.

Additionally, it is difficult to evaluate the worth of the personnel who are operating the correctional institutions and who are operating the field programs of the correctional process. It is difficult to administer a test which will truly and effectively evaluate one's worth as a correctional worker; however, it must be accomplished if an effective and comprehensive program is to be attained.

*The Committee recommends:*

**An adequate evaluative system for correctional personnel, institutional and field treatment of offenders and community programs.**

The committee would recommend that in conjunction with the research and training center proposed in a preceeding recommendation, professional evaluation methods might be devised and the results utilized in the development of sound personnel and resident treatment plans and community-based programs.

#### COOPERATION WITH DIVISION OF VOCATIONAL REHABILITATION

The development of strong inter-agency relationships may very well provide a key to the sound planning of our correctional system. It is difficult to be all things to all people for any state agency. The services available from one agency



may be utilized by another. Such cooperative efforts by related agencies are typified by the recent joint venture embarked upon by the West Virginia Division of Correction and the West Virginia Division of Vocational Rehabilitation. Under their agreement a Vocational Rehabilitation Unit was established at West Virginia Penitentiary and will be operated by the professional staff of the Division of Vocational Rehabilitation. Much effort has been made and much progress made in this area by the Division of Vocational Rehabilitation, and their efforts continue. Furthermore, the Division of Vocational Rehabilitation has made studies and recommendations concerning the motivation of correctional personnel.

*The Committee recommends:*

**Utilization by the correctional system of the findings and recommendations of the Governor's Commission on Vocational Rehabilitation Planning with particular emphasis on those findings related to the motivation of correctional personnel.**

#### MEASURING THE INMATE'S PROGRESSION

Within the correctional process as it now exists, one very important arm is that of the West Virginia Board of Probation and Parole. The Board has the responsibility of determining when an adult felony offender is ready to return to society from an institution and when such individual must once again be removed from society and returned to the correctional institution as a parole violator. Essentially, the Board of Probation and Parole is placed in a position of evaluating the efforts of the correctional institution personnel and the inmate's progression back to society. There must be a professional yardstick by which the board can more accurately make the determination that the offender is ready to once again resume his place in society. Furthermore, it will require professionalization of the membership on the Board of Probation and Parole. Professionalization will concomitantly call for competitive salaries for board members.

*The Committee recommends:*

**Professional evaluation of the individual for progression back to society. There must be professional evaluation capability within the Board of Probation and Parole together with rewarding salaries and appropriate training.**

With adequately compensated professional persons serving on the West Virginia Board of Probation and Parole equipped with detailed historical background and classification data and a thorough knowledge of modern, scientific methods of psychological evaluation, the correctional process will necessarily be upgraded.

#### A SEPARATE DEPARTMENT OF CORRECTION

In 1965 West Virginia took a major step forward in the field of corrections by establishing within the Department of Public Institutions a Division of Correction, charged with the responsibility of providing a comprehensive program of rehabilitation for public offenders. This piece of legislation was in itself a major revolution. It provided a bridge between the provincial idea of institutional custody and the progressive theory of rehabilitative care to insure the successful reentry into society.

West Virginia now stands at the crossroads. We must choose between the rocky road of reform which leads to an innovative and effective system of treatment designed to meet the needs of the individual and society and the superficially secure path which backtracks to the "dark ages" of corrections. The choice is an obvious one for we cannot afford to sacrifice the significant achievements that have already been reaped.

The movement toward reform, however, requires a full concentration of resources and the creation of an organizational structure that can operate in an environment which is free from political interference. State government must provide the leadership in this reform movement. Such leadership necessitates the existence of an independent agency that is totally committed to the administration of a professional program involving professional personnel and modern correctional techniques.

In line with the recommendation regarding civil service status for employees of the West Virginia Division of Correction and in furtherance of the Committee's desire to professionalize the Division of Correction, the Committee believes that a separate Department of Correction should be created, but headed by an appointee of the Governor. Under the present law the Commissioner of Public Institutions, who is not required to have any qualifications or experience in the correctional field, is charged with the responsibility of approving all the programs and functions undertaken by the Director of the Division of Correction.

Some 10 years ago, the West Virginia Council on Crime and Delinquency with funds supplied first by a grant from the Ford Foundation and then by a grant from the Benedum Foundation along with resources supplied by the National Council on Crime and Delinquency, drafted a Model Correctional Act for West Virginia which was first submitted to the West Virginia Legislature on February 8, 1963, but rejected.<sup>7</sup> In 1966 the National Council on Crime and Delinquency prepared and published a Standard Act for State Correctional Services;<sup>8</sup> This Act is a refinement of the 1963 Act and the Committee feels that a far superior correctional program would be possible with it than could be had under the present law.

*The Committee recommends:*

Creation of a Department of Correction consistent with the principles contained in the "Standard Act for State Correctional Services" published by the National Council on Crime and Delinquency but to be headed by an appointee of the Governor.

#### COMMUNITY PROGRAMS

In an effort to switch correctional emphasis from the institutions to the individuals in those institutions and to establish and maintain a humane system of correction placing emphasis upon the dignity and respect of the individual human being, more treatment and rehabilitation-oriented community programs are essential.

*The Committee recommends:*

The establishment of rehabilitation programs such as half-way houses and work-release to be established by the Communities with the assistance of the West Virginia Division of Correction.

The criminal justice system, including correction, is a societal responsibility. Regardless of where blame might lie for a specific offense against society and regardless of whether or not the criminal ill might be hereditary or acquired, it is still a societal problem. It is up to the community to solve the problem. Indeed, as has been said before, 98% of all people in West Virginia's correctional institutions today will one day be back in the community living among our law-abiding citizenry. The abnormal environment of the prison or other correctional institution has obviously not accomplished the

<sup>7</sup> A Model Correctional Act for West Virginia, W. Va. Council on Crime and Delinquency and National Council on Crime and Delinquency (See Appendix G).

<sup>8</sup> Standard Act for State Correctional Services, National Council on Crime and Delinquency (1966), See Appendix P.

purpose which we desire. All research to the present indicated that community-based programs have the greatest rate of success in correcting the public offender.

We must prepare our communities for the return of the offenders and be prepared to support programs which will appreciably increase their chances of re-establishing themselves in the communities.

Legislation is needed to provide for a work-release program for the residents of our adult correctional institutions. Under such a program the residents would be permitted to work at gainful employment in the community while they are housed at the correctional institution. This would provide them with needed funds and substantially contribute to the support of their families. Furthermore, upon their release from the correctional institution the transition back to community living would not prove the sometimes overwhelming obstacle now faced by many who return from our prisons to our society.

Funds must be appropriated for the establishment of additional half-way house type facilities. So many of our residents, parolees and dischargees have no family or friends to whom to look for assistance upon their release from the institutions. Many of them require a quasi-structured environment in which to function properly, at least during the early weeks after release from an institution.

With the help of professional correction personnel many community-based organizations, civic, church and philanthropic can, and should, develop programs specifically aimed at assisting the public offender in making his transition back to the community.

With over sixty percent of the total correction caseload in West Virginia under probation or parole supervision today, the question is no longer whether or not we should attempt to handle offenders within the community, but how to handle them safely and successfully within the community. This committee believes that well-planned, organized and efficiently operated community-based programs aids to the transition from the institution back to society and will answer this question adequately.



## CONCLUSION

The fact that present-day correctional policies in the state are ineffective is not controverted. Change is needed desperately. The direction and scope of the change may be subject to debate, but there is ample evidence that something other than correctional institutions as we know them today are needed and more community-based programs designed to handle public offenders are necessary.

No doubt rough estimates of costs could be made. Plans could be formulated for 20 or 25 years to come. However, with the development of new correctional research data we recognize the need to remain flexible and mobile in our planning.

This committee believes that we must have people, first; trained, professional, compassionate and mature correctional personnel to plan and implement the comprehensive system of corrections so badly needed today. The initial cost will be substantial, but the savings in property, dollars and lives will be overwhelming.

Doctors Barnes and Teeters summarized the problems facing the American system of criminal justice as follows:

"Whether one looks upon the criminal law chiefly from the standpoint of deterrence or reformation, there can be no doubt that certainly of apprehension and conviction for criminal behavior is the first and most indispensable item in securing the immediate reduction in the volume and variety of crime. An honest and expert police system is the only answer to efficient apprehension. Defects in our court systems should be remedied. This calls for a sweeping reconstruction of court procedures...the modification of the sporting theory of justice, and the adoption of pre-sentence clinic and diagnostic boards of professionally trained experts. The emphasis must be on keeping men out of prison rather than on committing them."<sup>9</sup>

<sup>9</sup>Supra note 4.

## THE COMMUNITY AND CRIME

The President's Commission points up the need for public involvement in this manner:

"Each time a citizen fails to report a crime, declines to take the common sense precautions against crime his police department tells him to, is disrespectful to an officer of the law, shirks his duty as a juror or performs it with a biased mind or a hate-filled heart, or refuses to hire a qualified man because he is an exconvict, he contributes his mite to crime. That much is obvious."<sup>1</sup>

Further note is made by the Commission that every citizen owes himself the duty of familiarizing himself with the problems of crime and the criminal justice system, so that when these items become issues with the legislature or the public officials, he can respond intelligently. Money needed to control crime will ultimately come from the public. This also is obvious.

In return for this support it is the obligation of the public officials to inform the citizenry accurately and regularly about crime. Care should be taken that this is not done in a manner which will leave the people with wrong impressions.

## THE PUBLIC.

## AN EXAMPLE OF GROUP INVOLVEMENT

The President's Commission reports an example of a citizen's group which rather forcefully and successfully addressed itself to the problems of crime and criminal justice. In Indianapolis in 1962, just a day after a 90-year-old woman had been hit on the head and robbed on the street, 39 women, representing a cross-section of the community, met to devise ways of making the streets safer. This organization now consists of 50,000 women in 14 divisions and has no dues, no membership cards, no minutes and no by-laws. Some of the many achievements credited to its effort are: improved street lighting, securing jobs for young people, helping school dropouts return to school, and involving

<sup>1</sup>The President's Commission on Law Enforcement and Criminal Justice, *Challenge of Crime in a Free Society* 13 (1967).

thousands of adolescents in voluntary work for social agencies and clinics. It has sponsored campaigns for cleaning up the slums and helping with the police recruit program. It has aided parole officers with their work. It observed and publicized shortcomings of the operation of the courts and campaigned for pay raises for policemen.<sup>2</sup> Many other activities could be added to this list of this citizen endeavor. The point can be made here that every group in the community stands in a position to do something about crime and criminal justice, whether it be the PTA, the hospitals, the businessmen's groups, the neighborhood group, the bar association, police organizations or some other organization.

In a survey made by the President's Commission in Washington, D.C., it was found that most people felt that the effort to reduce crime is a responsibility of the police, the courts, and perhaps other public agencies, and that as an individual he could not do anything. However, when pressed further about the matter, many businessmen and administrators were able to think of ways in which their organizations might help reduce crime such as cooperating to make law enforcement easier, donating and helping in neighborhood programs, providing more and better street lighting, creating more parks with recreational programs, furnishing more youth programs and adult education and promoting integration of work crews and better community relations programs.<sup>3</sup> West Virginians need assistance in translating this concern about or fear of crime into positive action.

*The Committee recommends:*

A statewide program to promote respect for law and the law enforcement officer.

Currently, the West Virginia Bar Association has a statewide project called "Law Day". Under this program one-hour ceremonies are held on May 1st of each year in various places throughout the state, usually the Circuit Court room. This is in conjunction with the American Bar Association's

<sup>2</sup> *Supra* note 1 at 290.

<sup>3</sup> *Supra* note 1 at 53.

"Law Day U.S.A." The theme of the program usually centers around our general belief in and respect for the law. The Committee felt that some type of program teaching respect for the law and the law enforcement officer should be carried on throughout the year under the auspices of some sponsoring agency, such as the West Virginia Bar Association. The program should be designed to reach all elements of society.

#### PREVENTION

The old adage, "an ounce of prevention is worth a pound of cure," has strong application in every anti-crime program. It is far easier and extremely more economical to prevent crime than to rehabilitate a criminal offender. The only way to reduce crime is to prevent it.

The schools and the communities are singularly significant components in any prevention program. They provide vehicles through which public sentiment and attitudes can be affected on a local basis.

#### AUTO THEFT

Auto theft, often referred to as the "teen-age crime", is on the increase in the state. A simple act on the part of the motorist can stop much of the auto theft. If the keys are removed when the car is locked, the temptation to steal the car is not there. This simple message can be effectively communicated to the motorist in an auto theft prevention program. The Governor's Committee is now attempting to demonstrate this principle in the current Auto Theft Prevention Campaign, which has been in effect since August 18, 1967.<sup>4</sup>

*The Committee recommends:*

A continuing statewide Auto Theft Prevention Campaign.

#### BURGLARY

Last year the State Police records show that over 40% of the home burglaries were committed by juveniles. Unwary citizens helped these burglars. A publication published by the National Council on Crime and Delinquency entitled *How to Protect*

<sup>4</sup> For a further explanation of the Auto Theft Prevention Program see Chapter 11.

*Your Home -- A Guide for Home Owners and Apartment Dwellers*<sup>5</sup> lists helpful hints for safeguarding the home and the apartment. Many of the routine practices of the home owner often assist the burglar. The Council estimates that 20 percent of all burglaries occur because people simply leave their doors unlocked. Adopting a more thoughtful attitude on the part of the home owner can reduce burglary. Such small items as closing doors to an empty garage, placing expensive jewelry in a safety deposit box, leaving the light on in the bathroom when you go out at night, and not pulling the shades or blinds down when on vacation can be helpful. Moreover, it is a dead giveaway that someone is not at home when newspapers, milk bottles, and mail accumulate on the front porch. All these things are important to the prowler. The citizen needs to be constantly reminded of these dangerous practices if he is to do his part in preventing crime.

*The Committee recommends:*

**A continuing statewide burglary prevention campaign.**

#### THE SCHOOLS

The National Council on Crime and Delinquency publishes a booklet for school children entitled "You and the Law".<sup>6</sup> This publication attempts to define with examples such crimes as larceny, auto theft, forgery, breaking and entering, burglary, shoplifting, reckless driving, carrying dangerous weapons, and accomplices. By using the factual cases the teacher can easily get across to the youngster the seriousness of each crime. Penalties are also listed. In the latter part of the booklet the consequences resulting from a criminal record are described. This is followed by an article on juvenile delinquency and the youthful offender. This program has been carried on quite successfully in the schools in Charleston under the sponsorship of the Kiwanis Club and in Parkersburg under the direction of the Parkersburg Women's Club. Its usefulness in the schools has been proven in many other areas throughout the nation.

Recently, through the efforts of Mrs. Edgar A. Heermans, the W. Va. Congress of Parent Teachers Association obligated itself to place in every school in West Virginia the "You and the Law" programs. Funds in the amount of \$1170 were supplied by the Sears Roebuck Foundation to pay for the printing of the booklets

<sup>5</sup> National Council on Crime & Delinquency, New York (1967).

<sup>6</sup> National Council on Crime & Delinquency, Kiwanis International, Chicago (1963).

and teacher's guides. School administrators were urged by the State Superintendent of Schools, Rex Smith, and the Governor's Committee to provide for comprehensive use of the booklet throughout the state. The publication is designed to fill a basic need of the youth not otherwise met in his school career.

#### POVERTY AND CRIME

It would be remiss on the Committee's part not to recognize the role of the Office of Economic Opportunity in the "War on Crime". Already we have referred to poverty and the lack of opportunity as major causes of our rising crime rate.<sup>7</sup> A majority of criminal activity emanates from the impoverished community. The crime rate is increasing more rapidly in these areas than elsewhere. Most of the people in our juvenile and criminal courts come from indigent and welfare families.

In 1962 a group in Kanawha County called the Charleston Youth Community obtained a grant from the National Juvenile Delinquency Program, which was then under the auspices of the Attorney General of the United States. The purposes of this proposal was to survey delinquency in the county. Such matters as school dropouts, rate of illegitimacy, rate of welfare recipients, appearance in court, and unemployment among youth were gone into. Upon completion of this survey, a program was designed to attack the problems of delinquency. One of the objectives of the program was to place neighborhood workers in areas reporting high rates of delinquency. While it was difficult to obtain a desirable evaluation of the results of this action, favorable comments were made following the two years of operation of the program. One of the state police reported that in two of the target areas the numerous complaints and calls for assistance had been significantly reduced. The chief of police of a large community reported that the program definitely helped the police with their work in impoverished areas. They no longer encountered the same difficulties with the people as they once had. A lady who owned a grocery store in one of these areas stated that before the program started, she could name 8 or 9 teenagers who were just on the verge of becoming involved with the law, and that now these people were either back in school, employed, or had left for the Job Corps. Another lady merchant in one of the impoverished rural communities was very complimentary about the change in attitudes with respect to community responsibility the program was having with the families.

*The Committee recommends:*

**A coordination of the efforts of the War on Poverty and the War on Crime to curtail this state's crime rate.**

<sup>7</sup> For a further explanation see Chapter 1.

## THE MAN WITH A PRISON RECORD

## RECIDIVISM AND THE COMMUNITY

According to crime statistics, the man who goes off to prison for two, three or four years is a significant factor in the ever-rising crime rate. Two factors contribute greatly to this: (1) the type of isolated life he must live while in the institution is hardly compatible with that he is expected to live after his release, and (2) the sentence itself carries far greater and more lasting penalties which are imposed upon him by the community than those imposed upon him by law for the crime committed. Estimates are that 60 to 70 percent of those once sentenced to prison become recidivists -- persons who fall back into prior criminal habits once released. 95 percent of those sent to the penitentiary return to the community within five years.<sup>8</sup>

At the time of the sentence the average offender finds himself torn from his parents, brothers and sisters, and possibly a wife and children. He leaves behind a pattern of life he has lived for some 20 years. He knows that everything must change for him as he enters his institutional life. He finds himself condemned by his friends and a forgotten man.

## REGIMENTED PRISON LIFE

While in prison he becomes even more embittered than the day shackles were placed around his wrists, and he was hauled away. He finds the institutional life far different from the life outside. Here he has someone else to do his thinking for him. He is locked in a cell with a bunk to be alone. Someone else tells him when to get up, when to go eat, what to eat, and the piece of silverware available to him. Hour by hour his day passes with a guard over him at all times. In the evening he is told when to retire. This goes on 365 days a year. Sometimes he is given an opportunity to work in return for his keep.

Much of this regimentation may be necessary if the prison is to be operated in an orderly manner. The community had no alternative but to remove him, for he had become a threat to its general welfare. Undesirables are not exiled today but sent to prison.

<sup>8</sup> Source: Division of Corrections Records, 1966 ( W.Va.).

A real problem arises when a man has finished his term and is released to return to the community. After he leaves prison he encounters many roadblocks on the outside. He is often denied employment opportunities because of his prison record. The community shuns him. He is unwelcome in many ways. Several of the statutes preclude him from holding public office because he has a criminal record.

When he is confronted with these obstacles, he becomes frustrated. He may steal to satisfy his needs or injure someone as a result of his bitterness. At this point society decides he has not been rehabilitated -- he has not learned his lesson, and so he returns to the regimented life where somebody else does his thinking and his forging. By now his pattern is becoming a vicious cycle and a course which is expensive to the taxpayer, who will easily find himself spending \$50,000 to \$60,000 keeping this man the remainder of his life.

Theoretically the parole officer is responsible for the herculean task of helping this individual bridge the gap between him and society. This officer is helpless without participation by the community. Community cooperation is essential if this person is to make the grade. The community's choice is between participating and having this ex-convict remain a statistic in its increasing recidivism rate.

*The Committee recommends:*

**A broadly-based committee at the county level to provide a total community-involved program of special services and aids for re-acceptance into the community for former offenders.**

## THE SWEDISH PRISON EXPERIMENT

The prison system in Sweden is currently experimenting with a project designed to take a more realistic approach toward rehabilitating the individual. It is unlike any experiment that has ever been conducted in the United States. Under this program selected prisoners are given living accommodations in an apartment building with their families. Involved in any of these programs, of course, is the amount of freedom granted the prisoner. The first step in this direction came in American penology when we established the medium security prison. Then

the federal government advanced to minimal security by establishing such an institution in Texas.

Home visitation, work release programs, and half-way houses are all in experimental stages in this country, but as yet, nothing has been attempted which approaches this Swedish experiment. Correctional people, undoubtedly, will be looking with a great deal of interest at the results of this experiment to see if it holds any answer to the recidivism problem. Some criticism has been directed at the prison authorities in Sweden by the people complaining that the prisoners are receiving better treatment than they can afford for themselves<sup>9</sup> Undoubtedly, if such a program is successful, it will make the offender more suitable for reacceptance into society once his term of sentence is completed.

#### COORDINATED PROGRAMS

The task of coordinating and developing broad-range preventative and educational programs must be a continuing responsibility at the state level. Such a task should be guided and promoted by such agencies as the Governor's Committee on Crime, Delinquency and Corrections, or as it is designated in some states, the Governor's Crime Commission. Coordination and planning at the state level permits a more effective attack on particular issues. Since fighting crime is the responsibility of every West Virginian, any program of prevention or education should be designed to reach every citizen of this State. This is feasible only if such preventative and educational programs are undertaken on a statewide basis.

*The Committee recommends:*

The establishment of a statewide crime preventative and educational program directly under the Governor to encourage and develop appropriate preventative and educational programs at the community levels to reduce the crime rate.

In conclusion it must be stated that the community always comes first in a war on crime. Whether it be in the area of the police, the delinquent, the convicted or the judge, no program; no matter how meretorious, can make headway beyond the point it is able to muster budget support.

<sup>9</sup> Kirby, "Protecting Prisoners from Prisons", CBS Reports, (December 6, 1967).

#### Chapter 7

### LAW ENFORCEMENT OFFICERS MINIMUM SELECTION AND TRAINING STANDARDS

West Virginia has 55 county sheriff offices, 72 police departments in Class I, II, and III municipalities, 85 towns and villages with one to three-men departments and the Department of Public Safety. Personnel includes the 55 sheriffs, 165 enforcement deputies, 1,044 municipal police and 318 members of the Department of Public Safety.

#### NEED FOR POLICE SERVICE

The State's need for police service of high quality is no less than that of other states. Our citizens are entitled to, and should expect as their right, adequate police protection from the lawless element. Capable and conscientious police administrators recognize that they have not provided the kind of efficient and effective police service to the citizens of West Virginia as they would like. Inadequate resources have frustrated police officials for far too long a time.

The chief complaint has always been the lack of personnel to do the work required or expected. Only major crimes can be given major attention; lesser offenses cannot be investigated with the thoroughness and persistence required to detect, apprehend and turn over to the courts for prosecution many lesser criminals and young offenders whose criminal acts become more frequent and usually more serious as they go undetected. While the demand has been for an increase in personnel, not enough emphasis has been placed on better qualified personnel and more effective use of them.

#### POLICE AGENCIES NOT WITHOUT BLAME

The police agencies themselves might deserve some criticism for not keeping the public sufficiently informed about their needs and problems or for minimizing these needs and even the crime picture itself to avoid criticism or cover their own inadequacies. They may also have failed to encourage self-improvement of individual officers or to bring about group improvement through effective training methods. Many of our police have apparently been willing to assume full responsibility for crime, its causes and prevention,



and for failure to provide complete protection for the public. This willingness has contributed in no small way to perpetuating the lack of capability. The public, on the other hand, has been willing to let the police assume full responsibility for crime conditions, for the unmanageable traffic problem, and a host of other public ills. The police have been used as scape-goats for many things for which they are not entirely responsible.

#### AN INTERESTED AND DEMANDING PUBLIC

Law enforcement is expensive. Cost increases as the quality improves. Only when scandal strikes a police department does society indicate a willingness to pay for better service, or an interest in police problems. An interested and demanding public, one that is willing to pay for and support good police service, is the best assurance that it will be obtained. As a result of this attitude, the problems and difficulties of the police have increased to the point where it has not been possible to attract the type of person the service requires.

#### NATIONAL EVENTS

Only a series of events occurring in the past few years has finally caused the public to begin to take note of the grave existing law enforcement conditions. These events include the Kefauver hearings on organized crime, the recent Senate investigation of the Cosa Nostra, and the United States Supreme Court decisions which now prohibit previously acceptable police practices in interrogation and search and seizure. The constantly increasing crime rate, which borders on a national scandal, and the wide publicity given to a number of public crimes, including murder, where witnessing citizens lacked enough concern to even inform the police that a crime was being committed have contributed to a rising public concern. The combination of these events and finally the riots in major cities led to the establishment of the President's Commission on Law Enforcement and Administration of Justice. The work of this commission, published in 1967, has so forcefully pointed out the needs and weaknesses of law enforcement that they can no longer be ignored. Never has so much attention been given to the American police, and never before have opportunities been better for their improvement.

#### PROPER SELECTION AND TRAINING ESSENTIAL

Police administrators share the belief that the successful development of police departments depends upon the proper

selection and training of young men entering the service and upgrading those already serving through improved training and education. Time will eliminate those who have not been properly selected, trained and educated. The police service must attract, select, train, retrain, and properly utilize qualified personnel.

"The Commission believes that substantially raising the quality of police personnel would inject into police work knowledge, expertise, initiative and integrity that would contribute importantly to crime control."<sup>1</sup>

"It has often been said that policing a community is personal service of the highest order requiring sterling qualities in the individual who performs it....

"Few professions are so peculiarly charged with individual responsibility. Officers are compelled to make instantaneous decisions -- often without clearcut guidance of a legislature, the judiciary, or from departmental police -- and mistakes in judgment could cause irreparable harm to citizens or even to the community....

"One incompetent officer can trigger a riot, permanently damage the reputation of a citizen, alienate a community against a police department. It is essential, therefore, that the requirements to serve in law enforcement reflect the awesome responsibility facing the personnel that is selected."<sup>2</sup>

#### SELECTION

A broad base from which to select applicants is required. This does not exist for a wide variety of reasons, the more important being the present low prestige of law enforcement itself. The attitude towards the police service in this country has been such that the majority of young men with the necessary qualifications have no desire to enter it; in fact, they shun it.

Restrictive requirements having little if any bearing on the applicant's general qualifications, residence requirements, low pay, lack of challenge and the nature of much of the work itself contribute to the problem. Regardless of the difficulties involved, improvement must be made. The trend must be reversed.

<sup>1</sup> President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 107 (1967).  
<sup>2</sup> President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police* 125 (1967).



## PRESIDENT'S COMMISSION RECOMMENDATIONS

To overcome some recruiting difficulties and improve the selection process, the President's Commission has recommended:

"Police departments should recruit far more actively than they now do, with special attention to college campuses and innercity neighborhoods.

"The ultimate aim of all police departments should be that all personnel with general enforcement powers have baccalaureate degrees.

"Police departments should take immediate steps to establish a minimum requirement of a baccalaureate degree for all supervisory and executive positions.

"Until reliable tests are devised for identifying and measuring the personal characteristics that contribute to good police work, intelligence tests, thorough background investigations, and personal interviews should be used by all departments as absolute minimum techniques to determine the moral character and the intellectual and emotional fitness of police candidates.

"Police departments and civil service commissions should reexamine and, if necessary, modify present recruitment standards on age, height, weight, visual acuity, and prior residence. The appointing authority should place primary emphasis on the education, background, character and personality of a candidate for police service.

"Police salaries must be raised, particularly by increasing maximums. In order to attract college graduates to police service, starting and maximum salaries must be competitive with other professions and occupations that seek the same graduates.

"Salary proposals for each department within local government should be considered on their own merits and should not be joined with the demands of other departments within a city.

"Promotion eligibility requirements should stress ability above seniority. Promotion "lists" should be compiled on the basis not only of scores on technical examinations but on prior performance, character, educational achievement and leadership potential.

"Personnel to perform all specialized police functions not involving a need for general enforcement powers should be selected for their talents and abilities without regard to prior police service. Professional policemen should have the same opportunity as other professionals to seek employment where they are most needed. The inhibitions that civil service regulations, retirement plans and hiring policies place on lateral entry should be removed. To encourage lateral movement of police personnel, a nationwide retirement system should be devised that permits the transfer of retirement credits."<sup>3</sup>

## PRESENT SELECTION METHODS

The methods used to select police officers in West Virginia range from the direct appointment of the deputy sheriffs and village marshalls where politics are often the primary consideration to the more sophisticated ones used by the larger municipalities and the Department of Public Safety. In the villages and small towns choice is usually limited. Employment conditions are such that there is not much interest in these positions. An older resident is normally employed or a younger man may be found who will accept appointment until he can find a more desirable position. If he is a local resident his background and reputation are common knowledge; otherwise, less will be known about him because no formal background investigation is conducted.

In a survey conducted by the Governor's Committee on Crime, Delinquency and Corrections of some 107 officers representing 66 towns and villages with populations under 2,000, the ages ranged from the low twenties into the seventies; education from the fourth grade through college and salaries from less than \$250 to one of \$700 per month. The average age of the group is slightly over 47 years, the average education range from the fourth grade through college and salaries

<sup>3</sup> *Supra* Note 1 at 109-112.

per month. This same situation applies generally to 39 of the 55 Class III municipalities (2,000 to 10,000 population) which do not operate under Police Civil Service Commissions. Here 122 of 211 officers of Class III municipalities apparently are not required to meet any particular qualifications other than physical ability. Of the 211 officers in this category, the average age is 40, the average education is the 11th grade and the median salary is in the \$350 and \$400 per month range. Thus, almost one-fourth of West Virginia's law enforcement officers are not required to meet any particular standards of qualification.

#### A CASE IN POINT

In one of the Class III communities in West Virginia several years ago, a man was hired as a police officer without any consideration being given to his qualifications until it was too late. Within a month after he assumed his responsibilities as a policeman, he unnecessarily killed a local citizen he was arresting with his mace.

An investigation at this stage disclosed that he previously had been discharged from the military service as mentally unfit for duty. Had he undergone the proper screening and recruitment tests he would not have qualified for the job.

He was indicted by the grand jury for first degree murder. During the trial the judge declared a mistrial, and on advice of counsel the man plead guilty to the lesser offense of second degree murder. He was sentenced to serve 5 to 18 years in the state prison.

While in prison he frequently became involved in fights with other prisoners. On occasion he would fight with the prison guards. He was transferred to a state mental hospital where he remained a patient for several years.

Even a brief background investigation would have established that this man should never have been employed as a policeman.

#### PRESENT LAW

West Virginia law requires municipalities with populations of 5,000 or more to establish Police Civil Service Commissions to make appointments and establish promotional procedures for their police departments. In municipalities of less than 5,000 population the civil service commission is optional.

This law requires a physical examination and medical certification that the applicant is free from disqualifying physical or mental defects, that he be between the ages of 21 and 35, that all original appointments be for a probationary period of six months, and *that the appointee be a resident of the county for at least three years prior to appointment.* The Commission may refuse to certify the physically disabled, those addicted to the habitual use of alcohol or drugs, or who have been guilty of a crime or of infamous or notorious conduct, and for other reasons provided in the law. This was enacted in 1937 at a time when less thought was given to applicant screening as long as physical requirements were met. In actual practice now, civil service commissions schedule and conduct examinations, arrange for physical examinations and consider reports of investigation of the background or character of the applicant. The board certifies an eligibility list to the appointing authority who is required to make appointments from it.<sup>4</sup>

#### POLICE CIVIL SERVICE COMMISSIONS

Police Civil Service requirements vary from municipality to municipality, depending upon the different opinions and philosophies of the commission members, examining physicians and employment conditions. Normally minimum height is 5'9" and minimum weight is 150 pounds. Requirements as to vision, color blindness and hearing exist, as well as the other physical requirements, but there is no standardization. Some commissions accept 5'8" as the minimum height to increase the applicant base because of lower pay scales or fewer fringe benefits the community offers. In one municipality the height ranges from 5'8" to 6'2" and from 140 pounds to 180 pounds at the minimum height and 170 to 220 pounds at the maximum.

#### STATE POLICE SELECTION LAW

The section of the West Virginia Code governing the appointment of members of the Department of Public Safety states:

Preference in making appointments shall be given whenever possible to honorably discharged soldiers, sailors and marines of the United States Army and Navy. Each applicant shall be a person of not less than twenty-one or more than thirty years of age, of sound constitution, of good moral character

<sup>4</sup>W. Va. Code, Ch. 8, art. 5A (Michie 1966).

and shall be required to pass such mental and physical examinations as may be provided by the rules and regulations promulgated by the retirement board.<sup>5</sup>

By law the retirement board is composed of the Superintendent of the Department, the State Treasurer, the Attorney General and two enlisted members selected by vote of the members of the Department.<sup>6</sup>

#### STATE POLICE SELECTION STANDARDS

The board required each member to successfully pass a strength and ability test designed to eliminate the uncoordinated and very awkward and those possessing less than average strength; a preliminary physical examination to determine height, weight, hearing and vision; an intelligence, aptitude and observation tests, a thorough character investigation and a medical examination.

The West Virginia Constitution prohibits employing those who have not been a resident of the state for one year.<sup>7</sup> An average combined score of 70 per cent on the written and observation tests in passing.

The minimum height is 5'9"; the minimum weight is 150 pounds (which is not rigidly adhered to) or weight in proportion to height; 20-40 vision in either eye correctible to 20-20. Freedom from color blindness, tunnel vision and excessive night blindness is mandatory. Good depth perception and glare recovery are required. Eyes are tested with a Porto Glare Eye testing unit and Dvorine Color Perception Chart. Normal hearing is required, each ear being tested separately on an Audio Rater.

Exceptions have been made in the physical requirements with college graduates applying for technical positions.

#### SCREENING ELIMINATES A HIGH PERCENTAGE

The screening process eliminates a high percentage of applicants in both municipal and state departments. Detailed data on rejections is not kept. Presumably administrators are

<sup>5</sup>W. Va. Code, ch. 15, art. 2, § 5 (Michie 1966). (The preference to veterans dates from 1919 when the department was organized and all members were veterans.)

