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1978
ANNUAL REPORT
of the
OFFICE OF INMATE ADVOCACY
DEPARTMENT OF THE PUBLIC ADVOCATE

Submitted to the Governor and the members of the Legislature pursuant to P.L. 1974,
c.27, sec. 47 (N.J.S.A. 52:27E-46)

December 1, 1978

In many respects 1978 has been the most productive and most satisfying one in the four years that the Office of Inmate Advocacy has been in existence. Although we continue to be able to operate only at the county and municipal level, we have been able to see substantial progress toward the attainment of those objectives for which the Office was created. Most significantly, we have developed such a level of cooperation that jail administrators and county officials actively seek out the advice and assistance of the Office in developing their programs and facilities.

On July 1, 1978, the Office entered the third year of operation as the "County-Municipal Inmate Advocacy Pilot Program," with funding through the State Law Enforcement Planning Agency. Under our statutory authority to represent the interests of persons in penal confinement, we have conducted an active program in all counties of seeking to upgrade jail conditions in accordance with legal mandates and professional standards. Conversely, for the third year we have been denied an appropriation in the state budget and, as a result, we are unable to take any active role regarding conditions in state prisons and reformatories.

LITIGATION

Although the year has seen substantial progress in cooperation with the counties, it also brought us an instance of non-cooperation; the difficult decision to bring suit against the Sheriff and other officials of Passaic County, after fruitless efforts to bring about improvements without litigation. Filed on February 8, 1978 in United States District Court, the suit alleges numerous constitutional deficiencies in the operation of the Passaic County Jail, and seeks judicial intervention where such is found to be appropriate.

The Office has had dealings with the Passaic County Jail since 1974, when we first received complaints from inmates there. A meeting was held with the Sheriff and Warden in January, 1974, at which the issues discussed included First Amendment rights, opportunity for exercise and fresh air, and due process in disciplinary proceedings. Disturbingly, little progress in these areas was made over three years, and it was necessary to include them as issues in the lawsuit. Other issues presented include various aspects of basic cleanliness, reasonable opportunity for visiting, and adequate facilities to enable inmates to research legal issues and prepare court papers.

In the ten months since the suit was filed, many changes have occurred in the Passaic County Jail. For example, a professional exterminator has been retained to treat the building weekly. Previously,

inmate trustees, without training or adequate equipment, performed this task. As a result, the previous serious infestation of roaches has been substantially controlled. Painting and cleaning is done regularly. Under prodding from their lawyers, who have read the court decisions, improvements are being made in classification, medical screening of new admittees, adequacy of the law library, and other areas. As a result of these steps, a settlement has been worked out covering many of the issues in the suit. It is anticipated that this will be entered before the year is out. However, the Sheriff refuses to change his practices relative to visiting and access to newspapers and magazines. These issues will be determined by the Court in a trial scheduled for March 5, 1979.

In another matter, the Office learned from inmates at the Mercer County Correction Center of an aberration in the practices of the Parole Board. Because of this, an inmate with a number of individual sentences of less than one year each could never be considered for parole, while another inmate with at least one sentence of one year or more would have the opportunity to seek release on parole. For example, an inmate with three consecutive eleven-month sentences, a total of thirty-three months, would have to serve the entire time, while another with three consecutive twelve-month sentences, a total of thirty-six months, could be released on parole after serving one year. We sought review of the Parole Board's position in the courts, and on November 6, 1978, the Supreme Court ruled that all sentences in such cases must be aggregated, and the person considered for parole after one year, holding that the unfair result produced by the prior practice did not carry out the intent of the law.

INDIVIDUAL COUNTIES

During the year, the Office had some contact with inmates and officials in almost every county and visited all but a few of the jails at least once, often more. The following listing highlights some of our major contacts, but is not exhaustive of the counties we dealt with or the matters pursued.

Cumberland County Jail - Bridgeton We have worked closely with the jail administration in their efforts to develop a new inmate rule book, improve classification, grievance and disciplinary procedures, and increase visiting facilities.

Essex County Jail - Newark The inmates and the administration both agreed that the handling of persons with symptoms of mental illness was a major management problem for the facility. With the help of a special grant from the State Law Enforcement Planning Agency, we engaged a clinical psychologist with particular experience in corrections to evaluate the present practices and make recommendations for improvement. The thirty-two page report which resulted will be presented to the new county government for implementation. It is expected that the recommendations it contains will both improve services and result in a cost saving, by reducing the number of persons who do not belong in a penal setting. We also assisted in making contacts to improve Public Defender services for the clients confined there.

Essex County Correction Center - Caldwell We continue to have frequent contacts with this institution, largely because it is the largest county penal facility in the state. Fortunately, we have an

excellent cooperative relationship with Warden Magnusson and his staff, and have never been unable to satisfactorily resolve any matter. For example, we learned this fall that the work release staff had ceased to actively seek jobs for inmates in the program. The Warden agreed that this practice was not in accord with their obligation, and instructed them to actively solicit employment for inmates again. Thus the work release program, generally agreed to be the best rehabilitative device available, has been continued in maximum effectiveness.