<sup>6</sup>W. Va. Code, ch. 15, art. 2, § 27 (Michie 1966).

<sup>7</sup>W. Va. Constitution, Art. 4, sec. 1.

more interested in what they have left after the screening process than they are in reasons for rejection. Recent inquiry disclosed that when one Class II municipality in 1967 advertised for applicants, only nine applied. Of the seven who took the test, five passed but four were rejected by the Civil Service Commission, leaving only one employable. The Huntington Police Department reports in 1965 and 1966 a total of 115 men appeared for the written examinations, 70 passed, and 59 were rejected for various reasons which are not a matter of record. In 1967, 63 appeared for the examination, 41 passed the written test, but only 12 were accepted by the Commission, with one still being considered.

In 1967 the Department of Public Safety solicited 133 men to take the entrance examination; 47 reported for examination and 24 were selected for appointment. This included all who scored 70 per cent or above on the written test. Of the other 23, 11 were rejected by the background investigation, two withdrew after preliminary screening and one appeared for the test but decided to return to college instead. Out of 24 remaining members eight resigned for one reason or another before completion of fourteen weeks training.

#### STATE POLICE SELECTION SURVEY

A recent survey of physical selection requirements conducted by Lieutenant J.R. Buckalew of the Department of Public Safety resulted in responses from 43 of the state police or patrol departments and 12 municipal or metropolitan departments with side geographic and population distribution. They indicated most of them had established physical standards prior to 1942 when employment opportunities were limited and manpower plentiful, leaving the impression with him that the standards were intended to reject rather than select.

He concluded, as others have, that there is not a great deal known about the physical requirements needed for police work, that standards are set without real basis, that too much emphasis is placed on physical requirements and that the police service has failed to recognize that our standards must match the times.

#### RELATION OF STANDARDS TO TASKS REQUIRED

The establishment of minimum standards projects in some of our states is now causing thought to be given to just

what standards police officers should be required to meet. Attention is being directed toward studies of the duties and tasks required of police personnel and relating standards to these needs. As in most other areas it is probably still true that "a good big man is better than a good little one." However, physical qualifications alone are not enough. Other factors of more importance are intelligence, education, stability, initiative, alertness, desire and the ability to get along with others. Some of these are difficult to determine, but they must be given first consideration if the police service is to become truly effective.

A high school diploma or its equivalent is required for enlistment by the three Class I and all but four of the Class II municipalities and the Department of Public Safety.

#### RECOMMENDED SELECTION STANDARDS

##### AGE

Minimum enlistment age of 21, with provisions to employ in some capacity well qualified and interested young men over 19. The maximum age should be determined by availability of personnel, qualifications and need. Young men are more easily taught, have longer time to serve and are more active physically. Older men should excel in judgment situations but are more fixed in their attitudes and thinking.

##### RESIDENCE

The present legal requirement on residence should be removed permitting recruitment on a state-wide basis. This will provide additional manpower and employment opportunity. A constitutional provision prohibiting the employment of all but state citizens should be removed. Nation-wide recruiting would present some problems in background investigation of applicants, but many departments have apparently successfully coped with this problem.

##### EDUCATION AND INTELLIGENCE

A high school diploma should be required, but a passing grade on the General Education Development Test should be accepted. Those selected for enlistment should be capable of meeting college entrance requirements.

#### CHARACTER

All applicants must be of good character as determined by a thorough background investigation which would include family history and reputation, school records, local, state and FBI fingerprinting files, employment, military and driving records and any other source of information that would aid in determining the applicant's suitability. Any felony convictions would be disqualifying. Misdemeanor convictions, including traffic, should be evaluated.

#### PHYSICAL

Height and weight requirements are arbitrary. It is conceded that tall men have a psychological advantage over short ones and, in many cases, a physical advantage as well. However, such an advantage in some police situations is a disadvantage in others. Height and weight standards should be flexible enough to permit the employment of those whose educational, intelligence or technical qualifications are well above average.

Other physical qualifications should be established by a sound medical examination that will result in the selection of those physically sound and active and reject those with deficiencies which might endanger their own or others' safety. Hearing, vision and color vision should be normal, as medically defined. Vision correctable to 20-20 in each eye with a minimum of 20-40 uncorrected should be accepted.

#### EMOTIONAL

Every attempt should be made to detect and reject the emotionally unstable, those lacking in self-control and possessing personality traits which makes working with others difficult.

#### ORAL INTERVIEW

All applicants should be screened by an Oral Interview Board to determine the applicant's fitness from the standpoint of appearance, ability to communicate, poise and attitudes.

#### POLICE TRAINING

Whether selection or training is of most importance is an academic question, because either without the other will not provide satisfactory results. A good selection process will send

to the training class those with desirable characteristics and qualifications; training will be easier and less costly because the training curriculum can be covered in less time and with better results. Training gives to those selected a basic knowledge of "how to do, what to do, and when to do". It provides a foundation on which to build and with a reasonable amount of experience will enable the officer to work with poise, and with confidence in his ability, because he has a better understanding of his role or purpose in society, what authority has been given to him by the branch of the government he represents, why it has been given, and the limitations placed upon it.

#### NO LONGER A QUESTION OF NEED FOR TRAINING

Much has been written about the need for training police officers--so much, in fact, as to leave the impression that it is something to be justified. Perhaps a generation ago--or longer--justification would have been necessary. At least it would have been more understandable. Now there is no question of such need unless it would be to justify the lack of it. Now the pertinent questions are: How much can we get? Where will it be given? How much does it cost? Who is to pay? The traditional method of putting a recruit on the street, even to work with experienced officers has contributed largely to present conditions.

Left to choice, as in their personal affairs, people want qualified and reputable people to take care of their needs whether it be in professional areas as doctors, lawyers, dentists, and teachers; or in skilled crafts; or services provided by barbers, beauticians and others. Why, then, should they accept less efficiency in law enforcement?

#### TWO CASES IN POINT

Not too long ago in a small community in West Virginia an officer was hired and put on the job without any previous training. He became involved with one of the local citizens whom he claimed had violated a traffic law. In the case the statute required him to issue a traffic citation for the man's appearance in court at a future date. Apparently now knowing the limits of his rights and what the rights of the citizen were, he made an unauthorized arrest. Others came to the citizen's rescue and freed him. In the scuffle the officer shot one of the people. For this unjustified act, the officer was charged with unlawful wounding, tried, convicted by a jury, and sentenced to serve one year in the county jail.

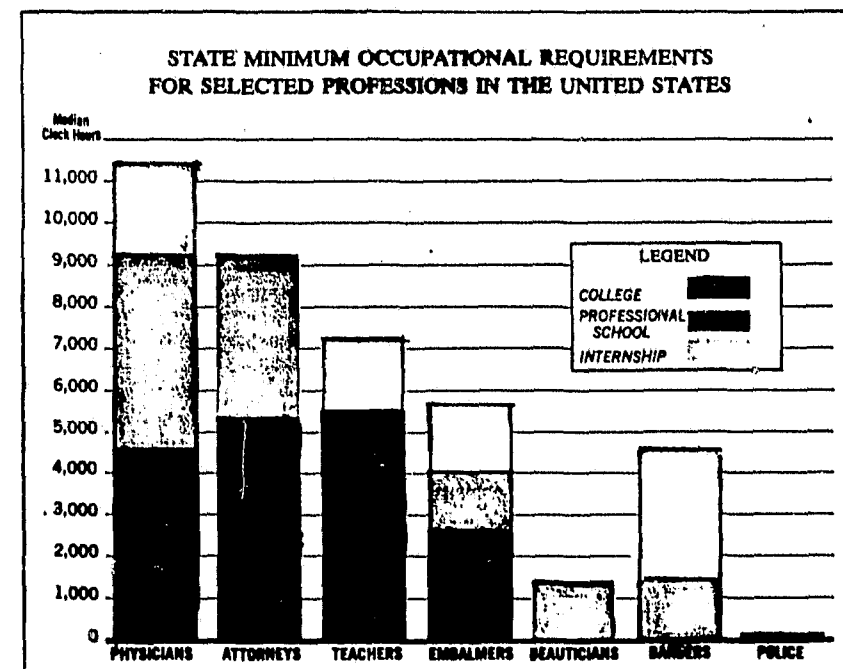
Another case in point happened in one of the southern counties of the state. A man without any previous training was hired as a policeman in a small community. Within a month a tragic accident occurred.

He was given a pistol although he had never been trained in the use of firearms. In fact, on the day of the accident he had only fired a revolver six times in his life. While removing the gun from its holster in his home, he accidentally discharged it, fatally wounding his bride of four weeks. Polygraph tests cleared him of criminal intent. Proper training could prevent such incidents.

#### POLICE TRAINING REQUIREMENTS COMPARED WITH OTHER PROFESSIONS

An article in the August, 1967 issue of the official publication of the International Association of Chiefs of Police, discusses in depth a model police standards council.<sup>8</sup> The writer compares the position of the police in the United States with that of selected professions, and suggests that similar regulatory procedures be adopted to improve the police service. Figure 10 shows how the police suffer by comparison. The data shown is an average of requirements of various states. West Virginia's requirements are substantially similar. While the determination of West Virginia's requirements was being made, it was learned that the State Health Department requires manicurists to have 500 hours of training before they can go to work. Surely the responsibilities charged to our police are more important than caring for the fingernails of our citizens.

Figure 11<sup>9</sup>



<sup>8</sup>Kassoff, "A Model Police Standards Council Act", 34 *The Police Chief* 12-24 (August 1967).

<sup>9</sup>*Supra* note 8 at 12.



Mr. Kassoff recommends, among other things, that "each state adopt mandatory minimum standards for recruitment, selection and training of law enforcement officers, as discussed, and provide for reciprocity with other states adopting the same standards." Figure 12 shows states which have such legislation.

## PRESIDENT'S COMMISSION RECOMMENDATIONS

Formal police training programs for recruits in all departments, large and small, should consist of an absolute minimum of 400 hours of classroom work spread over a 4- to 6-month period period so that it can be combined with carefully selected and supervised field training.

Entering officers should serve probation periods of, preferably, 18 months and certainly no less than 1 year. During this period the recruit should be systematically observed and rated. Chief administrators should have the sole authority of dismissal during the probation period and should willingly exercise it against unsatisfactory officers.

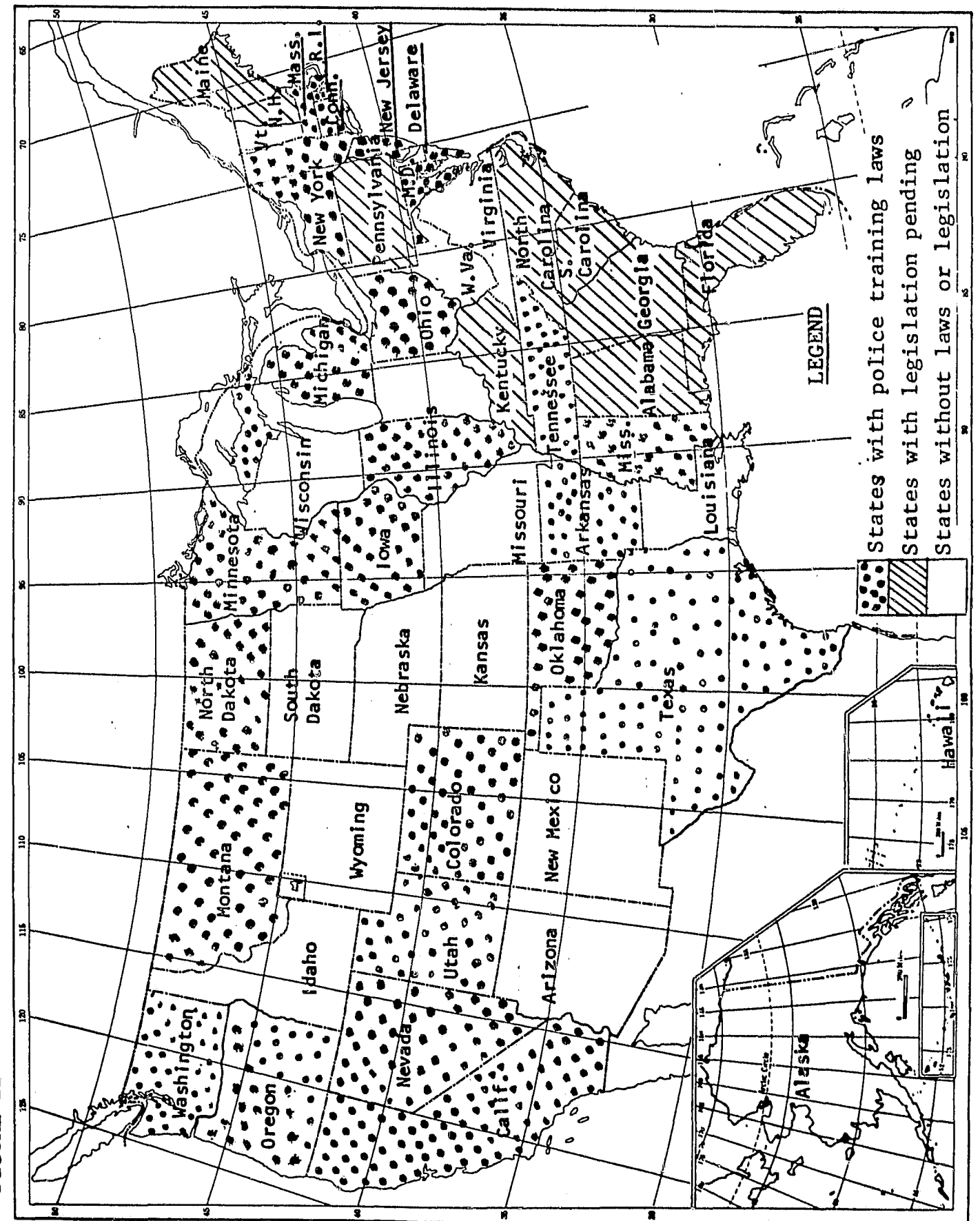
All training programs should provide instruction on subjects that prepare recruits to exercise discretion properly, and to understand the community, the role of the police, and what the criminal justice system can and cannot do. Professional educators should be used to teach specialized courses -- law and psychology, for example. Recognized teaching techniques such as problem-solving seminars should be incorporated into training programs. 10

**PRESENT WEST VIRGINIA LAW**

In West Virginia today there is no legal requirement that county or municipal officers have any type of training. To aggravate this condition, there is no opportunity for training to be obtained except in the larger municipalities. County officers and the majority of municipal officers have few, if any, good training opportunities. Law enforcement generally lacks requirement, opportunity, and encouragement.

10Supra Note 1 at 112-113.

# STATUS OF POLICE TRAINING/STANDARDS IN THE UNITED STATES





Police Civil Service law is silent on training. The West Virginia Code regarding State Police provides:

The Superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in-service training from time to time for all members of the department. The superintendent may, at his discretion, hold training classes for other peace officers in the State without cost to such officers, except actual expenses for food, lodging and school supplies. <sup>11</sup>

#### PRESENT STATUS OF TRAINING

It is not intended to leave the impression that all police officers in the state have had no training or training opportunities. The majority who have had opportunity for even limited training have been quick to take advantage of it. Each municipality must determine its own course and the great majority do not have training programs because of the cost involved. Even the largest cities in the state cannot conduct schools until the number of untrained officers or new recruits is large enough to make it economically possible. It is obvious that help is needed to remedy this situation.

#### HISTORY OF POLICE TRAINING

A look at the past will show the slow, groping progress made in the training area.

It is doubtful if any municipality in the state had what could be called a training school until after World War II. However, a number did have, from time to time, training periods ranging from a day or two up to a week. In the late 1930's such schools were conducted in Charleston, Huntington, and Bluefield. These were started as a result of one or more of their members attending the Federal Bureau of Investigation National Police Academy. Deputy sheriffs and other local officers were invited to attend.

In 1936 the West Virginia League of Municipalities sponsored some short courses in general police work on a statewide basis for local officers.

<sup>11</sup>W. Va. Code, ch. 15, art. 2 § 3 (Michie 1966)

The West Virginia Chiefs of Police Association and the Department of Public Safety jointly sponsored a six-week training school at Jackson's Mill in 1946, which was attended by officers from several municipalities. In 1950, a class was held at the then new State Police Academy at Institute, sponsored by the Chiefs Association, the Federal Bureau of Investigation and the Department of Public Safety, for 25 men from 14 municipalities. Two two-week schools were held at the same place in 1954 for a total of 52 officers from 19 municipalities, and one in 1955--the last one, for 27 men from 11 different departments.

#### DEPARTMENT OF EDUCATION'S VOCATIONAL PROGRAM

In March of 1955, the Vocational Education Division of the Department of Education employed C.W. Ray, former State Police Captain and Charleston Police Chief, to conduct training programs for local police officers. This program served minimum police needs until April 30, 1967, when it terminated with his retirement. Over 100 schools were conducted at various places over the state and were attended by approximately 2,400 officers, some of whom repeated the same course at different times. Initially 80 classroom hours of instruction were given, four hours daily for twenty days, with members attending after work. Instructors were provided by the Department of Public Safety, the Federal Bureau of Investigation and local departments and officials. After about two years the instruction period was reduced to 45 to 60 hours at the request of local departments and officials. Interest and attendance at these schools were good. Sometimes sessions would be for a single department of larger size, but usually they were for an area or region and, in such cases, were attended by members whose experience ranged from a few days to several years.

#### MUNICIPAL TRAINING PROGRAMS

Both Charleston and Huntington police departments began developing their own training programs in the early 1960's. In 1965, Huntington established a six-week school for recruits, and later the same year Charleston developed one of sixteen weeks. Other larger departments occasionally conduct courses of two, three or four weeks but have no established programs.

#### DEPARTMENT OF PUBLIC SAFETY TRAINING PROGRAM

The Department of Public Safety, established in 1919, had its first in-service school worthy of the name in 1927. An attempt was made to give the members some knowledge of the laws

they were to enforce and to broaden their interest and increase their ability. Previously training had been almost entirely of a military type, or jujitsu or motorcycle riding. References are made in early biennial reports to "training from the ground up", "trained men", and inculcating in the present personnel a real rudimentary knowledge of police work in its finer phases", but there is no reason to believe this occurred.

The first recruit school was held in 1928 for two months, and the members attended without pay. Two-week schools were held in 1933 and 1934 and another for two months in 1935. From 1938 on, recruit schools have been conducted regularly except from 1943 to 1946. The training course has been increased from one month in 1938, to the present one of twenty weeks. In-service schools, first started in 1927, were conducted regularly from 1935 until the start of World War II. They have been conducted since 1947 but without regularity.

#### OUT-OF-STATE TRAINING

For many years, officers from the state have attended police training schools and institutes in other states. These include, among others, the National Police Academy, Southern Police Institute at the University of Louisville, and the Traffic Institute at Northwestern University. Several departments have sent members to seminars on traffic, investigation of crime and supervision and management.

#### SUPERVISORY TRAINING

The first training in supervision was conducted by the Huntington Police Department in 1965 with the assistance of Public Services Administration of Chicago. Later the same year the Department of Public Safety and the Insurance Institute for Highway Safety co-sponsored two-week supervisory schools for all commissioned and non-commissioned officers of the department and a one-week management course for commissioned and top noncommissioned officers.

#### GOVERNOR'S COMMITTEE SURVEY

A survey of police personnel referred to in the discussion on standards produced enough information to give a reasonable appraisal of current training conditions in the state.

Responses from 34 of the 55 county sheriffs' departments were received, which included 144 deputy sheriffs and 13 sheriffs. Forty-three individuals or 27 percent report they have had no training of any type. Eighty-eight report they have had only basic training. Forty-seven indicate they have had some type of advanced training.

Eighty-five responses were received from town and village officers and included 107 men. Fifty-two individual officers or 48 percent have had no training of any type. Fifty-seven report they have had either basic, advanced or other training. Forty-nine of 56 Class III municipalities replied with 211 officers reporting. Nineteen departments show all the members have had training; 12 report none of any type and 18 show some with training. Seventy members of 33 percent have had no training and fifteen others have had 15 hours or less of basic. All 13 of Class II municipalities reported with 223 of 294 officers responding. All departments had had training but not all members. Thirty-nine officers report they have had no training. Projecting this figure shows 51 or 17 percent of the total without training. Class I municipalities report a total of 332 officers with 209 responding. Nineteen show no training. By projection this figure totals thirty or 9 percent with no training. All others indicate they have had some type of training ranging from 20 hours through 16 weeks basic. Some show both basic and advanced training.

The basic training reported in the majority of the cases was that provided by the Vocational Education Division for local officers in the 45, 60, 80-hour classes. The advanced training for the most part would be obtained in out of state schools, institutes and seminars or classes on supervision and management provided by their own departments.

At the time this survey was made the Department of Public Safety had employed 311 members. Two hundred sixty responses were obtained reflecting that all had had basic training, and that the commissioned and non-commissioned officers had had advanced training. For the most part this consisted of supervisory and management training previously referred to.

#### POLICE ACADEMIC PROGRAM

In 1958 a two-year academic program for police officers was established at West Virginia State College. The curriculum has a general liberal arts orientation in sociology, psychology, language skills and political science. Its lack of success is

due largely to its failure to provide courses in police administration and police science which would attract police officers or those interested in a police career.

#### COLLEGE TRAINING DISTINGUISHED FROM VOCATIONAL TRAINING

The training programs conducted in West Virginia are almost entirely vocational. The need for such training cannot be debated, because its lack has brought about to a large degree the present unsatisfactory situation. Vocational training only tells how the job is done -- how the arrest is to be made or the case investigated -- it does not teach causes or principles. It does not provide background. There are those who believe it is the policeman's job to act and not to question why, a type of "Charge of the Light Brigade" philosophy. It is as necessary that they have at least a basic knowledge of people, their behavior and its motivation as it is for them to know how to perform the many tasks required of them. This is learned through education, not training, and it is impractical to leave such knowledge to be gained by experience. The best place and time to learn this is at the college level, prior to entry into the police service or soon thereafter.

Students who plan professional careers do not go directly to law, medical, engineering or dental college; they are first required to take two or three years of academic subjects to broaden their educational backgrounds and thus better equip them for their professional careers. Only a few years ago industry began encouraging its technical people to begin courses of study in the liberal arts to better fit them for positions in management. Vocational training alone, as does a narrow technical education, results in tunnel vision of the mind.

Today, 39 of the states, including Alaska and Hawaii and the District of Columbia, provide educational opportunities at the college level in law enforcement, police science or police administration. Such opportunities are to be found at a total of 191 colleges or junior colleges, 158 of which grant associate degrees, 41 baccalaureate degrees and 14 master's degrees. A college degree, in itself, is not a guarantee of success in any field. Experience has shown this to be true of law enforcement. Judgments, however, are to be made on overall accomplishments instead of isolated cases. Failures are to be found in all professional fields, but they have not resulted in abandonment or decrease of requirements. The educational level of the population is gradually increasing. A gradual increase in the educational requirements of law enforcement personnel is not enough. A longer step must be taken.

#### TRAINING RECOMMENDATIONS

1. That a basic training course of not less than ten weeks of classroom instruction be established and its successful completion be required of all newly recruited officers, with necessary provision for integrating the classroom instruction with properly supervised field training.
2. That recruit training be centralized at a single, advantageously located facility. In the absence of such a facility. In the absence of such a facility, or as an alternative, regional recruit schools be established at or near some of the state's colleges.
3. That regional in-service schools be conducted annually for officers with experience, but without training, for their improvement and to keep them currently informed about new methods, practices, laws and court rulings.
4. That supervisory and management seminars be conducted to provide personnel in these categories with training necessary to perform effectively, and that such seminars be available at or near promotion to such positions.
5. That police instructors be carefully selected and given training in teaching techniques and methods; that college instructors or people with professional backgrounds be used to teach non-vocational subjects.
6. That both two-year associate degree and four-year baccalaureate degree programs be established in the field of law enforcement and police science at one or more of our state colleges.

#### CONCLUSION

The President's Commission described the intimacy of the police and community in these words:

"It is hard to overstate the intimacy of the contact between the police and the community. Police-men deal with people when they are both most threatening and most vulnerable, when they are angry, when they are frightened, when they are desperate, when they are drunk, when they are violent, or when they are ashamed.

Every police action can affect in some way someone's dignity, or self-respect, or sense of privacy, or constitutional rights. As a matter of routine policemen become privy to, and make judgments about, secrets that most citizens guard jealously from their closest friends: Relationships between husbands and wives, the misbehavior of children, personal eccentricities, peccadilloes and lapses of all kinds. Very often policemen must physically restrain or subdue unruly citizens."<sup>12</sup>

Because the role of the police officer in modern society is so critical, West Virginians must rally in support of law enforcement. Nathan C. Reger, Director of the West Virginia Law Enforcement Officers Minimum Standards Project and formerly a Lieutenant Colonel in the West Virginia Department of Public Safety published the following:

Lack of proper training places the typical police officer in this state in a critical position. The irony of the situation is that he is eager to train but such a program is not available to him in this state.

Training ranges from none to excellent. Except for Wheeling, Huntington and Charleston, where the training program is 3, 6 and 20 weeks respectively, local law enforcement is afforded little, if any, training. Of the remaining 700 municipal officers and 200 county police, it is estimated that for the typical officer training will average about two weeks. From 1955 to 1967 a Peace Officer Training Program was sponsored by the Vocational Education Division of the State Department of Education for local officers. This consisted primarily of 45 hours of classroom instruction. Currently, there is no recruit training in the state available to the 55 sheriff departments, the 69 Class II and Class III municipal police departments and the 85 towns and villages with police. At the state level the picture is brighter, for the typical State Police recruit is a man who undergoes 20 weeks of training before assuming his duties.

<sup>12</sup>  
Supra Note 1 at 91-92.

When compared with state requirements for other professions and trades, it is apparent that there has been little concern by the law makers for a professional policeman in the state. (See following table). The law requires a barber to go to school for 45 weeks before he can be licensed; or a beautician 50 weeks before practicing; even a manicurist must have 12½ weeks training before working on your fingernails. Yet, three-fourths of all of West Virginia's law enforcement officers go about their daily tasks without as much as four weeks of training.

It can hardly be disputed that the quality of the police work bears a direct relation to the contribution made to crime control. Policing a community is a personal service of the highest order and few professions are so peculiarly charged with individual responsibility. Officers are compelled to make instantaneous decisions--often without clearcut guidance of a legislature, the judiciary or from departmental policy --and mistakes can cost irreparable harm to citizens or even to the community.

A basic training course should be provided for all officers which would include schooling in a law of arrest, search and seizure and the mechanics of arrest. The officer needs to know some of the fundamentals of criminal law and procedures for investigation. Most prosecutors in the state will bear witness to the fact that in very important cases the defendant sometimes goes unpunished because the officer used improper techniques or he made an illegal search. The officer should be knowledgeable of scientific aids to law enforcement. Courses such as traffic control and accident investigation, self-defense, crowd control, fire-arms training, criminal evidence, court procedures, testifying in a case and many others give him important insight into how to properly carry out his responsibilities as a police officer and give the public the service it should have.

The President's Commission on Law Enforcement and the Administration of Justice describes the community and police relationship as one of intimacy of contact which is hard to overstate. The policeman deals with people when they are both most threatening and most vulnerable, when they are angry, when they are violent, or when they are ashamed. Every police action can affect in some way someone's dignity, or self-respect, or sense of privacy, or constitutional rights. As a matter of routine, policeman become privy to and make judgments about, secrets that most citizens guard jealously from their closest friends -- relationships between husbands and wives, the misbehavior of children, personal eccentricities, peccadilloes and lapses of all kinds.

These situations are at best extremely difficult for even trained people to deal with. It is unthinkable that a police officer without training could cope with such problems in a manner to command public respect.

Huntington has now developed a 12-week training program for a training class which started April 1, 1968.

For a score of years now the West Virginia legislative and administrative branches of government, like those in other states, have been wrestling with such problems as roads, education, mental health, and welfare. Millions and millions of dollars have been budgeted toward solving these problems. West Virginia during this same period has shunted the pleas of the police. We are now far below the national averages according to law enforcement statistics. We have neglected the police and their problems for so long that we now face a monumental effort to rescue the state's local law enforcement if our people are to have a satisfactory law enforcement program. This was the conclusion reached by the Governor's Police Advisory Commission.

One of the many law enforcement problems the Police Advisory Commission sees is that of manpower. Out of a total of 308,000 full-time county and municipal (local) law enforcement officers in the nation, the President's Commission on Law Enforcement and Criminal Justice found the average distribution to range from one officer per 1,000 people in rural areas to 2.3 officers per 1,000 people in cities over 250,000 population. An average of 1.3 officers was found in all city groups below 100,000 population. Suburban police numbered 1.4 officers per 1,000 and county sheriffs one per 1,000.

The following map shows how West Virginia law enforcement is supplied with manpower as compared to the average for similarly populated areas in the nation. The first figure given is present strength for the city or county and the second shows the average national figure for a similar area. The percent figure represents the increase necessary to reach the national level, which is itself a bare minimal figure. For example, in a county with 5,000 people this shows five officers. With quality, 24-hour service (one man on duty at all times), this would require five officers working a forty-hour week which means there would be only one officer to furnish service for 5,000 at anytime during the 24-hour period. This is spreading police protection dangerously thin.

Unlike the national scale, part-time law enforcement strength has been included for the state. The 165 deputy sheriffs have been carried as full-time law enforcement strength and the 55 sheriffs are shown as half-time because of their tax collecting responsibilities. Constables were not carried as law enforcement strength in the state figures, nor were they included in the national figures. Many of the smaller cities are included in the county figures. State police exercising purely administrative, supervisory, auto inspection, or West Virginia Turnpike patrol responsibilities were not counted as part of local law enforcement.



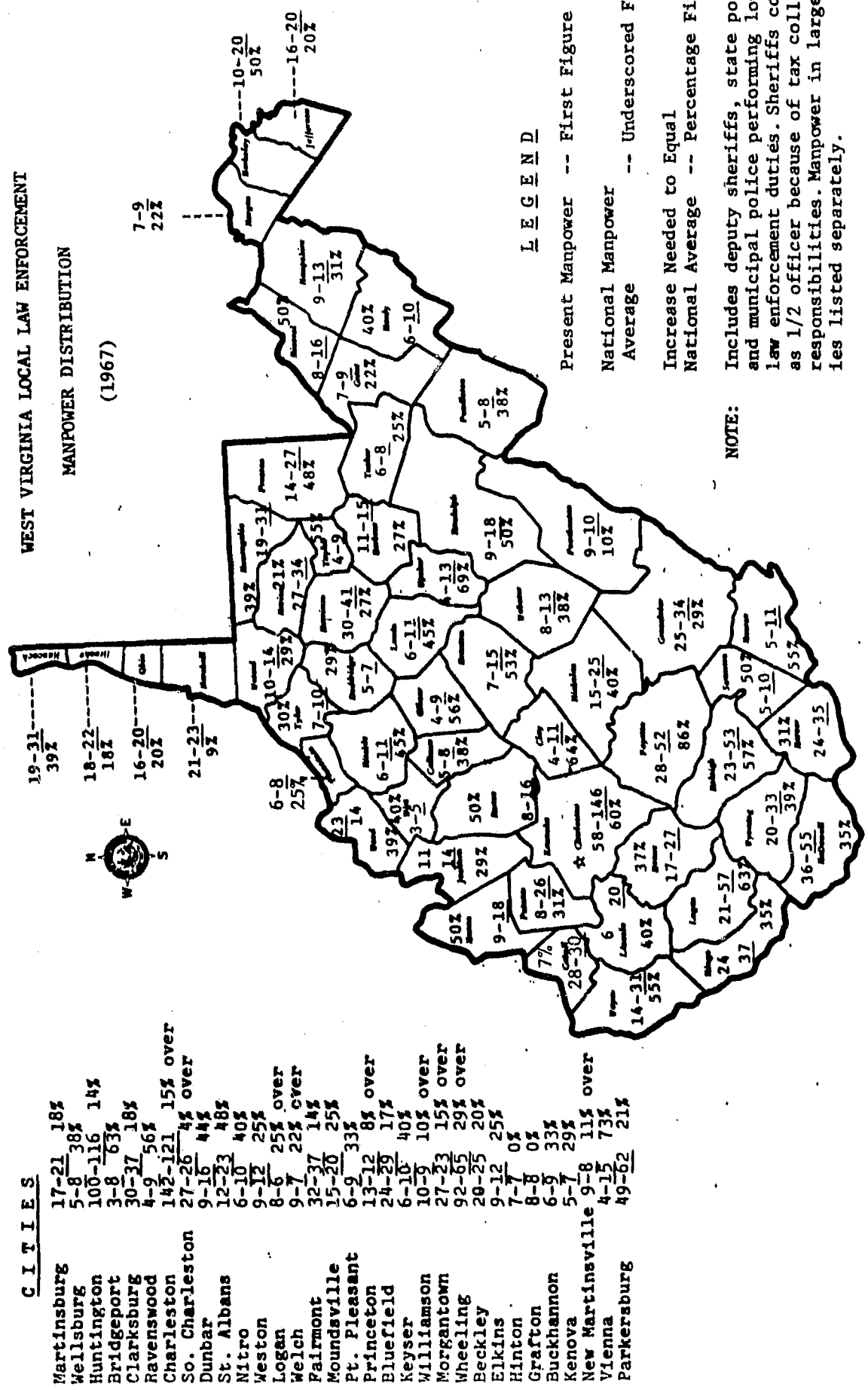
Four millions of dollars are needed for local law enforcement manpower alone. Currently we have 744 local law enforcement officers in the smaller cities and counties where 1,233 are needed to reach the figure considered minimal by police authorities, or a 66% increase in law enforcement manpower. There are 716 police in the larger cities, and 829 are needed to reach the national average -- an increase of 16%. In order to realize this minimum standard one finds it would require an additional expenditure in the state of at least \$3,000,000 for the counties and smaller cities, and approximately \$700,000 for larger cities to reach the minimal figure. Assuming that many of these political units are simply unable to provide these funds, some aid must come from state and/or national government.

Many deputy sheriffs currently collect taxes and this was not taken into consideration here. The additional salaries represent only a portion of the total needs for West Virginia law enforcement however. Training and other needs of the present force are great in the opinion of the Police Advisory Commission.

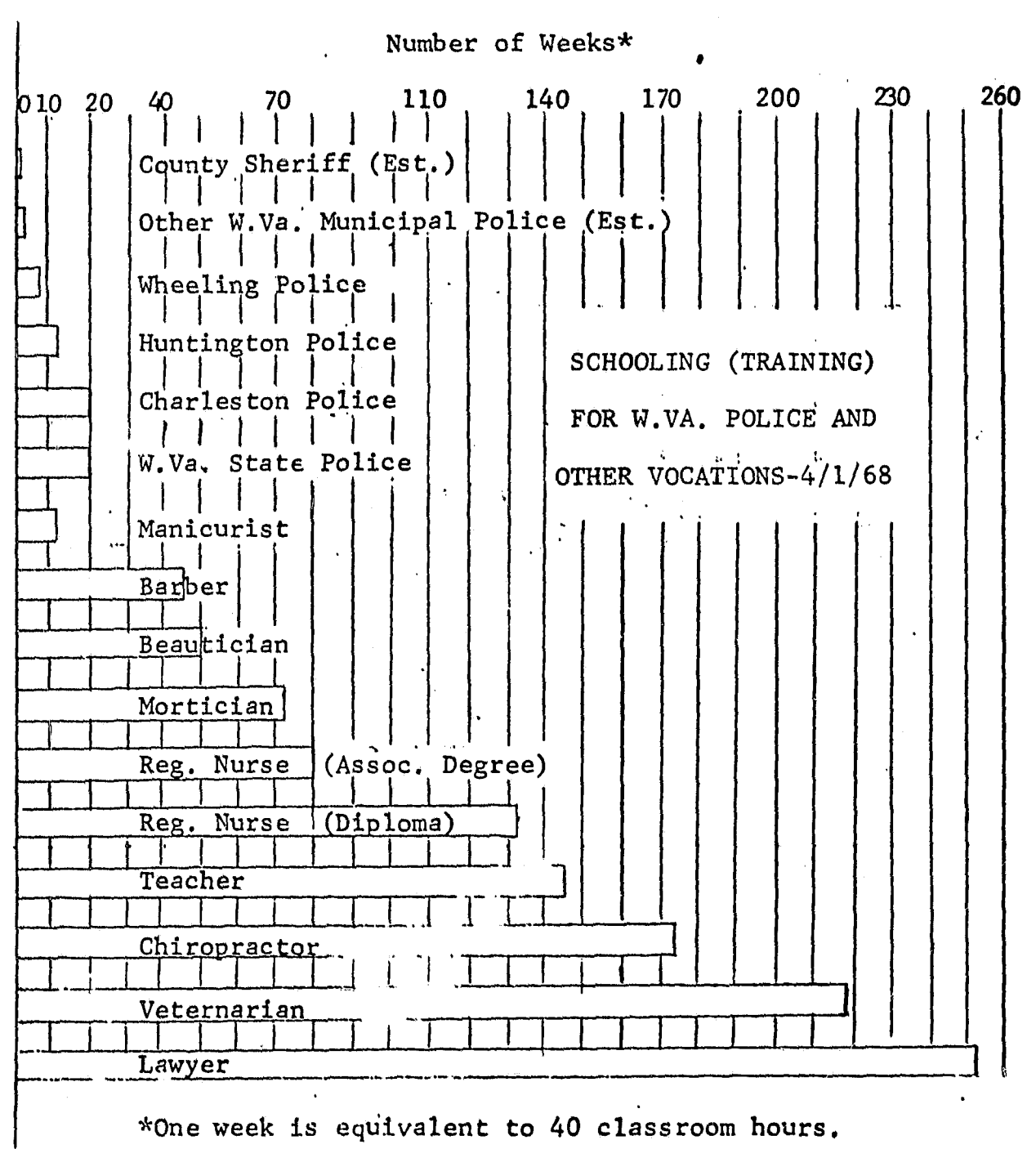
WEST VIRGINIA LOCAL LAW ENFORCEMENT

MANPOWER DISTRIBUTION

(1967)







## WEST VIRGINIA CRIME DATA REPORTING SYSTEM

There is a need in West Virginia for a comprehensive, centralized crime reporting system reigned over by a computer. Tied into this program should be all agencies in the criminal justice field including all law enforcement units at the municipal, county, or state levels the criminal courts, juvenile courts, prosecuting attorneys, Attorney General, Division of Corrections including parole, institutions and jails who would be looking to the computer for basic information. Non-justice agencies, such as the Department of Motor Vehicles, and some of the social service agencies would also participate. In fact, any agency which is a consumer of crime data should have access to the program.

### PRIORITY WITH LAW ENFORCEMENT

In establishing such a program in the state, priority would go to the approximately 213 law enforcement units now in existence. The most urgent need is here. Centralized reporting with instant dissemination to all law enforcement agencies is one of the recommendations of the Governor's Committee. Just how soon the information is made available to the officer on the scene sometimes determines whether the criminal is apprehended. In some police circles two minutes is considered a maximum lapse of time to allow between the sending of the inquiry by the officer on the scene to the computer and the receipt of the answer back by him. Recently a case was reported in the newspapers which illustrates the urgency for immediate dissemination to the police of crime data. A police officer in one of the New England states became suspicious and started following an automobile. He made his inquiry to headquarters for data, but before the reply was received, he was killed. The data revealed that he was following a stolen car occupied by two armed prison escapees. If the officer had had knowledge of these facts, he would probably have not been killed.

### SYSTEM MUST BE GEARED TO STATE'S NEEDS

There are several nationally recognized state comprehensive central crime reporting systems in the country. However, in planning such a system for a state much study is required to determine the state's needs. Each state differs, and

no one state's system can be used as a pattern for another state. In other words, a design for this type of program in West Virginia could not be used for North Carolina because the needs of the two states cannot be met in the same manner.

#### CENTRAL REPORTING IN THE STATE

Colonel T. A. Welty, Superintendent of the West Virginia Department of Public Safety, was asked to give us his views on the needs of central reporting in law enforcement in West Virginia. He commented as follows:

##### DEFINITION

"Central reporting is a central filing system which will collect and store all criminal data and relative police information. This system should have the capabilities of disseminating such data and information as a matter of routine procedure to the individual policeman and all police agencies throughout the state and nation and/or upon their specific request. The system needs to be available twenty-four hours a day for inquiries. In order to do this effectively and efficiently with the minimum possibility of error and with expediency, an electronic computer system must be employed. This system must also be compatible with the National Crime Information Center in Washington, D.C.

##### THE NEED FOR THE SYSTEM

"In order to cope with crime today there is an urgent need for the effective collection, accumulation and retrieval of available data and information and its dissemination to the various police departments and governmental agencies concerned.

"It is in the public interest that these various police agencies and governmental agencies share among themselves available information related to all aspects of crime.

"At the present time, criminal information in West Virginia is contained in separate and widely dispersed filing systems, manually maintained, and no adequate system now exists for coordinating either the files or the information they contain.

"To assure that this information is accurately and swiftly disseminated to police departments and governmental agencies concerned, there is a definite need for a new and more advanced computer system.

"Through the use of electronic data processing and related procedure, a system must be established to provide a central data facility, by which relevant information can be coordinated and made available whenever and wherever required in the investigation and prosecution of crime and the administration of criminal justice.

##### WHAT WE HAVE

"At the present time, police records are widely scattered throughout the state, lacking in desired information and are manually maintained.

"The State Police system is a manually maintained system centrally located at the Criminal Identification Bureau at the Capitol. Very little information is furnished by other police agencies for this central filing.

##### WHAT IS NEEDED

"The following is recommended for the organizational structure and machinery for a central reporting system:

"An electronic computer capable of storing police information such as stolen property, criminal records, mode of operation, motor vehicles registration and operator's license information as contained by the Department of Motor Vehicles and any other pertinent police information. This computer should be of the type to give instantaneous reply upon request.

"Inquiries would be made through teletype machines which are tied indirectly to the computer. These teletype machines would also be used in other communications and be adapted to the computer, so that by the use of a code the teletype machine would key the computer in for inquiries and store information.

The teletype inquiry stations should be located in key locations throughout the state in the various police agencies (state, county and municipal), so that individual police officers would have swift and easy access through radio or telephone communications.

"Information to be stored in this computer should be contributed by all law enforcement agencies and other governmental agencies concerned.

"This computer should be compatible with the NCIC in Washington, D.C., and programmed so it would first make inquiry into a local computer; then, if necessary, inquiry would be made automatically to the NCIC.

"This system should be worked out in different phases over a period of years.

"First year: Phase One will give the immediate service benefits to the law enforcement community. With the installation of a computer, the first year should consist of wanted persons, stolen property, message switching, traffic accidents, arrests, fingerprints, complaints, performance accounting, gun files and motor vehicle cost analysis.

"Second year: criminal history, fraudulent checks, civil defense inventory, department inventory, *modus operandi* and latent fingerprints.

"Third year: personnel files, recruit school training, master fingerprint records and crime laboratory.

"Priorities for future developments will be based upon broad systems research."

#### SYSTEMS AVAILABLE

##### MICHIGAN SYSTEM

One of the reporting systems visited by a member of the staff was that of the State of Michigan. There is a one-message transmission system for the entire state. The program proceeds

on the concept that the problem of preserving the peace and enforcing the laws is no longer the sole concern of the several local jurisdictions, for the thief who preys on the citizen in one community may live elsewhere; the motorist delayed or inconvenienced in one jurisdiction may have started his trip in another, seeking to travel to still a third. Currently this system is providing all police agencies within the state and their patrolling officers with immediate access to statewide stolen autos and wanted person files on a 24-hour, 7-days-a-week basis. Projected to 1970 it will be enlarged to take in many more aspects of the crime data consumer needs.<sup>1</sup>

##### CALIFORNIA PROGRAM

The California program, which recently got under way with the assistance of a grant from the Office of Law Enforcement Assistance, is called the California Criminal Justice Information System. Its goal is to improve operating and service effectiveness in the management of criminal justice information. The proposal describes the concept as a collective effort directed toward the development of a fully integrated information system design, based upon user need and the preparation of an implementation schedule that is practical in terms of information available, with respect to time and content.<sup>2</sup>

##### OHIO SYSTEM

The Ohio system is styled a "Communications and Information Network". Here the concept is described as consisting of an on-line, real-time computer, containing files on law enforcement data and statewide communications network. Some of the benefits spelled out in the proposal are: 1) improved efficiency of police by reducing the amount of time lost waiting for responses to inquiries into the files of stolen vehicles, operator's licenses, vehicle registrations and wanted persons, 2) greater apprehension of criminals, 3) greater safety to the officer approaching a driver who might be a dangerous criminal, and 4) to the highway user through the identification of hazardous motorists, and 5) improved record keeping. It is described as a new and powerful law enforcement tool for the state. It is basically a law enforcement program with liaison to other agencies, while the California program attempts to include everything having to do with crime.<sup>3</sup>

<sup>1</sup>See Appendix H for diagram of the Michigan program.

<sup>2</sup>See Appendix I for the information flow among the agencies, and Appendix J for a diagram of the California program.

<sup>3</sup>See Appendix K for computer file layout of the system.

NEW YORK SYSTEM

Probably the ultimate in computerizing data is found in the New York State Identification and Intelligence System (NYSIIS). This system, which is quite expensive, is now capable of recording fingerprints in the bank. It started with New York City and is being extended to cover the entire state.<sup>4</sup>

NATIONAL CRIME DATA REPORTING

In the *President's Commission Report* is found an outline of a National Crime Data Reporting System by Dr. Peter J. Lejins. Inasmuch as the national proposal has applicability to state systems, a summary is included in this report.<sup>5</sup> Not only would a uniform records and data collecting system of the scale described by Dr. Lejins have a tremendous impact upon the effectiveness of law enforcement and all the criminal justice processes within the state, but would be invaluable to administrative and legislative planning and the evaluation of law enforcement and criminal justice programs within the state.

<sup>4</sup>See Appendix L for diagram of a fingerprint superimposed on a grid, preparatory to insertion in the computer bank.

<sup>5</sup>See Appendix N.

Chapter 9

LAW ENFORCEMENT ACADEMIC PROGRAM

INTRODUCTION

There are numerous reasons for the apparent concern regarding the development of two and four-year law enforcement education and training programs at the college and university level. It appears that law enforcement and other administrative officials, both academic and public, have in the past taken lightly the task of providing adequate police training and educational programs. With the increased emphasis on law enforcement functions and responsibilities, suitable training and education must become a matter of academic concern if law enforcement officers are to optimally function within the department and serve the total needs of a demanding society.

GENERAL OBSERVATIONS

Law enforcement training and education exists for two major purposes: (1) to develop to the fullest extent the potentialities of the individual student, and (2) to protect and promote the welfare of society. These goals depend upon each other for accomplishment. It should be the purpose of realistic police education and training programs to strive toward these goals during the time when the individual is pursuing a course of study at the college, university and police academy. If this is to be done effectively, it is essential that the role of law enforcement education and training be understood by administrators at all levels of government and that they be sympathetic with both the needs of the individual and society.

The past has much to tell us about the present and the future. By glancing back into history we can fully comprehend why certain concepts reflecting the meaning of law enforcement training and education must be understood.

In our present age of rapid changes in police thinking, problems can arise at the same accelerating rate at

which political and technological developments occur. Concepts in police training and education are changing so profoundly that even the conceptual framework shows the strain. As the result, there exists among many high-level police administrators in the United States a myriad of ideas and opinions concerning what constitutes an adequate police training and/or educational program, and a lack of agreement as to the meaning and implications of such training and education in comparison with the needs of the individual and society.

When ideas and conceptions are in such a state of confusion and misinterpretation, the need arises for either entirely new forms of conception or a reinterpretation of the elements that constitute adequate law enforcement training and educational programs.

The role of law enforcement in the protection of society is not changing; however, society is altering its understanding of this role. Can responsible administrators plan, develop, and implement training and educational programs designed to accommodate the now interested society and as such determine the direction of needed changes in police training and education so that the role of law enforcement is made more effective for and understandable to society? Confidence is expressed in the future meeting of law enforcement administrators and business, civic, and governmental leaders uniting voluntarily to bring about the required improvement in law enforcement training and education. An improved training and educational system is the first order of business in the insuring of a dynamic and competent law enforcement agency.

#### NEED FOR ACADEMIC PROGRAM IN WEST VIRGINIA

Discussion of the need for a police academic program in West Virginia must be in terms of general considerations as specific delineation of factors relating to particular needs of West Virginia would involve the knowledge of information that is not presently available. This information must be obtained through a state survey of existing law enforcement conditions reflective of manpower needs, training

and training needs; attitudes, interests, ideas, and opinions regarding the development of a law enforcement academic program, both on the part of law enforcement and public officials, evaluation of existing educational programs which have been so designed to meet the needs of law enforcement; and many other essential considerations.

A survey will soon be conducted which will provide essential information reflective of law enforcement conditions and training education needs in West Virginia.

#### NECESSARY QUESTIONS WHICH MUST BE CONSIDERED

Various questions must be considered to establishing a law enforcement administration program at the college level. The following are representative of such questions.

1. Should a degree or certificate program be offered?
2. Should West Virginia State offer a two-year terminal program, two-year transfer program, or a four-year degree program?
3. Should the program include more academic or professional courses?
4. What type of instructional personnel is needed? How many staff members would have to be employed to initiate a law enforcement administration program? What is the salary estimate for this additional personnel?
5. What should the director of the program do to attract and select students?
6. At what time of the day or night should courses be offered?
7. Will such a program create a loss of personnel to the departments once they complete the program?

## THE TWO-YEAR PROGRAM

### PRIMARY OBJECTIVES OF THE ASSOCIATE OF ARTS DEGREE PROGRAM

The primary purpose of a law enforcement training and education program is to assist in bringing about the professionalization of law enforcement through proper and meaningful education and training. Specifically speaking, the objectives of the two-year program would have to encompass the following:

1. Enable the individual law enforcement agencies to more effectively operate as the result of the dissemination of proper administrative methods, procedures and considerations.
2. Assist the student to better realize the significance of law enforcement organization and management by promoting an understanding of the total role of law enforcement in a contemporary society.
3. Delineate the structure of the system of government in which the student functions, i.e., local, state, federal, illustrating the role of law enforcement and the police officer within the various levels of government.
4. Instill within the student the knowledge of laws and ordinances and the specific elements of each offense. The extent to which this objective is realized is the extent to which illegal acts on the part of the officer will be avoided.
5. Prepare students to perform in a police capacity certain duties and responsibilities characteristic to this job. By utilizing practical exercises and teaching the student correct methods and procedures, confident and safe attitudes and practices can be achieved.
6. Promote an awareness on the part of the student to the necessary considerations, practices, attitudes and techniques of patrol, investigation, courtroom manner and bearing, human behavior, public relations, and other elements so essential to the work of a law enforcement officer.

7. Develop a basis for further learning by impressing upon the student that effective law enforcement management and operation make learning a continuous process.

### SUGGESTED DEVELOPMENT FOR W. VA. STATE COLLEGE'S TWO-YEAR PROGRAM

The projection for this two-year terminal program would probably require approximately 64 to 68 semester hours of college level training in Social Science, Natural Science, Humanities, and special law enforcement administration leading to the Associate degree.

This program should be designed: (1) to serve pre-employment law enforcement students, and (2) to further educate and train those people who are interested in increasing their professional knowledge and performing their work more effectively.

Students should cover such subjects as English, psychology, general science, health and first aid education, sociology, governmental and legal systems, introduction to law enforcement, criminal law, criminal investigation, patrol procedures, interviewing and case preparation, police organization and administration, evidence and criminal procedure, traffic administration and control, and delinquency prevention.

The philosophy and orientation of the two-year program would be directed to the needs of the practitioner using a how-to-do-it approach.

### TWO-YEAR PROGRAM CURRICULUM

The following courses are reflective of those which should be considered essential to the two-year program leading to the Associate of Science degree with a major in Law Enforcement Administration. Course descriptions are not absolute to the point that flexibility is eliminated. These descriptions were carefully selected from suitable college and university reference sources.

#### I. BEHAVIORAL SCIENCES (15 credits)

Anthropology. The Origin of Man and Culture.  
(3 credits)

Introduction to physical anthropology; The position of man in the animal kingdom, the



genetic mechanisms of evolution, human beginnings and the fossil record, racial evolution and racial types among modern man, the anticipation of culture among other animals and the development of human culture, and culture as an adaptive mechanism.

Psychology. General Psychology. (3 credits)

Survey of psychological topics including learning motivation, emotions, intelligence, personality, and social relations.

Psychology. Psychology of Personality. (3 credits)

Application of psychological principles to an introductory understanding of personality and interpersonal adjustments; social motivation, frustration, conflicts, and adjustment mechanisms; theories of adjustment, the assessment of personality, problems of mental hygiene and some theories of psychotherapy.

Sociology. Contemporary Social Problems. (3 credits)

The sociological perspective is used to examine aspects of American culture and institutions which are the source of behaviors associated with areas of contemporary concern such as criminality, alcoholism, mental illness, minority groups, the aged, etc.

Sociology. Introduction to Social Psychology. (3 credits)

Relation of individual to his social environment, with special reference to personality development, communication and role behavior.

II. POLITICAL SCIENCE (6 credits)

Political Science. American National Government. (3 credits)

Major aspects of national government with emphasis on the policy-making process. Special attention to civil liberties and role of political parties and interest groups.

Political Science. American State Government. (3 credits)

State government today; growth of power of the governors; administrative and judicial reorganization; comparison of state political systems; trends in legislative leadership; forces and interests shaping policies.

III. HUMANITIES (8 credits)

English. Forms of Literature I. (3 credits)

English. Forms of Literature II. (3 credits)

Major forms of prose fiction, designed to reveal artistic problems met and solved by these forms. Prepares students for advanced literary study by acquainting them with the conventions of various literary forms, by providing a critical vocabulary and by furnishing experience in reading and writing critical evaluations of outstanding literary works from all historical periods; or

English. Expository Writing. (3 credits)

Practice in informative writing to develop mastery of a clear, accurate style and of practical, basic expository forms.

English. Creative Writing. (3 credits)

Instruction and practice in fundamentals with emphasis on description of character and background. Weekly assignments in writing and the analysis of models.

Speech. Public Speaking. (2 credits)

Principles and practices of effective speaking in both informal and formal situations.

IV. NATURAL SCIENCE (8 credits)

Biology. General Biology I. (4 credits)

Biology. General Biology II. (4 credits)

Integrated course emphasizing cell structure and function, genetics, comparative morphology and physiology of living organisms and their developmental and community relationships.

V. LAW ENFORCEMENT ADMINISTRATION (Police Science)  
(27 credits)

Introduction to Law Enforcement (3 credits)

Survey of law enforcement -- the role, history, development and constitutional aspects of law enforcement and public safety. A review of agencies involved in the processes of the administration of criminal justice.

Criminal Law. (3 credits)

Elements of substantive criminal law relevant to attaining the preservation and protection of life and property. The structure, definitions and the most applicable and pertinent sections of the criminal statutes.

Criminal Investigation. (3 credits)

Fundamentals of investigation; techniques of crime scene recording and search; collection and preservation of physical evidence; modus operandi processes; sources of information; follow-up and case preparation.

Patrol Prodecures. (3 credits)

Patrol as the basic operation of the police function. Purpose, methods, types and means of police patrol. Administration of police patrol, determining the patrol strength, layout, beats, areas and deployment.

Interviewing and the Communication Process.  
(3 credits)

Applicable interviewing concepts, principles, methods relative to current police practices. Practical interviewing considerations in

agreement with legal stipulations.

Police Organization and Administration. (3 credits)

Functions and activities of police agencies. Police department organizations; responsibilities of police chief in the administration of line, auxiliary, and staff units. Police formulations. Current administrative experimentation in law enforcement agencies.

Evidence and Criminal Procedure. (3 credits)

Discussion of pertinent rules of evidence of particular import at the operational level in law enforcement and with criminal procedure in important areas such as arrest, force, and search and seizure.

Police and Court Traffic Administration. (3 credits)

Organization of police traffic activities. Administrative standards. Enforcement policies and tactics, parking control, directing traffic movement, accident reporting and investigation, traffic records. Accident data analysis and planning. Traffic court procedure. Violations Bureau operation.

Delinquency Prevention. (3 credits)

Problem of juvenile delinquency, theories of causation and prevention programs. Police prevention programs, juvenile courts, institutional treatment, community resources for prevention, federal and state programs.

The courses listed herein as recommended courses do not preclude the taking of other courses to meet the requirements. The student, with the approval of his academic advisor, may elect other similar courses to fulfill the general requirements.

THE FOUR-YEAR PROGRAM

PRIMARY OBJECTIVES OF THE FOUR-YEAR PROGRAM

This description of the intended Law Enforcement Administration Program at West Virginia State College delineates the

baccalaureate degree curriculum. Its design is intended to convey a professional concept of law enforcement service. However, course nomenclature and credit hours are not absolute; thus, flexibility is inherent within its design.

During the early development of any four-year degree program, it is essential to rely upon the practical rather than the theoretical aspects of the program. As the program develops, more sophistication becomes inherent and the development of theory and the expansion and classification of knowledge that a four-year program should fulfill becomes necessary. This is natural and desirable since a major function of the four-year program is to expand in theoretical understanding and interpretation of the law enforcement field and increase the extent and classification of knowledge being pursued.

One of the most common problems of the newly developed discipline lies in the adequate measurement of the scope of the program and the organization of knowledge comprising the program into teachable forms. Law enforcement administration degree programs are generally in this position. Since one of the most applicable and direct ways in which degree programs of this type contribute to society is through the dissemination of knowledge, one requirement is a well-organized curriculum. An adequate four-year law enforcement degree program must be one that will serve three classes of students.

1. Those who wish to acquire an understanding of the law enforcement role in society as part of a broad general college education;
2. The specialized student who wishes to prepare himself for a professional career in law enforcement; and
3. Those who seek to prepare themselves for advanced study in the law enforcement field or related disciplines.

The prevention of crime and disorder, preservation of the peace, the protection of life and property, the preservation of personal liberty, and the maintenance of social order are essential to the strong continuance of a democratic society.

To provide for this peace, safety, liberty, freedom and order, private agencies and public agencies at the federal, state and local levels are engaged in activities designed to prevent crime, enforce law, detect and apprehend criminals, deter delinquency, correct and rehabilitate offenders, and facilitate justice under law.

The four-year program in Law Enforcement Administration provides preparation for career service in law enforcement by:

1. Requiring a thorough study of the organization, management, and operation of police service, and the areas of specialized techniques and procedure together with a consideration of their legal and philosophical bases; and
2. Requiring a well-balanced program of study to the extent that graduates may not only be knowledgeable and informed, but that they also be able to exercise authority wisely and maintain an absolute integrity of character in keeping with the goal of a professionalized law enforcement service.

The following represents a guide which can be used in planning for and the development of a four-year law enforcement administration program.

The projection for the four-year program would probably require approximately 128 to 136 semester hours of college level training in Social Science, Natural Science, Humanities, and specific law enforcement subjects leading to the Bachelor of Science Degree. Course descriptions are not absolute to the point that flexibility is eliminated. The courses identified represent only a few feasible courses which would apply in the various identified areas of required learning.

BACHELOR OF SCIENCE DEGREE PROGRAM CURRICULUM

GENERAL COLLEGE REQUIREMENTS (Semester Hour Basis)

Natural Science -----8 credits  
Social Science-----8 credits  
Humanities-----12 credits  
Health, Physical Education  
& Recreation-----6 credits

TOTAL GENERAL COLLEGE REQUIREMENTS-----34 credits

LAW ENFORCEMENT ADMINISTRATION CORE-----35 credits

PROFESSIONAL DEPTH COURSES ----- 9 credits

POLITICAL SCIENCE COURSES----- 6 credits

HUMANITIES COURSES----- 8 credits

BUSINESS, COMMUNICATIONS, ARTS, EDUCATION----- 6 credits

BEHAVIORAL SCIENCES-----22 credits

GENERAL ELECTIVES----- 8 credits

TOTAL CREDITS REQUIRED FOR B.S. DEGREE 128 credits

I. GENERAL COLLEGE REQUIREMENTS (34 credits)

Natural Science. (8 credits)

Biology. General Biology I. (4 credits)

Biology. General Biology II. (4 credits)

Integrate courses emphasizing cell structure and function, genetics, comparative morphology and physiology of living organisms and their developmental and community relationships.

Social Science. (8 credits)

Social Science I. (4 credits)

Basic concepts used in analysis of social behavior. Processes by which new members of group are oriented to prevailing patterns of behavior. Part played by such agencies as the family, school and church in the development of personality and in the socialization process.

Social Science II. (4 credits)

Problem of satisfying human needs and wants. This includes socio-psychological (noneconomic) needs and wants as well as treatment of ways in which resources are allocated and products distributed in response to economic needs and wants. Economic institutions with emphasis on their relationships to other aspects of human behavior.

Humanities. (12 credits)

Humanities I. (4 credits)

A field of study in relation to general education; classical background of Western man as seen in Greek pattern of community life, religion, philosophy, literature and art;

Roman contributions as seen in the imperial idea, in concepts of the good life, in architecture and engineering, and in development of law, Christian roots of Western civilization as seen in its spiritual foundations, the basic teachings of Jesus Christ, and growth of the early Church.

Humanities II. (4 credits)

Medieval man in Western Europe; economic life on manor and in towns; political ideas and practices in feudal times, influences from Islam and the East; creation of a Christian synthesis in spirit, thought, education, literature, art, music; emergence of modern man and modern forces in Western civilization; transition to a dynamic capitalist economy; the development of nation state; humanism as expressed in literature, art, music; the Protestant Reformation.

Humanities III. (4 credits)

Intellectual foundations of the modern world; revolution in science; thought, literature, and art of the Enlightenment. Locke and origins of democratic political theory, the liberal revolutions, romanticism and idealism in philosophy and the arts, impact of the machine, advance of science, nationalism and imperialism; attacks on liberalism from Right and Left; break-up of liberal order; effect of World Wars; rise of collectivism; contemporary spirit in literature and art; contemporary views of the world and man.

Health, Physical Education and Recreation (6 credits)

Athletic Training. (2 credits)

Principles governing conditioning of men for various sports; different types of men; hygienic rules, study of weight sheets, massage; prevention of staleness, symptoms and treatment; work and rest; prevention and treatment of injuries.

First Aid. (2 credits)

Methods of giving aid in case of accident or sudden illness; bandaging; control of hemorrhage; resuscitation; administration of simple antidotes in case of poisoning; caring for wounds and injuries. American Red Cross First Aid certificates are issued to those completing course.

Wrestling. (2 credits)

Techniques necessary to conduct combatives programs. Teaching techniques and fundamental skills of boxing, wrestling and fencing. Training and conditioning, equipment, officiating and safety measures.

II. LAW ENFORCEMENT ADMINISTRATION CORE (35 credits)

Criminal Law. (3 credits)

Elements of substantive criminal law relevant to attaining the preservation and protection of life and property. The structure, definitions and the most applicable and pertinent sections of the criminal statutes.

Criminal Investigation. (3 credits)

Fundamentals of investigation; techniques of crime scene recording and search; collection and preservation of physical evidence, modus operandi processes; sources of information; follow-up and case preparation.

Patrol Procedures. (3 credits)

Patrol as the basic operation of the police function. Purpose, methods, types and means of patrol. Administration of police patrol, determining the patrol strength, layout, beats, areas and deployment.

Interviewing and the Communication Process. (3 credits)

Applicable interviewing concepts, principles and methods relative to current police practices. Interviewing considerations in agreement with legal stipulations.

Police Organization and Administration (Staff).  
(3 credits)

Functions and activities of police agencies with emphasis on staff operations. Police department organizations; responsibilities of police chief in the administration of line, auxiliary, and staff units. Policy formulations. Current administrative experimentation in law enforcement agencies.

Evidence and Criminal Procedure. (3 credits)

Discussion of pertinent rules of evidence of particular import at the operational level in law enforcement and with criminal procedure in important areas such as arrest, force and search and seizure.

Police and Court Traffic Administration. (3 credits)

Organization of police traffic activities. Administrative standards. Enforcement policies and tactics. Parking control. Directing traffic movement. Accident reporting and investigation. Traffic records. Accident data analysis and planning. Traffic court procedure. Violation bureau operation.

Delinquency Prevention and Control. (3 credits)

Problem of juvenile delinquency, theories of causation and prevention programs. Police prevention program, juvenile courts, institutional treatment, community resources for prevention, federal and state programs.

Police Organization and Administration (Line).  
(3 credits)

Functions and activities of police agencies with emphasis on line operations. The organization and management of patrol, traffic, detective, juvenile and vice units; formulation of police and procedure; rules and regulations; deployment; implementation of procedural and tactical planning; coordination of activity.

Field Service Training. (8 credits)

Field service training provided with federal, state and local enforcement agencies; crime laboratories; commercial, industrial, and financial organizations with security programs; agencies working in crime and delinquency prevention; correctional agencies; and organizations engaged in highway safety.



### III. PROFESSIONAL DEPTH COURSES. (9 credits)

#### Correctional Philosophy: Theory and Practice (2 credits)

Introductory survey of philosophy, theory and practice involved in the treatment of convicted law violators of all ages. Appraisal of the impact of correctional treatment upon post-correctional behavior.

#### Research Methodology. (3 credits)

Utility of scientific thought and method in police administrative decision making. Techniques of collection and forms of presentation of data.

#### Police and Community Relations. (2 Credits)

Aspects of community relations encompassing the spectrum of the administration of justice and community responsibility.

#### Senior Seminar. (2 credits)

Discussion and evaluation of observed policies and practices of the field with studied theories and procedures. Conflicts between theory and practice are examined, analyzed and reconciled.

### IV. POLITICAL SCIENCE COURSES. (6 credits)

#### American National Government. (3 credits)

Major aspects of national government with emphasis on the policymaking process. Special attention to civil liberties and role of political parties and interest groups.

#### American State Government. (3 credits)

State government today; growth of power of the governors; administrative and judicial reorganization; comparison of state political systems; trends in legislative leadership; forces and interests shaping policies.

### V. HUMANITIES COURSES. (8 credits)

#### English. Expository Writing. (3 credits)

Practice in informative writing to develop mastery of clear, accurate style and of practical, basic expository forms.

#### English. Creative Writing. (3 credits)

Instruction and practice in fundamentals with emphasis on description of character and background. Weekly assignments in writing and the analysis of models.

#### Speech. Public Speaking. (2 credits)

Principles and practices of effective speaking in both informal and formal situations.

### VI. BUSINESS, COMMUNICATIONS, ARTS, EDUCATION (6 credits)

#### Communications. The Communication Process. (3 credits)

Introduction to the communications process, with emphasis on the functions of language and the problems of responsibility.

Business. Principles of Public Relations.  
(3 credits)

Problems of interpreting an organization or business to its various publics and interpreting the publics to the organization.

VII. BEHAVIORAL SCIENCES. (22 credits)

Psychology. Methods of Effective Study. (3 credits)

Group and individual counseling for students with problems in academic achievement, including motivation, concentration, and attitudes toward study; methods and techniques of study; utilization of time; and student efficiency in the classroom.

Psychology. General Psychology. (3 credits)

Survey of psychological topics including learning motivation, emotions, intelligence, personality, and social relations.

Psychology. Psychology of Personality. (3 credits)

Application of psychological principles to an introductory understanding of personality and interpersonal adjustments; social motivation, frustration, conflicts and adjustment mechanisms; theories of adjustment, the assessment of personality, problems of mental hygiene and some theories of psychotherapy.

Psychology. Legal and Criminal Psychology.  
(3 credits)

Applications of psychological principles, methods and techniques to legal and criminal problems and procedures, including the formation, detection, prevention and rehabilitation of criminal behavior, testimony, legal arguments, trial tactics and the other courtroom procedures.