Hudson County Jail and Penitentiary - Jersey City We have been in close contact with this facility throughout the year. Last fall we had sent a comprehensive report to the Public Safety Director, and we have worked with the jail staff to implement those recommendations. Our involvement intensified when Assemblyman John Cali was appointed Chief Warden over the summer, and we are in regular contact with him and his staff regarding matters of mutual concern. At present, we are reviewing the draft of a proposed rule book on which they have requested our input.

Hunterdon County Jail - Flemington We were requested by the county officials and their architectural firm to review the plans for the Hunterdon County Community Corrections Center, which is to be built in Raritan Township. They were concerned that the structure should contain all facilities necessary to meet all legal rulings on the rights of inmates. We were pleased to learn that the center had been carefully designed, and, with proper administration, it should afford a humane and

secure environment for those persons who must be incarcerated in it.

Mercer County Detention Center - Trenton We have worked closely with former Chief Warden Feconda and Deputy Warden Holmes to ease the transition to the new building opened last April. Many of our suggestions for improved services have been put into effect, but equally, we have made clear to the inmates that we would have no part of harassing the administrators with petty and insubstantial complaints.

Middlesex County Jail and Workhouse - New Brunswick This has been a transitional year for corrections in Middlesex. The jail, which was previously under the control of the Sheriff, has been administratively combined with the workhouse under the control of the Freeholder Board, through a professional administrator. Through the year we have worked closely with Freeholder Frank Pelly who is responsible for this area, and even advised the county regarding candidates for the Director's position which was filled in September. Plans are now being implemented to improve the administrative structure and to build a modern structure to replace the two present obsolete ones. We will remain available, to provide whatever assistance is called for, to Corrections Director Feconda in carrying out this work.

Monmouth County Correctional Institution - Freehold - The major problem which we have encountered at this facility has been medical care. While the addition of a full-time nurse to the staff has produced some improvement, we continue to receive a disproportionate number of complaints about medical treatment. We have discussed this matter directly with

Sheriff Kiernan, and some changes are anticipated. We were also able to facilitate the procurement of indoor exercise equipment to be used when the outside yard is unavailable due to weather conditions, and to improve the collection in and the availability of access to the law library.

Sussex County Jail - Newton In this year Sussex County completed construction on the "Walter Keogh-Dwyer Correctional Facility," which is to be opened for inmate occupancy very shortly. This will replace the present jail, built in 1892, and contains the latest improvements in both security and program space. With the opening of the new building, control of the jail was transferred from the Sheriff to a newly appointed Warden. At the invitation of the county officials, we met with the Warden and the senior correctional staff to provide them with advice and assistance to facilitate this change. We expect to return to Newton to review the situation after the new building is fully operational.

Union County Jail - Elizabeth This institution represents perhaps the major "success story" which the Office has seen this year. A new Sheriff, Ralph Froelich, took office on January 1, 1978, and in eleven months has turned one of the most deficient jails in the state into one which, at least in terms of administration, is one of the best. Sheriff Froelich, along with Jail Administrator Scanlon and Warden Bastiao, has worked energetically to inform himself of what is called for and to implement it in the jail. They are actively seeking to acquire additional space so that they can develop improved intake and classification, visiting, recreation and medical programs. We have worked closely with the Union authorities in bringing this about, so much so that Sheriff Froelich stated to an Assembly Subcommittee "I have used the Inmate

Advocacy Office as an informal part of my staff. . . . I have developed a relationship that I think is very good because I can call the Advocate's Office, discuss a problem, get a response and they evaluate it."

Warren County Jail - Belvidere If Union is our greatest success, Warren may be our smallest one. With the opening of the new jail in Sussex County, Warren will have the distinction of operating the oldest and possibly least adequate jail in the state. While much has been done this year to make some physical and administrative improvements in a jail which had been allowed to deteriorate for many years, we have been unable to persuade the Freeholders to take a serious look at the county's short and long-term needs in this area. We will continue to press for whatever improvements they will agree to, while at the same time continuing to suggest that a "band-aid" approach will not suffice for long.

INMATE COMPLAINTS

Curiously, although we have increased our overall activity, this year has seen a notable decrease in individual complaints from inmates in the county jails. We have logged only 172, during the twelve months since our last report to the Legislature, which pertained to jail conditions. (A great many additional letters are received pertaining to matters outside of our jurisdiction, most often legal services or court action. These are referred to another agency when appropriate, or we respond to the complainant advising him or her of available options.)

While there is no way of being certain, we attribute this decrease in part to the improved grievance mechanisms which the jails have

set up, often at our urging. Through these, many problems are resolved at the local level. The best proof of this is shown by the following: At several jails, e.g. Somerset, Mercer, Union and Middlesex, all inmates are informed of the existence and jurisdiction of this Office through a notice which appears in the rule book or elsewhere. Despite the fact that there is thus no "information gap," these jails produce the fewest complaints because the administration responds to problems before they get to us. Similarly, inmate committees which we helped to promote bring issues to the administration, and in turn bring responses back to the inmates.