Sociology. Contemporary Social Problems. (3 credits)

The sociological perspective is used to examine aspects of American culture and institutions which are the source of behaviors associated with areas of contemporary concern such as criminality, alcoholism, mental illness, minority groups, the aged, etc.

Sociology. Normal and Delinquent Behavior of Youth.  
(3 credits)

Growing-up process of late childhood and adolescence from sociological and cultural viewpoint. Delinquent, abnormal, and normal behavior. Problems of individual in his social environment and group forces which lead to his maladjustment.

Sociological principles for working with youth from viewpoint of parent, teacher, police and youth organization leader.

Sociology. Criminology. (3 credits)

Cultural nature, origin and development of crime; trends in criminal law; psychological and sociological factors involved in criminal behavior; current programs for treatment and prevention.

## VIII. ELECTIVES. (8 credits)

The student with the approval of his advisor may elect eight credits in any of the previously mentioned areas.

The courses listed herein under Groups I through VII as recommended courses do not preclude the taking of other courses to meet the requirements. The student, with the approval of his academic advisor, may elect other similar courses to fulfill the general requirements.

## A RESEARCH AND TRAINING CENTER IN CORRECTION AND LAW ENFORCEMENT

### WHAT IS A RESEARCH AND TRAINING CENTER?

The general purpose of any research and training center is to mobilize the skills and competencies available in a university setting and apply them to the same specific problem area. For example, in recent years the national office of the Vocational Rehabilitation Administration has established sixteen such centers across the United States. Through the vehicle of the Rehabilitation Research and Training Center, the enormous potential of the nation's universities are brought to bear on the problems of rehabilitation. One of the unique advantages of such research and training centers is that they are able to translate their research findings into actual training with a minimum of delay. Thus, a research and training center is able to solve an age-old problem of research, i.e., the failure to translate relevant findings into improved operations. A second advantage of the research and training center is that they are interdisciplinary in character. More often than not, social problems tend to occur in clusters. Thus, educational and cultural deprivation is often correlated with economic deprivation and substandard health conditions. Because of this "clustering principle", it is usually unrealistic to look to one academic discipline or even several disciplines for solutions to problems posed by the disabled whether the disability be psychological, physical, or sociological in nature.

### IN CORRECTIONS AND LAW ENFORCEMENT

A research and training center in corrections and law enforcement could address itself to many of the perennially vexing problems in these areas. For example, in corrections the problem of recidivism could be taken up as a core research problem, and a project could be initiated to evaluate specific techniques aimed at recidivism reduction.

The "Clustering Principle" alluded to above seems to be especially pronounced in the case of the public offender. That is, quite typically, our public offenders are from the lower socioeconomic strata of our society. Characteristically, the public offender is educationally handicapped sometimes to the point of functional illiteracy. Often the public offender comes from a broken home or from no home at all. In short the public offender has problems that cut across economic, social, educational,

psychological and even medical lines. In view of the complexity of the problem, it seems that research, if it is to be effective, must draw upon the skills and competencies of virtually all of the basic sciences.

Ideally, a West Virginia Research and Training Center in Corrections would be housed on the main campus of the University in Morgantown. Such housing would in all probability involve the construction of a new building, which would house the administrative offices, classrooms, training laboratories, etc.

WHY A RESEARCH AND TRAINING CENTER?

TRAINING NEEDS

It is obvious indeed, in times painfully obvious, that the training and sophistication of those who are charged with the responsibility of correctional and law enforcement functions lack rudimentary knowledge of basic problems in the behavioral sciences and related disciplines. Events in recent years have triggered the development of a sound body of research findings of criminology, penal psychology, etc. While this research remains of vital importance, the most regrettable feature of the current state of affairs is that the research findings seldom filter down to those individuals who need it the most. Part of the problem no doubt rests with the researchers themselves in that they quite characteristically couch the results of the research in academic jargon and complicated statistical charts and tables. While such a vehicle may be effective in communicating from one researcher to another, it is far from effective in communicating between the researcher and the personnel charged with the responsibility of handling the everyday problems of corrections.

It is clear, therefore, that one of the major contributions of the research and training center in the area of corrections would be to serve as the bridge between researching and practicing rehabilitation communication and encouraging personnel to implement recently developed innovative techniques in their field. The groups who might profit from exposure to such training experiences would be correctional and law enforcement officers at the county, municipal and state levels. Furthermore, the research and training center could function as an umbrella for innovative training programs which would cut across traditional state agencies' lines. For example, seminars and symposia could be developed by correctional and rehabilitation or public welfare personnel. Such training sessions could be addressed to

**CONTINUED**

**2 OF 4**

its problems that are of common interest to these respective agencies as they relate to the public offender. Briefly, a research and training center could serve the function of reorganization of agencies' services so as to more efficiently accomplish the goal of returning the offenders to society as an asset rather than a liability.

In addition to the activities, a research and training center could serve as a regional or indeed a national center, thereby facilitating the flow of information and ideas between states that may be experiencing identical or similar kinds of problems. The obvious advantage of such a function would therefore serve to measurably increase the rates for money spent in the area of law enforcement, crime prevention and corrections.

Taking an even broader view of the functions of the research and training center, it is possible to house such a center with its university affiliation as a vehicle for fostering the flow of ideas between nations. For example, exchange programs may be initiated whereby a student from the United States may study the programs of a foreign nation and reciprocally a student from that nation may study here in the United States, preferably over the aegis of the research and training center.

At a more modest level the training function of a research and training center would be implemented by storing books, periodicals, as well as other training aids such as film strips at the research and training center. The center could then become a central warehouse at which all of the information relating to the areas of correction and law enforcement could be stored. In addition to educating staff, such a library would also be an invaluable tool in the education of the public to the needs, potentialities, and problems of corrections and related areas. In this fashion the center could contribute to the dissolution of public apathy and at times mistrust of the work of the correctional and law enforcement personnel.

## RESEARCH

While training would remain a significant function for the kind of center herein being discussed, an even more critical issue is to develop a sound body research in order that training needs may be determined. Furthermore, concerning the areas that would fall under the purview of the Research and Training center, it is obvious to say that we have far more questions than we have answers. For example, the problem of recidivism looms largely as perhaps the central issue in the area of corrections. Yet, little is known about what specific techniques are to be employed to reduce the problem. It is entirely possible that certain remedial programs given to prisoners could be more advantageous than others, for example, for some prisoners perhaps some program of remedial education to the point of reducing recidivism would be better than a program of vocational training. For other prisoners it may require both remedial

education and vocational training to produce the optimum level of rehabilitation. For other groups who already possess adequate vocational and educational skills, it is possible that counseling, social case work and psychiatric treatment may be more along the lines of his needs.

Other research questions are posed by the fact that little systematic evaluation is currently being conducted on new rehabilitation oriented program. Thus, we have no sound way of saying whether a given program is more or less effective than a second program. Such a problem points to the need in corrections and law enforcement for a solid evaluation base. Such an evaluation base would provide at cost benefits analysis so that administration would be in a position to decide what areas would be the best to develop in view of the related resources available.

#### OTHER CONSIDERATIONS FOR THE CENTER

##### WHO ARE TO BE INVOLVED IN A RESEARCH AND TRAINING CENTER?

The administrative structure of a research and training center should approximate something like the following. First, there would be a center director. Ideally, this individual should have his doctorate in one of the basic sciences, i.e., psychology, clinical sociology. Also, it would perhaps be best to have the exposure to and experience with the problems of the law enforcement and correctional field. The center director's primary function would be to articulate the basic research and training center's programs for the center and would also serve the function of providing liaison between related activities and disciplines, i.e., rehabilitation, welfare, special education, psychiatry, psychology, etc.

Serving under the director would be the director of research and the director of training. The director should have a doctorate degree with a solid research background. The director of training would seem to be best able to serve his function if his education and experience background were in the area of education and educational techniques. A Master's degree in one of these areas would be a sufficient academic background. The overall governing board for such a center should involve representatives from both the university and the related state agency. For example, the university representatives might be the president of the university or

his designee, or the dean of the school or college in which the research and training center would be. Representation from the state agency should include the state director of corrections and a leading state official in the law enforcement area. The governing body or executive committee would be charged with the responsibility of recruiting any personnel such as the center director and directors of research and training. They would also be charged with the responsibility for overseeing the operations of the center and guaranteeing that its aims and objectives were being carried out. The center director would be responsible to the governing body in these matters.

##### WHERE SHOULD A RESEARCH AND TRAINING CENTER BE ESTABLISHED?

It was noted above that the ideal setting for a research and training center would be near the state university. The reasons for such a location is that the access to various academic disciplines would be very much enhanced by such a positioning. Furthermore, as the research and training center developed, it is possible that it could serve as the nucleus of the development of associate and bachelor's degrees in the areas of criminology, penology and law enforcement. It would be much more difficult to develop along these lines if the research and training center were situated in an area that was remote from the university.

The research and training center situated at a university would also be in a more advantageous position to offer refresher courses and interdisciplinary courses for correctional and law enforcement personnel. Where appropriate individuals attending such courses, seminars, symposiums or workshops could receive college credit as a result of their participation.

##### WHEN SHOULD A RESEARCH AND TRAINING CENTER

In view of the legislation currently passed by, or pending in, the United States Congress, e.g., the Law Enforcement and Criminal Justice Assistance Act of 1967, it seems appropriate that the development of plans for a research and training center proceed at a reasonable rapid pace. A governing board of executive committee mentioned above could be established fairly soon. Our immediate task would be the drawing up of a formal proposal which hopefully could be drafted by July 1. Assuming the approval



of such a grant request, the executive committee would continue to exercise its function primarily in the recruiting of key staff personnel and the mobilizing of university and state agency officials toward the establishment of a research and training center. It would appear that West Virginia is in a reasonably advantageous position regarding a research and training center of the kind herein proposed, in view of the presence within its borders not only of state correctional institutions, but also several large federal correctional institutions. For example, a research and training center in corrections established at the University in Morgantown would be in a position to work effectively with the soon-to-be-opened National Training School for Boys, which is also to be located in Morgantown. It would appear that in such a training school the center would have an already-established laboratory for its research and training activities.

## Chapter 11

### AUTO THEFT PREVENTION CAMPAIGN

#### INTRODUCTION

President Johnson's War on Crime can be divided into two areas of concern: control and prevention.

Crime is controlled by law, law enforcement officers, and the criminal justice system. The prevention of crime, however, can be achieved only by combining the efforts of those who control crime with an involved citizenry. In other words, community action is an important part of crime prevention.

Making people aware of their part in reducing crime is, by no means, a magic formula for making a crimeless society. But it is important for one reason: a vast majority of the crimes against property are the result of carelessness. There is certainly no need to tempt a criminal, or even a potential one, and yet people do -- they leave their houses unlocked, the keys in their cars, their money in easily found places.

Therefore, the necessity of educating the public about its role in the prevention of crime is a major problem for consideration. One of the most effective means used to stimulate public interest and involvement is the community action campaign. The following explanation and analysis of West Virginia's Auto Theft Prevention Campaign is intended to exemplify such an effort and perhaps serve as a model for any future campaigns.

#### PLANNING

On March 1, 1967, Ramsey Clark, Attorney General of the United States, announced the kick-off of the National Auto Theft Prevention Campaign. He explained the need to educate the public about its part in crime reduction. He stressed the alarming fact that eight out of ten stolen cars had been left unlocked, and four out of ten had the keys in them when they were stolen.

Three weeks later, the Honorable Hulett C. Smith, Governor of West Virginia, spoke to a number of interested civic

leaders and law enforcement officers whom he had invited to serve on the Planning Committee of the West Virginia Auto Theft Prevention Campaign. He explained his desire to launch a campaign aimed at encouraging public interest in the reduction of automobile theft and thereby significantly lowering the crime rate. He suggested that the campaign be sponsored by the Governor's Committee on Crime, Delinquency and Corrections and the West Virginia Council on Crime and Delinquency.

#### ORGANIZATION OF THE PLANNING COMMITTEE

The forty-five member Planning Committee was then divided into seven subcommittees: Advertising, Evaluation, Finance, Law Enforcement, News Media, Organizations and Schools, and Public Officials. The five "working" subcommittees were to propose a program which the Evaluation Subcommittee would assess and for which the Finance Subcommittee would seek revenue. Members were to consider the recommendations in the campaign kit furnished by the National Auto Theft Prevention Campaign, and another planning meeting was set for June 5th.

The recommended program was compiled from the minutes of the Planning Committee and the five subcommittees on that date. On June 21, the Evaluation Subcommittee met and decided on the final draft of the program. The following week, the Finance Subcommittee began to consider various ways of funding the campaign.

Throughout the initial planning stages, both the committee and the staff were aware that the approach of the campaign was to be educational. The aim was to encourage the motorist that it is his own responsibility to help prevent auto theft. Therefore, it was considered necessary to saturate the public by such things as billboard advertising, public service announcements on radio and television, editorials and other articles in newspapers, and a program in the schools.

#### FIRST STATEWIDE PROGRAM

There were, of course, national guidelines to follow, but West Virginia's campaign was to be the first one organized on a statewide basis. This created an organizational problem from the outset, and the only way to overcome it was to restrict the scope of the campaign in certain aspects. One example of this limitation follows: It was recommended that a committee

be set up in each of the fifty-five counties to coordinate the efforts on the local level. This would certainly be an effective method of encouraging greater local participation. However, it would require a vast amount of paper work as well as personal visits to insure the continued cooperation of these county committees. Therefore, it was decided that this idea could not be carried out well enough to merit its inclusion in the program.

Because of the broadness of the campaign, much more was involved in planning than can be indicated here. During the month of July, the subcommittees met again to discuss the methods of carrying out the proposals and to recommend any further action. In addition, all of the programs had to be coordinated and organized so that each of them would be as effective as possible.

#### ACTION

West Virginia's Auto Theft Prevention Campaign was launched on Friday, August 18, 1967, by Governor Hulett C. Smith. The kick-off was announced at a press conference in the Governor's Reception Room. The Governor urged all citizens of West Virginia to help prevent auto theft simply by removing the keys from their cars and locking them. Mr. Richard L. Braun, Executive Assistant in the Criminal Justice Division of the United States Department of Justice outlined to the Governor and the Planning Committee ways his office would assist in making this first statewide Auto Theft Prevention Campaign a success.

After the campaign, launching work on a twenty-point program started immediately. The Insurance Information Institute furnished 20,000 parking meter stickers. These were supplied to the Chiefs of Police in the municipalities throughout the state and placed on parking meters. The supply of the stickers will be renewed in the spring.

The President of the West Virginia Broadcasters Association included a release in the August edition of the Association's newsletter, explaining the campaign and urging the stations to use our spot announcements. These spots, from 20 to 30 seconds long, were distributed to the 60 stations in the state and have been appearing on radio. The State Office of Public Information has cooperated by taping these spots and

mailing them to the stations. From time to time, spots from the National Campaign Headquarters, furnished directly to the West Virginia radio stations, are broadcasted.

The Executive Secretary of the West Virginia Press Association wrote to all newspaper editors about the campaign soliciting support for the editorial and logotype program. The first of a series of three logotype mats have been distributed to the 80 newspapers. The editorial program is actively underway. Journalism students from West Virginia University and Marshall University are preparing these articles which will appear in state newspapers periodically.

Nine hundred posters were sent to the four State Police Companies for placement in business establishments. Letters were written to chiefs of police asking for their assistance in displaying the posters and county clerks were requested to place the posters in county court houses.

The printer is including a design on the back of the license plate envelopes which will reach all motorists who purchase the 1968-69 license tags.

Arrangements are being made to include a "Remove Key--Lock Car" slogan on the inside of the auto inspection stickers. This will appear with the printing of a new order of inspection stickers.

Mrs. Edgar Heermans, Chairman of the Juvenile Delinquency Committee of the Congress of Parents and Teachers, made arrangements for distribution of a packet to each of the 1,100 Parent Teachers Associations in the state. Each local organization was asked to schedule auto theft prevention on one of their monthly programs during the year.

Letters were written to various civic groups throughout the state advising them of the availability of law enforcement speakers for the Auto Theft Campaign. Several requests for speaking engagements have been filled.

A fifteen-minute film entitled "Too Late for Regret" has been made available for showing in the schools. This is the story of a youth who wrecked his employment opportunities by taking a shiny, red convertible. The owner had carelessly left the keys dangling on the dashboard. Several showings have already been made. A curriculum coordinator for one of the county schools recently wrote us that the message was so impressive she would like to have the film for a one-week showing. Arrangements were made with Mr. Robert Patterson, Director, Bureau of Instruction and Curriculum in the Department of Education, and Mr. Charles Byrd, Administrator of Title II, ESEA, Department of Education, for a showing of this film together with another one on crime entitled "The Road to Nowhere". Plans are now underway to get someone to obtain four more copies of each film so they can be shown to junior and senior high schools throughout the state.

#### EFFECTIVENESS TO BE EVALUATED

It is too early in the campaign to evaluate its effectiveness in reducing auto theft in the state. Eventually we will have monthly 1967 auto theft figures by county and those cities which keep records for comparison. Obviously, these figures will be more meaningful after the campaign has been underway for a much longer period. The Justice Department feels that the program should go on for two years before there can be a proper evaluation. There were 1391 autos stolen in West Virginia during the year 1966.<sup>1</sup> The goal of this campaign is to make a substantial reduction of this figure.

#### MASTER KEY LEGISLATION

Numerous bills are currently pending in Congress which restrict the manufacture, sale and possession of automobile master keys. Several states also have similar legislation under consideration. Some of these proposed statutes make no exception; others permit law enforcement officials to make use of them, and still others extend this right to bona fide car dealers. Such a law in this state would make it more difficult for some to steal cars. It is relatively easy for any youth to obtain a master key now, and no doubt many of the cars are taken with the aid of a master key.<sup>2</sup>

<sup>1</sup>Uniform Crime Reports 77 (1966).

<sup>2</sup>See Appendix N for the Justice Department's proposed master key legislation.)

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NONCRIMINAL TREATMENT OF DRUNKENNESS

Alcoholism has been labeled a disease by all leading health authorities...The American Medical Association, the U.S. Public Health Service, the North American Association of Alcohol Programs, the National Council on Alcoholism, and many other official health, social and welfare agencies. In President Johnson's health message to Congress on March 1, 1966, he stated, "The alcoholic suffers from a disease which will yield eventually to scientific research and adequate treatment."

## THE PROBLEM IN WEST VIRGINIA

## MAGNITUDE OF THE PROBLEM

The West Virginia Division of Alcoholism, using the best known national formulas, available data and sample surveys, reports the number of persons having serious problems with the use of alcohol in West Virginia varies from a minimum number of 54,000 alcoholics up to 75,000 heavy, escape drinkers. With 75,000 persons directly involved and at least three more persons per case indirectly involved, West Virginia has at least 300,000 persons adversely affected by excessive use of alcohol.<sup>1</sup>

From sample surveys made in urban and rural areas the Division of Alcoholism found the following:

1) Between 1962 and 1966, records of one urban police department showed 52 percent of all arrests were for drunkenness; 74.4 percent of the cases appearing before justices of the peace were for offenses involving drunkenness, and 66.2 percent of misdemeanors appearing in the county court involved drunkenness.

2) In a current study (not yet complete) the indications are rather conclusive that at least 40 to 50 percent of all arrests in rural areas are for public drunkenness. Drunkenness arrests plus other charges that involved drunkenness show a range of 60 to 70 percent of all arrests involve a drunkenness offense.<sup>2</sup>

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<sup>1</sup> For further information see records of Division of Alcoholism, Department of Mental Health (W.Va.).

<sup>2</sup> *Ibid.*

West Virginia State Police arrest records for 1966 show 53.7 percent of all misdemeanor arrests were for drunkenness.<sup>3</sup> These arrests were principally outside the municipalities and in the rural areas. Arrests for moving traffic violation showed 4.5 percent were for drunken driving. Of all traffic arrests made by the State Police, 12.63 percent involved either drunkenness or a drinking driver. In the highly urbanized areas the picture is even more bleak. Out of a total of 7,600 arrests made by the Charleston Police Department in 1966, 4,808 (63%) were for drunkenness.<sup>4</sup>

A survey of state mental hospitals from January 1 through June 30, 1967, showed 35.29 percent of admissions reported that, "excessive use of alcohol was a major factor contributing to their illness." This 35.29 percent plus voluntary admissions to our alcoholic intensive treatment units (3.4 percent) makes a total of 38.69 percent of all admissions to our state mental hospitals who have serious problems with excessive use of alcohol.<sup>5</sup>

From information and data available on prisoners in the state institutions, between 75 and 80 percent of all prisoners are alcoholics, or have a related alcohol use problem.<sup>6</sup>

#### PROGRESS WITH TREATMENT

A survey of alcoholic patients receiving intensive treatment in one of West Virginia's more advanced alcoholic treatment units show that 66.4 percent have responded very favorably to treatment. Of these, 38.8 percent have refrained from drinking and made improvement in other areas of adjustment to life, and another 27.6 percent have had less than one 24-hour drinking episode per six months during the last year and have improved in other areas of social and personal adjustment.<sup>7</sup>

In one study of public drunkenness offenders, the records of 140 such offenders showed an average of 23.3 arrests per each individual. From 116 of these cases referred to a local alcoholism information center for counseling, guidance and treatment, only 21 have reappeared in court over a period of one year.<sup>8</sup> Although the study is not complete, these current findings definitely indicate that the old system of

<sup>3</sup> W. Va. Department of Public Safety, "Arrests by County" (1966).  
<sup>4</sup> Charleston Police Department, *Annual Report* (1966).

<sup>5</sup> Source: records of the W. Va. Department of Mental Health (1967).  
<sup>6</sup> Source: records of the Division of Corrections (1967).

<sup>7</sup> Source: Division of Alcoholism, *op. cit.*  
<sup>8</sup> *Ibid.*

prosecution is outdated, outmoded and inadequate, and that proper referral, education, counseling and treatment is effective and an economically sound investment.

#### COST OF REHABILITATION

A recent study by the West Virginia Division of Vocational Rehabilitation shows the average cost of service for rehabilitating an alcoholic is considerably less than for any other disability category. The average cost per alcoholic was \$103. Comparatively, the next lowest disability category cost was \$217 and the highest category was \$876.<sup>9</sup>

#### VIEWS OF THE GOVERNOR'S COMMITTEE AND PRESIDENT'S COMMISSION

The evidence available today indicates the present method of arresting, fining or incarcerating the public drunkenness offender is ineffective in decreasing the problem. Aside from the ineffectiveness of this punishment oriented approach, the medical and social problems of the chronic offender are not met. There is the greater danger too that due to lack of adequate medical attention that is prevalent in many jails, physical damage may result. It is true that society demands that the individual who appears on the street in an intoxicated state be removed from the public view. While the Governor's Committee does not disagree, it does believe that once the individual is removed from the streets an alternative method of treating the individual is needed.

The President's Commission has recommended that "drunkenness, in and of itself, should not be considered a criminal offense",<sup>10</sup> and the Governor's Committee has recommended that the alcoholic be taken out of the criminal justice system. To accomplish this it is proposed that the alternative of civil disposition be used in all cases of public drunkenness. All the civil system does is to remove the drunk from public view, detoxify him, give him food, shelter, emergency medical service, and a brief period of forced sobriety. Further help is made available to him however.

#### DETOXIFICATION CENTERS

Detoxification centers could be located in close proximity to the new regional facility proposed to replace

<sup>9</sup> Source: records of the W. Va. Department of Vocational Rehabilitation (1967).

<sup>10</sup> President's Commission on Law Enforcement and Administration of Justice, *Challenge of Crime in a Free Society* 236 (1967).

the present outdated jail for the criminal. The Governor's Committee has also recommended that jails be replaced with regional detention and evaluation centers, equipped with necessary programs, including medical and psychiatric. This facility, program-wise, would become the responsibility of the Division of Corrections. In cooperation with this program a detoxification program for the drunk offender under the Department of Mental Health's Division of Alcoholism should be maintained. The same facilities would not necessarily be used for the criminal.

Under the authority of civil legislation the intoxicated person would be brought to this facility, if he is not sent home by the police, and detained here until sober. Whether he is to continue treatment, which would be available for him here, is a matter left to the decision of the individual. No additional burden is placed on the police officer under this system. Without the civil procedure the intoxicated person would be brought to the regional detention and evaluation center to sober up and be subsequently fined, and/or imprisoned by the judge.

#### THE CHRONIC ALCOHOLIC

In the case of the chronic alcoholic, under the present system, a subsequent commitment can be made under the inebriate statute, which provides for detention where the county mental hygiene commission finds that the individual "is in need of custody, care and treatment, in a hospital and, because of his illness, lacks insight or capacity to make responsible decisions with respect to his hospitalization".<sup>11</sup> Detention under this statute in a medical facility is for a minimum period of 30 days, or until such time as it is determined by the staff that the condition justifying involuntary hospitalization no longer exists.

#### DRUNKENNESS AND CRIME

The civil commitment process in no way affects the criminal punishment of those who are disorderly or have engaged in other criminal conduct accompanied by drunkenness. Neither would the police be prevented from bringing to such a center persons charged with petty offenses other than drunkenness or even with felony offenses. If the criminal case were to be prosecuted, a summons could be left with the offender to appear in court at a later date. If there were some doubt whether a felony offender would appear in court, he could be placed in the regional detention and evaluation center where

<sup>11</sup> W. Va. Code ch. 27, art. 6, §§ 1-6 (Michie 1966).

there were adequate detention facilities.

#### AN ALTERNATIVE PLAN PROPOSED BY THE DIVISION OF ALCOHOLISM

An alternative program would be a comprehensive inter-agency multi-disciplinary agency at both the community and state levels. The following are the basic elements of such a program:

- 1) Public education
- 2) Utilization of all state and local social agencies
- 3) Establishment of local and/or regional detoxification centers
- 4) Establishment of half-way houses
- 5) Expansion and addition of Alcoholic Treatment Units
- 6) Expansion and addition of Alcoholism Information Centers
- 7) Adequate follow-up services
- 8) Prevention

#### PUBLIC EDUCATION

Basic to the program is comprehensive public education at the community level such as the one presently being conducted by the Division of Alcoholism of the Department of Mental Health.

The program, as it is presently being conducted, is tailored to meet the needs of the individual community. Eight communities now have Alcoholism Information Centers. The approach of these centers is prevention through education. Their major role is to make the community aware of the problem of alcoholism and foster attitude change by providing factual, unbiased information about the problem. Many communities are now aware that alcoholism is a treatable disease and are engaged in programs to combat this problem.

Another function of the Alcoholism Information Center is to inform the public of treatment facilities available and of agency services offered the alcoholic. At present limit counselling is offered, but the major role of the centers is that of a liaison or referral agency to other agencies at both the state and local levels.

This basic plan should be expanded throughout other regions and communities in the state. In addition alcoholism therapists and counselors should be added in all of these centers.



## LOCAL AND REGIONAL DETOXIFICATION CENTERS

Rather than the present "drunk tanks" in the local jail, the Division recommends that local and/or regional detoxification units with adequate medical facilities be established and utilized. An urban area with sufficient population and economic resources should develop such facilities near or within an existing medical facility. Rural areas, which could not financially support such a facility, could combine with other rural areas and develop detoxification facilities as part of the projected regional detention facilities as projected by the Division of Corrections.

All such facilities should conform to staffing and constructed standards as set forth by the Department of Mental Health in cooperation with local, state and federal agencies.

With such facilities, the drunkenness offender, when taken into custody, will be taken to these units, given needed medical care, and detained until sober. Also, an integral part of this phase of the program will be to motivate the chronic drunkenness offender to accept treatment for his alcoholism. It must be emphasized that detoxification is just the first step in a comprehensive program with the chronic drunkenness offender.

## MOBILIZATION OF ALL EXISTING STATE AND COMMUNITY RESOURCES

The Division feels that alcoholism is a community problem; and, as such, a cooperative interagency approach is the best method. This not only reduces duplication of effort, but also provides for more comprehensive and better services.

The following agencies, although not a complete list, could be utilized:

- 1) Vocational Rehabilitation
- 2) Welfare Department
- 3) Employment Security
- 4) Police Department
- 5) Family Services
- 6) Local Mental Health Facilities
- 7) Local physicians and hospitals
- 8) Alcoholism Information Center

## TREATMENT

In line with our philosophy that alcoholism is a community problem, the Division recommends that treatment after detoxification be provided in the community. They could be

provided in existing and projected community mental health centers on an out-patient basis. If this is not available the individual could be referred to intensive treatment units located at the state hospitals and returned to the community as soon as possible for follow-up and continued treatment. It is again emphasized that a cooperative interagency approach be utilized at the community level.

Presently West Virginia has alcoholism treatment units located in three of the state mental hospitals. These facilities offer intensive short term therapy for alcoholics. These facilities are presently utilized to capacity and are inadequate to meet the demands for service placed on them. These facilities could be expanded and additional units established to meet the increased demand. Units are needed in southern West Virginia and eastern and northern panhandle areas.

Alcoholism treatment facilities are also needed in the state correctional institutions. Also half-way houses for the individual who is to be released, as a place where re-integration into society may be started, should be established.

Provision should be made for a long-term treatment facility for those individuals who do not respond to available short-term treatment and who are unable to function in society. Included in this group will be many commonly referred to as the "skid row drunk". Rather than arresting this individual repeatedly at a great cost to the taxpayer, a sheltered, therapeutic environment should be provided.

## ESTABLISHMENT OF HALF-WAY HOUSES

A residence in the community for the homeless alcoholic while in the process of rehabilitation and re-integration into society must be provided. Payment would be required as the individual becomes productive and economically independent.

## RECOMMENDATIONS OF DIVISION OF ALCOHOLISM

"We feel a medical-social approach is the better method in treating and preventing the disease of alcoholism. We strongly recommend that an alternative method of dealing with the public drunkenness offender be adopted."

## MODEL LEGISLATION

A tentative draft of model legislation prepared by a joint committee of the American Medical Association and the American Bar Association for use by states in coping with the problems resulting from court decisions that alcoholism is a public health responsibility, not subject to criminal proceeding, appears in Appendix O. This model legislation should be used as a guideline for drafting a state law for West Virginia.

## Table of Recommendations

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THE COMMITTEE MEMBERS

DARRELL VIVIAN McGRAW, JR., CHAIRMAN

Charleston, West Virginia; A.B., LL.B., and M.A. Degrees, West Virginia University; Governor's Staff, 1965 to present; Counsel for Governmental Affairs, Bureau for Government Research, College of Arts and Sciences, West Virginia University, 1967 to present; General Attorney, Foreign Claims Settlement Commission, United States State Department, 1964-65; Public Relations, Philip Morris Tobacco Company, 1959-61; U. S. Army, 1954-57; Member American Association of University Professors; Member, American Judicature Society; Member, American Society for Public Administration; Member, American Political Science Association; Member, American Academy of Political and Social Science; Member, Federal Bar Association; Member, American Bar Association; Member, West Virginia Bar Association; Member, West Virginia State Bar; Member, West Virginia Planning Association; Subcommittee member, Education Advisory Committee to the Appalachian Regional Commission; Chairman, Comprehensive Education Planning Committee for West Virginia.

HOMER KEATON BALL

Athens, West Virginia; B.S. Degree, Concord College, 1948; M.P.H. Degree, University of Michigan, 1951; U.S. Army, Corporal, 1943-46; Supervisor, Virginia State Health Department, 1951-53; Merchant, 1953-65; Sheriff, Mercer County, 1965-68; President, Pinnacle Police Officers Association; Treasurer, West Virginia Sheriffs Association, 1965-68; Board of Directors, Mercer County Chapter, American Red Cross; Steering Committee, Mercer County Mental Health Association; Board of Directors, Mercer County T.B. and Health Association.

## THORNTON G. BERRY, JR.

Charleston, West Virginia; A.B. Degree, Virginia Military Institute, 1928; LL.B. Degree, Washington & Lee University, 1934; Assistant United States Attorney, Southern District of West Virginia, 1939; Prosecuting Attorney, McDowell County, 1941-42; United States Navy, Lieutenant Commander, 1942-46; Judge, Eighth Judicial Circuit of West Virginia, 1952-58; Judge, Supreme Court of Appeals, 1958; Elected President of the Supreme Court of Appeals, 1963 and re-elected for a twelve-year term in 1964; former President, McDowell County Bar Association; former Vice-president West Virginia Bar Association, Member, American Bar Association, Member, West Virginia Judicial Association; Member, American Law Institute; Member, American Judicature Society; Member, Phi Kappa Psi Fraternity; Member, Phi Delta Phi Legal Fraternity; Member, the American Legion, 40 & 8; Member, Veterans of Foreign Wars; 32<sup>o</sup> Mason and Shriner.

## EDWARD FRANKOVITCH

Weirton, West Virginia; Chief, Weirton City Police Department, 1963-68; Deputy Sheriff, Hancock County, 1957-63; Court Baliff, Hancock County, 1958-63; Temporary Juvenile and Probation Officer, Hancock County, 1959-60; Chief Deputy Sheriff, Hancock County, 1963; Charter Member, West Virginia Chiefs of Police Association; President, West Virginia Chiefs of Police, 1965-67; Vice-president, West Virginia Chiefs of Police Association, 1965; Member, Governor's Committee on Auto Theft Prevention, 1967-68; Member, Constitutional Revision Committee of Chiefs Sections of International Association of Chiefs of Police, 1967-68; Member, International Association of Chiefs of Police, 1963-68; Vice-president, Jay Cee's, 1962 and Board of Directors, 1959-62; Member, County Council of P.T.A., 1967-68.

## JOHN D. FRISK

Charleston, West Virginia; B.A. Degree, West Virginia University; Teacher, Montgomery High School, 1960; Instructor, the Adjutant General's School, U.S. Army, 1961; Assistant Adjutant General, Fort Belvoir, Virginia, 1961-62; Investigator, Civil Service Commission, Washington, D.C., 1962-65; National Labor Relations Board, Detroit, Michigan, 1966; Deputy Director, West Virginia Economic Opportunity Agency, 1966-68.

## MICHAEL G. GRETCHEN

Windsor Heights, West Virginia; Course in Citizen Leadership and Participation, Bethany College; Huroquois Council, Boy Scouts of America; Former member of Board of Directors, American Red Cross, Brooke County; Former Member, Salvation Army, Brooke County; President, two terms, Brooke County T.B. Association and presently a member of the Board of Directors; Former Vice-president, West Virginia Industrial Union Council; Treasurer, Local Union #6362, United Mine Workers of America, 1934; Secretary, Local Union #6362; President and Member, grievance committee, 1957-68; Executive Board Member, United Mine Workers of America, District #6, Division #4, 1968; Member, Advisory Board, Federal Housing Administration; Member, Morgantown Area Manpower Advisory Commission; Member, Windsor Heights Voluntary Fire Department; Member, Knights of Columbus; Member, Moose Lodge; Member Eagles Lodge.

## KENNETH KELLER HALL

Madison, West Virginia; West Virginia University, College of Law; United States Navy, 1942-45; U.S.S. Bunker Hill Aircraft Carrier, 1943-45; Presidential Unit Citation; Past President, West Virginia Judicial Association, District Governor, District 755, Rotary, Southern West Virginia; Member, West Virginia State Bar Association; Member, American Bar Association; Member, West Virginia Judicial Association; Judge, Twenty-fifth Judicial Circuit, 1952 and re-elected, 1960.

## ELIZABETH V. HALLANAN

Charleston, West Virginia; A.B. Degree, Morris Harvey College, 1946; LL.B. Degree, West Virginia University, College of Law, 1951; West Virginia Board of Education, 1955-57; House of Delegates, 1956; Assistant Commissioner of Public Institutions, 1957; Republican nominee for State Senate, 1958; Judge, first full-time Kanawha County Juvenile Court, 1959-61 (first woman judge in West Virginia in this capacity); Executive Director, West Virginia Association of College and University Presidents; Former member, Board of Directors and Treasurer, Family Service-Travellers Aid; former Member, Board and Education Committee, Action for Appalachian Youth; former Member, Governor's Advisory Committee on Mental Health; former Member, Project Finding Committee, Junior League of Charleston; former President, Sacred Heart Parish Council; Trustee, Laird Foundation, Inc., Montgomery, West Virginia; Member of Board and Secretary, Education

Foundation, Inc.; Member of Board, West Virginia Rehabilitation Center Foundation; Chairman, West Virginia Council on Crime and Delinquency; Member, White House Conference on Children and Youth; Member of Board, Goodwill Industries of Kanawha County, West Virginia; Member of Board of Trustees, YWCA of Kanawha County; Member of Board, Kanawha Valley Fellowship Home; Member, Kanawha County Bar Association; Member, West Virginia Bar Association; Member, American Bar Association; Member, West Virginia Judicial Association; Member, West Virginia Association of Juvenile Court Judges.

JENNY (MRS. EDGAR A.) HEERMANS

Parkersburg, West Virginia; Executive Director, Parkersburg Board of Supervisors of Public Solicitations of Funds, 1958-68; Member, Wood County Recreation Commission, 1962-68; President of the Wood County Recreation Commission, 1966; Member, St. Andrews Methodist Church and Kindergarten Board; Secretary, Board of Directors, Boys Club of Parkersburg, 1964-68; Chairmen, Crime Prevention Committee, Parkersburg Woman's Club; Member, League of Woman Voters; Chairman, Exceptional Child Committee for West Virginia Congress of Parent Teachers Association, 1968; Chairman, Legislative Committee, 1948-64; Chairman, Juvenile Protection Committee, 1964-68; Executive Committee, National Council Parent Teachers Association; Treasurer, Children's Theatre Bureau, Parkersburg, 1956-68; Chairman, Safety and Juvenile Protection, Wood County Council of Parent Teachers Association; Vice-president, Wood County Community Action Association; Member, Governor's Auto Theft Prevention Campaign.

HERBERT H. HENDERSON

Huntington, West Virginia; United States Army, 1946-49; B.S. Degree, West Virginia State College, 1953; Commanding Officer of Artillery Battery, Korean Conflict; LL.B. Degree, George Washington University Law School, 1958; Member, West Virginia Small Business Administration Committee; Director, Cabell County Mental Health Association; Member, and legal advisor, Loyal Order of Bisons; former President, Barnett Child Care Program, Inc.; Member, Cabell County Bar Association; Member, West Virginia Trial Lawyers Association; Member, West Virginia State Bar Association; Legal Advisor, Huntington Chapter, National Association for the Advancement of Colored People also Membership Chairman and State President of the West Virginia State Conference of Branches of that group; Secretary-treasurer, Huntington Professional and Business Men's Club, Inc.; President,

Methodist Men's Club, Ebenezer Methodist Church; Founder and Vice-chairman, Board of Directors, Cabell County Community Action Program, Inc.; President, Board of Directors of ACTION, Inc.; presently, Attorney at Law, Huntington, West Virginia

JOSEPH HUTCHISON

Morgantown, West Virginia; B.A. Degree, Muskingum College, New Concord, Ohio, 1954; M.S. Degree, West Virginia University, 1956; U.S. Navy Reserve, 1949-54; United States Army, 1955-57; Department of Recreation, West Virginia University, 1957-68; Member, State Recreation Advisory Council; Association Director, National Youth Science Camp; 1963-68; Chairman, State Trails Study Committee; Recreation Consultant, Public, Private and Voluntary Agencies, 1968; Past President, West Virginia Recreation Society; Past Chairman, Southern District Advisory Committee, National Recreation and Park Association.

CHARLES MARION LOVE, JR.

Charleston, West Virginia; Partner, law firm of Dayton, Campbell and Love, Charleston, West Virginia; Member and former President, Kanawha County Bar Association; Member, West Virginia State Bar and West Virginia Bar Association; Member, American Bar Association; Special Counsel, County and State Bar Associations; Special judge, Circuit and Intermediate Courts of Kanawha County; Attorney for Kanawha County Court, 1932; Assistant United States Attorney, 1934-43; Referee in Bankruptcy for Southern District of West Virginia, 1944-45; State Senator, Eighth District, 1946 and 1950; Chairman, Charleston Democratic Executive Committee, 1942-60; Delegate-at-Large from State of West Virginia to Democratic National Convention, 1956 and reelected in 1960; former Member, Board of Trustee, Morris Memorial Hospital, Milton, West Virginia; Davis-Stuart School, Lewisburg, West Virginia; Member and Chairman, Board of Visitors, College of Law, West Virginia University; Member and Chairman, West Virginia State Tax Study Commission and Member and Chairman of its Executive Committee, 1959-60; Member and Chairman, West Virginia Citizen Action Council on Crime and Delinquency; Member, Board of Trustees of National Council on Crime and Delinquency.

FRANK C. MARVIN, JR.

Ann Arbor, Michigan; B.A. Degree, University of Pittsburgh; B.S. Degree, University of Pittsburgh; B.D. Degree, Princeton Theological Seminary; M.A. Degree, Columbia University; presently a student at the University of Michigan; formerly,



Assistant Pastor, East Liberty Presbyterian Church, Pittsburgh, Pennsylvania; Former Pastor, First United Presbyterian Church, Fairmont, West Virginia, 1954-67; United States Army Air Force, 1943-46; Moderator, Grafton Presbytery, 1957-62; Moderator, Synod of West Virginia, 1966-67; Member, West Virginia Council on Crime and Delinquency; Board of Directors, Family Service, Inc.; Member, Mayor's Committee on Human Rights; Member, Board of Directors, United Fund, Marion County, West Virginia; Member, Board of Directors, Marion County Council Retarded Children, Inc.; Delivered Invocation for Opening of United States Senate, 1956.

#### JAMES T. NELSON

St. Albans, West Virginia; Coordinator, Special Projects, AFL-CIO Appalachian Council; Member, Advisory Committee Institute for Labor Studies, West Virginia University, 1958-68; Member, Salary Study Commission, Study of West Virginia, 1963; Member, Board of Directors and 2nd Vice-president, Action for Appalachian Youth-Community Development, 1965-68; Member, Kanawha Valley Community Council, 1966-68; Member, West Virginia Council on Crime and Delinquency, 1966-68; Member, Advisory Council for Technical Services, West Virginia Department of Commerce, 1966-68; Member, Advisory Committee, Office of Economic Opportunity Administrative Training Program, Institute for Local Government, University of Pittsburgh, 1966-68; Member, Task Forces on Poverty, National Council of Churches, 1966; Member, Community Relations Council, Women's Job Corps Center, Charleston, West Virginia, 1966-68; Member, Ad-hoc Advisory Committee, State Comprehensive Health Planning, 1967; Member, Governor's Council on Youth Opportunity, 1967.

#### CHARLES ROBERT SARVER

Fairmont, West Virginia; St. James Prep School, St. James, Maryland; A.B., and LL.B. Degrees, West Virginia University, Morgantown, West Virginia; former Associate, Furbee and Hardesty, Attorneys at Law, Fairmont, West Virginia; former Assistant Prosecuting Attorney, Marion County, West Virginia; former director, Motor Carriers of West Virginia; former Assistant General Counsel of D.C. Transit Systems, Inc., Washington, D.C.; former partner in law firm of Chalk, Sims, Turner & Krakower, Washington, D.C.; former Assistant

Attorney General of West Virginia; Member, West Virginia State Bar Association; Member, District of Columbia Bar Association; Currently, Director, State Division of Correction.

#### RICHARD SHELTON

Charleston, West Virginia; attended West Virginia University, Morgantown, West Virginia; former Department Head, State Business and Occupation Tax Division of the West Virginia State Tax Department; former Department Head, Levy and Assessment Division of the State Tax Department; Executive Director, Association of County Officials, 1960-68; especially interested in recreation and youth organizations.

#### JOHN C. SKINNER, JR.

Charles Town, West Virginia; A.B. Degree, West Virginia University, 1963; LL.B. Degree, West Virginia University College of Law, 1966; Inheritance Tax Division of West Virginia State Tax Commissioner's Office employee until 1966 when elected Prosecuting Attorney of Jefferson County as a write-in candidate; Member, West Virginia State Bar; Secretary-Treasurer, Jefferson County Bar Association; Member, Board of Managers, Charles Town General Hospital.

#### SAMUEL VOLKMAN

Charleston, West Virginia; Rabbi of Temple Israel, Charleston, West Virginia; Chaplain, United States Navy, 1944-46; Ohio Valley Regional Director of Union of American Hebrew Congregations, 1957-59; Member, Executive Committee Central Conference of American Rabbis, 1965-67; Member, Overseas Hebrew Union College, Jewish Institute of Religion, 1963-67; Member, Charleston Mayor's Commission on Human Relations, 1957-64; Member, West Virginia Advisory Committee to Civil Rights Commission; Member, West Virginia Council on Crime and Delinquency.

#### CHARLES M. WALKER

Charleston, West Virginia; Law practice, Washington, D.C. 1940-43; Law practice, Mexico, 1948-50; D.F. and Post Graduate University of Mexico, Law School, 1946-48; Law practice, Charleston, West Virginia, 1950-68; Virginia State Bar Association, District of Columbia Bar Association; Member, West Virginia State Bar Association; Director, Barium Reduction Corporation, 1950-59; Part-time lecturer at police institutes;

Secretary and Director, AAY-CD and OEO Community Action Program; Lieutenant, United States Navy, 1943-46; United States Silver Star; Director, National District Attorneys Association and Member, Executive Committee of that Association, 1965-68; President, West Virginia Prosecuting Attorneys Association, 1959-68; Co-author of Revision of Lee's Criminal Trials in the Virginias; Member, American Bar Association, Chairman, Criminal Law Section; Chairman, Defense of Indigents for West Virginia; Prosecuting Attorney, Kanawha County, West Virginia, 1959-68.

#### NEIL WELLER

Morgantown, West Virginia; Ph.D, University of Michigan; Assistant Professor of Sociology, West Virginia University, Morgantown, West Virginia, 1959-68;

#### TERRENCE ANTHONY WELTY

Charleston, West Virginia; West Virginia University; West Virginia State College; Member, Charleston Civitan Club; United States Army during World War II; West Virginia State Police Department, 1940, appointed Superintendent of the West Virginia State Police, 1967; Chairman, Governor's Police Advisory Commission; Conference President, Southern Safety Conference, Inc.

#### GEORGE H. WHALEY

Parkersburg, West Virginia; A.B. Degree, Ohio University; LL.B. Degree, West Virginia University, College of Law; Judge, Intermediate Court, Wood County, West Virginia; Member, House of Delegates, Wood County, 1955-67; President, West Virginia Council of Juvenile Court Judges, 1965-66; Member, Executive Committee, National Council of Juvenile Court Judges; Member, West Virginia State Bar Association; former President, Boys Club, Inc., Parkersburg, West Virginia; former State Chairman, Juvenile Protection Committee, West Virginia Congress of Parent Teachers Association.

#### EDWARD T. WHITE

Union, West Virginia; Phillip's Exeter Academy; A.B. Degree Harvard University; engaged in farming and livestock raising; Protestant; Member, West Virginia Farm Bureau; served five years with the United States Air Force during World War II; elected to the House of Delegates from Monroe County in 1956; Member, West Virginia Council on Crime & Delinquency.

#### CORNELIA WILBUR

New York; B.S., M.S. and M.D. Degrees, University of Michigan; Residency in neuropsychiatry at University Hospital, Ann Arbor, Michigan; Superintendent of the Weston State Hospital, 1965-67; Faculty, Department of Psychiatry of the West Virginia University Medical School; Diplomate, American Board of Neurology and Psychiatry; Associate, Psychiatry, College of Physicians and Surgeons, Columbia University; Consultant, Joint Legislative Committee on Health Insurance of the New York Legislature; Consultant, Subcommittee on Facilities of New York State Mental Health Planning Committee; Former teaching and training positions of psychiatry, College of Medicine of the University of Nebraska, Veterans Administration in New York and New York Medical College; Director, Residency Training, Pinecrest Sanatorium, Astoria, New York, 1948-59; Fellow, American Psychiatric Association and of the Academy of Psychoanalysis; Member, American Medical Association; Member, American Association for the Advancement of Science; Member, American Medical Womens Association; Member, New York County and State Medical Society; Member, Society of Medical Psychoanalysts; Charter Fellow and Founder of the American College of Psychiatrists.

## Appendix B

## CONSULTANTS AND ADVISORS

## GENERAL

F. Lovell Bixby, Consultant on Probation, Office of the Courts, Trenton, New Jersey

Robert W. Cassidy, Regional Consultant, National Council on Crime and Delinquency, New York, New York

Arnold Hopkins, Office of Law Enforcement Assistance, Washington, D. C.

Paul Kalin, Consultant, National Council on Crime and Delinquency, Homewood, Illinois

David W. Martin, Programmer, Criminal Identification Bureau, Department of Public Safety, State Capitol, Charleston, W. Va.

Jeff Monroe, Director, Office of Economic Opportunity, State Capitol, Charleston, West Virginia

David O. Myhra, Research Economist Department of Commerce, State Capitol, Charleston, W. Va.

Vincent O'Leary, National Council on Crime and Delinquency, New York, New York

Milton G. Rector, Director, National Council on Crime and Delinquency, New York, New York

Hugh Reed, Assistant Director, National Council on Crime and Delinquency, New York, New York

Louis Rome, Executive Director, Michigan Commission on Crime, Delinquency, and Criminal Administration, Lansing, Michigan

Sol Rubin, Counsel for Advisory Council of Judges, National Council on Crime and Delinquency New York, New York

## COMMUNITY PROGRAMS

William C. Beatty, President, West Virginia State Bar, Huntington, W. Va.

Richard L. Braun, Exec. Assistant, U. S. Dept. of Justice, Washington, D. C.

William P. Clancey, Jr., Attorney, Criminal Division, U. S. Department of Justice, Washington, D. C.

Donald R. Dancy, Supervisor, Division of Alcoholism, State of West Virginia, Charleston, W. Va.

Elliott Henderson, Prog. Analyst Div. of Alcoholism, Dept. of Mental Health, Charleston, W. Va.

## CORRECTIONS

Robert D. Kerns, Dept. of Mental Health, State Capitol, Charleston, W. Va.

John McGinnis, Federal Jail Inspector, Bureau of Prisons, Washington, D. C.

Oscar G. Mink, Div. of Clinical Studies, W. Va. University, Morgantown, W. Va.

Frank J. Nuzum, Project Director,  
W. Va. In-service Training Program  
for Correctional Personnel, Morgan-  
town, W. Va.

Jane Yurow, Program Assistant, Office  
of Law Enforcement Assistance, Wash-  
ington, D. C.

#### CRIMINAL JUSTICE

Timothy Barber, Attorney at Law,  
Charleston, W. Va.

D. Paul Camiletti, Attorney at Law,  
Wheeling, W. Va.

C. Patrick Casey, Chief Assistant  
Prosecuting Attorney, Kanawha Co.,  
Charleston, W. Va.

Stanley Dadisman, Professor, College  
of Law, W. Va. University, Morgan-  
town, W. Va.

Joe Gies, Justice of the Peace, Kan-  
awha Co., Charleston, W. Va.

Phillip Hoskins, Program Assistant,  
Office of Law Enforcement Assistance,  
Dept. of Justice, Washington, D. C.

Gordon S. Jaeck, Professor, Depart-  
ment of Sociology, Wheaton College,  
Wheaton, Illinois

Willard Lorensen, Professor, College  
of Law, W. Va. University, Morgan-  
town, W. Va.

Paul L. Selby, Dean, College of Law,  
W. Va. University, Morgantown, W. Va.

H. G. Shaffer, Jr., Vice-President,  
W. Va. State Bar, Madison, W. Va.

Gray Silver, Jr., President,  
W. Va. Judicial Association,  
Martinsburg, W. Va.

#### DELINQUENCY

Virginia Burns, Dept. of  
Health, Education and Wel-  
fare, Washington, D. C.

David H. Clelland, Superin-  
tendent, Social Services,  
Div. of Vocational Rehabil-  
itation, State Capitol, Char-  
leston, W. Va.

D. E. Cuppett, President,  
W. Va. Council of Juvenile  
Court Judges, Petersburg,  
W. Va.

Robert V. Griffis, Title I  
Director, Cabell Co. Board  
of Education, Huntington,  
W. Va.

Harold Kerr, Professor, Soc-  
iology Dept., W. Va. Univer-  
sity, Morgantown, W. Va.

William H. Langdon, Person-  
nel and Attendance Director,  
Cabell County Board of Educ.,  
Huntington, W. Va.

William G. Nagel, Exec. Sec.,  
Governor's Council for Human  
Services, Harrisburg, Pa.

Robert B. Rader, Superinten-  
dent, Kanawha Co. Home for  
Children, Dunbar, W. Va.

#### POLICE

Robert A. Anglin, Chm., Sociology  
Dept., W. Va. State College, Insti-  
tute, W. Va.

Dallas W. Bias, Chief, Charleston  
Police Dept., Charleston, W. Va.

Matt D. Bouldin, Pros. Attorney,  
Boone Co., Madison, W. Va.

Benjamin Brashears, College of Po-  
lice Adm. and Public Safety, Mich-  
igan State Univ., Lansing, Michigan

Glenn Carpenter, Program Mgr., Ster-  
ling Institute, Washington, D. C.

Russell Dunbar, Pros. Attorney,  
Cabell Co., Huntington, W. Va.

Robert L. Emerich, Office of Law En-  
forcement Assistance, Dept. of Jus-  
tice, Washington, D. C.

Courtney A. Evans, Acting Director,  
Office of Law Enforcement Assistance,  
Washington, D. C.

Irene Hetler, Prog. Assistant, Office  
of Law Enforcement Assistance, Dept.  
of Justice, Washington, D. C.

Edwin D. Hoffman, Dean of Instruc-  
tion, W. Va. State College, Insti-  
tute, W. Va.

Robert Johnson, President, General  
Learning Corporation, Washington,  
D. C.

Gilbert Kleinknecht, Chief of Police,  
Huntington Police Dept., Huntington,  
W. Va.

Bern Kuhn, Dept. of State Police, Law  
Enforcement Officers' Training Center,  
Lansing, Michigan

Louis Mayo, Asst. Director, Office  
of Law Enforcement Assistance,  
Dept. of Justice, Washington, D.C.

James Mills, Lieutenant, Flint  
Police Dept., Acting Exec. Sec.,  
Michigan Police Training Center,  
Lansing, Michigan

Joseph Moriarty, Dir. of Research  
and Training, W. Va. Univ., Mor-  
gantown, W. Va.

Patrick V. Murphy, Asst. Dir.,  
Office of Law Enforcement Assis-  
tance, Dept. of Justice, Washing-  
ton, D. C.

Capt. Charles W. Ray, Specialist,  
Peace Officers' Training, W. Va.  
Vocational Educ. and Marshall  
Univ., Gandeenville, W. Va.

Col. N. C. Reger, Exec. Dir.,  
W. Va. Law Enforcement Officers  
Minimum Standards Project, Char-  
leston, W. Va.

Sgt. Arlie E. Robinson, Juv. Div.,  
Charleston Police Dept., Charles-  
ton, W. Va.

Lt. Robert E. Stanley, Dept. of  
Public Safety, State Capitol,  
Charleston, W. Va.

Daniel Skoler, Dep. Dir., Office  
of Law Enforcement Assistance,  
Dept. of Justice, Washington, D.C.

Robert C. Stone, Exec. Dir.,  
Kentucky Peace Officer's Stan-  
dards and Training, Eastern Ky.  
Univ., Box 608, Richmond, Ky.

## LAW ENFORCEMENT OFFICERS MINIMUM STANDARDS PROJECT

## POLICE ADVISORY COMMISSION

COLONEL T. A. WELTY, Chairman

GILBERT KLEINKNECHT, Vice-Chairman

DR. ROBERT A. ANGLIN  
DALLAS W. BIAS  
RICHARD E. DAVIES  
K. K. HALL  
CHARLES A. KISER  
DARRELL V. MCGRAW, JR.

CHARLES E. PRICE  
JOHN PROTAN  
CAPT. C. W. RAY  
LT. CECIL H. RUSSELL  
SGT. EDWARD WEITH  
JOHN WOODRUFF

## THE STAFF

N. C. REGER  
Executive Director

KATHY M. SMITH  
Secretary

---

### WEST VIRGINIA COUNCIL ON CRIME & DELINQUENCY

---

Miss Elizabeth Hallanan, Chm.  
Nat'l. Bank of Commerce Bldg.  
Charleston, West Virginia

Paul Kalin, Consultant  
Nat'l. Council on Crime &  
Delinquency  
18703 Dixie Highway  
Homewood, Illinois

Rev. Wilburn C. Campbell  
Bishop, Episcopal Church  
1608-A Virginia Street, E.  
Charleston, West Virginia

Rev. Joseph H. Hodges, D.D.  
Bishop of Wheeling  
1300 Byron Street  
Wheeling, West Virginia

Eugene A. Carter  
4515 MacCorkle Avenue, S.E.  
Charleston, West Virginia

Rev. Fred G. Holloway  
Resident Bishop  
Methodist Church  
721-724 Kan. Valley Bldg.  
Charleston, W. Va.

Stanley E. Dadisman  
College of Law  
West Virginia University  
Morgantown, W. Va.

William L. Lonesome  
211 Bank of Commerce Bldg.  
Charleston, West Virginia

David B. Dalzell  
1203 Sixth Street  
Moundsville, W. Va.

Charles M. Love, Jr.  
Security Building  
Charleston, W. Va.

Charles E. Hamilton, Jr.  
Union Carbide Chemicals Co.  
South Charleston, W. Va.

Dr. Joseph Marsh  
President, Concord College  
Athens, West Virginia

Joseph M. Handlan, Senator  
P. O. Box 288  
Parkersburg, W. Va.

Rev. Frank Marvin  
Ann Arbor  
Michigan

Dr. Harry B. Heflin  
Vice-President  
West Virginia University  
Morgantown, West Virginia

\*Jack D. Maurice  
1001 Virginia Street  
Charleston, W. Va.

Cecil B. Highland, Jr.  
Empire National Bank Bldg.  
Clarksburg, W. Va.

Charles R. McElwee  
Security Building  
Charleston, West Virginia



Ford Morrow  
Kaiser Aluminum  
Ravenswood, W. Va.

James T. Nelson  
P. O. Box 646  
Charleston, W. Va.

Mrs. S. M. Preston  
Lewisburg  
West Virginia

Mrs. Ernest H. Polack II  
Washington Farms  
Wheeling, W. Va.

E. Glenn Robinson  
Chas. Nat'l. B'k. Bldg.  
Charleston, W. Va.

Edward A. Ross  
Weirton Steel Co.  
Weirton, West Virginia

Mrs. Victor Shaw  
425 Morgantown Ave.  
Fairmont, W. Va.

Mrs. Philip J. Silverstein  
1509 Connell Road  
Charleston, W. Va.

C. Manning Smith  
Charles Town  
West Virginia

Hon. Hulett C. Smith  
State Capitol  
Charleston, W. Va.

Robert St. Claire Soule  
Monongahela Power Co.  
Fairmont, W. Va.

Mrs. Robert Evans Stealey  
35 Meadowcrest Drive  
Parkersburg, W. Va.

\*Robert N. Steptoe  
126 E. Burke Street  
Martinsburg, W. Va.

Edgar M. Tutwiler  
Appalachian Tire Products  
Mount Hope, W. Va.

Hon. Cecil H. Underwood  
Monsanto Corporation  
Huntington, W. Va.

Rabbi Samuel Volkman  
Temple Israel  
Charleston, W. Va.

Dr. William J. L. Wallace  
President, W. Va. State College  
Institute, West Virginia

Edward T. White  
Walnut Farm  
Union, West Virginia

\*Associate Member

**Key: Planning  
Implementation**

## Appendix F

### SUGGESTED PLANNING AND IMPLEMENTATION SCHEDULE FOR STATE AND ENDOUSEMENT AGENCIES

Min. Standards  
and training

Recruitment

Supervisory and  
Admin. Training

In-service Training

Statewide Inves.  
and lab Service

Planning and  
Research

Records and  
Communications

Organized Crime  
Inves. Unit

Inspection

Central Inves.  
Unit

Traffic

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Table 1  
Juvenile Cases Coming Into Court  
(Source of Information--Reports of Judicial Council)

	Year Ending 6-1-62	Year Ending 6-1-63	Year Ending 6-1-64	Year Ending 6-1-65	Year Ending 6-1-66	Totals
Barbour	8	8	6	10	9	41
Berkeley	48	78	80	83	120	409
Boone	52	32	77	82	74	317
Braxton	2	2	0	17	24	45
Brooke	17	22	19	14	20	92
Cabell	221	256	350	354	552	1733
Calhoun	4	13	8	4	8	37
Clay	7	7	17	13	0+*	44
Doddridge	15	6	6	14	8	49
Fayette	145	125	172	143	196	781
Gilmer	8	1+*	2	3	0	14
Grant	*	11	11	25	6	53
Greenbrier	52	27	32	58	34	203
Hampshire	30	17	32	23	28	130
Hancock	26+*	11	1+*	11+*	3	52
Hardy	9	25	6	16	13	69
Harrison	55	70	118	61	56	360
Jackson	8	13	36	*	*	57
Jefferson	13	8	21	25	39	106
Kanawha	751	703	677	920	864	3915
Lewis	17	18	26	37	17	115
Lincoln	34	21	23	41	48	167
Logan	205	206	182	152	65+*	810
Marion	37	52	36	39	18	182
Marshall	22	24	*	16+*	*	62
Mason	7	19	19	7	18	70
McDowell	158	163	122	106	93	642
Mercer	74	47	49	5+*	80	255
Mineral	21	40	50	40	51	202
Mingo	39	50	32	27	49	197
Monongalia	79	32	85	41	55	292
Monroe	6+*	2	2	1	0	11
Morgan	17	23	15	18	19	92
Nicholas	42	26	47	26	42	183
Ohio	389	359	402	375	388	1913
Pendleton	7	6	4	11	9	37
Pleasants	4	1	12	8	7	33
Pocahontas	14	13	17	9	17	70
Preston	36	56	71	76	54	293
Putnam	6	7	12	12	7	44
Raleigh	90+*	58+*	203	193	82+*	626
Randolph	8+*	18	4+*	4+*	22	56
Ritchie	10	29	19	15	12	85
Roane	8*	11+*	22	20	25	86
Summers	23	16	45	30	12	126
Taylor	5	8	9	20	4+*	46
Tucker	1	7	17	23	6	52
Tyler	11+*	15	18	19	9	72
Upshur	18	13	16	18	15	80
Wayne	12+*	21	39	27	29	128
Webster	15	18	9	37+*	51	130
Wetzel	26	5	18	4	8	61
Wirt	0	4	8	4	7	23
Wood	148	123	141	127	134	673
Wyoming	21	154	84	148	117	524
TOTALS	3081	3100	3479	3627	3622	16895

\*Not Reported

Table 2

Percentage of Juvenile Probation in Relation to Intake  
(Source of Information--Reports of Judicial Council)

	Year Ending 6-1-62	Year Ending 6-1-63	Year Ending 6-1-64	Year Ending 6-1-65	Year Ending 6-1-66	Average
Barbour	*	50.0	0	*	77.8	63.6
Berkeley	*	*	*	53.1	*	53.1
Boone	36.5	65.6	37.7	25.1	35.1	40.0
Braxton	*	0	0	*	*	*
Brooke	17.6	54.5	63.1	50.0	10.0	41.0
Cabell	*	77.2	11.7	16.4	10.9	29.0
Calhoun	20.0	23.1	62.5	*	12.5	29.5
Clay	*	*	0	23.1	*	23.1
Doddridge	13.3	16.7	0	21.4	10.0	12.3
Fayette	*	52.0	31.9	48.3	33.2	41.4
Gilmer	*	*	*	*	0	*
Grant	*	0	90.0	28.0	83.3	68.0
Greenbrier	*	*	*	*	*	*
Hampshire	43.3	82.4	56.2	39.1	42.8	52.8
Hancock	*	*	*	*	10.0	10.0
Hardy	22.2	88.0	10.0	87.5	84.6	58.5
Harrison	43.6	36.6	33.0	47.5	53.6	42.9
Jackson	*	*	33.3	*	*	33.3
Jefferson	46.1	17.5	19.0	88.0	20.5	38.2
Kanawha	*	*	*	*	*	*
Lewis	29.4	44.4	34.6	16.2	41.2	31.2
Lincoln	35.3	34.3	56.5	*	16.9	35.8
Logan	47.3	53.4	38.5	23.6	*	75.4
Marion	*	*	*	*	*	*
Marshall	50.0	*	*	*	*	50.0
Mason	14.3	89.5	10.0	28.6	16.7	31.8
McDowell	60.1	34.0	43.4	44.4	44.1	49.2
Mercer	41.9	55.6	42.8	*	45.0	46.3
Mineral	*	75.0	16.0	*	*	45.5
Mingo	74.3	56.0	75.0	63.0	61.2	65.9
Monongalia	*	84.4	74.3	*	*	79.4
Monroe	*	20.0	20.0	*	0	20.0
Morgan	47.0	95.7	80.0	66.6	21.0	62.1
Nicholas	23.8	34.6	34.0	0	40.5	26.6
Ohio	25.7	*	84.6	12.6	10.8	33.4
Pendleton	14.3	*	75.0	45.4	22.2	39.2
Pleasants	25.0	*	0	*	14.3	19.7
Pocahontas	35.7	23.1	47.0	33.3	23.5	32.5
Preston	38.9	39.3	47.8	36.8	18.5	50.2
Putnam	83.3	*	*	0	*	83.3
Raleigh	*	*	0	0	*	*
Randolph	*	27.8	*	*	0	27.8
Ritchie	*	31.3	78.9	26.7	58.3	48.8
Roane	*	*	18.2	*	27.9	23.0
Summers	39.2	31.3	26.7	33.3	10.0	28.1
Taylor	*	*	*	*	*	*
Tucker	0	0	23.5	0	0	23.5
Tyler	*	93.3	33.3	42.1	22.2	47.7
Upshur	50.0	23.1	50.0	72.2	40.0	47.1
Wayne	*	23.9	48.7	18.5	13.8	26.2
Webster	*	55.5	*	*	29.4	42.5
Wetzel	*	*	*	0	*	*
Wirt	0	0	0	0	85.7	85.7
Wood	0	11.2	32.6	28.4	23.1	23.8
Wyoming	33.3	9.9	13.1	3.4	23.6	45.0

\*Not Reported

Table 3

Report of Juvenile Cases from Judicial Council, 1961-66

County	Juveniles	Heard by Court	Dismissed	Probation	Cases 2 Years or More Old
Barbour	8	0+*	0+*	*	*
Berkeley	48	39	9	15*	0
Boone	52	26	26	19	0
Braxton	2	0	2	0+*	0+*
Brooke	17	2+*	2+*	3	*
Cabell	221	160	47	17+*	0+*
Calhoun	4	2	0	8	0
Clay	7	3+*	0+*	*	*
Doddridge	15	9	0	2	7+*
Fayette	145	59+*	25+*	111+*	0+*
Gilmer	8	2+*	0+*	2+*	0+*
Grant	*	*	*	*	*
Greenbrier	52	14	0	*	0
Hampshire	30	24	0	13	0
Hancock	26+*	3+*	23+*	23+*	*
Hardy	9	12	0	2	0
Harrison	55	56	2	24	0
Jackson	8	10	1	*	*
Jefferson	13	8	0	6	0
Kanawha	751	786	0	62+*	0
Lewis	17	17	0	5	0
Lincoln	34	24	3	12	0
Logan	205	197	89	97	0
Marion	37	5+*	0+*	*	0+*
Marshall	22	23	1	12	0
Mason	7	8	0	1	0
McDowell	158	136	22	95	0+*
Mercer	74	91	0	31	0
Mineral	21	9	0	0+*	3+*
Mingo	39	37	4	29	0
Monongalia	79	79	0	0+*	0
Monroe	6+*	6+*	0+*	6+*	0
Morgan	17	17	0	8	0
Nicholas	42	29	0	10	*
Ohio	389	360	232	10	52
Pendleton	7	7	0	1	0
Pleasants	4	5	1	1	0
Pocahontas	14	4	0	5	0
Preston	36	31	0	14	0
Putnam	6	9	5	5	0
Raleigh	90+*	82+*	0+*	0+*	0+*
Randolph	8+*	6+*	0+*	4+*	0+*
Ritchie	10	*	*	*	*
Roane	8+*	12+*	0+*	3+*	0+*
Summers	23	17	8	9	2
Taylor	5	6	0	0+*	0
Tucker	1	0	0	0	0
Tyler	11+*	11+*	0+*	5+*	0+*
Upshur	18	13	6	9	0
Wayne	12+*	12+*	0+*	6+*	0
Webster	15	4+*	0+*	2+*	0+*
Wetzel	26	12+*	0+*	*	*
Wirt	0	0	0	1	0
Wood	148	11+*	21+*	26+*	*
Wyoming	21	15	0	7	0
TOTALS	3081	2520	530	780	64