Of the individual complaints which we have received, almost one-quarter dealt with medical care. This is not surprising, given the nature of incarceration. A confined person with a headache or indigestion cannot go to the medicine cabinet or drug store for an over-the-counter remedy. Often, he must wait hours or days to see a doctor or nurse to deal with such minor ailments. Similarly, the enforced idleness in some of our jails is such that minor aches, which might be ignored by an active person, become unbearable. This situation contributes greatly to management problems, and competent administrators recognize the need for rapid and effective response to health complaints. Several jails which reluctantly employed nurses at our urging have since informed us of what a great improvement the presence of a full-time health professional has produced.

Among other frequent complaints are disciplinary action, access to legal research facilities, alleged brutality, and improper

classification. The following case summaries are some examples of matters which we have handled this year:

- 1) Disciplinary Complaint, file #0007-78 - A female inmate charged and adjudicated guilty by the Adjustment Committee of the inter-institutional infraction of possession of contraband was told by the Adjustment Committee that the matter would be referred to the local prosecutor. After a personal interview with the subject, and a subsequent meeting with the Warden, the Warden, within his discretionary power, decided not to refer this matter to the prosecutor, and to personally discuss the entire situation with the inmate.
- 2) Medical Complaint, file #0042-78 - A male inmate complained about inadequate medical care because of the alleged lack of treatment. A complete review of the complainant's medical records and a review of an inter-institutional investigation by the Deputy Warden, as a result of our Office's involvement, showed that every effort had been made by the institution's medical and administrative staff to provide the complainant with adequate medical care. The complainant was notified of the results of our Office's investigation in writing.
- 3) Psychiatric Treatment Complaint, file #0046-78 - A male inmate, while in a psychiatric facility, was scheduled to be seen by a psychiatrist. However, he was sent back to the county facility prior to the interview. Through the social worker staff and the jail administration, our Office was able to have the complainant interviewed by a psychiatrist as previously scheduled.

- 4) Brutality Complaint, file #0076-78 - A male inmate alleged brutality on his person by correctional staff of one county facility, but had since been transferred to another county facility for completion of sentence. The Office took the position that the complainant had a right to file a criminal charge against the alleged assailants, and that the matter should be investigated by a prosecutory agency. The problem in this case was that the complainant was no longer in the jurisdiction where the alleged assault took place; consequently, there were numerous legal and transportation problems in affording him an opportunity to sign a complaint. It took the Office a number of months; however, the subject eventually was afforded the opportunity to sign a complaint and the matter went to the appropriate prosecutory agency for investigation.
- 5) Medical Complaint, file #0098-78 - A male inmate alleged inadequate medical care. He claimed that he was being denied surgery to remove a portion of his thyroid to determine whether or not a growth was malignant. Upon contacting the Medical Department of the facility, the Office learned that the subject had had a thyroid scan at a local hospital, and that a specialist had recommended that a biopsy be done on the subject's thyroid. We were told that the matter had been referred to the Sheriff's Office for a decision as to whether the medical expense could be approved. At this point the Office contacted the local Deputy Public Defender who immediately got a court order to have the surgery and subsequent biopsy performed.

SPECIAL SERVICES

One of the most mutually beneficial activities which has developed this year is the regular teaching of the course material in inmates' rights at the Correction Officers Training Academy by Field Representative Michael Tozzi. Besides insuring that the students, generally newly-hired officers, are aware of the law, these sessions have allowed for informal contact with the people on the "front lines" of the jail. This has contributed to better understanding on both sides, and improved communication.

A Subcommittee of the Assembly County Government Committee held hearings over the summer on county jail issues, prompted by the report of the County Penal System Study Commission. The Director of the Office attended all of the hearings, testifying on behalf of the Department, and assisting the Chairman, Assemblyman Chuck Hardwick, and the staff aide in familiarizing themselves with these matters.

Under authority granted by the Department of Corrections Act, N.J.S.A. 30:1B-10, Corrections Commissioner Fauver has appointed a committee to develop minimum standards for county jails. The Director has been asked to serve on that committee, along with representatives of the Sheriffs and Wardens. The first meeting was held in November.

GENERAL COMMENTS

It is the expectation of the Office of Inmate Advocacy that the ultimate effect of our work will be to reduce or possibly eliminate the need for our operation. Ideally, jails will be operated in such a way

that the legal rights of the person confined in them will be respected, and that occasional lapses from that standard will be corrected at the local level. Only occasionally should it be necessary to have outside involvement. For the two and one-half years that we have operated at the county level, we have worked toward that goal.

While we have not yet reached the point where we can say that there is no need for the Office, we have, in this year, seen the first glimmers of light at the end of the tunnel.

Respectfully submitted,

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