\*Not reported

Table 3 Continued  
Report of Juvenile Cases from 6-2-62 to 6-1-63

County	Juveniles	Heard by Court	Dismissed	Probation	Cases 2 Years or More
Barbour	8	10	4	4	0
Berkeley	78	71	4	18+*	0
Boone	32	34	5	21	0
Braxton	2	2	0	0+*	0
Brooke	22	14	1	12	5
Cabell	256	221	49	198	0
Calhoun	13	13	2	3	0
Clay	7	6	0	*	*
Doddridge	6	3	3	1	1
Fayette	125	125	0	65	0
Gilmer	1+*	1+*	0+*	1+*	0+*
Grant	11	2	0	0	0
Greenbrier	27	22	0	*	0+*
Hampshire	17	24	0	14	0
Hancock	11	11	0	6+*	0+*
Hardy	25	24	0	22	0
Harrison	70	71	12	25	0
Jackson	13	9	3	3+*	*
Jefferson	8	20	9	14	0
Kanawha	703	701	0	*	0
Lewis	18	18	0	8	0
Lincoln	21	16	2	7	0
Logan	206	173	40	110	0
Marion	52	51	0+*	*	0
Marshall	24	24	0	2+*	0
Mason	19	16	3	17	0
McDowell	163	112	51	88	0
Mercer	47	30	30	26	0
Mineral	40	16	25	3	4
Mingo	50	45	2	28	0
Monongalia	32	32	0	27	0
Monroe	2	2	0	2	0
Morgan	23	23	0	22	0
Nicholas	26	21	0	9	*
Ohio	359	227	8	9+*	271
Pendleton	6	5	0	2+*	0
Pleasants	1	0+*	0+*	0+*	0+*
Pleasanton	13	8	5	3	0
Preston	56	60	1	22	0
Putnam	7	7	0	0+*	0
Raleigh	58+*	55+*	0+*	20+*	0+*
Randolph	18	18	0	5	0
Ritchie	29	6+*	0+*	9	9
Roane	11+*	10+*	0+*	0+*	*
Summers	16	9	3	5	3
Taylor	8	7	3	0+*	0
Tucker	7	8	0	0	0
Tyler	15	14	0	14	0
Upshur	13	13	0	3	0
Wayne	21	18	0	5	0
Webster	18	25	0	1	0
Wetzel	5	9	0	*	0
Wirt	4	2	0	0	0
Wood	123	114	14	38	0+*
Wyoming	154	101	44	14	4
TOTALS	3090	1883	225	547	99

\*Not Reported

Table 3 Continued

County	Juveniles	Heard by Court	Dismissed	Probation	Cases 2 Years or More
Barbour	6	0	0	8	0
Berkeley	80	64	8	*	*
Boone	77	50	22	29	0+*
Braxton	0	0	0	0	0
Brooke	19	19	1	12	24
Cabell	350	294	0	41	0
Calhoun	8	9	0	5	0
Clay	17	9	0	0	0
Doddridge	6	2	0	0	21
Fayette	172	114	55	65	*
Gilmer	2	0+*	0+*	0+*	0+*
Grant	11	2	0	1	0+*
Greenbrier	32	32	0	*	0+*
Hampshire	32	25	0	18	0+*
Hancock	1+*	1+*	0+*	*	*
Hardy	6	8	0	6	0
Harrison	118	119	0	39	0
Jackson	36	35	3	12	0+*
Jefferson	21	16	7	4	0
Kanawha	677	424	261	*	0+*
Lewis	26	24	0	9	0
Lincoln	23	21	0	13	0
Logan	182	151	0	70	0
Marion	36	10	0+*	*	*
Marshall	*	*	*	*	*
Mason	19	9	6	2	0
McDowell	122	77	6	53	0
Mercer	49	70	0	21	0
Mineral	50	26	6	8	9+*
Mingo	32	27	5	24	0
Monongalia	35	25	0	26	0
Monroe	2	2	0	4	0
Morgan	15	15	0	12	0+*
Nicholas	47	37	0	16	0+*
Ohio	402	352	217	34	0
Pendleton	4	4	0	3	0
Pleasants	12	9	0	0	0
Pocahontas	17	19	6	8	0
Preston	71	71	0	34	0
Putnam	12	12	0	0+*	0+*
Raleigh	203	230	0	0	0
Randolph	4+*	4+*	17	7+*	*
Ritchie	19	30	0	15	0
Roane	22	16	5	4	*
Summers	45	37	6	12	0+*
Taylor	9	4	6	1+*	0
Tucker	17	7	0	4	0
Tyler	18	13	0	6	0
Upshur	16	5	11	9	0
Wayne	39	36	0	19	0
Webster	9	10	0	0+*	0+*
Wetzel	18	8	0+*	11+*	0+*
Wirt	0	1	0	0	0
Wood	141	114	24	46	*
Wyoming	84	66	26	11	8
TOTALS	3485	2770	687	717	54

\*Not Reported

Table 3 Continued

Report of Juvenile Cases from 6-2-64 to 6-1-65

County	Juveniles	Heard by Court	Dismissed	Probation	Cases 2 Years or More
Barbour	10	6	7	0+*	3+*
Berkeley	83	58	26	44	0
Boone	82	51	41	21	0
Braxton	17	16	0	*	0
Brooke	14	13	2	7	35
Cabell	354	375	15	59	0
Calhoun	4	5	0	0+*	0+*
Clay	13	12	2	3	0
Doddridge	14	13	0	3	27
Fayette	143	135	0	70	0
Gilmer	3	0	0	0	0
Grant	25	8	0	7	0
Greenbrier	58	52	6	*	0+*
Hampshire	23	22	0	9	0
Hancock	11+*	11+*	0+*	13+*	0+*
Hardy	16	17	0	14	0
Harrison	61	28	29	29	0
Jackson	*	*	*	*	*
Jefferson	25	20	8	22	0
Kanawha	920	483	436	*	0
Lewis	37	37	0	6	0
Lincoln	41	36	10	4+*	0
Logan	152	202	0	36	0
Marion	39	44	0	*	*
Marshall	16+*	17+*	0+*	*	0+*
Mason	7	12	2	2	0
McDowell	106	108	0	47	1
Mercer	5+*	1+*	0+*	1+*	*
Mineral	40	36	4	*	14+*
Mingo	27	28	0	17	0
Monongalia	41	41	0	16+*	0
Monroe	1	2	0	1+*	0
Morgan	18	5	13	12	*
Nicholas	26	24	0	0	0
Ohio	375	363	10	47	0
Pendleton	11	10	0	5	0
Pleasants	8	9	3	2+*	0
Pocahontas	9	55	0	3	2
Preston	76	76	0	28	0
Putnam	12	12	0	0	0
Raleigh	193	159	0	0	0
Randolph	4+*	4+*	0+*	*	0+*
Ritchie	15	8	0	4	0+*
Roane	20	19	2	6+*	6
Summers	30	19	3	10	0
Taylor	20	19	0	0+*	0
Tucker	23	22	0	3	0
Tyler	19	10	3	8	7
Upshur	18	18	0	13	0
Wayne	27	19	0	5	0
Webster	37+*	29+*	0+*	0+*	0+*
Wetzel	4	7	0	0	0
Wirt	4	0	0	0	0
Wood	127	98	17	36	0
Wyoming	148	85	60	8	7
TOTALS	3582	2810	699	619	192

\*Not Reported

Table 3 Continued

Report of Juvenile Cases from 6-2-65 to 6-1-66

County	Juveniles	Heard by Court	Dismissed	Probation	Cases 2 Years or More
Barbour	9	9	0	7	0
Berkeley	120	0	113	31+*	0
Boone	74	42	23	26	0
Braxton	24	14	2	0+*	0
Brooke	20	12	2	4	34
Cabell	552	312	81	60	0
Calhoun	8	8	0	1	0
Clay	0+*	0+*	0+*	0+*	0+*
Doddridge	8	10	0	8	40
Fayette	196	196	0	65	0
Gilmer	0	2	0	2	0
Grant	6	12	4	5	0
Greenbrier	34	33	0	15+*	*
Hampshire	28	34	0	12	0
Hancock	3	3	0	3	0
Hardy	13	12	0	11	0
Harrison	56	55	0	30	0
Jackson	*	*	*	*	*
Jefferson	39	14	15	8	0
Kanawha	864	486	341	*	0
Lewis	17	17	0	7	0
Lincoln	48	49	0	8	0
Logan	65+*	66+*	0+*	7+*	0+*
Marion	18	28	0	7+*	0+*
Marshall	*	*	*	*	*
Mason	18	16	0	3	0
McDowell	93	65	0	41	0
Mercer	80	32	39	36	0
Mineral	51	47	23	10+*	0+*
Mingo	49	42	6	30	0
Monongalia	55	55	0	25+*	0
Monroe	0	0	0	0	0
Morgan	19	6	13	4	0
Nicholas	42	38	4	17	0
Ohio	388	312	76	42	51
Pendleton	9	9	0	2	0
Pleasants	7	8	2	10	0
Pocahontas	17	5	21	4	8
Preston	54	54	0	10	0
Putnam	7	7	0	0+*	0
Raleigh	82+*	68+*	0+*	0+*	0+*
Randolph	22	2	18	0	0
Ritchie	12	14	0	7	*
Roane	25	25	0	7	0
Summers	12	11	0	12	0
Taylor	6+*	10+*	0+*	3+*	0+*
Tucker	4	14	11	0	12
Tyler	9	10	0	2	10
Upshur	15	10	4	6	0
Wayne	29	23	0	4	0
Webster	51	37	7	15	0
Wetzel	8	7	0	2+*	5+*
Wirt	7	8	8	8	8
Wood	134	128	2	32	8
Wyoming	117	55	56	3	17
TOTALS	3622	2522	871	648	122

\*Not Reported

Table 4

## 1966 Juvenile Detention Schedule

	Barbour	Cabell	Doddridge	Hancock	Hardy	Harrison	Jackson
	Pleasants Ritchie				Hampshire Pendleton		
1. Type, (detention home, jail, or other.)	Jail	Jail Youth Center	Jails	Jail	Jail	Jail	Jail
2. Rated capacity of facility for detention of delinquents	2M-2F	10		10	3-4	30	6
3. Estimated 1966 population of delinquents in detention	12	343	3	64		37	12-15
4. Average length of stay in detention	406 wks	6 das	7 das	2 das		10 das	1-2 das.
5. Total operating expenditures (Juvenile)	none						
6. Estimated age of detention home or jail	65	Det.	10, 40, 8	85		64	new
7. No. juvenile arrests	27	684	15	129	31	84	50
8. No. juvenile arrests detained							
In juvenile detention							
Homes	1-1	137-72	0-0				
In jails	5-5	116-18	2-1	53-11	29-2	32-5	
In other arrangements							
1. Number of cases disposed of by juvenile court	27	501	50	10	31		
Dismissed-complaint not substantiated:		0-0	5-1		3-1	2-0	
Commitment:	4-2	36-13	2-2	1-1	3-2	14-4	
Dismissed-warned or adjusted:	0-0	198-53	0-0		3-1	2-0	
Informal supervision:	2-0	12-4	0-0		2-1	36-53	
Probation:	12-2	82-22	30-0	50	12-3	34-5	
Other:	1	64-17	10-0	12			
2. Total probation operation expenditures (Juveniles)							
3. Number of juvenile cases on probation:	18	104	30	8	15	50	25
4. Average length of stay on probation:	1 1/4 yr	1 yr	20 mth	2 yr	1 yr	1 yr	2 yr
5. Average monthly caseload of probation officers, juvenile cases:	16	100	10	30	14	75	25
6. Are foster homes being used for juvenile probation cases? no	yes	yes	yes	yes	yes	yes	yes
7. If answer to "6" above is "yes", number of probation facilities in foster homes:	Lack of facilities	15	6	1	7	2+4	



Table 4 Continued

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Kanawha Marshall McDowell Mercer Monroe Pocahontas

1. Type, (detention home, jail, or other.)	Detention Home	Jail	Jail	Jail Detention Home	Jail
2. Rated capacity of facility for detention of delinquents	40	8	16	10	Poor
3. Estimated 1966 population of delinquents in detention		25	81		2
4. Average length of stay in detention	1 da	4 da	2-3 da		1 da
5. Total operating expenditures (Juvenile)					257.8
6. Estimated age of detention home or jail		60	34	14	74
7. No. juvenile arrests		150	200	4M-1F	12
8. No. juvenile arrests detained In Juvenile detention homes			71M-10F		1-0
In jails					1-0
In other arrangements			71M-10F		
1. Number of cases disposed of by juvenile court	750	44	170	96-49	50
Dismissed-complaint not substantiated:		5		7-2	1F
Commitment:	30	10		23-11	3M-1F
Dismissed-warned or adjusted:					7M
Informal supervision:				4M-10F	
Probation:		29	70	30-0	16M
Other:				36-36	3M-5F
2. Total probation operation expenditures (Juveniles)					
3. Number of juvenile cases on probation:		200	65	16	4
4. Average length of stay on probation:	1 yr	2 yr	1 yr	1 yr	1 yr
5. Average monthly caseload of probation officers, juvenile cases:			65	5	
6. Are foster homes being used for juvenile probation cases	yes	yes	yes		no
7. If answer to "6" above is "yes," number of probation cases in foster homes:					

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Table 4 Continued

	Summers	Taylor	Wayne	Wirt	Wood	Wyoming
1. Type, (detention home, jail, or other.)	Detention Home	Jail	Jail	Jail	Jail	Jail
2. Rated capacity of facility for detention of delinquents	8	9	8-6	4	5	
3. Estimated 1966 population of delinquents in detention	4	21	19	22		51
4. Average length of stay in detention	4 da	222 overnight		5 da		1-3 da
5. Total operating expenditures (Juvenile)	500	none		none		
6. Estimated age of detention home or jail	4	37	8	50	90	39
7. No. juvenile arrests	14	16	102	4	20	
8. No juvenile arrests detained In juvenile detention homes	1-1	21-1	15-4	2F	9-7	49-2
In jails	2-2					
In other arrangements		20-1		2F	9-7	49-2
1. Number of cases disposed of by juvenile court	14	18	57-11	8	91-32	79
Dismissed-complaint not substantiated:		1M	1-1	2-2	5-3	26-0
Commitment:	4	7M	4-1		6-6	4-2
Dismissed-warned or adjusted:	3	1M	10-1		38-17	15-0
Informal supervision:	1	1M	8-4		0-0	7-3
Probation:	6	7M-1F	9-1	2-2	17-4	12-0
Other:			23-3			16-0
2. Total probation operation expenditures (Juveniles)		none		0		
3. Number of juvenile cases on probation:	1	10	22	4	25	12
4. Average length of stay on probation:	1 yr	7 mo	6 mo	1 yr	1 yr	6-9 mo
5. Average monthly caseload of probation officers, juvenile cases:	3 2/3	53	65-70		30	3
6. Are foster homes being used for juvenile probation cases?	no	none	no	yes none	yes none	no
7. If answer to "6" above is "yes," number of probation cases in foster homes:						

Table 5

Cases Pending for Two or More years  
(Reports of Judicial Council)

Juvenile Cases					
	Year Ending 6-1-62	Year Ending 6-1-63	Year Ending 6-1-64	Year Ending 6-1-65	Year Ending 6-1-66
Barbour	*	0	0	3+*	0
Brooke	*	5	24	35	34
Doddridge	7+*	1	21	27	40
McDowell	0+*	0	0	1	6
Mineral	3+*	4	9+*	14+*	8+*
Mingo	3+*	0	0	0	0
Ohio	52	271	0	0	51
Pocahontas	0	0	0	2	8
Ritchie	*	9	0	0+*	*
Roane	0+*	*	*	6	0
Summers	2	3	0+*	0	0
Tucker	0	0	0	0	12
Tyler	0+*	0	0	7	10
Wetzel	*	0	0+*	0	5+*
Wyoming	0	4	0	7	17
*Not reported					

Table 6

Disposition of Juvenile Cases, 1962-66

	1962	1963	1964	1965	1966
Juvenile Cases Pending at beginning of period Reported	1043	684	581	867	832
Juvenile Cases Filed or Commenced for period Reported	3272	3172	3485	3592	3622
Cases Disposed for period Reported	3415	3112	3557	3594	3429
Cases Tried by Jury	4	0	1	0	2
Cases Heard and Determined by Court	2981	1720	2860	2910	2527
Cases Dismissed or Disposed of w/o Hearing	689	230	708	699	871
Cases Pending at End of Period	703	147	804	817	986
Probation Proceedings Disposed of for Hearing	1115	729	989	917	900
Cases Pending Two years and Longer	66	104	177	117	72

Table 7

City Police Records of Juvenile Arrests  
1966

Bluefield	73
Charleston	913
Dunbar	135
Elkins	49
Fairmont	147
Huntington	263
Logan	28
Martinsburg	270
Morgantown	56
Moundsville	20
New Martinsville	17
Parkersburg	120
Point Pleasant	15
Saint Albans	70
South Charleston	600
Wheeling	202
Williamson	87

*Appendix G*

A MODEL CORRECTIONAL ACT FOR WEST VIRGINIA  
By  
WEST VIRGINIA COUNCIL ON CRIME AND DELINQUENCY AND  
NATIONAL COUNCIL ON CRIME AND DELINQUENCY

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HOUSE BILL NO. 408

(By Mr. Auvil)

(Introduced February 8, 1963; referred to the Committee on the Judiciary)

A BILL to amend chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, creating a department of correction; transferring to such department the custody and care of all persons committed for conviction of felony and all state institutions for the correction of adult, youth and juvenile offenders; transferring to such department the administrative and supervisory functions of the board of probation and parole, and repealing all acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

Article 13. Department of Correction.

Section 1. Construction and purpose of Act.--This act shall be liberally construed to the end that persons committed to institutions of the state for crime or delinquency shall be afforded individual and group treatment to re-establish their ability to live peaceably and, consistent with the protection of the community, to release such individuals at the earliest possible date, and to establish a just, humane and efficient program; to avoid duplication and waste of effort and money on the part of public and private agencies.

Section 2. State Department of Correction.--There is hereby established the department of correction, which shall consist of a board of correction, a director of correction, and such deputy directors as herein provided, and the officers, employees and institutions of such department. The department of correction shall have and is hereby granted all the powers and authority and shall perform all the functions and services formerly vested in and performed by the West Virginia board of control, and thereafter by the commissioner of public institutions, as to the institutions named in this section.

a. The department shall have custody and care of all persons committed for conviction of felony and such other persons as may be committed to it and shall also have jurisdiction and control of the state institutions for the correction of adult, youth and juvenile offenders, including the following institutions and such other institutions as now or may hereafter be established by law;

West Virginia penitentiary at Moundsville, West Virginia;  
West Virginia state prison for women at Pence Springs,  
West Virginia;  
West Virginia medium security prison, Huttonsville, West  
Virginia;  
West Virginia industrial school for boys, Grafton, West  
Virginia;  
West Virginia industrial school for girls, Salem, West  
Virginia;  
West Virginia forestry camp for boys at Davis, West  
Virginia

B. The department shall have general supervisory control over all court and county probation officers. It shall be charged with the duty of supervising all persons released on probation and placed in the charge of a state probation and parole officer, and all persons released on parole under any law of this State. It shall also be charged with the duty of supervising all probationers and parolees exclusive of juveniles whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state parolee supervision. The department shall prescribe rules and regulations for the supervision of probationers and parolees. The department shall succeed to all administrative and supervisory powers of the board of probation and parole and the authority of said board of probation and parole in such matters only.

c. The department shall administer all other laws affecting the custody, control, treatment and employment of persons committed to institutions under supervision of the department, or affecting the operation and administration of institutions or functions of the department of activities therein.

Sec. 3. State Board of Correction; Appointment; Terms; Compensation.-- There is hereby established a board of correction. The board shall consist of seven members, all of whom shall be citizens of the state, and be appointed by the governor, by and with the advice and consent of the Senate, for overlapping terms of seven years, except that the original appointment shall be for terms of one, two three, four, five, six and seven years, respectively. At least one but not more than two shall be appointed from each congressional district of the state of West Virginia. No more than four members shall belong to the same political party, and at least one member shall be a woman. No person shall be eligible for membership on the board of correction who is a member of any political party executive committee, or who holds any public office, or public employment under the federal government, or under the government of this state, or any of its political subdivision. Members shall be eligible for reappointment.

The governor shall appoint all members of the board as soon after the effective date hereof as it is practicable for respective terms of office, beginning on the first day of July, one thousand nine hundred sixty-three. Any vacancy on the board shall be filled by the governor by appointment for the unexpired term.

No member may be removed from office by the governor except for official misconduct, incompetence, neglect of duty, or gross immorality and then only in the manner prescribed by law for the removal by the governor of state elective officers.

Before exercising any authority or performing any duties as a member of the board of correction, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article four of the constitution, the certificate whereof shall be filed in the office of the secretary of state. A suitable office or offices for the board shall be provided in the capitol.

The members of the board shall be non-salaried, but shall receive twenty-five dollars per diem compensation for meetings of

the board or visiting institutions under the control of the department, but not exceeding eight hundred dollars per annum, together with necessary travel expense incurred in the performance of official duties. The board shall meet at stated times to be fixed by it, but not less often than once every two months, and on call of its chairman.

A majority of the board will constitute a quorum. One member of the board shall be designated annually by the governor to serve as chairman of the board. The members of the board shall annually select a vice-chairman from their own number. The board shall make such rules for regulation of its own proceedings as it shall deem proper.

The board shall have general control and supervision of the business affairs of all state penal and correctional institutions and such matters as may be herein or hereinafter conferred upon it.

Sec. 4. Powers and Duties of the Board.--The powers and duties of the board shall be regulatory and policy forming, and not administrative or executive.

The board shall:

- a. Exercise general supervision over the administration of the department;
- b. Have the duty of making any investigations necessary to matters affecting the department. The board may inquire into any matter affecting corrections and hold hearings and shall have the power to subpoena witnesses and issue subpoenas for production of papers and records;
- c. Appoint the director of correction, herein referred to as the director, who shall be duly qualified by education and experience, preferably with a record as a successful administrator in the field of correction or a related field. The director may be removed by a majority vote of the full board.
- d. Establish separate divisions, to be headed by deputy directors, of adult services, youth services, and other divisions as it deems advisable, which may be headed by the same or different deputy directors;
- e. Visit each institution under control of the department at least once every twelve months;

f. At the close of each fiscal year, submit to the Governor and the legislature a report with statistical and other data of its work, including any recommendations for legislation for the improvement of correctional treatment and the more effective work of the department.

Sec. 5. Duties of the Director; Appointment of Staff.--The director shall be the executive and administrative officer of the department and serve as secretary to the board. Subject to policies of the board, he shall:

- a. Set qualifications for employment and appoint division heads (deputies); wardens and superintendents of institutions within the department; all necessary staff for the operation of the institutions and divisions; and state employed probation and parole personnel. All employees, except the director, deputy directors, wardens and superintendents shall be selected and their appointment governed by the state merit system;
- b. Administer and execute the powers of the board as set forth herein;
- c. Establish rules and regulations in writing governing all division and institutions within the department;
- d. Establish an in-service training program for personnel of the department;
- e. Establish a plan of classification, of institutions, varying according to such factors as security features, program, age and sex of inmates, physical stature or size, character of inmates, and shall organize the institutions of the department in accordance with such plan;
- f. Establish a system of classification of inmates, through a reception and examination procedure, and in each institution a classification committee and procedure for assignment of inmates within the programs of the institution;
- g. Establish, maintain and direct a varied program of education for inmates in all institutions within the department;
- h. Supervise the treatment, custody and discipline of all inmates and the maintenance of the institutions of the department and its industries;



i. Establish a system of compensation for inmates of the correctional institutions of the state who perform good and satisfactory work either within the industrial program or in the servicing and maintenance of the correctional institutions or in the correctional camps. The director with the approval of the board may establish, upon recommendation of any principal officer, a graduated scale of compensation to be paid to inmates in accordance with their skill in industry, and the director shall establish, and may at any time amend or annul, rules and regulations for carrying out the purposes of this subsection. Subject to appropriations from the general fund, compensation to any one inmate shall not exceed twelve cents per hour. No money shall be paid directly to any inmate during the term of his incarceration or imprisonment.

The principal officer of any correctional institution on request of the inmate, may expend one-half of the money so earned by any inmate on behalf of the inmate or his family. The remainder of the money so earned, after deducting amounts expended on behalf of the inmate as aforesaid, shall be accumulated to the credit of the inmate and be paid to the inmate upon his release from such institution in such installments and at such times as may be prescribed by such rules and regulations. Such funds so accumulated on behalf of inmates shall be held by the principal officer of each institution, under a bond to be approved by the attorney general.

The accumulation of such total funds, not necessary for current distribution, shall be invested, with the approval of the board, through the state sinking fund commission, in short term bonds or treasury certificates or equivalent of the United States. Bonds so purchased shall remain in the custody of the state treasurer. The earnings from investments so made shall be reported to the principal officer of each institution from time to time, as earned, and shall be credited to the respective accounts by the sinking fund commission.

When such earnings are transferred to the respective institutions, they shall be credited by the principal officer to the credit of and for the benefit of the prisoner's activities account.

Sec. 6. Commitments; transfer.--All persons committed by courts of criminal and juvenile jurisdiction for custody in penal, correctional or training institutions within the control of the department shall be committed to an appropriate institution,

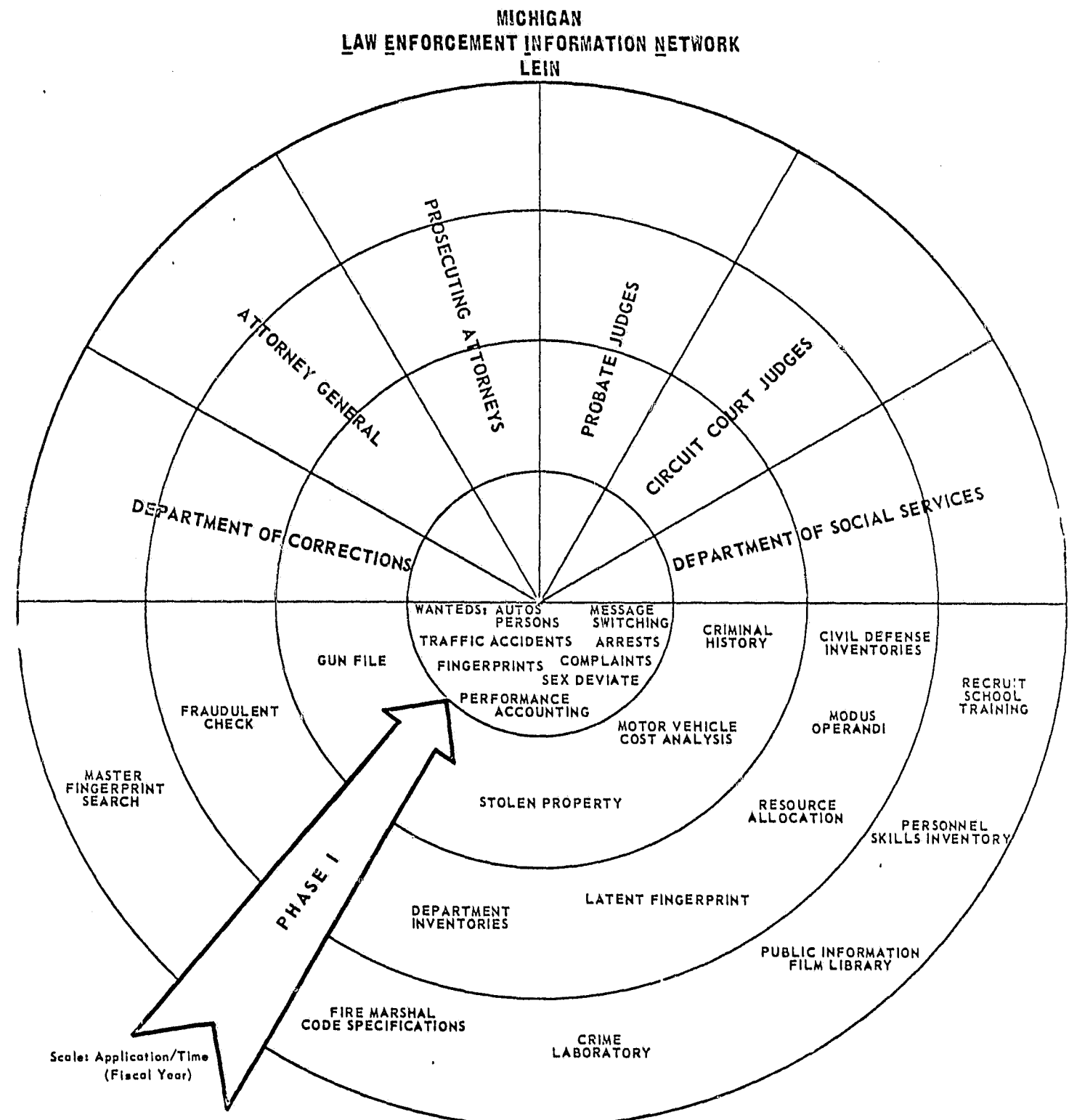
but the director shall have the authority to and may order the transfer of any person committed to the department to any appropriate institution within the department. However, no person committed as a juvenile shall be held in any institution except one for training and care of children; and no one may be transferred to a state prison unless the crime for which such person is incarcerated was of the grade which would warrant direct commitment to the prison.

The director may transfer any prisoner or inmate who is mentally disturbed and who would more appropriately be treated in an institution under the jurisdiction of the department of mental health, to such department subject to the approval of the director of the department of mental health. The director may transfer any prisoner or inmate to an appropriate mental facility for specialized medical treatment.

Sec. 7. Compensation of Employees.--The director shall receive a salary of twelve thousand dollars per annum. The deputy directors herein created and hereafter created shall receive nine thousand dollars per annum. Subject to the approval of the board and the merit system council, the director of the department shall determine the salaries of all other employees of the department. All employees shall receive necessary traveling and other expenses. The compensation, salaries and expenses provided for the board and its employees shall be paid in the same manner as are those of other state employees upon certification of the director.

Sec. 8. Repeal of Inconsistent Laws.--All other laws or parts of laws inconsistent with this act are hereby repealed; Provided, however, that nothing in this article shall be construed to affect in any way the laws relating to juvenile probation and parole. Whenever in the official code of West Virginia the words "board of probation and parole" are used and refer to specific administrative and supervisory functions and duties transferred to the department of correction by this act, the words shall be construed to mean the department of correction.

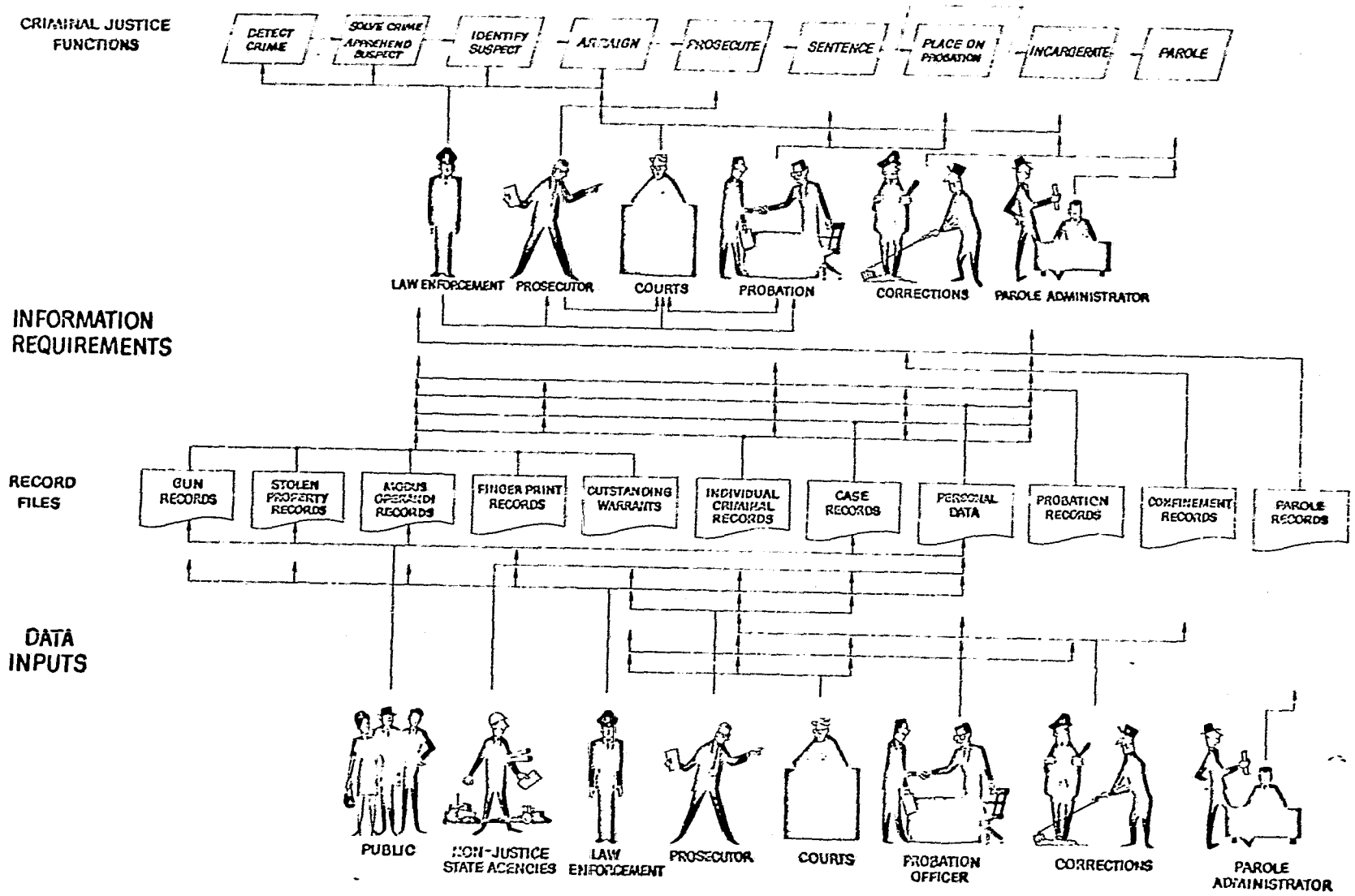
NOTE: The purpose of this bill is to create a Department of Correction which will exercise authority and supervision over all state correctional institutions and, excepting juveniles, all probation and parole matters heretofore administered, either on the state or county level. (This is a new article.)



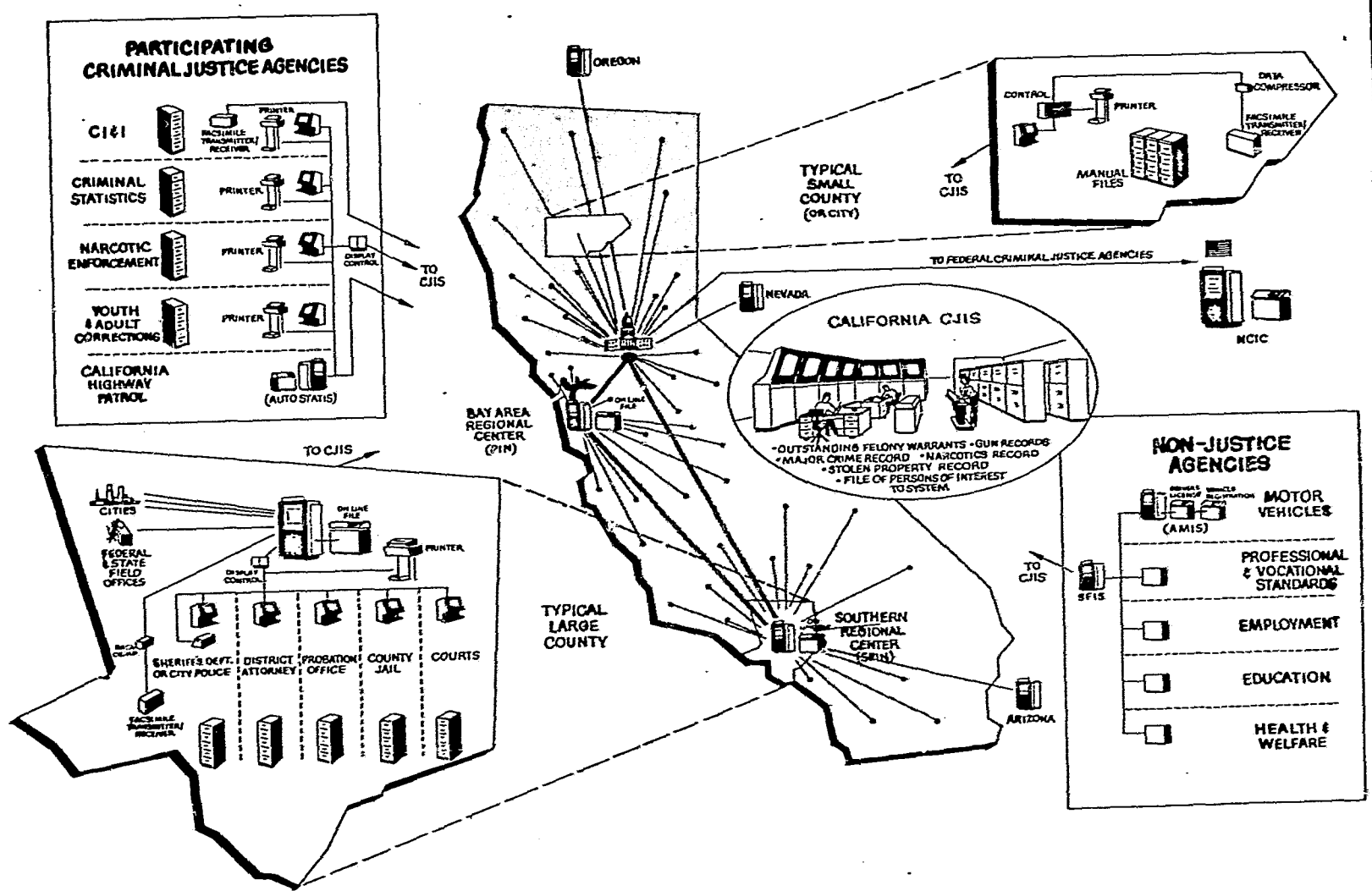
Shown above is the "TARGET" at which the Michigan Law Enforcement Information Network is aimed. Both user and application areas are projected over a four year period.

The arrow "Phase One" represents a combination of immediate service benefits to the Law Enforcement community and initial research towards providing similar service benefits to other State agencies and groups as their needs become identified.

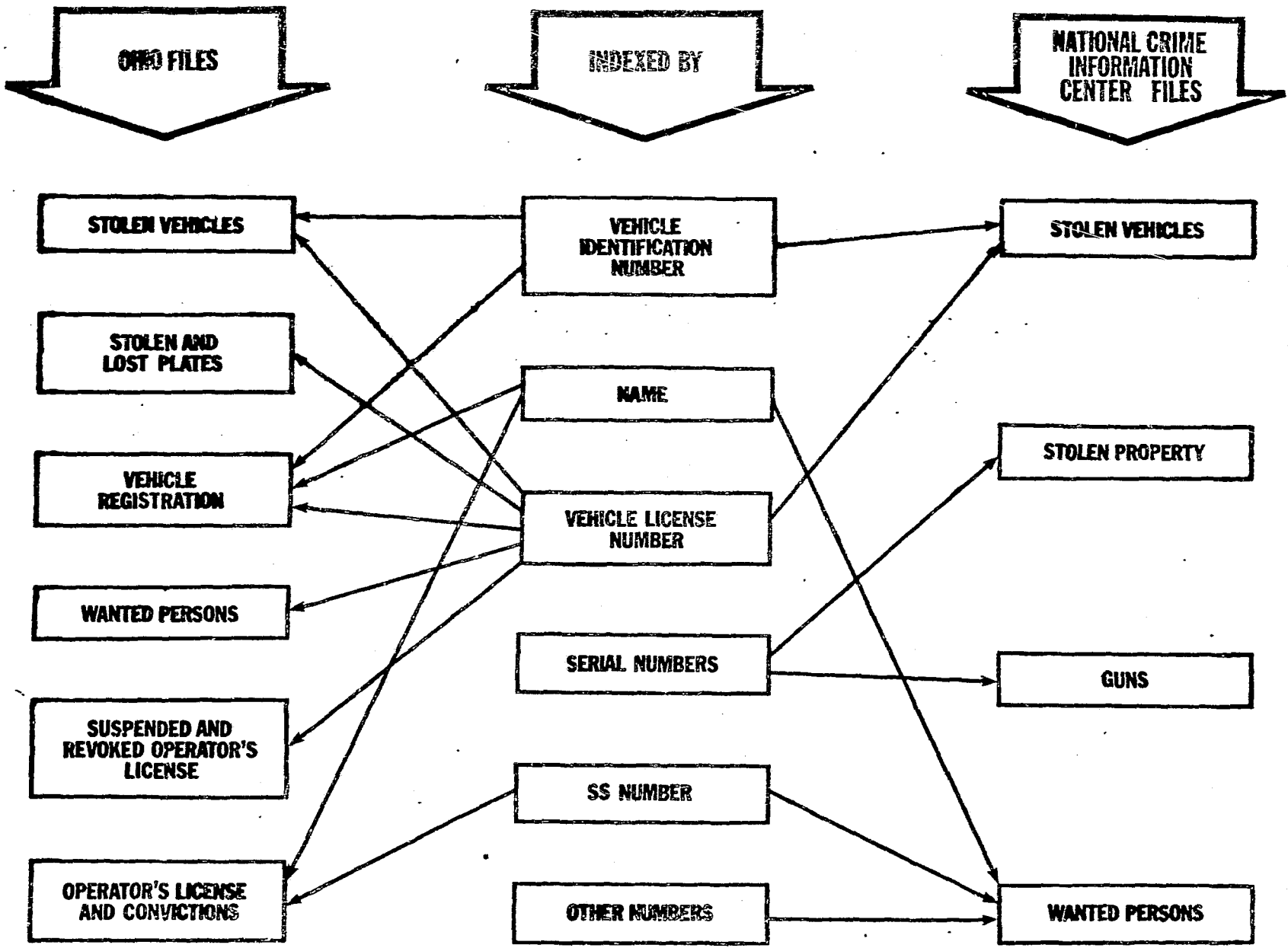
Priorities for future developments will be based upon broad systems research as authorized by the Executive Office and the Legislature.



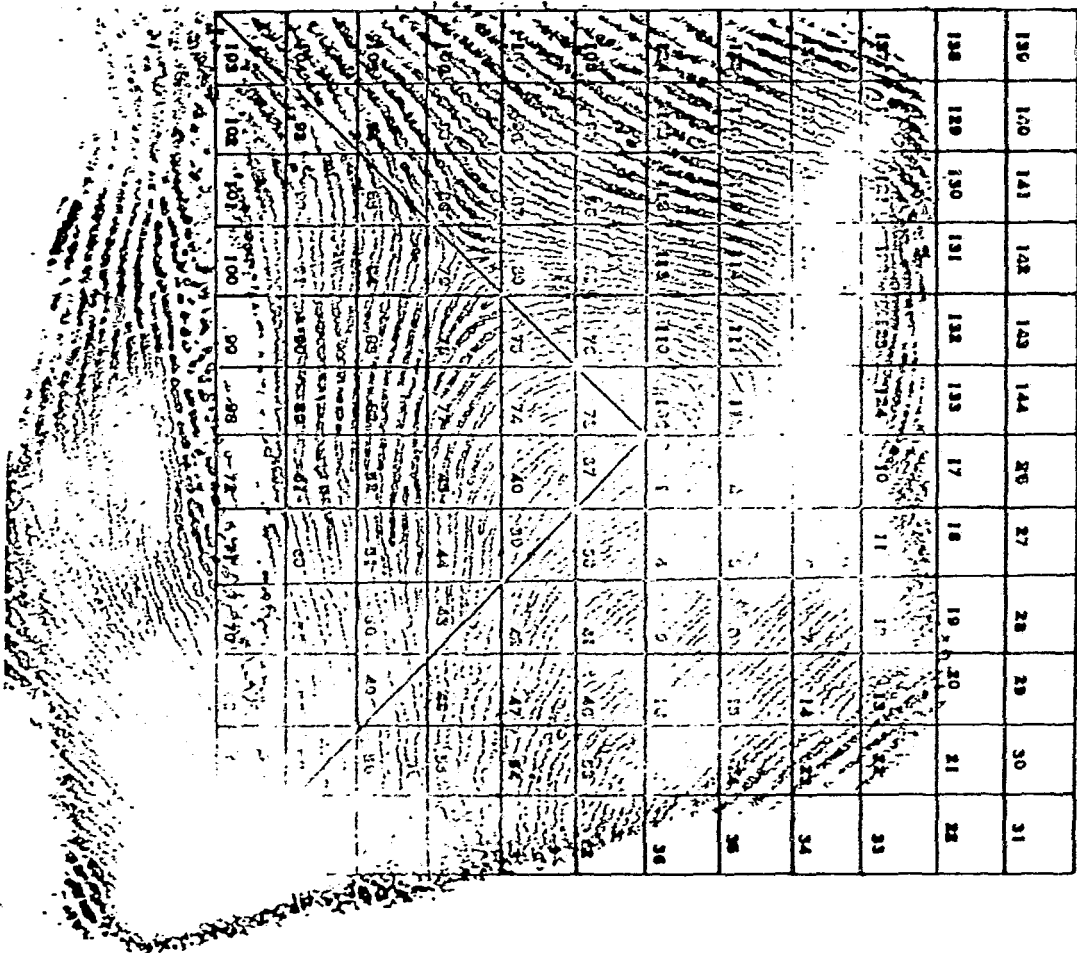
Information Flow Among Agencies in the Criminal Justice System



Hypothetical Criminal Justice Information System



FINGERPRINT SUPERIMPOSED ON A GRID SYSTEM WITH THE CORE AT THE CENTER OF THE GRID AND THE DELTA ON THE LOWER LEFT DIAGONAL. (ORIGINAL PHOTOGRAPHS ARE 8 X ENLARGEMENTS ON 3/4" GRID SQUARES)



NATIONAL CRIME DATA REPORTING SYSTEM

## Consumers and Their Needs:

In Appendix C of the Task Force Report: Crime and Its Impact - An Assessment, Dr. Peter P. Lejins, Professor of Sociology and Director of the Criminology Program at the University of Maryland (also a member of the Executive Committee of NCCD) outlines his proposal for a National Crime Data Reporting System. He maintains that there are two distinct consumers of crime data:

- 1) operational agencies (law enforcement, corrections and prevention) and
- 2) non-operational agencies (general public, government, mass media, private organizations, and research.)

1. Operational agencies serve as both sources and consumers of crime data. This information is of two basic types:

- a. Operational information needs and
- b. General information needs.

The former is used directly by the operation agency with regard to the people it is dealing with; the latter is not directly applicable in an operational sense but applies to the general area of the activities of the agency, such as for "administrative use." (i.e., crime trends, etc.)

2. Non-operational agencies fall into the following categories:

- a. General public, or the electorate, which in the final analysis determines the national and local policies and action.
- b. The government -- legislators and the executive, who rely on the general image the electorate has on crime control and prevention and more specific information in connection with legislative and administrative activities.
- c. Mass media -- which provides information to the electorate and the government.
- d. Private organizations -- through which the general public expresses desire and interest to act on crime and delinquency problems (YMCA, Boy Scouts, etc.)

Cont'd.

- e. Research groups in crime, delinquency, law enforcement, corrections, and prevention.

### Developing a National Crime Data Reporting System

#### Basic Needs:

Dr. Lejins maintains that creation of a National Agency is indispensable for "promotional purposes, for development of uniform categories for reporting the relevant data, for the development of standard reporting procedures, and for the actual operation of these systems. Two plans are offered: 1) collect data from individual law-enforcement and correctional agencies as the FBI does; 2) receive information from a state statistical agency which would be responsible for collecting all the necessary information within their state. Dr. Lejins recommends combining both of the above plans to avoid delay and to take advantage of the data some existing state agencies can provide. Dr. Lejins also pointed out that his proposal is predicated entirely on the presently available electronic technology.

It is further proposed that the National Crime Data Agency be established in the Department of Justice, and that the information collected be of two major types:

- 1) criminal statistics or "agency statistics"; (system A.)
- 2) information about offenders, consisting of a listing of law enforcement and correctional involvements of a particular offender ("criminal career record") (system B.)

It is recognized that there are certain difficulties in developing national statistical compilations. In 1957 Professor Thorsten Sellin outlined three major barriers:

- 1) absence of central authority which requiring cooperation, resulting in complete dependence upon voluntary participation.
- 2) a potential contribution may be hampered by fragmenting of local law enforcement agencies.
- 3) divergence of views on the value of various kinds of data existing in personnel of law enforcement systems.

Cont'd.

#### Recommended Promotional Procedures:

- 1) Emphasis on importance of the program conveyed by having top officials issue supporting statements. Convene major conferences of the top executive of agencies involved for planning the program.
- 2) Establish close liaison with professional organizations and establish endorsement and active support.
- 3) Reciprocity of services rendered to the program and advantages derived therefrom by cooperating agencies should constantly be reiterated.
- 4) Vigorous educational program on importance of statistics and proper reporting procedures should be directed toward personnel of co-operating agencies.
- 5) Adequate staff and budget support must be assured and later provided for the program in question.
- 6) Matching funds plan be explored.
- 7) Logistic support provided by the National Crime Data Agency in terms of forms, punchcards, etc.

Dr. Lejins maintains that the first step in launching this reporting system must be "the convening of a conference and establishment of a committee or other appropriate work group...for the purpose of developing the uniform categories for the relevant facts throughout all stages of the law enforcement and correctional processes. Representatives of the police, the judiciary, and the correctional field should participate.

#### System A -- Agency Statistics

Police: "the expansion of the present system of the uniform categories (Uniform Crime Reports) to the areas of courts and corrections, to establish a basis for reporting also in these areas, requires the convening of a national conference..."

Prosecution: "Although most of the decisions reached are legal decisions and a record of these is made, statistics pertaining to this area of law enforcement activities are not available not only on a national scale, but...also not on a State or local level." Currently there exists a statistical blackout after the police report an arrest until, much later, the National Prisoners Statistics "pick up the thread and give the number of prisoners in State and Federal institutions."

Jail Statistics: "In the sense of either their total absence or their extremely low level of development, jail statistics are unquestionably next to the prosecution statistics." Yet,

Cont'd.



the jail is extremely important in the institution for these reasons:

- 1) it often marks the beginning of a serious and costly lifelong career in crime;
- 2) a recurring element in lifelong petty criminal careers;
- 3) affects and influences more people than any other correctional institution. Obviously this is an area in great need of reform in which very little has been done. This, in a large part, is because of the inadequacy or non-existence of reliable and systematic information. "...the function of the short sentence is another big unknown in American criminology."

Judicial Criminal Statistics: The need here is predicated on the function of the criminal court within the law enforcement system. "It is the court that determines whether there was a criminal offense, what kind of an offense, and who is the offender." Court statistics can also indicate to a large extent the method of dealing with him: probation, fine, incarceration, its length, and often the type of correctional program. In commenting on the earlier failure of the Judicial Criminal Statistics in 1946, Dr. Lejins makes the observation that "the collection of these statistics was which some individual ...convinced of the values to be derived.. took an active part in their collection or where some group or organization worked closely with the local court officials."

Probation Statistics: In this area, the National Agency would have to deal with several different types of contributing agencies, because "probation departments are frequently attached to individual courts and thus are not subject to statewide administration." Differences between the function of juveniles and adult probation officers must also be taken into account. The following, devised by the late John W. Mannering, may serve as a potential plan for the development of such a system:

1. How much use is made of probation by the criminal courts?
2. How much use is made of presentence investigations by courts?
3. What are the conditions of probation?
4. How successful is probation?

The first two may be considered a part of judicial statistics;

Cont'd.

three and four, a part of probation.

Penal and Correctional Institution Statistics: The National Prisoners Statistics, presently published annually by the Bureau of Prisons of the U. S. Department of Justice, contains data on prisoners in State and Federal institutions. Although voluntary, this program has complete coverage. In Dr. Lejins opinion it represents a well-developed compilation, which, however, "could be improved in the sense of completeness of data covered."

Parole Statistics: Currently there are no national parole statistics, but there are efforts underway to develop such a system. Generally, parole is under the supervision of the state--usually a parole board. From the standpoint of records and statistics "it is important that the central organizational tendency is to have a statewide paroling authority...which makes for uniformity of procedures..."

According to Dr. Lejins the Uniform Parole Reports Project of the National Parole Institutes is "the most outstanding example of a vigorous project in developing a national reporting system in the area of corrections. Sponsored by NCCD, it is cosponsored by the U.S. Board of Parole, the Advisory Council on Crime and Delinquency, the Association of Paroling Authorities, and the Interstate Compact Administrators Association for the Council of State Governments. In summary the Feasibility Study came up with the following findings:

1. A workable data collection system.
2. A common vocabulary.
3. Regular reporting to participating agencies.
4. Demonstration that comparisons of agency effectiveness must take account of differences in the kinds of offenders paroled.

System B-- Criminal Career Records or National Law Enforcement and Correctional Registry.

Operational Needs:

Need for expansion of old and traditional operational identification file of local law enforcement to a national level because:

- 1) purely local identification file is antiquated because of increasing involvement of offenders in criminal activities outside local jurisdiction;

Cont'd.

2) new developments in electronic data processing have expanded data collecting beyond local confines.

#### Nonoperational Needs:

Law enforcement and correctional agencies need career-record type data for planning, policy making, administration, evaluation, decision making, etc.

#### Current Programs:

FBI--Division of Identification--contains a national collection of criminal records of serious offenders of approximately 16½ million cases; identified by fingerprints.

#### Careers in Crime Series:

An element of the Uniform Crime Reporting Program of the FBI. This information is the same as that contained in the Identification Division, but it has been transcribed to magnetic tape. Also, the information is more complete.

#### FBI National Crime Information Center:

This center will be located at FBI Headquarters in Washington, D.C. It will store and provide information by means of a random access computer on stolen automobiles, other stolen property and wanted persons.

#### Report on the Feasibility of a National Computer System for Police Records--England:

Explores the possibility of a comprehensive criminal and correctional record and statistics system, comparable in scope to the national crime data reporting system recommended by Dr. Lejins.

NYSLIS-- New York State Identification and Intelligence System. This program is directed toward a "comprehensive state system of law enforcement and correctional data reporting for both operational and general information." This record system may be expanded to include data in prosecution, criminal courts, probation, institutions, and parole.

#### California Crime Data Reporting

Unlike Dr. Lijins proposal for a central computer crime data storage, the California system is divided into the operational criminal identification file of the police departments and the statistical data collection of the Bureau of Criminal Statistics. The latter is manual, rather than computer based. In terms of an overall model, the California system is not easily followed.

## Master Key Legislation Proposed by the U.S. Department of Justice

### A BILL

TO AMEND TITLE 18, UNITED STATES CODE, TO PROVIDE CRIMINAL PENALTIES FOR THE MANUFACTURE, ADVERTISEMENT FOR INTRODUCTION OR INTRODUCTION INTO INTERSTATE COMMERCE OF MOTOR VEHICLE MASTER KEYS

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 2 of title 18, United States Code, is amended by --*

(1) Adding at the end thereof the following new section:  
"§ 36. Manufacture, introduction or advertisement for sale of motor vehicle master keys.

(a) "Whoever knowingly introduces, or manufactures for introduction, into interstate commerce or transports or distributes in interstate commerce any motor vehicle master key or any pattern or information from which a motor vehicle master key may be made, shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

(b) "Whoever knowingly disseminates by any means in interstate commerce any advertisement of sale of motor vehicle master keys or any pattern or information from which a motor vehicle master key may be made, shall be fined not more than \$5,000 or imprisoned not more than two years or both.

(c) "as used in this section, 'motor vehicle master key' means any key, other than the original key furnished by the manufacturer with the motor vehicle or an exact duplicate of the pattern thereof, so designed as to operate two or more motor vehicle ignition, door, or trunk locks of different patterns."

(2) Adding at the end of the chapter analysis of such chapter the following:

"36. Manufacture, introduction or advertisement for sale of motor vehicle master keys.

(b) Chapter 83 of such title is amended by --

(1) inserting after section 1717 thereof the following new section: § 1716A. Motor vehicle master keys and their advertisement as nonmailable.

(a) "All motor vehicle master keys or any pattern or information from which a motor vehicle master key may be made and advertisements of sale of such keys or information are nonmailable matter and shall not be deposited in or carried by the mails or delivered by any postmaster, letter carrier, or other person in the postal service.

(b) "Whoever knowingly uses or attempts to use the mails or Postal Service of the United States for the transmission of any matter declared by this section to be nonmailable shall be fined not more than \$5,000. or imprisoned not more than two years, or both.

(c) "As used in this section, 'motor vehicle master key' means any key, other than the original key furnished by the manufacturer with the motor vehicle or an exact duplicate of the pattern thereof, so designed as to operate two or more motor vehicle ignition, door, or trunk locks of different patterns."

(2) inserting within the chapter analysis of such chapter the following:

"1716A. Motor vehicle master keys and their advertisement as nonmailable.

*Appendix O*

Tentative draft of PROPOSED TREATMENT OF ALCOHOLISM MODEL LEGISLATION prepared by joint committee of the American Medical Association and American Bar Association.

A BILL to establish and maintain a comprehensive program for the control of drunkenness and the prevention and treatment of alcoholism.

Be it enacted:

TITLE I - FINDINGS AND DECLARATION OF PURPOSES

Sec. 101. This Act shall be known and cited as the "Comprehensive Intoxication and Alcoholism Control Act."

Sec. 102. The Legislature hereby finds that --

a) Dealing with public inebriates as criminals has proved expensive, burdensome and futile. The criminal law is ineffective to deter intoxication and to deal with what are basically major problems of human inadequacy and chronic alcoholism.

b) Removal of public intoxication from the criminal system and establishment of a modern public health program for the detoxification of inebriates facilitate:

1) early detection and prevention of alcoholism and effective treatment and rehabilitation of alcoholics,

2) diagnosis and treatment of other diseases, and

3) uncovering and providing assistance with other personal problems. Handling of chronic inebriates through public health and other rehabilitative procedures relieves the police, courts, correctional institutions and other law enforcement agencies of an onerous and inappropriate burden that undermines their ability to protect citizens, apprehend law violators and maintain safe and orderly streets.

c) Chronic alcoholism is a disease that is properly handled under public health, welfare and rehabilitation procedures.

d) Conduct that threatens physical harm to any member of the public or to property cannot be tolerated in a democratic society. Such conduct shall be handled as criminal.

e) Voluntary treatment for alcoholism is more appropriate than involuntary treatment. Civil commitment should be used only where an alcoholic is in immediate danger of serious harm or where through prior experience it can be determined that he presents a substantial danger to other persons.

f) To control public intoxication and chronic alcoholism requires a major commitment of effort and resources by both public and private segments of the State. An effective response to these problems must include a continuum of detoxification, inpatient and out-patient programs, and supportive health, welfare and rehabilitation services, coordinated with and integrated into a comprehensive health plan that will cover all the State's citizens.

Sec. 103. The Legislature declares that --

a) The State shall establish and maintain a comprehensive program for the control of drunkenness and the prevention and treatment of alcoholism throughout its territory.

b) Persons who are intoxicated shall be subject to arrest if they are conducting themselves in a manner that directly endangers the safety of other persons or of property.

c) Public intoxication shall no longer be a criminal offense in this State. A person who is intoxicated and who is not conducting himself in a manner that directly endangers the safety of another person or of property may be taken into protective custody by law enforcement officers or other authorized personnel and taken or sent to his home or to a private health facility or to a public health facility for detoxification and appropriate treatment.

d) A chronic alcoholic shall be handled as a sick person who needs, is entitled to and shall be provided adequate and appropriate medical, psychiatric and other humane rehabilitative treatment services of a high calibre for his illness. All public officials in the State are hereby authorized and directed to take cognizance of this legislative policy. This Act and all other legislation shall be construed in a manner consistent with this policy.

Sec. 104. Definitions --

a) The term "Department," as used in this Act, means the Department of (fill in name of appropriate State department, such as Department of Health, Public Health, Mental Health or other appropriate department.)

b) The term "chronic alcoholic" means any person who chronically and habitually uses alcoholic beverages

1) to the extent that it injures his health or substantially interferes with his social or economic functioning, or

2) to the extent that he has lost the power of self-control with respect to the use of such beverages.

## TITLE II - DISORDERLY INTOXICATION

Sec. 201. Section (Insert appropriate section reference State law that makes public intoxication a criminal offense) of the (Insert appropriate reference to State statutes, laws or code) is hereby amended to read as follows:

### \_\_\_\_. Public Drinking and Intoxication.

a) No person shall be intoxicated and endanger the safety of another person or property. Intoxication and its normal manifestations shall not constitute a violation of this subsection or of any other criminal statute.

b) No person shall drink any alcoholic beverage in any vehicle that is in a public place.

c) No person shall drink any alcoholic beverage in a public place and cause a public disturbance; provided, that any such person shall first be requested by the police or other authorized personnel to discontinue his drinking and public disturbance, and that no such person shall be charged with a violation of this subsection if he promptly discontinues such drinking and public disturbance upon the first such request.

d) Any person violating the prohibitions of this section shall be punished by a fine of not more than \$100 or by imprisonment of not more than 90 days or both.

e) Notwithstanding any other provision of law any member of the police may take or send an intoxicated person to his home or to a private or public health facility in lieu of making an arrest for a misdemeanor offense.

f) Notwithstanding any other provision of law no county, city, municipality or other jurisdiction within this State shall adopt ordinances or other legislation supplementing this section.

### TITLE III - PREVENTION OR ALCOHOLISM AND REHABILITATION OF ALCOHOLICS

Sec. 301. Sections (Insert references to all present statutory provisions dealing with alcoholism, including any provisions relating to incompetency proceedings for, or civil commitment of, inebriates and alcoholics) of the (Insert appropriate reference to State statutes, laws or code) are hereby repealed.

Sec. 302. A new (Insert appropriate designation of the new statutory provision) is hereby added to (Insert appropriate reference to State statutes, laws or code) to read as follows:

#### Chapter \_\_\_\_ - Prevention of Alcoholism and Rehabilitation of Alcoholics.

##### 1. Bureau of Alcoholism Control

- a) There is hereby established within the Department a Bureau of Alcoholism Control under a qualified program administrator who shall be a physician.
- b) It shall be the duty and function of the Bureau of Alcoholism control to -
  - 1) Serve as a clearinghouse for information relating to alcoholism;
  - 2) Develop, encourage and foster statewide, regional and local plans and programs in the field of alcoholism;
  - 3) Provide technical assistance and consultation to all political subdivisions of the State with respect to programs for the prevention and treatment of alcoholism, and the rehabilitation of alcoholics;
  - 4) Prepare, publish and disseminate educational material dealing with the prevention and treatment of alcoholism and the rehabilitation of alcoholics;
  - 5) Gather statistics in the field of alcoholism;
  - 6) Stimulate more effective use of existing resources and available services for the prevention and treatment of alcoholism and the rehabilitation of alcoholics;
  - 7) Coordinate all efforts within the State to deal with the problems of alcoholism and alcoholics;
  - 8) Review, comment upon and assist with all applications for grants or other funds for services for alcoholics to be submitted to the Federal Government.

- 9) Prepare, in accordance with Title IV of this Act, a comprehensive alcoholism plan for inclusion in the comprehensive health plan to be submitted for Federal funding pursuant to the Comprehensive Health Planning and Public Health Services Amendments of 1966; and
- 10) Enlist the assistance of public and voluntary health, education, welfare and rehabilitation agencies in a concerted effort to prevent and to treat alcoholism.

#### 2. Treatment and Rehabilitation Program.

a) The State's treatment and rehabilitation program shall include at least the following components, available to both males and females, wherever possible utilizing the facilities of and coordinated with the programs of community mental health centers:

1) Detoxification centers, all of which shall be located so as to be quickly and easily accessible to patients, to provide appropriate medical services for intoxicated persons, including initial examination, diagnosis and classification. Each detoxification center shall be affiliated with, and constitute an integral part of, the general medical services of a general hospital; provided, that the center need not be physically a part of a general hospital.

2) In-patient extended care facilities for intensive study, treatment and rehabilitation of chronic alcoholics; provided, that such facilities shall not admit intoxicated persons and shall not be part of or at the same location as a correctional institution.

3) Out-patient aftercare facilities, all of which shall be located within city limits, including, but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and supportive residential facilities such as hostels and halfway houses.

b) Any person assisted under this chapter may be required to contribute toward the cost of his subsistence, care or treatment, to the extent that he is financially able to do so, under regulations promulgated by the Bureau. No person may be discriminated against on the basis of indigence.

c) The programs and facilities of the State shall be staffed with an adequate number of personnel, who shall possess

appropriate professional qualifications and competence.

### 3. Detoxification.

a) Any person who is intoxicated in a public place or in a vehicle in a public place may be taken or sent to his home or to a public or private health facility by the police or other authorized personnel; provided, that the police may take reasonable measures to ascertain that public transportation used for such purposes is paid for by such person in advance.

b) Any person who is intoxicated in a public place or in any vehicle in a public place and either incapacitated or whose health is in immediate danger shall, if not handled under subsection (a) be taken by the police or other authorized personnel to a detoxification center.

1) A person shall be deemed incapacitated when he is unable to make a rational decision about accepting assistance.

2) Any intoxicated person may voluntarily come to a detoxification center for medical attention but incapacitated persons and others in immediate medical danger shall be given priority.

3) The medical officer in charge of the center shall have the authority to determine whether a person shall be admitted to the center as a patient, or referred to another appropriate facility for care and treatment, or denied referral or admission. If he is admitted as a patient the medical officer shall have the authority to require him to remain at the center until he is sober and no longer intoxicated or incapacitated, but in any event no longer than 72 hours after his admission as a patient. A patient may consent to remain at a detoxification center for as long as the medical officer believes warranted. If the medical officer concludes that the person should receive treatment at a different facility he shall arrange for such treatment and for transportation to that facility. If the person is not either admitted to a detoxification center or referred to another facility and has no funds, authorized personnel shall offer to take him to his residence if he has one, or if he has no residence shall offer to attempt to find and to take him to some other facility where he may obtain shelter. A detoxification center may provide medical help to a person who is not admitted as a patient.

c) An intoxicated person taken into custody by the police for a misdemeanor shall immediately be taken by the police or other authorized personnel to a detoxification center where he

shall be admitted as a patient or transported to another appropriate health facility for care and treatment. After he is sober he shall be detained as long as is necessary to conduct a diagnosis for possible alcoholism, except that this period shall not exceed an additional 24 hours.

1) If he is diagnosed as a chronic alcoholic the medical officer shall, after a review of the patient's record, recommend to the prosecuting attorney whether a petition should be filed in order to institute civil commitment proceedings under 6 (b) (3). If the prosecuting attorney concludes that civil commitment proceedings should be instituted under 6 (b) (3) a petition shall be filed.

2) If he is diagnosed as a chronic alcoholic and a civil commitment proceeding under 6 (b) (3) either is not instituted or is unsuccessful the medical officer shall recommend to the prosecuting attorney whether the criminal charges should be dropped in order to institute treatment for his alcoholism. The prosecuting attorney shall exercise his discretion whether to accept the medical officer's recommendation.

3) If he is not diagnosed as a chronic alcoholic he shall, after he is released by the detoxification center, be handled as in any other criminal case.

d) Any person charged with a felony and who appears to be intoxicated shall first be brought by the police to a detoxification center where he shall be admitted as a patient for an immediate medical evaluation of his condition. As soon as it is determined that he is not in medical danger he shall be handled by the police as in any other criminal case. If his health is in danger he shall be detained at an appropriate health facility until the danger has passed and he shall then be handled as in any other criminal case. Such security conditions shall be maintained as are commensurate with the seriousness of the offense.

e) The police shall make every reasonable effort to protect the health and safety of intoxicated persons, in accordance with the intent of this section. In situations where no criminal charge is filed no entry shall be made on the person's arrest or other criminal record. The registration and other records of a detoxification center and of the other facilities utilized under this chapter shall remain confidential and may be disclosed without the patient's consent only to personnel working with the patient in accordance with this chapter, to police personnel for purposes of investigation of criminal offenses and of complaints against police action, and to court personnel to determine whether a defense of chronic alcoholism may be available and for presentence



reports; and with the patient's consent only to medical personnel for purposes of diagnosis, treatment and court testimony; and to no one else.

f) The Bureau of Alcoholism Control shall promptly develop, in cooperation with State and local police, procedures for taking or sending an inebriate to a detoxification center or to his residence or to a public or private health facility by authorized personnel other than the police. It is intended that the functions of the police under this section shall be reduced to a minimum in the shortest time possible.

#### 4. Diagnosis and Inpatient Treatment.

a) A patient in a detoxification center shall be encouraged to consent to an intensive diagnosis for possible alcoholism on his first stay, and to consent to treatment at the inpatient and outpatient facilities provided for under 2 (a)(2) and 2(a)(3) of this chapter.

1) Any person may voluntarily request admission to this inpatient center. No person committed under section 6 shall take precedence over a person who voluntarily requests admission unless he is found by a court to endanger the public safety. The medical officer in charge of the inpatient center is authorized to determine who shall be admitted as a patient. A person who has previously been diagnosed and treated at the inpatient center may again be admitted for further diagnosis and treatment at the discretion of the medical officer in charge of the center.

2) A complete medical, social, occupational and family history shall be obtained as a part of the diagnosis and classification at the inpatient center. An effort shall be made to obtain copies of all pertinent records from other agencies, institutions and medical facilities in order to develop a complete and permanent history on each patient.

b) If a patient is not diagnosed as a chronic alcoholic he shall be so informed. An attempt shall be made to utilize appropriate preventive techniques such as educating him about the seriousness of the illness and the dangers of excessive consumption of alcoholic beverages. An attempt shall also be made to uncover any personal problems that may have resulted in the drinking and to refer the patient to other appropriate agencies for assistance.

c) If a patient is diagnosed as a chronic alcoholic he shall be so informed. If he consents, intensive

treatment for the illness shall begin immediately at the inpatient center while a comprehensive individualized plan is being made for his future outpatient treatment. This plan shall be in writing and available to the patient.

d) No patient may be detained at the inpatient center without his consent except under the provisions of 6 of this chapter; provided, that reasonable regulations for checking out of the center and for providing transportation may be adopted by the Bureau. Once a patient has checked out of the center against medical advice he may be readmitted at the discretion of the medical officer in charge of the center, and he may not be denied readmission solely because he left against medical advice.

#### 5. Outpatient and Aftercare Treatment

a) A chronic alcoholic shall be encouraged to consent to outpatient and aftercare treatment for his illness at the types of facilities and utilizing the broad spectrum of services, provided for under 2 (a) (3) of this chapter.

1) Any person may voluntarily request admission to outpatient treatment. No person committed under 6 shall take precedence over a person who voluntarily requests admission unless that person committed is found to constitute an immediate and continuing danger to the safety of another person under 6. The medical officer in charge of the outpatient treatment is authorized to determine who shall be admitted to such treatment.

2) There shall be one central outpatient treatment office in each local area, which may be located in a mental health center or a detoxification center, to be open 24 hours every day, which shall coordinate the operation of all outpatient facilities and particularly shall be responsible for locating residential facilities for indigent inebriates and alcoholics.

b) Because of the nature and seriousness of the disease a chronic alcoholic must be expected to relapse into intoxication one or more times after the onset of therapy. No alcoholic shall be dropped from outpatient treatment solely because of such relapses. All reasonable methods of treatment should be used to prevent their recurrence.

c) There are some chronic alcoholics for whom recovery is unlikely. For these, voluntary supportive services and residential facilities shall be provided so that they may survive in a decent manner.

d) All public and private community efforts,

including but not limited to welfare services, vocational rehabilitation and job replacement, shall be utilized as part of outpatient treatment programs to integrate chronic alcoholics back into society as productive citizens.

c) No patient shall be required to participate in outpatient treatment without his consent except under the provisions of 6 of this chapter; provided, that reasonable requirements may be placed upon such a person as conditions of his participation in such treatment. Once a patient has withdrawn from outpatient treatment against medical advice he may be readmitted at the discretion of the medical officer in charge of outpatient treatment. He may not be denied readmission solely because he withdrew against medical advice.

#### 6. Civil Commitment

a) A judge of (Insert appropriate name of court) may, on a petition of (Insert appropriate name of legal official) on behalf of the State, filed and heard before the 72-hour period of detention for detoxification expires, order a person to be temporarily committed to the State for inpatient treatment and care for a period not to exceed 30 days from the date of admission to a detoxification center if, sitting without a jury, he determines that the person 1) is a chronic alcoholic, and as a result of chronic or acute intoxication is 2) in immediate danger of substantial physical harm and 3) unable to make a rational decision about accepting assistance. A patient so committed shall be released by the State without the necessity of court permission as soon as he is once again able to make a rational decision about accepting assistance, unless he chooses voluntarily to remain. He shall be encouraged to consent to further treatment and rehabilitation.

b) The courts shall commit to the State for treatment and care for up to a specified period of time a chronic alcoholic who:

- 1) is charged with a crime and who, prior to trial, voluntarily requests such treatment in lieu of criminal prosecuting; or
- 2) is charged with a crime and is acquitted on the ground of chronic alcoholism; or
- 3) is subject of a civil petition filed as provided in 3 (c) (1) and is found to be an immediate and continuing danger to the safety of other persons in that he is likely to injure other persons if allowed to remain at liberty.

4) Provided, that no term of commitment shall be ordered for a period longer than the maximum sentence that could have been imposed for the offense for which he was charged. A patient may voluntarily remain for treatment for as long as the medical officer believes warranted.

c) Prior to the commitment of any person under subsection (b) the court shall hold a civil hearing and must make the following findings:

- 1) the person is a chronic alcoholic; and
- 2) commitment is for treatment that has a substantial possibility for success for the person and is not for custodial care; and
- 3) adequate and appropriate treatment is available for the person;
- 4) in the case of a person described in subsection (b) (3), he constitutes an immediate and continuing danger to the safety of other persons in that he is likely to injure another person if allowed to remain at liberty.

d) The State shall immediately inform the court whenever in its opinion any one of the findings required by subsection (c) is no longer applicable, or for any other reason the person should be released, and the court shall review the facts and enter an appropriate order.

e) A committed person may, upon the expiration of 90 days following the commitment order, and not more frequently than every 6 months thereafter, request the State in writing to have a current review of the required findings, and if the request is timely it shall be granted. The patient may, at his own expense, have one or more qualified physicians participate in the review or conduct an independent review. The State shall, upon the written request of an indigent patient assist him in obtaining a qualified physician to participate in the review, and such a physician shall be compensated for his services by the State in an amount determined by it to be fair and reasonable. The State shall report the result of its review to the patient. If the patient is not released as a result of this review he may petition the court for an order directing his release, and the court shall consider all pertinent testimony and evidence and enter in appropriate order. The burden of proof in such a proceeding shall remain on the State.

f) Notwithstanding the right of review upon a patient's written request, the State shall as often as practicable, but not less often than every 6 months, review a patient's

status under the required findings. Any right available to him for obtaining release from confinement, including the right to petition for a writ of habeas corpus, shall also be retained, and the burden of proof in such a proceeding shall remain on the State.

g) Provided, that no chronic alcoholic shall fail to be committed under subsection (c), and no person shall be released from commitment under subsections (d), (e), and (f), if he is found to constitute an immediate and continuing danger to the safety of other persons and if the State has made a good faith attempt to comply with subsection (c)(3). The likelihood that a person may become intoxicated and exhibit the usual manifestations of an inebriate shall not constitute a threat to the safety of other persons.

h) The State may transfer a committed person who has been adjudged an immediate and continuing danger to the safety of other persons from inpatient to outpatient status only with the court's permission. The State may transfer any other committed person from inpatient to outpatient status, and any committed persons from outpatient to inpatient status, without court permission, but may not release a committed person without court permission. A committed person who does not constitute an immediate and continuing danger to the safety of other persons has a right to outpatient treatment, and the State shall make every reasonable effort to place a committed person on outpatient treatment and to return him to the court with a recommendation for release as quickly as is consistent with sound medical practice and with the safety of other persons.

i) If the respondent in any proceeding under this chapter does not have an attorney and cannot afford one the court shall appoint one to represent him. Counsel so appointed shall be compensated for his services by the State in an amount determined by the court to be fair and reasonable.

j) Neither mail nor other communications to or from a person committed pursuant to this section may be read or censored except that reasonable regulations regarding visitation hours and the use of telephone and telegraph facilities may be adopted.

k) Upon instituting proceedings for the commitment of a person under this section the State shall give him and nearest known adult relative a written statement and explanation outlining in simple nontechnical language the procedures

and rights set out in this section. Upon commitment the State shall give him and his nearest known adult relative a further written statement and explanation outlining all release procedures and other rights provided by this section as well as under other statutes and general legal principles.

1) A specific treatment plan, adapted to each individual, shall be prepared and maintained on a current basis for every patient handled under this section. A factual record of all treatment provided shall be kept in specific and non-conclusory terms and failure to keep such a record shall be prima facie evidence of the inapplicability of the findings required by subsections (d)(2) and (d)(3).

7. This chapter inapplicable to the mentally ill. The provisions of this chapter shall apply to chronic alcoholics who have not been adjudged to be mentally ill. The handling of a chronic alcoholic who has been adjudged to be mentally ill shall be governed by (Insert appropriate designation of state law provisions relating to treatment of the mentally ill).

8. Retention of civil rights and liberties. A person treated under the provisions of this chapter shall retain his civil rights and liberties, including but not limited to the right not to be experimented upon with treatment not accepted as good medical practice without his fully informed consent, the right of an ill person to refuse treatment for an ailment that presents no danger to the safety of other persons, the right as a patient to maintain the confidentiality of health and medical records, the right as a person detained for medical purposes to receive adequate and appropriate treatment, and the right to vote and to make contracts.

9. Contract with other Agencies. The State may contract with any appropriate public or private agency, organization or institution that has proper and adequate treatment facilities, programs and personnel, in order to carry out the purposes of this chapter.

10. Alcoholism policy for highway safety.

a) The Bureau shall make provisions for testing for alcohol the bodies of drivers and pedestrians who die within four hours of a traffic accident. Similar Blood-alcohol tests shall be performed to as great an extent as is practicable on surviving drivers in accidents fatal to others. The data shall be tabulated for each of the categories of individuals tested under appropriate detailed categories. The Bureau shall provide

a written manual specifying the qualifications of the personnel to be used, and the methods and related details of specimen selection, collection, handling and analysis, and the methods of reporting and tabulation of the results. This manual shall be followed by those implementing the requirements of this section.

b) The Bureau shall take all steps necessary to provide for early screening and diagnosis for alcoholism in all surviving individuals tested in accordance with subsection (a) where the alcohol test is positive. A determination whether or not alcoholism was a probable factor in the drinking of any nonsurviving individual tested in accordance with subsection (a) shall be made where the alcohol test is positive. All data on alcoholism shall be kept and tabulated by the Bureau in the same way as under subsection (a).

c) The Bureau shall make certain that appropriate programs are established for individuals convicted of drunk driving. These programs shall be coordinated with and integrated into broad planning for comprehensive community health and welfare services.

11. Alcoholism policy for State and local government employees.

a) The Bureau of Alcoholism Control shall be responsible for developing and maintaining, in cooperation with other State agencies and departments, an enlightened policy and appropriate programs for the prevention and treatment of alcoholism and the rehabilitation of alcoholics among State, county, municipal and other local governmental employees, consistent with the intent of this chapter. Such governmental employees afflicted with alcoholism shall retain the same employment and other benefits as other persons afflicted with serious illnesses while undergoing rehabilitative treatment, and shall not lose pension, retirement, medical or other rights because of their alcoholism; provided that adequate and appropriate treatment may be required as a condition of their continued employment.

b) The Bureau shall also be responsible for fostering alcoholism rehabilitation programs in private industry in the State.

12. Alcoholism program in Department of Correction. The (Insert appropriate designation of the State department of Correction) shall be responsible for establishing and maintaining, in cooperation with the Bureau of Alcoholism Control, a

program for the prevention and treatment of alcoholism and the rehabilitation of alcoholics in correctional institutions.

13. Alcoholism program for juveniles. Because of the increasing public concern about intemperance, intoxication and incipient alcoholism among juveniles, the Bureau of Alcoholism Control shall be responsible for establishing and maintaining, in cooperation with the (Insert name of state department of education), the schools, the police, the courts and other public and private agencies, an effective program for the prevention of intemperance and alcoholism and the treatment of rehabilitation of incipient alcoholics, among juveniles and young adults.

14. Health and disability insurance plans. The (Insert appropriate name of State insurance department or agency), in cooperation with the Bureau of Alcoholism Control, shall take all steps necessary to make certain that all health and disability insurance plans offered for sale within the state cover alcoholism in the same way as other major disabling diseases and that death as a result of alcoholism is handled as non-self-inflicted death by insurance companies. The (Insert appropriate name of State insurance department or agency) and the Bureau of Alcoholism Control shall make special reports to the Legislature from time to time on their progress under this section, and at least once every year for the first two years after enactment of this Act, and may make recommendations for additional legislation if deemed appropriate.

15. Admission of inebriates and alcoholics to private and public hospitals. The Bureau of Alcoholism Control shall take all steps necessary to make certain that inebriates and alcoholics are admitted to and treated in private and public hospitals without discrimination. The Bureau shall make special reports to the Legislature from time to time on its progress under this section, and at least once each year for the first two years after the enactment of this Act, and make recommendations for additional legislation if deemed appropriate.

16. Training of professional and nonprofessional alcoholism workers. The Bureau of Alcoholism Control shall be responsible for organizing and fostering training programs for professional and non-professional workers with regard to intoxication and alcoholism.

17. Education about and prevention of alcoholism. The Bureau of Alcoholism Control shall be responsible for a comprehensive program of education about and prevention of alcoholism. The Bureau shall coordinate its activities under this section with all appropriate public and private agencies and groups,

including manufacturers of alcoholic beverages.

18. Alcohol beverage control and drunk driving law revision. The Bureau of Alcoholism Control, in cooperation with the Attorney General and other interested State departments and agencies, shall undertake a broad review of all State laws and regulations governing 1) sale and consumption of alcoholic beverages and 2) driving under the influence of alcohol. This review shall include, but not be limited to, consideration of the relation of these laws and regulations to the legislative policies and purposes of this Act. Within one year from the date of enactment of this Act a report on this review shall be transmitted to the Legislature. This report shall include specific recommendations for any changes in the present State Laws and regulations that are deemed appropriate.

19. Reports of the Bureau.

a) The Bureau of Alcoholism shall submit an annual report to the Department which shall be forwarded to the Legislature and the Governor and shall be made public. It shall also submit such additional reports as may be requested by the Department, the Governor, or the Legislature.

b) The Bureau shall maintain a continuing evaluation of its programs and shall conduct pilot and demonstration projects to improve its programs. It shall from time to time submit to the Department, the Legislature and the Governor such recommendations as will further the rehabilitation of chronic alcoholics, prevent the excessive and abusive use of alcoholic beverages and promote moderation.

c) The Bureau shall prepare and publish materials, data, information and statistics that relate to the problems of intoxication and alcoholism in the State and that may be used in a program of public education directed toward the prevention of the excessive and abusive use of alcoholic beverages.

20. Alcoholism advisory and consulting committees.

a) The Governor shall appoint an Alcoholism Advisory Committee to consist of five qualified residents of the State who have knowledge of and an interest in the subject of alcoholism, to advise and consult and to assist in carrying out the provisions of this chapter. This Committee shall be maintained as a separate advisory committee, with responsibilities solely in the field of alcoholism. The members of the Committee shall elect the Chairman

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of the Committee, who shall serve a one-year term but may be reelected. The members of the Committee shall serve without compensation for terms of five years, staggered so that one vacancy occurs every year, and may be reappointed after a two-year hiatus. The Committee shall meet at regular intervals with the Department and representatives of the Bureau of Alcoholism Control, the judiciary, corrections, probation, vocational rehabilitation, public welfare, parole, and such other agencies as may become involved in a total State and community effort to control intoxication and alcoholism.

b) Upon the recommendation of the Alcoholism Advisory Committee the Chairman of the Committee shall appoint one or more technical consulting committees from experts throughout the country to assist in making certain that the State has the best possible programs for alcoholism care and control.

#### 21. Interdepartmental coordination committee.

a) For the purpose of coordinating all State efforts with respect to intoxication and alcoholism, and of developing an enlightened police and appropriate programs for State and local governmental employees for the prevention and treatment of alcoholism and the rehabilitation of alcoholics, there is hereby established an Interdepartmental Coordinating Committee on Alcoholism Control consisting of the Director of the Bureau of Alcoholism Control who shall serve as Chairman, and representatives of all interested State Departments and agencies. The Chairman, upon the recommendation of the Coordinating Committee, shall appoint such technical advisory committees as are deemed appropriate for advising the Committee in carrying out its functions.

b) The Coordinating Committee is authorized and directed to:

1) Assist the Director of the Bureau of Alcoholism Control in carrying out his function of coordinating all State efforts to deal with the problems of intoxication and alcoholism;

2) Engage in educational programs among State and local governmental employees, and in other appropriate activities, designed to prevent intoxication and alcoholism;

3) Implement comprehensive State programs for the rehabilitation of State and local governmental employees afflicted with alcoholism; and



4) Develop and maintain any other appropriate activities consistent with the purposes of this Act.

#### TITLE IV - COMPREHENSIVE INTOXICATION AND ALCOHOLISM CONTROL PLAN

Sec. 401. a) The Bureau of Alcoholism Control shall immediately develop a detailed and comprehensive intoxication and alcoholism control plan for the State, covering all counties, cities, municipalities and other political jurisdictions therein, to implement the objectives and policies of this Act. The plan shall be submitted to the Department for transmittal to the Governor as soon as possible, but not later than 6 months after the enactment date of this Act.

b) The Governor shall promptly review and must approve it before it becomes effective.

c) Notwithstanding subsections (a) and (b) the Bureau shall proceed to implement Title III of this Act as quickly and effectively as possible under an interim program pending approval of the final plan. As soon as the plan is approved all efforts shall be directed to implementing it.

Sec. 402. a) The Bureau shall, in developing this comprehensive plan, consult and collaborate with all appropriate public and private departments, agencies, institutions and organizations in the State. This shall include, but not be limited to, State and local governmental departments and agencies; public and private groups interested in corrections, recreation, veterans affairs, public welfare, parole, education, labor, police, youth, alcoholic beverage control, civil service, mental health, the bar, medicine, psychology, public and private hospitals, health and life insurance, poverty programs, employment, housing, legal aid and the clergy, the Salvation Army and other community missions, Alcoholics Anonymous, and voluntary community health and welfare agencies. The plan shall specify how these and other resources are to be utilized.

b) The Bureau shall utilize to the fullest extent possible in preparing the plan the expertise of the National Center for Prevention and Control of Alcoholism in the National Institute of Mental Health. The National Center shall be requested to review a final draft of the complete plan, and its comments shall be given full consideration.

c) The plan shall be coordinated with and integrated into the State's planning under the Comprehensive Health Planning and Public Health Services amendments of 1966 and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

d) The plan shall make every effort to utilize funds, programs and facilities authorized under current Federal legislation, and shall specify the extent to which such legislation may be utilized, including but not limited to the following Acts as amended: Vocational Rehabilitation Act, Manpower Development and Training Act, Older Americans Act of 1965, Law Enforcement Assistance Act of 1965, Health Research Facilities Act of 1956, Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Heart Disease, Cancer, and Stroke Amendments of 1965, Health Professions Educational Assistance Act of 1963, Hospital and Medical Facilities Amendments of 1964, Social Security Act, Community Health Services Extension Amendments of 1965, Economic Opportunity Act of 1964, Comprehensive Health Planning and Public Health Services Amendments of 1966, Elementary and Secondary Education Act of 1965, Highway Safety Act of 1966, the civil service laws, and laws providing for the treatment and discharge of members of the Armed Forces and the support and treatment of veterans of the Armed Forces.

AN ACT  
TO ESTABLISH A STATE DEPARTMENT OF CORRECTION

## ARTICLE I. CONSTRUCTION OF ACT

## §1. Construction and Purpose

The purpose of this Act is to establish an agency of state government for the custody, study, care, discipline, training, and treatment of persons in the correctional and detention institutions and for the study, training, and treatment of persons under the supervision of other correctional services of the state, so that they may be prepared for lawful community living. Correctional services shall be so diversified in program and personnel as to facilitate individualization of treatment.

## §2. Department Established; Board

## ARTICLE II. ORGANIZATION OF DEPARTMENT

## §2. Department Established; Board

A state department of correction, hereinafter referred to as "the department," is hereby established. Within the department there shall be a board of correction of seven members, who are not officials of the state in any other capacity and are qualified for their position by demonstrated interest in and knowledge of correctional treatment. Members of the board shall be appointed by the governor with the advice and consent of the Senate. The terms of members shall be six years and until their successors are appointed and have qualified, except that the first appointments shall be for terms of two years for two members, four years for two members, and six years for three members. A member may be reappointed. The board shall elect its chairman and provide for its organization. Members of the board shall receive no salaries but, when in attendance at meetings of the board or engaged in other duty authorized by the board, shall receive (\$...) per diem and necessary expenses for not more than (...) days per year. The board shall meet quarterly and other times at the call of the chairman. The chairman shall call a meeting when requested by a majority of the board.

The board shall determine department policy; it shall not have administrative or executive duties and shall not deal with specific procedural matters. The board may appoint temporary or permanent advisory committees, for such purposes as it may determine. It shall have other duties as granted in this Act.

### §3. Institutions and Services

#### First Alternative §3.

1. The following institutions and services shall be administered by the department:

a) All state institutions for the care, custody, and correction of persons committed for felonies or misdemeanors, persons adjudicated as youthful offenders, and minors adjudicated as delinquents by the (juvenile or family) courts under sections (...) and committed to the department.

b) Probation services for courts having jurisdiction over criminals, youthful offenders, and children.

c) Parole services for persons committed by criminal courts to institutions within the department. The parole board established by (reference to section establishing parole board) shall be continued and shall be responsible for those duties specified in sections (...).

2. The department (may) (shall) establish and operate institutions for misdemeanants committed for terms of thirty days or over. It may establish and operate regional adult and juvenile detention facilities.

3. The department shall provide consultation services for the design, construction, programs, and administration of detention and correctional facilities for children and adults operated by counties and municipalities and shall make studies and surveys of the programs and administration of such facilities. Personnel of the department shall be admitted to these facilities as required for such purposes. The department shall administer programs of grants in aid of construction and operation of approved local facilities. It shall provide courses of training for the personnel of such institutions and shall conduct demonstration projects with offenders in the institutions. It shall establish standards and rules for the operation of correctional

and detention facilities, shall at least once a year inspect each facility for compliance with the standards set, and shall publish the results of such inspections as well as statistical and other data on the persons held in detention. The director may order the closing of any detention or correctional facility that does not meet the standards set by the department.

#### Second Alternative §3.

1. The following institutions and services shall be administered by the department:

(a),(b) (Institutional and probation services as provided in the First or the Third Alternative.)

c) Parole services for persons committed by criminal courts in institutions within the department. The parole board established by (reference to section establishing parole board) shall be continued and shall be responsible for those duties specified in sections (...). It shall appoint a director of parole who shall appoint, with the approval of the board, a sufficient number of parole officers and other employees required to administer the parole provisions of this Act.

2. (Same as subdivision 2 of the First or the Third Alternative.)

3. (Same as subdivision 3 of the First or the Third Alternative.)

#### Third Alternative §3.

1. The following institutions and services shall be administered by the department:

a) All state institutions for the care, custody, and correction of persons committed for felonies or misdemeanors or adjudicated as youthful offenders.

b) Probation services for courts having jurisdiction over criminals and youthful offenders.

c) (Parole services as provided in the First or the Second Alternative.)

2. (Same as subdivision 2 of the First Alternative,

except for omission of the words "and juvenile" in lines 17-18.)

3. (Same as subdivision 3 of the First Alternative, except for omission of the words "children and" in line 21.)

#### Fourth Alternative §3.

1. The following institutions and services shall be administered by the department:

a) (Institutional services as provided in the First or the Third Alternative.)

b) (See comment for alternative forms for probation service.)

2. (Same as subdivision 2 of the First or the Third Alternative.)

3. (Same as subdivision 3 of the First or the Third Alternative.)

#### §4. Director of Correction

A director of correction, who shall be the chief executive, administrative, and budget and fiscal officer of the department, shall be appointed by the board for an indefinite term, at a salary fixed by the board. The director shall be qualified for his position by character, personality, ability, education, training, and successful administrative experience in the correctional field. He need not be a resident of this state. He shall be subject to removal only by vote of a majority of the entire board, after a hearing upon due notice, for disability, inefficiency, neglect of duty, malfeasance in office, or other just cause.

#### §5. Other Employees

The director shall appoint such personnel as are required to administer the provisions of this act. All employees of the department other than the director and, with the approval of the board, (two to four) assistants to the director, shall be within the state merit system.

#### §6. Duties of Director

Within the general policies established by the board,

the director shall administer the department, shall prescribe rules and regulations for operation of the department, and shall supervise the administration of all institutions, facilities, and services under the department's jurisdiction.

The director shall prescribe the duties of all personnel of the department and the regulations governing transfer of employees from one institution or division of the department to another. He shall institute a program for the training and development of all personnel within the department. He shall have authority, subject to civil service requirements, to suspend, discharge, or otherwise discipline personnel for cause.

#### §7. Administrative Structure

The director and the board of correction shall develop a suitable administrative structure providing for divisions and services to accomplish the purposes, goals, and programs required by this Act. (Services for minors committed as delinquents by the (juvenile or family) courts shall be provided by specially qualified staff, in institutions separate from those for adults, and, where administered separately from those for adults.)

#### §8. Research, Statistics, and Planning

The department shall establish programs of research, statistics, and planning, including study of the performance of the various functions and activities of the department, studies affecting the treatment of offenders, and information about other programs.

#### §9. Reports

The department shall make an (annual)(biennial) report to the governor on the work of the department, including statistical and other data, accounts of research work by the department, and recommendations for legislation affecting the department. Printed copies of the report shall be provided to each member of the legislature.

The director shall periodically submit to the board an analysis of the institutions and services within the department, and an analysis and evaluation of the adequacy and effectiveness of personnel and buildings.

#### §10. Cooperation and Agreements with Other Departments and Agencies

The department shall cooperate with public and private agencies and officials to assist in attaining the purposes of the Act. The department may enter into agreements with other departments of federal, state, or municipal government and with private agencies concerning the discharge of its responsibilities or theirs.

### ARTICLE III. INSTITUTIONAL ADMINISTRATION

#### §11. Commitment; Transfers

Commitment to institutions within the jurisdiction of the department shall be to the department, not to any particular institution. The director shall assign a newly committed inmate to an appropriate facility. He may transfer an inmate from one facility to another, consistent with the commitment and in accordance with treatment, training, and security needs, except that he may not transfer to an institution for offenders committed by criminal courts a minor adjudicated as delinquent by a (juvenile or family) court. A person detained in or sentenced to a local jail may, at the discretion of the director, be transferred to a state institution.

#### §12. Treatment of Mentally Ill and Mentally Retarded Inmates; Transfer

The department may establish resources and programs for the treatment of mentally ill and mentally retarded inmates, either in a separate facility or as part of other institutions or facilities of the department.

On the recommendation of the medical director, the director of the department may transfer an inmate for observation and diagnosis to the department of mental hospitals or other appropriate department or institution for not over (...) days. If the inmate is found to be subject to civil commitment for psychosis or other mental illness or retardation, the director of the department shall initiate legal proceedings for such commitment. While the inmate is in such other institution his sentence shall continue to run.

When, in the judgment of the administrator of the institution to which an inmate has been transferred, he has recovered from the condition which occasioned the transfer, he shall be returned to the department, unless his sentence has expired.

#### §13. Diagnostic Center

There shall be within the department a diagnostic center, consisting of one or more branches, to make social, medical, and psychological studies of persons committed to the department. At the request of any sentencing court, the diagnostic service shall, in accordance with standards established by the department, receive for study and a report to the court any person who has been convicted, is before the court for sentence, and is subject to commitment to the department.

A defendant may not be held for more than (...) days for such purpose. The diagnostic center may apply to the court for an extension of time, which may be granted for an additional period not to exceed (...) days. Time spent in the diagnostic center shall be credited on any sentence of commitment.

### ARTICLE IV. TREATMENT OF INMATES

#### §14. Classification and Treatment Programs

Persons committed to the institutional care of the department shall be dealt with humanely, with efforts directed to their rehabilitation, to effect their return to the community as promptly as practicable. For these purposes the director shall establish programs of classification and diagnosis, education, casework, counseling and psychotherapy, vocational training and guidance, work, and library and religious services; he may establish other rehabilitation programs; and he shall institute procedures for the study and classification of inmates.

Women committed to the department shall be housed in institutions separate from institutions for men.

#### §15. Work by Inmates; Allowances

The department shall provide employment opportunities, work experiences, and vocational training for all inmates. Equipment, management practices, and general procedures shall approximate, to the maximum extent possible, normal conditions of employment in free industry. Tax-supported departments, institutions, and agencies of the state and its governmental subdivisions shall give preference to the purchase of products of inmate labor and inmate services.

Inmates shall be compensated, at rates fixed by the director, for work performed, including institutional maintenance and attendance at training programs. Prisoners who are unable

to work because of injury, illness, or other incapacity may be compensated at rates to be fixed by the director. The inmate shall contribute to support of his dependents who may be receiving public assistance during the period of commitment if funds available to him are adequate for such purpose.

The department shall make contractual arrangements for the use of inmate labor by other tax-supported units of government responsible for the conservation of natural resources or other public works.

#### §16. Discipline

The director shall prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions of the department, including procedures for dealing with violations. A copy of such rules shall be provided to each inmate. Corporal punishment is prohibited.

The director shall provide for a record of charges of infractions by inmates, any punishments imposed, and medical inspections made.

#### §17. Medical Care

The director shall establish and shall prescribe standards for health, medical, and dental services for each institution, including preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients.

An inmate may be taken, when necessary, to a medical facility outside the institution.

#### §18. Inmate Contacts with Persons Outside the Institution; Temporary Releases

Under rules prescribed by the department, heads of the institutions may authorize visits and correspondence, under reasonable conditions, between inmates and approved friends, relatives, and others, and temporary release of an inmate for such occasions as the serious illness or death of a member of the inmate's family or an interview of the inmate by a prospective employer.

#### §19. Good Behavior Allowance

An inmate serving a commitment shall be allowed a reduction, from his maximum term, of ten days for each month served for the first five years of any term, and fifteen days per month for the period of any term over five years. Regulations shall be issued authorizing the director to deny such allowances for one or more months of time served prior to the infraction of rules by the inmate. The regulations shall also authorize, under stated circumstances, restoration of good time lost.

#### §20. Discharge Allowance; Loans

Inmates released upon completion of their term or released on parole or mandatory conditional release shall be supplied with satisfactory clothing, transportation, and financial assistance to meet their needs for a reasonable period after release. If the inmate or his family has financial resources, these shall be used prior to the use of public funds.

The department shall establish a revolving fund from funds available to the department, to be used for loans to prisoners discharged, released on parole, or released on mandatory conditional release, to assist them to readjust in the community. The fund shall be operated in accordance with regulations approved by the board.

### ARTICLE V. INTERSTATE RELATIONS; DETAINERS

#### §21. Agreement on Detainers

The Agreement on Detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows: .....

### ARTICLE VI. APPLICATION OF ACT

#### §22. Laws Repealed

Chapters (...) and all other acts and parts of acts inconsistent with the provisions of this Act are hereby repealed.

#### §23. Constitutionality

If any section, subdivision, or clause of this Act shall



be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

§ 24. Appropriation

The sum of \$(...) is hereby appropriated for the purpose of this Act for the fiscal year (or biennium) ending (...).

§25. Time of Taking Effect

This Act shall take effect on (...).

\* \* \* \*

Published by the National Council on Crime and Delinquency, 1967.

**END**